1928

15346

KENYA

CO533/380

1928

15346

Bills to amend (1) the Employment of Natives Ordinance

(2) the Native Registration Ordinance

(3) Resident Native Labourers Ordinance.

Previous

16048/28
10071/27
Sect. 49475/25

Subsequent

16268/30

247

FILE A.

1. Governors Deputy Kenya. 422 A. 2nd July 1928.
Transmits three Bills, namely, a Bill to Amend the Employment of Natives Ordinance, a Bill to Amend the Native Registration Orders, and a Bill to Amend the Resident Native Labourers Order. drafted after meetings of Chief Native Commrs. with [illegible] and Delegates from bodies Requests sanction by Telegram.

Governor Telegram. 7 August 1928
Amendment to wording in No. 1.

Mr Boyd

Before I send this on to Mr Bottomley, you should see the paper, in order that you may consider it more particularly from the point of view of international obligations.

The typed memorandum herewith covers the 3 Bills in detail.

The sections to which you should pay attention are those dealing with hours of labour and juvenile labour — viz pp 24 and pp 25-30 of the print of the Bills (pp 5-8 and pp. 8-12 of the memorandum)

A.C.P. Parkinson
16.10.28

I agree with what is stated on page 6 of the memorandum with regard to the Washington

eight

eight-hour day Convention, and also as to the scrutiny and criticism which any Kenya native labour legislation is likely to receive from the International Labour Organisation. As Mr. Parkinson says, there is to be a meeting of the International Labour Conference next year, and the main subject to be discussed thereat will be questions of forced and indentured labour, with particular reference, no doubt, to conditions in Colonial territories.

19210/21 G.

The International Labour Conference has, since its inception eight years ago, adopted a number of International Conventions, many of which have been ratified by this country. We communicated to the Colonies and Protectorates (including Kenya) in a Circular despatch of the 16th of August, 1921, a series of five Conventions adopted by the International Labour Conference (and ratified by H.M.G.), with a view to ascertaining whether the Colonial Governments desired that their provisions should be extended to their territories. These Conventions dealt respectively with employment; employment of women during the night; minimum age of children to industrial employment; night work of young persons employed in industry; and minimum age for admission of children to employment at sea.

I have looked up the reply from Kenya

Kenya (14086/22). Sir E. Northey expressed the opinion that none of the five Conventions should, at that time (i.e. February, 1922), be applied to the Colony. He continued:-

> "The Draft Conventions regarding Unemployment and the Employment of Women during the night relate to problems which do not exist here.
>
> "Regarding the remaining 3 Draft Conventions, industrial employment in this Colony is on a very small scale and at present the child labour employed is negligible. Nor are children employed to any extent in the native vessels which ply on the Coast. I have however instructed the Chief Native Commissioner to exercise a careful watch over these classes of employment and should the conditions arise to which the Conventions refer the question of their application to Kenya will at once be considered."

Kenya is therefore not bound by any of the particular labour Conventions relating to conditions of labour and employment; nor indeed is she bound by any of the provisions of the Conventions. But as the I.L.O. receives copies of the texts of all Col. labour Ords. Gazettes, proclamations etc. we ought to be satisfied that the provisions of the Kenya Bills are at least not contrary to the principles of the international agreements. I agree generally with Mr Parkinson's criticisms of §§ 25-28 of the first of the Bills.

E.A. Boyd
18/10/22

Mr Ehrhardt
Would you now, please, consider these Bills. I shall desire attention, and you will be given the typed version, to custom

points (including points of drafting) on wh. the opinion of the Legal Adviser seems to be desirable.

A.C.C. Parkinson
17/10/48

Mr. Parkinson,

Subject to my marginal notes to your memo I am in general agreement with you & have no further obsns to make on the draft Bills.

A.E.
19/x

Mr Bottomley

It seemed desirable to examine these 6 bills in detail: see typed memorandum herewith.

The Gov. asks for a telegraphic reply. If the views expressed in the memorandum are accepted by the Dept., it wd. be impracticable to reply by telegraph, & in that case we shd. send a short Tel: saying that there are several points which appear to call for comment & ask Gov. to await receipt of dispatch?

Hence the file comes in [illegible]

A.C.C. Parkinson
19.10.48

I agree, and in spite of any delay there is ample time for the Gov: to study the despatch with his advisers

before he comes to England, where it can be discussed.

I have made some marginal minutes on Mr Parkinson's memo.

The points which arise are extraordinarily varied: many would certainly provoke much comment here which, on this despatch, we would not have the material to meet. Others, such as irregular leave and unemployed squatters, represent a grievance of settlers against other settlers who in effect withhold labour from the open market. One – that of the terms of squatter contracts – raises a point of fundamental policy: whether the permanent withdrawal of tribal natives from the tribes for labour-residence on farms is to be encouraged or not.

? Tel: as proposed & prepare dft. despatch.

W.S. 29.10.48

[illegible] 2/10

13 D. how tel 31 Oct 1928

Mr. Parkinson,

§31 of the Natives Employment bill seems to me open to strong objection.

An impartial person without knowledge of the Kenya circs[x] + personnel wd, I think, hardly credit that such a provision cd be embodied in a serious enactment. The Gov's despatch indicates that some grievance is entertained by some persons owing to other persons granting leave in a certain way but it does not afford any adequate justification of the actual provisions of the cl. To my mind they ~~are~~ wd prove indefensible, if any question arose as to them.

The clause has the appearance of an attempt (1) to prevent a native getting any advantage from the natural competition for his services + (2) to compel employers to refrain from a generous treatment of their servants wh: some other employers may not feel inclined to exercise.

The subject is not, in my opinion, appropriately dealt with by introducing the criminal law. The expression 'wilfully to permit a servant to absent himself' is curious. The object of the word 'wilful' wd seem to be to give a criminal colour to an otherwise innocent act.

[x] But surely it is not fair — or impartial — to examine any enactment or executive act or anything at all 'in vacuo' regardless of the circumstances. The whole point is that the circumstances are unusual. A.C.C.P.

It is difficult to ~~see why~~ appreciate any reason why an employer + a servant shd be prevented by law from entering into any agreement about leave which their interests, necessities or convenience may dictate.

The clause seems to me to reflect + to make difficult the proper human relations wh: shd subsist between master + servant.

I think the cl: shd be deleted.

A.E.
6/11

Mr Buckle
Mr Bottomley

I am sorry there shd be difficulty over this. We have objected to several provisions in the bills, and it seemed desirable not to reject a provision specially asked for by the Ex. Cte of the Convention of Associations — even though that provision (in order to meet unusual circumstances) is unusual in form.

I am afraid that I do not quite agree with Mr Ehrhardt's line of argument. But perhaps we can improve matters by suggesting some revision of the clause, which

would render it less open to attack, while securing the objects aimed at as set out in para 15 of the Dispatch. I have attempted, therefore, an alternative draft section of the memorandum to be enclosed in the Desp. in lieu of the present I (h). Do you think that this adequately meets the position?

A C Parkinson
2/11/28

I think the drafting of Clause 31 is most unfortunate. It gives the impression that its object is to reduce the conditions of employment down to the standard of the worst employers. As a matter of fact, the Governor produces good reason why some provision should be made, but, having regard to the attacks which could so easily be made upon the Clause as drafted I doubt whether that reason would receive due weight. Nor does it seem to me that in order to carry out the object desired, it is necessary that the Clause should be drafted in such drastic and unfortunate terms. I very much, therefore, prefer the alternative put up.

HB 8/11

We may adopt the alternative, and if we are charged with [illegible] in ignorance of local conditions, the answer will be that the conditions should have been clearly explained. Undoubtedly the [illegible] at which they are aiming is that of employers keeping a "retainer" on labour they have no present use for. Whether such an employer is willing to keep the labourer on pay I do not know, but it seems improbable.

[illegible] 9.11.28

above

Mr [illegible] [illegible]

4 To Gov. 828 - 1 Amd - 12 NOV 1928
(w/ccty memo & Cmd 3076) ✓

Seen: I hope we shall be able to get this proposed legislation amended in accordance with the proposals in the memo. I should like to see the reply of the Govr of Kenya when it comes.

[illegible] 15.11.28

5. DUPLICATE DESP. 463 from O.A.G. 25th July, 1929.
~~Enclosing copies Provincial Reports for 1927.~~

ATTACHED VIDE MINUTES ON 15833/1929 Kenya. in view of references to Employment of Natives Bill.

Put/

[illegible]
11/9/29

Kenya reminded as to the draft bills - para 7. of No. 11. on 15833/29. N.A.Dept. Report.

COPY. ORIGINAL REGISTERED 15833/29.

KENYA

No. 463

25th July 1929.

My Lord,

I have the honour to acknowledge the receipt of your despatch No. 455 of the 11th of June, 1929, on the subject of the Annual Report of the Native Affairs Department for 1927.

2. As requested by you in the third paragraph of your despatch I enclose copies of the Provincial Reports for 1927, and I have given instructions that this practice shall be continued in the future.

3. Sureties. An arrangement has been arrived at between the General Manager of the Kenya and Uganda Railway and the Chief Native Commissioner under which the following procedure is observed:-

(1) The General Manager insists that a Contractor before being granted a contract by him must deposit with him a Bank guarantee for the payment of wages due to natives employed on the contract:

(2) The General Manager advises the Chief Native Commissioner of the names of all Contractors employed by him:

(3) The Chief Native Commissioner advises the General Manager of the names of all Contractors who may, at a time

THE RIGHT HONOURABLE LORD PASSFIELD, P.C.,
SECRETARY OF STATE FOR THE COLONIES,
DOWNING STREET,
LONDON, S.W. 1.

time, have defaulted in the payment of native labour:

(4) The General Manager engages that he will not employ any of such Contractors:

(5) The Chief Native Commissioner and General Manager mutually report the names of any Contractors whose solvency may be doubted and no payment is made by the General Manager to such Contractor before a Labour Inspector has declared himself to be satisfied that all wages due to native labourers have been paid

4. In Clause 5 of a Bill to amend the "Employment of Natives Ordinance", copies of which were forwarded to you under cover of Sir Edward Grigg's despatch No. 422a. of the 24th of July, 1928, it is provided that a Magistrate or Justice of the Peace before attesting a contract between a labourer and his employer, may demand from the latter security for the payment of the wages of the former. This Bill has not yet been introduced into Legislative Council in view of Mr. Amery's despatch No.528 of the 18th of November,1928, in which he asked that certain proposals incorporated in that Bill and in the Bills to amend the Resident Native Labourers' Ordinance and the Registration of Natives Ordinance should receive further consideration. These proposals have been the subject of discussion between the Attorney-General and the Acting Chief Native Commissioner and I hope, in the near future, to transmit to you for your approval, these three Bills so amended as to meet your wishes.

5. Advances of wages. By Clause 33 of the Bill referred to above to amend the Employment of Natives Ordinance, it is provided that no person shall give or promise to a native any advance exceeding one month's wages on a condition expressed or implied that the native or any dependent of his shall enter upon or extend any period of employment.

6. Compensation for death or injury. As previously stated I do not consider that industrial conditions in this Colony at present warrant the introduction of any form of Employers' Liability Act. I do not, therefore, propose at the moment to introduce any such measure, but the situation is being carefully watched and a Bill to provide for compensation will be introduced if the necessity for such a step becomes apparent. In the meantime compensation is being paid on a definite scale.

7. Housing, Feeding, Sanitation and Medical attention. Clause 21 of the Bill referred to above to amend the Employment of Natives Ordinance provides that the Governor-in-Council may make rules for :-

(a) the housing accommodation of servants including sanitary arrangements:

(b) the feeding of servants in cases where food is to be supplied by the employer under the contract of service including the amount, kind and variety of food to be supplied: and

(c) Medical attendance on and supply of medicine to servants.

I am of opinion that these powers are sufficiently comprehensive and this Government will no doubt avail

itself of them in the event of their becoming law.

I have the honour to be,
My Lord,
Your Lordship's most obedient,
humble servant,

J. W. BARTH
ACTING GOVERNOR.

15346/28 Kenya.

Mr. Ormsby-Gore
Mr. Shuckburgh
Mr.
Mr. Bottomley.
Sir E. Harding.
Sir J. Shuckburgh.
Sir G. Grindle.
Sir C. Davis.
Sir S. Wilson.
Mr. Ormsby-Gore.
Lord Lloyd.
Mr. Amery.

DRAFT.

KENYA.

NO. 828

Gov. Grigg.

Memorandum. (Cmd. 3076) Dft. herewith.

2 dfts.

Downing Street.

12 November, 1928.

Sir,

I have the honour to acknowledge the receipt of your despatch No.422A. of the 24th July and your telegram No.201 of the 7th August on the subject of certain amendments which it is proposed to make in the legislation regulating the relations between employers and native servants in Kenya.

(2) The three draft Bills which were submitted with your despatch have been carefully examined; and while there are a number of proposed amendments with which I am in full agreement, more particularly those which relate to the abolition of recruitment of native labourers by professional labour agents, there are also proposals incorporated in the Bills which, I think, are open to

objection

objection or require further consideration.

(c) The enclosed memorandum which I have had prepared, embodies the observations which I have to offer on the Bills. For convenience, the points discussed in the memorandum are taken according to the numerical order of the clauses upon which they arise. Some of them, namely those dealt with in I (e), I(f) and III (d), are obviously of much greater importance than others.

I have, etc.,

(Signed) E. AMERY

Draft

I. Bill to amend the employment of Natives Ordinance (Revised Laws Chapter 139)

(a) § 5. It is possible that a native who is engaged for an indefinite period may fail to appreciate the fact that he is deemed to be under a contract determinable only upon a month's notice, and it is for consideration whether it would not be preferable to omit this clause and to meet the difficulty referred to in paragraph 5 of the despatch by the avoidance of all indeterminate engagements, the servants in question being engaged as a matter of course on a monthly contract.

(b) § 11. It is not clear, having regard to the definition of "desertion" in § 2, why the words " A servant employed under a thirty-day contract or under a special contract may be guilty of desertion" are inserted. Prima facie these words appear to be unnecessary.

(c) § 16. It is observed that under § 21 the Governor in Council may make Rules prescribing, inter alia, the acts requisite or necessary to be performed by an employer in respect of the feeding of servants in cases where food is to be supplied by the employer under the contract of service, including the amount, kind and variety of food to be supplied. There is however similar provision in § 77 of the Principal Ordinance for which § 21 of the Bill would be substituted; and it is not

not understood why § 69 (4) of the Principal Ordinance need now be repealed.

(d) § 23. It is not clear how far an employee engaged upon task work will be subject to the general disciplinary provisions of the law.

(e) § 24. This clause provides that an unskilled labourer may be required to work on any day for a period of nine hours exclusive of time allowed for meals. According to the information contained in the Kenya Blue Book, the working hours (in a week for all forms of labour) are 48, that is to say, eight hours a day. Generally speaking, according to the information available in the Colonial Office, the average number of hours worked in a week (without overtime) throughout the East African Dependencies is 48 or less, except in domestic service (the hours for which cannot be stated with precision). In the circumstances it is desired that the provision in this clause should be amended by the substitution of "eight hours" for "nine hours".

(f) §§ 25 to 28. While the provisions in clauses 25(1), 25(2), 25 (3) and 26, which serve only to protect the native juvenile, are not open to objection, the provisions in clauses 25(4) and 27 are in a different category. In this connection reference is invited to the correspondence in Part I of Cmd. 3076 (Papers relative to the Southern Rhodesia Native Juveniles Employment Act, 1926, and the Southern Rhodesia Native Affairs Act, 1927).

Cmd. 3076.

Under

Under clauses 25(a) and 27 there would be compulsory contracting of juveniles by District Commissioners, and Government Officials would ~~then~~ thus be placed in a position in which they could be accused of acting as labour recruiters; the system of contracting as contemplated by clause 27 would apply to female as well as to male juveniles; and no provision is made for a minimum age for the employment of juveniles. In all these respects the clauses would be subject to attack as were the similar provisions in the Southern Rhodesia law from which they are adapted. Further, it is observed that the provision in clause 25 (4) goes considerably beyond that in the corresponding Southern Rhodesia law, inasmuch as the District ~~Officers~~ Commissioners would be given power to override the objections of a juvenile's father or guardian if they are satisfied that permission for employment is unreasonably withheld by the father or guardian.

In all the circumstances it is considered necessary that both clause 25 (4) and clause 27 should be omitted; and provision should be made (i) specifically directing that where there is a parent or a guardian living, the District Commissioner shall withhold the certificate, if the parent or guardian is unwilling to grant permission, and (ii) specifying a minimum age below which no juvenile shall be allowed to contract for service. It is suggested in regard to (ii), that the apparent age of ten years should be adopted as

the

(h) § 31. It is recognised that the circumstances in which this clause has been drafted, as explained in paragraph 15 of the despatch, are unusual and that provisions of an unusual nature may be required in order to meet the difficulty in question. At the same time it is felt that the clause as drafted is open to criticism. It is thought that there would be less ground for objection if employers were prohibited from granting leave to their servants in excess of a stated period unless full wage is paid to the servant while on leave after that period has expired; and if there were a proviso to permit of leave for a reasonable length of time "on urgent private affairs" without wage being granted.

If the clause is revised on these lines, the opportunity could be taken to make it clear that the incidence of the cost of leave certificates (sub-clause 3 -c) would be on the employer; and further, if sub-clause 6 is retained, provision should be made rendering it compulsory (so as to avoid any possibility of misunderstanding) for the prospective employer to state, when engaging a native, whether or not wages are to be paid during any normal period of leave - i.e. leave within the stated period referred to above.

[Alternative for para (h) as in draft submitted with despatch]

(h) § 31. It is recognised that the circumstances in which this clause has been drafted, as explained in paragraph 15 of the despatch, are unusual, and that provisions of an unusual nature may be required in order to meet the difficulty in question. At the same time, it is felt that the clause as drafted is open to criticism. It is thought that there would be less ground for objection if employers were prohibited from granting leave to their servants in excess of a stated period unless full wage is paid to the servant while on leave after that period has expired; if there were a proviso to permit of leave for a reasonable length of time "on urgent private affairs" without wage being granted.

If the clause is revised on these lines, the opportunity could be taken to make it clear that the incidence of the cost of leave certificates (sub-clause 3 -c) would be on the employer; and further, if sub-clause c is retained, provision should be made rendering it compulsory (so as to avoid any possibility of misunderstanding) for the prospective employer to state, when engaging a native, whether or not wages are to be paid during any normal period of leave - i.e. leave within the stated period referred to above.

the minimum.

(5) § 29 The intention, ~~according to the~~ despatch, is that labour forwarding agents are not to undertake active recruiting; they should be dealing solely with natives who offer themselves voluntarily for engagement. It would appear however that clause 29, as drafted, seeing that there is a proviso that "nothing in this section contained shall apply to..... a labour forwarding agent", would permit a labour forwarding agent to "procure" or "attempt to procure" or "seek for engagement" natives "to be employed in work or labour of any kind". If this interpretation is correct, some re-drafting will be necessary in order to give effect to the intention of the Government.

(6) § 31. Three points of detail arise:-

(i) Under sub-clause 3(c) every leave certificate is to bear a one-shilling revenue stamp. Nothing is stated as to the incidence of this charge, but it is assumed that it will be borne in every case by the employer.

(ii) Under sub-clause (f) no wages would be paid to a servant for the period of leave unless there is express agreement to the contrary. It seems essential that it should be clearly understood by a native when he engages that he will not receive pay while he is on leave unless this is specifically provided for; it is suggested therefore that, in order to prevent possible misunderstanding, provision should be made to render it compulsory for the prospective

Think this cl. should be deleted for the reasons given in another minute on the file attached (1534).
L.F.
6/11.

for alternative see in lieu of (h) page [illegible]

prospective employer to state, when engaging a native, whether or not wages are to be [illegible] during any period of leave.

(iii) It would appear that, under this clause as drafted, an employer would not be empowered to grant leave, with or without pay, if when making the contract no leave was contemplated, even though subsequently circumstances should arise which would make the grant of leave desirable. It is for consideration whether provision should not be inserted to give the employer power, in such circumstances, to grant leave.

(i) § 32. It is desired that the procedure provided for should be regarded as experimental only, and that a report may be furnished 12 months after the new law comes into force i) showing the total number of complaints which have been made by employers, and the number of cases if any in which complaints having been found to be materially untrue, action has been taken under sub-clause 2; and (ii) as to the working of the system generally.

II. Bill to amend the Native Registration Ordinance (Revised Laws Chapter 127)

(a) § 8. It is suggested that, in view of clause 2, it would be desirable to add words to the following effect:-, "or a certificate of further service in lieu of such endorsement of discharge".

III. Bill to amend the Resident Native Labourers Ordinance, No.8 of 1925.

(a) § 3(2) It is considered that the objection of ~~objection~~ delegation seeing

seeing that formalities such as this sub-clause introduces, are complied with should rest primarily upon the occupier, not upon the native; and it is suggested that the sub-clause should be redrafted so as to read:-

"On the termination of such contract the occupier shall endorse the date of such termination in the column of the native's registration certificate provided for the date of discharge. It shall be the duty of the native on the termination of the contract to request the occupier to make such endorsement, but failure on the part of the native to make the request shall not relieve the occupier of responsibility for making the endorsement".

(b) § 4. It is not understood why it is thought necessary to insert the word "male" before the word "native" in line 1 of this clause.

(c) §§ 8 and 10 (b). The need for making the provisions contained in these clauses is not appreciated, and it seems doubtful whether it would be advisable to include them in the Bill even "for discussion". In any event, for the reasons stated in the despatch, there can be no necessity to alter the minimum number of days' work in the year which the occupier shall provide, now fixed at 180. If however clause 8 is to be included in the Bill (without the alteration from 180 to 270 days), a further opportunity of considering the matter before publication of the Bill is desired, and for this purpose a fuller explanation of the position would be required, more particularly

in

in regard to (i) the "collection" of natives by occupiers who do not give them employment and the extent to which such a practice has in fact grown, (ii) the nature of the danger to the public which is said to arise from the action of such occupiers

(d) § 9. Under this clause power would be given to the Governor to direct that any native resident on a farm shall be removed and the squatter contra rescinded, if it appears to the Governor that the residence of the native on the farm has led or is likely to lead to any crime or breach of the peace Unless otherwise directed, such native would go ba to his Reserve, and the expenses involved would be recovered from the occupier who could recover them from the native in question or from the head of th natives family. In the form in which the clause is drafted, it is open to strong objection, and it would hardly be possible to accept it. If the Government desires to introduce legislation which would give the Governor the power to direct removal of native squatters from farms in cases in which t native has been duly charged and found guilty of stock theft or produce theft, such a proposal could be considered ; but even in that case it is not thought that the provision in sub-clause 3 which wo permit of the expenses of removal being recoverable from the native concerned or from the head of his family could properly be retained.

§ 10 (a) It is felt that the advantage lies in the retention of the existing maximum of three years for a squatter's contract, despite the safeguard provided by the fact that such contracts are

terminable

terminable at six months' notice on either side. There is always the risk that a native may not understand that he is at liberty to give notice, and even if he does give due notice, the termination of the contract is still dependent upon the decision of a magistrate, against whose decision there is apparently no appeal. If the present limit of three years is retained, the contract can always be renewed, should both parties so desire. It is suggested therefore that no alteration should be made in the law as it now stands, and that clause 10 (a) should be deleted from the Bill. It is also requested that information may be furnished in regard to the working of the present arrangements for the termination of these contracts, more particularly whether there have been many applications made for the termination of contracts, whether magistrates have had occasion to withhold consent, and if so, on what grounds they have reached that decision.

15346/28. TELEGRAM from the Secretary of State for the Colonies to the Governor of Kenya.

(Sent 12.45. 31st October, 1928.)

31st O[illegible]

Your despatch of 24th July No. 422 A proposed amendments of labour legislation [illegible] several points which cannot conveniently be dealt with by telegraph. Please await despatch which follows.

Mr. Ormsby Gore 3
Mr. 22
Mr.
Mr. Bottomley.
Sir E. Harding.
Sir J. Shuckburgh.
Sir G. Grindle.
Sir C. Davis.
Sir S. Wilson.
Mr. Ormsby-Gore.
Lord Lovat.
Mr. Amery.

12.45 pm
31.10.28

DRAFT. Tel (Cable)

Governor
Nairobi

31st October 1928

Your Dispatch No. 422 A
proposed amendments
of Native legislation
raise several points
which cannot conveniently
be dealt with by
telegraph & please
await dispatch which
follows.

Secretary of State for
Dominion Affairs.

I. Bill to amend the Employment of Natives Ordinance (Chapter 139 R.L.)

§ 2. Additional definitions.

(i) "A simple definition" of the term desertion is now provided, viz. "absence of a servant without lawful excuse for a period exceeding seven whole consecutive days from his employer's service".

This definition is required in connection with § § 11 and 32 - see below. It replaces, in effect, § 48 (5) of the Ordinance ("If he shall without lawful excuse depart from his employer's service with intent not to return thereto").

Prima facie, this definition of "desertion" is not unreasonable.

(ii) Definitions of "Labour forwarding agent" and "Private recruiter" are required in connection with § § 10, 29 and 30 - see below. The definitions appear to be satisfactory: there is no objection to Government officials recruiting labour required for Government purposes.

§3. Security for payment of wages.

An excellent provision designed to protect natives who engage for labour by ensuring that there should be security for payment of wages. The power to demand security for payment is permissive only: the circumstances will determine whether it is a case in which such security is necessary in the interests of the native.

§ 4. Amendment to § 9(b) of Principal Ordinance.

Clearly Tanganyika should be added in the proviso, which already permits an employer of a domestic

domestic servant or [illegible] sailor to take the servant to Uganda and Zanzibar or to any port on Lake Victoria. The existing law must have been broken many a time when persons resident in Kenya have taken their personal servants into Tanganyika (other than Tanganyika ports on Lake Victoria).

§ 5. Determination of contract.

As the law now stands, if a contract does not fix the wages or if a contract provides for payment of wages at any period or any rate other than monthly, it is regarded as a contract at will terminable on either side at the close of any day without notice.

The new clause provides that all servants other than "unskilled labourers" (i.e. ordinary farm labourers, fuel cutters, water carriers, navvies or other unskilled workers - see definition in § 2) shall be regarded, in the absence of any agreement to the contrary, as under a contract determinable on either side on one months notice or payment of one month's wages. This is to prevent servants in special employment, e.g. domestic servants, chauffeurs, syces, herdsmen, leaving their work without giving reasonable opportunity to the employer to replace them.

The parallel quoted is § 3 of Fiji Ordinance No.1 of 1890, under which unwritten agreements are deemed to be for one month.

The Legal Adviser should consider this and say whether, in principle, there is objection which could reasonably be taken to the clause on general

grounds

grounds of law. In any case, one way to get over the difficulty would be for employers to avoid indefinite agreements and engage their servants on a monthly payment basis. The proposed clause is perhaps open to objection as weighting the scales too much in favour of the employer, as a native engaged "indefinitely" is hardly likely to appreciate the position, and it might be preferable even if there is no objection on general grounds, to ask Governor to delete this provision and to suggest the end in view be secured by the avoidance of these indefinite agreements or contracts?

I am in favour of the deletion. S/2(a) of the Ordce: as it stands expresses the normal, a departure from wh: shd be specially stipulated for. A person enters into an indefinite engagement with the idea that if it does not suit him he can quit it as ~~[illegible]~~ laid down in this section. Legal compulsion on him to stay on longer than he might reasonably be taken to intend is open to objection. A.L.

As it is for "servants" & not unskilled labourers I do not see much objection. G.C.S.

§ 6. Prolongation of contract expiring on journey.

The new limitation of one month's prolongation is clearly a desirable amendment.

§ § 7. 8. 9. No comment.

§ 10. Labour Agents.

The clause repeals the existing legislation relative to the recruiting of native labour by professional labour agents. It is a most welcome change; but if the evils of the present system are such as paragraph 9 of the despatch indicates, it is a most discreditable thing - and shows up the local administration in a highly unfavourable light - that the present arrangements should have been allowed to continue so long.

When these Bills are disposed of, the Department should examine Uganda and Zanzibar legislation in order to ascertain the position in regard to professional labour recruiting in those Protectorates, and consider asking the Governor and Resident to

follow

follow the new Kenya practice, if the circumstances are at all analogous.

§ 11. Desertion.

This clause provides for fines up to £7.10s. or imprisonment up to 6 months for a native guilty of "desertion" (see new definition in § 2). The existing law reads, not "if he shall be guilty of desertion", but "if he shall without lawful cause depart from his employers service with intent not to return thereto".

Assuming that the definition of "desertion" is accepted, this amendment is not open to objection.

The sentence relating to 30 days + special contract seems to me unnecessary + likely to cause confusion. We may ask about it - no doubt the point has arisen in practice. A.E.

§ § 12.13.14.15. No comment.

§ 16. Supply of food to native servants.

This clause repeals § 69 (4) of the law, which provides that a Government Medical Officer may order the supply of such variety of food for a servant as he deems necessary, subject to certain provisions as to cost.

This repeal is not, as stated in the despatch, "self explanatory". Under § 21 which amends § 77 of the existing law, the Governor in Council may make Rules prescribing, inter alia, what an employer shall do in regard to the feeding of servants where food is supplied by the employer under the contract of service, and the Rules may prescribe the amount, kind and variety of food to be supplied. But there is already exactly similar provision in § 77, so this does not account for the repeal of § 69 (4). It may be that in view of the rule-making

power,

power, § 69 (4) is considered otiose, but we might enquire as to the reason for its repeal ?

§17. No comment.

§18. Repeal of § 72 of Principal Ordinance.

This follows on the repeal of the legislation relative to the recruiting of native labour by professional labour agents - see § 10. There are other similar consequential amendments included in later clauses, e.g. § 19, § 20, § 22.

§ § 19. 20. No comment.

§ 21. Power of Governor in Council to make Rules.

This amending clause is more comprehensive and detailed than the section which it replaces. The provision in (viii) - i.e. "prescribing classes of employment in which native juveniles may not be employed" - is a useful addition.

§22. No comment.

§§ 23, 24. Task work.

(See also new definition in § 2 of "task", i.e. "that extent of piece work that can be performed by an ordinary able-bodied native in six hours working diligently at such work" and "task work", i.e. "any work the pay for which is estimated by the amount performed irrespective of the time occupied in its performance".)

The despatch merely states that these provisions are necessary for the purposes of clarity and that in the Governor's opinion they are reasonable. § 23 appears to be unobjectionable. But § 24 raises a point of importance, viz. the length of the working

day

day for unskilled native labourers.

The provision now made is for a 9 hour day exclusive of the time allowed for meals. It is to be regretted that in the Governor's despatch there is no discussion of this and no attempt made to justify the provision made. It may be that for natives working for Europeans in Tropical Africa a working day of 9 hours exclusive of meal times is right and proper; but this is not a self-evident proposition. As His Majesty's Government have never ratified the Washington 8 hour day Convention, there is no international obligation which would prevent the acceptance of the arrangement proposed in this clause. But in this connection it should be remembered that the League of Nations will be holding a special "labour" conference next year and all our Colonial labour legislation may be subjected to scrutiry and criticism: hence, there is all the more reason for proceeding cautiously in regard to a proposal of this kind. The position in this matter of hours generally in Eastern Africa, according to the information which, in accordance with Colonial Office request, is now furnished in the Blue Books, is as follows:-

Kenya.

Working hours per week - 48 for all forms of employment without distinction.

Uganda.

Average number of hours worked per week without overtime:-

Government

Government employment	46½.
Agricultural	43½.
Industrial	
Manufactures	50.
Non-Government building	48.
Domestic service (?)	71.

Zanzibar.

Average number of hours worked per week without overtime in all employment (other than domestic service) - 48. But for coconut-picking and for clove-picking, labourers engaged for piece work are shown as working only 24 hours per week.

Tanganyika.

Average number of hours per week worked without overtime -

Government employment	(Not stated)
Agricultural	48.
Industrial	
Manufactures	48.
Building	48.
Mines	40.
Transport	42.
Lighterage	40.
Domestic service	48 - 42.

Nyasaland.

Average number of hours worked per week in all forms of employment (other than domestic service)-45. It will be seen, therefore, that the normal working day in Kenya has hitherto been an 8 hour day, and that with one exception of a 50 hour week for "manufactures" employment in Uganda, the total number of working hours in a week (other than in domestic employment where the working period is necessarily a doubtful and indefinable quantity) is throughout British East Africa 48 or less.

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In the circumstances it would seem most undesirable to agree to a 9 hour day, as proposed in s 24 of the Bill, at any rate without very full examination and consideration of any special circumstances that may be held to justify such a measure. The Governor's attention should be drawn to the position generally, as we understand it, and (he should be) requested to substitute 8 for 9 in this clause, leaving it to him to protest and justify the original proposal if he wishes ?

Lord

§§ 25-28. Employment of native juveniles.

The Governor explains that the time has come for regulating as well as encouraging within certain limits the employment of juveniles. Accordingly §§ 25 to 28 have been adapted from the Southern Rhodesia Native Juveniles Employment Act, 1928.

A copy of the Southern Rhodesia Act referred to appears as the enclosure to No.1 in Part I of Cmd.3076 herewith. (annexed below)

It is remarkable that the Kenya Government should, so lightheartedly, incorporate in the Bill provisions which can hardly fail to give rise to violent criticism in this country, and probably, in some quarters in Kenya itself. But the despatch contains only a brief ~~perfunctory~~ statement by way of explanation, and there is nothing to show that the Government have appreciated what they are doing. Yet it is curious that the framers of this measure should not have seen in the English papers and in the East African press something of the bitter attack made upon the Government of

Southern

Southern Rhodesia (which was undoubtedly well-meaning in what it did), the slogan of which, initiated by the Westminster Gazette, was "Child Slavery in Southern Rhodesia". It will be seen from Part I of Cmd.36[illegible] that the Anti-slavery and Aborigines Protection Society and the Peace Committee of the Society of Friends took the matter up strongly; and that there were numerous questions in Parliament; and ultimately the Prime Minister (who had assumed the duties of Secretary of State for Dominion Affairs) had to deal on the adjournment with an attack upon the Rhodesia Native Affairs Act in which the native juvenile Employment Act had served as a sort of preamble.

While some of the provisions in these clauses of the Kenya Bill are probably unobjectionable from everyone's point of view, viz § 25(1) (2) and (3) and § 26, which in effect protect the native juvenile, the provisions in § 25 (4) and 27 apparently include all the features to which such strong exception was taken in the case of Southern Rhodesia, viz. (a) compulsory contracting of juveniles by District Officers with the consequent charge that Government officials are acting as labour recruiters (b) the absence of a minimum age limit for such juveniles (since fixed in Southern Rhodesia at ten years) (c) the application of this system to females as well as males.* As regards the whipping of male juveniles, to which strong exception was taken in connection with Southern Rhodesia Act, this particular Bill is silent; but it should be noted that § 46 of the Principal Ordinance remains untouched, and that provision

* cf. N.R.L. Laws. Ch. 63 'Vagrancy Ordinance' which applies both to males & to females.

provision is there made for juveniles to receive a caning up to 16 strokes in lieu of any other punishment to which they would be liable under the Ordinance.

In addition, the proposed Kenya legislation imports a feature which did not appear in the Southern Rhodesia Act and would undoubtedly (and, indeed reasonably) give rise to criticism in this country, viz: the provision in § 25 (4) that the District Commissioner may override the objections of a juvenile's father or guardian if he (the District Commissioner) is satisfied that permission is "unreasonably withheld" and thereupon issue a certificate for the juvenile enabling him to seek employment.

Further, it should be noted that § 28 excludes "apprenticeship contracts" from the provisions in §§ 24 to 26 (see §§ 16 to 23 of the Principal Ordinance for "apprenticeship contracts"), and whatever the true merits of the case, this clause by excluding "apprenticeship" eo nomine will lend colour to the allegation, which is sure to be made as in the case of Southern Rhodesia, that what the Government is now authorising is "indentured labour".

It should be remembered that the "responsibility" of the Secretary of State for Dominion Affairs for action taken by the Government of Southern Rhodesia, even in respect of native affairs, is not the same as that of the Secretary of State for the Colonies

Colonies for action taken by the Government of Kenya, which is a Colony not possessing responsible Government. In the latter case the Secretary of State's responsibility is complete and unrestricted in any way whatever. The Secretary of State for Dominion Affairs defended the action of the Southern Rhodesia Government, so far as it could be called in question in the House of Commons here. But that is quite a different thing from the Secretary of State for the Colonies approving with his eyes open, proposals made by the Government of Kenya which, however well intentioned, are bound to provoke the strongest criticism in this country. It is not at all clear that in Kenya such powers are really needed at all, and it is noteworthy that the Government of Southern Rhodesia took the line that in point of fact Native Commissioners would exercise their power of compulsory contracting of juveniles comparatively rarely. If however, the Government of Kenya were to press for legislation on the lines of §§ 25 (4) and 27 of this Bill, and could put forward a reasoned case for it and show not only that it is necessary in the light of local conditions but also that complete safeguards against abuse can be established, it is possible that the Secretary of State might then feel justified in giving the Kenya Government authority to proceed and letting loose, in so doing, the flood of criticism which would come from the many interested quarters in this country both inside and outside Parliament,

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in addition to the groups which are only too ready to find yet another instance of "anti-native policy" in Kenya. But as things are - and perhaps more particularly at this juncture - it is hardly conceivable that the Government of Kenya should be authorised to legislate as in ss 25 (4) and 27 of this Bill, and it is suggested (i) that the Governor should be instructed to delete these clauses (ii) that in lieu of s 25 (4) there should be a clause to the effect that where there is a parent or guardian living, the District Commissioner shall withhold the certificate if the parent or guardian is unwilling to give his permission;
(iii) that a minimum age for the contracting of juveniles must be specifically provided for, and suggest that this should be the apparent age of ten years as in Southern Rhodesia.
If action is taken on these lines, the Governor's attention should be called at the same time to the correspondence in Cmd.3076, [redacted]

ss 29,30. Recruiting and labour forwarding agents.

These clauses cover the arrangements to be substituted for the professional labour recruiting which is to be abolished. The explanatory passage in paragraph 10 of the despatch observes that no labour forwarding agent is to undertake active recruiting, but will be dealing solely with natives who offer themselves voluntarily for engagement. That

is

is, of course, sound; but it is not clear that the clauses as drafted ensure this. Can not the proviso in lines 5 and 6 of § 29 be read as meaning that a private recruiter or a labour forwarding agent may "procure" or "attempt to procure" or "seek for engagement" n[illegible]ves for work ? If so, where is there provision to ensure that this procuring etc. shall relate only to a native who volunteers for work ? The Legal Adviser will no doubt examine the clauses from this point of view and advise whether some instructions as to amendment should be given or at least enquiry made.

§ 31. Leave.

The provisions of this clause certainly seem somewhat unusual. They are explained in paragraph 15 of the despatch. The new law will give the employer a certain amount of trouble in the way of providing leave certificates etc., but as the Executive of the Convention of Associations have asked for these provisions, presumably they will be acceptable to the Unofficial element of the Council; and if the Government of Kenya wishes to adopt the measures proposed in order to prevent the unfair practices of less reputable employers there is no occasion for exception to be taken to them here ? There are however two detailed provisions worth considering:-

(a) Under sub-clause 3 (c) each leave certificate is to have a shilling revenue stamp. Who is to pay ? the employer or the servant ? or are they to divide the cost ?

On

On this point it might be well to make enquiry observing that it is assumed that the cost will be borne by the employer.

(b) Under sub-clause 6 no wages are to be paid to a servant for the period of leave unless there is express agreement to the contrary.

The average District Officer in Kenya would indeed be surprised if it were to be suggested that he could do without pay during his local leave. However, the conditions may not be altogether parallel. But it is essential that it should be clearly understood by the native when engaging that he will not have pay while on leave unless this is definitely provided for, and it would be worth suggesting that, in order to ensure that there shall be no misunderstanding provision should be made to render it compulsory for the prospective employer to state when engaging a native whether or not wages are to be paid for any period of leave ?

§ 32. Complaints by employers.

This clause fits in with § 11 and the new definition of "desertion" in § 2 - see above. The explanation of the clause is in paragraphs 11 and 12 of the despatch. There is no question of reviving the objectionable practice whereby offences under § 48 (5) of the Principal Ordinance - since repealed in 1925 - were cognisable to the police and a native who was accused of desertion from his employment could be arrested without warrant. But to meet the local circumstances, the Government have devised the

procedure

procedure in this clause, so that " an employer can lay information against an absconding servant without having to leave his farm and travel many miles to a Magistrate's Office and back". Provision is made in sub-clause 3 designed to prevent the system of complaint in writing with a view to the issue of a warrant for a servants arrest being abused.

There is obviously much to be said in favour of the proposed procedure, when local conditions are taken into account. At the same time it would be desirable to watch carefully how it works, and it would be well, if the clause is accepted, to make it clear that it is to be regarded as an experiment and that a report should be furnished after 12 months from the time when the new law comes into force showing (a) the total number of such complaints made (b) the number of cases (if any) in which the complaint has been found to be materially untrue and action taken under sub-clause 3 and (c) as to the working of the arrangement generally ?

I agree. It should not be made too easy for a servant who has left his master to be dealt by the Courts on the ground of alleged desertion.

§ 33. Advance of wages.

A useful provision to prevent an unsuspecting native from being given large sums in advance on account of wages as an inducement to take service with this or that employer, with the result that the native has a mill-stone of "debt" about his neck which has to be worked off before he is in a position to receive cash wages.

§34. Penalties. Schedules I.II.III.IV.

No comment.

38 16

II. Bill to amend the Native Registration Ordinance.

§ 2. Certificate of further service in lieu of discharge. (See also schedule to the Bill). The object of this amendment is explained fully in paragraphs 17 and 18 of the despatch. It is designed (with due safeguard against abuse in sub-clause 4) to meet the native point of view. If the native employee has himself to ask for a certificate of further service instead of an endorsement of discharge, and if, further, he is at liberty to change his mind during the first fortnight after leaving his employer, there should be no question of the native being unduly influenced by the employer in the matter.

The provision may be accepted as unobjectionable?

§§ 3.4.5.6. Detailed amendments of the Principal Ordinance.

