

1928

Kenya

No. 15201

SUBJECT

Budapest

*Native Authority
Ordinance*

CLOSED
UNTIL ~~1979~~

20533/378/15201/28

Previous

50/809/24

(Native Authority Ordinance)

5/75/28

(Employment of Women)

3 Dec. Sect. 49B 75/28

(reads native authority Ord.)

Subsequent

Sub-section 2 (100)

156/2/29

156/2/29

Two authenticated copies of the Native Authority (Amendment) Ordinance No. XVI of 1928 together with legal report.

One copy Ordinance to Library.

Mr. [unclear]
Have you any observations, please?
The Ordinance follows the Bill in No. 1 exactly, except for the addition (c) § 2 - definition of District Commission
§ 3 - to make it clear that compulsory native labor under § 8 (4) (a) is confined to able-bodied adult males.
See C.O. 12.

Declaration
21. 11. 28

21.
24. 11. 28

Instructions

2. Section 2 - f
Declaration
24. 11. 28

To C.O. 26. 11. 28

To Gov. 866. 3 And - G/3

PARLIAMENTARY QUESTION BY SIR ROBERT HALLIDAY
FOR ORAL REPLY ON MONDAY 18 DECEMBER, 1928.
SEE NO. 3 ON "P.M." BILL.

PARLIAMENTARY QUESTION BY MR. HENRIE SMITH
FOR ORAL REPLY ON WEDNESDAY 12 DECEMBER, 1928.
SEE NO. 3 ON "P.M." BILL.

6
DESTROYED UNDER STATUTE
To Gov. 899 - w/copy Q/A 10th Dec & 12th Dec
and Press Cutting.
(vide memo on A.C. file) 13 DEC 1928

6
Extract from the Manchester Guardian for the 65 Dec 1928

From the *Kenya Guardian* 6/24/28

5

FORCED LABOUR IN KENYA COLONY.

Some Typical Instances.

to send a woman
to prison for an offence
which could be prevented
by the use of the power
of imprisonment for an offence.

I agree with Mr. Gorman that the
power now proposed to be given of peremptory
imprisonment as a general punishment seems very
wide, but I think that Kenya is the only place
in which it would be desirable that such a
power should be given by the Legislature even in
the most restricted sense. We must realize that
the Legislature will be a very inefficient
and unwieldy body and I think that the proposed amend-
ment should be allowed, but I should like some
reference to this question of substituted
labour to be mentioned in the Bill. I think
it would be desirable that the power of these
courts should be limited to the cases in which
it is necessary to send a person to prison.

Therefore, all the
telegrams to the Bill may
suggest such a reference to
should be made in the Bill
to the effect that the
power of peremptory
imprisonment should be
limited to the cases in which
it is necessary to send a
person to prison.

the work of the
have been 3s. 6d. The Ordinance does not allow
commuting his work on the roads by a cash payment, as is done
in other of our British African possessions. In July and
August of 1927 gangs of girls of ages between 10 and 16 years
were ordered out to collect and carry thatching grass in
the North Gem area of Central Kavirondo. This involved
some of the girls in a maximum daily journey of thirty,

and in a few cases over thirty miles. Some of the girls did these journeys under compulsion, walking in all, it is estimated, between 84 and 90 miles, and, after months of delay and agitation, were paid 30 cents (about 3rd). This case was a sheer abuse of the Native Authority Ordinance by the local chief, who was able to plead ignorance of the actual terms of the law as the Ordinances are published in English, which he cannot read, and had not been explained adequately to him.

No Pay, but a Flogging.

(2)

In September and October, 1927, men of the Seme area, Central Kavirondo, were forced out to work on bush clearing on the lake shore in connection with measures for combating the tsetse fly. About eighty were turned out, and, contrary to the Ordinance, were forced to work for periods up to two months without pay under the orders of a lime cutter who had a lime kiln. He took the product of their labour, gave them no pay, but did give them rations of maize meal, and had several of them flogged with the kiboko (hippo hide switch) when their tally of logs did not come up to his standard. After much agitation the lime-kiln owner was fined a small sum for the floggings, but those who had been forced to work illegally, and were flogged into the bargain, got no compensation and no pay.

