

Indian Opinion

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HON. MINISTER AND CONGRESS DEPUTATION

FOLLOWING statement was submitted to the Honourable the Minister of the Interior (Dr. D. F. Malan) on Friday 7th inst. at Pretoria by a Deputation from the South African Indian Congress on :

1. The Transvaal Asiatic Tenure (Amendment) Bill.
2. On the question of rights of certain domiciled Indians to introduce their wives and minor children into the Union.
3. On the question of rights of certain domiciled Indians to obtain Certificates of Identity to enable them to proceed to India.
4. On the question of unsympathetic administration of the Immigration Laws, and
5. On the subject of policy proposed to be adopted relating to specially exempted educated entrants and their families.

Hon. E. Baring introduced the deputation in the unavoidable absence of Sir K. V. Reddi who was slightly indisposed and unable to proceed to Pretoria.

To the Honourable the Minister of Interior,
Union Buildings, Pretoria.

Sir,—We the members of the Deputation from the South African Indian Congress desire, at the outset, to express our thanks to you for granting this interview, which has been at our request kindly arranged by the Agent of the Government of India.

An Emergency Conference of the South African Indian Congress was held at Johannesburg on the 5th and 6th October 1930, at which the Transvaal Asiatic Tenure (Amendment) Bill, the question of refusal to grant permission to certain domiciled Indians to introduce their wives and minor children into the Union, the question of refusal to issue Certificates of Identity to certain domiciled Indians, the question of unsympathetic administration of the Immigration Laws in certain instances, and the subject of policy proposed relating to specially exempted educated entrants and their families engaged the earnest and serious attention of the Conference, and we have been authorised to place before you the views of the community and the grievances and disabilities under which they labour in regard to these matters.

First, we respectfully desire to hand to you in person the resolution, which has already been communicated to your Department, and which was passed unanimously by the Conference on the Transvaal Asiatic Tenure Amendment Bill, namely :

"That this Emergency Conference of the South African Indian Congress held in Johannesburg on the 5th and 6th October 1930, at which are represented the Natal Indian Congress, the Transvaal Indian Congress, and the Cape British Indian Council, representing the Indian community of South Africa, views with grave apprehension and alarm the Transvaal Asiatic Tenure (Amendment) Bill, which it solemnly declares is wholly unacceptable to the Indian community on the following grounds, viz :—

(a) That the Bill is a violation both in letter and in spirit of the Capetown Agreement;

(b) That it imposes disabilities upon Indians in regard to their trade, residence and occupation, and deprives them of their vested rights in the Transvaal Province, and

(c) That it aims at their compulsory segregation and their ultimate ruin in that Province.

This Conference therefore respectfully urges upon the Union Government to withdraw the said Bill, and to introduce necessary legislation giving relief to Indians in that Province.

That in the event of the Union Government declining to withdraw the Bill, notwithstanding the protest of the community, this Conference earnestly requests the Government of India to press for a Round Table Conference to review the situation that has arisen affecting Indians in the Transvaal. In the event of the Government of India failing to secure a Round Table Conference aforementioned, this Conference further requests it to intimate to the Union Government that diplomatic relations between the two Governments should be considered to have ceased, and to withdraw its Agency in South Africa as a protest against the Bill."

Upon this resolution being communicated to your Department, a reply in the following terms was received under date 20th October, 1930 :

"I have to acknowledge receipt of your letter of the 13th inst., notifying me of the resolutions passed by your Congress in regard to the Transvaal Asiatic Tenure (Amendment) Bill.

In this connection I have to refer you to the statement made by the Honourable the Minister of the Interior in the House of Assembly on the 28th May last."

We take leave to emphasise the point that on the subject of the Transvaal Asiatic Tenure (Amendment) Bill, the acute state of feeling of the community is reflected in the resolution, and its unanimous and considered opinion is that the Bill is unacceptable and that it is a violation of the Cape Town Agreement both in letter and in spirit. We therefore submit that the Congress would be pleased to consider the withdrawal of the Bill, and grant relief to the Indians in that Province as urged in the resolution.

Secondly we desire to invite your attention to the attitude taken up by the Commissioner for Immigration and Asiatic Affairs recently in refusing to certain domiciled Indians who returned before the 5th day of July, 1930, permission to introduce their wives and minor children into the Union, and further in refusing them the issue, in the ordinary way, of Certificates of Identity, to enable them to proceed overseas. We would like to bring to your notice that when Act 37 of 1927, to amend the law relating to Immigration and Asiatics, was introduced before the Parliament, you were kind enough to allow the representatives of this Congress to discuss with you and with your Department the several

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DR. MALAN'S "NO"

THE deputation of the South African Indian Congress met the Hon. the Minister of Interior Dr. Malan at Pretoria on the 7th inst. Owing to slight indisposition Sir Kurma Reddi was not able to proceed to Pretoria. His Secretary Hon. E. Baring accompanied the deputation and introduced the representatives of the Congress to the Minister. The deputation submitted a statement which was carefully prepared outlining the resolutions passed at the Emergency Conference. The discussion centered round the subjects contained in the resolutions. The Minister refused to discuss the first resolution and said that the Transvaal Land Tenure Bill was in the hands of the Select Committee and whatever alterations might be made were left to Parliament and if he were to receive a deputation from the Congress then he would get other deputations on the same matter. Discussion on the Bill was postponed last session, and would be submitted to Parliament.