These do not call for comment, except possibly § 5. Perhaps the Legal Adviser will say whether there should be an addition to this clause, so as to fit in with § 2, e.g. words to the following effect :- "or a certificate of further service in lieu of such endorsement of discharge".

I think Mr Hall A.C.

III. Bill to amend the Resident Native Labourers Ordinance, 1925.

§§ 2.3.4.5.6.7. "Squatter" contracts, endorsements etc.

The main object of these clauses is to provide necessary and proper records for the protection both of occupiers of squatters and squatters, and to ensure that reliable labour statistics required by the Government are obtained. It would seem from paragraph 20 of the despatch that a ruling in the

the Courts on a technicality as to "tenants" and "servant" has brought the matter to a head.

In addition, § 6 (see also the Schedule) has the effect of ensuring that the "squatter" native should be free to dispose of his services if he wishes, and as he wishes, during any periods for which his "squatter" contract does not require his services to be at the disposal of the "occupier". In general the clauses appear to be acceptable, but there are two points of detail :-

(a) In § 3(2) it is not clear why the obligation should rest solely on the native to "request the occupier to endorse the date of termination ....." In any case the phrase "every native shall ....." is not very happily drafted. It might be suggested that the clause should be re-drafted so as to place the primary obligation upon the occupier - e.g. "On the termination of such contract the occupier shall endorse the date of such termination ..... date of discharge. It shall be the duty of the native on the termination of the contract to request the occupier to make such endorsement, but failure on the part of the native to make the request shall not relieve the occupier of responsibility for making the endorsement" ?

(b) In § 4 (line 1) the word "male" is inserted before "native" . The necessity for this is not clear and enquiry might be made ?

§ 8 and § 10 (b) Occupier to provide employment contracted for.

The object of these clauses is to ensure that the "occupier" shall provide employment for not less than

than 270 days in any one year for each person for whom under the contract he is under an obligation to provide employment, or alternatively he must pay wages for not less than 270 days in the year.

According to the Schedule to the Principal Ordinance (No.5 of 1925) the contract to be made in these cases provides that "the native and every male member of his family who is of the apparent age of 16 years or over and is resident on the occupier's farm, and who is not working under the law relating to master and servants, shall each work for the occupier at such times as the occupier may direct, for not less than — days at the election of the occupier in each period of 12 months, and that the occupier shall provide employment for the native and for such male members of his family for such number of days". And in accordance with the law, as it now stands, the blank for the number of days must be filled with a figure not less than 180, but the number may be greater if agreed between the "occupier" and the native.

But there is apparently no statutory obligation upon the "occupier" to make the native do the 180 days work in the year, and the average native is not likely to bring an action for breach of contract because the "occupier" does not work him often enough. Hence, according to the despatch, "occupiers" in some cases deliberately "collect" natives on their land without employing them and this is "a danger to the public". The Governor goes on to say that he need not enlarge on the

evils

evils of "Kaffir-farming" and he considers clause 8 to be necessary in principle.

As regards the minimum number of days work in the year, the Governor points out that an amendment is not really necessary, as 180 is only a minimum, and a larger number of days may be agreed upon mutually; under the proposed amendment a native not willing to undertake more than 180 days in the year would not be in a position to contract at all.

The Governor states that these clauses have been inserted "for discussion" at the request of many employers, but that there is considerable divergence of opinion as to the advisability of the amendment.

It is not at all clear from this despatch how much there is in the allegation - or implied allegation - that some occupiers deliberately collect natives on their estates without employing them, nor yet what exactly is the nature of the danger to the public if such collection of natives takes place. As regards the minimum, there can be no necessity to raise this to a higher figure than 180, as the Governor himself points out, and there may even be practical objections to so doing from the point of view of the "occupier" and the native. In any case such an amendment is almost bound to raise an outcry: it would be so easy to represent it as another "slave" measure introduced to gratify the white settler in Kenya.

It would seem desirable to inform the Governor that the Secretary of State does not apprecia'e

the

the need for making the amendment proposed, and that he doubts whether it is advisable to include them in the Bill even for discussion ; and that in any event he agrees with the Governor's view that there is no necessity to alter the minimum already fixed at 18 if, however the Governor still wishes to include § 8 (without the amendment of 180 to 270 days), the Secretary of State would be glad to have a further opportunity of considering the matter before publication of the Bill and for this purpose he would wish to receive a further explanation of the position, more particularly in regard to (i) the alleged "collection" of natives by "occupiers" who do not give them employment and the extent to which such a practice has in fact grown up, and (ii) the nature of the "danger to the public" which is said to arise from such action ?

§ 9. Removal of natives where breach of peace apprehended.

This clause is explained in the despatch to be necessary in order to deal with cases of persistent crime such as theft of stock or produce "which are traceable to uncontrolled squatters on farms". The "occupiers" have a responsibility to their neighbours and to the State, in bringing natives on their farms out of the control of the tribal authority, and they must see that these servants do not become a menace to public security.

Hence, power is to be given to the Governor to direct that any native resident on a farm shall be removed and the "squatter" contract rescinded, if it appears to him that the residence of the native on the farm has led or is likely to lead to any crime or breach of the peace. Unless otherwise directed, such native will go back to his Reserve, and the expenses involved

involved will be recovered from the "occupier" who can recover them in turn from the native in question or from the head of his family.

This provision seems open to strong objection. If a crime (stock or produce theft) is committed and brought home to a native, that native can - and undoubtedly will be - punished. "The Stock and Produce Theft Ordinance" (R.E. of Laws Chapter 79) and the amending Ordinance No.X of 1928 make ample provision, including provision for a fine which shall in no case be less than 10 times the value of the stock or produce stolen or imprisonment in default, and also provision in certain circumstances for placing the onus of proof of lawful possession of produce or stock upon the persons (not only natives but all persons) in whose possession they are found.

The clause now proposed gives the Governor power to remove "squatters" if their residence "has led or is likely to lead to the commission of any crime or breach of the peace". Had the clause given power of removal only when the native has been convicted of some crime, there would perhaps be no objection; but how is the Secretary of State to defend in Parliament here an enactment which enables the Government of Kenya to interfere with the liberties of natives against whom nothing is proved ? The despatch refers to "persistent crime traceable to uncontrolled squatters". But surely a crime is either traced or not traced to particular squatters. If traced, it can be effectively dealt with under existing legislation:

legislation: if not traced, it is contrary to the first principles of law, not to mention humanity, to proceed on the basis that certain persons are, or would have been, guilty and to take action against them even though the Government does not actually apply the penalty provided for a person who is charged with and convicted of the crime in question.

Hardly worth further examination. GGS.

The Governor should be informed that, in the form in which the clause is drafted, it would hardly be possible for the Secretary of State to accept it, but that if the Governor desires to introduce legislation which would give him the power to direct such removal solely in cases in which a native squatter has been properly charged and found guilty of stock or produce theft, the Secretary of State would be prepared to consider such a proposal, but even so, the Secretary of State would not be disposed to accept the provision in sub-clause (3) which would make the expenses of effecting removal recoverable from the native concerned or from the head of his family ?

§ 10.(a). Substitution of 10 years for 5 years as maximum for squatters' contract.

The facts are as follows:-

(Gov.23446/24 Kenya).

(i) In 1924 the Governor sent home Ordinance No.VII of 1924. (An Ordinance to amend further the law relating to Masters and Servants and in particular to regulate the residence of native families on areas outside native reserves).

This Ordinance provided in § 4 (2) that the term for contracts of service to work on a farm should be for not less than one year and not more than five years.

(ii) The whole Ordinance was disallowed by the then

Secretary

Secretary of State. It is not necessary to recapitulate here the story or the reasons for disallowance. On the particular point now under consideration, the Secretary of State commented in his despatch to the Governor. "I do not think it reasonable that natives should be bound by such lengthy contracts of service. I agree that in the case of a squatter, something longer than a monthly contract appears desirable ....."

(C.O. despatch No.695 of 3rd July 1926 para.4 (b)

(Gov. 3069/24 Kenya)

(iii) In the explanations submitted by the Governor after disallowance had been effected, the Chief Native Commissioner wrote :-

"The native who enters into a "squatter" contract and moves with his family and stock on to a farm, has every intention of making the farm his permanent home and is anxious to secure himself by having a long term inserted in the contract. Moreover, the contract is terminable under Section 8 thereof on six months notice by either party. I do not think that any hardship will be effected in practice by allowing a five years contract, on the contrary I believe that if the Ordinance is given a fair trial it will produce a class of steady and expert native farm hands, and that the majority of contracts will be renewed when their term expires."

Gov/8164/25 Kenya.

(iv) In the upshot, two separate Ordinances were submitted in lieu of that which was disallowed, and in that which was ultimately passed as Ordinance No.V of 1925 (the "Principal Ordinance" which it is now desired to amend) the period for squatters contracts was for a term which shall not be less than one year and may extend to <u>three</u> years. In the covering despatch (No.111 of 24th January, 1925) the Governor merely observed

observed that the maximum length of contract had been reduced from five to three years. In the Attorney General's statement of Objects and Reasons it is stated that it is considered that three years is not too long to bind a native labour tenant and at the same time enables him to acquire a settled residence. TP We now have a proposal that the three year maximum should be raised not only to five years, but to ten years. The arguments given for so doing are that it is the universal wish of the Employers' Associations; that when a native moves on to a farm with his family and possessions, he normally means to make a home there, and both he and the "occupier" desire a contract "which provides the elements of permanency in the absence of any serious disagreement between them"; and that as such contracts are terminable (with the consent of a magistrate) at 6 months notice on either side, this furnishes a safeguard against either party being held to a long contract which is no longer desired.

There appears to have been no strong expression of opinion in this matter, when the disallowed Ordinance was under consideration here, and perhaps an extension of the period might now be accepted. But a more usual period for a tenancy, at any rate according to ideas in this country, would be 7 years, and it might be suggested that this would be a more suitable figure ? At the same time, it must be remembered that

that termination of such contracts needs the consent of a magistrate, so that the native(or, for that matter, the "occupier" either) may not really be free to terminate them. It seems to depend upon the judgement of the magistrates and we have no information as to how the magistrates have dealt, or are likely to deal, with such cases. It would be well to enquire also (a) whether, in fact, there have been many applications for the termination of such contracts hitherto and (b) whether in any such cases consent has been withheld and if so, on what grounds; and to suggest that consideration should be given to the provision of some appeal against the magistrate's decision ?

§ 11. Stock in excess of agreed number.

This clause makes it an offence under the Ordinance for a native to bring on or keep more stock on a farm, or for the occupier to allow him to bring or keep more stock on a farm, than the number agreed to by the occupier, with the approval of a magistrate, as in § 10 of the Principal Ordinance.

Veterinary control is essential in a country such as Kenya, and there would seem to be no objection to this new provision.

§ 12. Amendment to § 11 of Principal Ordinance.

No comment.

§ 13. Prohibition of attesting of certain contracts.

The Select Committee of the Legislative Council which reported on the Estimates for 1928 recommended that a clause be inserted in the Principal Ordinance

to

to enable a district to declare that no resident natives should graze any cattle within that district.

This clause will enable the Governor to prohibit in any district any new contracts which permit a squatter or his family to use land for the grazing of cattle or livestock, if a two-thirds majority of the owners or occupiers of farms in the district request that such action be taken.

At the root of this is the ever-present fear in the minds of settlers that their stock may become infected with East Coast fever - see paragraph 26 and 27 of the despatch. It will be seen from the proviso to the clause that an existing contract may be renewed in such a district, so there would be no interference with natives who have already made their homes on farms in a district even if new contracts are not permitted.

In view of this I see no objection Govt.

The clause does not seem to be open to objection.

16.10.28

SOUTHERN RHODESIA

Papers relative to the Southern Rhodesia Native Juveniles Employment Act, 1926, and the Southern Rhodesia Native Affairs Act, 1927

Presented by the Secretary of State for Dominion Affairs to Parliament by Command of His Majesty

April, 1928

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PART I.

Papers relative to the Southern Rhodesia Native Juveniles Employment Act, 1926.

No. 1.

Despatch from the Governor of Southern Rhodesia to the Secretary of State for Dominion Affairs.

(Received 29th December, 1926.)

[Answered by No. 6.]

Governor's Office,
Salisbury, Southern Rhodesia,
4th December, 1926.

SIR,

With reference to Mr. Murray Bisset's despatch of the 22nd of March,* I have the honour to inform you that I have this day assented, in the King's name, to Act No. 10 of 1926, entitled "Act for regulating the Employment of Native Juveniles."

I transmit herewith six copies of that Act duly signed and sealed by me and certified by the Speaker and the Clerk of the Legislative Assembly.

2. I enclose a copy of a Minute* from my Ministers, to which is attached, in original, a Memorandum* by the Attorney-General, drawing attention to Clause 12 which suspends the operation of the Bill until the signification in this Colony of His Majesty's pleasure in regard to it.

A Memorandum* by the Legal Adviser explaining the amendments made in the Bill during its passage through the Legislative Assembly is also enclosed.

I have, etc.,
J. R. CHANCELLOR,
Governor.

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A Memorandum* by the Legal Adviser explaining the amendments made in the Bill during its passage through the Legislative Assembly is also enclosed.

I have, etc.,
J. R. CHANCELLOR,
Governor.

*Not printed.

Enclosure in No. 1

[Passed by the Legislature. No. 10, 1926.]

SOUTHERN RHODESIA.

ACT

For regulating the employment of native juveniles.

BE IT ENACTED by the King's Most Excellent Majesty, by and with the advice and consent of the Legislature of the Colony of Southern Rhodesia, as follows:—

Native juveniles to have certificate from Native Commissioner to seek work and contract services.

1. No native juvenile under the apparent age of 14 years shall be permitted to seek employment unless he or she shall have obtained a certificate to do so from a Native Commissioner, which certificate shall be in the form prescribed in the schedule hereto, and shall, if such be the case, state that the permission of the father or guardian has been obtained. A juvenile who shall have obtained the certificate aforesaid may, subject to the provisions of this Act, enter into a contract of service. A Native Commissioner may withhold the issue of such certificate for any reason deemed by him to be sufficient.

Native Commissioner's powers over native juveniles.

2. The Native Commissioner of the district in which any juvenile is employed or seeking employment or absent from the control and care of his parent or guardian may exercise the following powers:—

(1) He may terminate or cancel any contract of service which may have been entered into by a juvenile on the grounds that the employer is an undesirable character, or that the nature of employment is dangerous or immoral, or injurious to the health of such juvenile, or for any other lawful or reasonable cause. The exercise of this authority by the Native Commissioner shall be subject to review by the Chief Native Commissioner, whose decision shall be final.

(2) He may enter the premises where any juvenile is employed and inspect such premises or enquire into the conditions of service.

(3) On the application of a parent or guardian, or for any reason which may appear desirable or proper, he may order any juvenile to return home, or restore him or her to the charge of such parent or guardian; and if such juvenile be employed, he may cancel the contract of service entered into by him or her.

(4) He may hear and determine any charge or complaint brought by an employer against a juvenile in his service and arising from any breach of duty due to an act or omission of such juvenile, and may in respect of such charge or complaint impose either or both of the following penalties, namely:—

(*a*) order such juvenile to pay a fine not exceeding ten shillings; or

(*b*) if the offender be a boy, order such juvenile to receive a summary whipping with a light cane not to exceed ten strokes

provided that whenever a Native Commissioner shall, under the provisions of this Act, have ordered a juvenile to receive a whipping, the said Native Commissioner shall forthwith transmit to the Attorney-General a report setting out fully the facts and circumstances of such case.

Saving provisions of Ordinance No. 16 of 1901

3. Nothing in this Act shall be deemed to exempt a juvenile employed in a township from obtaining a certificate of service in terms of Ordinance No. 16 of 1901.

Section 1 not to apply to juveniles employed for certain period.

4. Nothing contained in section one of this Act shall be deemed to apply to juveniles engaged to perform work of a casual nature for a period of less than one month.

Alien juveniles to obtain certificates. Native Commissioner's jurisdiction over them

5. Any juvenile entering the Colony shall be required to obtain the prescribed certificate from the nearest Native Commissioner after entering the Colony.

The Native Commissioner of the district where such juvenile is for the time being shall exercise all and sundry the powers vested in him by this Act over such juvenile, provided that he shall not order such juvenile to return to his home unless on the application of a parent or guardian willing and able to take charge of such juvenile.

Native Commissioner may contract unemployed juveniles.

6. Should any juvenile be without proper employment, the Native Commissioner may, in the absence of a parent or guardian who is able and willing to take charge of such juvenile, contract him for a period of service not exceeding six months to any fit and proper person willing to engage him, but the Native Commissioner shall report in writing any such case to the Chief Native Commissioner.

Penalty for employers who engage juveniles without certificates or otherwise contravene Act.

7. Every employer who shall engage for service a juvenile who is not in possession of the prescribed certificate, or who is not exempt from possessing such a certificate in terms of section four hereof, shall be guilty of an offence and liable on conviction to a fine not exceeding ten pounds, or in default of payment to imprisonment with or without hard labour for a period not exceeding fourteen days.

Duties of employer on engaging juvenile.

8. Every employer who takes a juvenile into his service shall demand from him his certificate, and shall insert in ink in such certificate his own name, the date of entering into service by the juvenile, the duration and nature of such service and the rate of wages stipulated for, whereupon the certificate shall be returned to the juvenile. The employer shall thereafter within ten days of the commencement of such service transmit in writing to the Native

Enclosure in No. 1.

[Passed by the Legislature. No. 10, 1926.]

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Native Commissioner's powers over native juveniles.

2. The Native Commissioner of the district in which any juvenile is employed or seeking employment or absent from the control and care of his parent or guardian may exercise the following powers:—

(1) He may terminate or cancel any contract of service which may have been entered into by a juvenile on the grounds that the employer is an undesirable character, or that the nature of employment is dangerous or immoral, or injurious to the health of such juvenile, or for any other lawful or reasonable cause. The exercise of this authority by the Native Commissioner shall be subject to review by the Chief Native Commissioner, whose decision shall be final.

(2) He may enter the premises where any juvenile is employed and inspect such premises or enquire into the conditions of service.

(3) On the application of a parent or guardian, or for any reason which may appear desirable or proper, he may order any juvenile to return home, or restore him or her to the charge of such parent or guardian; and if such juvenile be employed, he may cancel the contract of service entered into by him or her.

(4) He may hear and determine any charge or complaint brought by an employer against a juvenile in his service and arising from any breach of duty due to an act or omission of such juvenile, and may in respect of such charge or complaint impose either or both of the following penalties, namely:—

(a) order such juvenile to pay a fine not exceeding ten shillings; or

(b) if the offender be a boy, order such juvenile to receive a summary whipping with a light cane not to exceed ten strokes;

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8. Every employer who takes a juvenile into his service shall demand from him his certificate, and shall insert in ink in such certificate his own name, the date of entering into service by the juvenile, the duration and nature of such service and the rate of wages stipulated for, whereupon the certificate shall be returned to the juvenile. The employer shall thereafter within ten days of the commencement of such service transmit in writing to the Native

Commissioner of the district in which such service is to be performed the following particulars: —

(*a*) the name, number and district of the juvenile;

(*b*) the name and the kraal of the father or guardian of the juvenile;

(*c*) the duration and nature of the service;

(*d*) the rate of wages stipulated for.

Any employer who contravenes the provisions of this section shall be guilty of an offence and liable to the penalties prescribed in the last preceding section; provided that nothing in this section contained shall be deemed to affect the employer of any juvenile to whom in terms of section three hereof the provisions of Ordinance No. 16 of 1901 apply.

Saving parents' and guardians' right over juveniles.

9. Nothing contained in this Act shall in any way be deemed to deprive any parent or guardian of his rights [illegible] to the disposal of the services of his child or ward, or to enter into contracts of service on his behalf, save and except that should a certificate under which a juvenile seeks work state that the parent's or guardian's consent has been obtained, such certificate shall be regarded as *prima facie* proof that such consent has been given.

Penalty for juveniles disobeying Native Commissioner.

10. Any male juvenile who shall fail or refuse to obey any order of a Native Commissioner given in pursuance of the provisions of this Act shall be liable to a summary whipping with a light cane not exceeding ten strokes, which may be administered on the order and in the presence of such Native Commissioner.

Definition.

11. For the purposes of this Act the term "Native Commissioner" shall mean a Native Commissioner, an Acting Native Commissioner and any other officer duly appointed by the Governor to exercise the powers and functions prescribed by this Act, and the term "district" shall mean a native district.

Short title.

12. This Act may be cited for all purposes as the "Native Juveniles Employment Act, 1926," and shall not come into operation unless and until the Governor has declared by Proclamation in the *Gazette* that it is His Majesty's pleasure not to disallow the same.

SCHEDULE.

"Native Juveniles Employment Act, 1926."

CERTIFICATE OF NATIVE JUVENILE.

No.....

District.....

Name.....

Alias.....

Approximate age.....years

Chief.....

Headman.....

Father or guardian.....

Marks.....

Native Commissioner.

Issued at.....

Date.....

If the parent or guardian approves of the holder seeking work, it should be stated here, and the name and registration number of such parent or guardian inserted.

To be filled in by Employer.						To be filled in on Discharge.		
Employer's signature.	Date of enteriug service.	Nature of employment.	Duration of service.	Rate of pay.		Date of discharge.	Employer's signature.	
1.								
2.								
3.								
4.								
5.								
6.								
7.								
8.								
9.								
10.								

Particulars must be written in ink and not pencil. The attention of employers is drawn to section 8 of the above Act, which provides that the employer shall within ten days of the commencement of service transmit in writing, to the Native Commissioner of the district, (*a*) the name and number of the juvenile, (*b*) the name and the kraal of the father or guardian of the juvenile, (*c*) the duration and nature of the service, (*d*) the rate of wages stipulated for.

Native Commissioner.

Commissioner of the district in which such service is to be performed the following particulars: —

(*a*) the name, number and district of the juvenile;

(*b*) the name and the kraal of the father or guardian of the juvenile;

(*c*) the duration and nature of the service;

(*d*) the rate of wages stipulated for.

Any employer who contravenes the provisions of this section shall be guilty of an offence and liable to the penalties prescribed in the last preceding section; provided that nothing in this section contained shall be deemed to affect the employer of any juvenile to whom in terms of section three hereof the provisions of Ordinance No. 16 of 1901 apply.

Saving parents' and guardians' right over juveniles.

9. Nothing contained in this Act shall in any way be deemed to deprive any parent or guardian of his rights as such to the disposal of the services of his child or ward, or to enter into contracts of service on his behalf, save and except that should a certificate under which a juvenile seeks work state that the parent's or guardian's consent has been obtained, such certificate shall be regarded as *prima facie* proof that such consent has been given.

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No. .....

District .....

Name .....

Alias .....

Approximate age ..... years

Chief .....

Headman .....

Father or guardian .....

Marks .....

Native Commissioner.

Issued at .....

Date .....

If the parent or guardian approves of the holder seeking work, his name and address as stated here, and the name and registration number of such parent or guardian inserted.

.....

Native Commissioner.

To be filled in by Employer						To be filled in on Discharge.		
Employer's signature.	Date of entering service.	Nature of employment.	Duration of service.	Rate of pay.		Date of discharge.	Employer's signature.	
1.								
2.								
3.								
4.								
5.								
6.								
7.								
8.								
9.								
10.								

Particulars must be written in ink and not pencil. The attention of employers is drawn to section 8 of the above Act, which provides that the employer shall within ten days of the commencement of service transmit in writing to the Native Commissioner of the district: (*a*) The name and number of the juvenile; (*b*) the name and the kraal of the father or guardian of the juvenile; (*c*) the duration and nature of the service; (*d*) the rate of wages stipulated for.

No. 4

Memorandum explanatory of the Bill to provide for the employment of Native Juveniles, by the Chief Native Commissioner, Southern Rhodesia.

(Received from the Governor of Southern Rhodesia on the 12th April, 1926.)

The towns and mines and other industrial centres have, ever since the occupation of Southern Rhodesia, attracted a large number of native lads of ages ranging from about 10 years to 14 years. European employers have readily taken them into service at low rates of pay. Some have left their homes with the consent of their parents; others again have run away to see the world, leaving the family flocks and herds untended.

In the latter case a determined parent would follow up the truant and secure his return through the agency of the Native Department, but in most cases no such pursuit took place through parental apathy, no doubt, or laziness.

It early became known that such juveniles not having contractual power were not amenable to the law regulating relations between masters and servants, unless apprenticeship by their father to the employer had first taken place.

The juveniles could thus neither enforce legal payment of their wages through the laws referred to nor could they be punished for misconduct or desertion from service, in both the above respects differing from adult natives.

In course of time native girls followed the example of their brothers and ran away to the towns, with results often the reverse of beneficial to them, although in their case the parents generally followed them and secured their return.

The annexed Bill has, however, the case of young boys mainly in view, as that of the girls has not become acute.

The position being then that each Southern Rhodesian town had a considerable number of juveniles subject to control of no kind, either of parent or of employer, a regrettable proportion drifted into evil courses, some even becoming hardened criminals. Three at least of such youths ended their careers on the gallows while still in their teens.

The following two official minutes dated in November, 1920, mark the first official effort to right the position :—

"From Superintendent of Natives,
Bulawayo,

"To Chief Native Commissioner,
Salisbury.

8th November, 1920.

"During the month of September, Contracts of Service in Bulawayo were issued to three hundred and ninety-two (392) youths too young to be registered with certificates.

"These juveniles come from practically all outside districts. In the majority of cases their parents, I think, allow them to enter the labour market. There are cases where the juvenile runs away from home to escape the work of herding his father's cattle. These boys carry 'under-age certificates' and contract themselves to work for employers, who pay the prescribed fee of 1s. for each month contracted for.

"Should one of these lads find his work uncongenial he leaves without ceremony. He has found out that no action will be taken against him because of his legal incapacity to contract himself.

"Employers naturally resent the position. They pay a fee of 1s. to 6s. as the case may be; the contract purports to be a legal one and is duly certified by the Registrar of Natives, and they are then told that the contract cannot be enforced because the native juvenile has no contractual powers.

"My main object, however, in bringing this matter forward, is not to correct the anomaly of the position in the interests of the employers. Most of them realise the position (they have had cause to) and engage juveniles with their eyes open.

"But the effect on the juveniles seems to call for serious consideration. Such an initiation to the field of labour is unfortunate, as at the outset of their careers they conceive a contempt for a labour contract which must be demoralising.

"It would be better were they not allowed to enter a town at all.

"I can see no remedy for the case of a lad whose father follows him up and claims the exclusive right to his services. That is a common law and native law right which cannot be interfered with. But I do think that provision should (if necessary by legislation) be made establishing the Native Commissioner and his Deputy, the Registrar of Natives, as being *in loco parentis* subject to a reservation where the natural guardian asserts his rights."

"From Chief Native Commissioner,
"To Secretary, Department of Administrator.

16th November, 1920.

"I forward for the consideration of His Honour the Acting Administrator a minute from the Superintendent of Natives, Bulawayo, on the subject of native juveniles employed in Bulawayo, the result of my discussion with Mr. Jackson.

"The conditions of employment and residence of native juveniles in towns and mining centres demand serious consideration.

"Natives have represented from time to time the tendency of children, principally boys, to desert from home and to go

No. 2.

Memorandum explanatory of the Bill to provide for the employment of Native Juveniles, by the Chief Native Commissioner, Southern Rhodesia.

(Received from the Governor of Southern Rhodesia on the 12th April, 1926.)

The towns and mines and other industrial centres have, ever since the occupation of Southern Rhodesia, attracted a large number of native lads of ages ranging from about 10 years to 14 years. European employers have readily taken them into service at low rates of pay. Some have left their homes with the consent of their parents; others again have run away to see the world, leaving the family flocks and herds untended.

In the latter case a determined parent would follow up the truant and secure his return through the agency of the Native Department, but in most cases no such pursuit took place through parental apathy, no doubt, or laziness.

It early became known that such juveniles not having contractual power were not amenable to the law regulating relations between masters and servants, unless apprenticeship by their father to the employer had first taken place.

The juveniles could thus neither enforce legal payment of their wages through the laws referred to nor could they be punished for misconduct or desertion from service, in both the above respects differing from adult natives.

In course of time native girls followed the example of their brothers and ran away to the towns, with results often the reverse of beneficial to them, although in their case the parents generally followed them and secured their return.

The annexed Bill has, however, the case of young boys mainly in view, as that of the girls has not become acute.

The position being then that each Southern Rhodesian town had a considerable number of juveniles subject to control of no kind, either of parent or of employer, a regrettable proportion drifted into evil courses, some even becoming hardened criminals. Three at least of such youths ended their careers on the gallows while still in their teens.

The following two official minutes dated in November, 1920, mark the first official effort to right the position:—

"From Superintendent of Natives,
Bulawayo,

"To Chief Native Commissioner,
Salisbury.

8th November, 1920.

"During the month of September, Contracts of Service in Bulawayo were issued to three hundred and ninety-two (392) youths too young to be registered with certificates.

"These juveniles come from practically all outside districts. In the majority of cases their parents, I think, allow them to enter the labour market. There are cases where the juvenile runs away from home to escape the work of herding his father's cattle. These boys carry under-age certificates and contract themselves to work for employers, who pay the prescribed fee of 1*s.* for each month contracted for.

"Should one of these lads find his work uncongenial he leaves without ceremony. He has found out that no action will be taken against him because of his legal incapacity to contract himself.

"Employers naturally resent the position. They pay a fee of 1*s.* to 6*s.* as the case may be; the contract purports to be a legal one and is duly certified by the Registrar of Natives, and they are then told that the contract cannot be enforced because the native juvenile has no contractual powers.

"My main object, however, in bringing this matter forward, is not to correct the anomaly of the position in the interests of the employers. Most of them realise the position (they have had cause to) and engage juveniles with their eyes open.

"But the effect on the juveniles seems to call for serious consideration. Such an initiation to the field of labour is unfortunate, as at the outset of their careers they conceive a contempt for a labour contract which must be demoralising.

"It would be better were they not allowed to enter a town at all.

"I can see no remedy for the case of a lad whose father follows him up and claims the exclusive right to his services. That is a common law and native law right which cannot be interfered with. But I do think that provision should (if necessary by legislation) be made establishing the Native Commissioner and his Deputy, the Registrar of Natives, as being *in loco parentis* subject to a reservation where the natural guardian asserts his rights."

"From Chief Native Commissioner,
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16th November, 1920.

"I forward for the consideration of His Honour the Acting Administrator a minute from the Superintendent of Natives, Bulawayo, on the subject of native juveniles employed in Bulawayo, the result of my discussion with Mr. Jackson.

"The conditions of employment and residence of native juveniles in towns and mining centres demand serious consideration.

"Natives have represented from time to time the tendency of children, principally boys, to desert from home and to go

to towns and other centres for employment. Parents have in many instances made complaints to Native Commissioners, with a view to absconding children being restored to their custody.

"The tendency to flock to industrial centres shows a decided increase, and measures of controlling and for checking as far as possible the influx of such children must be devised.

"A contributory cause of this development certainly may be found in the disintegration of the tribal system and the consequent weakening of parental authority. Added to this is the novelty offered by town life with its attractions and variety.

"The immediate and unfortunately almost inevitable result of change from the primitive conditions of kraal life to close contact with all classes of men and women, and unrestrained association with every form of vice and degradation, is moral and physical degeneration. There is no restraining or guiding influence over the simple native child thus left to its own resources and abandoned to influences of a most pernicious kind. Debauchery, gambling, and drunkenness are some of the most pronounced evils to which it is exposed and often readily succumbs. Venereal disease too is a potent danger to juveniles of both sexes.

"Hundreds of young boys may be found in any of our larger centres. Many are idle and many in nominal or questionable employ by natives of most undesirable habits of life; all alike are open to evil temptations, and fall an easy prey to degrading associations. They form a community from which ultimately the habitual loafer is evolved and the offender and hardened criminal largely recruited.

"Secondly, the native is by nature prone to individual irresponsibility. The boy regards but lightly his contractual obligations, and any respect he may have had for these is speedily smothered by the agency of bad example and by reason of his legal position of minor, of which he very soon learns to take every undue advantage.

"To guard against the moral contamination of the young generations, to develop a due sense of responsibility and instil a wholesome regard for contractual duties, and to foster the love of labour and direct it into useful channels, are problems which imperatively demand the due consideration of the Administration.

"It is obviously undesirable to stifle any effort in the native to improve, nor should we place any obstacles in the path of labour; but while assisting all legitimate aims, we cannot do so at the expense of individual demoralisation on a wholesale scale nor by sacrificing parental authority and a proper sense of duty.

"I appreciate the difficulties which beset a solution.

"Were it practicable, I would urge the prohibition of employing any native juvenile under 14 years of age in any town or mining centre.

"At the most we can only hope to check the influx of native children to our labour centres and to establish some wholesome restraining influence on the rapidly developing perversity displayed by such children.

"I submit for consideration the following suggestions, more fully set forth in the Annexure A* :—

(*a*) Issue of certificates to juveniles by Native Commissioners when they wish to go out to work.

(*b*) Native Commissioner of district to be *in loco parentis* to all juveniles employed or absent from their homes, and who will exercise following powers :—

(1) Authority to cancel contracts and order a juvenile home.

(2) Hear and determine complaints by an employer against a juvenile, and inflict punishment for breaches of duty.

(3) Enter premises for purposes of inspection and inquiry into nature of employment.

"I am of opinion that regulations on these lines will go far to obviate present difficulties and secure a more healthy development."

No legislation ensued, and on 5th September, 1923, the above question having been placed on the agenda list of the Conference of Superintendents of Natives held on that date, a resolution was passed as appears in the following copy of the Minute of proceedings :—

"The Superintendent of Natives, Bulawayo, introduced the subject of Native Juveniles in towns and locations, pointing out the difficulties and danger attending the employment of native youths in such places.

"After considerable discussion the Conference was of opinion that legislation was needed. Draft regulations were read, and the following resolution was submitted :—

'That the matter calls for immediate attention in view of the continuing and increasing nature of this evil, and that steps should be taken to put into force, as law, the regulations set forth in Annexure 'A' to the correspondence.'

"Carried."

The regulations referred to in the preceding resolution form the basis of the Bill now drawn up.

* Not received.

to towns and other centres for employment. Parents have in many instances made complaints to Native Commissioners with a view to absconding children being restored to their custody.

"The tendency to flock to industrial centres shows a decided increase, and measures of controlling and for checking as far as possible the influx of such children must be devised.

"A contributory cause of this development certainly may be found in the disintegration of the tribal system and the consequent weakening of parental authority. Added to this is the novelty offered by town life with its attractions and variety.

"The immediate and unfortunately almost inevitable result of change from the primitive conditions of kraal life to close contact with all classes of men and women, and unrestrained association with every form of vice and degradation, is moral and physical degeneration. There is no restraining or guiding influence over the simple native child thus left to its own resources and abandoned to influences of a most pernicious kind. Debauchery, gambling, and drunkenness are some of the most pronounced evils to which it is exposed and often readily succumbs. Venereal disease too is a potent danger to juveniles of both sexes.

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"To guard against the moral contamination of the young generations, to develop a due sense of responsibility and instil a wholesome regard for contractual duties, and to foster the love of labour and direct it into useful channels, are problems which imperatively demand the due consideration of the Administration.

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"At the most we can only hope to check the influx of native children to our labour centres and to establish some wholesome restraining influence on the rapidly developing perversity displayed by such children.

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'That the matter calls for immediate attention in view of the continuing and increasing nature of this evil, and that steps should be taken to put into force, as law, the regulations set forth in Annexure 'A' to the correspondence.'

"Carried."

The regulations referred to in the preceding resolution form the basis of the Bill now drawn up.

* Not received.

The matter of the employment of juveniles was reported upon by the Commission appointed to inquire into the matter of Native Education in all its bearings in the Colony of Southern Rhodesia in the following terms, the date of the report being 23rd April, 1925 :—

"(Para. 608.) A large number of native youths, too young to be registered and supplied with certificates, seek work in the towns and at other industrial centres.

"609. In some cases they are runaways from parental control, while in others their fathers give them a general permission to enter the labour market.

"610. They carry 'under-age' certificates and contract themselves to work for employers but, having no legal contractual power, they cannot be dealt with for desertion or other misconduct during the period of their engagement. They take advantage of their legal incapacity and change their employers at will.

"611. In bringing up this matter some years ago, the Superintendent of Natives, Bulawayo, reported that there were at that time three hundred and ninety-two such youths, regarding whom he stated :—

> 'The effect on the juveniles seems to me to call for serious consideration. Such an initiation to the field of labour is unfortunate, as at the outset of their careers they conceive a contempt for a labour contract which must be demoralising.'

"612. In September, 1923, the Superintendents of Natives in conference passed the following resolution :—

> 'That the matter calls for immediate attention in view of the continuing and increasing nature of this evil, and that steps should be taken to put into force, as law, the regulations set forth in Annexure "A"* to this correspondence.'

"613. The suggested regulations provide that the Native Commissioner shall be *in loco parentis* to such juveniles but without prejudice to the parental powers of the parent; that the Native Commissioner shall have power to terminate undesirable contracts; to enforce desirable contracts by punishment, to send juveniles back to their parents and generally to act in the best interests of the youths.

"614. Your Commissioners regard the present unregulated employment of juveniles as tending towards the formation of criminal habits, and recommend the adoption of the proposed regulations as a legal measure."

In recapitulation of what has gone before I urge that one of two courses is necessary; either that juveniles be excluded from

* Not received.

industrial centres, or that provision be made for their control as set forth in the Bill. The former course would involve so serious a dislocation of what has become part and parcel of our general system as to be almost impracticable apart from the resentment that such interference would provoke among both Europeans and natives. I must therefore state that the following of the second course — the proposed legislation — becomes necessary. An important mitigation of the harm that, intermixed with good, results from the presence of the juveniles in our towns and on our mines lies in the night schools which are a feature of practically all considerable urban and industrial centres.

HERBERT J. TAYLOR,
Chief Native Commissioner.

SALISBURY,
24th February, 1926.

No. 3.

Letter from the Secretaries, the Anti-Slavery and Aborigines Protection Society, to the Secretary of State for Dominion Affairs.

[*Answered by Nos. 8 and 11.*]

The Anti-Slavery and Aborigines Protection Society,
Denison House,
296, Vauxhall Bridge Road, S.W.1.
4th February, 1927.

SIR,

The attention of the Committee has been drawn to an Act recently passed by the Legislature of Southern Rhodesia, entitled the Native Juveniles Employment Act, 1926, which "shall not come into operation until the Governor has declared by Proclamation that it is His Majesty's pleasure not to disallow the same."

(2) Under the provisions of this Act, native juveniles, boys and girls, including those under the apparent age of 14, may enter into contracts of service; and should any juvenile be "without proper employment" the Native Commissioner may, in the absence of a parent or guardian able and willing to take charge of such juvenile, "contract him" for a period of service not exceeding six months to any fit and proper person willing to engage him. When "contracted," the juveniles become liable to fines, and, in the case of males, to summary whippings.

The matter of the employment of juveniles was reported upon by the Commission appointed to inquire into the matter of Native Education in all its bearings in the Colony of Southern Rhodesia in the following terms, the date of the report being 28rd April, 1925 :—

"(Para. 608.) A large number of native youths, too young to be registered and supplied with certificates, seek work in the towns and at other industrial centres.

"609. In some cases they are runaways from parental control, while in others their fathers give them a general permission to enter the labour market.

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(3) It appears therefore that quite young native children are enabled, if not constrained, to enter into contracts of service with Europeans, and that the child may contract unaided; no advice, explanation, or consent of any parent, guardian, or person *in loco parentis* is necessary. It is true that the Native Commissioners may cancel a contract in certain cases, but no safeguards are prescribed by the Act in the child's interest at the time when the contract is made.

(4) This is the more remarkable, as the Legislature of Southern Rhodesia has appointed an officer in townships to advise and protect adult natives in their transactions with Europeans, and has prescribed that no contract of service with any native in these townships shall be valid unless registered, and that the registrar must satisfy himself that its terms have been fully understood by the native who contracts. It is strange that conditions that must be complied with in the case of adults should be dispensed with where children are concerned.

(5) The powers given to a Native Commissioner by Section 6 are very drastic. It would seem that he may dispose of the juvenile practically as he thinks fit and without the juvenile's consent for a period of six months; and he might apparently contract him for a further period when the first has expired. Our Committee is aware that the Native Commissioners of Southern Rhodesia have established for themselves a reputation for their watchful interest in the welfare of natives, and it seems the more regrettable that they should become in any way agents for recruiting labour. In the important report* upon native questions in Southern Rhodesia issued in 1910 and 1911, the most emphatic objection is registered in paragraph 250 against Government officials taking any part in recruiting natives for labour purposes. The Committee of enquiry clearly states that any such practice would bring the Government into disrepute. We submit that the Native Commissioners will be placed under this Act in an invidious and undesirable position and that they will be obliged to discharge duties and assume responsibilities incompatible with their proper functions. It is evident that it will be difficult, if not impossible, for the Commissioners in many cases to exercise proper supervision over the juveniles who contract or are contracted, and a system which would render the Commissioners directly or indirectly responsible for any abuses which may occur is open to the gravest objection.

(6) The Committee finds it difficult to believe that in Southern Rhodesia, where, as elsewhere in Africa, a system of tribal responsibility is recognised, there can be any great number of friendless or destitute children. Our Committee thinks that the system instituted by this Act is in any case not the remedy best adapted to

* Printed as Southern Rhodesia Legislative Council Paper, 1911.

meet such an evil, where such evil exists. Our Committee would urge that such children if and when found should be placed in some institution, missionary or otherwise, but that in any case resort should not be had to a system which is in fact compulsory indentured labour.

(7) It would appear that Section 12 has been inserted in the law in order to comply with the requirements of Section 28 of the Letters Patent of 1923, which provides that a law whereby natives are subjected to conditions to which persons of European descent are not also subjected must either contain a clause suspending its operation or be reserved for the approval of the King in Council. Our Committee earnestly hopes that it may not be too late to urge that in the present exceptional case the power of disallowance may be exercised.

We are, etc.,

TRAVERS BUXTON,
Hon. Secretary.

JOHN H. HARRIS,
Parliamentary Secretary.

