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THE "PASS LAWS"

POINTS FOR CONSIDERATION BY THE INSTITUTE'S COUNCIL.

(Framed by the Research Officer and amended in the light of comments by Dr. Ellen Hellmann and the Director).

ACTION NECESSARY IN ORDER TO ACHIEVE A GREATER BALANCE BETWEEN TOWN AND COUNTRY.

1. The Reserves.

Far greater resources should be devoted to the socio-economic development of the African Reserves, on the lines recommended by the Tomlinson Commission, in order that African peasants will be able to support themselves there without needing to work periodically as migrant labourers.

2. Farm wages and conditions.

Minimum wages should be laid down for each of the various farming areas, in order that Africans who prefer to live in the country will earn adequate wages, and will not be forced by economic pressure to leave for the towns. To make this possible, the Wage Act should be amended to enable the Wage Board to deal with the agricultural industry. More schools and other amenities should be provided in the farming areas, and agricultural unions approached to urge their members to train and use African farm workers more efficiently.

POLICE RAIDING FOR PASSES.

The Commissioner of the S.A. Police is reported to have said on 12 August 1960, "The police no longer conduct specific reference book raids, and arrests are no longer made merely for non-possession of reference books, provided satisfactory explanations are given that reference books were in fact issued to the Bantu concerned, or some alternative credential, such as the address of their employers, is offered and substantiated".

The Government apparently considers, then, that there should no longer be indiscriminate police raiding for passes. Members of the Institute are likely to agree and to be of the opinion that summary arrests should be made only in cases where the person concerned is suspected of committing a crime.

INFLUX CONTROL.

The main raison d'être of the pass laws is, undoubtedly, to control the movement of Africans to the towns and to try to ensure that all able-bodied African men in urban areas are in employment.

Would there in fact be a large-scale movement to the towns if influx control were abolished? It certainly appears probable that, under existing conditions, Africans now working on farms, or in low-paid employment in small towns, or eking out an existence in a rural African area, would be tempted to flock to the larger urban centres where comparatively good wages are paid. This tendency would be lessened if better conditions of employment were offered on the farms and if the basic minimum wages payable in the smaller towns were raised. In time, as the Reserves are developed, there will be inducements for Africans to remain there or even to move to these areas. But it seems likely that, whatever such action is taken, Africans would still be attracted to the cities.

Should this movement be controlled? There appear to be four possible courses of action.

1. The first would be to retain the existing system of influx control. This would be highly undesirable because of the hardship it causes by breaking up family life in numbers of cases, by forcing widows to leave towns where they have lived for many years and go to relatives who may be strangers to them, by preventing men from obtaining work for which they are qualified or from improving their earning capacities, etc.

It will in any case have to be accepted that the present system will be increasingly difficult to enforce if police raiding for passes is curtailed.

2. If some form of control is considered to be necessary, it could be exercised by retaining the system in terms of which African work-seekers are required to register at labour bureaux, in urban areas at any rate, and employers are required to ensure that the employees they engage have work-seeking permits. Each local authority could limit the number of new registrations as it considered advisable: if employers felt that too few were being registered they could exercise pressure through the municipal council. In terms of this scheme there would be no control of unemployed Africans, but law-abiding men anxious to find jobs could obtain information at the labour bureau about towns where vacancies existed, and the police, if freed from the duty of conducting pass raids, would have more time to track down lawless people living on their wits in urban areas.
3. Alternatively, the compulsory registration of workseekers could be abolished, and a form of indirect control used. It might be rendered illegal for an employer to engage an African unless the latter produced a document indicating that he was a registered occupant of a hostel or dwelling, or a registered lodger, in the area concerned. A suggestion made by the employers' organizations might be adopted: that certain main industrial areas should be regarded as units, so as to enable Africans to work in any of the constituent districts without having to change their residence. An employer in Benoni, for example, would then be free to engage a work-seeker who was a registered occupant of a house in Springs but could not find congenial work there. If insufficient housing was provided in any town for the number of workers required there, the employers could exercise pressure on the local authority through the municipal council.

