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JOHANNESBURG JOINT COUNCIL OF

EUROPEANS AND NATIVES

M E M O R A N D U M

on

NATIVE DISABILITIES IN THE

UNION OF SOUTH AFRICA

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MAY, 1930.

1. OWNERSHIP OF LAND:

(a) The European population of  $1\frac{1}{2}$  millions owns more than 80% of the land in the Union. The Native population of  $5\frac{1}{2}$  millions owns less than 20%, the reserves scheduled under the Native Land Act of 1913 being little more than  $12\frac{1}{2}\%$  of the total.

(b) The Native Land Act 1913 had as its object to preserve the status quo ante pending further legislation, with the promise that additional land for Natives would be forthcoming. This promise has not yet been fulfilled. Purchase by Natives, even in certain reserved areas, is allowed only by special permission of the Government. A special disability is that owing to the restricted area in which purchase is even possible, prices are frequently raised against Natives. Many owners willing to sell hold on until they get their price, knowing that Natives cannot go much further afield.

(c) In spite of statements to the contrary, figures show that existing Native Reserves are inadequate and overcrowded. The following figures represent the position:

The average Density of population in the Union, for all races was in 1926 14.64 per square mile.

The Average Density in typical native areas is as follows:-

Transkei, 58.59 per sq. mile; in one district, 102.91.

Natal & Zululand (non-Europeans), 36.63; in the Inanda District, 150.

In the Glen Grey District of the Cape, which is surveyed, and which contains 8000 allotments, there was in 1926 a waiting list of about 4000 landless natives. Some of these are now provided for, and are paying a quit-rent high enough to cover amortization of a purchase price rendered notoriously high by farmers who were able to hold out for their own price (see above, (b)).

Transvaal Native Areas, 70 to 90 per square mile.

The Orange Free State provides 244.3 sq. miles for a native population of 440,000, 1926;

the great majority being forced to live as labour tenants on European farms.

N.B.- On the borders of the Union, in Swaziland, two-thirds of the land is owned by European concessionaires, leaving 2000 sq. miles for 120,000 natives, i.e. 60 per sq. mile (1926).

- (d) The many evictions and removals from European farms which followed the passing of the Native Land Act, 1913, led to further pressure on the Reserves; and to a drift to town slums and urban locations.
- (e) Conditions of tenure differ in various parts of the Union. There is extreme insecurity of tenure on all farms, which affects nearly two million natives, who can never gain secure homes even for old age, after a life-time of service.

## II. PASS LAWS.

- (a) Natives as such are discriminated against with respect to freedom of movement. A few specified and small classes were at one time exempt from the Pass Laws, but the position of even these has been rendered uncertain by the Native Administration Act No. 38 of 1927, which repealed the existing provisions for exemption whilst it foreshadowed new regulations which have never been promulgated. Exemption certificates must be produced on demand by the police.
- (b) Failure to produce the appropriate pass or exemption certificate when desired by the police, is a criminal offence.
- (c) In the northern provinces a multiplicity of passes is in existence, rendering it difficult for even law-abiding natives to avoid breaking the Pass Regulations.
- (d) Administration of Pass Laws includes indiscriminate stopping of natives in the streets, and night raiding of native locations and dwellings.
- (e) One serious effect of the Pass Laws is the filling of prisons with natives whose offences have been not moral, but merely technical. Many respectable natives have at some time or other been imprisoned for breaches of these regulations.

NOTE: The present legal position is, that the application of the Pass Laws can be modified or withdrawn by the Department of Native Affairs without reference to Parliament. It has been ascertained that the Department favours simplification to the extent that public opinion will allow.

The Inter-Departmental Committee on the Pass Laws (1920) recommended the repeal of all the existing pass laws, and the substitution of a Union measure entitled the "Native Registration and Protection Act". (See Report, para.32.) The same Committee recommended the abolition of the "Monthly Pass".

## III. INDUSTRY, MASTERS AND SERVANTS LAWS, &C.

- (a) Urban industrial natives are governed by the Masters and Servants Law which, in the Transvaal, is fifty years old.
- (b) Under this law breach of contract of service is a criminal offence for the native servant, but not for the European employer.