In July, 1927, natives of the Kisumu area, Central Kavirondo, were ordered to supply thatching grass for Kisumu. About 2,000 loads were required. I happened to meet a large safari (caravan or gang) of about 250 of them, of whom about 100 were children. The order was quite illegal, and was not issued by the District Commissioner's Office, which alone had the authority to issue orders under the Native Authority Ordinance, but those who were compelled to turn out of their homes, collect the grass and carry it in some eight or ten miles did not, of course, know that the order was illegal. When they arrived at the office from which the order was issued, there was no pay ready for them. They had to depart home through a very

heavy

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heavy tropical rainstorm, got soaking wet, and then those who were sufficiently active to undertake the journey a second time in order to get the few cents due to them returned to the office the next day and were paid. A number, of course, did not return, so the office got the grass for nothing.

The actual terms of the resolution of the International Missionary Council, held at Jerusalem in April of this year, are as follows:-

It is essential that Governments concerned with undeveloped areas should apply to them the knowledge gained by a century of experience of the measures needed to prevent economic and social injustice, and in particular that they should (a) stop at once the practice of employing forced labour by companies or private individuals, and also, except in cases of immediate and unforeseen national emergency, by public authorities.

What Should be Done.

Not content with the powers and penalties authorised by the Ordinance of 1912, the Colony, through the Legislative Council, and on the initiative of the Administration (who informed the public in the "Official Gazette" of the Colony that fines were of no use, as the men paid the fines by the product of the labour of their women - a cheap misstatement unworthy of the Administration), have now added to the former penalties that of up to two months' imprisonment of either description. It is to be hoped that the Secretary of State will disallow this most reactionary measure. There is no need for forced labour if the Administration will get down to a proper system of voluntary labour, adequately paid. The whole business turns on the question of adequate payment. The administration forces a man in the reserves to work for a pittance, say twenty cents a day (namely, twopence-halfpenny) it may be, on collecting and transporting on his head

Colony and Protectorate of Kenya.

AN ORDINANCE

No. 16 OF 1928.

Assented to in His Majesty's name this twentieth day of September, 1928.

EDWARD GRIGG,
Governor.

[20TH SEPTEMBER, 1928.] Date of Assent.

An Ordinance to Amend the Native Authority Ordinance.

20th September, 1928.

Date of Commencement.

ENACTED by the Governor of the Colony of Kenya, with the advice and consent of the Legislative Council thereof, as follows:

1. This Ordinance may be cited as "the Native Authority Amendment Ordinance, 1928," and shall be read as one with the Native Authority Ordinance (number 12B of the Revised Edition), as amended by the Revised Edition of the Laws (Operative) Ordinance, 1926, hereinafter referred to as "the Principal Ordinance."

Short title.

2. Sub-section (1) of section 2 of the Principal Ordinance is hereby amended by the addition thereto of the following definition:

"The term 'district commissioner' shall include an assistant district commissioner."

3. Section 8 of the Principal Ordinance is hereby amended by the insertion of the following words in the following places:

Amendment of section 8 of the Principal Ordinance.

In clause (a) after the word "dom" in the words "by able-bodied adult males"; in clause (a) after the word "paid" of the words "able-bodied adult male"; and in clause (b) after the word "labour" of the words "by able-bodied adult males."

4. Section 10 of the Principal Ordinance is hereby repealed, and the following section is substituted therefor:—

Repeal of section 10 of the Principal Ordinance.

"10. Any native who shall without lawful excuse disobey or shall fail to comply with any lawful order issued or given by a headman under this Ordinance, or by a senior commissioner or district commissioner under the powers conferred by the last preceding section, shall be guilty of an offence and shall, on conviction before a magistrate or before a native tribunal having jurisdiction over such native, be liable to imprisonment of either description for a period not exceeding two months, or to a fine not exceeding seven pounds ten shillings and in default of payment to imprisonment of either description for a period not exceeding two months, or to both such fine and imprisonment."

