

THE
SOUTH AFRICAN INDIAN.

Helot or Citizen ?

Issued by the

INDIANS OVERSEAS ASSOCIATION,

DANES INN HOUSE,

265, STRAND, LONDON, W.C. 2.

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“Hath not a Jew eyes ? Hath not a Jew hands, organs, dimensions, senses, affections, passions ? Fed with the same food, hurt with the same weapons, subject to the same diseases, healed by the same means, warmed and cooled by the same summer and winter as a Christian is ? If you prick us, do we not bleed ? If you tickle us, do we not laugh ? If you poison us, do we not die ?”—*Merchant of Venice*.

INTRODUCTION

By HY. S. L. POLAK, *Hon. Secretary, Indians Overseas Association.*

When Sir George Napier, Governor of the Cape Colony, annexed Natal, he issued a preliminary proclamation, dated May, 1843, containing the following declaration:—

“There shall not be in the eye of the Law any distinction or disqualification whatever founded on mere distinction of colour, origin, language, or creed, but the protection of the Law in letter and in substance shall be extended impartially to all alike.”

In the course of time the white planters of the Province found themselves faced with bankruptcy, and, through the Durban Corporation, petitioned Sir George Grey, the Governor, in 1859, to permit the introduction of Indian agricultural labourers. They urged the following special consideration:

“. . . For the fact cannot be too strongly borne in mind that, on the success or failure of these rising enterprises, depends the advancement of the Colony or its certain and rapid decline. Experimental cultivation has abundantly demonstrated that the issue depends solely on a constant supply of labour.”

As a result, many thousands of indentured labourers were brought, sometimes with their families, from India, and at first encouraged to settle in the Colony after the expiry of their contracts. It was part of the agreement with the Government of India at the time that Indian traders should be allowed to enter the Colony, primarily to supply the needs of their countrymen. As they were found useful by the natives and by the scattered white colonists, these traders, many of whom prospered by their hard work, enterprise, thrift, and sobriety, increased in numbers and spread to different parts of South Africa, including the old South African Republic. With the course of years, the growth of a skilled and semi-skilled Indian community, and the increase of the white population, the latter became acutely race-conscious, and various expedients were devised, of a legislative or an administrative character, in order to limit the activities and expansion of the Indians, whose immigration into Natal, save under indenture, was closely restricted from 1895 onwards, and a little later they were also deprived of the political franchise.

In the Boer Republic, the treatment of Indians was so severe that the question ultimately became one of the proximate causes

of the Boer War. With the extension of British Rule to the Transvaal it was hoped that the position of the Indians there would improve. This hope was, however, frustrated. The position became steadily worse until, in 1907, Responsible Government was granted. The new Transvaal Parliament launched a series of anti-Asiatic measures, which resulted in the Passive Resistance Movement that lasted, under Mr. M. K. Gandhi's leadership, until 1914 when, following an energetic protest by the Viceroy of India, an agreement was reached, extending to all parts of the Union, and embodied in correspondence between the Secretary for the Interior, on behalf of General Smuts, and Mr. Gandhi, acting for the Indian community. Among other things, General Smuts authorised, in the name of the Union Government, the following statement:—

“With regard to the administration of existing laws, the Minister desires me to say that it has always been and will continue to be the desire of the Government to see that they are administered in a just manner and with due regard to vested interests.”

Almost immediately afterwards the Great War broke out, India's important part in which has been universally recognised. The Indian community in South Africa offered all their resources, and, as they had done during the Boer War, willingly recruited Bearer Companies who served gallantly in East Africa, suffering considerable loss on the battlefields.

It was expected that the close association of Indians and Europeans in the prosecution of the common business of the Empire would have done something to soften racial asperities and remove long-standing prejudices based upon a mistaken apprehension of each other's social habits and economic ideals. At the Imperial War Conference, in 1917, General Smuts had said:—

“Once the white community in South Africa were rid of the fear that they were going to be flooded by unlimited immigration from India” (a fear removed once and for all by the prohibitory Immigration Laws of 1913 and 1914 and by India's acceptance of the Reciprocity Resolution of the 1917 Imperial War Conference, elaborated in 1918, and confirmed in 1921 and 1923, recognising the right of the Dominions and India respectively to restrict immigration each from the other for the purpose of controlling the composition of their own populations) “all other questions would be considered subsidiary and would become easily and perfectly soluble.”

At the ensuing Conference, in 1918, Mr. Henry Burton, the Union spokesman on the Indian question, had made the following admission:—

“As far as we are concerned, it is only fair to say, and it is the truth, that we have found that the Indians in our midst in South Africa, who

form in some parts a very substantial portion of the population, are good, law-abiding, quiet citizens, and it is our duty to see that they are treated as human beings, with feelings like our own, and in a proper manner."

Nevertheless, from 1919 onwards a series of enactments, some by Provincial Councils and assented to by the Governor-General-in-Council, and some by the Union Parliament, have been passed, imposing still further disabilities upon the Indian community, and designed to maintain a position of racial privilege and special economic opportunity for the white population, whilst aiming at the gradual extinction of Indian rights and, if possible, the elimination of the Indian community. Not content with these measures, a new Bill, entitled "The Areas Reservation and Immigration and Registration (Further Provision) Bill," has now been introduced in the Union Assembly. In his speech on the first reading last July, Dr. Malan, the Minister of the Interior, outlined the attitude and policy of the Nationalist-Labour Government as follows:—

"I must say that the Bill frankly starts from the general supposition that the Indian, as a race, is an alien element in the population, and that no solution of this question will be acceptable to the country unless it results in a very considerable reduction of the Indian population in this country. . . . The method of dealing with this question will not be the employment of any forcible means. The method which this Bill will propose will be the application of pressure to supplement, on the other hand, the inducement which is held out to Indians to leave the country."

Dr. Malan at the same time admitted that the Bill went "a good deal further" than the Class Areas Bill of General Smut's Government, which had aroused the gravest fears of the Indian settlers, and fell to the ground with his defeat at the General Election.

In the first place, the Indian community declare that the present Bill is a clear breach of the spirit, if not also of the letter, of the 1914 settlement, and that, in this, it is but the culmination of a long course of bad faith on the part of the Union Government. Mr. Gandhi, in his final letter to General Smuts, in 1914, had warned him that, whilst that correspondence closed the Passive Resistance Struggle, "complete satisfaction cannot be expected until full civil rights have been conceded to the resident Indian population." Endeavours have been made to cast the odium of breach of the agreement upon the Indians, but these and other charges were energetically and, it was supposed, successfully resisted by Sir Benjamin Robertson on behalf of the Government of India, before the Lange Asiatic Commission appointed by the

Union Government, and which, in 1921, reported that there was little substance in the charges brought by the anti-Asiatic spokesmen. Since then the anti-Asiatic bodies have sought other grounds for bringing about the economic ruin of the Indian settlers.

It is now alleged that they form an alien element in the South African population. How they came to settle in the country has already been described. Their total number in the entire Union is less than 160,000 to-day, as against a white population of over 1½ million (1921). In Natal, where the bulk of the Indians reside, during the decennial period 1911-1921, the Indian population had increased by only 5 per cent., as against a 40 per cent. increase for the whites. It is in this province that complaints of economic competition are strongest, yet large numbers of Europeans have found it worth their while to settle there. It must be remembered, too, that entry is practically free to Europeans, even though aliens, and all but prohibited to Indians, since 1913. The new Bill is aimed even at natural increase of the Indian community, as it imposes yet harsher restrictions than before upon the entry of wives and families of resident Indians. It ought to be borne in mind—and it is too often forgotten—that **in South Africa the problem is not one of Indian immigration at all, but the treatment of the resident Indian population. Is it to be crushed out of existence or to be raised to the level of a common citizenship?**

Who are these Indians? Having originally been brought to and allowed to settle and acquire rights in South Africa to serve the purposes of the insolvent white planters, they and their successors have, by their ill-paid labour, and in spite of all kinds of obstacles—political, educational, economic, and social—converted Natal, much of which is sub-tropical, from a wilderness into the garden of South Africa, and have helped materially to make Dominion status possible for the Union. As traders they have, on European evidence, greatly benefited the white population. They have always been willing to accept the responsibilities and duties of citizenship as well as its privileges. Many Indians served in the Boer War and the late War in such capacities as were open to them under Administrations strongly influenced by colour and race-prejudice. As a community they have suffered and sacrificed in a manner unknown to any other section of the population in order to preserve their self-respect and dignity and the national honour of their country of origin, which, since the Union, alone has stood between them and outrage and disaster. For the British Parliament, in granting freedom to the white population to manage

their own affairs, has enabled the British Government to wash its hands of all responsibility towards the defenceless and unprotected Indian settlers, in spite of the enforced recognition, at successive Imperial Conferences, that the question of the just treatment of the South African Indians is not, and will not be permitted by Indian public opinion to become, merely an internal concern of the Union.

