

Indian Opinion

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TENURE BILL INTRODUCED IN PARLIAMENT

THE Minister of the Interior on Tuesday afternoon made his long-awaited and highly important statement on the results of the Indian Round Table Conference held in Capetown at the beginning of the year.

He admitted that the scheme of assisted emigration of Union Indians to India had failed, and announced that the Governments of both countries were investigating a colonisation scheme for settling South African Indians in other countries. He also gave notice of the reintroduction of the Transvaal Asiatic Tenure Bill, which has been somewhat modified.

Apart from the Indian question, Dr. Malan's pronouncement was most significant on account of its concluding passages. The Minister laid special emphasis on the fact that delegates from both political Parties co-operated at the Round Table Conference, and he gave an assurance that when the inquiry into the colonisation scheme had been concluded the South African Party representatives would again be asked to serve.

Dr. Malan echoed the sentiments of the whole house when he declared that the Asiatic question was to his mind pre-eminently one where the public interest demanded the co-operation of every section of the community in an atmosphere of self-restraint and calm deliberation.

Full Text Of The Minister's Speech

The full text of the Minister's speech was:

"Perhaps I must at the outset explain that the delay in making this statement was unavoidable. The conclusions of the Conference had naturally first to be submitted to both Governments for their approval, and, further, a public announcement by both sides had in the nature of the case to take place simultaneously, and then only after the Indian Delegation had returned to their own country.

"In accordance with Paragraph 7 of the Capetown Agreement, delegates of the Government of the Union of South Africa and of the Government of India met at Capetown from Jan. 12 to Feb. 4 to consider the working of the Agreement and to exchange views as to any modifications that experience might suggest. The delegates had a full and frank discussion in the Conference, which was throughout marked by a spirit of cordiality and mutual goodwill. Both Governments consider that the Capetown Agreement has been a powerful influence in fostering friendly relations between them and that they should continue to co-operate in the common object of harmonising their respective interests in regards to Indians resident in the Union.

"It was recognised that the possibilities of the Union's scheme of assisted emigration to India are now practically exhausted, owing to the economic and climatic conditions of India, as well as to the fact that 80 per cent. of the Indian population of the Union are now South African born. As a consequence, the possibilities of land settlement outside India, as already contemplated in Paragraph 3 of the Agreement, have been further considered.

Exploring Possibilities

The Government of India will co-operate with the Government of the Union in exploring the possibilities of a colonisation scheme for settling Indians, both from India and from South Africa, in other countries. In this investigation, which should take place during the present year, a representative of the Indian communities in South Africa will, if they so desire, be associated.

As soon as the investigation has been completed the two Governments will consider the results of the inquiry.

"No other modification of the agreement is for the present considered necessary.

"This agreed statement, which I have just read, fully and correctly summarises both the spirit and the conclusions of the Conference. I may, however, remind the House that the Asiatic Tenure Bill, of the reintroduction of which I gave notice this afternoon, was held over from last year with the special object of affording an opportunity at the Conference to discuss its scope and intention with the delegates from India. This was done more or less informally, as it was realised that the measure was a purely domestic concern of the Union Government, dealing as it does with a situation which had arisen as a result of contraventions and evasions of existing laws.

Helpful Discussions

"The discussion proved to be helpful. As a consequent assistance and approval of the members of the Select Committee which originated the Bill, I have effected certain important modifications which to be real improvements and which will, I hope, commend themselves to all sections concerned.

"In conclusion, I wish to place on record the welcome and significant fact that it has been found possible for representatives of both sides of this House to associate themselves with each other in the Conference negotiations. In principle this does not signify a new departure, as for a considerable past it has been demonstrated on various select committees that the general outlook of the different Parties on the Asiatic question is fundamentally the same and that co-operation on non-Party lines was therefore eminently practicable.

"On the other hand, the country will not fail to appreciate the importance of this further step which has now been taken, by which political Parties have deliberately associated themselves with each other in common responsibility in order, for the country's sake, to keep an important national question out of the arena of Party strife. The Asiatic question is to my mind pre-eminently one where the public interest demands the co-operation of every section of the community in an atmosphere of self-restraint and calm deliberation.

"The path which we have so far successfully followed I propose to continue in the future. Even at this stage, therefore, I wish to assure the House that when the investigation of the possibilities of overseas settlement, to which both Governments

have agreed, is completed, and when the whole position will have to be reviewed in the light of that report, I shall once more invite to our councils and to our assistance those representatives of the Opposition who co-operated so cordially with us at the Conference.