P.S.—Our attention has been drawn to the following statement made by the President of the Makoni Farmers' Association on 4th December last, as reported in the *Rhodesian Herald* of 17th December:—

"An Act for the indenture of native juveniles had been drafted by the Government at the instance of the Association."

No. 4.

Extract from the Official Report, House of Commons, 14th February, 1927.

SOUTHERN RHODESIA (NATIVE JUVENILES EMPLOYMENT ACT).

Mr. SNELL asked the Secretary of State for Dominion Affairs whether the legislation affecting the native races of Southern Rhodesia is reserved for final sanction; whether the Act for the indenturing of children under 14 years of age has been submitted for final approval; whether he is aware that this legislation was passed owing to the representations of the Farmers' Association in Southern Rhodesia; and whether, in those circumstances, he proposes to withhold sanction?

Mr. AMERY: The reply to this question is necessarily of considerable length, and I hope the hon. Member will agree to my circulating it with the OFFICIAL REPORT.

(3) It appears therefore that quite young native children are enabled, if not constrained, to enter into contracts of service with Europeans, and that the child may contract unaided; no advice, explanation, or consent of any parent, guardian, or person *in loco parentis* is necessary. It is true that the Native Commissioners may cancel a contract in certain cases, but no safeguards are prescribed by the Act in the child's interest at the time when the contract is made.

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(6) The Committee finds it difficult to believe that in Southern Rhodesia, where, as elsewhere in Africa, a system of tribal responsibility is recognised, there can be any great number of friendless or destitute children. Our Committee thinks that the system instituted by this Act is in any case not the remedy best adapted to

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(7) It would appear that Section 12 has been inserted in the law in order to comply with the requirements of Section 28 of the Letters Patent of 1923, which provides that a law whereby natives are subjected to conditions to which persons of European descent are not also subjected must either contain a clause suspending its operation or be reserved for the approval of the King in Council. Our Committee earnestly hopes that it may not be too late to urge that in the present exceptional case the power of disallowance may be exercised.

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Mr. AMERY: The reply to this question is necessarily of considerable length, and I hope the hon. Member will agree to my circulating it with the OFFICIAL REPORT.

Following is the reply :—

(1) Under Article 25 of the Southern Rhodesia Constitution Letters Patent, 1925, the Governor of the Colony is required to reserve any law, save in respect of the supply of arms, ammunition or liquor to natives, whereby natives may be made liable to any conditions, disabilities or restrictions to which persons of European descent are not also subjected or made liable, unless the Governor has previously obtained His Majesty's instructions upon such law through a Secretary of State, or unless such law contains a Clause suspending the operation thereof until the signification in the Colony of His Majesty's pleasure thereto.

(2) The Native Juveniles Employment Act has been passed by the Legislature of Southern Rhodesia with a suspending Clause of the nature which I have just referred to.

(3) As to part three of the question, I cannot do better than quote the statement made by the Premier of Southern Rhodesia, who is also Minister of Native Affairs, in the Legislative Assembly of Southern Rhodesia :

> "I may state that in bringing forward this Bill we have attempted to carry out what has been advocated by the present Assistant Chief Native Commissioner several years ago, and what is entirely in the interest of the native juveniles themselves. His views were adopted three years ago after full discussion by resolution of a Conference of Native Superintendents. And again in that case they were thinking, not of the European employer, but of the well-being of the native children. As far as I personally am concerned, speaking as the Minister of Native Affairs, there is no other object in view than the well-being of the natives themselves."

I may add that the Act is based upon regulations which were drawn up by the Conference of Superintendents of Natives referred to in the Premier's statement; that these regulations were submitted for consideration to the Southern Rhodesia Native Education Commission, 1924-25, and that that Commission recommended their adoption as a legal measure. I am placing a copy of the Report and a copy of the Act in the Library of the House.

(4) It is not proposed that His Majesty should be advised to exercise his power of disallowance in respect of the Act.

No. 5.

Extract from the Official Report, House of Commons, 15th February, 1927.

SOUTHERN RHODESIA (EMPLOYMENT OF CHILDREN).

78. Mr. GULEST asked the Secretary of State for the Colonies whether he is aware that, under the Children's Employment Act, in Southern Rhodesia children who object to accepting indentures

may be flogged for such refusal without any trial before a judicial officer; and whether he is prepared to consider an alteration in the law being made?

79. Mr. W. BAKER asked the Secretary of State for the Colonies whether he will call for a Report as to the conditions under which children in Southern Rhodesia are compelled to accept indenture; and whether he will particularly inquire as to the liability of such children to be flogged?

Mr. AMERY: In regard to the Southern Rhodesia Native Juveniles Employment Act, 1926, generally, I would refer the hon. Members to the reply which I gave yesterday to the hon. Member for East Woolwich (Mr. Snell).*

The position under the Act is that the Native Commissioners have the power to order male juveniles to receive a summary whipping with a light cane, not exceeding 10 strokes, either for disobeying an order given by the Native Commissioner, in pursuance of the provisions of the Act, or after hearing and determining a charge or complaint brought by an employer against the juvenile arising from any breach of duty due to an act or omission on the part of the juvenile. In either case, the Native Commissioner must at once send to the Attorney-General a report setting out fully the facts and circumstances.

There can be no doubt that the Native Commissioners will exercise their powers under this Act in the same admirable manner as they exercise the wide functions, judicial and administrative, which they discharge in relation to native affairs generally, and I do not propose to ask the Government of Southern Rhodesia to consider an alteration in the Act as suggested.

No. 6.

Despatch from the Secretary of State for Dominion Affairs to the Governor of Southern Rhodesia.

Downing Street,
17th *February*, 1927.

SIR,

I have the honour to acknowledge the receipt of your despatch of the 4th December, 1926,† and to request you to inform your Ministers that His Majesty will not be advised to exercise his power of disallowance in respect to Act No. 10 of 1925 of the Legislature of Southern Rhodesia, entitled "An Act for regulating the employment of native juveniles."

I have, etc.,
L. S. AMERY.

---

* *See* No. 4. † No. 1.

Following is the reply :—

(1) Under Article 28 of the Southern Rhodesia Constitution Letters Patent, 1923, the Governor of the Colony is required to reserve any law, save in respect of the supply of arms, ammunition or liquor to natives, whereby natives may be made liable to any conditions, disabilities or restrictions to which persons of European descent are not also subjected or made liable, unless the Governor has previously obtained His Majesty's instructions upon such law through a Secretary of State, or unless such law contains a Clause suspending the operation thereof until the signification in the Colony of His Majesty's pleasure thereto.

(2) The Native Juveniles Employment Act has been passed by the Legislature of Southern Rhodesia with a suspending Clause of the nature which I have just referred to.

(3) As to part three of the question, I cannot do better than quote the statement made by the Premier of Southern Rhodesia, who is also Minister of Native Affairs, in the Legislative Assembly of Southern Rhodesia :

> "I may state that in bringing forward this Bill we have attempted to carry out what has been advocated by the present Assistant Chief Native Commissioner several years ago, and what is entirely in the interest of the native juveniles themselves. His views were adopted three years ago after full discussion by resolution of a Conference of Native Superintendents. And again in that case they were thinking, not of the European employer, but of the well-being of the native children. As far as I personally am concerned, speaking as the Minister of Native Affairs, there is no other object in view than the well-being of the natives themselves."

I may add that the Act is based upon regulations which were drawn up by the Conference of Superintendents of Natives referred to in the Premier's statement; that these regulations were submitted for consideration to the Southern Rhodesia Native Education Commission, 1924-25, and that that Commission recommended their adoption as a legal measure. I am placing a copy of the Report and a copy of the Act in the Library of the House.

(4) It is not proposed that His Majesty should be advised to exercise his power of disallowance in respect of the Act.

No. 5.

Extract from the Official Report, House of Commons, 15th February, 1927.

SOUTHERN RHODESIA (EMPLOYMENT OF CHILDREN).

78. Mr. GILLETT asked the Secretary of State for the Colonies whether he is aware that, under the Children's Employment Act, in Southern Rhodesia children who object to accepting indentures

may be flogged for such refusal without any trial before a judicial officer; and whether he is prepared to consider an alteration in the law being made?

79. Mr. W. BARAN asked the Secretary of State for the Colonies whether he will call for a Report as to the conditions under which children in Southern Rhodesia are compelled to accept indenture; and whether he will particularly inquire as to the liability of such children to be flogged?

Mr. AMERY : In regard to the Southern Rhodesia Native Juveniles Employment Act, 1926, generally, I would refer the hon. Members to the reply which I gave yesterday to the hon. Member for East Woolwich (Mr. Snell).*

The position under the Act is that the Native Commissioners have the power to order male juveniles to receive a summary whipping with a light cane, not exceeding 10 strokes, either for disobeying an order given by the Native Commissioner, in pursuance of the provisions of the Act, or after hearing and determining a charge or complaint brought by an employer against the juvenile arising from any breach of duty due to an act or omission on the part of the juvenile. In either case, the Native Commissioner must at once send to the Attorney-General a report setting out fully the facts and circumstances.

There can be no doubt that the Native Commissioners will exercise their powers under this Act in the same admirable manner as they exercise the wide functions, judicial and administrative, which they discharge in relation to native affairs generally, and I do not propose to ask the Government of Southern Rhodesia to consider an alteration in the Act as suggested

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I have, etc.,
L. S. AMERY.

---

* *See* No. 4. † No. 1.

No. 7.

Despatch from the Secretary of State for Dominion Affairs to the Governor of Southern Rhodesia.

[*Answered by No. 11.*]

Downing Street,
17th February, 1927.

SIR,

With reference to my despatch of even date* in which I informed you that His Majesty would not be advised to exercise his power of disallowance in respect to Act No. 10 of 1926 of the Legislature of Southern Rhodesia entitled "An Act for regulating the employment of native juveniles," I have the honour to request you to inform your Ministers that my attention has been drawn to the fact that in Section 10 of the Act provision is made for the whippings of male juveniles prescribed in that Section to be administered in the presence of a Native Commissioner, but that similar provision is not made for supervision by a Native Commissioner in the case of the whippings prescribed in Section 4.

2. I assume, however, that it was not intended to differentiate between the two cases and that, in practice, the procedure expressly laid down in Section 10 will be followed also when whippings are ordered under Section 4.

I have, etc.,

L. S. AMERY.

No. 8.

Letter from the Dominions Office to the Secretaries, the Anti-Slavery and Aborigines Protection Society.

Downing Street,
17th February, 1927.

GENTLEMEN,

I am directed by Mr. Secretary Amery to acknowledge the receipt of your letter of 4th February† on the subject of the Native Juveniles Employment Act, 1926, recently passed by the Legislature of Southern Rhodesia.

2. Your letter is being referred to the Government of Southern Rhodesia and a further communication will be sent to you on the receipt of their reply, but as regards the last paragraph I am to invite attention to the answer given by the Secretary of State to a question asked in the House of Commons on the

* No. 6. † No. 3.

14th February by the Honourable Member for East Woolwich,* from which it will be seen that it is not proposed that His Majesty should be advised to exercise his power of disallowance in respect the Act.

I am, etc.,

A. C. C. PARKINSON.

No. 9.

Letter from the Peace Committee of the Society of Friends to the Secretary of State for Dominion Affairs.

[*Answered by Nos. 10 and 13.*]

Peace Committee of the Society of Friends,
Friends House, Euston Road, London, N.W.1.

17th February, 1927.

SIR,

We have felt deeply concerned on learning the contents of the Native Juveniles Employment Act of 1926 of Southern Rhodesia, which we understand has recently been forwarded to you from that Colony.

We feel that one of the most critical questions of to-day and of the future, is that of the relations between White Races and the Coloured Races under their control. This Bill purports to place in the hands of the Native Affairs Commissioners the power to assist in the recruiting of labour using children under 14 years of age; and in the case of boys, to insist on such labour being accepted on the threat of a "summary whipping with a light cane."

The respect for the authority of the Native Affairs Commissioners in South Africa has, we believe, been maintained largely in the past by the fact that they were rightly regarded as impartial and disinterested when dealing with Native questions. This Bill, if agreed to, will tend to affect their reputation for disinterestedness.

Further, if, as we understand, there are children in the Colony suffering from lack of proper control and constituting a problem which this Bill is designed to meet, surely it is a very retrogressive step to contemplate enforced labour for children of tender years, who ought properly to be placed under Educational Authorities rather than task masters.

We feel sure that it is not necessary to point out the possible risks of injustice in such summary action as is contemplated, and the risks to health which may be entailed.

* No. 4.

No. 7.

Despatch from the Secretary of State for Dominion Affairs to the Governor of Southern Rhodesia.

[*Answered by No. 11.*]

Downing Street,
17th February, 1927.

SIR,

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2. I assume, however, that it was not intended to differentiate between the two cases and that, in practice, the procedure expressly laid down in Section 10 will be followed also when whippings are ordered under Section 4.

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We feel that one of the most critical questions of to-day and of the future, is that of the relations between White Races and the Coloured Races under their control. This Bill purports to place in the hands of the Native Affairs Commissioners the power to assist in the recruiting of labour among children under 14 years of age; and in the case of boys, to insist on such labour being accepted on the threat of a "summary whipping with a light cane."

The respect for the authority of the Native Affairs Commissioners in South Africa has, we believe, been maintained largely in the past by the fact that they were rightly regarded as impartial and disinterested when dealing with Native questions. This Bill, if agreed to, will tend to affect their reputation for disinterestedness.

Further, if, as we understand, there are children in the Colony suffering from lack of proper control and constituting a problem which this Bill is designed to meet, surely it is a very retrogressive step to contemplate enforced labour for children of tender years, who ought properly to be placed under Educational Authorities rather than task masters.

We feel sure that it is not necessary to point out the possible risks of injustice in such summary action as is contemplated, and the risks to health which may be entailed.

* No. 4.

We sincerely hope that the most serious consideration will be given to all these points before such a Bill is sanctioned in any part of the British Empire.

We are, Sir,
On behalf of the Committee,
Yours, etc.,

JOHN W. GRAHAM,
Chairman.

KATHLEEN E. INNES,
Secretary.

No. 10.

Letter from the Dominions Office to the Chairman, Native Committee of the Society of Friends.

Downing Street,
22nd February, 1927.

SIR,

I am directed by Mr. Secretary Amery to acknowledge the receipt of your letter of the 17th February,* relative to the Native Juveniles Employment Act, 1926, of Southern Rhodesia.

2. Your letter is being referred to the Government of Southern Rhodesia, and a further communication will be sent to you on receipt of their reply.

3. In the meantime, however, I am to enclose, for your information, copies of questions on the subject of the legislation referred to which were asked in the House of Commons on the 14th and 15th February, together with a copy of the Secretary of State's replies.†

I am, etc.,

A. C. C. PARKINSON.

No. 11.

Despatch from the Governor of Southern Rhodesia to the Secretary of State for Dominion Affairs.

(Received 25th April, 1927.)

Governor's Office,
Salisbury, Southern Rhodesia,
4th April, 1927.

SIR,

With reference to your despatch of the 17th of February‡ regarding the "Native Juveniles Employment Act, 1926," I have

* No. 9. † Nos. 4 and 5. ‡ No. 7.

the honour to inform you that instructions are being issued to Native Commissioners that whippings ordered under Section 2, Sub-section 4 of the Act must be administered in their presence, and that their subsequent reports to the Attorney-General must contain a note to that effect.

I have, etc.,

MURRAY BISSET,
Governor's Deputy.

No. 12.

Letter from the Dominions Office to the Secretaries, the Anti-Slavery and Aborigines Protection Society.

Downing Street,
13th May, 1927.

GENTLEMEN,

With further reference to your letter of the 4th February* on the subject of the Southern Rhodesia Native Juveniles Employment Act, 1926, I am directed by Mr. Secretary Amery to inform you that a reply has now been received from the Government of Southern Rhodesia stating that it would appear that the objects of the Act have been misunderstood.

2. The Southern Rhodesia Government explain that the Act was designed primarily in the interests of the native juveniles themselves in order *inter alia* to protect them against such evils as loafing, undesirable employers, and undesirable companions and surroundings. They note that the objections raised by the Society are directed mainly against Section 6 of the Act. This Section, they point out, applies only to juveniles who are without proper employment and whose parents or guardians cannot be found. It is not anticipated that many juveniles will be dealt with under this Section—at the most a Native Commissioner will exercise his powers of "contracting" juveniles one or twice a year. It should be remembered that any juveniles who may be dealt with under the Section will be those who have entered a town without the consent of their parents or guardians, and it is pointed out that it is eminently desirable that Native Commissioners should have the power to assume guardianship in such cases, particularly as in industrial centres there is a marked disproportion of the sexes, giving rise to dangers which need not be particularised.

3. The Southern Rhodesia Government state that there is, therefore, no foundation, either in the terms of the Act or elsewhere, for the suggestion that Native Commissioners will "become in any way agents for recruiting labour." No recruitment is intended and none will be allowed.

* No. 3.

4. In regard to paragraphs 3 and 4 of your letter, the Southern Rhodesia Government state that the practice in the past has been that detailed in the first part of paragraph 3 of that letter. The Act does not enable juveniles to enter into service, in town or elsewhere, "unaided," or without the "advice, explanation or consent of any parent, guardian or person *in loco parentis*." On the contrary, the Act regulates their entry into service in almost the precise manner outlined in paragraph 4 of your letter.

I am, etc.,

A. C. C. PARKINSON.

No. 13.

Letter from the Dominions Office to the Chairman, Peace Committee of the Society of Friends.

Downing Street,
13th May, 1927.

SIR,

With further reference to your letter of the 17th February,* regarding the Southern Rhodesia Native Juveniles Employment Act, 1926, I am directed by Mr. Secretary Amery to inform you that a reply has now been received from the Government of Southern Rhodesia to the representations put forward in your letter.

2. The Southern Rhodesia Government explain that the Act was designed primarily in the interests of the native juveniles themselves in order *inter alia* to protect them against such evils as loafing, undesirable employers, and undesirable companions and surroundings. They note that the objections raised to the Act have been directed mainly against Section 6, but this Section, they point out, applies only to juveniles who are without proper employment and whose parents or guardians cannot be found. It is not anticipated that many juveniles will be dealt with under this Section at the most a Native Commissioner will exercise his powers of "contracting" juveniles once or twice a year. It should be remembered that any juveniles who may be dealt with under this Section will be those who have entered a town without the consent of their parents or guardians, and it is pointed out that it is eminently desirable that Native Commissioners should have the power to assume guardianship in such cases, particularly as in

* No. 9.

industrial centres there is a marked disproportion of the sexes, giving rise to dangers which need not be particularised.

3. The Southern Rhodesia Government desire to emphasise the fact that the Act was not intended to and will not place in the hands of Native Commissioners the power to assist in the recruiting of labour among children. They state also that the Act will not in their opinion tend to affect the reputation of Native Commissioners for disinterestedness but should increase that reputation by giving them legal power to act as guardians to and to protect native juveniles whose parents or guardians cannot be found. No enforced labour is under contemplation beyond the selection of suitable and humane employers for those children who are already seeking employment of their own initiative and who, in the absence of their parents or guardians, require guidance in doing so.

4. The Southern Rhodesia Government add that the Act provides adequate safeguards against all risks of injustice and that as a result of the powers of inspection and control given to Native Commissioners by the Act risks to health will be minimised.

I am, etc.,

A. C. C. PARKINSON.

No. 14.

Southern Rhodesia Proclamation No. 9, 16th June, 1927.

No. 9 of 1927.

PROCLAMATION

by

His Excellency Lieutenant-Colonel Sir John Robert Chancellor, Knight Grand Cross of the Most Distinguished Order of Saint Michael and Saint George, Knight Grand Cross of the Royal Victorian Order, Companion of the Distinguished Service Order, Lieutenant-Colonel on the Retired List of the Corps of Royal Engineers, Governor and Commander-in-Chief in and over the Colony of Southern Rhodesia.

WHEREAS by section 12 of the "Native Juveniles Employment Act, 1926" (No. 10, 1926), it is provided that the said Act shall not come into operation unless and until the Governor has declared by Proclamation in the *Gazette* that it is His Majesty's pleasure not to disallow the same:

Now, therefore, under and by virtue of the powers vested in me as aforesaid, I do hereby proclaim, declare and make known

that it is His Majesty's pleasure not to disallow the said Act, which accordingly comes into operation from the seventeenth day of June, 1927.

GOD SAVE THE KING.

Given under my Hand and the Public Seal of the Colony of Southern Rhodesia, at Salisbury, this sixteenth day of June, one thousand nine hundred and twenty-seven.

J. R. CHANCELLOR,
Governor.

By command of His Excellency the Governor-in-Council.

C. P. J. COGHLAN.

No. 15.

Letter from the Honorary Secretary, the Anti-Slavery and Aborigines Protection Society, to the Secretary of State for Dominion Affairs.

[*Answered by No.* 16.]

The Anti-Slavery and Aborigines Protection Society,
Denison House,
296, Vauxhall Bridge Road, S.W.1.

13th July, 1927.

SIR,

I beg leave to forward copy of a resolution passed at the Annual Meeting of this Society on the 7th instant, in regard to the Native Juveniles Employment Act in Southern Rhodesia.

I have, &c.,

TRAVERS BUXTON,
Hon. Secretary.

Enclosure in No. 15.

RESOLUTION PASSED AT THE ANNUAL MEETING OF THE ANTI-SLAVERY AND ABORIGINES PROTECTION SOCIETY.

7th July, 1927.

This meeting protests against the passage of the Native Juveniles Employment Act in Southern Rhodesia, and urges that every possible step should be taken to prevent its coming into operation.

No. 16.

Letter from the Dominions Office to the Secretary, the Anti-Slavery and Aborigines Protection Society.

Downing Street,
25th July, 1927.

SIR,

I am directed to acknowledge the receipt of your letter of the 13th July* forwarding a copy of a resolution, passed at the Annual Meeting of the Society, relative to the Southern Rhodesia Native Juveniles Employment Act, 1926.

I am, etc.,

A. C. C. PARKINSON.

No. 17.

Extract from the Official Report, House of Commons, 10th November, 1927.

SOUTHERN RHODESIA (JUVENILES EMPLOYMENT ACT).

81. Mr. AMMON asked the Secretary of State for the Colonies whether the Act for the indenture of native juveniles passed by the Rhodesian Parliament has yet received the sanction of His Majesty's Government; and whether, before consent is given, opportunity to consider the proposals in the Act as to the ages and sex of the indentured children and the punishments prescribed will be given to the British Parliament?

The UNDER-SECRETARY of STATE for the COLONIES (Mr. ORMSBY GORE): The matter is in no way within the sphere of the Colonial Office, but I am asked to state that it was explained in the reply given to the hon. Member for East Woolwich (Mr. Snell) on the 14th February† that it was not proposed that His Majesty should be advised to exercise his power of disallowance in respect of the Southern Rhodesia Native Juveniles Employment Act. The Act accordingly came into operation last June.

Mr. AMMON: In view of the importance of the charge that child slavery is being established in the British Empire, and that children of both sexes are treated practically as slaves, is it not worth while to give further information?

Mr. ORMSBY GORE: I could not possibly accept that description of what the Act of the Southern Rhodesian Parliament has done.

* No. 15. † *See* No. 4.

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Mr. AMMON: In view of the importance of the charge that child slavery is being established in the British Empire, and that children of both sexes are treated practically as slaves, is it not worth while to give further information?

Mr. ORMSBY GORE: I could not possibly accept that description of what the Act of the Southern Rhodesian Parliament has done.

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* No. 15. † See No. 4.

Mr. AMMON: Is the hon. Gentleman not aware that it has been stated that the mica fields are being wholly run by child labour of both sexes, and that the farmers themselves claim that they have secured the passing of this Act whereby quite little children are being hired out as indentured slaves?

No. 18.

Telegram from the Governor of Southern Rhodesia to the Secretary of State for Dominion Affairs.

(*Received 24th November*, 1927.)

23rd November. Native Juvenile Employment Act. Ministers desire me to inform you as follows: *Begins*: (i) Juvenile employment on mica mines in common with all other juvenile employment is governed by the Act. Employment of juveniles is in accordance with native habits and customs and was uncontrolled prior to the passing of the Act. Act gives Native Commissioners power to prohibit employment of juveniles where such employment is contrary to the interests of the juveniles. Before registering juveniles employed at mica mines under the Act, Assistant Native Commissioner, Urungwe, visited the mines in order to satisfy himself that conditions of employment were satisfactory.

Compound Inspector attached to Public Health Department also visits mines periodically for the purpose of seeing that conditions of employment are satisfactory.

(ii) Estimated number of juveniles employed on mica mines is approximately 300 out of total labour complement of 800 natives.

Majority of juveniles so employed are children of natives living at Urungwe sub-district of Lomagundi District, where mines are situated, and in most instances parents or guardians are employed on the same mine.

No native female juveniles are employed on the mines.

(iii) Native juveniles who are all voluntary employees are engaged on a monthly basis. They are paid from four shillings per month and upwards according to their age, together with free food and quarters. Their ages range from 10 to 15 years. No juveniles are employed underground or on work involving heavy manual labour. Their work consists of cutting, splitting and sorting sheet mica, a task which is of the lightest nature and is eminently suited to juveniles. Juveniles sit in open sheds and their work requires practically no physical effort. Conditions under which they work are comfortable and hygienic.

Conditions under which juveniles live are satisfactory. They are well housed and fed. *Ends*. GOVERNOR.

No. 19.

Extract from the Official Report, House of Commons, 5th December, 1927.

SOUTHERN RHODESIA

NATIVE JUVENILE EMPLOYMENT.

Mr. PETHICK-LAWRENCE asked the Prime Minister whether the Act for the indenturing of native juveniles in Southern Rhodesia has received His Majesty's formal assent; whether notification of this assent was made by the Governor by speech or message to the legislative bodies or by Proclamation in the Gazette; and, if so, on what date?

The PRIME MINISTER: The notification that it was His Majesty's pleasure not to disallow the Southern Rhodesia Native Juveniles Employment Act, 1926, was made by a Proclamation of the Governor dated the 16th June last,* and published in the Southern Rhodesia Government Gazette.

Mr. THURTLE: Is the Prime Minister aware that this means that within the British Empire slavery of little children is being permitted?

Mr. SPEAKER: Order, order!

Colonel WEDGWOOD *rose*——

Mr. SPEAKER: This refers to a part of the Empire which has its own Government.

Colonel WEDGWOOD: Surely, this question dealing with native affairs in Rhodesia, is one that is subject to the action of the Government of this country? Is the right hon. Gentleman really satisfied that this recent development in Southern Rhodesia, due very largely to the preference given to Empire-grown tobacco, is in the interests of British traditions?

The PRIME MINISTER: That is a question, I think, which lends itself to debate. The next question will afford an opportunity for asking the questions which the right hon. and gallant Gentleman the Member for Newcastle-under-Lyme (Colonel Wedgwood) and the hon. Member for Shoreditch (Mr. Thurtle) desire to raise.

Mr. MACQUISTEN: Is the Prime Minister aware that in Southern Rhodesia, as in other parts of Africa, children are always regarded by the natives as an asset instead of a liability?

No. 20.

Extract from the Official Report, House of Commons, 5th December, 1927.

55. Mr. AMMON asked the Prime Minister whether, seeing that he has sanctioned legislation for the indenture of children in

* *See* No. 14.

Mr. AMMON: Is the hon. Gentleman not aware that it has been stated that the mica fields are being wholly run by child labour of both sexes, and that the farmers themselves claim that they have secured the passing of this Act, whereby quite little children are being lured out as indentured slaves?

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(Received 24th November, 1927.)

23rd November. Native Juvenile Employment Act. Ministers desire me to inform you as follows: *Begins*: (i) Juvenile employment on mica mines in common with all other juvenile employment is governed by the Act. Employment of juveniles is in accordance with native habits and customs and was uncontrolled prior to the passing of the Act. Act gives Native Commissioners power to prohibit employment of juveniles where such employment is contrary to the interests of the juveniles. Before registering juveniles employed at mica mines under the Act, Assistant Native Commissioner, Urungwe, visited the mines in order to satisfy himself that conditions of employment were satisfactory.

Compound Inspector attached to Public Health Department also visits mines periodically for the purpose of seeing that conditions of employment are satisfactory.

(ii) Estimated number of juveniles employed on mica mines is approximately 300 out of total labour complement of 800 natives.

Majority of juveniles so employed are children of natives living at Urungwe sub-district of Lomagundi District, where mines are situated, and in most instances parents or guardians are employed on the same mine.

No native female juveniles are employed on the mines.

(iii) Native juveniles who are all voluntary employees are engaged on a monthly basis. They are paid from four shillings per month and upwards according to their age, together with free food and quarters. Their ages range from 10 to 15 years. No juveniles are employed underground or on work involving heavy manual labour. Their work consists of cutting, splitting and sorting sheet mica, a task which is of the lightest nature and is eminently suited to juveniles. Juveniles sit in open sheds and their work requires practically no physical effort. Conditions under which they work are comfortable and hygienic.

Conditions under which juveniles live are satisfactory. They are well housed and fed. *Ends*. GOVERNOR.

No. 19.

Extract from the Official Report, House of Commons, 5th December, 1927.

SOUTHERN RHODESIA.

NATIVE JUVENILE EMPLOYMENT.

54. Mr. PETHICK-LAWRENCE asked the Prime Minister whether the Act for the indenturing of native juveniles in Southern Rhodesia has received His Majesty's formal assent; whether notification of this assent was made by the Governor by speech or message to the legislative bodies or by Proclamation in the Gazette; and, if so, on what date?

The PRIME MINISTER: The notification that it was His Majesty's pleasure not to disallow the Southern Rhodesia Native Juveniles Employment Act, 1926, was made by a Proclamation of the Governor dated the 16th June last and published in the Southern Rhodesia Government Gazette.

Mr. THURTLE: Is the Prime Minister aware that this means that within the British Empire slavery of little children is being permitted?

Mr. SPEAKER: Order, order!

Colonel WEDGWOOD *rose*——

Mr. SPEAKER: This refers to a part of the Empire which has its own Government.

Colonel WEDGWOOD: Surely, this question dealing with native affairs in Rhodesia, is one that is subject to the action of the Government of this country? Is the right hon. Gentleman really satisfied that this recent development in Southern Rhodesia, due very largely to the preference given to Empire-grown tobacco, is in the interests of British traditions?

The PRIME MINISTER: That is a question, I think, which lends itself to debate. The next question will afford an opportunity for asking the questions which the right hon. and gallant Gentleman the Member for Newcastle-under-Lyme (Colonel Wedgwood) and the hon. Member for Shoreditch (Mr. Thurtle) desire to raise.

Mr. MACQUISTEN: Is the Prime Minister aware that in Southern Rhodesia, as in other parts of Africa, children are always regarded by the natives as an asset instead of a liability?

No. 20.*

Extract from the Official Report, House of Commons, 5th December, 1927.

55. Mr. AMMON asked the Prime Minister whether, seeing that he has sanctioned legislation for the indenture of children in

* *See* No. 14.

Southern Rhodesia, his attention has been drawn to the fact that numbers of young children are employed in the mica mines; whether he has received and considered the most recent Report of the Chief Native Commissioner, in which this official states that the mica mineowners and farmers have cut wages to the lowest possible limit; and whether, in view of these facts, he will invite the Southern Rhodesia Government to submit a Report upon the whole question of child employment in Southern Rhodesia?

The PRIME MINISTER: According to a Report* recently received from the Southern Rhodesia Government, the estimated number of native juveniles employed on the mica mines is approximately 900, out of a total labour complement of 800 natives. These are all boys, and the majority of them are children of natives living in the district where the mines are situated, and in most instances their parents or guardians are employed on the same mine. These native juveniles are all voluntary employés, and are engaged on a monthly basis. Their ages range from 10 to 15 years. No juveniles are employed underground or on work involving heavy manual labour. The Southern Rhodesia Government have the mines inspected periodically, and are satisfied that the conditions under which these juveniles work are comfortable and hygienic, and that they are well housed and fed.

Mr. AMMON: Is the right hon. Gentleman aware that this is a Report made by the Native Commissioner to the Rhodesian Assembly, in which the Native Commissioner condemns this, and says that the reason is that the sweated wages paid to adult labour have driven adults away, and child slave labour is being used?

The PRIME MINISTER: I think it would be much better that this matter should be dealt with in Debate rather than by question and answer. If my memory serves me, the Report is dated some little time back, before the time when these arrangements were made, and, as the hon. Member has asked these questions, I think it is only fair to state that the employment of juveniles was entirely uncontrolled and uncontrollable until this Act was passed. Under this Act, the Native Commissioners have power to prohibit the employment of juveniles wherever such employment is contrary to the interests of the juveniles. The matter is one which, I think, should be debated in this House at some time, because there is a great deal to be said on both sides.

Mr. AMMON: Is the right hon. Gentleman aware that this is a Report for the year 1926, and that it was only printed in 1927, by command of the Government?

The PRIME MINISTER: That is quite true; I am quite familiar with the Report; I have been studying it this morning. The Report deals with a period antecedent to the period when this

* *See* No. 18.

Act, with all its Regulations, came into force. This Act has gone a considerable distance in getting control over what hitherto has been subject to no control at all.

Sir R. HAMILTON: Can the right hon. Gentleman say the minimum age at which children can be indentured under this law?

The PRIME MINISTER: I speak without full knowledge of these technical terms in the Dominions and Colonies, but this is not, as I understand the word, indentured labour.

Sir R. HAMILTON: I beg pardon; I mean apprenticed.

The PRIME MINISTER: I cannot answer the question without notice.

No. 21.

Extract from the Official Report, House of Commons, 12th December, 1927.

SOUTHERN RHODESIA (JUVENILE EMPLOYMENT).

54. Mr. THURTLE asked the Prime Minister if his attention has been drawn to the fact that the Act authorising the indenture of Native juveniles in Southern Rhodesia includes no minimum age for juveniles who may be indentured; and will His Majesty's Government bear this fact in mind in considering the matter?

The PRIME MINISTER: The Attorney-General of Southern Rhodesia stated in the course of the Debate in the Legislative Assembly on the Native Juveniles Employment Bill, that he did not anticipate that children younger than eight or nine years of age would be engaged to perform a contract of any sort. Inquiry will, however, be made of the Southern Rhodesia Government as to their precise intentions in the matter.

No. 22.

Extract from the Official Report, House of Commons, 13th December, 1927.

SOUTHERN RHODESIA (JUVENILE EMPLOYMENT).

47. Mr. AMMON asked the Prime Minister whether, seeing that sanction has been given to legislation for indenturing native children in Rhodesia under the age of 14 years, he will consider whether it would be possible for His Majesty's Government to consult the Rhodesian Government upon the advisability of amending the legislation in order to introduce a downward limit of five or seven years below which children could be exempt from whipping or, alternatively, from the whole of the provisions of the indenture legislation?

Southern Rhodesia, his attention has been drawn to the fact that numbers of young children are employed in the mica mines; whether he has received and considered the most recent Report of the Chief Native Commissioner, in which this official states that the mica mineowners and farmers have cut wages to the lowest possible limit; and whether, in view of these facts, he will invite the Southern Rhodesia Government to submit a Report upon the whole question of child employment in Southern Rhodesia?

The PRIME MINISTER: According to a Report* recently received from the Southern Rhodesia Government, the estimated number of native juveniles employed on the mica mines is approximately 300, out of a total labour complement of 800 natives. These are all boys, and the majority of them are children of natives living in the district where the mines are situated, and in most instances their parents or guardians are employed on the same mine. These native juveniles are all voluntary employés, and are engaged on a monthly basis. Their ages range from 10 to 15 years. No juveniles are employed underground or on work involving heavy manual labour. The Southern Rhodesia Government have the mines inspected periodically, and are satisfied that the conditions under which these juveniles work are comfortable and hygienic, and that they are well housed and fed.

Mr. AMMON: Is the right hon. Gentleman aware that this is a Report made by the Native Commissioner to the Rhodesian Assembly, in which the Native Commissioner condemns this, and says that the reason is that the sweated wages paid to adult labour have driven adults away, and child slave labour is being used?

The PRIME MINISTER: I think it would be much better that this matter should be dealt with in Debate rather than by question and answer. If my memory serves me, the Report is dated some little time back, before the time when these arrangements were made, and, as the hon. Member has asked these questions, I think it is only fair to state that the employment of juveniles was entirely uncontrolled and uncontrollable until this Act was passed. Under this Act, the Native Commissioners have power to prohibit the employment of juveniles wherever such employment is contrary to the interests of the juveniles. The matter is one which, I think, should be debated in this House at some time, because there is a great deal to be said on both sides.

Mr. AMMON: Is the right hon. Gentleman aware that this is a Report for the year 1926, and that it was only printed in 1927 by command of the Government?

The PRIME MINISTER: That is quite true; I am quite familiar with the Report; I have been studying it this morning. The Report deals with a period antecedent to the period when this

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Act, with all its Regulations, came into force. This Act has gone a considerable distance in getting control over what hitherto has been subject to no control at all.

Sir R. HAMILTON: Can the right hon. Gentleman say the minimum age at which children can be indentured under this law?

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Sir R. HAMILTON: I beg pardon; I mean apprenticed.

The PRIME MINISTER: I cannot answer the question without notice.

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SOUTHERN RHODESIA (JUVENILE EMPLOYMENT).

54. Mr. THURTLE asked the Prime Minister if his attention has been drawn to the fact that the Act authorising the indenture of Native juveniles in Southern Rhodesia includes no minimum age for juveniles who may be indentured; and will His Majesty's Government bear this fact in mind in considering the matter?

The PRIME MINISTER: The Attorney-General of Southern Rhodesia stated in the course of the Debate in the Legislative Assembly on the Native Juveniles Employment Bill, that he did not anticipate that children younger than eight or nine years of age would be engaged to perform a contract of any sort. Inquiry will, however, be made of the Southern Rhodesia Government as to their precise intentions in the matter.

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Major Sir GEORGE HENNESSY (Vice-Chamberlain of the Household): I have been asked to reply to this question. I would refer the hon. Member to the reply given by the Prime Minister yesterday to the hon. Member for Shoreditch (Mr. Thurtle) on this subject.*

No. 23.

Extract from the Official Report, House of Commons, 14th December, 1927.

JUVENILE EMPLOYMENT.

47. Mr. THURTLE asked the Prime Minister whether, seeing that sanction was given to the legislation for the indenturing of native children in Rhodesia prior to the receipt by the Secretary of State for the Dominions of the last report of the Chief Native Commissioner of Rhodesia, he will invite the Rhodesian Government to consider the advisability of submitting to His Majesty's Government periodic reports upon the working of the system of child labour in Rhodesia?

The PRIME MINISTER: It is presumed that the hon. Member refers to the observations in the last report† of the Chief Native Commissioner of Southern Rhodesia on the wages paid to native labourers in the mica fields. The report deals, however, with a period before the Native Juveniles Employment Act came into operation. Prior to the Act the employment of native juveniles was wholly unregulated, and the object of the legislation is to bring such employment under proper control and to enable the Native Commissioners to prohibit the employment of juveniles where it would be contrary to the interests of such juveniles. Information as to the working of the Act will no doubt be given in future reports of the Chief Native Commissioner.

No. 24.

Native Juveniles Employment Act, 1926.

STATEMENT BY THE ATTORNEY-GENERAL OF SOUTHERN RHODESIA.

Communicated to the Press.

(Received from the Governor of Southern Rhodesia on the 19th December, 1927.)

The outcry against this Act (Native Juveniles Employment Act) is based on a complete misapprehension both as to its object and its actual provisions.

In their own kraal life, natives have always utilised the services of their children for comparatively light forms of employment,

* *See* No. 21.

† Published as Southern Rhodesia Legislative Assembly Paper C.S.R. 6.—1927.

such as, for instance, the herding of cattle and sheep. With the advent of European settlement, native juveniles began to seek and obtain employment on farms and later in towns. This employment was entirely voluntary on their part and was uncontrolled by legislation. Though in some cases the juveniles left their homes with the consent of their fathers, in many cases they absconded and went afield seeking work.

The lure of town life began to attract these juveniles in increasing numbers, and in 1920 the Chief Native Commissioner, in a report,* called attention to the fact that hundreds of native boys were to be found in any one of the larger centres of population. There being then no legislation controlling the employment of these boys, they were in many cases learning bad habits.

Allowed to Drift.

Inasmuch as their contracts of service were unenforceable against them, they could drift from one employer to another at their own sweet will. In a number of cases they were in nominal or questionable employ by natives of most undesirable habits of life. With no guiding or restraining influence these native juveniles were thus in many cases left to their own resources and exposed to influences of a most pernicious kind. The result is easily imagined.

In 1923 a conference of Superintendents of Natives, officials of high standing and lifelong experience of natives, passed a resolution† calling attention to the continuing and increasing nature of the evil of uncontrolled juvenile employment, and advocating the enactment of legislation to control it on the lines of certain draft regulations which were submitted. These regulations were the basis on which the Act was founded. No action was then taken.

The Commission on Native Education, consisting of the Assistant Chief Native Commissioner, Mr. Eickhoff and Mr. Hadfield, appointed in 1925, in its report drew attention to the continuing evil of the uncontrolled employment of juveniles and recommended the adoption of the above regulations as a legal measure.

The Act was introduced in 1926, following on a resolution in 1925 requesting the Government to take the question into consideration. In speaking on the second reading, the Premier, Sir Charles Coghlan, emphasised the point that the Act was introduced in the interests of native juveniles themselves and on the strong recommendation of the Native Department. So much for the object of the Act.

Control by Commissioner.

In regard to its provisions, Section 1 provides that no native juvenile shall be permitted to seek employment unless in possession of a prescribed certificate issued by a Native Commissioner. A

* *See* page 12.

† *See* page 19.

Major Sir GEORGE HENNESSY (Vice-Chamberlain of the Household): I have been asked to reply to this question. I would refer the hon. Member to the reply given by the Prime Minister yesterday to the hon. Member for Shoreditch (Mr. Thurtle) on this subject.*

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The PRIME MINISTER: It is presumed that the hon. Member refers to the observations in the last report† of the Chief Native Commissioner of Southern Rhodesia on the wages paid to native labourers in the mica fields. The report deals, however, with a period before the Native Juveniles Employment Act came into operation. Prior to the Act the employment of native juveniles was wholly unregulated, and the object of the legislation is to bring such employment under proper control and to enable the Native Commissioners to prohibit the employment of juveniles where it would be contrary to the interests of such juveniles. Information as to the working of the Act will no doubt be given in future reports of the Chief Native Commissioner.

