

Indian Opinion

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DEATH KNELL OF THE TRANSVAAL INDIANS

WE publish below the full text of the judgment on appeal in the latest Norwood case delivered by Justice Greenberg. The judgment arms municipal licensing committees with the power to refuse trading licences to Asiatics in areas controlled by municipalities wherein occupation is prohibited by statute in the Transvaal:—

Petitioner is a company registered with limited liability and has been carrying on business as a General Dealer at 77a Grant Avenue, Norwood on stand Number 96 Norwood Township since 1919. It was licensed to carry on this business until the end of 1928 when the renewal of the licence was refused but it continued during 1929 to trade without a licence and in December 1929 again applied for a renewal which was refused by a duly appointed committee of the respondent Council, purporting to act under the General Dealers' Control Ordinances 12 of 1926 and 10 of 1927, Transvaal). Petitioner claims that this refusal should be set aside. The matter was argued on behalf of Respondent on the same basis as if Petitioner had been licensed until the end of 1929 and as if the application in 1929 was an application for a renewal of a licence. I shall deal with it on the same basis. In announcing the refusal of the application the chairman of the committee said:—"It is within the knowledge of the committee, and it has been brought out in the evidence, that restrictions have been imposed in the title deeds on the occupation of the property in respect of which a certificate is applied for, whereby no coloured persons other than servants, are allowed to occupy the lot. The application is refused on the ground laid down in Section 6 (2) of the Ordinance, viz., that the locality of the premises is not one in which it is desirable that the business contemplated should be carried on by the applicant."

Stand Number 96, Norwood Township, is the property of Surkhey Ltd., and the Transfer Deed in favour of this company contains the restriction "that no coloured people other than servants will be allowed to occupy the property transferred hereunder." The business in respect of which a certificate was sought was intended to be carried on under the control and managership of an Asiatic and it was common cause that such conduct would be a breach of the restriction and that if this restriction was still operative it would be enforced by any standholder in the Township.

Petitioner's claim for relief is based on two grounds (1) that the refusal to issue the certificate was based solely on the restriction in the title deed and that Respondent was not entitled to refuse the certificate on this ground; (2) that the committee in coming to a conclusion totally ignored the evidence; (a) that the standholders and residents in Norwood Township have acquiesced in the breach of the restriction and (b) that the character of the locality has undergone a complete change and that the restriction is no longer capable of attaining the object for which it was imposed. It was made clear by Mr. Rosenberg, who appeared for Petitioner, that he did not contend that the decision was bad on the ground that no reasonable person could have come to the conclusion that the restriction was still operative.

In terms of the General Dealers' Control Ordinance No. 19 of 1926 objections against the granting of the certificate were filed by M. W. Simpson and by the North Eastern Districts Association (Proprietary) Limited.

As Simpson did not appear at the hearing, his objection was not considered. The other objector which is the registered owner of a stand in the Township was represented at the hearing in support of its objection which reads:—

"That the North Eastern Districts Association (Proprietary) Limited, object to the granting of the said certificate, on the grounds that the locality of the said premises is not one on which it is desirable that the business contemplated should be carried on by the applicant, because its owners and persons in control of the applicant business are coloured persons, and in accordance with the Title Deeds of Norwood Township and set out in the Title Deeds of every holder of a Lot in the said Township, including the applicant's title deeds of the lot on which the applicant intends to carry on business, there is a provision that no coloured people other than servants will be allowed to occupy any lot in the said Township, and further that the said condition is portion of the general scheme upon which the said Township was established binding on all lot holders and occupiers of property whether for purposes of trade or otherwise, and such scheme constitutes the Township reserved for white or European persons, and consequently renders undesirable the granting of any licence to the applicant to trade on the said premises, as a carrying on of a business under the licence would cause coloured people to be physically present on the said lot in contravention of the said conditions of Title, and of the Volksraad Resolution No. 104, dated the 25th September 1871, and further the aforesaid facts render the applicant unfit and an improper person to hold such a licence, or to carry on or control such a business."

Wherefore the objecting Company prays that the application will be refused."

At the hearing evidence was led on behalf of the Petitioner in order to prove acquiescence and change in the character of the locality. No other evidence on these points was put before the committee but the witnesses were cross-examined on their statements on the points mentioned. The decision of the committee in refusing the certificate was not unanimous but there is no information before me on the point on which the difference of opinion arose.

The first ground on which Petitioner claims relief is that Respondent Council is not entitled to base its refusal on the restriction in the Title Deed. In support of this contention it was argued that even if a statutory restriction in similar terms would entitle a local authority to refuse a certificate this does not apply to a contractual restriction which is merely a matter between parties and is no concern of the local authority. In attempting to take into consideration such a restriction, (so the argument runs) the local

CHANGE OF HEART

NATIONS are once again meeting in solemn conclave, ostensibly to find a way to a permanent world peace. They have been meeting thus for eleven years past during which much rhetorical talent has found vent and volumes of verbiage, have been published, the while unprecedented progress has been made in the development of weapons of war and anxious governments have been harassed by the problem of how to retain office, as against the clamourings of the millions of have-nots on the one hand and the dictates of the all-powerful few who control finance on the other.