THE AGREEMENT

THE long and anxiously awaited result of the Round Table Conference held in Capetown in January last is at last out. It was announced by the Minister of the Interior (Dr. D. F. Malan) in the House of Assembly last Tuesday. It would appear from it that practically no change has been made in the Capetown Agreement. The Agreement stands as it is with the exception of a slight change in regard to the Union Government's scheme of assisted emigration to India. It is recognised by both Governments that "the possibilities of that scheme are now practically exhausted, owing to the economic and climatic conditions of India, as well as to the fact that 80 per cent. of the Indian population of the Union are now South African born." The Government of India has therefore now agreed to co-operate with the Government of the Union in exploring the possibilities of a colonisation scheme for settling Indians, both from India and from South Africa in other countries which is to take place during the present year and a representative of the Indian community in South Africa, it is suggested, will, if it so desires, be associated. After the investigation is completed both Governments will review the whole position in the light of that report. In the meantime the Transvaal Asiatic Tenure Bill is being proceeded with with certain modifications agreed upon by both Governments and approved of by the members of the Select Committee which originated the Bill.

The Immigration Amendment Act of 1931 with its obnoxious clauses will remain on the Statute book. The White labour policy of the Government will continue to throw Indians out on the streets to starve no matter how long and honestly they may have served their masters.

The licensing laws will remain as they are and will be rendered harsher still and the community will still remain burdened with all the disabilities and have others added on. The Agreement is, as it were, hinged only on one thing and that is a scheme whereby Indians could be sent out of this country. The assisted emigration scheme has not proved fruitful enough and now the weak-kneed Government of India has had to agree to co-operate with the Government of this country in exploring other avenues to achieve better results.

In our opinion the whole principle is wrong and we would not advise our community to participate in a scheme the object of which is to drive out Indians born and domiciled in this country. The Transvaal Land Tenure Bill has no doubt been greatly modified but it is full of ambiguity and we will defer our comments thereon for another issue. We are, however, opposed to the Bill because it is wrong in principle. We want our lot in this country to be improved. We do not wish to be lowered to a state of helotry which is the underlying object of the Land

Tenure Bill and other enactments directed against the Indian community.

With all the time, money and energy spent in meeting at a Round Table Conference, we must conclude that the Agreement is nothing but a scrap of paper. It is a soulless document for there is no sincerity behind it.

Asiatic Land Tenure Bill

Be it enacted by the King's Most Excellent Majesty, the Senate and the House of Assembly of the Union of South Africa, as follows:—

AMENDMENT OF SECTION 130 OF ACT No. 35 OF 1908 (TRANSVAAL)

1. Sub-section (1) of Section *one hundred and thirty* of the Precious and Base Metals Act, 1908 (Transvaal), hereinafter referred to as the Gold Law) is hereby amended,—

- (a) By the insertion after the words "twenty-four" of the words "or *one hundred and thirty-one A*"; and
- (b) by the addition of the following words at the end of the sub-section "and no coloured person other than such *bona fide* servant may reside on or occupy any such ground."

AMENDMENT OF SECTION 131 OF ACT No. 35 OF 1908 (TRANSVAAL)

2. Sub-section (1) of section *one-hundred and thirty-one* of the Gold Law is hereby deleted and the following new sub-section substituted therefor:—

- (1) Subject to the provisions of section *one hundred and thirty-one A*, no coloured person shall, in any mining district comprised in Class A referred to in sub-section (2) of section *seven*, reside on or occupy any land (including any place or ground referred to in section *fifty-two*, which has been or purports to have been proclaimed a public digging under any provision of this Act or Law No. 15 of 1898 or of a prior law and which has not been lawfully deproclaimed, whatever may be or may have been, on the date of such proclamation, its situation, the nature of its tenure, the nature and extent of any rights in regard thereto under this Act or any other law, or the condition of its surface, except in a bazaar, location, mining compound, or any such other place as the Mining Commissioner may permit."

INSERTION OF NEW SECTION 131 A IN ACT No. 35 of 1908 (TRANSVAAL)

3. The following new section is hereby inserted in the Gold Law after section *one hundred and thirty-one*:—

EXEMPTION OF CERTAIN AREAS

131. A (1) The Minister of the Interior after consultation with the Minister of Mines and Industries, may issue a certificate withdrawing any land specified therein from the operation of the provisions of sections *one hundred and thirty* and *one hundred and thirty-one* in so far as they prohibit the residence upon or occupation of any land by a coloured person, and thereupon those provisions shall not prohibit any coloured person from residing upon such land or from occupying it for any other purpose.

(2) Whenever a certificate has been issued under sub-section (1) a duplicate original thereof shall be sent to the officer in charge of the deeds registry in which there is registered the title deed to the land to which

such certificate relates, and such officer shall thereupon register such certificate and note the registration on such title.

4. The provisions of section *one* and *two* shall be deemed to have come into operation on the first day of May 1930; provided that any coloured person (as defined in Section three of the Gold Law) who was lawfully residing on, or occupying any ground or land referred to in either of those sections immediately prior to the date when their provisions became or are, (in terms of this section) deemed to have become applicable to such ground or land, shall be entitled to continue such residence or occupation, subject to compliance with the requirements of any other law.

