1935. Kenya.

No. 38223

SUBJECT C0533/461

Resident Native Labourers Legislation.

Previous	
1934	
Subsequent	
1937	

(1711) W.3548/836 5,000—3/44
N.P.Co. G.682/10

C.9. NATIVE
Resident Nat.

1 Govr Byrne No. 136 Conf — 29.10.35

Two copies of the Report of the Committee on the working of the Resident Natives Labourers Ordinance 1925, containing a draft Bill to Regulate the Residence of Native Labourers on Farms, together with Comparative Table (copy of 1925 Ordinance annexed to show effect of Bill. Request observations prior to submission to Executive Council.

Memo herewith.

J.E.M.F.
29.

Sir J. Maffey.

I do not wish to add anything unnecessary to the memorandum which Mr. Flood has put up. The Governor is very anxious to get on with this Bill (and the other two go with it) and I am anxious to leave time for the papers to be seen by higher authority before the holidays begin.

We shall have a good deal of controversy over this Bill. Critics in the "Times" have alleged that the view of the Kenya Land Commission in paragraph 1976 of their Report that these resident labourers (I think the term "squatters" is misleading) have nothing but a temporary right to use land while employed must be creating ultimately a class of landless natives, since their labour tenancy must come to an end sometime. The answer is, of course, that in paragraph 1868 the Commission have shown in what way land can be provided under their recommendations for these people when their labour tenancy comes to an end. To recognize them as having a permanent right on a European holding to which they have only come

for

for labour purposes must lead to the embitterment of the relation between employer and employee which has been of great value to the Colony up to now. Even if the accumulation of stock by the resident labourers could be controlled for a time, a stage must come when the accumulation of the native family would bring matters to a head, and unless the European was to be squeezed out of his own holding some natives would have to leave the land and be provided for elsewhere.

But it is essential, if we adopt the Commission's view and this ~~Ordinance~~ Bill, that the alternative land shall definitely be available for any resident labourer whose contract comes to an end and is not renewed, and I think it must be a condition when this Bill is passed that its operation shall be postponed until the Governor is assured that the alternative land will be available for any case which may arise.

By that means I think that the Secretary of State will avoid a good deal of criticism here.

If that point is made it will, I think, cover the second passage marked X on page 10 of Mr. Flood's memorandum. As regards the first of these two passages ~~I think~~ we might say generally that the Secretary of State has some misgiving as to the exercise of these wide powers by the local authority but that he notes that an Order of the local authority will

Please see my note at the end of Mr Flood's [illegible] (W.)

will not come into force unless approved by the Governor-in-Council, and say that he will watch with interest the practical effect of these provisions of the Bill.

Subject to this and to the marginal notes which I have made to Mr. Flood's memorandum, I think that we can authorize the introduction of the Bill writing as he proposes. As I have suggested in the case of the other two Bills there is room for examination of the scale of penalties, and this is a case also in which it will be very useful to have a report of the debate when the Bill [illegible] for allowance.

Please see my notes to Mr Flood.
As to the term "Squatter" [illegible]
policy not to emphasise the tenant [illegible]
it shd not be used, but "resident labourer".
"Squatter" in English law always means a person who goes & takes possession of land & holds it as owner, unless someone with a better title turns him out.
(W.) [illegible]

This seems a good idea. There is no need to annoy people too much by using terms wrongly.
[illegible]

I agree, I raised the [illegible] point [illegible] minute [illegible]

Secretary of State.
In his minute of Aug. 5th on 38221/35 Sir J Maffey directed that, after legal scrutiny, these three Bills should be sent forward to

Tolyon.

This one involves a "political" issue which I have explained in my first minute – it is [illegible] but the [illegible] criticism of the [illegible] [illegible] report on this question of resident labour is based on misconception both as to the nature of the labourers' position and the provision for their accommodation then [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] to [illegible] [illegible] the desirability [illegible] [illegible] [illegible] of any debate in Council on this Bill.

W.C.B. 25/8/36.

By air mail 12/10/36 2 To Kenya, Conf (4) (1 encl.) – 12 Oct. 1936.

3. Governor tel. No. 228. ---------------------- 24.9.36.
Ref. No. 1; would be glad of early reply in order that the legislation may be proceeded with at an early date.