- (c). Under this obsolete legislation, which was designed for the farm conditions of fifty years ago, a strike of native workers is a criminal offence.
- (d) The tendency is for these out-of-date laws to be stiffened in their action against the native. For instance -
- (i) In 1926 the "squatter" was brought even more under "control" by being made a "servant".
  - (ii) The new Bill designed by the Minister for Justice proposes to add the possibility of lashes to fine or imprisonment as a punishment for breach of contract by a native.
- (e) The Colour Bar Act (Mines & Works Act 1911, Amendment Act 1926) gives power to close skilled occupations to natives. Its declared purpose is the segregation of natives in reserves which cannot even provide for their present population. (From 50% to 75% of the adult male population of the reserves, and an increasing number of the women, are necessarily away from home at work for six or nine months per annum). The general effect of the Act is to destroy all hope for the native to advance beyond menial labour, whatever his capacities may be, and to discourage the training of native labourers by employers.
- (f) Pass-bearing natives, (i.e. the vast majority of the workers), are excluded from the working of the Industrial Conciliation Act of 1924. That is to say, no native industrial organisation has the legal recognition accorded to European Trades Unions, and so far as the native worker is concerned, there can be no such thing as collective bargaining, whatever his just grievances may be.

#### IV. TAXATION

- (a) Direct Taxation is not in proportion to the Native's income or ability to pay. In many cases the Poll Tax absorbs an excessive proportion of such income, which is sometimes not even paid to the worker in cash (see VI, (c)). The tax is chargeable on any "apparently" adult male, adult here meaning a person of 18 years or more. In practice the tax is demanded from any male deemed by the official to be 18 years old or more. The fact that the total collected exceeded the last estimate by some £43,000 probably indicates that youths who were under the age limit were made unwilling tax payers.
- (b) The recent police raids at Durban show the methods which may be adopted to force payment.
- (c) The tax receipt is a form of pass. Failure to produce it on demand by the police leads to a criminal charge, (See II, (b) & (c)).
- (d) Taxation of natives is used as an indirect means of compulsion to labour, i.e. labour in the service of Europeans. For instance, the proposed Bill framed by the Minister for Justice suggests an additional tax of £5 per annum on native males not under contract of service. This is in direct conflict with the principles laid down by the International Conference on Forced Labour at Geneva, 1929.

(e) The excessive "protective" duty of 25% on imported blankets for clothing, a necessity of life in native territories, is an instance of the heaviness of indirect taxation of the native. It is difficult to compare the burden of taxation borne by Europeans and Natives, but, qua tax-payers, Members of Parliament have been accustomed to consider three natives as equivalent to one European.

## V. EDUCATION.

(a) "The demand of the Native for education becomes more and more insistent each year". (Transvaal Education Report for 1928, p.10).

*Cape free?*  
There is, with the exception of a very few schools, no free Government Education for Native children, such as is provided for Europeans, Cape Coloured and even Indian children. Salaries of teachers only are contributed by Government toward the Native Mission Schools. One hundred and seventy schools in the Transvaal alone were without even this aid in 1929, and in only one case had the Government provided buildings and/or equipment.

(b) Only one-fifth of the Native Poll Tax is paid into the Native Development Account and used for Native Education *etc.* The remaining four-fifths goes into the Consolidated Fund of the Union (see IV, (a), to meet general expenditure on Europeans and Natives.

(c) All native adult <sup>over 18</sup> males are tax-payers; but only one-fourth of the native children are in Government-aided schools. That is to say, three-fourths of the children of native tax-payers receive no benefit from that proportion of the tax which is devoted to Native Education.

(d) In the Transvaal the primary education of European children costs the Government £13. 13. 9, and that of Coloured children £6 per head per annum; the education of native children costs the Government 37/- per head per annum. The Director's Report gives 623 native children in Government schools and 57,859 in Government-aided schools.

(e) Agricultural Education. The traditional methods of Bantu agriculture are unsuited to a settled population and individual tenure. The Government has appointed a Director of Native Agriculture; in the Transkei sixty demonstrators have been appointed for the territories, and nine more will be added during the current year. Similar appointments should be made in all native districts.

## VI. ECONOMIC CONDITIONS.

- (a) Native Wages have scarcely risen above the pre-war level, in spite of the very great increase in the cost of living.
- (b) In Johannesburg (to illustrate the position in Urban Areas) the average monthly wage of a native bread-winner is £4. 2. 6. Competent authorities have agreed on a monthly budget of expenditure for a family of five of £7.3.11, which sum includes no provision for clothing. The result is that women must augment the family income, which they do by spending their days in charing or washing, or, alternatively, by the illicit brewing and sale of liquor. This leads to the decay of home life and lack of control of children, a serious problem in urban areas, and one affecting the welfare of the whole community.
- (c) Respecting country areas, figures supplied by an admitted authority show a startling increase in poverty in the last fifty years. In a typical country district which came under review, it was found that natives were being given from six months to two years credit, and that barely 15% were able to meet their obligations.
- (i) In respect of this district the official reports also state that the native population is steadily going back, that their condition is deplorable, that they are hopelessly in debt, and that no less than 14% of hospital cases are due to debility and scurvy. (See Report of European-Bantu Conference, Capetown, 1929, p. 72).
- (ii) These results are found in spite of the fact that while fifty years ago only a small proportion of the adult males left the district to earn wages, to-day practically all the adult males of working age are out for half the year. For the year 1929 the Transkei Bhuuga reports that 51,032 natives went out to work, their wages amounting to £1,400,000, plus food, lodging and medical attention. Of this total 20,298 were recruited and 30,734 went out voluntarily.