The South African Indians can, no more than their British and Dutch fellow immigrants, be described as aliens in South Africa. In any case, two out of every three of them are South African-born, in many instances of South African-born parents and even grandparents. The proportion of South African-born Indians to the total Indian population is bound to increase every year. They are morally entitled to all the advantages and opportunities of life in a new country that are claimed by any race or class, however privileged. Instead of "existing laws" being "administered justly and with a due regard to vested rights," they have been unjustly administered, and these vested rights, whether communally or individually enjoyed, have been rapidly whittled away with a view to total deprivation. Instead, as Mr. Gandhi had hoped, of being able gradually to educate the European rulers to the point of granting them greater rights until they enjoyed equal citizenship, fresh disabilities have been, ever since the War, imposed upon them by successive unsympathetic Administrations, until they now find themselves, deprived of the natural leadership of their educated countrymen and with all avenues of advancement closed to their promising young people, faced with this new and final threat of ruin. Whilst many witnesses before the Lange Commission urged compulsory repatriation (until they were faced with the impossibility of "repatriating" South African-born Indians), they united in realising that "there could be no such repatriation without expropriation of property and adequate compensation." The Nationalist-Labour policy, however, as expressed in the Bill now before the Union Parliament, is one of spoliation, segregation, starvation, repatriation, and extirpation—no force, just "pressure," and all at very little expense to the Union save loss of honour and the hatred of India and the East!

Lord Reading, in his address at the opening of the new session of the Indian Legislative Assembly on Jan. 20, gave emphatic, if cautious, expression to the suppressed emotion of all classes in India, regardless of party bias. Public opinion is rapidly becoming inflamed. It may be that no volcanic outburst will occur; but if outraged national sentiment and racial pride must take

STATEMENT

by the

NATAL INDIAN CONGRESS

on the

Areas Reservation and Immigration and Registration (Further Provision) Bill, 1925.

The South African Indian Community are faced with impending repressive legislation which vitally affects their residence both legal and otherwise in this country.

The vested interests of the Indian Community who have been here since the year 1860 are large enough to necessitate immediate action and protest, but Indians being voteless, their protest so far can only be raised ineffectively. Salvation lies wholly and entirely on the sober influences that might be exerted by the Indian and British Governments, and for this reason, apart from other efforts here, immediate steps should be adopted to prevent the proposed legislation ever becoming law.

The present Bill is divided into four Chapters, the first Chapter deals with the reservation of areas, the second with amendments to the Immigrants Regulation Act, the third with the registration of Asiatics in the Transvaal, and the fourth being supplementary.

CHAPTER I.

Before discussing this Chapter, the reader must be told that at present in Natal and the Cape Provinces, an Indian is free to buy, sell or lease land. In Orange Free State and Transvaal certain limitations in this respect exist, but the avowed object of the Bill being to affect Indians, as openly admitted by the Minister upon the first reading, as will be seen from his speech printed herewith, and Natal having a population of one hundred and forty thousand

Indians, it is clear that Indians in Natal will particularly and immediately suffer, because the present Bill provides for:—

- (a) Areas to be set apart in towns and cities, and only in such areas shall Indians be permitted to buy and sell land. They will also have to trade in these areas only and no other. All businesses now existing elsewhere under leases shall cease by effluxion of time of current leases or by death of present lessees. This means that within a very short period of time most Indian businesses will cease to exist outside the area. Indian property owners who to-day are receiving fair rents will be deprived of their reasonable income because their business and residential places will not be taken up by the European Community at a fair rental and competition will be lessened. It may be pointed out that this portion of the Bill deliberately takes away what is now possessed, and practically compulsorily forces Indians into segregated areas in towns and cities.

This Chapter further provides that the Governor-General may proclaim that no Indian shall buy or lease land more than 30 miles away from the coast line except from an Indian within that 30 miles, and on the application of a Health Board or Local Board areas may be set apart within those 30 miles. Then Indians will gradually, in the same way as in townships and cities, by force of circumstances be compelled to go into these areas. This means that Indians will be debarred from purchasing or leasing properties anywhere in the Province as they now are entitled to do, and will, upon the completion of their present leases, be compelled to give up their residence and to close down their businesses unless they are able to purchase or lease land from other Indians within the 30 miles, or go into the area if there is one within the said 30 miles, and if there is no such area proclaimed, or no land to be leased or purchased, then those businesses must necessarily cease. On a hurried computation it is estimated that 500 to 700 Indian business premises in the country are likely to be affected; apart from this an Indian business or landed property outside of the 30 miles cannot be sold or leased to another Indian.

Moreover the Bill empowers the Governor-General not only to proclaim areas but also to deproclaim such areas

in part or in whole, which means that even after an area has been proclaimed and occupied, no sense of security is enjoyed, because the Governor-General can deproclaim such area. It is clear the intention of the Bill is to oust the Indian from his present vested proprietary rights and give him practically nothing substantial in place thereof, but virtually makes him a squatter and that at the wish and will of the Minister.

The effect of the operation of these two clauses alone will cripple the whole life and trade of the Indian Community and absolutely without the shadow of a doubt crush out all Indian agricultural work, progress and prospects. In plain language, without considering any other phase of the Bill, the fate of the Indian is sealed and he is doomed.

This Chapter is based upon the recent Class Areas Bill which the late Smuts' Government had on the tapis, but which fell through when the Government changed.

CHAPTER II.

This Chapter deals with Immigrants' Regulation. The drastic changes suggested absolutely place in the hands of the Minister and Immigration Officer almost unlimited power to deal with the entry and possible deportation of Indians who have lived in this country for many years.

At present an Indian who outstays for a period of three years upon entering the port is required to prove his domicile notwithstanding he may already then actually have his Certificate of Domicile. He is declared a prohibited immigrant and upon payment of a sum of money, which by practice is £31 (Thirty-one Pounds Stg.), and is found sufficient to cover, and as up till now accepted, he is allowed to procure the necessary evidence and prove his domicile. Experience has shown that even this amount was not always easily obtained, and the Indian Community is unaware of any Indians forfeiting this deposit and absconding and remaining in the country; the Community therefore sees no reason for the Immigration Officer being empowered to make the deposit anything up to £100 (One Hundred Pounds Stg.), as this Section provides for. It is quite conceivable, and with the present tension of feeling against Indians as a Community, that the Officer might impose such an amount of bail as to effectively preclude an

Indian immigrant being free from custody to procure the necessary evidence to prove his domicile.

It is felt that a capricious officer can easily do tremendous injury to a large number of bona fide domiciled Indians who may seek entry.

By this Section it is sought to revert certain two Districts of Natal, namely, Utrecht and Vryheid, to the Transvaal Province, but only for the purposes of enabling the Indian to come under the meaning of Section 4 of Act 22 of 1913.

The hundreds of Indians there to-day are persons working on the coal mines and other industries. They are Indians recruited mostly from Natal proper. They have acquired a domicile there, and so long as these two Districts remain part of Natal they cannot be removed except to be put into the proposed areas. By reverting these Districts to Transvaal these Indians can be told under Section 17 of the Bill that they must return to the domicile of birth, which in most cases will be Natal.

It may be possible that if such an order be made hundreds of these Indians will not be able to claim Natal as their place of domicile although born there, because by Section 17 they are persons who at the time of their birth were born of persons who were in Natal under conditional residence and never therefore acquired a domicile. [Note: Such Indians were expressly protected under the Gandhi-Smuts Agreement, 1914 (q.v.).—H. S. L. P.] If this view be taken, then hundreds of these Indians cannot claim any domicile here and must go away presumably to India. This is evidently what the Government seeks to do by this Section 16.

With regard to Section 16 Sub-section (c) in this Bill it is sought to delete paragraph (d) of Sub-section 2 of Section 4 of Act 22 of 1913, which means that a large number of Indians who have entered Natal and Cape Colony under the Education Test may be declared prohibited immigrants under the "Deeming Order" (this Order was made by the previous Minister under Section 4 Sub-section 1 paragraph (a) of the Immigrants Regulation Act of 1913 by virtue of which he declared all Asiatics to be economically unsuited to the requirements of the Union and therefore prohibited immigrants. The validity of this Order was tested in the South African Appellate Court, but it held the Minister's Order was correct in terms of the said Section) if they applied at the ports of the Union for entry. The deletion clearly takes away a right which is to-day enjoyed [see above note.—H. S. L. P.]

Section 17 requires very close study and investigation to understand the full meaning and effect of it. It is far-reaching, and fraught with the gravest of consequences. The previous Minister as aforesaid has declared all Indians to be economically unsuitable. The present Minister in introducing the Bill has referred to Indians as aliens. He has repeated this in an interview as published in the "Natal Mercury" of the 27th August, 1925, and alleges that it was not a new idea to regard the Indian as such because the British Government in 1896 tacitly agreed that the Indian was an alien element by consenting to the withdrawal of the franchise. He further alleges that all subsequent legislation was based upon this principle. He says that by use of the word alien he means "that the Asiatic population was an alien element and could never be absorbed by the South African population."

Without digressing or appearing to be prolix it is submitted that the Minister's presumptions are incorrect.

The British Government did not withdraw the franchise from Indians as such. The withdrawal was general, and applied to all such as whose countries of origin of domicile had no elective representative institutions founded on the Parliamentary franchise. India at that time had no such institutions, and Indians were therefore debarred the franchise.