That human actions are but the expression of human desires, having their well-spring in the heart, and harnessing the mind and organs of action for their fulfilment, is, or should be, but a truism.

Right action i.e. right conduct, is dependent upon right thought and right desire. As a man "desires," so he becomes; so, likewise becomes his world, his environment. If the desires of his heart are of the nature of lust for worldly possessions—wealth, power, dominion, lordship, self-aggrandisement—his mind and actions will be, inevitably, directed to their fulfilment.

"Desire flames to fierce passion; passion breeds recklessness; recklessness, anger."

The wars and strifes witnessed as between nation and nation, race and race, are but the outward signs of an inward *disgrace*. The clash of wills, of competing lusts; the law of the jungle supplanting the Golden Rule, the prostitution of power from its high office of helpful service to oppression and exploitation, what are they but sores on the heart; symptoms of its sickness?

"As is the shrine, so is the votary." Equally true is it that, as is the character of the votary, so is the shrine he sets up: "Govern thy heart," exhorts the Teacher, of wisdom. For a "Change of Heart" have pleaded Ruskin, Tolstoy, Gandhi, indeed, every great soul and thinker who has mattered, from time immemorial.

What shall it profit, though glib-tongued diplomatists foregather, another, hundred times, if their concern be but to spy out each other's secret thoughts, in politely concealed suspicion of the motives underlying their expressed opinions? To the Goddess of Freedom, lip-service has no value or merit. Great Britain's liberation of India

would be an earnest of her sincerity in the cause of world peace more convincing than a thousand thousand speeches and protestations. South Africa's removal of the racial bar-sinister and of the shackling legislative disabilities her Indians are withing, under would as propaganda be more valuable than any contribution General Hertzog may make to the League's store of oratory. But for this there must be a change of heart; for only to the right-hearted is vouchsafed a glimpse of the White Bird of Truth, that is also the Dove of Peace.

Chinese Protest Against Asiatic Bill

The All-African Chinese Conference, which has been sitting at the Chinese National Party Club, under the auspices of the Consul-General, Mr. Ho Tsang, has concluded its session.

Dr. L. N. Liang, in a statement to the Press, said that the object of the conference was to devise ways and means of adopting a uniform policy in order to alleviate the oppression under which the Chinese are suffering in the Union.

"The Chinese in South Africa have been placed in a most deplorable position for the last 40 years, and conditions are still growing worse under impending legislation," said Dr. Liang. "The Asiatic Tenure Bill, as affecting Chinese interests, is unjust to the extreme, for it aims to exterminate existing lawful Chinese interests in a course of a few years. Why should South Africa be so antagonistic to the Chinese?"

"The South African public has never known or experienced any Chinese interference in South African affairs, and there is not a serious crime by Chinese. We have come here to trade, and in nothing else but legitimate trade are we interested.

Referring to the possibility of a trade treaty between the Union and China, which had been discussed at the conference, Dr. Liang said: "A treaty of amity and commerce with China will give South Africa enormous benefits, for the Chinese market is one of the greatest in the world. When such a treaty is made, it will have a great stimulating effect on the South African industries and farming."

The Tariff Autonomy Treaty of 1928 concluded between Great Britain and China provided a most-favoured-nation clause for South African products entering the Chinese market, although no direct negotiation was made by this country. Yet, curiously enough South Africa seems to have ignored or perhaps not appreciated the facility and goodwill provided therein.

"We feel that we have an equal claim in this country. In the first place, China and the British Commonwealth of Nations are on equal footing. Secondly, Great Britain and Dominions and the Republic of China are under treaty obligations providing for equal treatments. Thirdly, Chinese miners helped greatly in the early stages of development of the Witwatersrand gold mining industry which resulted in the South Africa as she is to-day. And above all, the Chinese here have always scrupulously observed law and order, are self-respecting and generous to the poor. They are well qualified as rightful citizens of this country."

"Equality and freedom is the national spirit of the Chinese nation to-day." "We shall not rest until that very object is achieved whether at home or overseas," concluded the speaker.

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authority may find itself faced, as in the present case, with the difficulty of having to decide an involved question of law and fact such as acquiescence in the breach of the restriction, which such a tribunal was never intended to have to decide. In the case of *Sonekal Licensing Court v. Stein* (1924 A.D. 506) it was held that it would be illegal for a liquor licensing court to grant a licence where the applicant had no right to the occupation of the premises specified in his application: Solomon J. A. in the course of his judgment said (at page 512):—"It is to be observed in the first place that a retail liquor licence can be granted only in respect of certain premises. Section 20 of the Ordinance required that any person desiring to obtain a licence for the sale of liquor, or the renewal of any such licence etc. shall set forth in his application to the licensing court amongst other things: "the number or name (if any) of the house and the street, or road where the business is intended to be carried on." And the definition section provides that "a retail liquor licence shall authorise the sale on the premises therein specified of liquors etc." The Statute, therefore, is quite clear on the point. Moreover the law has been so laid down in several cases, to only one of which do I propose to refer. In the case of *Fick v. Woolcot and Ohlsson's Cape Breweries, Ltd.*; (1911 A.D.D. 230) the Chief Justice in his judgment says that a licence is a privilege granted to a particular person to sell liquor at a particular place. And it would seem to follow, therefore, that an applicant for a licence should have the right of occupation of the premises specified in his application." The same view was held in *Lamb v. Hitchcock* (1914 T.P.D. 559) in relation to the Transvaal Liquor Ordinance (No. 32 of 1902) the relevant sections of which are in terms practically identical with the Free State Ordinance which was the Ordinance dealt with in Stein's case. The decision on this case was not based on any power or obligation to refuse the licence created by the Ordinance. Section 25 of the Free State Ordinance (section 217 of the Transvaal Ordinance) gives the licensing court the right to refuse to grant or renew a licence without giving any reasons, but the obligation to refuse on the ground of occupation arises independently of any provision in the Ordinance dealing with the licensing court's jurisdiction in the matter of grant or refusal. At page 515 of the judgment in the Appellate Division the learned judge says:—"For in this appeal we are not concerned with objections that may be taken to the renewal of a licence which the Licensing court has a discretion either to accept or reject. The ground of the decision in this appeal is that it would have been illegal for the licensing court to have granted the renewal of the licence, and that consequently, if it had been granted, it would have been void."