Colony and Protectorate of Kenya.



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An Ordinance to Amend the Native Authority Ordinance.

20th September, 1928.

Date of Commencement.

ENACTED by the Governor of the Colony of Kenya, with the advice and consent of the Legislative Council thereof, as follows:

1. This Ordinance may be cited as the Native Authority (Amendment) Ordinance, 1928, and shall be read as one with the Native Authority Ordinance (number 12) of the Revised Edition, as amended by the Revised Edition of the Laws of Kenya Ordinance, 1926, hereinafter referred to as "the Principal Ordinance."

2. Sub-section (d) of section 4 of the Principal Ordinance hereby amended by the addition thereto of the following definition:

The word "District" shall mean any District which is specified in section 4 of this Ordinance.

3. Section 8 of the Principal Ordinance is hereby amended by the deletion of the words "in the following places":

In clause (a) after the word "labour" the words "by able-bodied adult males"; in clause (b) after the word "paid" of the words "able-bodied adult male"; and in clause (c) after the word "labour" of the words "by able-bodied adult males."

4. Section 10 of the Principal Ordinance is hereby repealed, and the following section is substituted therefor:

"10. Any native who shall without lawful excuse disobey or shall fail to comply with any lawful order issued or given by a headman under this Ordinance, or by a senior commissioner or district commissioner under the powers conferred by the that preceding section, shall be guilty of an offence and shall, on conviction before a magistrate or before a native tribunal having jurisdiction over such native, be liable to imprisonment of either description for a period not exceeding two months, or to a fine not exceeding seven pounds ten shillings and in default of payment to imprisonment of either description for a period not exceeding two months, or to both such fine and imprisonment."

Short title.

Amendment of Ordinance

Printing and Stationery for Publishing Orders.

Administrative
order may
order natives
occupy land
outside
Native Reserve
to remove
from the
Reserve

5. Section 11 of the Principal Ordinance is hereby amended by the deletion of the first paragraph thereof and the substitution thereof of the following paragraph:

"Whenever a senior commissioner or district commissioner shall find that any native, being a member of a tribe or community for the occupation of which land has been reserved, is cultivating or occupying any land outside the lands so reserved, otherwise than by virtue of a valid contract or other lawful authority, he may order such native to remove from such land on to land reserved for the tribe or community to which such native belongs."

Amendment of
section 26 of
the Principal
Ordinance

6. Sub-section (3) of section 26 of the Principal Ordinance is hereby repealed, and the following sub-section is substituted therefor:

"(3) Such imprisonment or fine shall not operate as a satisfaction or extinguishment of any local native rate payable under this Ordinance and any such local native rate shall, on application made to any magistrate by any member of a local native council, be recovered as if it were a fine imposed by the magistrate and shall as it is received be paid into the local native fund."

Amendment of
section 27 of
the Principal
Ordinance

7. Section 27 of the Principal Ordinance is hereby amended and the following section is substituted therefor:

"The land of any local native fund shall be devoted only to the purposes as may be prescribed by any resolution of the local native council, and such resolution shall be approved by the Governor under section 24."

Provided that in any case where government has expended public funds or incurred any liability in consequence of a resolution of a local native council by virtue of which the local native council has undertaken to pay to government a rate or a contribution to government, the local native council may, if it so resolves, in any case in fact to make due provision for the discharge of such resolution, order that the amount of such rate or contribution be paid from the local native fund and that the local native council may, if it so resolves, further order that any rate necessary to produce the sum required to discharge such resolution be collected from the inhabitants of the area in which such local native council is established."

8. The provisions of sections 12 and 13 of chapter 26 of this Ordinance shall apply to a rate imposed under this section in the same manner as if it had been imposed by a resolution of a local native council and be and approved by the Governor in Council."

