

~~20540~~

I N D E X

Pages		
Mr. L. H. N. Greene,	6590 - 6609	
Col. Foxon, Retired Chief Magistrate and	}	
Mr. F. C. Pope Ellis, Representing Farmers Association,	6610 - 6629	
Mr. W. N. Goodwin, and) Representing ) Natal Municipal Mr. E. T. Walker,             ) Association	6629 - 6646	
Mr. D. McKinnon McColm, A.Y.A. Blank pages	<div style="border: 1px solid black; padding: 2px; display: inline-block;">           LIBRARY            SELECTION            CLASS            READING         </div>	6647 - 6663
Mr. E. Holden, Representing Maritzburg Chamber of Industries	6680 - 6692	
Major W. Comrie and ) Col. A. Fawcett, Mr. A. H. Cockburn, Mr. W. E. Antel, and Mr. T. Hackland,	6692 - 6707	
Chief Majozi	6707 - 6722	
Mr. S. Nyongwana	6722 - <del>6729</del> <sup>4</sup>	

NATIVE ECONOMIC COMMISSION

PETERMITSBURG, 9th APRIL 1931, 9.30 A.M.

EIGHTYSEVENTH PUBLIC SITTING

PRESNT:

Dr. J. E. Holloway, (Chairman),  
Major W. H. Anderson, Mr. F. A. W. Lucas,  
Mr. C. Faye, (Secretary).

-----

MR. LAWRENCE HENRY HAUGHTON GREENE, Storekeeper,

called and examined:

CHAIRMAN: Are you giving evidence in your personal capacity, Mr. Green? - Yes, I am here as one who has had an intimate association with the Natives in the lower strata. I might just say, in surveying the whole prospect, that commissions of investigation of this interminable problem have been going on for years and I am just wondering whether we shall reach any finality as a result of the report of this very important Commission. I remember that when Mr. Keir Hardy came to South Africa, he met Mr. Winter who was then Minister of Native Affairs and he asked him about some of the phases of what was the Native problem of the day and Mr. Winter did not know anything about the questions which were referred to in a report from a Commission which just then was sitting. Mr. Keir Hardy asked Mr. Winter what he thought of this report and Mr. Winter replied, "I have not read it, we do not bother with things like that". Now, I am just wondering whether Ministers of Native Affairs would attach more or less importance to reports from other Commissions. But what I want to refer to particularly is the plight of the casual worker.

Mr. Greene

Now, the casual worker here in Maritzburg, the same as in other centres, leads a very precarious life. He comes to look for work and he is badgered about from pillar to post and he is like a fish out of water and he has to pay 2/6d for a license to look for work. He gets one or two days work a week and he has to jog along as best he can. Now what chance of alleviation there may be for people like that I do not know. It is said, for instance, now that some Natives are fairly well paid and that they are in fortunate circumstances. Well, I do not know. I have found at many of these meetings which I have addressed, that there are very few who are able to purchase even a penny paper, but here and there there are some who are more generously disposed and who will give possibly 2/6d as a contribution.

I have known of cases of Native houseboys coming to a meeting and planking down half a sovereign when his emotions have been sufficiently played upon. I am telling you this just to convey to you the condition that prevails and what we might regard as being the position among the lower strata of Native workers. I have found, in attending these meetings, particularly those that are organized with the object of bettering conditions, that the opinions expressed are almost identical with opinions expressed at European meetings of a similar character and there is very little difference whatever. And that reminds me of what Mr. Farrer said yesterday, that the Native reacts almost exactly in the same way as any other people would react to certain conditions.

I think that we are making a mistake in overlooking

Mr. Greene

the fact that there really is no difference whatever and that we would minimize very largely the troubles of this country if we were to scrap all our efforts at differentiation and all the elaborate machinery which is brought into action to try and divide people who are not divisible.

Now, Lord Olivier, who was then Sir Sydney Olivier, in his book "Wage, Capital and Coloured Labour", points out that there is very little difference, if any, and he goes much more deeply than most superficial observers do go into the so-called difference between races.

In regard to the attitude of mind of the White man, I would just say this, that the attitude of mind, so far as the Native towards the White man is concerned, is this, that he is losing all respect --- I am speaking now of the toilers, the great mass ---- he is losing all respect for the White man and the White man's traditions. He differentiates, however, very considerably between the two so-called White races of South Africa. He has a very strong admiration, sentimentally, I suppose, for the Englishman and for Queen Victoria, and he has an unutterable contempt and hatred against the Dutch. Some of them have expressed this opinion and they have said, "Why do you English people keep us away from the Dutch, why do you not let us get at them, we would wipe them out in no time." And others have expressed the opinion that bloodshed is the only solution for the disabilities under which they are suffering.

