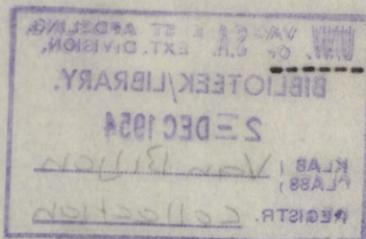


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MRS. MAKANYA.

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NATIVE ECONOMIC COMMISSION.

DURBAN, 4th April (Saturday) 9.30.a.m.

EIGHTY FOURTH PUBLIC SITTING.

PRESENT:

Dr. J.E. Holloway, (Chairman)

Maj. W.H. Anderson.
Dr. H.C.M. Fourie.
Mr. F.A.W. Lucas K.C.

Mr. A.M. Mostert.
Dr. A.W. Roberts.

Mr. G. Faye (Secretary).

MRS. SIBUSI SIWE MAKANYA (further examined)

CHAIRMAN: In your statement you pointed out that the standard of agriculture could not be raised by the wife single handed; is there much evidence to show that the men are actually taking part in the cultivation of the fields?--
Yes, there is evidence of that.

In what way are they taking part?-- I should say that since the time of the advent of the white men they have been helping in the cultivation of the lands and this is more evident in the mission stations; they are to-day taking their share of the work with the women.

Do they do the ploughing?--^Xes.

But very largely the ploughing is still done by the umfaans?--To some extent in the kraals it is still done by the young men and the father does not do it; the young men do it there, but in the mission stations it is done largely by the men themselves to-day.

Is that under missionary influence?--Yes, it is under missionary influence and the education too, and I think it is because the men are not engaged in wars as

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they used to be in the time of Chaka and Dingaan that they now take their share in the cultivation of the fields.

MR. LUCAS: Just following that up a bit: when you say the young men are doing the ploughing, does that mean young men who have grown up -- if they do not go to the towns?--Yes, that is so.

Not just the young boys?--No, the young men, but the young boys have to help too.

Do you get instances of men doing the skoffeling and the weeding and so on?--Yes, you do get that in some of the mission stations, but not everywhere.

You do not get it outside of the mission stations?--no, not outside. I have seen cases too where in the kraals the men do that, and I think they would be doing it more and more if they had the machinery to do it; but there is a willingness to-day to share with the women in the agricultural work-- more so than there was say 25 years ago.

CHAIRMAN: You say that the young men do the farm work and not merely the umfaans; but that is still rather exceptional, is not it?-- Well, I am not thinking now of doing farming all the year round.

I am thinking of the ploughing?--Speaking from my knowledge, of what I know, the umfaans come in and have to help in leading the team and the young men handle the plough.

But do you consider that that is a general rule?--I do, but you do find instances too where young boys of 15 and 16 handle the plough, but they are considered to be young men now.

CHAIRMAN: When you speak of young men handling the plough, you include boys of 15 and 16 among the young men?--Yes, from 15 years upwards.

Whom we would normally regard as umfaans?--Yes,
I suppose so.

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Travelling round the country I have seen comparatively little of young men handling the plough?-- Yes, but you do find these cases in various parts of the country.

You do find cases, I know, but it is not a common thing, is it?--Yes, the umfaans come in to help.

The men leave the urban areas chiefly at ploughing time in large numbers?--That is so.

Do these men actually do the ploughing or do they watch the umfaans doing the work?--?--Do you mean when they return to their kraals.....

Yes, when they return from the mines or from wherever they have gone to work?--I have seen them come in to help; of course ,there are others who do the work too; I can say that they do actually come in and help in the ploughing.

MR.LUCAS: To what do you attribute the change by which men are doing more agricultural work than they did formerly?-- I think they are more and more realising that they have to come in and supplement what used to be raised by the women. And of course education has done a great deal to change the sharing of the work. Now that education has come in, it has changed their conception which they heretofore used to have in regard to these things.

Is there anything, is any part of the change due to what among white people is called the emancipation of women?--^XYes.

Would you say that native women are claiming more rights and more freedom now?--I would.

How is that showing itself?--Well, it is showing itself in this way.....

In what way are they claiming greater freedom, and what sort of rights are they claiming-- that is native women as a whole?--They claim from their men that they should share

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in the work; and education too. Largely at these mission stations men and women have studied together-- in these training institutions and there they have shared the work together and that is having its effects....

DR. ROBERTS: Do you find many marriages arising from that community of thought, from mission stations and from institutions; do you find many marriages where the young man from the institution marries the young woman from the institution?--^Yes.

Is that in the increase?--^Yes, it is.

MR. LUCAS: I am rather keen on any evidence we can get on the change in the attitude of the native women?--

MR. MOSTERT: May we put it this way -- are the women to-day taken into consultation; are the women consulted to-day by the men as far as affairs are concerned, whereas in the past the women were never consulted?-- In the mission stations they are consulting their women, and where they do not, misunderstandings always arise; I have noticed that there is a keen desire for independence and ownership arising from the native woman.

DR. ROBERTS: But the native man always consulted his women to a large extent?--In some cases, but not in all matters that he should consult them on.

But he consulted them a good deal; there has always been a comradeship?--I do not deny that there was a comradeship, but I do not think that he consulted his wife as he should have done in matters ~~of~~ pertaining to the home too.

With regard to the children-- where they were to be educated and so on?--^Yes.

He always did that?--Of course, we are now talking about the mission stations-- the men who have come under the influence of the mission stations.

MR. LUCAS: I should like to go further into this. Take the tribal areas where things are different; is the position of the women there any different from what it was, say 20 or 25 years ago?--^Yes, it is different.

In what way is it different?--I just assert that there is a keen desire for independence in the women and a keen desire for ownership. There is a big change ...

