FIRST DISCUSSION

International Labour Conference

TWELFTH SESSION
GENEVA, 1929

FORCED LABOUR
REPORT AND DRAFT QUESTIONNAIRE

Item III on the Agenda

GENEVA
INTERNATIONAL LABOUR OFFICE
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INTRODUCTION

The Governing Body decided at its Thirty-seventh Session, in November 1927, to place upon the Agenda of the General Conference of the Organisation in 1929 the question of Forced Labour. The Office, therefore, has prepared the present report for submission to that Conference.

The question is one which affects for the most part, though not exclusively, the working conditions of subject peoples who are under the administration of races alien to themselves. Such peoples are frequently designated by the term "natives" and their conditions of labour by the term "native labour"—terms somewhat unfortunate in their applications and their implications, for many peoples whose conditions of labour are analogous to those of "natives" are not usually termed "natives", and indeed would resent the application of the term to themselves, and, on the other hand, there are "natives" who enjoy superior conditions of labour not usually thought of when the term "native labour" is employed.

Consequently, the present report on Forced or Compulsory Labour, though it deals for the most part and inevitably with what is understood as "native labour", is more comprehensive in its scope than the latter term would imply, and if the Conference should decide to proceed further with the matter, there seems to be no valid reason why any questionnaire which it may decide to draft, or, indeed, the Convention or Recommendation which it may ultimately adopt, should not be perfectly general in their terms and their application.

The history of international action in regard to forced labour is detailed in Chapter I of the report. One may here recall that the International Labour Office has been preoccupied by the question for many years. Brought into direct contact with it since 1921 through its representation on the Permanent Mandates Commission and, later, on the Temporary Slavery Commission, it had carried out considerable research when the Assembly, in 1926,
adopted, as part of its campaign against slavery — then reaching the stage of the adoption of a Convention against slavery — the following Resolution:

The Assembly:

Taking note of the work undertaken by the International Labour Office in conformity with the mission entrusted to it and within the limits of its constitution;

Considering that these studies naturally include the problem of forced labour:

Requests the Council to inform the Governing Body of the International Labour Office of the adoption of the Slavery Convention, and to draw its attention to the importance of the work undertaken by the Office with a view to studying the best means of preventing forced or compulsory labour from developing into conditions analogous to slavery.

When the Council of the League (Forty-third Session, 6 December 1926) came to examine a report on the Assembly's work, it adopted in its turn, on the motion of Sir Austen Chamberlain, the following Resolution:

The Council instructs the Secretary-General to communicate to the Governing Body of the International Labour Office a copy of the Slavery Convention which was adopted by the Assembly of the League of Nations on 25 September 1926, at its Seventh Ordinary Session, and to inform the Governing Body of the importance which the Assembly and the Council attach to the work undertaken by the Office with a view to studying the best means for preventing forced or compulsory labour from developing into conditions analogous to slavery.

The preoccupations of the Assembly and of the Council in this matter are easily explained. The labours of the Temporary Slavery Commission had revealed clearly enough that the suppression of slavery and the slave trade would not necessarily put an end to all conditions of labour of a servile character, and there was no lack of evidence that forced labour might result, and had resulted, in evils analogous to some of those produced by slavery. The Assembly had for that reason inserted in the Slavery Convention a clause condemnatory of forced labour, without, however, entering into the details of its regulation, which, as Viscount Cecil of Chelwood observed in the British House of Lords, were matters which the International Labour Office was much better equipped to consider. The Assembly and the Council, aware that the Office was already occupied with the question, wished then, by the adoption of the above-cited resolutions, to recognise the importance
of the work and to indicate their opinion as to its intimate relation with that kind of abuse which the Slavery Convention combated.

The preparation of the report has not been without difficulty. Forced labour occurs for the most part in areas where administration has not reached the point of efficiency attained in more developed countries, and from which exact information is either non-existent or not easily obtainable. The Office was anxious under these circumstances to surround itself with all possible safeguards, and at its request the Governing Body created at its Thirty-first Session (May 1926) a Committee of Experts on Native Labour. The Committee, as at first formed, was composed of the following eminent personalities:

*General Freire d'Andrade,* former Governor-General of Mozambique, former Minister of Foreign Affairs, Portugal, Member of the Permanent Mandates Commission, Member of the Temporary Commission on Slavery.

*Mr. Gohr,* Director-General in the Ministry of the Colonies, Belgium, Member of the Temporary Commission on Slavery.

*Sir Charles Ernest Low,* K.C.I.E.E., former Member of the Indian Industrial Commission, former Secretary to the Government of India for Commerce and Industry, former Director of Agriculture, Central Provinces of India.

*Right Hon. Sir Frederick Lugard,* G.C.M.G., C.B., D.S.O., former Governor-General of Nigeria, Member of the Permanent Mandates Commission, Member of the Temporary Commission on Slavery.

*Mr. Merlin,* Honorary Governor-General of the Colonies, former Governor-General of the French Congo, former Governor-General of French West Africa, former Governor-General of French Indo-China, Member of the Permanent Mandates Commission.

*Commandant Ostini,* ex-M.P., Head of the Colonial Schools Department at the General Emigration Commissariat, Rome.

*Mr. Van Rees,* former Vice-President of the Council of the Dutch East Indies, former Secretary-General of the Dutch Colonial Institute, Vice-President of the Permanent Mandates Commission, Member of the Temporary Commission on Slavery.

*Mr. Sugimura,* Counsellor of Embassy, Assistant-Director of the Japanese League of Nations Office, Accredited Representative of Japan at the Seventh Session of the Permanent Mandates Commission.

*Mr. H. M. Taberer,* Chief of the Native Labour Recruiting Organisation of the Transvaal Chamber of Mines.

Later the following additional nominations were approved:

*Mr. Camille Lejeune,* of the "Compagnie Nossibéenne d'Industries agricoles" (Madagascar).

*Mr. Saura del Pan,* Spanish Consul at Oran, former Chief of the Section of Civil Colonial Affairs in the Department for Morocco and the Colonies.
Freiherr von Rechenberg, former Governor-General of German East Africa.
Mr. H. R. Joynt, of the Federal Secretariat of the Malay States.
Professor J. P. Chamberlain, Professor of International Law at the University of Columbia, United States of America.

Sir Ernest Low and Mr. Sugimura resigned from the Committee and were replaced respectively by:

Sir Selwyn Fremantle, C.S.I., C.I.E., ex-Member of the Council of the Lieutenant-Governor of the United Provinces, ex-Member of the Viceroy's Legislative Council for the purpose of the Factories Bill (India), and

Mr. Nobubumi Ito, Deputy-Director of the Japanese Office for the League of Nations in Paris.

It is with the assistance of this Committee that the present report has been compiled. A draft was communicated to the members and discussed by them at their First Session in July 1927. Chapters I and II called for no comment and were approved. With regard to Chapters III, IV and V, which contain analyses of legislation on forced labour, it was decided that the individual members should examine those parts which treated of the legislation in which they were specially competent and should communicate to the Office any suggestions or comments which they might desire to make. The Office takes this opportunity of expressing its gratitude for the collaboration of the individual members in this respect; as a result, it has been possible to correct and considerably extend these chapters. Similarly, the draft of Chapter VI has been much modified and improved as a result of the same procedure.

The most important part of the report is Chapter VII, in which an attempt is made to single out and state the principles which underly, or which it is suggested should underly, the regulation of forced labour. The Committee, recognising this, devoted almost the whole of its First Session to the discussion of this chapter. The principles therein set out were either fully discussed and formally adopted during the Session, or (in the case of those concerning Forced Labour for Private Employers in §§ 360-368, for the full examination of which time was not available) were discussed after the close of the Session by correspondence. This method of discussion obviously does not permit of the formal approval of the Committee as such, and, in the case of the principles in §§ 360-368, any differences of opinion which have been manifested amongst the members are indicated in footnotes. With
these exceptions, and one further exception indicated in the text, the principles set out in Chapter VII were all adopted unanimously.

The Office is justified, therefore, in believing that they will meet with the approval of the best modern opinion on the matters with which they deal.

At the conclusion of its First Session, the Committee unanimously adopted a number of Resolutions, of which two call for notice here.

The first expressed the Committee’s sense of the urgency and importance of the regulation of forced labour, and requested the Governing Body to bring the matter before the International Labour Conference at an early date. This resolution was communicated to the Governing Body, and, as has been stated, the question of Forced Labour was placed upon the Agenda of the 1929 Session of the Conference.

The second Resolution, expressing the Committee’s opinion that all forced labour should cease at the earliest possible moment, was also communicated to the Governing Body.

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1 See Appendix I.
2 The observations to which it gave rise will be found in Appendix I.
CHAPTER I

INTERNATIONAL DISCUSSIONS AND DECISIONS ON FORCED LABOUR

I. — Under the Mandates System

§ 1. The question of forced labour appears first to have been brought within the sphere of international consideration on the occasion of the adoption, by the Peace Conference, of the Covenant of the League of Nations and of the mandatory system there outlined for the administration of the extra-European areas detached from the former German and Turkish Empires.

The Covenant itself makes no direct reference to the question. Article 22, however, speaks of the well-being and development of “peoples not yet able to stand by themselves under the strenuous conditions of the modern world” as being “a sacred trust of civilisation”, and Article 23 lays down that the Members of the League:

(a) will endeavour to secure and maintain fair and humane conditions of labour for men, women and children, both in their own countries and in all countries to which their commercial and industrial relations extend...; (and will)

(b) undertake to secure just treatment of the native inhabitants of territories under their control.

§ 2. Some of the ideas underlying these passages found more concrete expression in so far as forced labour is concerned when the terms of the Mandates¹ came to be drafted. Each Mandate

¹ The Mandates issued for the areas which were formerly part of the Turkish Empire (Iraq, Syria, and Palestine) contain no reference to forced labour. It will be recalled that they are described in Article 22 as being communities which “have reached a stage of development where their existence as independent nations can be provisionally recognised subject to the rendering of administrative advice and assistance by a Mandatory until such time as they are able to stand alone”.

Forced labour is of course not a usual characteristic of such communities.
of the "B" and "C" type contains an Article on forced labour. In the case of the "B" Mandates the formula employed is the following:

The Mandatory...

(3) shall prohibit all forms of forced or compulsory labour, except for essential public works and services, and then only in return for adequate remuneration.

An additional clause is appended, aimed in part at other methods of compulsion than those usually associated with legalised forced labour. It is as follows:

The Mandatory....

(4) shall protect the natives from abuse and measures of fraud and force by the careful supervision of labour contracts and the recruiting of labour.

In the "C" Mandates the text is drafted slightly differently:

The Mandatory shall see... that no forced labour is permitted, except for essential public works and services, and then only for adequate remuneration.

The differences of text do not appear to indicate essential differences of meaning.

II. — The Temporary Slavery Commission

§ 3. This Commission of the League of Nations included the question of forced labour in the programme of its work, which was later approved by the Council of the League, setting it out in the following terms:

(4) Systems of compulsory labour, public or private, paid or unpaid.
(5) Measures taken or contemplated to facilitate the transition from servile or compulsory labour to free wage labour or independent production.

On the conclusion of its work, the Commission, through its Chairman, submitted to the Council the two following suggestions

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in regard to "compulsory labour, public or private, paid or unpaid":

1. **Prohibition of forced or compulsory labour, except for essential public works and services**

   While recognising that in certain circumstances compulsory labour may be admissible, subject to certain guarantees, and that the Governments may be obliged in certain definite conditions to have recourse to it, the Commission, realising the necessity of putting an end to the abuses still occasionally involved by this practice, which tend, where found, to make forced labour a more or less disguised form of slavery, recommends that, by analogy with the clauses inserted in "B" and "C" Mandates, "all forms of compulsory or forced labour should be prohibited except for essential public works and services and" (unless this proves utterly impossible) "then only in return for adequate remuneration". The Commission recognises, further, that the States remain free to define what they understand by "compulsory labour" and by the term "essential public works and services" and to issue such regulations as may appear to them equitable and suitable, having regard to circumstances of time and place, concerning the recruiting and treatment of workers.

2. **Precautions to be observed by the authorities in the recruiting of labour**

   The Commission considers that forms of direct or indirect compulsion are abuses.
   
The Commission considers also that indirect or "moral" pressure, if exercised by officials to secure labour for private employment, may, in view of the authority of such officials over the minds of natives, be in effect tantamount to compulsion and calls therefore for prudence on the part of the Administration.

   The majority of the Commission believed that an International Convention on slavery was desirable, and considered that the subject of one clause which might be embodied therein should be the "prohibition of forced or compulsory labour, except for essential public works and services and in return for adequate remuneration".

### III. — The Slavery Convention

§ 4. The report of the Commission was presented to the Sixth Assembly (1925) of the League and was referred by it to its Sixth Committee. At the same time, Viscount Cecil of Chelwood, on

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behalf of the British Government, laid before that Committee a Draft Resolution and Protocol on the subject of slavery, both of which made reference to forced labour. The Draft Resolution recited the motives put forward to justify the necessity for a new international accord, and among them was the following:

The Assembly...

Being further of opinion that it is desirable to regulate the employment of forced labour so as to prevent conditions analogous to those of slavery arising therefrom

Decides, etc. . . . ¹

The Draft Protocol itself contained the following provision:

Article 3

The Signatory States, recognising the grave evils that may result from the employment of forced labour, except for essential public services, engage that, where it is necessary for special reasons to admit the employment of forced labour, they will take all necessary precautions, particularly where the labourers belong to the less advanced races, to prevent conditions analogous to those of slavery from resulting from such employment ².

§ 5. A Sub-Committee of the Sixth Committee examined the proposal of Viscount Cecil. In its report, the Resolution and Protocol became a Preamble and a Draft Convention respectively. The first passage cited above disappeared from the Preamble, and Article 3 became Article 6 of the proposed Draft Convention in the following terms:

Article 6

The High Contracting Parties recognise that recourse to compulsory or forced labour may have grave consequences and agree, each in respect of the territories placed under its sovereignty, jurisdiction, protectorate or tutelage, to take all necessary measures to prevent conditions analogous to those of slavery from resulting from compulsory or forced labour.

It is agreed that:

(1) In principle, compulsory or forced labour may only be exacted for public purposes.

(2) If it is indispensable to have recourse thereto for other purposes, such labour shall invariably be of an exceptional and temporary...
character and shall not involve the removal of the labourers from their usual place of residence.

(3) In territories in which compulsory or forced labour for the benefit of private individuals still survives, the High Contracting Parties shall endeavour gradually to put an end to the practice.

(4) In any case, the responsibility for any recourse to compulsory or forced labour shall rest with the central authorities of the territory, colony, protectorate or mandated area in question.

Paragraphs (2) and (3) of this text were amended in full Committee by the addition of the provision that compulsory or forced labour employed for other than public purposes "shall always receive adequate remuneration", and were combined in a new paragraph (2), which read as follows:

(2) In territories in which compulsory or forced labour for other than public purposes still survives, the High Contracting Parties shall endeavour progressively and as soon as possible to put an end to the practice. So long as such forced or compulsory labour exists, this labour shall invariably be of an exceptional character, shall always receive adequate remuneration, and shall not involve the removal of the labourers from their usual place of residence.

In reporting to the Assembly, the Sixth Committee made the following observations concerning the new text:

In drafting this Article, the Committee confronted perhaps the most difficult of the problems before it. It is recognised that its provisions do not go so far as those contained in the "B" and "C" Mandates; but the Committee felt that it was wiser to set up a minimum standard which was clearly understood and accepted than to adopt principles which could not perhaps in all cases be literally complied with. The above drafting was therefore finally agreed upon. It represents a definite attempt to deal with the question of forced labour in a general international agreement. This alone marks progress of considerable importance.

The first consideration of the Committee was to make certain that forced labour under no circumstances would be allowed to degenerate into a condition analogous to slavery. As regards forced labour for public purposes, it seemed preferable not to use the terms of the Mandates, "essential public works and services", as there has been some hesitation in certain quarters in interpreting the word "services" so as to include the payment of a tax. It was, therefore, thought preferable to use the words "public purposes". The expression may also include services required of inhabitants of villages, services which in accordance with ancient customs and institutions still existing in different territories are sometimes rendered to the village chiefs but exclusively in their capacity as such.

1 Idem, pp. 44-45.
2 Idem, p. 55. Minor drafting amendments were made to other paragraphs of the Article.
In principle, the Committee was most decidedly opposed to the use of forced labour for other than public purposes, but at the same time it recognised that, owing to special conditions in certain colonies, it might be impossible to abolish it forthwith. The Draft Convention, however, subordinates such recourse to certain conditions that are considered essential in order to guard against the abuses to which this form of labour may give rise. In the first place, it can only be authorised in exceptional cases when there is imperious necessity; secondly, it shall always be adequately remunerated; finally, in no case must it involve the removal of the labourers from their usual place of residence. If these conditions are strictly observed, the evils of forced labour for private enterprises will be enormously diminished. Some doubts were felt lest private firms and persons, on seeing this very exceptional sanction, should press the authorities for forced labour when circumstances did not justify any such application. The Committee, however, felt confident that these applications would be firmly resisted by the authorities concerned.

In territories where the use of forced labour for other than public purposes is allowed, the Governments of these territories should endeavour progressively to bring such labour to an end as soon as possible.

Forced or compulsory labour for public or any other purposes can never be employed except under the complete responsibility of the central Government of the territory.

The Sixth Committee put forward for the consideration of the Assembly a Resolution requesting the Council of the League to communicate the Draft Convention which it had elaborated to all States Members of the League and to such other States as the Council might specify, requesting them to forward to the Secretary-General any observations they might desire to make regarding its provisions.

§ 6. The Assembly adopted the Resolution without discussion and in pursuance thereof the Secretary-General of the League of Nations, on behalf of the Council, communicated the Draft Convention to the Governments of the States Members of the League and to Afghanistan, Ecuador, Egypt, Germany, Mexico, Russia, Sudan, Turkey, and the United States of America. In the observations forwarded to the Secretary-General and communicated by him to all Members of the League, the following suggestions tending to emendation of the text were made.

Belgium

Article 6 calls for numerous remarks:

(a) The Preamble of the draft does not appear to bring out the true character of forced or compulsory labour. It is an infringement of

1 *Idem*, p. 52.
3 League of Nations documents A.10.1926.VI and A.10(a).1926.VI.
individual liberty which may be justified, at least to a certain extent, by the purpose for which the labour is exacted.

If this system is not forbidden, the Powers must take steps not only to prevent forced labour from giving rise to "conditions analogous to those of slavery" — for slavery, strictly speaking, is a legal status which is the reverse of that of a free man, but does not necessarily imply a situation of hardship — but also to ensure that forced labour is not injurious to the well-being and dignity of the worker.

(b) It would appear that the principles which follow upon the Preamble should also be modified.

It is conceivable, as the Temporary Slavery Commission recognised, that labour could be made compulsory not only for public works but for purposes of education and social welfare.

In the latter case, however, it need not necessarily be remunerated, but may take the form of small-scale farming or handicraft, giving the worker directly the proceeds of his work.

(c) As regards the exception made in paragraph (2) of Article 6, the Belgian Government would be glad if it could be abolished or greatly reduced in scope.

(d) Lastly, paragraph (3) of this Article states a perfectly obvious principle of administrative responsibility. For it to have any value, it should be given the form of direct or personal responsibility.

Germany

1. It is absolutely new for forced labour to be dealt with in connection with slavery; that it has now been included is the most important innovation in the Draft Convention. The physical circumstances of the forced labourer, with the usually unhygienic transport to the centre of labour, the immoral separation of the men from their families, the unhygienic mass quarters, the inadequate victualling, the sleeping of children and adults together in the same apartment — all this exactly resembles the conditions of slavery. Consequently, in place of Article 6, paragraph (2), the following is proposed:

Forced labour may be exacted only for public purposes and even then only as an exception and when voluntary labour is not obtainable. In any case, it must be under the written orders of the competent administrative official. No native may be employed in forced labour for more than ninety days in any given twelvemonth. Forced labour shall not be exacted from women or from children below the age of puberty beyond 15 kilometres of their homes. Forced labour for private persons, whether natives or otherwise, is prohibited. Labour to be performed for public purposes in virtue of native or tribal custom is exempt from the provisions of this Article.

In the case of persons legally condemned for crime, as well as of soldiers drafted to a penal or labour company for analogous reasons, compulsory labour shall not be considered forced labour within the meaning of this Article.

2. Just as slavery is in the habit of disguising itself under a number of other forms, so is prohibited forced labour frequently practised by

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1 This is the English text as furnished by the German Government, but the original German adds here "nur gegen angemessene Bezahlung" ("only in return for adequate remuneration").
clandestine methods. Hence it appears advisable to bar these circuitous
channels by special methods and penalties. The following additions
are therefore suggested:

With the object of safeguarding the natives against improper
forced labour, the Contracting Parties will order:

(a) That all labour contracts concluded for more than one
month shall be reduced to writing and shall be subject to
public control;

(b) That any person who shall attempt to employ forced native
labour in excess of the aforesaid limits or shall, by bribery
or other illegal means, endeavour to induce native chiefs
to supply labour which is not voluntary on the part of the
worker shall be adequately punished.

Great Britain

His Majesty's Government further observe that one of the important
features in the Draft Convention, and one which represents, perhaps, a
definite advance on previous Conventions, is the fact that, in connection
with questions of slavery, it also raises the question of forced labour.
This being so, it would appear desirable for every reason that the Preamble
to the Convention should contain some reference to the latter subject.
His Majesty's Government would accordingly suggest that the following
paragraph, which was originally included in the Preamble to the Draft
Convention submitted by Lord Cecil to the Sixth Committee of the
Sixth Assembly, should be inserted after paragraph (3) of the draft at
present under consideration:

Being further of opinion that it is desirable to regulate the employ­
ment of forced labour so as to prevent conditions analogous to
those of slavery arising therefrom.

South Africa

The Draft Convention, however, . . . wishes to bind the signatories
to interfere with certain industrial and economic conditions, for in
Article 6 they are to take all necessary measures to prevent not only
"slavery" but conditions analogous to those of slavery resulting from
forced or compulsory labour. Now, forced or compulsory labour is
either slavery or it is not. Either the person compelling another to
such labour does so because he has for the time being a right of property
in him, or the person doing the labour unwillingly does so because he
fears that a worse thing may befall him. In the first case it is slavery,
because the compeller has a proprietary right in respect of the compelled.
In the latter case there is some element of choice or consent on the
part of the compelled. Further, "compulsory or forced labour" implies
only a temporary condition, and permanency of the condition appears
to be one of the essentials of slavery. The remainder of Article 6 admits
that such labour may be exacted for public purposes or for other than
public purposes where the labour is of an exceptional character, the
responsibility in both cases for recourse to such labour resting with the
authorities of the particular community. This can only imply a very
temporary condition for the person compelled to labour. The danger
seems also here to be that the effect of the definition in Article 1 may
be nullified, because the slave-owner proper, in regard to his real or
proprietary slave, will be able to shield himself from Article 6.
In submitting these observations, it should be pointed out that the provisions of the Draft Convention would not affect any existing conditions or customs in obtaining in South Africa, but, for reasons indicated above, the provisions of Article 2(b) and Article 6 should be deleted or considerably modified or clarified.

Switzerland

The Government of the Confederation, which has no observations to make on this subject, asked the "Ligue suisse pour la défense des indigènes" (3, rue Liotard, Geneva) to state its views on the Draft Convention which was recommended by the Sixth Assembly of the League to the various States for approval. This organisation forwarded the following opinion to us:

With reference to Article 6, which deals with forced labour, we consider that forced labour for private individuals is unjustifiable and should not be exacted. . . . As, however, universal acceptance of this principle is not yet possible, we would agree to paragraph (2) of this Article with the addition of the words "with as little delay as possible".

§ 7. The Draft Convention thus provisionally adopted by the Sixth Assembly came then before the Seventh Assembly in 1926, which referred the matter to its Sixth Committee, a Sub-Committee of which, with the assistance of Mr. Gohr, Chairman of the Temporary Slavery Commission, considered it anew in the light of the observations which had been made by the Governments.

The former Article 6 (Forced or Compulsory Labour) became Article 5 in the Convention finally adopted and was amended so as to read as follows:

Article 5

The High Contracting Parties recognise that recourse to compulsory or forced labour may have grave consequences and undertake, each in respect of the territories placed under its sovereignty, jurisdiction, protection, suzerainty or tutelage, to take all necessary measures to prevent compulsory or forced labour from developing into conditions analogous to slavery.

It is agreed that:

(1) Subject to the transitional provisions laid down in paragraph (2) below, compulsory or forced labour may only be exacted for public purposes.

(2) In territories in which compulsory or forced labour for other than public purposes still survives, the High Contracting Parties shall endeavour progressively and as soon as possible to put an end to the practice. So long as such forced or compulsory labour exists, this labour shall invariably be of an exceptional character, shall always receive adequate remuneration, and shall not involve the removal of the labourers from their usual place of residence.
In all cases the responsibility for any recourse to compulsory or forced labour shall rest with the competent central authorities of the territory concerned\(^1\).

In reporting to the Assembly, Viscount Cecil of Chelwood, the Reporter of the Sixth Committee, referred to this Article in the following terms:

Article 5 (Forced or Compulsory Labour)

In drafting this Article, the Committee confronted perhaps the most difficult of the problems before it. After much consideration, the present drafting was finally agreed. It represents a definite attempt to deal with the question of forced labour in a general international agreement. This alone marks progress of considerable importance.

The Committee was very anxious to put into the Convention all the provisions necessary to prevent forced labour giving rise to conditions analogous to slavery. With this object in view, it has agreed that forced labour should only be resorted to for public purposes, apart from purely transitory arrangements designed to make the progressive abolition of forced labour for private purposes both just and practicable. In this connection it will be observed that stringent conditions are imposed on forced labour for private purposes even during the transitory period. Among these conditions is the requirement that adequate remuneration should be paid to those subjected to forced labour. In the case of forced labour for public purposes, this condition is not repeated. This omission has been made because there are cases where forced labour for public purposes is not remunerated in the ordinary sense of that word. For instance, in certain countries labour for public purposes is accepted instead of taxes. There are also other exceptional cases in which it could scarcely be said that compulsory labour for public purposes is, strictly speaking, remunerated. But though the requirement that adequate remuneration should be paid for forced labour for public purposes is not included in the Convention, the Committee is strongly of opinion that such remuneration should as a general rule be paid. It is also of opinion that forced labour, even for public purposes, should not as a general rule be resorted to unless voluntary labour is unobtainable. It therefore suggests that the Assembly should pass a Resolution to this effect, which I shall subsequently propose and which is based on a proposal by the German delegation.

The Belgian delegation had submitted an amendment to the effect that forced labour might also be exacted in the interests of education and social welfare, provided that it was only imposed upon the natives in those two cases on their own lands and for their own direct profit. In the mind of the authors of the amendment, this proviso had no other purpose than to give to the colonial Governments the means of protecting the natives against their want of foresight and to assist them in rising to a more advanced state of civilisation. The Committee, while recognising the disinterested and humanitarian motives for this suggestion, was not able to accept it. It feared that in its application this proposal might lead to grave abuses of exactly the type which the Convention itself was designed to prevent or suppress.

\(^1\) League of Nations document A.104.1926.VI, p. 5.
It was also suggested that a clause be added to this Article providing for the infliction of due punishment on anyone who exacted or who sought to exact forced labour from natives illegally. The Committee entirely agreed with the intention of the authors of this proposal, but considered that such an addition to Article 5 was unnecessary, as in its opinion such punishment would be provided for as the result of stipulations in Article 6. Last year the representative of Norway called attention to the useful work which could be done by the International Labour Office in bringing about better conditions for native labour, and the question was again considered this year. I shall shortly propose a Resolution which resulted from this discussion.

The omission in the text of the Convention of any reference to the question of the remuneration of forced labour exacted for public purposes is explained in Viscount Cecil's observations above. The Resolution on this matter to which he refers was adopted by the Assembly without amendment. It was as follows:

The Assembly:
While recognising that forced labour for public purposes is sometimes necessary:
Is of opinion that, as a general rule, it should not be resorted to unless it is impossible to obtain voluntary labour and should receive adequate remuneration.

It remains to be added that the Convention was open to immediate signature, and it is noteworthy that the delegates of no fewer than twenty States signed on the day the Seventh Assembly closed (25 September 1926).

A list submitted by the Secretary-General to the Members of the Council of the League on 30 August 1928 showed that at that date twenty-four States had ratified or definitively acceded to the Slavery Convention, and that a further twenty States had signed or acceded to the Convention but had not yet ratified it. These States are the following:

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<th>Ratifications or definitive accessions</th>
<th>Signatures or accessions not yet perfected by ratification</th>
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<td>Austria</td>
<td>Abyssinia</td>
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<td>British Empire</td>
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<td>Australia</td>
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<td>Cuba</td>
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<td>India</td>
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<td>Belgium</td>
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<td>Bulgaria</td>
<td>France</td>
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1 *Idem*, p. 2.
2 *Idem*, p. 4.
Ratifications or
definitive accessions

Denmark
Ecuador
Egypt
Finland
Haiti
Italy
Latvia
Monaco
Netherlands (including the Dutch
East Indies, Surinam and Curaçao)
Nicaragua
Norway
Portugal
Spain (including all Spanish colonies
except the Spanish Protectorate
of Morocco)
Sudan
Sweden.

Signatures or accessions
not yet perfected by ratification

Germany
Greece
Hungary
Liberia
Lithuania
Panama
Persia
Poland
Rumania
Kingdom of the Serbs, Croats
and Slovenes
Uruguay.

IV. — Summary of Internationally Accepted Principles
regarding Forced Labour

§ 8. From the international texts and documents examined
in the preceding sections it appears that certain general principles
have now been internationally accepted in regard to compulsory
or forced labour. These principles refer to the purposes for which
it is permissible to exact forced labour and the circumstances
under which recourse may be had to it, the authority which should
be responsible for that recourse, and the question of remuneration.

(a) The purposes for which forced labour may be exacted. —
The texts of the Mandates are peremptory on the point that no
forced labour is permissible except for essential public works and
services. That of the Slavery Convention differs in several points.
In the first place, as a “transitional provision”, forced labour for
other than public purposes (i.e. for private employers) is permitted
provided that progressive effort be made to put an end to it as
soon as possible, and under certain conditions.

The effect appears to be that in areas under Mandates forced
labour for private employers is entirely prohibited, whilst States
which adhere to the Slavery Convention may permit its temporary
continuance under certain conditions where it still exists, but may
not permit its development where it does not still survive, and may
not resuscitate its practice.

In the second place, instead of the term “essential public works
and services” found in the texts of the Mandates, the Convention
uses the wider term "public purposes". As to the meaning to be attached to the former term, no evidence of the intention of the authors of the Mandates is available. The use of the latter is in part explained in the report of the Sixth Commission to the Sixth Assembly, where it appears to be stated that the word "services" was not employed because of possible confusion with taxation. No explanation is given for the omission of the word "essential", but it is indicated that the expression "public purposes" "may also include services required of inhabitants of villages, services which in accordance with ancient customs and institutions still existing in different territories are sometimes rendered to the village chiefs, but exclusively in their capacity as such". As it is unlikely that all the services here mentioned could be regarded as "essential", it would seem that the restrictions in this connection imposed under the Mandates are more severe than those laid down in the Convention.

(b) The circumstances under which forced labour may be exacted. — On this question the only indication given by the texts of the Mandates appears to be in the use of the word "essential", and, as has been said above, no evidence is available as to what precisely was meant by the term. The Slavery Convention itself contains nothing on the point, but the Resolution of the Assembly which accompanied it comprises the important expression of opinion that "as a general rule it (i.e. forced labour for public purposes) should not be resorted to unless it is impossible to obtain voluntary labour".

(c) The authority responsible for recourse to forced labour. — This important question is resolved simply in the case of the areas under Mandate: it is the Mandatory that "shall prohibit all forms of forced or compulsory labour", or "shall see that no forced labour is permitted". On the Mandatory then rests the responsibility. The Convention takes the direct responsibility from local officials or authorities and places it upon the "competent central authorities of the territories concerned".

(d) The question of remuneration. — On this point again the Mandates are peremptory; all forced labour is to be adequately

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1 See § 7 above.
2 "... as there has been some hesitation in certain quarters in interpreting the word 'services' so as to include the payment of a tax."
remunerated. In the Convention, however, it is only forced labour for *other than public purposes* which “shall always receive adequate remuneration”; as regards public purposes the Convention itself is silent. The report of the Sixth Committee, however, explains the omission, and the Resolution on the matter indicates the opinion of the Committee and of the Assembly, that “as a general rule” it “should receive adequate remuneration”\(^1\).

These principles, in part clear, in part somewhat nebulous, represent the result so far of international negotiations and discussions on the question of forced labour.

As will be seen in the following pages, national legislation and practice has in many, if not all, cases gone much farther, not only in the adoption of principles governing recourse to forced labour, but also, and more particularly, in regard to the regulation of the conditions under which the forced labourer should work and the safeguards which should surround him at his task.

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\(^1\) See § 7 above.
CHAPTER II

CLASSIFICATION OF THE PURPOSES FOR WHICH RECURSE IS HAD TO FORCED LABOUR

§ 9. In the chapters which follow a detailed examination is made of the information available as to legislation and practice in regard to the use of compulsion for labour. It will be well, however, to indicate beforehand the method of classification which has been adopted.

That method is suggested by the discussions and decisions which have been indicated in the preceding chapter. Both the text of the Mandates and the Slavery Convention make a clear line of distinction between forced labour for public purposes and forced labour for private employers, and these categories are adopted here. The former of them, however, is in practice often treated differently according as the "public purpose" in view is general and in the interest of the territory or country viewed as a whole, or as it is local and for the benefit of a local community such as a village or group of villages, or a tribe.

The classification of the purposes for which compulsion is employed, by non-native or native authorities, is thus threefold. Chapter III will deal with forced labour for general public purposes, Chapter IV with forced labour for local public purposes, and Chapter V with forced labour for private employers.

It may be observed that the distinction between general public (Chapter III) and local public (Chapter IV) purposes is not always clear: there is, in fact, much diversity of practice in regard to what may be exacted by the local and central authorities respectively. There are, however, important differences between the two classes of labour. In particular, local forced labour does not ordinarily involve the prolonged absence from home of the worker, and the social evils which result from such absence. This appears to justify the separate treatment of the two categories.

With regard to the third heading, forced labour for private employers (Chapter V), it may be said at once that very little direct legal compulsion is now to be found in areas controlled by civilised States. There is, however, a considerable amount of legal or illegal indirect compulsion to seek engagement by private employers.
CHAPTER III

THE LAW AND PRACTICE WITH REGARD TO FORCED LABOUR
FOR GENERAL PUBLIC PURPOSES

§ 10. An endeavour will be made in the present chapter to
give an account, as far as the material at the disposal of the International Labour Office will permit, of the law and practice concerning the requisitioning and employment of forced labour for general public purposes in the territories of the various colonial empires and in certain other countries where analogous conditions obtain.

The territories have been grouped according to the Powers which are responsible for their administration. Independent States in which subject populations are found, upon whom calls for forced labour for general public purposes can still be made, are treated in a special group. In the case of the British and French territories, it has been found convenient to adopt a further division on geographical lines roughly following the five continents. Within these divisions the countries have been arranged in alphabetic order as determined by the English names.

The information in the possession of the Office with regard to each territory has been divided into five sections according to the general public purposes for which forced labour is used. These five sections are as follows: (1) Public works; (2) Porterage; (3) Emergencies; (4) Compulsory cultivation; (5) Other purposes than those mentioned under (1) to (4).

In a number of cases of labour included under (1), such as that of labour on certain types of roads, it has not been possible to state definitely where the dividing line lies between labour for general public purposes and that for local public purposes. These cases have therefore been referred to both in the present chapter and in that concerning forced labour for local public purposes.

Compulsory cultivation, while not always necessarily performed for general public purposes since its effect is generally to benefit the individual native and protect him from starvation, is never-
theless usually imposed by the central authority and it has been considered expedient to include it in this section.

Finally, it should perhaps be pointed out that, although the forced labour system (heerendiensten) in the Dutch East Indies is a system resembling that of the labour dues (prestations) in the French colonies, the former has been treated in this chapter and the latter in Chapter IV, since the labour used under the Dutch system is employed on work for general as well as local public purposes, while the French system of prestations is in principle restricted to the use of forced labour for local purposes only.

BELGIUM

BELGIAN CONGO

§ 11. Public works. — The legislation of the Congo Independent State authorised the carrying out of public works by the second section of the annual levy of the militia. The Decree of 3 June 1906 concerning this levy provided that these workers could be called upon to perform a maximum period of five years' service to be furnished in one or more instalments. The disciplinary regulations concerning Government workers were applied to these workers, who came within the jurisdiction of the Civil Courts. The legislation of the Congo Independent State continued in application in the Belgian Congo after the annexation. The above-mentioned Decree therefore remained in force. It was, however, amended by a Decree of 16 February 1910, which reduced the maximum period of service to three years.

The Belgian Government has rarely made use of its prerogative under these Decrees. It availed itself of their provisions in the case of workers already recruited before the annexation for construction work on the Upper Congo Railway. The Decree of 16 February 1910 was passed in order to reduce the period of service of these workers, and its provisions were applied in no other instance. The repeal of the Decree was implied by the terms of the Decree of 10 May 1919, which provided for the reorganisation of the militia (force publique) and made no reference to the existence of a body of soldiers allocated for labour on public works. In January 1920 the Belgian Government refused to submit for the royal approval an Ordinance-Law of the Governor-General providing for the levy of 1,000 workers for railway construction in the Lower Congo (Bas-Congo). On this occasion the Colonial Council,
in agreement with the Minister for the Colonies, declared itself definitely opposed to the recruitment of forced labour for important public works save in very exceptional cases.

A further case of the same kind occurred more recently. On 8 August 1927, the Colonial Council requested the Government to approve a Decree authorising a levy of 9,000 natives for the construction of the Leopoldville-Matadi Railway. It was proposed that these natives should be compelled to work for a period of two years, which would be deducted from the seven years' period of military service. They were to receive the same pay as voluntary workers. On 11 August 1926, the Council of Ministers decided not to submit the Decree in question for the King's approval, to postpone any public works not yet begun, and also to suspend the completion of those already undertaken unless they were strictly indispensable.

It would therefore seem that the Government has in practice abandoned the compulsory recruitment of labourers for public works. If workers are engaged, they are subject to the provisions of the Decree of 16 March 1922 inasmuch as they are engaged in the same way as workers employed by private persons, i.e. under contracts freely entered into at a specified rate of pay and governed by the Decree. 1

In this connection, it should be mentioned that the legislation of the Belgian Congo contains a number of texts laying down strict regulations concerning the health conditions of workers employed on public or private undertakings. The most important of these is the Decree of 15 June 1921 concerning the health and safety of workers, for the application of which the Vice-Governors-General of the different provinces have issued various Ordinances. 2 It is not quite clear how far the regulations regarding health and safety prescribed by this Decree and the executive Ordinances cover workers employed in public undertakings and consequently those who might, in the future, in the event of a change in the Government's labour policy, be engaged on forced labour for public works. In the course of a discussion at a meeting of the

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1 Th. Heyse: Le régime du travail au Congo belge, p. 12.
2 Congo Kasai, Ordinance of 12 August 1923, as amended by the Ordinances of 12 December 1923, 5 June 1926, 13 August 1926, 12 July 1927, and 14 October 1927. — Equatorial Province (Equateur), Ordinance of 17 November 1925, as amended by the Ordinance of 25 August 1927. — Katanga Province, Ordinance of 18 February 1922, as amended by the Ordinances of 1 September 1922, 22 September 1923, and 4 October 1927. — Eastern Province (Province Orientale), Ordinance of 27 February 1924, as amended by the Ordinances of 28 February 1925, 6 March 1925, 12 October 1925, and 29 October 1927.
Colonial Council\textsuperscript{1}, the Council unanimously agreed that it would be regrettable if the conditions of health and safety of workers in public undertakings were less good than those of workers in private undertakings and that it was the duty of the public authorities to set an example to private persons in this respect.

\S 12. Porterage. — Under the terms of the Decree of 26 December 1922 concerning civil requisitions, the local administrative officer (administrateur territorial) and any other competent administrative authority may requisition able-bodied adult male natives “of the Congo and adjacent colonies” (du Congo et des colonies limitrophes) for the purpose of acting as guides, porters or paddlers. The requisition may also be made by any other official or agent who may be authorised for this purpose in each particular case by the local administrative officer. In certain cases magistrates, doctors, or public health officers (section 6) have also the right to requisition the labour. Chiefs and assistant chiefs, native notables, natives under labour contract, natives passing through the neighbourhood where the requisition is being made, and native Government agents are exempt (section 2). The right to requisition may only be exercised in cases of real urgency (section 3). The period during which such labour may be called for from any individual native may not exceed fifteen days per month or twenty-five days per annum (section 4). The labour furnished must be remunerated at the ordinary local rate (section 5). The work to be done is allocated amongst the members of his community by the chief (section 7). Natives may, however, be requisitioned directly. Every native requisitioned may provide a substitute at his own expense (section 7).

A Decree of 19 March 1925 regulates porterage in such a way as to avoid certain abuses which had occurred and which it was necessary to prevent in connection with the employment of labour. This Decree enables provincial Governors to prohibit the employment of porters between districts or regions which are connected by means of a public goods-transport service or where it is possible to organise other means of transport. Offences against the Decree are punishable with a fine of 200 to 10,000 francs.

Ordinances were subsequently promulgated by the provincial Governors with a view to the application of the Decree of

\textsuperscript{1} Compte rendu analytique des séances du Conseil colonial, 1921, Sitting of 16 April, p. 353.
19 March 1925. Their object is generally twofold: the prohibition of the use of porterage between districts or regions which are connected by means of a public goods-transport service, as well as for the transport of certain kinds of goods (industrial and construction material, carburettors, lubricants, native foodstuffs, products for export, etc.)\(^1\).

§ 13. **Emergencies.** — Forced labour may be levied in special circumstances (infectious diseases, famine, etc.) under the terms of the Decree of 2 May 1910 concerning native chiefdoms and sub-chiefdoms (*chefferies et sous-chefferies*).

Section 23 of this Decree provides that it shall be the duty of the native authorities “... (b) to maintain, in such places as may be designated by the Administration, provisional hospitals for the use of sick persons suffering from sleeping sicknesses or other contagious diseases; ... (f) to carry out the work prescribed by the regulations concerning measures to be taken to combat sleeping sickness, together with any other work which may be deemed necessary for reasons of health by a Government medical officer or by the health authorities”\(^2\).

The authority competent to levy labour for these purposes is the local administrative officer (*administrateur territorial*). The native chiefs and sub-chiefs divide the work amongst the villages of their districts and among the inhabitants of the various villages in such a manner as to impose an equal burden on all.

This labour can only be levied from able-bodied male adult natives. Except in cases where considerations of safety and health necessitate the performance of urgent work, natives liable to be called upon for labour may furnish a substitute, for whom they are responsible (section 25). No person may be requisitioned for a period of more than sixty days per year. Nevertheless, if it is necessary to take measures in connection with the prevention of sleeping sickness or should cases of similar urgency arise, the period may be prolonged until the work is completed (section 26).

No provision is made for remuneration for these various categories of labour. Section 28 (a), which was added by the Decree of 18 July 1918, provides that natives who fail to carry out the labour

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\(^2\) Paragraph added by the Ordinance-Law of 8 March 1916.
required of them shall be liable to hard labour (servitude pénale) for a period not exceeding seven days and to a fine not exceeding 200 francs or to one only of these penalties.

§ 14. Compulsory cultivation. — Under section 23 (g) of the Decree of 2 May 1910 concerning native chiefdoms and sub-chiefdoms (chefferies et sous-chefferies) to which reference has already been made, the native authorities are required to carry on year by year in the chiefdom, for the exclusive benefit of the inhabitants, the cultivation of economic crops, foodstuffs, or of plantations producing material for export.† The authority competent to levy labour in this instance is the local administrative officer (administrateur territorial), who determines the scope and urgency of the work to be undertaken (section 25).

An Ordinance of 30 August 1924 prescribed the administrative procedure to be followed in connection with the performance of labour for the purposes mentioned in section 23 (g) of the Decree of 2 May 1910 (cultivation of economic crops, foodstuffs, or of plantations producing material for export). The undertaking of this work and the determination of the scale on which it is to be carried out is preceded by an enquiry made by the local administrative officer or his representative, which takes into account the resources of the district, the number of able-bodied adult male natives, the means of communication, etc. The results of the enquiry and the proposals of the administrative officer concerning the work to be performed are communicated in a report to the district commissioner, who decides what work is to be carried out. The administrative officer allocates the labour among the native chiefdoms, sub-chiefdoms, or villages. Frequent inspections are made. The conditions under which this labour is performed and the penalties imposed for non-compliance with the requirement to labour are the same as those applied in the case of forced labour levied for emergencies.

§ 15. Other purposes. — The legislation of the Belgian Congo provides that in the event of failure to pay tax natives can be placed under arrest. Persons so detained may, in this case, be called upon to perform certain labour which is specified in the Ordinance issued by the Governor-General on 30 November 1918. In virtue of the provisions of section 2 of this Ordinance, such persons may be

† Paragraph added to the Decree by the Ordinance-Law of 20 February 1917.
employed on the following work: (1) clearing of brush and sanitary work; (2) construction and maintenance of roads, and cleaning of rivers; (3) maintenance of Government posts, erection of buildings on Government posts, and, generally speaking, on any labour required on Government stations under official supervision; (4) assistance with porterage; (5) work in Government undertakings.

RUANDA-URUNDI

§ 16. Public works.—The Mandatory Power does not appear to have found it necessary to use forced labour for public works. The country is as yet little developed and unskilled labour is recruited without difficulty. Certain local works for the benefit of native communities have been carried out by means of the labour raised under the system of compulsory labour dues (prestations), which will be examined in Chapter IV.

§ 17. Porterage.—No compulsion appears to be used in the recruitment of porters, and the annual reports of the Mandatory show that there is no difficulty in obtaining voluntary labour for this work. Conditions of native carriers are laid down in Ordinance No. 46, dated 19 November 1926, which prescribes certain protective measures, such as free medical examination of casual porters (i.e. porters engaged for one journey only), fixes the maximum load to be carried (26 kilograms), the length of the stages, and the minimum wage to be paid. Porters may in no circumstances be required to travel to a distance of more than 150 kilometres from their place of residence without the approval of the Resident or his deputy. The Resident may prohibit porterage on roads on which regular transport by means of vehicles and pack animals is used.

In Urundi, Regulation No. 50 of 5 December 1926 prescribed the rate of pay for carriers. In Ruanda, Regulation No. 54, dated 24 December 1926, prescribed the rate to be paid on and after 1 January 1927.

§ 18. Emergencies.—There appear to be no legislative provisions in the Mandated Territory under which forced labour can be levied in cases of emergency (infectious diseases, famine, etc.). The Belgian Congo Decree of 2 May 1910 concerning native chiefdoms and sub-chiefdoms (chefferies et sous-chefferies), which makes provision for the use of forced labour in cases of emergency, has not been applied to Ruanda-Urundi.
§ 19. **Compulsory cultivation.** — Some parts of the territory are liable to famine if, for any reason, the crops fail. In order to meet difficulties of this kind, the Government has undertaken re-afforestation and encourages the cultivation of food crops. Ordinance-Law No. 52 of 7 November 1924 empowers Residents to compel natives to carry out the cultivation of economic crops, of foodstuffs, and of plantations producing material for export. The nature, extent or scale of this work must be decided by the responsible Resident. Labour requisitioned for this purpose is not paid. Contraventions of the Ordinance are punishable with hard labour (*servitude pénale*) for a period not exceeding seven days and a fine of 200 francs, or with only one of these punishments.

In *Ruanda* certain regulations ensure the application of the Ordinance of 7 November 1924. Regulation No. 41 of 12 January 1925 requires every adult married male to plant ten indigenous trees or five foreign trees. Further, every district chief or important notable is required to maintain at least one hectare of trees of a kind chosen by himself and a plantation of half a hectare producing economic crops, such as coffee, ground nuts, sesame, allspice, etc. Regulation No. 48 of 31 December 1925 prescribes compulsory removal of grubs on native plantations and Regulation No. 49 of 31 December 1925 requires every adult married male to lay down 10 ares of manioc. The report of the Mandatory for the year 1926¹ states that in certain districts the task of Government officials is rendered easier by the fact that the natives have taken a liking to manioc as a food and are therefore becoming more interested in its cultivation. Regulation No. 52, dated 24 March 1926, requires the cultivation of foodstuffs within a limit of 6 kilometres on each side of important highways and of 3 kilometres on each side of secondary roads. The area to be cultivated by each married adult native settled within the zone is fixed at 3 to 5 ares. The product of this cultivation remains the property of the natives.

In *Urundi*, Regulation No. 44, dated 18 June 1926, issued under Ordinance No. 53 of 7 November 1924, requires every head of a family to plant and maintain an area of at least 5 ares of non-seasonal foodstuffs (manioc and sweet potato). The object of this Regulation is to create a reserve of foodstuffs in the event of famine.

The report for 1926¹ states that in many cases the Regulation is not complied with, cases of contravention being so numerous.

¹ Page 85.
that it is impossible to punish them all. It adds that the terms of the Regulation make it possible to punish a certain number of offenders in the districts where its provisions are most disregarded and thus make an example of them.

§ 20. Other purposes. — Ordinance-Law No. 14-63, of 3 May 1919, concerning vagrancy and mendicancy, provides that any coloured person found wandering or begging may be arrested and brought before the competent court (tribunal représentatif) and handed over to the administrative authorities for transfer to a labour institution or, if there be no such institution, to an ordinary prison.

BRITISH EMPIRE

A. — Territories in Africa

§ 21. For the consideration of the question of forced labour for general public purposes, British territories in Africa have been grouped under the following headings:

British East Africa (with which have been included the Seychelles);
British West Africa;
South Africa, South West Africa, and Southern Rhodesia.

BRITISH EAST AFRICA

§ 22. The laws concerning forced labour for general public purposes in the British East African Dependencies of Kenya, Nyasaland, Tanganyika Territory, Uganda, and Zanzibar are, in many respects, similar. In Northern Rhodesia, on the other hand, subject to certain minor exceptions given below, no legal provisions, similar to those of the other territories, authorise the use of forced labour and the Governor has stated that he has no present intention of taking any powers in this direction. In these territories the obligations in regard to forced labour are, for the most part, contained in native authority ordinances,

the chief purpose of which is to lay down the duties of natives and the duties and powers of their chiefs and headmen.

The principal forms of forced labour permitted are for the purposes of public works, porterage and emergencies, and are definitely specified in the legislation of Kenya, Nyasaland, Uganda, and Zanzibar. Although the relative Tanganyika enactment is less explicit, referring only to the employment of the labour for "essential public works and services", the purposes covered are, in practice, the same.

In cases in which the incidence of the forced labour which is to be levied is not likely to be extensive or in which the need has arisen suddenly (e.g. porterage, minor emergencies), the local Government officers or the native authorities are the competent authorities to call for the levy. In cases in which forced labour on a large scale is required for work which can be foreseen (e.g. public works, famine) the levy must be authorised by the central colonial Government or the home Government.

Generally, as will be seen from the summaries given hereafter in respect of the territories concerned, the period of forced labour on public works together with that for porterage purposes is limited to sixty days in the year, while exemption is granted to natives employed in any other occupation or who have been employed for a period of three months (in Nyasaland and Zanzibar, two months) during the preceding twelve. On the other hand, more latitude is given to the authorities exacting forced labour in cases of emergency, though in Zanzibar the same restrictions appear to apply.

Payment is compulsory in all these territories. In Zanzibar it is laid down that the rate of payment shall be such as the British Resident may decide to be fair and reasonable. In the other territories no such provision is contained in the legislation, but it would appear that in their case also it is, in practice, the central authority within the colony which is responsible for fixing the rates.

In Nyasaland and Uganda, the ordinances governing native administration definitely state that during their period of employment, forced labourers are to be regarded as working under a contract of service and covered therefore by the provisions of the master and servants legislation. In Kenya, Tanganyika and Zanzibar, this legislation appears similarly to apply to forced labourers.

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1 Except possibly if the labour results from the issuing of Orders for preventing the spread of infectious diseases (Kenya, Tanganyika, Uganda).
Since the master and servants legislation in the various British East African Dependencies is, to a great extent, similar, it has not been considered necessary, in the examination of conditions of forced labour, to analyse its provisions in every territory. A summary of the Tanganyika enactment only is given as its provisions are the most detailed in force in these Dependencies.

With regard to forced labour for other purposes than public works, porterage and emergencies, the practice in the East African Dependencies is not uniform. Thus, in Tanganyika and Uganda, labour is permitted in lieu of payment of tax. In Kenya, a provision to that effect has been repealed. In Nyasaland and Zanzibar, no such commutation has been permitted. In Kenya and Uganda, forced labour is permitted in lieu of payment of fines imposed on a collectivity, whereas in Nyasaland, where provision is similarly made for collective punishment, payment in labour is not allowed.

KENYA

§ 23. Public works. — Orders may be given for the providing of forced labour for work on the construction and maintenance of roads, bridges, water-works, railways, Government buildings, harbour works, wharves, piers, telegraph and telephone systems, and such other work of a public nature provided for out of public moneys as the Governor may, with the prior approval of the Secretary of State, declare to be a work of public nature. Such orders may be given by headmen on instruction from the provincial commissioner or the district commissioner. Nevertheless, the powers thus conferred may not be utilised without the authority of the Secretary of State, which authority may only be sought for specified work for a specified period.

The persons liable to the performance of this work are the natives residing within the local limits of the headman's jurisdiction. On this labour no person may be required to work for a longer period than sixty days in any one year. No person may be called on if he is fully employed in any other occupation or if he has been

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1 The numbering of the sections of the Kenya Native Authority Ordinance in the Revised Edition of Laws, which the Office has not yet received, appears to differ from those used here, which are based on the original legislative texts.

2 Native Authority Ordinance, 1912, as amended by Ordinance No. 26 of 1922, section 7 (b). A Bill printed in the Official Gazette of 2 August 1928 specifically limits this labour to able-bodied adult males.
so employed during the preceding twelve months for a period of three months or if he is otherwise exempted under the provisions of any direction issued by the Governor 1.

Under this last provision the Governor of Kenya on 29 May 1923 reported 2 that he had decided to issue an Administrative Order exempting the following classes of natives from the obligation to labour on Government undertakings for public purposes: (1) headmen and members of councils; (2) natives actually working under contract; (3) teachers appointed by the Director of Education; (4) hospital dressers appointed by the Principal Medical Officer; (5) chiefs' clerks appointed by the district commissioner; (6) persons exempted under the Native Exemption Ordinance, 1920; (7) aged or infirm persons; (8) natives approved by the district commissioner as steadily engaged in a trade or business or agriculture on their own account; (9) camp caretakers, market masters or other natives, appointed by the district commissioner, engaged in public service; (10) native clergy, teachers, Mohammedan priests, church and mosque caretakers.

Women and children are also exempt, and the Government of Kenya has reported that no such labour has been called out at any time. It has occasionally happened that male natives, on being called up for labour on the maintenance of roads, under the Native Authority Ordinance, have sent out women and children in their place. It is, however, an express standing instruction that in such an event the women and children should at once be sent back by the person in charge of the work and the defaulting male prosecuted 3.

Kenya legislation provides that compulsory labour for public works shall be paid, but the manner and amount of remuneration is not indicated. The legislation contains no specific statement to the effect that forced labourers come within the scope of the Master and Servants Ordinance. Nevertheless, a "contract of service" is, by this latter Ordinance, held to mean any contract, whether in writing or oral, whether expressed or implied, to employ or serve as a servant, and the term "employer" includes the Government or any officer acting on behalf of the Government 4.

1 *Idem.*
3 *Parliamentary Debates, House of Commons,* 14 November 1927. See also footnote 2 on p. 143.
4 *Master and Servants Ordinance, 1910,* section 2.
The provisions concerning the treatment of servants are to the same general effect as those contained in the Tanganyika master and servants legislation, though it appears that in Kenya no provisions for compensation for cases of injury or sickness exist.

Refusal on the part of natives to obey lawful orders under the Native Authority Ordinance may involve fines of not more than 150s. or imprisonment for a period not exceeding two months. A headman may be fined any sum not exceeding 600s., or, in default of payment, may be sentenced to imprisonment for a term not exceeding six months if he wilfully neglects to enforce orders or neglects to cancel orders or enforces or attempts to enforce orders after being instructed to refrain from doing so.

It is for Kenya that the most detailed official account exists of the practice in the British East African Dependencies regarding the use of forced labour for general public purposes. This account relates to the labour which, with the sanction of the Secretary of State, was called upon in one recent instance for the performance of work of a public nature.

The history of this instance has been outlined in a Government White Paper presented to Parliament in July 1925, of which Paper the following is a summary.

On 5 September 1921, the Secretary of State for the Colonies addressed a despatch to the officer administering the Government of Kenya in which the following statement was made with regard to forced labour:

I hope and believe that in the present state of the labour market in Kenya, recourse to compulsory labour will not be necessary; but it is not certain that this state of affairs will be permanent, and work essential to the life of the community must be carried on. While, therefore, in order to leave no room for misconception, I wish it to be placed on public record that it is the declared policy of the Government of Kenya to avoid recourse to compulsory labour for Government purposes, except when this is absolutely necessary for essential services, I have decided that the legislation which empowers the Government to obtain compulsory labour shall remain on the Statute Book.

Continuing, the Secretary of State instructed the Government of Kenya to make certain changes in the Kenya Native Authority Ordinance, as it then existed, as a result of which the law was

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1 Master and Servants Ordinances, 1910-1925.
2 See p. 43.
3 In 1926, however, compensation for accidents was paid through labour inspectors in seventy-one cases for a total amount of £1,053.
4 Native Authority Ordinance, 1912, sections 9 and 12. A Bill printed in the Official Gazette of 2 August 1928 provides for the amendment of the law so as to permit the imposition of peremptory imprisonment (not exceeding two months) on natives who fail to obey lawful orders.
amended to its present form. Further, on 29 May 1923, the Governor of Kenya reported that he had decided to issue the Administrative Order mentioned above exempting certain classes of natives from the obligation to labour.

Towards the end of 1924, difficulties were encountered in completing certain railway constructions which were regarded as of essential importance. The Governor of Kenya, being of the opinion that the only means of securing the labour required was by the adoption of a measure making it compulsory for the natives to assist in this work, approached the Secretary of State for the Colonies requesting his approval for the calling out of labour for work on the railways in Kenya, if and when required, according to the terms of section 7 (o) of Ordinance 26 of 1922.

The Secretary of State replied that he was unable to grant general approval for compulsory labour as, under the Native Authority Ordinance, his approval could only be given for a specific work in every case. Nevertheless, in view of the facts which the Governor of Kenya had laid before him, he approved the compulsory recruitment of native labourers for work on railway construction in two specified districts up to a maximum of 4,000 labourers at any one time. At the same time he instructed the Governor to report on various matters, including the rates of pay proposed for the compelled labour.

In reply, the Governor of Kenya stated that the pay would probably be 12s. a month while the ordinary rate for voluntary labour was 14s. To this the Secretary of State answered that he saw strong objection in principle to the proposal. However, following further correspondence, in which it was stated that it was not intended that pay for compelled labour should be below the market rate for farm labour, but that it should not from the start be placed on the higher level of pay offered by the railways to attract and retain the best type of labour, he consented to approve the proposals on the understanding that the difference in pay between accustomed voluntary workers and inexperienced compelled workers did not exceed 2s. a month and that if the compelled workers on or after commencing were willing to volunteer for longer engagements as voluntary workers, they should be immediately raised to the same rate as the regular voluntary labourers.

The Secretary of State also instructed the Government of Kenya to submit regular monthly reports regarding the numbers, pay and medical conditions of both voluntary and compelled labour on all railway constructions then being undertaken.
In June 1925, after four months' work, the Secretary of State was informed that the voluntary labour supply had so improved that no steps would be taken to replace the compelled labour dismissed. He thereupon replied by telegram on 9 July 1925 notifying the Government of Kenya that he would not sanction further compulsory recruitment until the existence of an emergency was again established.

An important point stressed in the correspondence of the Secretary of State with the Kenya Government was that compulsory labour is economically unsound. He stated that "the standard of work under any system of compulsion will naturally be inferior to that of voluntary workers; and in addition the fact that compulsory labour is available tends to discount enterprise and progress by diverting attention from the possibilities of labour-saving machinery. Moreover, in the case of natives such as those of Kenya, in whom it is desired to encourage habits of industry, I fear that the results of any widespread association of labour with the sense of oppression caused by resort to the compulsory system may outweigh any educative influence which might otherwise be effected by inducing the natives to offer their labour upon terms sufficiently attractive to them".

The above-mentioned White Paper records the most recent case of forced labour executed for purposes for which the approval of the Secretary of State is required, it being stated in the House of Commons on 14 February 1927 that since the return to their homes of the natives called out for railway construction in the spring of 1925 no further recourse had been had to compulsory labour in Kenya for the construction or maintenance of railways or other works of a public nature.

The report of the Native Affairs Department for 1926 gives particulars with regard to the forced labour levied during that year, under the provisions of the Native Authority Amendment Ordinance of 1922. The report shows that 13,228 men were called up, generally for work described as being for the Administration, and that the total number of days worked was 56,781 (i.e. just over four days for each man recruited).

§ 24. **Porterage.** — Natives may be compelled to act as porters for Government servants on tour and for the transport of urgent

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Government stores. The provisions regarding the calling up of such labour, its limitations, remuneration and general treatment, the persons exempted and the penalties for non-compliance are the same as for forced labour for public works, except that the prior authority of the Secretary of State is not required for specified cases.

§ 25. **Emergencies.** — Labour may be exacted for urgent repairs in case of sudden or unforeseen damage to roads or railways or to Government buildings or works or for the purpose of preventing loss of life or damage to property from fire, flood or other unforeseen cause. As in the case of forced labour for public works, it is the headman who is responsible for giving the necessary orders and he may be compelled to act on the instructions of the provincial or district commissioner. The penalties for natives and headmen are the same as those summarised above. The labour is paid but no provision is made as to the manner or amount of remuneration.

The exemptions and limitations applicable to labour for public works and porterage are not specified as applying.

A further provision of the Native Authority Ordinance permits the issuing of orders for preventing the spread of infectious disease whether of human beings or of animals.

In addition to the above provisions for emergencies, there is in Kenya a special Ordinance for famine relief. This enactment provides that, whenever in any district there is an extreme shortage of food and, in the opinion of the provincial commissioner, a famine exists or is likely to ensue, instructions may be given, with the sanction of the Governor in Council, requiring able-bodied male natives to work on any public works, irrigation works, relief works or in any other employment approved by the Governor and also to cultivate such reasonable amount of land as the headman may prescribe. In the former case, the natives are paid such rations and wages as are fixed by the Governor and the wages may, at the request of the native, be paid wholly or partly in food. In the latter case it is definitely laid down that the crops accruing from any

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1 Native Authority Ordinance, 1912, as amended by Ordinance 26 of 1922, section 7 (n).
2 *Idem*, section 7 (m).
3 Native Authority Ordinance, 1912, section 7 (k).
4 Native Authority (Famine Relief) Ordinance, 1918, as amended by Ordinance 31 of 1918.
such cultivation shall be the property of the native. Disobedience to or non-compliance with orders on the part of natives is punishable by a fine of a sum not exceeding 30s. and on the part of headmen by a fine of a sum not exceeding 600s., or, in default of payment, by imprisonment for a period not exceeding six months.

§ 26. **Compulsory cultivation.** — See above under Emergencies.

§ 27. **Other purposes.** — The legislation under which labour was permitted *in lieu of payment of hut and poll tax* has been repealed.

Labour may be exacted *in lieu of other punishment for offences for which a community is held responsible*. The Governor may impose fines on all or any inhabitants of a district or members of a community if he is satisfied:

1. That they have colluded with or harboured or failed to take all reasonable measures to prevent the escape of any criminal;
2. That they have suppressed or combined to suppress evidence in any criminal case;
3. That they have failed to restore or take on the track of stolen property traced to within their limits;
4. That, when by unlawful attack a person has been dangerously or fatally wounded or when the body of a person believed to be unlawfully killed has been found within their limits, they have not used all reasonable means to bring the offender to justice, unless they can show that they have not had an opportunity of preventing the offence or arresting the offender.

Instead of imposing such fines, however, the Governor may order the persons involved to construct or repair a road or roads or other public work in the neighbourhood as the Governor may direct, and in such cases the native authority may require all able-bodied men to take part in the labour.

In Kenya, it may also be noted, natives convicted of technical offences may, instead of being fined or imprisoned, be detained in *detention camps*, for periods varying between seven days and

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1. Native Hut and Poll Tax (Amendment) Ordinance, 1921, section 2.
three months, to labour without pay\(^1\). The purpose of these provisions is to prevent the contact of offenders and criminals, to reduce overcrowding in prisons, and to ensure a useful labour supply to the Government\(^2\).

**NORTHERN RHODESIA**

§ 28. **Public works.** — Forced labour is not permitted.

§ 29. **Porterage.** — In Northern Rhodesia the legal position as regards compulsory porterage is not clear. Natives may, however, be required to act as messengers in the promulgation of public orders or Government regulations and in the notification of deaths and diseases, for which work payment is not prescribed by legislation\(^3\). This requirement is included among duties of natives, and it is later laid down that any native guilty of a contravention for which no special penalty is provided is liable to a fine not exceeding £5 or to imprisonment for a period not exceeding three months. The headmen and chiefs who may be required to issue the necessary orders are liable, in case of neglect of duty, to a maximum fine of £10 or to imprisonment for a period not exceeding six months, or to both fine and imprisonment\(^4\). It would not appear that natives carrying out these duties come within the scope of the Master and Servants Proclamation, which defines the term "servant" as including any person "employed for (weekly, monthly, quarterly, or annual) hire or wages or other remuneration to perform any handicraft or other bodily labour" in any work or undertaking and "any person performing bodily labour . . . in the capacity of labourer"\(^5\).

§ 30. **Emergencies.** — It is also laid down among the duties of natives that they shall actively co-operate in any measures taken in matters of public urgency and particularly the promulgation of public orders and notices, the prevention of grass or bush fires, and the repression of any disease, no mention being made of payment\(^6\).

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\(^1\) Detention Camps Ordinance, 1925, as amended by Ordinance 6 of 1926.
\(^2\) Circular 54 of 20 May 1924.
\(^3\) Administration of Natives Proclamation, 1916, section 16(6).
\(^4\) Idem, as amended by Proclamation 6 of 1919, sections 19 and 21.
\(^5\) Master and Servants Proclamation, 1908, as extended by Proclamation 18 of 1912, Chapter V, section 1.
\(^6\) Administration of Natives Proclamation, 1916, section 18.
§ 31. **Compulsory cultivation.** — No form of forced labour for purposes of cultivation would appear to be permitted, other than would result from the matters of public urgency mentioned above.

§ 32. **Other purposes.** — Fines may be imposed on native communities, but the system of exacting labour *in lieu of fines* does not appear to be in force, nor does labour appear to be permitted *in lieu of native tax*.

**NYASALAND**

§ 33. **Public works.** — Labour may be exacted in obtaining local materials for and in the construction and repair of public buildings, railways, roads, telegraphs and telephones, bridges, drifts, canals, reservoirs, aqueducts, wells, dips, sanitary works, tanks, drains and such other works of a public nature provided for out of public moneys as the Governor may, with the approval of the Secretary of State, declare to be a work of a public nature. Such labour can be required on the directions of the District Resident, not unless, however, the sanction of the Secretary of State has been obtained by the Governor and subject to the terms of such sanction. The labour may not be exacted for a longer period than sixty days in any one year or from a native who is fully employed in any occupation or has been so employed for a period of two months during the preceding twelve months, or who is exempted under the provisions of any directions of the Governor. It is stipulated in the legislation that the natives liable are those who are able-bodied.

Payment is prescribed, but the mode and amount is not indicated. The natives employed are deemed to be working under contracts of service under the law for the time being in force relating to the employment of natives. The Employment of Natives Ordinance, which regulates these matters, is to the same general effect as the Tanganyika Ordinance, though apparently no provision for compensation in case of injury exists.

Any native who without lawful excuse fails to execute any lawful order issued under the District Administration Ordinance

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1 District Administration (Native) Ordinance, 1924, section 19.
3 Employment of Natives Ordinances, 1909-1926.
4 See p. 43.
may be fined any sum not exceeding £1 and in default of payment be sentenced to imprisonment for a term not exceeding one month. Any headman who fails without lawful excuse to perform any duty imposed upon him by this Ordinance may be fined any sum not exceeding £5, and in default of payment may be sentenced to imprisonment for a term not exceeding three months.¹

§ 34. Porterage. — Natives may be compelled to act as porters for the transport of Government officers and their baggage when travelling on duty and for the transport of urgent Government stores, equipment and materials. This labour is subject to the limitations covering forced labour for public works, except that the sanction of the Secretary of State is not required for its enforcement. Similarly, the labour is paid, but no provisions are laid down as to the manner or amount of remuneration; natives employed are considered as working under a contract of service and the same penalties are provided for non-compliance.²

§ 35. Emergencies. — Natives are required to obey orders to work for payment in assisting Government officers in any administrative emergency, however arising. The only limitations in the case of such labour are that a native be able-bodied and that he be not exempted by an order of the Governor.³

According to a statement made by the Governor to the Legislative Council in 1928, in areas where the natives are without the means to purchase food and, though starving, will not undertake work, action is to be taken under the District Administration Ordinance to compel them to work.⁴

§ 36. Compulsory cultivation. — As far as the Office is aware, forced labour for purposes of cultivation is not permitted except when required in administrative emergencies.

§ 37. Other purposes. — In Nyasaland provision is not made for labour in lieu of hut and poll tax. Furthermore, though, as in Kenya, fines may be imposed on native communities for the offences for which the communities are held responsible, a system of exacting labour in lieu of payment does not appear to be in force.

¹ District Administration (Native) Ordinance, 1924, sections 21 and 22.
² Idem, sections 19 (1) and (2), 20, 21 and 22.
³ Idem, section 19 (3).
⁴ East African Standard, 16 June 1928.
SEYCHELLES

§ 38. Compulsory cultivation. — The only form of forced labour existing in the Seychelles concerning which the Office has information is a form of compulsory cultivation. For the purpose of maintaining the food supply of the country, the Food Production Ordinance of 1918 provides that every labourer shall plant and maintain in cultivation half an acre of land in ground crops. This land is supplied by the labourer's employer. The labourer is remunerated either by being allowed the produce or by compensation based on the work done or on the value of the produce. The compulsory cultivation thus enforced is a general and permanent obligation. It is supervised by the Labour Bureau.

TANGANYIKA TERRITORY

§ 39. Public Works. — In Tanganyika Territory, the provisions regarding forced labour are less explicit than those contained in the laws of the other East African territories where the system of forced labour is similar. The Native Authority Ordinance provides that orders may be issued for the engagement of paid labour for essential public works and services. The term "essential public works and services" it may be noted, is that used in the text of the Mandate. No person may be compelled to perform such work for a longer period than sixty days in any one year. No person may be called up if he be fully employed on any other work or has been so employed during the year for a period of three months, or if he is otherwise exempted under directions issued by the Governor.\(^1\)

In instructions to his officers, the Governor of Tanganyika Territory has stated\(^2\) that in future no labour is to be requisitioned by a Government department without his express consent in each case. To this rule three exceptions were permitted (see below under Porterage and Emergencies). If conscripted labour is thought to be necessary by a Government Department because the efforts to obtain voluntary labour have failed, permission must be sought from the Governor through the Labour Commissioner and the Chief Secretary. The total number of labourers requisitioned

\(^1\) Native Authority Ordinance, 1926, section 8 (i).
\(^2\) Governor's Memorandum of 27 March 1927.
for Government Departments during 1927 for purposes other than porterage amounted to 8,046, almost all being employed before the issue of the above instructions ¹.

Instructions for the calling out of labour may be given by the native authority, which is defined as any chief or other native or any council or group of natives declared to be or established as a native authority. The provincial commissioner or administrative officer may require orders to be given for such matters or may cancel orders already given. The Tanganyika enactment does not provide that the preliminary sanction of the Secretary of State must be obtained for any form of forced labour exacted under it. The Governor has, however, stated that before using forced labour for public works, he would apply for such sanction.

Tanganyika legislation contains no specific statement to the effect that forced labourers come within the scope of the Master and Servants Ordinance. Under this latter Ordinance, however, a "contract of service" is held to mean any contract, whether in writing or oral, whether express or implied, to employ or serve as servant, and the term "employer" includes the Government or any officer acting on behalf of the Government ².

During the period of service the employer must, at his own expense, cause every servant in his service to be properly housed and must observe all reasonable directions in respect of sanitary arrangements. His obligations, however, do not extend to any case in which the servant is able to return to his home or to obtain suitable housing conveniently near his place of employment. The employer must also cause any servant who cannot return home to be properly fed and supplied with cooking utensils, unless the servant can obtain for himself sufficient and proper food and an arrangement has been reached that the servant shall so obtain his food. When necessary, and if requested by a servant, the employer shall supply him with a suitable blanket, and, in the case of a porter engaged for a journey, also with a jersey and water-bottle, the reasonable cost of the articles being deducted from the servant's wages. When necessary, the employer shall provide sufficient tent accommodation for his porters engaged for a journey. The employer is obliged to supply medicines and medical attendance during illness. On the termination of the

¹ Report by His Britannic Majesty's Government to the Council of the League of Nations on the Administration of Tanganyika Territory for the Year 1927, p. 80.
² Master and Native Servants Ordinance, 1923, section 2.
contract, the employer is required to provide, at his own expense, a sufficient supply of food for the servant's consumption on the way back to the place of engagement or pay the servant sufficient money to obtain such food.

Compensation in case of injury is prescribed, when such injury results from any defect in the material which was known to the employer or could have been discovered by the exercise of reasonable care and skill, from the failure of the employer to take reasonable precautions, or from the negligence of the employer or of any person exercising superintendence. Contributory negligence by the servant, not being disobedience to a specific order or wilful misconduct, is not a defence against a claim for compensation, nor is the voluntary acceptance by the servant of the risk or danger which gave rise to the injury. The amount of compensation, which is assessed by the courts, may not exceed two years' wages.