Dft herewith: They will have time as the Council won't meet till the last week and will have Income Tax etc.

J.E.W. Flood 13.10

4 Tel. No. 235 Conf. to Gov. (No. 3 encl.) – 13 Oct 1936.

Professor Macmillan called yesterday to enquire how this matter stands. He hoped that it was still open and said that, if so, he thought the Colonial Office ought to consider very seriously whether the Nyasaland system of labour tenancies could not be introduced in Kenya instead of the "South African system." He also asked whether there was any recent information as to the working of the Nyasaland system. While Mr. Greenhill was dealing with this last enquiry, I consulted Sir C. Bottomley as to how much could be said to Professor Macmillan about the position in the Kenya, having regard to the fact that the correspondence on this file is confidential.

Eventually, I explained to Professor Macmillan that, in suggesting that the Nyasaland system should be adopted in Kenya, he appeared to be confusing two separate things. In Nyasaland, the natives in question were recognized as having rights in the land, and were not merely labourers with no such rights who had come to work on European farms. I reminded him that in Kenya both these classes existed. As regards the natives who were recognized as having pre-settler rights, provision was being made by the addition of lands to the Native Reserves to which they could be moved.

I

I told Professor Macmillan that the Government of Kenya has been going to a very great deal of trouble to ensure that the alternative lands to be provided are really suitable for the requirements of the natives concerned, and that, in fact, certain modifications were being made in the proposals of the Land Commission as to the exact areas to be set aside for these natives.

As regards the actual squatters or "resident native labourers", I pointed out that these natives were not regarded as having any pre-settler rights in the land which they are occupying, and that their "small holdings" and grazing facilities on their employers' farms are in the nature of part payment for their services. As regards the amendment of the law relating to these natives, all that is proposed is that this situation should be made quite clear. It was not a question of the Morris Carter Commission recommending the introduction into Kenya of the South African system, [redacted] a more precise "definition" of the position of these people.

As regards his contention that the inevitable result of this legislation will be to create a landless proletariat, I reminded him that it was an integral part of the recommendations of the Morris Carter Commission that land should be provided to which these people could go, if and when their temporary labour tenancies come to an end; and I told him that, in the despatch authorizing the Governor to go ahead with the preparation of the amending legislation, he had been reminded of the necessity for satisfying himself that there was, in fact, land available for the accommodation of these natives in cases where their contracts come to an end and are not renewed. I said that the provision of such land admittedly presented difficult problems, but that the Government of Kenya considers that these problems are soluble and is actively engaged on their consideration. I also said that it was unlikely in the extreme that any large numbers of these natives would have to be accommodated at any one time, and that, in this respect, the situation would no doubt be very much eased by the return of prosperity to Kenya, the effect of which will be to increase the demand for native labour on the European farms.

Professor Macmillan then proceeded to explain that, in his view, the wisest course would be to permit limited numbers of these squatters to acquire land in the White Highlands. He suggested that provision should be inserted in the "Ordinance" allowing the Governor, at his discretion, to authorize the acquisition of land in the Highlands by the natives as was done by General Smuts in South Africa in (I think he said) 1913. He personally did not think that there would be any great rush on the part of natives to acquire land in the Highlands, and that to permit a few ex-squatters to acquire land there would satisfy the natives and would not hurt the settlers. I pointed out to him that there can be no such provision in the "Squatters" Ordinance which does not deal with the ownership of lands in the Highlands, and

and I asked him whether perhaps he had some other Ordinance in mind. He explained that what he had in mind was the "Ordinance" which will reserve the White Highlands for European occupation. I told him that what was proposed was an Order-in-Council defining the boundaries of the Highlands, and that it had been made clear in Parliament that this Order-in-Council would not, in fact, contain any provision which would have the effect of reserving the Highlands for white occupation on a statutory basis; and that the situation as regards the acquisition of land in the Highlands would remain exactly as it is, viz. that the Governor in Council would have a right of veto on the transfer of lands between persons of different races.

Professor Macmillan admitting that he was unaware that any such statements had been made, and thought that the white settlers could hardly be aware of it or they would have been more vocal on the subject. I contented myself, however, with again saying that the position had been made quite clear, and left it at that.