Is that true of areas like Gibulweni's area; would it apply there too?-- Yes; I know of cases in our district where, when the parents have died and the brothers have become the heirs, the girls are not in any way provided for. I am thinking of one or two cases where the girls have actually left their homes and have gone to urban areas where they are working and providing for themselves, whereas in former times, 10 or 15 years ago, that would not have taken place, where the brother would have gone to the town and fetched the girls back to the kraal.

And to-day the girls would resist that kind of thing?-- Yes, they would and when thinking of these things one can say that the men are becoming ^Woerless in that respect.

They are submitting for it, you mean?--Yes, they are.

Now would you say that the change in the attitude of the women is becoming general, is it becoming widespread?--^Yes, it is becoming more and more so.

DR. ROBERTS: DR. ROBERTS: You do not want to give the impression, do you, that the women of to-day are so delightfully free, while the women of 50 and 100 years ago were all tied up?--No, ^I do not, but I want to give this impression--^{RE} that there has been a change, a change has taken place, and the women at the mission stations are quite different from the women of 50 years ago. I do not mean to say that they

do not have any freedom whatever under the tribal system, but with the advent of civilisation, changes are taking place in our women.

Yes, I admit that, but do you think you would have that fine courage in your native women, do you think she would have that fine bearing,-- the way she looks you straight in the eye, if she had been tied down?-- Well, the native woman has been suppressed to some extent, but she has not yielded. She has been fighting her battles right along. Under the tribal system 50 years ago women would not submit to whatever the men wanted. You take for instance the witch doctors. The women witch doctors, I think, are an example. You find them at the kraals-- they are an example of what you are thinking about.

I am also thinking of women governing the tribes?-- With the Zulus--- we did not have governors of the tribes. Women did not sit as governors of the tribes.

MAJ. ANDERSON: But with the Swazis they did?-- Yes. But I want to make myself clear in this that though the women have not had a square deal, although the men have not recognised them as they should have done, or as the women are recognised in a climbing civilisation, yet the native ~~women~~ women have not been entirely suppressed and they have been fighting and climbing. I have given you the case of witch doctors as an example. You find changes taking place all over now. I want to make that clear.

DR. ROBERTS: I do not want the impression to be created that they were entirely subdued and suppressed?-- No, they were not entirely suppressed at any time under the old tribal system; they always had something to say....

MR. LUCAS: What I understood you to say was that they were now claiming more rights for an independent

personality than formerly?--Yes, they are; it has been brewing, but now it has come to the surface and it is now showing itself.

Would you say that the Zulu women-- taking them as a whole-- were all happy and care-free people?--Yes, I would.

It is sometimes said that you do not see the same smiling, happy faces among the Zulu women and the Zulu girls as you see among the women of other tribes?--Yes, that may be; we are a little bit more inclined to be serious, but we do our smiling inwardly.

Do you think they are reasonably contented?--Yes, the Zulu attaches more importance to dignity and he thinks that a person who is always hilarious is not dignified.

You told us about two girls from your own tribe who had gone to the urban areas because their brothers would not support them?--yes, that is so.

Is the position of these girls in town satisfactory? Supposing they were to acquire some property, would not the brothers be able to come and claim that property?--I think they could do so under the tribal system, but these two girls are not buying any movable property which the brothers might come and claim.

Another point which has arisen in connection with the position of women is this. In a town, supposing a native woman is seduced and has a child, it is claimed that she must leave any question of redress or maintenance to her father to recover from the father of the man. Do you think that that is adequate protection to a woman living in the town; after all she has to look after the child?--No, I do not think that the protection is adequate.

You think that if native women in such instances were prevented from getting maintenance in the towns, that

it would be a hardship; to-day it is urged that when a woman has a baby in such circumstances that she should not be allowed to use the European method of claiming money for the support of the child, but she must let the child go back to the kraal and there be maintained in the ordinary way. Now, is that sufficient protection for the woman and the child, if she wants to keep the child in town?--No, I do not think it is sufficient protection at all. I think provision should be made whereby the woman can secure the maintenance of the child direct from the young man who was responsible.

DR. ROBERTS: Cannot she do that now?--No.

MR. LUCAS: Then you said on Thursday that the tribal system does nothing to raise the position of the women. Do you think it is possible to do anything under the tribal system to raise the position of the women?--Yes, I think so.

In what way?--I think it could be done through education in the first place. I think there should be progress in the tribal system where the woman would have an opportunity of participating. It may perhaps be an educational programme, such as I gave an instance of the other day--something to encourage the chiefs to take an active interest in education. There might be committees appointed to be entrusted with the educational programme of the community; women should be allowed to participate in these matters and in the Churches too the women should be allowed to participate and to progress.

DR. ROBERTS. But they are so allowed, are not they; they are allowed to have women's associations?--Yes, they are allowed. But under the tribal system they are not allowed---they are not consulted on matters which are

for the welfare of the Church and for the welfare of the community. I think we could do a little more by extending our activities in those directions.

MR. LUCAS: Will you tell us what is the Bantu Youth League which you represent?-- It is an organisation which is undenominational and its purpose is to try and weld the young people of the different communities and different Churches and try and interest them in different programmes that are intended to uplift the communities, but the great purpose of the Bantu Youth League is to work co-operatively. We realise that the Church among the Bantus has "sort of divided" the Bantu people considerably and any programmes on which one wishes to launch out for the welfare of the Bantus do not receive so much attention and recognition as they would if there was an organisation which was undenominational and acting for the Bantu people as a whole.

Is it run entirely by natives, or do Europeans take part in it?--Europeans do take part, but it was initiated by natives. It was formerly known as the Purity League. Europeans took part; they could do so as guests and on our Committee we have a couple of Europeans.

Now you suggested that there should be Bantu Social Centres for men and women in the different towns?--yes.

How would you suggest setting them up. I think the Johannesburg one was set up by outside parties and governed from the outside?--⁺es, I understand that part of the money came from the outside and part of the money came from the people of Johannesburg.