No. 593

Calcutta, 1928

Sir,

With reference to your telegram of the 7th May, 1928, in which you approved the publication of the Native Authority (Assessment) Bill, I have the honour to transmit herewith authenticated copies of the Native Authority (Assessment) Bill, No. XVI of 1928, which passed its third reading in the Legislative Council on the 24th August, 1928, and to which His Majesty in Council gave assent on the 25th September, 1928. The Legal Notice is enclosed, and ten copies of the Bill and its assent will follow in due course.

The Bill met with the unanimous approval of the Legislative Council.

I have the honour to be,
 Sir,
 Your most obedient and humble servant.

H. J. Martin

native rate payable under the Principal Ordinance. The law already provides that imprisonment or the imposition of a fine shall not operate as a satisfaction or extinguishment of a rate and it is now proposed that the Bill would definitely provide that any amount due may be recovered by distress.

The Bill is intended to safeguard Government property of a local native council, after the council has entered into commitments of any kind, whether or any other scheme, or any other arrangements which it has entered into. The Governor may exercise his powers on behalf of the Government.

CO. 533 / 378

ATTORNEY GENERAL.

- Mr. Seal 6/5/28
- Mr. Allen 6/5/28
- Mr. Parkinson 7/5/28
- Mr. Holtby 7/5/28
- Mr. E. J. Harding
- Mr. J. Simokburgh
- Mr. G. Grindle
- Sir C. Davis
- Sir S. Wilson
- Mr. Ormsby-Gore
- Lord Lovat
- Mr. Amery

X1520/128 Kenya

X I A
7 May

3-5-28
13

DRAFT Code Telegram

Governor
Nairobi

London 26 March 1928

I agree to introduction of
Native Authority Amendment

Bill but suggest that
as regards clause 2
your ~~intention~~ statement
should include
reference to
woman and child labour

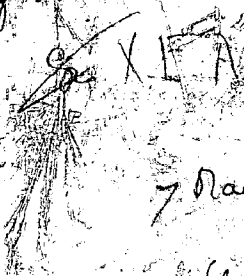
in lines of para 3 of your despatch

as showing type of cases
to which particularly
intended to apply O.K. No.

Further

- Mr. Stiel 6
- Mr. Allen 7/3/29
- Mr. Parkinson
- Mr. Bostwick 7/5
- Mr. E. J. Harding
- Mr. J. Shookburgh
- Mr. G. Grindle
- Mr. C. Davis
- Mr. S. Wilson
- Mr. Ormsby-Gore
- Lord Loat
- Mr. Amery

X15201/28 Kenner



3506 7/5

7 May.

DRAFT. Code Telegram

Governor
Nairn

London 26 March 1928

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Nairn Authority Amendment

Bill
~~Bill~~ but suggest that
as regards clause 2,
your ~~statement~~ statement
should include
objects / a reference to

woman and child labour

in lines of para 3 of your despatch

as shown's type of case

which particularly

is intended to apply to the para

Further

Further under to

most all criticism regarding

I think you should add

Such labour clause

added to Bill providing to make it clear that

should be ~~inserted showing that~~

limiting to ~~adult males~~

~~work to be done~~ under
compulsory labour

clauses (m) (n) and (o) ?

Section 5 of Principal Ordinance

is limited to ^{state bodies} ~~state bodies~~ ~~state bodies~~

~~to the persons and ~~state bodies~~~~

Compare ~~with~~ this Section 5 (h) ?

* to which employees the
librarian
able to read now
1972

the Magistrate a discretionary power and is in no sense mandatory, is considered necessary in order to put a stop to the practice of some natives who when called out for communal work remain at home, sending women and children in their stead; in such cases if the offenders are fined they merely pay the fine from the produce of the labour of their women and children, and do no work themselves. You were informed in my despatch No.129 of the 2nd March, 1928 in reply to your despatch No.1042 of the 21st December, 1927, with reference to the employment of women and children on compulsory labour that such a provision had been embodied in a Draft Bill under consideration. This is the Bill referred to.