Professor Macmillan then said that, in this respect, the position was not going to be so unsatisfactory as he had feared, but he then went on (rather vaguely) to say that, in the circumstances, the obvious course of the natives is to agitate for permission to acquire land in the Highlands. On this I made it quite clear to him that there was, in fact, not going to be any change in the practice which has been followed in the past, whereby the Governor-in-Council would, in fact, veto the transfer of any land in the Highlands to persons not of European race. He then enquired how we were going to "save the face" of the Indians, and I pointed out that the proposed Order-in-Council would, in fact, have the desired effect to the extent that there would be no statutory racial discrimination.

Professor Macmillan then observed that the situation under the proposed Order-in-Council would be satisfactory to the extent that, when the time comes to recognise - and, in his opinion, the time will inevitably come - that white settlement in the Highlands is a failure, there will then be no statutory bar to the acquisition of land in the Highlands by natives. I said that this might be as it might be, but that, for the present at any rate, the policy of reserving the Highlands for European occupation would continue.

It struck me that, throughout our conversation, Professor Macmillan seemed very "woolly" in his ideas; and that, in particular, it was very odd × that a person who takes such an interest in these matters should have been unaware of the statements which have been made in Parliament to the effect that the Order-in-Council will do no more than define boundaries, and will not introduce any statutory racial discrimination in regard to the acquisition of land in the Highlands.

J.J. Paskin

22/1/37.

× What a shit! It would be odd if he were aware of anything beyond his own notions J.

Why can't these well-meaning idiots leave Govts. to their job. Prof Macmillan can know nothing about Kenya and its problems.

J.E.V. Hood 22.1

He has been there, so must know.
Read all this out with Prof.
Macmillan many months ago.
I am glad that Mr. Perkin has
- as I hope - been more successful
in explanation than I was. But
the primary source of confusion
is the term "squatter".

Partly blind.
22.1.37

38223/35 Kenya

Coded & sent 10.0 13/10/36

C. O.

Mr. Hood 13-10
Mr.
Mr.
Sir C. Parkinson.
Sir C. Tomlinson.
Sir C. Bottomley.
Sir J. Shuckburgh.
Perml. U.S. of S.
Parly. U.S. of S.
Secretary of State.

DRAFT. code tel

Governor
Nairobi

No 235. Confidential

Your tel No 288 despatches sent by air mail 13 October agreeing to introduction of all three/labour bills with some modifications [illegible] viz. the change is that word squatter should not be used but replaced by resident labourer [illegible]. It is also suggested that penalties in these Ordinances are generally on severe side and may be reduced [illegible]

FURTHER ACTION.

C. O.

Mr. Flood. 7.10
Mr.
Mr.
Sir C. Parkinson.
Sir G. Tomlinson.
Sir C. Bottomley. 9.10.
Sir J. Shuckburgh.
Permt. U.S. of S. 9/X
Parly. U.S. of S.
Secretary of State. WBy 10.10.36

DRAFT.

KENYA
CONFIDENTIAL (4f)
GOVERNOR

Copy to Kenya 10 Oct. 39 file

38223/35 Kenya.

12 12 2

AIR MAIL

DOWNING STREET.

12 October, 1936.

Sir,

I have etc. to refer to your Confidential despatch No.136 of the 29th of October in which you forwarded copies of the report of the Committee on the working of the Resident Native Labourers' Ordinance, together with a draft Bill to regulate the residence of native labourers on farms.

2. As you point out, the Bill as drafted is largely a consolidating re-enactment of the existing Ordinance of 1925, with various amendments which experience has shown to be desirable. As you recognise, the situation has now taken on a new aspect in view of the report of the Kenya Land Commission

3.

FURTHER ACTION.

3. The view of the Commission and of the local Committee, with which I notice you are in full agreement, is that the so-called "squatters" should (entirely) cease to be regarded as tenants and should take on the status of servants. I also agree on this point, and although some opposition to the provisions of the Ordinance may be expected, yet so long as the principle is clearly kept in view that the Ordinance is intended to deal, not with natives who are living on their own land, but with natives who come to reside from time to time on land which has been alienated with a view to offering themselves as labourers in return for payment and the right to graze certain stock, no principles of right or justice can be at stake. In this connexion it is perhaps unfortunate that the word "squatter" is used at all. "Squatter" in English law parlance always means a person who goes on [illegible] possession of it and holds it as owner, thereby acquiring what has been called "squatter right", unless someone, with a better

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Secretary of State.