I think it is clear from the provisions of sections 2 (2) and 6 of Ordinance 12 of 1926 as amended by section 2 of Ordinance 10 of 1927 (Transvaal) that a certificate also is granted only in respect of certain premises. The application for a certificate contains no reference to the applicant's right of occupation of the premises concerned, but the position is the same in applications under the two liquor Ordinances (Transvaal, section 22 of Ordinance 32 of 1902 as amended by section 4 of Ordinance 17 of 1903; O.R.C. section 20 of Ordinance 8 of 1903 as amended by section 9 (8) of Ordinance 10 of 1905). Prima facie, therefore, it seems to me to follow from the decisions quoted that the local authority is bound to refuse a certificate if the applicant has no right of occupation to the premises specified in his application, and the local authority is therefore entitled to enquire into the applicant's right of occupation. But it was argued on behalf of petitioner

that liquor licences are granted in accordance with the needs of the public and in proportion to the population. That if one is granted which is not made use of, this results in inconvenience to the public and that this makes the question of the right of occupation a concern of the liquor licensing; but that similar considerations do not apply to general dealers. I shall assume that this distinction exists, but I do not think it affects the question under consideration, because the decisions quoted are not based on this characteristic of a liquor licence but on its connection with particular premises, in which respect it is the same as a certificate under the General Dealers Control Ordinance. In my view the fact that an applicant has no right to occupy the specified premises imposes on the local authority a duty of refusal; in addition to the grounds for refusal enumerated in the Ordinance. Petitioner's first contention therefore fails.

With regard to the second ground the chairman of the committee concerned says in an affidavit filed in these proceedings:

"That while the committee found that the vicinity of the premises in question in Grant Avenue, Norwood, is a shopping centre and suitable for the purpose of carrying on the business of a General Dealer, it was not satisfied that acquiescence on the part of the standholders in Norwood in the occupation of stands in the Township by coloured persons had been proved. Nor was the committee satisfied that it had been established that the character of Norwood or of Grant Avenue, Norwood, had undergone a change so that the restriction against occupation by coloured persons in the Township was no longer capable of attaining the object for which it was imposed and was, therefore, unenforceable in the Township or in Grant Avenue."

"That the committee carefully considered all the evidence in the case before it including the existence of the restrictive condition in the title deed aforesaid, which the committee by a majority considered was a factor which it was entitled to take into account in arriving at a decision. The committee by a majority came to the conclusion that the locality of the premises in question was not one in which it was desirable that the business contemplated should be carried on by the applicant."

But Mr. Rosenberg has asked me not only not to accept this statement in view of the terms in which the chairman announced the decision, which I have already quoted, but to hold that the contrary is proved. I think it would have been better if in announcing the decision, the chairman had stated that the committee was not satisfied on the evidence that the restriction was not operative; but I am not prepared to say that technically he was wrong in basing the refusal on the restriction, because if the attack on the restriction fails, the restriction stands and it is the ground for the refusal. But in any case I do not think that the terms in which the decision was announced are *per se* a reason for holding it proved in spite of the chairman's affidavit that the committee ignored the evidence of acquiescence and change in the nature of the locality. Nor can it be said that on the evidence a conclusion that the restriction is no longer operative is so inevitable that the fact that the Committee did not come to the conclusion proves that it ignored the evidence. I think that the petitioner has failed to prove this point which therefore fails.

The only other point is whether the chairman was correct in attempting to bring the refusal under section 6 (2) of the Ordinance. But it is unnecessary to consider Mr. Blakeway's argument on the construction of section 6 (2). If the Petitioner's failure to prove its right to occupy the premises Respondent is bound to refuse to grant this certificate, then even if Respondent is mistaken in thinking that this falls under section 6 (2), it would not

invalidate the refusal (cf. *Ah Yen v. Pretoria Municipality* (1920 T.P.D. 28)). The petition must therefore be dismissed with costs.

(Signed) LEO. GREENBERG,
Judge of the Supreme Court.