The Governor may prescribe the precautions to be taken to ensure the safety of servants employed in connection with any plant, machinery, engine or boiler and as to the testing and inspection thereof.

The Governor may make regulations prohibiting, restricting or regulating the employment as servants of boys and girls under 16 years of age.

The offences for which servants are liable to punishment under the Tanganyika Ordinance include the commitment of any act, wilfully or by wilful neglect of duty or through drunkenness, tending to the immediate loss, damage or serious risk of the property in the servant's charge, or similarly failing to do any lawful act for preserving any property placed in his charge. For such offences the servant may be fined any sum not exceeding 100s. or may be sentenced to imprisonment for a period not exceeding six months. Furthermore, the court, if it thinks fit, may order the servant to pay compensation for any damage done to his employer's property through negligent or unlawful act of omission. Penalties of fines not exceeding half a month's wages, or, in default of payment, imprisonment for a period not exceeding one month, may be imposed after conviction of, inter alia, any of the following acts: (1) absence without leave or lawful excuse; (2) intoxication during working hours involving unfitness for the proper performance of work; (3) neglect of or careless or improper performance of work; (4) use of employer's property without leave; (5) use of abusive or insulting language to employer or representative
calculated to provoke a breach of the peace; (6) refusal to obey lawful orders.

Offences are punishable only by the courts.

§ 40. Porterage. — Forced labour for porterage purposes is permitted under the provisions by which a native authority may issue orders for the engagement of paid labour for essential public services and for any other purpose which may be sanctioned by the Governor.¹

Porterage is one of the exceptions permitted by the Governor to the rule that forced labour may not be exacted without his express consent. He has permitted the employment of porters for the transport of public stores or for Government employees travelling on duty. The district officer, who has to decide if such labour is to be requisitioned, is reminded in the Governor's instructions that the policy of the Government is to substitute mechanical transport for head carriage by natives and that this course should be followed as far as possible, unless the expenditure involved is unreasonable for the service.²

Porterage labour is paid, including the return journey. A Circular has been issued to the effect that in cases where administrative officers are requested to furnish porters and the request is subsequently cancelled after the porters have been sent for, the natives are to be paid for the period of the journey from their homes to the place of expected employment and back.³

About 78,000 porters were employed by Government departments during 1927, the average period of employment being just over six days; 33,097 were requisitioned. Many of these, however, were not in fact conscripts, as it frequently happened that, time being pressing, a chief would be ordered to produce porters many of whom would have volunteered.⁴

§ 41. Emergencies. — Orders may be given for preventing the spread of infectious or contagious disease, whether of human beings or animals, and for the care of the sick and for the purpose of exterminating or preventing the spread of the tsetse fly. It is not clear if such labour is paid.⁵ In giving his consent to fly

¹ Native Authority Ordinance, 1926, section 8, paragraphs (i) and (r).
² Governor's Memorandum, 27 March 1927.
³ Circular 57 of 1927.
⁴ Report by His Britannic Majesty's Government to the Council of the League of Nations on the Administration of Tanganyika Territory for the Year 1927, p. 81.
⁵ Native Authority Ordinance, 1926, section 8, paragraphs (g) and (o).
reclamation work the Governor prescribes the number of days’ work to be given by each man and, if advisable, permits commutation of the labour by money payments

Whenever in the area of any native authority it is considered that a famine exists or is likely to ensure, the native authority may issue orders requiring any able-bodied male native to work on any public works, irrigation works, relief works, or in any other employment approved by the provincial commissioner or administrative officer, for such period as that commissioner or officer may prescribe. Natives thus employed receive such rations and wages as the native authority, with the approval of the commissioner or administrative officer, may prescribe, and at the request of any native the wages may be paid wholly or partly in food at rates fixed by the native authority, with the approval of the provincial commissioner or administrative officer.

The other two exceptions permitted to the rule laid down in the Governor’s Memorandum of 27 March 1927, that no labour may be requisitioned by a Government department without the Governor’s consent, are the loading and unloading of steamers in cases of emergency, which, however, has since ceased to be permitted, and work such as the saving of a bridge or railway embankment where there is not time to apply for permission.

§ 42. Compulsory cultivation. — The native authority may issue orders requiring any native to cultivate land to such extent and with such crops as will secure an adequate supply of food for the support of the native and of those dependent upon him.

In addition to this provision for the enforcement of a general obligation, measures can be taken for compulsory cultivation in the event of an actual or expected famine. In such a case, the native authority may require any native to cultivate land to such reasonable extent as the native authority may direct.

§ 43. Other purposes — Labour in case of non-payment of hut tax is permitted in Tanganyika Territory.
UGANDA

§ 44. Public works. — Forced labour is permitted in the building of railways, the making or repairing of roads, bridges and telegraphs, the building or repairing of public buildings, and services necessary for the maintenance of public health. Such labour may not be utilised unless previous sanction has been obtained from the Secretary of State, whose authority may only be sought for a specific work for a specified period ¹.

No person may be required to perform such labour for a longer period than sixty days in any one year. No person may be called upon if he be fully employed in any other occupation or has been so employed for a period of three months during the preceding twelve, or if he be otherwise exempted under directions issued by the Governor, or if in his district the Governor has authorised the commutation of such obligation ².

The labour is paid, the rates being as directed by the Labour Commissioner with the approval of the Governor ³. During the period of employment, the natives called up for work are deemed to be under contract of service in accordance with the laws regulating such contracts ⁴.

The provisions of these latter laws are to the same general effect as those contained in the Tanganyika master and servants legislation ⁵, except that workmen's compensation is not provided for ⁶. However, regulations issued in 1924 for the employment of unskilled labour, allow on full pay a maximum of twenty days' leave in the event of sickness and of three months' leave in the event of injury, on half-pay sick leave up to the three months' period and extensions in special cases. In the event of death or serious injury "from causes directly connected with" the employment, the case is referred to the central colonial Government for consideration of the compensation to be granted ⁷.

By the same regulations, normal hours of work are fixed at eight and a half in the day. Task work is encouraged, it being

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¹ Native Authority Ordinance, 1919, as amended by Ordinances 14 of 1923 and 7 of 1925, section 7 B (i) (b).
² Idem.
³ Labour Regulations, 1924, section 7.
⁴ Native Authority Ordinance, 1919, section 11.
⁵ See p. 43.
⁶ Master and Servants Ordinances, 1913-1923.
⁷ Labour Regulations, 1924, sections 5 (3) and 9.
stipulated that the tasks should be so arranged that a gang by hard and steady work may complete the task in seven hours 1.

Any native who, without lawful excuse, disobeys or fails to comply with orders under the Native Authority Ordinance is liable to a fine not exceeding 150s. or to imprisonment of either description for a term not exceeding two months, or to both. Any chief who fails to issue orders as required by the provincial commissioner or district commissioner may be fined a maximum sum of 600s. or imprisoned for a period not exceeding six months 2.

The practice in Uganda with regard to the use of forced labour in public works is laid down in a Memorandum issued by the Governor during 1923 3.

This stated that compulsory labour would not be allowed for normal recurrent services, the needs of which must be met by the offer of sufficient inducement to attract the necessary supply of voluntary labour. The calling out of forced labour for the construction of specific roads and other urgent works with the sanction of the Secretary of State 4 would only be resorted to under clearly defined limitations and conditions when the Governor was satisfied after personal enquiry that there was no other means of securing the labour required.

The Memorandum then stated the conditions and limitations under which the Governor would normally ask the Secretary of State to sanction this labour:

(1) The nature of the public works on which this class of labour is to be employed must be such that the direct benefit derived therefrom by the native community supplying the labour is apparent or clearly demonstrable to that native community itself.

(2) Labour will be called out only during those months of the year when the least possible interruption will be caused in the normal activities of the tribe concerned (i.e. planting and harvesting of crops, etc.).

(3) Labour thus employed will be worked from Monday to Friday only, and must be allowed to return to their own homes to sleep every evening if they so desire — that is, they must not be drawn from a greater distance than four or five miles from the scene of employment.

(4) This labour will invariably be under the direct personal control of the Administrative Staff of the district, who will be on duty on the work with the Engineers, and the Administrative Staff will be responsible for payment. These natives will in all cases work under their own Chiefs, who will be employed and paid as headmen while the work is in progress.

(5) It is hoped that it will seldom be necessary under the five-mile limit of employment to keep this massed labour of the countryside in the field for more than a month; six weeks to be the extreme period. Furthermore,

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1 Labour Regulations, 1924, section 11.
2 Native Authority Ordinance, 1919, as amended by Ordinance 14 of 1923, sections 12 and 13.
3 Memorandum 5711.11 of 7 August 1923 concerning Labour Policy.
4 Under section 7 B (i) of the Native Authority Ordinance.
so far as can be foreseen, it is most unlikely that the liability for forced labour will fall to the same community a second time when road construction is the only work contemplated.

(6) In view of the fact that this labour will not be worked on Saturdays, cannot arrive very early on the work in the morning, and must be released each day in time to allow them to get back to their villages at a reasonable hour, they will be paid at such rate below the average rate paid by Government in the locality for voluntary monthly labour as may seem just to the provincial commissioner and be approved by the Governor.

§ 45. Porterage. — Natives may be called upon to act as porters for Government officials on duty and for the urgent transport of Government stores. The provisions regarding the calling up of such labour, its limitations, the remuneration and general treatment of the persons liable to perform it and the penalties for non-compliance are the same as for forced labour for public works, except that the prior authority of the Secretary of State is not required 1.

As regards the weight of loads, it is provided in the Labour Regulations that these shall not exceed 50 lbs. per porter. If the load is heavier and cannot be divided, there is to be one porter to every 40 lbs. The same Regulations fix the normal miles of march at sixteen in the day or twelve on long safari marches 2.

§ 46. Emergencies. — Orders may be given for preventing the spread of infectious disease, whether of human beings or animals and for the care of the sick 3. Furthermore, the clauses providing for the enforcement of paid labour in the case of works of a public nature provided for out of public moneys would probably be held to apply to emergencies.

Whenever in any district there is an extreme shortage of food, and, in the opinion of the provincial commissioner, a famine exists or is likely to ensue, the provincial commissioner may, with the sanction of the Governor and the Secretary of State, require that orders be issued compelling any able-bodied male native to work on any public works, irrigation works, relief works or in any other employment approved by the Governor for such period as the Governor may prescribe. Any native so working must be paid such rations and wages as the Governor may determine, and, at the request of the native, it is lawful for such wages to be paid wholly or partly in food and at such rate as the district commissioner

1 Native Authority Ordinance, 1919, as amended by Ordinance 14 of 1923, section 7 B (i) (a).
2 Labour Regulations, 1924, section 6.
3 Native Authority Ordinance, 1919, section 7 B (l).
may prescribe. As in the case of public works, natives employed in these circumstances are held to be working under a contract of service.

§ 47. Compulsory cultivation. — Whenever in any district there is extreme shortage of food, and, in the opinion of the provincial commissioner, a famine exists or is likely to ensue, the provincial commissioner may, with the sanction of the Governor, cause instructions to be issued requiring any native to cultivate such reasonable amount of land as the chief may prescribe. The crops accruing from any such cultivation remain the property of the native.  

§ 48. Other purposes. — Any person liable to pay poll tax who proves that he has not the means to pay it in cash may be required to work for the Government for a period not exceeding two months in lieu of payment of his tax. The work is carried out at such times and places as may be directed by the district commissioner, and, if so directed by a court, it may be done in custody.

In Uganda, the Governor may impose fines on the inhabitants of any village or the members of any community in circumstances similar to those existing in Kenya. In any such case, the Governor, in lieu of imposition, may order the persons otherwise liable to pay the fine to construct or repair a road or roads or other public work on or near the land occupied by such persons, within such time and in such manner and to the satisfaction of such officer as shall be prescribed in the order. To effect such labour, the local native authority may call out all the able-bodied men under its jurisdiction. Persons refusing to obey the local authority or disobeying lawful orders whilst engaged on such work are liable to punishment according to native customary laws, provided that such punishment is not contrary to humanity or natural justice, or, on conviction before a British native court, to a fine not exceeding 30s., or, in default of payment, to imprisonment for a period not exceeding one month. If the community does not complete the work imposed upon it within the time and in the manner and to the satisfaction of the officer prescribed in the order, the Governor may impose a fine on all or any of the inhabitants.

1 Native Authority Ordinance, 1919, as amended by Ordinance 14 of 1923, section 10.
2 Native Authority Ordinance, 1919, section 10 (1) (c).
4 See p. 38.
5 Collective Punishment Ordinances, 1909-1923, section 5.
Moreover, in the event of the wilful damage or destruction by fire of a Government building, the chief of the area concerned may be instructed to order any native within his jurisdiction to assist in replacing or repairing the building.

ZANZIBAR

§ 49. Public works. — Forced labour may be exacted for the construction and maintenance of roads, bridges, waterworks, permanent ways of railways, Government buildings, harbour works, wharves and piers, telegraph and telephone system, and such other work of a public nature provided for out of public moneys as the British Resident may, with the approval of the Secretary of State for the Colonies, declare to be a work of a public nature. Orders for the performance of the labour may be given by the district officer, but not unless the prior authority of the Secretary of State has been obtained, which authority may only be sought for a specified work for a specified period. The labour is paid at such rate as the British Resident may decide to be fair and reasonable.

The maximum period of such forced labour is sixty days in the year. No native may be called upon to work if he can show to the satisfaction of the district officer that he is physically or otherwise incapable of performing the work, or that he has, for not less than sixty days during the past twelve months, been fully employed in any occupation.

Zanzibar legislation contains no specific statement to the effect that forced labourers come within the scope of the Master and Servants Ordinance, but in this latter Ordinance a "contract of service" is held to mean any contract, whether in writing or oral, whether express or implied, to employ or to serve as a servant and the term "employer" includes the Government or any officer acting on behalf of the Government. The provisions in this Ordinance concerning the health and treatment of servants are to the same general effect as those contained in the Tanganyika legislation, though it appears that no provisions exist for compensation in the case of injury.

1 Incendiaryism (Prevention) Ordinance, 1926, section 9.
2 Employment of Native Labour Decree, 1923, sections 3, 4, 5 and 6 (2) and (3).
3 See p. 43.
4 Master and Native Servants Decree, 1925.
Any native who, without lawful excuse, refuses or neglects to comply with orders made under the Compulsory Labour Decree, is liable to summary arrest and to a fine of 75 rupees, or, in default of payment, to imprisonment for a term not exceeding two months.

§ 50. Porterage. — Natives may be compelled to act as porters for Government servants on tour and for the urgent transport of Government stores. This labour is considered to be work of a public nature within the meaning of the Employment of Native Labour Decree. Its limitations and conditions are the same as for forced labour on other public work, except that for its execution the prior consent of the Secretary of State is not required.

§ 51. Emergencies. — Zanzibar legislation contains no special provisions regarding forced labour in cases of emergency. The clauses providing for the enforcement of paid labour in the case of works of a public nature provided for out of public moneys would perhaps be held to apply.

BRITISH WEST AFRICA

§ 52. We have seen that in certain territories in British East Africa, natives can be called out for compulsory labour, in virtue of the native authority ordinances, for certain specified essential public works and services, for a specified period, and that the provision made in some cases that such labourers shall be deemed to be employed on a contract of service under the master and servants legislation applicable to the area has the effect of extending to them the safeguards concerning accommodation, food, payment of wages, settlement of disputes, etc., which are applicable to ordinary contract labourers. The principle and practice in the four territories comprising British West Africa is not defined in standing legislation with this precision, and there appear to be no provisions defining all cases in which forced labour may be called out for purposes of general public interest or prescribing the conditions of its use. In the case of Nigeria and the Gold Coast, any officer of the Government who has entered into a contract of service

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1 Employment of Native Labour Decree, 1923, section 7.
2 Idem, section 6 (1).
3 Nigeria, the Gold Coast, Sierra Leone and the Gambia.
to employ a servant is deemed to be an employer for the purposes of the ordinances in question, but it is not specifically laid down in the master and servants ordinances in the various territories that their provisions are intended to cover natives performing forced labour for general public purposes. It seems that the conditions in which forced labour can be requisitioned and employed are sometimes laid down in special provisions by the competent authority on the occasion when need is considered to have arisen for its employment.

Special mention must be made of a form of compulsory labour which in British West Africa seems sometimes to come within the category of labour for essential public works and services and sometimes within that of communal labour, and to which reference will again be made in Chapter IV. This consists of labour on the construction and maintenance of roads. Labour on the roads falls into three main classes. These are labour (1) on motor roads which are of general public interest and therefore classed as "public works", (2) on side roads, whether suitable for motor traffic or for other vehicular traffic, (3) on village paths and tracks which have always been maintained, according to immemorial custom, by unpaid communal labour under the chiefs.

The line of division between these classes is variable, as it is not easy to lay down a general rule for the determination of the stage at which a road ceases to be of purely local interest and enters the class of public works. As was remarked by Mr. van Rees during the Tenth Session of the Permanent Mandates Commission, it might justifiably be concluded that the total number of the district road systems amount in point of fact to the entire road system of a whole territory.

Again, the gradual development of the powers and capacities of native authorities in British West Africa makes it difficult to lay down any hard and fast line regarding the practice with regard to compulsory labour on roads. Whether, according to circumstances, it be regarded as labour for essential public works and services or as communal labour for local purposes, the work seems to be performed, as a general rule, within the local area and the distinction seems to be mainly one of payment, which is, in its turn, generally conditioned by the state of the treasury.

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of the native authority or by the existence of Government revenue arising from direct taxation.

Mr. Ormsby-Gore informed the Permanent Mandates Commission at its Tenth Session with regard to road construction in West Africa that "in Togoland the main roads were regarded as public works and maintained by the Public Works Department, which paid the labour employed upon them. There were secondary roads, capable of supporting wheeled traffic, which had not been taken over by the Public Works Department and for the upkeep of which the villages were responsible, the distances allotted to each village being marked by posts. Labour on these roads was paid for by a contribution to the village chiefs. The third class of roads in the territory were foot-tracks. No payment was made for the upkeep of these, but the Administration did not interfere with the chiefs in this matter, and the natives kept up such paths as a communal duty.

"In Nigeria, a different system was used, according to whether the roads belonged to a taxed or an untaxed district. In the taxed districts, work on roads was remunerated, but not in the untaxed districts, where such work took the place of taxation. Whenever taxes were introduced, labour on the roads was remunerated.

"With regard to the policy pursued, the Administration considered that, whenever a road was capable of supporting wheeled traffic it should be maintained by remunerated labour. With regard to tracks, the Administration could not pay for their upkeep, but would continue to leave it to the native chiefs and the village communities to look after their maintenance."

GAMBIA

§ 53. Public works. — No general regulations governing the levying of forced labour in the Gambia for public works have come to the notice of the Office.

It is, however, not clear how far labour for other than local public purposes can be levied under the legislation which empowers the Governor in Council to make regulations concerning the construction, repair, clearing, regulation and protection of roads, bridges, wells, springs, water-courses, watering places and bathing

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1 Minutes of the Tenth Session of the Permanent Mandates Commission, p. 99.
2 Direct taxation now exists in all districts. See p. 151.
3 See also § 18 b.
places\(^1\). Under the rules governing sanitation and roads\(^2\) chiefs and headmen must, within the area of their jurisdiction, cause such roads, bridges and wells to be constructed as may be directed by the Government, and keep them in good order. For this purpose the native authorities may call upon all able-bodied male persons resident in their areas of jurisdiction. The roads are not classified in this case\(^3\), no provision is made for payment\(^4\), no period is prescribed, and no mention is made of commutation either by payment or by the provision of a substitute.

§ 54. **Porterage.** — The International Labour Office is not in possession of any legislative texts concerning the levying of forced labour for porterage. The provisions of the Manual Labour Ordinance, 1916, apply to hammock-men and carriers under contract of employment, but the Ordinance makes no reference to the conditions of compelled carriers.

§ 55. **Emergencies.** — The Governor is empowered to make regulations for “safeguarding and preserving all groundnuts or other staple product, to whomsoever belonging, if it be considered that there is danger of famine, or of such product being destroyed by the weather or other like cause”\(^5\).

**GOLD COAST\(^6\)**

§ 56. **Public works.** — No general regulations appear to be in existence concerning compulsory labour for public works. The requisitioning of forced labour for railway construction seems, however, to be regarded as a possibility\(^7\).

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\(^1\) Protectorate Ordinance, 1913, section 57 (i) (a).

\(^2\) Protectorate Administration Rules, 1915, sections 40 and 41.

\(^3\) The *Annual Colonial Report for 1925* (p. 9) stated that a good deal of road-making was done during the year, and the *Report for 1926* (p. 10) that more time had to be given to the roads owing to the increase of motor traffic.

\(^4\) It is not clear whether exemption from unpaid compulsory labour on roads and rivers is implied in the Gambia by the payment of direct taxation. “A ‘yard’ or hut tax which averages about 4s. per annum for a family is imposed in the Protectorate.” (Cf. *Colonial Office List, 1926*, p. 204.)

\(^5\) The Protectorate Ordinance, 1913, section 57 (1) (q).

\(^6\) i.e. the Gold Coast Colony, together with the Colony of Ashanti, the Northern Territories Protectorate and the Mandated Territory of British Togoland. British Togoland is administered by the Government of the Gold Coast and is divided into two sections, the Northern Section and the Southern Section, which are attached, for administrative purposes, to the Northern Territories and the Eastern Province of the Gold Coast Colony respectively.

\(^7\) “There can be no doubt that if and when a railway is constructed [in the Gold Coast] the circumstances are such that recourse will have to be had to compulsory labour.” (Mr. Ormsby-Gore’s *Report on his Visit to West Africa during the year 1926*, Cmd. 2744, p. 152.)
The following details with regard to work on roads are given in this chapter as it is not clear how far such labour can be considered to be performed for general public purposes and how far for local public purposes.

In the Gold Coast Colony and in the Southern Section of British Togoland a Provincial Commissioner may require native authorities to keep the roads passing through their respective districts, towns and villages in good condition and repair, but no mention is made, it should be noted, of construction. This labour is called for only by the District Commissioner, through the native authority, who is empowered by the Roads Ordinance to require all able-bodied men under his rule and residing within his jurisdiction to work on such roads for a period not exceeding twenty-four days in each calendar year. Payment is made to the local authority at mileage rates which are higher for "motorable" than for "non-motorable" roads and the amount payable, up to a fixed maximum, is in the discretion of the District Commissioner, who takes into consideration the labour involved and the state of the road at the time of inspection. Payment appears to be made by the native authorities to the labourers concerned. The Ordinance contains no further provisions as to the manner in which the labour is to be levied or as to the conditions of its employment.

1 The Roads Ordinance (Chapter 107 of the Revised Laws of the Gold Coast, 1920, as amended by Ordinance 9 of 1924).
2 "The mileage of main trade roads maintained by the Public Works Department is 1,241 miles as against 1,173 in 1923-1924. The mileage of pioneer roads, which are maintained under the Roads Ordinance by the chiefs, amounts to 2,885." (Colonial Annual Report on the Gold Coast for 1924-1925, p. 56.)
3 Certain work preliminary to construction appears to be carried out without payment in some cases: "Steady progress has been made in culvert construction on the pioneer roads and the opening up of new roads, the rough work in all cases being done by communal labour, thereby getting much more work done for the money available" (Gold Coast Gazette, 15 December 1925, p. 353). In this connection see § 187.
4 Section 4 of the Ordinance.
5 "In the six years since the war 3,434 miles of roads possible for motor traffic have been constructed in the Gold Coast." (Mr. Ormsby-Gore's Report on his Visit to West Africa, during the year 1926, Cmd. 2744, p. 27.)
6 The connection between direct taxation and payment of compulsory labour which existed in Nigeria (see p. 54) apparently does not exist in the Gold Coast as Mr. Ormsby-Gore makes the following statements in his Report on his Visit to West Africa during the year 1926:
   "In actual practice such amounts are divided among the people who perform the work." (p. 152).
   "There is no direct taxation anywhere, either in the Colony or in Ashanti, and attempts to introduce it in the past have met with great opposition." (p. 136).
to comply with the order to work is punishable, at the option of the native authority, either under native customary law or, on conviction before the Commissioner, with a fine not exceeding £1, or in default of payment with imprisonment for a term not exceeding one month with hard labour.

In British Togoland all aged, infirm and sick persons are exempt from the performance of this labour on roads, natives are not required to work during the sowing and reaping seasons and the average amount of work performed by each adult is reported seldom to exceed three hours per day. In this instance again payment is made to the chiefs in accordance with the terms of the Road Ordinance. It is not clear whether the native authorities pay the individual labourers. Natives are not required to perform this work outside the village boundaries.

In the Northern Territories of the Gold Coast (to which, for administrative purposes, is attached the Northern Section of British Togoland) provisions similar to those applied in the Gold Coast Colony under the Roads Ordinance are laid down for work on specified roads. Such work is paid for, but the International

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1 The Roads Ordinance, section 5. — In virtue of Rules and Orders under the Native Jurisdiction Ordinance of the Colony (Chapter 82 of the Gold Coast Laws, 1920) by-laws of the native authorities of a large number of districts in the Colony may require all able-bodied men to work for six days per quarter on the roads of the local area, failure to comply being punishable with a fine not exceeding 5s. It is not clear if this work can be required in addition to that leviable under the Roads Ordinance. In those States where the Native Administration Ordinance, 18 of 1927, is in force, the Native Jurisdiction Ordinance no longer applies. Under both Ordinances, however, chiefs may make by-laws.

2 Report on the British Sphere of Togoland for 1925, p. 31.

3 Ibid., p. 30.

4 Ibid., p. 31.

5 The foregoing information presumably applies in the case of the Southern Section of British Togoland which is attached to the Eastern Province of the Gold Coast Colony for purposes of administration. In that Province the Roads Ordinance is in application. The Report on the British Sphere of Togoland for 1925, from which the information has been taken, seems to imply that the Roads Ordinance has been applied to the whole of the Mandated Territory, but under the British Sphere of Togoland Administration Ordinance, 1924, the Northern Section is governed by the law in force in the Northern Territories, of which the provisions are, however, similar (see footnote 7 below).


7 Northern Territories Administration Ordinance, 1902 (section 25), and Rules and Orders under section 25 (3) of the Northern Territories Administration Ordinance (Rules as to the Maintenance of Roads). The schedule appended to the Rules specifies certain “main trade roads traversing more than one Province” and “minor roads wholly in one Province”.

"It was reported to me that excellent work had been done throughout the Northern Territories by the administrative officers in the construction of roads. The total mileage is over 2,200, of which about 1,300 is motorable in
Labour Office has no information as to whether the native authority pays the individual labourer.

In Ashanti, the regulations concerning work on roads are not so detailed. The Chief Commissioner is empowered to make, amend, and revoke rules with regard to "the making and maintenance of roads". These rules are subject to the approval of the Governor. Regulations concerning the cleaning and maintenance of roads make Ashanti chiefs responsible for this work within their areas, and provide for the punishment of "every person required to work under these Regulations" who fails to perform this labour. The Regulations do not define the categories of persons to be called upon, they do not prescribe a period of work, and they make no mention of payment.

Punishment may be inflicted, at the option of the chief, according to native customary law or, on summary conviction before the Commissioner, may take the form of a fine not exceeding £1 or, in default of payment, of imprisonment for a term not exceeding one month with hard labour.

§ 57. Porterage. — The International Labour Office is not aware of any regulations covering compulsory porterage for public purposes in the Gold Coast.

In British Togoland natives may be called upon to furnish porterage for Government officers. This labour is stated to be obtained "through the District Commissioners who apply to the chiefs and they in turn call upon their sub-chiefs in village rotation to supply the number of carriers required. . . . This form of labour is remunerated at the rate of 1s. 3d. per diem in the Southern Section and 6d. per diem in the Northern Section". Payment is made personally by the officer concerned and carriers are paid the full rate for the return journey.

dry weather. Of this dry weather road, 360 miles is kept up by the Public Works Department and the remainder are pioneer roads under the administrative officers, made and maintained by them; . . . practically all these roads have been constructed in the last three or four years. " (Mr. Ormsby-Gore's Report on his Visit to West Africa during the year 1926, Cmd. 2744, pp. 138-139.)

1 Ashanti Administration Ordinance, 1902, section 30 (3).
2 Rules and Orders under section 30 (3) of the Ashanti Administration Ordinance, 1902 — Rules with respect to cleaning and maintenance of roads (1920 edition).
3 Report on the British Sphere of Togoland for 1925, p. 31.
§ 58. Public works. — It should be noted that in the case of Nigeria the Government was, as recently as 1919, "radically opposed to coercion in any form, even for works of such urgency and importance to the country as railways and roads". Mr. Ormsby-Gore, in his report on his visit to West Africa in 1926, refers, however, to the use of forced labour in terms which imply that it is employed in Nigeria under recognised conditions:

There is always a considerable body of labour temporarily employed on road and railway construction. The supply of voluntary labour for the latter purposes has always proved inadequate in Nigeria, and recourse is had to compulsory or "enlisted" — sometimes called "political" — labour for these essential public works and services. All the railways and most of the roads in Nigeria have involved the use of this compulsory labour. . . Such compulsory labour is recruited by the native authorities. It is only called upon to work for a definite period, usually, and never more than, one month at a time. It is paid, usually at the rate of 9d. a day. In Nigeria all the railways are constructed departmentally by Government and not by private contractors, but as an additional safeguard one or more administrative officers are always detailed to look after the interests and welfare of compulsory labour so employed. The necessity for the use of compulsory labour on railway and road constructions seems likely to continue, and the amount of labour which can be fairly so employed, varying as it does with the density of the local population, necessarily limits the rate of construction of new railways in Nigeria.

This "political" labour is very unpopular in Nigeria. The Government has therefore endeavoured to avoid levying it. In 1925, when about 12,500 men were required on railway construction, efforts were made to obtain a sufficiency of workers by free recruitment, but this was not forthcoming and the Government was obliged to resort to forced labour for more than a third of the number of workers required.

An American observer gives the following additional details concerning the conditions of forced labourers in Nigeria:

A gang completes its task in eight hours. The rule is laid down that a gang shall not work after 4 p.m., even if the task is unfinished. About 80 per cent. of the labourers finish their task each day. . . Payment is always made to the

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1 Together with the Mandated Territory of the British Cameroons, which is administered by the Government of Nigeria and is divided into two parts, the Cameroons Province and the Northern Cameroons, which are administered as integral parts of the Southern and Northern Provinces respectively of the Protectorate of Nigeria.

2 Sir Frederick Lugard: Report on the Amalgamation of Northern and Southern Nigeria and Administration, 1912-1919, Cmd. 468, p. 44.

3 Mr. Ormsby-Gore's Report on his Visit to West Africa during the Year 1926, Cmd. 2744, p. 133.

individual and not to his headman. Labourers coming from long distances are paid fourpence per twenty miles for subsistence. It appears that the same working regime applies to voluntary as to "political" labour. The labourers usually feed themselves, purchasing food from the camp markets. In order to keep prices down, the construction authorities usually furnish free transport for produce. The food is prepared either by wives who accompany the labourers or by local market women. Under this system food shortages have occasionally occurred. There are few if any colonies in Africa outside of Nigeria which oblige railway construction labourers to buy and cook their own food. The mortality rate per thousand from all causes in 1925 was 24 (300 deaths among 12,452 men). This rate was higher than usual because of outbreaks of epidemics of cerebro-spinal meningitis and relapsing fever. As long as men are obliged to use their ninepence a day in the purchase of food, it would appear that they are underpaid in comparison with natives working on the open market. If this be true, political labour constitutes a type of labour tax.

The Office has no information as to the legislation in which the conditions referred to are laid down, nor as to how far, if at all, the terms of the Master and Servants Ordinance of 1917 cover workers employed on forced labour.

Extensive developments in railway and road construction are being undertaken in Nigeria, and Mr. Ormsby-Gore's statement seems to imply that recourse will be had to compulsory labour. The conditions of its use will presumably be authorised in special legislation.

In Nigeria, native authorities may issue, or may be required by an administrative officer to issue, orders to natives within the local limits of their jurisdiction for certain specified purposes (which do not, however, include the performance of labour for general public purposes) and "for any other purpose approved by the Governor". Under this last clause the native authorities can presumably be used as machinery for, inter alia, calling out forced or compulsory labour for any purpose, including, in the absence of other legislation, forced labour on railways and on the construction of main roads.

In the case of failure to comply with lawful orders issued by a native authority in Nigeria under the Native Authority Ordinance natives are liable to punishment with a fine of £20 or to imprisonment for two months or to both.

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2 Sir Graeme Thomson, in opening a session of the Legislative Council on 1 February 1927, "outlined a vigorous policy of road and railway construction aiming at the construction of 400 miles of road and 150 miles of rail annually". (Times, 2 February 1927.)
3 Native Authority Ordinance (Cap. 73 of the Laws of Nigeria), section 9.
4 Section 11.
The application of the Native Authority Ordinance of Nigeria has been extended to the Mandated Territory of the British Cameroons, which is administered as though it formed part of the Northern and Southern Provinces of the Protectorate of Nigeria, so that if at any time it should be considered necessary to requisition labour for essential public works and services (as is admissible by the terms of the Mandate) it could presumably be levied under the special clause in section 9 of the Ordinance to which reference has already been made.

No compulsory labour appears to be used on public works in the British Cameroons. Standing gangs of voluntary labourers are employed on the maintenance of metalled roads and other public works.

In the Cameroons Province, according to one of the early reports on the territory, "the only compulsory labour that is permitted is for public works and services such as road construction and transport, in the district to which the labourers belong. These works must be sanctioned by the Government and the labourer must be paid the current wage." 

In recent years, however, such labour does not appear to have been used on road construction. The report for 1925 stated that no new road construction and no maintenance of roads had been undertaken by the Public Works Department in the Cameroons Province with compulsory labour and that as regards the activities of the Native Administrations, the rule was that new construction was paid for, while maintenance of roads other than motor roads was carried on, without payment.

§ 59. Porterage. — The use of carriers in Nigeria is rapidly dying out and compulsory porterage for the service of Government officials is now exceedingly rare. All such labour is paid. There are no enactments regulating porterage.

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1 The Report by His Britannic Majesty's Government to the Council of the League of Nations on the Administration of the British Cameroons for the Year 1926 states that in the Northern Cameroons compulsory labour is employed "only for the customary clearing of roads" (p. 43) and that in the Cameroons Province it is used only for local purposes and for Government porterage (p. 49).

2 Ibid., p. 43.


In the Cameroons Province of the British Cameroons "the only form in which forced labour is exacted for the Government is for the transport of the loads of Government officials on tour and of essential stores. ... Carrier work is paid for at a daily rate of 9d. for a day with a load and 4d. without, and compulsory carriers are rarely called upon to go for a journey of more than ten days' duration."  

The Administration is reluctant to use this labour and it is never employed on roads open to motor transport. During 1926, the number of carriers employed in the Cameroons Province by the Government for the above-mentioned purposes was 8,935, of whom more than 4,000 were voluntary workers. That porterage work is not always performed willingly is shown by the fact that in the British Cameroons Province during the year 1926, 186 persons were convicted in the native courts by the native authorities for failing to obey the order of their chiefs to go as carriers on essential public service.

No recent information is available with regard to the use of compulsory porterage in the Northern Cameroons.

§ 60. Emergencies; compulsory cultivation. — There appear to be no special measures provided for the calling out of forced labour in cases of emergency, or for purposes of compulsory cultivation, but the necessary powers could, no doubt, be taken under section 9 of the Native Authority Ordinance, which provides that native authorities may issue or be required to issue orders to natives within the local limits of their jurisdiction for certain specified purposes or "for any other purpose approved by the Governor".

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1 Report on the Administration of the British Cameroons for 1925, p. 47. — There appears to be occasional confusion in the use of the terms "forced labour" and "compulsory labour". In the passage cited above, Government porterage is described as "forced labour", but at the Tenth Session of the Permanent Mandates Commission, Mr. Ormsby-Gore stated that in the British view the terms "forced labour" and "compulsory labour" were used in distinct senses. He defined "forced labour" as "labour used for a particular purpose, as, for instance, when a demand was made for a contribution of so many men for the performance of a particular piece of work. The manner in which the railway had been constructed in East Africa though Kenya Colony where 2,000 natives had been required to finish the work was an instance of forced labour. "Compulsory" or communal labour was used mainly for the upkeep of roads. Compulsory labour could be divided in three heads: (1) road maintenance; (2) porterage of Government officials and their stores; (3) porterage of urgent Government stores." (Cf. Minutes of the Tenth Session of the Permanent Mandates Commission, p. 98.)


3 Ibid., p. 51.
SIERRA LEONE

§ 61. Public works. — No general regulations concerning the levying of compulsory labour for public works appear to exist.

In the Colony, the headmen may, however, call upon residents in towns and surrounding villages to clean, maintain and repair streets and roads which are "not repaired by the Colonial Government" and to maintain and repair bridges in such streets and roads. The categories of roads which are "repaired by the Colonial Government" are not specified in the relative Ordinance, but it seems probable that all the labour in question is used for local public purposes.

It should be noted that in the Protectorate a check has been placed on the possibility of abuse by native authorities of the power to levy labour for works of public utility for the benefit of any town or jakai or for the benefit of any paramount chief, chief or headman, the Governor being empowered to make Orders regulating the rights of paramount chiefs, chiefs, headmen and people with regard to these matters. Labour for public works, if needed in the interest of a whole paramount chiefdom, must be provided by the whole of the population of the chiefdom, and can, in any case, only be levied after consultation between the paramount chief and the principal men in his chiefdom. Persons who violate the provisions of the Orders issued by the Governor are liable to a fine not exceeding £20, or to imprisonment with or without hard labour for a period not exceeding six months.

The Government of Sierra Leone made proposals during 1924 for the payment of compulsory labour called out for public services, and the matter was reopened in a despatch dated 14 February 1927 from the Governor to the Colonial Office, urging the necessity of raising additional revenue for certain defined purposes, one of which was "the desirability of paying some wages for communal labour in addition to, or substitution for, the 'presents' paid to the chiefs for such labour". The despatch contains the following passage:

In my despatch of 21 June 1924, I explained at length the present position in respect of communal labour called out by Government, and I put forward proposals for a gradual abolition of unpaid labour. Hitherto our finances have

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1 The Headmen Ordinance, 1924, section 5 (1) (b).
2 See § 193.
3 The Protectorate Native Law Ordinance, 1924, sections 10-12.
4 Sierra Leone Sessional Paper No. 6 of 1927: Export Duty on Palm Kernels.
been too straitened to induce me to press for your reply to those proposals (which involved an immediate addition of some £6,000 to the Colony's budget and an eventual addition of at least £30,000 per annum). But I may remind you (a) that by the terms of the "B" and "C" Mandates, the Mandatory shall prohibit all forms of forced or compulsory labour except for essential public works and services, and then only in return for adequate remuneration", and (b) that the Temporary Slavery Commission of the League of Nations, in paragraph 112 of their report dated 25 July 1925, recommended this principle for general adoption, only qualifying it by inserting the words "unless this proves utterly impossible" before the words "then only in return for adequate remuneration". I personally feel that the time has come when we should make a beginning, however small, with the more adequate remuneration of communal labour and I believe that the effect on trade would be good.

The necessary financial provisions were made in the budget for 1928, and at the opening of the 1927-1928 Session of the Legislative Council the Governor announced that a step towards the abolition of unpaid compulsory labour would be taken by the introduction of payment, as from 1 January 1928, of labour called out for work on Government buildings of native construction in the Protectorate at the rate of 6d. per day per man.

§ 62. Porterage. — Government porterage appears to be common in Sierra Leone, but the Office has no information as to how far, if at all, it is obtained by compulsion. There is, however, no legal compulsion to perform it. Regulations provide that the general rates of pay for carriers in the Protectorate and the Sherbro district shall be 1s. per day with load and 6d. per day for returns without loads and on days of halt and rest. Between certain fixed points in the Protectorate special rates are prescribed, which vary from 1s. to 6s. per load when the return journey is without load, but if loads are carried both ways the usual rate of 1s. per day must be given. In Freetown and the vicinity the rate is 1s. 3d. per day. Carriers may not be engaged in Freetown or the vicinity for transport duty in the Protectorate without the consent of the Colonial Secretary. The average day's journey is reckoned at about 12 and not exceeding 15 miles, any additional distance being paid for pro rata.

1 "In the Southern Province [of Sierra Leone] the total number of carriers employed by the Government in the Province during the last three years was 66,374." (Mr. Ormsby-Gore's Report on his Visit to West Africa during the Year 1926, Cmd. 2744, p. 58.)

"In Sierra Leone the waste of human effort owing to the almost universal use of head porterage is one of the outstanding economic factors in the Protectorate." (Ibid., p. 30.)

2 General Orders of the Colony of Sierra Leone for 1925. Chapter IX: Rates of Pay for Carriers and Headmen, sections 580-597.
§ 63. So far as the Office is aware, forced labour for public purposes is not permitted in the Union of South Africa.

§ 64. Public works; porterage; emergencies; compulsory cultivation. — In the Mandated Territory of South West Africa there is no system of forced labour for these purposes.

§ 65. Other purposes. — Proclamation 25 of 1920 provides, in section 14, that upon a first conviction of vagrancy or of being an idle or disorderly person, the court shall sentence the prisoner to a term of service on the public works of the territory or to employment under a municipality or a private person, and shall fix a reasonable wage therefor. If no such service or employment can be obtained for the prisoner, the court may impose the ordinary penalties provided by the law 1.

§ 66. Public works. — There is no system of forced labour for public works, but it is the duty of all natives to carry out the orders of their headmen and chiefs and of native commissioners 2. Such orders are required to be in conformity with native law and custom, consistent with natural justice and morality, and calculated to promote good government among the natives or their general advancement or welfare.

§ 67. Porterage. — The preceding remarks concerning public works also apply in the case of porterage 3. Labour is obtained as carriers accompanying native commissioners on tour in two or three outlying districts.

2 Native Affairs Act, 1927. Any native convicted of an offence under the Act is liable to a fine not exceeding £10 or to imprisonment for a period not exceeding three months.
3 Idem.
§ 68. **Emergencies.** — Natives must, when required, act as messengers in the promulgating of Public Orders and Government Regulations and in the notification of deaths and diseases. It is also incumbent upon them to co-operate actively in any measures taken for the destruction of locusts, the prevention of grass fires, the repression of cattle diseases, and similar matters of public urgency.¹

**B. — Territories in Asia**

**CEYLON**

§ 69. **Public works.** — In principle, forced labour on roads may be levied in Ceylon, but in practice it is not called for. The Road Ordinance² lays down that every male inhabitant between the ages of 18 and 55 years is liable to perform six consecutive days’ labour in each year upon the thoroughfares in the colony or on works necessary for their construction, repair or improvement or in the collection and preparation of materials required for any such purpose or on any work sanctioned by the Legislative Council under the authority of the Ordinance. This labour is not paid, but the authorities may, if they consider it necessary, provide any person labouring either with subsistence money equal to one-half of the ordinary rate of a coolie’s wages as paid in the district or with food, and a person who is so provided with subsistence money or food is liable to twelve instead of six consecutive days’ labour.

From the liability to labour are exempted the Governor, soldiers and members of the defence force, Buddhist priests, pioneers in Government employment, and Indian coolies in search of employment or employed in agricultural labour in Ceylon. Furthermore, any person may be excused if the authorities are satisfied that he is incapacitated by disease or bodily infirmity.

The labour may be used either on principal thoroughfares up to a maximum of two-thirds of the labourers recruited or on district works. The furnishing of the labour is controlled by provincial committees composed partly of official and partly of non-official nominated members and by district committees composed partly of official and partly of non-official elected members.

Persons failing to attend to perform their labour are liable to work for double the number of days to which they were originally

¹ Native Affairs Act, 1927.
² The Road Ordinance, 1861, as amended by Ordinances 31 of 1884, 17 of 1885, 10 of 1887, 10 of 1902, 13 of 1905, 25 of 1906, 23 of 1910, 6 of 1913, 5 of 1915, and 22 of 1918.
liable. Persons guilty of misconduct while at work, including neglect or refusing to remain in attendance during working hours, drunkenness, wilful neglect, disobedience to orders and neglect of implements entrusted to them, may be condemned by the chairman of the district committee to work for an extra number of days not exceeding three for each offence, provided that the aggregate amount of punishment so imposed may not exceed six days' labour. Persons neglecting or refusing to perform the additional labour to which they have been condemned may be arrested and committed to prison for a period not exceeding one month, or fined 10 rupees.

Labour may not be required on Sundays nor during other than the customary hours of work, while no person may be required to work at more than 10 miles from his home. This limit of distance, however, may be varied by the Governor with the advice of the Executive Council.

Commutation of the labour tax is permitted by the payment of any sum not exceeding 2 rupees as the Governor, with the advice of the Executive Council, may from time to time fix. It is also lawful for any person who has become liable to a performance of double labour owing to non-attendance to commute such double labour by the payment of double the amount of the rate of commutation.

The Local Government Ordinance, 11 of 1920, provided for the establishment of district councils and repealed the laws relating to roads in respect of any area for which a district council had been established. It nevertheless permits the levying of a labour tax in such areas, on conditions similar to those laid down in the Road Ordinances.

In practice, however, the liability to labour has always been commuted, and the Ceylon Government have made provision recently in the general estimates for a grant to local authorities to relieve them of the necessity of enforcing the liability to labour or its commutation under the Road Ordinance. The Ceylon estimates for 1926-1927 and 1927-1928 made provision for compensation to local authorities for the remission of the road tax, which has consequently not been collected.

**CYPRUS**

§ 70. Public works. — The only form of compulsory labour in Cyprus appears to be that required in connection with the construction, maintenance, and repair of roads. It would seem that in certain cases the labour might be regarded as being
performed for general public purposes, and the legislation governing the subject is therefore described in detail in this chapter rather than in Chapter IV.

Under the Village Roads Law, able-bodied inhabitants of villages who are between the ages of 18 and 60 may be required by the village authority to work for a period not exceeding six days in any one year.

The purposes for which this labour may be required include the construction, maintenance, and repair of any road, track or footpath which the village inhabitants are entitled to use, the draining of standing water, the cleaning of public drains, pools or water courses, and any work for the improvement or sanitation of the village. Certain classes of the population are exempt; these include persons disabled by any mental or bodily infirmity from manual labour, ministers of religion, certain municipal officials, schoolmasters and permanent employees in the public service. The village authority must submit its proposals for its yearly programme of work for the approval of the Commissioner, who is empowered to make provision for assistance from the Government, including the loan of tools. No work can be exacted if the Government is unable to supply the necessary tools, and a village authority cannot be required to execute any work at a distance of more than 4 miles from the village. Persons who fail to furnish the necessary labour when called upon are liable to pay the sum of 1s. for each day on which they have failed to attend, to the Mukhtar or to the President of the Municipal Council. If the village authorities consider it desirable they may, with the approval of the Commissioner and at the option of the persons concerned, commute the performance of labour for a reduced and immediate payment equal in value to not less than 6 copper piasters in respect of each day’s labour for each inhabitant. Persons who fail to pay this amount must either perform the labour required by the law or pay a fine of 1s. in respect of each day’s labour to the local authorities. Piecework may be imposed instead of day labour, should the village authority consider it desirable.

Under the Branch Roads Law, the repair of branch roads can also be carried on by the communal labour furnished under the provisions of the Village Roads Law. This work takes precedence of that to be performed on village roads, and its performance is

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1 Law 6 of 1900 (Laws of Cyprus, 1923 edition).
deemed to be a discharge of obligation under the latter law, although no able-bodied inhabitant can be excused from complying with the requisition to work on branch roads in consideration of the fact that he has already performed any work undertaken under the Village Roads Law.

Reference may perhaps be made at this point to the Branch Roads Construction Law, 8 of 1892, under which, if the High Commissioner deems that it is the desire of the majority of the inhabitants of any village to furnish labour in lieu of paying the cost of construction of a road, he may order the inhabitants of the village to provide labour in lieu of the whole or part of the sum payable for construction.

He may further prescribe the number of days' labour to be supplied by each village, the period for which the labour shall be supplied, and the manner in which it is to be apportioned amongst the inhabitants of the village.

Any person who fails to supply the necessary labour in these circumstances is liable to pay a sum equal to its value, and this amount is recoverable in the same way as Government taxes.

INDIA

§ 71. Public works. — In Bihar and Orissa in British India, compulsory work is exacted by the Government in certain aboriginal areas in connection with the upkeep of public roads and minor public buildings in the vicinity of the village community from which the labour is levied. It is not quite clear how far this work may be regarded as being performed for general public purposes as distinct from local public purposes 1.

The situation in the Indian States is not clear. A question was asked in the British House of Commons 2 in February 1927 as to the number of cases in which representations had been made by the Government of India to Indian rulers in respect of forced labour in their States, but the reply afforded no information as to whether forced labour for public works was, in fact, employed in any of the territories in question.

§ 72. Porterage. — In British India, under Bengal Regulation XI of 1806, the landholders of places through which troops,

1 See also § 197, where a fuller account of this labour is given.

2 Parliamentary Debates: House of Commons, 28 February 1927, col. 3
military officers, or other travellers are passing are bound, on requisition of the local civil authority, to provide carts, bearers, coolies and necessary supplies for payment at rates fixed by that authority. It is stated that the Regulation is now very rarely, if ever, used, as both military units and civil officers have their own means of transport.

No information is available as to conditions of porterage for general public purposes in the various *Indian States*.

§ 73. **Emergencies.** — In *British India*, labour may be impressed to avert sudden and serious damage to irrigation works under the following Acts: the *Northern India Canal and Drainage Act*, 1873, the *Bombay Irrigation Act*, 1878, the *Punjab Minor Canals Act*, 1905, and the *Madras Compulsory Labour Act*, 1858.

The first two Acts provide for the preparation of lists of holders of land benefited by the irrigation work who are liable to furnish such labour. All four of the Acts provide that the labour must be paid for at a rate which is equal to (in Northern India, greater than) the full market rate. Penalties are imposed for non-compliance.

Under the *Punjab Minor Canals Act*, irrigators are bound, either by the conditions under which they hold their lands or by established custom, to furnish labour free of cost for the annual silt clearance and for the general maintenance of a number of minor canals. Further, under the provisions of Chapter VI of the *Madras Compulsory Labour Act*, members of a village community are bound to contribute labour for those works of irrigation and drainage which are usually executed by the joint labour of the community.

Holders of rights in Government forests are liable to be called out to assist in extinguishing or preventing extension of fires. In such cases there is no provision for payment, and penalties are provided in cases of non-compliance with the requisition.

The Office has no information as to the levying of forced labour in cases of emergency in the *Indian States*.

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1 Sections 64 and 65.
2 Sections 58 and 59.
3 Section 54.
4 The *India Forest Act*, 1878, section 78; the *Madras Forest Act*, 1882, section 23; and the *Hazara Forest Regulations*, 1911, section 36.
IRAQ

§ 74. Public works; porterage. — The Organic Law of the Mandated Territory, which was passed by the Iraq Constituent Assembly on 10 July 1924, contains a general prohibition of unpaid forced labour 1. Special legislation provides for its use, however, in case of emergencies as shown below.

§ 75. Emergencies. — Recourse may be had to forced labour in certain cases of emergency (fire, flood, and the spread of locusts), concerning which special regulations are laid down 2. In such instances the Ministry of the Interior may authorise senior administrative officials to call out labour at a rate of pay fixed by the Government 3. When, however, the emergency is of such a nature that no delay can be incurred, senior administrative officials may act without the sanction of the Ministry of the Interior. Labourers who fail to comply with the requisition are liable to be taken forcibly to the place of work and afterwards to be punished with imprisonment or a fine.

Safeguards against the abuse of authority are provided in the Bagdad Penal Code, which came into force on 1 January 1919. An official who compels workers to perform forced labour without pay and who retains for himself the amount debited to the Government is punishable with imprisonment for a period not exceeding seven years or with a fine or with both, and, in addition, must pay an amount equal to the profit made by him, this amount being paid to those entitled thereto 4.

It is also provided that a public servant who employs forced labour for purposes other than works of public utility prescribed by law or ordered by the Government, or works recognised as urgent in the interest of the local community, is punishable with a term of imprisonment not exceeding three years and with dismissal. He must further pay a sum equal to the wages of the men illegally employed 5.

1 "All unpaid forced labour and general confiscation of real or personal property are absolutely forbidden." (Section 10.)
3 On the last occasion when forced labour was used on the " bunds ", remuneration was paid at the rate of 1 rupee per day, rations being provided in addition. (Information contained in a Memorandum handed to the Representative of the International Labour Office by the Accredited Representative of the Mandatory at the Tenth Session of the Permanent Mandates Commission.)
4 Bagdad Penal Code of 21 November 1918, section 100.
5 Idem, section 119.
MALAYA
(together with the Outlying District
of British North Borneo)

§ 76. Public works. — In Kelantan 1 (Unfederated Malay States) the local authority may, on the written instructions of the Rajah, order assistance for the keeping open of existing communications by land or water and, on similar instructions, may order assistance for the maintenance of existing irrigation channels and for the demarcation of boundaries.

No provision is made for payment in these cases. Any persons failing to obey the lawful order of the local authority may be fined a sum not exceeding 20 Straits dollars or imprisoned for a period not exceeding one month, or may be both fined and imprisoned.

§ 77. Porterage. — In the above-mentioned State, the local authority may order the conveyance of Government letters and the supply of food or transport to Government servants travelling on duty.

Provision is made for payment only in cases of the supply of food or transport, the remuneration being at current local rates.

The penalties for failing to obey the lawful order of the local authority have already been referred to above.

§ 78. Emergencies. — The work on communications and irrigation referred to above in connection with public works in the State of Kelantan could no doubt be called for in cases of emergency.

§ 79. Other purposes. — The Kelantan Capitation Tax and Corvée Regulations of 1322 (Mohammedan era) provide that the local authority may order assistance for the reception of the Rajah. No provision is made for payment in this case.

Any local authority ordering any person to do any work except as provided by the law is liable to a fine not exceeding 50 Straits dollars or to suspension from office or to dismissal, while any person inducing or attempting to induce a local authority to order any work to be done in contravention of the law is liable to a fine not exceeding 100 Straits dollars or to imprisonment for a period not exceeding six months, or to both.

1 Kelantan: Capitation Tax and Corvée Regulations, 1322, Part III. At the time of going to press, information was received to the effect that the above Kelantan Regulations have been repealed. There is therefore no forced labour for general public purposes in British Malaya.
§ 80. The position in the Outlying District of British North Borneo is shown in the following paragraphs.

§ 81. Public works. — As will be seen from the following paragraph, it is the duty of the chief or headman to "perform any work requisitioned" 1 by the written order of the district officer. In practice, however, forced labour for public works is not levied.

§ 82. Porterage. — It is the duty of a chief or headman, "on the written order of the district officer, to collect and furnish supplies of food or transport for Government officers and/or to perform any work requisitioned, payment for the same in either case being duly made thereafter" 2. Penalties in the shape of fine or imprisonment are imposed in cases of non-compliance. In practice, this forced labour, for which standard rates of wages are paid, is now only used to provide carriers for officers travelling on duty in remote districts.

§ 83. Emergencies. — No special provisions deal with the calling out of forced labour in cases of emergency, but the provisions referred to in the paragraph dealing with "Public works" may possibly be applicable.

§ 84. Compulsory cultivation. — The local authorities are required to encourage the habit of industry and the cultivation of land, and for that purpose may, with the permission of the district officer, recall for a period normally not exceeding three months in each year, indigenous natives working on places of labour employing twenty or more labourers. Penalties are imposed for non-compliance 3.

§ 85. Other purposes. — Finally, the chief or headman is empowered to call upon anyone resident in his village to assist him in the execution of his duties. Payment must be made for this assistance 4.

1 British North Borneo Village Administration Ordinance, 5 of 1913, section 9.
2 Idem, section 9.
3 Idem, as amended by Rule 240 of 1922.
PALESTINE

§ 86. Public works. — No forced labour for public works and services ¹ is used in the Mandated Territory of Palestine.

§ 87. Emergencies. — In the event of a locust invasion, work may be demanded in general, in accordance with Ottoman law, from all landowners and cultivators without payment. Rewards may, however, be granted for special services in dealing with this invasion. If the work necessitates a prolonged campaign and the transfer of workers to areas distant from their villages, the question of payment and the rates of wages for labour are decided by the local commission in charge of the campaign in consultation with the district governor. Remuneration is based on actual results ².

§ 88. Other purposes. — It may perhaps be mentioned that parties of prisoners from the jails are supplied for occasional labour to Government departments in addition to regular jail labour companies employed by the Railways and Works Department ³.

C. — Territories in Australia and Oceania

§ 89. In British territories in Australasia and Oceania there appears to be little legislation regulating forced labour for general public purposes. The problem of the labour supply for railway construction has not so far arisen and is unlikely to arise in the future, except in the case of Papua and the Mandated Territory of New Guinea. Natives may be called out in some areas for Government porterage and in certain instances such work is classed as "communal" labour. A degree of compulsion is sometimes exercised for the cultivation of foodstuffs for the benefit of the natives themselves, i.e. with a view to the improvement of the economic conditions of the natives or as a precaution against famine.

¹ Statement by Mr. Ormsby-Gore to the Permanent Mandates Commission. (See Minutes of the Seventh Session of the Commission, p. 119.)
² Locust Destruction Notice of 19 July 1924.
³ Report on the Administration of Palestine and Transjordan for 1922, pp. 41 and 51.
§ 90. **Public works.** — Forced labour does not appear to be used on public works in the Colony of Fiji.

In the **Gilbert and Ellice Islands Colony**, the sea-walls and embankments must be kept in repair\(^1\) by the native authorities. In view of the small size of the islands such labour may, no doubt, be regarded as work for local public purposes.

In the **British Solomon Islands Protectorate**, under Regulation 1 of 1927\(^2\) any native who, when called upon to join in the performance of any communal services by the native officer or person in authority duly appointed to see to its proper performance, refuses to obey or performs in a negligent manner the work allotted to him is guilty of an offence and liable, on conviction, to a fine not exceeding £5 or to imprisonment with or without hard labour for any term not exceeding three months. The term "communal services" is not, however, defined in either of the Regulations concerning native administration\(^3\).

§ 91. **Porterage.** — Labour may be requisitioned in Fiji for the transport of Government officers when travelling on official duty and for that of all letters on Government service\(^4\). This work is regarded as communal labour. The categories of natives liable to service are not specified and no provision is laid down as to payment. It would therefore seem that this service is not remunerated\(^5\).

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\(^1\) Under the provisions of the Schedule of the Native Laws Ordinance of 1917.

\(^2\) Native Administration (Solomons) Amendment Regulation, 1 of 1927, sections 9 and 13.

\(^3\) The Native Administration Regulations, 1922 and 1927.

\(^4\) Regulations of the Native Regulation Board, 1912. Regulation No. 7: to provide for the performance of services for common benefit.

\(^5\) The possibility of payment has, nevertheless, been considered, as is evident from the following passage which occurs in the report of a Committee appointed by the Governor of Fiji in 1903 to revise the Native Regulations:

There has been hitherto no Regulation dealing exclusively with communal lala, and Regulation No. 7 has been framed after careful attention by the Committee. Section 2 enumerates all the objects which should be included under the term "communal service". Some of us largely doubt the justice of including the services mentioned in Regulation No. 7 of 1892, "carrying of official letters, ferrying Government officers and messengers across the water", but have consented to the wish of the majority that they should be retained. We all however express the earnest hope that it may be found possible in the near future to so arrange for the transport of Government officials and correspondence that the performance of it will not fall upon a community without remuneration.
§ 92. Compulsory cultivation. — The system of compulsory cultivation is practised in Fiji and is supervised by the chiefs. It is incumbent on every adult male to cultivate a minimum number of food plants, and in case of failure to do so, he is liable to a fine not exceeding £2 or a term of imprisonment not exceeding two months. In the island of Rotumah a special Regulation requires every able-bodied man to plant and weed a certain number of coconuts, under a penalty not exceeding £1.

In the Gilbert and Ellice Islands Colony it is the duty of the native authorities to see that all suitable waste land and any land capable of reclamation is brought into use and planted with coconuts.

In Tonga, under the Law concerning "vagabonds and idle persons" any able-bodied male above the age of 16 who appears to have "no employment or profession or means of providing for himself or those that depend on him or has failed to plant and provide sufficient food to keep himself and those that depend on him" may, in addition to being imprisoned, be ordered by the Court to "plant food sufficient for himself and those that depend on him". A further provision, however, seems to have the effect of imposing a certain amount of compulsory cultivation on practically every able-bodied male native over the age of 16 years since it prescribes that should it appear that such a person "having any employment or profession or other means has failed to plant sufficient food to keep himself and those who depend on him", he may be fined £1 or in default imprisoned for a period not exceeding one month with hard labour. He may further be ordered to plant food sufficient for himself and those who depend or him. Failure to comply with these requirements entails further penalties.

In addition, every Tongan tax-payer (i.e. every male native over 16 years of age) is entitled to a tax allotment of 8 1/4 acres and is compelled to plant a certain proportion of that land in coconuts. There is thus a definite policy of compulsory cultivation for export imposed by the native Government.

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1 Regulations of the Native Regulation Board, 1912: Regulation No. 13: relating to the cultivation of land.
2 Regulation No. 3 of 1885 of the Rotumah Regulation Board regarding the planting and keeping in order of coconuts (5 July 1887).
3 Schedule of the Native Laws Ordinance, 1917.
4 Law relating to Vagabonds and Idle Persons, 23 September 1916 (amending the "Law of Tonga", section 512).
In the *British Solomon Islands Protectorate*, natives may, at the discretion of the Resident Commissioner, pay their tax\(^1\) in copra or other produce.

**NAURU ISLAND**

§ 93. **Public works.** — In this small Mandated Territory\(^2\), although no particular legislation has been enacted to ensure its prohibition, no forced labour is permitted even for public works and services\(^3\). All labour for such work is voluntary and is paid at the usual market rates.

§ 94. **Compulsory cultivation.** — The Administrator may make regulations for the cultivation of the soil\(^4\), but up to the present regulations of this nature have not been found necessary as food-bearing trees are available in ample quantities to support the present population and even an increased one.

§ 95. **Other purposes.** — There is no form of forced labour in lieu of taxation\(^5\).

**NEW GUINEA**

§ 96. **Public works.** — Conditions in this Mandated Territory are governed by the New Guinea Act of 1920, which provides that "no forced labour shall be permitted in the Territory"\(^6\), and the Mandatory Power states that native labour is not requisitioned for public works and services\(^7\).

§ 97. **Porterage.** — There is no provision in the law of New Guinea under which natives may be compelled to perform porterage

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1. Native Tax Regulation, 1920, section 9 (1).
2. The Mandate is at present exercised by the Government of the Commonwealth of Australia.
4. Nauru Native Administration Ordinance, 17 of 1922, section 4 (e).
6. Section 15 (2). The Act does not, however, define what is to be understood by the term "forced labour".
7. *Report on the Administration of the Territory of New Guinea from 1 July 1922 to 30 June 1923*, p. 82.
work for the Government. All porterage performed for the Administration is voluntary and is paid 1.

§ 98. Compulsory cultivation. — The Native Administration Ordinance, 1921-1927, provides 2 that the Administrator may make regulations for the cultivation of the soil. The Administration, with a view to protecting the natives against the consequences of their customary short-sightedness in regard to provision for their material needs, and to ensure them adequate supplies of food, has adopted certain provisions for the compulsory cultivation of plants and crops 3. In virtue of these provisions, the district officer may require every able-bodied male native resident in any village in his district to plant, harvest and provide suitable storage accommodation for such food crops as shall, in the opinion of the district officer, yield sufficient food for such native and his family. District officers and officers of the Department of Agriculture may give such orders and instructions as may be necessary for the proper planting, tending, harvesting, and storing of such crops. The penalty for failing to carry out the orders is a fine of £3 or imprisonment for three months, or both. Exceptions from the obligation to cultivate are granted at the discretion of the Administrator.

§ 99. Other purposes. — At the discretion of the Administrator, natives may be allowed, but may not be compelled, to pay their head tax in labour instead of in money 4. Up to March 1928, no natives had expressed a desire to pay their taxes by labour, no order in this connection had been made by the Administrator, and the amount of labour deemed to be the equivalent of payment had not been prescribed 5. The practice adopted in the Territory is to levy taxes upon such natives only as are able to pay in money 6.

2 Section 4.
3 Native Administration Ordinance, 1921-1922, and Part V (a) of the Regulations of 28 October 1924 under the Ordinance, as amended by the Regulations of 25 June 1925.
4 Natives Taxes Ordinance, 19 of 1921, section 11.
6 Idem.
§ 100. **Public works.** — No forced labour is used on public works in Papua.

§ 101. **Porterage.** — Porterage for the Government is requisitioned through a chief or village constable, and the Government officer employing such labour must report the fact of its use to the district magistrate. The men requisitioned for this work must be physically fit and may be employed for a period not exceeding twenty-one days, which, in cases of great emergency only, may be extended to thirty-one days. A provision which affords a special safeguard prescribes that not more than one-sixth of the able-bodied male adults of a village can be called out. The rate of remuneration is fixed by the Lieutenant-Governor, and food, or the means of buying it, must be provided. Natives who fail to perform this service when called upon are punishable with a fine not exceeding £2 or with a term of imprisonment not exceeding three months.

§ 102. **Compulsory cultivation.** — The system of compulsory cultivation has been applied in Papua. The Lieutenant-Governor may, "with the consent of the native owners thereof", direct the use of land as a native plantation upon which "statutory workers" (i.e. able-bodied male natives between the ages of 16 and 36, other than natives employed by the Government or under indenture, mission workers or those having already completed a contract of service within the preceding three months) must work for sixty days per year.

Natives may obtain remission of their taxes by the performance of such work. The penalty imposed on a statutory worker for failure to perform the necessary labour is a fine not exceeding £2 or imprisonment not exceeding three months with hard labour. One-half of the total annual produce of such plantations is the property of the villagers, who may be consulted as to the scheme of allotment of the produce. The sum realised by the

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1 Statutory Rules, 3 of 1922, section 106.
2 The Native Plantations Ordinance, 16 of 1925.
3 Statutory Rules, 14 of 1926, section 4.
4 Native Plantations Ordinance, 16 of 1925, section 5 (2), and Native Taxes Ordinance, 11 of 1918, section 11.
5 Native Plantations Ordinance, 16 of 1925, section 12.
6 Order in Council, 20 September 1926.
Government in respect of the other half is paid into the native education fund.

Additional cultivation of "coconuts and other useful plants and trees" is provided for in the Rules under the Native Regulations of 1922\(^1\), which empower the magistrate to "fix the number of trees or area of land as the case may be that the able-bodied men of each district or village shall plant". The village constable is responsible for the carrying out of this regulation and any native who neglects or refuses to perform the necessary planting and cultivation is liable, for the first offence, to a fine of 5s. or to imprisonment not exceeding six weeks, and for a subsequent offence to imprisonment for a period not exceeding three months. The magistrate "shall also, where deemed desirable, order the people to plant and cultivate useful food-trees along the village road so that they may all enjoy the shade and eat of the fruit"\(^2\).

§ 103. Other purposes. — Natives may be called upon\(^3\) to pull up and burn noxious weeds or plants on land owned or claimed by natives belonging to their village and to keep this land clear subsequently for a period of a year. The penalty for failure to perform this work is a fine of 5s. or, in default of payment, imprisonment for a period not exceeding one month\(^4\). The tasks are allotted by the village constable, but if any native considers that his task is too heavy he has the right to appeal to the magistrate.

Native owners of coconut trees are required to search for and destroy rhinoceros beetles and red palm beetles\(^5\) under penalty of a fine not exceeding £1 or imprisonment not exceeding two months.

The Native Taxes Ordinance\(^6\) provides that, with the consent of the officer administering the Ordinance or by order of the Lieutenant-Governor, the tax of any native (other than a native labourer) may be paid in labour, or in the case of a communal tax, by the labour of the taxable natives (other than native labourers) in the village community or district concerned. The amount of labour in relation to the amount of the tax is fixed on a scale approved by the Lieutenant-Governor.

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\(^1\) Statutory Rules, 3 of 1922, section 100.
\(^2\) Idem, section 100 (4).
\(^3\) Idem, section 101.
\(^4\) Idem, section 101.
\(^5\) Idem, sections 103 and 104.
\(^6\) Ordinance 11 of 1918, section 11.
§ 104. **Public works.** — The Mandatory Power states that there is no forced labour in Western Samoa. Here, as has already been seen in other territories under British administration, the term "forced labour" has been used in a restricted sense, since certain powers are given to district councils with regard to the levying of compulsory labour. These councils consist of elected natives and act as native authorities. A district council may prescribe, *inter alia*, the duties of Samoans "resident in such district in regard to services to be rendered for the public benefit in the making of roads, building and repairing of churches and houses, planting of trees and food supplies, accommodation and maintenance of visitors, accommodation and transport of Government officials on duty, and such other matters as are by custom of the Samoans commonly the subject of communal effort". No provision for payment appears to be made in any of these cases except in that of the construction of main roads and main tracks, when the district council is entitled to payment at specified rates. These roads and tracks must be maintained without payment unless the Administrator decides that they are to be maintained at the cost of the Administration. The period for which this labour may be levied is not specified, nor is any mention made of commutation.

All by-laws must be approved by the Administrator.

§ 105. **Porterage.** — As will be seen from the wording of the Regulations referred to in the preceding paragraph, district councils may prescribe the services to be rendered for the public benefit for the accommodation and transport of Government officials on duty. It should be noted that porterage for this purpose is here classed as communal labour. No provision for payment appears to be made.

§ 106. **Emergencies.** — Forced labour in cases of emergency does not seem to form the subject of special provisions, but it
could no doubt be levied in virtue of the Regulations from which an extract is given in the last paragraph but one above.

§ 107. Compulsory cultivation. — The district councils may make by-laws concerning the enlarging of plantations and the cleaning and cultivation of existing and new plantations and calling upon Samoans resident in their areas to perform services in connection with the "planting of trees and food supplies" for the public benefit 1.

The district council is empowered and required to fix the number of trees or plants for food purposes to "be annually planted by each able-bodied male Samoan resident in its district" 2. The Regulations seem to make no exception for any category of native, and failure without reasonable cause to carry out such planting is punishable with a fine of £2.

In a communication dated 13 September 1927, the Mandatory informed the Secretary-General of the League of Nations that in the case of planting coconuts and making additional plantations, orders were issued by inspectors to the village committee concerned for a definite amount of planting within a fixed period. If the committee puts forward objections these are sympathetically considered, but as a rule the instructions are, after deliberation, accepted 3.

The councils may also set aside areas of native land approved by the Administrator for the communal cultivation of cotton and other products 4.

It may, perhaps, be mentioned that an effort is being made to induce the native to cultivate his own land by the introduction of the system of individual ownership. Up to the present all native land has been held communally under a form of family tenure, which offers very little incentive to individual enterprise and often results in large areas of land within the village boundaries lying unused. Each district council is therefore empowered to allot for purposes of cultivation an area of about 10 acres of village land or land not likely to be required by the native owners to each able-bodied Samoan resident in its district, failure without reasonable

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1 The Native Regulations (Samoa), Order, 1925, section 7 (8), (9) and (18).
2 Idem, section 47.
3 See League of Nations document C.494.1927.VI (C.P.M.634).
4 The Native Regulations (Samoa) Order, 1925, section 45.
cause to cultivate land so allotted being punishable with a fine not exceeding £2. The Regulations provide that a rent of 1s. per acre must be paid annually to the district council, the money from this source being used for road and land development. The lessee must plant a certain portion of this land with coconuts.

§ 108. Other purposes. — A further duty implying compulsory labour is laid down in the Beetle Ordinance, under the provisions of which every Samoan is required to devote one day weekly to the clearing and cleaning of plantation land belonging either to himself or his village. A penalty not exceeding £25 may be imposed for failure to perform this duty, unless good and sufficient reason can be urged for the omission.

There is no form of forced labour in lieu of taxation. Village communities may, if they wish, pay their personal tax in copra.

D. — Territories in America

BRITISH HONDURAS

§ 109. Porterage. — That porterage is not used seemed to be indicated by the following extract from an article on the survey of the Labaantun District of British Honduras by Mr. Geoffrey Laws, of the Nigerian Surveys Department, which was published in the Geographical Journal for March 1928: "The Indian makes a sturdy and tireless carrier, but, the dry season being the planting season, he was unwilling to leave his farm for any length of time. Besides this there exists no carrying tradition, local Government officials and others being content, as a rule, to travel with a couple of saddle-bags."

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1 Idem, sections 43, 44, 45, 46.
2 Report on the Administration of the Mandated Territory of Western Samoa for the Year ended 31 March 1926, p. 9.
3 The Beetle Ordinance, 7 of 1921, section 20 (1) (c).
4 Idem, section 25.
5 Report on the Administration of the Mandated Territory of Western Samoa for the Year ended 31 March 1926, p. 42.
6 Native Personal Tax Ordinance, 1927, section 10.
BRITISH WEST INDIES

§ 110. Emergencies. — In the island of Dominica,¹ all persons may be called upon to assist in cases in which landslip, storm or other catastrophe renders any public road or bridge impassable or reduces it to a state in which the competent authorities consider it to be dangerous, impassable or causing inconvenience to the public.²

§ 111. Other purposes. — The information at present at the disposal of the International Labour Office shows that in the British West Indies compulsory labour is met with in a few islands, as an alternative for the poorer classes of the population to a money contribution for the maintenance of roads.

In Dominica, the Public Road Act³ prescribes that a contribution in labour or money for the construction of the public roads and bridges shall be made by the male inhabitants of the island between the ages of 16 and 60 who do not possess land or houses in respect of which a larger contribution is payable. The persons liable to make these contributions are divided into six classes according to their means. Those falling into the three lowest classes have the alternative of commuting their money contribution for labour on a graduated scale. Persons with incomes of (1) over £50 and under £100 per annum must pay the sum of 10s. or give twenty days' labour; (2) over £25 and under £50, the sum of 7s. 6d. or fifteen days' labour; (3) under £25, the sum of 6s. or twelve days' labour. Certain female inhabitants are liable to pay the tax, but have not the alternative of performing labour.

The performance of this work is not ordinarily required at more than a prescribed distance from the place of abode, but if any person is called upon to proceed further than that distance the Governor may make him such payment as he thinks fit.

