

PAWL/WEM.

NATIVE ECONOMIC COMMISSION.

- The Native Reserves Management Ordinance (O.R.C.) 1907, authorised the Lieut.-Governor by Proclamation to declare the Native Reserves which were to be subject to it and to determine the limits of the local areas in which the Ordinance should be enforced. It was laid down that in any such Proclamation to apply to a Native Reserve, the Lt.-Governor should nominate a Board, consisting of not less than seven or more than nine persons, ^{all} of whom, with the exception of the Chairman and Vice Chairman, must be Coloured persons. The Chairman and Vice Chairman were to be white persons, the ^{being} Chairman/also Treasurer of the Board. No meeting of the Board was to be held unless either the Chairman or the Vice Chairman were present. The Board was required to meet at intervals of not more than three months. Minutes had to be kept of all meetings. The powers of the Board within the limits of a Reserve were:-
- (1) To maintain in good order any road not being a main road.
- (2) To erect fences either on the boundary of the Reserve or within the Reserve.
- (3) To make all necessary furrows, water courses, drains, sewers, culverts and bridges.
- (4) To do necessary work to provide a proper water supply for the inhabitants.
- (5) Provide for proper sanitary services.
- (6) To carry out all duties laid down by regulation under the Ordinance.
- (7) In consultation with the Director of Education to establish/...

establish or subsidise any school for the industrial or other education of coloured persons.

- (8) For providing means to carry out the provisions of the Ordinance "to levy a location tax from year to year not exceeding £1. in any year on each coloured male person resident within the Reserve (between the ages of 16 and 60)"; the Board might exempt any person from payment of the tax for good and sufficient grounds such as destitution, old age, sickness, or other infirmity.

Sec.10.

The Board was given power to make regulations in respect of the following matters, and to impose a fine for contravention not exceeding £2. or in default of payment imprisonment for a period not exceeding two months:

- (1) The sanitation of the community,
- (2) "Grazing ^{and} watering of cattle on common land and the fees, if any, payable therefor by the inhabitants and visitors respectively;
- (3) The supply of water and the fees payable therefor;
- (4) The repair and maintenance of roads, public places, and water furrows;
- (5) Erection of dipping tanks and fees for dipping;
- (6) Establishment of burial places;
- (7) Prohibition of the keeping of dangerous animals;
- (8) Abatement of nuisances;
- (9) Prevention of fires;
- (10) Planting and protection of trees and bushes;
- (11) Issue of licences for brick-making, quarrying and excavating ground and for cutting wood or grass, and the fees payable for them;
- (12) Establishment and regulation of residential locations;
- (13) Collection of location tax;
- (14) "General good order and government of the community and the protection of the rights of its inhabitants."

Sec.14. Prosecutions for contravention of the regulations could be made in the Magistrate's Court, or the Court of a Special Justice of the Peace; the jurisdiction of the latter being limited to a fine of £5. or in default imprisonment for six weeks.

Sec.15. All fines resulting from such prosecution and all monies payable under the regulations were to be paid to the Board for carrying out ~~ixx~~ the purposes of the Ordinance.

Sec.16. It was the duty of the Board to enforce the regulations.

Sec.17. The Board was empowered to enter into contracts, and to employ labour to carry out any work under the Ordinance, provided that ^{no} ~~any~~ contract involving the expenditure of more than £50 was to be entered into by the Board without it first getting the consent of the Lieut.-Governor.

EXTRACT FROM PROCLAMATIONS AND REGULATIONS
ISSUED UNDER NATIVE ADMINISTRATION ACT,
NO. 38 of 1927, Pages 21 and 22.

No. 2251.)

21st December, 1928.

DUTIES OF SUPERINTENDENTS OF LOCATIONS PRESCRIBED BY THE
MINISTER OF NATIVE AFFAIRS IN TERMS OF SECTION TWO (6)
OF ACT No. 38 OF 1927.

SCHEDULE.

