5.27.3.3

PRETORIA JOINT COUNCIL OF EUROPEANS AND NON-EUROPEANS

SUMMARY OF MAIN PROVISIONS OF URBAN BANTU AUTHORITIES BILL 1952

1. ESTABLISHMENT OF URBAN BANTU AUTHORITIES :

a) "For every urban area in respect of which there have been established one or more locations or native villages and for every area which has been approved for the residence of Natives, and in respect of which the Minister, at the request of the local urban authority concerned, so directs, there shall be established by the urban local authority concerned one or more urban Bantu authorities."

b) These urban Bantu authorities will replace existing Native Advisory Boards, and will be organised on a ward basis .... "provided that the determination of wards shall be done so as to ensure, as far as practicable, that each shall consist of an ethnic or tribal group."

c) The Bantu urban authority "shall consist of a Native Chairman appointed by the Minister after consultation with the urban local authority" and a number of appointed or elected members. The local authority will select the appointed members. Elected members will be chosen by the ward committees or residents of the wards. The Minister will determine how many members an Urban Bantu authority shall consist of.

d) "Only adult male natives who have paid their current General Tax or who are exempted therefrom may vote for or become members of an urban Bantu authority or ward committee."

2. POWERS, FUNCTIONS AND DUTIES OF THESE AUTHORITIES :

a) The urban Bantu authority will be able to administer only those matters entrusted to it by the local authority concerned :

These matters SHALL be (subject to supervision and conditions laid down) :

(i) the collection of all or part of the monies due by the inhabitants to the urban local authority

(ii) the expenditure of a stipulated amount of money, or of a stipulated share of the Native revenue

These matters MAY be (subject to supervision etc.) :

(i) measures for the improvement of conditions, the prevention of unauthorised influx or overcrowding, the maintenance of order and the protection of persons, goods and properties, the provision of roads, drainage, sewerage, water and light and of transport, health, burial, educational, recreational and other facilities

(ii) the allocation of accommodation, houses, plots and business premises and the submission of recomm - endations in respect of trading and other business licences

(iii) measures to prevent the unauthorised occupation of houses and the removal of unauthorised occupants

etc.

b) Subject to the consent of the Minister, the urban local authority can curtail or withdraw any of the powers already granted to the urban Bantu authority.

c) "An urban local authority or its appropriate committee shall, not less than once in every six months, meet the urban Bantu authority or representatives thereof ..... for the purpose of consultation on matters falling within the jurisdiction of the urban Bantu authority."

3. FINANCES :

a) "An urban Bantu authority shall have power, with the approval of the Minister after reference to the urban local authority concerned to levy a rate not exceeding one pound in any one year upon each Native male adult ordinarily residing within its area of jurisdiction."

b) A Treasury shall be set up for each urban Bantu authority - "under the control of the Minister, who may on such conditions as he may deem fit, vest the control thereof or any portion thereof in the urban Bantu authority concerned."

c) The following s hall be paid into the Treasury :

(i) All amounts received from the urban local authority
(ii) All fees and fines collected by an urban Bantu court
(iii) The proceeds of any levy imposed by the authority
(iv) Any other amounts from property, donations etc.

4. URBAN BANTU COURTS :

a) "The Minister may, in respect of any urban area, or portion thereof, establish one or more urban Bantu courts to hear and determine complaints and dsiputes between Natives other than questions of nullity, divorce or separation arising out of a marriage or customary union, if the defendant is resident within the area of jurisdiction of such court and the amount of the claim or the value of the matter in dispute does not exceed twenty-five pounds, and may confer upon such Court jurisdiction to try and punish any Native who has committed, in such area, any offence specified by the Minister."

b) "The Court shall consist o f a Native presiding officer and two Native members appointed by the Minister. At least one member shall be selected from the appropriate urban Bantu authority if such authority is functioning. The decision of the majority shall be the decision of the Court."

c) "Notwithstanding anything in any other law contained no advocate or any other legal practitioner other than a Native may appear or act for any party in any court established in terms of (a)."

5. POWERS OF THE MINISTER IN MAKING REGULATIONS :

These are very extensive : e.g.