Now supposing you cannot get these outside gifts, have you any idea of suggesting how such centres could be started and financed at the beginning? --I thought perhaps that the Native Affairs Department of each municipality

and responsible citizens in a town like Durban, who have natives in their employment would care to take an interest in programmes like that, programmes that would provide recreation and education too for their employees.

MAJ. ANDERSON: You gave us your ideas of the advantages and of the disadvantages of the tribal system, but I am not sure whether you thought that the advantages or the disadvantages were the greater; which do you think are the greater, the advantages of the tribal system--- or do you think that detribalisation has great advantages?--I would not say detribalisation entirely, but I would think of a system which retained the fine things in the tribal system because I realise that when you take a people and make them discard what it has taken years for them to build up, then they have no anchor whatever which they can rest themselves on. I did bring up the advantages and disadvantages of the system but I would not discard it altogether. I wish to live and I hope to live to see the system modified every time and new things added to it so as to make it more enduring and capable of adjusting itself to the changing conditions.

We have been told in one or two places by educated natives and others that the chief occupies a place which almost has religious significance in the life of the natives. Would you say that that is so as regards your knowledge of the natives?--Yes, I would say so.

Do you think that that is a correct statement of the position?-- Yes; we look upon the chief as the centre of our life; that really is the position.

And for that reason it will endure all the longer?-- Yes, but in order to endure, it must adjust itself..

DR. ROBERTS: Do you think in the towns that compulsory education would help the young children, the native children?--I do, and as a matter of fact not only in the town but in the country as well. I think it is absolutely necessary that educational facilities should be provided for the children in the towns, who to-day simply roam about and do nothing and learn nothing either.

Would you have this system of evening schools extended further; there are a number of evening schools for natives in Durban now?--Yes, I am in favour of that being extended.

And these young children should be made to attend?--Those children would be in employment during the day and would attend their classes in the evenings.

I believe you do a great deal of social work?--I do.

That is part of your work, is it?--Yes, it is.

Do you find that disease is becoming more rife in the villages, unpleasant disease?--Yes,

You do find that?--Yes, I do find that.

Is that brought about, you think, by the men coming from Johannesburg?--I do think so.

And coming back from the towns?--Yes; that is brought about, as I have said, by the men who go to the towns, and having no families or no family life, they drift into questionable places and they return with these diseases.

And you think that is spreading?--Yes; although I have not got the figures, I am under the impression that it is, and I think one of the remedies would be for these men who come and work in town for six months or something like that, to have some sort of home life provided for them; that, I think, would tend to decrease the spread of these diseases. It would be a good thing.

Now would you have it that outside of Johannesburg and Durban, the man and his wife should find a home in ~~the~~ villages rather than in these compounds?--Yes. When I think of the young men and of the girls who come to town..... For instance, when a village such as Clairwood is established I think some respectable families might have an extra room where they could take a lodger, a young man or a young woman, who wishes to keep straight. Such a young person could be taken up in such a home and after work would be able to find that home atmosphere which is so essential.

You think the present system is not a good one?--No, the present system is not good; I think what you have suggested just now is an ideal thing. That should be the ideal.

Would you propose that a woman, like yourself, for instance should be appointed by the Education Department, or whatever Department would take charge, to do work of your kind?--We would. Even if it does not come directly, I think it would help a great deal to have the Government giving recognition to work like this and help us perhaps by financing our work, because it is very much needed that something like that should be done. Financial help is very much needed.

Your point is that your people are not wealthy enough to finance that kind of work themselves?-- They are not at all wealthy. We do need some financial assistance.

And Government help and recognition would be very much appreciated?--It would certainly help us in many ways.

CHAIRMAN: There are no other points which you wish to bring before us just now? Then the Commission must thank you very much for your interesting evidence which will be of great use to us.

REVD. HENRY COTTON (CHAIRMAN)
MRS. MABEL PALMER.
MRS. ISABELLE SILILO.
MR. ALFRED ZELALAS MAZINGI.
MR. MAURICE WEBB.
MR. SEBASTIAN MAKULISI.
MR. DENNIS J. SHEPSTON

REPRESENTING THE JOINT COUNCIL OF EUROPEANS AND NATIVES

A NUMBER OF STATEMENTS WERE HANDED IN BY THE WITNESSES DEALING WITH VARIOUS ASPECTS OF THE JOINT COUNCIL'S LABOURS WERE HANDED IN TO THE COMMISSION.

CHAIRMAN: We have gone through the various statements which have been handed in on behalf of the Joint Council and there are a number of points on which members of the Commission would like to ask questions. I take it that in regard to a statement like that put forward by Mrs. Palmer, she would like to speak to the points dealt with in that before we proceed with the other questions, and I should like to know whether that applies also to some of the other statements, or whether it will meet the case if we take the other statements as read?--(THE REVD. MR COTTON) I think Mr. Shepston will have a statement to put in with regard to the effects of the Land Act. I want to refer briefly to the housing report, and I want to say that the native population of Durban is 38,000, but owing to the depression and want of employment that total has been reduced by something like 8,000. So you cannot reckon the native population of Durban at more than 30,000 at present.

On what basis is that estimate made?--We got the figures from the Native Affairs Department.

On inward and outward passes?--We take it so.

But one of your statements makes the point that there is a large number of unregistered natives in Durban?--Yes

Would that factor remain more or less constant?--

Yes, I think so.

MR. LUCAS: I am under the impression that one of the municipal officials the other day said there were 45,000 natives working in Durban?--We are talking simply of Durban itself, nothing outside of Durban.

The 30,000 would then just about cover it?--Yes.

(MRS. PALMER) The different sections of us have different points to put before you. (THE REV'D. MR. COTTON) We want to put in another statement in connection with Amalaita gangs. We want to put that in in association with the name of Mr. Selby Ngcobo who drew up the document. Mr. Ngcobo was here for some time but he has now gone back.