Persons who fail to make their contribution may be sentenced by the district magistrate to contribute any amount not exceeding

¹ As the present report was going to press it came to the notice of the International Labour Office that the provisions which refer to Dominica in both this and the following paragraph had been repealed by the Road Ordinance, 1914, Amendment Ordinance, 1 of 1928. It would appear, therefore, that compulsory labour in cases of emergency and as an alternative to a money contribution for the maintenance of roads has been abolished in Dominica.

² Section 20 of the Public Road Act, 18 of 1888.

³ The Public Road Act, 18 of 1888, as amended by the Public Road Act, 1888, Amendment Ordinance, 1923.
double the amount which they were liable to contribute whether in money or in labour, and in default to be imprisoned for a term not exceeding three months. The magistrate may, however, dismiss the case if he is satisfied that the person in default is from poverty unable to make a money contribution and from infirmity unable to make a labour contribution.

Similarly, in Montserrat, under the Road Ordinance 1, a graduated road tax is payable by male inhabitants between the ages of 16 and 60. In this case the persons liable to pay the tax are divided into three classes according to their occupation. Those in the first class are liable to a tax of 10s. per year, those in the second to a tax of 4s. per year, and those in the third to a tax of 2s. per year. Persons in the third class, which includes domestic servants, labourers, "persons having no occupation or employment in any business or calling", and all persons not included in the first and second classes, may elect to work for five days on the roads instead of paying a money tax. Every person who elects to perform labour must present himself at the place of work and shall "have or bring with him a hoe, a bill or cutlass and a basket and shall diligently and faithfully execute the work and labour to which he is appointed"..." for eight hours from seven in the morning to four in the afternoon on each and every day on which he is liable to work".

Any person who neglects or refuses to attend to perform this labour is liable to a penalty of 2s. per day, or, should he attend but perform the work in a careless or inefficient manner, is liable to immediate discharge and to a payment of a penalty of 2s. for the day on which he is so discharged. He is further not allowed to return to work, but is liable to an additional penalty of 2s. for each of the remaining days on which he has been summoned to work.

No provision is made in the Ordinance regarding the distance to which a person may be required to proceed for the purpose of performing this labour. The area of the island is, however, only 32½ square miles, and it is therefore not likely that any hardship is incurred on this score.

The Road Ordinance 2 of the Virgin Islands is very similar to that in force in Montserrat. The chief points of difference

1 The Road Ordinance, 1907 (as amended by 3 of 1909 and 5 of 1919).
2 Ordinance 2 of 1909.
are that in the Virgin Islands the tax in the case of the lowest class of the population amounts to 4s. instead 2s. per annum and is commutable for four days' labour instead of five.

FRANCE

§ 112. The complex nature of French colonial legislation renders it difficult to give a complete and ordered account of legislative texts concerning forced labour in the French colonies.

The requisitioning of labour for public works is in some cases formally authorised in legislation. In the majority of the French colonies and possessions, however, forced labour is neither authorised nor regulated by laws or decrees. The right to levy it appears to be regarded as falling within the powers of Governors. In the case of public works necessitating employment for a long period a contract is usually made between the native and the Administration, but it appears, as will be seen later in the case of the Cameroons and French Equatorial Africa, that compulsion is exercised by the Administration for the recruitment of these native workers.

The requisitioning of porters for Government requirements is common in many French colonies, but the International Labour Office is not in possession of the texts under which such levies can be made.

Certain general measures have been taken by the Government with a view to regulating the health conditions of all recruited workers, whether for public or private undertakings. The first of these was a Circular dated 22 July 1924, which was issued by the Minister for the Colonies to Governors-General, colonial Governors and the Commissioners of the Republic. This Circular prescribed a body of protective health measures for application in all public and private undertakings employing native workers throughout the colonies. These provisions concern recruitment of workers, their despatch to the workplace, the measures to be taken on arrival, living conditions, rations, health measures, and accidents occurring in the course of employment.

This Circular is completed by a further one issued by the Minister for the Colonies, dated 4 October 1924, which fixes a standard of physical fitness for workers recruited for employment at a distance and prescribes the health regulations to be applied in connection with them from the time of their despatch until that of their repatriation to their country of origin.
§ 113. Public works. — As far as the International Labour Office is aware, no legislation authorising the levying of forced labour exists in the Mandated Territory of the French Cameroons other than the texts concerning labour dues (prestations) furnished for the maintenance of local means of communication.

It should be pointed out, however, that punishments for cases in which natives fail to carry out certain categories of compulsory labour for public purposes are laid down in the Order (arrêté) of 4 December 1924 concerning offences against the laws determining the status of natives (indigénat), which applies the Decree of 8 August 1924. The Order includes amongst these offences "failure to furnish labour requisitioned by the Administration for essential public works".

The report for 1923 states that skilled workers employed on public works of considerable duration, such as roads, railways and harbours, are generally included in the local staff and are in fact Government employees. The Administration sometimes resorts to labour contracts in order to ensure a labour supply for works carried out over a fairly long period, and sometimes to a special kind of agreement entered into on a piece-work basis with the Government department concerned. Some of these contracts hand over the construction of ferries or sections of road to a native community, represented by one or more of its chiefs, at an inclusive price.

Compulsory labour was employed for the construction of the Central Railway. In recent years this necessitated the levying of about 6,000 workers. The recruitment of these labourers was confined to the districts in the Southern Cameroons adjacent to the railway under construction. The numbers called for in each district were fixed in proportion to the numbers of the able-bodied population. Recruits were chosen after a severe medical examination;

1 The Reports of the Mandatory (cf. Report for 1923, pp. 12 and 146) cite section 53 of the Order (arrêté) of 30 December 1916 as legislation empowering the Administration to requisition labour for public works: a right which would be used to recruit workers indispensable for large-scale public works, such as road construction, construction of railways, and improvement of harbours. This section refers, however, only to the obligation to obtain the authorisation of the Commissioner of the Republic for the recruitment of workers for private employers.
the period of contract was nine months, workers being paid a daily rate of 90 centimes, in addition to rations, of which the cost price was 1 franc 90 centimes. Facilities were granted for each group of ten workers to be accompanied by a woman to prepare their food. A doctor was attached to the officer in charge of the construction works and provided medical care for the workers. The working conditions of natives employed on the railway, and, in particular, their mortality rates, have been the subject of special remark during recent sessions of the Permanent Mandates Commission, as the result of which the French Government has made enquiries into the matter.

The railway was completed as far as Yaounde by 12 March 1927 and as far as Vimeli by 1 August 1927. This made it possible to terminate the engagements of the workers in January 1928. The construction is being finally completed by a contractor who will use contract labour.

Forced labour was further levied during 1927 for the following works and services: (1) repairs to the North Cameroons line (80 workers on 31 December 1927); (2) work on Duala Harbour (231 workers on 1 December 1927); (3) work on the roads from Yaounde to Batouri and the Ubangi (4,000 workers); (4) work on the roads from Yaounde to Garua (1,150 workers).

§ 114. Porterage. — Porterage is in general use throughout the greater part of the territory. The report for 1927 estimated that 180,000 man-days of porterage were necessary for service between the northern districts, the headquarters of Government and the railway terminus. An Order (arrêté) of 6 June 1924 grants exemption from porterage for Government purposes to all persons suffering from sleeping sickness. Further, an Order of 17 November 1924 prohibiting the acceptance by certain post offices of specified types of goods of a bulky nature has helped to reduce the amount of compulsory porterage. A programme of new roads has been worked out with a view to the introduction of wheel traffic into districts now under development.

§ 115. Emergencies. — The Order of 4 October 1924, which, in application of the Decree of 8 August 1924, specifies the offences against the laws determining the status of natives (indigénat) which are liable to disciplinary punishment, includes amongst such offences refusal to render assistance in cases of disaster or accident.
§ 116. Public works. — In French Equatorial Africa, section 1 of the Decree of 4 May 1922 regulating conditions of labour lays down the principle of freedom of labour contract in that territory. Labour contracts for a period of more than three months must be in writing and approved by the administrative authorities. It seems that in practice the Government only strictly applies the provision with regard to liberty of contract in the case of private undertakings, and that compulsion is exercised in the recruitment of workers for the Brazzaville-Ocean Railway. The fact that compulsion is exercised in this instance was admitted by the Governor-General himself during an account of conditions which he gave on 28 April 1927 to the Union Coloniale Française: “10,000 to 15,000 men were absolutely indispensable. It was impossible to avoid levying these in the territory and it was only just to call upon every part of the country to bear its share of the burden. Natives had, therefore, to be brought from a distance. To add to the difficulty they refused to obey either the orders or follow the good advice given to them by the Europeans who took them on for duty.”

An official document which was read in the Chamber of Deputies during the sitting of 23 November 1927 also formally lays down the principle of compulsion in the recruitment of such workers.

In connection with the construction of the Brazzaville-Ocean Railway, a number of Orders (arrêtés) concerning labour have been issued in recent years. The most important of these are the

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1 French Equatorial Africa consists of the following colonies: The Gaboon, Middle Congo, Ubangi-Shari, and the Lake Chad Territory.
2 Dépêche coloniale, 30 April 1927.
3 An official communication from the Administrator of the Middle Congo to one of his subordinate officers, quoted by Mr. Henry Fontanier: “In my letter of 25 June 1925 to the Governor of the Middle Ubangi District, I explained that owing to the political situation in the territory serious difficulties would be met with, both in the district as a whole and in the subdivision which you administer, in the recruitment of 500 workers for the railway. I added that the local administrator would not be able to count on a single voluntary labourer for the work and that I found myself obliged to use compulsion in order to provide the number for which I had been asked. As I have had no reply to my communication, I conclude that the principle of compulsion has been accepted by higher authority. You must, therefore, use compulsion notwithstanding the unfortunate consequences which must inevitably result. It is important that there should be no lack of labour on the work and every effort must be made to secure it.” (Journal officiel de la République française, 24 November 1927, p. 3177.)
Order of 20 January 1925 (as amended by the Orders of 6 November 1926 and 23 December 1927) prescribing the duties, rights and remuneration of native labourers employed on the railway and organising their employment, the decision of 2 February 1928 and the Instructions of 31 March 1928 concerning measures for the safeguarding of the health of native labourers employed on the railway.

Several thousand natives have been employed on the railway for the last five years. Workers are taken on for a period which varied at first from three to six months, but was fixed subsequently by the Order of 23 December 1927 at from twelve to eighteen months according to the district of origin. They are fed, housed and paid a sum based on the average wage customary in the district. The Director of Labour is a chief administrator. All matters concerned with recruitment, discipline, administration, housing, sleeping accommodation, health, and the repatriation of native workers come under his control.

The decision to carry out the railway construction in the region of the coast as rapidly as possible will necessitate the use of several thousand native workers for several years.

An agreement signed between the Governor-General and the Société de Construction des Batignolles on 30 August 1927 and ratified by the Minister for the Colonies made it possible, owing to improvements in plant, to reduce the native staff placed at the disposal of the company from 8,000 to 4,000. By 23 December 1927, the roadbed was laid as far as Kilometre 80 and the finished track as far as Kilometre 73. It is estimated that at least five years will elapse before the work can be completed. The health conditions of workers have been improved during recent months. Work in the unhealthy Mayumbé district was accompanied by a very high death rate.

§ 117. Porterage. — A large amount of porterage is constantly called for in connection with the construction of the Brazzaville-Ocean Railway. This was admitted by the Governor-General in a speech to the Union Coloniale Française on 28 April 1927: "... We had to explore this difficult region most carefully. It is covered with narrow tracks on which porterage had to be used for the

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1: An Order dated 23 December 1927 fixed the daily wage at 1 franc 50 centimes on the works and at 1 franc in the training camps.
transport of all goods and of all materials required on the work. Porters were also necessary for the food supply, for the transport of rails and other material for the installation of the Decauville plant which followed on the clearing of every few yards of ground won from the unfriendly forest, and for the transport of everything required to meet the needs of the large army of workers.

It should, however, be noted that the construction of the Brazzaville-Ocean Railway will make it possible to do away with most of the porterage used in French Equatorial Africa, and that the policy of the Governor-General is to reduce it straightway as far as possible by the making of tracks and roads, by pushing on the construction of embankments which will permit of the provisioning of the points of work by means of motor transport and Decauville railways. Already a service consisting of sixty lorries which has been set up for Brazzaville alone has made it possible to dispense with two to three thousand man-days of porterage.

§ 118. Emergencies. — The Order of 7 January 1925, which reorganised the system of labour dues (prestation), specifies amongst the purposes for which these dues may be exacted the carrying out of the local sanitary work of native communities, including work in connection with the campaign against sleeping sickness or any other endemic or epidemic disease (sections 1 and 4). Further, section 9 of the Order prescribes that “in case of accident, public calamity or circumstances of special urgency, the district commandants (commandants de cercles) or subdivisional officers (chefs de subdivisions) concerned may levy labour dues”.

§ 119. Public works. — As far as the Office is aware, no legislation is in existence in the Mandated Territory of French Togoland concerning the levying of forced labour for public works other than texts concerning local labour dues (prestations locales).

1 All the cement required for the masonry work on a tunnel at Kilometre 89 has to be transported by head carriage over a distance of 30 kilometres (“Le Chemin de fer ’Brazzaville-Ocean’,” by Henry Paul Eydox, in the Dépêche coloniale, 24 May 1928).
It should, however, be remarked that penalties in the event of the failure on the part of natives to perform certain compulsory labour for public works are provided in the Order (arrêté) of 24 May 1923 prescribing the method of application of the Decree of 24 March 1923 concerning disciplinary punishment. The Order specifies the following among the contraventions liable to disciplinary punishment: “(14). Refusal to perform the work or to render the assistance called for by oral or written requisition for purposes of public order and safety or public works.”

Labour appears to have been sufficiently plentiful up to the present to render it unnecessary for the Government to use compulsion for the carrying out of public works. The scale on which such works have been undertaken by the Administration in the course of recent years has necessitated the employment of a large amount of labour, but recruitment has not been difficult, the wages paid by the Administration to labourers which it recruits being approximately the same as those paid by private undertakings. The Accredited Representative of the Mandatory Power was able to inform the Permanent Mandates Commission that the Government had no intention of levying forced labour for the construction of the proposed section of the railway between Agbonu and Agbandi (about 90 kilometres in length).

§ 120. Porterage. — Labour for Government porterage may be levied, although, owing to the development of the road system and of means of Government transport, it appears that in practice local authorities rarely find it necessary to avail themselves of this right. The Order of 24 May 1923, referred to in the preceding paragraph, specifies among the contraventions liable to disciplinary punishment: “(50). Desertion without adequate reason on the part of porters, paddlers, escorts, guides, workers or employees on public works.”

§ 121. Emergencies. — The Decree of 24 May 1923 includes the following amongst the offences liable to disciplinary punishment: “(14). Refusal to perform work or to render the assistance called for by oral or written requisition in cases affecting public order or safety or public works as well as in cases of fire, shipwreck, famine, epidemic, cattle diseases, or other diseases or calamities.”

The Office has, however, no information as to the conditions under which this labour is performed.
§ 122. Public works. — The Decree of 22 October 1925 regulating conditions of native labour in French West Africa, unlike the corresponding Decree for French Equatorial Africa, does not enunciate the principle of freedom of contract, nor does it require that a contract for a certain period must be in writing and approved by the administrative authorities. Section 36 of this Decree prescribes that "in exceptional cases, when, as a result of circumstances beyond its control, the administrative authority is compelled to carry out public works of extreme urgency, the Lieutenant-Governor . . . may temporarily suspend the engagements of workers with private persons".

It may be inferred from this provision that the Administration has the option of requisitioning workers for particularly urgent public works.

Large-scale public works are being carried out in French West Africa to an ever-increasing degree. Mention may be made of the completion of the Thies-Kayes-Niger Railway, the extension of the Ivory Coast line, the construction of the Louga-Linguère and the Cotonu-Porto-Novo lines, the extension of the Central Dahomey line to the Niger, and various harbour and irrigation works. Workers cannot be recruited in the locality and the Government is frequently forced to take on workers at long distances from the place of employment. This was the case several years ago when the Upper Volta District provided large numbers of workers for the Thies-Kayes-Niger Railway and for the Ivory Coast Railway. In view of this large development of public works, Governor-General Carde issued a Circular, dated 1 January 1928, in which he drew the attention of the different authorities in the individual colonies to the necessity for expediting draft legislation dealing specially with the conditions of Government labourers. He pointed out that this legislation should be based on the same principles as the legislation enacted with regard to workers in private undertakings, such as the main Decree of 22 October 1925 and the Order of 29 March 1926 issued in application thereof.

The Circular of 1 January 1928 points out that such regulations should cover important questions, such as conditions of recruitment,

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1 French West Africa consists of the following colonies: Senegal, French Guinea, the Ivory Coast, Dahomey, French Sudan, Upper Volta, Mauritania, and the Niger Territory.
conveyance of labourers to the place of work, their reception on arrival, conditions of labour, food, breach of contract, and measures for ensuring the observance of the regulations. Various medical inspections must be made with a view to the elimination of unfit men and particular attention must be devoted to the construction of the labourers' encampments. Provision must be made for a break of ten minutes every one or two hours, for a rest break of half-an-hour during the day, and for a compulsory weekly half-holiday. The only punishment to be imposed on the workers should consist in the holding back of that portion of wages which remains after deduction of the portion which is placed to the credit of the worker as accumulated savings (pécule) and which is handed to him at the conclusion of the engagement.

It is important to note that a Decree, dated 31 October 1926, instituted in French West Africa a system of levying labour which had been brought into force a few months previously in Madagascar. This makes it possible to carry out public works by means of labourers levied from the second quota of the native militia. An Order dated 28 May 1927 applies the Decree. The period of military service in the labour contingents is fixed at three years. In principle such workers are only employed in their own colony, except in the case of public works concerning more than one colony or if the labour resources of a particular colony are insufficient for the execution of the work. The minimum and maximum number of men in each labour camp is fixed at 100 and 500 respectively. The wage is the same as that of the sharpshooters (tirailleurs) serving in French West Africa. This is paid monthly: one-third of the sum is retained and placed in the accumulated savings (pécule) of the worker. The same rations are prescribed as for the sharpshooters serving in the colony. Living accommodation consists either of movable huts or of huts made of local materials. Every worker must be provided with his own camp bed and a mat. Labour groups containing 200 men or more must be provided with a sick-room and a dispensary. Negligence, idleness, absence without lawful excuse and disobedience on the part of the worker are subject to disciplinary punishment in the shape of confinement to barracks, prison, or a reduction in grade or category.

The Decree of 21 October 1926 came into force on 28 May 1927. During the first three months of 1927 1,500 men were called up, of whom 500 were from the Ivory Coast and 1,000 from the Sudan. The new departure made by this Decree has met with a mixed
reception, to which reference will be made later in describing conditions of forced labour in Madagascar.

§ 123. Porterage. — It appears that head carriage is now exceptional in the various territories of French West Africa, pack animals being used for purposes of transport.

The only legislation concerning porterage which has come to the notice of the International Labour Office is the Order of 17 April 1926 regarding transport in French Guinea.

§ 124. Emergencies. — As already stated above, section 36 of the Decree of 22 October 1925 permits the Lieutenant-Governor temporarily to suspend workers' engagements with private persons " in exceptional cases when, as the result of circumstances beyond its control, the administrative authority is compelled to carry out public works of extreme urgency ". The power to requisition labour for purposes of the Administration follows indirectly from this text.

§ 125. Compulsory cultivation. — The International Labour Office has very little information concerning compulsory cultivation in French West Africa. A Circular dated 21 April 1912 regarding economic cultivation, particularly of cotton, appears to impose a certain amount of compulsory cultivation upon natives. A similar obligation seems to be implied in more recent legislation for the promotion of kapok production and the increased planting of the kapok tree.

§ 126. Public works. — Reference has already been made in the section of this chapter which deals with French West Africa to the legislation recently adopted in Madagascar with regard to the requisitioning of labour for public works. This legislation provides for the carrying out of certain public works by workers levied from the second quota of the native militia. The Decree of 3 June 1926 prescribes (section 1) that the second quota of the native

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1 See § 126.
2 " The native is under strict compulsion to cultivate cotton, and the district commandants are required to see that the obligation is carried out. "
3 The Circular of 21 May 1928 issued by the Lieutenant-Governor of the Upper Volta states: " It is to be feared, however, that owing to their inherent indolence the natives will only partly develop the natural riches which are at their disposal. Constant effort on your part is necessary in order to induce them to undertake the steady development of the possibilities of the kapok tree and to obtain the maximum results. "
militia, that is to say, recruits not actually called up but not exempt from military service nor unfit for service, may, in the course of the three years during which they remain in their homes at the disposal of the military authorities, be called up by order of the Governor-General to help on any public works which are necessary for the economic development of the colony. The manner in which the Decree is to be applied is laid down in an Order issued by the Acting Governor-General dated 29 November 1926, and is similar to that prescribed in the case of French West Africa by the Order of 23 May 1927, which has already been examined above. Labourers must, as far as possible, be grouped in encampments of 500 men. They may be accompanied by their families if circumstances permit of this. The wage is the same as that of the sharpshooters (tirailleurs) performing service in the colony and is paid fortnightly. At the request of the worker, half of the sum may be paid into a savings bank. The working day consists of eight hours with a minimum break of one hour for the midday meal. Detailed provisions are laid down regarding workers' clothing, rations, living accommodation and health measures. In event of negligence, idleness, absence without lawful excuse, or disobedience on the part of the worker, he becomes liable to disciplinary punishment in the shape of confinement to barracks or imprisonment.

The International Labour Office has received conflicting accounts of this new form of levy. In a speech made on 17 October 1927, the Governor-General of Madagascar emphasised the excellent results which, in theory, were to be hoped for from the new practice: "As I have already explained several times, it is fair, logical, humane and democratic and will enable us to make good the deficiencies in equipment which differentiate new countries from those with an established civilisation." On the other hand, complaints from native circles have reached the International Labour Office to the effect that, whatever may be its economic results, this move, inasmuch as it legalises the principle of compulsion and that of the imposition of imprisonment as a disciplinary measure, appears to be contrary to the general tendency of French legislation which, as is evidenced in Madagascar itself by the important Decree of 22 September 1925, has endeavoured

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1 It should be noted that the Decrees in the Belgian Congo which contain similar provisions, and of which the Belgian Government only availed itself during the first ten years following the annexation of the Congo, have been in disuse for the last twelve years.
in recent years to introduce the dual principle of freedom of contract and conciliation.

§ 127. Emergencies. — The Order of 4 December 1912, concerning disciplinary punishment for offences against the law determining the status of natives (indigénat), includes among such offences: refusal to comply with any requisition made in cases of accident, public disorder, shipwreck, flood, fire, locust invasion, or other disaster.

B. — Territories in Asia

FRENCH INDO-CHINA

§ 128. Public works. — The Government of Annam formerly imposed a corvée for the digging and maintenance of canals, the utility of which was recognised by the natives and which, moreover, was only exacted in exceptional cases. The workers were well paid. A Decree passed by Minh-Mang provided valuable safeguards for these forced labourers by fixing the maximum number of days of forced labour at forty-eight per year for each person liable to perform it, and by providing that in no circumstances could persons liable to labour dues be employed at a distance greater than 5 kilometres from their village.

In Cochin-China, however, the French authorities originally applied the corvée very widely and consequently caused much discontent. A system of commutation for money was introduced in 1871, but many objections were also raised to this measure, and in 1881 the Government promulgated a Decree, dated 10 May, abolishing forced labour in Cochin-China.

In other parts of Indo-China the commutation system, which was at first optional, was made compulsory, and finally, as the result of reforms in taxation carried out in 1897 and 1898, forced labour disappeared and was replaced by the personal tax. The only labour dues which were retained were those for local public purposes and the levy of ten days made in the villages for the

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1 French Indo-China consists of the Colony of Cochin-China, the Protectorates of Annam, Cambodia, Tonking and Laos, and the Kwang-Chan-Wan Territory.
maintenance of local means of communication and, in particular, of dykes.

In Cambodia, the requisitioning of labour for public works is authorised by an Order (arrêté) of the Governor-General dated 26 December 1916, which contains detailed regulations on the matter. Such work is paid for at rates fixed by the Senior Resident but it is, nevertheless, forced labour.

C. — Territories in Australasia, Oceania, and America

§ 129. The International Labour Office is not at present in possession of the texts of any legislation concerning forced labour for general public purposes in French possessions in Australasia, Oceania, or America.

ITALY

This report was already in the press when information was received with regard to forced labour for general public purposes in the Italian colonies. This information will be found in Appendix III of the report.

JAPAN

PACIFIC ISLANDS UNDER JAPANESE MANDATE

§ 131. Public works; porterage.—The reports of the Mandatory state that no forced labour is used in the territory.

§ 132. Emergencies. — An exception appears to be made, however, when necessity arises for the suppression of insect pests and diseases. Regulations regarding the prevention of insect pests and noxious weeds are common in colonial areas, and the legislation applicable in the present instance would call for no special comment except that it contains a provision to the effect that the district officer may requisition labour from owners,

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1 See Arthur Girault: *Principes de colonisation et de législation coloniale* (1923), Volume II of Part II, pp. 233-234.

2 South Seas Bureau Order, No. 2 of 1 May 1923.
leaseholders or cultivators of other fields and lands than those on which the measure is to be carried out. The persons called upon may commute the labour for payment or furnish a substitute.

§ 133. **Compulsory cultivation.** — See the note above under *Public works; porterage.*

**NETHERLANDS**

**DUTCH EAST INDIES**

§ 134. In the Dutch East Indies the term “forced or compulsory labour” is understood to apply to any labour (excluding labour imposed by sentence of a court of justice) which may be required from natives under threat of penalty when they do not come forward voluntarily to do the work. All forced labour for public purposes which is not required exclusively in the interest of the native village commune is termed “*heerendienst*” (compulsory labour for general public purposes). Thus the maintenance by native villagers of the part of an important highway which crosses their village land is of more than purely local interest and is therefore considered to be *heerendienst*.

The Act of 1925¹, which may be regarded as the Constitution Act of the Dutch East Indies, contains provisions concerning compulsory labour. Section 46 of this Act, which is practically identical with section 57 of the old Act of 1854², contains the following provisions:

A special Ordinance for each province shall regulate the nature and duration of the labour dues which natives are liable to render, as well as the circumstances in which and the conditions under which the said labour dues may be levied, due account being taken of existing usage, institutions and necessities. The Ordinances concerning labour dues shall be revised for every province once in every five years in order that such amendments in the general interest as may be possible may gradually be made in them.

The annual report provided for in paragraph 3 of section 60 of the Constitution³ shall contain particulars as to the manner in which the regulation of the said dues which is provided for in this section has been carried out.

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¹ *Staatsblad* 447 of 1925.
² *Staatsblad* 21 of 1855.
³ The Government must present every year to the States-General a detailed report on the administration of and conditions in the Dutch East Indies. This report is known as the “Colonial Report”.

The terms of the above-mentioned section and the causes which led to its provisions being framed show that as early as 1854 it was considered necessary to entrust the regulation of forced labour to the central authorities with a view to preventing abuses on the part of subordinate authorities.

Section 46 provides for a quinquennial revision of the Ordinances concerning compulsory labour for the express purpose of compelling the Government to review this question at regular intervals and thus preventing any relaxing of control. The stipulation made in the third paragraph of the section, to the effect that details of the forced labour system should be given in the "Colonial Report," makes it possible for the States-General of the Netherlands to supervise the manner in which the Dutch East Indies Government applies the provisions of section 46. This supervision by the Dutch Parliament is rendered easier by the yearly publication in the "Colonial Report" of statistics concerning the number of days of compulsory labour requisitioned in the Dutch East Indies during the previous year. The statistics concerning compulsory labour which appear in the "Colonial Reports" have been increasingly abridged. The "Colonial Report" for the year 1924 contained very detailed statistics as to the number of unpaid days of labour which had been requisitioned for each class of labour (roads, waterways, bridges, dykes, etc.), together with the exact number of days requisitioned for construction and renewal. It further gave the number of days requisitioned for the carrying out of important works in return for payment and for porterage. A number of figures taken from these statistics appear in this report (see opposite page).

A series of Colonial Ordinances published in the Staatsblad contains special regulations for the observance of Governors and subordinate officials with regard to compulsory labour. The Bijbladen (Circulars) issued by the Governor-General give authentic interpretations of Ordinances and contain more detailed instructions concerning their application. An endeavour has thus been made to avoid and prevent abuses by the issue of detailed regulations concerning forced labour and by the effective supervision of the requisitioning of workers. Information concerning the nature, duration and kind of labour dues called for during the fixed period, not only in every province, but in every district and every village, is consequently always at the disposal of the central authority.

Section 523 of the Penal Code provides that natives who, without sufficient reason, fail to perform the compulsory labour to which
## FORCED LABOUR IN THE TERRITORIES OF THE OUTER PROVINCES WHICH ARE UNDER DIRECT GOVERNMENT CONTROL

(Appendix to the "Colonial Report" for 1926)

<table>
<thead>
<tr>
<th>Province</th>
<th>Number of persons liable to performance of forced labour</th>
<th>Number of persons effecting commutation</th>
<th>Number of workers</th>
<th>Number of days of forced labour which may be required</th>
<th>Number of days of forced labour actually required</th>
<th>Amount of commutation money per worker</th>
<th>Total</th>
<th>Dutch florins</th>
</tr>
</thead>
<tbody>
<tr>
<td>Lampong Districts</td>
<td>41,317</td>
<td>31,551</td>
<td>9,766</td>
<td>30</td>
<td>292,980</td>
<td>257,315</td>
<td>163,401</td>
<td>370,598</td>
</tr>
<tr>
<td>Palembang</td>
<td>163,401</td>
<td>73,784</td>
<td>89,667</td>
<td>35</td>
<td>3,138,345</td>
<td>1,988,115</td>
<td>26,402</td>
<td>685,782</td>
</tr>
<tr>
<td>Djambi</td>
<td>32,402</td>
<td>3,094</td>
<td>29,309</td>
<td>35</td>
<td>1,025,798</td>
<td>544,872</td>
<td>18</td>
<td>39,205</td>
</tr>
<tr>
<td>East Coast of Sumatra</td>
<td>30,702</td>
<td>27,357</td>
<td>3,345</td>
<td>40</td>
<td>133,800</td>
<td>34,100</td>
<td>10</td>
<td>17,397</td>
</tr>
<tr>
<td>Benkoelen</td>
<td>46,939</td>
<td>16,758</td>
<td>30,182</td>
<td>35</td>
<td>1,056,344</td>
<td>845,358</td>
<td>28</td>
<td>269,945</td>
</tr>
<tr>
<td>West Coast of Sumatra</td>
<td>264,713</td>
<td>235,212</td>
<td>29,501</td>
<td>35</td>
<td>690,566</td>
<td>537,118</td>
<td>18.2</td>
<td>1,103,802</td>
</tr>
<tr>
<td>Tapanoeli</td>
<td>130,556</td>
<td>50,961</td>
<td>79,595</td>
<td>35</td>
<td>2,785,811</td>
<td>1,877,172</td>
<td>23.6</td>
<td>419,782</td>
</tr>
<tr>
<td>Atjeh and Dependencies</td>
<td>22,944</td>
<td>14,334</td>
<td>8,610</td>
<td>24 and 36</td>
<td>212,122</td>
<td>198,894</td>
<td>23.1</td>
<td>43,968</td>
</tr>
<tr>
<td>South and East Borneo</td>
<td>160,846</td>
<td>96,828</td>
<td>64,018</td>
<td>26</td>
<td>1,664,468</td>
<td>793,850</td>
<td>12</td>
<td>616,063</td>
</tr>
<tr>
<td>Menado</td>
<td>23,526</td>
<td>6,458</td>
<td>17,068</td>
<td>32</td>
<td>546,176</td>
<td>400,694</td>
<td>23.4</td>
<td>33,270</td>
</tr>
<tr>
<td>Celebes and Dependencies</td>
<td>174,764</td>
<td>8,733</td>
<td>165,971</td>
<td>30</td>
<td>4,979,140</td>
<td>3,238,781</td>
<td>19.4</td>
<td>76,459</td>
</tr>
<tr>
<td>Moluccas</td>
<td>46,906</td>
<td>108</td>
<td>46,858</td>
<td>36</td>
<td>1,686,876</td>
<td>956,469</td>
<td>20.4</td>
<td>1,293</td>
</tr>
<tr>
<td>Timor and Dependencies</td>
<td>6,281</td>
<td>---</td>
<td>6,281</td>
<td>36</td>
<td>226,146</td>
<td>110,307</td>
<td>17.5</td>
<td>---</td>
</tr>
<tr>
<td>Bali and Lombok</td>
<td>221,148</td>
<td>269</td>
<td>220,860</td>
<td>30</td>
<td>6,025,785</td>
<td>2,652,575</td>
<td>12</td>
<td>1,785</td>
</tr>
<tr>
<td><strong>Total</strong></td>
<td><strong>1,366,485</strong></td>
<td><strong>565,457</strong></td>
<td><strong>801,028</strong></td>
<td><strong>25,064,427</strong></td>
<td><strong>14,385,620</strong></td>
<td><strong>3,679,349</strong></td>
<td><strong>565,401</strong></td>
<td><strong>---</strong></td>
</tr>
</tbody>
</table>

1 Number now reduced to 30 days. *(Staatsblad 202 of 1927.)*
2 Number now reduced to 22 days. *(Idem 408 of 1926.)*
3 Number now reduced to 30 days. *(Idem 206 of 1927.)*
4 Number now reduced to 24 days. *(Idem 293 of 1927.)*
5 Number now reduced to 24 days. *(Idem 205 of 1927.)*
6 Number now reduced to 24 days. *(Idem 204 of 1927.)*
they are legally liable are punishable with imprisonment for a period not exceeding three days or with a fine not exceeding 10 florins. On repetition of the offence within a period of six months, imprisonment for a period not exceeding three months may be inflicted.

Section 425 (paragraph 2) of the Code prescribes that officials who wilfully exact forced labour in cases in which the population is not under an obligation to furnish it shall be punishable with imprisonment for a period not exceeding seven years.

The appended table contains a certain number of statistics taken from the "Colonial Report" for the year 1926. The central offices at Batavia are in possession of much more detailed information.

Before giving an account of conditions, a distinction must be made between the Islands of Java and Madura on the one hand, and the Outer Provinces on the other. Java and Madura are two of the most thickly populated regions of the world, in which Asiatic civilisation has been highly developed for centuries, while the Outer Provinces are still, generally speaking, thinly populated and their native populations are primitive except in a few regions.

§ 135. Public works. — For purposes of convenience, it is necessary to make a clear distinction between paid and unpaid compulsory labour for public works, and these are treated separately below.

Paid Compulsory Labour

As a general rule, only free workers are employed for large public works such as the construction of railways, harbours, public buildings, important highways, etc. The Governor-General has, however, power to requisition compulsory labour paid at a fair

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1 See p. 101.
2 The "Colonial Report" for 1927, which has arrived at the moment of going to press, shows no important changes.
4 Area: 131,415 square kilometres; native population (1920 census): 34,462,751, with an average density of 262 per square kilometre.
5 Area: 1,773,500 square kilometres; native population in 1920: 13,871,144; average density: 7.7 per square kilometre.
6 e.g. various parts of Sumatra, Banka, Billiton, Bali, Celebes, Amboina, etc.
rate of wages for the carrying out of large public works, but only on two conditions:

(a) that the performance of the work is absolutely necessary in the general interest;
(b) that it is impossible to obtain sufficient voluntary labour at fair rates of wages.

In Java and Madura paid compulsory labour may only be requisitioned for the construction and important repairs of large irrigation works (rice being the principal food of the population).

Should provincial Governors consider that recourse to compulsory labour is necessary, the previous authorisation of the Governor-General is indispensable before it can be used. The proposals placed before him must show: (a) evidence that the proposed work is urgent; (b) the rate of pay which has been offered but has failed to obtain a sufficient number of free workers; (c) the rate of pay which is considered a fair one to pay the labourers requisitioned.

Health conditions in the district where the work is to be carried out and the distance between the domicile of the workers and the place of work must be taken into consideration in deciding the rate of wages. The distance may in no case exceed two and a half hours’ journey on foot (12 kilometres).

The Governor-General fixes in each particular case the maximum number of workers who may be requisitioned, together with the maximum number of days which individual natives may be called upon to perform. The working day is considered to consist of the period between 6 a.m. and 6 p.m. (i.e. a maximum of twelve hours), including breaks for rest and the time necessary to go to and from work on foot.

Workers return home every day. In exceptional cases they may be required to work during the night, but such work must be paid at double rates.

The first persons to be requisitioned are those directly interested in the performance of the work. Natives may only be called upon to perform unskilled labour, the performance of skilled labour being excluded. Natives may be required to bring their own tools, but only in cases where they possess them (e.g. bill-hooks, spades, transport poles and baskets for the transport of materials).

1 Staatsblad 101 of 1914, 692 of 1920; Bijblad 8031.
Staatsblad 21 of 1915; 334 of 1918; 72 of 1924; Bijblad 8211.
Staatsblad 66 of 1916; Bijblad 8487.
Staatsblad 316 of 1914, 658 of 1920.
Staatsblad 723 of 1919.
Governors are required to furnish an annual report of the number of days of labour which have been requisitioned from natives. This number is published in the "Colonial Report".

In considering the classes of persons liable to the performance of compulsory labour, it should be explained that in practically all the provinces of Java the liability to perform compulsory labour bears a definite relation to the ownership of lands capable of cultivation, gardens, houses, lands surrounding houses, and fishponds. This relation is based on ancient custom, of which a short description must be given in order that the origin of this compulsory labour may be clearly understood. In many parts of Java the native commune (desa) possessed communal lands. Only the native population originating in the desa had the right to cultivate these lands or the right of voting for and electing their chief. They had at the same time the duty of rendering certain services to their prince and of performing compulsory labour. This duty was not in any way humiliating. It devolved only upon the oldest families and was therefore rather an honour of which all other persons inhabiting the village were deprived. In the provinces in which this connection exists between rights over the land and the right of election of chiefs on the one hand, and the obligation to labour on the other, no compulsory labour can be requisitioned except from the property-owners mentioned above, while in other provinces all heads of families physically capable of labour are obliged to perform it. The classes of natives who are exempt from this labour are as follows:

(a) Officials and heads of desas (small native communities) and other members of the administration of the desas;

(b) Religious teachers, keepers of tombs of saints, the staff of mosques, inhabitants of perdikandesas (or free desas) unless otherwise provided by the Governor-General in regulations;

(c) Persons other than those mentioned in (a) and (b) who, in accordance with usage and custom, are exempt from the performance of forced labour in virtue of their functions or birth;

(d) Retired officials recognised by the chief district officer and members of the military forces in receipt of pay;

(e) Officials and heads of desas who have retired after not less than thirty-five years' service;

(f) Widows of persons mentioned under (a), (d), and (e) above, with the exception of the widows of members of the administration of the desas, other than the head of the desa;
(g) Incapacitated or aged persons, divorced women and widows mentioned under (f) who are destitute;

(h) Inhabitants of land placed at the disposal of agricultural and industrial undertakings on condition that such inhabitants are permanently employed by such undertakings.

(i) Members of the Volksraad and the local councils.

It might be deduced from the exceptions mentioned under (f) and (g) above that the compulsory labour of women could be levied. The liability to perform labour dues which formerly devolved upon women owning land capable of cultivation, gardens, etc., has, however, been entirely abolished.

Throughout the Dutch East Indies only male natives can be called upon to perform compulsory labour, and this is specifically laid down in all the Ordinances on the subject. According to information given in the "Colonial Reports", the average of total man-days of compulsory labour requisitioned in Java and Madura during the last ten years for the above-mentioned purposes is only 180 per year.

In such thickly populated countries as Java and Madura it very rarely happens that the number of voluntary workers available is insufficient when a fair wage is offered.

The right to requisition forced labour is only reserved in Java and Madura as a precautionary measure.

In the Outer Provinces, paid compulsory labour may be requisitioned for the construction of main highways (including important modifications and improvement of such highways) and for civil and military works.

The general conditions of paid compulsory labour referred to above are also applicable in the Outer Provinces. Slight modifications in view of special conditions such as have already been mentioned in connection with the levying of labour in Java and Madura are also made in the case of the provisions regarding compulsory labour in the Outer Provinces.

When requesting authorisation from the Governor-General for the performance of certain works, the Governors of Outer Provinces

1 Staatsblad 113 of 1923.
2 There are eighteen Outer Provinces. Compulsory labour has been completely abolished in the Provinces of Billiton (Staatsblad 32 of 1920), Banka (Staatsblad 804 of 1921), Riouw (Staatsblad 1 of 1867) and Western Borneo (Staatsblad 25 of 1870), in a large part of the Molucca Province (Ternate, Staatsblad 41 of 1866, 204 of 1927), the Banda Islands (Staatsblad 42 of 1866, 204 of 1927) and the chief districts of Amboina and Saparua (Staatsblad 204 of 1927).
must not only give the information mentioned above but must also state whether it will be necessary for the worker to spend the night at the place of work and the amount of unpaid compulsory labour which is already being required from the population from which it is proposed to exact the levy. The maximum distance between the place of work and the place of residence, fixed for Java at 12 kilometres, is raised to 15 kilometres for the Outer Provinces owing to the fact that the population is less dense. Such cases are, however, very exceptional. As a general rule, the worker returns home every evening after a working day of twelve hours, including breaks for rest and the time taken to go to and from work.

The maximum period which may be requisitioned in the Outer Provinces for both classes of compulsory labour, paid and unpaid, is on an average thirty days per annum; in practice only about 60 per cent. of this maximum is requisitioned.

The "Colonial Reports" show the following number of days of paid labour as having been levied for the carrying out of large public works in the Outer Provinces:

<table>
<thead>
<tr>
<th>Year</th>
<th>Days of Paid Labour</th>
</tr>
</thead>
<tbody>
<tr>
<td>1920</td>
<td>106,000 man-days</td>
</tr>
<tr>
<td>1921</td>
<td>8,500</td>
</tr>
<tr>
<td>1922</td>
<td>4,000</td>
</tr>
<tr>
<td>1923</td>
<td>23,000</td>
</tr>
</tbody>
</table>

Persons liable to perform paid compulsory labour are the same as those liable to perform unpaid compulsory labour, and therefore the list of these classes of persons will be shown in the paragraph concerning the latter type of work which is of greater importance in the Dutch colonies than the former.

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1 See p. 103.
2 Unpaid compulsory labour has been abolished in Java and Madura.
3 See p. 109.
4 The Staatsbladen and Bijbladen containing the regulations for both paid and unpaid compulsory labour in the Outer Provinces are the following:

- West Coast of Sumatra: Staatsblad 731 of 1914, 708 of 1918; Bijblad 8136 and 9095.
- Tapanoeli: Staatsblad 408 of 1926; Bijblad 11167.
- Atjeh: Staatsblad 206 of 1927; Bijblad 11329.
- Djambi: Staatsblad 51 of 1919; Bijblad 9159.
- East Coast of Sumatra: Staatsblad 202 of 1927; Bijblad 11325.
- Palembang: Staatsblad 641 of 1919; Bijblad 9292.
- Benkoelen: Staatsblad 779 of 1920; Bijblad 9627.
- Lampung Districts: Staatsblad 407 of 1919; Bijblad 9258.
- South and East Borneo: Staatsblad 203 of 1927; Bijblad 11326.
- Celebes: Staatsblad 207 of 1927; Bijblad 11330.
- Moluccas: Staatsblad 204 of 1927; Bijblad 11327.
- Menado: Staatsblad 205 of 1927; Bijblad 11328.
- Timor: Staatsblad 208 of 1927; Bijblad 11331.
- Bali and Lombok: Staatsblad 168 of 1922; Bijblad 10013.
Unpaid Compulsory Labour

By far the greater part of the compulsory labour levied from the population of the Dutch East Indies is unpaid. This labour is in the nature of a tax and is therefore unpaid and is commutable in every case. It is in fact a tax in the form of labour resembling the labour dues (prestations) in the French colonies.

These labour dues have been completely abolished in Java and Madura. A tax in money which had replaced compulsory labour was also completely abolished on 1 January 1927.

This form of labour therefore only exists in the Outer Provinces in four of which it has been completely abolished. In the Molucca Province it is partially abolished. Since the abolition of the right to requisition unpaid compulsory labour for the construction, important modification and improvement of main highways (1 January 1919), this labour has been entirely devoted to the maintenance of the very extensive road system.

Separate regulations concerning this compulsory labour are prescribed for each province. These regulations differ only on points of detail connected with the special needs and character of each district. The provisions now in force may be considered under the following heads:

1. Incidence of the tax, the distribution and supervision of the work;
2. The nature of the work for which compulsory labour may be levied;
3. The classes of persons liable to perform compulsory labour;
4. The restrictions imposed (maximum duration, season of the year, maximum distance, etc.);

1. The incidence of the tax, the distribution and supervision of the work. In view of the fact that paragraph 2 of section 46 of the Act of 1925 prescribes that the Ordinances concerning labour dues must be revised every five years, the programme showing the number of working days which will be required for the ordinary...
maintenance of works is drawn up to cover a five-year period in each province. This programme is drawn up on a fixed model and must be approved by the Governor. It contains a list of the various native communes, the number of persons liable to labour dues in each commune, and the number of working days which it is proposed to requisition from them for the upkeep of the roads in the province. The programme also specifies the work to be allotted to each village, that is to say, the section of the road the maintenance of which is allotted to the community. The division of this work amongst the villagers is left as far as possible to the village authorities, who, after consulting the persons concerned, allot the individual tasks. Provided that his portion of the common task is duly carried out, the worker is allowed a certain amount of liberty with regard to the fulfilment of his obligations. Within certain limits he is permitted to perform his dues at his own convenience. He can therefore make his own arrangements with his co-villagers and with the village authorities in fixing the days for the performance of his task. The heads of the communes are furnished with an extract from the programme which has been authorised by the Government in so far as it concerns their village, and also with the translation into their own language of a short summary of the provisions concerning the levying of compulsory labour. Every village must be provided with a list containing the names of all persons liable to furnish labour dues.

The above-mentioned programme also shows the maximum number of working days which may be requisitioned under the Ordinance governing this question. This enables a calculation to be made of the number of days which may be used on construction, re-making or important repairs in the case of works for which the use of unpaid compulsory labour is still permitted, the number of days devoted to the upkeep of roads being deducted.

If the local administration considers that compulsory labour is necessary for works of this kind, they must obtain the special authorisation of the provincial Governor before it can be used. The Governor, in approving its use, lays down a programme regarding the execution of the work (distribution of the work amongst the native communes, number of working days to be levied, maximum distance, etc.).

The Governor must be furnished each month with a detailed report concerning all the labour dues which have been called for

1 See *Bijbladen* mentioned in footnote 4 on p. 106.
during the past month in every commune in his province. This measure is taken for the purpose of the effective control of the method in which the general programme has been carried out and of the conditions laid down in the special authorisation, if such authorisation has been given. Extracts from these reports are forwarded to the central authorities in Batavia. Administrative officers must give their personal supervision to all matters concerning compulsory labour.

2. The nature of the work for which compulsory labour may be levied. Unpaid compulsory labour may only be requisitioned for the following purposes:

(a) Maintenance and repair of roads and navigable waterways, including the construction and repair of bridges and conduits occurring on these roads;

(b) The construction of roads other than main metalled highways in cases in which this construction is not carried out by the Department of Public Works, but by the administration itself;

(c) Construction, repair and maintenance of dams, waterworks, dykes and water conduits for the agricultural purposes of the native population (in so far as such works are not entrusted to the native communes)\(^1\).

3. Classes of persons liable to perform unpaid compulsory labour. The various Ordinances for the Outer Provinces provide that all male natives physically capable of work (i.e. of gaining their living without danger to their health) and under the age of 50 years are liable to furnish compulsory labour. The following categories of natives are exempt from such work:

(a) Government, provincial and local officials and officials in the service of native chiefs nominated or recognised by the authorities, and in certain circumstances persons who have exercised these functions;

(b) Retired soldiers and persons with Dutch decorations;

(c) Priests, religious teachers and teachers in private schools recognised by the Government;

(d) Pupils in private and Government schools;

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\(^1\) In some provinces unpaid compulsory labour may be used to work floating ferries and in one province for the construction, repair and maintenance of rest houses.
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(e) Doctors, nurses and the staff of private native hospitals;
(f) Domestic servants and persons permanently occupied in agricultural, commercial and industrial undertakings who live on the lands or in the houses of their employers;
(g) Persons on long-term contract;
(h) Persons who have been granted exemption by the chief administrative officer in virtue of their occupation or of the family to which they belong.

In 1925 the Governor-General decided to exempt members of native local councils from the liability to perform compulsory labour and from payment of the taxes relative thereto.

4. Restrictions. The maximum number of days of compulsory labour which may be legally called for would amount, if averaged over all the Outer Provinces, to thirty per year. It should perhaps be mentioned that this maximum applies to both paid and unpaid compulsory labour. The maximum distance at which its performance may be called for is 15 kilometres. In special cases this distance may be exceeded, but only with the approval of the provincial Governor. The working day consists of twelve hours, including breaks for rest and the time necessary to go to and from work. Generally speaking, the worker returns home every evening. In cases in which it is indispensable that the night should be passed at the place of work, due allowance must be made therefor in the shape of a reduction in the number of days levied or in the task to be performed. In some cases a payment of 20 cents is made for every night passed at the place of work. This allowance must be paid at the workplace before the workers return home. Compulsory labour may only be requisitioned during a maximum period of four consecutive days, including the time necessary to go to and from the place of work on foot. The maximum period which may be levied is eight days per month.

The work to be carried out on roads, bridges, waterworks, etc., must as far as possible be performed at fixed periods of the year other than those during which natives are occupied in agriculture or other work which provides their livelihood. As far as possible the levying of compulsory labour on holidays or during fast months must be avoided. The performance of unskilled labour only, to the entire exclusion of skilled labour, may be called for.

1 Staatsblad 269 of 1925.
2 In four provinces the number is six days, and in one province eight days.
Natives can be required to bring their own tools if they possess them (e.g. bill-hooks, spades, transport poles and baskets for the transport of material). In no circumstances can they be required to use their own carts or draught animals. They must, however, carry repairing materials in their own canoes in cases where transport by road is impossible or too difficult. Natives are not required to furnish their own materials or materials belonging to the communes, either for or without payment. Although this class of work is, in principle, unpaid, the provincial Governor may, in special circumstances, authorise the payment of an allowance.

5. **Commutation.** All persons liable to furnish labour dues may furnish an adequate substitute. They may also commute all or part of the labour dues to which they are liable. The provisions concerning commutation apply to all the Outer Provinces where unpaid compulsory labour still exists. They also apply in cases of conveyance of letters and to the escort of prisoners, even though these services are paid. Commutation may be made in individual cases or in respect of a whole native community, provided that a sufficient number of persons liable to labour dues express the wish to place at the disposal of the State a sum, payable in advance, sufficient in amount to enable the public authorities to carry out by means of voluntary labour all or certain of the works which such persons are liable to carry out as compulsory labour. The sum resulting from commutation, the rate of which is fixed by the provincial Governor, must be used for the purpose of work which, if commutation had not taken place, would have been performed by means of compulsory labour. The annual rate of commutation may not exceed two-thirds of the daily wage of a voluntary worker multiplied by the maximum number of working days which may be requisitioned.

In the Outer Provinces compulsory labour may be replaced by a tax in money. This measure is at present applicable to two provinces, where persons who were formerly subject to labour dues now pay 3.30 florins annually.

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1. The following are considered to be special circumstances: a difficult type of work, necessity for urgent performance of work or at a long distance from the place of residence of the worker, or the performance of work at the time when native agricultural work is on foot.

2. *Staatsblad* 772 of 1918, and *Bijbladen* 9111 and 9247.


4. Billiton: *Staatsbladen* 32 and 33 of 1920; *Bijblad* 9362.
Banka: *Staatsbladen* 804 and 805 of 1921; *Bijblad* 9935.

The policy of the Government with regard to compulsory labour is laid down in a Circular, dated 9 March 1920, addressed to provincial Governors, the main provisions of which are as follows:

As the native population begins to develop, compulsory labour must be increasingly replaced by a money tax. Optional commutation is a method of transition from one system to the other. In cases in which the native population over a period of consecutive years and in large numbers has commuted its labour dues, thus showing its preference for payment in money, money taxation will be introduced. Although this tax is based on the long existing liability to compulsory labour (only those persons being called upon to pay the tax who were formerly liable to labour dues), it may nevertheless be considered as the first step necessary towards complete abolition of compulsory labour, and as intended eventually to form part of the general system of taxation.

§ 136. Porterage. — Forced labour for porterage may only be requisitioned if there is not sufficient voluntary labour available to carry out the necessary work at the rates of pay laid down in regulations. Such compulsory labour must be remunerated, and the maximum period for which it may be levied is thirty days per annum. Days spent in compulsory porterage are counted towards the maximum of thirty days fixed for all public purposes.

In Java and Madura labour may only be requisitioned for the transport of individuals and troops on the march and of their baggage. Native communities are informed by the administrative officer when they are required to furnish porters. The categories of natives liable to furnish porterage are the same as those which can be called upon to furnish labour for large public works. Provincial governors are required to report as to the number of days of work which have been requisitioned. In practice, porterage may be said to have disappeared in Java and Madura as the road system is highly developed and the density of population is such that voluntary workers are always available.

In the Outer Provinces porterage is more necessary, in view of the long distances which have to be traversed in undeveloped and thinly populated districts. Compulsory porterage may be requisitioned for the same purposes as in Java and Madura, and also for the transport of Government stores and valuables and of officials.

1 Bijblad 10969.
2 For references to the Staatsbladen and Bijbladen, see footnote 1 on p. 103.
3 See p. 109.
4 For references to the Staatsbladen and Bijbladen, see footnote 4 on p. 106.
on duty and of their baggage, on condition, however, that the Government has placed no other means of transport at their disposal. This work includes the duty of cutting grass for the horses and draught animals of such travellers.

As far as possible the native communities situated near roads and navigable waterways are required to furnish these porters. Officials who wish to employ porters must make application therefor to the European administrator two days in advance.

Two other forms of paid compulsory labour in certain of the Outer Provinces may be referred to at this point, in view of their connection with transport service. These are (a) the conveyance of Government letters (other than those carried by the post) in the absence of other means of transport (this form of compulsory labour still exists in eight of the Outer Provinces); (b) the escort of prisoners in the absence of sufficient police (this form of compulsory labour still exists in five provinces). These two classes of work are paid at rates fixed by the Administration and can only be required in cases in which insufficient voluntary labour is available to carry out the work at the prescribed rates. The working day usually consists of twelve hours, including breaks for rest and, in cases in which the worker is recruited for one day's work only, the time necessary to go to and from work.

The regulations prescribe that compulsory labour may only be requisitioned for four consecutive days, including the time necessary to go to and from work. It therefore follows that porters are not required to carry at a greater distance than two days' journey from their residence.

None of the forms of porterage alluded to above are of much importance in the Dutch East Indies. The figures given in the "Colonial Reports" concerning porterage properly so termed (individuals, troops, baggage, valuables) are as follows:

<table>
<thead>
<tr>
<th>Year</th>
<th>Working Days</th>
</tr>
</thead>
<tbody>
<tr>
<td>1921</td>
<td>34,000</td>
</tr>
<tr>
<td>1922</td>
<td>20,000</td>
</tr>
<tr>
<td>1923</td>
<td>17,000</td>
</tr>
</tbody>
</table>

§ 137. Emergencies. — In cases of emergency and in order to avoid a public danger, the Government has the right to call upon

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1 In the Bali and Lombok Province, where the majority of the population are Hindus, these two classes of work are not paid for. Members of certain castes which are not allowed to perform manual labour are required to serve as letter porters and as escorts to prisoners, and are permitted to perform their compulsory labour under the labour dues system in this way, while the manual work is allotted to other castes.

2 In some provinces six days, and in one province eight days.
all male natives who are capable of work. This condition applies throughout the colony. The following are considered to be cases of emergency: pestilence, breaking of a dyke, forest fires, etc.

PORTUGAL

§ 138. The most important text regulating native labour conditions in the Portuguese colonies is the Portuguese Decree No. 951 of 14 October 1914 approving the General Native Labour Regulations.

To avoid repetition, it has appeared preferable, in the first place, to summarise the chief provisions of these Regulations in so far as they relate to the obligation to labour, compulsory labour and correctional labour. These three conceptions come up again and again in the detailed study of the various aspects of compulsory labour in the Portuguese colonies to be included in this chapter and in Chapters IV and V.

§ 139. Obligation to labour. — The General Regulations re-affirm the principle of the obligation to labour which had been established by a previous Decree dated 16 December 1911. Section 1 states that every able-bodied native of the Portuguese colonies shall be subject to the moral and legal obligation of providing for his maintenance by means of labour and thereby progressively improving his social condition. This provision figures also in the sections of the Portuguese Civil Code which punish vagrancy.

Section 2 of the Regulations provides that every able-bodied

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1 Staatsblad 510 of 1920; Bijblad 9905.
2 Important note. — Press information received at the last moment indicates that the whole labour legislation of the Portuguese Colonies has been reconsidered and that a Decree abolishing the General Native Labour Regulations of 14 October 1914, and approving a comprehensive Code was issued late in November of this year.
3 The general principles laid down in this Decree were adapted to local conditions in the different colonies by Orders issued by the Colonial Governments. These Orders were discussed and approved in the Government councils of each colony.
4 A passage in the introduction to the General Regulations reads as follows: "While imposing upon natives the obligation to work, it [the Decree] provides that they may only be compelled to do so when they refuse to comply with the obligation voluntarily. The application of the obligation is not left to the discretion of any authority but is subject to the trial of the accused by special magistrates." Moreover, an official Portuguese document explains the principles on which Portuguese native labour legislation is based as follows: "It is inspired by two fundamental principles — freedom in the choice of work, and the prevention of vagrancy. A native without means of subsistence must work for his living exactly like a Portuguese born in Portugal." (League of Nations document A.10(5).1926.VI. Draft Convention on Slavery. Reply of the Portuguese Government.)
native not having a fixed place of abode or means of subsistence and not habitually engaged in any profession, occupation or trade, unless able to prove that he is in such circumstances owing to force majeure, shall be brought to trial before the curator, the administrator of the civil district, or the military authority as the case may be. If convicted, he is to be handed over to the administrative authority, which is required to furnish him with work within his own district for such period as it thinks fit, not being less than three months or more than one year. All persons over 18 years of age are free to choose the method of complying with the obligation to labour imposed upon them, and the law guarantees their freedom in this respect. Parents or guardians of natives between 14 and 18 years of age may select the labour which they consider these minors should carry out.

The obligation imposed by section 1 is deemed to have been complied with:

1. by all natives possessing capital or property the income from which secures them sufficient means of subsistence, or who are habitually engaged in agriculture, commerce, industry or any profession, art, employment or trade from the proceeds of which they derive their subsistence;

2. by all natives working for wages for a minimum number of months in every year, such minimum being fixed by the local regulations.

No native may be convicted under the provisions of section 2 if he produces a certificate from his employer proving that he has worked for at least three months during the current calendar year (section 4).

The following persons are exempt from the obligation to labour:

1. The persons indicated in section 4;
2. Persons over 60 or under 14 years of age and all women;
3. Persons suffering from any sickness or incapacity;
4. Native police in the service of the State or of individuals authorised to maintain them, and persons enlisted in any regular corps carrying out police duties or other duties in connection with public safety;
5. Native chiefs and notables recognised as such by the public authorities (section 5).

1 "According to the provisions of this law, the native is obliged to work for a short period. Nevertheless, he is free to do so when and how he likes, choosing the employer and the employment he prefers." Boletim da Agencia Geral das Colonias, September 1925. (Extract from an article by General Freire d'Andrade.)
A native is considered to have failed to comply voluntarily with the obligation to labour if, during the last preceding calendar year, he has not fulfilled it in any of the ways indicated above and is unable to prove any impediment arising from sickness, public service or *force majeure* (section 6).

With a view to facilitating compliance with the obligation to labour, the State may permit natives to occupy any vacant public lands, where such exist.

As far as possible, the Administrations are instructed to avail themselves of the native authorities for the purpose of detecting natives not complying with the obligation to labour and of instructing and compelling them to comply with this obligation. Local regulations may provide rewards for native authorities who, on the demand of an Administration, bring forward natives who have failed to comply with their obligations (section 104).

§ 140. "Compulsory" labour. — The measures which may be taken if the native refuses to carry out his obligations are described as follows in the introduction to the 1914 Decree:

The native who does not work voluntarily is called before the public authorities, who endeavour to induce him to work by offering him work which it is within his power to carry out. If the native refuses to accept such work, he may be ordered to be sent to an employer in need of servants. This is *compulsory labour*, but no kind of compulsion may be exercised over the servant other than that of taking him to the place where work is provided. If the native, notwithstanding the advice given him and his being presented to an employer and hearing from him the conditions on which work is offered to him, continues to refuse to accept such work and returns to idleness, he becomes guilty of vagrancy, and may accordingly be treated as a vagrant and tried and convicted as such. . . . This is *correctional labour*.

The first Part of Chapter IV of the Regulations deals with compulsory labour. It is laid down that any native who does not voluntarily comply with the obligation to labour shall be urged to do so by the competent authorities, who "shall employ all necessary means for educating and civilising him". After all care has been taken to ascertain whether the native is exempt from this obligation and after all necessary means for inducing him to do his duties are exhausted, any native who still refuses to work is to be commanded and compelled to do so (section 94).

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1 A memorandum of the Portuguese Government communicated to the Members of the League of Nations and to the Temporary Slavery Commission (League of Nations document C.532, M.188. 1924, VI. C.T.E.17, 27 September 1924) states that natives may obtain land concessions in the same way as European colonists. except that in the case of natives the procedure is entirely free.
The sole means of compulsion open to the administrative authorities are the following: to summon the offenders before them, in custody if necessary, and to explain to them their obligations and to admonish them for not having complied with the same; to cause them to be taken, with all necessary precautions for preventing their escape, to the places where work has been offered them; to present them or to cause them to be presented to the State or municipal officials or private employers who have work to give them (section 95).

It appears that the duration of this compulsory labour is between three months and one year (see § 139 above).

§ 141. "Correctional" Labour. — Section 96 provides that natives who disobey the orders given them and resist the coercion exercised upon them mentioned in section 95, those who abscond from the places in which work has been given them or on the way to such places, and those who, on being presented to employers, refuse to work, are to be arrested and brought before the curator for the purpose of being tried as vagrants and sentenced to imprisonment or correctional labour.

Natives under contract who, without adequate reason, refuse to work in accordance with their contracts are to be considered as vagrants and tried and convicted as such (section 202). The absence of any servant from his employment for fifteen consecutive days without due cause is considered, in the case of workers under contract, as vagrancy. The servant may be tried and convicted accordingly unless he has entered into employment with another employer (section 205).

Any native who deserts after being recruited may be compelled to restore to the recruiter any advance he has received. If he fails to do so he may be tried and sentenced by the curator to correctional labour until repayment of such advances (section 228).

Lastly, section 207 stipulates that the penalty of correctional labour may be inflicted by the curator or his agents on any native convicted of vagrancy.

Natives sentenced to correctional labour are handed over to the administrative authority, which takes all necessary precautions to prevent them from leaving their work. Correctional labour is performed in the colony and, wherever possible, in the district in which sentence is passed. Natives sentenced to correctional labour who persistently refuse to work or who attempt to escape are placed at the disposal of the Governor, who may send
them to a disciplinary establishment (presidio) or to another colony (section 107).

Natives condemned to correctional labour in the service of the State only receive food and clothing. Correctional labour is not considered to have been performed if the native fails, for any reason whatsoever, to perform the number of days' work fixed in his sentence.

As shown above, the duration of compulsory labour appears to vary from three months to one year. This is not the case with correctional labour. Section 206 lays down that natives condemned under section 96 may be sentenced to correctional labour for a period varying from eight to 300 days.

§ 142. From the above summary and from the details which are to follow, a conclusion can be drawn which it appears necessary to emphasise at this point in order to bring out clearly the significance of this complex legislation. This conclusion is that, although the distinction does not appear to be expressly laid down in the texts in the possession of the International Labour Office, it seems that there are, in the Portuguese colonies, two types of labour exacted under compulsion.

Type 1 is forced labour for general or local public purposes imposed generally on all natives, including those who have fulfilled their obligations to labour laid down in the General Regulations examined above.

Type 2 is the compulsory labour for general or local public purposes or for private employers imposed solely on natives who fail to perform their obligations to labour and who lead a life of idleness. To this type belong the "compulsory" and "correctional" labour described above.

In connection with each type of forced labour to be studied in the various Portuguese colonies, care will be taken to indicate, as far as possible in view of the information in the possession of the International Labour Office, whether the labour comes under Type 1 or Type 2.

§ 143. Certain provisions concerning forced labour for public works appear to be applicable to all Portuguese colonies:

In the colonies administrators have the right to requisition from native chiefs the labourers required to execute works of public utility within the territory of these chiefs. Such public works consist in the main of opening up roads, constructing fords across rivers and streams and pathways through swamps.

1 League of Nations document C.T.E.17, p. 28.
An official Portuguese publication gives certain supplementary explanations in regard to work on roads. It states that "no law exists allowing labour to be requisitioned for any other purpose than the clearing and upkeep of roads connecting the native villages and those leading to the principal centres of administration." 1

It appears that it is possible to obtain exemption by payment from this form of forced labour, which is of Type 1 mentioned above. The following remarks are contained in an article by General Freire d'Andrade:

The natives in the Portuguese colonies are, like all Portuguese citizens, obliged to furnish certain labour dues. They can obtain exemption by the payment of a sum of money. . . . These labour dues are intended for the maintenance of the public roads connecting native villages, fords and similar work carried on essentially in the interests of the natives. The natives, however, cannot be requisitioned for important public works such as railways, bridges, etc. In these cases they have to be engaged by contract according to the general terms of the laws in force. 2

§ 144. The General Regulations of 14 October 1914, however, establish a second kind of compulsory labour for public services, to which are subject natives who have not fulfilled their labour obligations 3. Section 95 provides that the natives liable to compulsory labour may be brought before State officials who may provide them with work. Section 97 states that "officials in charge of public . . . services . . . may require the administrative authority to place at their disposal . . . natives who have been commanded and compelled to comply with their obligation to work".

Under section 100, all requisitions for labourers, including those for public services, must specify the following: (1) the number of workers required; (2) the place or places in which the work will be carried out; (3) the nature of the work; (4) the period during which the applicant undertakes to employ the workers.

As regards the supply of compelled workers, the public services possess priority. Under section 102 the authorities whose duty it is to receive requisitions are in no case obliged to satisfy them to the prejudice of requisitions for the public service.

Section 105 provides that the workers shall be handed over to the applicants at the seat of the authority to whom the requisitions have been addressed or at the place of work.

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1 Some Observations on Professor Ross's Report, submitted for the information of the Temporary Slavery Commission by the Portuguese Delegation to the Sixth Assembly of the League of Nations, p. 6.
2 Boletim da Agencia Geral das Colonias, September 1925, p. 11.
3 This is thus compulsory labour of Type 2.
Under paragraph 3 of section 107, correctional labour is to be performed on public works or other works undertaken by the State. Section 108 lays down that "natives sentenced to correctional labour shall be lodged and maintained by the State". Subject to any special legal provisions existing in any individual Portuguese colony, which will be mentioned later as far as the information available permits, the outline given here may be taken as covering compulsory labour for public purposes in each of the Portuguese colonies mentioned below. It appears to apply also to those Portuguese colonies with regard to which the International Labour Office has no further information concerning forced labour for public purposes.

A. — Territories in Africa

ANGOLA

§ 145. Public works. — Decree No. 12533 of 23 October 1926, fixing the political, civil and penal status of natives in Angola and Mozambique, provides as follows in section 5: "Forced labour is authorised only in case of absolute necessity for works of public interest of such urgency that they cannot be postponed. It shall be remunerated according to circumstances." This Decree, which appears to apply to compulsory labour of Type 1, thus seems to have modified the provisions of the 1906 Decree, extended to all Portuguese possessions in 1921, as regards the duration, payment and nature of forced labour for public purposes.

Decree No. 41 of 3 August 1921, however, regulates a second form of compulsory labour for public purposes which is probably imposed only on natives who have failed to perform their labour obligations as specified in the General Regulations. There is no provision in Decree No. 41 for coercive measures, but the system seems to imply paid compulsory labour. A Portuguese periodical published under the auspices of the Ministry for the Colonies explains this Decree in the following terms: "Decree No. 41 of 1921 defines the conditions of compulsory paid labour for work executed in the services of the State. . . ." The Preamble to

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1 Section 16 of the General Regulations provides that natives condemned to correctional labour in the service of the State shall only receive food and clothing.
2 This form of compulsory labour is thus probably of Type 2.
3 *Boletim da Agencia Geral das Colonias*, August 1925, p. 126.
Decree No. 41 alludes to the necessity of recruiting a large number of native workers for the public works to be undertaken. The Decree provides in section 2 that no native shall be compelled to work without payment even for the State, and repeals the provisions of section 87 of the 1913 Regulations permitting unpaid public labour for twenty-four days in the year.

The instructions regulating the employment of native workers in State undertakings are published as an appendix to the Decree. The following is a summary of these instructions:

The minimum wages for native workers employed in State undertakings are 20 escudos per effective day's work for men and 15 escudos for women. The hours of employment are nine in the day. Any worker who for any reason whatsoever does not work in the morning or in the afternoon, or, on either occasion, does not perform more than two and a half hours' work, only receives 10 escudos per day. Any worker who does not present himself at the regulation times is punishable by a fine of 0.5 escudos. (Instruction No. 1.)

The Administration is required to furnish food and lodging free of charge for workers who are unable to work on account of sickness. These must be provided till such time as the worker can resume his work or return to his district of origin. In the case of sickness which does not involve inability to work, but requires the services of a doctor or medical assistant, deductions from wages may not be made. (Instruction No. 2.)

The Administration is required to make all possible use of railway and sea transport for native workers. The workers are supplied with food during their journey to their place of employment and during the return journey. (Instruction No. 3.)

There is a compulsory day of rest, generally Sunday, during which workers are only entitled to their food. (Instruction No. 4.)

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1 A Circular from the High Commissioner for Angola relating to the application of Decree No. 40 of 3 August 1921 states that the last census taken in connection with the native tax showed 700,000 natives liable to the tax, thus indicating no less than 2,100,000 able-bodied workers. The Circular goes on to say that about 1,800,000 natives can be left in their villages to carry on their own work, native agriculture and industry, the maintenance and constructions of roads, and police and similar services, and that there will remain for the State (not more than about 2,000 men per year being required for military service) about 300,000 natives. If, concludes the Circular, these natives undertake employment for six months in the year, the Colony has at its disposal a yearly labour supply of 150,000 workers.

2 However, a later Decree, No. 274 of 16 March 1923, "increasing the salaries of native workers employed by the State", fixes wages at a minimum level of 9 escudos and a maximum of 18 escudos.
No native worker may be compelled to work for more than nine hours in the day. If night-work is necessary two gangs must be formed, and night-work may not exceed six hours. The employment of women and children during the night is prohibited. (Instruction No. 5.)

Instruction No. 6 lays down that food must be supplied. Meals are to be prepared by the native workers, grouped according to their wishes. The remaining provisions of Instruction No. 6 have been modified by Order No. 670 of 15 December 1927, mention of which will be made later.

Each male worker is supplied with a shirt and a piece of cloth and each female worker with two pieces of cloth. In cold districts or during cold spells, all workers are supplied with cotton blankets. (Instruction No. 8.)

The following rules apply to the housing of the native workers: (a) the hutments supplied are as far as possible to be similar to those in which the natives usually live, both as regards their form and materials. The official in charge of the work, after consultation with the medical officer, is to lay down rules regarding the sites of the huts, their distances from one another, their dimensions, and all other details of a hygienic character; (b) the huts are to be built by the workers; (c) the longer the workers are to be employed, the greater care is to be shown in the construction of the camp; (d) in districts where public work is being performed and where native camps are necessary, measures are to be taken for the destruction of the tsetse fly. (Instruction No. 9.)

Each camp must be provided with an appropriate means of transporting the sick. (Instruction No. 10.)

The native workers are entitled to free medical assistance, for which purpose a medical officer must be stationed in, or in the neighbourhood of, the camp. On the weekly day of rest he is required to conduct a medical inspection of all workers. He is responsible for the care both of temporarily incapacitated workers and of workers suffering from chronic illness. It is, moreover, his duty to take the necessary measures of precaution in the case of special sicknesses and to supervise the general conditions of employment. He must give special attention to the following points: rations, use of alcohol and drugs, housing conditions, clothing, accidents, hours of work, physical capacity of the workers, contagious diseases, and precautionary measures. He must send in a weekly report to the Department of Health and Hygiene, dealing with the above points, indicating any deaths that have occurred, and
giving an account of hospital work and the general conditions in which the employment is being executed. A hospital provided with the necessary supplies must be installed near each camp or group of camps. This is intended for the use of workers who cannot obtain proper treatment in their own camp. (Instruction No. 11.)

Instruction No. 13 provides that native workers for State employment are to be engaged for a maximum period of six months. They may not be re-engaged unless they have spent at least four months in their district of origin. This Instruction has, however, been partly modified by the Decree No. 315 of 6 August 1923, to be mentioned later. Provisions of Instruction No. 13 dealing with wages have also been amended by this Decree 1.

On the day the native workers receive the balance of payment due to them, they are required to be directed towards their districts of origin. For this purpose means of transport and food are to be supplied. On their return journey the native workers are accompanied by a person possessing the confidence of the official in charge of the work. (Instruction No. 14.)

The form of contract for each group of workers contains a "guide-book" and a report drawn up by the administrative authorities of the home district. Each group of workers is also supplied with a "guide-book" for the return journey and is required to report with this when the journey is completed. (Instruction No. 15.)

A recruitment zone is established for each State undertaking or each group of State undertakings. In establishing these zones the authorities are required to take into consideration the following points: (a) the place of employment must be as near as possible the place of origin; (b) workers may not be sent to districts the climate of which is entirely different from that to which they are accustomed. (Instruction No. 16.)

§ 146. Decree No. 315 of 6 August 1923 amends certain provisions of Decree No. 41 with a view to increasing the maximum duration for certain works and modifying the provisions relating to the payment of wages.

