

F. A. W. LUCAS

NATIVE ECONOMIC COMMISSION.  
NATURELLE EKONOMIESE KOMMISSIE.

Sitting at

Johannesburg.  
4<sup>th</sup> May, 1931.

Major Cooke

MINUTES OF EVIDENCE.

(Pages 7210-7295)

F. C. Rigby (P.P. all. )

..... (P.P. )

Official  
Reporters.

INDEX TO WITNESSES:

Major Herbert Sutton Cooke (Director of Native  
Labour for the Union, and Chief Native  
Commissioner for the Witwatersrand)  
pages 7210 - 7291.

---

Major Cooke

NATIVE ECONOMIC COMMISSION

JOHANNESBURG 4th MAY 1931 10.15 A.M.

NINETYFIFTH PUBLIC SITTING

PRESENT:

Dr. J. E. Holloway, (Chairman)

Major R. W. Anderson,  
Dr. H. C. M. Fourie,

Mr. F. A. W. Lucas, K.C.,  
Dr. A. W. Roberts,

-----

MAJOR HERBERT SUTTON COOKE, Director of Native Labour for the Union, and Chief Native Commissioner for the Witwatersrand,

called and examined:

CHAIRMAN: You are Director of Native Labour for the Union and Chief Native Commissioner<sup>or</sup> for the Witwatersrand? - Yes

We have had an opportunity of reading through your very interesting and valuable memorandum. We would like to amplify some of the statements made there and incidentally to go into some other matters in connection with which the Commission has already taken evidence.

I am referring to page 2 of your Memorandum. You say powers vested in the Director refer more particularly to labour districts. May we conclude from that that those powers, as far as concerns control over compounds, can also be exercised outside of labour districts? - Yes, that is so.

In the Transvaal, for example, regulations apply to the whole of the Transvaal. Have you available, or, if not, could you get supplied to the Commission a list of the labour districts which have been proclaimed? - Yes.

And with regard to the laws that are being applied by you as Director of Native Labour, I wonder if you have, or would have prepared for us, a short summary shewing the most important practical points -- not legal points -- in the same way as you have done here for the Native Labour Regulation Act? -

Major Sutton  
Cooke

Yes; perhaps I have got what you want here.

If a statement like that either exists or can be prepared, you might send that in later, so that we need not waste time now in going through it? - Yes, I can furnish you with a statement on those lines. A statement of the

Of the Proclaimed Labour Districts? - I can tell you those now.

Yes, perhaps that will be useful, and secondly a short resume of the salient points in the laws administered by you in regard to Natives? - Yes.

MR. LUCAS: If a labour district is proclaimed, does every Native then, in such a district, fall under the Act of 1900? - No. The difference between a Native and a Native labourer is, the Native labourer is a defined term; take the diamond diggings; one of the administrative difficulties has been that a Native is not a Native labourer until he is in employment by the Mines or Works; that means that you cannot effectively control the ingress of Natives to these areas or insist upon their doing certain things -- for example, reporting on their arrival, submitting to medical examination, and so on, because they are not Native labourers until they have found employment on the Mines, which includes the Diamond Mines.

Will you give us a list now of which are the labour districts? - Yes: The whole of the Witwatersrand, the Coal Area of Witbank, the Coal Area of Breyton, the Coal Area of Vereeniging; the Diamond Area of Jagersfontein, and Koffiefontein; and the Coal Area of Natal, including Bryheid and Dundee. The Diamond Fields at Lichtenburg.

MAJOR ANDERSON: Are those all the Coal Areas included? - Yes; there are some others, but they are very small; and the diamond area in the neighbourhood of Bloemhof and Christiania

Major Sutton Cooke

MR. LUCAS: Kimberley is not included ?- No.

CHAIRMAN: Industrial areas like Port Elizabeth and Cape Town are not included ?- No.

Are you empowered to insist on certain conditions in housing, say, in an industrial area like the Witwatersrand or Cape Town, where you have a large number of Native employees together ?- No, there are no regulations issued or proclaimed under the Labour Regulation Act in regard to such places. The administration of Native affairs comes mainly under the Native Urban Areas Act in regard to those features you mentioned.

But, under the Native Urban Areas Act, could certain conditions be set down for compounds ?- Yes; under Section 11A of the Native Urban Areas Act, any employer of over 25 Natives is obliged to house them under conditions which meet with the approval of the local authorities.

MR. LUCAS: Are you consulted at all ?- No.

