

DRAFT 2.

*Memorandum on Omissions from
Draft Bantu Law Amendment Bill of 1963.
by Comptroller & Clerk of the Council Chairman N.E.A.C.
To be an extra copy added.*

12/3/63

4/1

The Purpose of this memorandum is not to analyse the clauses of the amending Bill, but to endeavour to put forward constructive suggestions regarding some of the amendments which are needed to meet the present-day position of the Urban African, and which have not been included in the published Bill.

CAPS

Drift to towns: In most parts of the World today where industrial development has taken place, there is a movement of persons from the country to the towns, especially in those countries where mechanised farming has reduced the number of people required to produce a country's food requirements.

In his Address ^{to} at the Fifteenth Annual Conference of the Institute of Town Clerks of South Africa, held in June, 1962, Dr. H. J. Van Eyk stated that whereas in 1910 there were 13.6 million persons employed in agriculture in the United States of America when the population was 92.4 million, in 1960 it only required 7.1 million persons employed in agriculture, whereas at that time the total population had increased to 180,7 million. In 1910 it required one agricultural worker to feed 6.8 people, now one person can produce sufficient ^{food} for 25.4 people. He stated that if the same pattern were followed in this country sometime in the future, we should only need 650,000 agricultural workers against the present 2 million. Because of this it is inevitable that, in the future, employment will have to be found for persons presently employed on farms in rural areas.

Decreased Number required in agriculture

States of

The United

The considerable wealth of basic raw materials and the great possibility of developing and processing these materials is another strong factor for drawing away people, white as well as black, from the rural areas to the points of industrial concentration.

DRAW of Industries

That residence in cities must be linked with work opportunity should be recognised, especially where the responsibility is placed on Local Authorities for providing accommodation and services for the Bantu inhabitants.

The desire of South Africa's rural and reserve population to move to the cities to seek employment is thus not unique. What is unusual, but not unique, is the measures adopted to control the movements of the ^{BANTU-}Black rural population. It always appears (to me) that what has made South Africa's problem worse than in many other parts of the world, has been the dire necessity of people to move to the towns because of the impossibility of the peasant population, in the Native Reserves and rural areas, of supporting their families without the earnings from work outside. It cannot be denied that this is partly due to their primitive methods of agriculture, to their tradition of measuring their wealth in cattle, to their division of labour between male and female, sometimes to their indolence, and often to the shortage of arable land, and in the farming areas to mechanisation, and the more economic use of Bantu labour.

(To me) it is clearly apparent that until the Reserves can be so rehabilitated that they can support the population that is surplus to the labour requirements of the towns, so long will there be pressure to move into the towns. To anyone actively engaged in Race Relations work during the last few decades, this truth has stuck out like a sore thumb. — Develop the Reserves to support the people living there. The Tomlinson Report laid great emphasis on this — and ^{To} the large sums that would have to be spent. ^{To TAKE THIS POSSIBLE} Until this is done the control of entry to the towns will always be a bone of contention, and the removal — endorsing out — prohibition of entry — influx control — or whatever you call it, will be a constant cause of friction. Today

Necessity of
Rural Rehabilitation
BANTU
To augment
income

Necessity
to Develop
RESERVES

to be endorsed out is regarded as banishment, as it is well known that (in spite of what has and is being done in the Reserves) economic opportunity will not provide an adequate livelihood, and that undernourishment and lowering of the standard of living will follow. (To me) therefore, a fundamental necessity is for South Africa to face up to developing the undeveloped areas to enable them to support their population; to do this capital and entrepreneurs are required.

CAPS

BANTU.

Analysis of Johannesburg's Population: To what

extent is Johannesburg's population increasing? The ^{ESTIMATED} population/figures are:

Estimated Population figures:
(See Vade Mecum)

<u>Year</u>	<u>Johannesburg & South-Western Areas</u>	<u>Metropolitan Area.</u>
1957	432,900	561,600
1958	544,400	684,300
1959	560,000	725,400
1960	594,000	711,575
1961	614,600	721,100
1962	609,100	687,400

As these figures are estimates, and as the manner of estimation may have differed, they can only be regarded as approximate.

Number of Adult employees registered:

Total Number of Male Bantu in Employment as at 30th June of each year.