DR. ROBERTS: Do you think he had sufficient knowledge of the subject to make a statement of any weight?--yes, I think so; I think he had the opportunities of getting the necessary information while he was here in Durban; he is a student of Fort Hare and he made the enquiries for us. This is a statement which would be the result of his enquiries in town and the result of his getting into touch with a variety of natives.

Belonging to one or other of these gangs?--yes. First of all the statement deals with the genesis of the Amalaitas and it states: "there is practically no town or city in South Africa which is without its pest of Amalaita gangs. The police have tried their best to cope with these fellows, but it is a wellknown fact that no adequate measures have yet been found of combating their evil ways. It has therefore occurred to me, that if I were to give the facts, so far as I have been able to get them here in Durban, the solution of dealing with these boys would then be found. One way of dealing with the problem is to have a very vigilant police force, but even they do not, and cannot patrol every nook of Durban."

In the rural areas the boys spend most of their time out in the veld - herding cattle and goats. There ^{with} is the open country before them, plenty of free country air, and favoured by warm sunshine the boys become very wild and agile. Boys of one locality, usually boys of the same age, form a gang with a bully at the head; tacit obedience is given to this bully = captain. He it is who gives orders for raids on neighbouring fields; he it is who gives the signal for attack on the adjacent gangs against which traditional hate is maintained. This is akin to party spirit and warfare which are studiously kept up for the sake of keeping the parties alive and intact.

The frolicsome boys become nurtured on the traditions of sport-fighting, which is not different from real fighting in its consequences -- on the glories of faction fights, deeds of daring and bravado. In short, adventure which involves triumph over the adversaries, real or supposed, is their meat and drink.

When the boys come into towns and cities, they bring these traditions with them. The veld spirit manifests itself, however, in a different environment and in wrong channels. Kraal conditions are different from urban conditions; so that acts done in the country and tolerated somewhat may be absolutely intolerable in the towns. The organisation of the amalaita gangs in the town is at bottom the same as that of a gang in the country. The gang is composed almost of coevals and at the head is an elder boy who is chief, possessing the power I have described. He is, however, a much more criminal sort of person than his simply country prototype. This fellow is usually an old hand at it; the more experienced he is in felony and the more he can come through trying conditions unscathed, the more his position in the gang

is enhanced. All the loot collected is laid before him to divide, and, of course, he takes the lion's share. The "soldier" who was chiefly instrumental in the acquisition of the booty gets methylated spirits and a dagger. His stick is then tied in the presence of all others, with a red tape near the top end, and this is his "D.S.O." To such chaps promotion to high position in the ranks comes soon. Promotion is by merit, but favouritism is not entirely wanting.

In regard to their activities-- in the gang there is specialisation. Some boys are skilled in playing the mouth organ; others in thrashing and others are adepts in stabbing and in breaking into stores and houses. Bicycle and motor cycle chains, sjamboks and electric wires, ordinary sticks with iron knuckles at the head , and canes are the instrument used for belabouring well behaved citizens in unfortunate circumstances.. The boys also carry deadly knives. A Laita boy can stab you without coming near by throwing the knife in a special way . "Give a biy a mouth organ and let him play it; when he has finished playing you will know whether he is a Laita boy or not" said one fellow to me.

You will find that these boys are dirty, both in clothing and in body; they have no time for washing their bodies and their ordinary clothes. The afternoon off, should they be in domestic service, as indeed many of them are, is given to plotting what is to be done in the evening; the evening is the time for operations. When six o'clock and the evening draw nigh, I was told, the head goes wrong, and one does not know where one is, because of the intoxicating effects of dagga and methylated spirits. The effects,all the same are welcome.

Now what is done by the Amalaita gangs depends on what sort of gang they are and on the general conditions of their

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locality. The gang that is composed of younger boys, anything from 11 years to 14 years of age, does nothing very serious, except to scout out chances for older fellows. Then again, the more alert the police are, the more tricky and on the qui-vive the boys are. On the other hand, when the police show laxity, the Amalaita do harm with impunity and become most defiant to the public. They have in Durban three stations, say (A), (B) and (C). The police disturb them at "A" and they move to "B", disturbed there they move to C. From C to A again. It is conventional that wherever they flee from a danger situation, each should run in his own direction and that when one is arrested, he should never disclose the names of others. If he does, woe unto him.

I do not think that these boys know all the consequences of their actions; no man ever really does. It is simply that they do what they like and have come to like what they do. The Amalaita boys do not understand civic life; their deliberate acts are actuated by motives that lie within narrow universes. What is good to do is what the immediate moment suggests as possible to accomplish. Faction fights between two rival gangs are arranged for without any consideration, whether, if carried out public peace and lives will be endangered thereby. A break into a store or house is a brave thing to do. The illegality of the act and the higher moral virtues which the act contradicts are beside the point. Methylated spirits are taken because they are rare to get, illegal to obtain and not taken as a beverage by other people; dagga is consumed freely for its unbalancing effects; there is something good in seeming unnatural and nothing appeals more to the martial and puerile mind than to prove better than his adversaries.

When a boy can successfully and unwittingly play with the lives and property of well behaved citizens, when he enjoys immunity from punishment and comes out of any situation at the better end, then he is said to have adapted himself to his environment. When the Amalaita boys want new members to enter into their ranks, they look for an opportune time, say when either the "guardian boy" is away or the Mistress or Master, and go to the boy and persuade him to adapt himself to his conditions by joining them; he must not remain, and they will not tolerate a tyro in this division, say at Greyville. Adaption in this case, therefore, means becoming a crook. When persuasion fails, the desired fellow is thrashed into the gang.