This is absolutely a cold reply to the deputation. The Minister has left the whole question entirely in the hands of Parliament and was not prepared to discuss it. We have repeatedly to remind the community that where class and race prejudices have taken the place of justice and fairplay the only hope lies in self-reliance and in firm determination to fight out the battle. We can understand Dr. Malan's attitude on this point but with regard to the rights of certain domiciled Indians to introduce their wives and children into the Union he is definitely going back on his own assurance that was given in a letter dated the 29th April 1927. Any fair-minded man that reads the subject matter fully dealt with in the statement can easily understand that the Minister goes back on his own assurance. It is purely a breach of faith. The unsympathetic administration of the Immigration laws has enraged the feelings of Indians in the whole of the Union. The Immigration Department is mainly concerned with one question only. And that is how to reduce the domiciled Indians. The ideal that the Immigration Department has set before it seems to be that every opportunity that comes before it to cancel the right of a domiciled Indian must be seized and no consideration must be given to any representation. The deputation outlined a number of individual cases

which were unsympathetically treated by the Immigration Department and pointed out to the Minister that wherever injustice had been done he should intervene and give relief. But it seems he is as unsympathetic as his subordinate officers. His cold reply to the deputation is to the effect that the administration of the law by the Minister and the Department had to conform to the requirements of the law and also they had to guard against any precedent which might be established that could not be subsequently followed out in all cases. A few weeks back Dr. Malan in dealing with the Asiatic question publicly said, "The best course is to get the Indians out of the country. With this in view an agreement had been entered into with the Indian Government subject to review in five years." When the Minister of the Interior expresses such views on the Gentleman's Agreement of his own making, it naturally follows that his Department must not allow the word "sympathy" to enter at the office doors of the Immigration Department!

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provisions of the Bill, as a result of which a Memorandum dated the 23rd April, 1927, was submitted to you with their views and observations on certain provisions of the Bill, which was intended to give legislative effect to a part of the Cape Town Agreement.

In this Memorandum dealing with clause 10 of the Bill (Now Act 37 of 1927) it was submitted that

"With reference to section 10 of the Bill, which defines the term "domicile," we beg to submit that if it is intended that all persons, who are now absent from the Union, and who do not return within three years from the date of departure, should lose their domicile, then it would be a hardship on those who to-day possess either the Transvaal Registration Certificate, or Natal Domicile Certificate, and who have remained outside the Union for more than three years relying on the validity of, and the protection afforded by, these Certificates." We therefore would ask that a clause be added giving such persons sufficient time after the passing of the Bill within which to return to the Union."

This was accepted by you, for in a letter dated 29th April, 1927, the Secretary for the Interior, on your direction, replied *inter alia*, as follows:—

"It is not intended to apply the provision dealing with loss of domicile after three years' continuous absence from the Union retrospectively, and to make this purpose quite clear the following words will be inserted in section 10 at the Committee stage of the Bill after the word "therefrom" or from the date of the commencement of this Act, whichever may be later."

The above assurance was implemented as indicated in this reply, and the Congress notified the Indians overseas as to their right of entry into South Africa before the 5th of July, 1930. In the information the Congress published it emphasised the

point that those who returned within the time stipulated in the Act, namely 5th of July, 1930, would be treated as domiciled Indians.

It has recently been brought to the notice of the Congress that there have risen cases of Indians, who though allowed to enter the Union by virtue of their holding Certificates of Domicile or Registration Certificates, were nevertheless refused permission to either introduce their wives and minor children, or to take out certificates of identity to enable them to visit India.

We give in an Annexure to this Statement a number of cases, which have been brought to our notice, and in which permission was refused to bring in wives and minor children into the Union, and in certain of the cases the issue of certificates of identity was also refused. The Commissioner has refused these applications on the alleged ground that such persons, although allowed to re-enter the Union, were nevertheless required to re-establish their domicile by residence in the Union for a continuous period of three years before they would be permitted to bring in their wives and minor children or allowed to obtain certificates of identity to enable them to go overseas.

In our opinion the assurance given by the Department of the Interior that this provision of the Act is not intended to apply retrospectively is clear and explicit. Read with the definition of "Domicile" this assurance makes it clear that no Indian for the purposes of the Act shall be deemed to have lost his domicile within the Union if he re-entered within three years from the date of departure or from the commencement of the Immigration and Indian Relief (Further Amendment) Act 37 of 1927, whichever may be the later. In other words no matter how long an Indian might have been resident outside the Union as long as he re-entered the Union by the 5th of July, 1930, his domicile was preserved to him, and it was intended that he would enjoy the same status as that of an ordinary domiciled person.