4. Section 3 of the B.N.L. aims at enabling a District Commissioner to order back to their Reserves natives found unlawfully living or squatting on farms, whether occupied or unoccupied, as well as on alienated Crown land. It is true that such natives can be dealt with under the Resident Native Labourers Ordinance, but if moved from one farm are apt, unless followed up, to squat on some other farm in which case fresh proceedings have to be instituted. The proposed amendment would give the Magistrate power to order them definitely to return to their Reserves and would enable their huts or crops to be dealt with if necessary. In practice every effort is made

3.

to persuade such natives to accept proper employment as resident native labourers and in most cases these efforts are successful, but the proposed amendment would help to secure a definite decision in each case.

5. Section 4 of the Bill is self-explanatory. The Principal Ordinance provides that the penalty for non-payment of rate shall not operate as satisfaction or extinguishment of the amount due, and it seems only right that the law should definitely provide that the amount be leviable by distress. Section 5 of the Bill is designed to meet the position referred to in paragraph 1 above.

6. Since the Bill was printed my attention has been drawn to an apparent oversight in respect of Section 2 (1) of Chapter 129 of the Revised Edition of the Laws of Kenya. Section 14 (1) of Ordinance No.22 of 1912 provides, inter alia, that the term District Commissioner should include an Assistant District Commissioner, and this important provision does not appear in the Revised Edition. It is of course necessary in practice that Assistant District Commissioners, who are constantly on tour in the Reserves, should have authority to issue appropriate orders to official headmen and I propose therefore to add a clause to the present Bill amending Section 2 (1) of

Chapter 129 by the insertion of the words "the term "District Commissioner" shall include an Assistant District Commissioner".

7. I shall be grateful if you receive your permission by telegraph to introduce a Bill for criticism and to introduce it into the Council at the May Session.

To be

GOVERNOR.

4.

Chapter 129 by the insertion of the words "the term "District Commissioner" shall include an Assistant District Commissioner".

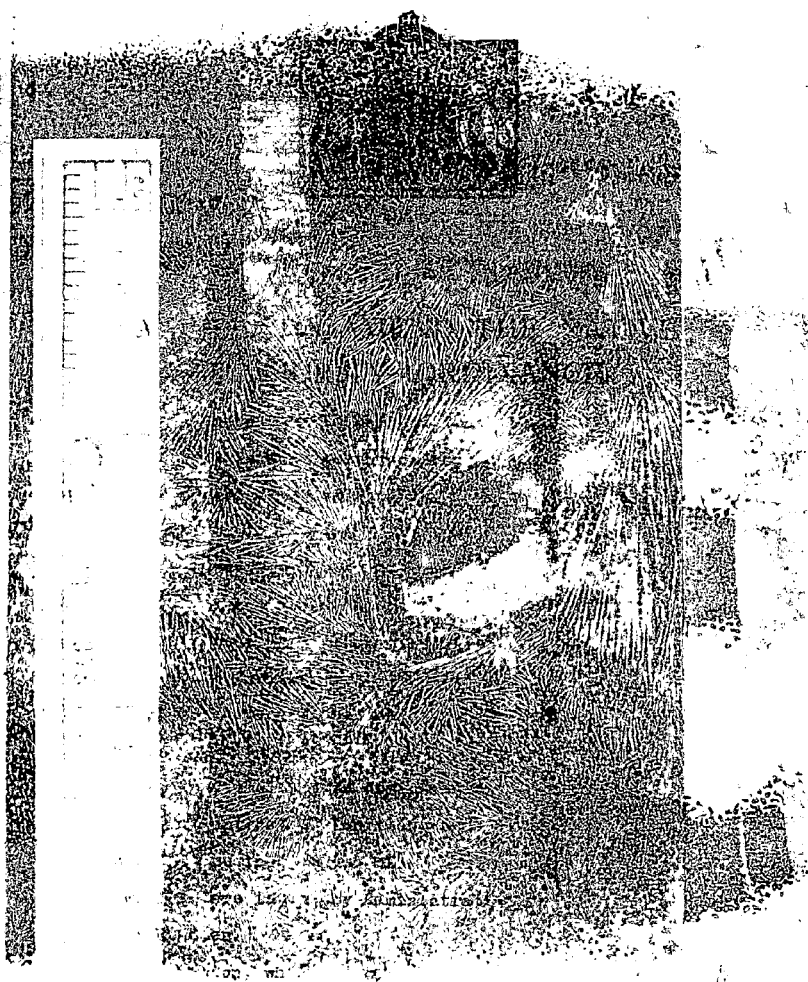
7. I shall be grateful if I may receive your permission by telegraph to print the Bill for criticism and to introduce it into the Council at the May Session.