I now make the following suggestion: The question which every citizen should ask is "what can be done to check these boys from doing harm? Can we ever get rid of them?" Probably we could. As I have said, a vigorous police force could help, but at the best, its activities are prevented, and that is not sufficient; what is wanted is something curative, something in which the psychological factors which are behind the Amalaita could be given a healthy outlet for expression. I have in mind educative influences to be found in a Pathfinder or Scout organisation. Would it be too much to suggest a mass organisation of all working boys into pathfinder or scout groups? The Municipalities, I think, should take up this project, because they have the authority behind them and they could find the necessary money. After all the town fathers should look into the welfare of the city or town workers. Doors should be left open, of course, for cooperation from such voluntary bodies as the school and the Church. It should not be difficult with the help of pass registers, for the Municipalities to find

out all the boys working in Durban, their ages, and to divide these boys into suitable pathfinder groups under healthy patrol leaders. By that way, as I have said, room could be allowed for healthy deeds of daring, acts that go to form good character, and on the whole, such an organisation would be economically sound, because for one thing it would mean an intelligent and reliable force of labour. That is one way in which Bantu nation building, for which Mr. Heaton Nicholls shows so much concern, could be taken up.

DR. ROBERTS: I wonder if you recognise that gangs of that kind are very common in the lives of all nations at certain stages; there is scarcely a nation which has not had them and after a time they lapse with the increase of knowledge?-- I suppose so.

CHAIRMAN: I think we may now proceed with our questions with the paper before us. I want to start with the suggestions made by Mrs. Palmer; under item 3 you say that the chief's power depends mainly on his control of the land and power to deprive an offending individual of his plot of land.?--(MRS PALMER) I must say that that evidence was not put in on behalf of the Joint Council. That is my personal statement and perhaps you would defer asking questions on that. (THE REV'D MR. COTTON) ~~The~~ Mrs. Palmer has not carried the whole Committee with her in some points, but I do not think we should object to Mrs. Palmer's answering any questions on her statement, provided it is understood that she does not commit the whole of the Joint Council to her views.

I do not think the question of whether the Joint Council is committed or not matters in the least to us, because we are not taking a vote on what the different people think. We are trying to get at facts and at reasons

and conclusions, and we would not blame you for things which you would not be prepared to subscribe to, or even press you on things which you are not prepared to agree to. Well, we shall leave Mrs. Palmer's statement over, and I shall first question you on your statement on the issue of letters of exemption. You recommend that natives in the Union, coming from non Union areas should not be eligible to apply for exemption until after a residence of two years; on what grounds do you suggest, firstly a delay and secondly the period of two years?--(THE REV'D. MR COTTON) I may say that I am not wholly in agreement with that myself.

Perhaps I had better put the question to someone who is in agreement with it?-- (MR. MAZINGI) I was totally against it, but when I found that I could not get it cut out altogether, I tried my best to get it reduced to three or six months. Unfortunately the members who wanted it in are not here. It was the European section who wanted that; they put forward the argument that the characters of people were not known when they came here; people might have been guilty of theft. Yet when they came here they immediately applied for exemption. We tried to shake that, but the vote went against us.

Take your native from Nyassaland; if he comes here and he is not to be exempted, then the particular native law from the area where he comes from will be applied to him?--That is so.

That might be the native law to which he is accustomed, that is so.

Why should a choice be made for a native law in preference to European law?-- He argued that. A similar

thing obtains here now with regard to natives from Basutoland and so on, and we thought this being a n industrial centre and natives coming here, should adapt themselves to the law of the centre.

Why the Native law in preference to the European law in that case?--The only reason I can give is that the European section ,who were strongly in favour of this, did not regard that as being of any importance. They only looked to the character of the man. It is only the native who is affected.

How can the character of the man be affected or influenced by the question whether he is born outside the Union or inside the Union? Do you think the characters of the natives inside the Union are so much superior or inferior to the characters of the natives from outside the Union?-- Well, I think the idea was to discourage them from entering into these parts....

Do you think putting them under Native law would discourage them?--?--Not necessarily. The way in which the gentlemen who were arguing the point looked upon it was this: no matter how the native law affects a man, so long as he is prevented from being exempted from the laws of this Province, they are quite satisfied.

And you think the native would not want to come in unless he had a hope of exemption?--He would not be as free as all that. Natives from the Cape or the Transvaal , who are exempted there and come here are not necessarily exempted here.

But you are talking of non Union territories in this statement which we have before us?--Yes, that is so.

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Well, then, do not bring in the Cape or the Transvaal. What about the non-Union Natives, the Natives from Basutoland and the Portuguese Natives ?- These people come from those provinces under their own laws, the same as the Natives from the Cape and the other provinces do. They may have their own exemptions in those other provinces, but when they come here they find that they are barred and they have to wait a certain period before they can claim exemption again.

So, if you had a Native medical man, a man who has qualified say at a European university, and who was born in Basutoland, and who came to settle in Durban, the Zulu tribal law would have to apply to him for the first two years ?- Yes, that is so. (Mrs. Palmer): There was a great deal of discussion on this question in the Council and I think the decision finally come to was due to the feeling of the European section of the Council, that we should know a good deal about the character of a man before we could give him exemption. I did not quite agree with that. There was a little feeling among a certain number of Natives that they would not like these outsiders to come in under exactly the same terms as they themselves.

If you make them all subject to Native law, you make them subject to the same laws as the bulk of the Natives are under ?- Yes, they do feel that an educated Native who belonged to the Union should get exemption on easier terms than Natives coming from outside. (Mr. Makulisi): I think the Joint Council thought that exemption was a privilege for the Natives. There are so many disqualifications enumerated, such as polygamy, or if a Native was a known bad character. They wanted to give a chance for a long

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duration so as to be able to judge the character of a person. A man might just come in and later on start working against the principles which govern the granting of exemptions. The framing of regulations under the Act means generally that you are tying down things and that you cannot use a great deal of discretion when you have tied them down and, if you made two years compulsory without any sort of exception, then you may find an exceedingly advanced Native who comes in from some adjoining territory to settle in Union territory whom you would subject to the Native law for the first two years. With regard to the qualifications for exemption, I do not know whether the items under C.3 must be read as subject to Item G.? - (Mrs. Palmer): Yes.