We would point out that after the passing of the Act 37 of 1927, and up to recent times the usual procedure of allowing the entry of wives and minor children into the Union and of granting Certificates of Identity, as we hitherto followed, was continued. But recently due, we understand, to the judgment in Rashid Amod's case, a change has taken place in this practice, which acts detrimentally to the rights of and creates hardships upon Indians concerned. In this connection we would quote the letter of the Commissioner addressed to Mr. Alli Mahomed Khan, and dated the 27th October, 1930, reading as follows:—

"With reference to your letter of 9th inst., relative to the introduction of your wife and children into Natal, I have the honour to inform you that the wife and children of your brother Mr. N. Khan were admitted to Natal before the Transvaal Supreme Court judgment in the case of Rashid Amod. The decision in that case has made it clear that persons who have been absent from the Union for a long period cannot claim domicile in the Union. You should, therefore, renew your application when you have lawfully resided in Natal Province for a continuous period of three years from the date of your last return to the Province in question."

Whatever may be the effect of the judgment in Rashid Amod's case on the interpretation of "Domicile," we are earnestly of the opinion that the assurance given by the Minister should be scrupulously adhered to in considering the cases of those holding Domicile Certificates and Registration Certificates, who might have overstrayed the period

of three years, but who had returned before the 5th July, 1930.

The summary of cases which we give in the Annexure attached hereto clearly show that the assurance given has been brushed aside, and this has given rise to much uneasiness in the minds of the Indian community in South Africa.

This method of administering the Immigration Laws, to give you one instance, out of many, is bound to lead to loss of domicile of children, who will in the ordinary course be entitled to enter the Union by virtue of rights of domicile of their parents. If refusal to bring in wives and children be persisted in this manner, there will arise cases where, during the restricted period of three years, minor children will have attained the age of 16 and over and thus lose the right to join their parents and will become prohibited immigrants.

We can hardly bring ourselves to believe that anything of this kind was contemplated at the time the Act was passed either by the Government or by the Congress. The practice now pursued not only subjects parties concerned to severe hardships, but also separates wife and family from husband. Moreover the policy pursued cannot be said to be in keeping with the Reciprocity Resolution of 1918, which intended that an Indian should be enabled to live a happy family life in the country in which he is domiciled. This principle found ample expression in the Act 37 of 1927 to which the community whole heartedly subscribed. The Act laid down that no child shall be admitted to the Union unless accompanied by its mother. The enforced separation of husband from his wife and family even for a restricted period cannot be regarded as supporting the object of the Reciprocity Resolution, nor of the Act, which made liberal use of the application of the principle contained in it.

It has further come to our notice that by reason of refusal to issue Certificates of Identity, many Indians have left for India with what is termed "Emergency Certificates" issued by the Commissioner, with the intention of returning to their place of domicile. These cases, we would respectfully urge, be treated as if they had obtained Certificates of Identity.

As the number of persons who have either applied for the issue of Certificates of Identity or for permission to introduce their wives and children is small, and as this question will not be a recurring one in view of the new and restricted definition given to the term 'Domicile' we would respectfully ask that in the light of the assurance given by you, a liberal and broader view will be taken in arriving at a decision in regard to our representations.

Thirdly in regard to the question of the unsympathetic administration of the Immigration Laws, in addition to the subjects dealt with above, we desire to submit to you a list of typical cases showing the unsympathetic manner in which these cases have been dealt with by the Immigration Department.

Lastly we desire to bring to your notice the subject matter of proposals made in regard to specially exempted educated Indians admitted to the Union. A copy of the proposals made was received through the Office of the Agent in June, 1929. It was intimated that the Commissioner would discuss the proposals with the Agent and with the Congress. No opportunity presented itself to discuss the proposals with the Commissioner. The Agent in the meantime took ill seriously, and his absence in India where he went to recuperate held up further discussion for sometime. The matter was, however, discussed at Executive meetings of the South African Indian Congress and eventually it was decided to refer the whole matter for a discussion by the Emergency Conference held recently in Johannes-

burg. At this Conference it was deemed advisable, owing to the importance of the proposals, to request the Commissioner for further information, to enable a full discussion at the next Conference to be held in December next. The Commissioner required a final reply by the 31st October, 1930, failing which he intimated to the Congress that he would withdraw the proposals. We feel that the Commissioner by insisting upon a reply within a specified date has apparently overlooked the causes which occasioned the delay. The importance of the proposals warrant a full discussion at the Conference, and we trust therefore that the matter will be kept open until our next Conference.

We request in conclusion that you will be pleased to give your earnest and favourable consideration to our representations. We thank you for the patient hearing given us.

A. CHRISTOPHER

President S.A.I.C.

S. R. NAIDOO

E. M. MALL

Joint Hon. Gen. Secretaries S.A.I.C.

