

LOCATION ADVISORY BOARDS' CONGRESS OF SOUTH AFRICA.

Memorandum on the Bill to Amend the Natives (Urban Areas) Consolidation Act, 1945. for submission to the Honourable the Minister of Native Affairs.

1. Status and Function of Congress:

The Location Advisory Boards' Congress came into existence in 1928. Previously Advisory Boards had been established in the principal cities of the Union and in a number of smaller towns. An urgent need, however, was felt for an organisation which could give expression to the opinion of all Natives in urban areas and out of a conference held in 1928, the present Congress arose.

As laid down in its Constitution, the objects of the Congress are as follows:-

- a. To further the interests of Location Advisory Boards established under the Natives (Urban Areas) Act, No. 21 of 1923, as amended by Act No. 25 of 1930 or any amendment thereof.
- b. To work for better adjustment of conditions, e.g. socially, economically, and industrially of African residents in or near urban areas.
- c. To initiate, pursue and support investigations that may lead to greater knowledge and understanding of conditions obtaining in such areas.
- d. To co-operate with and assist bodies and persons concerned with either or all of the aforesaid objects.
- e. To promote mutual understanding between Local Authorities and African residents in or near urban areas, and with that object in view explore all constitutional methods for the removal of unjust discriminations in the laws governing Africans in such areas.
- f. To arrange for and assist with the holding of conferences, meetings, discussions, lectures and other means for the exchange of information and views upon any matters related to the objects of the Congress.
- g. To make such representations to the Central Government, Provincial Administrations, Municipal Councils and other public bodies as may be within the scope of the aforesaid objects.

At present the Congress is representative of 159 affiliated Advisory Boards who are entitled to send two delegates to the Annual Conference. Managers of Urban Locations and members of the Native Representative Council are ex-officio members without the power to vote. The Conference at which the resolution was taken to present this memorandum had 243 persons present who were representative of 116 Advisory Boards: included in the 243 were 36 Managers and/or town councillors who contributed to the discussions.

At the last Annual Conference held at Ermelo in January, 1951, it was decided to make representations to the Honourable the Minister of Native Affairs. The African members of the Conference were unanimous in their indignant opposition to the proposed Bill to amend the /Natives.....

Natives (Urban Areas) Consolidation Act, of 1945. They expressed the opinion that the Bill would make for a floating African urban population and deprive the urban African of the little security he at present enjoys. Despite this vehement opposition it was, however, finally agreed that the approach to the Bill and to the Honourable the Minister should be made on a reasonable and constructive basis and it is in this spirit that Congress now presents this memorandum.

Congress, however, wishes emphatically to state that it is utterly opposed to the spirit and many of the objects of the Natives Urban Areas Act and in approaching the Honourable the Minister it does not accept the principle underlying the Act.

2.

### THE BILL.

Clause 2. (b) Congress accepts this clause as an improvement on the existing sub-section (2) of section two of the Act. It is noted, however, that in the Transvaal the Township's Board has power to require an endowment of land or of cash to purchase for the establishment of townships for the accommodation of Africans who work in that town. Congress further noted that the plans of new (European, Industrial, etc.) Townships are referred to the Department of Native Affairs by the Township's Board before they are approved and that the comments of that Department in regard to adequate provision being made for land for African housing are taken into account by the Township's Board.

Congress wishes respectfully to request the Minister to accept the principle that the need to provide adequately for African housing on the establishment of new townships should be the subject of peremptory and not merely permissive legislation. Congress asks the Minister to embody this principle in the present legislation.

Clause 2 (d). Congress has drawn up a memorandum on land tenure and respectfully wishes to present the memorandum to the Minister at this juncture. ( Please see Annexure "A".)

Clause 2 (e).

Sub-Section (4). Congress observed that the Minister is being given new powers by the new sub-section 4. (a). In this specific instance the Minister's new powers are acceptable to Congress, but it wishes to emphasise the danger of centralization of power. What will happen, for instance, if the Minister or any of his successors in office should consider that some local authorities are too liberal in their schemes for the provision of housing for the Africans in their area?

Sub-section (5). Congress noted that provision is not made for appeal in case the resident who is to be moved in terms of this provision is not satisfied with the proposed arrangements. Under this sub-section a man might be removed from his own house, or from a Municipal house to a smaller one against his will, and in terms of sub-section (6) failure to obey an order given under sub-section (5) constitutes an offence. Furthermore, sub-section 5 (b) which is a redraft of section two (1) (b) of the present Act makes it possible that Africans owning their own houses but employed elsewhere than in the municipal area of residence can be ejected. Similarly the position of  
/Africans.....

