

C2-171

BRIEF STATUTORY HISTORY OF THE UNIVERSITY COLLEGE OF FORT HARE.

1. The University College of Fort Hare, formerly known as the South African Native College was declared an institution for higher education in terms of the Higher Education Act (Act No. 30 of 1923) in Government Notice No. 1654, dated 8th October, 1923 which read as follows:-

"It is hereby notified that the Honourable the Minister of Education, under the powers in him vested by section one of the Higher Education Act (No. 30 of 1923), has been pleased to declare the South African Native College to be a place of higher education under the provisions of the said Act, in succession to the South African Native College as now existing, with effect from the eighth day of October, 1923".
2. In terms of G.N. 2287, dated 3rd October, 1923 the name of the College was changed from the South African Native College to the University College of Fort Hare in the following terms:-

"There shall be an institution called the University College of Fort Hare, formerly known as the South African Native College and ~~XXXXXXXXXX~~ hereinafter referred to as the College which shall be a declared institution for the purposes of the Act".
3. In terms of the Rhodes University (Private) Act, 1949 (No. 15 of 1949) section 33(1), Fort Hare became affiliated to Rhodes University for purely academic purposes. The section specifically states in ss. (d) of se. 33(1)--

"The South African Native College (as it then was) shall not be subject to the control of the University in matters affecting its internal organisation and finance and its relation with the Union Government and other administrative and consultative bodies".
4. The Scheme of Government of the University College of Fort Hare was laid down in Government Notice 1809, dated 21st August, 1953, which inter alia, in para. 19 vests the appointment of staff in the Council.
5. In terms of the Universities Act (No. 61 of 1955) the University College of Fort Hare was declared a University for certain purposes. Under that "University" is defined as "a university established by Act of Parliament and includes the University College of Fort Hare".
5. Up to 1953, the terms and conditions of service of members of the staff at Fort Hare were governed by regulations framed by the Minister of Education under the Higher Education Act (No. 30 of 1923), section 19. These regulations applied to all 'declared institutions' i.e. technical colleges and Fort Hare. In March 1953, in terms of G.N. 671 dated 27th March, 1953, the Minister repealed the old regulations and substituted a new set of regulations. Fort Hare immediately protested that the new regulations were not suitable for university institution like Fort Hare and the Minister agreed that Fort Hare might adopt a different set of regulations, with the approval of the Minister. This was not done until 1955 when, as indicated above, the Universities Act was passed which removed Fort Hare from the technical colleges group of declared



institutions, and permitted the Council under s.13 of the Act to draw up its own conditions of service for the staff. The Department of Education, Arts & Science is of the opinion that ~~xxxx~~ such conditions of service do not require ministerial approval. Such conditions of service were adopted by the Council in November, 1958 and have been brought into operation in 1959.

6. The University College of Fort Hare Transfer Bill has now become law. It provides for the transfer of the maintenance, management and control of the College to the Minister of Bantu Education with effect from a date to be specified by proclamation in the Gazette. Section three of the Act makes provisions for the transfer of certain persons employed by the college Council to the employ of the new institution. There are two particularly sinister subsections in this section. They read as follows:-

(3) "Any disciplinary proceedings in respect of misconduct committed before the specified date by any person who becomes an employee in terms of sub-section (1) may be continued or instituted under this Act.

(4) Any person who immediately prior to the specified date was in the employ of the college council, and who, at least ninety days prior to that date was notified in writing by the Minister that he would not become an employee in terms of subsection (1) shall be deemed to have been retired on superannuation and shall for the purposes of any law regulating the grant of any additional pension or provident fund benefits be deemed to have become a member of the provident fund and pensionscheme concerned as from a date prior to the first day of August, 1949

The other subsections read as follows:-

3 (1) Every person (other than a person referred to in subsection (4)) who immediately prior to the specified date was in the employ of the college council, shall, with effect from that date, and subject to the provisions of this Act, become an employee on the establishment of the university college and shall be deemed to have been appointed to a State post or a council post as may be determined by the Minister and notified to such person in writing by the Secretary prior to the said date: Provided that any such person may within ninety days from the ~~xxx~~ date of such notification in writing notify the Secretary of his resignation, and any such resignation shall for the purposes of the law governing the pension or provident fund rights of the person concerned be deemed to be a discharge owing to the abolition of his post at the expiration of the aforementioned period of ninety days".

3 (2) As from the specified date the conditions of service, scale of salary and allowances and leave and other privileges of every person who becomes an employee in terms of subsection (1), shall be governed by the provisions of this Act, and every such person shall be adjusted to the scale of salary applicable to his post at such notch on that scale as may be approved by the Minister: Provided that except with his own or in accordance with the provisions of any law, the pensionable emoluments or the salary or scale of salary at or in accordance with which any such person was remunerated immediately prior to the said date shall not be reduced.