I. B. PATEL

Joint Hon. Treasurer, S.A.I.C.

S. B. MEDH, JOOSUB EBRAHIM,
HAJEE CASSIM ADAM.

A. I. KAJEE, A. D. MOTALA,

P. R. PATHER, SORABJEE RUSTOMJEE.

Members of Deputation.

Dr. Malan's Reply To The Deputation

The Transvaal Land Tenure Bill was in the hands of the Select Committee, and whatever alterations might be made were left to Parliament, and he if were to receive a deputation from the Congress then he would get other deputations on the same matter.

This was, in effect the reply made by the Minister of the Interior (Dr. Malan) to the deputation of the South African Indian Congress.

Continuing, Dr. Malan said that at this stage he was not prepared to proceed except by hearing the terms of the Congress resolution. Discussion on the Bill was postponed last session, and would be submitted to Parliament next year.

Referring to the rights of certain domiciled Indians to introduce their wives and minor children into the Union, Dr. Malan stated that the 'hardships' referred to were of general application, and there was no discrimination as to race. This applied to Europeans also. The establishment of domicile legally, namely, residence of a continuous period of three years in the Union before the right of bringing into South Africa their wives and children, could be granted. He, therefore, could not see his way clear to making any changes in the administration of the law.

For Purpose Of Act

The Congress deputation contended that this provision of the Act was not intended to apply retrospectively. No Indian, it was submitted, for the purpose of the Act should be deemed to have lost his domicile within the Union if he re-entered within three years from the date of departure, or the commencement of the Immigration and Indian Relief Amendment Act 37 of 1927, whichever was later.

The Congress outlined a number of cases which were alleged to be "unsympathetic administration of the immigration laws."

Replying, Dr. Malan held that the action taken was perfectly legal, and the administration of the law by the Minister and the department had to conform to the requirements of the law, and also they had to guard against any precedent which might be established that could not be subsequently followed out in all cases.

To the last point raised in regard to the proposals made respecting educated Indians admitted to the Union the Congress asked that time be given so that the matter might be discussed at the next conference.

The Minister granted time up to January, 31, 1931, for representations to be made in this connection.

Protection For Natal Bananas

Distress owing mainly to competition from Lourenco Marques among Natal banana growers, mainly Indians, was stated by a deputation of the South African Indian Congress to members of the Board of Trade and Industries

Protection for South African grown produce was asked by the spokesman of the deputation, Mr. Christopher, who stated that the imports were duty free and had preferential railage as well.

The Board showed great interest in the matter. Mr. Fahey, the chairman, stated that protection was also being asked by Union oil manufacturers and other industries. The matter was somewhat connected with the Mozambique Convention which allowed soil grown products free of duty, and had also to be considered in this connection.

Mr. Fahey assured the deputation that information would be called for with a view to assisting the Natal growers.

Congress Dispatched Cables

The South African Indian Congress has sent the following cables to England and India:—

To Sir Muhammed Shafi, Mr. Sastri, Mr. Bajpai, Sir Sethna, Kaloph (Mr. Polak), and the Secretary of State for India, (London):—

"South African Indian Congress Deputation met Dr. Malan Seventh. Handed resolution against Transvaal Asiatic Bill. Minister replied Bill will be re-introduced unmodified next session Parliament. Earnestly urge immediate action to save community from grave crisis.

Deputation protested against action Venn refusing certain domiciled Indians permission to admit wives and families and refusing certificates of identity to enable to proceed outside Union and deputation maintained this was breach of assurance given in 1927 and contrary to procedure hitherto followed. Grave hardship created and community's rights attacked. Situation serious. Minister's attitude disastrous. Request take action protect community's rights."—S.A.I.C.

To The Viceroy

To Viceroy, New Delhi:—

"South African Indian Congress Deputation met Dr. Malan seventh. Deputation handed resolution against Transvaal Asiatic Bill. Minister not prepared to discuss Bill and referred to statement made in Parliament that Bill will be re-introduced unmodified. Earnestly request your Excellency take steps secure withdrawal Bill and press amendment Gold Law and Township Act 1908 to remove disabilities.

Deputation protested against recent action Venn refusing D.I. 91 forms certain domiciled Indians who returned Union before fifth July 1930 to bring wives and children and certificates of identity to

enable Indians to proceed outside Union. Deputation maintained this was breach of assurance given when Act 37 of 1927 passed and contrary to procedure hitherto followed. Rights domiciled Indians concerned attacked. Community alarmed, situation serious. Request intervention maintain rights hitherto enjoyed. Minister's attitude disastrous to community."—S.A.I.C.

To Associated Press, Free Press,—New Delhi:—

"South African Indian Congress Deputation met Dr. Malan seventh. Handed resolution against Transvaal Asiatic Bill. Minister replied Bill will be re-introduced unmodified next session Parliament. Earnestly urge immediate action and publicity to save community from grave crisis.

