INSTITUTE OF ADMINISTRATORS OF NON-EUROPEAN AFFAIRS SOUTHERN AFRICA.

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THE ADMINISTRATIVE AND SOCIO-ECONOMIC PRO-BLEMS ARISING FROM THE PRESENCE OR ABSENCE OF BANTU WOMEN IN URBAN AREAS.

LEGAL AND ADMINISTRATIVE.

A paper presented to the

Sixth Annual Conference

by

S. A. ROGERS

Manager, Native Administration Department, Cape Town.

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THE ADMINISTRATIVE AND SOCIO-ECONOMIC PROBLEMS ARISING FROM THE PRESENCE OR ABSENCE OF BANTU WOMEN IN VIRAN AREAS.

LEGAL AND ADMINISTRATIVE.

I doubt whether many administrators of non-European Affairs fully realised the implications of the substitution of the old Section 10 of the Natives (Urban Areas) Consolidation Act by the new Section 10 as embodied in the Native Laws Amendment Act No. 54 of 1952.

Let us refresh our memories by taking a look at the old Section. This is how it read:-

"Restriction of right of natives to enter an urban area for certain purposes.

10. (1) The Governor-General shall, if requested to do so by a resolution adopted by a duly constituted meeting of any urban local authority, by proclamation in the <u>Gazette</u>, declare that from and after a date to be specified therein no native shall enter the urban area under the jurisdiction of that urban local authority for the purpose of seeking or taking up employment or residing therein, otherwise than in accordance with conditions to be prescribed by the Governor-General in that proclamation; and the Governor-General may at any time, after consultation with the urban local authority concerned, of his own motion issue any such proclamation in respect of any urban area.

(2) The Governor-General may, if requested to do so by a resolution adopted by a duly constituted meeting of the urban local authority, by further proclamation in the Gazette, repeal or suspend the operation of any proclamation issued by him under sub-section (1) at the request of that urban local authority, and may at any time, after consultation with the urban local authority concerned, if he thinks fit to do so, by further proclamation in the <u>Gazette</u> repeal or suspend the operation of any proclamation issued by him under sub-section (1) of his own motion.

(3) Any native who contravenes the provisions of any such proclamation shall be guilty of an offence."

For easy reference I now set out the Section as it now reads:-

"Restriction of right of natives to remain in certain areas.

10. (1) No native shall remain for more than seventy-two hours in an urban area or in a proclaimed area in respect of which an urban local authority exercises any of the powers referred to in sub-section (1) of section twenty-three, or in any area forming part of a proclaimed area and in respect of which an urban local authority exercises any of those powers, unless -

(a)/

- "(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 ten years or has lawfully resided continuously in such area for a period of not less than fifteen years, and has thereafter continued to reside in such area and is not employed outside such area and has not during either period or thereafter been sentenced to a fine exceeding fifty pounds or to imprisonment for a period exceeding six months; or
 - (c) such native is the wife, unmarried daughter or son under the age at which he would become liable for payment of general tax under the Native Taxation and Development Act, 1925 (Act No. 41 of 1925), of any native mentioned in paragraph (a) or (b) of this sub-section and ordinarily resides with that native; or
 - (d) in the case of a native who is not a workseeker as defined in section one of the Native Labour Regulation Act, 1911, (Act No. 15 of 1911), and is not required to be dealt with by a labour bureau as provided for in any regulations framed under paragraph (o) of sub-section (1) of section twentythree of that Act, permission so to remain has been granted to him by an officer designated for the purpose by the urban local authority concerned or in the case of a native who is such a workseeker, permission has been granted to him by such labour bureau to take up employment in such area;

Provided that whenever any native who is under this sub-section qualified to remain within any such area for a period in excess of seventy-two hours, becomes disqualified so to remain and cannot within that area or any other such area or outside such area but outside a scheduled native area or released area as defined in the Native Trust and Land Act, 1936 (Act No. 18 of 1936), obtain employment and accommodation for himself, his wife and children, if any, the Minister shall, if satisfied that such native cannot so obtain employment and such accommodation, provide that native with a residential site within any such scheduled native area or such released area.

