THE NATIVE LAWS AMENDMENT BILL

One of the most important legislative measures which have come up for consideration in the present session of the Union Parliament is the Native Laws Amendment Bill. This Bill as its title indicates is intended to amend or repeal in various directions a number of laws specially affecting Natives and must consequently be read together with such laws as the Native Urban Areas Act of 1923 as amended by Act 25 of 1930, the Native Labour Recruiting Act of 1911, the Agricultural Holdings (Transvaal) Registration Act of 1919, the Native Land Act of 1913 and the Native Land and Trust Act of 1936. It is thus a comprehensive measure with far-reaching implications, one calculated to affect vitally both black and white interests and to make obligatory radical changes in the lives of the Native people for whom it is primarily intended.

As the Minister of Native Affairs, Mr. P. G. W. Grobler, pointed out in moving the second reading of the Bill, it is the final instalment of the legislation which had emerged from the protracted deliberations of the Joint Select Committee on Native Bills, and probably to anticipate the charge that this Bill is another example of that inordinate rushing into legislation to which the Union Parliament is accustomed in dealing with Native Affairs, the Minister went on to add that the Bill had received more consideration than most measures and was the outcome of much serious thought on the part of people of varying political convictions and should meet with general support. In his view it is a measure that is considered (one supposes by the Joint Select Committee) to be in the best interests of both Europeans and Natives and their relationship in this country, and it is with these combined interests in view that it will, if it becomes law, be administered.
It is proposed to give a brief outline in this article of those sections of the Bill relating to Natives in urban areas and to offer some comments thereon.

The main objects of the Bill as far as urban areas are concerned are:-

(a) To make provision for the more effective segregation of Natives living in those areas.

(b) To restrict the urban Native population to the reasonable labour requirements of the areas concerned by (i) tightening up the regulations governing the entry of Natives into urban areas "for the purpose of seeking or taking up employment or residing or remaining therein" and (ii) the forcible removal of redundant Natives from the urban areas.

(c) The introduction of a new system of dealing with illicit beer-brewing in urban areas.

The first object it is hoped to achieve in three main ways:-

(a) By making it a criminal offence punishable with a fine not exceeding £100 for any Native or any association in which a Native has any interest to acquire land (or any interest therein) within an urban area or within the limits of a rural township from any person other than a Native.

(b) By empowering the Governor-General, whenever he deems it expedient, by proclamation in the Gazette to intimate that from and after a date to be specified therein all Natives within the limits of any urban area or any specified portion thereof shall reside in a location, Native village or Native Hostel. Certain classes of Natives are exempted from the operation of this provision but exempted Natives may be required by an authorized officer to produce proof that they fall within one of the exempted classes, failure to produce such proof being regarded as raising a prima facie presumption on non-exemption. In this connection it is interesting to note that it is specially provided that Natives who have become voters by virtue of occupation of premises owned by an urban local authority shall not be entitled to exemption as they have been hitherto.
The exempted classes of Natives may be accommodated outside a Native location or village or hostel, but the owner, lessee or occupier of such premises must obtain a licence from the urban local authority permitting him to accommodate a specified number of such Natives of one or other or each sex. Further, employers of labour, including the Union Government and the Railway Administration, within the urban area shall be required to make provision for the accommodation of Natives in their employment, the nature and situation of that accommodation to be subject to the approval of and regulation by the municipality.

(c) by empowering the municipality on instruction from the Minister to require any person conducting a church, school or other institution mainly for the benefit of Natives within the urban area but outside the location to remove such institution to the latter's place. Reasonable compensation shall be paid to the person or body to whom such institution belongs for any loss or inconvenience sustained as a result of this removal order in addition to the price to be paid for the acquirement at the request of the owner of the premises in which the said institution has been conducted. Failure to comply with such an order of removal against which there is no right of appeal will be a criminal offence. Further, it shall not be permissible in future for such institutions for the benefit of Natives to be established in premises outside the place of residence set aside for Natives without the approval of the Minister given with the concurrence of the municipality concerned. As if the foregoing restrictions are not sufficiently confining, municipalities are empowered subject to the approval of the Minister to erect fences around or within any location or village or hostel or any land under their administration or control which has been set apart for use by Natives.
Not satisfied with that the Bill goes further and makes it illegal for Natives to reside in or occupy land situated outside an urban area if such land is within five miles of its boundary unless such Native is in the employ of the owner, lessee or occupier of such land. This provision, as was pointed out by the Minister, will prevent the growing up of Native townships within the vicinity of European cities.

Having got all Natives properly settled in the location, native village or hostel presumably at the expense of the municipality and being certain that all the residents therein are in regular employment, the municipality is empowered under the Bill to collect from the employer of any Native all rents, fees for services or other charges payable by him for the residence of either himself or any other Natives in the location, village or hostel. The employer shall be entitled to deduct up to fifty per cent. of the wages of his Native employee for this purpose. Alternatively, the municipality may squeeze its rent out of the Native by obtaining a warrant of execution against the movable property of any defaulting Native from the magistrate of the district if the latter is satisfied that the rent is due.