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Control by Commissioner.

In regard to its provisions, Section 1 provides that no native juvenile shall be permitted to seek employment unless in possession of a prescribed certificate issued by a Native Commissioner. A

* *See* page 12.

† *See* page 13.

Native Commissioner may withhold the issue of such certificate for any reason deemed by him to be sufficient. No employer may engage a juvenile unless he is in possession of the prescribed certificate and when he does engage one the terms and conditions of employment must be communicated to the Native Commissioner.

Native Commissioners by the Act are given wide powers of controlling the employment of juveniles. Thus they have a wide discretion in cancelling contracts of service, of inspection of premises where juveniles are employed, and of ordering juveniles to return to the parents or guardians. These provisions show that the Act introduces necessary safeguards entirely in the interests of the juveniles themselves.

The objections raised may be dealt with as follows:—

(*a*) *It is applicable to girls as well as boys.*—The objectors state that it was admitted in debate that this feature was unprecedented.

This is not correct. What was stated in debate was that it would be unprecedented to provide for the whipping of females, and the Act, in fact, does not allow of this. Girls can be punished only by fines—no imprisonment is allowed—so that in reality no effective punishment is provided.

If the Act were not applicable to girls there would be no means of controlling or preventing their employment.

(*b*) *No minimum limit of age.*—The objectors apparently overlook the fact that the giving of certificates to seek work—a condition precedent to contracting the services of juveniles—is in the discretion of Native Commissioners, who can be trusted not to refuse certificates where the juveniles are too young.

Whipping as Punishment.

(*a*) *Summary Whipping.*—It might be thought that the moderate chastisement of juveniles was unheard of prior to the passing of the Act. The whipping of juveniles, as a matter of fact, has been accepted for many years both in legislation and in private life as the most suitable form of correction for juvenile misdemeanour.

Legislation in the Cape Colony as far back as 1860 provided that juvenile offenders, irrespective of race, may be summarily whipped, and that similar legislation has been in force in Southern Rhodesia since the inception of the Colony. The object is obvious, i.e., to keep juveniles out of gaol and save them from association with criminals.

The statement in the appeal of the Aborigines Protection Society that the Attorney-General stated during the debate on the Bill that the farmers, not the children, are the persons principally concerned is a gross distortion. In dealing with Clause 4 in the Bill, which, as originally drafted, exempted from the operation of the Act juveniles employed on farms in districts within which their parents or guardians reside, the Attorney-General explained that

the object of this was to allow of casual employment, and added that as the farmers who were the persons principally concerned did not desire this exemption he proposed to amend the clause.

It was obvious that he meant that the farmers were principally concerned in the operation of this particular provision. To distort this statement into a general one that the farmers, not the children, are the persons principally concerned in the Bill does not reflect well on the framers of the appeal.

It is clear, therefore, that so far from introducing and legalising child labour, the Act in fact gives power to control it, and to prohibit it in all cases where the employment is not in the interests of the juveniles themselves.

The Natives Approve.

The provisions of the Act have been communicated to the natives through their chiefs and headmen. These chiefs and headmen at meetings with their Native Commissioners have expressed their appreciation of the action taken by the Government, and have stated that they welcome the Act.

So far as employment on the mica fields is concerned, of which the appeal of the Aborigines Protection Society makes a feature, this employment is of a light nature and eminently suitable for juveniles. It consists in splitting and cutting mica and the juveniles, while performing it, are seated in sheds above ground. They are well housed and fed and the conditions of their employment are subject to inspection by the Native Commissioner and the Compound Inspector. The employment is entirely voluntary.

No. 25.

Despatch from the Governor of Southern Rhodesia to the Secretary of State for Dominion Affairs.

(*Received 18th February, 1928.*)

Governor's Office,
Salisbury,
Southern Rhodesia,
18th January, 1928.

SIR,

With reference to your despatch of 20th December, 1927,* regarding the Native Juveniles Employment Act of 1926, I have the honour to transmit, for your information, a copy of a Minute dated 16th January, which I have received from my Ministers enclosing a circular letter which has been addressed to all Native Commissioners, containing instructions for their guidance in administering that Act.

* Not printed; it forwarded copies of Nos. 21, 22, and 23.

Native Commissioner may withhold the issue of such certificate for any reason deemed by him to be sufficient. No employer may engage a juvenile unless he is in possession of the prescribed certificate and when he does engage one the terms and conditions of employment must be communicated to the Native Commissioner.

Native Commissioners by the Act are given wide powers of controlling the employment of juveniles. Thus they have a wide discretion in cancelling contracts of service, of inspection of premises where juveniles are employed, and of ordering juveniles to return to the parents or guardians. These provisions show that the Act introduces necessary safeguards entirely in the interests of the juveniles themselves.

The objections raised may be dealt with as follows:—

(a) *It is applicable to girls as well as boys.*—The objectors state that it was admitted in debate that this feature was unprecedented. This is not correct. What was stated in debate was that it would be unprecedented to provide for the whipping of females, and the Act, in fact, does not allow of this. Girls can be punished only by fines—no imprisonment is allowed—so that in reality no effective punishment is provided.

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Whipping as Punishment.

(c) *Summary Whipping.*—It might be thought that the moderate chastisement of juveniles was unheard of prior to the passing of the Act. The whipping of juveniles, as a matter of fact, has been accepted for many years both in legislation and in private life as the most suitable form of correction for juvenile misdemeanour.

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Despatch from the Governor of Southern Rhodesia to the Secretary of State for Dominion Affairs.

(*Received 18th February*, 1928.)

Governor's Office,
Salisbury,
Southern Rhodesia.
18th January, 1928.

Sir,

With reference to your despatch of 20th December, 1927,* regarding the Native Juveniles Employment Act of 1926, I have the honour to transmit, for your information, a copy of a Minute dated 16th January, which I have received from my Ministers enclosing a circular letter which has been addressed to all Native Commissioners, containing instructions for their guidance in administering that Act.

* Not printed; it forwarded copies of Nos. 21, 22, and 23.

2. Instructions have also been issued to the Native Commissioners to the effect that in preparing their Annual Reports their remarks regarding labour conditions should be amplified, and that a report upon the working of the Native Juveniles Employment Act of 1926 should be included.

3. The Premier has informed me that the question of amending the Native Juveniles Employment Act of 1926 in order to provide that native juveniles under 20 years of age shall not be permitted to enter into contracts for service is now under the consideration of the Cabinet.

I have, etc.,

J. R. CHANCELLOR,
Governor.

Enclosure in No. 25.

Premier's Office,
Salisbury,
Southern Rhodesia,
18th January, 1928.

With reference to His Excellency the Governor's Minute of the 13th January, on the subject of the Native Juveniles Employment Act, 1926, Ministers have the honour to inform His Excellency, in reply to paragraph 2 of the Secretary of State's despatch of the 20th December,* that the intention is, that children of less than 10 years of age shall not leave direct parental control, and they beg to transmit for His Excellency's information a copy of a circular letter despatched to all Native Department Stations in Southern Rhodesia by the Chief Native Commissioner.

H. U. MOFFAT

Chief Native Commissioner's Office,
Salisbury,
18th January, 1928.

(*Urgent and Important.*)

JUVENILES EMPLOYMENT ACT.

I have to inform Native Commissioners that the Government does not approve of children under 10 years of age entering into contracts of service.

Exception to this rule may be made in cases where the parents or guardians accompany the children and remain with them during the period of their employment.

* Not printed.

The Government does not approve in any circumstances of children under 10 years of age leaving direct parental control. Children under 10 years of age who persistently leave their parents or guardians must be sent back to their homes.

It is further notified for the information of Native Commissioners that certificates must not be issued to juveniles who, even though they may appear to be above the minimum age, are considered physically—or for any other reason—not suitable for employment. A juvenile for instance might be slightly mentally deficient.

Further, Native Commissioners must be careful to scrutinise particulars provided by the employer, as is provided under Section 6 of the Act. Should it be found that the nature of the work or the rate of wages are not suitable and satisfactory, further enquiry must be made.

If the Native Commissioner is not satisfied as the result of such enquiry, he must exercise the powers conferred upon him by Section 2, Sub-Section (1), and must arrange either for the matter to be remedied or the contract of service cancelled.

H. J. TAYLOR,
Chief Native Commissioner.

To all Native Department Stations in Southern Rhodesia.

No. 26.

Despatch from the Governor of Southern Rhodesia to the Secretary of State for Dominion Affairs.

(*Received 20th February, 1928.*)

Governor's Office,
Salisbury,
Southern Rhodesia.
26th January, 1928.

SIR,

With reference to Lord Lovat's despatch of the 8th of December, 1927,* transmitting copies of an extract from the House of Commons Official Report of the 5th of December† containing the text of Questions and Answers relating to the Native Juveniles Employment Act of 1926, I have the honour to enclose, for your information, a copy of a Minute from my Ministers covering a Report by the Chief Native Commissioner replying to the points raised in those Questions.

I have, etc.,

J. R. CHANCELLOR,
Governor.

* Not printed. † See Nos. 19 and 20.

2. Instructions have also been issued to the Native Commissioners to the effect that in preparing their Annual Reports their remarks regarding labour conditions should be amplified, and that a report upon the working of the Native Juveniles Employment Act of 1926 should be included.

3. The Premier has informed me that the question of amending the Native Juveniles Employment Act of 1926 in order to provide that native juveniles under 10 years of age shall not be permitted to enter into contracts for service is now under the consideration of the Cabinet.

I have, etc.,

J. R. CHANCELLOR,

Governor.

Enclosure in No. 25.

Premier's Office,
Salisbury,
Southern Rhodesia,
18th January, 1928.

With reference to His Excellency the Governor's Minute of the 13th January, on the subject of the Native Juveniles Employment Act, 1926, Ministers have the honour to inform His Excellency, in reply to paragraph 2 of the Secretary of State's despatch of the 20th December,* that the intention is, that children of less than 10 years of age shall not leave direct parental control, and they beg to transmit for His Excellency's information a copy of a circular letter despatched to all Native Department Stations in Southern Rhodesia by the Chief Native Commissioner.

H. U. MOFFAT.

Chief Native Commissioner's Office,
Salisbury,
18th January, 1928.

(Urgent and Important.)

JUVENILES EMPLOYMENT ACT.

I have to inform Native Commissioners that the Government does not approve of children under 10 years of age entering into contracts of service.

Exception to this rule may be made in cases where the parents or guardians accompany the children and remain with them during the period of their employment

* Not printed.

The Government does not approve in any circumstances of children under 10 years of age leaving direct parental control. Children under 10 years of age who persistently leave their parents or guardians must be sent back to their homes.

It is further notified for the information of Native Commissioners that certificates must not be issued to juveniles who, even though they may appear to be above the minimum age, are considered physically or for any other reason—not suitable for employment. A juvenile for instance might be slightly mentally defi[illegible]

Further, Native Commissioners must be careful to scrutinise particulars provided by the employer, as is provided under Section 6 of the Act. Should it be found that the nature of the work or the rate of wages are not suitable and satisfactory, further enquiry must be made.

If the Native Commissioner is not satisfied as the result of such enquiry, he must exercise the powers conferred upon him by Section 2, Sub-Section (1), and must arrange either for the matter to be remedied or the contract of service cancelled.

H. J. TAYLOR,

Chief Native Commissioner.

To all Native Department Stations in Southern Rhodesia.

No. 26.

Despatch from the Governor of Southern Rhodesia to the Secretary of State for Dominion Affairs.

(Received 20th February, 1928.)

Governor's Office,
Salisbury,
Southern Rhodesia.
26th January, 1928.

SIR,

With reference to Lord Lovat's despatch of the 8th of December, 1927,* transmitting copies of an extract from the House of Commons Official Report of the 5th of December† containing the text of Questions and Answers relating to the Native Juveniles Employment Act of 1926, I have the honour to enclose, for your information, a copy of a Minute from my Ministers covering a Report by the Chief Native Commissioner replying to the points raised in those Questions.

I have, etc.,

J. R. CHANCELLOR,

Governor.

* Not printed. † See Nos. 19 and 20.

Enclosure in No. 39.

Premier's Office,
Salisbury,
Southern Rhodesia.

24th January, 1928.

With reference to His Excellency the Governor's Minute of the 30th December forwarding copies of the text of Questions and Answers in the House of Commons relating to the "Native Juveniles Employment Act, 1926," Ministers have the honour to transmit for His Excellency's information a copy of a report furnished by the Chief Native Commissioner in this connection.

H. U. MOFFAT.

Office of the Chief Native Commissioner,
Salisbury, Southern Rhodesia.

5th January, 1928.

The Secretary to the Premier (Native Affairs).

NATIVE JUVENILE EMPLOYMENT: QUESTIONS IN HOUSE OF COMMONS: DESPATCH FROM SECRETARY OF STATE.

I return the enclosures forwarded under your endorsement of 31st ultimo, with the following remarks:—

In regard to Mr. Thurtle's question it can only be said that it implies an utterly absurd and untrue statement. It seems, however, necessary to repeat that the Act in no way adds to the employment of children and does not tend to bring a single child into the labour market. It merely regulates an existing practice and protects those who voluntarily and with their parents' permission persist in seeking employment.

It tends rather to decrease than to increase the numbers of children so employed, and has already provided instances where children have been debarred from undertaking unsuitably onerous employment. But for the Act, this could not have been done.

The statement implicit in Colonel Wedgwood's question that there is a connection between increased tobacco production and the Act is utterly untrue. The tobacco position is adventitious and of recent development.

The answer to Mr. Macquisten's doubtfully relevant question is that children are, in Southern Rhodesia, almost invariably regarded as the reverse of a liability.

The first part of Mr. Ammon's question relates to the employment of children in the mica fields. In regard to this employment and its circumstances, a cablegram* was despatched on 23rd November from His Excellency the Governor to the Secretary of State. Mr. Ammon goes on, however, to connect with the employment of juveniles a portion of my Annual Report for 1926.

The following extract is what Mr. Ammon is evidently referring to:—

> "The Native Commissioner, Lomagundi, makes the following comment:—'The supply of labour offering has been fair throughout the year.' Any shortage that has occurred is confined to certain individuals or to areas. In some parts of the district there has been an abundant supply throughout the year, whilst others are short of their requirements. There are four areas in the district which are short of labour, viz., the mica fields, the chrome mines and the farmers in the Umboe and Gambuli valleys. To a great extent the mica miners and farmers in Umboe are reaping what they have sown. For years past they have cut wages to the lowest possible limit. Now that the fat years for labourers have come, the native in search of work naturally leaves what he considers the mean employer and proceeds to other places where the conditions are better. Gambuli Valley is in the unfortunate position of having two large mines on either side which pay rather higher wages than the farmers are in the habit of doing. The chrome miners have laid themselves out to kill their labour supply and have nearly succeeded in doing so."

The above comments have no application to the employment of juveniles. It is solely a reflection on the policy of certain miners and certain farmers which has led to a general shortage of the voluntary native labour on which such miners and farmers depend for the carrying out of their operations. I am at a loss to know what connection Mr. Ammon sees between such an obvious application of the laws of supply and demand and the case of the employment of native juveniles who, equally with adults, are encouraged by good wages and deterred by low wages.

Mr. Ammon in a later question reads into the above-quoted extract from my Report an assertion that "the Native Commissioner condemns this and says that the reason is that the sweated wages paid to adult labour have driven adults away, and child slave labour is being used." Such a reading is unwarranted and contrary to facts. No such reason and no such conclusion are stated, implied, or intended. There is not the slightest basis for the assumption that the comparatively large numbers of children

* No. 18.

Enclosure in No. 29.

Premier's Office,
Salisbury,
Southern Rhodesia.
24th January, 1928.

With reference to His Excellency the Governor's Minute of the 30th December forwarding copies of the text of Questions and Answers in the House of Commons relating to the "Native Juveniles Employment Act, 1926," Ministers have the honour to transmit for His Excellency's information a copy of a report furnished by the Chief Native Commissioner in this connection.

H. U. MOFFAT.

Office of the Chief Native Commissioner,
Salisbury, Southern Rhodesia.
5th January, 1928.

The Secretary to the Premier (Native Affairs).

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It tends rather to decrease than to increase the numbers of children so employed, and has already provided instances where children have been debarred from undertaking unsuitably onerous employment. But for the Act, this could not have been done.

The statement implicit in Colonel Wedgwood's question that there is a connection between increased tobacco production and the Act is utterly untrue. The tobacco position is adventitious and of recent development.

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Mr. Ammon in a later question reads into the above-quoted extract from my Report an assertion that "the Native Commissioner condemns this and says that the reason is that the sweated wages paid to adult labour have driven adults away, and child slave labour is being used." Such a reading is unwarranted and contrary to facts. No such reason and no such conclusion are stated, implied, or intended. There is not the slightest basis for the assumption that the comparatively large numbers of children

* No. 18.

employed at the mica mines are due to the reduction of wages for adults. For at least six years native children have sought employment at the mica mines, the reason being that the nature of the work is light and easy.

The remaining question is that put by Sir R. Hamilton, the answer to which is that no minimum age is stated in the Act. The Act's purport is to control all native children, below the age of 14, who enter fields of industry, independently or with their parents' consent. Before the receipt of this correspondence I had addressed to you a Minute on the subject of the age at which children are allowed, by their parents to seek work, in which I suggested that children below a certain age should be hindered from entering fields of employment.

In regard to the use by Sir R. Hamilton of the terms "indenture" and "apprentice," I would point out that neither term is applicable to what is covered by the Act except as to the provision under section 6 for the employment of a child (whose parent or guardian may be absent) found unemployed in a labour field. No instance has yet occurred of a contract, indenture, or apprenticeship under section 6, and it is anticipated that applications of the section referred to will be exceedingly rare. Cases of the kind will be scrutinised closely.

HERBERT J. TAYLOR,
Chief Native Commissioner.

NOTE.—*For later correspondence between the Anti-Slavery and Aborigines Protection Society and the Dominions Office relative to the Southern Rhodesia Native Juveniles Act, 1926, see Nos. 11 and 12 in Part II.*

PART II.

Papers relative to the Southern Rhodesia Native Affairs Act, 1927.

No. 1.

Despatch from the Governor of Southern Rhodesia to the Secretary of State for Dominion Affairs.

[Received 30th May, 1927.]

Governor's Office, Salisbury,
Southern Rhodesia.
6th May, 1927.

SIR,

I have the honour to transmit, for your information, the enclosed copy* of a draft Bill to make certain Provisions for the Control of Native Affairs, together with copies of a Minute from the Solicitor-General, explaining the reasons for introducing legislation on those subjects, and a Memorandum by the Chief Native Commissioner, in which he expresses general agreement with that Minute.

2. My Ministers have not yet decided as to whether or not the Bill shall be introduced during the present session of the Legislative Assembly.

I shall inform you in due course of their decision.

I have, etc.,
J. R. CHANCELLOR,
Governor.

Enclosure 2 in No. 1.

9th September, 1926.

The Honourable the Attorney-General.

SUGGESTED AMENDMENTS TO THE NATIVE REGULATIONS (PROCLAMATION No. 53, 1910).

With reference to your endorsement on a Minute of the 17th May last from the Acting Chief Native Commissioner on the above subject, suggesting that I should go into the matter with that official and the Native Commissioner, Lomagundi, who had made certain important proposals regarding the amendment of the law, I beg to report as follows:—

After looking into the matter and discussing it with Mr. H. M. Jackson, the Acting Chief Native Commissioner, it appeared of

* Not printed.

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HERBERT J. TAYLOR,
Chief Native Commissioner.

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After looking into the matter and discussing it with Mr. H. M. Jackson, the Acting Chief Native Commissioner, it appeared of

* Not printed.

such importance that a meeting was arranged with him, Mr. S. N. Jackson, Acting Assistant Chief Native Commissioner, Mr. Howman, Native Commissioner, Lomagundi, and Mr. Edwards, Native Commissioner, Mrewa. At that meeting such far reaching general conclusions were arrived at that it was decided before submitting definite proposals to the Government to have a further meeting at which there could also be present Mr. Carbutt, Superintendent of Natives for the Victoria circle, and Mr. Stuart, Acting Superintendent, Matabeleland.

A perusal of the proceedings at the last conference of Native Commissioners held at Salisbury, Bulawayo, and Victoria, which may be regarded as reflecting the views and experiences of the Native Commissioners of the whole Colony, shows a unanimous feeling that the "Native Regulations, 1910," must be radically amended if the functions of the officials are to be effectively exercised.

It is important to bear in mind, in this connection, the purpose for which the Native Department exists. One of the objects underlying the grant of the Charter was the promotion of good government among the natives and their general advancement and welfare. On the institution of settled government the Native Department was instituted and entrusted with the carrying out of that object.

It is now some 36 years since the country was occupied and although the natives are reasonably obedient to the various specific laws affecting them the most experienced officials of the Native Department admit that there is a growing disobedience in matters for which no express penalties are provided, an increasing disrespect towards officials and Europeans generally, and that among the natives themselves parental control, respect for chiefs and elders and family life are being undermined. This state of affairs is reflected in the expression which is now so often heard, that natives are getting out of hand; it is referred to in many official reports and proceedings relating to natives and is admitted by many missionaries who work among them. A careful consideration of the situation will show that the cause of present conditions is to be found not in any shortcoming of the officials themselves, but is largely owing to the defects in the system which they are required to administer. The amount of success that has been attained in certain districts is to be attributed more to the personality of the Native Commissioners themselves than to any legal powers entrusted to them, but the advance of education among the natives and contact with civilization and undesirable alien elements are fast diminishing the moral influence of the officials where not backed up by positive sanctions.

The present position appears to be largely owing to the fact that the institution of civilized government was accompanied by a weakening of tribal and family control. The result has been that

while the natives render reasonable obedience to the statute law which provides definite penalties for its infringement they are becoming more and more wanting in restraint in the numerous things which make for decent, moral, and respectable living. It might also be said that they are coming to regard whatever is not prohibited by the Government as being permitted. Hence, to quote one of many examples, such things are seen as native women leaving their homes, in defiance of family and the tribe, to live immoral lives at mines and other centres, simply because there is no specific law preventing it. Chiefs and parents often invoke the help of the Native Commissioner in suppressing such practices, but the hands of the officials are tied.

The present situation is viewed with alarm by the experienced officials of the Native Department, the chiefs, and headmen, and the more enlightened natives generally. The Government is now asked to provide some remedy. The Native Commissioners suggest that something might be done by amending the Regulations contained in Proclamation No. 55 of 1910.

In dealing with this subject the first thing to be borne in mind is the object for which the Native Department primarily exists, that, as already stated, is the promotion of good government among the natives and their general advancement and welfare, hence the first consideration must be to provide the most effective machinery possible for accomplishing that object. The Regulations of 1910 were, no doubt, intended to provide the Native Department with the necessary powers for its purposes, but their chief defect has been in attempting to provide for certain specific delinquencies on the part of the natives without endowing the officials of the Native Department with general powers of control such as are exercised by a parent or the principal of a school. To endeavour to specify the multitude of acts and omissions on the part of the natives which must be controlled would be like trying to lay down a definite code of rules for children or schoolboys. It is true that the Native Regulations do provide that natives shall obey the "lawful orders" of headmen, chiefs and Native Commissioners and any "reasonable order" of a Native Commissioner, but the High Court, construing the meaning of the terms in the light of other provisions of the Regulations, has so interpreted them as to render them largely ineffective.

For example, in a case where a Native Commissioner, at the instance of the husband, ordered a wife who was getting into bad habits at a mine compound to go to her home, and the woman was convicted for disobeying this order, the High Court held the Native Commissioner's action to be *ultra vires*. Again, the police are often anxious that indigenous natives who have been guilty of acts of indecency towards white women should be required to live at their kraals and have on occasions sent them home with a request to

such importance that a meeting was arranged with him, Mr. S. N. Jackson, Acting Assistant Chief Native Commissioner, Mr. Howman, Native Commissioner, Lomagundi, and Mr. Edwards, Native Commissioner, Mrewa. At that meeting such far reaching general conclusions were arrived at that it was decided before submitting definite proposals to the Government to have a further meeting at which there could also be present Mr. Carbutt, Superintendent of Natives for the Victoria circle, and Mr. Stuart, Acting Superintendent, Matabeleland.

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It is important to bear in mind, in this connection, the purpose for which the Native Department exists. One of the objects underlying the grant of the Charter was the promotion of good government among the natives and their general advancement and welfare. On the institution of settled government the Native Department was instituted and entrusted with the carrying out of that object.

It is now some 36 years since the country was occupied and although the natives are reasonably obedient to the various specific laws affecting them the most experienced officials of the Native Department admit that there is a growing disobedience in matters for which no express penalties are provided, an increasing disrespect towards officials and Europeans generally, and that among the natives themselves parental control, respect for chiefs and elders and family life are being undermined. This state of affairs is reflected in the expression which is now so often heard, that natives are getting out of hand; it is referred to in most official reports and proceedings relating to natives and is admitted by many missionaries who work among them. A careful consideration of the situation will show that the cause of present conditions is to be found not in any shortcoming of the officials themselves, but is largely owing to the defects in the system which they are required to administer. The amount of success that has been attained in certain districts is to be attributed more to the personality of the Native Commissioners themselves than to any legal powers entrusted to them, but the advance of education among the natives and contact with civilization and undesirable alien elements are fast diminishing the moral influence of the officials where not backed up by positive sanctions.

The present position appears to be largely owing to the fact that the institution of civilized government was accompanied by a weakening of tribal and family control. The result has been that

while the natives render reasonable obedience to the statute law which provides definite penalties for its infringement they are becoming more and more wanting in restraint in the numerous things which make for decent, moral, and respectable living. It might also be said that they are coming to regard whatever is not prohibited by the Government as being permitted. Hence, to quote one of many examples, such things are seen as native women leaving their homes, in defiance of family and the tribe, to live immoral lives at mines and other centres, simply because there is no specific law preventing it. Chiefs and parents often invoke the help of the Native Commissioner in suppressing such practices, but the hands of the officials are tied.

The present situation is viewed with alarm by the experienced officials of the Native Department, the chiefs, and headmen, and the more enlightened natives generally. The Government is now asked to provide some remedy. The Native Commissioners suggest that something might be done by amending the Regulations contained in Proclamation No. 55 of 1910.

In dealing with this subject the first thing to be borne in mind is the object for which the Native Department primarily exists, that, as already stated, is the promotion of good government among the natives and their general advancement and welfare, hence the first consideration must be to provide the most effective machinery possible for accomplishing that object. The Regulations of 1910 were, no doubt, intended to provide the Native Department with the necessary powers for its purposes, but their chief defect has been in attempting to provide for certain specific delinquencies on the part of the natives without endowing the officials of the Native Department with general powers of control such as are exercised by a parent or the principal of a school. To endeavour to specify the multitude of acts and omissions on the part of the natives which must be controlled would be like trying to lay down a definite code of rules for children or schoolboys. It is true that the Native Regulations do provide that natives shall obey the "lawful orders" of headmen, chiefs and Native Commissioners and any "reasonable order" of a Native Commissioner, but the High Court, construing the meaning of the terms in the light of other provisions of the Regulations, has so interpreted them as to render them largely ineffective.

For example, in a case where a Native Commissioner, at the instance of the husband, ordered a wife who was getting into bad habits at a mine compound to go to her home, and the woman was convicted for disobeying this order, the High Court held the Native Commissioner's action to be *ultra vires*. Again, the police are often anxious that indigenous natives who have been guilty of acts of indecency towards white women should be required to live at their kraals and have on occasions sent them home with a request to

the Native Commissioner not to allow them to leave the district; there can be no doubt as to the desirability of such restraint. The Native Commissioner may order the native not to leave, but if the order is disobeyed there appears to be no remedy, hence a contempt for the authority of the Native Commissioner.

These instances are quoted as examples of the manifold cases where the Native Commissioner has no legal ground for exercising authority where his intervention is most desirable and illustrate the almost impossible task of prescribing one by one the occasions on which such intervention should be allowed. The quashing, on purely legal grounds, of convictions for disobedience to orders which are otherwise essentially reasonable lowers, in the eyes of the natives, the prestige of the official who gave such order and may deter him from giving further orders in necessary matters, if he is not perfectly certain about the legal position.

Several Native Commissioners have suggested a clear definition of the terms "lawful order" and "reasonable order" and the following, proposed by Mr. Stuart, Acting Superintendent for Matabeleland, and unanimously agreed upon at a Conference of Native Commissioners in Matabeleland, approximates to what is required:—

> "An order given by a Native Commissioner, chief or headman shall be deemed to be lawful and reasonable if the order is lawful and reasonable under native law and custom. Provided the order enjoins nothing repugnant to natural justice and morality (compare Section 50, Order in Council, 1898) nothing contrary to any provision of the Criminal Law of the Colony and nothing involving a breach of contract."

After careful consideration, it is thought that the principle embodied in Mr. Stuart's proposal and what the situation requires might be given effect to by the following provision:—

> "All natives shall promptly obey and comply with any lawful or reasonable order, request, or direction of any headman, chief, Native Commissioner, or other official administering native affairs. In determining whether or not such order, request, or direction is lawful or reasonable, regard shall be had as to whether or not it is in conformity with native law or custom, consistent with natural justice and morality and calculated to promote good government among natives or their general advancement or welfare."

It is recommended that, in the same way as the principal of a school punishes, summarily, disobedience to his orders or those of his assistants, the Native Commissioner should be empowered to punish disobedience to orders, etc., under this section, but with view to securing the exercise of this power in a just and reasonable manner there should be provision for all convictions being reviewed by some competent authority.

The Chief Native Commissioner, as the permanent head of the Native Department, is suggested as the person best qualified to review decisions under the proposed provision of the law. He has a knowledge of native law and custom and a conception of the objects and nature of the native policy of the Government, which the Judges of the High Court cannot be expected to have. In the position of a reviewing officer he would be well situated to issue such instructions and directions as would be calculated to secure a just and sound policy in the control of natives. It might be desirable to provide further for the Chief Native Commissioner making periodical reports for the information of the Governor as to the manner in which the powers conferred by the proposed law were being exercised and as to the results being obtained.

To sum up the position: the senior and most experienced officers of the Native Department find that under existing conditions they are not in a position to carry out the purposes for which that Department exists, and they suggest an amendment of the law in the manner above indicated in order to give them the requisite powers. There is little doubt but that if this were done great good would result both to the natives and the Colony and the saying which is sometimes heard that the native Commissioners are merely tax collectors would no longer have any foundation.

Apart from the above radical alteration, the "Native Regulations, 1910," require some overhauling and amendment in details, but there is no occasion to refer to the various points here; if the main recommendation is agreed to, a new law can be passed giving effect to the same and incorporating the Regulations with the necessary amendments.

The foregoing is the main result of the conference, but in the course of our discussion several matters of considerable importance also arose; for example, it appears that in some districts alien natives are causing great disaffection among the kraals by their preaching and teaching. In some places the natives are being taught that the reign of the white man is coming to an end and it is said that preparations are even being made for the division of his belongings. It appears that in some instances it is being made very unpleasant for individual natives who do not embrace these doctrines.

Again, there is the question of the punishment of natives for infractions of the law. Many natives with no criminal tendencies are convicted of breaches of the statute law and regulations, such as not dipping their cattle or paying the dog tax, and are punished by being sent to prison. The disgrace of going to prison, which acts as a deterrent in the case of a respectable European, is not so keenly felt by a native, who often has no great objection to being confined in a place where he may be better fed and clothed than at home. The consequences, however, of associating with hardened criminals are often disastrous. It is on record that one

chief of standing stated that we put the natives in a pot (gaol), cook them, and bring them out criminals.

It is recommended that it be the rule rather than the exception that natives up to a certain age be punished by a moderate whipping, and, in the case of adults, convictions for breaches of the statute law and other acts not of an inherently criminal nature be dealt with as far as possible by sentences suspended under appropriate conditions.

R. M'ILWAINE,
Solicitor-General.

Enclosure 3 in No. 1.

MEMORANDUM ON BILL TO MAKE PROVISION FOR THE CONTROL OF NATIVES AND THE CONDUCT OF NATIVE AFFAIRS.

The necessity for and objects of the proposed legislation are set out in the Minute of the Solicitor-General of 9th September, 1926,* I am in general agreement with that Minute as a comprehensive statement of the position, although I should like to amplify and explain and perhaps modify the fifth paragraph of the Solicitor-General's Minute, as I should not like it to be inferred that there is a marked insubordination and tendency towards lawlessness on the part of the natives. A situation has naturally arisen from the substitution of individualism for tribalism in which purely native sanctions have weakened in their effect (it was inevitable and even desirable that they should do so) and left a hiatus in which authority has gradually but sensibly weakened. The statement that "Natives are getting out of hand" might be read to imply defiance, but is understood by me to convey no more than a loose disregard of tribal, tribal, and parental control, a tendency which the proposed legislation will check.

A much needed provision is that made for appeals in Civil Cases tried by Native Commissioners. It is proper that the ultimate right of appeal to the High Court should be preserved, but it is significant that during the past twenty years no such appeals have been prosecuted, the reason obviously being the prohibitive expense involved.

HERBERT J. TAYLOR,
Chief Native Commissioner.

SALISBURY,
14th April, 1927

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* Enclosure 2 in No. 1.

No. 2.

Despatch from the Governor of Southern Rhodesia to the Secretary of State for Dominion Affairs.

[*Received 7th June*, 1927.]

Governor's Office,
Salisbury, Southern Rhodesia,
10th May, 1927.

SIR,

In continuation of my despatch of the 6th of May,* I have the honour to inform you that my Ministers have now decided to introduce during the present session of the Legislative Assembly the draft Bill to make certain Provisions for the control of natives and the conduct of native affairs.

I have, etc.,
J. R. CHANCELLOR,
Governor.

No. 3.

Despatch from the Governor of Southern Rhodesia to the Secretary of State for Dominion Affairs.

[*Received 22nd August*, 1927.]

[*Answered by No.* 10.]

Governor's Office,
Salisbury, Southern Rhodesia,
29th July, 1927.

MY LORD,

With reference to my despatch of the 10th of May,† I have the honour to inform Your Lordship that I have this day assented, in the King's name, to Act No. 14 of 1927, entitled "Act to make certain provisions for the control of natives and the conduct of native affairs."

I transmit herewith six copies of that Act duly sealed and signed by me and certified by the Speaker and the Clerk of the Legislative Assembly.

2. I enclose a copy of a Minute‡ from my Ministers, to which is attached, in original, a Memorandum‡ by the Attorney-General drawing attention to Clause 57 which suspends the operation of the Bill until the signification in this Colony of His Majesty's pleasure thereupon.

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* No. 1. † No. 2 ‡ Not printed.

chief of standing stated that we put the natives in a pot (gaol), cook them, and bring them out criminals.

It is recommended that it be the rule rather than the exception that natives up to a certain age be punished by a moderate whipping, and, in the case of adults, convictions for breaches of the statute law and other acts not of an inherently criminal nature be dealt with as far as possible by sentences suspended under appropriate conditions.

R. M'ILWAINE,
Solicitor-General.

Enclosure 3 in No. 1.

MEMORANDUM ON BILL TO MAKE PROVISION FOR THE CONTROL OF NATIVES AND THE CONDUCT OF NATIVE AFFAIRS.

The necessity for and objects of the proposed legislation are set out in the Minute of the Solicitor-General of 9th September, 1926,* I am in general agreement with that Minute as a comprehensive statement of the position, although I should like to amplify and explain and perhaps modify the fifth paragraph of the Solicitor-General's Minute, as I should not like it to be inferred that there is a marked insubordination and tendency towards lawlessness on the part of the natives. A situation has naturally arisen from the substitution of individualism for tribalism in which purely native sanctions have weakened in their effect (it was inevitable and even desirable that they should do so) and left a hiatus in which authority has gradually but sensibly weakened. The claim that "Natives are getting out of hand" might be read to imply defiance, but is understood by me to convey no more than a loose disregard of tribal, tribal, and parental control, a tendency which the proposed legislation will check.

A much needed provision is that made for appeals in Civil Cases tried by Native Commissioners. It is proper that the ultimate right of appeal to the High Court should be preserved, but it is significant that during the past twenty years no such appeals have been prosecuted, the reason obviously being the prohibitive expense involved.

HERBERT J. TAYLOR,
Chief Native Commissioner.

SALISBURY,
14th April, 1927.

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* Enclosure 2 in No. 1.

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A Memorandum* by the Solicitor-General explaining the amendments made in the Bill during its passage through the Legislative Assembly is also enclosed.

I have, etc.,

J. R. CHANCELLOR,
Governor.

Enclosure 1 in No. 3.

No. 14, 1927.] [Passed by the Legislature.

SOUTHERN RHODESIA.

ACT

To make certain provisions for the control of natives and the conduct of native affairs.

BE IT ENACTED by the King's Most Excellent Majesty, by and with the advice and consent of the Legislature of the Colony of Southern Rhodesia, as follows:—

PART I.—PRELIMINARY.

Repeals. 1. The "Southern Rhodesia Native Regulations Proclamation, 1910," as amended by the "Southern Rhodesia Native Regulations Amendment Proclamation, 1916," and the "Natives Regulation Act, 1924," is hereby repealed.†

Provided, however, nothing herein contained shall be construed as affecting appointments made or things done until repealed or altered by competent authority.

Definitions. 2. In this Act the following terms shall have the meaning assigned to them by this section unless another meaning appears clearly from the context to be intended:—

(1) "chief" means a native appointed by the Governor-in-Council to exercise control over a tribe as chief, acting chief or deputy of a chief;

(2) "tribe" means a number or collection of natives forming an organisation or community under the control or leadership of a chief;

(3) "headman" means a native appointed by the Governor-in-Council exercising control under a chief over a section of a tribe;

(4) "head of a kraal" means the native who is, according to native law and custom, the senior member of the kraal or who is recognised as such by the other members of the kraal;

* Not printed.

† The Proclamations and Act referred to in this Section are printed in the Appendix.

(5) "kraal" means a collection of huts and ordinary residences of natives. It is subject to and under the control of a kraal head, and may consist of one or more houses or huts. For the purposes of this Act individual dwellings occupied by natives on mission stations or private land are to be deemed kraals;

(6) "native" means any member of the aboriginal tribes or races of Africa or any person having the blood of such tribes or races and living among and after the manner thereof;

(7) "reserve" means land set apart for the use and occupation of natives by the "Southern Rhodesia Order in Council, 1920," or any amendment thereof, or by the Governor-in-Council;

(8) "tribal area" means the area occupied by any natives placed under the control of one chief;

(9) "Native Commissioner" includes an Acting Native Commissioner and an Assistant or an Acting Assistant Native Commissioner, except where otherwise expressly specified or required by the context;

(10) "district" means a district defined by the Governor-in-Council, and shall include a sub-district placed in charge of an Assistant Native Commissioner in terms of section twelve hereof.

PART II.—THE GOVERNOR.

Appointment of chiefs. 3. The Governor-in-Council shall appoint chiefs to preside over tribes and may divide existing tribes into two or more parts or may amalgamate tribes or part of tribes into one tribe as may be necessary or as the good government of the natives may in his opinion require.

Removal of chiefs. 4. The Governor-in-Council may remove any chief for just cause from his position, and may also order his removal with his family and property from any reserve or other land to another reserve or other land; provided that no such removal to land alienated and held under title shall be affected, except with the consent of the owner thereof.

Chiefs may be required to supply men for purposes of defence or suppression of disorder and rebellion. 5. The Governor-in-Council may call upon chiefs to supply men for the defence of the Colony and for the suppression of disorder and rebellion within its borders, and may call upon such chiefs personally to render such service.

Native districts. 6. For the purpose of native administration the Governor-in-Council may from time to time divide the Colony into such districts as may seem to him desirable.

A Memorandum* by the Solicitor-General explaining the amendments made in the Bill during its passage through the Legislative Assembly is also enclosed.

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J. R. CHANCELLOR,
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Enclosure 1 in No. 3.

No. 14, 1927.] [Passed by the Legislature.

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(9) "Native Commissioner" includes an Acting Native Commissioner and an Assistant or an Acting Assistant Native Commissioner, except where otherwise expressly specified or required by the context;

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Native districts. 6. For the purpose of native administration the Governor-in-Council may from time to time divide the Colony into such districts as may seem to him desirable.

PART III.—THE NATIVE DEPARTMENT.

Chief Native Commissioner.

7. The permanent head of the Native Department, appointed in terms of sub-section (1) of section 89 of "The Southern Rhodesia Constitution Letters Patent, 1923," hereinafter referred to as the Chief Native Commissioner, shall be the principal administrative officer in regard to native affairs. He shall be accessible to and receive petitions, whether verbal or written, from all natives, and shall in every case where an injustice or wrong exists take the necessary steps to advise and protect the interests of the person or persons wronged.

Assistant Chief Native Commissioner.

8. The Assistant Chief Native Commissioner shall assist the Chief Native Commissioner and exercise his powers and functions whenever the Chief Native Commissioner is unable to act.

Chief Native Commissioner to investigate cases of disputed chieftainship and tribal quarrels.

9. The Chief Native Commissioner shall in all cases of disputed chieftainship or succession of chieftainship and of tribal quarrels dissatisfaction make enquiry personally or otherwise as may be deemed best.

Chief Native Commissioner and Assistant Chief Native Commissioner may exercise powers of Native Commissioner.

10. The Chief Native Commissioner and the Assistant Chief Native Commissioner may exercise the functions of a Superintendent of Natives or of a Native Commissioner throughout the Colony.

Powers of Superintendents of Natives.

11. Superintendents of Natives shall exercise such functions as may from time to time be determined, and shall have all the powers and jurisdiction of Native Commissioners within the districts under their supervision.

Native Commissioners.

12. For each district there shall be a Native Commissioner. Every such officer shall exercise within his district such powers as may from time to time be conferred upon him by law: provided that the Governor-in-Council may, where such a course appears to be desirable, place two or more districts under one Native Commissioner and may appoint one or more officers to assist the Native Commissioner in the discharge of his functions, and may give an Assistant Native Commissioner the same powers as a Native Commissioner in a sub-district.