1. Superintendents shall, in the areas for which they are appointed, assist the Native Commissioners in the discharge of the duties assigned to them, and shall be subordinate to and under the control and supervision of such officer and shall efficiently carry out such orders and instructions as may be issued to them from time to time by the Government or by such officer aforementioned.
2. They shall at all convenient times be assessable to the people and no matter brought to their notice shall be deemed too trivial or unimportant to be heard.
3. They shall subject to such restrictions in regard to travelling as may be imposed by the Chief Native Commissioner move about the locations at frequent intervals in order to meet the people and deal with disputes and various matters on the spot.
4. They shall keep a dairy in which shall be entered from day to day journeys undertaken, the time occupied, and generally the nature of the work done. Abstracts of such dairies shall be transmitted to the Native Commissioner concerned with ⁱⁿ seven days after the end of each month.
5. They shall promptly report to the Native Commissioner any matters of importance or any unusual occurrences taking place not only within their locations but elsewhere as may come to their knowledge.
6. They shall co-operate, but without unduly interfering with the performance of their ordinary duties, with inspectors of schools, bodies recognised by Government for managing schools, teachers and demonstrators in promoting scholastic education and industrial training.
7. They shall assist in the collection of taxes in such manner as may be required.
8. They shall promptly report to the officer concerned outbreaks of communicable diseases among the people and particularly occurrences of leprosy and smallpox, as also deaths from violence or unnatural causes.
9. They shall promptly report to the proper officers outbreaks of contagious and infectious diseases among large and small stock and shall co-operate in the measures taken for the eradication thereof.
10. They may impound stray stock, the owners of which cannot be ascertained.
11. They shall bring to the notice of chiefs and headmen the presence of noxious weeds in the locations and require
them.....

them to take such steps as are provided by law for the eradication of such weeds. Should it be found that such orders have not been complied with, within a reasonable time, the fact shall be reported to the Native Commissioner.

12. They shall report to the Native Commissioner the presence of unauthorized persons in the locations or persons not domiciled in the locations or persons who are present for the purpose of disseminating undersirable propaganda among the Native people.

13. They shall devote special time, care, and patience in carrying out the land laws and regulations. Any serious complications and difficulties in this connection shall be submitted, without delay, to the Native Commissioner for instructions.

14. In areas in which the administration of land is vested in the Magistrate or Native Commissioner, the Superintendent will be required to prevent unauthorized occupation of land, encroachment thereon, the unauthorized entry of strangers or of stock into locations, and to provide for the preservation of land beacons and fences.

EXTRACT FROM PROCLAMATIONS AND REGULATIONS
ISSUED UNDER NATIVE ADMINISTRATION ACT,
NO. 38 of 1927, Pages 22, 23, 24, and 25.

No. 2252.)

21st December, 1922

REGULATIONS PRESCRIBING THE DUTIES, POWERS AND PRIVILEGES
OF CHIEFS AND HEADMEN.

1. Chiefs shall be either appointed, or recognised by the Governor-General.
2. Appointed chiefs shall be such persons as are appointed to exercise tribal government and control and to perform the administrative functions herein prescribed or required under the any other law now in force or hereafter promulgated, in and over any tribe or area assigned for the occupation of such tribe.
3. Recognised chiefs shall be such persons as are accorded by the Governor-General the rank and customary privileges of a Native chief in or over any tribe or portion of a tribe, but do not exercise any administrative or official authority on behalf of the Supreme Chief or the Government over any person or any land.
4. Headmen shall be such persons as are appointed by the Governor-General to control a minor tribe or location under the direction of a Native Commissioner but shall not include persons commonly called headmen or indunas appointed by chiefs to assist in the administration of their tribes.
5. In these regulations except when otherwise stated, chiefs shall mean appointed chiefs only.
6. Chiefs and Headmen shall carry out such lawful orders and instructions as may from time to time be given them through or by a Chief Native Commissioner, Native Commissioner, Magistrate, or Superintendent.
7. They shall comply with all laws and render such assistance as may be required of them by responsible officers of the Government in connection with the following matters:-
 - (a) The registration of taxpayers and the collection of taxes and rates due by the people.
 - (b) The dipping of large and small stock and the supervision thereof.
 - (c) The prevention and eradication of animal diseases.
 - (d) The collection of statistics.
 - (e) The efficient administration of the laws relating to the allotment and registration of lands and kraal sites and to commonages and the prevention of illegal occupation of or squatting upon land.
 - (f) The preservation of land beacons and fences.
 - (g) The prevention, detection, and punishment of crimes and offences.
 - (h) The supply of labour for agricultural and other purposes.
 - (i) Public health and sanitary measures.
 - (j) The eradication of noxious weeds.
 - (k) The preservation of game.
 - (l) The preservation of forests, monuments, historical objects, and public property.
 - (m) Such other matters as the Native Commissioner may from time to time prescribe.