A possible difficulty in regard to such a scheme is that local authorities in the main industrial areas might oppose a request by employers to build more houses if some of the existing dwellings in their towns were occupied by Africans working elsewhere.

4. The fourth possibility would be to abolish all forms of influx control, whether direct or indirect.

Some local authorities may consider that if direct control were abolished, there would be numbers of "idlers" in the towns. To a certain extent this argument is dealt with in paragraph 2 above. If the system is retained in terms of which it is an offence for occupants of dwellings and hostels and lodgers not to register, municipal inspectors could exercise control. Officials in Southern Rhodesia are of the opinion that responsible urbanized Africans will not be willing indefinitely to support "hangers-on" and that they will themselves exert pressure on unemployed persons to move elsewhere.

As the law at present stands, the Secretary for Bantu Administration and Development, in consultation with the local authority concerned, exercises control over the presence of Africans on land within five miles (or ten miles, if the Governor-General so decides) of the boundary of an urban area. This provision would become redundant if influx control were abolished.

Whatever decision is reached on the four possibilities outlined above, it would seem that the laws should be amended in various other ways:

- (a) All Africans should be entitled to transfer from one job to another in a town without thereby forfeiting their right to be in the area. Furthermore, as is mentioned in paragraph 3 above, an African who is resident in a constituent district of one of the main industrial areas should be free to seek work in any of these constituent districts. A/....3

A man who has built himself a house at Dube, for example, would then not be expected to give it up if his employer moved his business to Alberton.

If Africans had more security of residence in the towns, they would then be able to improve their skills and economic position, would be of more value to their employers, and the danger of undercutting by inexperienced newcomers to the areas would be reduced.

- (b) All married men working in an urban area should be entitled to build their own homes on freehold plots or to apply for municipal dwellings. Local authorities should be compelled to submit annual returns, to be tabled in Parliament, indicating the number of applicants on their waiting lists. This would enable the authorities to make realistic calculations of the housing funds required, and would make it possible for Parliament to press for the provision of adequate funds. The wife and children of any man who has obtained a family house should be free to join him.
- (c) The adult children and other dependants of occupants of family houses might require lodgers' permits if the suggestion contained in paragraph 3 above were adopted, but should not be required to pay fees to the authorities for these.
- (d) Various provisions of the law relating to the removal of Africans from proclaimed areas should be re-examined: those dealing with Africans convicted of remaining longer than 72 hours without permission and with people who cannot be placed in employment. Serious consideration should be given, too, to the desirability or otherwise of abolishing provisions enabling the authorities to remove Africans who have failed to observe the conditions of their residence, or whose presence is deemed detrimental to the maintenance of peace and order, or who are deemed to be idle or undesirable, or who are considered to be in excess of reasonable labour requirements.

LABOUR BUREAUX.

It seems that it may be desirable to continue the system whereunder it is compulsory for employers to advise the local labour bureau of all engagements, terminations of contract and vacancies. When returns from the bureaux are co-ordinated, it becomes possible for information about vacancies and wage rates to be supplied to work-seekers.

Whether or not it should be compulsory for African workseekers to register depends on the decision reached on point 2, above. But if compulsory registration is retained, employers should be given greater freedom in the selection of workers.

SERVICE CONTRACTS.

Many people consider that, for the protection of both employers and employees, the service contract system should be retained.

Certain categories of Africans are already exempt from registering service contracts: holders of letters of exemption, those who were on the registered Parliamentary voters' roll in the Cape, registered owners of land in a township, chiefs, headmen, ministers of religion who are marriage officers, teachers whose salaries are paid partly or wholly by the State, policemen, warders, clerks or interpreters employed by the State or a Provincial Administration, advocates, attorneys, notaries public, conveyancers, medical practitioners, dentists, professors or lecturers at a university or university college, and members of any other profession approved for the purpose by the Minister. The Fagan Commission suggested that Africans in receipt of cash wages of £4 per week and over should also be exempted.

The position of self-employed business-men needs consideration too. They might well be exempted from the service contract system and from obtaining permits to operate in an urban area. Any necessary control could be maintained through licensing.