The Indian community learns for the first time that Asiatic legislation was based upon the principle that they were aliens.

The British Indians maintain that they can be for all useful and progressive purposes absorbed into the general community of South Africa.

The Government's present Bill is proof positive and adequate enough to show that the Indians have created such strongly absorbing ties with the other sections here, which the Government now seek to minimize.

The Indian community, without giving up its own identity, claim to be equally good South Africans as the Minister himself.

The Minister, however, in his interview says, "The Bill is generally intended to stop effectually the further encroachment of Indians, and he hoped it would go further than that; that is, as a result of the exercise of pressure on the Indian he will take advantage of the inducements which are held out to him to leave the country, so that the Bill is meant not only to stop further encroachment, but actually to reduce the Indian population of the country."

With these declared ideas of the Union Government one is able to understand the "raison d'être" of the Bill.

The proposed new section (e) speaks of prohibiting any person whose parents were at the time of his birth restricted to temporary or conditional residence by any law then in force.

Under Act 17 of 1895 large numbers of Indians came here under terms of conditional residence, and their offspring, now the cream of the Natal-born Indians numbering thousands born within the past 30 years, may possibly be also prohibited immigrants, because at the time of their birth their parents were restricted to conditional residence.

It is, however, proper to point out that the Indian Community may successfully meet this position by claiming that the Government through its Minister has issued certificates of discharge to those who came under conditional residence under Act 17 of 1895, thus waiving all claims against conditional residence. It was one of the points raised immediately after the 1914 settlement with Mr. Gandhi, and correspondence shows (vide Gandhi-Smuts Agreement printed herewith) that it was the Government's view to grant these Indians complete domicile, and the community certainly resents to have to face the ordeal of any test cases, not because of the result, but because of the inconvenience and expense. The question is why should a settled right be interfered with.

The proposed amendment continues to make a person a prohibited immigrant if he is a person who comes under the Deeming Order and/or who has acquired a domicile in a Province of the Union where he was not born. All Asiatics as such may be at the port of entry declared prohibited immigrants and hundreds of Indians have acquired domicile with vested interests in other Provinces of the Union, and any such persons either returning to this Union or entering one Province of the Union from another will be declared prohibited immigrants; this means his domicile in the one Province counts for nothing, and he cannot take advantage of his birthplace because:—

- (a) He has already given up his domicile of birth;
- (b) He is a prohibited immigrant;

he cannot therefore enter at all, notwithstanding any right of vested interests.

This Section proceeds to say that the wife or child of an exempted person coming to the Union within 5 years from 1st

August, 1925, or within 10 years of the first entry of such exempted person shall not be prohibited. This means that every Indian now in this Union must either before 1st August, 1930, bring back his wife and children into the Union, or within 10 years of his first own entry into the Union. This is clearly an infringement and restriction of personal right and liberty.

Notwithstanding this new Bill gives an exempted Indian the right to bring back his wife within 5 or 10 years as the case may be, yet by a further provision in this new Bill he would be prevented from bringing in such wife if it could be shown that:—

- (a) he already has a woman still living in the Union with whom there exists a union recognised by this Government, or
- (b) any child or children in the Union by any woman who is still living.

This means that an Indian marrying under the tenets of an Indian religion and not registering such marriage may have children and thereafter divorce this wife according to the Indian religion, and she may thereafter become the wife of some other man or remain unmarried; then the first husband cannot go to India and bring a legitimate wife because he has a child resident in the Union by a woman who is still living, though not his wife. This heavy punishment is unjustifiable and disproportionate, and is a ban not imposed upon any community in the world.

With regard to Section 18 of the new Bill which seeks to make an addition to Section 10 of Act 22 of 1913, it is pointed out that the addition is quite unnecessary, as the present practice is that an Indian even already in the Union may be arrested and declared a prohibited immigrant and dealt with under Section 19 of Act 22 of 1913. Many cases have already been so dealt with.

Section 19 of this Bill makes the addition to Section 22 that for an offence under that Section for which imprisonment without a fine is imposed, such offender may be declared a prohibited immigrant. It may be said that with this addition and the whole Section being read together, any person in the Union who has ever been sentenced to imprisonment without the option of a fine, whether before or after the passing of Act 22 of 1923, can be declared by the Minister to be an undesirable inhabitant and be deported.

If for any reason the Government does not exercise its authority, harsh though it may be, the addition still is an incentive to the

judicial functionaries influenced by the administrative section to impose punishments without the option of a fine so as to provide ground for the Minister to secure his necessary number of victims for deportation. This power should never be given to anybody because many of the offences are sometimes best suitably dealt with by imprisonment only, but the circumstances of such offence may never be so grave as to justify deportation. The discretion given to the Minister may never be nor can be from past experience expected to be exercised in favour of Indians.

Section 20 of the present Bill will affect a large number of Indians, in that they will be compelled to give up a dual domicile in the Union, because many persons hold a [legal] domicile, for instance, in the Transvaal by birth or residence and have also similarly by birth or residence a [legal] domicile in Natal. This right of dual domicile will by operation of law cease to exist in three years, which means that large vested interests in one or other of the Provinces cannot be effectively dealt with or protected by the owner, and such businesses must necessarily be closed down.

Again, Indians, including those born in the Union, by their mere absence from the Union for more than 3 years at a time lose their domicile. This appears to be in conflict with all known law as regards to domicile, because this Bill takes away and does not give effect to a man's legal intention as to his own domicile. It also entirely takes away the present established right preserved to an Indian by virtue of his Certificate of Domicile. In order to preserve a domicile a person must return within the three years and then may immediately leave again for another three years. What is to be done with a South African born Indian who absents himself for more than three years and thus loses his domicile? Where is he to go? This surely renders the Act farcical and places the Indian under great inconvenience and unnecessary expenses with no corresponding benefit to anyone. The same argument applies to those who under the amendment are required to return before the 1st August, 1928.

The provision empowering the Minister to issue permits for a longer period than three years is not obligatory, and should he, as we expect, refuse all applications as a matter of course, then there is no relief from such decision. It is clear that the whole of this Section deprives Indians of their common law rights of freedom and restricts personal movement.

CHAPTER III.

Chapter III applies to registration of Asiatics, but deals only with those whose registration should be effected in the Transvaal. The present provisions of Act 36 of 1908 (Transvaal) gives a Magistrate a right to grant a period of 8 days to an Indian to have himself registered, but the present amendment takes away this right and places an Indian's application wholly at the discretion of the Minister. It is felt that this is likely to operate adversely to the Indian, and the present law should not be disturbed.

CONCLUSION.

The last comment on the Bill is that it is to be made retrospective as from the 1st day of August, 1925. The Minister in his first reading explains that he was doing this so as to prevent a scramble by the Asiatics to become possessed of vested interests before the Bill could become law. This retrospective operation is bound to affect all transactions in regard to land amongst the Indian community. As a matter of fact it has already crippled and effectively restricted transactions in the buying and selling of freehold properties. It is superfluous to remark that this position is unprecedented in the annals of any country.

Every endeavour will be made to calmly and constitutionally protest against this Bill, but from past experience and from present knowledge of the existing race prejudice, Indians are constrained to believe that their representations will be futile. Concerted action, however, of Indian influence from India and its Government, acting with the British Government, may secure the protection which was preserved to Indians in the South Africa Act, Section 147, which provides that:

“The control and administration of Native Affairs and of matters specially or differentially affecting Asiatics throughout the Union shall vest in the Governor-General-in-Council”

IS THIS PROTECTION TO MEAN NOTHING TO INDIANS?

IS THE BRITISH EMPIRE WEAKENED AND UNABLE TO-DAY TO PROTECT ITS BRITISH INDIAN SUBJECTS?

IS THE INDIAN GOVERNMENT UNMINDFUL OF OR
INDIFFERENT TO INDIANS OUTSIDE OF INDIA ?

IS INDIAN REPRESENTATION ON THE LEAGUE OF
NATIONS TO COUNT FOR NOUGHT ?

If the answers to the foregoing questions are important, then
Indians expect the leaders of public opinion to insist upon the
Imperial Government doing its clear duty.

**Minister of Interior's Speech in introducing
the Areas Reservation and Immigration and Registration
(Further Provision) Bill.**

Dr. MALAN moved for leave to introduce a Bill to make provision for the reservation of residential and trading areas in the urban areas for certain persons having racial characteristics in common; to amend the Immigrants Regulation Act, 1913 (No. 22 of 1913), the Indians Relief Act, 1914 (No. 22 of 1914), and the Asiatic Registration Amendment Act (Transvaal), 1908 (No. 36 of 1908); and to amend and repeal certain laws.

Dr. Malan said: The introduction of this Bill is, as hon. members will know, an undertaking on my part about a year ago during the last session of Parliament. During that session a motion was introduced dealing with the Asiatic question by the hon. member for Illovo, and replying on that occasion, I undertook I would go into the whole of the Asiatic question during the recess as thoroughly as I could, and that I would introduce during this session of Parliament legislation dealing with that problem. I am very sorry I could not have the Bill ready before the very end of the session. I say I am sorry for that, because I realise, especially after having gone into the question personally, that the Asiatic problem is indeed a very pressing one in the country, and that delay will certainly, in future, not make the solution of the question easier for us.