News Of Independence Struggle In India

Congress Seeks Aid Abroad

The London correspondent of the *Natal Mercury* learns that the Indian Congress is organising propaganda in the Dominions, including South Africa. They are specially busy in Canada. Generally the campaign in India is not making such progress as the leaders once hoped possible.

Two Black Spots

The two black spots from the standpoint of the Government of India are the North-West Frontier Province and Bombay.

On the North-West Frontier, Congress has had an unexpected success among the Moslems, with the curious result that Moslem tribesmen are demanding the release of the Hindu Gandhi. The fact that the Afridis for the first time in memory have been able to infiltrate into the plains is a significant fact, and there are unmistakable signs of strategic plans in their incursions, including plans for cutting off Peshawar from communication with the rest of India, which have caused some surprise and alarm in British circles.

The economic boycott has been greatly helped, as happened once in Ireland, by the social boycott. The effect of the boycott is now being brought home to the small Indian trader, but he is too afraid of the social boycott to take any steps.

Women are playing a large part in these agitations and are doing much to strengthen the resistance movement. Youths are prominent in the terrorist campaign, and possibly terrorism would increase if the civil disobedience were to sag.

A most satisfactory fact is the loyalty and efficiency of the Indian police, despite severe handling by mobs and all kinds of social pressure. The loyalty of the Indian Army is also unquestioned.

Bomb Factory Found In Calcutta

A message from Calcutta states:—There is further evidence of terrorist activities in Calcutta. The police raided a house on the outskirts of the city and discovered a miniature bomb factory. Four men, all Bengalis, have been arrested.

The police found one live bomb and several empty cases, as well as tins of powder, chemicals, gun cotton, fuses and cartridges. Two men and a woman were taken into custody. Later, a young Bengali arrived at the house, carrying a bundle. He was seized by the police and the bundle was found to contain eight aluminium bomb shells. The bombs when completed would have been of the deadliest type.

With something like a sigh the Gandhi Congress has been completely put aside by the Government of India as no longer a factor in the negotiations for the future of India. Congress will only be considered if its members endeavour to destroy the Government of the country. So far as the round-table conference in London is concerned, they are being given no further thought, as the published list of the personnel of the conference testifies.

Bomb Attack On Police Chief

Calcutta, Sept. 11.—The courtroom was strongly guarded by armed police at Alipore for the opening of the trial by special tribunal of Dinesh Chandra

Majumdar, aged 28, the law student who is charged with conspiring with Manuja Sen Gupta, deceased, to kill Sir Charles Tegart, Chief Commissioner of Police. He was also charged under the Explosion Act and the Arms Act.

Indian Delegation To London

London, Sept. 11.—Scrutiny of the names of the delegates from British India to the London round-table conference on India's future constitution reveals some interesting personalities among the many sections represented, including every interest and Party except the extreme Nationalists. There are a score of Hindus, including two representatives of the "depressed classes," a dozen Moslems, three Burmese, two Sikhs, one Labour representative, Diwan Chaman Lal, founder of the Indian Trade Union Council, and five representatives of the land-owners.

Manlana Muhammad Ali, one of the famous Ali brothers, who was interned during the War under the Defence of India Act and was sentenced to two years' hard labour during Gandhi's first non-cooperation movement in 1921, is one of the delegates. He founded the All-India Moslem League, and now opposes the civil disobedience movement.

Sir Phiroze Sethna, Chairman of the Central Bank of India, is a Parsi. Sir Winch Carr and Mr. Gavin Jones respectively are ex-President and present Vice-President of the European Association. Sir Ramaswami Aiyar, who has been described as "one of the cleverest men I ever met in my life," by Mr. Montague. He represented India at the League of Nations Assembly at Geneva in 1927. He is a Liberal politician of Madras.

Among the Indian States' representatives is the Maharajah of Nawanagar, well known in England as the cricketer "Ranji."

It is generally estimated that the conference will last from three to four months. The British delegates are likely to be few in comparison to the Indian representation.—*Reuter*.

Raids On Women In India

Bombay, Wednesday.

The C.I.D. simultaneously raided nine places in the city to-day, including the offices of the Red Flag Union and the Young Workers Union, and the private residences of Miss Chatto Padhyay (head-mistress of the Bombay Girls' High School), and Mrs. Nambiar, both of whom are sisters of Mrs. Sarojini Naidu, who is at present in Yeroda Gaol.

It is understood that the raids were connected with unauthorised news sheet published in the city in defiance of the Viceregal Ordinance in that connection.

The police seized papers, correspondence, cyclo-typed leaflet and handbills in some of the places raided.

The residences of two Americans, N. W. Kweit and Harry Sommers, who recently arrived in Bombay, in the fashionable Malabar Hill quarter, were also searched, but nothing was seized in them.—*Reuter*.

Reward For Friendly Indians

Simla, Sept. 16.—As a mark of appreciation of the part played by the militia and the inhabitants of the Kurram Valley in countering the threat of invasion by hostile tribesmen, the Viceroy announces the remission of one year's taxation to the inhabitants and a gratuity of one month's pay to all ranks of the militia.

The Government of India has formally thanked the Chief Commissioner of the Frontier, members of the Air Force, the political staff, militia and the inhabitants for contributing to ending the Frontier menace.—*Reuter*.