to be

obedient, humble servant

GOVERNOR.

COLONY AND PROTECTORATE OF KENYA.



A Bill to Amend the Native Authority Ordinance.

BE IT ENACTED by the Governor of the Colony of Kenya, with the advice and consent of the Legislative Council thereof, as follows:—

1. This Ordinance may be cited as "The Native Authority (Amendment) Ordinance, 1928," and shall be read as one with the Native Authority Ordinance (Chapter 129 of the Revised Edition), as amended by the Revised Edition of the Laws (Operation) Ordinance, 1926, hereinafter referred to as "the Principal Ordinance."

Short title

2. Section 10 of the Principal Ordinance is hereby amended and the following section is substituted therefor:—

Section 10 as substituted

10. Any native who shall without lawful excuse disobey or shall fail to comply with any lawful order issued or given by a headman under this Ordinance, or by a senior commissioner or district commissioner under the power conferred by the last preceding section, shall be guilty of an offence and shall, on conviction before a magistrate or before a native tribunal having jurisdiction over the native, be liable to imprisonment of either description for a period not exceeding two months, or to a fine not exceeding seven pounds ten shillings and in default of payment to imprisonment of either description for a period not exceeding two months, or to both such fine and imprisonment.

3. Section 11 of the Principal Ordinance is hereby amended by the deletion of the first paragraph thereof and the substitution thereof of the following paragraph:—

Section 11 amended

Whenever a senior commissioner or district commissioner shall find that any native, being a woman, has been lawfully employed for the occupation of weaving and has been lawfully employed as a weaver, and he shall find that such native has received otherwise than by virtue of a valid contract or other lawful authority, he may order such native to deposit in his said hand or to hand reserved for the time being to him any such native belongings.

4. Subsection (1) of section 26 of the Principal Ordinance is hereby amended and the following section is substituted therefor:—

Section 26 of the Principal Ordinance substituted

26. Such imprisonment as is provided in clause 3442 and operate as a satisfied in or extending period of any local native rate payable under this Ordinance, and any such local native rate shall, on application made to any magistrate by any member of a local native council, be recovered as if it were a fine imposed by the magistrate and shall as it is recovered be paid out of the local native fund.

Section 10 of the Principal Ordinance proposed to be amended.

10. Any native who shall without lawful excuse disobey or shall fail to comply with any lawful order issued or given by a headman under this Ordinance, or by a senior commissioner or district commissioner under the power conferred by the last preceding section, shall be guilty of an offence and shall, on conviction before a magistrate or before a native tribunal having jurisdiction over the native, be liable to imprisonment of either description for a period not exceeding two months, or to a fine not exceeding seven pounds ten shillings and in default of payment to imprisonment of either description for a period not exceeding two months, or to both such fine and imprisonment.

Section 11 of the Principal Ordinance proposed to be amended.

Whenever a senior commissioner or district commissioner shall find that any native, being a woman, has been lawfully employed for the occupation of weaving and has been lawfully employed as a weaver, and he shall find that such native has received otherwise than by virtue of a valid contract or other lawful authority, he may order such native to deposit in his said hand or to hand reserved for the time being to him any such native belongings.

Section 26 of the Principal Ordinance proposed to be amended.