Such.....

Such requirements will, except in regard to the detection of crime and police administration, be made as a general rule through the Native Commissioner of the District in which such chief or headman resides.

8. They shall bring to the notice of their people all new laws, orders, instructions, and requirements of the Government communicated to them by the Native Commissioner or Superintendent.

9. They shall promptly report to the responsible officers of the Government the following occurrences :-

- (a) Outbreaks of any notifiable disease amongst stock.
- (b) Outbreaks of notifiable disease amongst persons.
- (c) The deaths of persons from violence or other unnatural causes.
- (d) The commission of crime and offences brought to their knowledge.
- (e) The presence of strange persons in their areas unless such persons produce lawful authority to be therein.
- (f) The unauthorised occupation of land, or encroachments thereon.
- (g) The presence of a fugitive offender.
- (h) The illicit introduction of arms, ammunition, and intoxicating liquor.
- (i) Meetings for unlawful or undesirable purposes.
- (j) The presence of strange stock in the area without lawful permit.

10. They shall prevent, so far as the law allows them to do so, veld burning, soil erosion, interference with bona fide travellers through their areas, the sale of poisons, love philtres, and the practice of pretended witchcraft or divinations, and the practice of Native customs which are contrary to the laws and principles of humanity and decency.

11. They shall render assistance to the educational authorities, teachers, demonstrators, and other officers employed by the Government or Native Councils established under Act No. 23 of 1920 in connection with the welfare of Natives and shall not manifest partisanship in the activities of the various religious bodies in church and or school matters.

12. They shall at the request of the Native Commissioner or Superintendent convene meetings of their people and shall attend such meetings and endeavour to secure the attendance of all people thereat.

13. They shall in so far as they are able disperse or order the dispersal of all riotous or unlawful assemblies of Natives and may arrest and hand over to the police any person who fails to comply with such order.

14. They shall not, except when specially authorised under any law, try or decide any criminal charge.

15. They shall not become members or take any part in the affairs of any political association or any association whose objects are deemed by the Minister to be subversive of or prejudicial to constituted Government or good order.

16. They shall not absent themselves from their area of jurisdiction for a period in excess of seven days without the authority of the Native Commissioner and in case of absence beyond a period of one month without the authority of the Chief Native Commissioner and shall during such absence provide to the satisfaction of the Native Commissioner, without extra.....

extra cost to the Government, for the proper performance of their duties.

17. They shall have and exercise in regard to any Native within the area of their jurisdiction such powers and authorities in connection with the arrest and custody of offenders as are conferred upon peace officers by Chapter V of Act No. 31 of 1917 or by any law relating to the theft of stock and produce or to the control or the sale of intoxicating liquor.

18. They shall have power to search without warrant any Native person or the kraal homestead or other place within the area of their jurisdiction occupied by a Native if there are reasonable grounds to suspect that stolen stock or produce or intoxicating liquor or arms or ammunition wrongfully obtained are hidden on such person or in such kraal or other place, and to seize and convey to the nearest police post any such stock or produce or intoxicating liquor or arms or ammunition so seized.

19. They shall impound or detain stray stock found in the their areas of which the owners cannot be ascertained and in case of detention shall promptly report the fact to the Superintendent or Native Commissioner.

20. They may detain stock brought into their areas under unlawful or under suspicious circumstances, and shall promptly report the fact to the Superintendent or Native Commissioner.

21. They shall report to the district surgeon or Native Commissioner or Superintendent every untreated case of venereal disease or leprosy in their area.