PROHIBITION OF OCCUPATION OF PROCLAIMED LAND BY COLOURED PERSONS TO CONTINUE AFTER DEPROCLAMATION

5. (1) If any land which was at any time subject to the provisions of section *one hundred and thirty* or *one hundred and thirty-one* of the Gold Law, has before the first day of May, 1930; ceased to be a public digging it shall, nevertheless, continue to be subject to those provisions as if it were still a public digging, as long as it is situate within the area of jurisdiction of any municipal council or village council or health committee; provided that any coloured person (as defined in section three of the Gold Law) who was, on the first day of May 1930, lawfully residing upon or occupying such land, shall be entitled to continue such residence or occupation subject to compliance with the requirements of any other law.

(2) If any land was, at any time subject to any provisions of section *one hundred and thirty* or section *one hundred and thirty-one* of the Gold Law, it shall, subject to the provisions of section *one hundred and thirty-one A* of the Gold Law and to any provisions of the Transvaal Precious and Base Metals Act Amendment Act, 1913 (Act No. 18 of 1913) or of this Act which may be applicable thereto, remain subject to the provisions of the said section *one hundred and thirty* and *one hundred and thirty-one* even if it ceases to be a public digging, as long as it is situate within the area of jurisdiction of any municipal council or village council or health committee.

AMENDMENT OF SECTION 1 OF ACT 37 OF 1919.

6. Section *one* of the Asiatic (Land and Trading) Amendment (Transvaal) Act, 1919 (Act No. 37 of 1919) is hereby amended—

(a) By the deletion of the expressions "British Indian" and "Indian" wherever they occur and the substitution therefor of the words "coloured person";

(b) By the addition of the following new sub-sections (2) and (3), the existing section, as hereby amended, becoming sub-section (1):
 "(2) The provisions of sub-section 1 shall not exempt any coloured person from any provision of the said section *one hundred and thirty* or *one hundred and thirty-one*, in respect of any number of pieces of land in any township in excess of the number of pieces of land on which he resided or which he occupied in such township on the first day of May, 1919, or in respect of any area in such township in excess of the area on which he resided or which he occupied in such township on the said date.

(3) If any coloured person was, on the first day of May, 1930, residing upon or occupying any land and such residence or occupation was by virtue of any provision of the said section *one hundred and thirty* or *one hundred and thirty-one* or of this section unlawful, such coloured person may, subject to compliance with the requirements of any other law,

nevertheless continue such residence or occupation till the thirteenth day of April, 1935; provided that he has, before the first day of September, 1932, furnished the Minister of the Interior with a written notice, specifying the land which he unlawfully resides upon or occupies, the nature of such residence or occupation and the period during which he resided on or occupied such land and other particulars in regard to such land; residence or occupation as the Minister may require to furnish."

SUBSTITUTION OF SECTION 2 OF ACT 37 OF 1919

7. Section *two* of the aforesaid Act No. 37 of 1919 is hereby repealed and the following new sections *two*, *three*, *four*, *five*, *six*, *seven*, *eight*, *nine*, *ten*, and *eleven* substituted therefor the existing section *three* becoming section *twelve*.

RESTRICTIONS IN CONNECTION WITH CERTAIN

FIXED PROPERTY

2. (1) The expression "fixed property" in Law No. 3 of 1885 (Transvaal) and in this Act shall be construed as meaning any real right in immovable property in the Province of the Transvaal outside an area assigned for the occupation of Asiatics under paragraph (b) or (d) of article *two* of the said Law, other than a mortgage bond over immovable property securing a *bona fide* loan granted in the ordinary course of business, for an amount which either alone or together with any other mortgage bond having priority over the first mentioned mortgage bond, does not exceed one half of the value of such property as at the time of the registration of such mortgage and shall include any lease of immovable property for a period of ten years or longer or any lease which empowers the lessee to renew it for any period or periods which, together with the period of the original lease, equal or exceed a period of ten years.

(2) No Asiatic company shall hold any fixed property.

(3) The provisions of sub-sections (1) and (2) shall not apply in respect of any fixed property which, on the first day of May, 1930—

- (a) stood lawfully registered in any deeds registry in favour of any Asiatic, as long as that fixed property is held by him or by any other Asiatic who inherited it from an Asiatic; or
- (b) stood registered in any deeds registry in favour of an Asiatic company while held by such company;

(4) No person shall hold any fixed property on behalf of or in the interest of an Asiatic or Asiatic company, and any person who purports or agrees to hold any fixed property on behalf of or in the interest of an Asiatic or Asiatic company shall be guilty of an offence; provided that the provisions of this sub-section shall not apply in respect of any fixed property held immediately prior to the fifteenth day of May, 1930, by any person or behalf or in the interest of an Asiatic or an Asiatic company, while so held by such person.