> the number of urban Bantu authority members to be nominated or elected for each ward, the number of such members to be appointed by the urban local authority, the constitution of ward committees, the qualifications and obligations of persons nominated, elected or appointed to any such authority, the period and conditions of office, the procedure to be followed at meetings, method of voting etc., etc.

PRETORIA JOINT COUNCIL OF EUROPEANS AND NON-EUROPEANS

The Secretary,
Land Tenure Board,
Libri Buildings,
PRETORIA.

Sir,

re: Land Tenure Advisory Board Investigation in terms of the Group Areas Act 1950 (Act 41 of 1950) as amended: Pretoria and Environs.

I, Mark Nye, do hereby on behalf of the Pretoria Joint Council of Europeans and Non-Europeans and on my own behalf lodge objections to the desirability of proclaiming

Lady Selborne (area 78 on map A) for either European or Coloured occupation,

The Asiatic Bazaar and Cape Location for European occupation,

The area numbered 214A to 216, 218 to 221 and 239 on map F for occupation by members of the Indian group,

on the following grounds:

Historical

1) Lady Selborne was established in 1907 by the then Lieutenant Governor of the Transvaal as a native township. In 1913 it was proclaimed a native territory,

The Asiatic Bazaar was set aside in 1890 by the Republican Government for occupation by Asiatics,

The Cape Location was given as a dwelling place to the Coloured by President Kruger.

Suitability

2) The natural and man-made boundaries make these areas suitable for occupation by their present inhabitants.

Investments

3) The present inhabitants and private bodies have invested much capital there and have entered into contracts on the strength of the present condition.

Unsuitability for newcomers

4) The new proposed area for the Indian group is not suitable for business purposes and only a small fraction of the shops presently conducted by members of the Indian group in the Asiatic Bazaar could earn a livelihood in the proposed area.

no houses

5) The lack of proper accommodation and amenities in the new areas as all building either by the people themselves or by the authorities would have to await financial provision which always takes time.

Compensation

6) The cost of compensation to the State would be enormous.

transport

7) Higher transport costs for individuals and a high outlay of capital for the Railway Administration and bus companies.

journeying

8) Lower general labour efficiency as workers would have to travel longer distances to their work and accordingly would suffer greater fatigue.

Loss of freehold

9) Unhappiness and frustration would be caused by loss of land tenure and freehold rights.

10) Compulsory removal of these freehold groups (from Lady Selborne, Asiatic Bazaar and Cape Location) would be contrary to the following principle: Justice and fairplay should be used in our dealings with Non-Europeans.

It

It is respectfully submitted that we/I are/am entitled to appear in person and/or represented at the meeting of the Board to adduce evidence and/or raise arguments in support of our objections, and I request that you advise me of the place, time and dates of the meeting.

Yours faithfully,

CHAIRMAN

Pretoria, 179 Proes Street
June 5th, 1955

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N.B. On the reverse of this notice is a copy of the letter sent by the Chairman to the Secretary of the Land Tenure Board. Will members please send any information they may have on any or all of the points mentioned therein to the Hon. Secretary, Miss J.M.Elder, Windsor House, 643 Church Street East, Pretoria.

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SPEAKER: LR QUINTIN WHYTE

SUBJECT: "Recent Government Legislation"

THE PRETORIA JOINT COUNCIL OF EUROPEANS AND NON-EUROPEANS

The next GENERAL MEETING will be held in the

CHURCH HALL, ST ANDREWS CHURCH, SCHOEMAN ST

on WEDNESDAY, JUNE 22ND 1955

at 5 p.m.

PROCLAMATION OF GROUP AREAS - PRETORIA
WITWATERSRAND, VEREENIGING REGION.

PROPOSALS SUBMITTED BY THE PRETORIA JOINT COUNCIL
OF EUROPEANS AND NON-EUROPEANS.

Before proceeding to matters of detail, the Joint Council of Europeans and Non-Europeans wishes to say at the outset that it is opposed in principle to the Group Areas Act No.41 of 1951. Certain basic tenets are, in the opinion of the Joint Council, threatened by the provisions of the Act, and while admittedly its implementation is still in the preliminary stages, it is felt necessary to draw attention to the serious issues involved, for it is against this background that the suggested proposals have been framed.

