

Indian Opinion

No. 22—Vol. XXX.

Friday, June 3rd 1932

Registered at the G.P.O. as a Newspaper.
Price Fourpence.

EFFECTS OF TRANSVAAL ASIATIC LAND TENURE BILL

AN EXPERT OPINION

CONTINUED FROM LAST WEEK

THE following is an opinion of a well-known advocate on the various sections of the Transvaal Asiatic Land Tenure Bill. To make it easy for the reader it is given in the form of questions and answers:—

21. QUESTION: What is the position of a trader occupying or residing on premises in private or semi-Government Townships when applying for a licence? Will he be required to produce a certificate from the Minister? If so, will the Minister grant him such certificate? Will the Municipality or Licensing Officer grant him a licence without a certificate from the Minister? Section (2). Will the parties be allowed to lead evidence before a Magistrate and what procedure is to be adopted regarding an appeal? Will a fee be payable every year for a certificate or only when same is applied for and granted? Will it be necessary to produce a certificate every year when renewing licences or only acquiring a licence?

ANSWER: The position of an Asiatic who proposes to trade in a township, whether semi-Government or private, the titles of which prohibit Asiatic occupation, will be hopeless. He would have to show that every person in the township has waived the condition. I have already explained that the Minister, under the powers contained in the Bill, cannot help such people. In so far as Sections 130 and 131 of Act 35 of 1908 are concerned, the production of a certified copy of the Minister's certificate under Section 131A is sufficient proof of the Asiatic's right of occupation. It is not clear that the parties will be able to lead evidence before the magistrate. I should say, probably yes. The questions of fees and renewals are regulated by Ordinance 12 of 1927, as amended. The procedure would have to be gone through every year.

22. QUESTION: Section 2 sub-section (1) whether by this section the Government can proclaim mining districts in future and put them in Class A, whereby a coloured person can be prohibited from occupying or residing thereon?

ANSWER: Under Section 7 (2) of Act of 1908 the Governor-General has power to add any mining district or portion thereof to Class "A," which, at present, consists substantially of the Witwatersrand Area. On proclamation of additional areas to form part of Class "A," section 131 becomes applicable to them and naturally also the proposed amendment of that section.

23. QUESTION: (a) Section 3. Will the new section 131A be applied to Government Townships, semi-Government Townships or private Townships? (b) Under this section, will the properties be exempted from restrictions in freehold titles or only from the operations of sections 130 and 131 of 1908? (c) If the property is leasehold and the Government has exempted the property from sections 130 and 131, after receiving the exemption from the Gold Law an Indian converts that property into freehold, what is the position in regard to the residence and occupation of coloured persons after

it is converted into freehold? Will this section apply to the sprinkling of shops?

ANSWER: This question has already been answered. In my opinion the new section 131A cannot be used to relieve against restrictions in township titles, whether Government, semi-Government, or private. The relief is purely against the operation of sections 130 and 131 of Act 35 of 1908. As soon as a right held under Section 130 is converted into freehold, the conditions of the freehold title will govern. But the freehold does not necessarily contain prohibition against coloured occupation. Under Section 62 of Act 34 of 1908 freehold titles are required to contain the conditions appertaining to the stand immediately prior to conversion. If the stand is one to which section 131A has been applied there will be no condition prohibiting coloured occupation appertaining to it and the freehold title will accordingly be free of it. Action by the Minister under Section 131A will not protect anybody occupying a shop outside the area specified in the certificate.

24. QUESTION: Section 4. In this section there is provision for any person who was lawfully residing on or occupying any ground, what is the meaning of this?

ANSWER: Section 4 is intended to save the rights of person who were residing or occupying land in conformity with the provisions of existing laws, notwithstanding the enlargement of the prohibition in the new sub-section 1 of Section 131. This new sub-section brings in land proclaimed under Section 52 of Act 35 of 1908 and thus nullifies the judgment in the Springs case (1929 A.D.401). The intention of Section 4 is that coloured persons who occupied land in such places as Springs prior to May 1st 1930, should not be disturbed.

25. QUESTION: (a) Section 5. Does this section apply only to deproclaimed ground? (b) Section 5 sub-section (2) Under this clause can land be exempted?

ANSWER: (a) This applies to proclaimed land within the area of local authorities if and when deproclaimed. But for Section 5 such land would be freed from the restrictions of the Gold Law on deproclamation.

(b) Section 5 (2) is subject to the provisions of the new Section 131A of the Gold Law. That is the only provision for exempting land from its scope.