It lays down that the contracts mentioned in Decree No. 41 may be concluded for a period not exceeding ten months in the following

1 See § 146 below.
cases: (1) when the natives are employed for the construction or repair of railways or other work requiring training; (2) when the natives are recruited in districts at a considerable distance from their place of employment so that the journey between the two localities normally takes at least thirty days (section 1). The Governor-General and the district Governors decide whether the duration provided in this Decree shall be applicable or not (section 3).

In exceptional cases any contract may be prolonged to a maximum period of ten months (section 4).

When the public work requires more than ten months' labour, the administrative authorities responsible for the supply of labour are required to provide for the substitution of the labourers already in employment at least one month in advance, so that the substitutes will arrive at the place of employment before the end of the ten-monthly period. The first batch of workers continues to work with the new batch until their departure. The officials responsible for the conduct of the work are required to take the necessary measures to reduce to the minimum the period during which the natives remain at their place of employment after the conclusion of their contracts. Any work performed after the conclusion of the contracts is paid at full rates (section 6).

At the end of every fortnight the natives receive one-fifth of the wages due to them through a committee, of which the medical officer and the official in charge of the works are members. On repatriation, the balance due to each worker is sent to the administrator of the worker's home district to be paid there to the worker.

If there is no bank in the locality where the balance of four-fifths is to be paid and if payment by postal order is impossible, the sums due, in sealed envelopes of which the contents are verified and noted on each envelope by the members of the above-mentioned committee, are handed over to the care of the persons accompanying the workers.

When the native passes through districts possessing a bank, the balance is paid him in the form of a cheque on the branch nearest his home district. This cheque is cashed by the local authority and the money is handed over to the native in the presence of two witnesses. The officials entrusted with the repatriation of the workers, the authorities of the localities through which the worker passes, or those in charge of his home district are required to take the necessary measures to see that payment is
made on the day of the worker's arrival or the following day (section 5).

§ 147. Order No. 196 of 30 December 1924, relating to the wages of natives working in State services, lays down that the wage for each day's work shall be fixed at a sum "varying between 1 and 1½ per cent. of the amount of the native tax". It furthermore provides that as a normal rule the natives shall be paid the minimum wage.

§ 148. Order No. 670 of 15 December 1927 makes certain amendments in the regulations regarding the feeding of native workers contained in Decree No. 41 of 3 August 1921, the first paragraph of the Order stating that the provisions contained in the Decree "had not been based on scientific study". The Order provides that the natives shall receive provisions guaranteeing them 3,150 calories a day in cases of normal work and 3,500 in cases of strenuous work. It also insists on the necessity of vitamins, and the advisability of supplying the native with varied and acceptable diet. Finally, it points out that the native worker is generally under-nourished and that he should not be employed on exhausting work for more than a few days.

From the information in the possession of the International Labour Office, it is not possible to see clearly to what extent Decree No. 12533 has amended this system of compulsory labour of Type 2, laid down under Decree No. 41 of 3 August 1921 and the Instructions and Orders detailed above.

§ 149. Porterage. — Order No. 418 of 6 August 1923, providing for an enquiry to ascertain the number of natives who may be employed for State services, lays down in section 4 that this enquiry shall deal in particular with the following points:

II. The approximate number of workers in the administrative district and of those who work as porters in other districts:

(a) porters recruited according to the law;
(b) porters who leave the district of their own accord, accompanied or unaccompanied.

III. The possibility of using motor or animal traction for transport.
IV. The average cost of transport per kilogram of trade goods between the storehouses and the nearest point on the railway, the coast or navigable river:

(a) by motor traction;
(b) by animal traction;
(c) by porters.

V. Measures to be taken for the complete suppression of porterage.

§ 150. **Emergencies.** — Section 5 of Decree No. 12533 of 23 October 1926 appears applicable in cases of emergencies. This section reads: “Forced labour is authorised only in case of absolute necessity for work of public interest of such urgency that it cannot be postponed. It shall be remunerated according to circumstances.”

§ 151. **Compulsory cultivation.** — The International Labour Office is not in possession of any legislative texts compelling the natives to cultivate specified crops on any portion of their lands. A suggestion of this kind has, however, been recently made in Angola: “At the present day the blacks are subject to a traditional obligation to provide labour for public services. This labour is furnished without reluctance or at least without resistance. At the present moment the number of roads in the highlands is sufficient and perhaps excessive. This traditional labour, which has been accepted by the blacks, could be used for the cultivation of corn on the farms (one farm at least in each agricultural district) where such cultivation could be supervised.” However, in an article which appeared in the *Boletim da Agencia Geral das Colonias* of August 1926, Mr. Ferreira Denis stated that “there is no question of adopting the system of compulsory cultivation . . . much less that of forced or compulsory labour, of which we are wrongly accused of making use in Angola”.

§ 152. **Other purposes.** — It appears that labour can be imposed as a means of obliging the native to pay his tax. A Portuguese paper states that “there is no compulsory labour in Angola except for public purposes as a kind of personal tax such as exists in Europe, or as a means of compelling the natives to

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1 *O Seculo*, 28 February 1924.
pay their poll or hut tax. Such labour may only be imposed for the time necessary to pay the tax and in no case for any longer time" 1.

CAPE VERDE ISLANDS

§ 153. The International Labour Office has no information concerning forced labour for general public purposes in the Cape Verde Islands. Apparently there is no special legislation in this colony on the subject of forced labour. In the Boletim da Agencia Geral das Colonias of July 1927 there is an article by Mr. E. de Vasconcellos, in which he states: "We even have colonies like the Cape Verde Islands where, as far as legislation is concerned, there is no difference between whites and blacks."

MOZAMBIQUE

§ 154. Public works. — Order No. 917 of 7 December 1906 limited the period during which natives might be forced to work on the construction and maintenance of roads to seven days in the year 2. In addition, the Civil District Regulations of 12 September 1908, No. 671A, provided in section 136 that natives liable to hut tax could, if necessary, be forced to work without payment in the service of the State and within the district to which they belonged in return for rations provided by the State. The duration of this labour was limited to seven days in the year, and this period could only be exceeded in case of war.

Decree No. 140 of 20 June 1925, however, freed the natives from the obligation of providing forced unpaid labour for road construction purposes. The preamble to this measure reads as follows:

By Ordinance No. 616 of 30 November 1923, the Government determined that certain receipts should go to treasuries for district development, and stipulated that the natives would be exempt from any contribution or administrative tax of a general nature, with the exception of the native tax. The Mozambique Communications Regulations were approved by Ordinance No. 616 of 30 November 1923 for the purpose of centralising all matters connected with the classification, the study and the construction of the road system, with the circulation of motor vehicles and with the distribution of revenues and other resources intended for this section of the public services.

1 A Provincia de Angola, Loanda, 15 November 1926.
Considering therefore that the expression "exempt from any contribution" should apply to the tax furnished in the form of labour established by section 136 of the Civil District Regulations approved by Provincial Decree No. 671A of 12 September 1908.

Considering, furthermore, that the construction of roads is not at present a part of the duties of the administrative authorities.

The sole section of the Ordinance then goes on in the following terms:

No Mozambique native may be compelled to perform unpaid labour, even for the benefit of the State. Section 136 of the Civil District Regulations is therefore repealed.

As the preamble points out, the administrative authorities are no longer responsible for the construction and maintenance of roads. These administrative authorities are the district commissioners, who were alone able, and are still alone able, to compel labour. It therefore appears that not only are the district commissioners free from the necessity of obtaining compulsory labour for road construction work, but that the Department of Communications must obtain whatever labour is necessary by payment.

Section 5 of Decree No. 12533, which has already been quoted, seems applicable to compulsory labour which falls within Type 1. This section lays down that compulsion may only be applied for the execution of public work of an urgent character, and that the labour shall be remunerated according to circumstances. It contains no provisions relating to the duration of forced labour.

Lastly should be noted a Portuguese Decree No. 13698 of 30 May 1927, extending Decree No. 12533 to the territories of the Mozambique and Nyassa Companies.

§ 155. The second form of compulsory paid labour for public works (Type 2) can apparently be imposed under the provisions

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1 Women are apparently liable to compulsory paid labour for road construction. According to an article in the Diario de Noticias of 12 October 1925, "an excellent impression was given by the decision of the High Commissioner for Mozambique, as the result of which no woman may be compelled to perform road work without remuneration".

2 As this report was being sent to press, it came to the notice of the International Labour Office that a Mozambique paper, O Brado Africano, for 21 April 1928, contained an article on the "Chibalo System", which stated that the regulations necessary for the application of the provisions of section 5 of Decree No. 12533, which prohibits the use of forced labour except in case of absolute necessity for public works of extreme urgency, had not been issued.

Any passages dealing with Mozambique in which mention is made of Decree No. 12533 which appear in this chapter and in Chapters IV and V should be read in the light of the above information.

3 See § 142.
of the General Native Labour Regulations approved by Decree No. 951. These provisions have been summarised in § 140. In this connection, mention should also be made of Decree No. 12675 of 17 November 1926, promulgating the constitution of the colony of Mozambique, which lays down in section 26 that the Governor-General shall supervise the laws and regulations, notably those relating to the performance by natives of their moral and legal obligations to labour. The information available does not make it clear in what way Decree No. 12533 has modified the General Regulations.

§ 156. **Porterage.** — Order No. 2479 of the Nyassa Company dated 14 February 1922 provides *inter alia*, in section 21, that account shall be taken of requests for the services of natives *made by persons travelling on official business.* This provision appears to apply to porterage.

It may further be noted that, according to an article in a Portuguese periodical, the maximum legal load for porters is 25 kilograms.

§ 157. **Emergencies.** — Section 5 of Decree No. 12533 appears to be applicable in cases of emergency.

**PORTUGUESE GUINEA**

§ 158. Before examining the various forms of forced labour for general public purposes in Portuguese Guinea, it seems of value to mention two laws of a general character, certain provisions of which relate to the questions studied in this chapter and in Chapters IV and V.

Order No. 83B of 29 November 1922, issued in application of the General Regulations of 1914, established the principle of the *obligation to labour*, *compulsory* labour and *correctional* labour. Generally, it follows the provisions of the 1914 Regulations. On certain points, however, there are differences.

Section 2 of Ordinance No. 83B reproduces the principal terms of section 2 of the General Regulations. It does not, however, provide that the employment offered by the administrative authorities to the natives shall be within the district to which the native belongs. Moreover, whereas section 2 of the General Regulations

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1 *Jornal do Comercio e das Colonias*, Lisbon, 20 January 1928.
states that the duration of such labour may not be less than three months nor more than one year, the maximum provided in Ordinance No. 83B is 300 days, the minimum remaining three months.

Section 4 of the General Regulations provides that the obligation to labour shall be deemed to have been complied with by, *inter alia*, natives working for wages for at least a certain number of months fixed by the local regulations. The Order of 29 November 1922 fixes this period at *eight* months as a minimum.

Section 5 of the order exempts women from the obligation to labour. Paragraph 4 of this section provides, however, that the fact that women are exempt shall not be regarded as a means of preventing the authorities from imposing labour on women leading an immoral or idle life as vagrants or prostitutes. Coercive measures can therefore be taken in the case of women in certain instances.

Section 104 of the General Regulations provides for the remuneration of native authorities who, on request, bring before the administrative authorities natives who have failed to fulfil their obligations. Section 104 of Ordinance No. 83B states that in such cases the native authorities shall receive 1 escudo for each individual.

Lastly, section 204 of the General Regulations provides that correctional labour may be substituted for correctional imprisonment, and the Order of 29 November 1922 lays down that such substitution shall be effected.

§ 159. Since natives only are liable to the obligation to labour treated in the Order of 29 November 1922, it appears necessary to mention here an Order of 10 April 1928, the provisions of which seem to result in the exemption of certain classes of natives. This Order provides that all individuals belonging wholly or partially to the negro race shall be regarded as natives unless (a) they speak, read and write Portuguese; (b) they possess property sufficient for their maintenance or follow a profession sufficient for the maintenance of themselves and their families; (c) they lead a moral life and do not practice native customs (section 1). Individuals who fulfil these conditions are treated as Europeans if they make a request to this effect to the Governor, and are not liable to the special provisions applicable to natives (section 2).

§ 160. Public works.— Compulsory labour of Type 1 appears to be regulated by Decree No. 12533, which was extended to Portuguese Guinea by the Portuguese Decree No. 13698 of 30 May 1927.
Section 5 of Decree No. 12533, it may be remembered, provides that compulsory labour is authorised only in cases of absolute necessity for work of public importance of such urgency that it cannot be postponed. It also provides that this labour shall be remunerated according to circumstances. As can be seen, this section contains no details regarding remuneration or duration.

§ 161. A second form of compulsory labour for public purposes (Type 2) appears to be leviable in virtue of the provisions contained in the Regulations of 14 October 1914.

Order No. 113 of 17 March 1917, which emphasises the importance of road construction, draws the attention of the authorities to the necessity of securing “the mild but firm enforcement” of the provisions of the 1914 Regulations concerning the obligation to labour.

Furthermore, section 101 of Order No. 83B mentioned above deals with the form in which requisitions for labour shall be made, in particular for public services, and provides that these requisitions shall furnish the details required under section 100 of the General Regulations. The information available does not show to what extent Decree No. 12533 has modified the provisions of the Order of 29 November 1922.

§ 162. Emergencies. — Section 5 of Decree No. 12533 of 23 October 1926, extended to Portuguese Guinea by the Decree of 30 May 1927, appears to be applicable in cases of emergency.

SAN THOME

§ 163. In the case of this colony, it again appears necessary, before studying in detail the various forms of forced labour for general public purposes, to indicate certain provisions in a general law covering some of the questions dealt with in this chapter and in Chapters IV and V. This law is Order No. 16 of 30 April 1923, approving the local native labour regulations. These local regulations are, in general, a repetition of the General Regulations laying down the principle of the obligation to labour, compulsory labour and correctional labour. The only points which will be

1 The principles contained in the General Native Labour Regulations, approved by Decree No. 951 of 14 October 1914, had been enforced locally by the Orders of 24 May 1917 and 21 June 1918.
mentioned here are those on which the local regulations differ from the General Regulations or which define the latter in greater detail.

Section 4 states that natives must work for wages for six months in order to be considered as having performed their labour obligations. It provides, moreover, that no native is liable to compulsory labour if he possesses a certificate from his employer proving that he has worked as a wage-earner for at least six months. It may be noted that in section 263 of the 1914 Regulations, the period is fixed at three months.

By section 5 the authorities may not enforce labour and the curators may not intervene in the conclusion of labour contracts in the following among other cases: persons mentioned in section 4, male persons over 60 or under 14 years of age, and women over 50 or under 14 years of age. In connection with this last point, it may be remembered that the General Regulations entirely exempt women from the obligation to labour.

Any native who is unable to find employment, or who, for any other reason, cannot fulfil his labour obligations, must report to one of the curators, who will take any necessary measures as soon as possible (section 81).

Section 82 reproduces in general the terms of sections 94 and 95 of the General Regulations. It thus provides for coercive measures in the case of natives who have failed to fulfil their labour obligations and makes them liable to compulsory labour.

Section 83 corresponds to section 96 of the General Regulations. It contains, however, a new paragraph couched in the following terms: "Any native who has on two occasions been convicted of vagrancy and who is convicted a third time shall be placed at the disposal of the Governor." 1 Agents of the military or local police who bring escaped workers before the authorities obtain a reward of 3 escudos for each individual arrested (section 90).

The administrative authorities, in finding and arresting workers who have escaped and in imposing labour on natives who have refused to work voluntarily, are required to take measures to avoid obstruction or violence during the arrest of the individuals and during their period of labour.

Section 94, 95 and 96 are concerned with correctional labour, already examined under § 141 above.

1 This paragraph appears comparable with a provision in the General Regulations approved by Decree No. 951, according to which a native who has been sent to correctional labour and who attempts to escape is placed at the disposal of the Governor, who may send him to a presidio or to another colony.
§ 164. Public works. — Under sections 84 and 87 of Order No. 16 of 30 April 1923, natives who fail to fulfil their labour obligations and who have become liable to compulsory labour may be compelled to work for the public services. The same Order provides, in section 94, that correctional labour shall be performed in the colony and, if possible, the district in which the conviction was recorded. It may be used for public works. The State provides food and housing if the natives liable to correctional labour are working for the Government (section 95).

B. — Territories in Asia

TIMOR

§ 165. Public works. — The General Native Labour Regulations containing provisions for forced labour for public works were applied in Timor by the Order of 27 June 1919.

Mention should be made, in addition, of Government Instructions No. 39 published in the Timor Official Gazette of 11 February 1925. These instructions stated that male natives between 18 and 50 years of age could be forced to perform unpaid compulsory labour for a period of thirty days in the year. Such labour could be effected in two periods of fifteen days (section 1). It was to be carried out, within the district to which the person liable belonged, for the construction of public buildings and the construction and maintenance of roads and railways (section 2). Such labour could be commuted by payment (section 4).

Instructions No. 39 have been repealed. A pamphlet issued by the Portuguese Government comments on them as follows:

The Governor of Timor recently issued a Decree, which received the approval of his Council, to the effect that compulsory labour on public works should be required for one month in every year and need not be remunerated; the Minister, though his policy is to allow the colonies a wide measure of administrative and financial autonomy, annulled this Decree as soon as it was brought to his notice.

1 This form of compulsory labour comes under Type 2.
2 On these instructions, General Freire d'Andrade wrote as follows in the Boletim da Agencia Geral das Colonias: "An incorrect interpretation of the law relating to the administrative and financial autonomy of the colonies has given rise to certain abuses which have been, and which will continue to be, watched and corrected by the central authorities. Thus, a few months ago, in one colony it was provided that unpaid labour could be enforced for one month during the year."
3 Some Observations on Professor Ross's Report, p. 35.
§ 166. The Native Labour Regulations of 6 August 1906 contain provisions relating to compulsory labour for general public purposes. Section 74 prescribes that any native who has deserted from his employment more than once and whose employer refuses to take him back is, unless engaged by another employer, liable to compulsory labour which may be performed in the service of the State. The Regulations prescribe that this labour shall be carried out under supervision and that the native performing it shall receive only a half of the wages payable under his former contract.

§ 167. In addition to this provision, which is probably only applied in a limited number of cases, the Regulations lay down the principle of the general obligation to labour in the case of the natives of Fernando Po. This principle is analogous in certain respects to that contained in Portuguese legislation. Section 24 of the Regulations states that all natives domiciled in Fernando Po who have no known property, profession or occupation shall be under the guardianship of the “Curaduría” 2, and be liable to work for private employers or for the State. The Regulations exempt Bubis, who are the aborigines of Fernando Po, from this obligation 3.

1 These include Spanish Guinea on the mainland and the islands of Fernando Po, Annobon, Corisco, Great Elobey and Little Elobey.
2 The colonial curator at the head of this department has his headquarters at Fernando Po. He has under him assistants stationed in the Bata and Elobey districts. In addition, the heads of the local police are under his orders for the repression of offences against the Native Labour Regulations.
3 As will be seen in Chapter V, the provisions relating to the Bubis were amended, as far as forced labour for private employers is concerned, by a Decree of 9 July 1926.
CERTAIN INDEPENDENT STATES

ABYSSINIA

§ 168. The independent State of Abyssinia stands in a class by itself. Society is organised on a feudal basis, serfdom is officially tolerated, and the forced labour system (gabar\(^1\)) which is inflicted on the peasantry is, in effect, hardly distinguishable from slavery, the progressive abolition of which is the first condition of social progress in the country\(^2\).

BOLIVIA

§ 169. Public works. — The International Labour Office is not in possession of any texts of legislation under which forced labour for general public purposes can be levied, but such labour appears to be requisitioned\(^3\).

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1 “Very much more to be pitied than the domestic slaves are the great numbers of gabars — for which the term ‘serf’ would be the nearest English equivalent — who, though nominally free men, live for the most part under deplorable conditions. These are some of the Galla and other conquered tribes whose provinces are governed and policed by Abyssinian officials and soldiers, and who are allotted to their overlords, in hundreds to the big men and in twos and threes to the soldiers. They live on their own soil, but have to supply their masters’ requirements in the way of food, wood or labour, to the utmost possible — or impossible — extent, according to whether the Governor is a more or less reasonable individual.” (C. F. Rey: In the Country of the Blue Nile, 1927, p. 220.)

2 “The taxation which is imposed is onerous — it is collected locally and consists of

(1) Tithe: payable generally in kind and equivalent to a tenth of the production;
(2) Tax in kind: differing in various parts of the country, e.g. cattle, cotton cloth, wood, foodstuffs, etc.;
(3) Personal labour: which theoretically compels every man to work one day in four for his overlord;
(4) Dergo: the supply of food to troops or important personnages on the march by villagers on the route.”

(C. F. Rey: Unconquered Abyssinia as it is To-day, 1923, p. 105.)

3 “Roads — so called — are merely tracks through the forest or open country, and with the rapid growth of tropical vegetation the path would soon be choked up were it not kept continually cleared. Every Bolivian subject is under an obligation to spend two or three days a year felling trees, etc., or pay so many dollars for a substitute; but of organised Government work in road-making beyond this there seems to be great lack. The expense, of course, would be considerable, and this is, no doubt a serious consideration.”

(H. M. Grey: The Land of To-morrow, 1927, pp. 67-68.)
LIBERIA

§ 170. Public works. — In the independent State of Liberia, where only a small part of the territory, consisting of a coastal strip about forty miles wide, is under effective control, public works are only in their initial stages. A programme of road construction is stated to have been drawn up, but the Office is not in possession of any legislative texts which govern the conditions of labour employed in connection with it. The methods which have been adopted for carrying out this work are reported to be as follows:

Each chief is held responsible for the clearing of a road through his district, under the direction of the district commissioner. This work is done by wholesale requisitions of unpaid labour. No time limit was originally imposed; and in many cases natives have been obliged to work on the roads for four and six months out of the year. The policy is for a contingent to work two weeks and then rest at home for two weeks before returning. The natives soon began to complain that under this system they had no time to plant their gardens. The exactions became so heavy in parts of Liberia that some Liberians prophesied in 1926 that a revolt would occur unless the demands were modified. The President, at the Vonjama conference of chiefs, ruled that three months in every year should be left for the cultivation of farms. Under this ruling the Government may requisition labour for a period of nine months, which is still an excessive period for unpaid labour.

§ 171. Porterage. — Compulsory porterage for Government purposes can be levied from the natives of the hinterland. Civil and military officials of high standing are entitled to a number of couriers varying in number from sixteen to thirty-two. This porterage is unpaid.

PARAGUAY

§ 172. Public works. — An Act of 1925 requires all male persons, between the ages of 18 and 50, resident in Paraguayan territory, whether Paraguayans or aliens, to perform four days' compulsory labour per annum in their own district on the construction and maintenance of roads and bridges or for emergency purposes when a public calamity is threatened. A substitute may be provided or exemption may be granted on payment of a sum

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3 Ibid., p. 748.
4 Act No. 742 of 13 July 1925 respecting compulsory labour.
of 80 pesos to the municipality. Sums collected as commutation money must be devoted to the works for which labour levied under the Act is used. Persons who provide their own tools or pay for their own maintenance are only called upon to furnish two days' service.

Certain classes of persons are exempt from the obligation to perform this labour. These include State military and civil officials and employees, persons performing honorary services in the public administrative departments, municipal officials, company officers and sergeants, foreign consuls and vice-consuls, ministers of religion, teachers, professors and students in colleges, physically unfit persons, and employees in undertakings carrying on public services. Section 10 of the Act specially provides that compulsory labour shall be governed by no other provisions than those laid down in the Act.

Persons who evade or obstruct the observance of the Act are liable to a fine of 160 pesos, which is imposed by the local magistrate on denunciation of the communal authority. The municipalities are required to submit to the Minister of the Interior at the end of every year a report on the work performed, together with a statement respecting the utilisation of the funds collected in pursuance of the Act.

§ 173. Emergencies.—Under Act No. 742 of 13 July 1925, as already stated above in the paragraphs dealing with forced labour for public works, all persons between the ages of 18 and 50 resident in Paraguayan territory, whether Paraguayans or aliens, may be called upon to perform labour in cases of emergency when a public calamity is threatened.

PERU

§ 174. Public works.—Under the Peruvian Compulsory Road Labour Service Act¹, all male persons between the ages of 18 and 60 who are resident in Peruvian territory, whether Peruvians or foreigners, are liable to compulsory labour service on the construction and repair of roads and of works connected therewith. Persons between 18 and 21 years of age or between 50 and 60 years of age are required to labour for six days, those between 21 and 50 for twelve days. A substitute may be provided or exemption may be obtained by the payment of a sum equal to the value of the

¹ Act No. 4113 of 10 May 1920.
wages payable for such work or at a rate to be fixed for each district. Save in exceptional cases, the performance of this service can only be required in the locality and the removal of contingents from one province to another is prohibited 1.

Law No. 1183 of 23 November 1909 prohibited the recruitment of labour by public officials for either public or private undertakings. This law does not, however, repeal an earlier one dating from the time of the Spanish domination which required the Indians to work on construction of roads and other public works without payment.

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1 It should be remarked here that complaints have been made in the South American press concerning the method of application of this legislation. It has been alleged that there is an incessant exodus of Indians from their native territory in order to escape from the menace of abuses committed under cover of the Act. "They are compelled to give unremunerated labour not only for those works which are set forth in the Act referred to but also for roads on private estates which, they are told, are intended for public highways, and their work is, moreover, increasing to double or treble the quantity prescribed by law. If the Indians offer the least resistance, imprisonment, flogging, the stocks, starvation and fines are the means employed to combat rebellion and reduce them to obedience. . . . Conscription for road-making purposes which calls for personal labour and particularly the labour of the Indians, who already pay all the taxes which the State has seen fit to impose upon them, cannot be considered to have any just foundation. It must be admitted to be opposed to the principles of individual liberty guaranteed to the people by Article 22 of the Constitution, which states that 'slavery does not and cannot exist in the Republic. No person may be compelled to give personal labour without his free consent and without due remuneration. The law does not recognise any contract or any imposition which deprives the individual of his liberty'. There appears to be undeniable evidence that the Compulsory Road Labour Service Act is anti-constitutional and should be repealed." (El Comercio, Lima, 3 November 1922.)
CHAPTER IV
THE LAW AND PRACTICE WITH REGARD TO FORCED LABOUR FOR LOCAL PUBLIC PURPOSES

§ 175. The information concerning the law and practice with regard to forced labour for local public purposes which is given in this chapter is grouped territorially in the same way as that in Chapter III.

As has been previously pointed out, the line of division, legislatively speaking, between local and general public purposes is not always clear, and much local work has already been touched upon in the previous chapter.

Information concerning the system of prestations, or labour dues, in the French territories has been included here since, as was explained in the introduction to Chapter III, the labour levied under the system is, in principle, used for local purposes only.

Finally, all compulsory labour performed for native chiefs in their capacity as head of the native community, whether used for purposes of local public benefit or for the personal benefit of the chief, is treated in this chapter.

BELGIUM

§ 176. Conditions of compulsory labour for local public purposes are governed in the Belgian Congo by the Decree of 2 May 1910 concerning native chiefdoms and sub-chiefdoms (chefferies et sous-chefferies indigènes) as amended by the Ordinance-Laws of 8 March 1915 and 20 February 1917. The purposes for which such labour can be requisitioned are defined as follows in section 24 of the Decree:

(a) To put in order and maintain the local roads within the limits of the district (circonscription) and to ensure the crossing of swamps and watercourses by the construction of bridges or the provision of a service of ferry boats, canoes or other craft;
(b) To put in order and maintain rest houses at such spots as may be designated by the European authorities;
(c) To construct and maintain in the chief town of the district: (1) a school; (2) a building for the use of European officials on tour.

Payment for this work is made by the Government to the labourers concerned.

Work for certain other purposes for which the native authorities are also responsible must be performed by the natives without remuneration. According to section 23, these purposes include the cleaning of villages and the clearing of brushwood round villages, the installation of sanitary accommodation outside the village in accordance with the requirements of the health authority, the construction and maintenance of the cemetery, the construction and maintenance, in the principal town of the district, of an establishment to serve as a place of imprisonment for natives serving sentences.

The maximum period for which this labour can be requisitioned from natives is sixty days per annum or five days per month. Nevertheless, if considerations of safety and health necessitate the performance of urgent work, this period may be prolonged until the work is completed (section 26). Only able-bodied adult male natives may be levied, except for the cleaning of villages and clearing of grass, for which purposes adult women may be called out (section 25).

The work is carried out under the instructions of the local administrative officer and is allocated amongst the villages and amongst the inhabitants of each village by the chief and the assistant-chief (section 25).

Section 28a, which was added by the Decree of 18 July 1918, prescribes that the natives who fail to carry out this labour are punishable with a period of hard labour not exceeding seven days and a fine of 200 francs, or with one only of these penalties.

RUANDA-URUNDI

§ 177. In the Mandated Territory of Ruanda-Urundi, Ordinance 4 of 28 May 1917 imposed certain duties on the inhabitants of urban districts for the purpose of safeguarding public health. These duties consist mainly in clearing brushwood, removal of refuse from buildings and land in urban communities, and cleansing of standing water. Persons contravening the regulations are liable to be sentenced to hard labour for a period not exceeding seven days and a fine not exceeding 100 francs.
The labour dues (prestations) rendered to native chiefs in accordance with native customs also call for remark. This labour is used for maintenance of paths, destruction of noxious animals, etc. This work is not additional to that carried out for the personal benefit of the chief, which will presently be described, but is considered to form a part thereof, so that the total number of days of labour performed is not increased. Work of this kind is never remunerated. According to the information given by the Mandatory Power, it is willingly performed by the population, which recognises its utility.

The report for 1926 states that the purposes for which this labour has been mainly used, sometimes but not always under the direction of the European authorities, are reafforestation, drainage of marshes preparatory to cultivation, road-making, bridge-building, and the creation of seed-farms in connection with the cultivation of foodstuffs.

Reference must also be made to certain labour dues (prestations et corvées) rendered to the native chiefs in accordance with native custom. A proportion of these labour dues are rendered exclusively for the personal benefit of the chief. There is now, however, a growing tendency among the native chiefs, which is encouraged by the Mandatory, to use this labour for purposes which benefit the community as a whole, and this labour is therefore considered here.

Native custom requires that one man must be furnished from every family to carry out work such as the ploughing of the chief's fields, the construction of his house, or the transport of his belongings. The Administration is endeavouring: (a) to suppress abuses of custom — the natives being willing to carry out customary obligations but not welcoming departures from tradition; (b) to reduce dues which appear to be excessive — the number of days which may be levied was reduced by the Government in 1924 from two days in every five to two in every seven; (c) to limit the use of this forced labour to works of public interest such as the construction and maintenance of roads and paths; (d) to ensure that the chiefs, by adopting improved methods of dealing with their cattle and by the cultivation of productive plantations, obtain personal revenue which will render it unnecessary to tax their subjects in order to meet their own expenses. The Mandatory

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1 Report for 1924, p. 83.
2 Page 84.
does not consider that it is possible to take further steps at the present time without injury to the authority of the chiefs and to legitimate private rights, since all these labour dues have originated in transfers of cattle against such dues.

The report for 1926 states that the policy of the Government is to reduce abuses in so far as these are revealed to them by natives having confidence in the Administration. Enquiry into the system of labour dues under native custom, which has been made in the different districts, reveals an unequal distribution of the dues, excessive demands on the part of chiefs' followers (bagendany and more), and the collection of a supplementary tax by the wife and servants of chiefs in connection with customary labour dues.

BRITISH EMPIRE

A. — TERRITORIES IN AFRICA

BRITISH EAST AFRICA

§ 178. Generally, as regards forced labour for local public purposes in the British East African Dependencies, there is a great similarity in the legal provisions relating to the forms of works covered, the limitations, and the authorities responsible. Once again an important exception is provided by Northern Rhodesia, where there is no legislation in force directly sanctioning compulsion. Nor does such legislation appear to exist in Zanzibar or the Seychelles.

KENYA

§ 179. The Native Authority Ordinance provides that the able-bodied men residing within the local limits of a headman's jurisdiction may be required to work in the making or maintaining of any watercourse or other works for the benefit of the community. Payment is not prescribed. The maximum number of days' work which may be so enforced is six in any one quarter.

The Ordinance also empowers local authorities to issue orders for preventing the pollution of the water in any stream, water-
course or water-hole and preventing the obstruction of any stream or water-course. These orders might presumably involve a certain amount of forced labour, but the Ordinance does not define its nature and limitations.

Another Ordinance in Kenya prescribes that in areas proclaimed as native reserves, able-bodied men may be required to work on the erection and maintenance of such beacons or mounds as the Governor may direct as marking the boundaries of the local areas and on the construction or maintenance of any road or bridge within or abutting upon the local area as the local authority has agreed with the Governor to construct or maintain. Again, payment is not mentioned and the maximum period of labour is six days in any one quarter, which is not prescribed as being in addition to the labour exacted under the Native Authority Ordinance. Natives are exempt from this labour if they can show that they are under agreements of service outside the native reserve and are in the reserve with the sanction of their employers.

The authorities responsible for the enforcement of labour for local purposes are the local authorities, subject to a power of supervision by the central authorities. The native headman may issue orders, and the administrative officer may require their issue, though, in the case of the special labour permitted in the native reserves (boundary marks, roads and bridges) action may only be taken on the order or general consent of the Governor.

The penalties applicable in the cases of offences in connection with forced labour for general public purposes may also be imposed in the present case for offences under the Native Authority Ordinance. The regulations providing for the construction and maintenance of boundary marks and roads in the native reserves lay down that every person neglecting or refusing to work, or disobeying lawful orders while engaged on work, is liable, at the option of the chief council of elders and headmen, to punishment according to native customary law, if such punishment is not contrary to humanity or natural justice, or, on summary conviction before a district or assistant district commissioner, to a fine not exceeding 30s., or, in default of payment, to imprisonment not exceeding one month.

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1 Roads in Native Reserves Ordinance, 1910, sections 3-6.
2 See § 23. The statement of Objects and Reasons of a Bill printed in the Official Gazette of 2 August 1928 records that the imposition of a fine has been found to be ineffective as a deterrent, especially in the case of male adult natives, who endeavour to evade calls for communal labour by sending their women or children in their stead, and rely on the proceeds of produce raised by the women to pay any fine that may be imposed."
NORTHERN RHODESIA

§ 180. In Northern Rhodesia there are no definite regulations providing for the enforcement of labour. It is nevertheless the duty of headmen to provide for the good order of the village, its sanitation, the conservation of its water supply from contamination or waste, and the making and maintenance of inter-village roads and roads in or about the village, and to carry out the local orders of the magistrate or native commissioner. Orders issued in pursuance of these duties are legally binding on the natives.¹

No remuneration appears to be prescribed for any labour which may be necessary, nor are any conditions specified to be observed in its performance. Any headman neglecting to carry out his duties is liable to imprisonment for a period not exceeding six months or to a fine not exceeding £10 or to both, while any native guilty of contraventions under the Proclamation is liable to imprisonment for a period not exceeding three months or to a fine not exceeding £5 or to both.²

In some instances compulsory labour seems to be furnished by the tribes for the personal benefit of their chiefs in accordance with immemorial custom. This labour is in certain cases commuted by money payments. In North Western Rhodesia, for example, compulsory labour for the paramount chief and his indunas has been compulsory in Barotseland, but this has been abolished by an agreement with the chief, under which the right to exact such labour has been commuted for an annual payment of £2,500.³

NYASALAND

§ 181. In Nyasaland⁴ it is the duty of every adult male native, being able-bodied, to obey an order to labour in the construction or maintenance of any work of a public nature for the benefit of the village area or section to which he belongs. The Governor may exempt from this obligation any native or class of natives. The Ordinance regulating the matter prescribes that these natives may be required to work without payment, but that they cannot be called upon for more than twenty-four days in any one year.

¹ Administration of Natives Proclamation, 1916, sections 15 (1, 2, 3, 6 and 13) and 16 (4).
² Idem, sections 19 and 21.
⁴ District Administration (Native) Ordinance, 1924, section 18 (b).
The orders are given by the village headmen, who are subject to the instructions of the District Resident. Any headman failing without lawful excuse to perform his duties may be fined a maximum sum of £5, or in default of payment be imprisoned for a maximum period of three months. Any native failing without lawful excuse to carry out an order under the Ordinance may be fined a maximum sum of £1, or in default of payment be imprisoned for a maximum period of one month.

As in the case of forced labour for public general purposes, it is laid down that natives working in pursuance of these orders shall be considered to be working under contracts of service.

**TANGANYIKA TERRITORY**

§ 182. The Native Authority Ordinance\(^1\) lays down similar provisions regarding the pollution of water-courses and streams to those referred to in this connection in Kenya, and similarly does not define the nature and limitations of the labour, if any, requisitioned.

With regard to the authorities entitled to take action under these provisions, the legal position is exactly the same for forced labour whether for general or for local public purposes, i.e. instructions may be given for any of the purposes permitted by law by the native authority, who is defined as "any chief or other native or any native council or group of natives declared to be or established as a native authority". The provincial commissioner or administrative officer, nevertheless, may require orders to be given or cancel orders already given.

No remuneration is prescribed for labour for local public purposes. It should, however, be noted that each native authority constituted under the Native Labour Ordinance of 1926 has, or will have, its own native treasury.

In addition, in Tanganyika Territory\(^2\) orders may be issued for prohibiting, restricting, regulating or requiring to be done any matter which the native authority, by virtue of any native law or custom for the time being in force and not repugnant to morality or justice, has power to prohibit, restrict, regulate or require to be done, or for any other purpose which may be specially sanctioned by the Governor, either generally or for any particular area.

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\(^1\) Native Authority Ordinance, 1926, section 8 (e).

\(^2\) Idem, section 8, paragraphs (q) and (r).
In this connection, however, it should be noted that all tribute and service has now been commuted for a money payment, and it is proposed to enact a law making it an offence for a chief to exact or attempt to exact any tax or tribute other than that authorised under the Hut and Poll Tax Ordinance of 1922.

The Governor, finding that in certain areas claims were being made by the chiefs to demand so-called communal labour (unpaid) from the people, issued a Memorandum for the guidance of native commissioners. This Memorandum states that when the communal service required is one which in a civilised country would be performed by a local authority against a rate paid by the individual, unpaid labour may, for the present, be requisitioned; but the Government's policy is gradually to substitute payment in money instead of in labour. Should other forms of communal labour survive, commissioners are instructed to bring them to the Governor's notice. They are reminded that the previous sanction of the Governor is required in every case, other than the above, before labour is requisitioned. When, however, the natives are willing to carry out a work quite voluntarily, he does not desire to intervene.

UGANDA

§ 183. Orders may be issued requiring able-bodied natives to work in the making or maintaining of any work of a public nature intended for the benefit of the community. The Governor may exempt any person or class of persons from the obligation to participate, or authorise the commutation of such obligation in such a manner as he considers advisable.

The Ordinance governing the matter does not prescribe remuneration for such labour, but limits its maximum duration to thirty days in any one year. It states that natives working in pursuance of orders issued for local purposes shall be considered to be working under contracts of service.

The native chief may, subject to the control of the provincial or district commissioner, issue the necessary orders for the purpose.

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1 Reports of the Mandatory on the Administration of Tanganyika Territory for the Years 1925 (p. 12), 1926 (p. 13), and 1927 (p. 13).
2 Report by His Britannic Majesty's Government to the Council of the League of Nations on the Administration of Tanganyika Territory for the Year 1927, p. 79.
3 Native Authority Ordinance, 1919, as amended by Ordinance 7 of 1925, section 7B (k).
of such labour. He is also entitled to issue any order by virtue of any native law or custom in force for the time being in his area, provided that such law or custom is not repugnant to morality or justice 1.

The Native Authority Ordinance also lays down provisions regarding the pollution of water courses and streams similar to those referred to in this connection in Kenya and Tanganyika. It does not define the nature and limitations of the labour, if any, requisitioned for these purposes 2.

Any chief who, without lawful excuse, neglects to issue orders as directed by the commissioner or is guilty of any abuse of authority may be fined any sum not exceeding 600s. or sentenced to imprisonment for a term not exceeding six months. Any native who, without lawful excuse, disobeys or fails to comply with any lawful order issued under the Ordinance is liable to a fine not exceeding 150s. or to imprisonment for a period not exceeding two months, or to both 3.

ZANZIBAR

§ 184. In Zanzibar, there appear to be no provisions for forced labour under conditions which would bring them within the scope of this chapter, i.e. though the works of a public nature for which labour may be enforced may be either general or local in their utility, the safeguards and restrictions such as the prior sanction of the Secretary of State save for porterage are invariable and seem to have regard primarily to forced labour for general public purposes.

BRITISH WEST AFRICA

§ 185. In British West Africa labour for local public purposes appears to be always called out through the native or tribal authorities. Its most common duties are the construction, maintenance and clearing of roads and tracks, although it may be used for a variety of other purposes, including sanitation, the upkeep of rest houses, the safeguarding of landmarks, the marking of boundaries and the clearing of village surroundings.

1 Idem, section 7A.
2 Idem, section 7B (f).
3 Native Authority Ordinance, 1919, as amended by Ordinance 14 of 1923, sections 12 and 13.
The relative legislation does not, as a rule, contain provisions for the payment of such labour; neither does it always specify the period for which it may be requisitioned. The persons who may legally be called upon are usually able-bodied male natives. In the case of Sierra Leone, evidence seems to show that as the result of native custom women are sometimes employed on this work, although they are specifically exempt from it under the law.

GAMBIA

§ 186. Under the Gambia Protectorate Ordinance of 1913, the Governor in Council may make regulations concerning the construction, repair, clearing, regulation and protection of roads, bridges, wells, springs, water-courses, watering places and bathing places, the making and preserving of landmarks and fences, preventing and abating nuisances, and clearing the outskirts of towns and villages. Rules made under the Ordinance concerning sanitation and roads throughout the Protectorate empower head chiefs, sub-chiefs and headmen to call upon "all able-bodied male persons resident in their areas" in connection with the construction and maintenance of such roads and bridges as the Governor may direct and such wells as the commissioner may direct, the preservation of local boundary posts, the prevention of accumulation of rubbish or any nuisance in the neighbourhood of dwelling houses or in any place where it is injurious to health or offensive to the public, and the clearing of the outskirts of towns and villages.

No period is prescribed for this work and no mention is made of payment for the labour or of the possibility of commutation either by payment or the provision of a substitute.

GOLD COAST

§ 187. The work to be carried out under the Roads Ordinance of the Gold Coast Colony has already been described. It is not

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1 Section 57 (i).
2 The Protectorate Administration Rules, 1915.
3 i.e. the Gold Coast Colony, together with the Colony of Ashanti, the Northern Territories Protectorate and the Mandated Territory of British Togoland.—British Togoland is administered by the Government of the Gold Coast and is divided into two sections, the Northern Section and the Southern Section, which are attached, for administrative purposes, to the Northern Territories and the Eastern Province of the Gold Coast Colony respectively.
4 See § 56.
clear how far such labour is identical with or additional to that resulting from the provisions in the Native Jurisdiction Ordinance ¹ which enables head chiefs of divisions to pass by-laws for specified purposes such as construction, repair, clearing, regulation and protection of roads, wells, springs, water-courses, watering and bathing places, the making and preserving of landmarks and fences, the preventing and abating of nuisances, and the clearing of woods and bushwood from the outskirts of towns and villages. Such by-laws may impose the penalty of a fine not exceeding £5 and two sheep. The Rules and Orders made under the Native Jurisdiction Ordinance contain “by-laws as to roads” which are applicable in more than thirty chiefdoms and enable the native authority to require “able-bodied men under his rule and residing within his jurisdiction to work on the roads” for a period not exceeding six days in each quarter. Natives who do not obey the order are punishable with a fine not exceeding 5s. It should be noted that the penalty imposed by the Road Ordinance is a fine not exceeding £1, or, in default of payment, imprisonment for a term not exceeding one month with hard labour. The difference in the penalties prescribed seems a reason for assuming that the labour leviable under the two Ordinances is not identical.

The by-laws of other chiefdoms, made under the Native Jurisdiction Ordinance, also contain provisions concerning village sanitation to be carried out by the inhabitants, the cleaning and clearing or roads, sometimes at fixed intervals of three months, by “their people”, and the clearing and cleaning of land and of the surroundings of buildings by occupiers and owners ². The conditions of the labour thus requisitioned are not specified.

§ 188. In the Colony of Ashanti the provisions contained in the Ashanti Administration Ordinance ³ prescribe that the Chief Commissioner may make, amend and revoke rules, subject to the approval of the Governor, with respect to the making of roads, the maintenance of roads and telegraph lines, the abatement of

¹ Chapter 82 of the Gold Coast Laws (1920 edition), section 5. It should be noted that this Ordinance is not applicable in the Southern Section of British Togoland as the British Sphere of Togoland Administration Ordinance, 1 of 1924, specially excepts the Southern Section from its scope. — The Native Administration Ordinance, 18 of 1927, also enables paramount chiefs to make by-laws. In those States where this Ordinance is in force, the Native Jurisdiction Ordinance no longer applies.

² Rules and Orders under the Native Jurisdiction Ordinance.

³ The Ashanti Administration Ordinance, 1902, section 30. (See also § 56.)
nuisances in or about towns and villages, cemeteries, rest houses and mile marks, landmarks and boundaries, etc. A penalty of a fine not exceeding £25 or imprisonment with or without hard labour for a term not exceeding three months may be imposed in the event of contravention.

The rules made under the Ordinance which concern the cleaning and maintenance of roads do not classify the roads, but cover the maintenance of all roads within the division of each chief. The categories of natives resident within the area of the chief's jurisdiction which may be called out for work on roads are not specified, as the rules refer only to "every person required to work under these regulations" in connection with the penalty to be inflicted in case of non-compliance with the requisition or of disobedience to lawful orders while engaged on the work. This penalty consists, at the option of the chief, of punishment under native customary law, or, on summary conviction before the commissioner, of a fine not exceeding £1 or, in default of payment, of imprisonment for a term not exceeding one month with hard labour.

It is not clear how far communal labour is called for under Rules and Orders for the other purposes enumerated in the Ordinance, but a chief or headman must "cause a clearing of at least 50 yards in depth to be made round his village" and "see that such clearing is maintained". He must also "keep the main entrances to his village cleared of all bush and undergrowth, and at least 15 feet in width". Any person disobeying the orders of the chief or headman in this connection may be fined a sum varying from 5s. to 10s.

The Office is also unable to state whether any by-laws, under which further labour can be called out for local purposes, have been made by head chiefs of divisions in virtue of the powers conferred on them by the Ordinance.

§ 189. In the Northern Territories of the Gold Coast and also in the Northern Section of British Togoland the Chief Commissioner

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1 Imposed, under the Rules referred to in footnote 2 below, upon the responsible chief.
2 Rules and Orders under section 30 (3) of the Ashanti Administration Ordinance, 1902: Rules with respect to cleaning and maintenance of roads. (See also § 56.)
3 Sanitary Rules for the Guidance of Chiefs and Headmen of Villages, made under the Ashanti Administration Ordinance, 1902 (section 30, (5) (7) and (8)).
4 Ashanti: Native Jurisdiction Ordinance, 4 of 1924, section 23.
5 Under the Northern Territories Administration Ordinance, 1902, section 25.
may make rules for the same purposes as already noted in the case of Ashanti. Reference has already been made to the rules under the Ordinance \(^1\) which deal with the maintenance of specified roads \(^2\). These rules make no reference to the upkeep of village roads and paths. Other regulations provide that chiefs must supply labour to clear, fence and maintain the public cemetery, the labour employed being supervised and directed by the Medical Officer \(^3\).

\section*{§ 190. In British Togoland} communal labour is employed on the maintenance of important trade routes and rest houses. Such labour is organised by the chiefs and adequate compensation is invariably made \(^4\). Natives keep up foot-tracks as a communal duty. No payment is made for this work and the Administration does not interfere with the chiefs in this matter \(^5\).

\section*{NIGERIA \(^6\)}

\section*{§ 191.} The system of direct taxation already obtaining in the Northern Provinces and in five of the Southern Provinces of Nigeria was extended early in 1928 to all the remaining Provinces and to the Colony, thereby making possible the repeal of the Roads and Rivers Ordinance \(^7\) under which compulsory labour could be called out for the repairing and cleaning of roads and the cleaning of rivers and other inland waters. The Roads and Rivers Repeal Ordinance, 18 of 1927, came into force on 1 April 1928, and thus abolished the only unpaid compulsory labour which could be requisitioned \(^8\) in Nigeria. It appears to follow that if labour is requisitioned under the Native Authority Ordinance \(^9\), for such purposes as ”preventing the pollution of the water in any stream,

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\(^1\) Rules as to the maintenance of roads made under section 25 of the Northern Territories Administration Ordinance, 1902.  
\(^2\) See \$ 56.  
\(^3\) Rules with respect to cemeteries made under section 25 (7) of the Northern Territories Administration Ordinance, 1902.  
\(^4\) Report on the Administration of the British Sphere of Togoland for the Year 1923, p. 19.  
\(^5\) Minutes of the Tenth Session of the Permanent Mandates Commission, p. 99.  
\(^6\) Together with the Mandated Territory of the British Cameroons, which is administered by the Government of Nigeria and is divided into two parts, the Cameroons Province and the Northern Cameroons, which are administered as integral parts of the Southern and Northern Provinces respectively of the Protectorate of Nigeria.  
\(^7\) Roads and Rivers Ordinance (Cap. 107 of the Laws of Nigeria).  
\(^8\) See LORD LUGARD: The Dual Mandate, 1922, p. 408.  
\(^9\) Native Authority Ordinance, 14 of 1916, section 9.
water-course or water-hole and preventing the obstruction of any stream or water-course”¹, it is paid. The Native Authority Ordinance contains no specific provisions concerning the use of compulsory labour, but the possibility of the use of such labour seems to be deducible from the terms employed in the Ordinance to describe the specific purposes and “any other purposes approved by the Governor” for which the native authority “may issue orders, not inconsistent with the provisions of any Ordinance, to be obeyed by the natives within the local limit of his jurisdiction”².

The penalty for failure to comply with any lawful order issued by the native authority is a fine of £20 or imprisonment for two months, or both.

§ 192. In the Northern Provinces of the British Cameroons, compulsory labour is only used “for the customary clearing of roads and paths”³. In the Dikwa Emirate, the labour requisitioned for this purpose is estimated to amount, on an average, to two days a year for each person liable to be called out. The local rate for voluntary labour is paid and the work is performed in the locality⁴.

In the British Cameroons Province in the south, natives perform certain compulsory unpaid public services, consisting of the maintenance of roads and native-made bridges and the upkeep of rest houses, which are carried out as a communal duty in accordance with long-established custom⁵. This labour is unpaid when it is dealing with primitive materials and structures which the community has been accustomed to provide for itself from time immemorial⁶. If a rest house is on a main road and frequently used by travelling officers, the “village responsible is remunerated for its trouble”. This labour does not include the construction of metalled motor roads, and if more than ordinary clearing is required on a main road a lump sum is paid, which the chief and elders divide as they think fit.

This labour is requisitioned under the Native Authority Ordinance⁷, and failure to perform the work entails prosecution by

¹ Native Authority Ordinance, 14 of 1916, section 9.
² Idem.
⁴ Idem, 1926, p. 43.
⁵ Idem, 1926, p. 49.
⁶ Idem, 1926, p. 49.
⁷ Idem, 1926, p. 49.
the native authority. During the year 1926, 229 persons were convicted and punished in the native courts in the Cameroons Province for refusing to perform labour when called upon to do so.

SIERRA LEONE

§ 193. The laws in force in both the Colony and the Protectorate of Sierra Leone confer upon native authorities the right to levy labour for local public purposes.

In the Colony of Sierra Leone, under the Headmen Ordinance, a headman may, after consultation with the local committee, with the approval of the Governor, make, amend or revoke rules requiring the residents in a town and the surrounding villages to perform compulsory labour for a period not exceeding eighteen days per annum for the cleaning of cemeteries, the cleaning, maintaining and repairing of streets and roads when not repaired by the Colonial Government, and for maintaining and repairing of bridges in such streets and roads, and any other work of a like character for the benefit of the town.

Exemption may be obtained by the provision of a substitute or by the payment of a daily sum equal to the current daily wage. Women, infirm persons and persons under 15 or over 60 years of age are not liable to this work. In Schedule B of the Ordinance, special rules are laid down for application to some thirty towns. These require the performance of certain additional duties, including the clearing of wharves and markets, repairing cemetery fences, clearing drains in streets and roads, keeping clean all vacant and unclaimed lots, and the keeping clean and free from pollution of all places assigned for the purpose of obtaining water for drinking or washing. The maximum period for which labour can be requisitioned in these cases is fourteen days per annum. A substitute may be provided or the sum of 9d. may be paid in respect of each day for which labour is requisitioned.

Failure to comply with any rule made under the Ordinance is punishable with a fine not exceeding £5.

Reference has already been made to the precautions taken under the Sierra Leone Protectorate Native Law Ordinance, 1924, to prevent abuse of the power of chiefs to requisition labour. The

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2 The Headmen Ordinance, 1924, section 5 (1).
3 Named in Schedule C to the Ordinance.
4 See § 61.
Governor may make, alter, or rescind Orders regulating the respective rights of paramount chiefs, chiefs and headmen and the people as to labour required for works of public utility or for the benefit of any town or *fakai* or for the benefit of any paramount chief, chief or headman. Any person violating such Orders is liable to be punished with a fine not exceeding £20 or with imprisonment with or without hard labour.

The Public Health (*Protectorate*) Ordinance, 1926, gives the chief of any town or place declared to be a sanitary district the power to demand labour from male native residents between 14 and 60 years of age for any of the purposes under the provisions of the Ordinance which are deemed to be works of utility in respect of which a chief is entitled to demand labour, in accordance with the provisions of the Protectorate Native Law Ordinance to which reference has already been made\(^1\). No mention is made of the period for which this labour may be levied. Notwithstanding the legal right of women to exemption from such labour, it appears that in practice they are sometimes called upon to perform it\(^2\).

The provisions of the Protectorate Native Law Ordinance safeguard the rights of chiefs to a certain quantity of labour for the purpose of working their farms, as far as these rights are universally recognised by their people, although at the same time it prescribes that no chief shall cultivate a larger area than can be cultivated by his labourers and by the people furnishing labour dues without preventing such people from having sufficient time to cultivate their own lands. Labour in aid of building or maintaining a chief's compound, and furnished in accordance with native custom, is also permitted by the Ordinance, subject to the same restriction as in the case of labour for the chief's farm. The labour leviable for these purposes may, however, be commuted, with the consent and approval of the district commissioner, for a fixed share of the crops harvested by the people or of the produce collected by them. In the event of commutation,

\(^1\) See § 61.

\(^2\) "The calling out of women to do sanitary and other communal labour in the Protectorate when no men are available was a practice claimed by Paramount Chief Bai Comber as customary and therefore justifiable, but in the course of a discussion in Council on the New Public Health Ordinance for the Protectorate it was shown that women had enjoyed definite legal exemption from such tasks for the past eleven years, even though they themselves were still unaware of their emancipation. No doubt the use of female labour will continue in the villages and on the roads of the Protectorate for many years, but ultimately the practice will be recognised as harmful to the best interests of the race, and its survival need not be encouraged by legislative recognition." (West Africa, 6 November 1926.)
it becomes unlawful for the chief to compel his people to supply labour for the purpose of cultivating his farm or of building or repairing his compound 1.

An official report states 2 that in certain cases in the Southern Province, both chiefs and people have applied for the commutation and registration of tribute on a fixed basis. The change has been found satisfactory and it is hoped in time to extend this system to every chiefdom in the Province.

SOUTH AFRICA, SOUTH WEST AFRICA, AND SOUTHERN RHODESIA

§ 194. Certain forms of compulsion used in Southern Rhodesia and South West Africa have already been mentioned 3, under forced labour for general public purposes. In Southern Rhodesia labour is obtained for the clearing and upkeep of local tracks in the native reserves.

In the native territories in South West Africa the natives have carried out a certain amount of road construction, dam-making, well-sinking, and erection of police-post quarters, in their own districts, on directions given to them through their chiefs by the resident officials 4. This work is not paid, being regarded as labour called out by the chief in the interest of the tribesmen themselves 5.

B. TERRITORIES IN ASIA

CEYLON

§ 195. The Road Ordinance summarised in the preceding chapter 6 provides that a minimum of one-third of the labour recruited under its provisions shall be employed on local works. Further, the Local Government Ordinance, 11 of 1920, tends to make of a local nature all labour compelled in areas for which district councils have been established.

Under the Village Communities Ordinance of 1924 7 and subject to the provisions of Ordinance 11 of 1920 8, the inhabitants of any

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1 Sections 10-18 of the Ordinance.
3 See §§ 63-68.
5 Statement made by the Accredited Representative to the Eleventh Session of the Permanent Mandates Commission (Minutes, p. 98).
6 See § 69.
7 Section 29 of the Ordinance.
8 See § 69.
subdivision may make rules for specified purposes, including the imposition within the limits of the subdivision of an annual labour tax not exceeding ten days per year for any one person; the calling out and compelling the performance of the labour, and the enforcement, in cases of default, of the performance of increased or double labour; and according permission for the liability to be commuted, either wholly or in part, for a money payment.

The purposes for which the labour may be used include the construction, repair, and maintenance of public roads and paths; the construction, maintenance, regulation, and protection of village paths, bridges, rest-houses, pilgrim shelters, spouts, wells, watering and bathing places, fords, ferries, burial or cremation grounds, cart halts, markets, and slaughtering places; the conservancy of springs and water-courses; the construction, repair, maintenance, and protection of village canals and of bunds or other works for the protection of cultivated land against flood waters; the carrying out of ancient customs as regards cultivation, and the repair, protection, and maintenance of village tanks, and the irrigation of fields and gardens under such tanks; the construction, repair, and protection of village tribunal and village committee courthouses and construction and repair of school-rooms; and the care of and regulation of the use of waste and other lands set apart for the purpose of the pasturage of cattle or for any other common purpose.

It has already been stated \(^1\) that the liability to labour under the Road Ordinance has always been commuted, and that the Ceylon Government has recently made provision for a grant to local authorities to relieve them of the necessity of enforcing the liability to labour or its commutation. The Ceylon estimates for 1926-1927 and 1927-1928 made provision for compensation to local authorities for the remission of the road tax, which has consequently not been collected. How far, if at all, the labour leviable under the Village Communities Ordinance is abolished by this provision is not clear.

\**CYPRUS**

\$196. Compulsory labour for local public purposes can be required under the laws governing the construction, maintenance and repair of roads. The provisions of this legislation are described in Chapter \(\text{III}^2\), as in certain cases the work may be regarded as being performed for general public purposes.

\(^1\) See § 69.
\(^2\) See § 70.
§ 197. In Bihar and Orissa (British India) compulsory labour is exacted by the Government in certain aboriginal areas. In parts of the Santal parganas (districts) and of Singhbhum, the Government, instead of imposing local taxation, require village communities to maintain each their own share of the public roads and minor public buildings in the immediate neighbourhood of their homes. The distribution of work is left to the village headman, the work is done at the leisure of the villagers, and the method is considered appropriate to the state of economic and political development of these areas.

The International Labour Office has no information concerning the levying of forced labour for local public purposes in the Indian States.

IRAQ

§ 198. An account has already been given of the labour which may be requisitioned in the Mandated Territory of Iraq in certain emergencies. Mention remains to be made here of certain provisions concerning labour in connection with irrigation works. Under the Irrigation and Bunds Amendment Law, the repair and maintenance of irrigation works, the clearance of silt from canals and the strengthening, repair, and maintenance of bunds must be carried out by the "persons who will benefit from their being in good condition and will lose if otherwise", and the local authority is required to prepare lists showing the persons liable to such labour and the amount of labour required from them. The labour is called for by the executive engineer in charge of irrigation or any other duly appointed official. No payment is made for this work except in cases in which, by the custom of the locality, the Government is liable to pay. Where payment is made, the rate is fixed by the local authority in consultation with the executive engineer. If any person fails to supply the necessary labour when called upon to do so, the work is carried out by the Irrigation Department and the offender is bound to indemnify the Government.

1 See also § 71.
2 See § 75.
3 Irrigation and Bunds Amendment Law, 1925, amending the Irrigation and Bunds Law, 1923.
The labour furnished under this legislation is presumably that supplied by the tribes for the extension of canals to be ultimately used for the development of lands to be occupied by them. No forced labour is used in Iraq for the building or repairing of local roads, village sanitary work, the making of cemeteries, etc.

NORTH BORNEO

§ 199. In British North Borneo, under section 7 of the Cattle and Grazing Ordinance, 1914, cattle and pig owners may be ordered collectively to repair damage done to local roads and tracks by cattle and pigs.

PALESTINE

§ 200. No forced labour appears to be used in Palestine for local public purposes.

The Village Roads and Works Ordinance, 1927, replaced the Ottoman legislation concerning compulsory labour on road-making by a system of local rate for the purpose of carrying out works on roads, drains, water-courses and sanitation in village areas. Inhabitants who desire employment on the works may notify the village authority, and the amount due in respect of the tax is deducted from the wages payable.

C. — TERRITORIES IN AUSTRALASIA AND OCEANIA

§ 201. In dependent British areas in Australasia and Oceania the use of compulsory labour for local public purposes is customary. The information in the possession of the International Labour Office seems, generally speaking, to show that this labour is unpaid,

1 See statement by the Accredited Representative of the British Government at the Tenth Session of the Permanent Mandates Commission (Minutes, p. 75).
2 See statement by the Accredited Representative of the British Government at the Twelfth Session of the Permanent Mandates Commission (Minutes, p. 40).
that the period for which it may be levied is not prescribed, and
that the category of native who may be called upon is not precisely
defined.

The most usual purpose for which this labour is used is the making
and maintenance of roads, although various other local purposes,
defined in more or less detail, include building and repairing houses,
supplying visitors with food, the transport of Government officials
on duty, sanitation, and the survey of boundaries. In some
instances the rights of chiefs to levy labour for their own benefit
from their people are defined in legislation.

FIJI AND THE WESTERN PACIFIC ISLANDS

§ 202. In Fiji Regulations for the performance of services of
common benefit prescribe that the performance of services by
the inhabitants of a province, district or village, or by the members
of a community, may be required for the common benefit
for the following objects, road-making, building and repairing
houses, planting and upkeep of provision grounds, supplying
visitors with food, sanitation, the transport of Government officers
and letters, and the survey of boundaries of certain native lands.
Any person refusing to perform these services when called upon
by the officer or person in authority is liable to a fine of 2s. for
every day or part of a day on which he refuses to obey or neglects
his work, or to imprisonment for a period not exceeding seven days.
Exemptions may be granted by the Governor for a period of one
year and may be renewed annually with his approval. All this
labour appears to be unpaid.

In the Island of Rotumah the coast road must be kept in order
by any person through whose land it passes under penalty of a fine
of 10s. If the road is damaged by sea or rain the duty of repairing
it lies upon the inhabitants of the local district or township.

Regulations concerning personal services for chiefs permit
them to demand labour from their people for house-building,

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1 Regulations of the Native Regulation Board, 1912 — Regulation 7: The Communal Services Regulation, as amended by Regulation 1 of 1920.
2 See extract from the report of a committee appointed by the Governor of Fiji in 1903 to revise the Native Regulations in footnote 5 on p. 75.
3 Regulation 1 of 1887 of the Rotumah Regulation Board regarding Roads (5 July 1887).
4 Regulations of the Native Regulation Board, 1912 — Regulation 6: The Personal Services Regulation.
garden-planting, supplying visitors with food, cutting and building canoes, supplying turtle, making mats and native cloth and any other article manufactured exclusively by natives, in accordance with such general provisions as may from time to time be made by the Governor. Persons performing these personal services must be fed or paid while, or for, so doing by the person benefiting therefrom. Any chief who fails to provide food or make payment is not entitled to make any call upon the persons concerned for any services during a period of two years. The native commissioner may, moreover, in such cases order the remuneration of the persons employed in any manner he deems just. Any person refusing to comply with the lawful demand of a chief for the performance of these duties is liable to a fine not exceeding 5s. for each offence. The inhabitants of a village or other community may commute the services for a fixed annual payment in money, provided this be sanctioned by the Governor. All commutations are recorded by the native commissioner and no subsequent personal services may be demanded.

§ 203. In the British Solomon Islands Protectorate any native who, when called upon to join in the performance of any communal services by the native officer or the person in authority duly appointed to see to its proper performance, refuses to obey or performs in a negligent manner the work allotted to him is liable to a fine not exceeding 5s. or to imprisonment with or without hard labour for any term not exceeding three months. The Regulation containing these provisions does not, however, define what is to be understood by "communal services".

§ 204. In the Gilbert and Ellice Islands Colony the various native authorities are responsible for the good order and cleanliness of the islands and the villages thereon. During 1926-1927, the method of application of the system of communal labour was closely investigated, and arrangements

1 Native Administration (Solomons) Amendment Regulation, 1 of 1927, section 9.
2 Schedule to the Native Laws Ordinance, 1917.

"The standard of cleanliness is very high. Leaves and rubbish are cleared up by the women every day and burned. The village policeman inspects. A small piece of rubbish within the village precincts at inspection-time renders the delinquent liable to a fine of 1s. to 5s. A belt of 50 fathoms' depth on the landward side of every village is kept clear of fallen leaves and husks by communal work: the lagoon foreshore is similarly cleared." (Annual Colonial Report on the Gilbert and Ellice Islands Colony for 1924-1926, p. 9.)
were made to ensure that no native, through the negligence of village officials, should be called upon to work outside his own settlement 1.

§ 205. In Tonga "every person who holds an allotment" must keep the Government road in front of his allotment clean and in good repair 2.

NAURU ISLAND

§ 206. In the small Mandated Territory of Nauru Island, the Roads Maintenance Ordinance 3 provides that every owner, lessee, or occupier of land which abuts on or is bounded by a road or track shall maintain the adjacent half-width of such road or track in a reasonable state of repair. This applies generally to all landowners, but in the event of any native owner, lessee or occupier subject to the control of a chief failing to comply with the provisions of the Ordinance, responsibility for carrying out the work devolves on the chief.

NEW GUINEA

§ 207. In the Mandated Territory of New Guinea similar regulations to those mentioned for the Island of Nauru are in force with regard to the maintenance of roads 4.

PAPUA

§ 208. In Papua, various services for local public purposes are incumbent upon natives 5. These concern the making and maintenance of roads and bridges, the erection of boundary posts, the cleaning of roads, and local sanitary services. This labour is clearly not paid, as special provision is made for payment by the Government in cases when work on roads is performed by natives on land outside that belonging to their own village. The

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1 Annual Colonial Report on the Gilbert and Ellice Islands Colony for 1926-1927, p. 10.
2 Law of Tonga, section 612.
3 The Roads Maintenance Ordinance, 15 of 1922.
4 The Roads Maintenance Ordinance, 5 of 1922.
5 Statutory Rules, 3 of 1922 (under the Native Regulation Ordinance of 1908), sections 90, 97, 98, 99, 108.
necessary tools are provided by the Government. The village constable is responsible for seeing that the roads are kept in repair and the tasks to be performed are allotted by him, but if any native considers the task allotted to him too heavy he has the right to appeal to the magistrate. Failure to perform this work, without reasonable excuse, is punishable with fines varying from 5s. to 10s., or with imprisonment for a maximum period varying from fourteen days to a month. A native who fails to carry out the sanitary work in his village which has been allotted to him is punishable with a fine not exceeding £1, or in default of payment with imprisonment for any period not exceeding two months, or to imprisonment in the first instance for any period not exceeding two months.

WESTERN SAMOA

§ 209. It has already been explained that in the Mandated Territory of Western Samoa self-government for municipal purposes has recently developed considerably amongst the native population and that district councils have been set up, the members of which are natives. Each district council is empowered to make by-laws in relation to its district and the Samoans resident therein regarding the cleaning of villages, conserving of public health, regulating the use and prohibiting the contamination of water supplies, regulating the lay-out, construction, maintenance and cleaning of roads, enforcing the instructions of the medical authority, prescribing the duties of residents in regard to assistance to be given to native medical officers and native nurses, and “prescribing the duties of Samoans resident in such district in regard to services to be rendered for the public benefit in the making of roads, building and repairing of churches and houses, planting of trees and food supplies, accommodation and maintenance of visitors, accommodation and transport of Government officials on duty, and such other matters as are by custom of the Samoans commonly the subject of communal effort.”

Attention has already been called to the fact that the accommodation and transport of Government officials on duty is deemed to be labour for communal purposes.

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1 See § 104.
2 The Native Regulations (Samoa) Order, 1925, section 7 (18).
The category of native who may be called upon to render these services is not specified other than as "Samoans resident in such district". No period for which the labour can be levied is prescribed and no mention is made of payment or of commutation.

The duties of the district council with regard to the construction and maintenance of roads have already been described 1.

The district council may further prescribe "the duties of Samoans resident in such district in regard to services to be rendered to chiefs by their people in the building of fales, planting of food supplies, building of canoes and fautasias, making of mats and tapa, and such other services as are by the custom of the Samoans commonly rendered to chiefs by their people".

All by-laws must be approved by the Administrator and may not provide any term of imprisonment or any fine exceeding £2 for breaches thereof.

D. — BRITISH TERRITORIES IN AMERICA

§ 210. Reference has already been made to the compulsory labour on roads which is met with in certain cases in the British West Indies as an alternative to a money contribution for road maintenance. This is an instance in which labour may serve either local or public purposes, according to circumstances, but the necessary details have already been given 2 and it is therefore not proposed to repeat them here.

FRANCE

§ 211. The system of "prestations", or compulsory labour dues for local public purposes, is at present in force throughout the French colonies.

The question of labour dues in relation to the terms of the Mandates has been the subject of many important discussions both by the Temporary Slavery Commission and by the Permanent Mandates Commission, and it is therefore of interest to summarise them here. The former Commission, during its Second Session 3,

1 See § 104.
2 See § 111.
3 Minutes of the Second Session, p. 74 et seq.
raised the question as to whether compulsory labour dues were to be regarded as a tax or as a system of forced labour. Sir Frederick Lugard had made the suggestion that the principle of compounding these dues for a money payment should be admitted. He pointed out that the labour dues were stated to be a purely fiscal measure and not a measure of forced labour for urgent public works and services. Mr. Bellegarde supported this view, and added that the dues should be payable by all since all profited by the advantages arising from the construction and proper maintenance of roads. The representative of the International Labour Office, however, called the attention of the Commission to the difficulty which would arise if this view were accepted, namely, that if commutation for a money payment were allowed the necessary work would not be done, and unless voluntary labour were forthcoming, which seemed unlikely, recourse would have to be taken to compulsion. If, on the other hand, the only object in view was to obtain revenue, then these labour dues were a fiscal measure based on a bad principle, and it would be preferable to impose a direct tax. After consideration, the Commission finally decided not to accept Sir Frederick Lugard's suggestion.

The question of the compatibility of the system of compulsory labour dues with the terms of the Mandates has been debated several times at the sittings of the Permanent Mandates Commission and, in particular, during its Sixth Session in the course of the examination of the legislation regulating labour dues in French Togoland and French Cameroons.

Mr. Van Rees considered that this legislation obviously contravened the provisions concerning forced labour which were laid down in the Mandates. The Accredited Representative of the French Government took the view that these labour dues were a form of taxation which had been applied in nearly all countries without giving rise to objections to the principle. The Commission therefore found itself faced by the general problem of determining the criterion for distinguishing forced labour prohibited under the Mandate from forced labour exacted as a form of taxation. It was found impossible to reach a unanimous conclusion and a Reporter was consequently appointed to study the matter. The Commission, however, expressed its opinion that it could not be contested that such a labour levy is, in fact, forced unpaid labour. As Mr. Van

1 *Minutes of the Sixth Session*, pp. 16-20.
Rees pointed out in the memorandum which he laid before the Tenth Session of the Commission \(^1\), "neither the fact that this labour is imposed as a fiscal measure, nor the relatively small number of days' work required, nor yet again the fact that the work can be redeemed at a fixed rate, affects the actual nature of the tax . . . it is not the fact of the levy constituting a burden on the individual but the measure itself that is regarded as incompatible with the terms of the Mandates, and this is not because it institutes compulsory labour, but because the work is instituted in such a way as to preclude any question of remuneration ".

It should be noted that the French Government regards the system of labour dues as a temporary one, and an official document contains the following statement: "The system of labour dues, which is suitable for early stages of economic development, is obviously nothing more than transitional, although it should be pointed out that the French administration has contrived to abolish its most objectionable features and has endowed it with educational value." \(^2\)

It will be seen from the analysis given hereafter of the legislation which governs the system in the various French colonies that in each case the number of days to be furnished, varying from three days in Algeria to sixteen days in Indo-China, has been prescribed in legislation. It is not certain, however, that this limit is always observed. In some cases the system has been interpreted in a manner which seems to suggest \(^3\) that where a levy of the authorised number of days proves to be insufficient to complete the work in hand, the Administration can retain the forced labourers for a longer period and pay wages for the extra days exacted.

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\(^1\) *Minutes of the Tenth Session*, pp. 170-171.

\(^2\) Report on behalf of the Finance Committee entrusted with the examination of the Colonial Office Estimates for 1927 (No. 3401) — *Journal officiel*, 7 April 1927, p. 1649.

\(^3\) Mr. Lejeune, in considering the native problem in relation to national economic development, says: "Further, as will be seen from the terms of the regulations, if the works in hand require more labour than that which is legally leviable under the system of labour dues, the labour is paid and no criminal penalty can be inflicted on those natives who refuse to undertake the work." (*La mise en valeur de notre domaine colonial*, p. 17. — *Les Cahiers du Redressement français*, No. 32, 1927.)

'It would have been preferable, particularly during the difficult period when public works have to be carried out, to prescribe an annual period of fifteen, or even thirty, days of labour dues, which would, of course, have to be paid. In any case, this would not have been a new departure, because for a long time already corvées of thirty days of paid labour for public works have been instituted or tolerated in the majority of the colonies." (Extract from an article on "Colonial Labour Problems" by M.R.S. in *L'Atelier*, April 1927.)
If this theory is correct, the levying of forced labourers for general public purposes (which has been examined in Chapter III and the principle of which is not definitely laid down in any formal text) could be regarded as an arbitrary extension of the system of labour dues.

A. — Territories in Africa

ALGERIA

§ 212. The system of labour dues in force in Algeria is similar to that existing in France in connection with the budgets of the communes.