On the other hand, I am not sorry that legislation is introduced at this late stage, because it is, of course, impossible to carry the Bill further than just the first reading now. In the meantime in the recess, before the Bill can be brought up again next session, the country as a whole will have the fullest opportunity of knowing what the policy of the Government is in regard to the Asiatic problem, and I personally, and the Government with me, will certainly follow the criticism, especially constructive criticism, which is brought forward in connection with this Bill, and I must say that personally I shall be very glad to adopt any helpful suggestions which may be brought forward during the recess.

I consider the Asiatic question, just as the Native question is, as a problem not for one political party, but a problem for the whole country, and a question which should be solved, as far as possible, above the arena of party strife. We should keep it, as

far as possible, above party divisions. I am not going at this stage to make any second reading speech of this Bill, especially as the Bill is not yet in the hands of hon. members, but perhaps hon. members will allow me to make a few remarks of a general character.

In the first place, I want to say that the Bill, as hon. members will have an opportunity of seeing later on, will certainly not satisfy extreme sections in the country. In this Bill I tried to steer the safe and sane middle course. The radical element in the country will certainly think this Bill is too weak and moderate, and on the other hand that element in the country which is faint-hearted, or weak, will certainly think that this Bill is going quite too far, that it is too radical, and that in certain senses it will be oppressive.

INDIAN AS AN ALIEN.

I must say that the Bill frankly starts from the general supposition that the Indian, as a race in this country, is an alien element in the population, and that no solution of this question will be acceptable to the country unless it results in a very considerable reduction of the Indian population in this country.

But, on the other hand, the method of dealing with this question will not be the employment of any forcible means. The method which this Bill will propose will be the application of pressure to supplement, on the other hand, the inducement which is held out to Indians to leave the country. The Bill to a certain extent follows well-known lines. To a certain extent we go on the path which has been trodden before by my hon. friends opposite, but the Bill does not rest there, it goes a good deal further.

The Bill tries, to a much larger extent than was done by the Class Areas Bill of the previous Government, to carry out the recommendations of the Asiatic Inquiry Commission.

We are dealing in this Bill not only with residential or commercial segregation, but also with land ownership, especially in Natal.

In addition to that the Bill proposes, in certain respects, to amend the Immigrants Regulation Act.

We find that there is a considerable influx of Indians still continually going on, especially the influx of Indian women, and the amendments which we propose in this Bill will go very far to put an effective stop to that.

There is one omission which I think certainly will be noted by hon. gentlemen when they read the Bill, and that is that this Bill, except in a general way, does not deal with the issue of trading licences. By another Bill which has passed, or which is being dealt with by Parliament just now, we will establish uniformity in regard to licences issued in this country, but that uniformity only consists in the fixing of the amount to be paid for these licences, and the issue of the licences to particular persons remains, as before, in the hands of the Provincial Administrations. So also the issue of trading licences to Asiatics will remain in the hands of the Provincial Administrations just as before.

I would just further make this general remark that in this Bill we are trying to respect, as far as possible, the susceptibilities of the Indian population. We follow the example of legislation which has been passed by this House on previous occasions, and throughout the Bill we do not mention the name of the Asiatic as a class at all, except where it must be done in cases where we refer to existing laws which deal specifically with Asiatics as a class.

I must just conclude by making two points quite clear. I wish to be very clearly understood on these two points. The first is that the introduction of this Bill will not or must not be taken as closing the door to any negotiations or communications which may pass at present, or in the future, between the Union Government and the Government of India in regard to the Indian question.

ROUND-TABLE CONFERENCE.

As I have stated on a former occasion, this Government have been approached by the Government of India with a view to arranging between the two Governments a round-table conference on the treatment of Indians in South Africa. These negotiations are not yet closed, though they have taken a very definite course. The introduction at this stage of this proposed legislation must not be taken as closing the door to further communications between the two Governments about this particular point. On the contrary, I think that the statement as embodied in this Bill, of the Asiatic policy of the present Government, will very materially help further communications which there may be between the two Governments.

General SMUTS: Can you tell us how far the negotiations have gone?

Dr. MALAN: It is very difficult at this stage to make any statement on that point. I do not think it is to the public interests to do so just now.

The other point upon which I wish to lay emphasis is this—and I give it as an intimation to every one interested in the Bill—that according to the Bill as it stands now it will come into operation on August 1st of this year—within a fortnight's time. Whatever the time may be when this Bill may be passed by the Union Parliament, this order to come into operation on August 1st will stand. I think it is necessary, at this stage, to make this announcement because in the Bill certain vested interests are protected, and if the Bill does not come into operation or is made retrospective afterwards to come into operation on August 1, 1925, I am afraid there will be a general scramble amongst the Indian population for the creation of vested interests, and in that way the problem which we wish to solve will be made infinitely more complicated, and therefore I wish it to be understood that whenever this Bill is passed, it will come into operation as from August 1st of this year. This, I think, is all I wish to say at this stage, and I move the first reading of the Bill.

The motion for leave to introduce the Bill was put and agreed to.

GANDHI-SMUTS AGREEMENT OF 1914.

The following correspondence between Mr. Gandhi and General Smuts, in confirmation of a series of interviews, constitutes a perfect understanding between the Government and the Indian community in regard to those administrative matters which did not come under the Indians' Relief Act, 1914 [Note: Itself part of the Agreement and now sought in part to be repealed and otherwise amended, against the wishes of one of the parties to the Agreement.—H. S. L. P.] :—

Department of the Interior,
Capetown, Cape of Good Hope,
30th June, 1914.

Dear Mr. Gandhi,—Adverting to the discussions you have lately had with General Smuts on the subject of the position of the Indian community in the Union, at the first of which you expressed yourself as satisfied with the provisions of the Indians' Relief Bill and accepted it as a definite settlement of the points, which required legislative action, at issue between that community and the Government; and at the second of which you submitted for the consideration of the Government a list of other matters requiring administrative action, over and above those specifically dealt with in that Bill; I am desired by General Smuts to state with reference to those matters that:—

- (1) He sees no difficulty in arranging that the Protector of Indian Immigrants in Natal will in future issue to every Indian, who is subject to the provisions of Natal Act 17 of 1895, on completion of his period of indenture, or re-indenture, a certificate of discharge, free of charge, similar in form to that issued under the provisions of Section 106 of Natal Law No. 25 of 1891.
- (2) On the question of allowing existing plural wives and the children of such wives to join their husbands (or fathers) in South Africa, no difficulty will be raised by the Government if, on enquiry, it is found, as you stated, that the number is a very limited one.
- (3) In administering the provisions of Section 4 (1) (a) of the Union Immigrants' Regulation Act, No. 22 of 1913, the practice hitherto existing at the Cape will be continued in

respect of South African-born Indians who seek to enter the Cape Province, so long as the movement of such persons to that Province assumes no greater dimensions than has been the case in the past; the Government, however, reserve the right, as soon as the number of such entrants sensibly increase, to apply the provision of the Immigration Act.

- (4) In the case of the " specially exempted educated entrants into the Union " (i.e., the limited number who will be allowed by the Government to enter the Union each year for some purpose connected with the general welfare of the Indian community), the declarations to be made by such persons will not be required at Provincial borders, as the general declarations which are made in terms of Section 19 of the Immigrants' Regulation Act at the port of entry are sufficient.
- (5) Those Indians who have been admitted within the last three years, either to the Cape Province or Natal, after passing the education tests imposed by the Immigration Laws which were in force therein prior to the coming into effect of Act 22 of 1913, but who, by reason of the wording of Section 30 thereof, are not yet regarded as being " domiciled " in the sense in which that term is defined in the Section in question, shall, in the event of their absenting themselves temporarily from the Province in which they are lawfully resident, be treated, on their return, as if the term " domicile " as so defined did apply to them.
- (6) He will submit to the Minister of Justice the cases of those persons who have been in the past convicted of " bona fide passive resistance offences " (a term which is mutually understood) and that he anticipated no objection on Mr. De Wet's part to the suggestion that convictions for such offences will not be used by the Government against such persons in the future.
- (7) A document will be issued to every " specially exempted educated entrant " who is passed by the Immigration Officers under the instructions of the Minister issued under Section 25 of Act No. 22 of 1913.
- (8) All the recommendations of the Indian Grievances Commission enumerated at the conclusion of their Report, which remain over and above the points dealt with in the Indians' Relief Bill will be adopted by the Government;

and subject to the stipulation contained in the last paragraph of this letter the necessary further action in regard to those matters will be issued without delay.

With regard to the administration of existing laws, the Minister desires me to say that it always has been and will continue to be the desire of the Government to see that they are administered in a just manner and with due regard to vested rights.

In conclusion, General Smuts desires me to say that it is, of course, understood, and he wishes no doubts on the subject to remain, that the placing of the Indians' Relief Bill on the Statute Book of the Union, coupled with the fulfilment of the assurances he is giving in this letter in regard to the other matters referred to herein, touched upon at the recent interviews, will constitute a complete and final settlement of the controversy which has unfortunately existed for so long, and will be unreservedly accepted as such by the Indian community.