Africans owning their own businesses is also threatened. It is also noted that there is no provision for compensation for improvements, if any, or payment of costs of removal.

Congress, therefore, strongly urges the Minister to delete the new sub-sections 5 and 6 entirely, and in this connection it wishes to point out that where the necessity arises for the movement of persons, such movement can be arranged under section 38 of the existing Act or through laid down conditions of tenancy.

Clause 3. Congress wishes to urge the Minister to amend the proposed sub-section 2 of section three in such a manner that African families who own properties that have to be demolished in terms of this provision, should have a say in the compensation for their demolished properties, and that, where agreement cannot be reached, the matter should be taken up through arbitration as provided for in Section sixteen, and not the subject to the unilateral decision of the Minister.

Clause 4. Congress wishes to point out to the Minister that many Coloured persons, as defined by the Act, are, for many reasons, more attached to the African way of life than to any other. It also wishes to remind the Minister not to forget the historical reasons for the presence of these Coloured persons in the Native Locations.

Congress, therefore, asks the Minister to have the new sub-section 4 of section five amended in such a way that the removal of Coloured persons from Native Locations will not be undertaken until a Coloured person himself asks for his removal. Congress also asks that due consideration be given to the possibility that a Coloured person who is to be removed may find himself embarrassed financially by transport costs and higher rentals. While it is noted that provision for compensation is made, in the discretion of the Minister, no provision is made for arbitration. Congress wishes to urge that this position be rectified.

Clause 5. Congress strongly objects to the onus being placed on the accused where illegal land transactions have taken place and urges the Minister to place the onus on the prosecution.

Clause 7. The existing section ten restricts the right of Africans to enter an urban area where the Governor-General, at the request of the local authority has "proclaimed" the area. Congress wishes to point out that the proposed new section ten automatically applies the restrictions in every urban area, whether the local authority asks for them or not. The emphasis in sub-section (6) of the proposed new section which empowers the Governor-General to declare, at the request of a particular local authority, that the provisions of the new section shall not apply in that urban area, is quite different from the existing section ten which provides that the restrictions shall not apply unless specially asked for by a local authority. The result of the change of emphasis will mean that the restrictions will automatically apply in the urban areas of many municipalities which would never otherwise have asked for them. The new section omits any reference to entry and concentrates on remaining in the area. Under it no African whether he is exempted from the pass laws or not, in all urban areas may remain in the area for more than 72 hours unless he has a permit

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to do so or was born and is ;permanently resident in the area. Congress is most disappointed that the only class of persons exempted is those persons "Born and permanently residing in the area". It wishes to point out that this wording had done much to create a class of homeless Africans, for the moment that an African takes up residence in any urban area other than that in which he was born, loses the right to re-enter both the town of his birth and the town where he is permanently residing. As he has not the right to enter any other town, he is in no better position than the displaced persons of Europe.

Congress is of the opinion that exemption from this provision should be extended at least to those who have a stake in a town, namely, property owners and municipal tenants and their families.

Furthermore, the use of the words quoted above means that in areas like the Orange Free State where entirely new towns are being established, not a single African can regard himself as secure in regarding those towns as his home until a new generation has been born and brought up in those towns.

Congress looks with alarm upon the fact that the number of restrictions being introduced is an addition to present restrictions.

Congress also noted that the onus of proof rests with an accused when charged under this section.

Congress, therefore, respectfully requests the Minister to amend the new section in the light of the above remarks and urges especially that it should be left to the individual local authorities to apply to the Government for the application of the proclamation to their areas. It cannot be emphasised too strongly that the automatic application of the proclamation to the whole Union is most undesirable and that it will bring greater hardships to Africans.

Clause 8. Congress wishes to point out to the Minister that the checking of accommodation is practised in Johannesburg, where a man can produce proof that he has accommodation in a native lodge or hostel, such proof is accepted at its face value. Where a man claims to have accommodation outside a municipal location or hostel, an official is sent out to check before a permit to seek work is issued. This causes delay and hardship and often the enquiries of officials are superficial and result in the officials not identifying the accommodation. The need for an official having to satisfy himself that accommodation has been provided before an African can be employed is cumbersome and impossible to apply without causing intolerable hardships to the African work seeker.