PART IV.—JUDICIAL POWERS OF NATIVE COMMISSIONERS.

Jurisdiction of Native Commissioners.

13. A Native Commissioner shall have full jurisdiction to hear and determine all civil cases in which the rights of natives only are concerned, and in criminal proceedings jurisdiction in respect

of all contraventions of the provisions of this Act, and in other cases in which the accused is a native such jurisdiction as is exercisable by a Magistrate. Provided, however, that when a Native Commissioner is unable to act, owing to absence from his post or other cause, the powers conferred upon him by this section may be exercised by an Assistant or Acting Assistant Native Commissioner in the district or in a sub-district thereof.

When native law to be observed.

14. In civil cases between natives, Native Commissioners' Courts shall be guided by native law so far as such law is not repugnant to natural justice or morality or the specific provisions of any other law.

Where Magistrates' Courts not to have jurisdiction.

15. Courts of Magistrates shall not have jurisdiction in civil cases in which the rights of natives only are concerned, nor in proceedings for contraventions of the provisions of this Act.

Revision of proceedings and rights of appeal in criminal cases.

16. (1) The provisions of the law as to sending the proceedings of cases in Magistrates' Courts for review and the review thereof shall *mutatis mutandis* apply to proceedings of Courts of Native Commissioners, except the proceedings in cases of contraventions of the provisions of this Act, which shall be sent to the Chief Native Commissioner, as provided for in section nineteen hereof.

(2) There shall be the following rights of appeal in criminal cases:—

(*a*) to the Chief Native Commissioner from decisions of Native Commissioners in cases of contravening the provisions of this Act;

(*b*) to the High Court from decisions of the Chief Native Commissioner in terms of the last preceding sub-section, and from decisions of Native Commissioners in cases other than contraventions of the provisions of this Act.

Cases of insolent or contemptuous behaviour towards Native Commissioners.

17. Nothing in any law contained shall be deemed as debarring a Native Commissioner or Acting Native Commissioner from trying and punishing any native who shall have been guilty of insolent or contemptuous behaviour to or of failing promptly to obey and comply with any lawful or reasonable order, request or direction of such Native Commissioner; provided, however, in such cases the Native Commissioner shall fully set out in the record a statement in writing of the facts on which the charge is based, read over the same to the accused and record any observations which such accused may elect to make or evidence which he may give in reply thereto. A written statement as aforesaid shall be of the same force and effect as evidence taken on oath.

When punishment by imprisonment not to be inflicted.

18. With a view to avoiding the risk of contamination by prison associations, Courts of Native Commissioners shall, in every case where a person has been convicted of any crime or offence, if of opinion that the ends of justice would thereby be met, pass sentence

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18. With a view to avoiding the risk of contamination by prison associations, Courts of Native Commissioners shall, in every case where a person has been convicted of any crime or offence, if of opinion that the ends of justice would thereby be met, pass sentence

in accordance with such provision of sections 302 or 303 of the Criminal Procedure and Evidence Act, 1926, as may seem appropriate. Should the person convicted appear to be under the age of sixteen years, he may in lieu of any other punishment be sentenced to receive a whipping privately not exceeding fifteen strokes with a rattan cane or rod, to be administered in the presence of the Native Commissioner.

What cases to be reviewed by the Chief Native Commissioner.

19. The records of the proceedings of cases wherein natives have been convicted of contraventions of this Act which would ordinarily be forwarded for review by a Judge of the High Court in the first instance, and of all cases tried under the provisions of section seventeen hereof, shall be sent to the Chief Native Commissioner, who shall review the same, and may exercise such powers with regard thereto as are exercised by a Judge on review; provided, however, that any native so convicted shall have the right of having such conviction brought thereafter by way of review or appeal before the High Court. Such native shall be informed of the said right.

Where Courts of Native Commissioners to be held.

20. For the purposes of trying civil suits or of exercising criminal jurisdiction, a Native Commissioner may hold a Court in such place or places within his district as may appear to him from time to time most suitable; provided always that all parties to any civil dispute shall have due and proper notice of the place where any particular case is to be tried, and any accused person shall be given full opportunity of calling such witnesses as he may desire to have heard on his behalf.

Court of appeal for native civil cases.

21. For the purpose of hearing appeals in cases where civil rights of natives are involved there shall be a Court of Appeal, consisting of the Chief Native Commissioner, who shall be president of the Court, and two members selected by the Chief Native Commissioner, for the purposes of each case to be heard from Superintendents of Natives or Native Commissioners, on account of special knowledge of the principles governing the same. The Court of Appeal shall possess the same powers in respect of appeals from the Court of a Native Commissioner as are exercisable by the High Court in regard to such Court from Courts of Magistrates. An appeal from the Court of Appeal herein provided for shall lie to the High Court.

Regulations as to proceedings etc., in Courts.

22. It shall be lawful for the Governor-in-Council from time to time to make, alter and revoke rules regulating the proceedings in civil and criminal cases in the Courts of Native Commissioners and appeals therefrom, and by such rules to prescribe the fees and charges payable in respect of civil proceedings. Until any rules be made regulating criminal proceedings, the rules of the Magistrates' Courts regarding such proceedings shall *mutatis mutandis* apply.

Part V.—Chiefs.

Position of chiefs.

23. The chief in charge of a tribe shall be appointed by the Governor-in-Council and shall hold office during pleasure and contingent upon good behaviour and general fitness. He shall rank as a constable within his tribal area and shall receive such pay and allowances as may be fixed from time to time.

Duties of chiefs.

24. A chief shall be responsible within his tribal area for—

(1) the general good conduct of the natives under his charge;

(2) the immediate notification to the Native Commissioner of all crimes or offences or serious attempts at crimes, of all deaths and suspicious disappearances, of any epidemic or prevailing diseases, either among the members of his tribe or their stock, of any prevalent or threatening public unrest, of all rumours and matters affecting or calculated to disturb the public peace;

(3) the due publication of all such public orders, directions or notices that may be notified to him;

(4) the nomination of a sufficient number of men to act as district headmen for sections of his tribe for appointment by the Chief Native Commissioner, who shall also have the power to remove them and to appoint others in their stead;

(5) cognition and control of natives not being people of his own tribe who may come into his tribal area, and stock other than stock known to be the property of his own tribe;

(6) the notification to the Native Commissioner of all applications by newcomers to build and reside in his tribal area, and the prohibition and prevention of unauthorised building or tilling of land;

(7) the prompt supply of men called for under the terms of section five of Part II of this Act;

(8) aiding and assisting by all means in his power in apprehending and securing offenders against the law;

(9) assisting in collecting taxes when they become due;

(10) the discharge of such further and other duties as may from time to time be prescribed by the Governor-in-Council.

Failure or neglect of duty on part of chiefs.

25. Every chief refusing or neglecting without reasonable excuse to carry out, or to do the duties imposed by the last preceding section shall be deemed guilty of an offence.

Chiefs not to leave district without permission.

26. No chief shall leave the district in which he resides without the authority of the Native Commissioner.

Part VI.—Headmen.

Headmen.

27. The Chief Native Commissioner shall appoint a sufficient number of headmen in each tribal area to assist the chiefs in carrying out their duties. In making these appointments the nominations submitted by the chiefs shall, except for good reasons to the contrary, be accepted.

in accordance with such provision of sections 302 or 303 of the "Criminal Procedure and Evidence Act, 1926," as may seem appropriate. Should the person convicted appear to be under the age of sixteen years, he may in lieu of any other punishment be sentenced to receive a whipping privately not exceeding fifteen strokes with a rattan cane or rod, to be administered in the presence of the Native Commissioner.

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to warn natives of collection of native tax; to subpœna parties to civil cases in Native Commissioners Courts, and to report to the Native Commissioner any irregularities or crimes that may come to their knowledge.

Irregularities, etc., on part of messengers to be reported by chiefs and headmen.

37. Native chiefs and headmen shall report to the Native Commissioner or nearest police station any irregularities, misconduct or impositions on the part of the messengers at kraals.

Messengers to wear uniform.

38. The messengers shall wear a distinctive uniform.

Governor-in-Council may impose other duties on messengers.

39. It shall be lawful for the Governor-in-Council from time to time to impose on native messengers such further and other duties as may appear desirable.

Offences by messengers.

40. Any native messenger who shall—

(1) take any bribe or, without the consent of the Native Commissioner, any present from any person; or

(2) give out and pretend that he has power and authority to settle any dispute or undertake the settlement of any dispute; or

(3) neglect to report to the Native Commissioner the commission of any crime of the commission of which he may have knowledge, either through himself or from information supplied by others; or

(4) be under the influence of intoxicating liquor while in camp or on duty; or

(5) act beyond instructions given to and received by him, or unnecessarily delay the fulfilment and execution of any duty entrusted to him; or

(6) neglect to perform and carry out any duty or instructions entrusted or given to him; or

(7) wilfully fail to assist any native in approaching any Native Commissioner for the purpose of laying any complaint before him, or for any other legitimate object, or obstruct and hinder any native from so approaching any Native Commissioner;

shall be deemed to have contravened this section, and upon due conviction thereof shall be liable to punishment in a fine not exceeding five pounds, or to imprisonment for any period not exceeding three months, with or without hard labour, or to both such fine and imprisonment.

Further offences by messengers.

41. Any native messenger who shall—

(1) demand or take against the will of the owner thereof, or without his consent, any animal, bird, meat, food, drink, clothing or other article or thing whatsoever; or

(2) unduly or improperly interfere with any woman or girl, or demand that any woman or girl should be given or supplied to him for the purpose of irregular and temporary cohabitation; or

(3) cause or direct the commission of any act of a cruel, indecent or disgraceful character and nature; or

(4) commit any act or spread and disseminate any false reports or rumours calculated to cause unrest among the native inhabitants of the Colony or to jeopardise or disturb the peace of the country; or

(5) assault, threaten, intimidate or be insolent to any chief, headman; or

(6) abuse or misuse his authority and position as a native messenger to his own advantage;

shall be deemed to have contravened this section and shall upon the conviction thereof, be liable to punishment in a fine not exceeding ten pounds, or to imprisonment for any period not exceeding six months, with or without hard labour.

PART IX.—GENERAL AND PENAL PROVISIONS.

Movements of natives, assignment of land, etc.

42. (1) No native shall move from one district to another without the consent of the Native Commissioners of the districts concerned. A native so moving may be ordered by the Native Commissioner of the district to which he has moved to return to the district whence he came.

(2) A Native Commissioner may assign lands for huts, gardens and grazing grounds for each kraal on vacant land or reserves in his district and prohibit the erection of new huts or the cultivation of new gardens where such erection or cultivation may for good reasons appear to him undesirable, and may enforce eviction from such huts, their demolition or abandonment of such gardens.

(3) Any native moving from one district to another without the above-mentioned consent or wilfully disregarding any order given under sub-section (2) of this section shall be guilty of an offence, and shall be liable to eviction by the Native Commissioner.

Removal of natives to reserves.

43. Subject to the approval of the Chief Native Commissioner, a Native Commissioner may order the removal to a reserve, to be specified by him, of any native from unalienated land.

Removal of natives in terms of the "Private Locations Ordinance, 1908."

44. When the removal of any native from alienated land may be ordered by a Native Commissioner under the powers vested in him by the "Private Locations Ordinance, 1908," or any other law, such Native Commissioner, with the approval of the Chief Native Commissioner, may order such native to move to a reserve to be specified by him.

Provisions governing removal of natives.

45. Provided in respect of sections forty-three and forty-four hereof that the reserve so specified shall be one to which the said native is willing to move, or one situated within the boundaries of the district in which the said native is at the time residing, or in the boundaries of a district contiguous thereto; and provided, further, that a reasonable time shall be allowed to elapse between the order for removal and the date appointed for such removal, and that for such purpose the provisions of sub-sections (2) and (3) of section 4 of the "Private Locations Ordinance, 1908," shall apply.

Minimum of adult natives composing a kraal may be fixed.

46. A Native Commissioner may from time to time, and subject to the approval of the Chief Native Commissioner, fix the minimum number of adult males who shall compose any kraal. No native shall move to or from such kraal without the approval of the Native Commissioner.

Control and apportionment of water.

47. A Native Commissioner shall, when circumstances require it, arrange and determine as far as possible between natives all matters arising out of the flow and apportionment of the water of streams and furrows in his district.

Receiving of presents by Native Commissioners and other officials.

48. The receiving of presents from natives or the acquisition of stock or land by any Native Commissioner or other officer of the Native Department is strictly prohibited without the consent of the Governor-in-Council first had and obtained.

Natives to report serious crimes or offences.

49. Any native having knowledge of the commission of any serious crime or offence shall forthwith report the same to the nearest Native Commissioner, police station or member of police.

Natives to obey orders of Native Commissioners, chiefs and headmen.

50. All natives shall carry out the orders given by Native Commissioners, chiefs and headmen in the exercise of their functions under this Act, and when required to do so, act as messengers in the promulgation of public orders and Government regulations and in the notification of deaths and diseases, and shall actively co-operate in any measure taken for the destruction of locusts, prevention of grass fires, repression of crime and other diseases and in similar matters of public urgency.

Natives to obey lawful or reasonable order of headmen, chiefs and officials administering native affairs.

51. In addition to carrying out the duties specifically prescribed by this Act, all natives shall promptly obey and comply with any lawful or reasonable order, request or direction of any headman, chief, Native Commissioner or other officer administering native affairs. In determining whether or not such order, request or direction is lawful or reasonable, regard shall be had as to whether or not it is in conformity with native law or custom, consistent with natural justice and morality and calculated to promote good government among natives or their general advancement or welfare.

(2) unduly or improperly interfere with any woman or girl or disgrace that any woman or girl should be given or supplied to him for the purpose of irregular and temporary cohabitation; or

(3) cause or direct the commission of any act of a cruel, indecent or disgraceful character and nature; or

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Insolent or contemptuous behaviour on part of chiefs and headmen.

52. Should any chief or headman be guilty of insolence or contemptuous behaviour towards any Government officials, he shall be deemed guilty of an offence, and shall upon conviction be liable to a fine not exceeding twenty pounds, or in default of payment of any fine imposed, to imprisonment with or without hard labour for a period not exceeding six months, and shall further be liable, in addition to any such fine or imprisonment, to be deprived of his office.

Insolent or contemptuous behaviour on part of other natives.

53. Should any native other than a chief be guilty of insolence or contemptuous behaviour towards a Government official or a chief or a headman or head of a kraal in authority over him, or should he be twice convicted of an offence under this Act, he shall be liable upon conviction to a fine not exceeding twenty pounds, or in default of payment of any fine imposed, to imprisonment with or without hard labour for a period not exceeding six months.

General provision as to penalties.

54. Any person guilty of any act or omission contrary to any of the provisions of this Act in respect of which no special penalty is provided shall upon conviction be liable to a fine not exceeding ten pounds, or to imprisonment with or without hard labour for a period not exceeding three months.

Report of convictions of chiefs or headmen to be sent to the Chief Native Commissioner.

55. Native Commissioners shall immediately, on the conviction of any chief or headman under this Act, submit a full report of all the proceedings to the Chief Native Commissioner for transmission to the Governor-in-Council.

When opinion of High Court may be taken.

56. Any Native Commissioner, before deciding any native civil suit or matter, may state a case in writing for submission through the Chief Native Commissioner for the opinion of the High Court. The Native Commissioner shall decide such suit or matter in accordance with the opinion of the High Court.

Short title and date of coming into operation of Act.

57. This Act may be cited for all purposes as the "Native Affairs Act, 1927," and shall not come into operation until the Governor has declared by Proclamation in the *Gazette* that it is His Majesty's pleasure not to disallow the same, and thereafter it shall come into operation on such date as the Governor may by like Proclamation declare.

No. 4.

Letter from the Secretaries, the Anti-Slavery and Aborigines Protection Society, to the Secretary of State for Dominion Affairs.

[Answered by Nos. 5 and 6.]

The Anti-Slavery and Aborigines Protection Society,
Denison House,
296, Vauxhall Bridge Road,
London, S.W.1.
8th August, 1927.

SIR,

Our Committee has learned with surprise and concern that a Bill containing new provisions of a drastic character for the control of natives and the conduct of native affairs in Southern Rhodesia has been introduced into the Legislative Assembly of that country. We should be glad to know if we are right in thinking that there is no legislation of so far-reaching and stringent a character in any other British Dependency. The Committee is unaware of any special circumstances at the present time which call for a measure of this sort; on the contrary, the Chief Native Commissioner, in his last Report, gave a satisfactory account of native conditions, referring to the people as industrious, and reporting that there was no increase of crime, while the Governor, in addressing a large gathering of natives in a Reserve this year, told them that he would inform His Majesty the King that he had found them a loyal and law-abiding people: yet, by Part IV of the Bill, very extensive new jurisdiction is placed in the hands of Native Commissioners. According to Section 17 the Native Commissioner or Acting Native Commissioner is given power to try and punish—

> "any native who shall have been guilty of insolent or contemptuous behaviour to or of failing promptly to obey and comply with any lawful or reasonable order, request, or direction of such Native Commissioner;"

Under this provision we note that the Native Commissioner appears to occupy the position at once of Prosecutor, Judge, and Jury, with the added function of interpreting, without any appeal, such expressions as "contemptuous behaviour," and the reasonableness of his own order. Under Chartered Company government the law provided that an alleged offence against a Native Commissioner should not be tried by himself, but by someone else.

By Clause 18 a free hand is given to Native Commissioners in lieu of other punishment to inflict a whipping on convicted juveniles who appear to be under 16, and we note that this is additional to the power of inflicting summary whippings on contracted juveniles, given in the Native Juveniles Employment Act. Further, in

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> "any native who shall have been guilty of insolent or contemptuous behaviour to or of failing promptly to obey and comply with any lawful or reasonable order, request, or direction of such Native Commissioner; . . . . . "

Under this provision we note that the Native Commissioner appears to occupy the position at once of Prosecutor, Judge, and Jury, with the added function of interpreting, without any appeal, such expressions as "contemptuous behaviour," and the reasonableness of his own order. Under Chartered Company government the law provided that an alleged offence against a Native Commissioner should not be tried by himself, but by someone else.

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Parts V and VI of the Bill it is proposed to convert chiefs and headmen into constables, giving them new and far-reaching powers. At present, we understand, the appointment of chiefs is a matter of hereditary succession, and the office is confined to a few families. The holder of it is often old and incapable of carrying out highly responsible duties. We are of opinion that if such chiefs are to be responsible for the good conduct of the natives placed in their charge, and are to act as constables, great difficulties will follow. It is for this reason, we suppose, that by Section 33 it is proposed that the chief in charge shall "hold office during pleasure and contingent upon good behaviour and fitness," but such a provision will seriously affect the hereditary principle, of which the native people are very tenacious, and we submit that a chief who was a mere nominee of the Government would be deprived of the respect and loyalty of the tribe.

The Committee regards Sections 51, 52 and 53 of the Bill, being of an exceptionally stringent character, which, being uncalled for by any recent happenings, would tend rather to embitter the relations between the Administration and the people than to improve them.

As the Government has adopted the principle of consulting the natives in regard to affairs in which they are interested, and appointing Native Councils, we respectfully suggest that this legislation appears inconsistent with such a policy, and would render it difficult for the native peoples to develop freely on their own lines in the Reserves allotted to them.

The Committee earnestly asks that the more stringent and objectionable provisions of the Bill may be modified, or that the Bill may at least be withdrawn until more time has been given for consultation and consideration. The Committee is of opinion that if allowed to pass in its present form, far from promoting the better conduct of native affairs the Bill will tend to destroy the confidence of the natives in the Native Commissioners of Southern Rhodesia, and a good understanding between them, and lead to wide-spread discontent amongst the tribes.

I have, etc.,

TRAVERS BUXTON,
Hon. Secretary.

JOHN H. HARRIS,
Parliamentary Secretary.

No. 5.

Letter from the Dominions Office to the Secretaries, the Anti-Slavery and Aborigines Protection Society.

Downing Street,
11th August, 1927.

GENTLEMEN,

I am directed to acknowledge the receipt of your letter of the 8th August* regarding certain provisions of the Southern Rhodesia Native Affairs Bill, 1927.

2. Your letter is being referred to the Government of Southern Rhodesia, and a further communication will be sent to you on the receipt of their reply.

I am, etc.,

A. C. C. PARKINSON.

No. 6

Extract from the Official Report, House of Commons, 6th December, 1927.

SOUTHERN RHODESIA (CONTROL OF NATIVES).

47. Mr. PETHICK-LAWRENCE asked the Prime Minister whether the Southern Rhodesian Bill for the control of natives has yet been passed by the Legislative Assembly of Southern Rhodesia and presented to the Governor for His Majesty's assent; and whether opportunity will be given to this House to discuss the Clauses in that Bill which confer upon Native Commissioners the right of indicting, trying, and punishing any native whom they deem guilty of certain offences against themselves, with the permission, in the case of children under 16 years of age, of sentencing them to a whipping, before His Majesty's assent is given thereto?

The PRIME MINISTER: The Act was assented to by the Governor on the 29th July, but contains a Section suspending its operation until His Majesty's pleasure not to disallow it has been proclaimed. Correspondence on the subject of the Act is still proceeding, and His Majesty's pleasure has not yet been signified. In reply to the second part of the question, it will be appreciated that in the present state of Parliamentary business it is impossible for me to give time for discussion.

Mr. PETHICK-LAWRENCE: Am I to understand, from the right hon. Gentleman's reply, that the assent will not be given next

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The PRIME MINISTER: The matter, as I have said, is under discussion; I cannot say how long the discussions will proceed, or what will be the end of them. I could not give such an undertaking as is desired, but obviously, whether the matter be ended or not it will be perfectly possible to debate it on the Dominions Vote in the spring.

No. 7.

Extract from the Official Report, House of Commons, 14th December, 1927.

SOUTHERN RHODESIA.

NATIVE CONTROL BILL.

46. Mr. PETHICK-LAWRENCE asked the Prime Minister whether, in the correspondence with the Southern Rhodesian Government relating to the Native Control Bill, he will draw the attention of that Government to the importance of securing that offences shall not be tried nor penalties inflicted by those who have made the charge against the alleged offender?

The PRIME MINISTER: It is presumed that the hon. Member refers to Section 17 of the Act. The Native Commissioners on whom the powers in question are conferred are judicial officers. In any event it is provided that the proceedings of all cases tried under this Section shall be reviewed by the Chief Native Commissioner, who is an officer of high standing and with wide experience of natives, and further, that all natives convicted under the Section shall be informed that they have the right of having their conviction brought by way of review or appeal before the High Court.

Mr. PETHICK-LAWRENCE: In view of the importance of this question, I propose to raise it to-morrow night on the Adjournment or at the earliest opportunity.*

* For debate on the Adjournment see 14th December, 1927, columns 368–374.

No. 8.

Telegram from the Governor, Southern Rhodesia, to the Secretary of State for Dominion Affairs.

[*Received 22nd December, 1927.*]

22nd December. My Ministers have requested me to send you the following Resolution which was carried unanimously at a conference of Superintendents of natives and Native Commissioners recently held in Salisbury. *Begins:* That this conference of Native Commissioners of Southern Rhodesia enter an emphatic protest against the campaign of calumny and falsehood which is appearing in the public Press emanating from foolish and misguided individuals or associations, and it deprecates in the strongest terms the defamatory statements against the Colony and the Government of Southern Rhodesia. *Governor.*

No. 9.

Letter from the Dominions Office to the Secretary of the Anti-Slavery and Aborigines Protection Society.

[*Answered by No. 11.*]

Downing Street,
19th January, 1928.

GENTLEMEN,

I am directed to refer to your letter of the 8th August* on the subject of the Southern Rhodesia Native Affairs Act, 1927, and to state that a reply has now been received from the Government of Southern Rhodesia to the representations made by the Society with regard to this Act.

2. The Southern Rhodesia Government point out that the experience obtained in the working of the Native Regulations contained in the High Commissioner's Proclamation No. 5 of 1910 showed that some amendments were necessary and the whole subject was investigated by a Committee of the senior and most experienced officials of the Native Department, presided over by the Solicitor-General. As a result of their deliberations a Bill was drafted to consolidate the main provisions of the Native Regulations, incorporating such amendments as the Committee's investigations showed to be desirable; this Bill was duly introduced into the Legislative Assembly in due course and passed with certain amendments as the Native Affairs Act, 1927.

3. The Southern Rhodesia Government remark that some comments of your Society [illegible] that the Act is of an entirely new

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See page 70

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* For debate on the Adjournment, 15th December, 1927, columns 368–374.

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GENTLEMEN,

I am directed to refer to your letter of the 8th August* on the subject of the Southern Rhodesia Native Affairs Act, 1927, and to state that a reply has now been received from the Government of Southern Rhodesia to the representations made by the Society with regard to this Act.

2. The Southern Rhodesia Government point out that the experience obtained in the working of the Native Regulations contained in the High Commissioner's Proclamation No. 5 of 1910 showed that some amendments were necessary and the whole subject was investigated by a Committee of the senior experienced officials of the Native Department, presided over by the Solicitor-General. As a result of their deliberations a Bill was drafted to consolidate the main provisions of the Native Regulations, including such amendments as the Committee's investigations showed to be desirable; this Bill was duly introduced into the Legislative Assembly in due course and passed with certain amendments as the Native Affairs Act, 1927.

3. The Southern Rhodesia Government remark that the comments of your Society [illegible] that the Act is of a [illegible] new

* No. 4.

See page 70

and revolutionary character whereas, with the exception of section 17, no new principle has been introduced which is not contained in the Native Regulations of 1910 or some other law. As regards section 17, I am to enclose a copy of correspondence that has passed between the Southern Rhodesia Government and the Southern Rhodesia Missionary Conference and to invite attention to the explanations given in the letter to the Conference of the 22nd November.* The Southern Rhodesia Government point out in this connection that your letter is not correct in suggesting that there is no appeal from the Native Commissioner's decisions under this section, as full provision for the review of and appeal from such decisions is contained in section 19 of the Act.

4. The letter to the Missionary Conference of the 22nd November also deals with Section 18 of the Act to which you refer in your letter. The Southern Rhodesia Government observe that the criticisms directed against this section indicate a misapprehension as to the existing law and the object of the special provisions of this section. Sections 302 and 303 of the "Criminal Procedure and Evidence Act, 1926," provide, as in other countries, for suspended sentences and other means of keeping all but hardened criminals out of prison. The section in question specially requires Native Commissioners to apply this provision of the law and has the warm approval of those who have the interests of the natives at heart. The provision as to whipping juveniles is not new: it is a power which has always been possessed by all magistrates in Southern Rhodesia in respect of black and white alike, as also by Native Commissioners under the existing Native Regulations.

5. As to the criticisms that it is proposed under Parts V and VI of the Act "to convert chiefs and headmen into constables, giving them new and far-reaching powers," it is pointed out that the provisions in this respect have simply been taken over from the existing law, viz., sections 30 and 38 of the High Commissioner's Proclamation No. 55 of 1910.

6. It is noted that the provision that a chief "shall hold office during pleasure and contingent upon good behaviour and general fitness" is subjected to criticism, but the section containing this provision (23, not 33 as quoted) is a mere re-statement of the existing law.

7. Sections 51, 52, and 53 of the Act are referred to in your letter as being of "exceptionally stringent character" and "uncalled for;" but section 51 merely re-enacts provisions in Part VIII of the existing Native Regulations, adding a definition of "lawful or reasonable order" as a guide for Native Commissioners, while sections 52 and 53 re-enact the provisions of sections 48 and 49 of the 1910 Proclamation.

* Enclosure 4.

8. In conclusion I am to invite attention to the statement made by the Prime Minister with regard to this Act in the debate in the House of Commons on the 20th December.*

I am, etc.,

A. C. C. PARKINSON.

Enclosure 1 in No. 2.

Letter from the Honorary Secretary, Southern Rhodesia Missionary Conference, to the Secretary to the Premier, Southern Rhodesia.

Epworth Mission,
Salisbury,
8th September, 1927.

DEAR SIR,

In reply to your letter of the 6th instant,† I have pleasure in enclosing a copy of the resolution on the subject of the Native Affairs Act, 1927, passed at a recent meeting of the Executive of the Southern Rhodesia Missionary Conference.

A copy of this resolution was sent to His Excellency the Governor with a request that it might be transmitted to His Majesty's Dominions Office.

Will you kindly explain to the Honourable the Minister of Native Affairs that a copy was not previously sent to his Office because the matter had passed the House of Assembly before our meeting was held, and it was concluded that the Bill had therefore passed out of his hands.

I am, etc.,

L. P. HARDAKER,
Hon. Secretary.

NATIVE AFFAIRS ACT, 1927.

The Executive of the Southern Rhodesia Missionary Conference gave some time to the consideration of the Native Affairs Act which has recently been passed by the Legislative Assembly.

The Members of this Executive beg respectfully to submit to Your Excellency that in our opinion the passing of this un-British Act marks a retrograde step in the Native Policy of this Colony.

We submit that the manner in which the Bill confers powers on the Native Commissioners, chiefs, and headmen, opens the

* See *Hansard*, 20th December, 1927, columns 368–374.
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and revolutionary character whereas, with the exception of section 17, no new principle has been introduced which is not contained in the Native Regulations of 1910 or some other law. As regards section 17, I am to enclose a copy of correspondence that has passed between the Southern Rhodesia Government and the Southern Rhodesia Missionary Conference and to invite attention to the explanations given in the letter to the Conference of the 22nd November.* The Southern Rhodesia Government point out in this connection that your letter is not correct in suggesting that there is no appeal from the Native Commissioner's decisions under this section, as full provision for the review of and appeal from such decisions is contained in section 19 of the Act.

4. The letter to the Missionary Conference of the 22nd November also deals with Section 18 of the Act to which you refer in your letter. The Southern Rhodesia Government observe that the criticisms directed against this section indicate a misapprehension as to the existing law and the object of the special provisions of this section. Sections 302 and 303 of the "Criminal Procedure and Evidence Act, 1926," provide, as in other countries, for suspended sentences and other means of keeping all but hardened criminals out of prison. The section in question specially requires Native Commissioners to apply this provision of the law and has the warm approval of those who have the interests of the natives at heart. The provision as to whipping juveniles is not new: it is a power which has always been possessed by all magistrates in Southern Rhodesia in respect of black and white alike, as also by Native Commissioners under the existing Native Regulations.

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6. It is noted that the provision that a chief "shall hold office during pleasure and contingent upon good behaviour and general fitness" is subjected to criticism, but the section containing this provision (23, not 33 as quoted) is a mere re-statement of the existing law.

7. Sections 51, 52, and 53 of the Act are referred to in your letter as being of "exceptionally stringent character" and "uncalled for;" but section 51 merely re-enacts provisions in Part VII of the existing Native Regulations, adding a definition of "lawful or reasonable order" as a guide for Native Commissioners, while sections 52 and 53 re-enact the provisions of sections 48 and 49 of the 1910 Proclamation.

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We submit that the manner in which the Bill confers powers on the Native Commissioners, chiefs and headmen, opens the

* See *Hansard*, 20th December, 1927, columns 368–374.
† Not printed.

way to allow [illegible] all do much to stultify progress among [illegible]

The manner in which the measure has been rushed through the Legislative Assembly makes it impossible for us to express our mind previously, but we trust that this eleventh hour protest may not be in vain.

It is our desire that a copy of this resolution should be forwarded to His Majesty's Dominions Office.

Enclosure 2 in No. 9.

Letter from the Secretary to the Premier, Southern Rhodesia, to the Honorary Secretary, Southern Rhodesia Missionary Conference.

Salisbury,
19th September, 1927.

SIR,

I have the honour to acknowledge the receipt of your letter of the 8th September,* and am directed to thank you for the copy of the resolution passed by your Conference on the 6th July regarding the "Native Affairs Bill, 1927."

Your reason for not having sent a copy of this resolution to the Government is noted.

I am instructed to ask that your Conference will be so good as to supply the Minister of Native Affairs with something more definite than the vague statements contained in the resolution, viz., a reference to the "un-British Bill" and the mere statement that the Bill confers powers on Native Commissioners, chiefs, and headmen, which opens the way for abuse and injustice.

The Minister is anxious at all times to have the views of the missionaries and their advice on matters affecting the native peoples of this Colony, but I am directed to submit that the resolution forwarded to His Excellency the Governor in this case is not helpful.

The Minister trusts that as requested in the third paragraph of this letter you will inform him of the definite points in the Bill which your Conference considers are "un-British" and liable to cause "injustice."

With regard to the penultimate paragraph of the resolution, I beg to point out that the draft Bill was published for public information in the *Government Gazette* of the 6th May; it was read a first time on 20th June; was fully discussed on the motion for the second reading in the House on the 24th of June and again in Committee on the 30th of June, 1927, and was finally passed on the 1st July, 1927, nearly two months after publication.

* Enclosure 1 in No. 9.

With the exception of a letter addressed to the Chief Native Commissioner by the Reverend John Annis, dated the 23rd May, 1927, asking for the passage of the Bill to be delayed, so far as the Minister is aware no representations, objections, or remedies proposed for amendment to the Bill were received by the Government from missionaries or the Missionary Conference, although there was ample time for this to be done, and I therefore submit that the statement contained in the penultimate paragraph in the resolution above referred to is uncalled for.

I have, etc.,

J. G. JEAREY,
Secretary to the Premier.

Enclosure 3 in No. 9.

Letter from the President and the Secretary, Southern Rhodesia Missionary Conference, to the Minister for Native Affairs.

Epworth Mission,
Salisbury.
30th September, 1927.

DEAR SIR,

The Southern Rhodesia Missionary Conference Executive Resolution and the Native Affairs Act.

We have the honour to acknowledge receipt of your letter of the 19th inst.* addressed to the Secretary of the Missionary Conference. We note that you request that you should be furnished with something more definite than "the vague statements" contained in the resolution which we addressed to His Excellency the Governor some little time ago. Since the members thereof are so widely scattered you can understand how difficult it would be to call together the Executive, in order that they might supply the information for which you ask. Neither can we who write this letter presume to speak for the whole Executive; all that we shall endeavour to do is to reproduce the statements and arguments used at the Executive when this resolution was passed and on which it was based.

(1) You remind us that this Bill is referred to as "un-British." In the discussion it was pointed out that it is contrary to British traditions in legislation to confer on any person administering law the power that is given to Native Commissioners in Clause 17 of this Act. Someone pointed out that under the Chartered Company's regime an alleged offence against a Native Commissioner

* Enclosure 2 in No. 9.

way to make it [illegible] do much to stultify progress among the [illegible]

The manner in which the measure has been rushed through the Legislative Assembly [illegible] impossible for us to express our mind previously, but we trust that this eleventh hour protest may not be in vain.

It is our desire that a copy of this resolution should be forwarded to His Majesty's Dominions Office.

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Salisbury,
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* Enclosure 1 in No. 9.

With the exception of a letter addressed to the Chief Native Commissioner by the Reverend John White, dated the 23rd May, 1927, asking for the passage of the Bill to be delayed, so far as the Minister is aware no representations, objections, or concrete proposals for amendment to the Bill were received by the Government from missionaries or the Missionary Conference, although there was ample time for this to be done, and I therefore submit that the statement contained in the penultimate paragraph in the resolution above referred to is uncalled for.

I have, etc.,

J. G. JEARREY,
Secretary to the Premier.

Enclosure 3 in No. 9.

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Salisbury,
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(1) You remind us that this Bill is referred to as "un-British." In the discussion it was pointed out that it is contrary to British traditions in legislation to confer on any person administering law the power that is given to Native Commissioners in Clause 17 of this Act. Someone pointed out that under the Chartered Company's regime an alleged offence against a Native Commissioner

* Enclosure 2 in No. 9.

could not be tried by himself, but under this Clause he is virtually constituted prosecutor and judge; whilst it was added he is in virtue of his position also Counsel for the defence. Is this not, we ask, expecting too much of ordinary human nature? It was questioned whether there was another place in the Empire where British ideals prevail where such a law is in existence.

(2) Moreover, we would point out that whilst an appeal is allowed to the High Court in cases of conviction under section seventeen, yet the ordinary review of such cases remains within the Native Department, i.e., in the hand of the Chief Native Commissioner.

(3) The same criticisms were passed on Clause 18. The power given to Native Commissioners, almost at discretion, to inflict corporal punishment on boys of 16 or under for offences, in some cases, in which the Native Commissioner himself may be concerned, it was pointed out, is against British principle. We think we are right in saying that it was these two clauses particularly which made the Executive characterize this as an "un-British Bill."

(4) The resolution further states that the manner in which the Bill confers power on Native Commissioners, chiefs, and headmen, opens the way to "abuse and injustice." The special reference was to Clause 51 of the Act. It was pointed out that this very vaguely-worded clause virtually constitutes the Native Commissioner sole judge of what are "lawful and reasonable orders, requests, and directions." We believe it was pointed out in the House that it is a very difficult matter to define what is insolence or contemptuous behaviour. We entirely agree, and consequently we feel that powers conferred in Clauses 51-53, whilst intended as beneficial to the natives and in the hands of wise, human, and just men, may be so used, yet in the hands of others might be a means of oppression and unfair treatment.

We are of opinion that if authority over educated and progressive natives is to be placed in some instances in the hands of uneducated, pagan chiefs then conflict is inevitable; and if the Native Commissioner does not stand by his assistant then the position becomes intolerable. It was repeatedly asserted that these are dangerous clauses and sure to cause great discontent amongst the native people.

We would also point out in this connection that in Natal and, we believe, elsewhere, provision is made for progressive natives to come out from under native law and custom. No such provision is made under this Bill.

We note that you consider that the statement in the resolution declaring that the measure was rushed through the Legislative Assembly is "uncalled for." When the matter was discussed, the fact that eleven days had passed from the time that it was introduced until the Bill was finally passed was before the Executive.

It was pointed out, however: (1) that it came at the end of a fairly long session, (2) that the official Opposition in the Assembly joined the Government in expediting its passing and that therefore there was little discussion of what to us were very obvious defects, (3) that although the Bill was published in the *Gazette* more than a month before it came to the Assembly, yet the fact remains that very few of the general public knew that so important a measure was to come before the Assembly during the session, (4) that so far as the Executive then knew no attempt whatever had been made to get the opinion of the native people whom it was so vitally to affect.

So far as the Executive is concerned we can only say that the meeting when our resolution was passed was the first to be held after the publication of the draft Bill in the *Gazette*.

You refer to the letter written by Mr. White to the Chief Native Commissioner. This was written, of course, in a private capacity. Mr. White expressed a wish that Sir Herbert Taylor would bring his views to the notice of the Minister for Native Affairs and His Excellency the Governor. This he believes was done, but he was not a little surprised to find that so far as he is aware no reference to this communication was made by either of these gentlemen.

We trust that the above may help you to understand the reasons, as far as we understand them, for the Executive of the Missionary Conference sending the resolution to His Excellency the Governor.

We have, etc.,

JOHN WHITE,
President.

LATIMER P. HARDAKER,
Secretary.

Enclosure 4 in No. 9.

Letter from the Secretary to the Premier, Southern Rhodesia, to the Honorary Secretary, Southern Rhodesia Missionary Conference.

Salisbury,
22nd November, 1927.

SIR,

With reference to your letter of the 30th September,* I have the honour, by direction, to inform you that the Honourable the Minister of Native Affairs gathers that the following are the

* Enclosure 3 in No. 9.

could not be tried by himself, but under this Clause he is virtually constituted prosecutor and judge; whilst it was added he is in virtue of his position also Counsel for the defence. As this note we ask, expecting too much of ordinary human nature? It was questioned whether there was another place in the Empire where British ideals prevail where such a law is in existence.

(3) Moreover, we would point out that whilst an appeal is allowed to the High Court in cases of conviction under section seventeen, yet the ordinary review of such cases remains within the Native Department, i.e., in the hand of the Chief Native Commissioner.

(3) The same criticisms were passed on Clause 18. The power given to Native Commissioners, almost at discretion, to inflict corporal punishment on boys of 16 or under for offences, in some cases, in which the Native Commissioner himself may be concerned, it was pointed out, is against British principle. We think we are right in saying that it was these two clauses particularly which made the Executive characterize this as an "un-British Bill."

(4) The resolution further states that the manner in which the Bill confers power on Native Commissioners, chiefs, and headmen, opens the way to "abuse and injustice." The special reference was to Clause 51 of the Act. It was pointed out that this very vaguely-worded clause virtually constitutes the Native Commissioner sole judge of what are "lawful and reasonable orders, requests, and directions." We believe it was pointed out in the House that it is a very difficult matter to define what is insolence or contemptuous behaviour. We entirely agree, and consequently we feel that powers conferred in Clauses 51-53, whilst intended as beneficial to the natives and in the hands of wise, human, and just men, may be so used, yet in the hands of others might be a means of oppression and unfair treatment.

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We would also point out in this connection that in Natal and, we believe, elsewhere, provision is made for progressive natives to come out from under native law and custom. No such provision is made under this Bill.

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We trust that the above may help you to understand the reasons, as far as we understand them, for the Executive of the Missionary Conference sending the resolution to His Excellency the Governor.

We have, etc.,

JOHN WHITE,
President.

LATIMER P. HARDAKER,
Secretary.

Enclosure 4 in No. 9.

Letter from the Secretary to the Premier, Southern Rhodesia, to the Honorary Secretary, Southern Rhodesia Missionary Conference.

Salisbury,
22nd November, 1927.

SIR,

With reference to your letter of the 30th September,* I have the honour, by direction, to inform you that the Honourable the Minister of Native Affairs gathers that the following are the

* Enclosure 3 in No. 9.

objections to the "Native Affairs Bill, 1927," which will be dealt with *seriatim* :—

1. That "it is contrary to British traditions in legislation to confer on any person administering law the power to try offences against himself, as is provided under Clause 17."

It is very necessary that Native Commissioners should have powers of moderate correction for insolence or for disobedience of orders on the part of the natives.

Hitherto any such cases have had to be tried by some other Magistrate or Native Commissioner. This has been found to be cumbersome and sometimes a lengthy process which the natives themselves do not understand or appreciate, and is calculated to lower the prestige of the Native Commissioner in the eyes of the natives.