Viceroy's Letter To Peacemakers

Simla, Monday.

The Viceroy has sent a letter to Sir Tej Sapru

and Jayakar regretting references to confidential conversations and the publication of note His Excellency has not seen or approved of in their joint statement on the abortive negotiations issued on September 6.

The Viceroy specifically denies the suggestion that the Government of India might entertain proposals for partial repudiation of the public debt, but admits that the peacemakers made an unintentionally error in that regard.

He generally pays a tribute to their services.
—Reuter.

Farmers' Congress And Indians

Sir,—Among the resolutions to be submitted to the annual congress of the Transvaal Agricultural Union as reported in *The Star* is one which refers to the Indians and reads as follows: "This congress calls attention to the fact that the comparatively small number of Indians repatriated are not of the merchant and trading classes which constitute the chief danger to our white civilisation and urges the Government to help its white subjects by protecting them from the unfair competition of those of a lower standard of living and enforcing the agreement with the Indian Government under this heading."

It may be pointed out that the previous congress had also passed a resolution of exactly the same nature with slight change in phraseology. But it would be quite opportune to challenge the spirit of the resolution and hope for better counsels to prevail at the meeting of the congress.

Firstly it should be remembered that the repatriation scheme does not earmark any particular class of the Indian community which should voluntarily abandon the right of domicile in the Union and sail for India. The assisted emigration scheme is generally meant for all classes of Indians, whether that section of the Indians is hawking, trading, serving in hotels or working as artisans. Nearly 7,000 Indians have been repatriated since February, 1927. This figure is certainly not small in view of the unsettled condition in India and in view of the optional nature of the scheme. It should also be borne in mind that repatriation had practically ceased before the conclusion of the Indo-Union Agreement. It is injudicious on the part of the Agricultural Union to say that the merchant section of the Indian community has not availed itself of the scheme, which is purely and clearly voluntary and does not bind any particular class of the community.

It is contended that the Indian trading class constitutes the chief danger to the European civilisation. The Asiatic Inquiry Commission dealt with this contention dispassionately and neutrally, and its conclusions ought to allay any such fear of Asiatic menace. It remarked: "In the Transvaal the evidence and statistics which have been summarised in this report should go far to remove the misconception and allay the ill-founded alarm prevailing among some sections of the community regarding the 'Asiatic menace.'"

"To the rural community the Indian trader has a peculiar economic value, in that, being content with a small turnover, he can afford to establish small stores in isolated districts. He is also more accommodating in his dealings with the farmer than are his rivals of other races, giving longer credit in times of scarcity and regarding trade as an end in itself and not as a means of foreclosing on his customer's land. In the large towns, while scarcely

competing at all with the better class of European shop, the Indian store, it is submitted, is a real boon to the poorer class of housewife among the Europeans, to the Indian, the coloured, man and the native. The Indian vegetable dealer performs a service alike to the European householder, to whose door he brings his produce, and to the European market gardener, for whom he plays the part of distributor." Mr. J. D. Tyson has as above detailed the benefits of Indian traders before the recent Select Committee on Asiatics in the Transvaal, and he comes to the conclusion that: "If the Indian dealer did not fill a want among the poorer elements of the European community the prejudice which his colour excites would long ago have ensured his elimination." But when we see that boycotts have invariably broken down it suggests that there is some intrinsic value in the Indian trade.

Mention has been made about the "unfair competition" of the Indian. To a rival trader any successful competition is liable to appear "unfair," but competition in itself is not an evil. Small profit and more trade is not the commercial doctrine of the Indian only. Everybody knows that there are over a dozen European stores in this city which believe in this motto. Their roaring trade is a standing testimony to their popularity. Nobody would have the audacity to argue that the various bazaars and other identical stores in the city are a menace to white civilisation and that they indulge in unfair competition. The case is the reverse. Such stores are of immense benefit to the customers and hardly constitute a distant shade of danger to the European civilisation.

If it is that the white subjects need protection, the aim of the South African Government is distinctly to maintain white civilisation in the land. It has on its Statute Book several pieces of legislation such as the Colour Bar Act, which obviously protect the whites against the competition of the non-Europeans. Then again we have the Industrial Conciliation and Wage Act, which have fixed the scales of pay on "a white level" and have decreased the chances of non-Europeans to undercut and undersell.

As far as the standard of living of the Indian is concerned it would be sheer nonsense to contend that his standard of living is comparatively lower than that of his white brother with equal opportunity and equal income. It is an irony of fate that this misapprehension has gained ground without the substantial support of facts. To argue on one hand that the Indians have a lower standard of living and to point with envy at their motor cars and valuable buildings on the other hand is obviously inconsistent.

The demand for the enforcement of the agreement with the Indian Government under the heading of a lower standard of living and unfair competition suggests the ignorance of the drafter of the resolution of the Capetown Agreement. The Indo-Union Agreement does not contain any heading under this phrase, neither does the communique issued by the delegates assembled at the round table conference, representing the Union and Indian Governments. The substance of the agreement is that the Indians should be encouraged to avail themselves of the assisted emigration scheme and the permanent Indian population of the Union should be gradually uplifted to the full extent of their capacity and opportunities.