(5) Any fixed property registered in any deeds registry in favour of any Asiatic or Asiatic company which such Asiatic or company is debarred from holding by virtue of the provisions of Law No. 3 of 1885, Transvaal; or of this Act, shall become the property of the State and any person other than the registrar of deeds or registrar of mining titles or any of their subordinate officers, who is in any way instrumental in effecting any such registration in favour of an Asiatic or in favour of a company which is, on the date of such registration, an Asiatic company, shall be guilty of an offence;

Provided that if any such Asiatic or company purports to transfer such property to a person who may lawfully hold it, the rights of the State under

this sub-section in respect of such property, shall terminate on the expiration of one year after the registration of such transfer in a deeds registry.

(6) Any condition or provision inserted after the fifteenth day of May, 1930, in any document whatever purporting to empower any Asiatic or Asiatic company to exercise any influence upon the transfer of fixed property shall be void.

NOTIFICATION OF REGISTRAR ON COMPANIES

3. (1) Whenever any private company holds any fixed property, any share in or debenture of such company held by or pledged to—

- (i) an Asiatic; or
- (ii) an Asiatic company; or
- (iii) any person on behalf or in the interest of an Asiatic or an Asiatic company

shall be forfeited to the State.

(2) It shall be the duty of the secretary and of every director of any company referred to in sub-section 1, which holds any fixed property, to notify the registrar of companies whenever any Asiatic or Asiatic company or any other person on behalf or in the interest of an Asiatic or Asiatic company holds any share in or debenture of such first-mentioned company.

(3) Any secretary and director who fails to comply with the requirements of sub-section 2 shall be guilty of an offence unless he proves that he was ignorant of the fact which it was his duty, in terms of sub-section 2, to convey to the registrar of companies and that he could not reasonably have ascertained that fact.

SAFEGUARDING EXISTING RIGHTS

4. The provisions of section *three* shall not apply in respect of any shares in or debenture of any company.

- (a) if they were, on the first day of May, 1930, held by an Asiatic and not transferred by him since that date;
- (b) which are held by an Asiatic if he inherited them from an Asiatic who lawfully held them;

Provided that such company did not after the said date acquire any fixed property.

ACTION TO GIVE EFFECT TO FORFEITURE OF SHARES

5. (1) The secretary of any company a share wherein or a debenture whereof has been forfeited to the State in terms of section *three* shall make such entries in any register, book or document under the control of such company and issue such documents as the registrar of companies may direct for the purpose of giving effect to such forfeiture.

(2) Whenever any such secretary fails to comply with any direction given to him by the registrar of companies in terms of sub-section 1, such secretary shall be guilty of an offence.

ONUS OF PROOF

6. Whenever it has been proved in any proceeding under this Act, whether civil or criminal, that an Asiatic holds any share in or debenture of any company or that any other person holds any such share or debenture on behalf or in the interest of of an Asiatic, such company shall be deemed to be an Asiatic company, unless the contrary is proved.

CERTAIN FOREIGN COMPANIES NOT TO HOLD PROPERTY

7. (1) No foreign company (as defined in section *two hundred and twenty-nine* of the Companies Act, 1926 (Act No. 46 of 1926) shall acquire any fixed property or shall be capable of holding any fixed property acquired after the first day of May, 1930, unless it has a place of business in the Union and has complied with the requirements of section *two hundred and one* of the said Act,

(2) No Asiatic may occupy any land (other than land situate in an area wherein an Asiatic may hold immovable property) if such land is held by any foreign company or by any company in which a foreign company holds a controlling interest or if any such company holds any real right in respect of such land other than a mortgage bond referred to in sub-section (1) of section *two* or if any such company holds in respect of such land a lease referred to in that sub-section, provided that the provisions of this sub-section shall not apply to any Asiatic who the *bona fide* servant of any person in lawful occupation of such land. Any Asiatic contravening this sub-section shall be guilty of an offence.

COMPANY WITH BEARER SHARES OR DEBENTURES MAY NOT PERMIT ASIATICS TO OCCUPY ITS FIXED PROPERTY

8. If any company which has issued any shares or share warrants or debentures entitling the bearer thereof to any rights in regard thereto, holds any land (other than land situate in an area wherein an Asiatic may hold immovable property) or a real right in respect of such land other than a mortgage bond referred to in sub-section (1) of section *two* or holds in respect of such land a lease referred to in that sub-section no Asiatic shall occupy such land (except as a *bona fide* servant of any person in lawful occupation thereof) and if any Asiatic occupies any such land in contravention of this section he shall be guilty of an offence and if such occupation was permitted or could have been prevented by such company, the secretary and every director thereof shall likewise be guilty of an offence.