These, sir, are not professional agitators, these are the people who are feeling the burden of depression and occasionally, at a meeting, a Native will rush in, come to the table, thump the table and say, "There is nothing for it but the assegai", and then he will run away. He has expressed

Mr. Greene

his opinion to the meeting and then he has left. Well, sir, these are things which should be considered. The Native, in a way, is awaking out of his bondage. He realises that he is in bondage and he is struggling and striving and he is on all fours with the Native of England and there is no difference whatever if we compare the one with the other. If we disabuse our minds from the idea of colour, there is no difference at all between the Native toiler of Africa and the Native toiler of England, and as the Native toilers of England have had to organize and emancipate themselves as far as they have gone, the Natives of Africa are doing the same, and they are learning by virtue of our economic system, that they have to organize in some way or other, and they are doing it; and when these workers set about organizing, the same as in England, they become the victims of vampires who batte upon them and there are more vampires among the Natives themselves than among the Europeans who are battening on the Natives.

There are people of all sorts and conditions, whose whole aim seems to be to get some material advantages out of their own people. Let me tell you, sir, they present themselves in all sorts of guises and disguises. They present themselves as religious men, they present themselves as those who have been inspired by something or other, they appeal to their former barbarous ideas and in any way possible they try to extort from them money, every penny of which they use for their own purposes. The Native worker unquestionably is a victim of these people, who are roaming throughout the country battening upon them.

The expressions of opinion in the trades union organization are almost identical with the expressions of opinion

Mr. Greene

given by European trade unionists, that is to say they realise the problem just the same as the Europeans do, and the Native today is becoming industrialised and is developing the industrial outlook. Now it has been suggested that segregation is possible. I am very pleased with the evidence which I heard yesterday from farmers who express the opinion that it is not possible. Of course it is not possible, it is something which ~~is~~ <sup>has</sup> brought about a large army of political agitators of both parties.

For instance, how are we going to eliminate from our social structure the Natives who are living among us today. We have many Natives living among the European communities as domestic servants. We have Native motor engineers, Native mechanics and Native employees of all kinds. A lot of the motor mechanical work is done by Natives and let me tell you, sir, that the Native is progressing tremendously. You find Natives doing work as bricklayers, you find them as policemen, you find them as engineers, carpenters and so on. To give you an idea of my own experience. I know of a Native to whom a motor bicycle which had got badly into disrepair had been given to attend to. That motor bicycle had beaten the mechanics in various European shops where it had been. It was handed over to this Native, who took it away and brought it back a short while after in perfect order. It shews the progress which these people are making today.

And it is not only in that direction, but it is in so many other directions as well that the Native is progressing tremendously and it is therefore that I ask how are we going to attempt, seeing that he is part of our social structure, that he is used for so many classes of work which apparently Europeans will not do, how are we going to attempt to bring

Mr. Greene

about this idea of segregation I do not know. I do not know how it can be done.

To me, it seems that segregation is a theory which ignores all our historical happenings and all our historical evidence. For instance, supposing one were to suggest the segregation of the Natives --- the segregation of all the unskilled workers of England, how would we regard such an idea? Because, sir, the Native of this country is the unskilled proletarian of this country. He is in our structure, he is part of our structure and he cannot be rooted out unless we ourselves are prepared, with him, to share in suffering the pain of that eradication.

Now, if you will allow me, I want to read out to you a petition which was sent from a local organization of the I.C.U. to the Governor General and which was received very sympathetically in the ordinary formalities by the Governor General. Its receipt was acknowledged, but the Governor General, in his reply, said that he had handed over this petition to the Minister who was concerned with the matter.

So, of course, it meant, as we all know, that the Governor General was merely a figurehead and that, in reality, he had no say whatever in the matter, and that he had no influence whatever in it. This petition which I am going to read to you was in respect of the curfew and the quotation which I am going to give you, appeared in the Durban paper on June 16th of last year.

The petition was approved and endorsed by a mass meeting of Natives held on the Market Square, Maritzburg, on June 15th of last year. This is the wording of the message as it appeared in the Press:-

Maritzburg, June 16th:

A mass protest against the re-introduction of the Curfew regulations was made by natives on the Market Square yesterday afternoon, and as a result of the meeting a petition is to be presented to the Governor-General asking him not to issue the proclamation which the amended Urban Areas Act allows him to do.

The protest, which is addressed as from the local branch of the I.C.U., reads:

To his Excellency the Governor-General and Supreme Court over the Native population of South Africa:

Your Excellency,--As becomes the humble and loyal subjects of his Majesty the King, we approach you in all dutiful respect and submission.

As Supreme Chief over the aboriginal inhabitants of this country, we come to you to crave that protection which a father would grant to his younger children against unfair treatment by the elder members of the family.

You are being asked by the local Town Council for permission to re-introduce the curfew limitation of our liberties, and we humbly beg you to consider our supplication against this iniquitous restriction, in the light of the promises made to us when this portion of his Majesty's Dominions was added to the British Crown under the sway of that benign Sovereign, Queen Victoria, whose concern for the welfare of her Majesty's Native subjects was emphasized over and over again in the instructions issued by and through her Majesty's most responsible servants who were entrusted at the time to carry out her Majesty's Royal prerogative.