DRAFT.

FURTHER ACTION.

better title, appears to eject him. Accordingly it might be contended that the very use of the word implies some degree of ownership of the land, which is far from being your intention. I therefore suggest that the words "resident labourer" should be used instead.

4. It has been alleged in public by critics of the Land Commission report that their view expressed in paragraph 1976 that these resident labourers have no right in the land must, in the end, create a class of landless natives with no home to go to when the labour tenancy comes to an end, as it must at some time. In answer to these criticisms, paragraph 1868 of the Commission's report points out that they have recommended large additions to the Reserves which should suffice to provide accommodation for such people when their

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FURTHER ACTION.

temporary

their labour tenancy comes to an end. It therefore follows that it is an essential condition of any wholesale removal of resident labourers, who are not in fact able to return forthwith to their own homes, that there shall be land available for them when the contract comes to an end and is not renewed. It should therefore be a condition that the Bill should not operate unless you are assured that alternative land is available in any case which may arise other than that where the resident labourer simply returns to his own home.

5. I note that the Committee expressed their advocacy of the principle of local option and I agree with you that the principle may be adopted in view of the adequate safeguards which you propose and the fact that no order can come into force until it has been approved by the Governor in Council and that full provision is made for entering objections. I note, however, from Clause 21 that a Local Authority is given various powers which include that of prescribing the number of days in the year on which a resident labourer shall work and for which he shall receive wages. This might be represented as giving a Local Authority power to reduce the resident labourer to a state of serfdom by enforcing a limit of 365 days in the year. Such a proceeding would be impossible in practice, because the occupier of the land would equally be obliged to pay wages and to find work for every day in the year, and it seems clear that the upper limit as well as the lower limit in the number of days for which a resident labourer is required should be fixed by the owner of the land on which he is temporarily residing.

6. A further objection is that a Local Authority might decide to remove all resident labourers from a given area when, if there was in fact no place to which they could be removed, Government would have to withhold consent and

and an unfortunate deadlock might easily be reached. If my suggestion above, that land must be available for such as cannot return to their own homes is adopted, this difficulty would not in practice arise. It is, however, not clear from the Bill whether it actually gives power to recommend removal, though it does give power to limit the engagement of resident labourers and to limit the number. I do not imagine that in practice it would be desired to remove any large number of existing resident native labourers at once. Any policy of removal of resident labourers long accustomed to residence on alienated land must be a gradual process.

7. The alterations in the existing Ordinance, though very extensive and far reaching, are simple and clearly shown. The new Clause 4 is a re-enactment of the present section Clause 3, with considerable variations. I note that it is now made an offence for any natives to reside or remain a longer period than forty-eight hours on any farm, forest area, or on any unalienated Crown land or railway land unless he fulfils one or other of the conditions set out. This provision, however, seems to me too drastic: Circumstances might arise where a native had settled on an unoccupied farm in the pursuit of his lawful avocations without realising that he was in fact committing an offence. I note that the written consent of the occupier, without the approval of a magistrate, is sufficient to authorise residence up to 14 days.

8. In Clause 5 (2)(a) the term of a resident labourer's contract is now put at not less than one year, and not exceeding five years. I need not here go over the part discussion as to the length of the contracts which might be permitted, but I have no objection to the compromise of five years which has been

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been suggested. Clause 5 (3) allows contracts to be made in regard to a group of farms provided that all the farms in the group are in the same ownership or occupation, and that a magistrate certifies that proper control can be exercised over resident labourers on farms which are not in personal occupation. I am satisfied that this power of the magistrate should be sufficient to prevent any trouble or injustice.

9. Clause 5 (7), however, authorises any magistrate, for any good or sufficient reason, to order the removal of a resident labourer from any farm, forest area etc., on which he may be living. This power is wide and the discretion given to the magistrate is very large indeed. It is for consideration whether the power to evict should not be exercised only in the event of its being necessary in order to prevent a breach of the peace, and in any event, I think all parties ought to be heard before any

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FURTHER ACTION.

any order is made or any payment of the costs of removal adjudicated.