Would you be consulted by a similar body of employers in Johannesburg ?- Oh, I see, -- in regard to similar bodies

Yes; take any factory -- a leather factory in Johannesburg; supposing it had 25 or more Native employees whom it was going to house, would you be concerned in that at all or only the local authority ?- I exercise a system of inspection over all such places, but I have no statutory or regulation powers, unless they come under the heading of Mines or Works; the latter definition including any place where machinery is erected or used -- which, of course, includes a good number.

DR. ROBERTS: What is your authority ?- Under the Native Regulation Act dealing with Native employees of Mines or Works, the term "Works" including permanent works and any place where machinery is used.

Major Cooke

It does not include a farm ?- No, nor upholstery or anything of the sort, unless machinery is in operation, in which case I can exercise some power.

In a labour district ?- No, not necessarily. In the Transvaal, for example, there are regulations that apply to the whole of the Transvaal and they are obligatory in regard to all places where machinery or mining is carried out.

Similar regulations will have to be applied, say, to the Cape Province, if you want to deal with the factory outside the urban area of that Province ?- Yes.

MR. LUCAS: Take a place where there is machinery outside one of the labour districts in the Transvaal, which you have referred to; would your control be in respect of anything except the actual handling of the machinery ?- In respect of any Natives engaged in or about the premises on which the machinery is used.

But would your supervision extend to the housing of Natives ?- Yes; it could be made to do so under regulation.

Is such done in the Transvaal outside labour districts ?- Yes.

But not in the Cape ?- No.

CHAIRMAN: And the other two Provinces ?- No, only in the Transvaal.

Is there any reason why the Transvaal is singled out ?- There were a great many small mining concerns in the Transvaal dotted about in all sorts of places; take Pilgrims Rest and the Barberton area, they are typical; and in order to ensure reasonable control over such places, the principle of applying a general regulation for the whole of the Province was approved.

Is there any reason why that regulation should not extend to the rest of the Union ?- No. If the necessity is there --

Major Cooke

I am not sure that it is -- outside of urban areas, where there is sufficient machinery to ensure decent housing accommodation.

DR. ROBERTS: Do you not think there is sufficient reason for what the Chairman says, in such a Province as Natal, in the coalfields there? - That is proclaimed; the coalfields have been proclaimed, and these same meticulous regulations that I speak of are applicable to the coal area of Natal.

MR. LUCAS: Not to sugar estates? - Yes.

To the sugar mills? - They could be, but not definitely by regulation. They should also be applicable to the wattle industry. As far as sugar mills are concerned and the wattle industry, it is only Section 22 of the Act dealing with matters of compensation; those are really the only ones that have in practice come under it. A good deal has been done in the way of housing and feeding and that sort of thing, but not by regulation.

Is there any way in which conditions such as those at, say, the Belleville Brick and Tile Factory near Cape Town, could be regulated; they are not in urban area and they do not come under the Native Labour Act? - Well, it would be possible to proclaim even a very small section of the labour district for the purposes of the Act.

It would need a special proclamation? - Yes.

You could draw up special regulations for individual cases like that? - Yes. I may say that my view on the matter is embodied in the draft amendment to the Act, and the effect of that is that it will be possible to apply the Act to employers of considerable numbers of Natives. I have suggested the number 100 or more, to apply regulations to these people regardless of whether they are mines or works.

Major Cooke

MR. LUCAS: Could you let us have a copy of your draft with any notes on it that would draw our attention to the defects in the present law? - Yes.

MAJOR ANDERSON: The draft has been published, has it not? - No.

CHAIRMAN: Referring to page 3; you refer, first of all, to Johannesburg in regard to the control of the location, and then you say "In most other cases, the location superintendent is directly responsible to an officer of the Council"; are you referring there to the Reef Municipalities? - Yes.

Not to Municipalities outside? - No. In the case of Germiston, they have a Native Affairs Committee, and the Location Superintendent reports to the Chairman of the Native Affairs Department. That means that the Native interest is in direct touch with the representatives of the local department and, to my mind, it is a much healthier position than in other Reef Municipalities, where the line of approach is to the Chief Sanitary Inspector <sup>of</sup> ~~the~~ the Local Authority and he voices the views of the location superintendent and of the Natives to the local authority, and there is always a risk that these representations may be watered down on the point of view of expediency, rather than the real interests or needs of the Native people concerned.

So that, with the exception of Johannesburg and Germiston, the superintendent of the location has not direct access? - No.