This system was established in Algeria by the Decree of 5 July 1834 and is at present governed by a Decree of 15 June 1899. This Decree provides that every resident in Algeria, European or native, every head of a household or of an undertaking in his capacity as owner, agent, tenant, or share-tenant, can be called upon to furnish three days' labour annually in respect of: (1) himself and every able-bodied male between the ages of 18 and 55 years who is a member or a servant of the family; (2) every draught cart or vehicle and every pack, draught, and saddle animal used by the family or the undertaking. Paupers are not liable to furnish labour dues. As in France, persons liable to these dues usually pay them in money and their discharge in the form of labour is exceptional. Failure to furnish labour dues is liable to prosecution in the same way as failure to pay direct taxes.

It is evident therefore that in Algeria, as in France, labour dues (prestations) are in the nature of a direct tax imposed for the benefit of the commune.

The total value collected in virtue of these dues amounted in 1925 to more than 33,000,000 francs. They appear to be a heavy burden on the native population, on whom they mainly fall.

FRENCH CAMEROONS

§ 213. The system of labour dues in the Mandated Territory of the French Cameroons was revised by the Order of 9 March 1927. The labour may only be used for the following purposes: (1) local sanitary work (clearing brush, cleaning of streams and

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dwelling-houses, well-boring, etc.); (2) the construction and maintenance of tracks and footpaths between one village or market and another, the maintenance of cattle tracks; (3) the maintenance and overhauling of bridges and fords crossed by the above-mentioned roads and tracks; (4) the removal of tree trunks or other impediments to traffic on water-courses, lakes or lagoons, reafforestation; (5) the construction and maintenance of telegraph lines and tracks; (6) the construction and maintenance of Government buildings where, owing to difficulties in communication, these are made of local material, and the maintenance of aviation grounds, landing places, or rest houses.

The programme of the various works to be carried out must be drawn up annually for the coming year by the district officer (chef de circonscription) in agreement with the council of native notables, and must be submitted for the approval of the Commissioner of the Republic. The Commissioner allocates a share of the work to each village and fixes the season of its performance in such a way as not to hinder agricultural work. Labour dues must be furnished by all natives between 16 and 60 years of age. Exemptions are made in the case of women and infirm persons, members of the military forces, natives in Government employment, members of native tribunals, members of councils of native notables or other committees, members of the Native Order of Merit, persons with French decorations, school pupils, and natives suffering from sleeping sickness. The maximum number of days which may be levied is twelve per person. Persons furnishing the dues who are required to work at a distance of more than 25 kilometres from their ordinary place of residence are entitled to rations. The dues may in every case be commuted. The rate of commutation is fixed annually by a decision of the Commissioner of the Republic, taken after consideration of the proposals of the district officers. This rate varies according to the district and is, in principle, equal to the value of the current daily wage for unskilled labour in the district concerned. The daily rate for the year 1927 was fixed at 2 to 2.50 francs according to the locality. The proceeds of commutation must be used for works in the districts of the persons effecting commutation.

The Order of 4 October 1924, which (in application of the Decree of 8 August 1924 concerning disciplinary punishments) specifies

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1 The report for 1927 states on 30 November 1927 the total amount realised in respect of labour dues for that year was 1,335,365 francs.
the offences against the laws concerning the status of natives, includes among these offences "unwillingness to carry out the obligation to perform labour dues". Disciplinary punishments include imprisonment for a period not exceeding fifteen days or a fine not exceeding 100 francs.

**FRENCH EQUATORIAL AFRICA**

§ 214. In French Equatorial Africa, labour dues are regulated by the Order (arrêté) of 7 January 1925. This Order lays down detailed regulations as to the procedure to be followed. The scheme of work must be drawn up every July for the coming year by the district officers (commandants de circonscription) in agreement with the chiefs and native notables of the areas concerned. It must allocate a share of the work to each village and specify the time of year at which it is to be carried out. This scheme is submitted for the approval of the Lieutenant-Governor, who makes any alteration which he deems necessary and gives the final authorisation. The lists are drawn up annually on 1 November on a basis prescribed by the Lieutenant-Governor, and in numerical order according to the village or native community. The lists become official after approval by the Lieutenant-Governor, which must be obtained before 31 December. The labour is called out and the work performed under the supervision of the district officers and the subdivisional officers.

The purposes for which the labour may be employed are: (1) local sanitary work (clearing brush, cleaning of streams and dwelling-houses, well-boring, etc.); (2) construction and maintenance of roads, tracks and footpaths between one village or market and another, and any work connected with the upkeep of these communications, maintenance of bridges, removal of tree trunks and other impediments; (3) maintenance of telegraph lines; (4) construction and maintenance of Government buildings, aviation grounds, landing places and rest houses.

Natives between 15 and 60 years of age are liable to furnish the dues. Exemption is granted to women and infirm persons, members of the military forces, members of the police force, natives in permanent Government employ, members of native tribunals, heads of tribes, provinces, native communities and villages officially recognised as such by the Government, and the pupils
of Government or recognised schools. The number of days levied may not exceed fifteen per year per person, and is fixed annually by the Lieutenant-Governor. The scheme of work must fix the period of its performance in such a way as to avoid hindrance to agricultural work. As a general rule, no village or native community may be called upon to furnish these dues beyond the limits of the village or the community. If any person liable to furnish them is called upon to work at a distance of more than 30 kilometres or one day’s march from his domicile, he is entitled to rations. The option of commutation is limited to the inhabitants of the urban and rural centres specified each year by a decision of the Lieutenant-Governor, natives registered as forming part of the floating population, natives employed in private undertakings, and natives possessing huts with corrugated iron or tiled roofs. The rate of commutation is fixed annually by the Lieutenant-Governor. The proceeds of the commutation of compulsory labour dues must, as far as possible, be allocated to the carrying out of works in the districts inhabited by the persons having the right to effect commutation.

In the Gaboon an Order of 10 October 1927 fixed the number of days to be levied at twelve, except for certain districts where it is still fifteen. The daily rate of commutation is 1 to 4 francs according to the subdivision.

In the Middle Congo, an Order of 14 December 1927 fixed the number of days to be levied during 1928 at twelve and the rate of commutation at 1 to 1.50 francs according to the district.

In the Ubangi-Shari, an Order of 4 November 1927 fixed the number of days to be levied during 1928 at from ten to fifteen and the rate of commutation at from 75 centimes to 1.50 francs.

Finally, in the Lake Chad Territory, an Order of 31 August 1927 fixed the number of days to be levied during 1928 at from five to fifteen and the rate of commutation at 2 francs.

FRENCH TOGOLAND

§ 215. In French Togoland, labour dues are regulated by the Order (arrêté) of 3 July 1922. The only purpose for which the labour may be employed is the maintenance of means of communication. Four days per year must be furnished by all able-bodied males between the ages of 18 and 50 years, whether Europeans or natives. The dues must be exacted at other seasons
of the year than those of the cultivation of crops and harvest. If, in exceptional cases, labour is to be performed at a greater distance than 20 kilometres from the usual residence of the persons called out, they must receive either rations or a money allowance. No restrictions exist with regard to the option of commutation, the rate of which is fixed annually by Order. An Order dated 14 November 1927 fixed the daily rate for the year 1928 at 1.50 or 2 francs for natives and at 7 francs for Europeans. The report for the year 1927 states that the dues were commuted in every case.

An Order dated 10 September 1923 provided for an allowance of 5 to 10 per cent. to be made to the various chiefs serving as intermediaries for the collection of commutation money, and also accorded them a lump-sum payment in respect of dues rendered by their villages.

FRENCH WEST AFRICA

§ 216. In French West Africa labour dues are regulated by the Order (arrêté) of 25 November 1912.

This Order was repealed by that of 31 December 1917, but was again brought into force, although only provisionally, by the Order of 23 September 1918.

The purposes for which the labour may be employed are the maintenance of means of communication (roads, bridges, wells, etc.) and telegraph lines.

All able-bodied adult male natives are liable to furnish the labour dues. Exemption is made in the case of aged persons, members of the military forces, local police, chief customs officers, and foresters.

The labour can only be levied outside the period of cultivation of crops and harvest, and its performance cannot be required at a distance exceeding 5 kilometres from the village of the person called out unless food, or a money allowance therefor, is provided.

1 Various local Orders prescribe the method of application of the system of labour dues in the different colonies: Dahomey, Order of 8 February 1919, as amended by that of 25 July 1921; French Sudan, Order of the Lieutenant-Governor of 14 February 1919, approved by Order of the Governor-General of 1 May 1919; Order of 5 August 1921, approved by Order of the Governor-General of 21 December 1921; Upper Volta, Orders of 14 February 1919 and 14 September 1920; Ivory Coast, Order of 25 October 1919, approved by Order of the Governor-General of 31 December 1919; Niger Territory, Order of 20 December 1918; Mauritania, Order of the Governor-General of 20 December 1918.
The number of days varies according to the colony and the district, but may not exceed twelve per year per person.

The dues must be paid in labour. The privilege of commutation is limited to the inhabitants of the urban centres specified by the Lieutenant-Governor, natives registered as part of the floating population, and natives employed in agricultural, commercial or industrial undertakings. The daily rate of commutation varies from 50 centimes to 4 francs according to the colony and the district.

MADAGASCAR

§ 217. The system of labour dues in Madagascar is governed by an Order dated 3 November 1920, which was amended and completed by the Orders of 7 February and 10 April 1924, 16 November 1926, and 13 April 1927.

This legislation prescribes that all natives in Madagascar and its Dependencies whose names are entered on the personal tax roll and who are not unfit for work by reason of age or infirmity are liable to furnish labour dues. The following classes of native are exempt: (1) natives employed in an official capacity in entities established by the civil or military authorities; (2) native soldiers on service; (3) natives engaged on warships; (4) natives enrolled as members of the regular crew of liners and large coasting vessels flying the French flag, and who remain on board at least six months of every year; (5) native soldiers discharged under the provisions of the Order of 11 April 1919.

The labour must be used for the following works, which are entrusted to the native communities: (1) construction and maintenance of local and secondary roads and of mule tracks; (2) agricultural waterworks, dykes, canals, etc.; (3) provision of the water supply, regulation and maintenance of public fountains and wells; tree planting and constitution of reafforestation areas.

The lists of persons liable to labour dues are drawn up every year by the native authorities (gouverneurs madinika or chefs de canton). The lists are issued by the district officer (chef de district) and approved by the provincial commissioner (chef de province). The period of labour is ten days per year. The performance

1 Section 2 of the Decree of 27 November 1912 prescribes that each village shall be granted a reduction in the number of days to be furnished as compulsory labour dues equal in number to that of the men serving with the colours. Section 3 of the Order of 23 September 1918 extended this exemption to the fathers of men serving with the colours.
of the labour cannot be called for at a distance of more than 6 kilometres from the residence of the person liable to perform it. The dues must be paid in labour, exemption being made only for the following classes of native: (1) natives not covered by the provisions of the Order of 4 December 1912 concerning disciplinary measures for the punishment of offences against the laws concerning the status of natives; (2) natives under labour contract for a minimum period of one year; (3) natives of 50 years of age or more; (4) officials, workers and employees paid by the Government or the local municipal authorities; (5) natives paying direct taxes to the value of 300 francs or more; (6) natives whose social position precludes the payment of the dues in labour; (7) natives owning or holding ploughs in any capacity whatever, who actually and habitually use the said agricultural implements for purposes of cultivation.

The rate of commutation is fixed annually by an Order of the Governor-General after consideration of the proposals of the district officers (chefs de circonscription). Municipal Orders approved by the Governor fixed the rate of commutation for the year 1928 at 2.50 to 6 francs per day according to the commune. Commutation money is collected by the native authorities (gouverneurs madinika or chefs de canton). The sums resulting from commutation are the property of the native communities. They are used to pay the technical advisers, staff and specialists employed on the work in question, to pay for the tools and raw materials necessary for carrying out the work, to buy seed for reafforestation purposes and the improvement of native cultivation, to increase the municipal reserves of grain stocks, to pay printing charges in connection with the labour dues, and to pay the officials collecting commutation money an allowance of 5 per cent. on the sums collected.

MOROCCO

§ 218. The Dahir (Vizirial Order) of 10 July 1924, concerning the regulation of the system of labour dues, established uniform practice in the place of the former corvées which were employed for the upkeep of the secondary district roads. These corvées varied with the district and were only applicable to natives.
A general roll is drawn up, based on the declarations of the persons liable to furnish the dues, which are verified in the same way as the "tertib" (direct taxation) returns or, if this is impossible, by some other means.

The dues must be furnished by all adult male inhabitants in their personal capacity as heads of families or undertakings, and further in respect of every member, servant or partner of the family or undertaking. The inhabitants of urban municipalities are exempt, as, in other localities, are licensed traders, members of the military forces, officials, mokhazenis, members of religious bodies, and non-able persons.

Commutation is compulsory for Europeans and natives of privileged status. Natives coming under the common law may apply for permission to pay in labour in cases where this is allowed by the administrative authorities.

Every year a Vizirial Order is issued prescribing the number of days due and the rate of commutation. The Vizirial Order of 30 June 1928 fixed the days at three to four according to the district, and the daily rate of commutation at 4 to 7.50 francs according to the district.

A Dahir dated 12 November 1927 amended that of 10 July 1924 and prescribed that traders who had been exempted by section 3 of the earlier Vizirial Order were in future to be liable to the tax. It also added the following clause to section 6: "In the case of Europeans and natives of privileged status, the tax shall be paid in money. This rule shall also be applied, at their own request, to those native taxpayers who are only liable to pay for trade licences."

There is at present a tendency in Morocco to hand over the amounts resulting from the labour dues to the district budgets. The receipts from this source are used for the maintenance of local roads, tracks, bridges, foot-bridges, and ferries.

TUNIS

§ 219. At the time of the establishment of the Protectorate in Tunis, a Decree dated 12 April 1897 prescribed the performance of labour dues, for the maximum period of four days per annum, for the clearing and construction of roads. All able-bodied males resident in Tunis between the ages of 18 and 55 years were liable to these dues. Commutation in money was allowed.
This system was subjected to lively criticism, on the ground that in certain districts the roads were chiefly used by private undertakings which wore them down and ought therefore to repair them.

The Decree of 14 June 1902 prescribed that in the districts where roads were ordinarily worn down by mining or industrial undertakings, the repair of the roads and maintenance of the highways used chiefly by them should be undertaken at their expense. The Decree also abolished the labour dues (préstations en nature) and replaced them by an increase in the personal tax (istitan). This increase must be paid by every able-bodied male resident in Tunis between the ages of 18 and 55 years.

The amount of the tax was originally fixed at 10 francs. This was increased to 15 francs on 1 January 1922 under the provisions of the Decree of 24 December 1921. Since 1 February 1924 one-third of the amount resulting from the tax is credited to the districts. The amount thus credited to the district budgets amounted in 1927 to 2,034,000 francs.

In the caïdats of the extreme south, which are still under military administration, labour dues can still be called for, but there is, on the other hand, a considerable reduction in the personal tax.

B. — Territories in Asia

FRENCH INDO-CHINA

§ 220. In French Indo-China, the commutation system, which was at first optional, was subsequently made compulsory, and finally, as the result of reforms of the taxation carried out in 1897 and 1898, forced labour was replaced by a personal tax. Labour dues were only retained for local public purposes. The International Labour Office is not in possession of any legislative texts regulating these dues in Cochín-China or in Tonking.

In Cambodia, a Royal Ordinance dated 20 September 1917 prescribed that labour dues were payable, apart from certain exemptions, by every able-bodied person between 21 and 60 years of age. The annual value of the tax is 3 piastres per person, and the whole of it must be paid in the course of the first six months of every year. This tax is recoverable at the same time as the personal tax and in the same way. Prosecution for the recovery of the tax is subject to the general rules laid down for the collection of direct taxation.
In the Laos Protectorate the Order of 12 May 1914 prescribed that labour dues were payable by all natives and Asians of privileged status between the ages of 18 and 60 years, inhabiting the Laos Territory and carrying on cultivation or the development of natural products. The dues may either be paid in labour or commuted for a money payment. The number of days which may be levied is fixed in all cases at sixteen per annum. Persons liable to perform the dues may only be called up within a radius of 100 kilometres round the workplace. This labour must be devoted in the first place to local public works. In the provinces in which lack of voluntary labourers is such as to hinder the carrying out of public works, persons performing labour dues may be placed by the Government commissioner at the disposal of the public works services for a maximum period of three-quarters of the days due. In all cases the employment and control of the use of labour levied under the system of labour dues lies with the provincial commissioners (chefs de province).

A scheme of work for the coming year showing the nature of the works to be undertaken and the amount of labour necessary therefor must be submitted every year by the Government commissioners, after consultation with the provincial council, for the approval of the Chief Resident. In principle, the work must be performed at seasons when agricultural work is slack. The whole of it must be carried out in the course of the year for which it is due and the whole of the amount due for commutation must be paid in the course of the financial year.

The rate of commutation is fixed in all cases at 0.25 piastre per day. Asians, foreigners and natives of privileged status other than natives of Indo-China must commute the whole of their labour dues. Natives of Indo-China who are liable to performance of the dues but who are over 50 years of age have the option of commutation.

The only legislative text in the possession of the International Labour Office which concerns the Annam Protectorate is an Order of the Governor-General dated 19 April 1927, specifying the amount of the personal tax and the number of days leviable as labour dues from the Khalus Mois in the Quangtri Province. This Order fixes the number of days at sixteen per person per annum. The provincial commissioner (chef de province) must draw up every year a list of the villages in which persons liable to labour dues are compelled to commute the sixteen days of labour by the payment of an inclusive sum at the rate of 1 piastre per person.
liable. The second list specifies the villages in which persons liable to labour dues must commute ten days' labour at the rate of 0.06 piastre per day; the six remaining days must be discharged in labour, although the Government reserves to itself the right to authorise their commutation by the payment of an inclusive sum at the rate of 0.40 piastre per person liable.

SYRIA AND THE LEBANON

§ 221. In the Mandated Territory of Syria and the Lebanon, the system of labour dues in respect of the construction and maintenance of roads is regulated by the Ottoman Law of 26 August 1869, which is still in force. In principle, this Law imposed personal labour on all male persons between 16 and 60 years of age, with a certain number of exceptions. In certain specified cases, however, the Law provided facilities for the commutation of personal labour by payment of a sum of money deemed to be its equivalent in value. Commutation, which was at first admitted in exceptional cases, appears to be becoming the rule. The performance of labour is now the exception. These changes have been confirmed in the Instructions issued in application of the Ottoman Law. At present the dues take the form of a tax amounting to 25 Syrian gold piastres for every inhabitant between the ages of 16 and 60. The money thus accumulated is used for the maintenance and extension of the road system. Under the regulations, the performance of labour is only required as an exceptional measure for recovering the dues from persons who fail to discharge them.

Legislative measures exist in Syria with a view to preventing abuses by officials, the Ottoman Penal Code providing that "officers or native notables found guilty of having employed unpaid forced labour for purposes other than works of public utility prescribed by law or ordered by the Government or recognised as being of public urgency shall be sentenced to pay the wages which they should have handed to the workers and, in the case of Government officials, shall be dismissed and exiled for a period of six months to three years".

Notwithstanding this provision, abuse sometimes seems to occur. The report for 1927 to the League of Nations expresses a fear ¹ that "in certain districts the large estate owners (latifundia), to whom the land mostly belongs, sometimes abuse their power and succeed

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¹ Page 90.
in obtaining the construction of roads more beneficial to themselves than to the community, by putting forward so-called spontaneous petitions". The report adds that the Mandatory authorities are taking steps to do away with any abuse which may arise in this respect.

C. — Territories in Australasia and Oceania

French Establishments in Oceania

§ 222. Section 10 of the Legislative Code of the Oceanic Leeward Islands (Iles-sous-le-Vent) prescribes that public works must be carried out by the districts. An Order dated 12 May 1927 specified the number of days of labour to be furnished in discharge of the dues in the various districts of the Leeward Islands during 1927. This number varies between eight and twelve according to the district, and the purposes for which the labour may be used are the construction and repair of roads, dykes, and wharves.

New Caledonia

§ 223. In New Caledonia, the General Council and the Privy Council have made important amendments in the system of labour dues, which were approved by the Decree of 15 May 1928. Under the new regulations various classes of native are exempt from liability to labour dues. These classes include principal chiefs, tirailleurs, employees of the public services and persons in permanent employment, persons decorated with the Military Medal or with the Croix de Guerre, natives who are fathers of six living children of less than 16 years of age. The number of days of labour to be performed annually is fixed at: (1) fifteen days in the case of unmarried natives or married natives without children; (2) twelve days in the case of married natives who are fathers of one to three children; (3) eight days in the case of married natives who are fathers of four or more children.

In principle, persons liable to furnish labour dues may not be called upon to work at a distance of more than 16 kilometres from their place of residence. They may, however, in exceptional cases be employed at a greater distance. In such cases, if the Administration and the municipal authorities are unable to transport the food of the tribes to the workplace free of charge, food or a
money allowance must be provided. The only classes of native who are permitted to commute the dues are chiefs, natives under contract for a minimum period of one year to private persons, natives of 50 years of age or more, natives in regular attendance at Government or recognised private schools, natives who pay a minimum annual sum of 115 francs in respect of direct taxation, and natives whose social position does not permit of their discharging their dues in labour.

The rate of commutation is fixed annually by the Governor in Council, and the sums resulting therefrom are credited to the funds of the local authorities.

The objects of the new regulations are to increase the birthrate and to benefit the native and his family.

D. — Territories in America

§ 224. The documentation at present in the possession of the International Labour Office includes no legislative texts regulating labour dues in French Possessions in America.

ITALY

This report was already in the press when information was received with regard to forced labour for local public purposes in the Italian colonies. This information will be found in Appendix III of the report.

JAPAN

FORMOSA

§ 227. In the more remote districts each village is made responsible for a certain amount of work on the paths each year, to be performed at times when agricultural operations are slack. Labour is thus contributed in lieu of taxes, which would be difficult to collect as the use of currency is almost unknown.

1 The Geographical Journal, September 1927, p. 274.
PACIFIC ISLANDS UNDER JAPANESE MANDATE

§ 228. No forced labour for local public purposes is levied in these islands.

NETHERLANDS

DUTCH EAST INDIES

§ 229. All compulsory labour for public purposes which is performed exclusively in the interest of the native commune is called "gemeentedienst" (communal labour). The Dutch Government, having, wherever possible, adopted the principle of native self-government for communes, no longer lays down in detail the regulations regarding compulsory labour for the benefit of the local community. As a large part of this work is required from the villagers in virtue of immemorial native custom, the Government has gone no further than to establish and limit the right of village chiefs to requisition compulsory labour for local public purposes.

In this connection, the distinction made in the preceding chapter between the islands of Java and Madura on the one hand, and the Outer Provinces on the other, still holds good.

§ 230. In Java and Madura the village chief is entitled to requisition compulsory labour in connection with the following duties which devolve upon village authorities:

(a) The chief is responsible for order and public safety in his village.

(b) The village communal authorities are responsible for local public works.

1 Annual Report of the Administration of the South Sea Islands under Japanese Mandate for the Year 1926, p. 105.
2 Section 128, paragraph 3, of the Act of 1925, which forms the new Dutch Colonial Charter (Staatsblad 447 of 1925), prescribes that the native communes shall be free to regulate and direct their own administration within the limits laid down in the regulations promulgated by the Governor-General or by provincial Governors.
3 See § 134.
4 Inlandsch Reglement, Chap. II (Staatsblad 16 of 1848).
5 Inlandsche Gemeente Ordonnantie, section 7 (Staatsblad 83 of 1906).
Compulsory labour performed for village chiefs by the villagers forms a third class of labour for local public purposes. These chiefs are as a rule not paid by the Government. Their remuneration consists of 8 per cent. of all the taxes which they collect, of the revenue from the lands placed at their disposal and of the small services rendered to them by the villagers, such services being performed for the benefit of the chief in virtue of his position.

In requisitioning the villagers for these three classes of compulsory labour, chiefs must take account of local customary rights and of the Orders promulgated by provincial Governors for the purpose of regulating this recruitment in an equitable manner. A Government enquiry carried out by two officials gives the following details:

Generally speaking, it may be stated that the liability to labour dues in Java and Madura is based on the ownership of lands capable of cultivation (rice), homelands and houses. Persons liable to labour dues are divided into three classes. The first of these includes owners of land capable of cultivation and of land around their houses. There are called upon to furnish the greater part of the labour dues. In the second class are included persons owning land around their houses. The third consists of persons owning houses built on land which they do not own. The proportion of forced labour to be furnished by these three classes is respectively 4, 2 and 1.

Inhabitants of a commune who do not belong to one of these three categories are not as a rule liable to furnish labour dues.

Commutation is permissible for all communal services. The greater part of this labour is performed by substitutes who are either members of the family of the person concerned who live in his house or persons hired for the purpose. In some cases special services are carried out by special persons who, in consideration of this circumstance, are exempted from other services.

1 Inlandsche Gemeente Ordonnantie, section 3.
2 Idem, section 16. Several of these Orders are published in Appendix O of the "Colonial Report" for the year 1893.
3 Report by Meyer Rannfelt and W. Huender on "The Burden of Taxation on the Native Population" (Onderzoek naar den belastingdruk op de inlandsche bevolking, 1926).
4 i.e. land surrounding the house of the owner and used for purposes connected with the maintenance of the inhabitants, such as the cultivation of vegetables, fruit, etc., but not of rice.
5 See the account given in the preceding chapter of the connection between property and liability to perform labour dues, § 135.
The police service is the most important of the three classes of compulsory labour mentioned above. If the chief considers it necessary to have night watchmen on duty in his village, he selects suitable persons from among the villagers.

The owners of land capable of cultivation and of land around their houses have the heaviest liabilities as regards compulsory labour, and are required in some districts to act as watchmen for as many as fifty-two nights in the year, or one night per week. With a single exception, this is the highest number in any district. In other districts it is lower.

The second class of communal labour consists of the construction and maintenance of communal roads and bridges. In practice these services do not call for more than four hours' work per day. In one particular district the period of the levy amounts, in the case of the first category of natives alluded to above, to about twenty days per annum, but in the majority of districts it is less than ten days. In certain districts the period is only two working days.

Communal services of this kind may also include construction and maintenance of communal irrigation works and dams. They occupy on the average four or five days per annum, but these days are not consecutive.

Lastly, an average of one day per year is requisitioned for the maintenance of watch posts, hedges, cemeteries, etc.

A distinction must be made in dealing with the third class of compulsory labour, i.e. services rendered to chiefs, between domestic work on the one hand, and the cultivation of lands which the chiefs hold in virtue of their office on the other. The period of forced labour for domestic services consists as a rule of eight or ten hours' work per day. In some provinces in Java this forced labour is no longer exacted (Bantam, Batavia, Preanger), and in others (Djojarkarta, Soerakarta, Besoeki and Madura) it has been practically abolished. In the remaining provinces, however, it can be levied for a period varying from one to twenty-seven days.

The services in connection with cultivation are less important. They are requisitioned on an average for two or three days per annum.

It should be noted that all the figures given above are applicable to the first class of natives liable to compulsory labour. Only half the number of working days is requisitioned for persons in the
second class, and one-fourth of the number for persons included in the third class. Appendix XI of the Government enquiry to which reference has already been made contains detailed statistics concerning the amount of forced labour for local public purposes (gemeentediensten) which was requisitioned in the 19,424 native villages of Java and Madura.

§ 231. In the Outer Provinces, as in Java and Madura, the native communes have complete liberty in regard to matters of internal administration, within the limits of the regulations issued by the Governor-General or by the provincial Governors. All Ordinances concerning the administration of native communes in the Outer Provinces contain the following provisions:

The chief of the commune shall be empowered, due account being taken of local custom and usage (adat), of the decisions of the Communal Council and of the regulations laid down by the provincial Governor, to require the local inhabitants to perform forced labour for local public purposes and to call them out for this purpose.

In cases in which the provincial authorities or the communal authorities, as a result of a decision made by the Communal Council or in accordance with custom and usage, shall have entrusted to other persons or public bodies the direction and supervision of local public works, the said persons or bodies may appeal to the chief of the commune for the purpose of obtaining the necessary number of natives liable to furnish compulsory labour for communal purposes. Should the chief of the commune refuse to furnish the necessary workers, appeal may be made to the Communal Council.

The provincial Governor shall be empowered to prescribe that the number of days of labour which are deemed to be necessary shall be shown in the estimates to be furnished under this Ordinance. He may further require that the number of days of labour actually furnished shall be reported at the end of the year.

The Communal Council shall be empowered to permit partial or complete commutation of this labour for a money payment in accordance with regulations to be prescribed by the provincial Governor.

As a general rule, the Decrees promulgated by provincial Governors contain detailed regulations for the application of the provisions referred to above, in order to avoid any possible abuse. Further provisions concerning the "gemeentediensten" are laid down in certain Ordinances regulating compulsory labour for general

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1 Report by Meyer Ranneft and W. Huender on "The Burden of Taxation on the Native Population" (Onderzoek naar de belastingdruk op de inlandsche bevolking, 1926).
2 West Coast of Sumatra, Staatsblad 677 of 1918; Tapanoeli, Staatsblad 469 of 1923 and 317 of 1925; Bengkoelen, Staatsblad 470 of 1923; Lampong Districts, Staatsblad 564 of 1922; Palembang, Staatsblad 814 of 1919; Banka, Staatsblad 453 of 1919; Billiton, Staatsblad 75 of 1924; Southern and Eastern Districts of Borneo, Staatsblad 275 of 1924; Amboina, Staatsblad 471 of 1923.
The main lines of these provisions are as follows: The regulation of communal services is left as much as possible to the natives themselves, who must in any case be consulted with regard to the details of the regulations. The Government ensures that such services are limited in an equitable manner and that they are not increased unnecessarily. Supervision by the Administration is provided for in various provisions published in the *Bijbladen*. Thus the written authorisation of the provincial Governor is indispensable in the case of the construction and important repairs of village roads, and the work which it is proposed to carry out and the method of its execution must be approved by him. The Governor must take measures to assure himself in person that the work in question is necessary and to ascertain its nature.

The same rules are applied in the case of construction and important repairs of bridges or communal water conduits.

The natives themselves, under the supervision of the Administration, determine the categories of persons to be exempted from compulsory labour. In any case, however, all Government officials are exempt.

The Administration must take steps to ensure that the money paid as commutation is used for the benefit of the village.

Provisions are also laid down for the limiting of night watching.

§ 232. It should be added that in the Outer Provinces, as in Java and Madura, compulsory labour performed for the benefit of the communes is not paid.

Section 523 of the Penal Code provides that natives who without valid reason fail to carry out compulsory labour for local purposes which is legally requisitioned shall be punishable with imprisonment for a period not exceeding three days or with a fine not exceeding 10 florins. In the event of repetition of the offence within a period of six months, imprisonment for a period not exceeding three months may be inflicted.

Section 425 of the Penal Code prescribes that any official who

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2 Nos. 9095, 9159, 9258, 9292, 9627, and 10013.
wilfully requisitions compulsory labour which the population is under no obligation to render shall be punishable with imprisonment for a period not exceeding seven years.

PORTUGAL

§ 233. It appears necessary to give, in the first place, certain details relating to forced labour for local public purposes which seem to cover all Portuguese colonies.

In these colonies there is a form of local forced labour which is of Type 1. This consists of compulsory labour dues which, in the case of ordinary village work, are remunerated and can be commuted for payment, but in the case of minor village work are unpaid. According to the Minutes of the Second Session of the Temporary Slavery Commission, General Freire d'Andrade stated that "in the Portuguese territories forced labour existed for small village works which were to the direct advantage of the natives. This labour was paid, and for this purpose a special tax existed which was levied on the natives. It would be going too far to demand that the smallest village works carried out in the obvious interests of the natives should be remunerated".

§ 234. A form of forced labour for local public purposes of Type 2 may be imposed in accordance with the provisions of the General Native Labour Regulations. Section 95 of these Regulations states that natives who have failed to fulfil their labour obligations are to be brought before municipal or other officials. Under section 97 certain officials — among others, those in charge of municipal services — may request the authorities to place at their disposal any natives liable to compulsory labour.

1 It will be remembered that in the case of the Portuguese colonies this report draws a distinction between two kinds of compelled labour. Type 1 is the forced labour for general and local public purposes which may be imposed on all natives, even those who have fulfilled their moral and legal obligation to work, in virtue of the General Regulations of 1914. Type 2 is the compulsory labour for local and general public purposes or for private employers which is imposed solely on those natives who have failed to fulfil their labour obligations. This distinction is not expressly drawn in the information in the possession of the International Labour Office. It appears to be necessary, however, for the sake of clearness.

2 Minutes of the Second Session of the Temporary Slavery Commission, 15-26 July 1925, p. 72.
Requests for native labourers for local purposes must specify:
(1) the number of workers required; (2) the place or places in which
the work will be carried out; (3) the nature of the work; (4) the
period during which the applicant undertakes to employ the
workers.

The applicant or his representative is required to sign a labour
contract in the presence of the curator or his agent. The curator
and his agents supervise the conditions of employment of forced
workers in the same way as that of ordinary workers (section 106).

Correctional labour \(^1\) may also be used for municipal works
(section 107, paragraph 3). Natives engaged on correctional labour
are housed and fed by the local authority employing them.

Subject to any special legal provisions in the separate Portuguese
colonies, which will be mentioned below as far as information in the
possession of the International Labour Office permits, the details
here given apply to the following paragraphs concerning those
colonies. They appear to be valid also in the case of those Portu­
guese colonies with regard to which the Office has no further
information on forced labour for local public purposes.

A. — Territories in Africa

**ANGOLA**

§ 235. Decree No. 88 of 24 December 1921 regulates forced
labour imposed by the municipal authorities \(^2\). It provides in
section 3 that any decisions taken by the municipal councils in
regard to labour taxes shall come into force only after approval by
the district councils. It moreover lays down that these compul­
sory labour dues may include the supply of persons or of means of
transport, of animals and of agricultural implements. Such labour
may be commuted by the payment of a sum according to a tariff
which is revised and approved each year. The labour may not be
employed at a greater distance than 5 kilometres from the worker's
home. Decree No. 331 of 29 August 1923 contains the same
provisions as regards decisions taken by the local councils.

This labour is apparently remunerated. In this connection
reference may be made to the pamphlet published by the
Portuguese Government mentioned in § 143 above.

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\(^1\) See § 140.

\(^2\) This forced labour appears to be of Type 1.
§ 236. From the information in the possession of the International Labour Office it is not certain to what extent Decree No. 12533 of 23 October 1926 defining the status of natives in Angola and Mozambique and laying down the principle of freedom of labour contract has modified the legal provisions relating to forced labour for local public purposes in Angola.

CAPE VERDE ISLANDS

§ 237. In this colony compulsory labour dues for local public purposes may be exacted. The persons liable to it can obtain exemption by the payment of a sum of money or by the provision of a substitute. The preamble to Order No. 1 of 2 January 1925, relating to municipal labour taxes, stated that the persons liable show a certain reluctance in furnishing this labour and that they prefer to meet their obligations by the payment of money. The preamble goes on to explain that the tariff of 0.60 escudos is low and that the local roads cannot be maintained at such a price. Accordingly the Order increases the labour tax to 5 escudos and allows any native to perform his labour through a substitute.

MOZAMBIQUE

§ 238. A pamphlet published in 1925 by the Portuguese Government appears to show that forced labour for local public purposes of Type 1 is at present paid in Mozambique. The relevant passage reads as follows: "In Angola and Mozambique, until quite recently, the work of clearing roads between the villages, which benefited the natives more than anyone else, was not remunerated. This constituted a kind of local corvée of an occasional or regular character; it was a payment in the form of personal services of a kind which has always been recognised in the majority of countries, and which is still applied to-day in Portugal itself."

The remarks made with regard to the application of Decree No. 12533 in Angola also apply in this instance (see § 236 above).

1 Type 1.
PORTUGUESE GUINEA

§ 239. Section 101 of Order No. 83B of 29 November 1922, applying the General Native Labour Regulations to the colony, lays down in sections 98 and 101 that municipal authorities may request to be supplied with compulsory labour. Sections 107 and 108 of these Regulations provide, moreover, that natives liable to correctional labour may be used for municipal purposes, when they will be housed and maintained by the local authority employing them.

This form of forced labour for local public purposes is of Type 2. Decree No. 12533 of 23 October 1926 was extended to Portuguese Guinea by Decree No. 13698 of 30 May 1927. Details regarding the former Decree will be found in § 236 above, which deals with Angola.

SAN THOME

§ 240. Order No. 16 of 30 April 1923, approving the Local Native Labour Regulations, provides in sections 84 and 87 that natives liable to compulsory labour may be required to work for municipal authorities. Section 94 contains the same provisions as regards natives sentenced to correctional labour. Section 95 states that in the last case the workers shall be supplied with food and housing by the authority employing them. This is thus a form of labour of Type 2.

B. — TERRITORIES IN ASIA

PORTUGUESE INDIA

§ 241. Local forced labour of Type 1 may be commuted, but no provision appears to be made for payment. This seems to be clear from Order No. 786 of 11 November 1926, which approves a decision of the local council of Pernem raising from four to eight tangas the fixed annual commutation value of the unpaid labour tax levied in accordance with section 2 of the Regulations approved by Order No. 112 of 28 February 1913. An Order, No. 184 of 23 March 1928, contains certain provisions regarding labour taxes concerning, *inter alia*, the Satari municipal council.
SPAIN

TERRITORIES IN
THE GULF OF GUINEA

§ 242. The Native Labour Regulations of 6 August 1906 contain a provision relating to compulsory labour for local public purposes. Section 74 provides that a native who has deserted from his employment more than once and whose employer refuses to take him back, is liable, if no other employer engages him, to compulsory labour, which may be performed in the service of municipalities.

Another form of forced labour for local purposes is found in these districts. A report from the Spanish Government states that there is a system of corvées "organised in each tribe by the native chief" ¹.

SPANISH SAHARA

§ 243. The only information the Office possesses on this subject is to the effect that certain tribes in the Spanish Sahara are regarded as vassals of more powerful tribes and are sometimes liable to labour dues for these tribes.

CERTAIN INDEPENDENT STATES

ABYSSINIA

§ 244. Reference should be made to the remarks contained in § 168.

BOLIVIA

§ 245. Forced labour appears to be requisitioned for the clearing of roads ².

LIBERIA

§ 246. Forced labour is used on the construction and maintenance of roads. The information at the disposal of the

¹ League of Nations, document A.25.1924.VI.
² See footnote 3 on p. 135.
International Labour Office does not render it possible, however, to state how far this labour may be regarded as being for general public purposes and how far for local public purposes.

PARAGUAY

§ 247. The forced labour on roads and bridges which is described in Chapter III must be performed in the district of the persons who are liable to its performance. It seems possible to regard this labour as being performed for both general and local public purposes.

PERU

§ 248. Compulsory labour may be required on roads in Peru in the districts of the persons liable to its performance. In this case, as in that of Paraguay, it seems possible to regard this labour as being performed for both general and local public purposes.

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1 See § 170.
2 See § 172.
3 See § 174.
CHAPTER V

THE LAW AND PRACTICE WITH REGARD TO FORCED LABOUR FOR PRIVATE EMPLOYERS AND TO INDIRECT COMPULSION

§ 249. In this chapter the territorial grouping of the information concerning the law and practice with regard to forced labour for private employers and to indirect compulsion is the same as that adopted in the two previous chapters.

As will be seen, and as is inevitable from the nature of the case, particularly in regard to indirect compulsion, a considerable amount of invention has been displayed in overcoming the difficulties of an inadequate labour supply. It is not always easy to classify the methods employed: an attempt has been made to indicate their nature by appropriate headings. Nor it is always possible to indicate whether the methods employed are in fact tantamount to compulsion. This is especially the case, for example, where recruiting is carried out by officials of the Administration. Since, however, there is a general opinion that this method of recruiting easily degenerates into forced labour, information concerning it is included here.

As already explained in the introduction to Chapter IV, all compulsory labour for chiefs, whether used for purposes of local public benefit or for the personal benefit of the chief, has been treated in that chapter and is therefore not referred to again in this chapter.

BELGIUM

BELGIAN CONGO

§ 250. Recruitment by officials of the Administration. — Section 2 of the Act of 18 October 1908, which contains the Belgian Colonial Charter, provides that "no person shall be forced to work on behalf of or for the benefit of individuals or associations ".

The Penal Code of the territory also prescribes punishments for attempts at deprivation of personal liberty ¹.

It appears nevertheless that a measure of Government compulsion for obtaining native labourers for private undertakings has been used in the Belgian Congo. The desire to put an end to this compulsion, or at least to reduce it to the smallest possible dimensions, is very evident in numerous press campaigns and also in official texts. At the time of the discussion by the Colonial Council ² of the Draft Decree regulating porterage which was afterwards passed as the Decree of 19 March 1925, Mr. Bertrand, one of the members, brought forward the following arguments in favour of the Decree:

I am glad to have an opportunity of protesting here against a system which has been allowed to grow up of permitting private individuals to establish themselves wherever they please in order to produce, or obtain production, or to buy, under what appear to be satisfactory local conditions, and then to demand workers and export facilities from the Government.... The Administration has requisitioned porters, including women and children, by the thousand and produce has been carried as much as 500 or 600 kilometres. In the down-river districts where the produce is gathered, old-established residents are surprised at the vigour of old men in comparison with the poor physique of the young people who have been taken for all kinds of compulsory labour by traders and exporters.... Never again ought it to be possible to see caravans consisting of thousands of porters, including women and children, carrying packages generally weighing as much as 100 kilograms.

In March 1926, the Government took the important step of laying down the principle of non-intervention by officials in the recruitment of labour, except for public works. This measure was hotly discussed in certain Belgian newspapers and misunderstandings occurred. The Administrator-General of the Colonies therefore considered it advisable to issue a letter defining and

¹ "Section 11. — Any person who, by means of violence, ruse or threats, kidnaps or causes to be kidnapped, unlawfully detains or causes to be unlawfully detained, imprisons or causes to be imprisoned any person whatsoever shall be liable to imprisonment with hard labour for a period of one to five years."

² "In cases in which the person so kidnapped, detained or imprisoned has been subjected to bodily ill-treatment, the offender shall be liable to imprisonment with hard labour for a period of five to twenty years. If the ill-treatment in question has caused death, the offender shall be liable to imprisonment for life with hard labour or to the death penalty."

³ "Section 12. — Any person who kidnaps or causes to be kidnapped, detains or cause to be detained, imprisons or causes to be imprisoned any persons whatsoever in order to sell them as slaves or who disposes of persons under his authority for that purpose is liable to the punishments specified in the present chapter as set out in the foregoing section."

The above sections are also applicable in the Mandated Territory of Ruanda Urundi.

² Procès-verbal de la séance du 17 janvier 1925, pp. 11-12.
delimiting the functions of administrative officials with regard to recruitment.

This letter stated that it had come to the notice of the Government that in many districts administrative officials had too often performed a function in the interests of private undertakings which should properly be carried out by the agents of these undertakings. The duties of officials as regards recruitment were limited to advice and control. They should not directly recruit workers for private undertakings or co-operate directly in actual recruitment by private recruiters. This did not, however, prevent “administrative officials from giving effective assistance by impressing upon the natives the desirability of labour, by explaining to them the advantages which they would gain by hiring themselves out to European undertakings and by helping them to overcome their fear of becoming wage-earners”.

This question of the part to be played by officials in the recruitment of workers for private undertakings has been the subject of discussion by the Consultative Labour Committee, which the Minister appointed at the beginning of 1928 to study the social results of the economic development of the Belgian Congo during recent years and to complete the work of the first Committee which was appointed in 1924-1925. In its report, the second Committee laid down certain principles in connection with the recruitment of workers. One of these was “that such recruitment should be restricted to that of free workers”. Nevertheless, intervention by the Administration and an active propaganda are necessary to induce the native to collaborate with Europeans. It is sometimes difficult to reconcile these two desiderata since “the influence of the Government is so great that even the most careful official may sometimes find it difficult to decide the precise moment at which the general propaganda which he carries on in the normal exercise of his duties becomes, despite his intentions, a moral pressure exercised in favour of a private undertaking or a group of undertakings. This leads to an equivocal situation, which can only be altered by removing from Government officials all responsibility with regard to the supply of labour for European undertakings. It is clear that arrangements must be made whereby white employers and black workers enter into relations only as the result of direct negotiations with each other, but to seek to do this by a stroke of the pen would be to upset the economic organisation of the colony in such a way that the natives whom it is desired to protect might be the first to suffer.”
Among the practical steps to be taken, the report suggests that direct intervention for the recruitment of workers by honest and lawful means should be carried on only by subordinate officials, thus leaving higher officials free to fill their tutelary rôle in such a way that their personal influence is used only in the direction of general propaganda in favour of undertaking work. During their tours, district officers might intervene more directly by recommending certain forms of work. They might be accompanied by recruiters and intervene in the capacity of arbitrators or advisers, but they should never act as recruiters. The native authorities might be associated in these activities.

§ 251. Forced labour for private employers as the result of direct compulsion exercised in virtue of legislative provisions does not exist in the British Empire. The policy of the British Government in this connection has been laid down repeatedly in official documents and is summed up as follows by Mr. Ormsby-Gore in his report on his visit to West Africa:

The British Government have again and again laid down that under no circumstances will they undertake to provide compulsory labour for private profit in any British Dependency. They draw a vital distinction between compulsory labour for essential public works and services, such as road construction and road maintenance, and labour for plantations. Quite apart from the ethical question involved, they have always felt that once the principle is departed from there would be no real limit to the commitments of Government, and no basis for discriminating between one employer and another or one industry and another. The trouble with compulsion in any form is that it is only successful in the long run if it is carried out consistently and completely. It is no use imagining that you can combine a voluntary system with a small element of compulsion. Any such scheme breaks down at the point where you are not prepared to go further with compulsion.

The same policy was enunciated by Lord Lugard in his report on the amalgamation of Northern and Southern Nigeria, in which he stated that the Government would not employ coercion in any form in order to provide labour for private undertakings. "Employers must, therefore", he continued, "make the conditions of service sufficiently attractive to secure the labourers they

1 Mr. Ormsby-Gore's Report on his Visit to West Africa during the Year 1926, pp. 107-108.
2 Sir F. D. Lugard: Report on the Amalgamation of Northern and Southern Nigeria, and Administration 1912-1919 (Cmd. 468), p. 44.
need. . . . Labour will be secured only by kind and fair treatment, decent hutments, the entire absence of blows and ill-usage. . . ." Mr. Ormsby-Gore during 1925 made a special pronouncement on the subject with regard to Kenya: "No new settler", he is reported to have said, "must go to Kenya under the impression that he has a right to labour. He will get his labour if he goes the right way about it. It is one of the hazards of the undertaking." ¹

An account is given below of certain provisions concerning the treatment of vagrants in South West Africa and Kenya and of certain others in Southern Rhodesia relating to the treatment of juveniles who are without parental control, as these measures have been criticised as implying a greater or less degree of compulsion upon natives to engage themselves to private employers.

A. — Territories in Africa

KENYA

§ 252. Vagrancy laws. — In Kenya ² a vagrant is deemed to be any person asking for alms, any person wandering about and unable to show that he has visible and sufficient means of subsistence, or any person lodging in any veranda, shed, cart, etc., without leave of the owner and not having any visible means of subsistence. When any such person is brought before a magistrate and found to be a vagrant, he may be ordered to find work within such time as the magistrate may prescribe and directed to report to the magistrate on a certain subsequent date. If by then he has failed to find work or if he fails to report, he may be returned to the area reserved for his tribe and, if he afterwards leaves it without permission, sentenced to imprisonment for not more than six months.

SOUTHERN RHODESIA

§ 253. Employment of juveniles. — The Native Juveniles Employment Act, 1926, lays down in section 6 that should an juvenile (i.e. a native under the apparent age of 14 ³ years) be without proper employment, the native commissioner may, in the

¹ Speech to the African Society, 28 January 1925.
² Kenya: Vagrancy Ordinance, 1920, as amended by Ordinance 32 of 1921.
³ Government Instructions of 18 January 1928 fix the minimum age at 10 years.
absence of a parent or guardian who is able and willing to take charge of the juvenile, contract him for a period of service not exceeding six months to any fit and proper person who is willing to engage him. The native commissioner is, however, instructed to report in writing in such case to the Chief Native Commissioner.

The Government of Southern Rhodesia has pointed out that the Act is in no way designed to serve the purpose of recruiting or of meeting private demands for labour. Hardly a case has occurred in which the powers under section 6 have been used, but the provision is necessary to protect, in rare but possible cases, the juvenile from evil courses.

SOUTH WEST AFRICA

§ 254. Vagrancy laws. — In South West Africa, any person found wandering abroad and having no visible lawful means or insufficient lawful means of support, and being unable to give a good and satisfactory account of himself, may be charged with being an idle and disorderly person and, on conviction, be sentenced to a maximum of three months' imprisonment. Any person who, without the permission of the owner, is found wandering over any farm or in or loitering near any dwelling house, shop, outhouse, garden or other enclosed place, is also liable to the charge of being an idle and disorderly person and, on conviction for a first offence, may be fined a sum not exceeding £2, with the alternative of imprisonment for not more than one month, or imprisonment for not more than three months. Section 14 of the Vagrancy Proclamation provides, however, that it is the duty of any magistrate before whom any person is convicted for a first offence on the charge of being an idle and disorderly person to adjudge such person, in lieu of other penalties, to a term of service on the public works of the Mandated Territory or to employment under any municipality or under any private person, other than the magistrate himself or the person at whose instance the prosecution has been taken. The term of such forced labour may not exceed the term for which the offender is liable to imprisonment (i.e. three months) and such rate of wage shall be paid as the magistrate considers fair and reasonable. It is lawful for the court to detain the convicted person in custody for a period not exceeding fourteen

1 South West Africa: Vagrancy Proclamation, 1920, sections 1 and 3.
days in order that such employment may be found for him. Furthermore, it is laid down that if any person so adjudged to service shall escape, or attempt to escape, or otherwise be guilty of any offence under the master and servants laws, he may be imprisoned for a period not exceeding six months.

B. — Territories in Asia

INDIA

§ 255. Labour dues for landholders. — Forced labour for private purposes is not countenanced by the Government of India. Mention must be made, however, of the labour dues which are exacted in many parts of India, under ancient custom, by landholders from tenants and agricultural labourers. In most, if not all, cases the duty of providing this labour carries corresponding rights. Thus an agricultural tenant or labourer usually has the right to free grazing on the landholder's ground, to cut wood and thatching grass for the construction and repair of his house and well, and to the free occupation of the land on which his house stands. Similarly, a low-caste labourer who works in leather has the right to the skins of all cattle dying in the village.

In parts of Bihar and Orissa, the landholder's right to a certain number of days of unpaid labour has been commuted for an addition to the rent of the agricultural tenants liable to the performance of such labour. In the United Provinces, orders have been issued that no mention of forced labour is to find a place in the village record of rights. The practice of exacting labour of this kind is diminishing year by year as the general feeling of the people is against it.

The Penal Code provides that any person who unlawfully compels a person to labour against the will of that person may be punished with imprisonment with or without hard labour for a period not exceeding one year or with a fine, or with both. It appears that this provision is intended to put a stop to the practice of forced labour which was, and is still to a certain extent, in vogue and is aimed at the abuses arising from forced labour which ryots were in former times compelled to render to great landholders.

1 Indian Penal Code of 1860, section 374.

2 "The Indian Penal Code", Ratanlal Ranchhoddas and Dhirajlal Keshavlal Thakore (1924).
§ 256. French legislation does not generally permit Government recruiting of forced labour for private undertakings, plantations, development companies, etc. Its underlying principle is that while public welfare may necessitate the levying of forced labour from native populations, the French Government could under no circumstances undertake to obtain labour for the benefit of private employers. This differentiation between labour for public purposes and that for private purposes dominates the whole of the regulations concerning labour conditions in the French colonies and possessions, and it seems that the isolated cases in which forced labour for the benefit of private persons is met with must therefore be regarded as survivals or illegal exceptions.

A. TERRITORIES IN AFRICA

FRENCH CAMEROONS

§ 257. Recruitment by officials of the Administration. — The Order (arrêté) of 30 December 1916 (sections 49 to 52) enables the Administration of the French Cameroons to take measures for the recruitment of workers for private undertakings. The report of the Mandatory for the year 1923 states that it is the practice of the Government to limit the use of these powers to the occasional recruitment of porters for strangers passing through a district. The duration of the engagement rarely exceeds fifteen days. Under the provisions of the Decree of 4 August 1922, sections 53 to 54 of the Order of 30 December 1916 remained in force. The Decree also contains strict provisions against any attempt to prevent freedom of contract by prescribing in section 28 that persons entering into fictitious contracts with natives shall be liable to imprisonment for a period of from six days to two months and to a fine of from 16 to 200 francs; while, in the case of a repetition of the offence, imprisonment for a period of from two months to a year and a fine of 300 to 1,000 francs may be inflicted. The more recent Decree of 9 July 1925, completing the Decree of 4 August 1922 concerning the regulation of labour in the French Cameroons, prescribes in section 6, that no administrative authority may take part in the recruitment of workers or porters for private

1 Page 11.
persons or private undertakings, except for the purpose of supervising the carrying out of the agreed conditions by the persons recruiting the labour. Section 7 of the same Decree requires that the sanction of the Commissioner of the Republic must be obtained before recruitment of native labourers for private undertakings can be carried on by any person, on his own or on someone else's behalf, in a subdivision other than that in which is situated the undertaking for which the workers are intended.

FRENCH EQUATORIAL AFRICA

§ 258. In French Equatorial Africa, forced labour for private employers is prohibited by the Decree of 4 May 1922, section 1 of which enunciates the principle of freedom of contract throughout the territory. All labour contracts for a period exceeding three months must be in writing and approved by the administrative authority.

§ 259. Labour on concessions. — Provisions concerning the system of land tenure in the French Congo are laid down in the Organic Decree of 28 March 1899, under the provisions of which nearly half the territory was allocated, in the shape of thirty-year concessions, to thirty-eight limited companies, to which it accorded extensive privileges. These privileges the companies seem to have extended in practice to include the right to impose on the natives a system closely resembling forced labour. Although the State does not formally concede to these companies the right to force natives to work, natives are forced to harvest for the company a specified quantity of rubber, the price of which is fixed by the company itself. Press campaigns have been carried on, insisting on a return to the ordinary lawful practice of free cultivation and trading in French Equatorial Africa. It is generally admitted that the concession system, which may have been useful in the beginning, is now out of date and uneconomic. The Government seems to share this point of view, and in the Chamber of Deputies,

1 At a meeting of the Togo-Cameroons section of the Union Coloniale française, held on 9 March 1928, a member of the Union expressed the hope that the obligation to work would be recognised in the Cameroons in order to meet the existing labour crisis. He was informed that "the terms of the Mandate do not allow the Governor to intervene with regard to recruitment of workers, except for essential public works, and that with regard to the obligation to labour it was necessary to wait until the International Labour Office, which was now examining the question, had given its opinion".
at the sitting of 23 November 1927, the Minister of the Colonies made the following statement:

The large concession system as originally established must come to an end. In any case, all the big concessions expire in 1929. I can assure the Chamber that none of them will be renewed or extended, at any rate not on the conditions on which they were originally granted.

§ 260. Vagrancy laws. — In the Gaboon, discussions which took place some months ago concerning vagrancy in relation to labour revealed an example of the difficulties sometimes met with in distinguishing between the legitimate requirements of employers and disguised forms of forced labour. At the suggestion of the Union Coloniale Française, the Governor-General of French Equatorial Africa submitted to the Minister of the Colonies a draft Decree concerning vagrancy, which empowered the Government to exercise strict supervision over natives who had terminated their contract, and to repatriate them to their home village if they were not willing to accept regular employment on works or plantations. The Minister for the Colonies refused to approve this draft Decree, and pointed out that the system which it proposed had the characteristics of forced labour. The Minister's letter emphasised the difficulty of defining the offence of "vagrancy" in the case of a scattered population, often without settled domicile, to whom the idea of fixed residence was unaccustomed. He further stated:

It is no doubt the duty of the protecting Power ... to inculcate in its subjects in remote countries the desire to undertake regular work, but it appears to me that this should be done gradually so that the native is led step by step from his present primitive conditions to the state of higher development which is the object of our endeavours. Forced labour has rarely fostered a desire for regular work. I therefore fear that as the result of enacting legislation of this kind, "visible means of subsistence" would, in effect, come to mean work on European undertakings of some kind or other. This would lead us back in an indirect way to the system of forced labour. ... It appears to me difficult to avoid this conclusion, for it is not possible to apply the term "vagrant" to the native of French Equatorial Africa, who is slowly passing from a savage to a civilised condition as the result of satisfying his immediate needs for food, clothing, ornament, etc., by taking more or less regular employment on different undertakings but who, being content to live for a certain time on the earnings thus acquired, does not return to his village.

The Union Coloniale Française was not convinced by the arguments of the Minister, and persuaded him to reopen the question. At a sitting held on 15 December 1927, the chairman of the French Equatorial Africa section of the Union pointed out that "it would be wrong not to insist on the obligation to work in the case of natives as in the case of Europeans in whom the idea was
inculcated from infancy. . . . This obligation must be enforced in a manner adapted to local conditions of labour in the colonies. In any case, however, it must be clearly distinguished from forced labour. . . . Indirect measures, such as taxation or repatriation to their villages of unemployed natives, do not in any way constitute an attack on individual liberty in the most civilised countries, and still less so in comparatively undeveloped regions”. It should be remarked that the report of the Special Labour Committee of the Conseil supérieur des Colonies, which was submitted in February 1928, was in favour of the adoption of the draft Vagrancy Regulations which had been prepared by the Governor-General of French Equatorial Africa. As far as the International Labour Office is aware, no final decision has yet been taken.

FRENCH TOGOLAND

§ 261. In French Togoland, strict provisions are laid down in the Decree of 29 December 1922 in order to prevent any attempt to interfere with freedom of labour contract. Section 27 provides that persons who enter into fictitious contracts with natives shall be punishable with imprisonment for a period of from six days to two months and with a fine of 16 to 200 francs, and, in case of a repetition of the offence, with imprisonment for a period of from two months to a year and with a fine of 500 to 1,000 francs.

MADAGASCAR

§ 262. In Madagascar the principle of permitting neither direct nor indirect intervention by the Administration in the recruitment of labour is laid down in legislation. A Circular issued by the Governor-General on 10 December 1940, while maintaining this principle, stated that, without departing from absolute neutrality, the local authorities might nevertheless be informed of the labour requirements of employers and might make them known in the chief towns of the districts.

§ 263. Vagrancy laws. — A Decree dated 28 August 1924 prescribed that imprisonment for a period of from three months to one year might be inflicted upon natives, including those of privileged status, convicted of vagrancy — i.e. upon (1) those who could not furnish evidence of regular means of subsistence in the
shape of property or of work on their own account or in the service of another person, unless they were physically unfit for work; (2) natives, including those of privileged status, without a fixed abode or without an habitual domicile whether fixed or not, according to the nature of their occupation.

TUNIS

§ 264. Money advances. — In certain districts in Tunis, an indirect form of forced labour is found. These are the districts of large-scale culture in the north, where it is the custom to make advances in money to agricultural daily labourers, on condition that these workers undertake to work for a certain period at a specified wage. These advances are made before a district notary (notaire beylical). In order to protect heads of undertakings against any breach of such contracts, the Government of the Protectorate passed a Decree, dated 27 March 1920, which treats failure to furnish this labour as an abuse of confidence, and renders it liable to correctional punishment, consisting of imprisonment for a period of from fifteen days to six months, and a fine varying from the amount of the advance received to 1,000 francs.

This Decree has given rise to much public criticism. It does not appear to have been put into actual application to any large extent, but it has not on the other hand been repealed. It should be noted that workers employed in industrial and commercial undertakings are subject to the common law, and do not come within the scope of any restrictive measures concerning advances made by employers.

B. — Territories in Asia

FRENCH INDO-CHINA

§ 265. Labour on concessions. — Speeches made in the Chamber of Deputies during the sitting of 18 March 1927 seem to show that in Indo-China the granting of certain concessions in the Moï district may have led to the levy of forced labour for these undertakings 1. After this debate, the Governor promulgated a

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1 One speaker stated that "in more than 16,000 out of the 18,000 hectares which have been granted as concessions in the Darlac region, there is a population of only 20,000 to 30,000 natives, including old men and young children... As Annamite labour is prohibited, the exaction of forced labour from the whole Darlac population would not suffice to develop all these thousands of hectares."
Decree, dated 26 March 1927, which prescribed that until such time as general regulations regarding the concession system in Indo-China had been brought into force, no concession might be granted and no contract concerning land approved except by Decree. Provisional regulations were laid down in the Decree of 5 July 1927. At the time when this section of the report of the International Labour Office was being prepared, it was understood that final provisions were shortly to be brought into force.

SYRIA

§ 266. Money advances. — The recent reports of the Mandatory Power to the Council of the League of Nations seem to show that various forms of forced labour for private employers exist in Syria. The report for 1925\(^1\) describes as follows the position of a numerous class in the population of the Mandated Territory: "The Syrian or Lebanon peasant is very often a poor wretch who develops the soil on the share-tenant system on behalf of a large landowner. The owner is solely concerned with obtaining a regular income from the undertaking, whatever may be the variations of climate, and, in good years as well as bad ones, makes certain of the labour of his share tenant by lending him money and thus retaining hold over him. In order to increase his hold on his debtor, he often acts as the middleman for the collection of Government taxes, which he recovers from his tenant. This form of servitude must be abolished, since it is contrary to the more civilised social system which it is one of the duties of the Mandatory to institute." The Government is endeavouring to accomplish this by reductions in taxation and a general revision of the system of land tenure.

§ 267. "Voluntary" labour for public purposes. — In addition to the labour dues (prestations) fixed by law, there is in Syria a system of "voluntary labour" which is used for public purposes. The report for 1927 expressed a fear that \(^2\) "in certain districts, the large estate owners (latifundia), to whom the land mostly belongs, sometimes abuse their power and succeed in obtaining the construction of roads more beneficial to themselves than to the community by putting forward so-called spontaneous petitions. The Mandatory Power is endeavouring to abolish the abuses which are possible in this connection ".

\(^1\) Page 92.
\(^2\) Page 90.
NEW HEBRIDES (Anglo-French Condominium)

§ 268. Illegal recruitment by private persons. — It is well known that the recruitment of native workers in the Pacific has in the past been accompanied by frequent abuses. Although conditions have greatly improved, there is some evidence to show that the methods of recruitment do not always respect the liberty of the native. Certain writers state that in the Anglo-French Condominium of the New Hebrides in 1914, and even later, kidnapping under the guise of recruitment of indentured labour was still carried on 1.

ITALY

This report was already in the press when information was received with regard to the Italian colonies. This information will be found in Appendix III of the report.

NETHERLANDS

DUTCH EAST INDIES

§ 269. Labour dues for landholders. — A certain amount of compulsory labour for private persons still exists in the Dutch East Indies. It may be exacted for the benefit of the owners of certain large estates sold by the Dutch East Indies Company in the course of the eighteenth century and the beginning of the nineteenth century, in particular during the five years of British control (1811-1816). A Government publication, “Official Information on Certain Subjects of General Interest” 2, shows that in 1928 the total area of these estates was 4,949 square kilometres.

1 England and France in the New Hebrides (1914), Chap. 10, and The Future of the Kanaka (1919), p. 65, both by E. Jacomb. See also Essays on the Depopulation of Melanesia, edited by Dr. W. H. R. Rivers (1917), where, in several references to the general improvement which had taken place in regard to the methods of recruiting labour, the New Hebrides are mentioned as being much worse in this respect than other Pacific islands.

2 Mededeelingen der Regeering omtrent enkele onderwerpen van algemeen belang, May 1928.
The conditions of sale of these lands included the right of the purchaser to exact compulsory labour. An Ordinance which came into force in 1912\(^1\) lays down rules concerning compulsory labour to be furnished by the population of the estates in question.

Services which may be exacted by such owners fall into three groups according to the purpose for which they are used:

(a) For the maintenance of roads and bridges in cases in which this maintenance is incumbent upon the owner;
(b) For duties as day and night watchmen;
(c) For other private purposes of the landowner.

All male natives between 16 and 50 years of age who are resident on private estates are liable to compulsory labour\(^2\). Certain classes of natives are exempt:

(1) Infirm and disabled persons;
(2) Persons exempt from this work in accordance with recognised local custom;
(3) Sick persons or persons who are able to prove that they have a valid reason for exemption.

The landowner may exact a maximum of fifty-two days or nights of work per year or one day or one night per week in such manner that the native has six whole days per week at his disposal for his own work, unless he has made a special agreement to the contrary with the owner of the estate. The working day or night consists of a period of not more than twelve hours, including breaks for rest and the time taken for the journey to and from the place of work. The distance may not exceed two and a half hours on foot, and the landowner must provide the worker with sufficient rations or make a money payment equivalent in value to the rations.

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\(^1\) *Staatsblad* 422 of 1912. This Ordinance replaced the Regulations of 1836, which contain similar provisions concerning compulsory labour.

\(^2\) Information supplied to the Office by the Government of the Dutch East Indies shows that there are 208,808 persons liable to compulsory labour dues on these estates. Of these, 174,968 commute the dues by payment. All the labour performed, except that of 6,672 persons who do it for the private benefit of the landowner, is done for such public purposes as the maintenance of roads and bridges on the private estates.
Skilled labour may not be called for in connection with this compulsory labour except in the case of watchmen.

Persons liable to furnish this labour may not be required to use their own carts or draught animals. The landowner may, however, require them to bring their own implements, if they possess them. The levy of materials from natives, either with or without payment, is absolutely prohibited. A substitute may be furnished and commutation is permissible\(^1\). The rate of commutation is a sum equal to the wage of a day worker, a deduction being made in respect of the value of the food which the landowner must furnish to the worker.

The Government, assisted by certain municipalities (Batavia, Suvabaya, etc.), has been endeavouring for many years to abolish compulsory labour for private employers by repurchasing or expropriating the estates.

A sum of 78,000,000 florins has already been devoted to this object, so that the system, which is ancient in origin, is destined to disappear\(^2\). The Act of 1910\(^3\) and the Decree of 1912\(^4\) contain provisions regarding the expropriation of these lands. Natives who do not perform this compulsory labour can only be prosecuted at the instance of the landowners. They are liable to a penalty of imprisonment for a period not exceeding three days or to a fine not exceeding 1 florin for every day or night during which they have failed to perform this compulsory labour without sufficient reason. Proceedings may be suspended if the native undertakes to perform his labour dues within a period fixed by the magistrate. In this case, the magistrate may also fix the number of days or nights which must be worked. This number may not, however, be more than double the number of days or nights which the native would have performed in the ordinary course. Any person who wilfully requisitions compulsory labour which is not leviable under the regulations is punishable with imprisonment for a period not exceeding a year or with a fine not exceeding 3,000 florins.

\(^{1}\) According to the Meyer-Ranneft report, the total sum paid as commutation in 1924 was 957,644 florins.

\(^{2}\) An area of 5,852 square kilometres has already been either repurchased or the owners expropriated. The Government estimates that the re-purchase or expropriation of the remaining 4,949 square kilometres will cost more than 61,000,000 florins.

\(^{3}\) Staatsblad 38 of 1911.

\(^{4}\) Staatsblad 480 of 1912.
§ 270. Below will be found an account of certain provisions, which appear to apply to all Portuguese colonies.

The Mozambique Order, No. 917 of 7 December 1906, prohibiting forced labour for private employers "was rendered applicable to all the Portuguese Possessions in 1921."¹ Further, a Portuguese report addressed to the League of Nations states that "native labour may not be requisitioned on behalf of private persons, even when the latter are constructing works of public utility, such as railways, bridges, telegraph lines, etc."² Another Portuguese report states: "One of the fundamental principles of our legislation must never be forgotten, and that is the principle that no person whatever shall be forced to work for private undertakings or interests."³

In addition to the 1906 Order, other legislative measures appear to prohibit forced labour for private employers. The General Native Labour Regulations of 14 October 1914 provide in section 9 that "natives of the Portuguese colonies shall have the right to dispose freely by contract of their services with or without the intervention of the authorities".

According to these Regulations, any person unlawfully inducing a native to renew his contract of service may be punished by a fine or by imprisonment for a term ranging from six months to two years (section 215).

§ 271. **Principle of the obligation to labour.** — It is thus clear that in the Portuguese colonies there is no forced labour for private employers of Type 1 of which mention had already been made⁴. The above provisions, however, apparently only apply to natives who fulfil their obligation to labour. Compulsory labour for private employers may be imposed on natives who do not conform to their "moral and legal obligation to labour", the principle of which, it will be remembered, was laid down in the General Native Labour Regulations. It was to this kind of enforced labour that

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4. See § 142.
the above-mentioned report appears to allude when it states that natives not included in the categories specified in the 1914 General Regulations "are required to be employed, for a period which is liable to vary each year, either in works of public utility or in private undertakings". It thus appears that in the Portuguese colonies there is in existence compulsory labour for private employers of Type 2, and the provisions of the General Native Labour Regulations relating to it are summarised in the following paragraphs.

§ 272. Section 95 provides that natives who fail to comply with the obligation to labour, and who have become liable to compulsory labour, may be presented to employers who have work to give them.

The only persons who are allowed to apply for workers subject to performance of compulsory labour are owners or tenants of agricultural lands, manufacturers or traders and their agents or managers furnished by them with full powers (section 98).

The following persons are not entitled to obtain compelled workers:

1. Persons convicted of failure to comply with their obligations in relation to native servants: such persons may not apply for compulsory labour during a period depending upon the nature of the offence, but in no case exceeding two years from the date of conviction;
2. Persons having been found guilty of a criminal offence;
3. Foreigners in the service of their Governments;
4. Portuguese subjects and foreigners not domiciled in the colonies;
5. Government officials, if the labour is required for their own private purposes (section 99).

All applications for labour are required to specify:

1. the number of workers required;
2. the place or places in which the work is to be carried out;
3. the nature of the work;
4. the period during which the applicant undertakes to employ the workers (section 100).

Applications for domestic servants are not accepted, nor those for less than ten workers or for periods of less than three months, or for immoral or prohibited occupations (section 101).

1 League of Nations document C.T.E. No. 17, p. 34.
Section 105 provides that the workers shall be handed over to the applicants at the seat of the authority to whom the applications have been addressed or at the place of work. In all cases the costs of transport and of supervision are borne by the applicants. On obtaining the labour, the applicant is required to sign a labour contract in the presence of the curator or his agent (section 106).

§ 273. The General Regulations of 1914 provide that where the State or the municipalities are unable to employ natives sentenced to "correctional" labour, these natives may be compelled to work for private employers. Only persons other than those specified in section 99 are entitled to make application for correctional labour.

Natives sentenced to correctional labour employed in the service of individuals may be accompanied by native police if necessary. Furthermore, the employers may request that such natives be housed during the night in the public prison.

The wages of natives sentenced to correctional labour and employed by private persons are to be the same as those of other servants employed by the same person or those current in the locality. They are to be paid by the employer to the authorities, who remit one-half to the native on the expiration of his sentence. The remaining half is to be used in payment of the expenses incurred for the police engaged in guarding such labourers, the balance (if any) going into the revenue of the colony:

§ 274. Subject to any special legal provisions existing in any individual Portuguese colony, which will be mentioned later as far as the information available permits, the outline given here may be taken as covering the Portuguese colonies mentioned below. It appears to apply also to those Portuguese colonies with regard to which the International Labour Office has no further information on forced labour for private employers.

§ 275. Divergent opinions have been expressed as regards the use of compelled labour for private employers. In an article published in the Boletim da Agencia Geral das Colonias, in September 1925, General Freire d'Andrade states: "When no public work is being executed in the district the law provides that the natives shall be employed on other work. This provision,
although it has been rarely applied in the past, should be repealed by reason of the abuses to which it may give rise and of the fact that, even if it worked smoothly ten years ago, such may not be the case to-day, in consequence of the great development of the colonies and of the increased demand for labour resulting from this development.

In practice it appears that abuses have sometimes occurred as the result of forced labour for private employers. A memorandum of the Portuguese Government states that “in spite of the clear and definite provisions of this law, abuses occur. These are punished by the Administration. They are generally due to the fact that the natives, having no wants, do not consider it necessary to work in order to satisfy them”\(^1\).

A. — TERRITORIES IN AFRICA

ANGOLA

§ 276. The General Native Labour Regulations approved by Decree No. 951 of 14 October 1914 provided in section 263 that the Governments of the separate Portuguese colonies were to publish, within a period not exceeding ninety days of the publication of the Decree, such Orders as would ensure its application. The world war, however, delayed the issue of these Orders, and it was only on 18 April 1918 that, in the shape of Order No. 91, the first step was taken in Angola to regulate conditions in accordance with Chapter IV of the General Regulations. This Order prescribed that labour contracts should be collective and made in respect of groups of ten workers. They were to be drawn up in the offices of the curators without the intervention of the recruiting agent or of the natives. Following this, Order No. 306 of 13 December 1918, completing the first Order, was published with the object of further promoting the recruitment of native labour. It provided in section 2 that farmers or industrial employers requiring native labour were to send their applications to the authorities. These applications would imply an undertaking on the part of the employer and serve for all purposes as a labour contract.

This system lasted until 1921, when it was cancelled by Decree No. 40 of 3 August. By this Decree a return was made to the system of free labour. The Decree states that “the best, more

\(^1\) League of Nations document C.T.E. No. 17, p. 29.
efficient and easiest method of recruiting native labour has its source in a regime of liberty and consists in the plain and straightforward application of the principles of the ordinary law to labour contracts" and that "no law may authorise compulsory labour for the benefit of private employers".

A Circular from the High Commissioner dated 2 October 1921 recalls that one of the chief purposes of this Decree was to bring about "the complete suppression once for all of any form of compulsory labour for private employers". Thus, in Angola at the present moment there is no forced labour of Type 1 for private employers.

§ 277. On the other hand, natives who fail to fulfil their moral and legal obligation to labour appear to be liable to compelled labour of Type 2 ("compulsory" and "correctional" labour), in virtue of the provisions of the General Native Labour Regulations. The information available does not show clearly to what extent Decree No. 12533 of 23 October 1926¹, defining the status of natives in Angola and Mozambique, has amended the provisions of the 1914 Regulations.