10. In Clauses 7, 8, and 9 the Native Registration Ordinance is incorporated and mention of the Registration Certificate required under that Ordinance. In the amended form of the latter, whenever endorsement a subject may of registration has to be in either blue or blue-black ink, and for the sake of uniformity the same words should be used instead of black ink. There is also the point that black ink is, in modern days, hard to get. In Clause 18 of the Bill a magistrate is given power to order the occupier of a farm which is not being developed and not under proper occupation for the purposes of the Ordinance, to remove any resident labourer within 28 days. The reason for this provision is not stated, but it appears to be a reason to Clause 5 (7). I suggest, however, that

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FURTHER ACTION.

that I may be informed of the reason for this new provision. The Committee's report does not seem to touch upon the point.

11. There appears to be a misprint in Clause 12 of the Ordinance as drafted where an occupier is made liable to a fine if he fails to provide employment for less than the number of days specified. The words should be, I think, "at least" or "not less than".

12. Clause 26 of the Bill covers the more serious offences which may be committed by resident labourers, and ~~pro~~poses a fine, ~~the~~ maximum 150 shillings or a 6 months' imprisonment in default. The existing Ordinance imposes a term of imprisonment not exceeding two months, and I should be glad to learn why the period of imprisonment has been increased. It appears to me to be excessive. I may here draw attention to the heavy nature of the penalties which are provided for natives under these Labour Ordinances, and though the maximum penalty may not be required, and no doubt is not imposed in every case, yet it is for consideration whether the penalties should not be largely scaled down.

13. Clause 27 deals with offences by the employer where the penalty is a fine up to £10 with imprisonment in default not exceeding one month, or both fine and imprisonment. It would, I think, have a better appearance if the penalty on the occupier were made the same as on the resident labourer in both cases.

14. The wide discretionary powers given to the magistrate under Clause 27(2) appear to me to be a satisfactory feature of the Bill.

15. I assume that it is not intended that any native should be regarded as falling under the provisions of the Resident Native Labourers Ordinance as well as under that of the

Employment

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12. Clause 26 of the Bill covers the more serious offences which may be committed by resident labourers, and ~~pro~~ imposes a fine, ~~the~~ up to a maximum of 150 dollars or six months' imprisonment in default. The existing Ordinance imposes a term of imprisonment not exceeding two months, and I should be glad to learn why the period of imprisonment has been increased. I may here again draw attention to the heavy nature of the penalties which are provided for natives under these labour measures, ~~Ordinances~~, and though the maximum penalty may not be required, and no doubt is not imposed in every case, yet it is for serious consideration whether the permitted penalties should not be largely scaled down.

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14. The wide discretionary powers given to the magistrate under Clause 27(2) appear to me to be a satisfactory feature of the ~~Ordinance~~ Bill.

15. I assume that it is not intended that any native should be regarded as falling under the provisions of the Resident Native Labourers Ordinance as well as under that of the

Employment

Employment of Servants Ordinance. For the sake of clarity, it might, I think, be well to have an express statement to this effect.

16. I accordingly approve the introduction of the Bill, subject to the foregoing criticisms, and in this case also, I should be obliged if you will give me an account of the debate which took place during its introduction. I regret the delay which has taken place in consideration of these Bills, but you will realise that, though they may seem of small moment, yet they raise many points to which attention will undoubtedly be called in parliament here, and that it is all the more necessary to examine with close attention to detail.

I have, etc.

(Signed) W. ORMSBY GORE.

This is the Squatters' Bill in which the settlers are so interested, especially Lord Francis Scott. The report of the Committee is a very dull document and the chief points in it are:-

(1) That there is a difference of opinion as to the desirability of having squatters at all. The planters wishing to have the squatter and the stockholders objecting.

(2) That there is a desire for local option in regard to the employment of squatters, even though the Land Commission thought that the question of stock was not one which should be left entirely to local option.

(3) That effective inspection will be essential.

(4) That the coast area should be left out.

Pages 6 and 7 of the Report contained a short memorandum showing the differences between the Bill now supplied, and the existing Ordinance and the memorandum enclosed in the despatch gives some further things with a comparative table. Examination of the comparative table

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(3) That effective inspection will be essential.