Deputation protested against action Union Government refusing certain domiciled Indians to bring wives and families and in refusing certificates of identity to enable Indians proceed outside Union and we maintained this was breach of assurance given in 1927 and contrary to procedure hitherto followed. Grave hardships created and community's rights attacked. Situation serious. Minister's attitude disastrous."—S.A.I.C.

Justice Krause And Indian Licences

Question Of Colour Prejudice

Johannesburg, Nov. 11.—Before Mr. Justice Krause in the Rand Division to-day Hassen Amod Karolia applied for an order on the Benoni Municipality to grant him a licence certificate as a general dealer, butcher and native eating-house proprietor. The Benoni Council had refused his application on the ground that the locality was unsuitable.

There had been no objection from any other quarter, and the premises had been previously licensed. He declared that his application had not received a fair hearing, that the Council had no evidence on any of the objections authorised by the Ordinance and that the Council had decided his application on their prejudice against him as an Indian.

Mr. Justice Krause ordered the Council to grant the necessary certificate, and to pay costs. In giving judgment, his Lordship said that it was notorious that on the Reef attempts were always being made to get rid of the Indian trader. In glancing through the report of the Committee of the Benoni Town Council he was struck by the fact that most of the questions put to Karolia or inquiries made about him had very little, if anything at all, to do with any of the grounds which a local authority had the right to consider as grounds for refusing a certificate.

Curious History

Legislation in respect of the granting or refusing of a licence, especially in so far as it affected Indians, had a curious history. There was no doubt that the policy of the Legislature had been to eliminate and get rid of the Indian trader, but on account of difficulties it was hard to eliminate him entirely, although an attempt was made to eliminate those who came from overseas. For this reason the Legislature had given a handle to local authorities. The policy was well known, but the law did not go so far as to give the necessary power in every respect to carry out that policy. Consequently the local authorities were surrounded by a great many difficulties, and the Court had to unravel or solve them.

The Council's grounds for refusing the certificate not only sounded extremely ludicrous, but gave very serious

thought of the mentality of the people called upon to decide the granting or refusing of a licence. "For instance," the Judge continued, "I do not know why the Council's Health Inspector should be called upon to question Karolia on his knowledge of English and Afrikaans, yet it is admitted that Karolia knew Zulu well, and this is the language spoken by his class of customer. The Court cannot be blamed in coming to the conclusion that the questions put to Karolia were merely a pretext for the purpose of finding a reason for refusing the licence.

Chairman's Affidavit

"I must further comment upon the affidavit of the Chairman of the Town Council's Committee which discussed every application on its merits. Now we see the merits upon which the committee relied, but the matter does not end there. There were strong indications that it was not a question of the number of eating-houses being in excess of the requirements, nor a question of locality, but the question of colour.

"A body that had shown a disregard of the elementary principles of justice should be the last body to be asked to consider the rights of the Asiatic trader. There existed no valid reasons for a refusal to grant a certificate to Karolia, and for that reason it would be futile for him to refer the matter again to the Municipality."—Reuter.

Chinese Company Wins Appeal

Case Against Rand Council

Licence Renewal At Norwood

Bloemfontein, Nov. 6.—Mr. Justice Curlews delivered the considered judgment of the Appeal Court yesterday, in the case of Wing Lee, Ltd., v. the City Council of Johannesburg. The Company, whose business of general dealers had been carried on under the control and management of a Coloured Asiatic, named A. Chinaman, in Norwood township, had applied for certificate of renewal of the licence to the responsible Committee of the City Council, in December last. Objection to the renewal had been raised by the North-Eastern Districts Association on the ground that the lease of the stand on which the Company carried on business contained a condition that no Coloured people other than servants were allowed to occupy the stand.

The Company had replied to the objection that the condition had been allowed to become practically a dead letter. There was an action pending in the Transvaal Court on this very point at the time when the Company's application was being considered.

Committee Not Competent

After investigating the objection, the Committee had refused the renewal asked for, and Mr. Justice Greenberg had upheld that refusal on application to him for an order for the Council to grant the renewal certificate. The Appeal Court now held that the Committee of the City Council was not competent to hold its own investigations into the dispute, in regard to the conditions in the lease, and that in investigating it the Committee had exceeded its jurisdiction.

The Court held that the Committee should have left it to the objector to proceed with his action, and have it declared by a Court of law whether or not the restrictive clause was still operative. The appeal was accordingly allowed. The judgment of Mr. Justice Greenberg was reversed, and judgment was entered as follows:—

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"Refusal of certificate by Council's Committee set aside, and Council directed through its duly authorised Committee to re-hear appellants' application." Appellant was entitled to costs in this Court and the Court below.—*Reuter*,

Bombay House Appeal

Before Mr. Justice Barry in the Supreme Court, Pretoria, on Wednesday in last week, the appeal was heard of Abdul A. R. Gani, appellant, against the Klerksdorp Town Council. The appeal was directed against a decision of a Committee appointed by the Klerksdorp Town Council to consider his application for a certificate granting him trading rights on certain stands within the New Township. Gani applied for the certificate in succession to the insolvent estate of Mahomed Ismail & Co., who had traded on the stands since 1889. on the grounds that he was in the line of business succession to Ismail, and therefore entitled to the transfer of trading rights. The Council disallowed this plea and refused the application.