(1) bis. Save in regard to a native originally permitted to be in any area for a specific period, the permission required under paragraph (d) of sub-section (1) shall not be refused in the case of a native who has re-entered or desires to re-enter any area, after an absence therefrom of not more than twelve months, for the purpose of taking up employment with the employer by whom and in the class of work in which such native was last employed before leaving such area, unless such native is or has been prohibited by or under any provision of this Act or any other law, other than this section, from entering or remaining in such area.

(2)/

(2) Any native who has in terms of paragraph (d) of sub-section (1) been permitted to remain in an area referred to in sub-section (1) shall be given a permit indicating the purposes for which and the period during which such native may remain in that area and may, in the case of a permit authorising such native to remain for the purpose of seeking work, indicate the class of work in which he may accept employment: Provided that -

- (a) where a native has been permitted to remain in any area for the purpose of taking up employment, the period of validity of the permit shall be limited to the period during which he remains in the service of the employer by whom he has been engaged;
- (b) where a native has been permitted to remain in any area for the purpose of seeking work, the period of validity of the permit issued to such native shall be not less than seven or more than fourteen days, unless, before the expiration of his permit, such native finds such work in which case the permit shall remain valid until the expiration of the period during which such native remains in the service of the employer by whom he is engaged.

(3) Any native who, having obtained employment within an area referred to in sub-section (1), has been refused permission to remain in that area, may appeal against such refusal to the chief native commissioner for the area in question, whose decision on any such appeal shall be final, and the native commissioner or magistrate having jurisdiction in that area may, in the event of such an appeal being lodged, in his discretion grant permission to the native concerned to remain in the area in question pending the decision of such chief native commissioner on the appeal.

(4) Any person who contravenes any provision of this section or who remains in any area for a purpose other than that for which permission so to remain has been granted to him, shall be guilty of an offence.

(5) In any criminal proceedings against a native in respect of a contravention of the provisions of this section, it shall be presumed until the contrary is proved that such native remained in the area in question for a period longer than seventy-two hours.

(6) The Governor-General may, if requested thereto by a resolution adopted at a duly constituted meeting of any urban local authority, by proclamation in the Gazette declare that for such period as may be specified in the proclamation the provisions of this section shall not apply in respect of the urban area under the jurisdiction of that urban local authority or in respect of any proclaimed area or part thereof in which that urban local authority exercises any of the powers referred to in sub-section (1) of section twenty-three.

10. bis./....

"10. bis. Employment of Natives in Certain Areas.

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(1) No person shall employ any native in any urban area or in a proclaimed area in respect of which an urban local authority exercises any of the powers referred to in sub-section (1) of section twenty-three or in any area forming part of a proclaimed area and in respect of which an urban local authority exercises any of those powers unless permission to seek or take up employment has been granted to such native under sub-section (1) of section ten or the provisions of paragraphs (a), (b) or (c) of the said sub-section apply in regard to such native.

(2) Any person who contravenes any provisions of sub-section (1) shall be guilty of an offence."

The Department of Native Affairs in its Explanatory Memorandum on the Native Laws Amendment Bill, 1951, stated as follows:-

"CLAUSE TWENTY-SEVEN.

The existing section <u>ten</u> of Act 25 of 1945 is being replaced by this clause which provides that no Native shall remain for more than 72 hours in an urban area or a proclaimed area in respect of which an urban local authority carries out the registration of service contracts system, without permission from an assigned officer of the local authority, unless he was born therein.

If, however, the service contract registration system is in operation in the area concerned, the regulations governing that system will apply and a Native will be given up to 14 days in which to find work in accordance with amended provisions of paragraph (e) of sub-section (1) of section <u>twenty-three</u> of the said Act.

It provides also for the issue to Natives allowed to enter of permits indicating the purpose for and the period during which they will be allowed to remain.

An appeal lies to the Chief Native Commissioner if a Native is refused permission to remain after obtaining work.

If a Native is found in an area without a permit it will be presumed that he has been there for longer than 72 hours unless the contrary is proved.

Provision is made for the Governor-General to exclude urban areas from the operation of the section in suitable cases."

Apart from Section 10, the only other legal provisions in the Act which make special reference to female natives are Section 23 (1) (d) and Section 29 (1) (b) (iv), the latter of course making provision for the removal of any female who has contravened the former, after having been declared an undesirable person. As/....