The principle objections which the Joint Council holds are briefly as follows: -

(I) The main purpose of the Act appears to be to provide a foundation for the ultimate settlement of different racial groups in clearly demarcated areas. Inevitably this must involve the uprooting of people from their homes. Any such displacement by compulsion is, in the opinion of the Joint Council, unjust and unwarranted, and this attitude prevails whether the persons affected be European or Non-European. The only conceivable qualification would be the requirement of public health. Otherwise the idea is in complete conflict with modern democratic thought relative to the rights and liberties of the individual.

(II) Inevitably implicit in any implementation of the terms of the Act will be a threat to proprietary rights of individuals who are furtunate enough to possess them. Contemporary world opinion is mirrored in Article 17 of the Universal Declaration of Human Rights, which declares:

" (I) Everyone has the right to own property alone as well as in association with others:

(II) No one shall be arbitrarily deprived of his property."

With this declaration we are wholeheartedly in support, still more so because -

(iii) There are no provisions in the Act for the affording of compensation to persons who may be deprived of rights. Constitutional theory will say that what has been enacted reflects the wishes of the majority, and that what is to be done will be for the good of the nation as a whole. The first objection to this is that the wishes and feelings of the vast majority of the people (being the Non-European section of the community) were not taken into account at all. Secondly, even if the theory were supportable in the circumstances, then equity would demand at the very least that as it is the nation at large that is to benefit at the expense of the uprooted, it should be the responsability of the nation at large to make compensation for whatever hardship may be caused.

Miss ELDER
WINDSOR HOUSE
643 CHURCH ST. E.

(iv) Without wishing to enter into a thesis upon the merits or demerits of apartheid, the Joint Council feels that it can sincerely claim to reflect public opinion when it says that, because of the obvious practical considerations involved, there is no likelihood of the doctrine being applied to its logical and absolute conclusion in South Africa. Economic factors in particular dictate that interdependence between European and Non-European cannot but continue. On this basis the Joint Council considers itself bound to disapprove of any policy or proposed policy which springs from the theme of racial exclusiveness as we know it in this country. Whatever immediate material benefits may appear to flow from the application of such a policy, paramount consideration ought to be given in every case to the most vital of all questions, viz., What will be the psychological effect upon the persons concerned? The Joint Council is firmly convinced that every single piece of apartheid legislation, when applied, has had and will have nothing but the most detrimental effect on the minds of those affected thereby.

(v) In regard to housing problems, there is no denying that, so far as the Non-Europeans are concerned, there are two factors which occupy their thoughts more than all else, and they are: -

(a) the desire to own the houses they occupy and the land on which those houses stand;

(b) the generally disadvantageous position in which they find themselves as far as transport facilities ar concerned.

The Joint Council sees nothing in the Act which will in any way provide for the alleviation of these absolutely vital questions.

Speaking for Pretoria, the Joint Council has no hesitation in saying that the Non-Europeans (and particularly the Africans) who live and work in and around the city form an essential part of its prosperity and economy. Indeed this applies to the whole country. Already so far from their work that unnecessary hardship is entailed, the Council declares itself strongly against any proposal to group them in areas still further removed from the centre of the city. The time taken in transporting them to and from their places of work adds to long working hours and to fatigue, and consequently contributes to inefficiency. The psychological effect hardly needs stressing. Similarly with the hunger for freehold tenure, this is something which every effort should be made to appease. Every person wishes to share in the responsability and pride that flows from ownership - likewise he longs for the security of a home which is his own personal property. To continue to deny such a natural ambition seems suicidal.

Turning now to matters of detail, and bearing in mind what has been said above, the Joint Council states that it believes that the status quo should, as far as possible, be maintained, subject to the proviso that decongestion should be sought after by affording accomodation on land already purchased

or still to be purchased for the purpose. The Joint Council reiterates that it is entirely opposed to the demarcation of precisely defined areas with hard and fast boundaries purely on racial basis.. Apart from the considerations already stated, it is felt that as this country develops and its population grows, so-called "group areas" will always tend to encroach upon one another, and as is only too apparent to-day, it will usually be the less privileged group which will have to give way. Consequently the proposals set out below deal only in general terms with the various areas of settlement in and around Pretoria, for any attempted definition of areas with geographic precision would be contrary to principle.