<u>Year</u>	<u>Adults</u>	<u>Juveniles</u>	<u>Total</u>
1958	207,672	8,130	215,802
1959	218,971	8,389	227,360
1960	196,685	9,031	205,716
1961	206,702	10,344	217,046
1962	215,239	8,239	223,478

New Registrations:

<u>Year</u>	<u>Adults</u>	<u>Juveniles</u>	<u>Total</u>
1958	14,390	2,137	16,527
1959	7,974	919	8,893
1960	1,861	470	2,331
1961	4,363	1,380	5,743
1962	5,294	2,705	7,999

Note The juveniles registered would be youths in the City registered as employees for the first time. The adults would be persons gaining employment in the City for the first time. 4/...

*Reasonably
stable
population*

From these figures it would appear (to me) that apart from a very small ~~percentage~~ ^{Number of new entrants (number of new entrants)} of migrant labourers, the population of Johannesburg is settling down to a reasonably stable ^{POSITION} ~~one~~. The figures of unemployment in the City vary from time to time according to the economic condition prevailing. This is true of any city, but because of temporary set-backs, in a city where industrial and commercial activity is rapidly expanding, it is unwise, as at present, to take the short-term view of regarding as unnecessary, labour which is out of employment for such short periods as apply under the labour regulations. Under the labour regulations a person must find employment within fourteen days ^{of being unemployed}. In practice this is usually extended for a further ~~thirty~~ ¹⁴ days. If employment is not obtained within that period, the man and his family are obliged to leave the urban area. ^{if they are in the urban area under a Sect 10(D) Permit. If they are in the urban area under a Sect 10(D) Permit.}

CAPS

Recognition of Urban Bantu: It must be gratifying

to anyone who has watched the development of the townships adjacent to the cities to see the improvement in the housing conditions, the additional facilities provided, the improvement in the economic conditions of the Urban Bantu. While it is realised that many live below the bread line, the tendency is for wages to increase (albeit slowly) and it is clearly apparent that in most cases the urban dweller has come to the cities to stay, where a soundly expanding economy cannot be even remotely met by the European labour available.

The choice of site for the development of industries depends on many factors. One factor may be the presence of raw materials. Another would be the availability of the services required to develop an industry and whether or not there is the necessary skilled and unskilled labour,

*Choosing
of
Industrial
Siting*

and in South Africa, where the rating policy of the Railways favours raw materials as against the finished product, a governing factor may be the proximity to the market in which the goods will be sold. In view of the fact that the Witwatersrand has the largest concentration of white population, it is a logical centre for industrial development.

and this should be viewed as a means of raising the material means and raising the standard of living of its citizens.

That it is envisaged that there will be a large urban population for a long time to come seems (to me) to be recognised by the fact that thirty-year leases are given on plots, that the Government advances funds for the building of houses repayable over a thirty-year period. Large sums of money have also been spent on the development of hospitals, schools and services, which envisage a permanent urban population.

Recognition of Permanent Urban Population

CAPS

Different Strata in Bantu Society: Amongst the

Urban Bantu themselves there are various strata of society. The labourer - the semi-skilled artisan - the skilled artisan - the professional man - the teachers - the traders. As in any other society persons have as their friends people of like interests and social standing. Has not the time come for the legislators to recognise these different strata - a matter ^{WHICH WILL BE DEALT} (I will deal) with later when considering the pass laws and influx control. Today the Urban Bantu has often lost touch with his tribal country cousins. Certainly tribal customs and taboos lose their significance under urban conditions, and children born in towns are brought up in a completely different background from the children in Reserves.

CAPS

Draft Bantu Laws Amendment Act 1963: (I have not)

the technical knowledge to comment in detail on the 129 clauses of this draft legislation. From the initial statements made by the Hon. the Minister of Information announcing this legislation, ^{IT WILL BE SEPARATELY APPRECIATED} (I gathered) ^{HAVE} that the Bill would have the

effect of improving race relations; that it was a sign of goodwill to the Bantu population; that it was for the purpose of removing restrictions - similar to the Act making European liquor available to the Bantu.

CAPS: What are Pass Laws designed to do: What are the primary objects of the pass laws? ~~I would suggest the~~ ^{IT IS SUGGESTED THAT ARE}
following:

1. To have a document of identity
2. To verify whether a person has a right to be in a particular place at a particular time.
3. To record whether a person is in lawful employment
4. To record whether a person has complied with certain statutory requirements such as the payment of tax.

INSET. What are some of the effects:

INSET. ①. Document of Identity: There can be no great quarrel with having a document of identity, provided every citizen has a LIKE document of identity.

For the Bantu the rub comes through the necessity to have the document always on his person, and to be liable to immediate arrest if he cannot produce his reference books. While it is agreed that the Police are using more discretion in this regard, this is still the law, and should be amended.