(4) That the coast area should be left out.

Pages 6 and 7 of the Report contain a short memorandum showing the differences between the Bill now supplied, and the existing Ordinance and the memorandum enclosed in the despatch gives some further things with a comparative table. Examination of the comparative table

table shows that most of the Bill is entirely new, though not in principle.

In paragraph 7 of his despatch, the Governor draws attention to the new situation which has arisen. Hithertq there has been a divergent opinion as to whether these squatters were in the nature of tenants acquiring some right on the land, or were simply servants accommodated for mutual convenience on the farms. A Committee and the Land Commission have come down in favour of the servant aspect. The Land Commission pointed out that the squatter population number something like 150,000, and that although most squatters on leaving the settled area would prefer to return to the reserves (Section 1500) this would put increasing difficulties in the way of manufacturing the reserves, and accordingly the Commission recommended that areas should be provided for squatters with some form of private right on reasonable grounds though not in the lands reserved for Europeans. To this end they produced their recommendations of native leasehold areas which are classified as 'C' in their recommendations.

See especially § 1868 of the Report.

It is perhaps as well to set out the position in regard to land and squatters as apparently contemplated by the Commission and by everybody else. There will be:-

(1) The European highlands which will be set aside by Order-in-Council and demarcated into farms.

(2) Other European farms not in the European highlands.

(3) Native reserves where the native tribes will be undisputed owners.

(4) Other land which will presumably be available for occupation at the discretion of Government, so far as it is not occupied already.

The European highlands will probably be big enough for many years to come to hold all the Europeans that there may be in Kenya, but the native reserves may become crowded. Anyhow, in some places it will be necessary to have native labourers residing on the farms. There may be some difficulty and some apparent injustice if we are to have land which has not been alienated but on which squatters are residing, and it is proposed to turn the squatters off even though the land has no owner. That situation might arise if European Stock Farmers feel disturbed at the presence of natives on an adjoining farm. Provision is accordingly made in the new clause 5 (7) which makes it lawful for the Magistrate to order the removal

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Clause 13 is amended to bring in the Assistant Sub-Inspector of Police as in the Native Registration Ordinance. Clause 15 requiring the occupier to keep a register of squatters' stock replaces the old clause 8. Clause 8 in the present form simply provides that a register should be kept with such particulars as may be supplied by rules, and the new variety tightens it up, and puts the form of register into the Ordinance. Clause 16 sets out in very great detail the regulations governing stock to be raised by squatters.

(1) The squatter must be lawfully on the farm.

(2) The stock must be his own personal property. If he is an old man or under a temporary permit he must have formal written approval.

(3) All cattle over six months must be branded by the occupier with the letter S and the number of the owner as shown in the farm register.

16(2) provided that reasonable needs of the squatters must be allowed for in the matter of keeping stock.

16(3) provides penalties for keeping stock illegally.

16(4) provides for exemptions for present owners.

16(6) provides against rebranding of cattle unless the old brand has been reversed as provided in sub-section 10.

16(9) accepts the movement of stock if there are any restrictions for quarantine purposes. This section, long and complicated as it looks, is really a rehash of the old section 10 in the Ordinance.

Section 18 of the Ordinance provides that the Magistrate may order the occupier of a farm which is not being developed and is not under effective control to remove any natives residing on such farm within 28 days. The reason for this is not stated, but it appears to be a corollary to clause 5(7). We might ask as to the reason for it. Sections 21, 22 and 23 give power of local option to the local authority in respect of any farm or group of farms. The local authority has power to prohibit the engagement of squatters, limit the number of any farm or group of farms, prohibit the keeping of stock, either generally or any particular kind of stock, or limiting their numbers, and also to prescribe the number of days in a year on which a squatter should work and receive wages. Such number of days in no case to be less than 180. The local authority must have regard to the wishes of occupiers of farms.

reasonable.