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As far as I know all the Governor-General's Proclamations since 1949, at any rate, requiring urban local authorities to exercise the powers mentioned in Section 23 (1) - specify paragraphs (a) to (h) thereof, but as there is no mention of native females in the Registration Regulations published in Government Notice No. 1032/1949, these provisions appear to be more or less a "dead letter" at present.

The effect of the new Section 10 was that all Urban Local Authorities were virtually required to maintain a complete "Population Register" in so far as the natives in their areas were concerned because the new Section embraced not only male natives who had been subject to the Registration Regulations in the majority of Urban Areas in the Union, but females also, and, in many instances children,

In so far as the Proclaimed Area of the Cape Peninsula is concerned 42,308 male natives were in possession of documents issued in terms of the Registration Regulations and these were overstamped to cover the new provisions of Section 10. But there were an estimated additional 40,000 natives in the Area who did not fall within the provisions of the Registration Regulations who would have to be issued with permits. This figure is made up as follows:-

Male natives exempt from the Registration Regulations in terms of Section 23 (2) of the Act. Most of these being	
Registered Parliamentary Voters	12,000
Females	27,000
Juveniles (for practical purposes those over 16 years)	<u>1,000</u> 40,000

In the light of subsequent experience these estimates have been shown to have been fairly accurate.

Cape Town, in common with several other Urban Local Authorities made application for the postponement of the application of this Section, firstly because of the expense involved in salaries of additional staff, cost of stationery, etc., provision for which it had not been possible to make on the estimates and secondly to enable arrangements to be made for suitable office accommodation.

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I had pointed out to the Council that no provision had been made for the levying of any charge for the documents which had to be issued gratis and this in turn was referred to the Department of Native Affairs. The reply received expressed regret that the Hon. the Minister after very careful consideration had decided not to recommend to His Excellency the Governor-General the suspension of the provisions of Section 10. to our Area. The Department went on to say that they did not think that the work involved in issuing the necessary permits was of such great magnitude especially when other documents such as registration contract and location permits are endorsed by means of a rubber stamp to the effect that such documents must also be considered to be permits issued in terms of section 10.

In so far as expenditure was concerned, the Department did not consider that this would be as great as was generally estimated by Local Authorities especially when full use is made of the present staff and resources.

On the question of revenue, the Department's view was that as profits accrued to the Native Revenue Account from the registration of service contracts, and as this was considered an integral part of influx control, such profits should be utilised for the latter purpose.

I understand that most other large Urban Local Authorities have not as yet implemented the provisions of Section 10 in so far as the women in their areas are concerned and some of my colleagues have evinced an interest into the manner in which this has been done in the Cape Peninsula.

In August 1952 I prepared a memorandum explaining the implications of the amendments with particular reference to the important new provisions of Section 10. This was submitted to the Advisory Board and I elaborated thereon at the Board's meeting. Spare copies of the memorandum were supplied to the members of the Board for them to distribute to their constituents. Copies were also published on the notice boards throughout the Township.

In response to a request from the women's section of the Langa Vigilance Association I explained the position to a deputation which met me by appointment.

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In an endeavour to bring to the notice of the Bantu public the salient features of the new legislation contained in Act No. 54 of 1952, the Native Commissioner called a public meeting in Langa Township in March 1953. A large crowd gathered and after the Commissioner had explained the new provisions the local "politicians" got busy and instead of asking questions about anything they did not understand, proceeded to sieze the opportunity to air their views before the microphone. The result I leave to your imagination.

Let me say at the outset that it was not without some trepidation that I approached the problem, knowing, as we all do, the almost fanatical opposition one invariably meets when the word "passes" in relation to native women is even mentioned.

A start was made with Government and Provincial Institutions such as Hospitals and Schools. Where Native women were employed the attention of the authorities was drawn to the provisions of Section 10 and before very long all the female native staff employed in these Institutions were in possession of the appropriate documents.

With a view to emphasizing the positive side of the administration of the Act arrangements were made to establish an employment bureau, unofficial but none-the-less effective, with a view to assisting in the placement of women in suitable employment and all females directed by the Bureau to employment were issued with permits to seek work in terms of Section 10. These were composite documents from the bottom of which a perforated portion marked "C" was detachable by the employer who was requested to return it to the issuing office with the particulars of the contract of service filled in. In another portion of the document marked "A" the employer was asked to fill in his or her name and the date of engagement thus converting the document from a permit to seek work valid only for fourteen days to one which was valid for the period during which the native remained in the service of the employer. (Section 10 (2) (b)).