Is that what is intended ? - Yes.

But Item G. assumes that letters of exemption are already given. You cannot cancel a thing which is not given? Anyone of these conditions should entitle a person to claim exemption, provided he is not living under certain conditions and then anyone of the subsequent conditions should entitle him to exemption.

When you refer to the possession of/movable property I take it that you do not refer to tribal lands ? - No.

And when you refer to movable property, you do not refer to the cattle ? - No, we do not.

Now, the receipt for 12 months' wages at the rate of £5, would that be a continuous period of 12 months ? - Yes.

That may mean that a break caused by temporary unemployment would keep on putting the disability of his getting his exemption indefinitely ? - Yes, but it is only one of a number of disqualifications.

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MR. LUCAS: Is it only meant to apply to men ?- No; women are also put down there.

CHAIRMAN: Now, the exercising of tenure, do you mean there of individual tenure ?- Yes. It is the case of the Native sugar farmers. We were informed --- we have not got any definite information --- but we were informed that some Native sugar farmers could not enter into any contract and could not take legal action without the consent of their kraal heads, and that this handicapped them very seriously. You see, the position of the Natives in this Province is quite different from any others, because here the magistrates must deal with the Natives according to Native law, they have no discretion, whereas, in the other Provinces, discretion is left to the magistrate, and, ~~there-through~~, ^{anyway,} the cancelling of the Natal Act of 1865 has left our Natives without any means of claiming the exemption for the last four years.

Are there any other points to be raised on this question of exemption ?- (Mr. Shepstone): I want to refer to a very vital decision in that respect. The Native Appeal Court has held that exempted Natives fall within the jurisdiction of Native Commissioners. The effect of that decision is this, Prior to that, the decision of the Native Commissioner could be taken to the ordinary Court of Appeal. That is to say, the exempted Native followed the ordinary laws of the Colony and could appeal to the Union Appeal Court and, from that, to the Privy Council. But now they can only go to the Native Appeal Court and I think that that is a very vital deprivation of their privileges.

DR. ROBERTS: But cannot they appeal from the Native

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Appeal Court to the Supreme Court or to the Appellate ?- No, they cannot. In the past, things were different, but now we can only go to the Native Appeal Court and that is an unfortunate position, and it is a position which should be rectified, because, obviously, I think the intention of the Legislature was that they should be entitled to the ordinary laws of this Province.

Did that decision explicitly say that he could not appeal to the Supreme Court ?- The position is this. The Native appeal from a Native Commissioner comes to the Native Appeal Court and there is no appeal from that to the Appellate Court and the Native Appeal Court has indicated quite clearly that they are not bound by the decisions of the Appellate Court, and the Native Appeal Court has, in fact, differed from the Appeal Court, and may do so again. I think it is a position which should be rectified. An exempted Native goes before the Native Commissioner, he has the common law applied to him, he appeals and then he has to stop short of the Supreme Court.

CHAIRMAN: He stops short in matters of European common law ?- Yes.

This is not a case of Natives coming up under the Native law ?- No; they are exempt from the Native law and they come under the ordinary law. An exempted Native is not subject to the Native Code, but he is subject to the Roman Dutch Law, but, under this decision, although the exempted Native is subject to the ordinary Roman Dutch Law, that is decided by the Native Commissioner. Then he goes from the Native Commissioner to the Native Appeal Court, but, instead of having the ordinary privileges which

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you would have of carrying your case to the Appeal Court and from the Appeal Court to the Privy Council, that man can go no farther than the Native Appeal Court.

It takes the wrong turning at the start? - Yes, and it is now indicated that, so far as exempted Natives are concerned, they are subject to the Native Appeal Court and that they can take matters no farther. If the thing only arises out of Native law, it does not so much matter, but where the exempted Native is having his rights and privileges determined by Roman Dutch Law, there he is entitled, to my mind, to go to the Supreme Court of South Africa and to the Appellate Division. If I were to start a case now in the Supreme Court of South Africa and then go to the Appellate Court and test the ruling of the Native Appeal Court that they have the right to deal with exempted Natives and if the Appeal Court overruled the decision of the Native Appeal Court, the Native Appeal Court would yet not be bound by the decision of the Appellate Division.

DR. ROBERTS: Surely the Appeal Court would have the right to say that there is a miscarriage of justice ---? - No, the Native Appeal Court clearly indicated that they will not be bound by the decisions of the Appellate Division of South Africa. They have made that clear and they have gone so far as to give a decision in regard to loans to Natives which is entirely opposed to the finding of the Appeal Court of South Africa. In point of fact, it has been indicated by the President of the Native Appeal Court that they will not be bound by the decisions of the Appeal Court of South Africa. Of course, if he were convinced that he was wrong, there might be some redress, but I submit

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that this is a matter for legislation.

CHAIRMAN: Which case was that you were referring to in which it was decided that the exempted Native is subject to a court from which the only appeal is to the Native courts ?- This was decided last week. As a matter of fact, I argued it against my own convictions. It was the case of Mabasa.

That was decided in the Native Appeal Court ?- Yes.

And the Native Appeal Court decided that they had jurisdiction ?- Yes.

Now, supposing the Supreme Court were to decide that they had jurisdiction in the same case ?- Yes, exactly.

Well, the matter is one of very great interest, so far as the lawyers are concerned ?- Yes, it is a matter for immediate legislation, because it places the exempted Natives in a most unfortunate position.

You do not claim the right of appeal to the Privy Council in matter of Native law ?- No, that is not the point at all. The only point is in regard to jurisdiction so far as exempted Natives are concerned. (Mrs. Palmer): We have it on the West Coast of Africa. Why should not our Natives have it.