Having thus provided for enforcing the residence of Natives in urban areas in locations established for that purpose, the Bill goes on to deal with the problem of keeping down such Natives to a number "not in excess of the reasonable labour requirements of the urban area. This is to be done by empowering the Governor-General, of his own motion or in pursuance of a resolution adopted at a duly constituted meeting of the urban local authority to issue a proclamation to the effect that from and after a date to be specified therein no Native may enter the urban area concerned for the purpose of seeking or undertaking employment or residing therein.
otherwise than in accordance with conditions prescribed in such proclamation. Furthermore, no person—and that includes the Union Government, the Railway Administration or any provincial administration—shall be permitted to introduce any Native into any proclaimed urban area for the purpose of seeking or taking up employment therein except with the written permission of an officer assigned for that purpose by the municipality and such permission shall not be granted unless satisfactory security is given by the person introducing, employing or intending to employ the Native that if the latter does not find employment within the specified time or upon the termination of his contract of employment he will be returned to his home or his last place of residence. Foreign Natives will be prohibited from entering or accepting or continuing in employment within an urban area except with the permission of the Secretary of Native Affairs, and with regard to foreign natives already so employed at the coming into force of this section of the Bill their contracts of employment are to terminate within 12 months of their renewal.

All male Natives entering a proclaimed area unless specially exempted shall be required to report their arrival within a prescribed period in order to obtain a document to be produced on demand entitling them to remain within the area. Such permission shall not be granted

(a) if there is a surplus of Native labour available in the proclaimed area
(b) if the Native applying for it is not in possession of a satisfactory pass
(c) if he appears to be under 18 years of age, unless he is accompanied by is coming to or residing with his parent or guardian or unless the latter cannot be readily found.
(d) to a Native female unless she is in possession of two certificates of approval, one from a municipal officer and one from the magistrate or native commissioner of the district in which she resides, (i) she is over 21 years of age, (ii) she produces proof that her husband or her father has been resident and continuously employed in the said area for not less than two years.
Male Natives working as togt or casual labourers in such area shall be required to obtain a licence authorising them to do so for a specified period and to wear a prescribed badge in a prescribed manner and to accept labour under specified conditions.

The provisions of the Bill relating to the removal of redundant Natives in urban areas now fall to be considered. The main problem in that connection will be that of determining the number of Natives in excess of the reasonable labour requirements of the area concerned. This is to be arrived at by requiring every municipality to render to the Minister bi-annually a return showing:

(a) the number and sexes of Natives within the urban area and their places of origin.
(b) the number and sexes of Natives employed therein.
(c) the occupations in which they are employed and the number and sexes employed in each such occupation.
(d) the number and sexes of Natives, which in the opinion of the urban local authority is necessary to supply the reasonable labour requirements of the urban area.
(e) the number and sexes of Natives within the urban area which the local authority considers not necessary for the purpose mentioned in (d) and desires to have removed
(f) particulars of all immovable property within the area of the municipality of which Natives are the registered owners.
(g) any further information which the Minister may prescribe or require.

If any municipality fails to prepare the required return at the specified time or submits an incorrect return, the Minister may undertake to prepare such return or make the necessary corrections at the expense of the negligent municipality.

Urban authorities with a population of 15600 and over shall further be required to prepare returns showing:—

(a) the number of Natives within the area desirous of obtaining employment.
(b) the number of Natives employed within the area during every month covered by the period of the return
(c) the likely labour requirements of the area during the following period.
(d) any other information which the Minister may prescribe.
When he is in possession of this information the Minister may call upon the municipality with a Native population in excess of its reasonable labour requirements to supply him with a list of the names of the Natives who in its opinion ought to be removed from the urban area. At his discretion the Minister will then determine which Natives shall be removed and communicate his decision to the urban local authority who will then serve the proscribed Natives with a written notice of removal. Such Natives will naturally fall into the two categories of (a) those who are domiciled in the Union and (b) those who are not. The latter who according to the Bill will be dealt with first shall be repatriated, the Government bearing the cost of transporting them to a place on the borders of the Union from their homes may most conveniently be reached. The former shall be ordered to remove with his family, if any, to a place where accommodation has been provided for him under the Native Land and Trust Act or to some other approved place. The cost of removal shall naturally be borne by the Government. If Natives removed thus own any land or possess any right to occupy land within the municipal area they may request the urban local authority to acquire that land or such right at a price agreed upon or determined otherwise.

Another aspect of this Bill which will undoubtedly cause much anxiety among those concerned with Native welfare is that dealing with the manufacture of Kafir-beer in urban areas. As the Minister pointed out in moving the second reading of Bill, there are at present three systems in vogue in dealing with the drink evil among urban Natives, namely, total prohibition, domestic brewing and municipal manufacture and sale of beer. Total prohibition having proved a failure on account of the impossibility of its enforcement and municipal manufacture not having secured general adoption by urban authorities, it is now proposed, with certain safeguards against abuse, to indulge in greater experimentation with domestic brewing and with the additional system of "licensing Natives of good character to brew and sell kafir-beer within the location".