Employers were also asked in another portion of the permit (marked "B") to sign off when the woman left his or her employ, thus invalidating the permit and again making the woman subject to Section 10.

Employers/

Employers in the main have been most co-operative in their dealings with us, probably due to a certain extent to the shortage of domestic servants as the result of the absorption of coloured females into industry.

In view of the provisions of Section 10 (5), which places the onus of proving whether a native has remained in an area for longer than 72 hours upon such native, steps were taken to issue to those women who were known to fall within the exempted classes of Section 10, and who made application therefor, letters of administration certifying that they were so exempted. In order to avoid, as far as possible, these documents falling into the wrong hands, the holder was required to sign her name on the face of it and also on the duplicate which was placed in her record file.

At the same time emphasis was placed on the value of the document and the necessity for taking great care of it.

The issue of these documents has been appreciated by the women and practically every woman resident in the Native Township has made application for one. Where the Office records disclose that she is qualified the document is issued. In any case of doubt it is not. Obviously it is easier for the women who live in the established Townships to obtain these because the office records are available to substantiate their claims which is not the case with women who live in the slum areas or other parts of the Proclaimed Area outside the established Townships.

On the 13th October 1953, the following letter was received from the Secretary for Native Affairs on the subject of the control over influx of Native women into Urban Areas:-

"Control over Influx of Native Women into Urban Areas.

In connection with the above subject, I have to inform you that the following instructions have been issued to all officials of the Department of Native Affairs, all Magistrates, Additional and Assistant Magistrates and Special Justices of the Peace:-

1. Attention of district officers is drawn to the fact that the influx of Natives from rural to urban areas continues in spite of the provisions of Section 10 of the Natives (Urban Areas) Consolidation Act 1945 (Act No. 25 of 1945).

2./....

- 3. Once again attention is invited to the fact that Natives who intend to enter and work in a prescribed area, must obtain permission from the local authority (Section 10 (1) (d) of Act No. 25 of 1945).
- 4. It must be emphasised that the control measures are being applied with extreme strictness because there is already a surplus of labour in the urban areas. It must also be made clear to Natives that, if they neglect to observe the provisions of the said legislation, they render themselves guilty of an offence.

The provisions of the said section (Section 10) of the Natives (Urban Areas) Consolidation Act (Act No. 25 of 1945) are not applicable to male Natives only, but also include Native women and the attention of local authorities is invited to the possibility of limiting influx of native women and getting rid of undesirable Native women by means of the correct application of Section 10 of the said act when the provisions of Section 29 of Act No. 25 of 1945 are not suitable.

Although the Department desires local authorities to take effective steps against the influx of Native women, officials charged with these duties should be requested to act strictly but tactfully to ensure the success of the measures and to avoid the possibility of any disturbances.

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Some of my colleagues may not be aware of the fact that the Government's policy in so far as the Western Cape is concerned is to discourage as far as possible the permanent settlement of native families there. In order to give effect to this policy, therefore, the control of the influx of native females is essential.

Up until 31st October, 1954, approximately 5,000 permits under Section 10 had been issued to Native females in the area. Most of these were to women in employment as employers probably wished to avoid the possibility of being prosecuted for contravening Section 10 <u>bis</u> (1) and (2).

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In November, 1954, during the course of a routine night inspection in the City, my Inspectors in conjunction with the Police, came across four young Native women aged from 18 to 20. They were found in very suspicious circumstances and were questioned as to who they were, where their homes were, etc. It transpired that they had only arrived from Port Elizabeth a few days previously and as they could give no satisfactory account of themselves they were placed in custody. They were duly charged under Section 10 (4) at the Native Commissioner's Court which is held daily at Langa Township. They were found guilty and ordered to be returned to their homes and parents who, incidentally, were frantic about them and had no idea where they had gone to.

The natives who were present in the Court at the time discussed these cases and it was apparently borne in on their minds that the presence of females in the area without the authority of a permit was a punishable offence. I cannot say whether what followed was the direct result of these prosecutions but within a few weeks it became necessary to make special provision to open branch offices throughout the Peninsula in order to cope with the demand for permits to be issued. My office was inundated with frantic phone calls from anxious employers saying that their maids had told them that they must immediately get permits for them otherwise they would be arrested and their "madams" would also be prosecuted.