PROOF OF AUTHORITY TO TRADE BEFORE ISSUE OF CERTIFICATE FOR LICENCE

9. (1) Any authority entrusted by law with the issue of any certificate which any person desiring to take out a licence to carry on any business or trade in the province of the Transvaal is required to produce before such licence may lawfully be issued to him, shall, subject to the provisions of sub-section (3) of section *one*, not issue any such certificate to any person applying therefore unless such person proves that the proposed holder of such licence and the person who will be in actual control of the business or trade to be licenced, are not Asiatics, or if they are Asiatics, that they may lawfully carry on the business or trade for which a licence is desired on the premises whereon such business or trade is to be carried on. Provided that a copy of a certificate issued in terms of section *one hundred and thirty-one A* of the Gold Law, certified by the officer in charge of the deeds registry wherein such certificate is registered, shall for the purposes of this section constitute proof that a coloured person may lawfully carry on business or trade on such premises.

(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 therefore has been refused, may, within two months after such refusal, appeal against the decision of 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 in lieu of such authority issue such certificate. 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.

PENALTIES

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

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.

DEFINITIONS

11. In this Act:—

- "Asiatic" means any Turk and any member of a race or tribe whose national home is in 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 the Gold Law; "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" include the mining titles office; "Gold Law" means the Precious and Base Metals Act, 1908 (Act No. 35 of 1908) of the Transvaal; "licence" includes any renewal thereof.

CERTIFICATES OF EXEMPTION

8. (1) The Minister of the Interior may issue a certificate of exemption to any Asiatic or coloured person who is:—

- (a) a consular officer or public agent of any State; or
- (b) the servant of any State, working under or in conjunction with a consular officer or public agent of that State,

and thereupon the provisions of any law prohibiting the residence upon or occupation of any land by an Asiatic or coloured person shall not apply to or in respect of the holder of such certificate or to or in respect of any servant of the holder while in attendance on his employer or to or in respect of any member of the household of the holder, as long as the holder is a person to whom the said Minister may issue a certificate under this section.

(2) The said Minister may, by notice in writing given to the holder of any such certificate, cancel it and it shall thereupon become void.

(3) Notwithstanding the provisions of any law prohibiting the acquisition or ownership of any land by an Asiatic or coloured person, any person referred to in paragraph (a) or (b) of sub-section (1) may, with the consent in writing of the Minister of the Interior, acquire the ownership of any land or an interest in any land which he requires for the purposes of his office or residence.

(4) In this section:—

"Asiatic" has the meaning assigned to that word in section *eleven* of the Asiatic (Land and Trading) Amendment (Transvaal) Act 1919 (Act No. 37 of 1919);

"coloured person" has the meaning assigned to that expression in section *three* of the Gold Law.

9. The Minister may make regulations prescribing the manner and form in which any certificate required under this Act shall be prepared and registered and the fees payable therefor.

AMENDMENT OF SECTION 1 OF ACT NO. 12 OF 1924

10. Section *one* of the Asiatic (Cape Malay) Amendment Act, 1924 (Act No. 12 of 1924) is hereby amended by:—

- (a) the insertion of the word "Malay;"
- (b) the deletion of the words "section *two*" and the substitution therefor of the word "and provision."

SHORT TITLE

11. This Act may be cited as the Transvaal Asiatic Land Tenure Act, 1932.

Mr. Vithalbhai Patel's Statement

On The Results Of The 2nd R.T.C.

(Concluded from last week)

Premature Truce

The fact is that the truce was premature. It did not recognise the Congress claim to speak and negotiate on behalf of the whole of India. Its terms were vague and indefinite. Even so, the words "safeguards and reservations in the interest of India" were definite enough if the British Government seriously intended to act upon them and turn the Truce into a permanent settlement.

The Truce was an agreement between the Congress on the one hand and the British Government on the other, and though no express provision was made as to what was to happen in case the two parties did not agree on the question whether a particular safeguard was in the interests of India or not, neither party could claim that its own view shall prevail; and that the matter must by common consent be referred to an impartial tribunal.

If this procedure had been adopted, there was a reasonable chance of a settlement. But the truth is that, having induced the Congress to give up its campaign of civil disobedience, the boycott of British goods, etc., the Government felt themselves safe and secure and thought they could ignore and even defy the Congress, which they have successfully done.

Perhaps this is all to the good of the country. On this occasion it looked, to the great mortification of the youth of the country, as if India was too anxious to be admitted into equal partnership with Britain and Britain unceremoniously rejected that claim. Next time the position would be reversed. England would be too anxious to have India as a partner and India would be unwilling to accept that position.

On this occasion, India was represented by the nominees of the British Government. Next time their places would be occupied by delegates chosen by the Indian people. On this occasion the venue of the Conference was London. The next time it would be Delhi.