I am, etc.,

(Sd.) E. M. GORGES.

M. K. Gandhi, Esq.,
7 Buitencingel,
Capetown.

7 Buitencingel,
Capetown.

30th June, 1914.

Dear Mr. Gorges,—I beg to acknowledge receipt of your letter of even date herewith setting forth the substance of the interview that General Smuts was pleased, notwithstanding many other pressing calls upon his time, to grant me on Saturday last. I feel deeply grateful for the patience and courtesy which the Minister showed during the discussion of the several points submitted by me.

The passing of the Indians' Relief Bill and this correspondence finally close the Passive Resistance struggle which commenced in the September of 1906 and which to the Indian community cost much physical suffering and pecuniary loss and to the Government much anxious thought and consideration.

As the Minister is aware, some of my countrymen have wished me to go further. They are dissatisfied that the trade licences laws of the different Provinces, the Transvaal Gold Law, the Transvaal Townships Act, the Transvaal Law 3 of 1885 have not

been altered so as to give them full rights of residence, trade and ownership of land. Some of them are dissatisfied that full inter-provincial migration is not permitted, and some are dissatisfied that on the marriage question the Relief Bill goes no further than it does. They have asked me that all the above matters might be included in the Passive Resistance struggle; I have been unable to comply with their wishes. Whilst, therefore, they have not been included in the programme of Passive Resistance, it will not be denied that some day or other these matters will require further and sympathetic consideration by the Government.

Complete satisfaction cannot be expected until full civic rights have been conceded to the resident Indian population.

I have told my countrymen that they will have to exercise patience and by all honourable means at their disposal educate public opinion so as to enable the Government of the day to go further than the present correspondence does. I shall hope that when the Europeans of South Africa fully appreciate the fact that now, as the importation of indentured labour from India is prohibited and as the Immigrants' Regulation Act of last year has in practice all but stopped further free Indian immigration and that my countrymen do not aspire to any political ambition, they, the Europeans, will see the justice and indeed the necessity of my countrymen being granted the rights I have just referred to.

Meanwhile, if the generous spirit that the Government have applied to the treatment of the problem during the past few months continues to be applied, as promised in your letter, in the administration of the existing laws, I am quite certain that the Indian community throughout the Union will be able to enjoy some measure of peace and never be a source of trouble to the Government.

I am,

Yours faithfully,

(Sgd.) M. K. GANDHI.

E. M. Gorges, Esq.,

Department of the Interior,

Capetown.

THE SOUTH AFRICAN INDIAN DEPUTATION REPRESENTATION TO THE VICEROY.

His Excellency the Viceroy received the South African Indian Deputation headed by Dr. Abdur Rahman on Saturday, the 19th Dec., 1925, at Calcutta. The following is the full text of the statement submitted by the Deputation:—

To

HIS EXCELLENCY THE RIGHT HONOURABLE

RUFUS DANIEL ISAACS, EARL OF READING,

P.C., G.C.B., G.M.S.I., G.M.I.E., K.C.V.O., ETC.,

Viceroy and Governor-General of India,

MAY IT PLEASE YOUR EXCELLENCY,

We, the undersigned, A. Abdur Rahman, J. W. Godfrey, Amud Bayat, Sorabjee Rustomjee, V. S. C. Pather, Bhawani Dayal, and A. A. Mirza, delegates to the South African Indian Congress, duly appointed at the fifth session held in Capetown on the 9th November, 1925, desire to thank your Excellency for receiving the deputation, and respectfully beg to submit to you a short statement of the present position of Indians in South Africa and of the effect of the Areas Reservation and Immigration and Registration (Further Provision) Bill on their future status.

Sir, you will doubtless, recollect that you were pleased in March, 1922, to receive a deputation of South African Indians, supported by Sir Jamsetji Jeejibhoy and other prominent and influential leaders of Indian public opinion. That deputation not only placed before Your Excellency very fully the position of Indians as it existed then, but they also stated that, in the light of the sustained and irrational anti-Asiatic campaign in South Africa, the Indians viewed the future outlook with the gravest apprehension.

We feel assured that Your Excellency has since then watched with more than ordinary care the trend of South African legislation; that you are acquainted with and have viewed with disapprobation the promulgation of two Provincial Ordinances which quite recently deprived Indians of the Municipal and Township

franchise in Natal, and the adoption of other Ordinances which place further restrictions on their trading and proprietary rights. Convinced that Your Excellency knows all this, and being aware that you have also kept in close touch with the South African Government, we feel that it would almost be an act of supererogation to restate the case of Indians as it exists to-day.

Nevertheless, Sir, permit us to summarise briefly our existing grievances. This will show up more glaringly the impossibility of Indians to survive and retain their manhood under any further imposition of restrictions, and, moreover, it will emphasise more fully and clearly the dire effects on them of the Areas Reservation and Immigration and Registration (Further Provision) Bill—the Bill which has driven us, as a last resource, to seek your aid in the calamity which stares us in the face and which threatens to overwhelm the whole Indian community. Briefly then the position is as follows:—

CAPE PROVINCE.

In the Cape Province there are approximately 8,000 Indians, who enjoy equally with other non-Europeans both the parliamentary and the municipal franchise. No restrictions have so far been placed upon them which do not also apply equally to other non-Europeans. They are still free to purchase fixed property, to trade and to reside where they choose; and, except that applications by them for permits to trade are frequently refused solely because they are Indians, as was pointed out by the Asiatic Inquiry Commission of 1921, we are glad to say Indians have no complaint to make either against Europeans in that Province or the Government.

ORANGE FREE STATE.

In the Orange Free State there are only about 200 Indians, who were allowed to enter that Province on the strict understanding that they remained in the domestic service of Europeans. Immigration on any other condition is strictly forbidden.

TRANSVAAL.

The Transvaal has a population of approximately 12,000 Indians. They have never enjoyed either the parliamentary or the municipal franchise, and they are prohibited by Act 3 of 1885 and Act 37 of 1919 from acquiring immovable property. So far,

however, there has been little difficulty in obtaining trading licences. But in 1925 the Provincial Council passed the General Dealers Control Ordinance, which, according to the Administrator, is intended to regulate, control and restrict the granting of licences to Asiatics in future. The effect of the Ordinance has not yet been felt by the Indian community. But in view of the manner in which a similar law is being administered in the Cape Province where the anti-Asiatic feeling is comparatively mild, we have no hesitation in predicting that very few or no new licences will be granted in future. Furthermore, the Ordinance has been made retrospective. All licences, therefore, issued since July, 1925, will in 1926 be regarded as new licences and will probably be refused when they come up for renewal, and in the case of refusal of new licences there is no right of appeal [Note: A telegram from the Transvaal British Indian Association to the Indians Overseas Association since received states that the municipalities have begun to refuse both to issue *and to renew* licences wholesale to Indian applicants.—H. S. L. P.]

NATAL.

Natal has an Indian population of about 140,000, of whom a large proportion are born in the country, being descendants of those who by their labour and industry transformed that Province from a wilderness into a garden. In the year 1896, Indians were deprived without the slightest justification of their Parliamentary Franchise, but no restriction was placed upon them with respect to the acquisition of fixed property or the right to trade and to reside where they chose. In 1908, however, the Natal Legislature passed two drastic measures; one was designed to stop the issue of new trading licences to Asiatics forthwith, and the other to prevent the renewal of existing licences after 1918. These measures, needless to say, did not receive the Imperial Government's assent, and the trading rights of Indians were left undisturbed.

Thus, Sir, when the deputation waited upon you in 1922, although Indians experienced some difficulty in obtaining new licences to trade, and despite the fact that they suffered many minor indignities as a result of vexatious and restrictive regulations then in operation, nevertheless, they still enjoyed the full municipal and township franchise equally with Europeans, and they still retained the right to own fixed property and to reside where they chose without let or hindrance.

Since then a change for the worse has taken place. Three Provincial Ordinances, the provisions of which are intended to be applied to the Indian community almost exclusively, have received the assent of the Governor-General-in-Council, despite very strong protests against them. Two of these Ordinances, namely, the Boroughs Ordinance of 1924 and the Townships Franchise Amendment Ordinance, 1925, taken together, by one stroke of the pen, deprive all Indians of their municipal and township franchise rights respectively, although they possess the necessary qualifications, if their names are not already on the voters' roll. By a further clause in the first of these Ordinances, Municipalities have the power to prohibit the ownership or occupation or both of unalienated municipal lands by persons of Asiatic descent. The third Ordinance, namely, the Rural Dealers' Licensing Ordinance, creates Boards, whose duty it is to consider all applications for licenses to trade. Against the decision of the Boards in the case of new applications as well as applications for transfer from one premises to another, there is no right of appeal. As this Ordinance is specially designed to restrict trading by Asiatics, and as it is administered in that spirit, it is not difficult for Your Excellency to conceive how Indians are suffering thereunder.