reasonable labour requirements of farms, and the reasonable needs of squatters. Section 22 gives the right to object to any such Order and the Order has to be submitted to the Commissioner of Local Government for the approval of the Standing Committee. "Local authority" is defined as meaning the District Council, or if there is no District Council the District Commissioner, so that the administration has got a say, ~~but the administration has not got a final say.~~ and the thing has then to be published in the Gazette and approved by the Governor in Council. Objections under Section 22 would come, of course, from various occupiers and not from squatters, but that is not a serious matter, because no one is bound to employ squatters if he does not want to. One thing to which I see possible objection is giving the local authority power to prescribe the number of days in which a squatter shall work, since this might be regarded in practice as enabling the local authority to start 365 days a year work. Of course, in practice, there would be objections to that because the occupier would have to pay wages and have to find work for the period in question, and would probably not wish to do so. The Governor is evidently not too happy about it, though he [illegible] the adoption of the principle and points out that the Order will [illegible] come into force [illegible] Minister or in Council. This should of itself show that the number of such Orders is not expected to be very great, and things being as they are in Kenya, I think the principle may be accepted, subject to control.

The list of squatters' crimes under section 25 is extended by adding:-

(1) Growing crops which are prohibited by this contract.

(2) Failing to get off the farm when told to, subject to safeguards for quarantine, or for short notice.

Section 26 deals with the more serious offences for which the fine is £7.10.0. or imprisonment up to six months in default of payment. The term used to be two months; and we might ask why the time has been raised. Offences by the employer are set out in Section 27, where the penalty is a fine of £10 with imprisonment in default of payment for not exceeding one month or both fine and imprisonment. It might be as well to suggest here as in the case of the squatter that imprisonment should be in default of payment, and should be up to two months instead of one. If the squatter can get six months or two years [illegible] I see no

(6)

(7)

X There is also this: if the Ordinance as drafted comes into force a 'local authority' might decide to remove all squatters from an area. There might be nowhere to which they could go and what is to be done? Govt. would have to withhold approval, and there would be trouble. We should mention this as a point of difficulty

(5)

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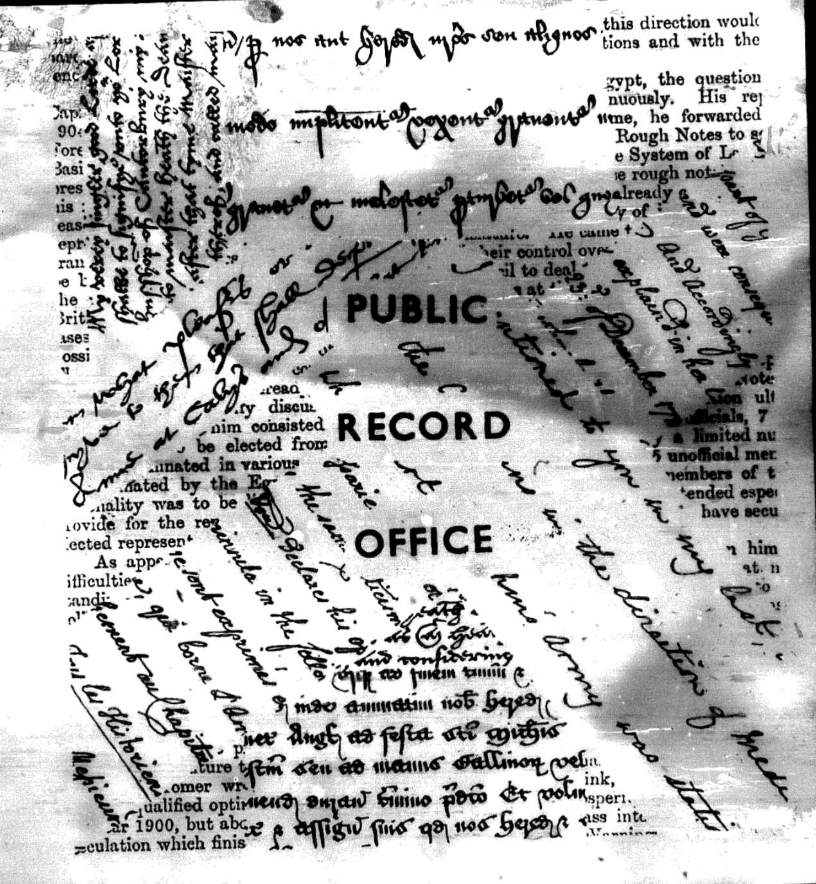
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