Idea Of Federation

I should like to say a few words on some features of the proposed Federal Executive and the Federal Legislature. To my mind, the Federation of the Princes and the commoners is unthinkable. Even so, it would take years for such a federation to materialise. In the meantime, forces in favour of the introduction of provincial autonomy are bound to make headway. The Prime Minister has already hinted that the decision for a comprehensive scheme dealing with both the Central and Provincial responsibility is not irrevocable. A Parliamentary bill for the introduction of some sort of provincial autonomy relegating the comprehensive scheme to the background is, therefore, not outside the range of possibility.

I have always maintained, since the idea of

Federation was first mooted, that we should have a constitution for British India alone to start with, leaving the door open for the Indian States to come in, if and when they choose to do so.

Those who initiated the idea of federation have successfully complicated and side-tracked the issue confronting the country and have made their solution almost impossible. The British Indian delegates, in their anxiety to start some sort of constitution going, have made compromises and concessions to the Princes, with the result that the constitution of the Federal Legislature, as finally recommended by the Committee, is ten times worse than the constitution under which the present Assembly has been working. Even if complete control of defence, external affairs and finance is conceded, I am certain that the legislature so constituted would not be in a position to carry into effect any of the progressive ideas the Congress has in view.

Does Mahatmā Gandhi really think he can get that legislature to repeal the Salt Tax or reduce the military expenditure to any appreciable extent? Is such a legislature likely to vote in favour of a reduction of troops, either British or Indian, or of the pay and pension of high officers of the Government?

If, therefore, the expenditure of the Central Government could not be reduced, how are we, with full provincial autonomy, going to carry into effect our ideas of prohibition and of reducing the land revenue to half?

Indications are not wanting to show that India is fast heading toward agrarian revolution, and the only way to save the situation is to invest the starving workers and peasants with responsibility for carrying on the administration of the country as best as they can. Instead, the Round-tables, by agreeing to a constitution which provides for 80 out of 200 to the nominees of the Princes in the Upper House, and 100 out of 300 in the Popular Assembly, besides special representation of zemindars, trade, commerce, etc., would virtually hand over the administration of the country to a combination of Princes, zemindars and their capitalist allies.

If I had a choice, I would any day prefer the present Assembly being invested with further powers than agree to have a constitution such as is now proposed. No wonder, therefore, that in addressing the House of Commons the other day Sir Samuel Hoare stated: "Indeed, I go so far as to say that I believe that a Government set up under such condition as I mentioned might very be a stronger government than the Government we have got in India at the present time."

If the Princes, however, agree to have the fundamental rights of their people embodied in the constitution, and to the establishment of a Supreme Court for the enforcement of those rights and to the representation of the people on the Federal Legislature, under the same franchise as the people of British India, one might be inclined to consider the idea of Federation.

The fact, however, remains that the princes are not yet in a mood, for reasons into which it is unnecessary to enter, to do anything of the kind. The sooner we give up the idea of federating with the Princes and go ahead with British India, the better for all concerned. But the British Government would not have it. Apart from other conditions and limitations, His Majesty's Government are not prepared, the White Paper declares, to recognise the principle of responsibility at the centre unless and until the Central Government and the Central Legislature are constituted on an all-India federal basis.

Britain's Attitude

In this view and the position in which the Congress finds itself to-day, a renewal of the fight for freedom seems to be inevitable.

The participation by the Congress in the R. T. C. has once more demonstrated, if such demonstration were necessary, that argument, justice and reason have no place in Britain's dealings with India. We must, therefore, be prepared to create conditions in India which would make it impossible for Britain to resist our demands, except at the risk of very serious consequences to herself. We must demonstrate that we have the capacity, the strength and the determination to do so. No other method would yield any tangible result.

I am not in favour of exploring any further avenue for negotiation with the Government. If personal entreaties by Mahatmaji in Downing Street and at St. James's Palace did not avail, no further appeals by him, however earnest, from a distance of 6,000 miles, can do any good.

In spite of what Mahatmaji says, I venture to think that the Gandhi-Irwin Pact was a blunder and has sufficiently harmed our cause.

Gandhiji's presence and activities in England have hardly enhanced the prestige of the Congress. On the contrary, the proceedings of the R.T.C. have left the world wondering whether there is any substance in the claim hitherto made by the Indian National Congress that it represents an overwhelming majority of the people of India, and that at its bidding millions of people are ready to suffer and sacrifice for the freedom of the country.

We must regain this lost ground in world opinion. Let us wait and see what lead the Congress gives to the country.

In view of what has happened at the last conference, the Congress might perhaps consider it advisable to devote its attention exclusively to the solution of the communal problem before launching a fresh campaign. The morale of our people is splendid and they are awaiting the orders of the Congress.

Some sentences in the last section of Mr. Vithalpai's statement have been omitted, as the followers of the Congress have been led to do what he said it would be necessary for them to do.—*The Modern Review*.

Aryan Benevolent Society

Admiration of the leaders of the Indian people in Maritzburg for their pertinacity in carrying out their intentions of helping their indigent fellows was expressed by Mr. D. C. Dick, a member of the City Council, in laying the foundation stone on Saturday of the new Aryan Benevolent home erected by the Aryan Benevolent Society in Pietermaritzburg Street to house aged and poor Indians.