Of the instructions issued by the then Lieutenant-Governor the Hon. Martin West, to Colonel Cloete, in 1843, we submit the following excerpt, viz.:--

"Section VI..... That the object of her Majesty's Government was the peace conservation and salutary control of all classes of men settled at and surrounding that important portion of South Africa (Natal) and that it is an absolutely essential and absolutely indispensable condition that there shall not be, in the eye of the law, any distinction or disqualification whatever formed on mere distinction of colour, origin, language, or creed, but that the protection of the law in letter and in substance should be extended to all."

We submit to your Excellency that:

(a) The curfew is unnecessary, as it cannot be shown that any increase of crime has taken place during the suspension of its operation.

(b) The Native people are no more potential criminals than any other section of the community.

(c) That criminals of all classes would be aided rather than deterred by deserted streets.

(d) That Natives are just as prone to restrain evildoers as are Europeans, Indians, or other ~~xxm~~ nationals.

(e) That Native people are no longer in the primitive stage obtaining when the curfew was first instituted.

(f) That restrictive measures of this nature are distinctly provocative of distrust and unrest and not calculated to engender that respect and esteem which should prevail between the races of this country.

(g) That this differentiation between the races is a mark of slavery which shatters all that we have been taught to respect under the sway of the Union Jack.

(h) That it places into the hands of the police a power which has been and which undoubtedly will be seriously abused.

(j) That instead of lessening, it is likely to increase, crime.

Mr. Greene

3

- (k) That it is a distinct challenge to us Natives who have been taught to breathe the breath of freedom.
- (l) That it will end at one blow that spirit of co-operation in crime-detection which exists and should be encouraged.
- (m) That Indians are not subject to such restrictions.
- (n) That foreigners from France, Germany, America, Timbuctoo, and any other country are free from such restraint.
- (o) That it therefore appears to us to be a distinction on the ground of colour, which is a violation of Queen Victoria's specific instructions and promises gratuitously vouchsafed to us when her Majesty took us under her protection.
- (p) That the Local Town Council is composed of men who are our employers' representatives and as Adam Smith most accurately says: "Masters always combine to lower wages", we are bound to conclude that the curfew is part of that grim game.
- (q) That the curfew is unnecessary, unwarranted, and a viciously provocative interference with the liberty of the subject.
- (r) That we have not been consulted.

We have the honour to be your Excellency's most humble and obedient servants.

On behalf of the Native workers of Pietermaritzburg,

JOSEPH NGONYAMA;

Chairman, I.C.U. yase, Natal.

Maritzburg Branch.

Approved and endorsed by a mass meeting of Natives held on the Market Square, Maritzburg, June 15th, 1930.

-----

Now, if you will allow me, I would like to mention a few of my experiences in respect to the exercise of authority through the police. Anatole France tells us that the dominant nations are known to their subject races by their crimes, and I think there is a good deal in it. I want to give you some of my own experiences.

I remember, on one occasions, seeing a Native who was apparently walking without any malicious intention down the street, being pounced upon by two or three Native policemen. He was knocked down, taken hold of by two or three men, his arms were taken hold of and he was severely handled. An European came up while he was held -- the European was a member of the C.I.D., and that person started punching him in the face, he threw him on the ground and then another European came and put his heel into the small of the man's back, and then he was spreadeagled on his back.

A friend of mine and myself interfered while they were hammering this Native, but we were told to mind our own business. Then he was taken under arrest. We made enquiries subsequently and the information given to us was that he was arrested because he was carrying in his hand a small piece of iron piping. That was the only reason given for the manner in which he was treated.

To me, it looked as if that man was a Native from the country. I reported the matter to the Native Affairs Department, and next morning I saw that Native being taken, handcuffed, walking with evident signs of discomfort, to the asylum. The District Medical Officer, I believe, was instructed by the C.I.D. to investigate the matter. He did investigate and found that the Native had suffered certain

Mr. Greene

injuries. I might mention that, while this Native was on the ground, another European came along and kicked him from behind, evidently aiming at his testicles. The Medical Officer of Health found that he had been injured there, too.

Well, that matter was reported to the Native Affairs Department, but I do not know what the outcome was.

Then, on another occasion, I saw the police taking a Native woman and twisting her arms until she cried out with pain. One can distinguish between anger and pain and there was no doubt about it that this was a matter of pain. On another occasion, I saw a Native under arrest passing my place, and he was tethered to a horse by a reim. The reim was round his arm and his neck. The horse was on the trot and the Native had to keep on trotting to keep up with the horse. I happened to mention this to a friend of mine who is working about a mile and a half farther along, and he said, "Yes, I saw this, and the horse was trotting then, when I saw it", so how far the Native had been trotting, I do not know.