The appeal was based on two points—first, whether the Municipality was acting within its rights in considering the application instead of letting it be dealt with by the Licensing Board; and, secondly, whether on the facts of the case the Municipality was right in refusing the application.

Mr. P. Millin, K.O., assisted by Mr. V. H. Nesor, appeared for appellant; and Mr. C. Blakeway for respondent.

Counsel for appellant referred to a similar case now being heard in the Appellate Division, in which Wing Lee was appealing against the Town Council of Johannesburg. The result of that case, he said, would lay down definitely the procedure to be followed in cases such as that under consideration.

With regard to the point whether or not the Municipality was legally able to decide on such a point, Counsel submitted that the limit of the powers conferred upon a Municipal Committee was to decide whether or not an applicant was a fit and proper person to hold a trading licence within the area of its jurisdiction. Those powers, however, the Municipality had specifically refused to exercise, with the result that its powers of decision could not be further extended.

The facts of the case were that the business and trading rights in question had been in existence in 1919, when Section 1 of Act 37, referring to the protection of trading rights of Asiatics, came into force. The business and trading rights were handed down in direct succession to the late occupier of the premises, who had gone insolvent. Appellant, through a European agent, Davidson, had then applied for the transfer of the rights to himself as a British Indian in the line of business succession. A sum of £8,000 had been offered by appellant, Davidson to take as his commission the difference between that sum and the price he actually gave for the business. There could thus be no doubt that the argument of the Council that Davidson had not acted as an agent for appellant was not tenable. An affidavit had been handed in by Davidson testifying that he had acted as agent, and in no other capacity.

Referring to the section of the Act relating to the point under dispute, Counsel said that no provision was made for the transfer of British Indian trading rights to take place only in the line of direct succession. The word "succession" only was used; and that was sufficiently wide to cover any sort of succession, whether direct or business.

The affidavit of Mr. E. Jooste, chairman of the Licensing Committee of the Klerksdorp Town Council, which was filed in Court, submitted that the servitude registered against the deed of transfer of the property in question, reading as follows, "The land having formerly been held as a right acquired under Law No. 15 of 1892 (Transvaal) or a prior law, the owner shall not transfer or sublet, or permit to be transferred or sublet any portion of the land to any coloured person, nor permit any coloured person other than his bona-fide servant, to reside thereon or occupy the same," is properly registered as such and binding on the property therein mentioned. The statement in the appellant's petition that appellant at the meeting of the Licensing Committee adduced uncontradicted evidence to the effect that from 1888 to 1930 a general dealer's business has continually been carried on by British Indians was stated by Mr. Jooste in a letter to be incorrect, but to facilitate the hearing of the appeal and prevent delay the respondents agreed to admit the statement. The affidavit stated that the deed of sale between W. D. Macfarlane (trustee in the insolvent estate of Tilly) and Morris Davidson is an out and out sale to Davidson and no mention is made that Davidson is acting as the agent of the petitioner. The letter (which was filed) purported to be a letter of agency, but the Committee considered that the Deed of Sale dated 15th August was a proper Deed of Sale of a later date and properly set out the true and correct transactions between Davidson and Gani.

Counsel for respondent submitted that within the meaning of the Act the lawful successor to Asiatic trading rights must be in the line of continuous succession, and that the insolvent estate of Ismail was not able to transfer its rights in a business manner to another British Indian. In any case, he submitted the line of succession had not been direct even in a business sense. The line of succession had been broken by Davidson, who had obviously purchased the property for himself, and had then resold it to appellant, making a profit of about £1,000.

Judgment was reserved.

Sleeping Cobra Of Racism

Resentment was expressed at Sir Abe Bailey's reference to Indians in South Africa as a "sleeping cobra of racial strife in Africa," by leading Indians who were in Johannesburg recently in connection with the executive meeting of the South African Indian Congress.

Mr. Sorabjee Rustomjee, the Natal Indian Congress President, told a representative of the *Natal Witness* that as far as South African Indians were concerned their fathers had come at the earnest solicitation of the white South African. They, the Indians, had earned a place in South Africa by their own and their father's work.

"In East Africa," proseded Mr. Rustomjee, "Indians had direct interests and contact before any Europeans ever set foot on the East Coast. The trouble was due to a policy of 'grab and domination,' and in this men like Sir Abe Bailey were responsible. Strife only came when Sir Abe and those disposed to his views refused to recognise that the other man, black and brown, had a share in the enjoyment of the fruits of Africa, which Sir Abe Bailey would have them believe were the exclusive property of the white."