The statement that there is no other place in the Empire where any such law is in existence is not correct. Under the Natal Act No. 1 of 1909, Part III, Section 26, which is still in force, senior native officials are empowered to deal direct with cases of disobedience or defiance of their orders. This Act was sanctioned by His Majesty after having been passed by the Natal Legislature.

As you are aware, conditions in Natal are very similar to this country, and there is nothing to show that this power has been abused or used unfairly or that it has worked any injustice in Natal.

The Minister is confident that the Native Commissioners of this Colony can be trusted to act equally fairly and justly.

I would also point out that there is a similar provision in the powers given to judicial officers to deal summarily with contempt of Court, viz., insolence or misbehaviour on the part of a prisoner against themselves in Court. The new provision is only an extension of this principle to apply outside of the precincts of the Court for similar misbehaviour.

2. That "though an appeal is allowed to the High Court, the ordinary review of these cases is by the Department concerned, viz., it goes to the Chief Native Commissioner," also provided for under Clause 17.

Now, while it is true that the ordinary review of these cases is in the hands of the Chief Native Commissioner, Clause 19 specifically provides that the persons convicted shall have the right of having their cases brought before the High Court by way of review or appeal and that they shall be informed of such right. It is difficult to see what further *safeguard* could be provided.

3. That, "the same objection as in No. 1 above applies to the power given to a Native Commissioner to inflict corporal punishment on boys of 16 or under for offences against himself, or in which he may be concerned—Clause 18."

"These two Clauses Nos. 17 and 18 are therefore regarded as un-British."

The reasons given for the necessity of Native Commissioners having powers of moderate correction for offences against themselves under No. 1 also apply to this Clause.

It would, however, appear from your letter that you also object to Native Commissioners having the power to inflict corporal punishment, and, in regard to this, I would point out that provision for the whipping of juveniles irrespective of colour was made as far back as the year 1869 in the Cape Colony, and has been in force in this Colony since its first occupation.

I would also point out that if corporal punishment is not provided for, the alternative is to send boys and youths imprisonment which would result in their being housed and living in contact with criminals and their coming under undesirable influences, and this I am sure you would not advocate.

I may also point out that this form of punishment is common in many British boys' schools where masters inflict corporal punishment on boys for disobedience of their own orders.

It is a form of punishment that is quite understood by and appeals to parents of native juveniles, being in accordance with their own custom.

4. That, "the powers conferred on Native Commissioners, Chiefs and Headmen may be abused and may result in oppression and unfair treatment and will cause discontent among the natives —Clause 51."

There is nothing new in this provision and no new powers are conferred by it. Under the old law, Native Commissioners, chiefs, and headmen were given these powers and the only alteration made by the present law is an attempt to lay down a guide as to what is a lawful and reasonable order, and I may mention that the wording adopted is on the lines of the Natal Act of 1909, Part III, Section 29.

In connection I would quote from a Minute addressed to the Minister by Herbert Taylor, the Chief Native Commissioner, dated 31 October :—

> "I have sufficient confidence in the senior Native Department officials to believe that the definition of a lawful order will not be abused or cause oppression and that native policy will continue to be administered benevolently and wisely.
>
> It would be interesting to know whether the Conference can cite one actual case where oppression or unfairness arises on account of Native Commissioners' interpretation of a lawful order."

In connection with reference to the above objections, it has been evident that native administration has been by the new provisions now included in Clauses

objections to the "Native Affairs Bill, 1927," which will be dealt with *seriatim* :—

1. That " it is contrary to British traditions in legislation to confer on any person administering law the power to try offences against himself, as is provided under Clause 17."

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Hitherto any such cases have had to be tried by some other Magistrate or Native Commissioner. This has been found to be cumbersome and sometimes a lengthy process which the natives themselves do not understand or appreciate, and is calculated to lower the prestige of the Native Commissioner in the eyes of the natives.

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It is a form of punishment that is quite understood by and appeals to parents of native juveniles, being in accordance with their own custom.

4. That, "the powers conferred on Native Commissioners, Chiefs and Headmen may be abused and may result in oppression and unfair treatment and will cause discontent among the natives —Clause 51."

There is nothing new in this provision and no new powers are conferred by it. Under the old law, Native Commissioners, chiefs, and headmen have been given these powers and the only alteration made by the present law is an attempt to lay down a guide as to what is a lawful and reasonable order, and I may mention that the wording adopted is on the lines of the Natal Act of 1909, Part III, Section 26.

In connection with this I would quote from a Minute addressed to the Minister by Herbert Taylor, the Chief Native Commissioner, dated 31st October :—

"I have sufficient confidence in the senior Native Department officials to believe that the definition of a lawful order will not be abused or cause oppression and that native policy will continue to be administered benevolently and wisely.

It would be interesting to know whether the Conference can cite any actual case where oppression or unfairness has arisen on account of Native Commissioners' interpretation of 'lawful order.'"

In connection with reference to the above objections, it has been evident that native administration has been hampered by the lack of provisions now included in Clauses

and it is confidently expected that these changes will have a beneficial effect. The origin of the Bill was due to representations of some of the senior Native Department officials, men who have had a life-long experience of native administration, and it was at their instance and on their suggestions that the Bill was framed.

I have, etc.

J. G. JEAREY,
Secretary to the Premier.

No. 10.

Despatch from the Secretary of State for Dominion Affairs to the Governor of Southern Rhodesia.

Downing Street,
15th March, 1928.

SIR,

With reference to your despatch of the 29th July, 1927,* I have the honour to request you to inform your Ministers that His Majesty will not be advised to exercise his power of disallowance in respect of the Act No. 14 of 1927 of the Legislature of Southern Rhodesia entitled "Act to make certain provisions for the control of natives and the conduct of native affairs."

2. In view of the criticisms which have been directed against this measure, I think it desirable to record here the reasons which have led to the conclusion that the Act should be allowed to come into operation. The Act is in the main a consolidating measure which embodies principles which have long been in force in Southern Rhodesia and accepted as desirable; and such changes of importance in the existing law as it makes appear to be confined to three points, viz.:—

(1) the procedure for dealing with civil cases where the rights of natives only are concerned, (2) the alteration of the existing law made by Section 17 of the Act, and (3) the general definition of what constitutes a "lawful or reasonable" order inserted in Section 51.

3. As regard the first of these points, I observe that the Act provides for the removal of jurisdiction in all civil cases in which the rights of natives only are concerned from the Courts of Magistrates to the Courts of Native Commissioners and for the constitution of a Court of Appeal, consisting of the Chief Native Commissioner and two members selected by the Chief Native Commissioner from Superintendents of Natives or Native Commissioners on account of special knowledge of the principles

* No. 3.

governing the case to hear appeals in such cases. I understand that these provisions are made in order to enable such cases involving the rights of natives to be dealt with by the officers who are naturally most familiar with native law and custom. This development is one which I cordially welcome and, so far as I am aware, no objection to it has been raised in any quarter.

4. Section 17 of the Act reverses the provision in the High Commissioner's Proclamation of 1910* which provided that a Native Commissioner should not have jurisdiction to try any case in which the offence charged is disobedience to his own orders, or in which he himself is the official towards whom a chief or other native has been guilty of insolent or contemptuous behaviour. I appreciate the explanation of this change which has been given in the letter of the 22nd November last† to the Southern Rhodesia Missionary Conference from the Secretary to the Premier, and, having regard to the terms of Section 19 of the Act, which provides that the records of the proceedings of all cases tried under Section 17 shall be sent to the Chief Native Commissioner for review and that any native convicted under this Section shall have the right of bringing his case by way of review or appeal before the High Court and shall be informed of such right, I cannot think that there is any ground for uneasiness as to the effect of this change in the law from the point of view of the natives, who, I am confident, will, as in the past, receive fair and just treatment from the Native Commissioners. The terms of this Section have been criticised as containing a principle novel to British law, but your Ministers have already called attention to the fact that a similar provision has long been in force in Natal: further the principle that an administrative officer may in his judicial capacity try natives charged with breaches of orders issued by himself is recognised in the laws of Northern Rhodesia, Nyasaland, Uganda, and the Tanganyika Territory.

5. With regard to the third point mentioned above, I need only say that I have noted the reasons given in the Minute by the Solicitor-General enclosed in your despatch of the 6th May, 1927,‡ for including in Section 51 a general guide as to what constitutes a lawful or reasonable order and that I agree that they afforded good grounds for inserting this provision.

6. Apart from the above points, the Act contains no features new to Southern Rhodesian Law, and, in the circumstances, no observations seem called for in regard to its other provisions. I regret that it was not possible to give you an earlier intimation of His Majesty's pleasure with regard to the Act, but it will be appreciated that it was necessary to give very careful consideration

* See page 78. † Enclosure 1 in No. 9. ‡ No. 1.

and it is confidently expected that these changes will have a beneficial effect. The origin of the Bill was due to representations of some of the senior Native Department officials, men who have had a life-long experience of native administration, and it was at their instance and on their suggestions that the Bill was framed.

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(1) the procedure for dealing with civil cases where the rights of natives only are concerned, (2) the alteration of the existing law made by Section 17 of the Act, and (3) the general definition of what constitutes a "lawful or reasonable" order inserted in Section 51.

3. As regard the first of these points, I observe that the Act provides for the removal of jurisdiction in all civil cases in which the rights of natives only are concerned from the Courts of Magistrates to the Courts of Native Commissioners and for the constitution of a Court of Appeal, consisting of the Chief Native Commissioner and two members selected by the Chief Native Commissioner from Superintendents of Natives or Native Commissioners on account of special knowledge of the principles

* No. 3.

governing the case, to hear appeals in such cases. I understand that these provisions are made in order to enable such cases involving the rights of natives to be dealt with by the officers who are naturally most familiar with native law and custom. This development is one which I cordially welcome and, so far as I am aware, no objection to it has been raised in any quarter.

4. Section 17 of the Act reverses the provision in the High Commissioner's Proclamation of 1910* which provided that a Native Commissioner should not have jurisdiction to try any case in which the offence charged is disobedience to his own orders, or in which he himself is the official towards whom a chief or other native has been guilty of insolent or contemptuous behaviour. I appreciate the explanation of this change which has been given in the letter of the 22nd November last† to the Southern Rhodesia Missionary Conference from the Secretary to the Premier, and, having regard to the terms of Section 19 of the Act, which provides that the records of the proceedings of all cases tried under Section 17 shall be sent to the Chief Native Commissioner for review and that any native convicted under this Section shall have the right of bringing his case by way of review or appeal before the High Court and shall be informed of such right, I cannot think that there is any ground for uneasiness as to the effect of this change in the law from the point of view of the natives, who, I am confident, will, as in the past, receive fair and just treatment from the Native Commissioners. The terms of this Section have been criticised as containing a principle novel to British law, but your Ministers have already called attention to the fact that a similar provision has long been in force in Natal: further the principle that an administrative officer may in his judicial capacity try natives charged with breaches of orders issued by himself is recognised in the laws of Northern Rhodesia, Nyasaland, Uganda, and the Tanganyika Territory.

5. With regard to the third point mentioned above, I need only say that I have noted the reasons given in the Minute by the Solicitor-General enclosed in your despatch of the 6th May, 1927,‡ for including in Section 51 a general guide as to what constitutes a lawful or reasonable order and that I agree that they afforded good grounds for inserting this provision.

6. Apart from the above points, the Act contains no features new to Southern Rhodesian Law, and, in the circumstances, no observations seem called for in regard to its other provisions. I regret that it was not possible to give you an earlier intimation of His Majesty's pleasure with regard to the Act, but it will be appreciated that it was necessary to give very careful consideration

* See page 78. † Enclosure in No. 9. ‡ No. 1.

to the representations which have been made regarding it and that it was desired that I should have an opportunity of examining the correspondence after my return from my visit overseas.

I have, etc.,

L. S. AMERY

No. 11.

Letter from the Secretaries, the Anti-Slavery and Aborigines Protection Society, to the Under-Secretary of State for Dominion Affairs.

[*Answered by No.* 12.]

The Anti-Slavery and Aborigines Protection Society,
Denison House,
296, Vauxhall Bridge Road,
London, S.W.1.
15th March, 1928.

SIR,

We beg to acknowledge your letter of the 19th January,* in regard to the Southern Rhodesia Native Affairs Act, 1927. Before replying to your letter, we beg leave to refer to the Native Juveniles Employment Act, as to which we were in communication with the Department last year.†

Our Committee can only reiterate its profound regret that the Act has been passed which provides for the indenture of children in Southern Rhodesia without distinction of age, sex, or occupation. The Committee is quite prepared to accept the view that a genuine system of apprenticeship might be in the interest of a limited number of native boys, but they cannot ignore the emphatic statements of the late Prime Minister, Sir Charles Coghlan, and the Farmers' Union of Southern Rhodesia, that this Act was largely due to the activities of the agricultural employers. It is our hope that the Southern Rhodesia Government will soon find it possible to remove the Act from the Statute Book, but that pending such removal certain administrative regulations may be issued for the protection of these child workers.

In the first place, we would again point out that the indenturing of young native girls is without precedent. In this respect the policy of the Act was severely criticised by competent local authorities. We would urge that where girls are indentured or apprenticed the responsibility for sanctioning the indenture and later the supervision of its operation should be entrusted to a body of responsible white women.

* No. 9.

† See Part I.

Generally, we would again draw attention to the remarkable fact that the Act fixes no minimum limit of age for girls or boys. Some minimum must be fixed by regulation. We would suggest ten years. Certain safeguards would also seem desirable in the question of whipping. It might also be considered whether certain occupations (*e.g.*, work in [illegible] are suitable for children.

With reference to the Native Control Bill, our Committee welcomes the statement by the Prime Minister that certain points raised by this Society have been communicated by cable to the Government of Southern Rhodesia, and we trust these include reconsideration of the two main objections which have been made to this Bill:—(1) The danger which arises from making the Native Commissioners not merely Judge and Jury, but, in practice, Prosecutors, and (2) the very wide and indefinite scope of the offences created by this Bill, such as "insolence or contemptuous behaviour towards any Government officials," "failure promptly to obey and comply with any lawful or reasonable order, request, or direction of any headman, chief, Native Commissioner or other officer administering native affairs," "The spread and dissemination by native messengers of any false reports or rumours calculated to cause unrest."

With regard to the first objection, the Act marks an important new departure. Under the Native Regulations of 1910, Native Commissioners had no jurisdiction to try cases of alleged disobedience to their own orders; and the local Courts had interpreted the law strictly. It is evident that the Courts were justified in viewing with jealousy any attempts to depart from the principle of elementary justice. The Attorney-General, however, in introducing this Bill, described these restrictions as "unfortunate," and one of the main objects of the measure is to get rid of them. He rightly described Clause 17 as one of the most important provisions in the Bill, but it would seem incorrect to say that no other new principle has been introduced, for he himself stated that Clause 15 is new. We submit that it would be difficult to imagine a more novel or more unusual principle, inasmuch as it enacts that Courts of Magistrates shall not have jurisdiction in civil cases in which the rights of natives only are concerned, nor in proceedings for contravention of the provisions of the Act. In other words, the jurisdiction of the ordinary Courts is to a large extent ousted. It is suggested that Magistrates are incompetent to deal with cases of disobedience of reasonable orders, or of alleged contemptuous behaviour, and that only Native Commissioners are conversant enough with native laws to decide whether an order is reasonable or behaviour contemptuous. It seems, however, to our Committee, difficult to suppose that a local Magistrate lacks the qualifications necessary for an impartial judgment on such questions.

We beg to thank His Majesty's Government for drawing our attention to the right of final review or appeal in Clause 21. We venture to point out that it was admitted in the debate referred to that this right would be difficult to exercise.

In regard to Section 50, we notice that its terms are vague and give room for such width of interpretation that convictions would be readily secured and penalties imposed upon persons who, according to the testimony of the Governor only last year, have been loyal and law-abiding. We note that considerable apprehension was expressed in the debate above referred to that this Clause would be very difficult to carry out, and that, if it were carried into effect, within six months a very large number of the native chiefs and headmen, sub-headmen and heads of kraals would be in gaol.

In regard to Clause 18, our Committee is of opinion that the resources of humanitarian policy for keeping young offenders out of prison cannot be said to be limited to corporal punishment, which tends, we submit, to brutalisation, and we are to suggest that an enactment for serving sentence in existing industrial schools instead of in a gaol would meet the requirements of the case.

Our Committee would greatly appreciate being informed whether the Secretary of State will feel able to take into consideration the points urged in this connection before giving sanction to the proposed Bill.

We have, etc.,
TRAVERS BUXTON,
Hon. Secretary.
JOHN H. HARRIS,
Parliamentary Secretary.

No. 12.

Letter from the Dominions Office to the Secretaries, the Anti-Slavery and Aborigines Protection Society.

Downing Street,
4th April, 1928.

GENTLEMEN,

I am directed by Mr. Secretary Amery to acknowledge the receipt of your letter of the 15th March* relating to the Southern Rhodesia Native Juveniles Employment Act, 1926, and Native Affairs Act, 1927, and to inform you that a copy of your letter is being sent to the Government of Southern Rhodesia.

2. As regards your comments on the Native Juveniles Employment Act, I am to invite your attention to the statement† communicated to the Press by the Attorney-General of Southern

* No. 11. † No. 24 in Part I.

Rhodesia, of which a copy is enclosed. I am also to state that instructions* were issued last January by the Southern Rhodesia Government to all Native Commissioners that the Government does not approve of children under ten years of age entering into contracts of service; and the Secretary of State has been informed that [redacted] question of amending the Act in order to provide that native juveniles under this age shall not be permitted to enter into contracts of service is being examined by the Southern Rhodesia Government.

3. Careful consideration has been given to the representations which have been made regarding the Native Affairs Act, and the conclusion has been reached that the Act should be allowed to come into operation. The Governor has accordingly been informed that His Majesty will not be advised to exercise his power of disallowance in respect of the Act.

4. It is proposed to publish shortly as a Parliamentary Paper the correspondence relating to both of the Acts referred to above and to include in the Paper the correspondence with the Society noted in the margin.† It is presumed that the Society have no objection to publication of their letters.

I am, etc.,
A. C. C. PARKINSON.

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* See Enclosure in No. 25 in Part I.
† Nos. 3, 8, 12, 15 and 16 in Part I, and Nos. 4, 5, 9, 11 and 12 in Part II.

We beg to thank His Majesty's Government for drawing our attention to the right of that native to appeal in Clause 21. We venture to point out that it was omitted in the debate referred to that this right would be difficult to exercise.

In regard to Section 51, we notice that its effect can be evaded and give room for such width of interpretation that convictions would be readily secured and penalties imposed upon persons who, according to the testimony of the Governor only last year, have been loyal and law-abiding. We note that considerable apprehension was expressed in the debate above referred to that this Clause would be very difficult to carry out, and that, if it were carried into effect, within six months a very large number of the native chiefs and headmen, sub-headmen and heads of kraals would be in gaol.

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APPENDIX.

Southern Rhodesia Native Regulations Proclamation, 1910.

No. 55 of 1910.]

PROCLAMATION

BY HIS EXCELLENCY THE HIGH COMMISSIONER.

WHEREAS it is expedient that the High Commissioner's Proclamation No. 4 of 1902, dated the first day of July, 1902, establishing regulations for natives within the limits of the Southern Rhodesia Order in Council, 1898, should be repealed and that further and other provision should be made for the conduct of native affairs within the said limits;

Now, therefore, under and by virtue of the powers in me vested I do hereby proclaim, declare and make known as follows:—

PART I.—PRELIMINARY.

1. The Proclamation of His Excellency the High Commissioner No. 4 of the first day of July, 1902, and such provisions of any other law as may be repugnant to or inconsistent with the provisions of this Proclamation, shall be and the same are hereby repealed except as to things done, offences committed, penalties or liabilities incurred or proceedings commenced or pending under, by virtue of or against any of the said repealed laws.

2. In this Proclamation the following terms shall have the meaning assigned to them by this section unless another meaning appears clearly from the context to be intended:—

(1) "Chief" means a native appointed by the Administrator-in-Council to exercise control over a tribe;

(2) "tribe" means a number or collection of natives forming a political organization or community under the control or leadership of a chief which organization or community shall have been recognized or established by the Administrator-in-Council;

(3) "headman" means a native exercising control under a chief over such section of a tribe as may be deemed by the chief and who is appointed by such chief with the approval of the Administrator-in-Council;

(4) "head of a kraal" means the native who is according to native law and custom the senior member of the kraal or who is recognized as such by the other members of the kraal;

(5) "kraal" means a collection of huts and ordinary residences of natives. It is subject to and under the control of a kraal head and may consist of one or more houses or huts. For the purposes of this Proclamation individual dwellings occupied by natives on mission stations or private lands are to be deemed kraals;

(6) "reserve" means lands the property of the British South Africa Company set apart for the purposes of native settlements exclusively;

(7) "vacant land" means

(a) land which has been alienated by grant or otherwise by the British South Africa Company but which is not occupied;

(b) land still available for settlement.

(8) "tribal area" means the area occupied by any natives placed under the control of one chief;

(9) "sectional area" means the area occupied by natives forming a section of a tribe and placed under the control of a headman;

(10) "the territory" means the territory within the limits of the Southern Rhodesia Order in Council 1898.

(11) "Native Commissioner" includes an Acting Native Commissioner and an Assistant Native Commissioner except where otherwise expressly excluded.

(12) "district" means a district defined by the Administrator-in-Council with the approval of the High Commissioner for the purposes of native administration.

PART II.—THE ADMINISTRATOR.

3. The Administrator-in-Council for the time being exercises over all natives all political power and authority.

4. The Administrator-in-Council appoints all chiefs to preside over tribes and may divide existing tribes into two or more parts or may amalgamate tribes or parts of tribes into one tribe as may be necessary or as the good government of the natives may in his opinion require.

5. The Administrator-in-Council may subject to the approval of the High Commissioner remove any chief for just cause from his position as such chief and may also subject to the like approval order his removal with his family and property from any reserve or vacant land to any reserve or vacant land provided that no such removal to vacant land alienated by the British South Africa Company and held under title shall be effected except with the consent of the owner thereof.

6. With the concurrence of the High Commissioner the Administrator-in-Council may call upon chiefs to supply men for the defence of the territory and for the suppression of disorder and rebellion within its borders and may call upon such chiefs personally to render such service.

7. For the purpose of native administration the Administrator-in-Council may from time to time subject to the approval of the High Commissioner divide and sub-divide the territory into provinces districts and sub-districts as may seem to him desirable. Should it be found on so dividing the territory that natives of one tribe have been settled in different districts by such division they shall be allowed to remove into the district in which their chief is settled or to affiliate themselves to the tribe of a chief in the district in which they may be living.

PART III.—THE NATIVE DEPARTMENT.

8. The Secretary for Native Affairs for the time being shall be the principal administrative officer in regard to native affairs. The Administrator for the time being may exercise the powers and functions hereinafter delegated to the Secretary for Native Affairs.

9. In case the Administrator for the time being shall be Secretary for Native Affairs there shall be an assistant to the Administrator who shall be the principal executive officer in regard to native affairs. He shall on behalf of the Secretary for Native Affairs be accessible to and receive petitions whether verbal or written from all natives and shall in every case where an injustice or wrong exists (not being a private wrong remediable at law) take the necessary steps to protect and right the person or persons wronged.

10. The Secretary aforesaid shall in all cases of disputed chieftainship or succession to chieftainship and of tribal quarrels or dissatisfaction make inquiry personally or otherwise as may be deemed best.

11. In each province of the territory as defined from time to time by the Administrator-in-Council there shall be a Chief Native Commissioner who shall discharge such duties and functions as may from time to time be determined and defined by the Administrator-in-Council. The appointment salary suspension and removal of the Chief Native Commissioners shall be governed by section *seventy-nine* (2) of the Southern Rhodesia Order in Council 1898.

APPENDIX.

Southern Rhodesia Native Regulations Proclamation, 1910.

No. 55 of 1910.]

PROCLAMATION

BY HIS EXCELLENCY THE HIGH COMMISSIONER.

WHEREAS it is expedient that the High Commissioner's Proclamation No. 4 of 1902, dated the first day of July, 1902, establishing regulations for natives within the limits of the Southern Rhodesia Order in Council, 1898, should be repealed and that further and other provision should be made for the conduct of native affairs within the said limits;

Now, therefore, under and by virtue of the powers in me vested I do hereby proclaim, declare and make known as follows:—

PART I.—PRELIMINARY.

1. The Proclamation of His Excellency the High Commissioner No. 4 of the first day of July, 1902, and such provisions of any other law as may be repugnant to or inconsistent with the provisions of this Proclamation, shall be and the same are hereby repealed except as to things done, offences committed, penalties or liabilities incurred or proceedings commenced or pending under by virtue of or against any of the said repealed laws.

2. In this Proclamation the following terms shall have the meaning assigned to them by this section unless another meaning appears clearly from the context to be intended:—

(1) "Chief" means a native appointed by the Administrator-in-Council to exercise control over a tribe;

(2) "tribe" means a number or collection of natives forming a political organization or community under the control or leadership of a chief which organization or community shall have been recognized or established by the Administrator-in-Council;

(3) "headman" means a native exercising control under a chief over such section of a tribe as may be defined by the chief and who is appointed by such chief with the approval of the Administrator-in-Council;

(4) "head of a kraal" means the native who is according to native law and custom the senior member of the kraal or who is recognized as such by the other members of the kraal;

(5) "kraal" means a collection of huts and ordinary residences of natives. It is subject to and under the control of a kraal head and may consist of one or more houses or huts. For the purposes of this Proclamation individual dwellings occupied by natives on mission stations or private lands are to be deemed kraals;

(6) "reserve" means lands the property of the British South Africa Company set apart for the purposes of native settlements exclusively;

(7) "vacant land" means

(*a*) land which has been alienated by grant or otherwise by the British South Africa Company but which is not occupied;

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(10) "the territory" means the territory within the limits of the Southern Rhodesia Order in Council 1898;

(11) "Native Commissioner" includes an Acting Native Commissioner and an Assistant Native Commissioner except where otherwise expressly specified;

(12) "district" means a district defined by the Administrator-in-Council with the approval of the High Commissioner for the purposes of native administration.

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4. The Administrator-in-Council appoints all chiefs to preside over tribes and may divide existing tribes into two or more parts or may amalgamate tribes or parts of tribes into one tribe as may be necessary or as the good government of the natives may in his opinion require.

5. The Administrator-in-Council may subject to the approval of the High Commissioner remove any chief for just cause from his position as such chief and may also subject to the like approval order his removal with his family and property from any reserve or vacant land to any reserve or vacant land provided that no such removal to vacant land alienated by the British South Africa Company and held under title shall be effected except with the consent of the owner thereof.

6. With the concurrence of the High Commissioner the Administrator-in-Council may call upon chiefs to supply men for the defence of the territory and for the suppression of disorder and rebellion within its borders and may call upon such chiefs personally to render such service.

7. For the purpose of native administration the Administrator-in-Council may from time to time subject to the approval of the High Commissioner divide and sub-divide the territory into provinces districts and sub-districts as may seem to him desirable. Should it be found on so dividing the territory that natives of one tribe have been settled in different districts by such division they shall be allowed to remove into the district in which their chief is settled or to affiliate themselves to the tribe of a chief in the district in which they may be living.

PART III.—THE NATIVE DEPARTMENT.

8. The Secretary for Native Affairs for the time being shall be the principal administrative officer in regard to native affairs. The Administrator for the time being may exercise the powers and functions hereinafter delegated to the Secretary for Native Affairs.

9. In case the Administrator for the time being shall be Secretary for Native Affairs there shall be an assistant to the Administrator who shall be the principal executive officer in regard to native affairs. He shall on behalf of the Secretary for Native Affairs be accessible to and receive petitions whether verbal or written from all natives and shall in every case where an injustice or wrong exists (not being a private wrong remediable at law) take the necessary steps to protect and right the person or persons wronged.

10. The Secretary aforesaid shall in all cases of disputed chieftainship or succession to chieftainship and of tribal quarrels or dissatisfaction make inquiry personally or otherwise as may be deemed best.

11. In each province of the territory as defined from time to time by the Administrator-in-Council there shall be a Chief Native Commissioner who shall discharge such duties and functions as may from time to time be determined and defined by the Administrator-in-Council. The appointment salary suspension and removal of the Chief Native Commissioners shall be governed by section ~~seventy-nine~~ (2) of the Southern Rhodesia Order in Council 1898.

12. The Administrator-in-Council may appoint so many officers to be styled Superintendents of Natives as may from time to time seem expedient. The Superintendents shall discharge such duties as may from time to time be determined and defined by the Administrator-in-Council and shall have all the powers and jurisdiction conferred upon Native Commissioners within all the native districts under their supervision. The appointment, duty, suspension and removal of the Superintendents of Natives shall be governed by section *seventy-nine* (2) of the Southern Rhodesia Order in Council 1898.

13. For each district constituted by the Administrator-in-Council as aforesaid there shall be appointed an officer styled the Native Commissioner who may be the magistrate or assistant magistrate in districts where such officers are stationed. Every such officer shall exercise within his district such powers as may from time to time be conferred upon him by law; provided that the Administrator-in-Council may where such a course appears to be desirable and subject to the approval of the High Commissioner place two or more districts under one Native Commissioner and may subject to the like approval appoint one or more officers to assist the Native Commissioner in the discharge of his civil functions except those referred to in the next succeeding section.

14. A Native Commissioner shall have

(*a*) in civil proceedings in which natives only are concerned, and

(*b*) in criminal proceedings in which the accused is a native

such jurisdiction as is exercisable by a magistrate under this Proclamation and any other law for the time being in force; provided that no Native Commissioner shall have jurisdiction to try any case in which the offence charged is disobedience to his own orders or in which he himself is the official towards whom a chief or other native has been guilty of insolent or contemptuous behaviour, but such offences shall be tried by a Superintendent of Natives or magistrate having jurisdiction.

There shall be the same right of appeal from the decision of a Native Commissioner in any case civil or criminal as there would be if the case had been heard before a magistrate.

The provisions of section *fifty* of the Southern Rhodesia Order in Council 1898 shall apply to courts of Native Commissioners in the same way as if such courts were mentioned in the said section.

Every Court of a Native Commissioner and of an Assistant Native Commissioner shall be a Court of Record.

15. (1) When and as often as any Native Commissioner shall sentence any native upon conviction to pay a fine of five pounds or more or to be imprisoned for the period of one month or longer or to receive any number of lashes such Native Commissioner shall forward the proceedings to the Registrar of the High Court for review by a Judge of the High Court and the laws and rules governing the reviewing of proceedings of a Magistrate's Court shall apply *mutatis mutandis* to any such review.

(2) Notwithstanding anything in this section contained it shall not be necessary to forward for review the proceedings in any case tried before the Court of a Native Commissioner to which if the same had been tried before a Magistrate's Court the provisions of the Juvenile Offenders Amendment Ordinance 1899 would have applied.

16. For the purpose of trying civil suits or of exercising criminal jurisdiction as provided in section *fourteen* a Native Commissioner may hold a court in such place or places within his district as may appear to him from time to time most suitable; provided always that all parties to any civil dispute shall have due and proper notice of the place where any particular case is to be tried and any accused person shall be given full opportunity of calling such witnesses as he may desire to have heard on his behalf.

17. It shall be lawful for the Administrator-in-Council from time to time to make alter and revoke rules regulating the proceedings in civil and criminal cases in the courts of Native Commissioners and by such rules to prescribe the fees and charges payable in respect of civil proceedings. Until any rules be made regulating such proceedings, the rules of the Magistrates' Courts regarding such proceedings shall, *mutatis mutandis*, apply.

18. (1) No native shall remove from one district to another without the consent of the Native Commissioners of the districts concerned.

(2) Subject to the approval of the Administrator-in-Council a Native Commissioner may assign lands for huts, gardens and grazing grounds for each kraal on vacant land or reserves in his district and prohibit the erection of new huts or the cultivation of new gardens where such erection or cultivation may for good reasons appear to him undesirable.

(3) Any native removing from one district to another without the above-mentioned consent or wilfully disregarding any order given under subsection (2) of this section shall be guilty of an offence and liable to the penalties prescribed by section *fifty* of this Proclamation.

(4) Nothing in this section contained shall affect the provisions of section *eighty-two* of the Southern Rhodesia Order in Council, 1898, and it shall be the duty of a Native Commissioner to report to the Administrator all cases in which any action has been taken under the provisions of this section.

19. A Native Commissioner shall from time to time and subject to the approval of the Chief Native Commissioner fix the number of huts which shall compose any kraal.

20. A Native Commissioner shall when circumstances require it arrange and determine as far as possible between natives all matters arising out of the flow and apportionment of the water of streams and furrows in his district.

21. A Native Commissioner shall be responsible for the proper registration of huts within his district and for the collection of native tax when due.

22. The receiving of presents from natives or the acquisition of stock or land by any Native Commissioner or other officer of the Native Department is strictly prohibited without the consent of the Secretary for Native Affairs first had and obtained.

Part IV.—Duties and Discipline of Native Messengers.

23. A sufficient number of native messengers shall be attached to the office of each Native Commissioner.

24. The duties of the messengers shall be to convey messages to the chiefs and district headmen from the Native Commissioners to warn natives of collection of native tax to summon parties to civil cases in Native Commissioners' Courts and to report to the Native Commissioner any irregularities or crimes that may come to their knowledge.

25. Native chiefs and headmen shall report to the Native Commissioner or nearest police station any irregularities misconduct or impositions on the part of the messengers at kraals.

26. The messengers shall wear a distinctive uniform.

27. It shall be lawful for the Administrator-in-Council from time to time subject to the approval of the High Commissioner to impose on native messengers such further and other duties as may appear desirable.

12. The Administrator-in-Council may appoint so many officers to be styled Superintendents of Natives as may from time to time seem expedient. The Superintendents shall discharge such duties as may from time to time be determined and defined by the Administrator-in-Council and shall have all the powers and jurisdiction conferred upon Native Commissioners within all the native districts under their supervision. The appointment, duty, suspension and removal of the Superintendents of Natives shall be governed by section *seventy-nine* (2) of the Southern Rhodesia Order in Council, 1898.

13. For each district constituted by the Administrator-in-Council as aforesaid there shall be appointed an officer styled the Native Commissioner who may be the magistrate or assistant magistrate in districts where such officers are stationed. Every such officer shall exercise within his district such powers as may from time to time be conferred upon him by law; provided that the Administrator-in-Council may where such a course appears to be desirable and subject to the approval of the High Commissioner place two or more districts under one Native Commissioner and may subject to the like approval appoint one or more officers to assist the Native Commissioner in the discharge of his civil functions except those referred to in the next succeeding section.

14. A Native Commissioner shall have

(*a*) in civil proceedings in which natives only are concerned, and

(*b*) in criminal proceedings in which the accused is a native

such jurisdiction as is exercisable by a magistrate under this Proclamation and any other law for the time being in force; provided that no Native Commissioner shall have jurisdiction to try any case in which the offence charged is disobedience to his own orders or in which he himself is the official towards whom a chief or other native has been guilty of insolent or contemptuous behaviour, but such offences shall be tried by a Superintendent of Natives or magistrate having jurisdiction,

There shall be the same right of appeal from the decision of a Native Commissioner in any case civil or criminal as there would be if the case had been heard before a magistrate.

The provisions of section *fifty* of the Southern Rhodesia Order in Council 1898 shall apply to courts of Native Commissioners in the same way as if such courts were mentioned in the said section.

Every Court of a Native Commissioner and of an Assistant Native Commissioner shall be a Court of Record.

15. (1) When and as often as any Native Commissioner shall sentence any native upon conviction to pay a fine of five pounds or more or to be imprisoned for the period of one month or longer or to receive any number of lashes such Native Commissioner shall forward the proceedings to the Registrar of the High Court for review by a Judge of the High Court and the laws and rules governing the reviewing of proceedings of a Magistrate's Court shall apply *mutatis mutandis* to any such review.

(2) Notwithstanding anything in this section contained it shall not be necessary to forward for review the proceedings in any case tried before the Court of a Native Commissioner to which if the same had been tried before a Magistrate's Court the provisions of the Juvenile Offenders Amendment Ordinance 1899 would have applied.

16. For the purpose of trying civil suits or of exercising criminal jurisdiction as provided in section *fourteen* a Native Commissioner may hold a court in such place or places within his district as may appear to him from time to time most suitable; provided always that all parties to any civil dispute shall have due and proper notice of the place where any particular case is to be tried and any accused person shall be given full opportunity of calling such witnesses as he may desire to have heard on his behalf.

17. It shall be lawful for the Administrator-in-Council from time to time to make alter and revoke rules regulating the proceedings in civil and criminal cases in the courts of Native Commissioners and by such rules to prescribe the fees and charges payable in respect of civil proceedings. Until any rules be made regulating criminal proceedings, the rules of the Magistrates' Courts regarding such proceedings shall, *mutatis mutandis*, apply.

18. (1) No native shall remove from one district to another without the consent of the Native Commissioners of the districts concerned.

(2) Subject to the approval of the Administrator-in-Council a Native Commissioner may assign lands for huts, gardens and pasture grounds for each kraal on vacant land or reserves in his district and prohibit the erection of new huts or the cultivation of new gardens where such erection or cultivation may for good reasons appear to him undesirable.

(3) Any native removing from one district to another without the abovementioned consent or wilfully disregarding any order given under subsection (2) of this section shall be guilty of an offence and liable to the penalties prescribed by section *fifty* of this Proclamation.

(4) Nothing in this section contained shall affect the provisions of section *eighty-two* of the Southern Rhodesia Order in Council, 1898, and it shall be the duty of a Native Commissioner to report to the Administrator all cases in which any action has been taken under the provisions of this section.

19. A Native Commissioner shall from time to time and subject to the approval of the Chief Native Commissioner fix the number of huts which shall compose any kraal.

20. A Native Commissioner shall when circumstances require it arrange and determine as far as possible between natives all matters arising out of the flow and apportionment of the water of streams and furrows in his district.

21. A Native Commissioner shall be responsible for the proper registration of huts within his district and for the collection of native tax when due.

22. The receiving of presents from natives or the acquisition of stock or land by any Native Commissioner or other officer of the Native Department is strictly prohibited without the consent of the Secretary for Native Affairs first had and obtained.

Part IV.—Duties and Discipline of Native Messengers.

23. A sufficient number of native messengers shall be attached to the office of each Native Commissioner.

24. The duties of the messengers shall be to convey messages to the chiefs and district headmen from the Native Commissioners to warn natives of collection of native tax to summon parties to civil cases in Native Commissioners' Courts and to report to the Native Commissioner any irregularities or crimes that may come to their knowledge.

25. Native chiefs and headmen shall report to the Native Commissioner or nearest police station any irregularities misconduct or impositions on the part of the messengers at kraals.

26. The messengers shall wear a distinctive uniform.

27. It shall be lawful for the Administrator-in-Council from time to time subject to the approval of the High Commissioner to impose on native messengers such further and other duties as may appear desirable.

28. Any native messenger who shall

(1) take any tribe or without the consent of the Native Commissioner any present from any person; or

(2) give out and pretend that he has power and authority to settle any dispute or undertake the settlement of any dispute; or

(3) neglect to report to the Native Commissioner the commission of any crime of the commission of which he may have knowledge either through himself or from information supplied by others; or

(4) be under the influence of intoxicating liquor while in camp or on duty; or

(5) act beyond instructions given to and received by him or unnecessarily delay the fulfilment and execution of any duty entrusted to him; or

(6) neglect to perform and carry out any duty or instructions entrusted or given to him; or

(7) wilfully fail to assist any native in approaching any Native Commissioner for the purpose of laying any complaint before him or for any other legitimate object or obstruct and hinder any native from so approaching any Native Commissioner

shall be deemed to have contravened this section and upon due conviction thereof shall be liable to punishment in a fine not exceeding five pounds or to imprisonment for any period not exceeding three months with or without hard labour or to both such fine and imprisonment.

29. Any native messenger who shall

(1) demand or take against the will of the owner thereof or without his consent any animal bird meat food drink clothing or other article or thing whatsoever; or

(2) unduly or improperly interfere with any woman or girl or demand that any woman or girl should be given or supplied to him for the purpose of irregular and temporary cohabitation; or

(3) cause or direct the commission of any act of a cruel indecent or disgraceful character and nature; or

(4) commit any act or spread and disseminate any false reports or rumours calculated to cause unrest among the native inhabitants of the territory or to jeopardize or disturb the peace of the country; or

(5) assault threaten intimidate or be insolent to any chief or headman; or

(6) abuse or misuse his authority and position as a native messenger to his own advantage

shall be deemed to have contravened this section and shall upon the conviction thereof be liable to punishment in a fine not exceeding ten pounds or to imprisonment for any period not exceeding six months with or without hard labour or to receive any number of lashes not exceeding fifteen or to any two of such punishments.

Part V.—Chiefs.

30. The chief in charge of a tribe shall be appointed by the Administrator-in-Council and shall hold office during pleasure and contingent upon good behaviour and general fitness. He shall rank as a constable within his tribal area and shall receive such pay and allowances as may be fixed from time to time.

31. A chief shall be responsible within his tribal area for

(1) the general good conduct of the natives under his charge;

(2) the immediate notification to the Native Commissioner of all crimes or offences or serious attempts at crimes or all deaths and suspicious disappearances or any epidemic or prevailing diseases or lues among the members of his tribe or their stock;

(3) the due publication of all such public orders directions or notices as may be notified to him;

(4) the nomination of a sufficient number of men to act as district headmen for sections of his tribe for appointment by the Secretary for Native Affairs who shall also have the power to remove them and to appoint others in their stead;

(5) control and control of natives not being people of his own tribe who may come into his tribal area and stock other than stock known to be the property of his own tribe;

(6) the notification to the Native Commissioner of all applications by new-comers to build and reside in his tribal area;

(7) the prompt supply of men called for under the terms of section *six* of Part II of this Proclamation as and when ordered to supply the same by the Administrator-in-Council with the approval of the High Commissioner through the Native Commissioner;

(8) the discharge of such further and other duties as may from time to time be prescribed by the Administrator-in-Council subject to the approval of the High Commissioner.