The same problem of the decay of home-life is found as in the Urban areas, owing to the absence from home during most of the year of many heads of families.

Agriculture is expressly barred from the operation of the Wage Act of 1925, under which a minimum wage for a given industry may be determined. Many farmers pay wages in kind only, and some take advantage of ignorant natives by paying their £1 tax and binding them for a year at a time.

## VII. POLITICAL.

- (a) Lack of Parliamentary Representation. The continuance of the Native Franchise in the Cape, where alone natives may vote on a property and educational qualification, and where the vote has not been abused by them, is now threatened. The alternative suggested for the whole Union would expressly release all but a handful of members of the Lower House from being obliged to consider the interests and wishes of potential native supporters or opponents.

(b) Failure to consult native opinion on legislation specifically affecting natives. The Annual Advisory Council of native leaders provided for in the Native Affairs Act of 1920 has not been summoned since December, 1926, so that the legislation at present before Parliament has not been submitted to enlightened and representative native opinion, in spite of the fact that there is statutory provision for such submission.

(c) The practice of government by proclamation is growing unduly. Acts which are promulgated give power to ministers to "make regulations under the Act". Such regulations are published in the Government Gazette, and have the power of law. A case in point is in respect of the Native Administration Act of 1927, which in Section 28 gives the Government power to "create areas in which passes must be carried, and to control or prohibit movements of natives into, within, or from such areas".

#### VIII. URBAN AREAS - SPECIAL RESTRICTIONS.

(NOTE:- Urban Areas contain one-third of the native population of the Union).

(a) Curfew regulations make it a criminal offence for a native male to be abroad without a night pass after the hour of curfew (9 p.m. in Johannesburg). The Amending Bill to the Urban Areas Act proposes to extend the prohibition to include native women.

(b) Municipal Townships and Locations.

(i) Insecurity of tenure; no freehold ownership of land.

(ii) Houses for urban natives are built by "white" labour at Trade Union rates. In order to let at rents which a native can pay, the houses must be small. Even so, the rent absorbs nearly one-third (in some cases more than one-third) of the average wage of £4. 2. 6 in Johannesburg.

(iii) Lack of adequate transport facilities to and from work, and high cost of existing transport. In many towns in the Union there is a Colour Bar on trams. The monthly cost of necessary transport for a worker living in a Johannesburg township or location and working in the town is estimated to be from 10/- to 13/- per month.

(iv) The alternative to living in the distant township is to pay an exorbitant rent for a room in a slum yard. (Note:- One object of the Urban Areas Act is to eliminate natives from slums as township accommodation becomes available. This process has begun, but the natives transferred are being replaced by coloured people where the tenements cannot be condemned under sanitary regulations, so that there is little if any benefit to the community as a whole).

(v) In some urban locations Lodgers' Fees are payable by natives over 18 years of age living with their parents. Around this provision a mass of irritating regulations is growing up.

IX. ADMINISTRATION OF JUSTICE.

The Capetown European-Bantu Conference of February 1929 called attention to the need for enquiry into the following:

- (a) Interpretation in the Courts; the status and qualifications of interpreters; language qualifications of police.
- (b) Special difficulties of procedure affecting natives.
- (c) Disproportionate sentences in Magistrates' Courts, especially in the form of heavy fines.
- (d) Indiscriminate or unnecessary arrests.
- (e) Failure to release accused as soon as possible after acquittal.
- (f) Lack of adequate and sympathetic arrangements for the handling of native juveniles, especially first offenders.
- (g) The need for arrangements for the defence of accused persons unable to engage legal assistance.

X. HEALTH.

- (a) Inadequacy of medical services. Hospitals in South Africa provide

1 bed for every 334 Europeans:  
1 " " " 2231 non-Europeans.

The general standard for civilised countries is one bed for every 200 of the population.

(See Report of Capetown European-Bantu Conference, p.177).

- (b) Lack of clinical facilities, especially for sufferers from venereal diseases. It is estimated that 80% of the native population is infected in this way. (Report of European-Bantu Conference, p.188).

NOTE: - The recommendations of the Committee on the Training of Natives in Medicine and Public Health, which reported in 1928, and which proposed a wide-spreading Government Native Medical Service, have not yet been put into effect.

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