"By your efforts to help yourselves," declared Mr. Dick, "you have earned the respect and sympathy of the Council, and you may be assured that any representations you may make to the Corporation will always receive the earnest consideration of the city authorities."

The other speakers included the Mayor of Maritzburg (Mr. P. H. Taylor), Mr. C. F. W. Hime, Mr. R. Manicom, president of the Aryan Benevolent Society, Moulvi Ally Ahmed Ansari, Rev. A. J. Choonoo and Mr. S. R. Naidoo, while among those present were the Mayoress (Mrs. Taylor), Mrs. Dick and Mr. F. J. Lewis.

The Aryan Benevolent Society, which was found-

ed in 1914, is in the receipt of an annual grant from the Corporation, while the land upon which the home is to be built has been granted free of rent on a 99 years' lease.

Sir K. V. Reddi In Delhi

New Delhi, March 1.

Sir K. V. Reddi, addressing a gathering predominantly of South Indians, informed them that Sir Fazl-i-Hussain, leader of the Indian delegation to South Africa, would make a statement on the results of the agreement arrived at in Capetown. It was an evening party arranged by the local Madras Club in honour of Sir K. V. Reddi when several members of the Legislative Assembly and the Council of State were also present.

The president of the club felt sure that with the knowledge and experience gained Sir K. V. Reddi would be of inestimable value in rendering service to the mother-country.

Sir K. V. Reddi said that the work of an agent was very difficult in a far-off country like South Africa, where he had to deal with people of many countries and interests. On his arrival there three years ago he found that the way had been paved by Mr. Sastri, his predecessor, and he had only to add a few more bricks to the great construction, the foundation of which had been laid by Mr. Sastri so much so that in the hotels where Mr. Sastri was refused admission he (the speaker) was admitted with open arms. There was no communal distinction among Indians in South Africa who lived a life of amity and peace. Economically and socially Indians there were one single community, and they did not aspire like other foreigners to gain administrative control of the colony.

Speaking of the work of the delegation, Sir K. V. Reddi said they had a difficult task, but they worked like a team and left no stone unturned in order to secure the greatest advantage to Indians in South Africa. He urged Indians to take a more deep and abiding interest in the affairs of Indians overseas, because very shortly India would have to solve the problem of her surplus population and she might have to seek avenues for her children in other countries. He deplored that in spite of the fact that Indians shed their blood in the Great War they had not been given even Tanganyika as a mandated territory.

Concluding he referred to the deputation of a commission from Geneva under Lord Lytton to China in connection with the war between China and Japan and wondered why no Indian was included in that commission.

Notice

INDIAN UNEMPLOYMENT

Will employers of Indian labour kindly notify the undersigned of any vacancies in their establishmet.

WRITE:—Hon. Secretary, Sir Kurma Reddi Unemployment Relief Committee, 175 Grey Street, Durban, or Phone Central, 3506.

G.B.S. Speaks Of The Union

London, April 4.—In a special interview at Southampton to-day on his return from South Africa, Mr. Bernard Shaw said that the position in Ireland was very much the same as it was in South Africa.

"In Ireland," he exclaimed, "they do not know that Dublin Castle no longer exists. The Irish Republican Army thinks that Ireland is still enslaved and that they have to overthrow Dublin Castle."

Mr. Shaw said: "The Dutch are a very remarkable people, attractive physically and quite up to the mark mentally. They seem to be the ideal people to colonise South Africa, but they are living in a state resembling that of the Seventeenth Century; the only event they know since then is the South African War and they do not know that it is over. They are splendid human material, but the Empire should send out missionaries to them. I have done what I could in that way myself, but they ought to send out Mr. H. G. Wells and a few others who are up to date to make the Afrikaners aware that they are 200 years out of date. At the same time they are the most charming people imaginable.

Poor Whites

"The only thing for the Poor Whites, so far as I can see, is the lethal chamber," he continued. "For those Whites who are born there without property I can see nothing for them under existing circumstances but to drown them at birth."

"Where would you rather live, in Russia or South Africa?" Mr. Shaw was asked.

"It is not a fair question, there is no comparison," he replied "all the world is very much behind Russia, which is a much more promising and hopeful place than England is at present."

Statement Submitted By S.A.I.C.

To Government Of India Delegation

(Continued from last week)

Educational Time Limit

Section 30 of the Act 22 of 1913 is amended by Section 10 of 1927 Act, in which domicile is defined and it has been provided that in cases where a person proceeds abroad for a special or temporary purpose, the Minister may authorise the issue of a Certificate of Identity allowing the person concerned to return to and resume his residence in the Province named within the period specified in such certificate or any extension thereof, not exceeding ten years in all. The practice hitherto in regard to children (boys or girls) following under the Act who leave the Union for educational or other purposes, is that they have been given time for ten years under the law to remain away temporarily and continue their education, and they were permitted to return within that period and resume their domicile. To-day the position has changed to the following, on account of the new interpretation of domicile.