§ 278. Recruitment by officials of the Administration.— Decree No. 40 of 3 August 1921² states in its Explanatory Memorandum that the authorities should by every conceivable honest and legal means facilitate and promote the recruitment of native labour by farmers, manufacturers and traders whose enterprise is a factor increasing the production and wealth of the colonies³.

A Circular from the High Commissioner dated 2 October 1921 reminds the authorities that it is their duty to encourage the recruitment of native workers, and that they are in a position to make the natives understand that it is their duty to collaborate in the development of the colony, and that they will not be allowed

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¹ See § 145.
² An Order No. 4 of 16 January 1925, containing provisional instructions for the recruitment and employment of native workers in Angola, provided that the administrative authorities, and not recruiting agents, should recruit workers for private employers. This Order was, however, repealed by Order No. 95 of 18 September 1925.
³ It should, however, be noted that the Decree emphasises the drawbacks which may result from an official encouragement of the recruiting of native workers. It states that the authorities, in carrying out this "function which is so imperative that it may be regarded as a duty", may follow methods leading to abuses of various kinds and to economic difficulties, and that the result may be that they will not find it easy to avoid resorting to compulsory labour "which has so many disadvantages".
to remain idle. It advises employers who, during a period of transition, cannot obtain the labour they require, to apply to the authorities in the district in which they wish to recruit the workers with a view to obtaining official assistance. The authorities are instructed to take the necessary steps to induce the natives to undertake work with increasing readiness. It also provides that the administrative authorities should see that at least 15 per cent. of the able-bodied natives work as wage-earners in two batches per year.

§ 279. Order No. 148 of 6 August 1923, which states in the Explanatory Memorandum accompanying it that it is necessary to assist all undertakings which, owing to their resources and activities, are a factor in the public wealth, institutes an enquiry on the subject. It points out that it is the desire of the Government to further the employment of native labour and to assist meritorious undertakings in recruiting.

§ 280. Taxation. — Taxation is one of the possible ways of inducing the native to work. The Boletim da Agencia Geral das Colonias of August 1925 states that Angola natives pay a head tax, that this tax is only imposed on men of working age, that it is paid by a sixth of the population of Angola, and that it is the only tax to which natives are liable. The maximum is fixed by law; this maximum was 40 escudos in 1924 which, at the 1923 rate of exchange, represented about 10s.

A report published by the British Department of Overseas Trade states that “the raising of the native tax from 10 to 40 escudos
for the coming financial year may bring about an increase in the labour supply” ¹.

In order to pay their tax it appears that natives employed by the State would be obliged to work for a fairly long period. Order No. 196 of 30 December 1924 states that the wage to be paid for each effective day’s work for native workers employed by the State should be at a rate varying from 1 to 1½ per cent. of the amount of the native tax, and that as a normal rule the workers should be paid the minimum rate.

**MOZAMBIQUE**

(a) Territoires other than those of the Prazos and of the Concessionary Companies

§ 281. Measures in respect of natives who fail to fulfil their labour obligations. — Decree No. 917 of 7 December 1906 prohibited the use of forced labour for private employers. Furthermore, Decree No. 12533 of 23 October 1926, applicable to Mozambique, establishes freedom of labour ².

Nevertheless, natives who fail to fulfil their moral and legal obligation to labour may be forced to work for private employers in accordance with the 1914 General Regulations. This labour (“compulsory” or “correctional” labour) is thus of Type 2.

It appears that Mozambique natives are required to work for three months in the year in order to be regarded as having fulfilled their labour obligations. In a Portuguese memorandum addressed to the League of Nations, it is stated that “the professor [Ross] mentions that the law was well known to him; he therefore could not expect such a reply, particularly as at Lourenço Marques he was told that, under the administration of the Governor-General, Colonel Freire d’Andrade, not more than three months of labour were required of a native in a year, forced labour was properly paid for, and labour on the native’s own farm and in the factories of the Rand was counted by the Administration. This is just what the law prescribes” ³.

¹ British Department of Overseas Trade: Report on the Economic Conditions in Angola, 1923. It appears that the tax has been still further raised. From details contained in the Official Bulletin of Angola, dated 10 May 1928, the native tax is now apparently 80 escudos.

² See §§145 and 277.

Certain legislative measures show clearly that the natives are not allowed to remain idle. For example, Order No. 309 of 1 May 1926 prescribes that natives returning from the Transvaal who have worked more than six months and less than a year shall receive a certificate of exemption from work which will remain valid for a period of three months. It also states that for each month of exemption from labour the native is required to pay a fee, half of which is credited to the native emigration fund.

Apparently natives who have not fulfilled their labour obligations are liable to compulsory labour of Type 2 for a period of six months. In the *African World* of 15 August 1925, it is stated in an article on compulsory labour in Mozambique that the system was not cruel but humane "and it provided . . . for . . . the period of six months in the year when such labour was a necessity. Moreover, the Government did not force the natives to work under its direction, leaving them free to choose their own employer. . . . Thus the system begun, has continued, and has proved most excellent in operation".

In two memoranda to the League of Nations, the Portuguese Government has declared that abuses have sometimes arisen as the result of forced labour for private employers 1.

§ 282. Recruitment by officials of the Administration. — Information contained in the *Boletim da Agencia Geral das Colonias* of December 1927 2 seems to show that sometimes native labourers are recruited through official bodies. It is stated, for example, that the number of natives supplied in 1926 to private employers by the Directorate of Agricultural Services was 126,117.

§ 283. Taxation. — A memorandum of the Portuguese Government states that "the report [Ross] contains many references

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1 "The Portuguese Government does not deny that natives have been maltreated and their wages in some cases withheld by Government officials, or that the *chibalo* is in use. . . . Certain local authorities, finding themselves hard pressed on all sides, and realising that the development of the natives must proceed hand in hand with that of the country, abused their powers, and, instead of enforcing the letter of the law, exerted, despite frequent warnings from the Minister for the Colonies, an illegal pressure on the natives. That is the origin of the practice of *chibalo* for private enterprises, which the Portuguese Government is the first to condemn." *(Some Observations on Professor Ross's Report, p. 33.)* — "It can quite well be understood that when they see their crops in danger and voluntary labour cannot be obtained, farmers employ all means to procure such labour, even in violation of the law." *(League of Nations document C.T.E.17, p. 29.)*

2 Page 170.
to the hut-tax, and leaves it to be inferred (though it does not definitely state) that this tax is also paid by women. This is not the case. The hut-tax is paid by men only. It varies from 5s. to 24s. according to the wealth of the native. It is highest in the Lourenço Marques and Inhambane districts, where the natives can afford to pay a high tax. It is lower in Angola than in Mozambique. On the Zambezi, following a traditional custom, instead of the hut-tax there is a poll-tax payable by both men and women; this system has been in operation for centuries, and the natives are used to it. On an average the poll-tax is lower than the hut tax."¹

In the same memorandum reference is made to taxation as an indirect means of forcing the native to work. "The hut-tax . . . serves both as a source of Government revenue and as a means of making the natives work to earn the money to pay it" ².

Suggestions have been made to increase the native tax in certain Mozambique districts. Thus, the "Açcao nacional" of Lourenço Marques for 18 June 1926 considers that it would be just and rational to increase the native tax on the Zambesi, where the natives should pay at least 100 escudos.

(b) "Prazo" Territories

§ 284. The "prazo" system is still in force in the Zambezi districts. This compels the natives to work in the service of the tenants of the prazos. Before examining the legal provisions covering labour conditions in the prazos, it appears necessary to give a few details on the origin and nature of this system.

It is a survival of the social and political system of a feudal nature which the Portuguese found in Mozambique and Zambesia at the time of the conquest.³ The country was ruled by native chiefs or kings who had under them subordinate chiefs who were liable to certain obligations towards the head chief, such as paying taxes in the form of labour or products of the soil and providing soldiers. From the sixteenth century onwards, these old native groupings began to break up and the conquerors took the place

¹ Some Observations on Professor Ross's Report, pp. 25-26. According to the African World of 29 August 1925, the hut tax has been transformed into a poll tax of £1 10s. payable by all natives over 18 years of age.
³ Most of the details regarding the origin and evolution of the prazo system are based on a memorandum prepared by the Portuguese Government for the League of Nations (League of Nations document C.T.E.17, pp. 43-50.)
of the former chiefs and retained their rights. In the eighteenth century, the character of the prazo system changed. Those in possession of prazo holdings were required to pay a fixed rent to the State and to share in the Government's military operations. As the central power gained in executive strength, the power of the local potentates diminished. Nevertheless, natives were still required to pay taxes either in money or in produce or in labour on their masters' plantations.

In spite of the Act of 27 October 1880 ordering the suppression of the prazo, the system survived. Its advantages are explained as follows by the Portuguese Government in its memorandum to the League of Nations:

The payment of the poll-tax was to be an indirect means of compelling both the payer and the collector to work the soil. The most effective means of overcoming the natural laziness of the African native in the central parts of Mozambique consisted in substituting agricultural work for the tax which the former feudal laws had accustomed the native to pay and which, indeed, he was quite prepared to pay. The prazos are leased at a certain annual rent and on certain conditions. The party (arrendatario) hiring the prazo incurs a number of obligations to the native and collects the poll-tax. The results of the prazo system are well worthy of note. The natives live peaceably, following their time-honoured customs, and the country is developing very rapidly. The principal sugar-cane plantations of the colony are on the Zambesi, and have an annual output of tens of thousands of tons. There are also plantations of sisal, oleaginous cereals, and, more important still, coconut trees. The Boror Prazo contains the largest coconut plantation in the world, running to about 2,000,000 trees.

The Portuguese Government, despite the advantages inherent in the prazo system, is closely watching it with a view to its further development. In 1915 it consulted the Colonial Council on the matter, and asked that body to suggest what measures should be taken to encourage this development. After making a thorough investigation of the problem, the Council reached the conclusions which are summarised below:

(a) The system under consideration is a time-honoured institution deeply rooted in native traditions and customs. It has successfully resisted all attempts that have been made to modify or suppress it. If, therefore, it is to be modified on scientific lines, every side of the institution must be investigated and an estimate made of its effects on the development of the country.
(b) No one element in this system can be dealt with separately. The problem can only be solved as a whole.
(c) A very wide and thorough investigation of the subject must therefore be undertaken. In the meantime an effective supervision over the arrendataries in the Zambesi area will be maintained, and the supervision at present in force will be made stricter.

2 The Boletim da Agencia Geral das Colonias of July 1926 states that a share in Government duties is entrusted to prazo holders, who may police the district, use local labour in accordance with the General Native Labour Regulations, and collect the native tax known as the mussoco.
3 Among other important undertakings in the prazo territories, mention may be made of the Zambesi, the Madal, the Sena Sugar, the Lugela, and the Carungo Companies.
§ 285. The native inhabitant of a prazo may only be recruited by the arrendatario for whose benefit he is compelled to work for a certain period 1.

Order No. 5713 of 10 May 1919 provides in section 12 that the natives resident on prazos are required to work for a minimum period of 180 days in the year. Section 49 stipulates that in no case and under no pretext may the prazo holder or the administrative authorities prevent any natives from going to another prazo or from leaving the prazo lands for territories under the direct administration of the State. Moreover, the administrative authorities are not allowed to prevent natives living on State lands from migrating to prazo lands.

The position thus is that prazo natives are required to pay the native tax to the prazo holder and to work for his benefit for a period of six months 2.

The information available makes it impossible to decide to what extent the provisions of Decree No. 12533 3 instituting freedom of labour apply to the natives living in prazo territories.

(c) Territories of the Concessionary Companies

Mozambique Company

§ 286. By Order No. 5087 of 3 August 1926, published in the Mozambique Company's Bulletin of 16 August 1926, recruitment of native workers for private employers by the authorities was abolished as from 31 December 1926 4. Moreover, Order No. 5128

1 "At the present time the native receives a suitable wage, and the European proprietors, in exchange for the advantages they receive as regards labour, are compelled to cultivate and to develop their lands." (Boletim da Agencia Geral das Colonias, October, 1925. French summary of article by Colonel Lisboa de Lima.)

2 In practice, it appears that the period of compulsory labour is shorter than that fixed in the Order of 10 May 1919. Mr. J. A. Lopes Galvao, in an article published in the Boletim da Agencia Geral das Colonias of September 1925, states that the natives never work for more than one month at a time and that generally they do not work more than three months in the year. Mr. Galvao adds that the normal labour force in the prazos amounts to about 30,000 natives and that as the native does not work more than three months in the year for the prazo holder, this figure corresponds to a total of 120,000 able-bodied natives living in the prazos. He states that, in spite of the size of the population, the labour supply is already insufficient and that for this reason many prazos are not being utilised at the present time.

3 See § 145 and 277.

4 The Mozambique Company was founded in 1888. In 1891 it obtained semi-sovereign rights over the provinces of Manica and Sofala for a period of twenty-five years. At the end of this period a new concession was granted for a second period of twenty-five years. Among other rights, the company
of 1 September 1926 decreed that employers and recruiting agents might recruit directly for private employers. Finally, Decree No. 13698 of 30 May 1927 extended Decree No. 12533 to the Mozambique Company's territories. In this connection reference should be made to §§ 145 and 277 (Angola).

Nyassa Company 1

§ 287. Measures in respect of natives who fail to fulfil their labour obligations. — Order No. 2479 of 14 February 1922 adopted by the Nyassa Company, which lays down the general principle of the obligation to labour, provides that the company's officials responsible for the labour supply are entitled to compel natives who refuse to carry out the work provided in their contracts. The following methods of coercion are alone authorised:

(a) The authorities summon the natives, if necessary under escort. They explain that the work these natives have undertaken to perform must be completed and reprimand them for their non-compliance with their obligations.

(b) The authorities see that the natives are escorted to the place of recruitment, taking all necessary steps to prevent escape (section 29).

Natives who disobey any such orders given them and who resist the coercion exercised upon them in the above manner may be arrested and brought before the judicial authorities and sentenced to imprisonment or correctional labour in accordance with the General Native Labour Regulations (section 30).

The administrative authorities are instructed as far as possible to interest the native chiefs in recruiting operations so that the natives fulfil their labour obligations. They are also required to obtain the assistance of these chiefs in compelling the natives to do their duties. For this purpose rewards are provided for the native authorities (section 31).

Natives who voluntarily undertake labour for a period of at least three months receive 5 per cent. above the current rates of pay (section 36).

1 The Nyassa Company's charter is similar in its main provisions to that of the Mozambique Company.
Section 40 contains provisions relating to workmen's compensation. The workers are classified as minors and male and female adults.

§ 288. Recruitment by the Nyassa Company's officials. — The above-mentioned Order of 14 February 1922 provides that the Company's Native Labour Department shall direct the general recruiting services and that the district officials conducting the recruitment of native labour shall assign the labour to private employers and pay out the wages.

The fees imposed by the Native Labour Department in connection with the assignment of workers differs according to whether the workers are above 14 years or between 12 and 14 years of age and according to the duration of the employment. From the fees received are deducted bonuses for the various authorities, including an allowance of 2 per cent. for the native chiefs (section 4).

Each native recruited is given a form containing his finger print and details connected with his labour contract (section 13).

Provision is made for the establishment of native camps with a view to facilitating the supply of native labour. Such camps, however, may only be constructed on the special order of the Governor. The officials in charge of them are required to ensure that no more natives are housed in the camps than are necessary to meet the probable labour demands (section 15). The administrative authorities deal with application for labour in order of date of receipt. When it is impossible to recruit sufficient workers, those recruited are allotted in proportion to the applications made. As far as possible the natives are entitled to choose the employers for whom they work.

The authorities are instructed as far as possible to supply workers who have had already some experience in the work for which they are intended (section 18). As a rule, the authorities may only supply workers to residents in the district under their jurisdiction who possess agricultural, industrial or commercial undertakings in those districts. Any labour transportation between the districts is conducted with the co-operation of the native headmen. In such cases the administrative authorities in the district of recruitment do not hand the workers directly over to their employers. They send them to the authorities in the district of work and applications are made to these authorities in accordance with section 17 (section 19).
Any applications for labour must be accompanied by the sums necessary for the transport of the workers and for their subsistence during the journey (section 20). Applications submitted by the following persons or undertakings are not considered:

1. Individuals, undertakings, etc., convicted during the preceding year of offences against natives;
2. Foreigners or Portuguese subjects who are not domiciled in the company's territories;
3. Debtors of the Company who have not made arrangements with the Company for the settlement of their debts;
4. Individuals, undertakings, etc., unable to place adequate accommodation at the disposal of the natives (section 21).

Applications for labour for the following purposes are also not received: domestic service; work on board ships sailing to ports beyond the company's territories; immoral or illegal occupations or occupations contrary to native custom. Requests for labour for the execution of dangerous or unhealthy work may be refused (section 22).

A contract is concluded with the employer supplied with labour. This mentions the names of the natives supplied, the duration of their employment, the monthly rate of wages, and the nature of the work (section 25).

1 Employers to whom native labour is supplied must undertake:

1. to provide first aid to sick natives, to transfer them to the authorities, who forward them to the nearest hospital or first-aid post and to bear the cost of medical treatment;
2. to refrain from compelling the native to buy products from the employer;
3. to refrain from appropriating any property of the native;
4. to employ the workers during the whole period of the contract;
5. at the expiration of the period of contract or in case of incapacity for work to repatriate the native and pay to the authorities supplying the labour the cost of transport and subsistence during the journey;
6. to refrain from handing over to any third party, whether for payment or not, any labour obtained, without the permission of the authorities supplying the labour;
7. to require not more than six days' work a week from any native;
8. not to require the execution of any work during the night; a midday rest from between 11 a.m. and 1 p.m. must be permitted; in the case of work in mines and other work of real urgency natives may be compelled to undertake night work; they may not be forced, however, to perform more than five hours' consecutive labour or more than ten hours in any period of twenty-four hours;
9. not to supply the native with any money or goods;
10. to enforce the provisions of the regulations regarding labour accidents, approved by Order of 14 February 1922.
11. to notify the authorities immediately of any accident or unusual event affecting the labour (accidents, deaths, desertion, etc.).
12. to observe all the provisions contained in the General Native Labour Regulations (section 26).
Employers who receive native workers from the authorities may:

(a) return to the authorities natives who refuse to work or who fail to make good any damage for which they are responsible;
(b) arrest natives who leave the work without due cause and hand them immediately over to the authorities;
(c) employ every necessary means of preventing the natives from becoming intoxicated, gambling or indulging in any other form of vice (section 27).

Employers requiring labour must, as a preliminary, remit to the authorities a sum of money equal to the monthly wages. In addition, they must pay the fees mentioned in section 11. Three days before the end of the period covered by the first payment, the employer is required to deposit the sum necessary for the following month (section 33).

Young male persons between 12 and 14 years of age may be supplied for light work. This is only permitted, however, if the natives volunteer for the labour and if the employers requesting their services clearly specify the nature of the work to be performed by these workers. The employers are, moreover, required to undertake not to give such young persons any other kind of work. The Company charges a recruiting fee (section 34).

The Department of Native Labour fixes native wages annually. In case of dispute between employers and the Department, the Governor of the Company's territories is the final authority (section 35).

The payment of wages to the natives supplied by the authorities is effected each month in the offices of the authorities who supplied the labour or of those nearest the place of employment. The employers are informed of the day and hour at which payment is to take place, and, if they wish, they may be present. The officials may allow wages to be paid at the place of employment, though any expenses arising are borne by the employer (section 37).

Order No. 2671 of 1 April 1924 draws attention to the necessity of strictly following Order No. 2479. A later decision prescribes that in recruiting operations the authorities must see that no coercion is exercised in regard to the natives.

The Portuguese Decree No. 13698 of 30 May 1927 extends to the Nyassa Company's territories Decree No. 12533 instituting freedom of labour. In this connection reference is made to §§ 145 and 277 (Angola).
§ 289. **Taxation.** — Order No. 2672 of 1 April 1924 provided that as the hut tax has been raised to 20 escudos, native wages should be increased to 20 escudos a month for agricultural workers and 25 escudos for industrial workers.

The receipts resulting from this tax increased greatly in 1924. The report of the board of directors of the Nyassa Company for 1924, which was submitted to the general meeting of 31 December 1925, states that the hut tax amounted in 1924 to 3,641,880 escudos as compared with 1,748,915 escudos in 1923.

**PORTUGUESE GUINEA**

§ 290. Compulsory labour for private employers seems to be enforced in Portuguese Guinea in virtue of the principle of the obligation to labour. Order No. 83B of 29 November 1922, applying the General Native Labour Regulations to Portuguese Guinea, contains provisions (section 101) relating to applications for labour made by private employers.

The Portuguese Decree No. 13698 of 30 May 1927 has extended Decree No. 12533 to Portuguese Guinea. Reference in this connection is made to the information given under §§ 145 and 277 (Angola).

**SAN THOMÉ**

§ 291. **Measures in respect of natives who fail to fulfil their labour obligations.** — Order No. 16 of 30 April 1923, approving the Local Native Labour Regulations, provides that private employers may request the authorities for the supply of natives liable to compulsory labour (section 97). Such applications may only be made by proprietors of agricultural lands, by industrial and commercial employers, or by their duly authorised representatives (section 85).

The following persons are not entitled to request to be supplied with forced labour:

1. Persons convicted by the courts or the curators for failure to comply with their obligations towards native workers;

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2. During the final drafting of this report, the International Labour Office received from the Governor of Portuguese Guinea a communication dated 29 June 1928 to the effect that "compulsory or forced labour for private employers is no longer permitted in Portuguese Guinea ".
3. This compulsory labour would be of Type 2.
4. This is a form of compulsory labour of Type 2.
(2) Persons having been found guilty of a criminal offence;
(3) Foreigners in the service of their Governments;
(4) Portuguese subjects or foreigners not domiciled in the colony;
(5) Government officials, if they require the workers for their own private purposes (section 86).

Applications for labour made by private employers must specify: the number of workers required; place or places where the work is to be carried out; nature of the work; period during which the applicant undertakes to employ the workers (section 87.)

Applications for the supply of domestic servants are not accepted, nor those for less than ten workers or for a period of less than three months or for immoral or prohibited occupations (section 88.)

The authorities to whom applications for compelled labour are addressed may in no case be obliged to satisfy these requests to the prejudice of the public services (section 89).

The workers are handed over to the applicant at the headquarters of the authorities to whom the request was made or at the place of employment. The costs of transport and of supervision are borne by the employer (section 91).

Before taking charge of the workers the applicant is required to sign a contract of service in the presence of the curator (section 92).

§ 292. If the State or municipalities are unable to employ natives condemned to correctional labour, such natives may be forced to work for any private employers who apply for their services. Only the persons mentioned in section 85 are entitled to make such applications. Natives condemned to correctional labour in the employment of private persons are, if necessary, accompanied by native police. The employers may also ask that the natives be housed during the night in the public prison (section 96).

The above section contains a paragraph (4) which differs from the corresponding paragraph in section 109 of the General Regulations. In paragraph (4) of section 96 it is stated that any wages due to natives working under correctional labour are to be paid into the welfare fund constituted by the Regulations. Whereas, therefore, the General Native Labour Regulations allow the natives half-wages at the expiration of their sentence, Order No. 16 appears to deprive the workers liable to correctional labour of all remuneration.
§ 293. **Taxation.** — Certain suggestions relating to taxation in San Thomé were made by Mr. de Mantero Velarde in a book published a few years ago. Examining the indirect means of compelling natives to work, the author states that in San Thomé there is a high poll tax, acting as an indirect form of compulsion, but adds that it would be of value if this tax were increased. He considers that another effective measure would be to force natives who do not work sufficiently to perform their military service in distant districts.

**SPAIN**

**TERRITORIES IN THE GULF OF GUINEA**

§ 294. **Principle of the obligation to labour.** — The Regulations of 6 August 1906 provide in section 24 that all natives domiciled in Fernando Po who have no known property, profession or occupation are liable to compulsory labour which may be performed in private employment. The Bubis were exempted from this obligation, but, as will be seen below, this exemption has been partly withdrawn.

§ 295. **Recruitment by officials of the Administration.** — The Regulations mentioned above, after laying down in section 1 that one of the duties of the colonial Curaduria in the territories in the Gulf of Guinea is to civilise the natives by inducing them to work, provides in section 2 that the department is required to assist the Government of the colony, as well as farmers, industrial, commercial and other private employers, in obtaining native workers and servants.

In virtue of this general principle, the 1906 Regulations authorise the official recruitment of natives for State employment.

Moreover, the authorities directly recruit natives in the Bata and Elobey districts for employment in Fernando Po in the service of private employers. By section 45, recruited workers, on their arrival in Fernando Po, are escorted by the police to the colonial curator, who distributes them among the employers who have sent him applications for labour.

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1 *A. de Mantero Velarde* (Attaché to the Portuguese Legation in Italy, former Director of the Colonial Agricultural Society): *L'Espansione Politica e Coloniale Portoghese*, p. 133.

2 See § 167.
The authorities are also authorised to recruit native families from the Spanish continental possessions in the Gulf of Guinea. Section 54 of the 1906 Regulations provides that the members of any one family must be placed with a single employer who must undertake not to separate them. It further lays down that children under 10 years of age and their mothers may not be required to perform heavy work. At the end of the period of service and if the conduct of the various members of the family has been satisfactory, the head of the family is entitled to apply for a concession of 2 hectares of land.

It was stated above that the aborigines of Fernando Po were exempt from the obligation to perform labour, including labour for private employers, by the Regulations of 6 August 1906. This provision was, however, amended by a Decree of 9 July 1926. The Decree provides that Bubis whose lands do not exceed 5 hectares in area and who do not work for private employers may be recruited by the authorities during the three months of the year in which important agricultural work takes place. By section 5 of the Decree, these natives may not be compelled to work on Saturdays and Sundays. Their daily wages are 2 pesetas (section 4).

Section 7 provides that by reason of the physique of the aborigines of Fernando Po and of the fact that they are not used to labour, employers may only use them for their lightest work. In conclusion, the Decree states that its purpose is to raise the Bubis through labour.

CERTAIN INDEPENDENT STATES

GUATEMALA

§ 296. Recruitment by officials of the Administration. — An official publication made the following statement with regard to forced labour in Guatemala: “If there is any difficulty in recruiting labour for picking, the Guatemalan officials force the labourer under threat of conscription in the army, or even imprisonment. So the planters have little to worry about in regard to labour supply.”

1 Tropical Agriculture, August 1924.
§ 297. Adoption of children. — A practice which is alleged to be common in Liberia is a kind of adoption of children. Chiefs and other aboriginal natives who are anxious that their children should receive education often place them in American-Liberian families. As these children perform domestic service and manual labour, the father sometimes receives a sum of money, but there is generally no money transaction\(^1\). It is evident that this system is liable to certain abuses.

§ 298. Pawning of persons. — Akin to the system of "adoption" is that of "pawning", whereby a native may place himself or members of his family in "pawn" to another person as security for a loan. Regulations passed in 1923 forbade the pawning of Liberians to foreign subjects, permitted pawns to redeem themselves by payment of the original amount only of the debt, and prohibited the pawning of any person without his or her consent. The Constitution of Liberia declares\(^2\) that "there shall be no slavery within this Republic. Nor shall any citizen of this Republic, or any person resident therein, deal in slaves, either within or without this Republic directly or indirectly ", but there appears to be no specific enactment prohibiting the pledging of human beings.

§ 299. Compulsory porterage for private employers. — The International Labour Office is not in possession of the text of the Regulations of 1921 and 1923 which govern the internal administration of Liberia, but it is stated that they require chiefs to furnish carriers to travellers in return for payment and that chiefs who refuse to do so are liable to a fine\(^3\). Such carriers go only from village to village, and must be paid 1s. per day\(^4\).

§ 300. Forced labour for private employers in lieu of taxation. — It has been stated that chiefs pay their taxes in the forced labour of their subjects\(^5\).

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\(^2\) Article I, section 4.

\(^3\) R. L. Buell, op. cit., pp. 745.

\(^4\) Ibid., p. 748.

\(^5\) See, for example, H. F. Reeve: The Black Republic (1923), p. 122.
§ 301. Forced recruitment for foreign employment. — The method of recruitment of Kroo-boys, which, it is stated, is carried on under Government auspices, has been heavily criticised. "Instead of adequate measures to guide and regulate the expatriation and return of the backbone of the country (i.e. the Kroo-boys), . . . the right of hiring out is let by contract to an alien firm which charges the hirer so much 'head-money'." ¹

The same author describes the following incident which took place "when recruiting for the native regiments was in full swing in the neighbouring British Colony of Sierra Leone":

"Over one hundred Mendi Boys crossed the frontier to evade the pressure, and arrived at Monrovia looking for work. They were detained and shipped off to Fernando Po by the Government of Liberia or by its agents (the German firm holding the contract for shipping the Kroo-boys), and head-money was collected upon them. These were British subjects seeking refuge in a friendly State, and were dealt with by the Liberian Government as if they were their own subjects." ²

§ 302. Labour on concessions. — The conditions under which labour is being obtained for a huge concession recently made in Liberia is exciting much comment. As a result of the negotiations entered into between the Liberian Government and the Firestone Plantation Company, the country, hitherto totally undeveloped save for a coastal strip of about forty miles in width, is being opened up for cultivation on the large-scale plantation system. The negotiations resulted in 1926 in the grant to this American undertaking of a lease for 99 years of 1,000,000 acres of land to be chosen in blocks by the company, as well as of a plantation of 2,000 acres already established at Mount Barclay. The Liberian Government agreed to give "reasonable co-operation in securing sufficient labour for efficient operation of the plantation", while the company undertook not to import unskilled foreign labour unless the supply of Liberian labour proved to be insufficient and then only with the consent of the Liberian Government.

Early in 1926 a Labour Bureau under a special Commissioner was created and undertook to furnish an annual quota of 10,000 workers for the Firestone Company. The Bureau requisitions a fixed number from each local administrator, who in his turn calls

¹ Ibid., pp. 118-119.
² Ibid., pp. 130-131.
upon each chief to furnish a certain number. The company pays 1 cent to the Labour Bureau and 1 cent to the chief in respect of each day worked by each man recruited. It is thus clearly to the interest of the chiefs to send in recruits, and fears have been expressed in many quarters that this system is, in practice, one of forced labour. This seems a possible danger not only because chiefs are already accustomed to levy forced labour for work on roads, but also in view of the fact that it is estimated that the scheme will necessitate the employment of 300,000 to 350,000 native labourers, while the total population of the country is reported to be only one and a half millions.

PERU

§ 303. Forced labour on private roads. — Reference has already been made to the allegations concerning the illegal employment of Indians on roads on private estates.

§ 304. Freedom of labour. — Mention may perhaps be made of the fact that Law No. 2285 of 6 October 1916, concerning minimum wages for Indians, contains a provision prohibiting the compulsion of Indians to work in agricultural, cattle-rearing and industrial undertakings against their will. A further provision laid down that after the coming into force of the Law, Indians working on farms, plantations, etc., without remuneration were free to leave with their families and could not be detained on the plea of debts incurred to the employer.

UNITED STATES OF AMERICA

§ 305. Prison labour for private employers. — The Thirteenth Amendment to the Constitution of the United States of America reads:

Section 1. — Neither slavery nor involuntary servitude, except as a punishment for crime whereof the party shall have been duly convicted, shall exist within the United States, or any place subject to their jurisdiction.

Section 2. — Congress shall have power to enforce this Article by appropriate legislation.

2 See footnote 1 on p. 138.
There is a good deal of evidence to show that the practice of leasing Negro prisoners out to private employers still exists in some of the southern States. The following statement by an American writer gives an account of the practice:

"In the case of Negro petty offenders it has been customary to impose a fine-work sentence: that is, the offender has the choice between paying a cash fine or working a specified number of days in the chain gang. The offenders are commonly unable to pay the fine. In such cases the fine may be paid by a white friend and the Negro freed. In some cases it is paid by the employer or planter on agreement that the offender work out the amount for him at a small wage, perhaps 50 cents a day. On such agreement the contract labour law allows the planter to hold the convict until the debt is paid. The offender is then charged for food, clothing, and money advanced him by his employer. If the offender runs away, refuses to work, or disobeys the commands of the master he may be returned to jail and this results in the imposition of a new sentence.

"Obviously, the system is open to abuse and often is grossly abused. Plantation owners and employers may conspire with the authorities to recruit cheap labour in this manner. Negroes may be arrested for slight offences and farmed out to employers. The shiftlessness and extravagance of the offenders are then taken advantage of and instead of discharging the obligations they may go deeper and deeper into debt; the white man is the book-keeper and his statement of the account is accepted by the court. With or without the consent of the debtor, the employer may sell or transfer his claim against the Negro to some other farmer who is in need of labour. This is of course equivalent to selling the Negro.

"Other laws also foster peonage. The probation law of Georgia, passed in 1913, allowed the defendant, in counties having no regular salaried probation officer, to serve a sentence outside the jail or chain gang under the supervision of the court. The purpose was doubtless an effort to mitigate the evils of the penal system so far as young children were concerned. The court was allowed to appoint a volunteer probation officer to aid the probationer in carrying out the terms of the probation. Since only a few of the counties had regularly appointed probation officers, the delinquents were farmed out. Like the practice above, this plan is open to grave abuse. The parole law of 1908 has
also been grossly abused in this way through the provision that makes it possible for a prisoner, after serving a minimum time, to be paroled to an individual for an indefinite period which may be for years.

"In recent years, legalised peonage through the leasing out of convicts has stopped: its legislative basis was declared unconstitutional by the United States Supreme Court in 1911. That the practice has not entirely ceased is evident from time to time in exposures such as that in Georgia in 1921. There is no strong public opinion opposed to it and the employer is often a law unto himself." ¹

CHAPTER VI

OPINIONS ON THE VALUE AND EFFECTS OF FORCED LABOUR
AND ON THE NECESSITY FOR ITS REGULATION

§ 306. The aim of this report, as of all similar reports prepared for the International Labour Conference, is to present as complete an account as may be possible not only of the legislation on the matter under discussion, but also of the practice. In the case of forced labour, it will be readily understood that a complete account of the latter cannot so easily be given as would be the case if the laws on forced labour were being applied in a modern State by an efficient Administration working under the eye of an instructed public opinion capable of expressing itself.

In the nature of the case, since forced labour exists for the most part in areas where administration is as yet admittedly incomplete and where public opinion is negligible, there tend to be — in fact it can be said that there are — greater discrepancies between the intent of legislation on the matter and the methods or effects of its application than is the case in general. It is precisely with regard to the application, to the practice of forced labour, that the greatest difficulty has been found in the preparation of this report. From time to time it has been found convenient in the earlier chapters dealing with legislation to cite expressions of opinion on practice, either in explanation of some legislative point or of some method of application, but it has seemed necessary, in order to give an adequate account upon which the Conference may base its decisions, to supplement these by a more general and ordered account of practice, derived from official documents or from the published writings of observers whose competence is supported by long experience. It should be noted that very often, in the absence of close administrative supervision, inspection, and of official reports, it is only from the opinions of travellers and other unofficial observers that any estimate of the application of the law can be obtained.
§ 307. It will be obvious that such an account might be very largely extended. Since Hsiao T'ung (A.D. 501-531) protested vehemently against forced labour for public works, there has been no lack of criticism. In this chapter, however, are included only views and suggestions made public during very recent years, and having reference to contemporary conditions. None of them is earlier than 1920. They have been chosen as far as possible from those authoritative pronouncements which appear to have been influential in forming general opinion on the question under discussion and to have led to reform or to suggestion of reform in the legislation concerning forced labour.

A word of warning is necessary as to the conclusions which may be drawn from them, and particularly as to the dangers of basing upon them any comparison as between one area and another in regard to the existing situation. The fact that evils have been conscientiously examined, discussed and combated in a given area does not necessarily imply that they are worse there than elsewhere. It may well be that the contrary is the case, and that in regions concerning which no public-spirited persons have attempted to inform public opinion conditions may be equally bad and, in the absence of pressure toward reform, possibly worse.

The international decisions recounted in Chapter I of the present report may be taken as a sufficient indication of the consensus of the opinions of the members of the international bodies which prepared them (the authors of the Mandates, the Mandatory Powers which accepted and the Council of the League which approved them, the Temporary Slavery Commission, composed for the most part of eminent experts in colonial affairs, the Permanent Mandates Commission, similarly qualified, the Sixth Committee of the Assembly of the League of Nations and its Sub-Committee, and the Assembly itself which adopted the conclusions of the Sixth Committee). With certain exceptions concerning points of special importance, it has not seemed necessary therefore to cite individual expressions of opinion put forward during the discussion of these international texts. They are to be found in the published minutes of the various bodies concerned.

So far as is possible, the opinions cited are grouped in this chapter in accordance with the aspects of the problem which they more especially take into consideration.

1 H. A. Giles: History of Chinese Literature, p. 139.
§ 308. On general policies tending to produce a situation calling for forced labour. — In Chapter VII of this report it is laid down as a fundamental principle that the general policy of economic development should not be one which will lead inevitably to demands for forced labour, demands which are only too frequently satisfied by legal as well as illegal methods. The question has been thoroughly discussed by a Committee appointed by the Belgian Government to study the general labour problem in the Congo. The conclusions at which the Committee arrived may perhaps be summarised, from its report, in the following terms:

"Social policy and economic policy are inseparable and develop side by side. The task of civilising the peoples must be financed, supported and remunerated by the economic returns of the Colony, while the economic prosperity of the Colony depends on the physical, intellectual and moral progress of its peoples. . . . The distribution of the percentage (i.e. percentage of workers whose employment in industrial undertakings is possible without injury to the community) should be based in each Province on a judicious programme of economic activity. . . . The same authority (i.e. the Provincial Governor) must see that in any district where the workers are absorbed in established production, the situation is not undermined by an increase of the burdens on the population due to new labour requirements such as economic crops, porterage, etc. . . ."¹

The argument here exposed is that a policy of economic development may make greater demands upon the peoples concerned than they are able to meet by voluntary effort, and Dr. Schweitzer, in an article on the "Relations of White and Coloured Races", gives a practical example of how such a policy may result in the necessity for forced labour:

"Rubber or palm-oil grown a long distance from the coast is absolutely useless unless it can be transported; and often the only way to transport it is by forced porterage by the State from the plantations to the point at which commerce on the coast can send up its steamers or its railways or motor-wagons. There is no other way of development, and it has desperately dangerous tendencies in it. Frankly, it is better to leave them undeveloped in a certain number of cases rather than develop along abnormal lines and with injustice. Where development is proceeded with, the State must exercise the most strict supervision."²

¹ Rapport de la Commission pour l'étude du problème de la main-d'œuvre au Congo Belge, 1925.
In an article published by Mr. Octave Louwers ¹, the eminent member of the Belgian Colonial Council, in examining the principles upon which Belgian colonial policy rests at present, discusses the question of rapid development leading to compulsion. The present policy, he states, looks to the multiplication of European enterprises as the principal factor in development. But, he points out, "the generalisation of European productive enterprises cannot be carried out, at the present moment, without obligatory labour. The freedom of labour is at the basis of legal labour regulation in the Congo. Yet, in spite of the vigilance of the authorities in enforcing respect for the law, private establishments succeed in evading it, thanks for the most part to the complicity of the native chiefs. Now, whatever opinion one may have on the matter, compulsory labour for the benefit of private enterprises cannot be established in the Congo. The Colonial Charter formally prohibits it. It was condemned at Geneva last year, by a severe Convention which we have signed and the execution of which will be supervised with particular care by the League of Nations".

Mr. Louwers proceeds to demonstrate that the excessive multiplication of European enterprises will be dangerous to internal order, since it will create in the minds of the natives a feeling that they are being exploited for the interests of others, a "lourd malaise".

The seriousness of the problems raised by the too rapid development and industrialisation of more or less primitive areas has on a number of occasions claimed the attention of the Permanent Mandates Commission, and the preoccupations of the Commission on this point were expressed as follows in a document drawn up with the intention of affording guidance to the Mandatory Powers in the preparation of their annual reports upon the administration of the areas under their tutelage:

"Does the local supply of labour, in quantity, physical powers of resistance and aptitude for industrial and agricultural work conducted on modern lines appear to indicate that it is adequate, as far as can be foreseen, for the economic development of the territory?"

"Or does the Government consider it possible that sooner or later a proper care for the preservation and development of the native races may make it necessary to restrict for a time the establishment of new enterprises or the extension of existing

¹ Revue belge, 15 January 1928.
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enterprises and to spread over a longer term of years the execution of such large public works as are not of immediate and urgent necessity." ¹

This expression of the Permanent Mandates Commission's preoccupation in regard to over-hasty development makes no direct reference to forced labour, but if it be read in the light of other opinions on the same matter quoted here the connection is clear. When the demand for labour is allowed to outrun the supply of voluntary labour, recourse to compulsion by one means or another is insistently urged, and a state of feeling is brought about which tends to overlook humanitarian considerations.

§ 309. The social effects of forced labour. — The social evils following upon contact between whites and primitive peoples have become a commonplace in writings on colonial questions during the last thirty years or more. References have already been made to certain of them which it is alleged are more directly due to the use of forced labour, and others (e.g. concerning the effect on the health of the native populations) will be found in the present chapter.

Recent discussions of the question of depopulation — a very disquieting matter in certain areas — have frequently laid stress on the effect of forced labour in this connection, not only in regard to the dissemination of disease, but also to the fact that peoples take to flight before the menace of forced labour.

Mr. Joseph Wauters, formerly Belgian Minister of Labour, writing in 1924 on conditions in the Congo, shows how lasting these evils may be:

"Everyone is struck by the sparsity of the population throughout the Lower and Middle Congo; everyone agrees that the populations have degenerated rather than progressed... Everyone states that the evil is of long standing, that it is the result of the old slave trade, more recently of alcohol, but above all of porterage in the time of Leopold, of rubber hunting and of the ravages caused by railway construction. The villages have been exhausted and decimated. Many natives have fled from the traffic centres. Civilisation, which should have attracted them, has driven them back and dispersed them." ²

¹ Permanent Mandates Commission: Minutes of Ninth Session, p. 234.
² Joseph Wauters: Le Congo au travail, Brussels, 1924, p. 98.
Speaking of the same area, Dr. Schwetz states that “the principal cause of depopulation of the Congo is the European penetration itself. The natives are unable to resist ‘European civilisation’ with all its corollaries: porterage, continuous labour, sudden changes in diet, more or less sudden transplanting into another environment, in short, the recruiting of labourers from one territory for another” 1.

African experience is paralleled in the Pacific, where, however, flight is less possible. According to a statement made by Dr. Norman White before the Health Committee of the League of Nations on 27 April 1927, between the years 1860 and 1890 three-quarters of the entire population of the Pacific Islands are said to have disappeared. Dr. White expressed the opinion that “the introduction of infectious diseases hitherto unknown in the Pacific and forced labour, together contributed much to the decline of population” 2.

Flight, as the above quotation shows, is not the only cause of depopulation. Reference is made later to the high rates of mortality and morbidity often occurring among forced workers, and due to a number of reasons, amongst which one may be mentioned here. Quite apart from illness due to defective food supplies or to infectious disease, a number of writers have noted the bad psychological effect of forced labour on the peoples concerned. Mr. Buell, for instance, declares that “those natives who had become accustomed to European employment or who had sought it voluntarily seem as far as the death rate is concerned to survive to a greater extent than natives suddenly compelled not only to live but to work in an entirely strange environment” 3.

Anthropological writers appear to agree that an important cause of the diminution of population in the Pacific Islands is the gradual destruction, through contact with whites, of the “will to live”. It may well be that the psychological effect of the humiliation inherent in compulsion plays some part in this. It is not difficult to realise, at least among peoples somewhat advanced from complete primitiveness, that forced labour, however carefully regulated, may be regarded as a symbol of subjection. A committee of the Dutch East Indies Volksraad reporting in 1920 concluded in favour of a speedy abolition of forced labour on the ground that the natives,

1 Congo, March 1923, p. 323.
especially those who had attained a certain level of development, regarded it as a humiliating restriction of liberty.

To sum up, it would appear that, whilst not all the evil effects which arise from contact between primitive peoples and those of more highly industrialised communities are due to the imposition upon the former of forced labour, there can be no doubt that many of them are intensified by that imposition and can be mitigated by its cessation.

§ 310. The educative value of forced labour. — It is necessary to give attention to the effect of forced labour on primitive mentality. It must be recognised that, although increasingly deprecated in authoritative circles, a stubborn opinion still exists that man's duty to work can best be inculcated upon a native by measures of compulsion. Many of the quotations in this chapter will appear to relate to evils which might possibly be alleviated by more careful administration, but the conflict of opinion between those who believe that forced labour in certain circumstances has an educative effect and those who see in it a cause of demoralisation touches more profoundly the question of the advisability of recourse to it.

Thus, according to certain writers, the growing prosperity of Central Africa has been largely due to the adherence of the Powers to the principle of forced labour, but that benefits have come to the native from the European occupation in the extinction of tribal warfare, the suppression of slavery, the development of native production, improved health, improved education, and an appreciable modification in the character of the native, who has become much more docile and accessible to European contact. They admit that forced labour has its inconveniences; these, however, they consider to be due to defects in the agents, whether employers, Government authorities or missionaries, and not to the principle itself.

It was in reference to similar opinions which were being circulated in Tanganyika Territory that Sir Donald Cameron, Governor of the Territory, made the following remarks in a speech before the Legislative Council:

"Within the last few weeks in this Territory a policy of employing

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2 For an example, see a communication to The Star, Johannesburg, 5 January 1928; the journal does not endorse the opinions of its correspondent.
force in order to 'make the natives work' has been openly advocated. . . .

"I suggest to the advocates of this policy of forced labour that they should pause and reflect that it is only slaves who can be forced to work, and that even if there were not the strongest ethical reasons against any such policy the practical obstacles are insurmountable. . . .

"It is all very well for those individuals to describe the sentiments which I have expressed, and which I so strongly endorse, as being 'grandmotherly', 'Exeter Hall', 'Geneva' and so on. In time they will be forced to realise that there is, indeed, no other school of thought in any responsible circles. At Geneva last June the High Commissioner for South Africa, in discussing the report on South West Africa when he appeared before the Permanent Mandates Commission, in speaking of native labour said that only 'moral suasion' could be used: 'they' (the natives) 'could only be educated, they could not be forced to work'."

A Portuguese opinion may be cited from a journal well placed for judging the educative value of compulsion. "We must lead the natives to labour; that is the only method of developing this immense territory (Mozambique). At the present moment the native works . . . only when he is compelled so to do either by the authorities or by circumstances. Until now we have for the most part followed the former method, and it has given rise to diverse inconveniences. The most important of these is that the native, forced to work, sees in labour a punishment, an oppression on the part of the employer and of the State." 2

Mr. Amery, the present British Secretary of State for the Colonies, summed up his views on the point in his despatch of 6 February 1925 to the Government of Kenya:

"Moreover, in the case of natives such as those of Kenya, in whom it is desired to encourage habits of industry, I fear that the results of any widespread association of labour with the sense of oppression caused by resort to the compulsory system may outweigh any educative influence which might otherwise be effected by inducing the natives to offer their labour upon terms sufficiently attractive to them." 3

1 Tanganyika Territory Gazette, Supplement, 20 January 1928, pp. 9-10.
2 Acção Nacional, Lourenço Marques, 18 June 1926.
A very similar view was expressed earlier by Lord Lugard, formerly Governor-General of Nigeria:

"Compulsion is only justified where labour cannot otherwise be procured for public works of an essential and urgent nature. It is preferable that it should be avoided if possible for ordinary and continuing works, since it militates against the evolution of voluntary contracts by rendering Government employment unpopular." ¹

In the 1927 report of the Tanganyika Labour Department the following concrete example of the effects of forced labour is given:

"The native population around Morogoro presents an interesting study of the mentality of the native; this district was ... the most conspicuous for forced labour. ... The forced labour of the war carried on the tradition, and the population must have become inured to such a state of affairs. Some three years ago the results were still obvious, and it was virtually impossible to engage any labourer for wages, unless he was ordered to go to work by his headman; men so obtained were most unsatisfactory workers and required perpetual supervision.

"The situation has now changed somewhat. ... But, as a whole, the people of Morogoro supply very little labour for wages; they appear to have been thoroughly educated out of this, for they are in other ways decidedly industrious."

Again, the British East Africa Commission, 1925, reported as follows:

"Compulsory labour in various forms has always existed and still exists in many parts of Africa, particularly in the discharge of tribal obligations. There is nothing ethically wrong in compulsory labour for works of public utility such as road and railway construction, provided that such compulsory labour is adequately paid and the conditions of such labour are consistent with the dictates of humanity. Nevertheless, though resort to compulsory labour is sometimes necessary in the interests of the community, we are of opinion that it should be avoided where possible, if only for the reason that the custom of compelled labour tends to undermine the personal sense of responsibility and initiative of the individual. There is great danger in Africa lest a man once compelled should take up the attitude that he will not work unless he is compelled. It should always be remembered that one of the principal curses of slavery, apart from its immoral character and its economic failure,

was the production of the slave mind. A human being accustomed to slavery, when freed, seems to have lost all incentive to work.”

An extract has already been given from Viscount Cecil’s speech at the Assembly as Reporter of the Sixth Committee (Chap. I, p. 16). It will be remembered that, explaining why the Committee had been unable to accept an amendment to the effect that forced labour might be exacted in the interests of education and social welfare, he stated that it was feared “that in its application this proposal might lead to grave abuses of exactly the type which the Convention itself was designed to prevent or suppress”.

But if the educative value of forced labour for the workers concerned is clearly thus generally doubted, there is some evidence that its effects upon the Administration and employers are also not educative in any good sense. For example, a Government Circular of Uganda, issued in 1922, refers to the relatively small proportion of voluntary workers among the unskilled labourers at that time employed by Government Departments, and states: “There are many reasons for this, not the least of which is that officers, being assured of a continuous supply of compulsory labour, have not found time to give that personal attention to the requirements of their labour and to causes of discontent among them which is essential if a supply of voluntary labour is to be obtained. Headmen, also, have not encouraged voluntary labourers as they must be handled with tact and patience, qualities which need not be exercised in dealing with Kasanvu labourers, who are not free agents.”

Similar observations, this time addressed to employers, are found in the introduction to an Angolan Decree (No. 40 of 3 August 1920): “It should be added that compulsion, no matter how gently exercised, results in the entire disappearance amongst employers of the desire to increase the wages or improve the conditions of the natives — a desire which would certainly be present under a system of free recruitment. In effect, no competition exists amongst employers when the administrative authorities provide the labour.”

§ 311. The economic value of forced labour. — Certain criticisms have been directed against forced labour on economic grounds. The quality of the labour performed under compulsion is, it is

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1 Report of the East Africa Commission, 1925, p. 36.
2 Uganda: Circular No. 3 of 1922, 16 January 1922, § 17 (2).
alleged, so much inferior to that rendered by free labour as to be economically disadvantageous. Thus the immediate economic value of forced labour is contested.

Mr. Amery, in the despatch of 6 February 1925 mentioned above, stated: "The economic objections to compulsory labour were fully realised by the South African Native Affairs Commission, 1903-1905, who stated, in paragraph 380 of their report, that any measure of compulsion was to be deprecated not only as unjust, but as economically unsound. The standard of work under any system of compulsion will naturally be inferior to that of voluntary workers; and in addition the fact that compulsory labour is available tends to discount enterprise and progress by diverting attention from the possibilities of labour-saving machinery."

Referring to an occasion when forced labour was used on road construction in a province of Madagascar, Mr. Victor Augagneur, Honorary Governor-General of the Colonies and ex-Minister, writes: "The output resulting from the system in the shape of the progress of the work was indifferent, and if the system had had to be generalised and extended to the whole island, as many overseers would have been needed as workers." ¹

In a more recent work, the same authority declares that "nothing will be obtained from measures of compulsion, the putting into force of which would necessitate an expensive organisation and would be an attack on human liberty, which, independently of its tyrannic character, would be met by resistance at first passive but easily becoming active." ²

A more detailed example of the economic effect of recourse to forced labour is given in Major Orde-Browne’s report on labour in Tanganyika:

"The Public Works Department is also responsible for the employment of considerable numbers, according to the programme approved for the year. The method of recruiting for this Department is at present unsatisfactory, and is responsible for most of the compulsory labour which has to be requisitioned for 'works of public utility'. The rate of wage is fixed by the Central Wages Board, and this frequently does not correspond with the figure obtaining in the district where the work is being carried out; estimates, which naturally have to include the cost of labour, are

prepared many months in advance, and it thus often happens that the wage offered by the Department is considerably below that obtainable from recruiters or private employers. The labour obtained is thus inadequate and unsatisfactory, and the undertaking drags on for a much longer period than is really necessary, the supervision and skilled labour allotted to the work being thereby impeded and to some extent wasted. The approach of the wet season thus finds the construction only half completed, and consequently liable to suffer considerable damage if not adequately protected; an urgent appeal is made to the administrative officer concerned, who is informed that the work is essential to save serious loss of Government funds.

"This call comes just at the time when most natives are busily preparing their land for planting; it is in consequence most unpopular, and also detrimental to the economic interests of the locality. Parties are therefore called out for short periods only, being replaced by others at frequent intervals, so as to equalise and minimise the burden. This entails a constant teaching of work to newcomers, a disheartening and wasteful task for the officer-in-charge, and the undertaking is eventually finished hurriedly and probably unsatisfactorily, in a race to complete it before the wet weather.

"Such procedure is obviously uneconomical from the point of view of the Department, while it is apt to entail compulsory labour at a time when this is specially unpopular and undesirable." 1

Major Orde-Browne implies that one of the reasons why forced labour is uneconomic is that the possibility of its use is a constant temptation to the authorities to neglect the encouragement of voluntary labour.

That the result of resort to compulsion is the non-encouragement of foresight and initiative among employers, whose labour is provided for them without effort on their part, has been alluded to in the preceding section on the educative value of forced labour. The passages there cited have an economic importance also. Though the claim that forced labour may be immediately economically advantageous is still sustained, in spite of the plentiful evidence to the contrary, of which some examples are given in this section, it does not seem possible to dispute that its long-run effects cannot be other than economically bad.

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§ 312. Criteria justifying recourse to forced labour. — The White Paper issued by the British Government concerning compulsory labour for Government purposes in Kenya, which has already been cited, suggests a criterium by which recourse to forced labour might be justified, to which attention has perhaps not sufficiently been drawn. It seems clear that if native peoples appreciate the value to themselves of the work to be done, or can be brought to appreciate it, not only will they the more readily acquiesce in compulsion (in fact, compulsion may not, and often is not, necessary in such cases), but the psychological and moral ill-effects of compulsion which have been noted above will not result, or will result in less degree.

"It is generally admitted by those who oppose the principle of compulsory labour", states the White Paper in question, "that there are certain services of recognised public utility for which in the last resort the Government has the right to claim the services of individuals. The extent, however, to which this should be done is limited by the degree in which those who are thus compelled to give their labour understand the social utility of the works on which they are employed. From this aspect, the case of the African native presents much difficulty. However necessary for the development of the Colony the works to which he is put may be, it is not to be expected that he will readily appreciate their necessity when he is called upon to take part in them far outside the limits of his tribal territory; and there will be no mitigation on this account of the distaste and resentment naturally produced by the use of compulsion."

Similarly, the Governor of Uganda, in a memorandum to his officers dated 7 August 1923, states:

"The conditions and limitations under which I should normally ask the sanction of the Secretary of State to employ this class of labour are as follows:

"(1) the nature of the public works on which this class of labour is to be employed must be such that the direct benefit derived therefrom by the native community supplying the labour is apparent or clearly demonstrable to that native community itself. . . ." ¹

Other criteria having reference to the essential, necessary, or urgent nature of the work to be carried out, and the impossibility

¹ Uganda: Memorandum No. 5741.11, 7 August 1923.
of securing voluntary labour have been suggested by various authorities. In the Uganda memorandum quoted above, for example, the Governor states: "First and foremost, I cannot for a moment consider any request for the reintroduction of compulsory labour for normal recurrent services; and we must endeavour by improved conditions and special inducements to recruit sufficient labour voluntarily for the performance of these services."

The limiting of recourse to forced labour to exceptional occasions is vigorously expressed in a recent and important report of the Labour Commission of the French Higher Council of the Colonies. This report, after abandoning any general obligation to labour as "being of a nature to injure that respect for individual liberty which is the basis of the institutions of the French Republic and to open the way to all kinds of abuse both by Administrations and by private individuals," goes on to state that "forced labour (the requisitioning of labour) may be decreed temporarily or locally, but always as an exceptional and rigorously temporary measure, in the interest alone of the State or of the communities concerned, and accompanied by every desirable guarantee for the protection of the workers." ¹

Even in regard to local sanitation services, for which, in general, the burden of compulsory labour is lighter upon the individual than in the case of important public works, the policy of the Tanganyika Government is to abandon the use of forced labour for normal continuous services:

"Where the service required is one which in a civilised country would be performed by a local authority against a rate paid by the individual, unpaid labour may for the present be requisitioned, but our policy should be gradually to substitute payment in money instead of in labour." ²

The tendency is, then, to stress the exceptional nature of the work to be done as a criterium justifying recourse to forced labour. Its generally admitted economic wastefulness supports the suggestion that there should be no recourse to it when voluntary labour is available. On this point the memorandum of the Governor of Uganda may again be cited: he is prepared, he states, to ask the Secretary of State for the Colonies for his authority to utilise forced

² Tanganyika Territory: Circular No. 88 of 1927.
labour "when I am satisfied, after personal enquiry, that no other means exists of securing the labour required ".

§ 313. The authorities responsible for the enforcement of labour. — It appears to be a generally accepted opinion that forced labour should be exacted on no lower responsibility than that of the central authorities of the territory concerned. This report has already emphasised this point, and it will be sufficient here to quote one or two extracts.

"It is, however, in my opinion, preferable that special legislation should be enacted in each case where the necessity (for recourse to forced labour) may arise, or, at least, that the Governor should be empowered to declare by Order in Council or Proclamation that the necessity has arisen, and to specify the proportion of the adult able-bodied male population of a named district who are called upon by their chiefs to come forward, and for what period they will be required, and for what length of time the special emergency will continue. "

Regarding important public works, it has further been laid down in certain cases that compulsion should only be permitted after reference to the home authorities. As Mr. Winston Churchill, then British Secretary of State for the Colonies, stated in his dispatch of 5 September 1921 to the Government of Kenya, "the Government must refer to the Secretary of State for prior authority to utilise the powers of compulsion . . . and . . . such authority will only be given for specified works for a specified period."

Closely connected with this problem of the authorities responsible for the enforcement of labour is that of the extent to which power can be left in the hands of the tribal authorities, and the effects of tribal forced labour. Two weighty criticisms, one explicit and one implied, may be mentioned of the disadvantages resulting from allowing too great latitude to the native authorities in such cases.

Lord Lugard criticises the resulting form of forced labour in the following terms:

"Tribal forced labour is, however, even less justifiable than a Government corvée for public works would be. To urge the sanction of native law and custom is absurd, for that customary law would sanction slavery and many other things contrary to humanity.

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1 Lord Lugard: The Dual Mandate in British Tropical Africa, 1922, p. 413.
If labour is employed at all under such conditions, it should only be by special rule, promulgated, with the approval of the Governor, by the native authority, for purposes of road repair and sanitation.”¹

Secondly, Mr. Ormsby-Gore, British Parliamentary Under-Secretary of State for the Colonies, emphasised in his report on his visit to West Africa in 1926 the danger that native authorities, left to themselves, may tend to make costly mistakes. The application of his remarks to cases of the utilisation of forced labour is self-evident:

“In fact, the danger has been that individual native authorities in their zeal have devoted misdirected energy to the construction of difficult and badly graded roads for want of a skilled survey, and have in other cases constructed roads without regard to the general requirements of their neighbours or the country as a whole.”²

§ 314. **Cases of emergency.** — It has often been recognised that forced labour in cases of emergency (fire, flood, epidemics, famine, etc.) not only is an administrative necessity, but also has not the evil psychological effects produced by certain other forms of forced labour.

Major Orde-Browne, for example, writes:

“Another instance in which a measure of insistence would appear justified is communal activity for the benefit of the whole population. Measures for combating the encroachment of tsetse fly, or combined exertions for the extirpation of destructive animals such as baboons, and other similar efforts, are frequently efficacious only when carried out by the largest possible numbers employed simultaneously for a very short while; so that the employment of a paid gang does not meet the requirements of the situation. In such cases, the Native Councils might well issue orders for a general effort, which would, indeed, be a measure of organisation rather than compulsion.”³

The Governor of Tanganyika in his covering despatch to Major Orde-Browne’s report states:

“I would remark ... that the native has shown himself ready to come out in organised gangs for the purpose of clearing bushland

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¹ Lord Lugard: *The Dual Mandate in British Tropical Africa*, 1922, p. 408.
² Mr. Ormsby-Gore’s Report on his Visit to West Africa during the year 1926, Cmd. 2744, p. 30.
in order to combat the encroachment of the tsetse fly, and I have had a case before me recently in which the chiefs came to Dar-es-Salaam to ask me to arrange for a campaign against the fly in their country, stating that their people were becoming very anxious owing to the encroachment of the fly and would be only too willing to give their labour if something could be done to assist them."

The remark upon the willingness of native populations to give their labour in cases of emergency which they understand is borne out by many other observers, and it seems clear that the power to requisition labour in recognised emergencies — a power which exists in all civilised communities — is not likely to have the ill-effects noted as accompanying forced labour in other circumstances.

§ 315. Public works. — The larger public works, such as the construction of railways or road systems, have been the subject of much attention and criticism. Their size and the number of workers employed upon them, besides bringing them more to public notice, has special dangers which are less evident in other cases of compulsion, and the literature on this subject is particularly unhappy reading. The selection of opinions given here is chosen with a view to illustrating certain of the more obvious evils which result from forced labour for public works and the need for careful precautions and regulation before any recourse to it should be permitted.

§ 316. In the first place, much criticism has been directed towards the forced employment of women and children. It is easily comprehensible that humanitarian feeling should be aroused on this matter, but it is also obvious that its lasting evil effects may be, when the future of the race is considered, even more important than the present sufferings of the victims.

As has been noted in the present report, most legislation forbids the imposition of forced labour upon women and children, but there is much evidence in contemporary writings that the law is often broken. Whether as a result of native custom among peoples whose women habitually perform much manual labour or as a result of direct imposition upon them, women and children are in fact frequently found working under compulsion.

That the mere enunciation of the illegality of the employment of child or female labour may be ineffective without the active
collaboration of the administrative officers can be seen from the following statement by Archdeacon Owen:

"Most of my protests against the illegal calling out of women and children were given sympathetic attention by district officers, but the abuse continued. Blame has been ascribed to headmen and husbands, who, it was argued, were too lazy to do road work themselves, but the fact remains that we made an unparalleled demand for road construction at the same time that every effort was being made to get the men out, away from their wives and mothers, into Government, settler, and mission employment, outside the reserves. The result was female and child labour illegally compelled to come out on road work." 1

§ 317. Much has been written, again, on the evil which results from taking workers far from their homes, primitive peoples generally being characterised by an inability to resist changes in climate and food, and above all the depression of an alien atmosphere.

The French Minister of the Colonies, speaking in the Chamber of Deputies on 23 November 1927 regarding the construction of the railway line from Brazzaville to the Atlantic, said:

"The morbidity and mortality at one time rose to disquieting proportions ... in my opinion an initial error was committed: an attempt was made to hasten unduly the construction of this railway. To accelerate the work an agreement was come to with the company responsible for the major portion of the line, the Batagnolles Company, putting 8,000 workers at its disposal. Undoubtedly, this was a number in excess of the colony's possibilities. It was therefore necessary to recruit workers hundreds and even thousands of kilometres away, as far as the Tchad and Oubanghi districts. The result was that in this equatorial region requiring special acclimatisation people were brought to work who were evidently incapable of enduring the climate and conditions of employment." 2

Here may be added the following statement of Father Le Grand at the Belgian Colonial Congress held in February 1926:

"The situation in Katanga with regard to the transport of

1 Manchester Guardian, 23 April 1927. In Kenya, it should be recalled, it is an express standing instruction that if male natives send women and children to perform their labour on the maintenance of roads, such women and children are at once to be sent back by the person in charge of the work and the defaulting male prosecuted. (Parliamentary Debates, House of Commons, 14 November 1927, col. 612.)

2 Journal officiel de la République française, 24 November 1927, p. 3185.
workers leaves much to be desired. . . . During the first few days the caravan moves on joyfully and thoughtlessly as the natives are still in their own district. At the end of that time, however, food supplies are getting low, the weaker members of the party begin to drag, the men and women have to carry the children, as well as the baggage and food. Presently some fall ill, so the party encamps and waits for them to recover. Next, the food supply gives out, and it becomes necessary to sell clothing in the villages on the way in return for a little manioc. At last, the decimated caravan, depressed and reduced in health, reaches the end of the journey. Its members are by now demoralised and homesick, and soon they begin to try to escape, preferring to die like men rather than feel like slaves. . . .”

Major A. Church, a member of the British East Africa Commission, summarising an argument in favour of compelling the local natives in Uganda to make their own roads, states that “it obviates bringing labourers from districts remote from the lake ports to work on them. There are grave disadvantages attached to this latter course in the country’s present state of development, economic as well as social. It has the effect of breaking up social and family life in the remote areas. It accelerates the depopulation of the country. It keeps large numbers of males away from their homes for long periods. It facilitates the introduction and spread of disease, mainly venereal, on their return. It has the general effect of retarding the development of these geographically less-favourably situated districts. It places heavier burdens than ever upon the women.”

A very similar comment is made by Dr. Norman Leys:

“Nowhere in tropical Africa is the European death-rate known to be so high as the African death-rate. When large numbers of Mara from the slopes of Kenya were sent to work on the Mombasa water-works, they sickened and died just as Europeans or Chinese would have, though there was a resident assistant surgeon in their camp. That is an illustration of how the existing industrial system actually spreads disease. For the migration of such labourers not only exposes them to new infections, but results also in the migration of the diseases themselves. This is specially the case with dysentery, epidemics of which are constantly breaking out in villages after labour gangs have returned to them. In former times, by contrast,
most epidemics tended to stop at tribal boundaries, since their human carriers did not cross them.”

Finally, on this point, the East Africa Commission reported as follows on problems of labour transport in general:

“There can be little doubt that one of the most important questions concerning labour in East Africa requiring the attention of the Governments is the care of labour in transit from the place of recruitment to the place of work. Most of the labour comes not by train but on foot, and the distances covered are often very great. A certain number of rest camps for such labour exist, but these leave a great deal to be desired from the point of view of sanitation and health. Constant watch should be maintained by the medical authorities in regard to the danger of the spread of spirillum fever and plague by migratory labour. The former disease is conveyed by ticks, which are apt to infest these labour camps, and the latter is carried by fleas from rats to human beings. Wherever financially possible, labour rest camps should be provided on all the main labour routes and continually inspected and properly staffed and supervised.”

§ 318. Many of the quotations already given illustrate incidentally the evil effects resulting from the inadequacy of the measures taken to safeguard the native workers’ physical conditions. It can easily be realised that the psychological influence alone of the fact that under a system of compulsion the labour unit costs less than under any other system of employment tends to lessen the precautions taken, while the unwillingness with which the forced worker performs his task makes him more liable to sickness.

During the debate upon the construction of the Brazzaville-Ocean railway in the French Chamber of Deputies on 23 November 1927, from which quotations have already been given, the Minister for the Colonies, justifying his belief that the measures being taken (reduction of distant employment, reorganisation of conditions of employment, strengthening of medical staff, improvement of rations) would improve the situation, stated:

“Limiting recruitment to the railway zone will by itself lead to a very marked amelioration in the position.... At the beginning of the work, when only workers used to the climate were used

coming from the districts traversed by the railway, the sanitary situation was satisfactory and mortality figures extremely low."  

In his book, *A l'Orée de la Forêt vierge*, Mr. Albert Schweitzer describes the miserable condition of the native when removed from his natural surroundings as follows:

"Workers brought from a distance are obliged to labour for a year because they have no means of getting back to their village, but very few become really useful workers. Many suffer from homesickness; others cannot exist on a diet to which they are unaccustomed. Fresh foodstuffs are not always available and it is sometimes necessary to give them rice. The majority of them drink spirits. Ulcers and other ailments soon attack these natives, who are crowded together in unhealthy huts. In spite of all precautions they waste their wages as soon as their contract is concluded and ordinarily return home as poor as when they came away.

"The negro is only good for anything whilst he is in his village where he has the moral support of his family and relations. Outside his normal surroundings he loses the few principles of morality he possesses. Aggregations of native workers are centres of demoralisation. Unfortunately traders and planters are forced to encourage the formation of such aggregations as they cannot exist without them.".  

Proper food supply, it will have been noted, is a very important element in safeguarding health, which appears frequently to receive insufficient attention. Not only must it be suitable to the habits of the people concerned, but it must be adequate in quantity and in nature to their new character as regular workers. The Nyasaland Superintendent of Census, writing of labour in general, considers

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1 *Journal officiel de la République française*, 24 November 1927, p. 3185. On 4 December 1928, the Minister for the Colonies made to the Commission for Algeria, the Colonies and Protectorates of the Chamber of Deputies a statement on the present situation of the work on this railway. In particular, be announced that he had given the most complete instructions regarding the assurance to the native workers of hygienic conditions calculated to reduce the mortality among them, and that he had suggested to the Governor-General of French West Africa the employment of five or six hundred Chinese workers, who would be better able to resist the conditions than were the natives so far recruited for the construction of the railway. He added that the mortality among the latter had undoubtedly been high, since at certain moments it had reached 57 per cent., but that the figures cited by certain newspapers had been exaggerated.

2 A. Schweitzer: *A l'Orée de la Forêt vierge*, 1923, pp. 129-130.
that "it is impossible to lay too much stress on the difference between the diet necessary for a native living his normal life and that required when he performs sustained manual labour either on his own account or for an employer." ¹

§ 319. Porterage. — Much evidence appears to show that of all forms of forced labour, porterage is the one to which the greatest objection is taken by the natives concerned. It has, writes Archdeacon Owen, "caused more misery in tropical Africa than any other form of labour. The Africans hate to be called upon to perform it, try to get out of it, and are flogged or fined". ²

Major Ôrde-Browne testifies not only to the unpopularity but also to the economic wastefulness of porterage labour:

"There now remains to be considered the question of labour which is wastefully employed in unreproductive work. The most conspicuous of these is that deplorable relic of slave days, the porter system of transport. The wastage entailed by this is almost incredible, and it is going on perpetually in every part of the country; while no doubt it is still to a large extent unavoidable in a country in such an early state of development, it should nevertheless be recognised as a real evil, to be decreased by every means in our power. Costly, slow, inconvenient, and intensely unpopular with most tribes, it represents a stage of development from which we should escape at the earliest possible moment. As an illustration of the amount of labour absorbed in this form of employment may be cited the figures for the station of Kilosa; during the year 1924, porterage for Government loads alone accounted for 400,000 working days, i.e. the entire labour force of a considerable plantation. In addition to this, there were probably even large numbers engaged by private employers, since the economic development of the country still largely depends upon head porterage. The above is a good example since it has been possible this year to introduce motor transport from Kilosa to Iringa, with the result that the former figure has already been largely reduced. Many other stations, however, present almost startling figures; in fact, the numbers required for Government transport alone must be positively colossal for the whole Territory." ³

² Manchester Guardian, 23 April 1927.
The Governor of Tanganyika in his covering despatch to the report quoted above states\(^1\):

"Government should press forward its road policy so as to eliminate the use of human beings as carriers, particularly of Government stores, and employers should make every possible endeavour to extend the use of mechanical labour-saving appliances."

A similar opinion is expressed by the Belgian Congo Native Labour Commission:

"Porterage, which leads to depopulation, should be abolished as and for commercial and industrial requirements on routes where other means of transport are practicable and reduced everywhere else as far as possible. In the future undertakings will not be allowed to spring up which necessitate the recruitment and employment of a large number of porters."

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§ 320. **Forced labour, direct or indirect, for private employers.**

Emphatic opinions have been expressed on the impossibility of sanctioning measures which directly or indirectly would enforce labour for private advantage.

Sir Hubert Murray, writing on Papua, states:

"To compel a native to work in the interest of a white man certainly has an unpleasant appearance and has been distinctly disapproved by the League of Nations; and, furthermore, it leads to nothing, for when it is all over the native is but little advanced. He has learned to chop, scrub and pick weeds, but it is quite possible that he may have learned little else. And if we are going to keep him till the end of time as an unskilled labourer working for the white man at a wage of two shillings and sixpence a week, I do not think he will have much to thank us for, and Australia will have definitely failed as a custodian of native races."

Mr. Ormsby-Gore, in reference to the development of the palm industry in British West Africa, has already been quoted as declaring that the British Government under no circumstances would undertake to provide compulsory labour for private profit in any British dependency\(^4\). He added: "Consequently I rule

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\(^2\) *Rapport de la Commission pour l'étude du problème de la main-d'œuvre au Congo belge, 1925*.

\(^3\) SIR HUBERT MURRAY: *Papua of To-day*, 1925, p. 270.

\(^4\) See § 251.
out any schemes for the development of the palm industry which involve (1) compulsory labour in any form, (2) compulsion to sell fruit at a particular price, (3) compulsion to sell to a particular individual or concessionnaire."

§ 321. Students of preceding chapters of this present report will have noted that direct legal compulsion to work for private employers is now rare. On the other hand, recourse is had to many forms of indirect or illegal compulsion, which are difficult to combat.

It is indeed evident that the problem of the abolition of forced labour for private employers is now not so much one of declaring it illegal as of laying down practical measures for suppressing it.

"It can quite well be understood," states a Portuguese Government report to the League of Nations, "that when they see their crops in danger and voluntary labour cannot be obtained, farmers employ all means to procure such labour even in violation of the law." 2

When to the prestige of the white man is added that of his standing as a Government official, it will be readily understood that natives find it difficult to appreciate the difference between persuasion or encouragement to take employment and direct compulsion.