On another occasion, I was out at Sutherland, a notorious place, though, as far as I know, quite decent. Suddenly, I saw two or three Natives -- two of them seemed a little boozy. All of a sudden some policemen came along in plain clothes. They were armed with knobkerries and they seemed to make a raid on a little crowd of Natives idling about there. One or two of these Natives seemed to be slightly under the influence of drink, but they were more sleepy than anything else, more drowsy than noisy. Well, the police came along and caught hold of one of these fellows,

Mr. Greene

knocked him down, pounced upon him and shouted out, "We shall give you brandy", and while the Native was down, they started to pummel him. I tried to interfere, but a policeman turned on me and said, "I shall treat you in the same way if you are not careful". Then I saw this Native standing up handcuffed, with blood streaming down his face. He was not able to run away, he was so drunk. He then fell on to the verandah where he was standing. He wanted to sit down,

These are only a few of the things which I have seen, but the newspapers of this country are full of incidents in regard to the shooting of Natives and I really do not know why the police of this country should be armed with firearms. Probably the people in authority may know, but the public do not. In England, I am told, the police are not armed. Why they should be armed here is not clear, but it seems that they are armed with the object of overpowering the Natives. These police look upon the Natives merely as potential criminals and dangerous to the community.

I know that, in the labour movement, it has been said, "If you treat us as dogs, we shall act as dogs", and let me say that if we are going to continue treating the Natives as they are being treated today, you will have a Nemesis which will make the Indian Mutiny look like nothing.

Now I want to say a few words in respect of tribal responsibility. The Natives with whom I have come into contact, tell me that that also is restricted to a very great extent and, as Mr. Farrer said yesterday, tribal responsibility is absolutely shattered. He told the Commission clearly that it is no longer possible to make use of tribal responsibility in the way which was done in the past. I agree with Mr. Farrer

Mr. Greene

that we have shattered all that was most useful and most wholesome in Native life. We have, so we are told, a high standard of civilisation, but let me say to you that the standard of civilisation of the Native was much higher than ours. The Natives had no police courts, they had no beer houses, they had no diseases -- such as they have now --- and they had practically no crime among them, and they were certainly a very highly moral people. But we have most ruthlessly destroyed that for the purpose of making the Native accept our civilisation and for the purpose of exploiting him.

We have robbed him of his land, we have robbed him of everything, and now we are trying to rob him of his labour, by forcing him to what is tantamount to slavery. The authority of the chiefs, Mr. Chairman, does not exist any more today. The chiefs have no control any more over their people. The Natives who do respect their chiefs, do so because they think that they may possibly get something by respecting the chiefs, who may be able to secure something from the authorities for their benefit. But otherwise I am afraid that a chief has no influence whatever and the Native chiefs are regarded merely as Government indunes, Government tools for the exactation of revenue. The Rev. Dr. Sormany was asked a question why the Natives in his location were so poor as agriculturists, and I think you got something in reply from him yesterday to the effect that he dare not become too good an agriculturist, otherwise he would become fair game for taxation or for some other exactation. Everything is done to discourage what we are trying to establish, and that is a danger.

Mr. Greene

Now, in regard to kaffer beer I should also just like to say a few words. These subjects are all brought very prominently to the surface at what we would call the mass meetings of the proletariat and they are discussed there from all angles. They are discussed apart from the point of view of the intelligent Native. The intelligencia is a very dangerous element to my mind. There are two distinct bodies, the one inimical to the other. There is the body which is out for the exploitation of the ordinary Native -- that is the intelligencia. The question of beer is often discussed. There is no doubt that the demand for beer is supported in various quarters because of its potential service to revenue. We are supposed to benefit the Native through the revenue that is derived from the kaffer beer, but the question is whether we do so.

All I want to say here is that the Natives should be allowed to brew their own beer, their own domestic beer, because it is very largely a food and it has certain very good qualities so far as the Natives are concerned. If you take it away from the Native, you do him a serious disservice.

I would again refer you to the book of Sir Sydney Oliver, where he expresses the opinion that the Native races of South Africa are an absolutely sober race. He tells you there that the Native races are not a drunken, dissolute people, such as the more advanced countries have, and if we do not interfere with their beer in the way it is made, before they were taught to use all sorts of concoctions, - it would be perfectly safe. If we had not interfered, they would have remained sober and the drunkenness for which we are trying to blame Native beer, would have been absent, and the only way

Mr. Greene

to solve this Native beer question would be to allow the Natives to brew their own beer. As it is, today they do brew their own Native beer, but it is always under restraint and the reason why the beer is not properly manufactured is because they have to make it in a hurry and because it is drunk in a hurry and, in order to get a specified quantity and not to exceed that, they have to drink it quickly and, as it were, surreptitiously.

Now that is all very bad. Dr. Roberts has already expressed the opinion that the Natives should be allowed to brew their own beer, and I think he is absolutely right in that.

I now want to say a few words about Native organizations. I do not say that they should be encouraged because we know quite well that anything that is protected is likely to become weak and is likely to die. Protected things, protected people, very often die from sheer insinuation. You take the American Indians and the Maoris. They were protected so much that they died out. Therefore, I would not suggest that any encouragement whatever should be given or that any featuring of Native organizations should take place.