If the farmers' congress really desires to enforce the agreement with India, it would be its clear duty to defeat the proposed resolution and urge the maintenance of the spirit and letter of the Indo-Union settlement.—*The Star*.

OBSERVER.

THE ASIATIC LAND TENURE (AMENDMENT) BILL

[CONTINUED FROM LAST ISSUE]

SECTIONS OF THE BILL.

(2) Any person whatever may, within two months after the issue of any such certificates by any such authority, and any applicant for such a certificate whose application therefor has been refused, may, within two months after such refusal, appeal against the decision of such authority to the magistrate of the district wherein the business or trade in question is to be carried on and such magistrate may cancel such certificate and any licence issued on the strength thereof or may issue such certificate in lieu of such authority. The decision of the magistrate on any such appeal shall be subject to an appeal to the Transvaal Provincial Division of the Supreme Court, as if it were a civil judgment of a magistrate's court.

COMMENTS THEREON.

This clause gives the applicant in case of refusal to issue a certificate to trade to him or any other person the right of appeal to a magistrate against the decision of a local authority, and thereafter to the Transvaal Provincial Division of the Supreme Court.

The effect of this section is to create new disabilities in regard to Indian trading. The section makes far-reaching and drastic changes in the practice which grew round the existing legislation. Hitherto right from the time of interpretation of the existing position of the law in the case of Habib Motan (1904) the Courts held that nowhere in the law there was a prohibition against Indian trade, but the restriction was in regard to his residence only for sanitary reasons.

According to this section the onus of proof is wrongly thrown upon the applicant applying for a certificate to trade whether in the prohibited area or not to show that he is lawfully entitled to trade in the locality in which he proposes to carry on business. The right of appeal from the decision of a local authority is given to the Provincial Division only, and not to the Appellate Court. No proper procedure is laid down in the carrying out of the provisions of this section. As the Bill at present stands excepting in the case lawfully protected, no Indian is able to occupy, and much less trade, in a prohibited area. Indian traders will therefore be driven to defined areas, or areas allotted to them either for the purposes of trade, residence or both.

Moreover vested interests acquired by Indian traders, other than protected cases, are not protected, and if the Bill is passed in its present form, Indian trade will be ruined beyond redemption. The right to transfer business to a person or to other premises, even if it be in the same township, is not given.

The Capetown Agreement distinctly recognised the grave disabilities, legislative as well as administrative, imposed on Indian trade throughout South Africa, and laid down the formula that when the time for the revision of the existing trade licensing laws arrives, the discretionary powers of local authorities might be reasonably limited in the following ways:—

1. The grounds on which a licence may be refused should be laid down by statute.
2. The reasons for which a licence is refused should be recorded.
3. There should be a right of appeal in cases of first applications and transfers as well as in cases of renewals to the courts or to some other important tribunal.

To those who are conversant with the rigid administration of the existing licensing laws as a whole in South Africa, in which racial prejudice plays no mean part, it is clear from the principle laid down in the formula in the Capetown Agreement that the present plight of Indian traders was recognised to the extent of assuring them that the level of the existing legislation was to be raised above race prejudice, and that Indians were vouchsafed to receive justice and fairplay. The present Bill directly contradicts this principle and nullifies the intention contained in the Agreement and scraps it in this respect.

This section prescribes penalties for offences committed under this Bill.

10. Any person who commits an offence under or contravenes any provision of this Act shall, on conviction, be liable to a fine not exceeding fifty

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pounds or in default of payment of such fine, to imprisonment for a period not exceeding six months, or to such imprisonment without the option of a fine or to both such fine and such imprisonment.

11. "Asiatic" means any Turk and any member of a race or tribe whose national home is Asia, but shall not include any member of the Jewish or the Syrian race or a male person belonging to the race or class known as the Cape Malays;

"Asiatic company" means any company wherein a controlling interest is held by an Asiatic;

"coloured person" has the meaning assigned to that expression in section three of Act No. 35 of 1908 (Transvaal);

"controlling interest" in relation to any company means a majority of the shares or shares representing more than half the share capital or shares of a value in excess of half the aggregate value of all the shares in such company or shares entitling the holders thereof to a majority or preponderance of votes, or debentures for an amount in excess of half the share capital of such company or the power to exercise any control whatsoever over the activities or assets of such company;

"deeds registry" includes the mining titles office;

"Licence" includes any renewal thereof.

8. Section one of Act No. 12 of 1924 is hereby amended by—

(a) The insertion of the word "male" after the word "Malay";

(b) the deletion of the words "section two" and the substitution therefor of the words "any provision".

9. This Act may be cited as the Transvaal Asiatic Tenure (Amendment) Act, 1930.

In this section are given definitions. It will be noticed that "controlling interest" is defined for the first time. At present it is quite legal for a company to invest voting power in the hands of a person who may hold shares in the minority.

The effect of this amendment is to prohibit a female Malay from acquiring landed property. Malays were bracketed with coloured persons, and were subject to the same restrictions as to occupation and residence of land. The Courts in 1924 laid down that a Malay was not an Asiatic. In an amending Act Malays were exempted from the operation of anti-Asiatic laws. The amendment now made is to prevent few cases of Indians, who marry or have Malay girls as wives from acquiring land in the names of their wives.