From this brief and consequently inadequate summary of the oppressive and differential laws in operation to-day in South Africa, it will be seen that further restrictions have been placed on Indians after the interview of 1922, and that the fears which Indians then entertained had been well-founded. But, Sir, we are to have no respite, and once again we are confronted with an outlook that seems even darker and more dismal. As if the cumulative effect of the many irksome regulations, the indignities we suffer, the curtailment of our rights, the abridgment of our privileges—as if the cumulative effect of all these was not sufficient to crush the Indians in time, a section of Europeans are prosecuting their one-sided and unjust racial warfare with such intensity and vigour as to convince us that they will not halt until they reach a point just short of wholesale extermination of Indians.

In response to the clamorous demands of these racialists, the Union Government introduced last Session into Parliament, and have promised to place on the Statute Books during the forthcoming Session, what is known as the Areas Reservation and Immigration Restriction (Further Provision) Bill, which, as Your Excellency knows, is the primary, if not the sole cause, of our having been deputed to seek your aid in the hour of need.

The Bill on the face of it is pure "class legislation." That it is intended to be administered solely against Indians, is quite clear from the fact that all other non-Europeans, namely Cape coloureds, natives, Malays, Mauritian Creoles, and St. Helenas are exempted from its operation. Its object, as is plainly stated, is to drive Indians into locations or areas, reduce them to industrial serfs, and thus ultimately hunt them out of South Africa. This is clear not only from the various sections of the Bill itself, but also from the speech of the Minister, who, when introducing it into Parliament, said "that the Bill frankly starts from the general supposition that the Indian as a race in this country is an alien element in the population, and that no solution of this question will be acceptable to the country unless it results in a very considerable reduction of the Indian population in this country."

The principle of compulsory segregation for trading and residential purposes, which is distinctly laid down in the Bill, is one which the Indian community cannot, nay, dare not accept. Your Excellency assured the deputation of 1922 that you also were opposed to the principle of segregation, and you inspired the Indian community in South Africa and the people of India with hope when you expressed yourself thus: "They (the Indian Government) are equally at one with you in the objection you take to the Commission's suggestion regarding voluntary segregation whether residential or commercial." It is not difficult, therefore, for Your Excellency to gauge the bitterness and intensity of the feeling in South Africa against this Bill.

We desire also to state that the conditions which prevail in "locations" in which natives are compelled to live in many parts of the Union are appalling, due in every instance to the neglect on the part of municipalities to supply and attend to the essential services requisite for a healthy and clean life. The Asiatic Inquiry Commission of 1921 reported against segregation as follows:—**"We find ourselves wholly unable to support the policy of repression which was advocated by some of the witnesses. Indiscriminate segregation of Asiatics in locations and similar restrictive measures would result eventually in reducing them to helotry. Such measures, apart from their injustice and inhumanity, would degrade the Asiatic and react upon the European."** Moreover, the Bill is in violation of the spirit and intention of the Gandhi-Smuts Settlement; for it was understood that no further anti-Indian legislation would be imposed,

and that the then existing laws would be administered in a just manner with due regard to vested rights.

For these reasons alone the Indian community cannot accept the Bill.

Furthermore, the tightening up of the immigration laws, the interference with the trading rights, the new restrictions with regard to acquiring ownership of land and acquiring leases, and the utter disregard of vested rights—all these taken together constitute such a formidable catalogue of new injustices that Indians are sure to be crushed under its weight. There is also no doubt that the clauses relating to the ownership of land, renewal of leases and of trading rights will spell financial ruin to the Indian community.

After the first reading of the Bill, the Indian community in the Union of South Africa, through the South African Indian Congress, passed the two following resolutions:—

1. That the South African Indian Congress in conference views with alarm the Areas Reservation and Immigration (Further Provision) Bill which is in violation of the 1914 Gandhi-Smuts agreement, and which has for its object the compulsory segregation of Indians, deprivation of their proprietary rights and the ultimate elimination of the Indian community as openly declared by the Minister of Interior, and begs to submit to the Government that on a matter of principle the Indian community of South Africa opposes this Bill in toto.

2. That this Congress urges upon the Union Government to consent to a round table conference of representatives of the Union and Imperial Governments, the representatives of India, the Indian Government and representatives of the South African Indian Congress to consider the whole position of the Indians here and arrive at an honourable settlement.

These resolutions were presented by a deputation to the Minister of Interior on the 16th November, 1925, who replied that he was not prepared to depart from the principles of the Bill; that as all political parties in the Union were unanimous on the Bill, he hoped to have it placed on the Statute Book and that he was unable to state what final view either the Union Government or Your Excellency's Government would take in regard to the round table conference as the matter was under discussion.

Our object to-day is, therefore, to impress upon the Indian Government the urgency of securing the Union Government's con-

sent to a round table conference in terms of the resolution aforementioned.

We would point out that even if this Bill does not become law, there still remains unsolved the question of Franchise Rights, Immigration, Education Trading Licences, etc., and these are questions that call for an early solution.

The Indian community have at all times been law-abiding, and are prepared even now to submit to any and all laws to which all other sections are made amenable. They have always been prepared to assist by every means to promote the welfare and progress of the Union.

We beg to place before Your Excellency our demands as law-abiding and respectful citizens of the Union and as South Africans, to restore to us in the Cape Province and Natal the political rights of which we have been deprived, and to grant to us full political and civil rights in the Transvaal and the O.F.S. as enjoyed by the other communities of the Union. This will be one of the means of solving the Indian problem in South Africa.

In the event of the Union Government not acceding to the request for a round table conference and forcing the Bill through Parliament in spite of Your Excellency's and our objections, then we would respectfully ask you to secure the King-Emperor's disallowance of the Bill in terms of Section 65 of the South Africa Act, failing which to appeal to the League of Nations, as the Bill contravenes the spirit and intention of Clause XXIII. of the Covenant of the League of Nations, to which the Indian Government is a signatory.

In conclusion, we again beg to thank Your Excellency for granting us this interview, and sincerely pray that Your Excellency's efforts to secure for the South African Indians a status consistent with the honour and dignity of the Indian nation will be crowned with success.

We have the honour to be,

Sir,

Your obedient servants,

A. ABDUR RAHMAN.

J. W. GODFREY.

AMOD BAYAT.

SORABJEE RUSTOMJEE.

V. S. C. PATHER.

BHAWANI DAYAL.

A. A. MIRZA.

DR. ABDUR RAHMAN'S SPEECH.

The following is the concluding portion of the speech Dr. Abdur Rahman delivered in submitting the deputation's statement to the Viceroy:—

Compare the position of the Indians to-day with that of the "Outlanders" in the Transvaal in 1898. Their grievances were nothing in comparison with what we suffer. The Indian grievances were made one of the causes for going to war. England must to-day take a firm stand. I am assured from what you, Sir, have seen in the statement and from what you know of the special grievances under which the Indians suffer, and from what you know of this Bill, that you yourself will to-day say to me and to us that the Indians are already suffering enough, and that they cannot bear any more. But we have not told you the whole of the horrible picture of the sufferings of the Indians under the many legislative enactments. Having been segregated in areas and prevented from adding and acquiring lands outside the areas, what are the Indians then to do? There are no educational facilities for the Indian children. The Government spend something like £6,000,000 on education, and out of that vast amount I think something like nearly £4,000,000 are spent in the Transvaal, Natal and Orange Free State. But of this latter amount about £100,000 are spent on Indian and coloured education and £100,000 on the native education. In the Cape it is different. That province is more liberal. In the Orange Free State, to give you some idea of the attitude of some of the Europeans, out of every pound that is spent on education the huge sum of three-farthings is spent on the non-European child and nineteen shillings and elevenpence on the white child! There are practically no educational facilities at all for the Indian child or for any other non-European child to go beyond the sixth standard. To bar the Indian and other non-European child from learning a skilled trade, an Apprenticeship Act was passed, which says that before a child can be apprenticed in the printing trade, he must have passed the seventh standard. So it is also in other trades. In some trades it has been fixed at the sixth standard, and very few non-European children reach that standard because there are no educational facilities. Take again the Liquor Law Amendment Bill. Here the Indians and the natives are specially excluded from being employed on premises where liquor is manufactured, stored or sold. This is done because

the Indians are the waiters in most of the big hotels and in order to oust them from this work, the Bill provides that no native or Indian shall be permitted to work in a place where liquor is manufactured, stored or where it is sold. Then comes the Colour Bar Bill which was rejected by the Senate last session, but which will be passed this session [Note: This Bill has already been reintroduced in the Union Assembly.—H. S. L. P.]. Then again, no Indian may be in charge of a machine. I will not go into further details, but I wish to say that there are so many restrictive laws that it is impossible for us to hope for an honest living in the future. I think I have exhausted my time-limit. I know Your Excellency is exceedingly busy. You quite understand that we are coming all this distance because we are compelled to seek your aid in this crisis. I am glad that Your Excellency is indulgent, and has permitted me to amplify our statement. I now desire to say, in conclusion, that if India finds that she is impotent, that she cannot help us in South Africa, for some reason or other that she cannot, though she might wish to do so, and that if she had the power she would do so, I would go so far as to say that I interpret Your Excellency's views on this point when I say that Your Government would do everything possible if it could, to prevent this Bill from going through. I say if you are in such a position here that you cannot help us, if the position of India is such, her relationship with the rest of the British Empire is such that she must submit and allow her sons to suffer, then I hope one of these days that relationship will be changed, so that India can speak, as she ought to speak, like a free man and say: "We will not allow our sons to be humiliated any longer because we have got the power to say no."