Congress, therefore, while appreciating the motive behind this provision, asks the Minister to remove it from the Bill because (a) it is impracticable and (b) of the additional hardships it will cause African work-seekers.

Clause 12. Congress considers that the provision in sub-section (2) of the new section fourteen namely that the expense of removing "foreign" Natives who have been convicted under the section be borne by such convicted persons, is very harsh and it, therefore, urges the Minister to amend sub-section (2) to provide that the expense of removal be borne by the Government of territories from which such Natives came.

Clause 13. Congress realise that the proposed amendment is a further attempt to meet the problem of squatting. It wishes to urge, however, that if the purpose of this legislation is to prevent squatting, then it should be made specific. As it stands it is a further example of legislating in general for the purpose of achieving a particular purpose and thereby affecting numberless people for whom it is not really intended at all. The absurdity of this provision should strike the Minister if he were to work out the extent in square miles of the new area around Johannesburg which will be involved if this provision becomes law. (The Municipal area of Johannesburg is approximately 90 sq. miles in extent).

Congress, therefore, urges the Minister to delete this provision.

Clause 14 and 15. Congress considers these clauses as being favourable and welcomes their introduction into the Bill.

Clause 16. Congress considers that the system whereby the cost of services in African Townships are charged in full against those townships is deplorable as a method of taxation of the poorest section of the community in proportion to the services which they receive instead of in proportion to the value of the property they occupy. Congress wishes to point out that the latter is the accepted principle of rating and that its application in African housing schemes should be that houses occupied by Africans should be rated according to their value as in European townships, and the proceeds of the rate paid into the general rate fund which should then be responsible for the financing of the cost of service in both European and African townships.

Congress also holds that no profit should be made from Kaffir beer by the Municipalities and urges the Minister to provide legislation which will make homebrewing possible in all cases where persons apply for permission to do so. While the beerhall system continues, however, Congress feels that beer Hall profits should be made available for the purpose set out in the amendment. Congress wishes to point out to the Minister that so long as local authorities make large profits out of the sale of kaffir beer, so long will they have a vested interest in opposing home-brewing.

Clause 17. The new clause contains important new provisions. Hostels are to have Advisory Boards and also areas approved for the residence of Africans. The proposed federal organisation of Advisory Boards whereby there will be one central board and ward committees in each township or hostel is welcomed by Congress.

Congress regrets, however, that only African males over the age of 18 years will be able to vote or become members of an Advisory Board. It considers this to be a retrogressive and undemocratic step which does not recognise that African women in the towns are becoming emancipated and that the tribal law that women are perpetual minors is rapidly dying out. Furthermore, Congress sees no reason why Africans should be regarded as being qualified for the vote at any earlier age than the age of majority, namely twenty-one years, and therefore recommends that all Africans, male and females, should have the vote from their twenty-first year. Furthermore, Congress considers that the nature of the responsibilities exercised by members of Advisory Boards, particular-

ly if their functions are to be extended, the age level of members of the Board should be raised to twenty-five years.

Congress also wishes to urge the Minister to adopt paragraph (c) of section fourteen of the Draft Bill to amend the Urban Areas Act contained in Annexure (7) of the Report of the Native Laws Commission.

Congress is anxious to present to the Honourable the Minister practical proposals for the granting of Executive powers to Location Advisory Boards. In this matter Congress will confine itself entirely to Advisory Boards and will not consider the circumstances of townships such as Alexandra Township. In this connection a memorandum will be submitted to the Minister in due course.

Clause 18. Congress has no objection to this clause.

Clause 19. Congress wishes to refer the Minister to its objections under Clause 7.

The objects of paragraphs (a) and (b) of Clause 19 are not clear to Congress and it has asked the Secretary for Native Affairs for an explanation.

Congress wishes to point out that under Clause 19 (a) the enforcement of the registration of Africans who are exempted under proclamation 150 of 1934 is depriving those Africans from the freedom and privileges granted by such exemption. It is a well-known fact that the service contract is a document which the Police demand Africans should always carry on their person. The new provision therefore means that persons now exempted will be required to carry passes, something they were grateful to escape under the exemption from the pass laws. Congress submits that as exemption certificates are only granted after a thorough investigation by the authorities who satisfy themselves as to the character of the applicant, the Minister should not, by the inclusion of this new provision, now treat exempted persons as if they have not been worthy of the trust placed in them.