26. QUESTION: If an Asiatic entered into a Deed of Sale prior to the 1st of May 1930 and acquired transfer after that date, what is the position? Does the word "acquired" mean when the Deed of Sale was entered into or when transfer was taken?

ANSWER: The word "acquired" as occurring in Section 2 of Act 37 of 1919 has been interpreted as referring to the obtaining of the dominium of the property and not merely of a contractual right to get the dominium. Transvaal Investment Company vs. Springs Municipality 1922 A.D.337. It follows that, even if a property has been bought before the 1st May 1930, it may not be transferred to an Asiatic or an Asiatic company after that date.

27. QUESTION: What are the powers vested in a Mining Commissioner?

ANSWER: No powers are vested in the Mining Commissioner by this Bill. The power vested in him by section 121 (1) as it stands is taken away by the repeal of this sub-section. In the proposed new sub-section the power to set aside land for coloured occupation is vested in the Minister of the Interior, acting in consultation with the Minister of Mines.

28. QUESTION: Sections 130 and 131. Do these sections apply to proclaimed lands or unproclaimed lands on the Reef?

ANSWER: Section 131 applies to proclaimed land in Class "A." Section 130 applies to rights held under the Gold Law, whether in respect of proclaimed land or unproclaimed land, e.g. a mynpacht. (of Patz vs. Minister of Mines, 1922 T. P.D. 381).

29. QUESTION: If an Indian or coloured person resides, but does not trade on proclaimed land prior to 1908, is he protected for residential purposes, if such residence under a vested right? If so, should it would be continuous?

ANSWER: Section 131 (3) protects occupation which was lawful at the commencement of Act 35 of 1908. This protection is continued. Occupation includes both residence and trade.

30. QUESTION: If an Asiatic has acquired a share in a private company holding fixed property after May 1930, and if such shares are transferred by pledge or sale to a European, are those shares protected?

ANSWER: No, the share becomes forfeited by virtue of the fact that an Asiatic acquired it after May 1st 1930.

31. QUESTION: If an Indian was trading prior to 1st of May 1919, and since that date continued business for say a number of years, i.e. for 5, 7, or 10 years, and then suspends his business, is he still protected under 1919 Act?

ANSWER: No, he is protected only "so long as such British Indian or successor in title continues so to carry on business." A break in the continuity, in my opinion, destroys the protection for all time.

32. QUESTION: If the property is converted into freehold in a Government township and there exists no clause of servitude, can an Asiatic or coloured person reside or occupy thereafter?

ANSWER: Yes, provided the occupation is lawful under Sections 130 and 131 as now amended.

33. QUESTION: Can the law be retrospective from 1930 before being passed?

ANSWER: The Bill, when passed, will have retrospective effect. This intention is abundantly clear.

34. QUESTION: Please give definitions of the terms:—

- (a) Semi-Government township;
- (b) Private township;
- (c) Erf Township.

ANSWER: A semi-Government township is one laid out under the provisions of Law 15 of 1908 or a prior law in which the Government receives some share or interest in the stand licence monies or some fixed payment from the township owner under an agreement with him (Act 34 of 1908, section 8).

The main features of a private township are:—

(1) The Government receives no share of stand licence monies; (2) It is situated on land the freehold of which is vested in a person other than the Crown or, if vested in the Crown, is held on lease by a private person (Ibid).

An erf township I take to be one proclaimed by the Government in respect of Crown land, the stands or even in which are disposed of under the Crown Lands Disposal Act No. 57 of 1908. See the Springs case supra.

35. QUESTION: Will Counsel please advise whether or not there are any loopholes in the Bill, and, if so, suggest any relief from the sections which affect

Indians detrimentally.

ANSWER: I am unable to advise how Indians are to conduct their affairs so as to escape the provisions of this Bill. I can only suggest that efforts be made to secure all just amendments before the Bill passes into law.

Signed:—P. MILLIN.