②. Right to be in a particular place at a particular time:

Section 10(1)(a),(b),(c) of the Urban Areas Consolidation Act of 1945 provides that no Native shall remain in an Urban Area for more than 72 hours unless -

- (a) he has, since birth, resided continuously in such area,
or
- (b) He has worked continuously in such area for one employer

for a period of not less than 10 years, or has lawfully resided continuously in such area for a period of not less than 15 years and has thereafter continued to reside in such area and is not employed outside such area;

- (c) such Native is the wife, unmarried & daughter or son under the age of 18 years of any Native mentioned in paragraphs (a) or (b) and ordinarily resides with that Native;
- (d) in the case of Natives who are not workseekers or who are not required to be dealt with in terms of the Labour Bureaux Regulations (i.e. scholars, visitors, etc.) permission has been granted by an officer designated for the purpose by the urban Local Authority concerned, or in the case of Natives who are workseekers, permission has been granted by the appropriate Government authority.

All inset

There are a number of provisions dealing, for example, with rights of Bantu who desire to re-enter an area within a period of twelve months for the purpose of taking up employment with the employer by whom and in the class of work in which such Bantu was last employed, but the main section 10(1)(a), (b), (c) and (d) above cover the bulk of the Bantu population.

This law affects not only would-be new entrants into a town but also people who have been living in the cities for some time and a number of examples experienced daily will illustrate the serious effects this Section can have on otherwise law-abiding people:

Example of hardship & hardship under

A man may have lived and worked continuously in a city for nine years, have his children in local schools, his wife in domestic employment in the city, but he is nevertheless liable to be endorsed out of the town if he loses his job and cannot find another within the prescribed period and conditions.

A young man may be on the point of qualifying in terms of

Section (b) but on a visit to another Province, marry, whereupon he will find that he is prevented from bringing his wife back with him. Because the girl is now married to a man domiciled in another town, she is liable to be told by the authorities in the town in which she is residing that she is not wanted there because she is married to a man working and domiciled elsewhere.

It is found quite often that a couple applying for a house in a city may qualify for employment and accommodation but their children (if over 18) do not. In this case, too, it is impossible for them to set up a home in the town in which the husband is lawfully employed and the recent case of a clergyman who was called to a Church in a large city illustrates this point. The husband qualified and so did his wife but because his son was over the age of 18 years, he had to be treated as an individual applicant and could not comply with the Influx Control restriction and was, ~~in consequence~~, *and was in terms of the law* not allowed to enter the same area as his father for the purpose of finding work.

An aspect which causes considerable resentment among the Bantu residents is that whereby young boys are lawfully domiciled in the area, i.e. sons of men who qualify in terms of (a) or (b) of Section 10 and who, through considerable effort, have acquired a reasonable education, say up to Junior Certificate standard, find it difficult to obtain employment commensurate with their education and are then in danger of being endorsed out of the town when they become of age and have refused three successive offers of employment in more humble callings.

Another difficult aspect is that many Bantu are admitted into a town on conditional permits in terms of Section (d), authorising their employment in a specified category and with a specified employer. Such Natives cannot change their jobs into a different category, nor may they change from one

All inset

Position of juvenile males

Changed jobs by section 10 1 (d) Bantu

Very often the Bantus have to incur the expense of returning to their kraal in the Reserve to get permission from the local Bantu Commissioner to accept a new post even though there was a post available to him before he left the urban area in a category of labour which was in short supply.

employer to another even within the same category of labour, without prior approval. The effect of all this is to make it difficult for a man to sell his labour in the best market, even though the opportunity arises to make an improvement in his position.

In order to comply with these various provisions, Local Authorities are obviously under the necessity of keeping a very close check on persons living in Municipal houses, and adult children who do not qualify in their own right to remain in the towns are obliged to obtain lodgers' permits in order to stay with their parents in their own homes. This latter requirement is a provision of the Location Regulations.

This section gives persons rights in a particular urban area. In the suggested amending legislation, Section 10(1), (a), and (b) are not altered, but by the alteration of other provisions the rights of persons who qualify under Section 10(1)(a), (b) and (c) are undermined. (I wish) to give some illustration of the hardships which exist under the present legislation, and (I had hoped,) in view of the Hon. the Minister of Information's positive and optimistic reference, that some of these difficulties would have been removed, but I cannot trace that they have.

New para
Rights in
particular
urban
area

Underline
whole
head.

1. Section 10(1)(a) makes it necessary for a person born in the city to reside continuously in the area since birth.

The child whose parents send him to live with the grandparents during adolescence has thus no right to re-join his parents.

The child whose parents may move from one city to another acquires no rights as a city dweller, although he has at no stage lived in a rural area.