DR. ROBERTS: A little higher up on that page 3, - with regard to miners phthisis; could you tell us what safeguards there are when a Native leaves and goes home, say, to the Transkei, that he is quite free from phthisis? - Under



Rajor Cooke

the Act, no Native can be discharged from underground employment or given leave unless he is subjected to and passes what is known as a final medical examination, which includes a stethoscopic examination; and if there is any doubt about it, he has to be sent in to the central compound -- the W.N.L.A. Compound, -- where he is examined by the experts attached to the Miners Phthisis Medical Bureau.

So there is not much chance of a Native getting through ?- There is not very much, <sup>but</sup> ~~and~~ it does happen and, in some cases, when they have come under investigation, it has been shewn to be almost certain that there has been an impersonation, -- that is a Native who knows he is in a sad state of health, has deliberately appropriated or borrowed the mine ticket of another man of approximately the same weight and, in order to ensure that his return home is not stopped, he adopted this course; but, of course, that is very rare, but it has occurred.

You are satisfied in your own mind that all is done that can be done with regard to the Natives when they leave ?- Yes, I think there is very little more that could be done.

MR. LUCAS: I was told by a medical man yesterday that, on some mines, that examination is very perfunctory; do you know anything about it ?- I have watched it on many occasions and in so far as I have watched it, I should say it is not perfunctory; there may be a certain amount of perfunctoriness about the periodical examination, that is with regard to those Natives who are weighed every month when their tickets come up, in order that they may be paid. Well, in those cases, there is not a careful examination, except where a Native has lost four pounds in weight, and then there is a careful and stethoscopic examination. Your

Major Cooke

informant may have been speaking not about the preliminary examination.

DR. ROBERTS: We got information that at Queenstown and the Transkei, when they get there tuberculosis has developed of course, that might develop in any case? - Yes. The medical man who is not very much in touch with these things is rather prone I find to classify these lung troubles as phthisis; whereas, what is necessary is that the man should have silicosis or miner's phthisis, but in those cases, if a representation is made during the lifetime of the individual concerned, arrangements are made for his being brought here without expense to himself, through the organization of the Chamber of Mines, and he is submitted to exactly the same medical examination as other Natives are. The control and inspection of the medical arrangements under the Act is in the hands of the Miner's Phthisis Medical Bureau and I would suggest that a representative might well be called before this Commission to give evidence on the point.

Do you know if they employ an X-ray method to determine whether there is any dust or silica in the lungs? - Oh, yes; there is a very modern X-ray appliance at the W.N.L.A. Central Compound, through which all these claims are passed, and there are quite a number of mines which are also fully equipped with similar apparatus.

MR. LUCAS: Has any attempt been made to get a record of the number of cases of miner's phthisis among the Natives? - We know the number of cases that are dealt with by way of compensation -- which we assumed represents 99 $\frac{1}{2}$ %.

We have heard of a substantial number of cases in which the symptoms or signs have been observed pretty well and in

Major Cooke

which there has been no compensation at all. In one district, we were told that about 100 exemptions a year had to be granted on the grounds of miner's phthisis and, as far as some parts of the Northern Transkei are concerned -- Matatiele -- we were told there are quite a number there. There may be some confusion in the minds of doctors, as you suggest, and the complaint was seriously<sup>ly</sup> made of a large number of Natives never getting any compensation. I was wondering whether you have made any attempt to investigate the incidence of miner's phthisis among Natives after they have left the mine, who have not received compensation? - No, I cannot say that there has been any survey made, but circulars have been issued to Native commissioners and magistrates throughout the country, indicating what should be done, and if any such case did arise and any official failed to represent the matter, I should say he was seriously failing in the performance of his duty. I would say without any doubt that, any representation on the lines that you suggest is very wide of the truth and that if anyone making such a representation could give chapter and verse, the actual record of the individual could be examined and the position established as to when he passed his final medical examination and what his condition was at the time that he passed it, whether there was an application submitted on his behalf for compensation, and what was the result of this application.

It is, of course, true that many applications are submitted to the Miner's Phthisis Medical Bureau on behalf of Natives claiming compensation where they are certified as having neither silicosis nor tuberculosis in a compensable degree.

DR. ROBERTS: I do not know whether you would care

Major Cooke

to answer this: do you think it is adequate, the amount that is given to the Natives who are incapacitated and who go home? - In regard to miner's phthisis?

Yes? - I have already made some observations on the point.

MR. LUCAS: Do you mean the observations made in this statement? - Yes; which are a precis of my views. It is somewhat difficult to judge what compensation should be paid, but if you examined the compensation under the Miner's Phthisis Act in relation to compensation award under, say, the Workmen's Compensation Act and the Labour Regulation Act, then the compensation in so far as cash awards under the Miner's Phthisis Act is concerned, is not ungenerous.