THE VICEROY'S REPLY.

Dr. Abdur Rahman and gentlemen,—I am glad to have this opportunity of meeting you here to-day and of discussing the grave situation to which you have referred in your petition and observations. I have read and examined an advance copy of your petition with great care and have listened with deep interest to the further observations with which you have now laid it before me. Let me assure you that I have watched the position of Indians in South Africa with anxiety and sympathy for some years past and have taken all measures as opportunity offered from time to time which appeared to me and my Government calculated to ameliorate their

condition. I am deeply grieved at the present situation. It is natural that you should seek to ascertain at first hand in India the feelings of the people and the Government of India on these questions and to fortify your cause with what you will undoubtedly carry away with you—the warm sympathy of the people and the Government of India. Great indignation has been felt and expressed in India, and public opinion has been deeply pained.

ROUND TABLE CONFERENCE.

It has been observed with apprehension that in introducing the Bill, Indians have been described as an alien element in the population of the Dominion, and intentions have been expressed of solving the problem by securing a very considerable reduction in the Indian population of the Union. Your deputation lays stress, and rightly so, on the necessity for a round table conference. This suggestion has been repeatedly pressed by me and my Government since it was first put forward by Mr. Thomas during his visit to South Africa. We urged the Government of South Africa, in addition, to agree to our despatching a deputation to South Africa to ascertain facts regarding the economic conditions of Indians and the effect upon them of the contemplated legislation, so that we might be in the best position to make representations concerning these measures based on accurate local and latest information regarding the situation. Our concrete proposals regarding the deputation to that Government were made on 9th October last and accepted by that Government on 10th November. We at once took steps to constitute a deputation and informed the Government of South Africa that we were despatching it on the 25th November. The first information of your deputation which we received was in a Reuter's telegram of the 19th November. The decision to send the Government deputation was thus reached before we had heard of your deputation. We attribute importance to our deputation both because of the information it may be expected to procure and because we desired to lose no time in taking advantage of the assent of the Union Government to its visit. Although in many respects it would undoubtedly have been preferable if these two deputations had not crossed each other, yet there is no real duplication of functions, as we once apprehended, in a deputation from the Government of this country visiting South Africa at the same time as a deputation from Indians in South Africa visits India. The more light that can be shed on this difficult question the better. The fuller the understanding

the more likely that some avenue may be found to remedy the situation. I and my Government greatly hope that the deputation we have sent to South Africa may collect facts and make suggestions which may serve as a basis for fresh proposals on lines to which the Union Government may be disposed to agree. We also confidently expect that your deputation may help us with some constructive suggestions of value to the same end. I fully understand the depth of the feeling by which your community and Indian opinion generally is exercised.

“ THE ISSUE IS NOW IN S. AFRICA.”

I do not under-rate the strength of the apprehensions you entertain. Nevertheless, whilst it is natural that you should present your case with considerable vigour, it must be remembered that the issue is now in South Africa. South Africa is a Dominion. Its Parliament has full powers to pass legislation regarding its internal affairs. Feeling in South Africa is naturally sensitive of interference from outside in these affairs. I have never in my experience known a good case to suffer by sober presentment. I and my Government emphatically held that we have a right to make representation regarding a measure prejudicial to Indians domiciled in South Africa. It is a duty from which we shall never shrink, and we claim that our views should be heard and considered. We have reason to know that our right to make representations and be heard is not disputed by the Union Government. Indeed, I gratefully acknowledge that they have on various occasions given effect to our suggestions. At the same time we recognise that the position of that Government must be respected and that no claim can be sustained by us of a right to interfere in their domestic affairs. Should the Union Government be unable in the end to accede to our request, we reserve to ourselves freedom to take such action as may seem desirable in the circumstances of the case. We have always kept His Majesty's Government fully informed through the Secretary of State for India of the strength of feeling in India on the question of Asiatic legislation in the Union, and of our own views on these questions. I cannot consider the prospects hopeless. I believe that the Union Government will give careful consideration to our views, based as they are on facts and equitable consideration.

It is evident that in the absence of the Indian franchise the Union Government recognises that they have a special responsibility for Indians in South Africa. The present Union Govern-

ment have not yet carried any anti-Asiatic legislation. The Colour Bar Bill was rejected by the Senate. The fate of the present Bill is still undecided. Let me remind you that I and my Government have carefully watched all proposals in the past for anti-Asiatic legislation. We have kept the Union fully apprised of Indian sentiment regarding these measures and of the objections to them. They have just received our representatives with the greatest courtesy, and I gladly acknowledge that in the past, action has frequently been taken to meet our suggestions regarding specific measures.

INDIAN GOVERNMENT'S ACHIEVEMENTS.

I am not sure that it is generally recognised that the Union Government have from time to time to meet representations made by my Government and the extent to which our protests and representations have achieved some success. Let me give a few instances. First as regards draft ordinances to amend the Natal Townships law of 1881 in such a way as to deprive Indians of the township franchise, various drafts were introduced in 1921, 1922, 1923, and 1924, and regarding each in turn the Government of India cabled representations. The Governor-General-in-Council withheld assent to the first, reserved the second and fourth for further consideration, and the third was not proceeded with. The fifth ordinance of 1925 received the sanction of the Governor-General-in-Council before our representations reached him. In 1925 also a draft ordinance to consolidate the Natal townships law was introduced which would have had the effect of disenfranchising Indians already on the electoral roll of townships. In response to our representations we have been informed that the ordinance is standing over until next year, and that when it is proceeded with the franchise of Indians at present on the voters' roll will be adequately safeguarded. Again, as regards the Natal Boroughs Ordinance of 1925 we cabled representations. The Governor-General-in-Council at first reserved the Bill for further consideration but ultimately assented on the ground that they were unwilling to curtail the power of a provincial council to deal with a purely domestic legislation. Another instance is the Natal Rural Dealers' Licensing Ordinance. Various drafts were introduced, all of which were likely to affect adversely the trading rights of Indians. The Governor-General-in-Council withheld assent to the draft of 1921, reserved for consideration the draft of 1922, and assented to the draft of 1923 after explaining how far he had been

able to go in meeting our wishes. In the case of the Durban Land Alienation Ordinance of 1922 we cabled representations. The Governor-General-in-Council assented, but instructed the Administrator in Natal to satisfy himself before approving racial restrictions in land sales that Asiatics were given reasonable opportunity for acquiring adequate residential sites. Take finally the Areas Reservation and Immigrations and Registration (Further Provision) Bill, 1925. The position is that the Government of India have already telegraphed very full representations regarding this Bill, which they consider of the utmost importance, and have received an assurance that their representations will receive the earnest consideration of the Ministers. It may also be noted that the Government of India has addressed a detailed despatch containing their views on the Asiatic Enquiry Commission's Report, 1921. This despatch has given rise to a long correspondence, in the course of which the Union Government have explained their general policy towards Asiatics. We are still engaged in discussion. I freely admit that in some cases the representations of my Government have been unavailing, as, for example, in the Natal Public Health Committee's Ordinance (1925). In the case of the South African Mines and Works Amendment Act of 1925 also, we made representations, and though some changes were introduced to meet Asiatic susceptibilities, the principle of the Bill remained unchanged. Fortunately, however, the Bill was rejected in the Senate. In the case of the Class Areas Bill of 1924 we have also made representations, but the Bill lapsed owing to the dissolution of the Union Parliament.

LORD READING OPTIMISTIC.

I have said enough to show that I and my Government, though not always successful, have been able to achieve something in the past, and have every reason to believe that the Union Government will give the closest consideration to any proposals we may decide to put forward. Our deputation in South Africa is working to provide us with material to make and support our representations. We look to you also, and shall welcome any constructive suggestion you are able to give us. The member of my Government in charge of this subject, Sir Mohammed Habibullah, and the Secretary of the Department, Mr. Ewbank, are present here to-day. I invite you to keep in close touch with them and give your views as regards all clauses of the Bill and their effect upon Indians. This is not the place to go into the question of details, but it is important that they should hear your

views upon these questions also. You may be assured that any detailed criticism of the Bill you may have to offer will be most carefully examined by them both. I and my Government will welcome your assistance in giving through them concrete illustrations of the manner in which specific provisions adversely affect the position of Indians. As I hope I have already made clear to you, you may rely on receiving a very sympathetic hearing from the officers of my Government. We shall carefully and anxiously consider the best course to follow. It would be premature on my part to attempt to indicate the exact measures we may adopt, but you may confidently count on my warm personal interest in your difficulties and on the sincere desire of my Government to find a way to remedy those anxieties by which you are now oppressed. You may already be aware, and if not let me assure you, that whatever the differences that may exist in India on other political questions, there is unanimity of opinion regarding the position of Indians in South Africa. I and my Government believe that any representations that may be made and any action that may be taken in the interests of India and the Empire on behalf of Indians in South Africa will have the whole-hearted support of the people. No course which can legitimately and constitutionally be taken will be left unexplored, and all reasonable measures calculated to ameliorate the situation will be taken.