CHAIRMAN: Would the right of appeal from the Courts here to the Privy Council not be a ~~gilded~~ gilded pill ?- It seems to work on the West Coast of Africa.

You are appealing to a Court which has a number of preconceived notions of law and you have got to get into another system altogether ?- The Privy Council of the Empire hears appeals from the Malay States, from Indian Chiefs from Mahomedan Chiefs and from others. I am thinking of a

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special case where a West Coast chief got a decision reversed.

Now, a statement on Native unemployment was put in on behalf of Mr. Ngcobo. Can any of you here answer questions on it? Now with regard to Wage Board determinations, the statement is made there that the Native staff in certain firms fell from 19 men to 7 men after the Wage Board determination. Is it represented that that was the result of the determination ?- (Mr. Mazingi): To a certain extent it is. Although there is depression, it was not until the visit of the Wage Board that there were more dismissals than before.

The determination was a good deal before the depression ?- This was about 1928.

That is a long time before the depression. You refer to certain sections of employment --- were the dismissals immediately after the determination, or shortly after ?- They were shortly after.

Did this simply mean that the Company got on with fewer men, or did they substitute White men ?- They mostly substituted Indians and White men.

MR. MOSTERT: Did they reduce their staffs, too, that is to say, in the ratio ?- In some cases they have done so.

They reduced the ratio through having to pay more ?- Yes, they reduced their ratio of the people employed. (Mr. Makulensi): I know one firm, J. Ellis Brown, coffee works, where they had three Natives and now they have only one where they had three. They raised their wages by £1.5.- and one Native now does the work which three Natives did before. I had many of my friends there.

CHAIRMAN: Would you care to express an opinion whether it is a good thing or a bad thing ?- It is a bad thing

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Does it not improve the efficiency of the Native who is left over, the efficiency of the one who keeps a job ?- No, I think he is overworked.

It does not improve his efficiency, it lowers his vitality, perhaps ?- He is overworked. It is true he is paid more, but at his own expense.

Must we conclude from that that you are doubtful whether the application of wage regulations to Natives would be a good thing for the Natives ?- (Mr. Mazingi): Up to now it has been the opposite. Let me give you an instance. There were quite a large number of Natives employed as clerks in chemists businesses. They did various kinds of work, and I was one of them. I was an ordinary clerk doing typing and I still do so, but when this Act was in force, we were all dismissed and we were told we could not be employed as clerks any longer, because the firm could not afford to pay us. Either other people were engaged in our places or we must be satisfied to be taken on as casual men.

MR. LUCAS: That was interpreting for these secret remedies ?- Yes, and ordinary work, too.

A lot of opposition came to that from the medical department. There were a lot of other questions involved ?- Yes, but it is purely Native work. We had to do letters which were written in various Native languages, they had to be translated into English and it was work which no other person could do, excepting the people belonging to the various tribes. But that has now been changed, because of the wage determination.

CHAIRMAN: Now, do you know what the feelings are of the Natives generally in Durban with regard to wage

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determinations ?- The Natives generally are against it, because most of them today are out of work.

They are afraid that it will put them out of work ?- It has already done so. They have seen that.

Now, if they are in work, they complain that their wages are too low and that they would want that remedied ?- Yes.

How is it to be remedied if it cannot be remedied by wage legislation ?- It could be remedied by a rise in wages.

Yes, but how are the wages to be made to rise ?- They should be made to rise in this way. The Natives have been employed since the commencement of business. Prior to the determinations, the Natives were getting their increases as usual, they were getting more money from time to time.

You mean that there was an upward tendency ?- Yes, in some places there was.

Yes, but the complaint has been made to us that the upward tendency was not strong enough ?- No, that is so.

Supposing we admit that it was not strong enough, how can it be made strong enough? You have ruled out wage determination as a method. Now can you suggest any other method ?- The reason which causes the Native to think that it is not good is because of the White labour policy. Whenever a question is raised, a White man is brought in and the Native is kicked out.

MR. LUCAS: Can you bring many cases of that kind? There may be one or two cases of that kind, but can you raise many? I happen to know something about the work which you did; it was brought before us, but that affects only a very small number of Natives ?- Yes, that is so.

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Are you not saying that the Natives are opposed to wage determination because it hits a small section to which you belong ?- No, there are many in the factories too who are affected.

Have any of them been dismissed because of these wage determinations ?- There were quite a number of women dismissed at the factory, at Wentworth clothing factory.

But there was no wage determination in regard to that ?- Yes, I hear that, but there was nothing else.

When were they dismissed ?- They were dismissed some time early last year.

There was no determination then. There is one now ?- Yes.

MAJOR ANDERSON: Was it through fear that there was going to be a determination ?- Yes, probably.

MR. MOSTERT: Are your views that the adjustment as far as wages are concerned, could be done through supply and demand ?- Yes, and I think that is the only way.

MAJOR ANDERSON: Is not the danger then, that the wages may be forced down ?- (No answer):

MR. LUCAS: The main point we are concerned with is the application of wage determination to unskilled work ?- Yes I understand that.

Can you say that any Natives on unskilled work have been forced out of their work through the wage determination ?- There is Creswell's White labour policy.

CHAIRMAN: No, that is not the question. The question is whether as a result of the wage determination by the Wage Board, for example, Natives have been turned out of unskilled work ?- I do not know of any at present.

MAJOR ANDERSON: Has it had that effect at Bloemfontein

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I am not aware of it.

MR. LUCAS: Can you suggest any way by which the wage of unskilled Natives in Durban today can be improved ?- With regard to the unskilled wage, I think the wage determination could work very well. Europeans do not much care to do unskilled labour.

You think it is safe for unskilled labour, but not for skilled labour ?- Yes, it is safe for unskilled but not for skilled labour.