Such imprisonment as is provided in clause 3442 and operate as a satisfied in or extending period of any local native rate payable under this Ordinance, and any such local native rate shall, on application made to any magistrate by any member of a local native council, be recovered as if it were a fine imposed by the magistrate and shall as it is recovered be paid out of the local native fund.

Section 26 of the Principal Ordinance proposed to be replaced.

Disposal of council's funds

30. A local native fund shall be devoted only to such purposes as may be prescribed by any resolution which has been approved by the Governor under section twenty-six.

5. Section 30 of the Principal Ordinance is hereby repealed, and the following section is substituted therefor: Disposal of council's funds

30. (1) A local native fund shall be devoted only to such purposes as may be prescribed by any resolution which has been approved by the Governor under section 26.

Provided that in any case where Government has expended public funds or incurred any liability in consideration of a resolution of a local native council by virtue of which the local native council has undertaken to pay to Government a capital or recurrent contribution from a local native fund, the Governor in Council may, if such local native council refuse or fail to make due payment in accordance with such resolution, order that such payment be made from such local native fund and may further order that any rate necessary to produce the sum required be levied on and collected from the inhabitants of the area in which such local native council is established.

(2) The provisions of sub-sections (2) and (3) of section 26 of this Ordinance shall apply to a rate imposed under this section in the same manner as if it had been imposed by a resolution of a local native council and approved by the Governor in Council.

Interpretation of Ordinance

Clause 1 provides for the amendment of certain enactments which are in force in the Territory, and the Ordinance shall be deemed to be operative.

Clause 2 provides for the amendment of the law so as to enable punishment or imprisonment to be imposed for disobedience to the lawful order of an administrative officer or headman. The existing law provides for the imposition of a fine only and this has been found to be ineffective as a deterrent.

Clause 3 provides for the extension of the section which enables natives who are found occupying land outside a Reserve to be ordered to remove into the Reserve. The existing law applies only where a native is found in occupation of unalienated Crown land. It is now proposed to extend the section so as to apply to the occupation of any land, whether alienated or not, unless such occupation is lawful by reason of a contract (e.g. under the Resident Native Labourers Ordinance, 1950) or other lawful authority.

Clause 4 provides a method of recovery of a local native rate payable under the Principal Ordinance. The law already provides that imprisonment or the imposition of a fine shall not operate as a satisfaction or extinguishment of a rate and it is now proposed that the law should definitely provide that any amount due may be recovered by distress.

Clause 5 is intended to safeguard Government against the possibility of a local native council, after having induced Government to enter into commitments of expenditure relating to education or any other scheme, raising or failing to continue the payments which it has promised.

A BILL TO AMEND THE NATIVE
AUTHORITY ORDINANCE

appearance and do his bit. If the elder ones are sick or away the younger ones do so. I am unable to see any harm in the practice and unless they are ordered by the Headman or some one in authority to do so I fail to see that any offence against the law has been committed.

...invaluable... a commendable public spirit or response... I do not see why they should be... they seem to be invariably employed on... Some I have seen... and that they... with these... be with them, and... woman... the... off a track... to... and... man.

...the Headman and... it is... they must be quite... that they... entirely of... and that in... no... they to be... to...

3. Before arriving at a complete appreciation of the position it is necessary to have some realisation of native mentality, customs and traditions. Community obligations are a commonly accepted factor in the daily life of a native with a community and it is difficult for the native to understand that any particular member of that community is exempt from performing such a part of the common obligations as is suited to his or her condition in life. Small boys from their earliest infancy are trained in the duty of guarding the village herds

A BILL TO AMEND THE NATIVE
AUTHORITY ORDINANCE

appearance and do his bit. If the elder ones are sick or away the younger ones do so. I am unable to see any harm in this practice and unless they are ordered by the Headman or some one in authority to do so I fail to see that any offence against the law has been committed. I would like to see a commendable public spirit of response on the part of the younger ones. I do not see why they should be ordered to do so. They seem to be invariably employed on work for the Headman or other leader. Some of them seem to be very good and that they come with their women to be with them, and one woman I saw was very good. She was off a track and quite able to do it and started to do it. I saw a man.