Yes; but that is on the assumption that the others are not ungenerous? - Exactly. Well, I have not got clearly in my mind what could be regarded as adequate compensation. Therefore, I am not quite in a position to express an opinion; but I do quite clearly say that, for the reasons I have indicated in my memorandum, I think the Native with a disability, whether through phthisis, accident or any other cause, of, say, upwards of 70%, his case should be met by a pension rather than by a lump sum gratuity.

MR. LUCAS: Have you ever made any comparison of the relation to wages of compensation for miner's phthisis to Natives, to compensation to Europeans? - I have, under a bill that is now under consideration, to some extent, but not in regard to the existing legislation. I have made an analysis here, but I do not quite know whether I am justified in giving public evidence on the point, as it is in respect of a bill that is in the hands of the Government; but



Periodical payments are:-

<u>Section</u>	<u>Europeans</u>	:	<u>Natives</u>	<u>Section</u>
46(1)	60% of £20 ) monthly	:	60% of £4.11.0	100
	35% of £8 ) £14.16.-	:	= monthly £2.14.7.	

For period up to:-

6 months : 3 months

With possible extension to:-

12 months : 6 months

After 6 months (or, if extended, 12 months) : After 3 months (or, if extended, 6 months)  
periodical payments are:- : periodical payments are:-

50% of £20 )  
Monthly : 25% of £4.11.0  
25% of £8 ) £12.0.0 : Monthly £1. 2. 9

Temporary Partial Disablement

46(3) An assessed proportion of above according to disability : There is no similar provision

Permanent Disability

47(1)(a) Cash - £392 : Cash - £30 101

Disability between 40% & 70%, say, 60%

(c) Cash - £244 : Cash - £45 101

x Monthly pension £3.12.0:

Disability of 100%

(d) Monthly pension £12.0.0 : Cash - £75 101(a)

Disability between 70% & 100%, say, 80%

(e) Monthly pension £9.12.0 : Cash - £60 101(a)

DEATHLeaving widow, no children

48(a) Cash - £500 : Cash - £60 102(1)

Leaving widow and children

48(b) Cash - £375 : Cash - £60 102(1)

X Pension according to number of children;

Major Cooke

Taking as an example the cash payment made to Europeans and Natives respectively for a permanent disability of 40% and allowing the same proportions of wages for the calculation as is provided in Section 47(1)(a), the Native workmen whose monthly earnings amount to £4.11.0 would receive as compensation £63.14.0, instead of the £30 allowed.

It might also be observed that a physical disability, as a factor in impairing prospects of earning a living, is usually more serious to the Native than to the European, as the former is ordinarily a manual labourer and the latter can use his education, intelligence or integrity in securing some appropriate post.

A comparison of the benefits accruing to Natives under this Bill, as given above, with those referred under Section 22 of the Native Labour Regulation Act (now to be repealed) and the Miners' Phthisis Act gives the following results:-

The Present Bill      Labour Regulation Act      Miners' Phthisis Act

Temporary Disablement

Up to maximum of 6 months

Monthly £2.14.7 :                      Nil                      :                      Nil

After period up to 6 months

Monthly £1.2.9 :                      Nil                      :                      Nil

Permanent Disability

Disability of 40%

Cash - £30                      :                      Cash - £20                      :                      Cash £33.16.0 (say anti-primary)

Disability of, say, 60%

Cash - £45                      :                      Cash - £30                      :                      Cash £50.14.0 (say primary).

Major Cooke

Disability of 100%

Cash - £75 : Cash - £50 : Cash £67.12.0 (say secondary)

Disability of 80%

Cash - £60 : Cash - £40 : Cash £67.12.0 (say secondary)

Death

Leaving Widow and Children

Cash - £60 : Cash - £50 : Cash £67.12.0

It will be seen that the provisions under the Bill are more favourable than those under the Native Labour Regulation Act, but in cases of permanent disability and death are, with the exception in the case of 100% disablement, less favourable than similar provisions in the Miners' Phtthisis Act.