32. Every chief failing or neglecting without reasonable excuse to carry out any of the requirements of section *thirty-one*, sub-sections (2) (3) (6) (7) or (8) shall be deemed guilty of an offence and shall upon conviction be liable to the penalties provided in section *fifty* of this Proclamation.

33. Chiefs in their respective tribal areas shall aid and assist by all means in their power in apprehending and securing offenders of all descriptions.

34. Chiefs shall in all cases communicate with the Native Commissioner stationed in the district in which they reside.

35. Chiefs shall assist in collecting taxes when they become due.

Part VI.—Headmen.

36. The Administrator shall appoint a sufficient number of headmen in each tribal area to assist the chiefs in carrying out their duties. In making these appointments the nominations submitted by the chiefs shall except for good reasons to the contrary be accepted.

37. Headmen shall be responsible to the chiefs for

(1) The good conduct of the natives in the sectional area placed in their charge;

(2) the prompt notification to the chief of any unusual occurrence in their sectional area.

38. Headmen shall rank as constables within their sectional areas and are authorized and required to arrest any native therein in obedience to any lawful warrant or whom they may see committing or attempting to commit any crime or offence against any person or property or rioting or defying authority and to hand over the persons arrested without delay to the Native Commissioner.

39. Headmen shall be required to assist the messengers and other officials attached to the office of the Native Commissioner whenever called upon to do so.

40. Headmen shall prevent the settlement of fresh kraals in or the removal of existing kraals from their sectional areas without proper authority.

41. Every headman failing or neglecting without reasonable cause to carry out any of the requirements of section *thirty-seven* sub-section (2) and of sections *thirty-eight thirty-nine* and *forty* shall be deemed guilty of an offence and shall upon conviction be liable to the penalties provided in section *fifty* of this Proclamation.

28. Any native messenger who shall

(1) take any bribe or without the consent of the Native Commissioner any present from any person; or

(2) give out and pretend that he has power and authority to settle any dispute or undertake the settlement of any dispute; or

(3) neglect to report to the Native Commissioner the commission of any crime or the commission of which he may have knowledge either through himself or from information supplied by others; or

(4) be under the influence of intoxicating liquor while in camp or on duty; or

(5) act beyond instructions given to and received by him or unnecessarily delay the fulfilment and execution of any duty entrusted to him; or

(6) neglect to perform and carry out any duty or instructions entrusted or given to him; or

(7) wilfully fail to assist any native in approaching any Native Commissioner for the purpose of laying any complaint before him or for any other legitimate object or obstruct and hinder any native from so approaching any Native Commissioner

shall be deemed to have contravened this section and upon due conviction thereof shall be liable to punishment in a fine not exceeding five pounds or to imprisonment for any period not exceeding three months with or without hard labour or to both such fine and imprisonment.

29. Any native messenger who shall

(1) demand or take against the will of the owner thereof or without his consent any animal bird meat food drink clothing or other article or thing whatsoever; or

(2) unduly or improperly interfere with any woman or girl or demand that any woman or girl should be given or supplied to him for the purpose of irregular and temporary cohabitation; or

(3) cause or direct the commission of any act of a cruel indecent or disgraceful character and nature; or

(4) commit any act or spread and disseminate any false reports or rumours calculated to cause unrest among the native inhabitants of the territory or to jeopardise or disturb the peace of the country; or

(5) assault threaten intimidate or be insolent to any chief or headman; or

(6) abuse or misuse his authority and position as a native messenger to his own advantage

shall be deemed to have contravened this section and shall upon the conviction thereof be liable to punishment in a fine not exceeding ten pounds or to imprisonment for any period not exceeding six months with or without hard labour or to receive any number of lashes not exceeding fifteen or to any two of such punishments.

Part V.—Chiefs.

30. The chief in charge of a tribe shall be appointed by the Administrator-in-Council and shall hold office during pleasure and contingent upon good behaviour and general fitness. He shall rank as a constable within his tribal area and shall receive such pay and allowances as may be fixed from time to time.

31. A chief shall be responsible within his tribal area for

(1) the general good conduct of the natives under his charge;

(2) the immediate notification to the Native Commissioner of all crimes or offences or serious attempts at crimes or all deaths and suspicious disappearances of any epidemic or prevailing diseases or thus among the members of his tribe or their stock;

(3) the due publication of all such public orders directions or notices as may be notified to him;

(4) the nomination of a sufficient number of men to act as district headmen for sections of his tribe for appointment by the Secretary for Native Affairs who shall also have the power to remove them and to appoint others in their stead;

(5) exercise and control of natives by being people of his own tribe who may come into his tribal area and except other than stock known to be the property of his own tribe;

(6) the notification to the Native Commissioner of all applications by new-comers to build and reside in his tribal area;

(7) the prompt supply of men called for under the terms of section *six* of Part II of this Proclamation as and when ordered to supply the same by the Administrator-in-Council with the approval of the High Commissioner through the Native Commissioner;

(8) the discharge of such further and other duties as may from time to time be prescribed by the Administrator-in-Council subject to the approval of the High Commissioner.

32. Every chief failing or neglecting without reasonable excuse to carry out any of the requirements of section *thirty-one*, sub-sections (2) (3) (6) (7) or (8) shall be deemed guilty of an offence and shall upon conviction be liable to the penalties provided in section *fifty* of this Proclamation.

33. Chiefs in their respective tribal areas shall aid and assist by all means in their power in apprehending and securing offenders of all descriptions.

34. Chiefs shall in all cases communicate with the Native Commissioner stationed in the district in which they reside.

35. Chiefs shall assist in collecting taxes when they become due.

Part VI.—Headmen.

36. The Administrator shall appoint a sufficient number of headmen in each tribal area to assist the chiefs in carrying out their duties. In making these appointments the nominations submitted by the chiefs shall except for good reasons to the contrary be accepted.

37. Headmen shall be responsible to the chiefs for

(1) The good conduct of the natives in the sectional area placed in their charge;

(2) the prompt notification to the chief of any unusual occurrence in their sectional area.

38. Headmen shall rank as constables within their sectional areas and are authorized and required to arrest any native therein in obedience to any lawful warrant or whom they may see committing or attempting to commit any crime or offence against any person or property or rioting or defying authority and to hand over the persons arrested without delay to the Native Commissioner.

39. Headmen shall be required to assist the messengers and other officials attached to the office of the Native Commissioner whenever called upon to do so.

40. Headmen shall prevent the settlement of fresh kraals in or the removal of existing kraals from their sectional areas without proper authority.

41. Every headman failing or neglecting without reasonable cause to carry out any of the requirements of section *thirty-seven* sub-section (2) and of sections *thirty-eight thirty-nine* and *forty* shall be deemed guilty of an offence and shall upon conviction be liable to the penalties provided in section *fifty* of this Proclamation.

42. Every head of a kraal failing or neglecting without reasonable cause immediately to acquaint his headman or chief or the Native Commissioner of the district of all crimes and offences, deaths and suspicious circumstances of his kraal or in the neighbourhood thereof shall be deemed guilty of an offence and shall upon conviction be liable to the penalties provided in section *fifty* of this Proclamation.

43. Every head of a kraal failing or neglecting without reasonable cause to notify his headman or chief or the Native Commissioner in his district of the finding of lost stock or to report the presence at his kraal of strangers shall be deemed guilty of an offence and shall upon conviction be liable to the penalties provided in section *fifty* of this Proclamation.

PART VIII.—GENERAL.

44. All natives shall carry out the lawful orders of their headmen and chiefs and of Native Commissioners and when required to do so act as messengers in the promulgation of public orders and Government regulations and in the notification of deaths and diseases and shall actively co-operate in any measures taken for the destruction of locusts prevention of grass fires repression of cattle diseases and in similar matters of public urgency.

45. Every chief headman head of a kraal and native shall promptly comply with any order of the Chief Native Commissioner Superintendent of Natives or Native Commissioner issued in conformity with and in pursuance of these regulations and every native shall likewise comply with any order of his chief issued in compliance with and in pursuance of these regulations.

46. In addition to the duties prescribed in the above section all natives shall promptly obey and comply with any other reasonable order request or direction of a Native Commissioner.

47. Every chief headman head of a kraal or other native failing or neglecting without reasonable excuse to carry out any of the duties enumerated in sections *forty-four*, *forty-five* and *forty-six* hereof shall be deemed guilty of an offence and shall upon conviction be liable to the penalties prescribed under section *fifty* of this Proclamation.

48. Should any chief be guilty of insolence or contemptuous behaviour towards any Government official he shall be deemed guilty of an offence and shall upon conviction be liable to a fine not exceeding twenty pounds or in default of payment of any fine imposed to imprisonment with or without hard labour for a period not exceeding six months and shall further be liable in addition to any such fine or imprisonment to be deprived of his office as chief.

49. Should any native other than a chief be guilty of insolence or contemptuous behaviour towards a Government official or a chief or should he be twice convicted of an offence under this Proclamation he shall be liable upon conviction to a fine not exceeding twenty pounds or in default of payment of any fine imposed to imprisonment with or without hard labour for a period not exceeding six months.

50. Any native guilty of any offence under any of the provisions of this Proclamation in respect of which no special penalty is provided shall upon conviction be liable to a fine not exceeding ten pounds or to imprisonment with or without hard labour for a period not exceeding three months.

51. Native Commissioners shall immediately on the conviction of any chief or headman under this Proclamation submit a full report of all the

proceedings to the Administrator who shall have the power to confirm or quash the conviction or to reduce the penalty inflicted.

52. Magistrates' Courts shall have full jurisdiction to hear and decide all civil cases in which natives only are concerned.

53. Any Native Appeal Commissioner sitting in appeal may state a case in writing for the opinion of the High Court of the Territory. The Native Commissioner shall decide the matter in accordance with the opinion of the Court.

54. This Proclamation may be cited for all purposes as the Southern Rhodesia Native Regulations Proclamation 1910 and shall have force and effect in the Territory from the date of its publication in the *Gazette*.

GOD SAVE THE KING.

Given under my Hand and Seal at Pretoria this Third day of October One thousand Nine hundred and Ten.

GLADSTONE,
High Commissioner.

By Command of His Excellency the High Commissioner.

C. H. RODWELL,
Imperial Secretary.

Southern Rhodesia Native Regulations Amendment Proclamation, 1916.

SOUTHERN RHODESIA.

No. 36 of 1916.

[Promulgated 22nd September, 1916.]

PROCLAMATION.

BY HIS EXCELLENCY THE HIGH COMMISSIONER.

Entitled the "Southern Rhodesia Native Regulations Amendment Proclamation, 1916."

WHEREAS it is expedient to amend section *thirteen* of the "Southern Rhodesia Native Regulations Proclamation, 1910" (No. 55 of 1910) (hereinafter referred to as "the said Proclamation");

Now therefore under and by virtue of the powers in me vested, I do hereby proclaim declare and make known as follows:—

1. Section *thirteen* of the said Proclamation shall be and is hereby amended

(*a*) by the deletion of the word "civil" before the word "functions," and

(*b*) by the addition at the end thereof of the following proviso:—

"Provided however that an Assistant Native Commissioner may exercise the same judicial functions as a Native Commissioner either when such Assistant Native Commissioner is in charge of a detached station or otherwise when the Native Commissioner of the District is absent from his post or is from any cause unable to act."

2. This Proclamation shall be read as one with the said Proclamation and may be cited as the "Southern Rhodesia Native Regulations Amendment Proclamation, 1916," and shall have force and effect in the Territory from the date of its publication in the *Gazette*.

PART II.

42. Every head of a kraal failing or neglecting [illegible] immediately to acquaint his headman or chief or [illegible] of [illegible] district of all crimes and offences deaths and suspicious circumstances of [illegible] his kraal or in the neighbourhood thereof shall be deemed guilty of an offence and shall upon conviction be liable to the penalties provided in section *fifty* of this Proclamation.

43. Every head of a kraal residing or neglecting without reasonable cause to notify his headman or chief or the Native Commissioner of the district of the finding of lost stock or to report the presence at his kraal of strangers shall be deemed guilty of an offence and shall upon conviction be liable to the penalties provided in section *fifty* of this Proclamation.

PART VIII.—GENERAL.

44. All natives shall carry out the lawful orders of their headmen and chiefs and of Native Commissioners and when required to do so act as messengers in the promulgating of public orders and Government regulations and in the notification of deaths and diseases and shall actively co-operate in any measures taken for the destruction of locusts prevention of grass fires repression of cattle diseases and in similar matters of public urgency.

45. Every chief headman head of a kraal and native shall promptly comply with any order of the Chief Native Commissioner Superintendent of Natives or Native Commissioner issued in conformity with and in pursuance of these regulations and every native shall likewise comply with any order of his chief issued in compliance with and in pursuance of these regulations.

46. In addition to the duties prescribed in the above section all natives shall promptly obey and comply with any other reasonable order request or direction of a Native Commissioner.

47. Every chief headman head of a kraal or other native failing or neglecting without reasonable excuse to carry out any of the duties enumerated in sections *forty-four*, *forty-five* and *forty-six* hereof shall be deemed guilty of an offence and shall upon conviction be liable to the penalties prescribed under section *fifty* of this Proclamation.

48. Should any chief be guilty of insolence or contemptuous behaviour towards any Government official he shall be deemed guilty of an offence and shall upon conviction be liable to a fine not exceeding twenty pounds or in default of payment of any fine imposed to imprisonment with or without hard labour for a period not exceeding six months and shall further be liable in addition to any such fine or imprisonment to be deprived of his office as chief.

49. Should any native other than a chief be guilty of insolence or contemptuous behaviour towards a Government official or a chief or should he be twice convicted of an offence under this Proclamation he shall be liable upon conviction to a fine not exceeding twenty pounds or in default of payment of any fine imposed to imprisonment with or without hard labour for a period not exceeding six months.

50. Any native guilty of any offence under any of the provisions of this Proclamation in respect of which no special penalty is provided shall upon conviction be liable to a fine not exceeding ten pounds or to imprisonment with or without hard labour for a period not exceeding three months.

51. Native Commissioners shall immediately on the conviction of any chief or headman under this Proclamation submit a full report of all the

proceedings to the Administrator who shall have the power to confirm or quash the conviction or to reduce the penalty inflicted.

52. Magistrates Courts shall have full jurisdiction to hear and decide all civil cases in which natives only are concerned.

53. Any Native Commissioner before deciding any native civil suit may state a case in writing for the opinion of the High Court of the territory. The Native Commissioner shall decide the matter in accordance with the opinion of the High Court.

54. This Proclamation may be cited for all purposes as the Southern Rhodesia Native Regulations Proclamation 1910 and shall have force and effect in the Territory from the date of its publication in the *Gazette*.

GOD SAVE THE KING.

Given under my Hand and Seal at Pretoria this Third day of October One thousand Nine hundred and Ten.

GLADSTONE,
High Commissioner.

By Command of His Excellency the High Commissioner.

C. H. ROLDWELL,
Imperial Secretary.

Southern Rhodesia Native Regulations Amendment Proclamation, 1916.

SOUTHERN RHODESIA.

No. 36 of 1916.

[Promulgated 22nd September, 1916.]

PROCLAMATION.

BY HIS EXCELLENCY THE HIGH COMMISSIONER.

Entitled the "Southern Rhodesia Native Regulations Amendment Proclamation, 1916."

WHEREAS it is expedient to amend section *thirteen* of the "Southern Rhodesia Native Regulations Proclamation, 1910," (No. 55 of 1910) (hereinafter referred to as "the said Proclamation");

Now therefore under and by virtue of the powers in me vested, I do hereby proclaim declare and make known as follows:—

1. Section *thirteen* of the said Proclamation shall be and is hereby amended

(*a*) by the deletion of the word "civil" before the word "functions," and

(*b*) by the addition at the end thereof of the following proviso:—

"Provided however that an Assistant Native Commissioner may exercise the same judicial functions as a Native Commissioner either when such Assistant Native Commissioner is in charge of a combined station or otherwise when the Native Commissioner of the District is absent from his post or is from any cause unable to act."

2. This Proclamation shall be read as one with the said Proclamation and may be cited as the "Southern Rhodesia Native Regulations Amendment Proclamation, 1916," and shall have force and effect in the Territory from the date of its publication in the *Gazette*.

GOD SAVE THE KING.

Given under my Hand and Seal at Pretoria this Ninth day of September One thousand Nine hundred and Sixteen.

BUXTON,
High Commissioner.

By Command of His Excellency the High Commissioner,

C. R. RODWELL,
Imperial Secretary.

Southern Rhodesia Native Regulations Act, 1924.

No. 14, 1924.] [Promulgated 26th September, 1924

SOUTHERN RHODESIA

ACT TO AMEND THE "SOUTHERN RHODESIA NATIVE REGULATIONS PROCLAMATION, 1910."

Preamble.

BE IT ENACTED by the King's Most Excellent Majesty, by and with the advice and consent of the Legislature of the Colony of Southern Rhodesia, as follows:—

Amendment of section 18 (2) of Proclamation 55 of 1910.

1. Section 18 (2) of the "Southern Rhodesia Native Regulations Proclamation, 1910," (hereinafter referred to as "the said Proclamation") is hereby amended by the deletion of the words "Administrator in Council" and the substitution of the words "Chief Native Commissioner" in lieu thereof.

Removal of natives to Reserves from unalienated land.

2. Subject to the approval of the Chief Native Commissioner, a Native Commissioner may order the removal to a Native Reserve, to be specified by him, of any native from unalienated land.

Removal to Reserves from alienated land.

3. When the removal of any native from alienated land may be ordered by a Native Commissioner under the powers vested in him by the "Private Locations Ordinance, 1908," or any other law, such Native Commissioner, with the approval of the Chief Native Commissioner, may order such native to remove to a Native Reserve to be specified by him.

Native Reserve to be specified and reasonable time allowed for removal.

4. Provided in respect of sections two and three hereof that the Reserve so specified shall be one to which the said native is willing to remove, or one situated within the boundaries of the district in which the said native is at the time residing, or within the boundaries of a district contiguous thereto; and provided, further, that a reasonable time shall be allowed to elapse between the order for removal and the date appointed for such removal and that for such purpose the provisions of sub-sections (2) and (3) of section 4 of the "Private Locations Ordinance, 1908," shall apply.

Natives moving from one district to another without permission; return may be ordered.

5. Any native moving from one district to another in contravention of section 18 (1) of the said Proclamation may be ordered by the Native Commissioner of the latter district to return to the district whence he came.

Penalties.

6. Any native disregarding any order given under this Act shall be guilty of an offence and shall be liable to the penalties prescribed by section 50 of the said Proclamation.

Short title.

7. This Act may be cited for all purposes as the "Native Regulations Act, 1924."

(1338-2) Wt. 21291—2307 1000 4/24 H. St. G. 5

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GOD SAVE THE KING.

Given under my Hand and Seal at Pretoria this Ninth day of September One thousand Nine hundred and Sixteen.

BUXTON,
High Commissioner.

By Command of His Excellency the High Commissioner,

C. R. RODWELL,
Imperial Secretary.

No. 14, 1924.] [Promulgated 20th September, 1924

SOUTHERN RHODESIA

ACT TO AMEND THE "SOUTHERN RHODESIA NATIVE REGULATIONS PROCLAMATION, 1910."

Preamble.

BE IT ENACTED by the King's Most Excellent Majesty, by and with the advice and consent of the Legislature of the Colony of Southern Rhodesia, as follows:—

Amendment of section 18 (2) of Proclamation 55 of 1910.

1. Section 18 (2) of the "Southern Rhodesia Native Regulations Proclamation, 1910," (hereinafter referred to as "the said Proclamation") is hereby amended by the deletion of the words "Administrator in Council" and the substitution of the words "Chief Native Commissioner" in lieu thereof.

Removal of natives to Reserves from unalienated land.

2. Subject to the approval of the Chief Native Commissioner, a Native Commissioner may order the removal to a Native Reserve, to be specified by him, of any native from unalienated land.

Removal to Reserves from alienated land.

3. When the removal of any native from alienated land may be ordered by a Native Commissioner under the powers vested in him by the "Private Locations Ordinance, 1908," or any other law, such Native Commissioner, with the approval of the Chief Native Commissioner, may order such native to remove to a Native Reserve to be specified by him.

Native Reserve to be specified and reasonable time allowed for removal.

4. Provided in respect of sections two and three hereof that the Reserve so specified shall be one to which the said native is willing to remove, or one situated within the boundaries of the district in which the said native is at the time residing, or within the boundaries of a district contiguous thereto; and provided, further, that a reasonable time shall be allowed to elapse between the order for removal and the date appointed for such removal and that for such purpose the provisions of sub-sections (2) and (3) of section 4 of the "Private Locations Ordinance, 1908," shall apply.

Natives moving from one district to another without permission; return may be ordered.

5. Any native moving from one district to another in contravention of section 18 (1) of the said Proclamation may be ordered by the Native Commissioner of the latter district to return to the district whence he came.

Penalties.

6. Any native disregarding any order given under this Act shall be guilty of an offence and shall be liable to the penalties prescribed by section 50 of the said Proclamation.

Short title.

7. This Act may be cited for all purposes as the "Native Regulations Act, 1924."

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KENYA.

No. 422 A

GOVERNMENT HOUSE,
NAIROBI,
KENYA.

24th July, 1928.

Rec'd. Tel. 31/10/28.
Further Cor. re 822 - 12 Nov. 28

Sir,

Since my arrival in the Colony I have had under consideration the various Ordinances bearing on the relations of employers and native servants in this Colony and it seems clear at the outset that many of the provisions of the existing Ordinances do not fully meet present requirements. In order to obtain the views not only of employers but also of Administrative Officers and others concerned the Chief Native Commissioner at my request has held a number of meetings with various representative bodies in the Colony, as a result of which Bills were drafted to amend the labour laws, but various causes, among which was congestion of work in the Attorney General's Department, have hitherto prevented these Bills from reaching a stage in which they can be submitted for your consideration.

2. I now have the honour to transmit three Bills, namely, a Bill to Amend the Employment of - Native

THE RIGHT HONOURABLE
LIEUTENANT COLONEL L.C.M.S. AMERY, P.C., M.P.,
SECRETARY OF STATE FOR THE COLONIES,
DOWNING STREET,
LONDON, S.W.,

Natives Ordinance, a Bill to Amend the Native Registration Ordinance and a Bill to Amend the Resident Native Labourers Ordinance, 1925, and as they all deal with various aspects of the relations between employer and employed I propose to deal with them in one comprehensive despatch.

3. The principal needs which have been brought to the notice of Government during the recent investigations have been

(a) the desirability of abolishing professional recruiting:

(b) simpler procedure for dealing with the offence of "desertion":

(c) definition of "day" and "task" for the purposes of interpreting contracts:

(d) regulation of the giving of "leave":

(e) provision for requiring security for the payment of wages:

(f) control of juvenile labour:

(g) proper record under the Native Registration system of the contracts of resident native labourers:

(h) provision for compulsory return to their homes of natives whose residence on farms is giving rise to persistent crime:

(i) provisions for dealing with native owned stock on farms which are in

excess of the numbers permitted under contract.

Employment of Natives Amendment Bill.

4. Clause 3 of the Bill to amend the Employment of Natives Ordinance is necessitated by the fact that cases not infrequently occur wherein persons without capital undertake contracts for railway construction, fuel-cutting or other work, and subsequently fail to pay the wages of their labourers. It is essential that attesting officers should be empowered to satisfy themselves as to the financial standing of those who engage gangs of labourers and to require security for payment of wages in any doubtful cases.

5. Clause 5 is designed to prevent servants in special employment from leaving their employment without giving the employer a reasonable opportunity of making other arrangements for the performance of essential duties. Its provisions are similar to those of section 3 of Fiji Ordinance No. 1 of 1890.

6. Clause 6 is to prevent an employer from deliberately taking a servant, whose engagement is only for a month, on a journey which is clearly intended to be a protracted one.

7. Clause 7 merely re-establishes the provisions of section 2. Ordinance 6 of 1920 which appear to have been overlooked in framing

the Revised Edition of the Laws. Section 15 of Cap. 135 would appear to have been taken direct from section 18 of Ordinance 4 of 1910 without regard to the amendment of 1920.

8. Clauses 4, 6, 9, 12, 13, 14, 15, 16, 17, 18, 20, 21, 22 and 34 are self explanatory.

9. The necessity for abolishing the present system of professional labour agents, whose sole business is to recruit native labourers at a fee per head of men obtained, has been urged for some time not only by Associations of employers but also by Administrative Officers, and a request for the abolition has formed the subject of resolutions of various Associations as well as of meetings of Senior Commissioners. The evils of the practice are many and varied. The business is one which attracts among others people of all races of inferior class and character. They employ local native runne. are paid by results. Such people not only resort to deceit, in that they habitually induce ignorant natives to contract for labour by promising terms and conditions which are never to be fulfilled, but also make a practice of intercepting parties of labourers who have been engaged by other recruiters, professional or private, and persuading them by various means to leave the man who has engaged them and go to a rival camp. The result of such methods on the

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to develop this unobjectionable system and encourage it at centres where native labourers are accustomed to offer themselves for employment. This will be of especial advantage to the very large numbers of labourers who are accustomed to return again and again to the same employer, for it will merely be necessary for the employer to authorise the agent to engage on his behalf certain natives in the event of their offering themselves at his office for employment, and to provide them with all necessary travelling facilities to the place of work.

11. The term "desertion" is an expression in universal local use for describing an offence under section 48 (5) of the Employment of Natives Ordinance (Cap. 139). As you are doubtless aware, in view of the distance which frequently lies between a farm and a District Commissioner's station the expense of transport and the consequent difficulty of repeated visits by a busy farmer to the District Commissioner's office, it was provided by Ordinance No. 1 of 1916 that offences under this section should be cognisable to the Police and that persons accused of such offence could be arrested without warrant by any Police Officer.

12. It was decided subsequently to repeal this provision and this was effected by sections 6 and 3 of Ordinance No. 4 of 1925. While it is clear that prosecution for an offence of this nature is not one which should be undertaken by

the State I am satisfied that, in view of local circumstances, it is only reasonable that means should be devised whereby an employer can lay information against an absconding servant without having to leave his farm and travel many miles to a Magistrate's office and back, and in order to meet this situation provision is made in clause 2 (1) for a simple definition of the term "desertion" and section 48 (5) of the Principal Ordinance is amended by clause 11 of the present Bill. Further provision is made in clause 32 whereby a Magistrate or Justice of the Peace, on receiving from an employer by messenger or through the post a complaint in a set form may issue a warrant for the arrest of the person alleged to have committed the offence. Subclause 3 contains provisions which should guard against any abuse of this facility.

13. The provisions in clause 2 (1), 23 and 24 relating to task work and time work are necessary for the purposes of clarity and are in my opinion reasonable.

14. It is felt that the time has come for regulating as well as encouraging, in certain defined limits the employment of juveniles. A great many young boys are usefully and suitably employed in light work on farms, in factories and in domestic employment, but the position requires regulation because on the one hand employers are anxious to obtain this class of labour on account of its cheapness, while on the other hand native parents -

Parents complain that Government makes it impossible for them to control their children because it provides facilities in the form of [illegible] railways by means of which a disobedient child can abscond from his home and go off to a town or farm, either in employment or as an idler in bad company. Clauses 25 to 28 of the Bill have accordingly been adapted from the Southern Rhodesia Act No. 10 of 1936, and should, I am confident, prove a valuable means of control from every point of view.

15. The necessity for regulating the giving of leave to native employees arises from somewhat peculiar local circumstances. As you are aware the demand for native labour is to a great extent seasonal and the requirements at harvest time, especially for coffee picking, are very much in excess of those at any other time of the year. The competition which arises among employers for securing the necessary labourers at such critical times has given rise to a practice among some employers of engaging natives during a slack season, making an endorsement of engagement upon their registration certificates and then giving them "indefinite leave" on the understanding that they will come up for labour when sent for. This most undesirable method is strongly condemned by all reputable public opinion. Its effect is, firstly, that other employers are deprived of the potential services of these natives because it is unlawful to employ a native whose registration

- certificate -

certificate bears an endorsement of discharge, and, secondly, because the natives themselves only consent to the arrangement because they hope thereby to evade their due obligations for communal labour within the reserves by claiming that they are in employment, and therefore not available for other work. The provisions of clause 31 are designed to deal with this situation and have been inserted at the express request of the Executive Committee of the Convention of Associations.

16. Clause 33 has become necessary by reason of the growing practice of some employers of offering large advances to natives in order to induce them to engage. This is unfair both to the unsophisticated native who is tempted to accept the advance without realising the amount that must be worked off, and to those employers who are not in a position to make such offers. There is a danger too lest a situation arise in which natives will regard advances as a sine qua non, and will refuse to contract without some such payment.

Native Registration Amendment Bill.

17. The main purpose underlying the amendment of the Native Registration Ordinance is to encourage the good relations and mutual trust which obtain between many employers and numbers of native labourers who attach themselves to a farm where the conditions and the personality of the occupier are liked by them. It is a trait of the best type of African worker that he attaches himself to a known master and regards himself as

his

his man, and though he may return periodically to his reserve for long or short periods for private or tribal reasons, he will always normally return to the same master when he is ready to work again. The provisions of section 6 of the Native Registration Ordinance, Cap. 127, which are essential in general practice, are regarded by such natives from a curious standpoint. An old servant who has been with the same master on and off for years regards his holiday on the completion of contract as "leave" and looks upon the formal endorsement of discharge with great disfavour, for he does not understand why he, who has always come back again and again to the "bwana", should be "written off" in the same manner as an untried casual worker, who has merely stayed a month.

18. Clause 2 of the Bill now submitted to amend the Native Registration Ordinance provides that in such cases a certificate of service may be given in lieu of an endorsement of discharge, but, in order that there may be no suggestion that a servant who has completed a contract is being placed under any obligation to return against his own free will, subclause (4) provides that the native may at any time after 14 days obtain an endorsement of discharge from any registration officer.

19. Clauses 3, 4, 5 and 6 are minor amendments inserted for purposes of clarity and do not affect any established principles.

Resident Native Labourers Amendment Bill.

10. It has been held by the Courts that a native who enters into a contract under the Resident Native Labourers Ordinance, 1925, becomes a tenant rather than a servant and is not thereby "engaged" within the meaning of Section 6 (1) of the Registration Natives Ordinance (Cap. 127) and that no endorsement should be made upon his registration certificate in respect of such contract. But there are other reasons why it is desirable that such a record should be made. In the first place, the registration system not only provides the native with a form of passport which is of great value to him whenever he is outside his reserve but also forms the basis of valuable labour statistics which are taken from the monthly returns rendered by all employers under section 9 of the Native Registration Ordinance. As matters are at present some employers include in their returns natives who are employed on "[illegible]" contracts and others omit them, and [illegible] are thus confused. In the second [illegible] no record is made upon a native's registration certificate when he enters into a contract under the Resident Native Labourers Ordinance, 1925, he may, while under contractual obligations to one person, offer his services to another who may, on seeing that his registration certificate bears no endorsement of engagement take him into his service and endorse his certificate accordingly.

21. Clause 2 to 7 of the Bill to amend the Resident Native Labourers Ordinance, 1925, have accordingly been framed to meet these difficulties. They do not aim at altering the status of the native squatter in any way but merely at providing necessary and proper reco for the protection of all concerned. Clause is designed especially for securing to the na "squatter" complete freedom of the disposal o his services in the periods during which his contract does not require him to be at the ca of the "occupier".

22. Clauses 8 and 10 (b) have been inserted for discussion at the request of many employers, but there is considerable divergenc of opinion as to its advisability. My own vi is that the proposal to increase the minimum working days from 180 to 270 has no practical value because the present law (section 4 (2) (of Ordinance No. 5 of 1925) makes 180 days a minimum only. It is thus open to the parties to fix by mutual agreement any number of worki days, and the native who is willing to work fo 270 or even 300 days can and does at present h actual practice contract accordingly, whereas under the proposed amendment the native who is willing to work for 180 days, but no more, would not be able to contract at all.

23. It is felt strongly by employers th any person who deliberately collects natives o to his property without employing them is a

danger

danger to the public. It is unnecessary for me to enlarge on the evils of "kaffir-farming" and I consider that clause 8 is necessary in principle though discussion in Council may lead to amendment in respect of the number of days concerned.

24. Clause 9 is necessary in order to deal with cases which arise from time to time of persistent crime such as theft of stock or produce which are traceable to uncontrolled squatters on farms. The preamble to the Principal Ordinance clearly indicates that it aims at the preservation of law and order among natives squatting on farms, and it is incumbent upon "occupiers" who enter into contracts under the Ordinance to realise that, in bringing natives on to their farms out of the control of tribal authority, they incur a responsibility to their neighbours and to the State and must see that their tenants do not become a menace to public security.

25. With regard to clause 10 (a) of the Bill, you will recall that in the correspondence which preceded the enactment of the Resident Native Labourers Ordinance, 1925, there was considerable discussion as to the maximum period for which a contract should be made and you finally agreed in your telegram of 23rd March, 1925, to a maximum of three years. It is the universal wish of Employers' Associations that

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25. With regard to clause 10 (a) of the Bill, you will recall that in the correspondence which preceded the enactment of the Resident Native Labourers Ordinance, 1925, there was considerable discussion as to the maximum period for which a contract should be made and you finally agreed in your telegram of 23rd March, 1926, to a maximum of three years. It is the universal wish of Employers' Associations that

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this term be increased to a maximum of ten years and I trust that you will be prepared to reconsider your decision on this point. As pointed out on the fifth page of the Chief Native Commissioner's memorandum, which formed an enclosure to the late Sir Robert Coryndon's despatch No. 1196 of the 4th September, 1924, a native normally moves on to a farm with his family and possessions in order to make a home there, and both occupier and squatter desire a contract which provides the elements of permanency in the absence of any serious disagreement between them. The latter contingency is met by the condition in clause 8 of the contract (Schedule to the Principal Ordinance) that either party may with the consent of a magistrate terminate the contract by giving six months notice. I trust that in view of this safeguard you will allow clause 10 (b) to stand.

26. The provisions of clauses 11 and 13 are necessitated by the prevalence of East Coast Fever in many areas. Illicit movement of stock by natives from infected areas to clean areas is a daily occurrence and unless stringent precautions are taken there is imminent danger of clean areas becoming infected with consequent serious losses to stock-owners. The steps necessary apart from fencing and dipping are, firstly, to enforce the branding conditions

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contained in section 10 of the Principal Ordinance and, secondly, by frequent inspections to detect and deal with any cases in which cattle are kept upon a farm without proper authority.

27. In view of the prevailing opinion among stock-owners that the keeping of stock by natives on farms inevitably leads to illicit movement and spread of disease, clause 13 provides a form of local option whereby in certain cases further movement of stock on to farms under the cover of "squatter contracts" may be prohibited in any district. At the same time it is stipulated by a proviso that this shall not prevent the renewal of existing contracts in respect of live-stock which are at present lawfully kept on any farm. The policy of Government in this matter is to discourage the further movement of stock from native reserves to farms and at the same time to encourage and facilitate the removal of native-owned stock from the farms to the reserves where such a course is agreeable and practicable.

28. The Bills now submitted have been the subject of careful consideration and of many conferences between the Chief Native Commissioner, employers' associations and officers of Government. Every endeavour has been made to frame measures which will consolidate the good relations which at present exist between employers and natives by protecting the interests of both parties to every contract as well as of the public.

I trust that I may receive your approval to the publication of all three Bills for introduction into Legislative Council, and in view of the urgent need of these measures I should be grateful if your sanction could be communicated to me by telegram.

I have the honour to be,

Sir,

Your most obedient, humble servant,

GOVERNOR'S DEPUTY.

(Draft approved by the Governor)

COLONY AND PROTECTORATE OF KENYA

A BILL TO AMEND THE EMPLOYMENT OF NATIVES ORDINANCE.

PRINTED BY THE GOVERNMENT PRINTER, NAIROBI.

Section 2 which it is proposed to amend :—

Interpretation.

2. In this Ordinance, when not inconsistent with the context :—

Servant.

"Servant" means any Arab or native employed for hire, wages, or other remuneration as a labourer, herdsman, artificer, domestic servant, sailor, boatman, porter, messenger, or in any employment of a like nature to any of the foregoing, and any Arab or native apprentice, and any Arab or native to be exhibited in any capacity in any circus, show or exhibition.

Native.

"Native" means a native of Africa not being of European or Asiatic race or origin, and includes any Somali and Swahili.

Contract of service.

"Contract of service" means any contract whether in writing or oral, whether expressed or implied, to employ or to serve as a servant for any period of time and any contract of apprenticeship as aforesaid.

Government medical officer.

"Government medical officer" shall include any medical practitioner, assistant surgeon or sub-assistant surgeon specially appointed for the purpose of this Ordinance.

Employer.

"Employer" means any person or any firm, corporation or company who or which has entered into a contract of service to employ any servant, and the agent, foreman, manager or factor of such person, firm, corporation or company, and where a servant has entered into a contract of service with the Government or with any officer on behalf of the Government, the Government officer under whom such servant is working shall be deemed to be his employer, provided that no Government officer shall be personally liable under this Ordinance for anything done by him as an officer of the Government in good faith.

Foreign contract of service.

"Foreign contract of service" means a contract of service made within the Colony and to be performed in all or in part outside the Colony and any contract for service with a foreign state: Provided, however, that a contract for employment of a domestic servant for service in the Uganda Protectorate or within the Dominions of the Sultan of Zanzibar or in Tanganyika Territory, or of a sailor for service on a vessel on Lake Victoria Nyanza or on a vessel calling at the ports of the Colony or of the Dominions of the Sultan of Zanzibar only shall not be deemed to be a foreign contract of service.

Master.

"Master" means the employer and employer under any contract of service.

Writing.

"Writing" includes printing.

A Bill to Amend the Employment of Natives 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 Employment of Natives (Amendment) Ordinance, 1938, and shall be read as one with the Employment of Natives Ordinance (Chapter 130 of the Revised Edition), hereinafter referred to as the "Principal Ordinance", and all amendments thereto.

Interpretation.

2. (1) Section 2 of the Principal Ordinance is hereby amended by the addition thereto of the following definitions :—

"Desertion" means absence by a servant without lawful excuse for a period exceeding seven whole consecutive days from his employer's service.

"District Commissioner" includes Assistant District Commissioner.

"Labour forwarding agent" or agent" means any person who acts as agent for an employer in respect of the engagement, attestation, rationing or travelling facilities of natives who voluntarily offer themselves for engagement under this Ordinance at the office of such labour forwarding agent, but does not include a private recruiter.

"Native juvenile" means a native who has not attained the apparent age of 16 years.

"Private recruiter" means any person who by himself or by a servant in his regular and permanent and exclusive employ engages or enters into contracts with natives for his own *bona fide* personal or business service exclusively, and includes any officer of Government who in the course of his duties recruits or collects natives for the purposes of Government work or labour.

"Task" means that extent of piece work that can be performed by an ordinary able-bodied native in six hours working diligently at such work.

"Task work" means any work the pay for which is estimated by the amount performed irrespective of the time occupied in its performance.

"Unskilled labourer" means a servant employed as an ordinary farm labourer, fuel cutter, water carrier, navvy, or in any other unskilled work, but shall not include a domestic servant, shamba boy, syce, headman, driver, watchman or any servant receiving a special rate of pay in consideration of the special nature of his duties.

Labour agent.

"Labour agent" includes any person who shall himself or through agents or messengers, in his own name or otherwise, procure or attempt to procure, seek for engagement, conduct, take charge of, supply, or undertake to supply natives to be employed in work of any kind, any kind; provided that the words "labour agent" shall not apply to any person who procures or engages or conducts natives for his own *bona fide* domestic, personal service or business exclusively, or to any messenger or servant who procures or engages or conducts natives for his employer's domestic personal service or business exclusively.

Railway servant.

"Railway servant" shall mean any person employed by a railway administration in connection with the service of a railway.

Section 4 which it is proposed to amend :—

Attestation of written contract.

4. No written contract of service shall be enforced as against any servant who is unable to read it understand writing unless at least hours an attestation under the hand and seal of a magistrate or of a justice of the peace to the effect that such contract was read over and explained to such party in the presence of such magistrate or justice of the peace and was entered into by him voluntarily and with full understanding of its meaning.

Section 9 (*b*) which it is proposed to amend :—

Inducing persons to proceed abroad under informal contract.

9. Whoever—

(*a*) Induces or attempts to induce any person to proceed beyond the Colony with a view to being employed as a servant; or

(*b*) Knowingly aids in the engagement of any person so induced, by forwarding or conveying him or by advancing money or by any other means whatever, unless there is a foreign contract of service with such person and unless the provisions of this Ordinance relating to foreign contracts of service have been complied with, shall be liable to imprisonment for a term of one year or to a fine of one hundred pounds or to both :

Penalty.

Proviso.

Provided, however, that an employer of a domestic servant or sailor engaged under a contract of service shall not render himself liable to the aforesaid penalties by inducing or attempting to induce such domestic servants or sailor to proceed to any place within the Uganda Protectorate, or within the Dominions of the Sultan of Zanzibar beyond the Colony or to any port on Lake Victoria Nyanza.

Section 12 (*a*) (ii) which it is proposed to amend :—

Determination of contract where duration not expressed.

12. Every contract of service wherein no agreement is expressed respecting its duration, not being a contract to perform some specific work without reference to time, shall :—

(*a*) If made and to be performed within the Colony be deemed to be—

(ii) In cases where the wages are not fixed by the contract or where the contract is to pay wages at any period or at any rate other than monthly, a contract at will, and determinable by either party at the close of any day without notice;

Security for [illegible] of [illegible]

3. Section 4 of the Principal Ordinance is hereby amended by the addition of the following :—

"A magistrate or a justice of the peace may, when he deems it necessary before attesting any contract under this section, require the employer to give security for the payment of the wages of the servant about to be engaged. Such security may be given by bond in the form in the Schedule I hereto, or to the like effect, with one or more sureties to be approved by the magistrate or justice of the peace."

Amendment to section 9 of the the Principal Ordinance.

4. Section 9 (*b*) of the Principal Ordinance is hereby amended by the addition thereto of the words "or in Tanganyika Territory" immediately following the words "Uganda Protectorate".

Determination of contract upon one month's notice.