Congress, therefore, begs the Minister not to allow the proposed provision to become law and it also requests the Minister to enable African business men and other Africans of standing to be granted exemption from the pass laws even if they do not possess the necessary educational qualifications.

Clause 20 (3). Experience has taught Congress that when wide powers are given to administrative officers without reservations, these powers are often abused. In view of this Congress asks the Minister that the right for "appointed officers to enter upon land and premises" should be followed by "at reasonable times."

Clause 21. Congress appreciates that the object of section twenty-nine is mainly to keep out of prison those offenders who are regarded as being capable of reformation or rehabilitation at work colonies and farm colonies, and that the principle embodied in this section is similar to that embodied in the Work Colonies Act, 1949. For this reason, Congress fails to understand why Africans should not be dealt with under that Act which was designed for this purpose. Congress furthermore observed that the new section twenty-nine goes further.....

ther than the corresponding provisions of the Work Colonies Act, notably paragraph (d) of sub-section (3) of the new section.

While Congress would therefore strongly urge the Minister to delete section twenty-nine from the Amending Bill and enact legislation whereby Africans will be dealt with under the Work Colonies Act, it would at the same time urge that if this is not done, the new section twentu-nine should stipulate the minimum wages to be paid to persons who are hired out to employers in terms of paragraph (d) of sub-section (3) of the section.

Clause 22. Congress welcomes this amendment and the amendments proposed in Clauses 23, 24 and 25.

Clause 26. Whereas the amendment is in principle welcomed, Congress fails to understand why Africans cannot be licensed to manufacture and sell Kaffir beer in an urban area. Congress urges the Minister to make provision for a licensed person to manufacture and/or sell.

Clause 27. Congress welcomes this amendment.

Clause 28 (b). No doubt this amendment is consequential upon the amendments to the Native Labour Regulations Act providing for the administration of labour bureaux by the Government. It is not known whether this amendment will make it illegal for local authorities and voluntary non-profit making organisations to operate employment exchanges. If so, Congress urges the Minister to make provision in the Act for municipalities and voluntary non-profit making organisations to continue this work which has served a very useful purpose in many areas in helping Africans to obtain employment.

Clause 28 (f). Congress is in some doubt about empowering a local authority to prohibit altogether the keeping of animals in a location. The opinion of Congress is that the enabling powers should be such that they do not prohibit the keeping of animals such as draught animals under conditions complying with the health bye-laws of a municipality.

Clause 29. Congress welcomes the amendments.

Clause 30. No comments.

Clause 31 (b). Congress appreciates that in towns with a large African mining population an intolerable burden will be placed upon local authorities if they are to be obliged to accommodate every mine worker and his family. In any event, the majority of mine workers, it is realised, are migrants (a most deplorable situation considering the anti-social evils produced in both country and town thereby). On the other hand, Congress sees no reason why clerical and other permanent wokers on mines, many of whom may be urban residents of long standing, should not be able to live in locations with their families on the same basis as other workers. Neither does Congress see any reason why a permanent urban dweller should not take up employment on a mine without sacrificing his municipal house. Congress strongly urges the Minister to amend Clause 31 (b) in the light of the fore-going.

/CONCLUSION.....

CONCLUSION.

The Congress which represents about 3,000,000. urban Africans, earnestly requests the Honourable the Minister of Native Affairs to give the points raised in the memorandum his very serious attention. The Congress has an intimate and expert knowledge of African Urban conditions and of the feelings of the African people. It looks with dismay upon the tightening up of restrictions and on the further regimentation of the African people.

Congress has, however, studied this Bill with a view to advising the Minister and to eliminating its worst features. It would plead with the Honourable the Minister that during his tenure of office, which had such an auspicious beginning and with the Minister's very thorough inspection of urban location conditions, the African people have in consequence expected to see a wider and a greater freedom in the urban areas, and not a further diminution of the limited freedom they now enjoy.

PULA MORENA, MAMELA LILLO TSA BATHO BA HAU, UENA HLOHO

E EMETSENG TABA TSA RONA BA BATSO!

S. P. SESEDI. (PRESIDENT)

Johannesburg.  
23rd February, 1951.

HOWARD MEHLOMAKULU.  
GENERAL SECRETARY.

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