During the two months December 1954 and January 1955 no less than 8,556 permits were issued at the special offices.

The pressure was so great during that period that those women who were not employed and who were not known to us as they were not living in an established Township, were given permits for varying periods of three to six months to protect them from prosecution and to enable my Inspectorate staff to get around to investigating their background, living conditions and circumstances in order to ascertain whether they had any claim to be allowed to remain in the area. These permits were renewed from time to time as they expired because in order to investigate them the inspectorate staff were kept busy for months.

One/

One of the results of the application of Section 10 to women has been a marked increase in the number who formerly did not find it necessary to go out to service but who are now in regular employment. One can only assume that the uncertainty which was engendered in their minds by having a permit which was valid only for a short time was responsible for their sudden industriousness. Whatever the reason, the results are good.

A significant fact worth mentioning is that where we anticipated real difficulties, that is amongst the dwellers in the "black spots", our passage was made comparatively smooth by women who came forward readily and applied for permits - but at the same time told us, in the strictest confidence of course, not to issue one to "so and so" because she is a loose woman and has been the cause of trouble between her and her husband for a long time!!

In the case of a woman who enters the area but has no husband or other close relatives here and who states she has come for the purpose of seeking employment, she or her employer, is called upon to make a deposit sufficient to cover the cost of her repatriation to her home. Enquiries are instituted at her home address to ascertain whether her people know where she is and whether she has a home to which she can be returned. This method is adopted with a view to avoiding her having to be sent home at the State's expense.

Emphasis is placed on the fact that according to law she may only remain in the area for 72 hours without a permit and she is informed that the permission granted to her to remain and accept employment is valid only whilst she remains in the service of that employer and at the termination of her services the deposit will be utilised to send her back to her home.

I do not wish to burden this paper with details of the manner in which the records of native females are maintained. Suffice to say that the pattern adopted in the administration of the Registration Regulations for male natives prior to the introduction of Reference Books has been closely followed and those of you who administer these Regulations know as well as I do what has to be done.

Briefly/....

Briefly, - a file is opened for each female as she reports to the Office. Particulars are taken of her names, age, date of arrival, address, occupation, husband's name and particulars (especially his N.I. No.). Also a short description of the female herself is noted with the object of detecting possible impersonation at a future date. She is allocated a number which she retains during the whole cf her stay in the area, or until she is issued with a Reference Book, in which case the number of the Reference Book replaces her former number. An index card, based on her surname is made out, which is filed alphabetically and which enables you to find her file which is filed numerically.

It is not claimed that the system is 100% effective, but no effort has been spared to make it as effective as possible. In any case in my experience I have still to be shown the perfect system.

In the same way as the records of Service Contracts for males provides information as to the industriousness of the men, so the records maintained in the Female Office give similar information.

In the event of a woman having recently arrived in the area she is issued with a permit in terms of Section 10 (1) (d) for a period which may vary from seven to fourteen days, and she is told to report before the date of expiry with her husband. In most instances the couple have found accommodation of a kind in one of the "black spots" which we are anxious to clear up, so the arrival of the woman has the effect of worsening the problem of slum clearance. Having regard to the penultimate paragraph of the letter from the Secretary for Native Affairs which I have quoted and which enjoins officials to act tactfully but firmly in dealing with women whom it is desired to remove from the urban area it is essential that husband and wife be interviewed together and their attention drawn to the policy of the Government regarding the permanent establishment of native families in the area and the undesirability of the woman living in the unhygienic conditions in the slum where he has found accommodation for her,

In passing, I might mention that since the Council has provided accommodation for single men in Hostels in Langa there has been a marked increase in the influx of wives into the area, I suspect that the husbands are largely responsible for this in an endeavour to avoid having

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to "leave their little wooden hut" - to quote the words of an old song which was popular in my youth - and remove to the quarters provided for them in the Township.

It is desirable for obvious reasons to arrange for cross reference of the female files to be made on to the male files and when the parties are interviewed both files should be available.

It is true that by coming to the area and remaining for longer than 72 hours the woman has contravened Section 10, and could be immediately prosecuted but this action is rarely resorted to unless there are exceptional circumstances which warrant it. In general, every effort is made to administer the law sympathetically - but with firmness should the latter attitude become necessary.