5. Section 12 (*a*) (ii) of the Principal Ordinance is hereby amended by the addition thereto of the following proviso :—

"Provided that all servants other than unskilled labourers shall in the absence of any agreement to the contrary be deemed to be under a contract to their respective employers from month to month determinable by either party upon one month's notice or upon payment of one month's wages."

(iii) In cases where the contract is to pay wages monthly or at a monthly rate, a contract for one month and determinable by either party at the end of any month without notice.

Section 13 which it is proposed to amend :—

Contract expiring on journey may be prolonged.

13. If the period expressed in any contract of service or foreign contract of service for the duration thereof shall expire, or if a servant shall seek to determine any contract wherein no agreement is expressed respecting its duration whilst the servant is engaged in any voyage or journey, the employer may, for the purpose of terminating such voyage or journey, prolong the period of service for a sufficient period to enable the voyage or journey to be terminated.

Section 15 which it is proposed to amend :—

Penalty for decoying and harbouring servants.

15. Whoever decoys away or unlawfully induces any servant to quit the service of his employer, or who attempts to decoy away or attempts unlawfully to induce any servant to quit the service of his employer, or who knowingly harbours any servant who may improperly quit the service of his employer, shall be liable on conviction to a fine not exceeding five pounds, or to imprisonment of either description for any period not exceeding six months, or to both such fine and imprisonment.

Section 24 which it is proposed to amend :—

Care of Servants.

Housing of servants.

24. During the period of service the employer shall at all times at his own expense cause every servant in his service to be properly housed, and shall observe all reasonable directions which may be given by a magistrate in respect of sanitary arrangements : Provided, however, the obligation of any employer as regards housing shall not be [illegible] extend to any case in which a servant is [illegible] home at the conclusion of the daily work [illegible] and proper housing at or convenient [illegible] place of employment.

Section 29 which it is proposed to be amended :—

Employer to provide medicine and medical attendance.

29. Every employer shall provide [illegible] proper medicines during illness and also (if procurable) [illegible] attendance during serious illness, and any employer failing so to provide shall, in addition to his liability for breach of the section, be liable to pay any expenses incurred by a magistrate in providing such medical attendance.

Sections 33 to 39 which it is proposed to repeal :—

Labour Agents.

No labour agent to recruit labour without a permit.

33. No labour agent shall recruit or seek to recruit any native to be employed in work or labour unless such labour agent is in possession of a permit issued by the senior commissioner in the form contained in the schedule to this Ordinance or any form hereafter substituted therefor by or in accordance with any rules and conditions as the Governor may prescribe from time to time.

6. Section 13 of the Principal Ordinance is hereby amended by the addition of the words "provided that such extended period shall in no case exceed one month." Amendment to section 13 of the Principal Ordinance.

7. Section 15 of the Principal Ordinance is hereby amended by the deletion of the word "five" and the substitution therefor of the words "one hundred and fifty". Amendment to section 15 of the Principal Ordinance.

8. Section 24 of the Principal Ordinance is hereby amended by the deletion of the word "magistrate" and the substitution therefor of the words "Government medical officer or inspector of labour". Amendment to section 24 of the Principal Ordinance.

9. Section 29 of the Principal Ordinance is hereby amended by the deletion of the words "a magistrate" and the substitution therefor of the word "Government". Amendment to section 29 of the Principal Ordinance.

10. Sections 33 to 39, both inclusive, of the Principal Ordinance are hereby repealed. Repeal.

Application for permit to be made in writing. A bond may be required of labour agent.

34. Every application for a permit to recruit as aforesaid shall be made in writing and expressly state the name of the labour agent to whom the permit is to be issued. The senior commissioner may require any person by whom an application for a permit is made to sign a bond for such amount as may be required for the fulfilment of the provisions of this Ordinance and of any rules or conditions prescribed by the Governor.

Permits to be issued for limited time and for specified districts.

35. The permit shall be issued for a limited period, not exceeding in any case twelve months, and for a specified district or for specified districts only in the province of the officer issuing the same.

Labour agent not to employ person to assist him in recruiting labour without first notifying the senior commissioner.

36. A labour agent shall not employ any agent for the purposes of assisting him in recruiting unless and until he shall first have notified the senior commissioner in writing of such employment and of the name of such agent.

Permit may be refused in certain cases.

37. A senior commissioner may refuse the issue of a permit to any person who shall have committed a breach of the provisions of this Ordinance relating to labour agents or of any rule or conditions which may have been prescribed by the Governor.

Power to make rules.

38. The Governor in Council may make rules for any of the purposes following :—

(1) Prohibiting the recruiting of natives in any specified districts, areas or places, or regulating the recruiting of labour in such districts, areas or places.

(2) Providing for the proper clothing, feeding and housing of natives recruited by and at the expense of labour agents.

(3) Prescribing the fees to be paid in respect of a permit to recruit labour.

(4) Imposing such conditions upon labour agents and the recruitment of natives for work or labour as he may consider proper for the protection of natives.

All such rules shall be laid before the Legislative Council before the same are published in the Gazette.

Penalties.

39. Any labour agent who shall, without a permit hereinbefore provided for, recruit or seek to recruit any native to be employed in work or labour, or who shall, having obtained a permit, contravene any of the provisions of this Ordinance relating to labour agents, or who shall commit any breach of any rule or condition prescribed by the Governor, shall be liable to a fine not exceeding one hundred and fifty pounds and in default to imprisonment of either description for a period not exceeding three months and any permit issued to him may be cancelled by the Governor.

Section 48, sub-section (5), which it is proposed to replace :

Offences by servants Class II.

48. Any servant may be fined any sum not exceeding the amount of seven pounds ten shillings and in default of payment may be sentenced to imprisonment of either description for any period not exceeding six months, or may at the discretion of the magistrate, without the infliction of a fine, be sentenced to imprisonment of either description for any period not exceeding six months, in case he shall be convicted of any of the following acts or instances of misconduct, that is to say :—

(5) If he shall without lawful cause depart from his employer's service with intent not to return thereto.

Desertion.

11. Section 48, sub-section 5, of the Principal Ordinance is hereby repealed, and the following paragraph is substituted therefor :—

" (5) If he shall be guilty of desertion. A servant employed under a thirty-day contract or under a special contract may be guilty of desertion."

Section 54 which it is proposed to amend :—

The limit within which complaint must be made by employer.

54. No servant shall be convicted under any of the foregoing sections of this Ordinance except section forty-eight (5) unless the employer shall lodge his complaint without undue delay after he becomes cognizant of the offence or alleged offence.

Sub-section (1) of section 55 which it is proposed to replace :

Penalty on employer.

55. Any employer of any servant shall be liable to a fine not exceeding ten pounds with imprisonment in default of payment or to imprisonment for a term not exceeding one month or to both such fine and imprisonment in case he shall be guilty of any of the following acts or omissions, that is to say :—

Withholding wages.

(1) If he shall withhold the wages of such servant without reasonable and probable cause for believing that the wages so withheld are not really due.

Section 68 (5) which it is proposed to replace :

Powers of inspectors of labour.

68. An inspector of labour under this Ordinance shall, for the purposes of the execution of this Ordinance, have power to do all or any of the following matters or things, namely :—

(5) To order that the surroundings of buildings used for housing of servants shall be kept clean, cleared and in a sanitary condition.

Section 69 (1) which it is proposed to replace :

Medical inspection.

69. A Government medical officer may for the purposes of the execution of this Ordinance exercise the powers conferred upon an inspector of labour by section sixty-eight (1) to (5) inclusive of this Ordinance and shall further have power to do all or any of the following matters or things, namely :—

(1) To order any servant who in his opinion is sick and is incapable of recovering his health or strength under conditions prevailing at the place of employment to return to the place of engagement or to proceed to a native civil hospital. In any such case the employer shall at the earliest opportunity and at his own expense send such servant to a native civil hospital or to the place of engagement.

Section 69 (4) which it is proposed to repeal :

(4) To order the supply of such variety of food for a servant as he may deem necessary : Provided that the cost of the food supplied under any such order shall not exceed the normal cost of rations ordinarily supplied by employers to servants in that district at the time.

5

12. Section 54 of the Principal Ordinance is hereby amended by the deletion of the words "except section forty-eight (5)". Amendment to section 54 of the Principal Ordinance.

13. Sub-section (1) of section 55 of the Principal Ordinance is hereby repealed and the following is substituted therefor :— Amendment to section 55 of the Principal Ordinance.

"(1) If he shall without reasonable cause fail to pay any wages due to such servant."

14. Sub-section (5) of section 68 of the Principal Ordinance is hereby repealed and the following sub-section is substituted therefor :— Amendment to section 68 of the Principal Ordinance.

"(5) To order all buildings or premises where servants are housed or employed to be kept in a clean and sanitary condition."

15. Sub-section (1) of section 69 of the Principal Ordinance is hereby repealed and the following sub-section is substituted therefor :— Powers of Government Medical Officer.

"(1) To order any servant who in his opinion is sick and for whom the conditions prevailing at the place of employment are not conducive to the rapid recovery of his health or strength to return to the place of his engagement, or to proceed to a native hospital at the discretion of the Government medical officer. In any such case the employer shall at the earliest opportunity and at his own expense send such servant to such native hospital or to such place of engagement, as the case may be."

16. Sub-section (4) of section 69 of the Principal Ordinance is hereby repealed. Amendment to section 69 of the Principal Ordinance.

Offences.

Section 71 which it is proposed to amend :—

71. Every person who wilfully delays an inspector of labour or a Government medical officer in the exercise of any power granted by this Ordinance or who neglects or fails to comply with any requisition or order of an inspector of labour in pursuance of section sixty-eight hereof, or with any order of a Government medical officer in pursuance of section sixty-nine hereof, or to produce any contract of service, register, certificate or physical fitness or other document whatsoever which he is required by or in accordance with this Ordinance to produce, or who conceals or prevents any person from appearing before or being examined by an inspector of labour or a Government medical officer or who attempts to conceal or prevent a servant shall be guilty of an offence and on conviction by a magistrate specially empowered to hold a subordinate court of the first or second class shall be liable to a period of imprisonment of either description not exceeding one month or to a fine of ten pounds or to both.

Section 72 of the Principal Ordinance which it is proposed to repeal :—

72. No person shall employ or cause to be employed any native who has been recruited for labour by a labour agent as a servant under any contract of service, and no labour agent shall engage or enter into a contract of service on behalf of an employer, unless and until such native shall have been first examined by a Government medical officer and a certificate in writing shall have been obtained from such Government medical officer that such native so examined by him as aforesaid is physically fit to perform the duties under or the work contemplated by the proposed or intended contract of service.

Medical examination.

Section 73 which it is proposed to replace :

73. A Government medical officer shall examine free of charge every native brought to him by an employer or labour agent for examination in accordance with the provisions of the preceding section.

Native rejected on medical examination to be returned home at expense of recruiter or other person producing such native for medical examination. Proviso.

Proviso to section 75 which it is proposed to amend :—

75. Any native who has been rejected by a Government medical officer after such examination as is hereinbefore mentioned as physically unfit for the work for which he has been recruited or in which he is intended to be employed shall be returned to his home or place of recruitment at the expense of the party who recruited him or produced him for medical examination :

Provided that failing his return to his home or place of recruitment at the expense of the party who recruited him or produced him for medical examination any magistrate or labour inspector may return such native to his home or place of recruitment and any expenses incurred thereby shall be recoverable summarily as a civil debt from the labour agent who recruited him.

Power of Governor in Council to make Rules.

Section 77 which it is proposed to replace :

Power of Governor in Council to make Rules.

77. (1) The Governor in Council may make rules prescribing either generally or in particular cases or for particular areas the mode in which all or any of the duties

Amendment to section 71 of the Principal Ordinance.

17. Section 71 of the Principal Ordinance is hereby amended by the deletion of the words "in pursuance of section sixty-eight hereof, or with any order of a Government medical officer, in pursuance of section sixty-nine hereof," and the substitution therefor of the following words "or of a Government medical officer in pursuance of any powers conferred on them respectively by this Ordinance".

Repeal of section 72 of the Principal Ordinance.

18. Section 72 of the Principal Ordinance is hereby repealed.

Medical examination.

19. Section 73 of the Principal Ordinance is hereby repealed and the following section is substituted therefor :—

"73. A Government medical officer shall, free of charge, examine every native brought to him by an employer or by a licensed labour forwarding agent for examination as to his physical fitness for the work in which such native is intended to be employed and shall give a certificate accordingly."

Amendment to section 75 of the Principal Ordinance.

20. The proviso to section 75 of the Principal Ordinance is hereby amended by the deletion of the words "from the labour agent who recruited him," and the substitution therefor of the words "from the person who recruited him or from the employer for whose service such person recruited him".

Power of Governor in Council to make Rules.

21. Section 77 of the Principal Ordinance is hereby repealed and the following section is substituted therefor :—

"77. The Governor in Council may make Rules for any of the following purposes :—

(a) Prescribing either generally or in particular cases or for particular areas the acts requisite or neces

imposed upon an employer by this Ordinance shall be performed by such employer and prescribing the acts necessary or requisite to be performed by such employer for the due fulfilment of any such duties imposed upon him as aforesaid and generally for the better carrying into effect the provisions of this Ordinance.

(2) In particular, but without limiting the generality of the foregoing sub-section, such rules may:—

(i) Prescribe or define, either generally or in particular cases or for particular areas the acts requisite or necessary to be performed by an employer in respect of all or any of the following matters, that is to say:

(a) The housing accommodation of servants, including sanitary arrangements;

(b) The feeding of servants in cases where food is to be supplied by the employer under the contract of service including the amount, kind and variety of food to be supplied;

(c) Medical attendance on and supply of medicines to servants.

(ii) Regulate the recruitment of labour for service out of the Colony.

(iii) Regulate the engagement and embarkation of servants to be employed under a foreign contract of service.

(3) All rules made by the Governor in Council under this Ordinance shall be submitted to the Legislative Council at the next sessions thereof.

Labour Agent's Permit which it is proposed to delete:—

LABOUR AGENT'S PERMIT.

Application for permit by.....	Permission is hereby granted to ...
.....	.....
For	For the period of .....
Date of receipt	Months beginning .....
Date of issue of permit	And expiring .....
.....	To recruit natives in the district
Date of commencement of	of .....
.....	.....
Date of expiration of permit.....	As .....
.....	In the district of .....
	Upon the conditions endorsed hereto .....
	.....
	.....

...CONDITIONS ENDORSED ON PERMIT.

(1) The recruiter shall obey all lawful requirements of any magistrate while engaged in recruiting.

(2) The recruiter shall comply with the conditions of the Master and Servants Ordinance, with any rules published thereunder, as regards feeding, clothing, housing, and other matters for any native recruited by him while such native is travelling to and from the locality in which he is to be employed, and shall further comply with any special conditions (if any) attached to this permit.

(3) Special conditions (if any).

sary to be performed by an employer in respect of all or any of the following matters, that is to say:—

(i) The premises in which servants are housed or employed including sanitary arrangements and water supply;

(ii) the feeding of servants in cases where food is to be supplied by the employer under the contract of service, prescribing the amount, kind and variety of food to be supplied;

(iii) the care of the sick and injured;

(iv) the care of natives in transit between their homes and the place of their employment;

(v) the recruitment or engagement of natives for employment under this Ordinance and the conditions under which they work;

(vi) for the regulation and control of the business of labour forwarding agent;

(vii) the keeping by employers and labour forwarding agents of books and the rendering of returns concerning native labour;

(viii) prescribing classes of employment in which native juveniles may not be employed.

(b) Regulating the recruitment of labour for service out of the Colony.

(c) Regulating the engagement and embarkation of servants to be employed under a foreign contract of service.

(d) Rules made by the Governor in Council under this Ordinance shall be laid on the table of the Legislative Council.

Amendment to Schedule to Principal Ordinance.

22. The Schedule to the Principal Ordinance is hereby amended by the deletion [illegible] Agent's Permit.

Task work.

23. [illegible] the [illegible] employer and a servant to [illegible] by the servant under-[illegible] remuneration [illegible] completed [illegible] servant [illegible] be paid [illegible] the amount to be [illegible] which [illegible] performed.

Nine hours to constitute day's work.

24. An unskilled labourer [illegible] work on any day on which he is employed [illegible] 30 days' [illegible] or a special contract for [illegible] exceeding nine hours exclusive of time allowed for meals.

Employment of native juveniles.

25. (1) No native juvenile shall seek employment unless he shall have obtained a certificate from a District Commissioner, which certificate shall be in the form prescribed in the Second Schedule, and shall, as the case may be, state that the permission of the father or guardian has been obtained.

(2) A native juvenile who shall have obtained such a certificate may, subject to the provisions of this Ordinance, enter into a contract of service.

(3) A District Commissioner may withhold such certificate for any reason deemed by him to be sufficient.

(4) In any case when the District Commissioner is satisfied that the permission of the father or guardian is unreason-

ably withheld he may issue a certificate to such native juvenile and such native juvenile on receipt of such certificate may seek employment:

Provided that nothing in this section shall apply to any native juvenile who is employed by the day only, and who is accompanied throughout the duration of the day by a relative.

Powers of District Commissioner.

26. The District Commissioner of the district in which any native juvenile is employed or seeking employment may exercise the following powers:

(1) He may terminate or cancel any contract of service which may have been entered into by a native juvenile on the grounds that the employer is an undesirable character, or that the nature of the employment is dangerous, or immoral, or injurious to the health of such native juvenile, or for any other reasonable cause.

(2) On the application of a parent or guardian, or for any reason which may appear desirable or proper, he may order any native juvenile to return home, or restore him to the charge of such parent or guardian; and if such native juvenile be employed, he may cancel the contract of service entered into by him.

(3) The exercise of the powers conferred upon the District Commissioner by this section shall be subject to review by the Chief Native Commissioner, whose decision shall be final.

Conviction under Vagrancy Ordinance. *Cap. 65.*

27. Should any native juvenile be found guilty of an offence under section 14 of the Vagrancy Ordinance the District Commissioner may, in the absence of parent or guardian who is able and willing to take charge of such juvenile, contract him for a period of service not exceeding six months to any fit and proper person willing to engage him, but the District Commissioner shall report in writing any such case to the Chief Native Commissioner.

Apprenticeship contracts not affected.

28. Nothing in sections 24 to 26 both inclusive contained shall be deemed to affect or apply to apprenticeship contracts.

Private recruiter and labour forwarding agent only to procure natives for employment.

29. No person shall in himself or through agents or messengers, in his own name or otherwise, procure or attempt to procure, seek for engagement, recruit, take charge of, supply, or undertake to supply natives to be employed in work or labour of any kind, provided that nothing in this section contained shall apply to a private recruiter or a labour forwarding agent. Any person contravening the provisions of this section shall be guilty of an offence, and shall be liable to a fine not exceeding fifty pounds or to imprisonment of either description for a period not exceeding three months or to both such fine and imprisonment.

Labour forwarding agent's licence.

30. (1) No person shall act as labour forwarding agent unless he is in possession of a licence issued by the Senior Commissioner in such form and in accordance with such Rules and conditions as the Governor in Council may prescribe from time to time.

(2) Every application for a licence to act as a labour forwarding agent shall be made in writing and shall state in full the name and address of the person to whom the licence is to be issued. The Senior Commissioner may require any applicant for such licence to execute a bond for such amount as he may deem reasonable for the fulfilment of the provisions of this Ordinance and of any Rules or conditions that may be prescribed.

(3) The licence shall be issued for a limited period not exceeding in any case twelve months, and shall specify the premises in which the labour forwarding agent is permitted to conduct his business.

(4) A labour forwarding agent shall not employ any person for the purpose of assisting him unless and until he shall have received the permission in writing of the Senior Commissioner. The name of any person in respect of whom permission has been accorded shall be endorsed by the Senior Commissioner on the labour forwarding agent's licence.

(5) A Senior Commissioner may at his discretion refuse the issue of a labour forwarding agent's licence and may for reasonable cause cancel any licence which has been issued in so far as it relates to premises within his jurisdiction.

Leave.

31. It shall be unlawful—

(*a*) for the employer of any servant under an unwritten contract of service wilfully to permit such servant to absent himself from his employment for any period or periods exceeding in the aggregate twelve days during the currency of such contract;

(*b*) for the employer of a servant under a special contract or other written contract of service wilfully to permit such servant to absent himself from his employment for any period or periods exceeding in the aggregate one-third of the number of days on which the servant has actually worked for the employer during the currency of such contract;

unless the employer in cases under either of the foregoing clauses obtains the previous permission in writing of the magistrate of the district within which such servant is employed.

(2) No leave shall be given by an employer to a servant for a period which would involve the absence of the servant from the place of employment beyond the date of the expiration of the contract.

(3) Whenever an employer gives leave to a servant to absent himself from the place of employment for any period exceeding forty-eight hours he shall, before the departure of the servant, issue to him a leave certificate as hereinafter provided.

(4) Every leave certificate shall be in the form prescribed in the Third Schedule hereto, and shall be bound in books with counterfoils and numbered consecutively, and shall be supplied only by persons duly authorised by the Governor.

(5) Every leave certificate shall bear an embossed one shilling revenue stamp.

(6) A servant to whom a leave certificate has been issued under the provisions of this section shall produce such leave certificate for inspection when so required by any magistrate or police officer, or by any official headman within the area of jurisdiction of such headman.

(7) When a servant is absent from his place of employment for a period exceeding seven days, the employer shall be presumed to have wilfully permitted such absence unless he shall have taken steps to inform the nearest magistrate or registration officer of the servant's absence or unless he shall satisfy the court that he had no means of knowing the absence of the servant.

(6) No wages shall, in the absence of express agreement to the contrary, be payable to a servant in respect of the period during which he was on leave.

Complaints by employers. Cap. 7. Cap. 21.

32. (1) Notwithstanding anything contained in the Criminal Procedure Ordinance or the Justices of the Peace Ordinance any magistrate or justice of the peace may, on receiving from an employer a complaint in the form of the Fourth Schedule hereto, issue a warrant for the arrest of any servant therein alleged to have committed the offence of desertion.

(2) When a warrant has been issued as aforesaid such servant may be arrested wherever found, by any police officer and brought before a magistrate who may remand such servant to the magistrate of the district in which the services were to be rendered.

(3) On the termination of the hearing of a complaint as aforesaid, the court, if satisfied that the facts stated in the complaint were materially untrue in any particular, may, in addition to any other order for costs, order the complainant to pay into court a sum equivalent to the whole of the expenses incurred by Government in connection with the arrest and trial of such servant. If such sum is not paid forthwith the court may issue a distress warrant against the goods and chattels of the complainant, and goods and chattels taken under the distress warrant shall, unless the complainant pays the amount due by him together with the costs of the distress warrant, be sold and the amount due under the order of the court together with the costs of the distress shall be paid into General Revenue and the balance, if any, shall be paid to the complainant.

Advance of wages.

33. No person shall give or promise to a native any advance of wages or any valuable consideration exceeding one month's wages or the value thereof, upon a condition expressed or implied that he or any dependent of his shall enter upon, or extend the period of, any employment.

Penalty.

34. Any person contravening any provision of this Ordinance for which no special penalty is provided shall be liable to a fine not exceeding thirty pounds or to imprisonment of either description for a period not exceeding three months or to both such fine and imprisonment.

SCHEDULE I.

FORM OF BOND UNDER SECTION 3.

Be it known unto all men by these presents that we (1) ..... are jointly and severally bound unto (2) ..... and to any one or more of them in the sum of (3) ..... to be paid to the said (4) ..... their and each of their heirs, executors, administrators, and assigns. For which payment well and truly to be made as liquidated damages and not as a penalty, we bind ourselves jointly and severally, and our heirs, executors and administrators, and every one of them firmly by these presents.

Sealed with our seals, dated this ..... day of ....., 19...

The condition of the above written obligation is such that if (1) ..... (hereinafter called "the employer") the employer of the said (4) ..... (hereinafter called "the employed") do pay to such of the employed performing their part of the agreement after-mentioned the several sums of money set opposite to their respective names in the schedule to an agreement made and entered into between the employer and the employed at ..... C.S. ..... on the ..... day of ....., 19....., and attested by (5) ..... in regular (6) ..... payments to be completed from the ..... day of ....., 19..... and also to find and furnish the said employed with the subsistence set opposite to their respective names in the said schedule at regular ..... periods to commence as aforesaid, as agreed and promised by the said employer in the said agreement, and to execute, carry out and perform his part of the said agreement in all respects, then this obligation to be void, otherwise to be in full force and virtue.

Signed, sealed and delivered in the presence of :

(To be signed and sealed by each of the obligants and attested if practicable by the officer attesting the relative agreement.)

(1) Insert names and description of employer and one or more sureties resident within the jurisdiction.
(2) Name and description of the employed.
(3) Insert sum, not less than half the total amount (less any advances) due by the contract.
(4) Repeat name of employed.
(5) Name or names of employers.
(6) Natural / calendar monthly.
(7) Official name of officer before whom agreement is signed.
(8) Weekly or monthly, &c., as the case may be.
(9) Weekly or monthly, &c., as the case may be.

SCHEDULE II.

I hereby certify that ..... son of ..... native juvenile, has duly received from .....

(1) his father ..... s/o ..... registration number .....

(1) his guardian ..... s/o ..... registration number .....

(1) me, ... District Commissioner, the permission to seek employment required under section 23 of the Employment of Natives (Amendment) Ordinance, 1926.

(1) Strike out words not required.

SCHEDULE III.

Leave Certificate.

Name ....
Registration Number ....
Date of commencement of contract ....
Date of termination of contract ....

This is to certify that the abovenamed servant is in my employment. I hereby grant him leave of absence till the .... 19......

Date of issue ....
Signature of Employer ....
Address of Employer ....
....

SCHEDULE IV.

I, ... of ...., hereby make complaint as follows against .... Reg. No. ...., hereinafter referred to as "the accused."

1. That the said accused on the .... day of .... was a servant employed by me at ...., under a contract of service made under the provisions of the Employment of Natives Ordinance (Chapter 139 of the Revised Edition) and its amendments.

(a), (b), (c) and (d) are alternative clauses: those inapplicable should be struck out.

2. That the said contract of service was a—

(a) Verbal contract for a calendar month commencing ....

(b) Verbal / Written "30 days" contract commencing ....

(c) Written "special" contract for .... months / years commencing ....

(d) Written contract for .... months / years commencing ....

3. That on or about the .... day of .... the said accused did, in contravention of the terms of the said contract, without lawful excuse absent himself from his place of employment at ...., and has absented himself therefrom for a period exceeding seven whole consecutive days, thereby committing the offence of desertion.

I therefore apply for a warrant for the arrest of the said accused to answer the above complaint, which I undertake to substantiate on oath when required to do so.

Dated this .... day of .... 19......

....
Employer.

Objects and Reasons.

Certain difficulties having arisen in cases where servants were prosecuted for being absent from their employer's service without lawful cause, the offence of "desertion" is now defined and introduced.

To meet the contingency of an employer failing to pay the wages of servants the system of security by bond is extended to cover all contracts.

For greater certainty contracts of service with the class of unskilled labourers are to be deemed as from month to month.

The recruitment and employment of natives is to be dealt with by rules made under this Bill, and the provisions concerning labour agents in the Principal Ordinance are therefore repealed.

The wording of section 55 of the Principal Ordinance has been found to hamper unduly the prosecution of an employer defaulting in the payment of wages and the simpler words "fails to pay" are introduced to remedy this.

Closer surveillance of the employment of natives under the apparent age of 16 years is introduced and the latter may be removed from employment found to be undesirable; means are provided for helping natives under 16 who are becoming vagrants to obtain useful employment.

The granting of leave is dealt with at length.

A Bill to Amend the Native Registration Ordinance.

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

Short title.

1. This Ordinance may be cited as "the Native Registration (Amendment) Ordinance, 1928," and shall be read as one with the Native Registration Ordinance (Chapter 127 of the Revised Edition), hereinafter referred to as "the Principal Ordinance."

Certificate of further service in lieu of discharge.

2. (1) Anything to the contrary contained in section 6 of the Principal Ordinance notwithstanding, if a native employed under the provisions of the Principal Ordinance who has completed a term of not less than six months intends to return after a [illegible] service of the same employer, [illegible] shall be [illegible] yer, at the request of such native, in lieu of a discharge on the [illegible] a certificate with a [illegible] further service [illegible] setting [illegible] the particulars [illegible]

[illegible] shall, so long as it is in force [illegible] registration certificate [illegible] such certificate shall be [illegible] Chief Registrar of Natives [illegible]

(4) [illegible] duction of the native to an officer at [illegible] ing after the expiration of [illegible] the date [illegible] such certificate, such registr [illegible] shall endorse the native's discharge on his regis [illegible] icate, and shall cancel the certificate given under [illegible] forward it forthwith to the Chief Registrar of N [illegible] notification of the date of endorsement of disch [illegible] Chief Registrar upon receiving a notification as afo [illegible] thereupon notify the employer.

(5) If the native who is [illegible] session of a certificate given under this section returns to the service of the employer who gave it, such employer shall at once detach the certificate and cancel it and shall transmit it forthwith to the Chief Registrar of Natives with a notification of the date on which the native was re-engaged by him.

(6) Every certificate given under this section shall cease to be valid after the expiration of three months from the date thereof, and the holder thereof shall thereupon attend before a registration officer and the procedure laid down in sub-section (4) of this section shall be followed.

Amendment to section 2 of the Principal Ordinance.

3. Section 2 of the Principal Ordinance is hereby amended by the deletion of the definition of "ink."

Section 2 which it is proposed to amend :—

Interpretation.

2. In this Ordinance, unless inconsistent with the context :—

"Ink" shall include indelible pencil.

Section 8 which it is proposed to amend :—

Offences by native.

8. Any person who :—

(1) Shall be in unlawful possession of or shall make use of any certificate belonging to another native ; or

(2) Falsely state that he has not previously been registered or shall make any other false statement or commit any act or omission with the object of deceiving a registration officer ; or

(3) Hand over his own certificate to any other native to be used by such other native ; or

(4) Shall be found in any district without a certificate issued in pursuance of the provisions of this Ordinance ; or

(5) Shall refuse or neglect to produce his certificate when required to do so by any police officer or other person lawfully entitled to demand the production of such certificate ; or

(6) Shall mutilate any certificate issued to him or shall add thereto or erase therefrom any material particular ; or shall knowingly be in possession of a certificate containing false entries or from which dishonest erasures or excisions have been made ; or

(7) Shall obtain or attempt to obtain a new certificate from a registration officer without first returning to such registration officer the loss, mutilation or destruction of any prior certificate which may previously have been issued to him or the fact that he has been previously registered ; or

(8) Shall become registered more than once and omit to give up to the registration officer any certificate issued to him on previous registration which remains in his possession.

shall upon conviction be liable to a fine not exceeding fifteen pounds or to imprisonment for a period not exceeding three months or to both.

Section 8 (7) of the Principal Ordinance is hereby amended as follows :—

Amendment to section 8 (7) of the Principal Ordinance.

(7) Any person who

Offences in respect of certificates.

(7). Shall engage or employ any unregistered native, provided the provisions of this sub-section shall only apply to such persons or such districts as may be prescribed ;

4. Every endorsement required by this Ordinance or by the Principal Ordinance to be made on a registration certificate shall be made in black or blue-black ink.

Endorsements to be made in black ink.

5. Section 8 of the Principal Ordinance is hereby amended by the addition of the following sub-section :—

Amendment to section 8 of the Principal Ordinance.

" (9) Having departed from the service of his employer, from whatever cause, is, after the expiration of the period of his employment, in possession of a certificate bearing an endorsement of employment, but no endorsement of discharge."

6. Section 13, sub-section (7), of the Principal Ordinance is hereby amended by the insertion after " native " of the words " or any native who does not first produce the certifi-

Amendment to section 13 of the Principal Ordinance.

SCHEDULE.

THE NATIVE REGISTRATION (AMENDMENT) ORDINANCE, 1928.

FORM OF CERTIFICATE OF FURTHER SERVICE IN LIEU OF DISCHARGE (UNDER SECTION 2).

I, (1) ....., of (2) ....., hereby certify that (3) ..... Registered Number ..... has been continuously in my employ from the ..... day of ..... 19..... to the ..... day of ..... 19..... and has expressed the intension of returning to my service after an interval of .....

This certificate is given at the request of the said ..... in lieu of endorsement of discharge on his registration certificate.

Dated this ..... day of ..... 19.....

.....

Employer.

(1) Full name of employer.
(2) Place of residence and full postal address of employer.
(3) Name and father's name of native.

OBJECTS AND REASONS.

Under the provisions of the Principal Ordinance a native before leaving the service of his employer must request his employer to endorse his [illegible] on his certificate of registration.

[illegible] Such certificate will [illegible] three months.

[illegible] power is given to [illegible] of the native, after [illegible] days from the [illegible] of such certificate [illegible] certificate of further service.

COLONY AND PROTECTORATE OF KENYA.

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A BILL TO AMEND THE RESIDENT NATIVE LABOURERS ORDINANCE, 1925.

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A Bill to Amend the Resident Native Labourers Ordinance, 1925.

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

Short title.

(No. 5 of 1925.)

1. This Ordinance may be cited as "the Resident Native Labourers (Amendment) Ordinance, 1928," and shall be read as one with the Resident Native Labourers Ordinance, 1925, hereinafter referred to as "the Principal Ordinance."

Interpretation.

Cap. 127.

2. For the purposes of this Ordinance the expression "registration certificate" means a certificate required by the provisions of the Native Registration Ordinance.

"Squatter" contracts to be endorsed on registration certificate.

3. (1) When a native has entered into a contract under the provisions of the Principal Ordinance it shall be the duty of the magistrate or other person attesting such contract forthwith to endorse in red ink on the native's registration certificate the word "squatter" and the period of the contract in the column relating to employment and the name of the occupier in the column provided for the name of the employer and the date of the commencement of the contract and the rate of wage in the columns respectively provided for particulars of engagement and rate of wage.

(2) On the termination of the contract the native shall request the occupier to endorse on the certificate in the column provided for the date of discharge the date upon which the native was discharged.

(3) In the event of the occupier refusing or omitting to do so the native may present the certificate to the magistrate whose office the contract was filed and if such magistrate is satisfied that the native has completed his contract and the endorsement has been refused or omitted by the occupier wilfully or wilfully by the occupier and the native, such magistrate may himself complete the endorsement by entering in the registration certificate affixing such date as may appear consistent with the circumstances.

(4) Any occupier refusing or omitting to endorse a registration certificate in accordance with the provisions of this section shall be deemed to have committed a breach of the provisions of the Principal Ordinance.

Endorsement of existing contracts.

4. Every male native who at the commencement of this Ordinance is a party to a contract under the provisions of the Principal Ordinance shall within one month produce his registration certificate to the magistrate in whose office the contract is filed and such magistrate shall thereupon make an endorsement on the registration certificate as provided in the last preceding section.

Application of certain provisions of Native Registration Ordinance. Cap. 127.

5. Any occupier entering into a contract with a native under section 4 of the Principal Ordinance shall be deemed to have engaged such native within the meaning of the Native Registration Ordinance, and sections 9 and 10 (relating to the making of returns and the keeping of records) and sections 17, 18 and 20 (relating to offences) of the Native Registration Ordinance and such Rules made under the said Ordinance as the Governor in Council may by notice prescribe, shall apply to such occupier and native as if the contract were an engagement within the meaning of the said Ordinance.

Squatter's certificate.

6. When a native who has entered into a contract under the provisions of the Principal Ordinance has within any twelve-monthly period completed the number of days' work specified in such contract the occupier shall, if so required by such native, deliver to him a squatter's certificate to that effect in the form of the Schedule hereto, specifying the date on which the native's obligation to work under such contract recommences.

Saving of offence under section 13 of the Native Registration Ordinance.

7. Notwithstanding anything contained in sub-section (3) of section 13 of the Native Registration Ordinance it shall be an [illegible] holding a squatter's certificate during the period by such certificate, in which the native is under no obligation to work for the occupier, notwithstanding that the column of the registration certificate for the endorsement of discharge has not been completed.

[illegible] be applied, in order to some other place in the Colony, and that any contract made by such native the provisions of the Principal Ordinance be rescinded.

(2) Any native so ordered to remove who is a member of a tribe in occupation of any Native Reserve shall, unless otherwise directed, return to such Native Reserve.

(3) The necessary expenses, if any, incurred in effecting the removal of any such native shall be recovered from the occupier of such farm and shall be recoverable by such occupier from such native or from the head of his family.

Sub-sections (2) *(a)* and (2) *(b)* of section 4 of the Principal Ordinance which it is proposed to amend :—

Contracts of service to work on a farm.

4. (1) When the head of a family has entered into a contract for a period of not less than twelve months as hereinafter provided, such family may also be permitted to reside on such farm.

(2) Every such contract shall be in writing and shall be executed by the occupier and by the head of the family and by all members of the family employable thereunder, and shall be attested by a magistrate or by any person appointed by the Governor to attest contracts under this Ordinance, and shall be in the form of agreement provided in the schedule annexed to this Ordinance, and shall provide :—

(a) For a term which shall not be less than one year and may extend to three years, notwithstanding anything to the contrary contained in any law relating to master and servants;

(b) For the head of any family and any male member thereof resident on the farm [illegible] of the apparent age of sixteen years or upwards [illegible] working under the law relating to masters and servants to work for the occupier [illegible] at the election of the [illegible]

[illegible] Principal Ordinance [illegible]

[illegible] and together with the [illegible] section shall be construed as [illegible] contravention of any re[illegible] under the law for the time being in force relating to the diseases of animals. Provided that should there be any such restrictions in force at the time of the termination of such contract or service whatever cause prohibiting the removal of such cattle, such cattle shall remain on the farm without charge, and the owner thereof may also remain on such farm until such restrictions are removed, unless other arrangements are made for the care or disposal of such stock to the satisfaction of the parties and a magistrate. Provided also that in the event of any such cattle being removed from such farm the owner of such cattle shall first produce them to the occupier of such farm who shall cause such cattle to be rebranded with his brand reversed.

(2) For the purpose of this section every occupier who enters into a contract under this Ordinance whereby any cattle may be brought on to his farm shall provide himself with a registered cattle brand.

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(4) Any native who shall refuse or neglect to obey any order made under the provisions of this section and any occupier who shall fail or neglect to pay on demand the expenses in sub-section (3) referred to shall be guilty of a breach of the provisions of the Principal Ordinance.

Term of contract.

10. Section 4 of the Principal Ordinance is hereby amended as follows :—

(a) by the substitution in sub-section (2) *(a)* of the words "ten years" for "three years";

(b) by the substitution in sub-section (2) *(b)* of "270 days" for "180 days".

[illegible] Principal Ordinance [illegible] Stock in excess of [illegible] number

[illegible] or keeps [illegible] agreed to by [illegible] magistrate, and [illegible] ocks to be brought on [illegible] med to have been [illegible] Ordi[illegible]

Section 11 of the Principal Ordinance which it is proposed to amend :

Prohibition against payment by natives.

11. No payment in money or in kind shall be made by any native resident on a farm for the right to cultivate any land or to graze any stock or for the use of salt licks, fuel, or water on such farm, and no occupier shall enter into any contract with the head of a family or any other native whereby the occupier shares any profit derived by such head of a family or other native from his cultivation or from the increase or produce of his stock on the farm of such occupier.

Amendment of section 11 of the Principal Ordinance.

12. Section 11 of the Principal Ordinance is hereby amended by the insertion after the words "for the right" of the words "or reside or".

Governor may prohibit attesting of certain contracts.

13. Notwithstanding anything contained in the Principal Ordinance where the District Commissioner of any district has transmitted to the Governor a certified copy of a resolution, passed by [redacted] thirds majority of the owners or occupiers of farms in such district to the effect that no further contracts under the Principal Ordinance which permit the use by a family of land for grazing of cattle or livestock be attested by an attesting officer the Governor may, by notice published in the Gazette order that no further such contracts shall be attested in the said district and it shall be unlawful thereafter for any attesting officer to attest such contracts :

Provided that nothing in this section shall preclude the attesting of the renewal of any existing contract between the occupier and the head of a family which by virtue of contract made under the Principal Ordinance is using land for the grazing of the number of livestock agreed upon in such contract.

SCHEDULE.

THE RESIDENT NATIVE LABOURERS (AMENDMENT) ORDINANCE.

SQUATTER'S CERTIFICATE.

(Under Section 6).

I hereby certify that.....
has during the period of twelve months commencing on the
.....day of.....19.....date
completed the.....days' work
in this contract. His obligation to work under the terms of
this contract commences again on
the.....day of.....19.....

.....

(Signature of Occupier and date).

OBJECTS AND REASONS.

This Bill extends the native registration system to squatter contracts by the occupier endorsing on squatters' registration certificates the period of contract in the column relating to employment and the name of the occupier in the column provided for the name of the employer and the date of the commencement of the contract and the rate of wage in the columns respectively provided for the date of engagement and rate of wage. Similarly on the termination of the contract the occupier must endorse the date of such termination in the column provided for the date of discharge.

Provision is made to have all the existing contracts endorsed by the magistrate in whose office such contracts are filed within one month after the commencement of the Ordinance.

The provisions of the Native Registration Ordinance relating to the making of returns, keeping of records and offences will apply to occupiers and natives as if the contract were an engagement within the meaning of the said Ordinance.

Clause 8 of the Bill lays down that the occupier must provide employment for not less than 270 days in any one year for each person for whom under the terms of the contract he is under an obligation to provide such employment, or he must prove that wages are paid at the rate specified in the contract for not less than 270 days in such year.

Under Clause 9 power is taken to remove natives from any farm where a breach of the peace is apprehended.

Clause 10: The period for which any contract under the Principal Ordinance may be extended is altered from three to ten years, and the number of days in any one year during the term of such contract for which the squatter shall work and the occupier must provide employment or pay wages is altered from 180 days to 270 days.

Clause 11 makes it an offence for any native to keep on a farm, or the occupier to allow on his farm, any stock in excess of the number agreed upon.

Clause 13 of the Bill is designed to give effect to the recommendation of the Select Committee of the Legislative Council on draft Estimates for 1928, that a clause be inserted in the Resident Natives Ordinance to enable a district to declare that no resident natives shall graze any cattle within the boundaries of the district.