It is proposed now to deal with the so-called European areas, and in so doing it will be necessary to refer to other areas falling within the scope of Section 3 of the Group Areas Act, and also with those falling beyond its scope. In considering the European inhabitants of the Pretoria region, it is held by the Joint Council that, as with everybody else, they should not be disturbed in their tenure, except that where decongestion has become an urgent necessity in Non-European locations and townships, then adjoining European landowners should be invited to provide land in return for an adequate measure of compensation.

Thus, if one takes MOOIPLAAS. It is contended by the Joint Council that more land should be made available to the East of the Pretoria-Krugersdorp Road to ease the congestion prevailing on the Western side of the road. It is understood that the Pretoria City Council intends building more houses in the Atteridgeville Township in the near future, and similarly in Saulsville, which latter land has already been bought for this purpose. Iscor also intends erecting some 1200 houses on these sites. No doubt if these proposed schemes afford adequate living conditions at a reasonable cost and carry with them the opportunity of freehold tenure, then the squatters at Mooiplaas will be prevailed upon to leave voluntarily. Transportation problems will be solved by the laying down of a branch railway line as soon as the economic population figure of 30,000 is attained. When all this will materialise it is difficult to say - in the meantime the Joint Council sets its face against the proclamation of Mooiplaas as an European area.

ATTERIDGEVILLE AND SAULSVILLE. As indicated above, land here has already been made available for Native Housing Schemes, and such land must thus be deemed to fall outside any European area.

LADY SELBORNE. The Joint Council intends to take the strongest possible stand against any possibility of Lady Selborne being deproclaimed and declared an European area at any future date. This is one of the few areas in this country in which the Native inhabitants have genuine freehold tenure. It must be conceded, of course, that at present there is deplorable congestion in the township, but undoubtedly the proposed extension and development of Atteridgeville and Saulsville will attract many who are now paying exorbitant rentals for the dubious privilege of living in extreme discomfort. Furthermore it is suggested that European-occupied land to the west of Lady Selborne be purchased and made available for decongestion purposes.

BANTULE AND HOVE'S GROUND. This area, like Lady Selborne and Atteridgeville, falls outside the scope of the Group

Areas Act and cannot at this stage be proclaimed an European area. Decongestion is necessary and it is suggested that land be purchased to the westwards for this purpose.

EASTWOOD. Eastwood is to-day a well-developed area with clinics, a creche, maternity wards, and a Government school. Moreover, many of its residents have paid for the ground and erected their own homes. There is congestion and it is recommended that land be purchased from European land-owners to the East for extension purposes. The Council objects to any proposal to include Eastwood in a proclaimed European area, and on the contrary declares that the ever-increasing European encroachment in this area should be halted.

HIGHLANDS. This coloured settlement should be extended by the purchase of land to the South from European land-owners, as congestion is severe.

EERSTERUS. The Joint Council urges that to ease overcrowded conditions, this township be extended by the purchase of neighbouring land to the North. The proposed development of Vlakfontein will, no doubt, help matters, but the Council does not support any suggestion of moving those who own their properties, unless they are prepared to go voluntarily.

RIVERSIDE. Similarly here the Council suggests decongestion by the purchase of neighbouring European lands in the North. It is noted that Europeans have encroached into the strip of land between Eersterus and Riverside, but it is urged that they have done so at their own risk and cannot expect old-established Non-European inhabitants to have to uproot themselves to suit their convenience. If the Natives should choose to move to Vlakfontein of their own free will because of the better facilities and tenure rights offered, then it is a different matter, of course.

CLAREMONT. This is an area adjacent to Lady Selborne which is inhabited mostly by Africans and Coloureds. In accordance with its stated principles the Joint Council disapproves of any suggestion of disturbing the tenure of these people. Congestion is not so severe here and what there is will probably be alleviated if the plans for the development of Atteridgeville and Saulsville bear fruit, and also if Lady Selborne were to be extended to the West.