22. Chiefs shall under the supervision of the Government exercise general administrative control over their respective tribes and over any other Natives residing within their areas of jurisdiction.

23. They shall be responsible for the proper allotment to the extent of the authority allowed them by law of arable lands and residential sites in a just and equitable manner without favour or prejudice.

24. They shall, subject to the instructions of the Supreme Chief, act as the upper guardian of orphans and minor children in the tribe in accordance with the Native law and custom prevailing.

25. They shall be responsible to the Government for the peace, order, welfare and administration of the tribe, and shall immediately bring to the notice of the Native Commissioner any conditions of unrest or dissatisfaction or any other matter of serious import or concern to the Government.

26. They shall enjoy the privileges conferred upon them by the long established and generally recognised customs and usages of their tribes, but otherwise shall not use any compulsion or other arbitrary means to extort or secure from any person any tribute, fee, reward, or present.

27. They shall be entitled to the loyalty, respect and obedience of the members of the tribe.

28. They shall be paid such allowances, if any, as may from time to time be approved by or on behalf of the Minister.

29. The duties herein prescribed may be assigned by a chief.....

chief with the approval of the Native Commissioner to any induna or similar representative nominated by him, but responsibility for the proper execution of such duties shall nevertheless rest upon the chief.

30. Headmen will receive allowances on the following scale :-

	Per annum.
On first appointment	£12. 0. 0.
After three years' good service ...	18. 0. 0.
After six years' good service ...	24. 0. 0.
After eleven years' good service ...	30. 0. 0.
After sixteen years' good service ...	36. 0. 0.

Special allowances may be approved by the Minister in the case of a recognised chief holding appointment as a headman.

31. Headmen in the Province of the Cape of Good Hope may with the approval of the Minister upon their retirement from service on account of age and infirmity be awarded an allowance according to the following scale, viz. :-

	Per ann.
After fifteen (15) years' continuous good service	£6. 0. 0
After twenty-five (25) years' continuous good service	12. 0. 0.

32. Any infringement of any of the foregoing regulations and any neglect or disregard of any duty or obligation imposed by these regulations or any law whatsoever or of any order or instruction lawfully given and any misconduct or abuse of power shall, in addition to any penalty imposed upon him by any law, render a chief or headman liable to -

- (a) suspension from employment and allowances for a stated period, or
- (b) fine, or
- (c) reprimand, or
- (d) reduction of emoluments by the Ministers, or
- (e) summary dismissal from office by the Governor-General.

33. The Minister may, when he deems it necessary, order that an inquiry shall be held into any charge brought against any chief or headman and may give such instructions in regard to such inquiry as he may deem fit.

Exemptions prior to Act 39 of 1887.

CAPR PROVINCE:- By Act 39 of 1887 registered Native voters were brought under the same laws as Europeans and were exempted from the provisions of laws differentially affecting Natives, including the following:-

Act 17 of 1864 : Certificates of Citizenship.

Act 18 of 1864 : Native Estates.

British Kaffraria Ordinance 10 of 1864 :
Native Estates.

Act 22 of 1867 : Passes.

Act 28 of 1883 : Liqueur.

Act 37 of 1884 : Native Locations-rural.

This statement must, however, be qualified by the provisions of Sections 3 and 4 of Act 39 of 1887 under which voters were not exempted from the payment of Hut Tax and were subject in all respects to the provisions of Act 37 of 1884 if they resided in a Native Location as defined in the second or seventh sections thereof.

Voters were also exempt from the Native Reserve Locations Acts 40 of 1902 and 8 of 1905. These Acts were however repealed by Act 21 of 1923 but since they are exempt from the provisions of sections 5 and 12 of that act they still retain privileges.

A Native Voter in the Transkeian Territories

is, not exempt from the Liquor or Pass Laws applicable to those Territories since Act 39 of 1887 is not in force in those Territories.

The following further classes of Natives were by Act 39 of 1887 exempted from the laws specified in the opening paragraph of this memo:-

- (a) Natives holding certificates from Education Department of qualification as an Elementary Teacher.
- (b) Natives holding certificate that they have reached the 4th standard of instruction as required in aided schools or any higher educational certificate or who are undergraduates or graduates of Cape University.
- (c) Ministers duly admitted as such into any Christian Church.