One has to take into account that with the strict application of the Labour Bureaux Regulations the native men in many cases are afraid to go back to their homes for fear that they may not be permitted to return to the Proclaimed Area. This is particularly the case with those who work in industries such as Building; Stevedoring; Civil Engineering etc., where the jobs they are employed on last for a few months and then end. Quite often they are reengaged by the same employer when he gets another contract, otherwise they find work with other firms engaged on similar work, but obviously employers falling in these categories cannot guarantee that they will be willing or able to re-employ the native if he decides to go home for a while to attend to his domestic affairs. The native therefore cannot count on the protection of the provisions of Section 10 (1) bis which enables him to re-enter the area to resume employment with his last employer provided he returns within twelve months.

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This frequently results in the wife coming to the Urban Area because her husband does not come home. (Mohamed must go to the mountain if the mountain cannot go to Mohamed!!)

The reasons given by women for coming to the Proclaimed Area are quite interesting. By far the largest number come for biological reasons, i.e., for the purpose of increasing their families. It is surprising, however, once these women arrive in the area, how many find themselves physically incapable of achieving that object.

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The proportion who produce doctors' certificates to the effect that they suffer from sterility, pelvic infection or some kindred complaint is very high indeed. In fact, we found it necessary to draw up a cyclostyled letter which is handed to cases of this nature addressed to the Health Department's clinic or the Hospital nearest to their place of residence asking that they furnish a certificate as to the woman's state of health and where necessary give her treatment. This was done with the object of directing them into the right channels in case they really needed treatment and also for economic reasons in order to save them from incurring heavy medical expenses. Apart from these considerations they would be able to receive specialist treatment at the gynaecological clinics which in most cases is not available at a private doctor's surgery.

In many other cases women come to look for prodigal husbands or sons. The male members of the family having been absent from their homes for a long time and the womenfolk having heard through friends or relatives who have returned from the urban area that their missing spouse or offspring was seen at such and such a place they decide to pledge their last surviving beast to raise the necessary funds to go in search. Not infrequently they discover their men-folk, unlike the biblical prodigal son, living off the fat of the land replete with another "wife" and possibly several more offspring.

Or it may be that the man, despite the fact that he has spent years in more or less regular employment and has earned quite a substantial sum in the aggregate during that time - has nothing to shew for it because he has acquired all the vices of so-called "Western civilisation", strong drink, slow race-horses, etc., etc. Having found her man, the woman is loth to return home without him and one feels that she deserves help in her task of rehabilitation. She wants to work, so you help her to find it and their joint earnings hasten the day when she can return with her husband to their home.

Most of the criticism against the issue of documents to women springs from allegations against the Police and other "authorised officers" who fail to exercise tact and considerateness in demanding the production of documents and dealing with offenders. It is possible that

women/

women have suffered at the hands of over-zealous and inconsiderate officers but I think that the number of cases which fall in this category is grossly exaggerated by people who are opposed to the principle of women having to have permits. Nevertheless, Administrators of Non-European Affairs should impress on authorised officers on their staff the need for forbearance and tact in administering Section 10 and cognate provisions of Act No. 25 of 1945, particularly when they come to dealing with women.

ANALYSIS OF FEMALE DOCUMENTS ISSUED.

(i)	Number of females permitted to remain in area for purposes of residence with their husbands, etc. (Section 10(1)(d)	14,955
(ii)	Number of females permitted to remain in area for the purpose of employment (Section 10(2))	10,299
(iii)	Number of females exempt from the provisions of Section 10 (Section 10(1)(a), (b) or (c))	959
(iv)	Number of females who have left the area or who have been refused permission to remain <u>Total</u>	<u>4,928</u> 31,141
	COST OF ADMINISTRATION OF SECTION 10 FOR FEMALES.	

Salaries and wages:

3 European Clerks @ £888 - £2664 5 Native Clerks @ £312 - <u>£1360</u>	€ 4,024
Pension fund contributions (8% on basic)	320
Printing, Stationery, Office expenses	500
Office equipment	100
Sundries	56
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This does not take into account any portion of Inspectors' salaries as these officials combine the duties of control of females with their other activities.

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