This gives the short title of the Bill.

South African Institute of Race Relations

Mr. J. D. Rheinallt Jones, Adviser to the recently formed "South African Institute of Race Relations," has now returned to South Africa from a visit to the United States and Europe, and has assumed his new duties. The Institute is intended as a body to correlate the activities of Joint Councils and other bodies engaged in inter-racial work in South Africa, and as Mr. Jones was one of the first secretaries of the Johannesburg Indo-European Joint Council, he should be able to assist agencies concerned with the welfare of the Indian community in South Africa.

The Institute has its offices at the University of the Witwatersrand, Milner Park, Johannesburg, and communications should be addressed to P.O. Box 1176.

Mr. Jones is at present in Natal and expects to be in Durban from October 10-14, when he hopes to meet the Durban Indo-European Joint Council and others interested in Inter-racial work."

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Farewell Reception

Pandit Pravinsinghji.

A Farewell Reception will be accorded to Pandit Pravinsinghji on Sunday the 22nd September 1930 at 2 p.m. at Association's Hall, 127 Victoria Street, Durban, under the auspices of The Surat Hindoo Association and The Surat Arya Sangit Mandal.

All brethren are cordially invited to attend and hear the last religious preaching from learned Panditji.

G. M. PATEL,

Hon. Secretary, S. H. A.

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Our Letter From India

(FROM OUR OWN CORRESPONDENT)

Calcutta, July 31.

Effect Of Boycott On Bombay Cloth Dealers

The resolution adopted by the Bombay Piecegoods Merchant's Association declaring a hartal for an indefinite period as a protest against the "repressive" policy of the Government, has created a great stir in local mercantile and financial circles. It is generally believed that the step taken by the Association is most unfortunate and ill-advised, and that it will have its evil effects on the entire trade and industry of Bombay, particularly the textile industry.

Enquiries made in this connection by a representative of the *Indian Daily Mail* of Bombay show that although the resolution affects only two of the four cloth markets, it is bound to effect, to a certain extent, Swadeshi cloth business also, in view of the fact that a large number of merchants (who are members of the Association) are dealing both in Swadeshi and foreign cloth. This means that a number of mills in the city will have to close down, thousands of operatives will be thrown out of employment.

It is reported that a majority of the foreign cloth firms in Bombay have been suffering heavy losses since the last three months, and the cloth merchants' hartal will increase their difficulties.

It is further understood that about 90,000 cases of British piecegoods have been lying in the docks since two months because some of the cloth merchants have refused to take delivery of them.

As regards the communique issued by the boycott Committee of the Bombay Provincial Congress Committee drawing the attention of the public to the "fact" that attempts are being made by certain textile mills "to evade fulfilment of the Congress Mandate" and that cloth produced by those mills is not Swadeshi, and the critical situation that has arisen as a result of what virtually is a ban on the products of a section of the Bombay mills, the *Indian Daily Mail* learns that efforts are being made to bring about an amicable settlement between the two parties, namely, the Bombay mill-owners and the Congress Committees.

If the Boycott Committee were to adhere to its decision on the subject, it would mean the closing down of a number of mills and the consequent unemployment of thousands of operatives. Fortunately, however, the position now is not so bad as it was at first apprehended.

The recent correspondence between Sir Purshotamdas Thakurdas and Mr. Vallabhbhai Patel, makes the attitude of the Congress abundantly clear towards the local textile industry, namely that the Congress is not against the sale of mill-made cloth and that on the other hand "the vigorous boycott propaganda of the Congress ought to be helpful to the mills in disposing of some of their goods."

There seems, therefore, to be little danger of suspension of business by dealers in Swadeshi piecegoods: and as the present is the beginning of what is commonly known as the "heavy buying season," it should not be difficult for merchants to dispose of their stocks of Swadeshi cloth.

It would also appear that the correspondence between Sir Purshotamdas and the acting President of the Congress has paved the way for the institution of a more helpful policy by the local Congress Committee, so far as the textile industry is concerned.

According to the Congress Mandate, merchants are to insist that on every piece of cloth which they receive, the name of the mill by which it is produced by an "Indian mill," that is to say, a mill the share capital of which is mostly owned by Indians, which is managed by Indians, and which used Indian-made yarn.

Merchants who may have got cloth with them which does not bear the name of the mills producing it, should get the name printed forthwith on each piece. Cloth which bears merely the name of the merchants and not the name of the mills in which it is produced will not be considered Swadeshi and the purchasing public is required not to purchase it.

To Save The Poor

Asked to explain the reason that prompted the "War Council" to declare war on the Poona Races, a member of the Council said that the main reason was to prevent the poor from wasting their money in these hard days.

Secondly, it was something worth fighting against, for gambling fell in the category of the vices.

Another reason was to prevent the poor people's money going to foreigners. "Incidentally," he said, "our campaign against it affords a good opportunity for making demonstrations."

Sapru-Jayakar Mission

Sir Tej Bahadur and Mr. M. R. Jayakar, who went to Allahabad at the end of last week with a message from Mr. Gandhi to the Nehrus, went to the Naini prison on Sunday. They had protracted conversations with Pandit Motilal Nehru and Pandit Jawaharlal Nehru and had four hours conversations with them. They placed before them all the facts in their possession and discussed the situation with them at length.