If I were dealing with Native organizations now, I would say, "Organise on your own and have no interference", but now every mortal thing is done to regard Native organization even on moderate trade union lines. Nothing can have the sanction and encouragement of the authorities. I am taking matters broadly now - nothing can have the sanction of legal authority. When a Native organization, pure and simple trade unionism, asks for any assistance or liberty, they are immediately denied it. So we are practically driving them to

Mr. Greene

subterfuge, we are driving them to get these advantages in some way or another. Now say they want the use of the beer hall. Let me explain that there is a hall there for the use of the Natives. If the Natives want that hall, they have to make application. You have to be a good Native if you want to get the hall and you have to go to the town/authorities, these frowsy, miserable authorities, to get the use of that hall.

CHAIRMAN: Do you not think that, for the purpose of our record, it is not necessary to cast any aspersion on local authority ?- I am only speaking freely.

I am afraid that that point is somewhat outside the scope of our enquiry ?- You can record whatever you like; I am not afraid of what I say. Now I say that we are driving this initial attempt on the part of the Native, whom we have drawn into industry and who feels that he has to organize --- we are driving this initial attempt into all sorts of channels. The Native must organize on trade union lines. That is inevitable and the sooner he does it the better for everybody concerned. But we are forcing him by this, not lack of encouragement, but lack of opportunity which should be afforded to him, we are driving him to subterfuge to get into the beer hall. That hall is there ostensibly for the benefit of the Natives; yet those in authority discriminate as to which Native should use that hall. Say the I.G.U. want to get the use of the hall for educative purposes, for trades unionism, which is the highest form of education in the world; If they want the use of the hall, they have to resort to the cover of religion, or they have to get the Joint Council of the Welfare

Mr. Greene

Societies to father them and to lead them in by the hand.

Well, they do not want that.

They want to have equal access to that hall, or to any other hall that any other Natives have. They want to have the same right as the Salvation Army has, for instance, or any other organization, and they do not want to be forced to subterfuge or to misrepresentation, or to pretending that they are any other than they are. And I, therefore, say that we should remove all disabilities which now act to the detriment of trade union organization among the Natives, because I do say that, so long as the present unsympathetic attitude is taken up, we are placing the wholesome working class, the real workers at the mercy of those vampires, misleaders and all kinds of people who are only trying to feather their own nests at the expense of the toilers of the town.

And that is very largely because such places as the beer hall are denied to the workers for the purpose of holding their meetings. These people now have to hold their meetings in the streets. Whatever is done has to be done under the control of some leader, who has to satisfy the authorities that he is a good man and a safe man and, of course, he is really a rascal in most cases. That is a very serious point which I hope the Commission will take into consideration.

MR. LUCAS: On this question of organization, do you suggest that the Native organizations should be put on the same footing under the law as the European trade unions? No, I do not suggest that. I want a better footing for the Natives. At present it is most unsatisfactory. \*

I want your views on that, because one of the things we have to deal with is any amendment to the existing laws that

Mr. Greene

may be necessary. Now the provision which prevents a Native organization from being recognised is the definition of employee under the Industrial Conciliation Act. Supposing now that that definition were altered so as to exclude any reference to Natives, so that it would apply to Natives as well as Europeans, I understand that you would even then not think that it was sufficient? - Well, Mr. Lucas, I would not object to that, but I should want the whole of the workers to get rid of the hobble they are now suffering under. That conference which took place at Durban only a day or two ago, shewed the extent to which trade unionism has been crippled.

I think it is open to you to express any opinion you wish about Native organization, but we cannot very well go into European matters? - No, I am simply saying what the position would be if they were raised to the same levels. Then I want to say that I think the Native is under a disability in regard to the pass laws. The pass-carrying Native is under a disability and why the carrying of a pass should be a disability I cannot understand, but still it shews the general impression that the Native is inferior and being inferior and only a child, he has to be treated in that way. We are told the Native has the mentality of a child of eight, -- although many Europeans are no older --- my point is that these restraints and restrictions should all be removed.

As a matter of fact, it seems to me that we people in South Africa have absolutely encumbered ourselves to such an extent by what we have regarded as the Native problem, that it has become a juggernaut which is crushing South Africa and we do not seem to be able to get away from underneath it, so the question of equal rights does not seem to

Mr. Greene

hold out any promise of being fulfilled ---- Equal rights were promised by Queen Victoria and why we should continue to overlook this, why we should continue to regard this promise as a scrap of paper, I cannot understand. I cannot understand it, because we are only increasing our troubles, we are piling up our difficulties, we are building up a wall which will eventually fall down on top of us and will engulf us, because the Native today is progressing at such a rate, he is realising more and more that he is a human being just the same as the White man, and the respect which he used to have, that mysterious feeling which he used to have for the European, is absolutely vanishing.

He knows, sir, that the only power which the European has over the Native is the gun and if he once gets hold of a gun and he gets his equality in arms, nobody is able to tell what may happen.