A person who moves out of an urban area to study, loses his rights to return to the city of his birth.

A woman who marries and joins her husband ^{IN ANOTHER CITY} loses her right to return to the town of her birth. *what she may want to do is widow*

2. Section 10(b) working for one employer continuously for 10 years or resided continuously in an area working for various employers. *for 15 years*

Underline whole head.

It is extremely difficult to qualify under this section.

It often happens that a person's employment is terminated through no fault of the employee - the employer dies - the employer moves - goes insolvent - moves to a flat - and this can have serious consequences on the poor employee. *especially if he is a foreigner* Before the influx laws became

the employer sees his head and Inset

so stringent it was often the custom for Bantu to visit the rural areas, and this could have the effect of disqualifying the person's right to be in the urban area. Now that more adequate housing has been provided many of the wives have joined their husbands, but an earlier departure from the city may disqualify the Bantu under this Section.

Section 10(c) ^{deal with} - Wives, daughters and sons under 18 of persons qualify ^{up} under Section (a) and (b)

What of sons over 18? Whether he can get employment or not he may be forced to leave ^{the urban area if there is a surplus of labour in his category, and where can he go?} his parents' home - *can he go?*

Inset

Wives and children who do not qualify under Section 10(a), (b), (c)

No. 4?

Under Section 10(1)(d) provision is made for work-seekers to be in an urban area. If, however, their employment ceases and they cannot obtain employment within a specified time, they can be ordered to leave the urban area and take their wives and children with them.

Inset

Under this Section, if for instance, a teacher - a

minister of religion - a policeman - a bank official - are given the right to enter a city under/Section 10(1)(d) permit, their wives ^{under certain circumstances} would have no right to accompany them, nor would their children, although they might, ~~under certain circumstances~~, be permitted to do so, but the children over the age of 18 certainly would not be able to do so.

often so much depends on the interpretation of the law by the particular official dealing with the case

A case which recently came to (my) notice was of an ex-employee of (mine)? He was working under a Section 10(1)(d) permit. His wife and children had previously stayed with his Mother in the White River location. His Mother died and the Superintendent in White River told her to move and join her husband. She came to Johannesburg and was told she could not stay here because she had not been in Johannesburg before a certain date. White River would not have her back. What was she to do?

Recent case

New para I ^{have} am dealing at length with these details as these are the practical effects, these are the domestic matters with which our officials have to deal, these are the things which dwell in the minds of the Bantu. In (my discussions) with responsible Bantu, no matter what topic one starts to discuss, inevitably reference is made to some aspect of the pass laws and influx control, which impinge on what could rightly be called ordinary living and freedom of movement.

The rights under Section 10(1) establish the relationship between a person and a particular local authority.

(I would like to suggest) that the time has come to think differently. (I am of opinion) that the rights should rather be to recognise a person as an Urban Bantu and that the rights should not pertain to a particular area. When the housing shortage was as acute as it was some years ago, it would have been difficult to think of such an idea, but (I suggest) that we are within sight of remedying this shortage. From Johannesburg population statistics (I do not) believe that the

Suggestion recognition of Urban Bantu

in that it is increasing the Urban Bantu population instead of decreasing it.

It also has the effect of preventing the interchange of personnel. If a teacher wants promotion he has to think twice before seeking a post outside the area in which he has residential qualifications.

Problems of families, wives, children and husbands are also created by the restrictions on movement. In this connection there are two aspects which need very serious consideration. The stability of a people depends upon a sound family unit. The effects of this legislation is to disrupt the family and destroy the sense of family responsibility. In A community where there is great uncertainty of tenure, movement, or occupation and stability, the inevitable trend is towards promiscuous relationships and a nation becomes faced with the enormous problem of illegitimacy.

(I would) seriously suggest that the time has now come to re-think Clause 10 and the rights thereby conferred, and to recognise the principle of an Urban dweller as such - not an urban dweller of a particular city.

Has not the time come, too, to differentiate between the various strata in Bantu society. Should the documentation be the same for the Blanket Bantu as for the doctor, the teacher, the nurse, the hospital matron, the educated man and the person who by his character has demonstrated his responsibility.

(I am of opinion) that the clock was set back when the exemption pass was taken away. The present documentation is designed to cater for the lowest denominator, and is humiliating, and a denial of the development to civilised standards to which we wish the Bantu to aspire that no recognition is made between those who have attained those

the
right
of
personnel

Problems
of
families

Re-think
Clause 10

Recognise
various
strata

Exemption
pass

41

standards, and the primitive tribal Bantu. What encouragement does the law give to persons to attain civilised standards?

