

1/20th as great as those of my white brother. Why should the Africans now be penalized for generations of deliberate neglect and subjection?

I put forward another proposition: any group of the population which is excluded from the franchise is unlikely to find that large sums of money will be appropriated for its education, social welfare, etc. The unrepresented group tends to become the Cinderella of the society as a whole. Political history is rich with examples which confirm the tendency for neglect of unrepresented groups. Nowhere is the tendency more strikingly confirmed than in S.A. The conclusion one draws is that the vote is an essential instrument for the upliftment of the underprivileged.

An old argument is that an educational qualification will act as an incentive for illiterate people to obtain education for themselves and their children. This seems to be an insult to our presently unrepresented citizens. Have they shown any need of an outside stimulus like this where education is concerned? Do not the African peoples thirst for education? Look at the resentment aroused by Bantu education. Does the magnificent effort by the Indians to secure education for themselves suggest any apathy on their part? If the educational facilities are there, the unfranchised will not need any prodding to avail themselves of the opportunities. But with a qualified franchise will those educational (or other) opportunities ever be equal to those available for the represented?

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## TWELVE MILLION OUTLAWS

(A COMMENT ON SOUTH AFRICA'S BANTU  
LAWS AMENDMENT BILL OF 1964)

by a Lawyer

Do you remember learning at school about the outlaw? He was a person whose crime put him outside the protection of the law. He could not sue in any court, nor had he any legal rights which could be enforced, but he was personally liable upon all causes of action. If he showed himself in the market or temple

he could be arrested by anyone and cast into prison without means of defence.

**Certain provisions of the Bantu Laws Amendment Bill show you how close to the outlaw the settled urban African will be brought when the Bill is passed by Parliament.**

It is proposed, in section 8, to establish a local labour bureau in every prescribed area, and to have it managed by a municipal labour officer. Section 46 says that every urban area is deemed to be a prescribed area.

This officer can refuse to sanction the employment of any African in his area and can cancel any contract of employment if he is satisfied that it is **not in the public interest** that the contract should be entered into or be continued.

In other words, whether or not a person should work for another is made to depend upon the discretion of an official whose opinion as to **the public interest** is the fact that will decide whether a man or woman may earn a living in a town with a particular employer; and to challenge that opinion in a court of law is well nigh impossible.

If an official decides to cancel an African's contract of employment, the African may be referred to a so-called **aid centre**. There he may be offered suitable work, but he may also be required to leave the area together with his dependents. He can appeal to the Chief Bantu Commissioner, whose decision is final, but this does not suspend the removal order unless a Bantu Affairs Commissioner, in his discretion, allows him to remain until the appeal is decided. Here again, it is the choice of an official whether the person stays in the area to arrange for his appeal or leaves without being able to safeguard his interests in this vital matter.

At the moment certain Africans may lawfully reside in urban areas. Section 10 (1) (a) (b) and (c) of the Native Urban Areas Act gives this privilege to Africans who have since birth resided continuously in a town, or who have worked there continuously for one employer for not less than ten years, or have lawfully lived there for not less than fifteen years. The wife, unmarried daughter and young son who does not yet pay tax are also protected if they ordinarily reside with the husband and father.

**The new Bill provides that the labour officer may exercise the powers I have described above in respect of Africans who have this privilege. It goes on to say that if such an African is ordered to leave the area he is no longer deemed to be permitted to remain in the area. This means that the right that Parliament gave to persons who were born in an area, or who have lived or worked there for a long time, is taken away because an official says so.**

Some of the detail of the law is to be filled in by regulations not yet promulgated. Thus the State President is given power to provide for the detention of Africans in the areas to which they have been ordered and to provide for the compulsory detention at youth centres of Africans between 15 and 21 years, who have been ordered there.

Some years ago there was an arrangement between the Department of Native Affairs and the Department of Justice. A circular was sent out with the suggestion that Africans arrested for pass offences should not be brought before a magistrate, but should be hired out as labourers. This was the system that Africans described as "being sold to a farmer". Untold numbers of men were missed by their families and returned months later from service on farms. This led to court applications, and the outcry was so great when these applications told the public what had happened, that the Minister of Native Affairs said in Parliament that the arrangement between the two departments of State was at an end.

Section 12 (4) of the Bill has a curious provision. It allows a Bantu Affairs Commissioner or an officer managing an aid centre "to make representations that no criminal action be preferred" against an African in respect of certain offences related to the pass laws. It also empowers such official to "make such order as may appear to him to be just in regard to the placing in employment of such African".

**What does this foreshadow? A return to "being sold to a farmer"?**

Let me follow up what can happen to the African ordinarily protected by birth or long residence or long employment in a town.

Section 61 of the Bill deals with idle or undesirable Africans. Among the descriptions of an idle person is this one: an African who

has been required under any law to depart from the area concerned within a period specified in terms of such law and not to return to such area within a period so specified, and who has failed so to depart. This seems to me to include an African required by a labour official to leave an area upon cancellation of an employment contract.

Thus the chain is completed. The African protected by Section 10 (1) (a) (b) and (c) of the Native Urban Areas Act, may lose job and home because the labour official so decides, may be ordered out of the area, because the aid centre official so decides, may lose the appeal because the official called the Chief Bantu Affairs Commissioner so decides, and may thereby become an "idle person" if he does not leave the only place he may have known as home.

What happens to him then? An official who believes him to be an idle person may arrest him without warrant and may detain him for 72 hours before bringing him before a Bantu Affairs Commissioner to give a good and satisfactory account of himself. If he fails to do this, he will be declared an idle or undesirable person. He may then be sent to a place indicated by the Commissioner, and this may include a farm colony, where he will perform labour. If the African agrees, the Commissioner may approve his entering into a contract of employment and may order that he "be detained in custody pending his removal to the place at which he will in terms of that contract be employed".

Worst blow of all. If the African is declared an idle or undesirable person, he forfeits forthwith any right which he may have acquired under Section 10 (1) (a) (b) (c) of the Natives' Urban Areas Act to remain in a prescribed area.

**Is such an African not outside the protection of the law? Does his right not depend upon the decision of an official? Can he plead in a court of law? Is he not personally liable to banishment upon the order of the official? And if he shows himself in the market place, will he not be seized without warrant and cast into prison? And what defence does he make if he must leave before his appeal is heard? And who may he ask if he may stay to prosecute his appeal, save an official?**