LAND TENURE BILL PASSED

WITHIN a few hours Dr. Malan got the Transvaal Asiatic Land Tenure Bill through the last session of the Union Parliament. The Sword that was hanging on the head of the Indian community for the last three years has at last fallen and the Indian community of the Transvaal Province is now lying seriously wounded. We have said so often that if this Bill were to become law the Indian community in the Transvaal would be totally ruined. The Government now possess the necessary machinery by which a death blow could be given to the Indian community. Under this new act the Indians in the Transvaal will be treated as helots. This Act is so cruel and drastic that the Indian community can never in the future contemplate to make any progress in business. There is no hope for the future generation in the Transvaal for no new licences will now be granted on the proclaimed land. Some of the members of the Government of India delegation have been shouting from the house tops in India that Section 5 which aimed at segregation of Indian is deleted altogether from the bill and that that is a clear victory. But the Minister of the Interior has been given extraordinary powers under this new Act to grant exemptions to Indians and to withdraw any land from the operation of the Gold Law. Under this power he can surely very effectively segregate the Indian community. The Minister declared that he will appoint a Commission to deal with applications from Asiatics. This Commission we presume will go into the details of the applications received from Asiatics and finally recommend the Minister to whom he should grant exemptions. Only those Indians will be able to reside and continue to carry on their businesses who will receive exemptions from the Minister. On the proclaimed lands there is no hope now for the Indian community to receive any new licence. During the debate on the Second Reading of the Bill Colonel Collins reminded the House that this was the first serious attempt

at legislation on the Asiatic question since 1924 when the present Government came into power. He is quite right. This is the first serious attempt made by Doctor Malan to segregate the Indians in the Transvaal. He has achieved victory in one Province. And he has been able to do this with the consent of the Government of India! If the Indian community in the Union will now sit quiet and do nothing we predict that in the very near future the government will try the very same policy in the other provinces. We appeal to our country-men to be up and doing.

Immigration Appeal Board

Ismail Ranjoomia vs. Commissioner For Immigration And Asiatic Affairs

The following decision was given by the Immigration Appeal Board at Pretoria in the appeal of Ismail Ranjoomia:—

The following facts are admitted by the parties:—

1. Appellant entered the Union in 1912 on his allegation that he was the son of Ranjoo Mia, which fact would have entitled him to enter.
2. A Registration Certificate was issued to appellant on 31/7/12.
3. On 22/12/25 appellant applied for a D.I. 91 Certificate for the purpose of bringing his son Ebrahim into the Union.
4. On 7/1/26 a D.I. 91 certificate was issued by the acting Principal Immigration Officer, one W. T. Dobson, and such certificate was forwarded by the Department to India for enquiry.
5. On 22/12/25 appellant made a confession to the said Dobson that he was not the son of Ranjoo Mia.
6. On 15/7/26 the Principal Immigration Officer authorised the issue of a D.I. 91 certificate to appellant and such certificate was issued.
7. On 19 October 1926 the said Dobson issued to appellant a certificate of identity.
8. On 26 April 1929, the Principal Immigration Officer with knowledge of the facts set out in par. 5 issued to appellant another certificate of identity and also another D.I. 91 certificate to enable appellant to bring his wife Rabia and his minor daughter Jainab into the Union.
9. At all material times the said W. T. Dobson was duly authorised by the Minister to issue certificate of identity and his appointment was duly gazetted.
10. Except for temporary absences when appellant was issued with certificates of identity he has resided in the Transvaal continuously since 1912.

On 23rd June 1930 the appellant was served with a prohibition notice. This notice was subsequently withdrawn and a fresh notice of prohibition was served on him on the 16th October 1931.

Against this prohibition the present appeal is brought, and the following notice was served on the Commissioner for Asiatic Affairs setting out a preliminary point and the grounds of appeal to the following effect:—

- a. Be pleased to take notice that at the hearing of the above appeal the appellant will take the preliminary point:—“That it is incompetent

for the Board to hear the appeal on the grounds set out in the appellant's statement dated 9th February 1932 served on the Commissioner of Immigration that is:

- b. At the time when the prohibition notice, the subject of the present appeal, was served on appellant there was an appeal pending before this Board by appellant against a previous prohibition notice and which notice is dated the 23rd June 1930 in the same terms as above appeal, and the said latter appeal has not been disposed of and is still pending.

Grounds of Appeal

- c. (ii) It is incompetent for the Commissioner for Immigration to issue a prohibition notice in identical terms as the one which is the subject of an appeal and which appeal is still pending. Be pleased to take further notice that the appellant will apply for permission to amend his grounds of appeal by the addition of the following:
- d. (iii) The prohibition notice dated 16th October 1931 the subject of the present appeal is void on the grounds that there is an appeal pending before this Board in respect of a previous prohibition notice which is dated the 23rd of June, 1930, in identical terms.
- e. (iv) That the prohibition notice dated the 16th October 1931 was served on appellant before an enquiry was held and without giving him an opportunity of being heard, it is incompetent for the Commissioner for Immigration to declare a person a prohibited immigrant in his absence and without being heard.