ASIATIC BAZAAR. The Joint Council adheres to the stand taken in an earlier memorandum submitted to the Land Tenure Advisory Board on this specific subject, viz., that the area should remain Asiatic and that freehold rights should be granted to the inhabitants who will thus be given the incentive to improve conditions themselves. Overcrowding could be very easily solved by the erection of multi-storeyed blocks of flats.

In conclusion, the Joint Council respectfully requests that the above proposals be given careful consideration. The Council feels itself bound to express the conviction that quite apart from questions of justice and equity, further implementations of the doctrine of racial exclusiveness can only cause inter-race relations to deteriorate still further.

PRETORIA.
30.10.52.

SOUTH AFRICAN INSTITUTE OF RACE RELATIONS (INC.)
SUID-AFRIKAANSE INSTITUUT VIR RASSEVERHOUDINGS (INGELYF)

MEMORANDUM ON THE AMENDMENTS TO THE NATIVES (URBAN AREAS) CONSOLIDATION ACT, 1945 (ACT NO. 25 of 1945), TO BE INCORPORATED IN THE NATIVE LAWS AMENDMENT BILL, 1945.

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1. The South African Institute of Race Relations was founded in 1929 with the object of fostering peace, goodwill and practical co-operation between the various sections of the population of South Africa. To it are affiliated the principal municipalities of the country, also many churches, universities, missionary and other organizations, and it has an individual membership of over three thousand five hundred.

The Institute has been recognized by all Governments as a non-party-political body, which bases its conclusions on ascertained fact and objective enquiry. It considers that scientific study and research must be allied with the fullest recognition of the human reactions to changing racial situations, and that due account must be taken of opposing views earnestly held.

There are elected European and Non-European members on its Council and Executive Committee. It is in intimate touch with the Joint Council movement, and it keeps in close contact with Non-European opinion through its local offices and its members, and by means of its participation in the work of many other organizations.

2. The Institute has over the course of years given lengthy consideration to matters affecting urban Africans and has studied existing legislation with great care.

The Institute is in whole-hearted agreement with the finding of the Fagan Commission that "the townward movement of Natives is simply an economic phenomenon, which is also occuring with regard to the other races - and in the case of the latter, in proportion to their numbers, to an even greater extent. It can be guided and regulated, but it is impossible to prvent it or turn it in the opposite direction. We, therefore, have to accept the fact that there is a permanent urban Native poluation." (para 65). It considers that many of the principles which the Natives (Urban Areas) Consolidation Act seeks to establish are in conflict with recognition of the fundamental facts that a permanent urban Native population exists, that it will continue to exist, that it is in the best interests of the country as a whole that this population should be stabilized and that migrant labour should be reduced to the lowest possible proportion, consonant with present economic realities.

In its evidence to the Fagan Commission, the Institute made its attitude clear and expressed the view that it could not support any documents which restrict the movements of Africans. The Institute is still of opinion that the basic objective of the Natives (Urban Areas) Consolidation Act, which is to enforce measure restricting the mobility of labour, is irreconcilable with the economic requirements of this country.

Although, therefore, the Institute cannot accept some of the major premises upon which the Bill under discussion is based, it nevertheless, wishes to submit the following comments in the hope that they may contribute towards the better relationship between Europeans and Africans.

3. Clause 27/.....

3. Clause 27. (Section 10).

(a) The Institute is strongly of opinion that the complete revival of emphasis which this amendment will bring about is undesirable and unnecessary. Under the principal Act any urban local authority has the right to request the Governor-General to "proclaim" the area within its jurisdiction. It is now proposed to apply these measures automatically to all urban areas, which will mean that many urban local authorities, which have found no need to apply restrictions within their areas, will find their areas "proclaimed". The fact that clause 10 (6) makes provision for an urban local authority to request the Governor-General not to apply the provisions of this section has not been overlooked: but the Institute considers that restrictive measures should not automatically be made operative on a national scale, with relief therefrom having to be specifically applied for. It considers that the procedure of specifically applying restrictions where these are considered necessary should be maintained.