Sir Charles Bowring, Governor of Nyasaland, wrote on this matter in the following terms: "There can, of course, never be any question of forced labour, whether by direct Government intervention or by methods which are sometimes referred to as 'moral suasion' but which frequently bear the stamp of immoral influence." 3

Professor Ross, who, after visiting Angola and Mozambique, published a report on the employment of native labour in Portuguese Africa, relates that the "Songo district . . . was so nearly depopulated by the Government recruiting for the plantations that in 1923 the High Commissioner decreed that for five years the Songos should not be recruited for work outside that

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1 Report by Mr. Ormsby-Gore on his Visit to West Africa during the Year 1926, pp. 107-108.
3 East African Standard, 3 March 1928.
district "1. In its reply the Portuguese Government stated that serious irregularities in fact occurred in the Songo district and led to the adoption of sanctions against several of the officials concerned 2.

Father Le Grand, criticising the work of the Commission appointed to study the problem of labour in the Belgian Congo, wrote as follows:

"The Commission is well aware that the 500,000 workers required by industry at the present moment will not offer themselves voluntarily to the employers. Only a very small minority will take this course. By what means will the remainder be obtained? It would be childish to suppose that this could be achieved by an intensive propaganda, particularly in cases where it is proposed to remove the natives from their surroundings and take them to a distance to work. Further, the desire for gain will not have the required effect since only partly civilised populations are sufficiently susceptible to this desire to wish to take on a long-term engagement. Neither will moral pressure which respects the liberty of the black population achieve the necessary end. Every colonist knows that this system has failed. At present the measures taken under cover of this last system are hardly ever anything but a detestable compulsion, at least in cases of long-distance recruitment. . . . Forced labour may be defensible in cases of great public emergency and under certain conditions, but never when it is to be used for the benefit of private interest. Indirect compulsion of forced labour is the crime of Pontius Pilate; it is and always will be immoral and unworthy of civilised peoples." 3

§ 322. One official opinion may be quoted of the inadvisability of a modern Administration enforcing labour for private employers by the imposition of taxation which the native cannot pay unless he goes into employment.

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3 L'Essor colonial et maritime, 30 May 1925. In the same journal on 13 June 1925, Mr. Octave Louwers, in reply to Father Le Grand, pointed out that this principle of free labour formed the basis of the system recommended by the Commission. "Human dignity and the liberty of the native must be respected" was the basic principle of the report. Mr. Louwers called attention to the fact that there was no single word in the report which approved or authorised compulsory employment either directly or indirectly for private undertakings.
The Governor of Tanganyika, in his covering despatch to Major Orde-Browne’s report upon Labour in Tanganyika Territory, states¹: “Coercion of labour by pressure of direct taxation is little, if anything, removed from coercion of labour by force; the latter is the more honest course.”

In short, Lord Cromer has expressed general public opinion on this matter when he stated that he regarded the system of forced labour when employed for private profit as “wholly unjustifiable and as synonymous with slavery” ².

² LORD LUGARD: The Dual Mandate in British Tropical Africa, 1922, p. 410, footnote.
CHAPTER VII

PRINCIPLES UNDERLYING THE REGULATION OF FORCED LABOUR

§ 323. Forced labour has thus led to a large amount of national legislation, ranging from its total prohibition in certain forms to the more or less strict regulation of other forms. The early legislation in each area usually takes the form of an authorisation permitting the Administration or its officials, sometimes also private persons or companies, to have recourse to it. Legislation of a second stage has been motived not only by concern for order and for the practical efficiency of this form of labour, but also, and probably principally, by the desire to avert as far as may be possible the abuses which have arisen in the past and the evils which have been associated with it. In other words, like the labour legislation of advanced industrial States, it is social legislation devised for the protection of the worker as individual and as member of society, and for the protection of society against the social evils which arise always from the existence within it of depressed, exploited or discontented groups. Again like modern labour legislation, it has been profoundly influenced by the opinions of observers moved primarily by such humanitarian considerations as are succinctly summarised in the analogy between forced labour and slavery drawn by the Temporary Slavery Commission and expressed in the Slavery Convention.

§ 324. From an examination of the legislation and the opinions summarised in previous chapters, it seems possible to deduce the principles which underlie, or which should underlie, the regulation of forced labour, where it is still permitted, with the triple object of removing from it any conditions which still render it "analogous to slavery", of avoiding the evils associated with it, and of providing for its abolition.

In the present chapter an attempt is made to survey the whole field of forced labour and to single out and formulate, in the light
of the information given in the earlier parts of the report, these underlying principles, not only with regard to the general question of forced labour, but also in regard to certain matters where its particular application has called for regulatory enactment or has led to the suggestion that such enactment should be made.

The collection of these principles may, it is hoped, form a basis for the further consideration of the question as to how far international agreement concerning them, or some of them, will be beneficial in promoting the welfare of the populations concerned.

Before examining these, however, it might be well to point out that the whole tendency of an administrative policy might be such as to lead to demands for forced labour. Such demands might, for example, result from a policy of forcing economic development at too rapid a pace, outdistancing the capacities of the population and the available supply of voluntary labour. Similarly, the arrival of white settlers or the granting of concessions to aliens leads inevitably to demands which voluntary labour may not be able to satisfy.

It might then be accepted as a fundamental principle that:

*The general policy of an Administration should be based, so far as the economic development of a country is concerned, upon considerations of the amount of labour available, the capacities for work of the population, and the evil effects which too sudden changes in their working habits may have on their social conditions.*

I. — On the Criteria Justifying Recourse to Forced Labour, and the Authority Responsible for its Imposition

§ 325. It would seem that it is the generally accepted view that any recourse to forced labour of whatever kind should be had only under severe restrictions, the first of which is that the necessity of the case should be amply demonstrated. Emergencies, such as fire, flood, famine and other circumstances (including war) where the national or communal existence are threatened, justify extreme measures in all lands, but in all other cases it would seem necessary that Administrations should be assured that no alternative to forced labour is possible.

Two international decisions bear on this point. The texts of the Mandates insist on the prohibition of forced labour, except for *essential* public works and services; the word "essential"
being clearly intended as a limitation on the recourse to forced labour. The Temporary Slavery Commission retained the same phrase. Nevertheless its exact meaning led to long discussions in that Commission, as also in the Mandates Commission, and it has been omitted from the Slavery Convention. What it implies above the element of public necessity would appear best defined by additional criteria.

Of these one was suggested by the Assembly itself, which, in adopting the Slavery Convention with its omission of the word "essential", passed a Resolution to the effect that as a general rule "forced labour should not be resorted to unless it is impossible to obtain voluntary labour".

A further criterion has been postulated by some authorities on this question, and is perhaps also implied in the use of the word "essential" in the texts of the Mandates. It is that forced labour should be employed only when the urgency of the work to be done is manifest. This introduces the time factor; given time, the Administrations are able to take measures to attract voluntary labour, and if that is possible, it should, in accordance with the above-quoted Resolution of the Assembly, be done.

The necessity in any particular case of recourse to forced labour should then be judged by these first three criteria:

(i) The necessary and public character of the service to be rendered or the work to be carried out;

(ii) Its actual or imminent necessity;

(iii) The impossibility of obtaining voluntary labour.

But "necessity" itself is rarely absolute, and a further criterion has been taken into account recently by most Administrations, and has in fact been widely discussed in connection with the grave question of depopulation. A given piece of work, such as the construction of a railway, may appear to be "essential" to the rapid development of a colony, but its carrying out may prove to be a bigger burden than the present population can support. Future benefit (always more or less problematic) may be obtained at a cost too high in the diminution of present welfare. This fourth criterion, then, might be put as follows:

(iv) That a work or service which will involve the use of forced labour should only be undertaken after careful consideration whether it will not lay too heavy a burden on the present generation, having regard to the labour available and its capacity to undertake the work.
§ 326. The above four are general criteria applicable to the whole subject of forced labour, for any purpose whatever. They pose questions which should be answered to the satisfaction of the authority which permits the exaction of forced labour before any such permission is given. But their formulation raises at once the important question as to what is the authority responsible for the imposition of forced labour. The last paragraph of Article 5 of the Slavery Convention supplies an answer:

"In all cases, the responsibility for any recourse to compulsory or forced labour shall rest with the competent central authorities of the territory concerned."

The object of this clause, and in particular of the use of the word "central", seems to have been the abolition of the evils which have been so often associated with the abuse of power by smaller local authorities or individuals. The "competent central authorities" include the legislative as well as the executive authorities, so that there is nothing here to forbid the delegation of some powers in regard to forced labour to local authorities, by legislation or otherwise, but the responsibility for its recourse rests with the central authorities.

It would not appear that this principle should be changed. It is only the central authorities who are in a position to take full account of all the circumstances of the territory and therefore to employ adequately the four criteria above mentioned. As is well known, British practice in certain East African Dependencies goes even further in the same direction, for the undertaking of important constructional work demanding forced labour is not permitted to the Governor and the Administration without the prior sanction of the Government of Great Britain.

The provision of the Slavery Convention, however, does not appear to need strengthening. The intention of the Temporary Slavery Commission had been to provide that in all cases responsibility should rest with high authorities, whether these authorities were located in the territory or not. The suggested principle is therefore that of the Convention given above.

II. — On Forced Labour for General Public Purposes

§ 327. The conclusions to be drawn here with regard to forced labour for general public purposes differ somewhat according to the nature of the object for which the forced labour is employed.
(1) Cases of Emergency: Fire, Flood, Famine, etc.

§ 328. It does not appear that in such cases as these all the safeguards which might be desirable can in the nature of things be taken. The four criteria above mentioned, namely, the essential nature of the service to be rendered, its urgency, the impossibility of finding voluntary labour, and consideration of the welfare of the existing population are all, in general, satisfied, and it would often be impossible to await, before taking action, the approval of the competent central or more distant authorities.

Cases of emergency might then be excepted from the general plan of precautionary measures and of the regulation of the conditions under which the forced labour is to be carried out. It would however appear desirable that some indication of what are to be considered emergency cases in this connection should be laid down, and this might be formulated as follows:

By the term "case of emergency" is understood any occurrence such as fire, flood, earthquake, violent epidemic, invasion of locusts, and so on, endangering the well-being of the whole or a part of the population, and the event of war.

The decision as to what is and what is not a case of emergency for which forced labour should be employed should rest with the Administration. In cases where a local authority is called upon to take immediate action, when consultation of the central authorities is impossible or would be disadvantageous, it appears desirable that the local authority should report as soon as possible to the central authorities on any emergency case where forced labour is employed.

(2) Important Public Works

§ 329. It is in connection with forced labour for important public works (construction and sometimes maintenance of railways, main roads, wharves, drainage, irrigation works, and so on) that the evils associated with forced labour are generally found to be most intense. They may be summarily indicated here.

In addition to the effects upon individuals of the imposition of regular labour to which they are unaccustomed — effects which are frequently disastrous unless prolonged gradual habituation is possible — there are grave social dangers. Wherever large bodies of workers are removed from their villages and their families and
herded together for some large constructive work, a number of intensely important problems arise. Away from the milieu to which they are accustomed, their morale rapidly degenerates. The absence of their wives tends to encourage abnormal sexual habits; the cessation of the tribal authority which they respect and which provides the sanctions of their code of conduct leaves them unguided amid strange circumstances; they lose their own standards without gaining new ones; their "religio" fails them. They suffer severely from climatic change, possibly even more severely from changes of diet. Usually they are excessively liable to attack by diseases with which they come into contact for the first time, more especially tuberculosis and venereal disease. In close contact with each other, the onset of highly infectious disease decimates them. In recent cases where statistics have been made available, appalling rates of mortality, up to 10 and even 12 per cent. per annum, have been recorded.

These effects fall for the most part upon the workers concerned themselves; there are other results which affect the community from which they come and of which account must be taken. Those due to their absence include at times a lack of workers for the needs of tribal or village cultivation, with resultant famine. The effects on family life of the absence of the adult males have been frequently noted. The return of the workers to their villages at the termination of their period of service may introduce there the ills from which they suffer. The dissemination of syphilis, hookworm, yaws, tuberculosis, and other maladies is frequently attributed in medical reports to the going and coming of workers.

Compulsion for labour of this type further appears to involve certain measures of which the moral effect upon the natives concerned cannot be otherwise than bad. The workers are sometimes moved to the workplaces under armed guard; there is evidence that they are at times roped or chained together to minimise the possibilities of escape; escaping workers run the risk of being shot down; armed guards are necessary at the workplaces, and so on.

Under these circumstances, to speak of the moral or educative value of forced labour seems mockery. Forced labour is in fact, from this point of view, a blind alley, the forced worker is not likely to acquire a taste for work; on the contrary, all the associations of compulsion tend to give him an active distaste for it.

It is to be noted, however, that forced labour which does not involve the transference of workers to long distances from their
homes and for long periods appears to be often realisable without these concomitants of compulsion. The questions therefore of the duration of the period of compulsion and the distance of the workplaces from the workers' homes assume an added importance.

So long then as forced labour of this type is considered to be permissible, it seems obvious that the criteria laid down in the early portion of this chapter justifying recourse to forced labour should be very strictly applied, and that, further, careful regulations should be made governing the conditions of labour in regard to:

(a) the persons liable to it;
(b) their health during the period of the work;
(c) their habituation to regular labour;
(d) the general conditions of their labour, its duration, hours of work, payment, compensation for accident, etc.;
(e) the period of the agricultural year during which forced labour should be imposed;
(f) the return of the workers to their homes;
(g) the control of the execution of protective regulations.

§ 330. (a) As to the persons subject to this type of forced labour, it seems clear from all points of view, including the economic, that only adult males should be chosen. This is in fact frequently stipulated in legislation on the matter. In addition, care should be exercised that those taken are medically fit for the labour in question, for the journey which may be necessary, and for the changes of climate and food involved, and are not, by reason of contagious disease, likely to be a menace to their fellow-workers. A further question concerns the proportion of adult males which can safely be taken from any given community at one time. It has been found in practice that account should be taken in this connection of the functions of the adult males as protectors and as workers, as well as their place in domestic life; otherwise there is risk of serious injury to the well-being of the community concerned. The distance to which the forced workers are to be taken is also a factor to be considered, since upon this depends the possibility of their maintaining contact with their families and their social organisations.

These considerations might be summarised as follows:

(i) Women, children, the aged and the medically unfit should not be subject to forced labour for general public purposes.
(ii) Adult males who are taken for forced labour on important works of construction should be medically certified beforehand to be capable of supporting that labour and any hardships which may be attached to its performance, and to be free from contagious disease.

(iii) From any given community there should not be taken for forced labour of this type more than a certain proportion of the resident adult male population, which proportion should be determined by the Administration after full and careful examination of all the circumstances which should be taken into account.

As has been seen from the foregoing pages, many colonial Governments admit exemptions even amongst the able-bodied adult males. Soldiers, chiefs and officials of the Administration are usually not liable to forced labour. In some instances men under contract to an employer, or otherwise in regular employment, and in other cases men who, though they are not at the moment in regular employment, have been employed for a given period during the year (whether on forced or on voluntary labour) are also exempt.

The policy of leaving at their work men who are in regular employment appears to be advantageous from all points of view, but as usually expressed in legislation it does not meet the case of workers on their own account. It would seem just and necessary that workers who are satisfactorily employed on their own plantations or as craftsmen on their own account should be equally left undisturbed. As a measure for the encouragement of industrious habits, this is perhaps likely to be even more effective than the exemption of workers under contract to employers.

In practice, however, it is generally considered to be very difficult, if not impossible, to secure the satisfactory application of legislation providing for exceptions of this kind, except where the social organisation of the community concerned has reached a certain stage of advancement, and the administrative organisation a relatively high degree of efficiency. It may further be observed that the imperious necessity which alone satisfies the criteria which have been laid down for the justification of recourse to forced labour will frequently be such that questions of this kind are overshadowed by the needs of the case. It does not therefore appear to be practicable to do more in this connection in the present report than to call attention to these kinds of exceptions.

§ 331. (b) Health measures during the period of work. — That adequate means are available for the satisfactory hygiene and medical care of the workers should be a first condition in all recourse
to forced labour of this type. No argument is necessary to support this from the humanitarian point of view, and all experience has emphasised the economic advantages of thorough medical and sanitary provision.

In certain cases noted in this report the law relating to the conditions of labourers under contract to an employer has been extended, in so far as its provisions in regard to hygiene are concerned, to the conditions of forced workers also. This method has its advantages, but it omits to take account of certain factors in regard to forced labour. The employer of the workers under contract has a direct interest in the maintenance of their health during their period of contract; that interest tends to be less directly felt when the "employer" is an Administration, and when sick, disabled, and dead workers can be replaced by the relatively easy method of compulsion. The economic incentive to hygienic care is not so intensely present as it is in the case of the private employer of voluntary workers who naturally wishes to obtain the best output possible from them, and who further wishes to secure the reputation of being a good employer in order that he may retain the workers he has and readily find others.

It would seem, then, that the hygienic and medical provision made in the case of forced labour of the type now under consideration should be more extensive and more highly efficient than that demanded from employers of voluntary workers.

Circumstances vary so greatly that it seems impossible to lay down any but the most general bases for regulation of this matter. Whilst it is clearly not practicable to demand the establishment of complete medical services in places where few workers are employed, it is nevertheless essential that for all workers, and under all circumstances, medical aid should be rapidly available. The bases of the regulation of the matter might then include:

(i) Medical examination of each forced labourer at stated intervals during the period of compulsion, in order to determine whether he is still able-bodied in the sense in which he was so certified to be by the medical examination prior to his being taken.

(ii) Provision of a sufficient medical staff to carry out this examination and to give any treatment which may be revealed to be necessary.

(iii) Provision of the necessary dispensaries and hospitals and their staffs, including what is necessary to meet cases of accident.

To maintain the natives in good health it is necessary to take account of their moral as well as physical requirements. Certain Administrations have found it advantageous in this respect to
group together natives from the same tribe, to put them in charge of chiefs or headmen known to them, to provide amusements, and so on. The circumstances which must govern the determination of such matters, however, necessarily vary, and each Administration must decide in each case what social measures are necessary to reinforce the strictly medical requirements.

The preventive side of the hygienic question appears to be as important as, if not more important than, the provision for the treatment of disease and accident. It includes the questions of sanitation, water-supply, food, housing, and clothing, and here again no general regulations can be laid down. In some cases, for example, it may be necessary to supply food where it is difficult for the native to procure it locally, while elsewhere if plenty of food is available it is considered better to allow the native to buy his own food. Similarly, it may in certain circumstances be necessary to provide the natives with fuel and even cooking utensils. The following proposal, however, may sum up the whole question:

(iv) Before forced labourers are taken for any general public purpose, the Administration should satisfy itself that medical staff, dispensary and hospital arrangements adequate to meet any probable contingency are available, and that adequate measures have been taken in regard to the sanitation of the workplaces, the supply of water, of food suitable to the needs and habits of the workers, and, where necessary, of housing and clothing.

The Administration should promulgate regulations governing these matters.

A further matter for precaution arises in cases where workers are transferred to areas where climatic conditions are very different from those to which they are accustomed. Without prejudice to the question as to whether this should or should not be permissible, it must be pointed out that if it is permitted the hygienic safeguards to be taken should include, in addition to those above mentioned, some means by which the acclimatisation of the workers can be assured. In some cases they appear to be moved to the workplaces by easy stages, a method which may have some advantage if circumstances permit recourse to it and the periods for acclimatisation are sufficiently long.

The process of acclimatisation includes, it should be added, habituation to the changes of diet which changes of climate impose. In short:

When men are transferred to work under compulsion in districts where the climate and food differ considerably from those to which
they are accustomed, the change in diet should be introduced gradually and all possible measures adopted to mitigate the effect of the change in climate.

§ 332. (c) Habituation to regular labour. — Experience has shown that the transition from the customary habit of life to the conditions of regular labour under control if made too rapidly has bad effects on the worker, and where the nature of the work for which forced labourers are requisitioned differs widely from that to which they are accustomed, it would appear that some process of habituation should be employed. In this connection the measures proposed for workers to be employed in the Katanga district of the Belgian Congo may be noted. The period of three to six months of special food, acclimatisation and habituation to regular labour therein recommended can hardly be insisted upon here, however, in view of the fact that the usual circumstances under which forced labour is exacted would rarely permit such preparation of the workers. It seems all the more necessary, therefore, that all other habituatory measures which may be possible should be adopted.

In particular, it might be suggested that the hours of labour should, in the first instance, be short, and should be extended only gradually to the maximum permissible.

Here falls also the question of the diet suitable for hard physical work. General experience appears to indicate that a diet sufficient to maintain native workers in normal health under their usual conditions of life must be supplemented, particularly in regard to proteins, when they are called upon to undertake regular physical labour. A too rapid change of diet presents, however, certain risks, and the initiatory period might well be utilised for a gradual habituation to new dietary conditions.

It may be added that much recent opinion tends to correct the frequently expressed idea that the African is lazy and incapable. It is now recognised that the alleged laziness and incapacity are often due to such enervating diseases as hookworm and to the inadequacy of the food supplied.

The question of habituation might be summed up as follows:

In cases where forced workers are called upon to undertake labour of a kind to which they are unaccustomed, measures of habituation should be adopted, notably in regard to the hours of labour and to the amelioration or augmentation of the dietary which may be necessary.
§ 333. (d) The general conditions of labour. — (1) Duration. It should be recalled that the forced labour at present under discussion is that for important public works, such for example as railway construction, which are usually of long duration, involving a prolonged absence from home on the part of the worker, with certain social evils as a consequence.

It is certain that these social evils can be much mitigated by restricting the period during which the worker is under compulsion to be absent from home.

To be sure, if such a maximum is fixed the Administration may be compelled to resort to successive requisitions for the same piece of work. The result may be a multiplication of the moral depression caused among the native communities by the departure of each gang. Moreover, the removal of natives is always dangerous to their health and by calling up new levies this time of danger would be repeated. Thirdly, the result would be to substitute untrained recruits for workers who had already learnt their tasks, thus lengthening the duration of the work and possibly necessitating the retention of a larger number of workers. Lastly, the chances of the spread of disease following upon the return of the workers to their homes would be increased.

Nevertheless, these are practical disadvantages arising from the use of a form of labour which, however necessary, is socially antiquated. If, as is generally agreed, forced labour should always be regarded as an exceptional measure, arguments which appear to be based on the assumption that it is a normal form of employment lose their value. If, as is also generally agreed, the regulation of forced labour should lead up to its eventual abolition, it cannot be argued that an essential feature in this regulation should be omitted as being likely to hinder the utilisation of forced labour.

The Assembly of the League of Nations described the work undertaken by the International Labour Office in attempting to secure international agreement for the regulation of forced labour as a study of the means of preventing the latter from developing into conditions analogous to slavery. Between forced labour of unlimited duration and slavery there may be a legal distinction. But the practical analogy is very close. It is not enough that forced labourers shall be well cared for, remunerated and fed. The system must be purged of all features of a slave character, and any provision by which a native may be kept at forced labour for an unspecified period would be a condition most strikingly analogous to slavery.
Thus the fixing of a maximum duration is essential. Such a maximum is in fact contained in practically all legislation on the subject. The same considerations weigh in favour of the maximum being fixed at a limit within the grasp of native mentality and without undue danger to communal life. Exceptions may be provided for cases where labour has to be brought considerable distances. These, however, should be regarded strictly as exceptions applicable only in special circumstances.

The underlying principle may therefore be expressed as follows:

*The period fixed by the Administration should normally not exceed sixty days in the year and, in cases where labour is to be brought from a considerable distance, should not exceed six months*.\(^1\)

Consideration of this matter raises the further point that where it is possible for a forced worker to return to his home at intervals the social evils referred to above are less likely to arise. Emphasis has also been laid upon the beneficial moral effect upon the workers themselves, and especially upon those who may be ill, of the possibility of a return to their homes and their kindred. Nevertheless, though this is a consideration to be kept in mind, the enunciation of a principle does not appear necessary if the normal maximum duration of forced labour does not exceed sixty days.

(2) *Hours of work.* The considerations given above concerning the gradual habituation to regular labour should here be recalled. Novices should not be expected to do a full day’s physical work from the commencement.

As regards the full daily task, the consensus of opinion appears to be that even for experienced men a working day as long as is expected from workers in temperate climates is not economic. There is in fact evidence that the best results have been obtained by the allocation of daily tasks which, with diligence, can be performed by the native in much less than eight hours. In any case it would seem that maxima should be indicated for the normal working day and working week.

*The normal working day, exclusive of breaks for meals or for rest, should not exceed eight hours and the normal working week forty-eight hours; piecework should be encouraged*.\(^2\)

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\(^1\) The above principle was adopted by the Committee of Experts by 5 votes to 3 with 3 abstentions. The conflicting arguments which were pressed in the Committee have been summarised in the preceding passage.

\(^2\) By “piecework” is here meant the allocation of a daily task. See preceding paragraph.
(3) **Payment.** In accordance with the rule laid down in the Mandates and the opinion expressed in the Resolution of the Assembly, and with general practice in regard to forced labour of this type, there is no doubt that it should always be paid. The point remains to be decided as to what constitutes, in the phraseology of the international decisions on this point, *adequate remuneration.*

In much legislation on the matter, as has been seen, the rate to be paid is the ruling market rates for labour of the district. In a British case cited above\(^1\), it will be recalled that the Secretary of State objected to the proposed payment of a lower rate. There seems to be no valid reason for suggesting that a lower rate should ever be paid; all the circumstances of the case would in fact tend to the conclusion that a higher rate, in some sense compensatory of the inconveniences involved, would be more equitable.

Several questions arise here:

(a) Workers may be transferred to an area where the rates of wages differ from those in their own area. When the rates in the area of employment are higher, it clearly appears necessary, if the just reproach of partial slavery is to be avoided, to pay the forced workers the higher rates. More difficult would be the position if it is in the area of recruitment that the wages are higher. It has been pointed out that to pay the higher rates may lead to the discouragement of voluntary workers recruited in the area of employment itself, and may result in the establishment in that area of a new standard of wages which the economic circumstances of the area may not justify. For this reason, while in special cases when the rates are much higher in the district of recruitment, the Administration may feel justified in paying the workers those higher rates, the general rule would appear to be that the rates in the district of employment should prevail.

(b) In calculating the rates of wages, what weight is to be attached to the supplies of necessary food, clothing and accommodation? In this connection the practice in civilised countries should be recalled. In almost all cases where workers are called upon, in the execution of their duties, to be moved from their usual places of residence (e.g. railway workers) they are either provided with food and accommodation free of charge, or are given equivalent allowances in money. Similarly, where special clothing has to be worn, it is frequently provided by the employer. Applying the principles

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1 See § 23.
underlying these practices to the case of forced workers, obliged to be absent from their homes, to adopt a special diet for the purposes of their work and special clothing, it would seem that under normal circumstances full deduction for this expenditure from the wages paid would not be justified; the utmost allowable would be the deduction of such expenditure on these objects as the worker would have been obliged to make, in any case, when left at his home.

(c) The general practice appears to be that payment begins from the moment the worker leaves his home and ends when he returns there, that is to say, the days occupied in travel are paid.

The question of "adequate remuneration" might then be summed up as follows:

(i) Forced workers should be paid wages at the ruling rate for similar kinds of work in the district in which they are employed.

(ii) The days necessary for travelling to and from the workplaces should be counted for the purpose of payment as working days.

(iii) Deductions from wages should not be made for special food, clothing, or accommodation supplied for the purpose of maintaining the worker in a condition to carry on his work.

There remains the question of payment for overtime. The almost universal practice is that hours worked in excess of the normal working day or working week are remunerated at special rates. The Washington Hours Convention lays down that at least 125 per cent. of the ordinary rate should be paid, and this appears to be about the average paid in Europe, though cases of both lower and higher rates are found. It may be considered difficult to lay down any exact rate, but it seems that the principle should be retained, and it might be worded as follows:

(iv) Hours worked in excess of the normal working day or the normal working week should be remunerated at rates higher than the normal rates.

(4) Workmen's compensation. The practice of allocating indemnities for workers rendered incapable by accident appears to be fairly widespread in connection with forced labour, but it is not universal. As to compensation for incapacity due to illness contracted at work, in no case does this appear to be paid.

Leaving aside the technical difficulties inherent in the circumstances, it would seem that compensation for incapacity due to accident or sickness arising out of the labour which forced workers are obliged to undertake is demanded by all humanitarian reasoning.
It seems, however, impossible to lay down rules either as to the amount of such compensation or as to the method of payment (e.g. in a lump sum or as a pension). Circumstances must be the guide. But the principle should be maintained, and it might be expressed as follows:

(i) The Administration employing forced workers should hold itself responsible for their future subsistence in cases where, owing to accident or sickness arising out of the circumstances of their employment, they are rendered incapable, or only partly capable, of maintaining themselves.

A similar principle is indicated for the case of the dependants of dead or incapacitated workers. The degree of dependency is of course here a very difficult question to determine, because of varying customs in regard to members of clans, tribes or other native communities and the circumstances of their communal life. But it would appear to be at least the duty of the Administration to make sure that any dependants of the dead or incapacitated worker should not be left helpless. The following might meet this case:

(ii) The Administration should satisfy itself that the dependants of dead and incapacitated workers are provided for, if necessary taking measures to assure their subsistence.

§ 334. (e) The period of the agricultural year during which forced labour should be exacted. — This question has occupied the attention of most Administrations. The crux of the matter is the necessity of the presence of a sufficient number of adult male workers in their villages at the periods of sowing and cropping, in order that normal food production should be maintained. The general native practice in regard to these matters in Africa appears to be that the men do the heavy work connected with preparation of the soil and with the harvest, while the women tend the growing crops.

It is obvious that the difficulty can be met in two ways: either by imposing forced labour only at epochs when the presence of the men is not essential to agricultural production, or by allowing their return to their homes for the sowing and cropping periods.

The principle to be observed might be formulated as follows:

In exacting forced labour, care should be taken that the labour necessary for the food production of the communities concerned is not imperilled. The minimum of forced labour should be exacted during the periods of the year when the presence of the men in their fields and plantations is necessary.
§ 335. (f) **The return of forced workers to their homes.** — It has already been suggested that the days necessary for travelling from the workplace should for the purpose of payment be counted as working days. The Administration’s responsibility cannot, however, stop there. Clearly, it must provide and pay for the quickest available means of securing the workers’ return.

The principle covering this point might read:

*At the end of the period of forced labour, the return journey of the worker should be facilitated by the Administration and at the Administration’s expense. For this purpose the Administration should make the fullest possible use of all available means of transport.*

§ 336. (g) **Inspection.** — The question of the control of the conditions under which forced workers are employed is a part of the general question of labour inspection in native areas. When a special labour inspectorate exists, the chief task of which is naturally the inspection of voluntary labour, it is presumed that this inspectorate will as a matter of course pay special attention to the labour conditions of any forced workers. When there is no such labour inspectorate, it may be possible and advisable, if the forced labour is on a large scale, to detail officers specially to perform the work. In other cases, other measures may be preferable. In addition, it has in certain cases been found advantageous to appoint protectors of natives, who enjoy their confidence and can be their interpreters to the authorities. Undoubtedly, however, special attention has to be paid to the loyal execution of any Government regulations for the protection of forced labour. The principle might read:

*The Administration should see that the duties of any labour inspectorate which has been established for the inspection of voluntary labour are extended to forced labour. In the absence of such inspectorate, it should take other measures to assure that the regulations governing the conditions of forced labour are applied.*

(3) **PORTERAGE**

§ 337. There is much evidence to show that this particular form of forced labour for public general purposes is regarded with peculiar detestation by the workers subject to it, and Administrations appears everywhere to make efforts to reduce it to a minimum and to soften the hardship attached to it.
As in the case of all forced labour for public general purposes, it would seem in the first place that the responsibility for its exaction should lie with the central, though its application must in most cases be entrusted to the local, authorities. It would appear advisable that the central authorities, in order that they may appreciate the burden thrown on the community by porterage and be able to exercise an effective responsibility in regard to it, should be fully informed as to its incidence, and to that end a system of returns from the local authorities might be instituted.

Regulations on the matter deal with some or all of the following points:

(a) the categories of persons who may be taken;
(b) provisions concerning health, including food supply, clothing and shelter;
(c) remuneration, compensation;
(d) the normal daily journey;
(e) the maximum load for the individual porter;
(f) the maximum distance from home to which he may be taken;
(g) the number of days (per month or per year) of porterage which may be exacted from the individual;
(h) the prohibition of porterage on routes where other means of transport are available;
(i) the categories of persons entitled under certain circumstances to demand the services of porters.

§ 338. (a) As to the first point, the categories of persons liable to this form of forced labour, it would appear that, as in the case of forced labour for public works, only the fit adult males should be liable. On the other hand, the principles suggested for important public works dealing respectively with prior medical examination and the proportion of natives to be taken would be at times difficult, if not impossible, of application in the case of porterage. The principle might therefore be limited to the following:

Women, children, the aged, and the unfit should not be subject to forced porterage.

§ 339. (b) The circumstances of forced porterage may differ so considerably that it is impossible to lay down in the most general terms the health precautions to be taken by the Administrations. Attention, however, should be drawn to such matters as the provision of shelter at night, the provision of food and of medical supplies
and the necessity of deciding whether porters should be taken for a complete journey or only from village to village. Such details, which must be left to the discretion of the Governments, may have a considerable effect on the health of the porters.

§ 340. (c) The desiderata expressed above in regard to the remuneration of forced labour for important public works appear to be applicable to the case of porterage also, and it will have been noted that in the majority of cases concerning which information is available porters are in fact paid at the rates ruling for voluntary porterage. The only new point appears to arise in connection with the return journey without load, in regard to which in general a lower payment is made. It should, however, be pointed out that where the daily wages on the outward march are supplemented by food supplies, provision for the latter should be made in assessing the rate for the return journey.

In general, then, the case of porterage may be classed, so far as remuneration is concerned, with forced labour for important public works, and the principle would be as follows:

*Forced porters should be paid wages at the ruling rate for voluntary porters in the district in which they are employed.*

The same is true with regard to compensation for incapacity or death resulting from accident or sickness arising out of the work of porterage, and the same principles should be applied here:

(i) The Administration employing forced porters should hold itself responsible for their future subsistence in cases where, owing to accident or sickness arising out of the circumstances of their employment, they are rendered incapable, or only partly capable, of maintaining themselves.

(ii) The Administration should satisfy itself that the dependants of dead and incapacitated forced porters are provided for, if necessary taking measures to assure their subsistence.

§ 341. (d) For the normal daily journey the maximum laid down in the previous case, namely, eight hours per day, appears to be suitable.

Though the maximum should in principle be based on hours of march, for practical purposes it may be preferable to calculate by distance. Such a method will, moreover, lead to results corresponding to those expected from the encouragement of task-work in public works. Porters will be paid certain specified sums for distances indicated to them, based not only on mileage but also...
on the nature of the route, the season of the year and other factors. The principle could therefore read as follows:

The normal daily journey for forced porters should correspond to an eight-hour working day. In determining the daily journey not merely the distance covered but also the nature of the route, the season of the year and other factors should be taken into account. Should longer hours of march be necessary, they should be remunerated at rates higher than the normal rates.

§ 342. (e) As to the maximum load for individuals, where one is laid down for voluntary porters it should be adopted for those acting under compulsion. There is some evidence that a load exceeding 56 lbs. (roughly 25 kilograms) is considered to be too heavy. The fixing of an invariable figure appears difficult, however, as it is necessary to take into account the nature of the goods carried and the additional weight of foodstuffs and porters' personal baggage. As a principle it might be provided that:

The Administration should lay down regulations concerning the maximum load for porters acting under compulsion.

§ 343. (f) The maximum distance from home to which porters under compulsion may be taken is again a difficult matter to decide upon. There may be circumstances where, in thinly peopled areas, a rigid limit will be difficult to enforce. In any case it would seem desirable that the competent authorities, with their knowledge of the conditions of the country concerned, should lay down a maximum in their legislation or regulations governing the matter. The suggestion has been made that four days' outward march should be the extreme limit. Normally this would involve a six to eight days' absence of the porters from their homes, but the limit of absence could hardly be settled absolutely as the porters might of their own free will delay their return. The matter might then be expressed as follows:

The competent authorities in each case where forced porterage is unavoidable should lay down, by legislation or otherwise, that porters should not be taken more than four days' march from their village.

§ 344. (g) The number of days per month or per year during which a worker may be forced to act as porter is very frequently limited by legislation. But here, again, circumstances (e.g. the density of population, the existence of other means of transport, etc.) render a uniform regulation difficult if not impossible, and the matter may perhaps best be met by the Administration, acting in
full knowledge of the circumstances, laying down for its area the necessary regulation. The days passed in forced porterage by an individual worker should be taken into account in determining whether he has or has not covered the maximum period for which he may be called upon for forced labour for general public purposes:

The competent authorities should lay down by legislation or otherwise the maximum number of days per month (or other period) during which a worker may be compelled to act as porter or boatman. The maximum should not exceed fifteen days per month or twenty-five days per year. The days spent in porterage labour should be deducted from the total fixed for forced labour.

§ 345. (h) It is perhaps unnecessary, given the generally recognised dislike of porterage both on the part of Administrations and of the workers concerned, to do more than point out that some Administrations have prohibited the system in areas or on routes where other forms of transport are or could be available. The example might, however, be recommended.

§ 346. (i) The categories of persons entitled to demand compulsory porterage are usually indicated in legislation. They should be confined to public officers, civil or military travellers on official business, and under no circumstances should they include private persons, except when such are acting on behalf of the Administration. It seems desirable that legislation or regulation on this matter should be explicit, both in regard to the persons entitled to demand forced porterage and in regard to the extent of their demands. It may be pointed out that most colonial legislations lay down, in the case of official journeys, the number of porters for which the Administration pays, and that this number appears to be the limit which it should be permissible to compel:

The competent authorities should indicate in their legislation or otherwise the persons who are entitled, when engaged on official business, to demand forced labour for porterage, and the extent to which they are entitled to demand it.

(4) Compulsory Cultivation

§ 347. Compulsory cultivation takes the form of the obligation to till, sow and reap the crop on a certain area of land, or to plant

\[1\] See § 333.
and tend certain trees or certain specified crops. The motives given for recourse to compulsion of this kind are: (a) as a measure of precaution against famine, (b) in order to further the development of the general well-being, and (c) as a measure of agricultural education.

§ 348. (a) The danger of famine apparently arises not only through the failure of crops or the insufficient amount of agricultural work done, but also when too great effort is devoted to a profitable crop which does not add to the food supplies, and which cannot (owing to inadequate transport facilities or other reasons) be exchanged against supplementary food supplies.

In either case the obligation to produce the minimum amount of foodstuffs to prevent the danger of famine appears to be justified. It would seem wise, however, to retain the principle which is laid down in almost all legislation on the point, namely:

The food so produced should remain the property of the producer, or, where production is on a communal system, of the community which produces it.

§ 349. (b) Compulsory cultivation of crops for market, imposed in order to further the more rapid development of the general well-being of the community, appears to be less easy to justify, if the criteria laid down for the imposition of all forced labour be recalled. It cannot be considered that the service demanded is essential or urgent, or that it is impossible to obtain it without voluntary labour. In point of fact, there are many instances in colonial history of the complete success of the voluntary principle in this connection where the Administration has aided by instruction and the supply of seeds or seedlings, etc. There are instances also where compulsion of this kind has defeated its own ends, the resultant crop being found to be uneconomic or the devotion of so much energy to its production found to be disadvantageous. On the whole, it seems to be preferable in cases of this kind to rely on the voluntary principle.

§ 350. (c) In regard to this point, and to the further question of compulsory cultivation as a measure of education, the terms of the Sixth Committee's report on a proposed amendment to the Slavery Convention which would have permitted such compulsion "in the interests of education and social welfare" may be recalled. The Committee was not able to accept the amendment, said
Viscount Cecil, the Reporter, because "it feared that in its application this proposal might lead to grave abuses of exactly the type which the Convention itself was designed to prevent or suppress".

There does not appear to be any reason for going back on this opinion of the Sixth Committee, which was adopted by the Assembly without comment. Consequently:

The only form of forced labour which should be permitted by the Administration in connection with cultivation is that intended as a precaution against famine or a deficiency of food supplies.

(5) Measures against Pests, etc.

§ 351. As has been indicated in § 328, some forms of pests (e.g. locusts) demand an immediate general effort which cannot normally be foreseen and which therefore, like other cases of emergency, stand outside the general plan of precautionary and regulatory measures concerning forced labour.

Other cases would appear to be directly connected with local sanitation measures (e.g. the destruction of rats, drainage or other treatment of pools in campaigns against the mosquito) and can be more conveniently treated in the following section.

Others again are attached to the question of the holding of land, and are analogous to the laws of many civilised States in relation to the keeping clean of lands in order to avoid the spreading of noxious weeds or the dissemination of plant diseases on the lands and crops of neighbours. In so far as they are imposed as part of the conditions under which land is held, it would hardly seem that they can be regarded as forced labour in the sense in which that term is used in the present report. Where lands are communally held, it does not appear that the principle underlying measures of this kind is materially different from that employed in regard to individually owned land, though their application may present certain difficulties and possibilities of abuse, especially where the work is carried out under the orders of chiefs or others whose sense of impartiality may not be highly developed.

It seems then that, in connection with this form of compulsion, a certain watchfulness on the part of the Administration is called for to prevent an unjust distribution of the labour involved, but that apart from this no objection can be taken to the exercise of compulsion for these objects in so far as may be found to be necessary.
Occasionally, however, more general campaigns are undertaken, as for example against the tsetse fly and sleeping sickness, which involve the formation of gangs of workers who may be called upon to work during relatively long periods and to travel considerable distances from their homes. If compulsion is used in such cases, it seems obvious that the workers so enforced should be remunerated and should enjoy the benefits of medical attendance, sickness and accident indemnity and the other provisions devised for the protection of forced labourers on general public works.

III. — On Forced Labour for Local Public Purposes

§ 352. The conditions under which forced labour for local public purposes is carried out are usually in certain respects less onerous upon the individual workers and less dangerous for the social well-being of the communities of which they form part than are those associated with larger works. Prolonged absence from home is not usually a feature of this form of labour, and consequently the social evils referred to in connection with forced labour for general public purposes are not to be feared, or are much mitigated. For the same reason, it is often not necessary to make special provision for the housing of the workers, who are in a position to return to their homes at night, nor perhaps for medical supervision much beyond that which is normally available in their villages. Food also is not so serious a problem.

Nevertheless, it seems clear that in certain cases even local labour may be a very heavy burden upon the native population, and in point of fact, unless it is restricted in certain ways to be indicated later, it may present little difference in burden and in evil results from the more severe type treated above. Moreover, the moral and psychological objections to compulsion to forced labour hold good in this as in other cases.

§ 353. Examination of the legislation and practice summarised in Chapters III and IV above gives the main lines of division between "local" and "general" public purposes, but it will have been noted that in some cases the demarcation is not clear, either as to the nature and conditions of "local" forced labour or as to the authorities empowered to impose it.

To take the latter point first, it would seem that the principle laid down with regard to all forced labour (see § 326 above) needs
little further elucidation here. The central authority should assume the responsibility, though by its legislation or otherwise it may delegate powers in regard to the application of local forced labour to minor authorities. It would appear necessary, however, that the central authority, in delegating such powers, should lay down limits as to their exercise. The position then in regard to the authority competent to impose local forced labour might be expressed as follows:

The powers delegated by the central authority which is responsible for the authorisation of forced labour to minor and local authorities should be precisely defined in regard to its application for local public purposes.

The "precise definition" herein asked for should treat, as it appears from the cases where this is done, of the following matters:

(a) the nature of the local work which may be done by forced labour;
(b) the persons liable to it;
(c) the amount (days per year, etc.) which may be exacted;
(d) the general conditions under which it should be carried out;
(e) the period of the agricultural year when it may be imposed.

§ 354. (a) The nature of the local work which may be done by forced labour. — The work exacted in practice may be grouped as it refers to: (1) local sanitation; (2) communications; (3) miscellaneous public purposes.

(1) Local sanitary work usually involves minor operations only, village street cleaning, and the disposal of refuse, the construction of latrines, and so on. It is frequently, if not always, carried out in the natives’ own time, and not under direct supervision, except, for example, by the examination of its results in the cleanliness of the village. It is entirely analogous to similar sanitary measures still in existence in civilised countries where the social organisation has not advanced to the stage when the specialisation of this work in the hands of workers whose only occupation it is has become possible.

It goes without saying, however, that when it involves more important operations, such, for example, as drainage on a large scale, the fact that the benefits derived from it are purely local should not remove it from the scope of the provisions outlined
above in connection with \textit{general} public purposes. No precise defining line can be drawn between the two, but it seems clear that when forced labour, even for local public purposes, takes on the characteristics of that for important public works, it should be governed by the same principles; that is to say, it should require \textit{special} authorisation from the central authorities, and should be carried out under the regulations applicable to important public works which are indicated in the appropriate sections of this chapter.

(2) The question of the construction and maintenance of \textit{communications} is more difficult, since practice in the matter varies largely. In many cases, the \textit{construction} of communications is not considered to be work which should be carried out by forced labour imposed by local authorities; in other cases, some construction by this means is permissible, that for example of tracks or footpaths connecting village with village and, in rarer cases, that of minor roads. More rarely still, the construction of hard-surfaced (metalled) roads is done by local forced labour, but usually this kind of work is held to come under the heading of forced labour for general public purposes and is regulated accordingly.

With regard to \textit{maintenance} (cleaning and repair) also there are many differences of legislation and practice, but the general tendency appears to be that whilst the keeping clean (weeding) of roads within these areas and minor repairs may be obligatory upon local populations, the maintenance of main roads and particularly of metalled roads is the concern of the central authorities.

(3) Among the diverse other local purposes for which forced labour is imposed may be mentioned the erection and maintenance of local public buildings for the Administration (including often the chief's house), rest houses, schools, and so on. Very frequently this work appears to be undertaken without the necessity of compulsion, and to be the result of movements of rudimentary public opinion.

Other demands made by the Administration and its officers may include the provision of porters (see § 337), of food, forage, wood, etc. Local action in regard to pests, and forced cultivation, has already been examined.

There is much evidence that local forced labour, as defined above, may become an excessive burden, and it seems necessary, therefore, that the legislation or regulations issued by the central authorities
should permit recourse to it only under certain conditions and restrictions.

The first of those is suggested by the following consideration. In general, it seems that native populations readily appreciate the value to themselves of many forms of local public work, and in consequence carry them out without repugnance, and the psychological effects of compulsion are therefore diminished if not entirely obviated. Such is not, however, invariably the case. The populations concerned are often incapable, at least at first, of appreciating the benefits of sanitary regulations of direct benefit to them. It might, nevertheless, be borne in mind as a suggestion that in such cases the central authority should insist that every effort be made to demonstrate to the population concerned the utility to themselves of the measures proposed, and so secure as far as may be possible their acquiescence and weaken the element of compulsion.

In regard more particularly to the kinds of work for which local forced labour may be permitted, it is necessary to make a preliminary distinction. Certain continuous obligations inherent in life in a community cannot justly be described as forced labour or even as permissible forced labour in the sense of this report. Membership of a community, in fact, implies a tacit acceptance of certain responsibilities and certain contributions to the general well-being. This idea might be expressed as follows:

All minor services connected with cleanliness, sanitation and the maintenance of paths and tracks in the immediate vicinity of the village, of watering places, of washing places, of latrines, cemeteries, etc., are normal obligations incumbent upon the inhabitants of the villages and should not therefore be subject to regulations applying to forced labour, though they should remain under the general control of the Administration. Enforcement of such sanitary and other services naturally lies with the competent local authority.

This being established, it would appear that most existing practices place restrictions upon the use of compulsion for local public purposes, and the matter may be expressed as follows:

Compulsion for local public works and services should be permitted only in the following cases:

(i) the maintenance and keeping clean of local roads but not of main roads or metalled roads;

(ii) the construction and maintenance of public buildings for local administrative purposes, including rest houses, where such are deemed necessary, and village schools;
such other work of a nature calculated to facilitate the movement of officers when on duty and of stores of the Administration (porterage, provision of food, forage, and accommodation) as the central authorities may by legislation or otherwise determine.

§ 355. (b) The persons liable to local forced labour. — The exceptions made to the obligation to local forced labour are, in general, analogous to those set out above in connection with forced labour for general purposes, and there seems to be no necessity to repeat them here. The arguments given in favour of the restriction of this obligation to adult able-bodied males are valid in this case also, and there would seem to be no difficulty in practice in applying this restriction, except where the adult male population is seriously diminished by migration, forced or otherwise, for labour elsewhere. As it may be hoped that such a condition of affairs will rapidly disappear, the rule laid down for forced labour for general public purposes may be adopted here also.

It is of course certain, where the work exacted is of a light nature, and perhaps also in other cases, that the male adult will be assisted in his work by his family, possibly acting under his compulsion. This clearly calls for the attention of the authorities, whose duty it should be to see that the burden does not fall where it is most harmful. But it is also clear that the authorities themselves should not be directly responsible for the compulsory labour of women and children, and should confine their exactions to adult able-bodied men.

These precautions might be expressed as follows:

The local authorities should be empowered to exact forced labour for local public purposes from adult able-bodied males only.

§ 356. (c) The amount which may be exacted. — This varies very greatly under existing legislation, and it may be said that it appears to vary even more in practice than an examination of the legislation would appear to show. Much depends on circumstances, such as the number and nature of local roads, and so on. Furthermore, the work may be performed intermittently. But in many cases legislation lays down a maximum number of days per month or per year, and it seems clear that this prescription should always be made by the central authorities. The annual maximum for public works having been fixed at sixty days, the same figure appears

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1 See § 330.
appropriate here. This will usually be so much more than is necessary that it will be possible to provide, as for porterage, that the sixty days is a total maximum. The principle would thus read:

The central authorities should lay down by legislation or otherwise the maximum number of days per month or per year which may be exacted for local public purposes by the local authorities; this maximum should not exceed sixty days per year. The days spent in such labour should be deducted from the total fixed for forced labour.

§ 357. (d) The general conditions under which it should be carried out. — The conditions under which forced labour for local public purposes is employed may vary very greatly, and it seems impossible to lay down any rules of general application. Certain suggestions may, however, be made drawn by analogy from the stipulations made in regard to forced labour for general public purposes.

(1) Hours of work. Normally it appears that much of this work is done by the worker in his own time and not under supervision. Where this is not the case, it seems desirable to insist that the maximum laid down previously, namely, eight hours per day, should not be exceeded:

The normal working day, exclusive of breaks for meals or for rest, should not exceed eight hours and the normal working week forty-eight hours; piecework\(^1\) should be encouraged.

(2) Payment. This is largely dependent upon the degree of organisation of the community concerned. As has been seen, in French colonial practice the work herein considered is executed under the "prestation" or labour tax system; in other areas, it is a communal obligation upon the inhabitants of a village. In the case of "prestations", it seems that the tendency is that the natives liable prefer and are able more and more to commute the labour tax by a money payment, the proceeds of which may be used for the remuneration of any labourer whom it may be found necessary to engage for the execution of the necessary work. In the other case, where the obligation to do certain work falls generally upon the inhabitants (as in many British colonial areas) an analogous tendency is manifest, for the local authorities, provided with funds

\(^1\) See § 333 for explanation of use of the word "piecework".
obtained either from central sources or from local taxation or both, are being put in a position to pay for the local work.

All opinion appears to welcome this evolution towards universal payment, and, taking account of what has been said above concerning the continuous communal obligations which cannot be considered to be forced labour\(^1\), the following principle might cover the question:

\textit{Whenever labour is requisitioned for other purposes than the services of a general and permanent character necessary for the maintenance of local public health, such forced labour for local public purposes should be paid at the rates in force in the locality for similar work.}

\(3\) \textit{Compensation for accident, etc.} Similar principles to those enumerated above with regard to compensation for accident or illness arising out of forced labour for general public purposes would appear to hold good, and might be expressed in the same terms:

\textit{The Administration (or the local authority) employing forced workers should hold itself responsible for their future subsistence in cases where, owing to accident or sickness arising out of the circumstances of their employment, they are rendered incapable, or only partly capable, of maintaining themselves.}

\textit{The Administration (or the local authority) should satisfy itself that the dependants of dead and incapacitated workers are provided for, if necessary taking measures to assure their subsistence.}

\(§\ 358.\ \ (e)\ \textit{The period of the agricultural year when forced labour for local purposes should be imposed.}\ — The arguments cited above in the case of public general purposes are equally valid here and the principles may be repeated:}

\textit{In exacting forced labour for local public purposes, care should be taken that the labour necessary for the food production of the communities concerned is not imperilled. The minimum of forced labour should be exacted during the period of the year when the presence of the men in their fields and plantations is necessary.}

\(§\ 359.\ \ A\ \textit{final word is here perhaps necessary upon the danger that powers to requisition workers for local authorities may in certain cases, where the local authority is a chief, be utilised for the personal benefit of the latter.} \ This matter is treated in \(§\ 367.\)

\(^1\) See \(§\ 354.\)
IV. — Forced Labour for Private Employers

(1) Direct Legal Compulsion

§ 360. As will have been seen, almost all legislation on the subject of forced labour forbids recourse to it for the benefit of private individuals. The only direct legal compulsion of this kind appears to be in the Dutch East Indies, where it is a survival of a feudal institution. It will have been noted that the Government's policy in this case is to buy out the rights of the feudal lords, and considerable progress, at great expense, has been made. This isolated case does not impair the general opinion that forced labour under any circumstances whatever for private employers should not be permissible. The Dutch Government itself admits this as is evidenced by the persistent care it has taken to put an end to the historical survival which has been mentioned. No colonial Power, it would appear, could contemplate for a moment a revival or recrudescence of this form of forced labour.

The case of the Portuguese law on the obligation to labour is more complex and difficult to classify. It consists essentially in a general obligation upon all the inhabitants to work in one way or another; if they are not employed, either on their own account or in the service of an employer, they can be forced into employment. A similar system, apparently based on the same principle of compulsion, prevails in the Spanish Colony of Fernando Po.

It appears to be certain that such systems are open to grave abuse, and have been abused. The obligation to work is, it is true, perfectly general, and is little more than the expression in legal terms of the necessity under which every human being lies to providing for his own needs if they are not already provided for by the exertions of others. But in practice this general obligation, under this system, tends to become a precise obligation to work for a given employer or for the State, and it is here where it is alleged, the abuses arise.

In any case with regard to legal and direct compulsion to labour for the profit of others there can be only one position which the International Labour Organisation can take, and it may be summarised in the following principle:

No Administration or other authority should by its legislation or other measures authorise forced labour for the benefit of private
individuals, companies or other entities than the general community. Where such forced labour exists, every effort should be made to bring it to an end as soon as possible.

(2) Recruitment by Officials of the Administration

§ 361. A second principle appears to follow directly from this. It concerns the attitude of the Administration towards the recruiting of workers for private employers, and the measures which may be taken to encourage such recruitment.

Certain Administrations, realising that pressure on the part of their officials is, because of the latter's prestige and influence, tantamount to compulsion, have laid down stringent rules for their administrative staff in regard to this question, the effect of which is, whilst permitting the encouragement of natives to employ themselves usefully in one way or another, to forbid strictly any form of pressure upon them. As has been seen, in some cases this prohibition goes even a stage further, and forbids the officials to put pressure upon natives to employ themselves in any particular manner, insisting, for example, that the latter should have free choice between employment on their own account and service under a master. In other cases, the part to be played by administrative officials is limited strictly to that of the supervision, in the interests

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1 This “principle” was adopted by the Committee, but by letter of 1 February 1928, Lord Lugard proposed that the last sentence of this “principle” should read:

"When such forced labour exists, it should at once be abolished."

This proposal was circulated to the members of the Committee on 20 February. Four members (Messrs. Chamberlain, Ito, Lejeune and Taberer) accepted it outright. Sir Selwyn Fremantle considered that the relics of a feudal system found in the Dutch East Indies might constitute an exception, but otherwise he accepted the proposal. Mr. von Rechenberg wished to indicate a time limit — “at latest before the forthcoming Conference of the International Labour Organisation”. Mr. Gour preferred the original drafting, but in order to express more precisely the Committee's opinion that it was not their intention that the status quo should be permitted indefinitely, he proposed to add: “The Administrations concerned should at once indicate the moment at which it shall be completely prohibited”. Mr. Saura del Pan agreed in principle, but considered that the abolition of such labour might be facilitated if the dispersal of the workers employed by force under private individuals were carried out in stages, as, for example, by the freeing first of all of fathers of families, then of those whose homes were at a considerable distance, and lastly of the younger men.

In a later letter, of 14 October 1928, Lord Lugard refers to the existence of compulsion for the private benefit of native chiefs under the excuse of native custom (see §367). He suggests that the principle should advocate the restriction and ultimate abolition of such forced labour and the substitution of paid voluntary labour. He also proposes the addition of the words “or countenance” after the word “authorise” in the present text of the principle.
of workers and employers alike, of the terms, the conclusion, and the execution of labour contracts. But with this question the present report is not concerned.

The general principle adopted by most of the colonial Powers might be thus formulated:

*The Administration should not permit its officials to put constraint upon the populations under their charge to work for private employers.*

In the same connection, it has been frequently alleged that even the *encouragement* by officials of natives to seek employment may tend in practice to become much more than the moral suasion it is intended to be: it is clearly difficult for people at a low stage of social development to perceive the exact difference between encouragement and command, when they come from the mouth of those entitled to command. In a case which has recently come under notice, the Administration, presumably because of the absence of officials in a particular area, appears to have called in the aid of religion. It has been made a condition under which missionary effort is permitted in a part of South West Africa, that the missionaries should attempt to persuade the natives there to leave their homes and seek employment in the areas under white settlement.

It is difficult to provide for such cases. An official's success in his career, and opinion concerning the efficiency of his administration, may depend on his success in getting the natives under his charge to accept employment, and the temptation to interpret moral suasion largely may be great. The opinion has been expressed that no method of recruiting labour is so forcible as this.

On the other hand, it may be argued that competent officials of an Administration which places native interests first in its scale of values may be the best qualified persons to undertake the gradual inculcation of the habit of regular labour. It may also be considered that in certain cases, e.g. among very isolated or primitive folk who look on all white men as having the same authority, a responsible official as recruiter would do less harm than an unscrupulous agent paid by results.

In several cases, Administrations have publicly declared their policy of refusing to use any form of compulsion or constraint,
and when on the one hand officials and, on the other, the population in general are fully aware of the policy, it would seem that the abuse of "encouragement" is rendered less probable. But here also a danger has been pointed out: the simplicity of certain native populations might lead them to interpret such a policy as an express permission to do no labour at all.\footnote{Mr. Merlin.}

The line between encouragement and command is a narrow one, and it seems impossible to lay down any principle in a case where its application is so largely dependent on the honesty or otherwise of the Administration in its labour policy.\footnote{In reference to this passage, Sir Selwyn Fremantle, by letter of 9 September 1928, proposed that a principle included in an earlier draft should be retained, to the effect that "to avert misunderstanding in respect of indirect compulsion upon natives to seek employment, Administrations should endeavour to give the widest publicity to their policy in this respect, both among their own officials and among employers of labour". Lord Lugard.}

An authoritative suggestion is that it should be restricted to general advice and never employed on behalf of any particular employer.\footnote{Lord Lugard.}

(3) INDIRECT LEGAL COMPULSION

§ 362. Where direct legal compulsion to labour for the benefit of others has been abolished, it has sometimes been replaced by various indirect, though still legal, forms. Those most frequently found may be briefly recalled.

§ 363. (a) Compulsion to furnish certain products to individuals or companies. — This still exists in parts of Africa and elsewhere under the terms of concessions granted to companies and others interested in the collection of certain raw materials (timber, rubber, palm-oil, copra, ground-nuts, and so on) or in their partial manufacture. In practice, the prices paid for the delivery of such products to the collecting centre are fixed, or at least approved, by the Administration or its officials. Penalties are provided for cases where the stipulated quantities of the products in question are not forthcoming.

Apart from the question as to whether or no the prices paid are adequate for the labour involved (and there is evidence which goes to show that these prices are often lower and sometimes
considerably lower than those obtaining in neighbouring free markets), there can be no doubt that this is forced labour, and experience has revealed its dangers. Many colonial Administrations now refuse entirely to grant any concessions carrying with them the right to bring compulsion of this kind to bear upon the populations in the areas concerned.

The case might be met by the following provision:

No Administration, in granting future concessions, of whatever nature, should permit to the concessionnaires any form of compulsion for the obtaining of the products which they utilise or in which they trade. Where such concessions have been made in the past, they should not be renewed except in such a way as to terminate any arrangements of this kind, and every effort should be made to change in the same way, and as early as possible, existing concessions which are not yet due for renewal.

It will be recognised that the acceptance of this principle implies that Administrations, when considering the grant of concessions or leases in the future, should take into account the existence or otherwise in the vicinity of a population from which an adequate voluntary labour supply can be obtained by the offer of sufficiently attractive terms. This question is dealt with in the earlier part of the present chapter.

§ 364. (b) Taxation as a means of forcing workers to seek employment. — There have been cases where the taxation imposed upon native populations has been devised with the express intention of forcing them into private employment in order that they might earn the money necessary to pay their taxes, and measures of this kind have been frequently advocated by interested parties.

It need hardly be said that taxation designed for this purpose is an alternative to the direct enactment of forced labour for private employers, and, as the Governor of Tanganyika recently declared, the latter course is the more honest.

§ 365. (c) Vagrancy laws. — The general effect of the vagrancy and so-called "pass" laws which exist in certain areas is to place the individual who is not in the employment of another person (or of the State) in a disadvantageous position in regard to his fellows who are so employed.

The system thus created is analogous to those set up under the Portuguese and Spanish laws to which reference has been made.
above. It takes various forms. In certain parts of the Union of South Africa an individual is liable to arrest and punishment if found wandering abroad without a pass. In other cases it would seem that even the holding and cultivation of land to provide for his own needs is not a guarantee that an individual is to be left unmolested.

It may perhaps be recalled that the similar legal enactments of fifteenth century England are generally held now by historians to have brought about much suffering without remedying the difficulties of the economic and social conditions of that time. They were certainly fruitful in social unrest, and they are generally considered to have been the principal cause of the series of rebellious movements of that period.

Vagrancy laws are necessary, as perhaps are some forms of "pass" laws, where the policy of the Administration is that known as "segregation", but it would appear that the definition of vagrant should not be so wide as to include the whole of that part of a population which is not in employment. If it is so wide, then, as in the case of taxation, it becomes a legal but indirect form of compulsion to labour.

§ 366. (d) Deprivation or restriction of land, and prohibition or restriction of cultivation or of cattle-owning. — These policies may be grouped together since their common effect is to diminish the opportunities which are offered to individuals to provide for themselves in ways to which they are accustomed, and thus to force them into the labour market. Deprivation of land (usually by the grant of land concessions to aliens) has had very serious consequences in the past, and many colonial populations are still suffering under them. A very recent New Guinea report states that in certain of the islands off the coast of that territory the population had been impoverished and reduced in numbers as a result of the excessive concessions of land made under a former Administration. Until the delimitation of native reserves was attained in Kenya, the argument was constantly pressed by sections of the white settler

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1 Mr. Taberer, by letter of 9 October 1928, informs the Office that the Government of the Union of South Africa is revising its "pass" laws, and that under the draft revised law the clauses in the existing law are deleted which render a native liable to arrest if found wandering abroad without a pass; a native's tax receipt would serve as a pass anywhere, except in a labour district, wherein he would be required to find employment within a specified time.
population that reduction of the lands available for natives would result in forcing the latter to seek employment outside those reserves.

No cases of the restriction of the cultivation by individuals of the food necessary for their well-being have come under notice in recent years, though examples are to be found in the past. As to cattle-owning, there is a demand for restriction of the numbers held by individual natives in South West Africa, and the demand is supported by arguments tending to show that such restriction would relieve the shortage in the labour market. Another proposal, tending in the same direction, is to institute, or augment where it already exists, a tax on cattle owned by certain sections of the population.

No doubt many of these measures or proposals are justifiable on other grounds. In so far, however, as they are designed to force individuals into private employment, they appear to be equally reprehensible with the taxation and vagrancy or "pass" laws adopted with similar intention.

The following principle might be applied to all these and similar cases of legal indirect compulsion:

*Taxation, vagrancy or "pass" laws, the deprivation of lands, the restriction of lands, cultivation or cattle-owning, and other measures, when adopted with the intention of forcing workers into employment, are methods of instituting forced labour for private employers, and should be condemned equally with the direct form of compulsion for this purpose*.

(4) Compulsion by Native Chiefs

§ 367. Certain forms of compulsory labour for chiefs are common to most forms of primitive tribal organisation, and tend to persist. There would appear to be danger lest at times they should be even augmented, where the tribal organisation is preserved as an important part of the newer administrative system. The kinds of work done in this way appear to be in part of a social and communal

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1 Sir Selwyn Fremantle, by letter of 9 September 1928, proposed that the first words of this principle read as follows: "Taxation of men or cattle, vagrancy and "pass" laws, the deprivation or restriction of land and any other such measures..."

By letter of 1 October 1928, Mr. Chamberlain proposed that the last words of the principle read as follows: "... cattle-owning, the regulation of labour contracts or other measures may result in forcing workers into employment and thus institute forced labour for private employers. Such measures should be carefully framed to prevent this result so far as possible."


nature (construction and repair of chiefs' houses, communal buildings, town walls, etc., and the cultivation of lands held in common) and it is not clear that any sense of compulsion attaches to them. Among them, however, is frequently found the obligation to cultivate the chief's land — an obligation which under a primitive system of society might equally give rise to no more sense of compulsion than does the obligation on a citizen of a civilised State to maintain the royal family or the president. But if, as has recently happened, the chief undertakes the growing of products (e.g. cotton) for export, it is clear that the situation changes. The labour is no longer for the service of the general community, but for the enrichment of an individual. It probably tends also to be of a more onerous nature.

A similar development appears to be taking place in regard to the construction and maintenance of means of communication, work which under primitive conditions was much less burdensome than that which becomes necessary as the tribe progresses towards civilisation. In this case, it is true, the chief does not often benefit pecuniarily, though even that may happen under the system by which payment for road-making is made to the chief and not to the actual workers.

It seems necessary, therefore, that Administrations should keep a watchful eye on the labour exacted, in virtue of custom or tradition, by chiefs. The Administration of Ruanda-Urundi has declared that its policy in this connection is to turn labour of this type to public ends and to regulate it; the chief becomes, in this connection, the local authority competent to impose forced labour, and presumably he must conform in this matter to the legislation of the central authority.

The whole matter of labour for native chiefs might perhaps be covered by the following:

Where native chiefs are left in possession of traditional rights in regard to compulsory labour, Administrations should secure that such labour should be directed to public purposes, and that the conditions under which it is carried out should be regulated in the same manner as is work of a similar nature done under the compulsion of the administrative authorities. 1

1 Mr. Taberer, by letter of 9 October 1928, proposed the following addition to the above principle: "Such compulsory labour, whether exacted by the chiefs or by the administrative authorities, should cease to be considered as merely an augmentation of the form of compulsory labour appertaining to tribal organisations when it ceases to be, in the minds of the natives themselves, a tribal obligation."
(5) **Illegal Forced Labour for Private Employers**

§ 368. So far in this chapter the cases treated are, with the possible exception of the last section, directly or indirectly, the results of legal enactment. There remains finally to be considered that form of compulsion which escapes all legal control, and which is, in spite of its illegality, widespread.

Many of the areas now under consideration are as yet not brought under complete administration, in others the Administration may be inefficient or corrupt. By reason then of the scarcity, incapacity or venality of administrative officials, illegalities occur in regard to forced labour as in regard to other matters. The prestige of the white man is such that, if he finds himself hard pressed to cultivate or to transport the products of his plantation with the assistance of voluntary labour, he is able to exert compulsion. The allegations concerning the treatment of Indians in certain parts of the South American continent, and those referring to the Portuguese African colonies, seem for the most part to relate to illegalities of this nature.

There can be no doubt that much suffering and injustice result from such breaches of the law; and it is not easy to secure an immediate remedy. The extension of administrative control, improvement in the capacity of officials, and exemplary punishments in cases of venality, connivance or negligence are measures which suggest themselves.
§ 369. It is hoped that the Conference will find, in the material given in the present report, adequate information upon which to base its decision as to the action which should be taken. It will find also, in the principles enunciated in Chapter VII and approved by the eminent experts who form the Committee on Native Labour, clear indications as to the general lines of any international agreement on the question of forced labour which may be brought about.

The Office has made a careful examination of these principles, and has come to the conclusion that, whilst the majority of them are suitable for insertion in a Draft Convention, there are others which are either of too general a nature, as for example the very important declaration concerning the general economic policy to be followed in order to avoid the necessity of forced labour 1, or they are expressions rather of ends to be aimed at than of action which can immediately be taken, and are consequently unsuitable for the more rigid formality of a Draft Convention. They are nevertheless felt to be important and valuable, and might well be given the sanction of the Conference in the form of Recommendations.

§ 370. The following Draft Questionnaire has therefore been prepared with a view to the conclusion of a Draft Convention on the one hand, and a series of Recommendations on the other. As will be seen, the proposed questions follow closely the principles laid down in Chapter VII, and are thus supported by the arguments therein put forward in favour of these principles. It does not therefore seem necessary to expound them at greater length. Advantage was further taken of the Second Session of the Committee of Experts on Native Labour, in December 1928, to obtain their assistance in perfecting the Draft Questionnaire, which is now submitted by the Office as a basis of discussion, in the event of the Conference deciding upon the issue of questionnaires on forced labour to the Governments of the States Members of the Organisation.

1 Cf. § 324.
§ 371. It will be noted that the Draft Questionnaire is longer than the similar questionnaires prepared for earlier Sessions of the Conference. The Office hopes, however, that this unusual length will be understood if it is remembered that, with the question of forced labour, the Conference is entering upon the study of a series of problems differing considerably from those which hitherto have been examined and have formed the subject of Conventions or Recommendations adopted by the Conference. It has therefore been thought essential that an even greater precision than usual is necessary in the examination of the solutions to be given to them.

It will be noted that the majority of the questions are so devised that they call for little more than a direct positive or negative reply, and it may therefore be hoped that it will be possible, from these replies, to place before the subsequent Session of the Conference, when the adoption of a Convention and Recommendations is under consideration, very precise and clear indications as to the opinion of the States interested in the matter.

Again, whilst the majority of the questions hitherto placed on the Agenda of the Conference have dealt with a particular and relatively limited subject, the question of forced labour raises a great variety of points concerning not only the regulation of working conditions in the narrow sense, but also the nature of the work, the categories of persons from whom the work may be exacted, and the circumstances under which recourse to this form of labour should be permissible.

For a third reason, the importance of which also the Conference will readily appreciate, it has been considered advisable to make the Draft Questionnaire as comprehensive as possible. The principles upon which it is based were the subject of close discussion by the Committee of Experts, for whose assistance the Office is profoundly grateful, and represent their considered opinion. All the points of substance dealt with in the Draft Questionnaire were fully discussed by the Experts or were in their view relevant to any satisfactory treatment of the question of forced labour. The Office would fail in its duty if it neglected to bring before the Conference, which has to decide in what form the matter is to be submitted to the Governments of the States Members, every question upon which the latter will in all probability desire to express their opinions.
1. Do you consider that the International Labour Conference should adopt a Draft Convention the object of which is to limit and regulate the use of forced or compulsory labour?

2. Do you agree with the following definition of forced or compulsory labour for the purposes of such a Convention:

"All work or service which is exacted under menace of any penalty for its non-performance and for which the worker concerned does not offer himself voluntarily"?

3. Do you agree that nothing in such a Convention should prevent the self-governing people of an independent State from imposing compulsory labour upon themselves?

4. Do you agree that the authority responsible for any recourse to forced or compulsory labour should be the highest central authority of the territory concerned, or, when considered desirable, an authority of the metropolitan country?

5. Do you agree that in any area where forced or compulsory labour still exists, complete and precise regulations should be adopted, in so far as this has not already been done, in regard to the organisation of this labour, and that such regulations should provide for the compiling and recording of statistics concerning it?

6. Do you agree that the competent authority, before permitting any recourse to forced or compulsory labour, should be satisfied:

(i) that the work to be done or the service to be rendered is in the direct interest of the community called upon to do the work or render the service;

(ii) that the work or the service is of actual or imminent necessity;

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1 The footnotes refer to the paragraphs of the report where the subjects to which the questions allude are treated.

2 Cf. § 326.
that it has been found impossible to obtain voluntary labour for carrying out the work or the service by the offer of the rates of wages ruling in the area concerned for similar work or service; and

that the work or service under consideration will not lay upon the present population concerned too heavy a burden, having regard to the labour available and its capacity to undertake the work?

7. Do you agree that in no case whatever should the competent authority impose or permit the imposition of forced or compulsory labour for the benefit of private individuals, companies, or other entities than the community?

Are you of opinion that where such forced or compulsory labour exists, every effort should be made to bring it to an end as soon as possible?

Are you further of opinion that a time limit for such abolition should be fixed, and if so, what time limit do you propose?

8. Do you agree that whilst it is the duty of officials of the Administration to encourage the populations under their charge to engage in some form of labour, they should not be permitted to put constraint upon them to work for private employers?

9. Do you agree that no concessions granted to individuals or companies should permit any form of compulsion for the obtaining of the products which such individuals or companies utilise or in which they trade; and that, where such concessions already exist, (a) they shall not be renewed except in such a way as to terminate any arrangements of this kind, and (b) every effort shall be made to change, in the same way and as early as possible, existing concessions which are not yet due for renewal?

10. Do you agree that the illegal exaction of forced labour should be punishable as a penal offence?

11. Do you consider that cases of emergency (force majeure) should be outside the scope of the Convention?

If so, do you approve of the following definition of "cases of emergency":

"A case of emergency, for the purposes of this Convention, is the event of war and any occurrence which endangers the existence or the well-being
of the whole or part of the population, such as fire, flood, famine, earthquake, violent epidemic or epizootic diseases, invasion by animal or insect pests, and so on ? 1

12. Do you agree that minor services connected with village cleanliness, sanitation, the maintenance of paths and tracks, of watering places, latrines, and cemeteries in the immediate vicinity of the communities concerned, village night-watching, and the clearance of silt in small irrigation channels and streams of purely local interest, may be considered to be normal obligations incumbent upon the members of such communities and not constituting forced or compulsory labour within the sense of the definition given above ? 2

13. Do you agree that no kind of forced or compulsory labour should be exacted from other persons than adult able-bodied males ? 3

14. Do you consider that from any local community no more than a fixed proportion of the resident able-bodied adult males should be taken for forced or compulsory labour at any one time ? 4

15. Do you agree that the normal maximum period for which any individual may be taken for forced or compulsory labour of all kinds should not exceed sixty days in any one period of twelve months, or, in exceptional cases where workers have to be brought from a considerable distance, six months in any one period of twelve months ? 5

In the latter case, do you consider that the individual worker who has served in any one year for a longer period than the normal maximum fixed for the year should be exempt from further forced or compulsory labour for a number of years equal to the number of times the normal maximum which he has so served ?