Although strict secrecy is maintained with regard to the attitude of Mr. Gandhi towards a solution of the present political deadlock, it is understood that he told the peace missionaries that prior to agreeing to participate in the Round Table Conference, he wanted at least some sort of assurance from the Viceroy that his (Mr. Gandhi's) demands would be met.

Mr. Jayakar and Sir Tej Bahadur refused in any way to give any hint as to whether their mission had succeeded or failed, but it was obvious from the good spirits in which both men were, that they had not abandoned the hope of a peaceful settlement. Mr. Jayakar frankly said that he was not without hope, while Sir Tej Bahadur was in almost rollicking good spirits.

A message from the Poona Correspondent of the *Statesman* of Calcutta states that Mr. Gandhi has received many letters and cables not only from England but from practically every part of the civilised world urging upon him the great necessity for a peaceful atmosphere in India, and requesting his assistance in bringing about an improvement in the situation.

M. K. Gandhi Library And Parsee Rustomjee Hall

Following is the report of Mr. B. M. Patel, Hon. Secretary, submitted at the ninth anniversary of the above institute on the 8th instant:—

The Chairman, Ladies and Gentlemen,

I have pleasure in submitting to you the Ninth Annual Report of the M. K. Gandhi Library and Parsee Rustomjee Hall Committee for the year ended 31st August 1930.

Attendance Of The Public

The attendance of the public at the Library for the year under review was 66,210, which shows an increase of 8105 on that of the previous year. The average attendance being 181.8 per day. The average for last year was 159.0. The attendance of the students from

the various schools (which is included in the above total) was 12819, or an average of 35.2.

Among those who visited the Library during the year, were the following distinguished persons:

Dr. M. I. von Glasenapp, Professor of Sanskrit, Koenigsberg University, Germany, Dr. and Mrs. Sousa, Assistant Director Public Health, Lucknow, India, The Hon. H. W. Sampson, Minister of Posts and Telegraphs, Mr. W. A. Buss, Principal, Sastri College, Durban, Professor A. M. K. Onmaraswamy, Colombo, Ceylon, Advocate Rao Bahadur M. A. T. Chari, of Madras High Court, Rev. W. Harold Satchell, St. Aidan's Indian Mission, Durban.

Parsee Rustomjee Hall

The Parsee Rustomjee Hall was used by public bodies on 88 occasions during the year for Meetings, Conferences, Lectures and Receptions.

Books

The following are the books in the Library for the use of the public:

English	2495
Gujerati	1635
Hindi	949
Tamil	380
Telugu	27
Urdu	209
	5395

This shows an addition of 365 new books during the year.

Out of this total 274 English and 267 Gujerati books are specially set aside for the use of juveniles.

Newspapers And Periodicals

On the tables are to be found 200 periodicals and newspapers (including dailies, weeklies and monthlies) in the following languages, viz:

English	98
Gujerati	76
Hindi	18
Tamil	11
Telugu	2
	210

and these include 23 papers in English, Hindi and Gujerati languages specially provided for the use of students and children.

A special table with 80 suitable papers and periodicals has been set aside for Teachers.

Books Issued To The Public

There were 3473 English, 2572 Gujerati, 619 Hindi, 152 Tamil, 29 Telugu and 66 Urdu making a total of 6910 books issued for reading in the Library during the year, which shows an increase of 789 on those issued during the previous year.

Finance

The Committee was provided with the necessary funds for the upkeep of the Library from the Bai Jerbai Rustomjee Trust. The sum of £410.14.3 has been spent during the year.

Lectures

A number of lectures were arranged and delivered under the auspices of this Committee for which thanks are due to the following, viz:

Dr. Minnie Alper on "Life and works of Sir J. C. Bose"
Mr. T. Hitge on "Vedanta as a Factor in Civilisation"
Mr. P. K. Koru on "Poverty in India"
Mr. A. Shakoore on "Indian Educational System"
Mr. T. Raghavan Nair on "Indian Womenhood"

Committee Meetings

There were 25 Committee Meetings held during the year.

Thanks

The thanks of the Committee are due to several publishers who supplied the Library with free copies of their papers during the year.

Thanks of the Committee are also due to the Headmaster and Teachers of the Depot Road School who make it a practice of bringing the scholars to the Library regularly.

Attendance Of Members

The attendance of the Members for the 25 Committee Meetings held during the year are as follows:

Mr. O. H. A. Jhaveri 24, Mr. B. M. Patel 23, Mr. A. H. West 15, Mr. S. Rustomjee 10, Mr. Satya Deva 25, Mr. V. S. C. Pather 8, Mr. R. Ohonoo 12, Mr. R. K. Khan 5, Mr. H. Kallenbach 2, Mr. J. W. Godfrey 6, A. I. Kajee 3, Mr. Shapurji Jivanji 25, Mr. A. M. Lockhat 1.

Are You Irritable?

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When a person becomes irritable, short tempered, and is constantly grumbling, he will find that his friends begin to shun him. Yet he is more to be pitied than blamed. No one is irritable from preference, and this state is often only the outward sign of a great deal of suffering which friends do not realise.

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