Consideration might be given to exempting further classes of Africans. The employers' organizations recently suggested, for example, that Africans who have resided for ten years in an urban area, and have had at least five years' continuous service with one employer, should be exempt from the pass laws.

Is the Institute of the opinion that the service contract system should be retained for other classes of workers?

If so, a point for consideration is how an African who is exempted from the registration of service contracts should prove his exemption. Must he possess one document to prove that he does not need another? This question is discussed in the last section of this memorandum.

The employers' organizations also suggested that non-exempted urbanized Africans should, instead of reference books, have work books, to be kept by the employers, in which details of service contracts could be entered by the latter. They felt that these Africans should be absolved from the obligation of reporting to the labour bureau when they transfer from one employer to another in the same labour district. Information about appointments and dismissals, they said, should continue to be submitted by employers. What are the Institute's views on the subject of work books?

A difficulty that may arise, if Africans do not have to report in person, is that if it were left to the employer to record the particulars of service contracts in work books, with no official witness, unscrupulous practices might occur, and there would be no-one to ensure that the employee fully understood the terms of the contract. Do Africans feel that unskilled workers of their group need protection: that it is worth their while spending time and energy in queueing up at the labour bureau when they enter new employment?

OTHER TYPES OF "PASSES".

1. Permits for those visiting towns for periods longer than 72 hours.

If influx control is retained in its present form these permits will still be necessary. They are, however, often the cause of hardship: it may be most difficult for an African to prove that he has been in a proclaimed area for less than 72 hours and that his presence there is thus lawful. Furthermore, if indiscriminate police raiding is to be stopped, the regulation requiring those who wish to stay for longer periods to obtain permits will be highly difficult to enforce.

On the other hand, if influx control is abolished there would be no point in retaining these permits. If a modified form of influx control is substituted for the present system, according to either of the schemes outlined earlier, there would be no control of unemployed Africans in urban areas, thus direct control of visitors to the towns might also be abandoned. Indirect control might be exercised through municipal by-laws dealing with overcrowding of dwellings.

2. Permits for visitors to urban locations or townships.

The same remarks apply to these permits.

3. Certificates stating that the holder is on leave.

Again, the above remarks apply.

4. Necessity for various categories of Africans to be able to prove that they are not obliged to enter employment.

At present old people, youths under 15 years of age, fulltime students and those who are physically unfit for work may be called upon to produce proof of these things to indicate that they are not obliged to be in employment. This is often difficult. Should this type of proof be demanded?

5. Documents required by male Africans domiciled in White farming areas of the Transvaal and Natal.

At present, no male African domiciled in a White farming area of the Transvaal or Natal may be registered as a work-seeker unless he produces

a labour tenant contract, or a statement signed by the owner of the land or his agent, to the effect that the African is not obliged to render any service to the owner during a stated period. Such a provision has not been found essential in the other provinces, and it is thus suggested that it be abolished.

6. "Foreign" Africans.

The employers' organizations suggested that "foreign" Africans who have been continuously employed in the Union for ten years should be entitled to become naturalized, and that those whose continuous ten-years service has been in an urban area should be allowed to remain there freely. What are the Institute's views?

Does the Institute consider that "foreign" Africans should be allowed to enter the towns to work? If influx control is abolished it is difficult to see how this could be prevented, unless the compulsory registration of work-seekers is retained and registration is not granted to "foreigners".

Another point for consideration is whether temporary immigration permits should be retained.

7. Curfew passes.

Curfew passes are very easy to forge. It can be expected that any African who is out at night on nefarious business is likely to be in possession of such a document, whether genuine or spurious. There seems to be no adequate reason whatever for retaining this pass.

8. Tax receipts.

This is a more difficult question. Tax payments are at present recorded in reference books. The employers' organizations suggested that they should, instead, be recorded in work books, and that an obligation should be placed on employers to collect and pay the taxes due by their African employees. On the engagement of a worker a new employer would be able to see from his work book whether his tax payments were up to date.