Further amended grounds of appeal subsequently filed and will be referred to later.

The preliminary point and grounds b, c, and d, in the above notice may be taken as one as they practically cover the same ground and the Board has already ruled that the correspondence shows that the parties had agreed to the withdrawal of the first Prohibition Notice.

As regards ground of appeal (g) the Board is satisfied that the Commissioner had before him all the facts concerning appellant to enable him to decide whether or not in his opinion appellant is a prohibited immigrant and it was not necessary for appellant to be heard again before being declared a prohibited immigrant.

Appellant's next ground of appeal which we shall take as ground (f) is: that being the registered holder of a Transvaal Registration Certificate the appellant is not a prohibited immigrant within the meaning of the Deeming Order of the 1st August, 1913 or by the Deeming Order of the 31st January, 1931.

The next ground of appeal (g) is that the Act 15 of 1931 is not retrospective and does not effect appellant's rights under his registration certificate.

Ground of appeal (h) or last ground reads as follows:

“That the Commissioner for Immigration held a full and exhaustive enquiry in 1925 and subsequently into appellant's entry and residence in the Transvaal and had full knowledge that appellant originally entered on misrepresentation, notwithstanding these facts the said Commissioner issued to him in about January, 1926, D.I. 91 forms and a certificate of identity in favour of appellant, whereon he, the Commissioner declared that the appellant was lawfully resident in the Transvaal.

Further that in April, 1929, the said Commissioner again issued to appellant a certificate of identity to proceed to Lourenco Marques.”

It will be convenient to consider ground (g) first, that is, whether Act 15 of 1931 is retrospective in its application or not.

In the course of his judgment in the case of

Principal Immigration Officer vs. Purshotam heard by the Appellate Division, the learned Chief Justice quoted the remarks of Lord Hatherley L.C. in an English case of *Pardo vs. Bingham* in considering whether a Statute was retrospective or not and this is what was said: "We must look to the general scope and purview of the Statute, and at the remedy sought to be applied, and consider what was the former state of the law and what it was that the Legislature contemplated."

In applying these principles the learned Chief Justice then proceeds to consider the state of the law when Act 37 of 1927 was passed and came to the conclusion that Section 5 of that Act should be read as forming part of Act 22 of 1913.

The later case of Principal Immigration Officer vs. Bawa Bhula also in the Appellate Division decided that Section 10 of Act 22 of 1913 as amended by Section 5 of Act 37 of 1927 is not retrospective so as to enable a Board to cancel certificates of registration granted prior to the passing of Act 22 of 1913.

In coming to this conclusion the learned Judge stated that there is nothing in the Act of 1913 to show that there was any intention that this Act should have a retrospective effect, and the insertion 4 (2) (b) negatives any such view.

Act 15 of 1931 was then passed.

Now if we look at the scope and purview of this statute and at the remedy sought to be applied and what the legislature contemplated as was stated in the English case of *Pardo vs. Bingham* referred to above when Act 15 of 1931 was passed then we are forced to the conclusion that that Act was intended to be retrospective beyond the year 1913 as regards certificates of registration obtained by fraud and applies to all certificates whether procured before or after Act 22 of 1913 was passed.

Section 4 (2) (b) of Act 22 of 1913 which entrenched the rights of holders of certificates of registration is not only repealed by the 1931 Act but a new section is inserted which provides that certificates of registration shall confer no rights of entry into the Union or of residence therein.

The Board is of opinion therefore that it is no answer to a Prohibition Order for the appellant to say that he holds a certificate of registration.

This disposes of grounds of appeal (f) and (g). We now come to the last ground of appeal (h) which reads as follows:—"That the Commissioner for Immigration held a full and exhaustive enquiry in 1925 and subsequently into appellant's entry and residence in the Transvaal and had full knowledge that appellant originally entered under misrepresentation, notwithstanding these facts the said Commissioner issued to him in or about January 1926 D.I. Forms and a certificate of identity in favour of appellant wherein he (the Commissioner) declared that the appellant was lawfully resident in the Transvaal. Further that in April 1929 the said Commissioner again issued to appellant a certificate of identity to proceed to Lourenco Marques."

It was contended for appellant that the Commissioner with full knowledge that appellant was not the son of Ranjoo Mia issued to him D.I. 91 forms and identity certificates and that being so this case is practically on all fours with the case of *Nagar Kara vs. Principal Immigration Officer* decided by the Cape Supreme Court in December 1930.