MR. LUCAS: I want to get back to the Industrial Conciliation Act, Mr. Greene. Supposing the Natives were given the same freedom to organise as is given to Europeans under the Industrial Conciliation Act, and the question of industrial councils being formed should arise, do you think it is likely for some time to come that you will get Europeans and Natives in the same Union ?- I think it would be a very likely development indeed.

You think it is likely to come ?- Yes.

And until it comes, have you any suggestions to make as to how the councils should be established so as to provide adequate representation for the Natives ?- Industrial councils presuppose representation of employers and employees. Both together.

Mr. Greene

Yes, but an union is an union. Now, if you get separate unions of Natives and Europeans, have you thought of the constitution of councils which will meet the position ?- I have regarded joint councils or any conciliation idea as perfect sterilisation. There are two warring camps and I cannot understand, for the life of me, how they can have joint councils. In my idea, it is a monstrosity, and how the Europeans employees could agree to it, I cannot understand. I would not recommend it for the Natives; I would ask for the removal of all restraint, that is to say, even the promise of peace, and I would scrap, without any idea of strife and revolution. That will come later on inevitably, but we need not worry about it, but I think, to make that revolution easier, it would be better for everyone if we removed all restraint, because the more we restrain the Natives, the more harsh the changes must be when they come about, as come they must. I feel perfectly convinced of that. One should work smoothly from one stage to another, provided all these restraints and restrictions are removed. That is my view. I just might correct this statement which was made, which is not according to fact, that the togt pass now is 1/- per month, and not 2/ed. That is all I have to tell you, and I do feel that if the Commission could make its recommendations with a view to removing these restraints and restrictions, it would lead to a much healthier state of affairs and to that progress which we are all looking forward to, all sections of the community, Natives and Europeans alike.

-----

Representatives of Farmers Associations.

Col. Foxon and others

COLONEL FRANK ERNEST FOXON, Retired Chief Magistrate of Maritzburg Magisterial Division,  
MR. FRANCIS GORMACH POPE ELLIS, Farmer, of Ashburton

called and examined:

CHAIRMAN: Will you please tell us whom you have come to represent and what your capacity is in which you appear before us ?- (Col. Foxon): I was in Government service for 42 years. For the first 10 ten years of my service, I was Zulu interpreter and clerk of the court, and then I was public prosecutor for two years. I have been stationed in over a dozen districts in Natal Magisterial Districts and I have also visited every Magistracy in Natal and Zululand and I have visited most of the Eastern Griqualand and Pondoland Districts. I have had to deal very largely with the Zulus, the Bakas, the Fendas and also with other tribes.

In what capacity are you appearing before us ?- I am appearing here first as representing the District Farmers' Association of Maritzburg, and we have come here with a special mandate regarding the proposed amendments of the Service Contract Act, and we have received definite instructions in regard to the matters which we are going to place before you. Regarding Section 8 of that Bill, I hope you will carefully study this question. This section authorises the Government to appoint a competent officer. This officer may be a magistrate, a police inspector, a police sergeant, "or anyone else appointed by the Government", and that officer is to have absolute arbitrary powers in the carrying out of his duties. Now, this is the point. He can call on the landowner to appear before him at any time and give evidence and answer any questions in regard to the Natives on his farm. Now, sir, my Association is of opinion that

Col. Foxon and others

had that section been framed by the Bolsheviks in Russia, it could not have been more arbitrary, and we appeal to you to make representations so as to have this section deleted.

Then, in regard to Section 9 of the same Bill, I may perhaps explain that that imposes a tax of £5 on every Native on the farm between the ages of 18 and 60, who does not work for at least 90 days in the year for the farmer. For your information, I may say that the custom in Natal has been, and still is, that if the kraal head has a son working on the farm, the kraal head shall be exempt from work. The kraal head may be only 40 years of age, but he is still exempt from work. One of the biggest farms in Natal is that in the Estate of the late Mr. Joseph Bayne, and I am thoroughly conversant with conditions on that farm and with the Estate, with which I have been in close touch for the last four or five years.

Now, the conditions on that farm have always been that, when the kraal head calls upon his son to work, he himself is not compelled to work. Under this section, however, it shall be compulsory for him either to work or to pay an amount of £5 per year. Many of these farms in Natal were Crown lands and the Natives paid £2 per year for the privilege of living there. The Europeans came in, bought these farms and continued that system, and now the Government has seen fit to rule that out and it says ~~x~~ that we have to pay £5 for every Native who lives on the farm under those conditions and does not work at least 90 days in the year.

I take it, sir, that this section is inserted to meet the wishes of many Europeans, so that landowners who

Col. Foxon and others

have a number of Natives on their farms, should compel those Natives to work. I should like to make that point quite clear, because it rankles very much with our people here. I was discussing this matter the other day with a solicitor, and he said to me, "I shall advise my clients, my Native clients, to go for half an hour every day for 90 days, and the landlords can then put down that that Native has worked a day, because there is nothing in the law to define how long he shall work every day, or what his work shall be." Well, sir, the Farmers' Association has discussed the matter, and you will appreciate that it is not their wish to get out of any law in that manner, by way of subterfuge. But we do contend that this Section 9 will have the effect of enforcing a condition of slavery and nothing less than that.