Is the Institute in agreement with this suggestion? It would not, of course, cover exempted or unemployed Africans. Most of the exempted Africans, would, however, be on the records of the local Receiver of Revenue, as being liable for payment of the graded tax. If reference books were abolished, Government officials would presumably have to keep records of all African tax-payers as they do for members of other sections of the population. This might be difficult, as so many Africans change their places of residence at frequent intervals; but this practice will diminish as a full-time peasantry is developed in the Reserves, as conditions become more attractive for farm workers and as Africans are allowed increasing security of residence in the towns.

9. Other documents at present required by Africans.

Consideration will have to be given, too, to the desirability or otherwise of retaining the following documents:

- a) African girls and boys who are under sixteen years of age and who wish to enter employment or to absent themselves from their homes at present require a document of identification issued by a Bantu Affairs Commissioner or location superintendent with the consent of the parent or guardian.
- b) Boys of under eighteen years of age wishing to enter employment require their parents' or guardians' consent.
- c) A boy of sixteen or seventeen years of age who wishes to absent himself from his home requires his parent's or guardian's consent and that of the location superintendent or the owner of the land where the parent or guardian is domiciled.

- d) A boy who is under eighteen years of age may be required to produce proof that his presence in an urban area is lawful in that he is living with his parent or guardian.
- c) A woman who is under twenty-one years of age, or who is over this age but subject to Native law and custom, needs her guardian's consent to leave her home in order to reside elsewhere or to enter employment.

IDENTIFICATION SYSTEM.

Are reference books really essential? Their main purpose appears to be to serve instead of the number of separate and often flimsy papers that Africans had to carry formerly; but if the need for possessing many of these documents is done away with it might be possible to dispose with the books.

To recapitulate points discussed above, is it considered that:

- a) the present system of influx control endorsements (or permits) should be retained?
- b) African work-seekers should continue to require permits?
- c) service contracts should continue to be registered?
- d) those visiting towns for periods longer than 72 hours should still require permits?
- e) employees who are on leave should require certificates to this effect?
- f) tax receipts should continue to be producible on demand?
- g) those who are aged or physically unfit or full-time students should still be required, if challenged, to produce proof of these things?
- h) an African should, if required, be able to produce proof of his permanent address?
- i) a woman subject to Native law and custom should be able to produce her parent's or guardian's consent if she is living away from home or wishes to enter employment?
- j) male Africans domiciled in White farming areas of the Transvaal and Natal should still require certificates proving that they are not obliged to render any service to the owner during a stated period?

At present all these endorsements, permits, certificates or receipts are contained in reference books, as also are exemptions from the service contract system, the curfew and Native law and custom.

(Other types of "passes", discussed earlier, are at present carried separately, for example occupants' or lodgers' permits, permits for visitors to a township, temporary immigration permits, documents required by youths and young girls, and curfew passes).

If it is decided that any of the documents listed under items (a) to (j) should be retained, would Africans prefer to have them as separate pieces of paper, or to continue to have (perhaps simplified) reference books in which the documents were incorporated? (A system of workbooks, if adopted, would not cover items (a), (d), (h), or (i), and possibly not (b), (f) or (g) either).

If reference books were abolished, it would be possible to adopt a system of identification applicable to all races without distinction.

A complication would be to find a means whereby Africans who have been exempted from any laws or regulations (eg. Native law and custom, etc) should be able to prove their exemption without needing to have exemption certificates. Would a solution be to bring the requirements for all types of exemptions into line and to issue non-exempted Africans with an identity card of a different colour from those possessed by all other members of the population?

The Institute has on several occasions urged that the national registration system should not be used to differentiate between citizens on grounds of race and that race classification should be abolished. If it adheres to this point of view it would, presumably, consider that all adult citizens alike should/...7

should be registered, and be issued with identity cards, but that no questions relating to race should be asked by officials who are compiling the national register.

The Institute has recommended in the past that no one, of any racial group, should be required to produce his identity card on demand: that is, that the regulations now governing the production of these documents by Whites, Coloured and Asians should be extended to Africans.

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