

Mr. Greene

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

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

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

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

Mr. Greene

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

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

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

Mr. Greene

Societies to father them and to lead them in by the hand. Well, they do not want that.

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

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

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

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

Mr. Greene

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

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

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

Mr. Greene

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

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

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

You think it is likely to come? - Yes.

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

Mr. Greene

Yes, but an union is an union. Now, if you get separate unions of Natives and Europeans, have you thought of the constitution of councils which will meet the position? - I have regarded joint councils or any conciliation idea as perfect sterilisation. There are two warring camps and I cannot understand, for the life of me, how they can have joint councils. In my idea, it is a monstrosity, and how the Europeans employees could agree to it, I cannot understand. I would not recommend it for the Natives; I would ask for the removal of all restraint, that is to say, even the promise of peace, and I would scrap, without any idea of strife and revolution. That will come later on inevitably, but we need not worry about it, but I think, to make that revolution easier, it would be better for everyone if we removed all restraint, because the more we restrain the Natives, the more harsh the changes must be when they come about, as come they must. I feel perfectly convinced of that. One should work smoothly from one stage to another, provided all these restraints and restrictions are removed. That is my view. I just might correct this statement which was made, which is not according to fact, that the togt pass now is 1/- per month, and not 2/6d. That is all I have to tell you, and I do feel that if the Commission could make its recommendations with a view to removing these restraints and restrictions, it would lead to a much healthier state of affairs and to that progress which we are all looking forward to, all sections of the community, Natives and Europeans alike.

Representatives of Farmers Associations.

Col. Foxon and others

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

called and examined:

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

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

Col. Foxon and others

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

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

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

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

Col. Foxon and others

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

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

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

Col. Foxon and others

all these Natives will have to go. That will be the outcome of it. The great question, to my mind, is where are they to go, because, if this section comes into operation, the effect will be that thousands of Natives will be ejected from the farms and the only places to which they will be able to go are the towns, they will go and live on Indian property and a very large proportion of them will become criminals and they will constitute a dissatisfied class of inhabitants. I ask whether it is the wish of the country that such a class should come into existence.

I want to point out that these two Sections 8 & 9 have nothing whatever to do with contracts between Europeans and Natives. They are simply most arbitrary and I do contend that this one clause will simply have the effect of creating a condition which is tantamount to slavery. I agree in that respect with what Mr. Spiers said yesterday afternoon. If the Minister wants such a law to be passed, he should give it a name different from that which it is known by now. He should call it "A law to enforce slavery in South Africa".

Now, if it is the desire to have such powers, then I ask why are these sections not made applicable to the Free State as well? Why are they made applicable only to the Transvaal and Natal? I have come here with a mandate from my Association to place these points before you and I hope, therefore, that you will do your utmost to have these two sections deleted from the Bill.

CHAIRMAN: Do I understand you to say that these Sections are only applicable to Natal?— They are only applicable to Natal and the Transvaal. The reason is that many of these big farmers in Natal and the Transvaal bought farms for labour purposes. Many of these Natives in

Col. Foxon and others

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

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

There are practically none in existence? - There, of course, they had the objectionable system of working on shares which never existed in Natal. The Basuto there does the ploughing and the cultivation of the land, then he gives the owner of the farm so much of his yield. That is why General Hertzog introduced Act No. 27 of 19¹³~~12~~. That is because of what happened in the Free State.

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

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

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

Col. Foxon and others

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

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

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

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

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

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

Col. Foxon and others

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

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

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

Col. Foxon and others.

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

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

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

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

Col. Foxon and others

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

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

Collection Number: AD1438

NATIVE ECONOMIC COMMISSION 1930-1932, Evidence and Memoranda

PUBLISHER:

Collection funder:- Atlantic Philanthropies Foundation

Publisher:- Historical Papers Research Archive

Location:- Johannesburg

©2013

LEGAL NOTICES:

Copyright Notice: All materials on the Historical Papers website are protected by South African copyright law and may not be reproduced, distributed, transmitted, displayed, or otherwise published in any format, without the prior written permission of the copyright owner.

Disclaimer and Terms of Use: Provided that you maintain all copyright and other notices contained therein, you may download material (one machine readable copy and one print copy per page) for your personal and/or educational non-commercial use only.

People using these records relating to the archives of Historical Papers, The Library, University of the Witwatersrand, Johannesburg, are reminded that such records sometimes contain material which is uncorroborated, inaccurate, distorted or untrue. While these digital records are true facsimiles of paper documents and the information contained herein is obtained from sources believed to be accurate and reliable, Historical Papers, University of the Witwatersrand has not independently verified their content. Consequently, the University is not responsible for any errors or omissions and excludes any and all liability for any errors in or omissions from the information on the website or any related information on third party websites accessible from this website.

This document is part of the archive of the South African Institute of Race Relations, held at the Historical Papers Research Archive at the University of the Witwatersrand, Johannesburg, South Africa.