For General Information

Rural Licences

We have been requested to invite the attention of all applicants for the renewal of their Trade Licences viz.—General Dealers, etc., to lodge their applications in duplicate together with their necessary declaration with the Clerks of the Rural Licensing Boards.

Renewals for Hawkers and Pedlars Licences must use the special forms applicable thereto.

The name of the applicant must be given in full in block letters, with their correct postal address.

Declarations under the Firms Act do not require to be stamped.

Renewals must be lodged on or before the 31st December next. It will however greatly assist the respective Clerks of the Boards if applications are submitted by the middle of December and thus facilitate checking the forms.

Application forms with the required declaration are obtainable at the office of any Receiver of Revenue or Magistrate.

Estcourt Notes And News

[BY JAMES AUGUSTINE]

CRICKET.

The Young Moslems C.C. met the Estcourt C.C. at Estcourt for the Joseph David Tropy first round. The Estcourt batted first and were out for 85. The Ladysmith batted and were all out for a meagre score of 35. In the afternoon rain stopped play and the game was decided on the first innings. Estcourt thus beating the Ladysmith by 50 runs. The top scorers being A. S. Lalla, 32. Joe. Augustine, 13.

Mr. S. N. Richards will deliver a lecture to Indian Young Mens' Club at their next fortnightly meeting.

Mr. Tyson's Statement To The Select Committee

(Continued from page 368)

Annexure No. 2.

OCCUPATIONS OF PERSONS OF 15 YEARS AND OVER IN TRANSVAAL (CENSUS OF 1921).
(Official Year Book of the Union of South Africa No. 10, 1927-28, page 889-890.)

	Europeans,		Indians.	
	Male.	Female.	Male.	Female.
Fishing & Agriculture	49,102	1,253	284	7
Mining ...	16,826	33	—	—
Industrial ...	37,909	2,841	518	8
Transport and Communication	9,141	625	58	—
Commercial ...	28,770	8,519	4,269	55
Public Administration and Defence	8,639	1,531	9	—
Professional ...	6,209	4,827	57	—
Personal Service	3,308	1,116	—	—
Independent ...	1,975	1,098	—	—
Dependent ...	118,001	229,529	—	—
Indefinite ...	5,508	4,725	120	4
Non-Productive ...	—	—	1,458	2,003

NOTE.—The table given above is compiled from two tables in the Year Book which give the occupations in respect of Europeans and Indians separately. The heads "personal service," "independent" and "dependent" are omitted from the Indian list, while the head "non-productive" does not figure in the European list.

Annexure No. 3.

(i) ASIATIC CRIME IN THE UNION—1923.

Offence.	Union Convictions 1923.	Offence.	Union Convictions 1923.
Abortion ...	—	Total ...	88
Arson ...	3	Murder attempted ...	—
Assault Indecent ...	4	Public Violence ...	49
Assault on Police ...	2	Rape ...	2
Assault with Intent ...	35	Rape attempted ...	3
Bestiality ...	1	Receiving Stolen Property	14
Bigamy ...	1	Sedition ...	—
Coining ...	—	Sodomy ...	—
Concealment of Births	—	Theft—Motor and Cycle	10
Defilement of Girls ...	9	Common (exceeding £50 in value)	5
Diamond Laws ...	7	By Conviction and Embezzlement ...	6
Extortion ...	3	By Fraud and False Pretences ...	36
Forgery ...	12	Housebreaking by Day	12
Gold Buying, Selling and Possession of ...	7	Housebreaking by Night	38
Homicide Culpable ...	1	By Pocket Picking ...	19
Immorality Law ...	3	Produce ...	—
Infanticide ...	—	Stock ...	7
Murder ...	—	By Violence (robbery)	11
	88	Treason ...	—
		Total Serious Crime	271

I should like, if I may, just to supplement this statement very briefly and to mention four additional points. A difficulty that seems to have arisen before the Select Committee is about the Cape Town Agreement. As I understand the Cape Town Agreement it really boils down to this, that the Government of India agreed to help the Union Government over the Indian population question of this country in two ways, namely, by co-operating in assisted emigration and by additional restriction on the immigration of minor sons and children. On the other side, the Union Government agreed to regard the residuum as a permanent element in the population and to treat them as such. Now, it is quite evident that there was no promise on the part of the Union Government in the Agreement to repeal any specific laws affecting Indians. There was never any suggestion, either, that existing laws should be permitted to be violated with impunity. The idea rather was that, as the question became less and less pressing—the so-called "Indian question"—it might be possible for the Union Government to see what could be done to relax existing restrictions. Upliftment of the Indian population was to take the place of repression. It is recognised in the Agreement itself that it will be difficult for the Union Government to take action which is considerably in advance of public opinion, but we do ask, and I think it is reasonable to ask, that there should be no further restrictive legislation. Now as regards specific laws, I was not at the Cape town Conference, but it is difficult to see how Act 37 of 1919 could have been considered from the point of view of evasion of section 140, as regards companies, or from the point of view of continued residence on restricted areas—on "proclaimed land." To take the second point first, so far as occupation on proclaimed land goes, the Government of India were unaware that it was still going on—that the protection of Act 37 of 1919 was no longer effective—until the matter was brought to their notice either in January, 1928, when the Johannesburg Municipality first contemplated action, or in January, 1929, by Mr. Sastri, the then Agent-General of the Government of India, in South Africa. I remember that when this matter first came up, the answer he made was "There is no difficulty? You have the Act of 1919 and you are