Finally a special feature of this Bill is the power given to the Minister of Native Affairs to compel municipal authorities to carry out the objects
and purpose of the bill, failing which he may himself undertake the necessary task at the expense of the negligent municipality.

A perusal of this Bill leaves one in no doubt as to the general of Union Native Policy. Figrus statements about an intention to serve "the best interests of both Europeans and Natives and their relationship in this country" or the desire to arrest "the undermining of the morality and family life" of Natives by their drift into towns provide an much too tenuous disguise of its repressive character. It would be difficult to parallel anywhere the output of repressive legislation affecting Natives for which the Union Parliament has been responsible in the last few years. It is not surprising, therefore, to find that not a few members of Parliament even on the Government side of the House and among the Nationalists with whose principles it is hit through and through, expressing a desire for the delay of this measure. Having passed the Native Bills which prepared the ground for future disregard of Native interests with impunity, our Government could quite well rest on its laurels for a year or two before resuming its relentless pursuit of the defenceless Native.

There seems to be an extraordinary lack of imagination among those responsible for bringing up this Bill just at this time. The Native population has within the last two years gone through a very trying period in their history. The passing of the Native Bills created profound disappointment among them and did more than our legislators seem to realise to undermine their confidence in the Government in particular and in the white man generally. It is not too far-fetched to say that the recent increase in cases of violent behaviour on the part of Natives towards one another and towards Europeans is by no means unconnected with the psychological upset caused among them by the numerous steps taken in this country to close the door of hope to them in every direction. It is only the amazing balance
of mind of the Native population—their asinine patience as it has been described by a former Minister of Native Affairs—which has prevented more general disturbances among them. Is this a time to add to their psychological burden? Does our Parliament ever stop to think that human patience, and possibly even Native patience, is not inexhaustible and can be taxed beyond endurance? Even assuming that this Bill is called for by the state of affairs in urban areas—a fact which was by no means borne out by the information which the Minister placed before the House in introducing it—will South Africa perish if it is not placed on the Statute Book this year as the Minister of Native Affairs demands? Again apart from the advisability of deferring it to a more opportune moment, it might have been brought up in a manner better calculated to placate the Native people who are always so ready to forgive past injuries. The Native Representative Council provided for under the Native Representation Act is in process of being established. Here the Minister of Native Affairs who somewhat unaccountably has a fair reputation even among Natives has an opportunity not only for conciliating Native opinion but for a spectacular introduction of the new system of Native representation by consulting with their accredited representatives of his wards on this important question. The most responsible Native organisation in this country, the Transkeian Bunga, has in its present session appealed to the Minister to delay the Native Laws Amendment Bill until the Union Native Council has had an opportunity to express its considered views on it. Will this reasonable request go unheeded?

This Bill purports to provide a solution for the improvement of conditions among urban Natives and for preventing the influx of Natives into towns. Will these objects be achieved by the methods laid down in the Bill? The Native Economic Commission pointed out in its report that the solution of this problem lay in the development of the Native Reserves.
There seems to be an erroneous assumption among some people that the development of the Native Reserves will be brought by the mere concentration of Native population in them. Developing the Reserves means making it possible for people to making a living on them and making them so attractive in other ways that they will adequately serve all the needs of the people and not be mere concentration camps. The vast sums of money that are going to be spent on preparing futile returns, on appointing officers to discover whether every Native is residing where he ought to be and carrying out the process of dumping the surplus Native population on arid reserves could be put to much better in supporting those who are endeavouring to do constructive work among the Natives of this country, teaching them not only how to make a living but how to live. No amount of restrictive legislation will succeed in keeping the Native or anybody else for that matter from those places, be they urban or rural, in which he has a chance of finding the wherewithal to make life worth living. Faced with the Scylla of Chapter IV of the Native Land and Trust Act and the Charybdis of the Native Laws Amendment Bill, if it becomes law, the Native will do the only thing possible under the circumstances, namely, to circumvent the law and run the risk of going to gaol. I suppose the only reply of our Parliament such a situation will be more restrictions.

In fact the only consolation one can find in this Bill is that it is bound to meet with so many practical difficulties that most of its provisions will remain a dead letter. How is the Minister or the urban local authority decide upon "the reasonable labour requirements" of an urban area? How will the Minister choose from the proscription list provided by a municipality the Natives who must be "removed" from the area concerned? On what principle will the "Natives of good character" who are going to be licensed to sell beer be selected? How many of the present
illicit liquor dealers will be found among the licensed "Natives of good
good character? The municipalities may now give this Bill their blessing
but it will be long before they find that the discretionary powers they
have given to the Minister of Native Affairs to meddle in their local
affairs is very inconvenient indeed.

The Native Laws Amendment Bill will probably find its way to the
Statute Book this session because of the steam-roller majority of the
Fusion Party, but it will make confusion worse confounded in the urban
areas.