The following classes of Natives were exempted from Curfew Regulations framed by urban authorities under Act 30 of 1895.

- (a) Natives exempted by Act 39 of 1887 from the operation of certain disqualifying Acts of Parliament.
- (b) Registered owners of immoveable property within the area of an urban local authority or any members of their families there resident with them.

- (c) Natives holding certificates of good character from the Magistrate of any District.
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NATAL:- Law 28 of 1865 exempted the holder of Letters of Exemption thereunder from Native Law and subjected him to the ordinary laws of the Colony. This exemption by virtue of Law 14 of 1882 extended to all laws differentially affecting Natives in Natal but did not extend to the laws relating to arms and ammunition and liquor. These laws (Acts 1 of 1906 and 30 of 1896) expressly excluded such holders from the privilege of exemption from their provisions.

TRANSVAAL:- Proclamation 35 of 1901. This relieved from the Pass and Taxation Laws "any ordained coloured minister of a recognised Christian denomination, any coloured person holding a certificate of qualification as an elementary teacher or any higher educational certificate from the Education Department in this or any other British Colony and any coloured person who exercises a profession or trade."

Section 8 of this Proclamation enabled the Government to apply the provisions of the Proclamation to other Laws, but so far as is known this was not done.

Ordinance 28/1902 relieved from the operation of the Pass Laws respectable and deserving Natives not entitled to Letters of Exemption. Under Section 1 "any Native employed under contract of service as a skilled artisan, mechanic, tradesman, or other skilled employee, or who carries on a trade or business on his own behalf" may be granted a Certificate of Registration exempting him from the Pass Laws. Certificates were available for 12 months but might be renewed. A fee of £1 was payable for issue or renewal. If not renewed within 21 days the holder again became liable to the Pass Laws.

By Section 4(b) of Act 9 of 1908 the holders of Registration Certificates were exempted from the payment of Tax.

ORANGE FREE STATE:- Ordinance 2 of 1903. This exempted the holders of Letters of Exemption thereunder from existing and future Pass Laws of the

Orange/

Orange Free State. Such Letters could be granted to "any ordained Minister of a recognised Christian denomination, any coloured person holding a higher educational certificate from the Education Department in the Orange Free State or other British Colony and at the same time a position as a teacher in a recognised educational establishment in the Orange Free State, and any coloured person who exercises a profession or trade".

ANNEXATION OF BRITISH BECHUANALAND CAPEACT 41 of 1895.

16. All laws in force in the said Territory at the taking effect of this Act, in so far as the same shall be repugnant to or inconsistent with any of the provisions of this Act shall from and after such annexation stand repealed; but all other laws shall remain in force within that portion of this Colony formed by the law: Provided that

- (a) nothing in this Act contained shall affect the decision of any question which may at the time of taking effect of this Act be pending in any court of the said Territory;
- (b) no alteration in the existing law of the said Territory in regard to the sale or supply of intoxicating liquor to natives shall be deemed to be effected by the passing of this Act;
- and (c) the native jurisdiction provided by sections thirty-one and thirty-two of the Schedule to Proclamation 2 B.B. of 1885 shall not be deemed to be abolished by the passing of this Act.

17. No lands at present reserved by any law for the use of natives in the said Territory shall be alienated or in any way diverted from the purposes for which they are at the date of the taking effect of this act set apart, otherwise than in accordance with such law or with the authority of an Act of Parliament of this Colony, nor shall any lands or natives in the said Territory be brought under the operation of the "Glen Grey Act, 1894," without the like authority.

18. When by any law which at the taking effect of this Act may be in force in the said Territory, any duty, licence, charge or payment may be leviable or payable within the said Territory, which is the same as shall then be leviable or payable in this Colony, no double duty, licence, charge or payment shall be levied or payable; but the duty, licence, charge or payment which is leviable or payable in this Colony alone shall be after the taking effect of this Act levied and paid; and all licences shall be granted in accordance with the requirements of the law of this Colony, notwithstanding anything to the contrary in the law theretofore in force in the said Territory.

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