CHAIRMAN: With regard to the point which you made --
t- (Mr. Makulisi): There was a time when the Railways displaced Natives by Europeans.

We are on wage determination now. The point which I want you to speak on is this. You raise the point that some of the employers force the Natives to work harder when they have to pay more. Do you think that is likely to happen in unskilled work when there is wage determination substantially raising the wages ?- No, because there is not much chance of Europeans going in for unskilled work.

Now, you said that the European employers made the Natives work harder and made one man do the work of three ?- Yes, that is what happened.

Is that likely to apply to unskilled work ?- No, I do not think so.

Why do you say that ?- Because the wage determination will be very low. It will be higher than it used to be, but it will not amount to £7 per month.

And, therefore, the employers will not really mind whether they get more efficiency out of it or not ?- They will consider quantity more than quality. You see, they want as many Natives as they can get.

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They would not worry about a little extra expenditure? What effect do you think it is likely to have on the number of Natives who will come in from the rural areas to work here? Would not rather more of them tend to come in? - If there is an opening for them to be employed.

You never know whether there is going to be an opening until you have tried? - No, that is so.

Do you find here that the Native who is becoming a permanent resident of Durban is being undercut by the Native who comes in from outside? - I do not think so. Of course, the needs of a man from the outside are different from the man in Durban. The man who comes in from the outside has his land as well.

The man who lives here permanently has no such other resources and, therefore, he gets it in the neck every time? - Yes, that is so.

MR. MOSTERT: Apart from that, you have a strong opposition or competition so far as the town is concerned in the Indian? - Yes, at all times.

And you always have that here? - Yes.

I am now talking of unskilled and semi-skilled work? - Yes.

MAJOR ANDERSON: Do you not think that there is room for increased efficiency in unskilled work. Now, if higher wages are given, there will have to be a rise in efficiency? - Yes, and the man who produced the better goods should have preference.

I am talking of unskilled labour? - Cheap unskilled labour is nearly always inefficient labour.

MR. MOSTERT: For the extra money they should be able to do more work and better work? - Yes, and overtime work.

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MAJOR ANDERSON: Not necessarily more work, but more intelligent work, too ?- Yes.

CHAIRMAN: I want to put this point to you, Mrs. Palmer. On the one side, I think you will admit that several statements put in, not only by yourself, but by the Joint Council, submit that the Native ^{rural} population which is, as the last witness has said, subsidised by their tribal holdings, is continually impingeing on the permanent Native urban population so that the economic factors always tend towards dropping wages, especially for the unskilled workers. Now, on the other hand, if you bring in wage regulation, will there not be a tendency to draw in a considerable proportion of this rural population in the hope of getting these higher wages, with the result of a very considerable strain being put on any housing schemes that may be undertaken for the benefit of the permanent population.?-(Mrs. Palmer): Yes, that really could happen, but could that not be met by saying that noone would be admitted as a tenant into the Native village, unless he could prove that he had relatively permanent employment. If that could be done, you could keep the barracks for the others.

But ~~would~~ not your barracks continually ^{be} undercutting and undermining the standard of living and wages and also attracting the raw Natives from outside ?- Well, the Natives from outside could not undercut if there were wage determination.

Would that not produce a very considerable strain on the carrying ability of the town ?- Yes, I think so.

I am told that even today in Durban, the wage determinations for Europeans are honoured in the breach. I do not

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know whether that is so, but that is the statement made. If you have a relatively small urban population of Natives and a huge rural population who have to come in to earn something, who have to come in ^{to} earn what you describe as pocket money, would not that mean that you would have a continuous strain on everything ?- Yes, the whole position is extraordinarily difficult and complicated, but the way out is to increase that permanent population on a living wage. You might have to pass special administrative regulations to see that the persons do not flood in in order to get a bigger living wage here than elsewhere. But these precautions could be taken.

DR. ROBERTS: Do you visualise a time when you will have a large constant population here and a very small intermittent population ?- I should hope that that would come and I think the policy should be directed to that, but it will take some time.

CHAIRMAN: In other words, your solution of the urban problem lies in the country, in creating conditions which will stem the flow ?- Yes.

In the meantime, that is not going to be done in a year or so and, in the meantime, you suggest administrative action to prevent an influx. Does that mean limiting the movement even more than it is now? At present the Native, at anyrate, has the right to come along and try his luck. Does that not mean that he has to be prevented from that to some extent ?- No, I would not prevent him from trying his luck. I may say, Mr. Chairman, that I have not fully thought out these things. I would like them to come and try,

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but I would not like Natives who are not capable of getting employment on the new wage determination remaining indefinitely in Durban.

DR. ROBERTS: You would not stem them at the source? - I would, I think, by having Natives sent out from time to time. I would let them know what the position was. Now, in regard to Nyasaland, for instance, the Natives there are told whether they are able to find work or not. I would do the same in regard to the rural Natives here.

CHAIRMAN: You would not allow Natives to stay here indefinitely who could not secure work, but administratively that either means a very much more rigid system of attending to matters than the Natives today are accustomed to, it would mean a very much more rigid system of enforcing the pass laws or, alternatively, it would mean making it impossible ---- ? - I would only suggest a rigid scheme for the man who has not got permanent employment. I would do my best to see that something was done so that he would not permanently come and stay in the town.

Unfortunately, the colour of his skin will not change, - the colour of his skin will not shew whether it will be possible for him to get employment ? - No, that is so, but I am suggesting more rigid regulations for the man who has not got employment. Regulations for these men should apply differently from what they do to the men who have employment. I have not thought that out very carefully, but some such policy rather appeals to me.

Yes, but how are you going to distinguish between the man who cannot get employment and the man who can? You have 30,000 Natives here. You can only do it by having a very stringent system of passes for everyone. A man must be able to prove that he is employed and that must mean the