16. Do you agree that workers under compulsion should not, except in cases of special necessity, be transferred to districts where the food and climate differ so considerably from those to which they have been accustomed as to endanger their health ?

When this transfer nevertheless takes place, do you consider that measures of gradual habituation to the change of diet and of climate should be adopted ? 6

17. Do you agree that measures of habituation to regular labour should be adopted in all cases where the forced workers are unaccustomed

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1 Cf. §328.
2 Cf. §§354-355.
3 Cf. §330 (i).
4 Cf. §330 (iii).
5 Cf. §333 (1).
6 Cf. §331.
to it, particularly in regard to the hours of labour and to the ameliorations of dietary which may be necessary? ¹

18. Do you agree that the normal working hours of forced workers should not exceed eight per day and forty-eight per week, and that hours worked in excess of these should be remunerated at rates higher than the rates for the normal working hours? ²

19. In the case of forced transport workers, do you consider that the normal daily journey should correspond to an average eight-hour working day, account being taken not only of the distance covered, but also of the nature of the route, the season of the year, the weight to be carried and other relevant factors, and that where hours of journey in excess of eight per day are exacted, they should be remunerated at rates higher than the normal rates? ³

20. Do you agree:

(i) that forced workers, including forced transport workers, should in all cases be paid at the rates ruling for similar kinds of work in the district in which they are employed? ⁴

(ii) that the wages should be paid to the workers individually and not to their tribal chiefs or other authorities?

(iii) that the days necessary for travelling to and from the workplaces should be counted for the purpose of payment as working days? ⁵

(iv) that deductions from wages should not be made either for the payment of taxes or for special food, clothing or accommodation supplied for the purpose of maintaining the worker in a condition to carry on his work, nor for the supply of tools? ⁶

21. Do you agree:

(i) that the competent authority or the authority employing forced workers should hold itself responsible for their future subsistence when, owing to accident or sickness arising out of the circumstances of their employment, they are rendered incapable, or only partly capable, of maintaining themselves? ⁷

(ii) that the competent authority or the Administration should similarly satisfy itself that the dependants of dead or incapacitated forced

¹ Cf. § 332.
² Cf. § 333 (2), and § 333 (3), (iv).
³ Cf. § 341.
⁴ Cf. § 333 (3), (i), and § 340.
⁵ Cf. § 333 (3), (ii).
⁶ Cf. § 333 (3), (iii).
⁷ Cf. § 333 (4), (i), and § 340 (i).
workers are provided for, if necessary taking measures to assure their subsistence? ¹

22. Do you agree that the duties of any existing labour inspectorate which has been established for the inspection of voluntary labour should be extended to cover the inspection of forced labour, and that, in the absence of such an inspectorate, other adequate measures should in all cases be taken to assure that the regulations governing forced labour are applied? ²

23. Do you agree that, when forced workers other than forced transport workers are compelled to remain for considerable periods for works of construction or maintenance at workplaces distant from their homes, measures should be taken to assure their health and to guarantee the necessary medical care, and that in particular (a) they should be medically examined before commencing the work and at intervals during the period of service, (b) an adequate medical staff should be provided, with the dispensaries and hospital accommodation necessary to meet probable eventualities, and (c) the sanitary conditions of the workplaces, the supply of drinking water, food and, where necessary, of housing and clothing should be assured? ³

24. Do you agree that the competent authority should satisfy itself of the possibility of adequately taking all the measures indicated in Question 23 above, before permitting any recourse to forced or compulsory labour? ⁴

25. Do you agree that the journeys of forced workers to and from the workplaces should be at the expense and under the responsibility of the Administration, which should facilitate them by making the fullest use of all available means of transport? ⁵

Where forced labour for the benefit of private enterprises may be still permitted, do you agree that the expense of these journeys should fall upon such enterprises?

Do you agree that any worker who may wish to remain as a free worker at the end of his period of forced labour should be permitted to do so?

26. In the case of forced services for the transport of persons or goods (porters, boatmen, etc.), do you agree that the competent authority should promulgate regulations determining, inter alia, (a) that only adult males medically certified, where medical examination is possible, to be physically

¹ Cf. §§ 333 (4), (ii), and § 340 (ii).
² Cf. § 336.
³ Cf. §§ 330 (ii), 331 (ii), (iii), (iv).
⁴ Cf. §§ 331 (iv).
⁵ Cf. § 335.
fit shall be employed on this work, (b) the maximum load, (c) the maximum distance from their homes to which these workers may be taken, (d) the maximum number of days per month or other period for which they may be taken, (e) the persons entitled to demand this form of forced labour and the extent to which they are entitled to demand it?

In this connection, what maximum load do you suggest, what maximum distance from their homes to which these workers may be taken, and what maximum number of days per month or other period for which they may be taken? ¹

27. Do you consider that the competent authority may delegate to minor and local authorities powers to demand forced labour for the following local public purposes ²:

   (i) the maintenance and keeping clean, but not the construction, of local roads but not of main roads nor of metalled roads;
   (ii) the construction and maintenance of public buildings for local purposes, including rest houses where such are deemed necessary;
   (iii) such work of a nature necessary to facilitate the movement of officers of the Administration, when on duty, and of stores of the Administration (transport, provision of food, forage and accommodation) as the competent authority may by legislation or otherwise determine? ³

28. Do you agree that the competent authority should define precisely, in so far as this has not already been done, the conditions under which forced or compulsory labour exacted by minor and local authorities should be carried out, and that these conditions should, in regard to the category of persons liable, the maximum duration for any individual, working hours, payment, indemnities and inspection, be the same as those laid down for forced labour demanded by the competent authority itself? ⁴

29. Do you agree that recourse should be had to compulsory cultivation solely as a measure of precaution against famine or a deficiency of food supplies, and always under the condition that the food so produced shall, in lieu of wages, remain the property of the individuals or the community producing it?

   Do you further agree that in no case should compulsory cultivation be imposed to further the production of crops for export, or as a measure of education? ⁵

¹ Cf. §§ 338, 339, 342, 343, 344, 346.
² Cf. § 353.
³ Cf. § 354 (i), (ii), (iii).
⁴ Cf. §§ 355, 356, 357 (1), (2), (3), 336.
⁵ Cf. §§ 347-350.
II

Do you consider that the International Labour Conference should adopt a Recommendation calling attention to important matters in connection with the economic development of as yet undeveloped areas with a view to avoiding such pressure upon the populations concerned as may amount to compulsion to labour?

If so, do you agree that the Recommendation should set out that the amount of labour available, the capacities for labour of the population, and the evil effects which too sudden changes in the habit of life and labour may have on the social conditions of the populations are factors which should be taken into consideration in connection with economic development, and, in particular, when deciding upon:

(i) increases in the number and extent of industrial, mining and agricultural undertakings in the areas;
(ii) the non-native settlement which is to be permitted;
(iii) the granting of forest or other concessions with or without a monopolistic character? ¹

III

Do you consider that the International Labour Conference should adopt a Recommendation deprecating resort to indirect means of artificially increasing the economic pressure upon populations to seek wage-earning employment, particularly by:

(i) imposing taxation on populations on a scale dictated by the intention of compelling them to work for the benefit of private enterprises;
(ii) rendering difficult the gaining of a living by independent workers by unjustified restrictions as to the possession, occupation or use of land;
(iii) extending abusively the generally accepted meaning of vagrancy;
(iv) adopting “pass” laws which would result in giving to workers in the service of others a position of advantage as compared with that of other workers? ²

¹ Cf. § 324.
² Cf. §§ 365-366.
IV

Do you consider that the International Labour Conference should adopt a Recommendation calling attention to the necessity of so regulating demands for forced or compulsory labour as not to imperil the food supply of the community concerned? ¹

V

Do you consider that the International Labour Conference should recommend, in regard to forced or compulsory labour imposed upon men, that every care be taken that the burden of that labour is not passed on to women and children?

VI

Do you agree that the International Labour Conference should recommend that every possible effort should be made to reduce the necessity for recourse to forced or compulsory labour for the transport of persons or goods and that, in particular, such recourse should be prohibited when and where animal or mechanical transport is available? ²

VII

Do you consider that the International Labour Conference should adopt a Recommendation deprecating restrictions placed upon the voluntary flow of labour to other employment or to certain areas or industries?

¹ Cf. §§ 334, 358.
² Cf. §§ 337, 345.
APPENDIX I

COMMITTEE OF EXPERTS ON NATIVE LABOUR

First Session, Geneva, 7-12 July 1927

Report of the Committee

The Committee consists of the following members:

General Freire d'Andrade. Mr. Martial Merlin.
Sir Selwyn Fremantle. Commandant Ostini.
Mr. Albrecht Gohr. Mr. Van Rees.
Mr. H. R. Joynt. Mr. von Rechenberg.
Mr. Nobumi Ito. M. Pedro Saura del Pan.
Mr. Camille Lejeune. Mr. H. M. Taberer.
Sir Frederick Lugard.

All the members, with the exception of Mr. H. R. Joynt and Commandant Ostini, who communicated their regrets at not being able to attend, were present at this Session.

On the motion of Sir Frederick Lugard, seconded by Mr. Van Rees, the Committee unanimously elected Mr. Albrecht Gohr as its Chairman.

The Deputy-Director of the International Labour Office, Mr. H. B. Butler, welcomed the members to Geneva. He explained that the object of the Office in seeking their assistance was to ensure that the questions arising with regard to the conditions of native labour should receive the fullest expert consideration possible, and thanked the members for their collaboration.

Mr. H. A. Grimshaw, Secretary of the Committee, explained the programme of the work in which the Office requested the Committee to assist during the present Session.

The Committee thereupon proceeded to the examination of a draft for a report on Forced Labour prepared by the Office.

Chapter I, treating of the history of forced labour as an international question, was approved without change.

In Chapter II, outlining the plan of the rest of the report, certain modifications were adopted.

In regard to Chapters III, IV and V, which contained summary accounts of the legislation and practice with regard to forced labour in various areas where it exists, the members were requested to communicate at a later date to the Office any observations they might have to make concerning the accounts given of legislation and practice in the areas with which they were acquainted, particularly with regard to any errors or omissions they might note. These chapters were not
discussed by the Committee as such, and their completion was left to
the charge of the Office, which undertook to take account of the observa-
tions which members might subsequently communicate. In this connec-
tion, Mr. Saura del Pan communicated during the Session a note upon the
conditions of labour in the Spanish Colonies which contained much new
and valuable information.

Chapter VI, giving a summary of various opinions on the value and
the effects of forced labour and on the need for its regulation, was not
examined by the Committee, the members being invited to make their
observations in the same conditions as for Chapters III, IV and V.

Chapter VII occupied almost the whole time of the Committee.
In this chapter an attempt had been made to collect and classify the
principles underlying the regulation of forced labour and those which
it had been suggested should underly that regulation. Certain amongst
these principles were amended, and, either in their amended or original
form, all were adopted unanimously with the exception of the principle
concerning the duration of the period of compulsion which was adopted
by five votes against three given for a counter-proposition and three
abstentions.

It was understood that in approving these principles, the Committee
did not necessarily mean to imply that all of them were suitable for
insertion in any future International Convention which might be adopted
on the subject of forced labour.

The following resolutions were also adopted by the Committee:

1 These resolutions were submitted to the Governing Body of the Inter-
national Labour Office in the course of its Thirty-seventh Session, which was
held in Berlin in October 1927. The following extract is taken from the
official minutes of the Fourth Sitting at which the resolutions were discussed:

Mr. Cort van der Linden pointed out that the Committee of Experts
had adopted a resolution proposed by Mr. Taberer expressing the view
that “forced labour should cease at the earliest possible moment”,
and recommending “that it should be the aim of all Administrations to
hasten the time when forced labour of any nature shall cease to be
imposed”. He emphasised that this resolution was much too vague, and
that the Committee had gone beyond the scope of the questions on which
it was consulted. It was not possible to abolish all kinds of forced labour.
In many countries, including the Netherlands, there were cases, such as
those of fires or the breaking of dykes, in which the local authorities had
the right to require a kind of forced labour. Similarly,
compulsory military service was a sort of forced labour. According to
the way in which the resolution was phrased, these cases would be included
among the kinds of forced labour which the Committee wished to have
abolished. Even in colonies there were certain cases in which forced
labour ought to be allowed, e.g. in case of forest fires, epidemics, etc.
He hoped that his observations would be taken into account when the
resolution of the Committee was communicated to the Conference.

The Director said that the Committee of Experts had been asked to
examine the information collected by the Office and to give its views on the
possibility of placing the question of forced labour on the Agenda of the
Conference. The Committee had submitted a report on this point, and
had added a certain number of resolutions. The first of these suggested
that the Office should regularly publish full information on questions
connected with labour problems in districts where industry was still at a
low stage. The Office had itself already realised how useful it would be
to publish information of this kind, and was prepared to carry out the
suggestion of the Committee. In a second resolution the Committee
drew attention to the urgency of the question of forced labour and asked
1. In view of the continually increasing importance of the question of the conditions of labour in extra-European areas where industrial development is still at a low stage,
   And in view of the undoubted utility of the widest possible dissemination of reliable information concerning the measures taken by the various Administrations to safeguard the well-being of the populations under their charge,
   The Committee of Experts on Native Labour urges the International Labour Office to consider by what means it may be possible to secure the publication of complete information on questions affecting labour conditions in such areas.

2. This Committee considers the question of the regulation of forced labour to be one of urgent importance for the safeguarding of the conditions of certain populations, and considers that it should be examined by the International Labour Conference at an early date.

   It requests the Director of the International Labour Office to communicate this resolution to the Governing Body, which, under Article 400 of the Treaty of Peace of Versailles, determines the Agenda of Sessions of the Conference.

3. That in the opinion of this Committee all forced labour should cease at the earliest possible moment, and the Committee therefore recommends that it should be the aim of all Administrations to hasten the time when forced labour of any nature shall cease to be imposed.

The Session closed with an unanimously supported vote of thanks to the Chairman for his able conduct of the proceedings.
1. An Appeal to the International Labour Organisation of the League of Nations, prepared by a Joint Committee of the League of Nations Union and the (British) Anti-Slavery and Aborigines Protection Society

The following letter was addressed to the Director of the International Labour Office by the British League of Nations Union and the Anti-Slavery and Aborigines Protection Society, and was circulated for the information of the members of the Committee of Experts on Native Labour.

London, 15 June 1927.

SIR,

We beg leave to express to you, on behalf of the British League of Nations Union, and the British Anti-Slavery and Aborigines Protection Society, the high appreciation by both organisations of the decisions of your Governing Body to proceed with the examination of the varied problems of Native Colonial Labour with a view to international agreement concerning them.

In our opinion the two classes of labour which to-day lead to the gravest abuses are Forced Labour and Indentured Contract Labour. In this memorandum we are limiting the representations we venture to make to Forced Labour. On this question some progress has been made towards agreement in Article 5 of the Slavery Convention—where it is laid down:

"The High Contracting Parties recognise that recourse to compulsory or forced labour may have grave consequences and undertake, each in respect of the territories placed under its sovereignty, jurisdiction, protection, suzerainty or tutelage, to take all necessary measures to prevent compulsory or forced labour from developing into conditions analogous to slavery".

(1) FORCED LABOUR FOR PRIVATE PROFIT

We note that it is agreed in the above-named Convention that "Subject to the transitional provisions laid down in paragraph (2) (Article 5) compulsory or forced labour may only be exacted for public purposes". We, however, hold that for many years most civilised Governments have accepted the view that forced labour for private profit
is but another name for Slavery. The late Lord Cromer, whose authority upon this subject will not be challenged, expressed in the following passage a view generally held by students of Colonial policy:

"Here, therefore, is the explanation of British views which M. de A. . . . . . seeks. The answer to his question, what we mean by slavery? is that we reluctantly admit the necessity of compulsory labour in certain cases, and that we do not stigmatise as slavery such labour when, under all possible safeguards against the occurrence of abuses, it is employed for recognised and indispensable purposes of public utility. On the other hand, we regard the system when employed for private profit as wholly unjustifiable and as synonymous with slavery."

We agree with Lord Cromer, and we regret that forced labour for other than public purposes has received some sanction from the terms of Article 5 of the Slavery Convention. It is true that this Article 5, paragraph (2), provides:

"In territories in which compulsory or forced labour for other than public purposes still survives, the High Contracting Parties shall endeavour progressively and as soon as possible to put an end to the practice. So long as such forced or compulsory labour exists, this labour shall invariably be of an exceptional character, shall always receive adequate remuneration, and shall not involve the removal of the labourers from their usual place of residence."

but in our opinion the system is bad in principle, and should be abolished. Its apologists maintain that certain areas can only be developed by native labour, and that where natives refuse to work, progress is impossible; secondly, compulsion to labour is beneficial to the natives themselves. We, however, maintain that if sufficient inducement were offered, voluntary workers would be forthcoming.

We venture to hope that the Expert Commission will be able to accept and to promulgate the view, internationally, that forced labour for private profit, being “synonymous with slavery”, can only be considered by the International Labour Office with a view to its total prohibition.

It follows that objection should be taken to Government machinery being utilised for the recruitment of labour for private enterprise. We draw attention, in this connection, to the report of the Temporary Slavery Commission of 25 July 1925, paragraphs 115 and 116, which read as follows:

"The Commission considers that forms of direct or indirect compulsion the primary object of which is to force natives into private employment are abuses."

"The Commission considers also that indirect or ‘moral’ pressure, if exercised by officials to secure labour for private employment, may, in view of the authority of such officials over the minds of natives, be in effect tantamount to compulsion and calls therefore for prudence on the part of the Administration."

In our view, the prudence recommended would be best displayed by total avoidance of the practice.

(2) Forced Labour

Forced labour, we recognise, takes two forms: (a) the tribal or communal labour for local services, which is in part traditional, but which has been extended in recent times owing to modern development, and
(b) the forced labour required by Central Governments for Public Works, such as the construction and maintenance of main roads, railways, docks, wharves or Government buildings, or for porterage.

(a) For Local Public Purposes

As to the first category of forced labour, it is important to note that in Africa this communal labour was subject to certain customary limitations, of which the more important were the following:

(1) The labour was not "called out" at harvest time, nor upon occasions when exceptional domestic demands were made for hunting, community fishing, and so forth.

(2) It was never called out for service which involved the break-up of family life, and therefore was only employed at a reasonable distance from home.

(3) Where a Chief requisitioned labour for his own land or cattle, he did so in virtue of his public position and its obligations.

Such forced labour called out by Chiefs or other local authorities for local purposes is not invariably paid, though we believe the practice of paying for it is increasing. In our view, the Central Government should introduce and enforce a system of payment at the earliest possible date.

Experience has shown that such forced labour is open to abuse. It should be the duty of the Central Government, by its regulations, to prevent such abuses, particularly by limiting the amount of labour exacted from individuals. Periodical reports should be submitted as to its working to the Central Authority.

(b) For Government Purposes

In view of the larger scale of operations of Central Government, some considerations arise which may not be applicable in the smaller local sphere. But some principles ought to apply to both kinds.

For instance, in resorting to forced labour for Governmental purposes, the Government should bear in mind the traditional and existing limitations referred to above.

The broad principle was that the claims of tribal and family life were at all times dominant, and we venture to suggest that this limitation should be borne in mind in framing any Convention on forced labour for public purposes.

Secondly, we repeat that any kind of forced labour, whether for local or non-local purposes, should be paid.

It is obvious that when labour is employed on large-scale operations at a distance from the employees' homes, the unfamiliarity of the work, long absences from home, and the possible spread of disease, may all give rise to difficulties, which should be kept in mind in framing any regulations to prevent abuse. We suggest that the following safeguards should be adopted.

(3) Forced Labour to be Regarded as Exceptional

Forced labour (apart from cases of emergency in which any delay would endanger the public safety) should be exacted only when the Central Government is satisfied that voluntary labour, at the ruling rates of wages for free labour, has been found to be unobtainable, and that the work to be done is urgently required, and of an exceptional character.
In this connection we are glad to note that the Sixth Committee of the Assembly of the League of Nations, held in 1926, rejected the proposal that compulsory labour might be exacted in the interests of education and the social welfare of the native, and that the Committee, “while recognising the disinterested and humanitarian motives for this suggestion, was not able to accept it. It feared that in its application this proposal might lead to grave abuses of exactly the type which the Convention itself was designed to prevent or suppress”.

(4) **Wages—Sustenance—Medical Assistance**

Wages should be provided at the market rate, that is, at the rate payable for work of a similar character in the territory. The British Colonial Office, on a recent occasion, declared that the payment of a lower rate than the ordinary market rate of wages could not possibly be defended. In addition, for labour employed at a distance from home, provision will often be required for free quarters, special food or clothing, and in all cases adequate medical attendance. In case of incapacity or death resulting from the work, compensation should be provided to the worker or his dependants.

(5) **Age and Sex**

In no circumstances should women and children be called out for public works; moreover, demands should be limited to able-bodied males between the apparent ages of 16 and 40. It is desirable to place a limit upon the proportion of able-bodied men taken at any one period from the native tribes from any particular district.

(6) **Limits of Distance and Time**

The principle to be observed is that home and tribal life must not be broken up, and periodic returns to home at short intervals should be arranged. There should be prescribed limits to the distance to which labourers may be removed from their homes, and to the period for which they may be called out.

It is dangerous to suggest a maximum limit of time, on the well understood ground that such a maximum is apt to become a minimum. In some British Colonies a period of twenty-four days in the year is the prescribed limit, but we hope that in many instances a shorter maximum limit may be fixed.

Differences of geographical and social condition, or of sparseness of population make it difficult for us to suggest the details of the limits to be laid down in different territories. In every case it should be the duty of the Central Government to issue such regulations as will ensure the observance of the above stated principles, having regard to all the circumstances.

(7) **Compulsory Porterage**

There is probably no more arduous labour in tropical and semitropical countries than porterage, and certainly none which more urgently demands effective control. The four conditions we venture to suggest are: (a) Weight of load. — This should not exceed 56 lbs. per man. (b) Distance. — This ought not to exceed a limit to be fixed by the Central Government. (c) Women and children should never be employed. (d) Payment at market rates should always be made directly to the porter.
(8) **Discipline and Penalties**

We suggest that special attention should be drawn to the kinds of punishment imposed for breach of discipline. At present these often include fines, flogging, imprisonment, and extension of the period of service, without reference to any Civil Court. We consider that disciplinary punishment should only be inflicted by order of a civil judicial authority; that extension of the period of service should be prohibited, and that flogging should be only ordered in exceptional cases.

The High Contracting Parties, under Article 6 of the Slavery Convention, accept the obligation to make adequate provision for the infliction of severe penalties in the case of infractions by officials or others of laws and regulations enacted in order to carry out the purposes of that Convention. The same principle should be applied in the case of the new Convention on forced labour.

(9) **General Considerations**

The responsibility for the exaction of forced labour for all purposes, and for the conditions under which the labourers are called out, should at all times lie with the Central Authority, no subordinate official being allowed to exact labour, except under conditions strictly defined by the Central Authority. In this connection, we note with satisfaction the provisions of Article 5 (3) of the Slavery Convention, viz.:

"In all cases, the responsibility for any recourse to compulsory or forced labour shall rest with the competent central authorities of the territory concerned".

The Central Authority, in the exercise of this responsibility, should secure that workers from whom has been exacted forced labour for public works under Government order, should not normally be called upon within the same year to perform in addition local tribal or communal services.

In conclusion, we submit that the object of an International Convention should be to secure the progressive suppression of forced labour, so as to ensure its abolition at the earliest possible date. We hold strongly that the continuance of forced labour in any form is bound to create discontent, and is inimical to progress, while free and paid labour is found to create a demand for the benefits of civilisation.

In submitting the foregoing memorandum to you we beg to ask whether it will be possible to permit a small deputation to present this personally to the Expert Committee, with a view to supporting this memorandum by personal representation.

We have the honour to be,

Sir,

Your obedient Servants,

For and on behalf of

**The Anti-Slavery and Aborigines Protection Society,**

Charles Roberts,

President.

For and on behalf of

**The League of Nations Union,**

Gilbert Murray,

Chairman of the Executive Committee.
2. Memorandum of the International Council of Women

The following letter of the International Council of Women was addressed to the Director of the International Labour Office and circulated for the information of the members of the Committee of Experts on Native Labour.

14 May 1927.

Dear Sir,

The Women's International Organisations signing this letter wish to express their satisfaction that the International Labour Office has taken up the question of forced labour and are glad to know that a small Committee of Experts has been set up to study the question and draw up a series of conclusions to be laid before a future meeting of the International Labour Conference.

In view of the work of that Committee we venture to put forward our opinions for its consideration.

First and foremost we feel very strongly that nothing short of the total abolition of every form of forced labour is the ideal to be aimed at. Should it be considered impossible to carry out a drastic change of this kind all at once we trust that stricter and stricter regulation may lead up to total extinction at no distant date.

We consider that under no circumstances whatsoever should forced labour be allowed for private undertakings, it should only be possible to exact it from the native communities for essential public services and then only with the sanction of the Home Government. We suggest that the term "essential public services" should be defined in the Convention.

Further, we consider that forced labour (apart from cases of emergency endangering the public safety) should be exacted only when voluntary labour has been found to be unobtainable and should always be paid at the ordinary market rate for the district, the labourer being at the same time provided with quarters, food of proper dietetic value and of a kind approved by the worker, and medical supervision.

The unfit and aged, as well as women and children, should in any case be exempt, and workers should only be selected after medical examination.

When exacting forced labour care must be taken not to interfere with the normal life of the village or to call for any service which would involve a break-up of family life. The proportion of men taken from any one district should be strictly limited. We venture to suggest that the broad principle that the claims of tribal and family life should always dominate should be the basis of any Convention drawn up to regulate forced labour for public services.

The practice of taking labourers long distances from their homes has led to serious abuses and also to an alarming spread of disease, which has been intensified when the labourer has been taken to a district with a different climate to his own. We would urge that no labourer should be taken away from his own district and that the time of absence from home should not interfere with the necessities of agricultural production in the home area. He should be allowed to visit his home at stated
intervals and the work required from him should not extend over more than two months in any one year.

We earnestly hope that this expression of our views will receive the careful consideration of the Committee appointed to study the subject.

Yours faithfully,

ISHBEL ABERDEEN AND TEMAIR,
President, International Council of Women.

MAY OGILVIE GORDON,
First Vice-President, International Council of Women.

MARION E. PARMOOR,
President, World's Young Women's Christian Association.

MARGERY CORBETT ASHBY,
President, International Alliance of Women for Suffrage and Equal Citizenship.

AGNES E. SLACK,
Hon. Secretary, World's Women's Christian Temperance Union.

K. D. COURTNEY,
Women's International League for Peace and Freedom.

CLARA GUTHRIE D'AR CIS,
President, World Union of Women for International Concord.

3. Letter and Memorandum of the British Section of the Women's International League for Peace and Freedom

The following letter from the Secretary of the British Section of the Women's International League for Peace and Freedom, with an accompanying memorandum, was addressed to the Director of the International Labour Office, and circulated for the information of the members of the Committee of Experts on Native Labour.

1 June 1927.

DEAR SIR,

In March of this year the Women's International League, having taken a great interest in the question of forced labour, convened a meeting of representatives of women's organisations in Great Britain.

At this meeting a Committee was formed to draw up a Memorandum on Forced Labour and decided to submit it to you for consideration at your forthcoming Conference.
I have much pleasure in enclosing this memorandum on behalf of the following organisations in Great Britain:

- British Commonwealth League.
- Friends' Peace Committee.
- League of the Church Militant.
- League of Nations Union.
- National Council of Women.
- National Union of Teachers.
- Standing Joint Committee of Industrial Women's Organisations.
- Union of Democratic Control.
- Women's Freedom League.
- Women's International League.
- Women's National Liberal Federation.

Yours faithfully,

(Signed) Dorothy Woodman,
Secretary.

MEMORANDUM ON FORCED LABOUR BY A COUNCIL OF BRITISH WOMEN'S ORGANISATIONS

Having in mind the resolution passed on 25 September 1926 by the Seventh Assembly of the League of Nations and the consequent resolution of the Council on 6 December 1926, as follows:

"The Council instructs the Secretary-General to communicate to the Governing Body of the International Labour Organisation a copy of the Slavery Convention, which was adopted by the Assembly of the League of Nations on 25 September 1926, at its Seventh Ordinary Session, and to inform the Governing Body of the importance which the Assembly and Council attach to the work undertaken by the Office with a view to studying the best means of preventing forced or compulsory labour from developing into conditions analogous to slavery."

This Council of British Women's Organisations begs to submit the following memorandum dealing with this subject to the International Labour Office and asks for favourable considerations of the proposals therein.

A. — This Council of British Women's Organisations desires to emphasise its condemnation of the institution of forced labour, and urges that the recognition of such labour should be admitted into any Convention promulgated by the League of Nations solely as a temporary expedient for public work, to be replaced as soon as possible by free labour.

B. — In those cases where forced labour for public service is permitted, the following conditions should be laid down by a Convention of the League of Nations and enforced by the administering States.
(a) **Definition of the Limits of Forced Labour**

1. Forced labour should only be permitted when adequate voluntary labour is absolutely unobtainable. The only legitimate employer of forced labour should be a Government or a public authority. No colonial Government which is not autonomous should employ such labour without the consent of its Home Government.
2. In accordance with the present practice of the British Empire, no forced labour should be allowed for any purpose in any Colony or Mandated Territory without the consent of the Home Government of the administering State.
3. Forced labour should only be permitted for necessary public work. The term "necessary public work" should be carefully defined in the Convention.
4. The term "forced labour" should include local compulsory village labour for public services according to the present definition of the French, though not of the British Administration.
5. The use of labour for porterage should be avoided wherever other means of transport — by road, rail, etc. — can be made available.

(b) **Terms of Service**

1. All forced labour should be adequately paid, and should be employed only for a definite limited period, not exceeding twenty-four days in any one year. Forced labour should not be taken from villages of more than two days' journey from the work.
2. The number of men summoned to perform forced labour from any family, village or tribe should not be so great that it causes local distress for lack of adequate male labour, nor should the period of work conflict with the village requirements in the matter of labour.
3. Every native employed upon forced labour should be allowed to return home at least once a month, and proper facilities for this return, together with food and travelling allowances, should be provided by the employing authority.
4. Adequate safety laws should be enforced for the protection of natives from dangerous ways, plant and machinery. Provision should be made for the application and enforcement of a system of workmen's compensation.
5. At the end of a native's period of forced labour, the authority employing him should pay all expenses involved in returning him to his home.

(c) **Precautions for Health of Workers on Forced Labour**

1. Forced labour should be exacted from adult males only, and there should be an age limit for employment, having regard to the physical constitution of the race.
2. No man should be employed upon forced labour unless he has passed a medical examination by a qualified doctor, who has certified his fitness for such work.
3. There should be a medical inspection to ensure:
   
   (a) good accommodation and healthy conditions of work, having due regard to the possible effects of a change of climate;
   
   (b) the suitable dietetic value of food rations, when provided, having due regard to native habits.
4. The employing authority should provide adequate treatment for all infectious and other diseases occurring during the period of forced labour, and should take the necessary steps to safeguard villages from infection caused by the return of natives carrying disease.

5. Adequate records should be kept and returns submitted to the medical and central authorities giving the number of natives employed on each piece of work under forced labour, the number of those returning home, and of cases of illness and death.

6. No provision of prostitutes should be countenanced or permitted.

(d) *Publication of Regulations*

Regulations controlling forced labour should be published and circulated in the local native language.

C. — Though recognising that other forms of employment such as indentured labour or contract labour under duress frequently approximate to forced labour, this Council of Women's Organisations has confined its memorandum to the direct employment of forced labour.
APPENDIX III

ITALY¹

The Law and Practice with regard to Forced Labour for
General Public Purposes

ERITREA

According to section 17 of the Regulations concerning Regional Commissariats, approved by a Decree of 30 December 1909, the natives of Eritrea can only be called upon for forced or compulsory labour with the authorisation of the Governor of the colony. This form of labour has been employed for public works and emergencies.

Public works. — Under the authority of the above-mentioned section and of sections 18 and 148 of the same Regulations, work upon the caravan routes has sometimes been prescribed for able-bodied male adults. The period of work required has never exceeded three days and the forced workers have not been called upon to leave the territory of their tribe. The work has been unpaid or partly paid.

In one case only have certain tribes been called upon to provide labour for important irrigation works. In this instance it was necessary to complete the works before the wet season, and it was found impossible to procure voluntary labour in sufficient quantity. The workers were employed far from their villages for a period of seventy days. They were paid at the rates for voluntary workers, and serious attention was given to their hygienic conditions.

Emergencies. — The Administration has at times had occasion to call out the male population of the colony or the male members of certain tribes to assist in the destruction of locusts or the putting out of fires. This kind of work has not occupied more than three days per year and has been unpaid or partly paid.

SOMALILAND

Public works. — There is no legal provision for the regulation of forced labour in Italian Somaliland. In virtue of custom, however, the authorities have at times requisitioned labour for the maintenance and repair of caravan routes. The work has either been paid or has been carried out in lieu of the payment of taxes.

¹ Information received too late for insertion in the body of the report.
Emergencies. — Under section 76 of the Ordinance concerning the judicial organisation of Somaliland, natives may be requisitioned in cases of disaster, fire, or public danger. Refusal to act is punishable by imprisonment or fine.

Tripoli and Cyrenaica

So far as the Office is aware, no legislation on forced labour exists for these colonies and no form of it is in practice.

The Law and Practice with regard to Forced Labour for Local Public Purposes

Eritrea

The cases in which the Government of the colony, in virtue of section 17 of the Regulations concerning Regional Commissariats authorises recourse to compulsion for local public purposes may be summarised as follows:

1. Construction and repair of religious buildings;
2. Construction and repair of buildings used by the judicial authorities of the districts;
3. Maintenance of local roads;
4. Cleaning of village streets;
5. Necessary work on wells and sources.

The work is always of short duration and is not paid.

Somaliland

It would appear that the only kind of forced labour for local purposes utilised in Somaliland is in connection with the construction and repair of mosques, and that this labour is requisitioned by the native authorities.

Tripoli and Cyrenaica

No form of forced labour for local public purposes exists in these two colonies.

The Law and Practice with regard to Forced Labour for Private Employers and to Indirect Compulsion

Eritrea

Natives in Eritrea are in no case compelled to work for private employers. The Government of the colony may, in virtue of section 137 of the Acts of the Public Authority, prescribe that natives should reside in a given locality, but, according to information supplied to the Office, a measure of this nature is applicable only in exceptional cases and in the interests of public order, and has not the effect of compelling natives to enter into employment.
It may be added that natives sentenced to correctional labour perform the latter for the service of the Administration and not that of any private person (section 108 of the Judicial Regulations for Eritrea). The authorities intervene in recruiting only when the workers are recruited for service with private employers who are carrying out Government contracts. The object of the intervention is to prevent the mingling of workers of different races or religions and thus safeguard order and discipline amongst them.

**Somaliland, Tripoli and Cyrenaica**

In these three colonies natives can in no case be compelled to work in the interest of private employers.
FIRST DISCUSSION

International Labour Conference

TWELFTH SESSION
GENEVA, 1929

FORCED LABOUR
SUPPLEMENTARY REPORT

Item III on the Agenda

GENEVA
INTERNATIONAL LABOUR OFFICE
1929
NOTE

This supplementary report contains the most important relevant information which has come to the notice of the International Labour Office since the publication of the Grey Report. For convenience of reference this information is not divided into chapters, as in the main report, but is grouped according to countries. A mention is made of the paragraphs of the main report to which the supplementary information refers and, where appropriate, it is classified according to the purposes for which the forced labour is used.

Attention is particularly called to the passages concerning the new Labour Code for the Portuguese Colonies, which repeals the existing law described in the Grey Report.
BRITISH EMPIRE

NORTHERN RHODESIA

In the summary of the laws concerning forced labour in the British East African Dependencies contained in the main Grey Report, it was stated that in Northern Rhodesia "no legal provisions, similar to those of the other territories, authorise the use of forced labour and the Governor has stated that he has no present intention of taking any powers in this direction". Since the printing of the Report, however, laws have been adopted in Northern Rhodesia the effect of which has been to establish a legal position similar to that existing in the other British East African Dependencies.

These laws are:

(1) the Native Authority Ordinance, 1929;
(2) the District Messengers' Ordinance, 1929.

In addition a Vagrancy Ordinance has been adopted, mention of which must also be made in this Report.

Forced labour for general public purposes

Public works. — The Native Authority Ordinance repeals the Administration of Natives Proclamation examined in the Grey Report. It permits the enforcement of labour on public works by authorising the issue of orders for the engagement of paid labour for essential public works and services. A certificate by a provincial commissioner as to any public works or services being essential is to be conclusive evidence of such fact. Under this provision no person may be engaged for work over a longer period than sixty days in any one year, if he is fully employed in any other work, or has been so employed during the year for a period of three months, or if he is otherwise exempted under directions of the Governor. A native contravening or failing to obey any such lawful order is

1 Grey Report, § 22.
3 Native Authority Ordinance, 1929, section 12 (9).
liable to a fine not exceeding £5, or to imprisonment not exceeding three months or to both 1.

Porterage 2. — Under the District Messengers' Ordinance any native can be required to act as a messenger in the promulgation of any order or regulation, or in the notification of any disease or abnormal death. Failure to obey such an order constitutes an offence punishable by a fine not exceeding £10, by imprisonment not exceeding nine months, or by both fine and imprisonment 3.

Emergencies 4. — The provisions of the Native Authority Ordinance permit the issuing of orders for preventing the spread of infectious or contagious disease whether of human beings, animals or plants, and for the care of the sick, and for the purpose of exterminating or preventing the spread of the tse-tse fly, locusts, mosquitoes or pests of a like nature 5. In addition a system of compulsory employment in the case of famine is permitted similar to that existing in Kenya, Tanganyika, and Uganda 6.

Compulsory cultivation 7. — Under the Native Authority Ordinance orders may be issued requiring any native to cultivate land to such extent and with such crops as will secure an adequate supply of food for the support of himself and his dependants 8. In the event of a famine orders may also be issued requiring any native to cultivate land to such reasonable extent as the native authority may direct 9. These obligations are identical with those in force in Tanganyika Territory.

Forced labour for local public purposes 10

The new Native Authority Ordinance enables orders to be issued for preventing the pollution of water or the obstruction of any stream or water course, for the making and maintenance of inter-

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1 Idem, section 16 (1).  
2 Grey Report, § 29.  
3 District Messengers' Ordinance, 1929, sections 6 and 11.  
5 Native Authority Ordinance, 1929, section 12 (7) and (18).  
6 Idem, section 13.  
7 Grey Report, § 31.  
8 Idem, section 12 (19).  
9 Idem, section 13 (1) (c).  
10 Grey Report, § 180.
village roads and roads in and about the village, and for requiring anything to be done which is within the power of the native authority by virtue of any native law or custom for the time being in force and is not repugnant to morality or justice\textsuperscript{1}. No remuneration is prescribed for this labour, nor are any exemptions expressly provided for women, children or the unfit.

**Forced labour for private employers**

The Vagrancy Ordinance establishes a system similar in some respects to those in force in Kenya and South-West Africa. A vagrant is held to mean any person wandering about and unable to show that he has visible and sufficient means of substance, any person lodging in any building or vehicle without leave of the owner and not having any visible means of subsistence, and any person professing to tell fortunes or otherwise deceiving any other person\textsuperscript{2}. If a person be proved a vagrant, the magistrate may order him to find work within a definite time, or may order him to be detained in a house of detention or may return him to his village\textsuperscript{3}. Every person detained in a house of detention may be put to labour, and if he refuses to perform this labour is liable to imprisonment for not exceeding one month\textsuperscript{4}. The superintendents of houses of detention are instructed to use their best endeavours to obtain suitable employment for the vagrants in their charge. When any such employment is obtained, any vagrant who refuses or neglects to avail himself of it without reasonable excuse is liable to imprisonment for not exceeding three months\textsuperscript{5}.

**FRANCE**

**MADAGASCAR**

**Forced labour for general public purposes**

**Public works**\textsuperscript{6}. — Since the Grey Report was printed, the Office has noted some additional comments on the system of requisitioning labour in Madagascar by which certain works of public importance

\begin{footnotes}
\item Idem, section 12 (5), (15) and (20).
\item Vagrancy Ordinance, 1929, section 2.
\item Idem, section 10.
\item Idem, section 8.
\item Idem, section 6.
\item Grey Report, § 126.
\end{footnotes}
are performed by workers levied from the second quota of the native militia. These comments are quoted below.

In a speech delivered on 17 September 1928 at the opening of the session of the Economic and Financial Delegations of Madagascar, Mr. Marcel Olivier, the Governor-General, gave certain details concerning the application of this measure: "Already at the present moment, we have about 7,000 men in employment. They will soon number 10,000 and 15,000 when our work is in full progress. It can already be stated with confidence that the problem of the labour supply necessary for the execution of important works has been solved in Madagascar thanks to this army of workers devoted to works of progress and peace."

Speaking on the same subject, the Governor-General made the following remarks when received by the Chamber of Commerce of Marseilles: "We have much important work to complete for which a large labour supply is necessary. To obtain this I have succeeded in organising a scheme which is giving complete satisfaction. It consists of using for this work that portion of the native militia which is not called under the colours. It was not easy to obtain this. Therefore, I shall say little about it, for if I spoke much I would endanger the whole organisation and it would be necessary to give up the hope of doing anything at all in Madagascar. At the present moment, I am at the head of an army which is disciplined, enrolled, organised, clothed, fed and housed in perfect conditions, an army of 15,000 men capable already—for the system has been working for two years—of performing a good deal of the work which we have in contemplation." ¹

An article which appeared in the Dépêche africaine of December 1928 quoted the opinion of Mr. Charles Gide on the mobilisation of the second quota of the militia: "The idea of requiring from all men a certain period of work on behalf of the nation or the community can very easily be justified. It is only a form of tax in kind. But this civic obligation can only be admitted if it is applied equally to all in the same way as military service. If, therefore, the Decree of 3 June 1926 is to be made just, its limitation to natives should be deleted and it should be made applicable to all inhabitants of Madagascar, whether they be Hovas, Sakalavas, Frenchmen or foreigners. If the system is going to have an educational value, as the Minister maintains, it would not be a bad thing for the young

¹ Cahiers coloniaux de l'Institut colonial de Marseille, 4 March 1929, p. 87.
settlers to profit by such an education. Moreover, if the law was so amended it could be accepted without fear; one could be certain that, from the time when the settlers were made subject to it, they would very soon have the period of service reduced from three years to three months, if not to three days."

In an enquiry into the obligation to labour, Mr. Louis Bouillier, studying what he calls the compulsory labour service, points out that in the first editions of his book on colonial development Mr. Leroy-Beaulieu was strongly opposed to this system, "the ingenuity of which masks its iniquity. It can be said, for example that, just as a worker living on the Continent of Europe is liable to two or three years' military service and afterwards to several successive periods of 28 or 13 days of the same service, similar periods of labour service can be rightly imposed on adult blacks, either in public employment or for the benefit of certain private undertakings." ¹ Mr. Bouillier adds: "That a French subject should have to bear the same burdens as a French citizen is perfectly iniquitous. Now, however, that military service is compulsory in most of our colonies, it is quite easy to understand Mr. G. Barthélémy's proposal to make those natives liable to labour service who are unfit for military service but fit for ordinary labour. . . . It can be admitted that the solution is advantageous both for the Government and for the native. On the one hand, it is better to have a labour force working for a long period of time rather than a succession of prestation gangs. Moreover, it is easier to organise housing and general welfare conditions. The whole problem depends on the way in which the natives accept this measure which, in our opinion, should be enforced for State employment only. It is difficult to say what is the attitude of the natives, for, as far as we are aware, no experiment of this nature has so far been made in the colonies. The long periods of prestation labour in Indo-China and Madagascar have given very meagre results and if a permanent labour force had been available the work could have been better organised. . . . Finally, we have had experience of compulsory military service which has, on the whole, been fairly well accepted. Evidently, there is always a danger in initiating an experiment of such magnitude. It is only, however, by making such experiments that progress can be effected." ²

In an article on the International Labour Office and Native Labour, Mr. Labouret writes as follows, commenting on the passage in the Grey Report dealing with the Decree of 3 June 1926: "The Report mentions elsewhere (p. 96) that in spite of the administrative advantages offered by such measures complaints from native circles have reached Geneva. It is therefore probable that the rate of wages paid to the young men who are thus called up will be discussed, for these wages are certainly lower than the average local wages. Moreover, the disciplinary penalties in case of negligence, idleness and absence without leave are military in character and will also give rise to comments. They are, indeed, contrary to the double principle of freedom of association and of arbitration which are thought so highly of in international circles." \(^1\)

**Forced labour for private employers**

**Vagrancy laws\(^2\).** — In a report submitted at the beginning of 1928 to the Governor-General of Madagascar, the Special Committee of the Chamber of Commerce of Tananarive, which had examined the question of the native labour supply in Madagascar, recommended a stricter application of the provisions of the Decree of 28 August 1921 on native vagrancy, "so that this vagrant labour may be redressed".

By a circular of 5 September 1928 the Governor-General instructed his provincial administrators to the following effect: He drew their attention to a passage in the circular of 30 December 1925 establishing the principle of the obligation to labour for all men, adding "that this conception is by no means alien to the mentality of the natives of Madagascar. Andrianampoinimerina, in his *Kabary*, speaks with severity against idlers ... These considerations justify us in resorting to the local means at our disposal to repress any vagrancy that arises. Circular 2025. A. I. of 18 June 1923 defines the offence of vagrancy. Moreover, the Native Administration Decree of 9 March 1902 obliges the natives to use their authority in police matters in regard to any inhabitants of Fokonolona, including natives who are passing through, whatever may be their status. Any offenders should be arrested and brought before the administrative authorities. If such action is not taken


\(^2\) Grey Report, § 263.
the Fokonolonas who have failed in their duty are liable to collective fines. A firm and reasoned application of these provisions will enable you to help in the creation of a situation which will lead to a sensible reduction in the number of vagrants and which will give valuable results fiscally. The repression of vagrancy will lead to a reduction in the number of those who are without value to the community. It will lead to a decrease in the present labour crisis; it will prove to the working classes that no one is allowed to fail in his duty with impunity."  

FRENCH INDO-CHINA

Forced labour for general public purposes

Public works 2. — The paragraph in the main report should be replaced by the following text:

In Indo-China the corvée was an institution of long standing. Before the French conquest the Annamite administration carried out all public works by corvée labour. In 1840 the Emperor of Annam, Minh-Mong, regulated the institution by laying down a maximum period of service of 48 days a year and by prohibiting the employment of the workers beyond five kilometres from their homes. "Although generally used with great moderation the corvée was notwithstanding at times the occasion for real mass levies. Five thousand Cambodians and as many Annamites were employed in the construction of the Vinh-Me Canal, 58 kilometres long. . . . . 11,500 natives were employed on the 'Chinese Arroyo' near Saigon and 15,000 on the Vinh-Long Canal. The economic results of these mass levies cannot be estimated. It is clear, however, that wages were high and that the execution of the work left nothing to be desired. On the arrival of the French, therefore, the corvée was not unpopular. The French took advantage of it, indeed undue advantage, to meet the first needs of the French occupation. . . . . Before long epidemics took place at the places of work and soon there were revolts." 3 Reforms were therefore necessary.

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2 Grey Report, § 128.
In Annam the Order of 30 October 1897 appreciably modified the corvée system. Till then the French administration had not regulated its imposition in any way. By this Order, however, the number of days' service required per year was fixed at 30. The reform was confirmed by a later Order of 15 August 1898 establishing a single tax which included both the head tax and the corvée commutation fee. The Order declared that "corvées were entirely suppressed since they are commutable by the payment of a tax." At the same time it specified that "in case of work of general interest ordered by the Superior Resident and the Council (, Comat ') villages may be required to supply coolies at the daily commutation fee of 0.10 piastres". This meant an indirect re-establishment of the corvée system and the system has subsequently been maintained. As at present regulated by the Royal Orders of 15 to 28 August 1917, only 4 days of prestation labour may be required in the year, 3 of which may be commuted 1.

In Cochín-China the corvée was abolished by a presidential decision of 10 May 1901 but was replaced by the "requisition". "In Cochín-China everyone requisitions labour. The administrative head of the province does so to get his public work done. The chief of the canton requisitions boatmen, The customs and monopolies department requisitions labour for transport. And so it all goes on. . . . . It is true that the requisitioned workers are paid, but it is not certain whether the money ever actually reaches them, for when they are called up in large numbers payment is made through the village headman. The rate of pay, moreover, is exceedingly low, being generally 25 cents. . . . . Finally, the workers are called out in excessive numbers—43,000 were employed at the same time in the province of Tanan on the construction of the Canal from Viaco to Mékong in 1903. The workers are also taken too far from their villages. The requisitioning of labour should only be authorised in exceptional cases such as floods and for the execution of urgent and essential public works for which sufficient voluntary labour does not come forward. It should be prohibited during the rice planting and harvesting seasons. The worker should not be taken more than 12 kilometres from his village." 2

In Cambodia, according to an old custom, the population was

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1 For prestation labour cf. § 220.
obliged without payment to supply the King with labour for the execution of public works. It could thus be requisitioned at the King's pleasure. The administration has endeavoured to do away with this abuse. A Royal Order of 15 January 1877 maintained the principle of the corvée but provided for the reduction of its incidence. Any person not commuting his corvée labour was held to owe the State 90 days' annual labour. A Royal Order of 26 June 1903 regulated prestation labour, reducing it to 10 days in the year and permitting commutation. The present system is that established by the Royal Order of 20 September 1917 (cf. § 220). Nevertheless an Order of the Governor-General of 26 December 1916, which seems still to be effective, permits the requisitioning of any means of transport and of labour for such transport at any time and without limitation. Furthermore, section 1 of the same Order permits the requisitioning of any person, not only in case of disaster, but also for the performance of public services and again "in exceptional cases for the execution of public works of interest to the district and for the transport of materials to be used on such works, when there is a shortage of labour in the district in which the work is to be carried out".

In Tonking the corvée was first regulated by an Order of 30 June 1889 fixing the number of days' service at 30 in the year and providing that 20 of these days were compulsorily commutable at the rate of 0.10 piastres per day. In accordance with the Order of 2 June 1897 amending the poll tax, these commutation fees were grouped with the tax. The other 10 days are still required to be paid in kind and are used for the improvement of village communications. The Order of 30 June 1899 maintains the preceding system in a reduced form which permits of commutation. Natives employed on settlers' estates are exempt.

In Laos, by the Orders of 28 May 1896 and 30 June 1897, all registered natives are liable, in addition to the head tax, to 20 day's corvée labour which can be commuted for 2 piastres, i.e. 0.10 piastres per day.

In short, in the various colonies of Indo-China a corvée system has evolved in a very similar fashion. In the old days it was used reasonably and seems to have given fairly satisfactory results. After the conquest the first needs of the new administrators led to abuses, and attempts were made to suppress the system altogether. It later, however, became necessary to re-establish the corvée, but at the same time it was regulated in the following
manner: The number of days' labour due was reduced, a certain number of these days were made commutable and a certain number were reserved for work in the villages for the improvement of means of communication. Thus from the old corvée system has gradually arisen the present system of labour dues (prestation labour).

**Porterage.** — The Office has received new information containing the following details:

In Cochin-China, Cambodia and Kwang-Chau Wan porterage is apparently no longer used for Government services. In Annam it is only used, and that infrequently, for the victualling of the Lao-Bao prison and for the transport of travellers to Bana. In Laos, on the other hand, use is made of porter carriage in the numerous districts traversed only by paths and tracks. Goods are carried by coolies and pack horses, and will continue to be so so long as the country is without an adequate road system.

In Tonking the position is different in the Delta and the upper districts. A road system has been developed in the Delta which also possesses many navigable waterways and four railway lines. Porterage is not used for the long distance transport of travellers and goods. On the other hand labour is so plentiful and cheap that in many cases employers find it advantageous to use human carriage. In the towns coolies, men and women, are commonly used for the handling and carriage of goods over short distances, though mechanical means of transport are becoming increasingly frequent. In the hill country there are few proper roads, the population is scanty and the system of requisitioning men for porterage services proved a heavy burden on the population by reason of the long stages which had to be covered. The attention of the administration was drawn to this matter on several occasions. Enquiries were undertaken and led to the adoption of a series of measures intended to substitute the use of pack animals and carts for human transport in the case of the carriage of Government goods and of the baggage of officers and officials travelling on duty. At the present time, owing to the creation of many mule-tracks and in certain districts carriage roads, men are rarely used as porters in these districts.
ALGERIA

Forced labour for local public purposes

Labour dues. — By letter of 11 April 1929 the French Government made the following comments on the statements made on this point in the main Grey Report:

The Decree of 15 June 1899 by which the system of prestation labour (or labour dues) was established in Algeria is, subject to the modifications required by the local legal and general conditions of the colony, similar to the provisions at present in force in France. Thus the arguments which can be put forward in justification of the tax in France are equally valid for Algeria.

The payment of labour dues, the intention of which is to provide the necessary resources for the construction and maintenance of local or rural roads is, in the opinion of the administration, a measure of a purely fiscal character and is not a form of forced labour for public works and services.

The proof of this is that the labour dues can be paid either in kind or in money and that the indigent poor are totally exempt. Prestation labour has sometimes been described as the last traces of the corvée system. But it differs essentially from that system in regard to its basis and incidence. The corvée applied exclusively to the rural population and involved 30 to 40 days' work per year which could never be met by the payment of a sum of money.

Moreover, the fact that the natives bear the greater part of the tax, as pointed out in the Report, is solely due to their being more numerous than the Europeans, the rates applied being the same for the two classes of the population. According to the last census, effected in 1926, there were 872,439 Europeans and 5,192,426 natives in the colony. Labour dues cannot be regarded as a heavy burden. A maximum of 4 days' service per year is required; the commutation fees were fixed in 1926 at 6 francs in the department of Algiers, at 8 francs in that of Oran and at 7.50 francs in that of Constantine.

Note of the Office.

In regard to the above comments it should be pointed out that the argument brought forward by the French Government that the system is similar to that in force in the home country is valid not only for Algeria but for all other French possessions in which the same tendency is to be found to assimilate the labour dues system with that existing in France.

In all these possessions labour dues are generally commutable by money payment. Far from ignoring the argument that such dues are not a form of forced labour since the French administration regards them purely as a fiscal measure, the Grey Report in § 211 drew attention to the important discussions on this question in

1 Grey Report § 212.
2 In a circular on the system in Togoland the French Commissioner of this mandated territory stated that "the labour dues thus instituted are intended solely for the maintenance of means of communication. They are modelled on the labour dues which the French communes can enforce for the maintenance of recognised local and rural roads as regulated by the Acts of 21 May 1836 and 20 August 1881. The labour dues instituted by my Order are essentially taxes payable in kind or money ".
the Temporary Slavery Commission and the Permanent Mandates Commission. The latter Commission expressed its opinion, however, that it could not be contested that such a labour levy is, in fact, forced unpaid labour. In drafting its Report the International Labour Office could not neglect the conclusions these two Commissions had reached regarding various forms of forced labour. Its business was to classify all forms of labour which in any way at all involved an element of constraint on the native populations. It had therefore necessarily to deal with prestation labour under the heading of forced labour for local public purposes. At the same time it had no intention of passing judgment on the advisability of the suppression or modification of the system.

**FRENCH EQUATORIAL AFRICA**

**Forced labour for private employers**

Vagrancy laws\(^1\). — At the time of going to press of the Grey Report no final decision had been taken on the draft Decree concerning vagrancy prepared by the Governor-General of French Equatorial Africa. Since then a letter of the Minister of the Colonies dated 29 January 1929 has informed the President of the French Colonial Union that the draft had not been accepted. It had been favourably commented upon in the draft conclusions drawn up by the Special Native Labour Committee of the Superior Council of the Colonies. The Economic Council, however, during its discussions of the labour question in plenary sitting, had not approved the Committee's conclusions on this point.

On the other hand in the general interests of the development of French Equatorial Africa as carried on by large and small undertakings, the Department has drafted a Decree providing penalties for any person who, when liable to a contract to which he has freely consented, embezzles any advances of wages, money grants, travelling allowances, provisions, agricultural or industrial tools entrusted to his care or live-stock by not voluntarily performing the work to which he has bound himself before receiving such advances\(^2\).

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FRENCH WEST AFRICA

Forced labour for private employers

The legislation introduced in French West Africa by the Decree of 22 October 1925 and the Order of the same date in application of the Decree establishes a system of voluntary recruitment. The employment offices are limited to supplying employers and workers with information on employment possibilities. Notwithstanding, it appears that in particular as the result of the part assigned in several of the colonies to the native headman in recruiting operations, the practice differs somewhat fundamentally from the formal provisions of the legislation which is in its initial stages of application. In numerous districts the recruitment of workers for private undertakings is conducted through the intermediary of the headman and it is probable that this method involves a certain degree of constraint. It even appears that in some cases the administration has directly requisitioned workers for private employment. Several examples have been given by Mr. Buell.

"The administration requires each district in the vicinity to furnish a regular number of men to the Compagnie des cultures tropicales en Afrique." Several years ago a French merchant whose labour supply was injured by government recruiting for larger enterprises telegraphed a protest to the Minister of the Colonies. In reply, the Governor of the Sudan said that "in recruiting labourers destined either to public services or to private agricultural enterprises" the special conditions of the cercle were always considered. The same Governor later wrote: "I have been led to consider the necessity for an improvement in the conditions of workers who have been supplied to the planters with Government aid." Mr. Buell refers, too, to the following telegram dispatched in 1925 by the same Governor: "On my instructions the delegate at Kayes had furnished commercial or transport firms with all the labour they asked for, or more than 700. The complaints of the Messageries Africaines are therefore absolutely unjustified. If this society does not have sufficient labour, it is because it has not asked for it, or has not asked for it soon enough." The same author quotes certain cases of forced recruiting for

2 Minutes of the Council of Notables, Tanbacounda Circle, 16 October 1925.
undertakings such as the Mining Company of Falémé and the Niger Cotton Company. On the other hand Mr. Buell's comments have been contested by other writers, in particular by Mr. Henri Labouret who writes as follows: "The question of the supply of labour for private employers is also commented upon by Mr. Buell who accuses the local governments of conducting recruiting operations for private undertakings, in particular for certain commercial firms in Kaolack and Kayes, for the Niger Tropical Cultivation Company and for the Falémé Mines. Indeed it does appear that certain measures of this nature have been taken but they have been due to exceptional circumstances and they by no means prove that the Government is accustomed to act in this manner.”

On the other hand Mr. Buell's contentions are supported by other writers. Mr. Edmond Bouchery, for example, states: "The Government has not been sparing in its assistance for the recruitment of native labour. While admitting that the existing European undertakings are, by their active share in the development of the natural resources of the colony, entirely worthy of such assistance, it is nevertheless certain that such methods can only be temporary."

General Helo, referring to the large undertakings in Upper Senegal and in the Niger Valley states that: "These firms, with the help of the administration, have been easily able to obtain a fairly considerable number of workers. The workers are regularly paid but this does not seem to be a system leading to association between the native cultivators and those responsible for the development of the colony. The result has been that the terrible cancer of African life remains. The workers who are nearly all requisitioned provide nothing but forced labour with all the inconveniences of forced labour.”

NEW CALEDONIA

Forced labour for private employers

An Order of the Governor dated 4 January 1917 contains the following provision in section 1: "Natives of the Loyalty Islands

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1 L'Afrique française, 2 June 1928, p. 218.
2 Supplément colonial de l'Economiste européen of 18 July 1924.
and of New Caledonia may be placed as far as possible at the disposal of settlers in the interior exclusively for employment in the harvesting of coffee, cotton or any other crop of a similar nature and on the collection of niaouli leaves."

By this system, therefore, the administration supplies the settlers with the workers they require. The employer sends to Noumea for the workers which the administration has collected and returns them there as soon as their employment is completed. The recruited worker is entitled to wages of 12 francs a month and daily rations. The texts give no information on the manner in which the administration recruits these workers.

PORTUGAL

The new legislation relating to forced labour in the Portuguese colonies in Africa

Portuguese legislation relating to native labour has recently undergone an important change: the Decree No. 16,199 of 6 December 1928 repealed the General Native Labour Regulations of 14 October 1914, which was the most important relevant text, and approved the "Native Labour Code for the Portuguese colonies in Africa". As regards forced labour, this Code introduces a system completely different from that hitherto prevailing. It is therefore necessary to substitute the following information for that given in the Grey Report in regard to Portuguese African Colonies.

Former Portuguese legislation was based on the principle of the obligation to labour, under which able-bodied natives were obliged to provide for their own maintenance by means of labour and thereby to improve their social condition. Every native who did not work voluntarily was summoned to appear before the authorities, who were under an obligation to advise him to work and to offer him employment. If the native refused the proffered employment he could be required to work on local or general public works,

1 Grey Report, §§ 138-142.
2 It is not clear what is the present situation in the Portuguese colonies in Asia and Oceania. On the one hand, the Decree of 6 December 1928 completely repealed the Regulations of 1914, and these Regulations cannot, therefore, continue to apply to any Portuguese possessions. On the other hand, the new Code only applies to African colonies.
or sent to a private employer. This form of compulsion was known as compulsory labour; as will be seen later, it differs considerably from the compulsory labour provided for in the new Code. A native who continued to refuse the employment offered to him and remained idle after this first warning was deemed to be a vagrant and could be brought before the courts and condemned to perform correctional labour; he could be forced to work for the State, for a municipality, or for a private employer.

There is an echo of the former moral obligation to work in section 3 of the new Code, which provides that natives have a "moral obligation incumbent upon them to procure the means of subsistence by labour". But this obligation, which is not enforced by legal penalties, appears to be intended to be purely moral in character. Forced labour, within the meaning of the new Code, no longer has as its object the repression of idleness amongst the natives; it is a form of compulsory labour which may be authorised in exceptional cases for general or local public purposes, and under strict conditions. As regards correctional labour, the provisions of the new Code also differ from those of the Regulations of 1914. In this case also the object is no longer the repression of idleness; the new provisions relate to penal labour, which may be imposed by the competent courts on natives who have been convicted of a crime under the ordinary law.

Forced labour for general public purposes

Under the system in force before the promulgation of the new Code, natives could be subjected to two kinds of forced labour for general public purposes. The first of these kinds of labour could be imposed, generally speaking, on all natives, even those who had

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1 It should, nevertheless, be noted that a Decree relating to the repression of idleness and vagrancy in the colony of San Thomé was promulgated on 14 May 1929 by the authorities of the metropolitan country. Under this Decree, natives over 16 years of age, who have no means of subsistence and who, without sufficient justification, do not perform work suited to their capacities, must be convicted of vagrancy. After conviction they are to be placed at the disposal of the Governor of the colony, who may prohibit them from residing in the colony for a period of from eighteen months to two years and may order them to reside in any place in Portuguese colonial possessions. Male natives may, under this Decree, be mobilised as soldiers and may be required to serve the State or private persons, provided that they are remunerated.

2 Grey Report, §§ 143-144.
fulfilled the ordinary obligation to work. This kind of forced labour included the clearing and upkeep of roads, the maintenance of fords, etc. On the other hand, the Regulations of 1914 provided for a second form of forced labour for general public purposes which was imposed only on natives who neglected the obligation to work and lived a life of idleness. This class included the "compulsory labour" and the "correctional labour" which has been mentioned above.

The 1928 Code provides in the sub-section to section 294 that forced labour for public purposes may be allowed by way of exception in certain urgent and special cases. It further provides that such labour may not in any case be exacted at the cost of sacrificing the interests of the native population (section 298) and that the public authority may not in any case impose forced labour on: (1) natives above the age of sixty years or under the age of fourteen years; (2) sick and disabled persons; (3) sepoys employed by the State or by private persons authorised to keep them, and persons who have enlisted in any regular force responsible for public or police duties; (4) natives under contract who are working for private persons or the Government; (5) tribal chiefs recognised as such by public authority; (6) natives repatriated from Portuguese or foreign colonies, within the six months following the date of their return home; (7) women, for public work or for any other work outside the area where they reside.

The power to decree the use of forced labour for both general and local public purposes is vested exclusively in the Government of Portugal, and it is absolutely prohibited for the Governors of the colonies to adopt any legislative measures or issue administrative orders directing or authorising forced labour, except in the special cases enumerated in the Code (section 295). Only the administrative authorities for the areas of residence of natives are competent to impose labour upon them for general public purposes (section 299). They may not have recourse to coercive measures unless persuasive methods prove insufficient; and in employing both persuasive and coercive measures they are to act in every case through the tribal chiefs. In agreement with the chiefs they are to allocate work and select workers, giving preference in selecting to those natives whose idleness is notorious.

The Code provides that the authorities are not to have recourse to forced labour for general public purposes except for urgent work, in cases of emergency, or when it is necessary for the cultivation of certain lands reserved for natives.
Public works. — Under section 296 recourse to forced labour for public purposes may only be allowed when it is impossible, owing to urgency or some other sufficient reason, to secure the requisite number of voluntary native workers. Natives called up for employment for public purposes must receive the same wages as voluntary workers, or higher wages if their qualifications justify them. They are further entitled to the same rations, housing, clothing, transport, medical attendance and other advantages granted to voluntary workers (section 297).

Cases of Emergency. — Natives may be called upon for work by the authorities when help is required in cases of emergency or public calamity, such as fire, floods, damage done by storms or disasters due to natural causes, plagues of locusts or other pests, and epidemics (section 296). Rations and housing must be supplied if the duration of the employment requires it, and in any case the workers must be given a gratuity on the completion of the work (section 297).

Compulsory cultivation\(^1\). — Forced labour may be imposed for the cultivation of certain lands reserved for natives in the vicinity of their villages, the produce of which accrues exclusively to the persons who cultivate them or in accordance with native custom to a specified native community (section 296). This form of forced labour does not confer a title to remuneration, but the local authorities, in accordance with section 297, must grant the workers subsidies in the form of materials, tools or seed, which the workers cannot obtain on their own account.

Forced labour for local public purposes\(^2\)

Before the promulgation of the new Code the system in force comprised two forms of forced labour for local public purposes. The first of these forms consisted of compulsory services which, in the case of ordinary village work, were remunerated and could be commuted, but in the case of minor village work were unpaid.

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\(^1\) In order to retain the classification adopted in the Grey Report this form of forced labour has been included. It should, however, be pointed out that the Code appears to consider compulsory cultivation rather as a form of forced labour for local public purposes.

\(^2\) Grey Report, §§ 233-234.
A second form of local forced labour could be imposed in accordance with the Regulations of 1914, sections 95 and 97 of which provided that natives liable to compulsory labour could be called up for municipal work. Natives condemned to perform correctional labour could also be employed on this kind of work.

Under the new Code, the local public works for which forced labour may be levied are the following only: (1) municipal public works of an urgent character when it is impossible to secure the requisite number of voluntary workers; (2) cleaning and sanitation of native villages or suburbs and of enclosures for cattle; (3) cleaning and maintenance of springs, wells, ponds and other reservoirs of water used by the native population or their cattle; (4) clearing of paths between native villages in cases where such paths are not used mainly for vehicles driven by motors or drawn by animals and used by settlers or the Government; (5) hunting and extermination of creatures dangerous to the health and existence of the natives or their cattle, or to their plantations and crops.

This work, with the exception of that mentioned under (1), is not remunerated but the authorities must grant the workers subsidies in the form of materials, tools or seed. Natives who may not be levied for forced labour for general public purposes are also exempted from all forms of forced labour for local public purposes.

The provisions relating to the authorities competent to legislate with regard to forced labour for general public purposes and to levy natives for this form of labour also apply to forced labour for local public purposes.

**Forced labour for private employers and indirect compulsion**

Under section 95 of the Regulations of 1914 forced labour for private employers could be imposed on natives who had failed to comply with the moral and legal obligation to labour. The new Code, on the other hand, introduces a free labour system, with the exception of the provisions relating to forced labour for general and local public purposes. Section 4 of the Code guarantees to the natives full liberty to choose the work which suits them best, and by sections 3 and 294 all forms of forced labour for private purposes are absolutely prohibited.

The following actions are deemed to constitute the imposition

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of forced labour for private employers; (1) any notice given to natives for the purpose of calling them up to enter into contracts of employment with a particular private person on pain of any penalty; (2) any physical violence towards natives with the same object; (3) any notice given to tribal chiefs requiring them on pain of any penalty to impel natives under their authority to work for any private person (section 329). Action taken by the authorities to compel natives to perform work for which they have voluntarily entered into a contract is not, however, deemed to be the imposition of forced labour (section 300). The same holds good of mere advice and other benevolent persuasive measures employed with natives to induce them voluntarily to find work either on their own account or in the employment of a private person (section 329).

Officials who impose upon natives forced labour for private persons are to be sentenced to the disciplinary penalty of temporary retirement for not more than one year or dismissed (section 328). The same rule applies to officials who direct their subordinates to act in a way which obviously constitutes such imposition. If the imposition of forced labour is accompanied by violence the officials concerned are to be punished in accordance with the Portuguese Penal Code in addition to the disciplinary penalty mentioned above. Any private person who commits actions which constitute the imposition of forced labour or who commits an offence against the person of a native to compel him to enter into a contract of employment is to be fined not less than 1,000 nor more than 10,000 escudos or imprisoned for not more than one year, unless the violence or offence against the person entails a heavier penalty under the Penal Code (section 344).

A few other provisions may be noted: Holders of recruiting licences may not resort to threats or violence to compel natives to enter into contracts of employment (section 30, paragraph 9); authorities advising natives to obtain employment are to explain to them in all cases that they are not under an obligation to enter into a contract of employment (section 37, paragraph 3); the authorities are also to prevent recruiting agents from offering gifts to native chiefs in order that the latter should compel the natives to enter into contracts of employment (section 38, paragraph 5).

Owing to the prestige and influence of officials, recruiting by them might constitute compulsion; the Code therefore forbids them to recruit for private employers (section 38, para-
Officials who are proved to have infringed the rule are to be sentenced to the disciplinary penalty of suspension from office and from receipt of salary for not more than 180 days or temporary retirement not exceeding one year (section 327).

The 1928 Code contains provisions which have the effect of prohibiting various practices which may constitute indirect means of compulsion. Thus the authorities are forbidden to accompany recruiting agents, to delegate their subordinates to accompany them or to put native police at their disposal (section 38, paragraphs 2 and 3). In this connection it may be noted that recruiting agents are prohibited from leading natives to believe that they represent public authority or that they are recruiting by order of public authority (section 30, paragraph 5); nor may they wear clothes or insignia similar to military uniform or that of any civil authority (section 30, paragraph 6).

The Code fixes a proportion between the amount of the wages of the workers and of the native tax, and this proportion appears to show that the native tax is sufficiently high to form an indirect means of compulsion. Reference to section 197 shows that when wages are reckoned by the working day they must be fixed at from 1 to 1½ per cent. of the total annual amount of the native tax; when the contract is made in terms of years or months of employment, wages must be fixed at from 25 to 40 per cent. of the tax.

Natives employed from day to day and who are only paid the minimum rates must therefore work one hundred days in order to be able to pay the native tax.

SPAIN

TERRITORIES IN THE GULF OF GUINEA

Forced labour for local public purposes

An Order of 5 October 1928 laid down that all natives of the colony, resident in urban areas, should be obliged to furnish,

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1 The recruiting of the domestic staff of officials is not covered by these provisions, nor do they apply to the giving of information to natives who wish to know which employers can offer them employment.

2 The minimum percentages are, generally speaking, adopted for agricultural workers employed in the sub-district of their usual residence. The intermediate rates are fixed for workers employed in agricultural or other work outside the sub-district of their usual residence. The maximum rates are paid to natives employed outside the colony or employed on work which requires special qualifications.

within a period of one year, forty days' labour dues for local public works. Section 1 of the Order excepted foreign natives and those employed by the State. The Order further provided that levies of labour should be carried out in such a way as to cause as little damage as possible to the interests of the natives concerned, and that the latter should have the option of commuting their services or of providing substitutes.

UNITED STATES OF AMERICA

Reference was made in the Grey Report under § 305 (Prison labour for private employers) to the Thirteenth Amendment to the Constitution of the United States of America which provides that "neither slavery nor involuntary servitude, except as a punishment for crime whereof the party shall have been duly convicted, shall exist within the United States, or any place subject to their jurisdiction". The effect of this Amendment, of the legislation adopted to enforce it and of legal decisions is to make illegal all forced labour in the United States territories, although, as stated in the Grey Report, there is evidence of the continued existence of the practice of leasing Negro prisoners to private employers in the Southern States.

Since the publication of the Grey Report the attitude of the United States towards the use of forced labour has been formulated in connection with its ratification of the Slavery Convention on 21 March 1929. This ratification was accompanied by a reservation to Article 5 of the Convention in the following terms:

That the Government of the United States, adhering to its policy of opposition to forced or compulsory labour except as a punishment for crime, of which the person concerned has been duly convicted, adheres to the Convention except as to the first sub-division of the second paragraph of Article 5, which reads as follows:

"Subject to the transitional provisions laid down in paragraph (2) below compulsory or forced labour may only be exacted for public purposes."

By this reservation it would appear that the Government of the United States wished to dissociate itself from the approval of forced labour for any purpose except as a punishment for crime of which the person concerned has been duly convicted. Sub-paragraph (1) of the second paragraph of Article 5\(^1\), which is the

\(^1\) For text, see Grey Report, page 15.
object of the reservation, is the only provision of the Article which implicitly sanctions the exaction of compulsory or forced labour for public purposes. Sub-paragraph (2) recognises the existence of forced labour for other than public purposes and lays down certain general principles of regulation, but it does not imply the sanction of such forced labour. On the contrary, this paragraph involves an express obligation on the High Contracting Parties to endeavour progressively and as soon as possible to put an end to the practice of compulsory or forced labour for other than public purposes in territories in which it still survives.

In declining to adhere to the provision of Article 5, which provides that forced labour may be exacted for public purposes, the Government of the United States has, therefore, again affirmed its policy of opposition to compulsory or forced labour in any form, except as a punishment for crime.