DR. ROBERTS: I am glad to hear you say, if I may put it that way, that you prefer a pension to a lump sum, knowing the Native's desire to spend all the money he gets. So that you would put that into a kind of annuity, -- the lump sum? -- My feeling, sir, is that the time is coming when it is inevitable that pensions must be awarded to Natives rather than lump sum benefits and that, the sooner a start is made in the matter, the better. At present we have no experience of how the machinery would work in regard to such things. Under the Labour Regulation Act, there are less than 200 cases of permanent total disablement per annum; as a matter of fact, I think last year it was 156. So that, if one were to make a start with permanently total disablement cases, giving them a pension instead of a lump sum grant where they are incapable of augmenting their resources in any way, we should not only be doing great benefit to these people, in my opinion,



Major Cooke

but that we should also be amassing evidence which would be very useful at a later stage.

Surely it would be very simple; it would simply be an actuarial principle brought to bear in a lump sum? - There would not be any great difficulty in assessing the amount, but great difficulty in the payment of these small grants. Situated as these places are, Mahomed would have to go to the mountain instead of the mountain to Mahomed.

CHAIRMAN: Have you any idea of any practical steps that could be taken to deal with that? - Yes; I think it might be run on very much the same lines as ordinary pensions are paid; the giving of vouchers which would have to be discharged by either a well-formed signature or a fingerprint. The deferred pay system of paying accounts is extraordinarily satisfactory and, in a great many cases, pensions and things of that sort might be paid very expeditiously and effectively through reputable people like the District Representatives of the Native Recruiting Corporation, through our police officers with the rank of sergeants and over. The great difficulty, of course, will be to get a really effective discharge of these warrants, which means that there must be a certificate to the effect that the man is still alive when the amount is paid to his credit.

A fingerprint signature? - Yes.

MR. LUCAS: Would it be difficult to train these various people you have mentioned to recognise fingerprints? - It is a very simple thing to identify, say, a left thumb, for instance, of one individual as the owner of that particular thumb; that is, anyone with a very elementary knowledge could distinguish between your left thumb print and mine without

Major Cooke

the least difficulty. It would take an expert to pick out that particular thumbprint from, say, 100 or 300, but definitely to say that this is the thumb print of a certain individual is a very elementary process indeed.

DR. ROBERTS: I understood -- I speak subject to correction -- that they detect or fix one print out of a thousand by certain -- ?- If you have got all the finger prints of the hand, you can pick the whole thing out in half a minute from a collection of, say, 10,000. ~~ask~~ You would have to look through the whole thousand if you have only got the thumb print. But that is not the point. All that you are concerned with is the same point that is put before a bank clerk every day, of saying quite definitely, "That is the signature of so-and-so" or "It is not the signature of so-and-so". A thumb print to a man with an elementary knowledge is even more difficult than a signature.

CHAIRMAN: Well, we will pass on to page 4. You mention 24,000 detribalised families. Can you define what you mean by detribalised in this paragraph ?- I mean Natives who have their families living with them in these urban centres and, as far as one can judge, have entirely broken away from tribal control.

Are they included in the figures you give higher up ?- The great majority of them are included, inasmuch as they work in Johannesburg and, when they are in employment, they come under the registration system, which brings a great mass of the adult male population into the picture.

MR. LUCAS: But of the 8,000 in Alexandra Township, how many would be adult males ?- Probably from 2,000 to 2,500.

DR. ROBERTS: Would you not divide by 8 or 10 ?- No,

**Collection Number: AD1438**

**NATIVE ECONOMIC COMMISSION 1930-1932, Evidence and Memoranda**

**PUBLISHER:**

*Collection funder:- Atlantic Philanthropies Foundation*

*Publisher:- Historical Papers Research Archive*

*Location:- Johannesburg*

**©2013**

**LEGAL NOTICES:**

**Copyright Notice:** All materials on the Historical Papers website are protected by South African copyright law and may not be reproduced, distributed, transmitted, displayed, or otherwise published in any format, without the prior written permission of the copyright owner.

**Disclaimer and Terms of Use:** Provided that you maintain all copyright and other notices contained therein, you may download material (one machine readable copy and one print copy per page) for your personal and/or educational non-commercial use only.

People using these records relating to the archives of Historical Papers, The Library, University of the Witwatersrand, Johannesburg, are reminded that such records sometimes contain material which is uncorroborated, inaccurate, distorted or untrue. While these digital records are true facsimiles of paper documents and the information contained herein is obtained from sources believed to be accurate and reliable, Historical Papers, University of the Witwatersrand has not independently verified their content. Consequently, the University is not responsible for any errors or omissions and excludes any and all liability for any errors in or omissions from the information on the website or any related information on third party websites accessible from this website.

This document is part of the archive of the South African Institute of Race Relations, held at the Historical Papers Research Archive at the University of the Witwatersrand, Johannesburg, South Africa.