Let me point out to you that there are many of these Natives who live on private farms. To quote my own case, I myself have a labour farm which I bought over 30 years ago. There was one Native constable living there when I bought it, who, at that time, had three wives. Now he has four wives. When I bought the farm, he paid the Government £2 per year and he pays me the same amount today. In addition, he contributes to the dip. I myself have fenced the farm. That Native cultivates as much land as he requires, as much as he likes. I could have his sons working for me at any time, but I would not have them at any price, because they are educated Natives who, to my mind, are loafers. I have other police boys living on my farm and that is certainly an advantage to me, because, undoubtedly, they exercise a certain amount of control over the other Natives.

Now, sir, under this Act, or rather under this Bill,

Col. Foxon and others

Natal are working for companies who have other farms as well, from which they draw labour. Now, my opinion is that the Government thought this was a fine way of raising revenue. Of course, the Free State will not have this section at any price. It is a most arbitrary section.

Are there any labour farms in the Free State ?- No, there are very few of them.

They are practically none in existence ?- There, of course, they had the objectionable system of working on shares which never existed in Natal. The Basuto there does the ploughing and the cultivation of the land, then he gives the owner of the farm so much of his yield. That is why General Hertzog introduced Act No. 27 of 19<sup>20</sup><sup>13</sup>. That is because of what happened in the Free State.

If my history is right, and my dates are correct, General Hertzog broke with the Government at the end of 1912 ?- It was his Bill all the same.

Of course, General Hertzog denies that ?- I had a long talk about that with Mr. Chris. Botha who is now a Judge of the Free State, and he said it was General Hertzog's Bill.

Yes, the statement was made here too yesterday, that that Bill was introduced by General Hertzog, whereas General Hertzog left the Cabinet before that ?- I do not want to say anything disparaging about General Hertzog. He was my Chief for five years and a better Chief I could never have wished for. He was always just, fair and sympathetic, but I differ from him politically. But that is a different thing. Still, the point is that we want to have these clauses removed from the Bill, because they will have the effect of thousands of men having to leave the farms.

Col. Foxon and others

While we are on that Bill, those are the two sections which your Organization particularly objects to. Now, I take it that you are aware of the fact that, on the part of the Natives, a great deal of objection has been raised to the clause which provides for whipping as an alternative arrangement ?- As regards that, the Natal Agricultural Union approved of certain principles of the Bill, but as regards flogging, one has to bear in mind that even though a magistrate may impose flogging as a penalty, every flogging, before it is carried out, has to be approved of by a judge. So, before the five strokes can be administered, the sentence has to be confirmed by a judge and I am perfectly certain that no judge will ever confirm it, and when a magistrate has been snubbed three or four times, he will be very careful not to impose such a flogging again. There are cases, of course, where a Native has committed an assault, as well as another offense under the Master and Servants Act, and there a flogging may be necessary.

Yes, but does that require any new legislation ?- No; but it may come out in a desertion case.

Do you really mean in a case where assault may not have been one of the charges, but where the only charge was one of desertion ?- Yes, that is so.

Then is it right to punish a man for a thing with which he is not charged, because that is what it would come to ?- Yes, that is so; he would be charged with desertion.

He would be charged with desertion, but you would really punish him for the assault ?- Well, it would be shown.

Then why not charge him with the assault ?- Yes, that is so. There is another question regarding contracts between Natives and Europeans. It has been the custom in

Col. Foxon and others

past to make the contract with the kraal head. The point is that the kraal head consents to the boys in his kraal working for the employer. Of course, you will understand that these boys may be men, they may be men who are married, and the trouble is that when a boy reaches a certain age, he very often runs away to Durban or somewhere else. The farmer says to the kraal head, "You must get that boy to come and work for me", but the boy simply declines to come and work. When he comes back to the farm, he is well dressed, he carries a nice stick, he is a dandy, and he causes a lot of discontent among the other labourers.

Now, to eject that boy from the farm, you have to take out a summons. The magistrate's fees --- the messenger's fee to serve that summons are extremely high. Then you have an attorney's fees which are also very considerable, and it may probably cost you something like £5, and sometimes more, to eject a boy and, in the end, you probably find that you have incurred expenditure round about £10. The custom generally is to eject a whole kraal because of the fact that one boy has caused trouble. That, of course, is a very great hardship on the kraal head. Formerly, under the Natal Ordinance of 1855, the magistrate had the power, on a complaint being made by a farmer, to issue a summons, to have the Native up and to give him a reasonable time within which he had to leave the farm. But today, the process is different. A whole summons has to be taken out at tremendous cost to the farmer. The farmer may get judgment against the Native, but the Native has nothing at all.