protected." The Government of India rely on us for their information. As far as section two of Act 37 of 1919 goes, the Government of India were unaware, until they saw the terms of reference of this Committee, that there was any violation of the Company Law as laid down in the 1919 Act. It is rather interesting to note that the Municipal Council of Johannesburg considered the question of occupation in 1928. In the application of one Ah Song for a licence they definitely considered this question whether they should take into consideration under the General Dealers' Control Ordinance the right of the person to occupy the premises in respect of which he sought a licence and they decided in this case that, though they thought they had the right, they would not do so. The Committee resolved in that case that "having considered the application . . . while it considers that it is entitled to have regard to the provisions of the restrictions in the title of the property in respect of which the application is made is of opinion that the interpretation and the application of this restriction fall within the functions of the Government and should be dealt with by the Government in connection with the issue of any licences authorized by a certificate granted by the municipality. This application is granted." They raised the point stated in paragraph 28 of my statement and they then took the view that it was for the Government to enforce its laws. On the second point some doubt has been thrown on the figures of Asiatic general dealers in 1919. It has been suggested that the figures for 1919 were swollen by a large number of applications put in with a view to forestalling possible restrictive legislation. But the figures quoted by Mr. Venn the other day show that taking the years 1919 and 1920 in the areas which are quoted in that list, some of which appear to be municipal areas and others magisterial areas, there was in those years actually a rise in the number of holders of general dealers' licences in 1920 as against 1919. I went through that list, and I notice that the 1919 figures contained four areas for which no figure is given in 1920, and the 1920 figures contain six areas in respect of which no figures are given for 1919. Eliminating those 10 areas and taking the remaining 31 which are common to both lists, actually there were 1,724 general dealers' licences in 1919 and 1,989 in 1920. It is impossible to say in respect of any particular area whether the 1919 figures were increased by an unusual rush of people who wished to be on the safe side. Obviously it is not generally so. As a matter of fact, with regard to the places I have quoted, it is not so—with one important exception, and that exception, unfortunately, is Johannesburg.

(To be Continued)

Orange & Naartje Crop For Sale.

Fruit just formed. About 1½ Acres Naartjes and about seven Acres Orange trees second crop. What offers

to E. MILES

"Inanda"

P.O. Phoenix.

In The Magistrate's Court

For the District of Pietermaritzburg
Held at Pietermaritzburg.

Case No. 3689/1930.

Between RAMASAMY—Plaintiff and ANNAMULAY
—Defendant.

To ANNAMULAY, Free Indian No. 697, formerly of Edendale, Pietermaritzburg District, but whose present address is unknown.

TAKE NOTICE that a Summons has been issued against you in this Court by Ramasamy No. 140009 of Edendale, Indian Immigrant, Labourer, for the sum of £110 being the amount due upon and by virtue of Mortgage Bond No. 354/1903 passed by you in favour of Estate Onge for the sum of £110 dated 6th March 1903, which Bond was duly ceded to the Plaintiff on 18th October 1930, together with interest thereon from 3rd March 1903 to 24th October 1930 at 8% amounting to £243-5-2 and restricted to £110, and that an Order has been made that the publication of notice of such Summons shall be deemed to be good and sufficient service of the Summons on you. You are required to enter an appearance to the Summons on or before the 8th day of December 1930; and, if you do not do so, judgment may be given against you in your absence.

Dated at Pietermaritzburg this 7th day of November, 1930.

G. H. MILLES
Clerk of the Court.

J. FRASER & Co.,
Plaintiff's Attorneys,
229 Longmarket St., (P.O. Box 149)
Pietermaritzburg.

Rating Tariff Bylaws—1930—1931

Notice is hereby given in terms of Sections 38 to 46 inclusive, that the above Rating Tariff Bylaws have been approved by His Honour the Administrator for the current financial year ending 31st July 1931 and that same can be inspected during office hours at the Board's offices Greenwood Park. Further it is laid down that the due date for payment of rates is the 31st October 1930, with a months grace to the 30th November 1930, after which date penalty interest will be charged at the rate of 10% per mensem (Section 42 of 4 of 1926). Ratepayers are hereby notified that it is not incumbent on the Board to issue assessment notices, and should any ratepayers not receive one then it is their duty to make application for one to be sent. Owners of property within the area are requested to notify the office of their correct postal addresses or any change thereof.

ERNEST D. GOBLE
Secretary.

Board Offices
Greenwood Park, Natal.
October 1930.