- (a) If a boy leaves this country as soon as he is registered and obtains his Registration Certificate he must return before he is 16 years of age to take up his residence. The result of this new procedure is that no boy can complete his education. Mr. Natvorlal Chunilal Patel of the firm of L. C. Ashabhai & Coy., who was

studying in India and he had to return in order to establish his right by leaving his studies in the High School at Dharmaj, as extension of time was refused on the ground that the boy was approaching the age of 16 years.

This boy was in Standard V.

There are other instances which can be quoted but the above is given as being a case to substantiate our contention.

- (b) If a domiciled Indian leaves for India and has a son studying in India who is under the age of 16 years and to whom a Certificate of Identity issued prior to 1930, that Certificate is extended until the boy attained the age of 16 years, but in the meantime, if the father had lost his domicile or if the father had died the boy's Certificate of Identity is not extended and the boy has to leave his studies and establish his domicile in this land.
- (c) In special Emergency cases the Minister's special power should be sympathetically administered, but this has not been done up till now.

Transvaal Asiatic Land Tenure Bill

It is no exaggeration to say that the Transvaal Asiatic Land Tenure Bill is replica, complete in all its essentials, of the Asiatic Bill of 1926, which was withdrawn as the direct result of the Round Table Conference.

At an Emergency Conference held in Johannesburg on the 5th and 6th October, 1930, the Bill was thoroughly examined section by section, and the Conference unanimously passed the following resolution on the Bill:—

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 Cape Indian Congress representing the Indian community of South Africa views with grave apprehension and alarm the Transvaal Asiatic Land Tenure Bill, which it solemnly declares is wholly unacceptable to the Indian community on the following grounds:—

- (a) That the Bill is a violation both in letter and spirit of the Cape Town 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 ultimate ruination in that Province.
- This Conference, therefore, respectfully urges upon the Government to withdraw the said Bill, and to introduce necessary legislation giving relief 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.

The Congress has published a "Blue" book,

with the text of the Bill, and comments on and objections to each clause of the Bill. The book also contains Statement of the Transvaal Indian Congress, Statement to the Select Committee on the Bill by the Acting Agent of the Government of India (Mr. J. D. Tyson), extracts from or texts of laws especially or differentially operating against Indians, quotations from Report of Asiatic Inquiry Commission, and other valuable information. This book forms as Appendix "C" to this Statement.

As the Bill introduces the principle of segregation, confiscation of property, various kinds of restrictions and limitations, and brands the Indians as an undesirable class, and places on them a stigma of inferiority, we firmly but respectfully urge upon the Delegation to press for the complete withdrawal of the Bill.

Law No. 3 Of 1885

With regard to the above Law we reiterate that which we have stated on previous occasions that this Law prohibits the ownership of fixed property except in such streets, wards and locations, as the Government (namely the Republican Government) for purposes of sanitation shall assign to them to live in. This law is still in force. Its objects and intentions are fully related in the report issued by the Asiatic Enquiry Commission of 1921.

Even in locations the occupation of land is, in practice, restricted to monthly and some cases yearly tenancy. The locations are subject to removal to other areas or areas from time to time. The root of all the evil with regard to tenure of land goes back to Law 3 of 1885, above referred to and nothing short of the total repeal of this Act will make the condition of holding property favourable to the Indian community which holds domiciliary rights and which since the first Round Table Conference has been recognised as part of the permanent population. This question is further dealt with on page 42 appendix "E" of our "Blue" book on the Asiatic Land Tenure Bill. By Act 37 of 1919 the lawful acquirement of land properties by limited liability Companies formed by Indians under the Company Law was made unlawful, and even the right of allowing the appointment of Europeans to hold places in Trust which was a vested right enjoyed long before the Gandhi-Smu's Agreement became a settled fact, has been taken away. As the Law stands Indians cannot own places for religious or charitable purposes.

The Indian community reiterates its protest against Sections 130 and 131 of the Gold Law of 1908 which deprive it of the right to trade, to occupy and to reside on proclaimed lands and, therefore, the requests the Delegation to secure the repeal of these two sections.

(To be Continued)

It is understood on reliable authority, reports the *Natal Mercury's* Calcutta correspondent, that Sir Abdul Qadir, for personal reasons, has definitely declined the offer of the post of Agent-General for the Government of India in South Africa in succession to Sir Kurma Reddi.

The Rev. C. F. Andrews, who recently visited Lahore, is reported to have tried hard to persuade Sir Abdul Qadir to accept the offer, but to no effect.

The choice of Sir Abdul had been generally well received by all communities in India.