Now, I contend that the contract should not be compulsorily in writing. I see no need for it. If a farmer wishes to have a contract in writing, by

Col. Foxon and others.

all means have one, but it should not be compulsory to have such a written contract. I know of farmers who have never had a master and servants case and I know that, in my district, there are many farmers who have never had such a case. When I was on the Bench I knew of many cases of that kind, and I say, why should you compel those farmers now to appear in court to have a contract signed. There may be other cases where the farmers would prefer to do so, then by all means let them. Of course, attorneys are strongly in favour of written contracts, because so many of the farmers go to them to have these contracts drawn up by them.

Another thing is this. I have had a master appearing before me when a contract was made, and attorneys have said, "There is a defect here or there" and there has been a lot of expense and litigation. I say contracts should not be in writing.

Now, as regards these boys who refuse to work, Section 5, Sub-section 10 of this proposed Master & Servants Contract Act is very clear on that point and it gives, I consider, satisfactory authority. For this reason, - if a boy refuses to come and work, the court can have him up and the magistrate can ask him why he will not work and, if he refuses to go to work on the farm the boy can be ejected and the kraal and the kraal head may be left alone.

Once a particular ejection has been made, the boy should never be allowed to come back to that farm again. At present, any farm can be visited by any number of men, so what is the result, - this boy comes back and he loaf about on that farm and the consequences are very hard on the farmer. I have had farmers come to me over and over to complain of

Col. Foxon and others

this sort of thing, they have come to complain of boys coming back and declining to work but simply loafing on the farm. I wish you gentlemen clearly to understand that there is a great deal of friction between the farmers and their Natives in cases of that kind. But, generally speaking, the friction is not great because the farmers treat their Natives well and they give them an opportunity to do the ploughing and the cultivation of their land. A farmer lets his Natives generally plough more land than they actually require. Of course, the Natives are not acquisitions as agriculturists, in fact, it is impossible for a Native to keep his fields clean, without giving beer drinks. Whenever he wants to clean his fields, he has to have a beer drink, and then they plough badly. Weeds grow on the lands and the crops are very badly looked after and badly cultivated. Really, as agriculturists, the Natives are failures.

Now, perhaps I may say a few words about identification passes. Under the Act, it is possible to have an endorsement made on the pass as to the conditions of labour that apply, but the difficulty is this. I have had farmers coming to me with their servants and I have endorsed on the identification pass the conditions of labour of such a servant. It is laid down on the pass, on the endorsement, that he has to start on such and such a day, at such and such an hour in the morning and so on. Now, a month later, the Native comes to the court and tells the pass officer that he has lost his pass. Well, he gets a renewal - but this endorsement which is on the original pass is not put on the renewal. Then the Native goes away after a while to work somewhere else, and he

Col. Foxon and others

is called upon by his original master to return. An order is made and he is told to return and it is pointed out that the conditions of his labour are endorsed on the pass, but when one comes to look at that pass there is nothing on it.

Then that again gives rise to all kinds of difficulty. It has been argued that everything should be put on the tax receipt forms. Now, this tax receipt form is issued once a year and I am afraid that it would take too much time to have that done. My view is that no identification pass should be issued to any boy unless he is a taxpayer and no renewals should be granted of the pass without the knowledge of the employer.

The kraal heads themselves are quite allright, but it is the sons and the young men who cause the trouble. You cannot get over the fact that the Natives themselves seem to prefer living on private farms because they get great assistance from the landlords in times of difficulty. The farmer, very often, in times of drought, has to lend the Natives foodstuffs and also a Native on a farm gets his cattle dipped and his sheep dipped and everything else. They are generally protected by the farmer and that is one of the reasons why so many of these Natives prefer living on private farms under the conditions which they get there.

Now, I come to the Natives in urban areas. These Natives have been known to live in Maritzburg for the past 15 years and more, and I say that, so long as they are law-abiding people, why interfere with them? The Government have been inconsistent in regard to this, not only this Government,

Col. Foxon and others

but the late Government as well. Some of the Native refuse to pay rent in European areas round about the towns. A few years ago, a farm down here named "New England" was purchased by an attorney. The purchaser promptly cut it up into small areas and those small areas he issued to Natives. My Farmers' Association protested against this action, because that farm was within a certain distance from the town. It is a farm called "Holmesworth". I am making no complaint against the Natives, but I am complaining of the inconsistency of the Government in allowing a Native location to be established within a few miles from the boundary of the town.

These Natives almost all work in town and they come in and go out daily and it would be very hard on them if they had to leave the urban areas. I take it that they give satisfaction in their work and one does not want to impose any hardship.

Now, regarding Law 27 of 1913, the Natives Land Act, I say that that law has caused thousands of Natives to be ejected. Whenever a kraal head dies, it is the custom for the kraal to move. Perhaps he has been paying rent on one farm and they are moved to the next farm. They can only go there as labourers, which is very hard indeed. Why should they now be prohibited from going to another farm as rent-payers?

The Natives who are ejected from the farms often come to town and have to find accommodation somewhere, with the result that many of them go and live behind Indian stores or on Indian property. I blame the Government very much indeed for that. The Government should see to it that the rents charged are not unduly high. I pointed out that a solicitor bought land not far from here. The Government authorised him