CAPS

Skilled and Semiskilled Occupations:

Dealing now with the permanently settled section of the Bantu population of the city employed in semi-skilled and skilled occupations, it is suggested that once a man has been in bona fide employment (not necessarily with the same employer, nor in the same category of labour) for a specified minimum period, and that his own conduct and family circumstances and mode of life justify it, he should be recognised as a permanently stable member of urban society, and freed from a number of the present restrictive provisions of the Labour Bureaux and Registration Regulations. It is felt that such a man should have the right to change his job without reporting himself in person to the Registration Office, and that the necessary notification can be effected by requiring employers of labour to inform the Registering Officer of the fact. The great commercial development of the Bantu around Johannesburg requires the adequate serving of the people by a large number of stores and shops. In conformity with accepted Government policy...

THE GOVT POLICY OF ETHNIC GROUPING IN THE ALLOCATION OF TRAINING SITES, THE NON RECOGNITION OF THE RIGHT TO TRADE AS COMPANIES, AND THE RELUCTANCE TO RECOGNISE PARTNERSHIPS PARTICULARLY WHEN THE PARTNERS ARE NOT OF THE SAME ETHNIC GROUPING BRING ABOUT REAL HARSHNESS

THIS SERVICE MUST BE PERFORMED BY THE BANTU. IT IS IMPORTANT THAT SUCH TRADERS SHOULD RECEIVE HELP IN ASSISTED TRAINING, FINANCE AND FACILITY AND THAT THE APPLICATION OF THE LAW SHOULD NOT HAVE THE EFFECT OF RESTRICTING AND EMBARRASSING SUCH TRADERS FROM FULFILLING THIS NECESSARY FUNCTION. (XY)

It should be possible for a man in this class to set up in business himself in the urban Bantu townships, provided he trades from fixed premises authorised and licensed for the purpose, without having to comply with the present provisions of the Registration Regulations which lay down that self-employed Bantu must be in

possession of a current "daily labourer's pass", which requires the holder to report himself monthly in person to the Registration Office and pay the necessary Registration fee of 20 cents per month. People in this category should be permitted to pay their fees on an annual basis, and so long as they do not change their mode or earning a livelihood, should not be compelled to report themselves monthly.

Have the present laws had the desired effect of adequately controlling those living in the cities, or have their restrictive nature bred a disregard for the law, an unfortunate antagonism towards the Police, and by their very nature created an attitude of resentment to authority and a common platform for fanning discontent amongst the people.

In a recent article written by Dr. G. M. Retief of the Department of Criminology of the University of South Africa, he draws attention to the general contempt of laws and legislation that is developing amongst the Bantu. This he attributes to discriminatory legislation wholly or partly applied only to the Bantu, such as the Pass Laws and the Location Regulations. He states that amongst the Bantu there is no moral stigma attached to a criminal conviction - "Rather is an offence regarded as a justified reaction against an unjust measure, while the consequent punishment is not regarded as a shame, but as a kind of sacrifice for the sake of a better application of justice in the future."

Today it is becoming increasingly difficult for the moderate Bantu to have co-operative contacts with the White man, for his own people regard him as a sell-out. The Pass Laws are, (in my opinion,) largely responsible for this ganging up. Before Mrs. ^M Xuma ^{WIFE OF THE LATE DR ALFRED XUMA} left on her return to America she gave an interview to the Press in which she remarked on the change in the attitude of the Bantu since her arrival here in

Have
Pass laws
failed?

Dr Retief
Article

Co-operation
between
black &
white

1940. She said that on her arrival the Bantu distinguished between members of the White group, but that today all whites are in the same disliked category. She said there was much bitterness in the Townships because the people did not know what to expect next.

CAPS Foreign Bantu:

It is now proposed to deal with a matter which, at first sight, may seem unrelated to an examination of the "pass laws" but which, nevertheless, causes considerable unhappiness to many Bantu in practice. The first of these is the hard impact of Section 12 of the Urban Areas Act on Extra-Republic Natives, which provides that no Bantu other than one born within the Republic or South West Africa shall enter, be or remain in an urban area, and no person shall employ any such Bantu without the written permission of the Secretary for Native Affairs.

It is suggested that this Section should be relaxed to the extent that non-Republic Natives who are married to Republic women, and who have been employed in the Republic, and have been taxpayers in the Republic for 10 years could, on application, be naturalized and accepted as part of the permanent Bantu population of this country. The satisfaction flowing from such a step would be very considerable, to say nothing of the fact that very often these people are peculiarly well qualified for certain classes of employment and very often make exemplary employees. x

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