(b) The Institute is of opinion that the provisions of this section will bear harshly upon the African. They will, if implemented, put a premium on finding employment within 72 hours of entering the urban area, as it is more likely that an African who has obtained the offer of employment will be given permission to remain in the area than an African who has no offer of employment. This will react to the advantage of unscrupulous employers.for the reason that the necessity of finding work within seventy-two hours will compel the African work-seeker to accept any type of employment offered, and in this way seriously restrict his freedom of choice. The disabilities flowing herefrom will to some extent be mitigated in those, usually larger, urban areas and in those occupations where wage rates have been laid down under the Industrial Conciliation Act or the Wage Act. But even this protection will not be afforded in the many urban areas, which will become automatically "proclaimed", and in which there is no regulation of wages. Further, the threat of expulsion will prevent Africans from attempting to improve their position by changing their employment, because under section 10 (2) (a) a Native may be allowed to remain in the area only for the duration of his service with the employer to whom he is engaged.

(c) In order to provide for greater facility of administration and for the greater convenience of the people concerned, the Institute suggests that an appeal (under Section 10 (3)) should lie to the local Native Commissioner. It also considers that the right to appeal should not be restricted to an African who has obtained employment but that any African who has been refused permission to reamin in the urban area should have the right to appeal.

(d) With reference to section 10 (5), it is appreciated that it is a recognized principle of criminal procedure to place the onus of proof of innocence upon the accused where the facts are peculiarly within his own knowledge. In the present instance, however, the production of proof that he has been in the urban area for less than three days will result in untold hardship on the accused. The only person, or persons, who can establish this proof arepersons in the accused's home territory who can testify that they saw him at the time when he was "presumed" to have been in the urban area or persons who actually witnessed his arrival at the railway station. For it is an impossibility for an accused to establish a negative: viz., that no one saw him in the specified urban area more than seventy-two hours before his arrest.

(e) The Institute urges the Government most earnestly to amend section 10 (1) to read "Natives born or permanently residing in such areas" instead of "Natives born and permanently residing in such areas". It considers that once an African has been domiciled in an urban area for a period of

(i) The Institute urges that expeditious effect be given to the establishment of a national network of labour bureaux, so that if the additional restrictions contained in the amending Bill are imposed, facilities to mitigate their harshness shall be provided.

4. Clause 34 (Section 19)

(a) While the Institute does not wish to express disagreement with the specific proposals made in this section, it considers that the time is ripe for a review of the whole system of the finance of Native townships. The Social and Economic Planning Council (Report No.8) stated that "as the inhabitant of urban locations are an integral part of urban communities, the Council cannot reconcile the segregation, in financial matters, or urban Native communities with the principle of equity". (para.24), and it recommended that a block grant system, based upon a formula which would take into account financial resources and differences in population composition, should be instituted.

(b) The Institute has repeatedly expressed its concern at the tendency of some urban local authorities to follow a self-balancing policy in regard to their Native Revenue Accounts. "In view of the general poverty discovered and the necessity in almost every case for improved services, such as health, sanitation and water", the Smit Report urged local authorities "in their own interests to avoid the adoption of this principle" (i.e. self-balancing accounts) para 202. The Native Affairs Commission in its Report on Kaffir Beer pointed to "the tendency to exploit beer-hall profits to meet recurring expenditure on ordinary municipal services, i.e. redemption of capital on building schemes and other items which, in the opinion of the Commission should more properly be financed by the General Account" (para.95). The Institute is apprehensive that this section will further encourage urban local authorities to make their Native Revenue Accounts self-balancing, and so depart even more from the generally accepted principle of public finance that the wealthier sections of a community should assist in paying for the services required by the poorer sections.

(c) In the opinion of the Institute, the cost of roads, administration and health and other social services should not be charged against housing schemes but should be charged against the relative votes in loan and revenue and expenditure accounts of the local authority. It urges that rating in the ordinary way should be provided for in economic housing schemes.