the Headman and village that if they are to be quite satisfied that they are entirely of the village and that in no circumstances are they to be compelled to do so. Before arriving at a complete appreciation of the position it is necessary to have some realization of native mentality, custom and tradition. Community obligations are a commonly accepted factor in the daily life of a native village community and it is difficult for the native to understand that any particular member of that community is exempt from performing such a part of the common obligations as is suited to his or her condition in life. Such boys from their earliest infancy are trained in the duty of guarding the village herds

here, and small girls as soon as they are able to walk accompany their mothers to market, carrying on their backs native baskets containing perhaps one or two sweet potatoes, and on other days may be seen with their mothers weeding the family fields with miniature hoes. Similarly, when there is a common obligation to be performed in the interests of the cleanliness of the village or for the improvement of local communications, it is natural for the children as well as the old men to lend a hand.

4. It is interesting to observe that in the Report of the International Labour Conference on "Forced Labour", forwarded with Mr. Amery's circular despatch of the 13th of February, 1929, these common obligations are recognized as being so natural to the life of a native village community that on page 282 of the Report it is recommended that "all minor services connected with cleanliness, sanitation and the maintenance of paths and tracks in the immediate vicinity of the village... are normal obligations incumbent upon the inhabitants of the villages and should not therefore be subject to regulations applying to forced labour, though they should remain under the general control of the administration"; and on page 283 of the same report "it is of course certain, where the work exacted is of a light nature, and perhaps also in other cases, that the male adult will be assisted in his work by his family, possibly acting under his compulsion".

5. It is to be admitted that the roads for which forced

83

herds and small girls as soon as they are able to walk accompany their mothers to markets carrying on their backs a large basket containing perhaps one or two sweet potatoes, and on other days may be seen with their mothers weeding the family fields with miniature hoes. Similarly, when there is a common obligation to be performed in the interests of the cleanliness of the village or for the improvement of local communications, it is natural for the children as also for the old men to lend a hand.

4. It is interesting to observe that in the Report of the International Labour Conference on "Forced Labour", forwarded with Mr. Amery's circular despatch of the 13th of February, 1929, these common obligations are recognized as being so natural to the life of a native village community that on page 282 of the Report it is recommended that "all minor services connected with cleanliness, sanitation and the maintenance of paths and tracks in the immediate vicinity of the village ... are normal obligations incumbent upon the inhabitants of the villages and should not therefore be subject to regulations applying to forced labour, though they should remain under the general control of the administration"; and on page 283 of the same Report "It is of course certain, where the work exacted is of a light nature, and perhaps also in other cases, that the male adult will be assisted in his work by his family, possibly acting under his compulsion".

5. It is to be admitted that the roads for which forced

26
6/15

Lordship that -

(a) Government's instructions are explicit and not susceptible of misconstruction to the effect that no one other than able-bodied males may be called out for compulsory communal work.

(b) It is not always possible to prevent the exercise of parental authority by which children are made to perform a reasonable amount of work of such a nature as is suited to their ages.

(c) If it is not always possible to prevent, even if such provisions were desirable, children from voluntarily accompanying or assisting their elders, and

(d) It is not always possible to prevent children from acting as substitutes for their elders.

10. The attitude of Government towards child labour on communal works is expressed in paragraph 2 of the Chief Executive Commissioner's Circular No. 13 of 1924 which reads as follows:-

"Authority for the compulsion of labour is only restricted to able-bodied males.

While there is no objection to women and children helping of their own free will in works for their own benefit they must not be ordered or compelled to do so. If women or children arrive in place of able-bodied males who have been lawfully called upon for any work they should be at once sent back by the officer or overseer in charge of the work and the defaulting males should be prosecuted.

I have, etc.,

(sd) H. M. Moore,

for Governor.