LORD READING AND THE INDIAN LEGISLATIVE ASSEMBLY.

Reuter's telegram of Jan. 20, 1926, from Delhi, reports the speech of the Viceroy delivered at the opening of the Indian Legislative Assembly.

Speaking of the position of Indians in South Africa, Lord Reading said that there had been continuous progress in the legislation in South Africa prejudicial to the position of Indians, and tending to make it increasingly difficult for them to prosper or even exist in the Dominion, and further anti-Asiatic legislation had been recently introduced, and was now pending before the Union Parliament. The purpose of this legislation was to empower urban authorities compulsorily to segregate Indians and confine their rights of trading and of acquiring property to the limits of the areas assigned to them. The Bill also contained further restrictive provisions in regard to the acquiring or leasing of land outside the coastal belt in Natal, the immigration and importation of wives and families, and inter-provincial movements.

“ The Townships Bill (the Viceroy continued) contains what appears to my Government to be a radically objectionable principle, and the existing aversion from this policy has been intensified by the statement of Dr. Malan, in introducing the Bill in the Union Assembly last July, that the measure was based on the general proposition that the Indian was an alien element in the population of the Union and that no solution of the question would be acceptable unless it resulted in a very considerable reduction of the Indian population.

“ Since April last we have been in continuous correspondence with the Union Government in regard to this legislation, and communications are still passing. We have repeatedly pressed upon them the suggestion that the situation, in our view, calls for a conference as regards their general policy towards Indians. In the alternative, we invited them to make other suggestions likely to result in a permanent and satisfactory settlement. The Union Government have not found themselves able to agree to our proposals for a conference, although they seem inclined to agree to a conference restricted to the consideration of a more effective repatriation scheme which, in their words, will result in a considerable reduction of the Indian population in South Africa, and to proposals for the mitigation of economic competition between Indians and other classes in South Africa, and they asked us to formulate concrete suggestions regarding the latter.

“ We could not accept a conference whose main object would be to reduce considerably the numbers of Indians in South Africa. We were, however, prepared to consider the possibility of smoothing any difficulties that may have been found in the existing scheme of purely voluntary repatriation and to make suggestions in regard to vocational employment when we had sufficient data, but we asked for their assent, before entering upon any discussion about voluntary repatriation or making suggestions regarding competition, to our sending a deputation to South Africa to collect information regarding the economic and general position of Indians in the Union.

“ On November 10 the Union Government acceded to this request, and we forthwith dispatched our deputation. In sending the deputation the immediate object we had in mind was the collection of information urgently required by us, and we still kept in view the possibility of a conference, to which we attach the greatest weight. The interim reports received from the deputation have given us valuable information, and the deputation has

collected facts which have been most useful to us in our representations and may assist in suggesting eventually a basis for fresh proposals. We still do not despair of persuading the Union Government that there is the strongest ground for a conference, or, in the alternative, for an inquiry, before further Parliamentary steps are taken in regard to pending legislation.

“ We have never doubted the right of South Africa to guide the course of their own domestic and economic legislation, but in our view there are far wider considerations involved in this legislation than local economic policy alone. In our opinion they have an important bearing upon the Empire as a whole. The proposed measures are not, in our view, in accordance with those principles which bind the Empire together in a community of sentiment, and we hope this aspect of the proposals may yet commend itself to South African opinion. Even on the narrower issue of economic necessity, we believe, from information now received by us, that the situation may be capable of adjustment in other ways. Our negotiations are still proceeding, and we shall continue to press our views to the utmost of our ability. We cannot say whether we shall succeed in our endeavours, but I hope that a cause which, as it appears to us, has reason and equity on its side will ultimately prevail. Meanwhile I rely on the Legislature to give me and my Government their confidence and support in a question upon which they are aware that our sentiments are agreed, and especially to remember, as I gratefully acknowledge they have hitherto borne in mind, that we are still in course of negotiations with the Government of the Union, in whose hands the initiative in conducting their own legislative programme lies.”

BISHOP FISHER ON INDIANS IN SOUTH AFRICA.

We have received an advance copy of an admirable article on the position of Indians in South Africa by the Rev. Bishop Fisher, which is to appear in the January number of the *National Christian Council Review*. The Bishop recently visited South Africa, and in addition to the Union of South Africa visited Rhodesia, Bechuanaland, Portuguese East Africa and the Lowlands of Kenya. He went there as an investigator and attempted to approach the investigation in a spirit of utmost impartiality. He consulted all types of individuals and groups. The statement of his views and experiences is not put forward as a "scientific report," but as "rather a personal human document, the portrayal of conditions, and the testimony of an eye-witness. Its accuracy is vouched for, whilst the unjust humiliations to which Indians are subjected are understated rather than exaggerated." The cause of the present agitation, in his view, is the successful Indian trader. Poor Europeans as well as the natives prefer to trade with him. He is willing to give long credit and easy terms of payment. Although many poor Europeans told the Bishop that "they feared they could not exist without the Indian shops," they were compelled to cast their votes for the "white policy" when the racial issue was raised. It appears to him, therefore, that the problem is not altogether one of economic competition, but that race prejudice lies at its root. The Indian is able to sell his goods at a cheaper price because he does not spend so much upon his living as the European does. This is his greatest sin. But for his "lower standard of living" the numerous social disabilities imposed upon him are partly responsible. The Indian is debarred from theatres and other places of amusements. "His inhibitions compel him to practise economies which are as distasteful to him as to any other self-respecting citizen." The Bishop found scores of Indians who could afford to live in a luxurious style, but they were afraid about attempting to have luxuries "because of the bitter treatment that has been meted out to friends who had made any show of prosperity. There is a strange jealousy on the part of the whites with reference to the prosperity of the browns." Thus, while the whites by means of numerous restrictions, social as well as legal, try to keep down the standard of living of Indians, they use it as an argument for the enactment of measures intended to exterminate them.

Instead of lowering their own high standard of living, the whites are trying to render impossible the existence of those who, partly owing to the restrictions imposed by the whites themselves and partly to their traditional simpler habits, live in a frugal manner. Indians do not drink, while "the liquor bill of the white South African citizens is colossal." The Bishop wonders how European society can long continue to exist with such high liquor bills. "The amount of money squandered on drink accounts in many cases for the inability of the European to live on a moderate income." The Indians, who do not drink, must therefore be prevented from competing with those who cannot forego their drink either in the interest of efficiency or for the sake of economy. The Bishop found that the whites indulge in many extravagances and "expect to have a standard of living which is far beyond that which prevails in their own home countries." As in India, we may say. The white settlers who think that their business cannot flourish so long as there are Indian competitors who undersell them may well pause and consider how it is that so many European firms flourish in India and are able more than to hold their own against Indian competition.

The humiliations endured by the Indian community, writes the Bishop, are difficult of explanation, for they are not merely social. The discriminations are also "economic, domestic, political, racial, and religious," and they do not afford any modern parallel. He enumerates the numerous disabilities they suffer from, and points out that a citizen of America, Japan, Germany, or France has more rights and privileges in South Africa, although he does not belong to the British Empire, than an Indian has.

The avowed object of the anti-Asiatic Bill is to drive out the Indians. The Bishop tried to impress upon his European friends in South Africa the fact that the Indian was capable of unlimited suffering. "He has become accustomed to sorrow, repression, and disabilities. His patience is one of the loveliest things in the world." The writer is of opinion that the Bill would fail of its purpose. It "is not a solution but an irritant. If adopted, it will accomplish no purpose other than aggravate the Indian problem through persecution, to deepen its sense of martyrdom, and to raise up friends for the Indian community throughout the world." Continuing, Bishop Fisher observes:—

If I were a white citizen of South Africa I would regard the Bill as a direct attack upon the best interests of the white community, even though directed against the Indian. The indirect harm to the white community would be far greater than the direct harm to the Indian.

Measures of repression and programmes of extermination have been proved by history to mean decay of the virtues and powers of the perpetrators rather than of the persecuted. The Indians, through all time, have had great capacity for suffering, and the Indians of South Africa are determined, in this regard, to live up to the highest tradition of their race. If a cross is forced upon them, it will be a cross of victory.

We, too believe that the new Bill, if passed, will fail in its main purpose. It will only accentuate the problem by increasing bitterness on both sides. Bishop Fisher points out that practically all the proposed restrictions are already in force in the Transvaal, and yet the Indians there "are regarded as the greatest menace." He asks what guarantee there is that by making these restrictions general "the Indian community will become any less a menace." The problem is one which can probably be best solved by a round-table conference, but the Union Government have definitely decided not to have such a conference (because, we dare say, of the consciousness of weakness due to their sense of guilt) and to pursue their own course. They will reap as they sow.—*Leader* (Allahabad), Dec. 21, 1925.