5. Clause 36. (Section 29)

(a) The Institute wishes to draw attention to the principle ennunciated in the Report of the Fagan Commission "to have no discriminatory legislation for any purpose that can be attained without discrimination", and to its stress on "the desirability of limiting legislation on a purely racial basis to the minimum required for the protection and promotion of the peculiar interests of the different races and for a proper regulation of the relationship between the races" (para.41). The Report further states" only in an indirect sense can section 2- be said to be part of the machinery forregulating the contact between the races, primarily it is an enactment for combating criminal and anti-social behaviour. Such an enactment should be of general application, and should be contained in general law, not in an Act dealing specifically with a particular race". (para. 60).

(b) The Institute supports this view, and in accordance therewith recommends that this section be altered to amend the principal Act by deleting section 29 in its entirety. In the Work Colonies Act an Act of general application exists whereunder the Natives whose behaviour is criminal and anti-social can appropriately be dealt with. This too, would have the desirable effect of reducing differential racial legislation.

(c) Further, the Institute recommends that this Act be administered by Native Commissioners insofar as it affects Africans.

If this recommendation does not prove acceptable, the Institute would at the very least urge the deletion of para. b(iii) and (iv) as it does not consider that offences of this nature can be regarded as being in the same category as the offences scheduled in this Work Colonies Act.

The Institute also recommends the substitution in paragraph (5) of the words "born or permanently resided" in place of "born and permanently resided" for the reasons given above.

6. The Institute wishes to express its regret that certain of the originally proposed amendments in the draft Bill are not included in the Native Laws Amendment Bill. In special it draws attention to the omission of clauses 2(b) and (d), 14, 15, 17, 23, 24, 25, 27 of the original Bill.

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28.3.51.

SOUTH AFRICAN INSTITUTE OF RACE RELATIONS

ACCOMMODATION FOR AFRICANS IN URBAN EUROPEAN RESIDENTIAL AREAS

1. The accommodation of Africans in urban European residential areas is governed by the Natives (Urban Areas) Act.

2. Section 9(1)(e) of the Act, as amended by the Natives (Urban Areas) Amendment Act - No.16 of 1955, provides for the accommodation on the employer's premises of a bona fide domestic servant or servants. In terms of this section any native under twelve years of age cannot be so accommodated unless special authority is granted by the urban local authority.

3. Section 9 (4) governs the accommodation of natives other than bona fide employees in such areas. It is in terms of this section that local authorities may grant licences for the husbands or wives of bona fide domestic servants. Section 9(4) reads as follows:

> "The urban local authority, having jurisdiction in any area proclaimed under sub-section (1), may, on payment of such fees as may be prescribed by it and approved by the Minister, issue to the owner, lessee or occupier of any premises within such proclaimed area a licence permitting him to accommodate on such premises a specified number of natives of one or other or each sex. Such licence shall be governed by conditions to be prescribed by regulations made under paragraph (b) of sub-section (3) of section thirty-eight and shall be valid for a period of not less than one month."

Paragraph (b) of sub-section (3) of section thirty-eight reads as follows:

> (An urban local authority may, by resolution passed after at least seven days' notice thereof at a meeting at which not less than two-thirds of its members are present, make or adopt regulations not inconsistent with this Act, as to all or any of the following matters)

"(b) /.....

"(b) the management and control of .....
the accommodation .....
licensed under section nine and the maintenance of good order, health and sanitation therein"

(i.e., inter alia, accommodating the husbands and wives of bona fide domestic servants on the premises of the employer).

4. Ordinarily such accommodation will not be permitted for more than five natives (Section 9(3) bis (a)). See Act No. 16 of 1955).

5. Summary. The Act does, therefore, empower local authorities to grant licences, subject to certain conditions, e.g. as to "the maintenance of good order, health and sanitation", to employers to accommodate the husbands and wives of their bona fide domestic servants on the employers' premises.

6. The procedure which local authorities appear to follow in this regard is to frame the conditions under which such licences may be granted in what is usually called either "Native Administration Regulations" or "Location Regulations".

7. I have not yet seen the relevant conditions laid down by the Johannesburg Municipality but I append those laid down by the Benoni Municipality.

F.J. VAN WYK

P.O. Box 97,
JOHANNESBURG.
15.5.56.