The Board is satisfied from the evidence placed before it that when the Commissioner issued D.I. 91 Forms and identity certificates to appellant he did not know what the true position was with regard to appellant's parentage. This is borne out by the fact that as late as January 1931 the Commissioner was causing enquiries to be made in India on the point, whereas the D.I. 91 forms and identity certificates were issued much earlier. The facts of this case are therefore different to the facts in *Kara's* case.

The appellant was in possession of a certificate of registration when he applied for identity certificates and the Commissioner had no reason at that time to question the validity of the registration certificate although he may have been suspicious in regard to it and granted the identity certificates.

From the evidence before the Board it is satisfied that appellant's certificate of registration was obtained by fraud and the appeal is accordingly dismissed subject to any point of law which either party may wish to reserve for decision by the Supreme Court.

What India Thinks Of The New Agreement

Indian Social Reformer writes:—

"Equal rights for all civilized men," Cecil Rhodes laid down as the proper policy for South Africa as a part of the British Empire. The Cape Town Conference of 1927 came very near endorsing this policy so far as Indians are concerned. It defined civilization as Western civilization and conceded the right of South Africa to use all just and legitimate means for the maintenance of Western standards of life. The South African Union Government recognised that Indians domiciled in the country who were prepared to conform to Western standards of life, should be enabled to do so and should be treated as a permanent and integral part of the population. For those who were not prepared to do so, the Union Government was to organise a scheme of assisted emigration to India or other countries where Western standards are not required. The second is the most important result of the 1927 Conference. It was on account of it chiefly that the Agreement which followed was hailed as the charter of Indian freedom in South Africa.

In accordance with the third term the Union Government framed a scheme of assisted emigration for South African Indians to this country. It is unnecessary to go into the details of that scheme now. Under that scheme about 10,000 Indians have come to this country in the last five years. Notwithstanding the best efforts of the Government of India, it has not been found possible to find suitable employment for many of them here. The general economic and political unsettlement might have conduced to this result. The habits and outlook acquired in South Africa also involved on the part of the returned emigrants an effort at readjustment which many of them were not disposed to make. The scheme was, indeed, foredoomed to failure. The Indian delegation headed by Sir Fazli Hussain, when it left for South Africa at the end of last year, was requested by influential public bodies in this country not to renew the assisted scheme of emigration. The delegation has succeeded in doing this so far as India is concerned. But it has agreed to explore the prospects of "other lands" for colonisation by Indians not only from South Africa but also from India. In including India in an agreement meant exclusively for Indians in South Africa, the deputation clearly went beyond its limits. Even as regards South African Indians, we expected the Indian delegation, now that the scheme of assisted repatriation has proved a failure, to insist on the Union Government carrying out its undertaking to facilitate their upliftment according to Western standards of life. No exploration is needed to prove that South African Indians who cannot adopt Western standards, are unlikely to be more successful in Brazil than in India. We understand that no one is allowed to live in Brazil unless he wears a hat. We are told that the attitude towards Indians has improved during the last five years, and

in the same breath that the South African delegation at the Conference wanted to and had nearly succeeded in abrogating the undertaking of 1927 to treat Indians as an integral part of the population.

We do not take a tragic view of the results of the second Cape Town Conference. But neither can we view them with enthusiasm. That more could not be done is not the fault of the Indian delegation. They have done their best in the face of great difficulties. Their greatest difficulty was, we fancy, to get the Union Government to legalise the entry of many unauthorised persons from India into the Transvaal. But for this handicap, Sir Fazil Hussain and his colleagues would certainly have put up a stronger fight for the practical recognition of the Indian-born—which is the largest section of the Indians—to the rights of citizenship.

Mr. Venu Gopal Kurma who was for some time Private Secretary to the Agent of the Government of India in South Africa, concluded a well-informed article in the *Indian Review* (London) of January 30, with a forecast of the new Agreement. He wrote:—

“Any solution that may be arrived at, at the present Conference, would, therefore, inevitably be a matter of compromise. The Union Government can be induced to drop the Bill only if the Indian Government proposes an alternative scheme whereby the existing laws can be enforced. In return for this, they would expect the co-operation of the Indian Government in some new scheme of repatriation. But it is more than probable that the Indian representatives will insist, as they have always insisted that they will not countenance any scheme of repatriation unless it is purely voluntary. Further, on the question of the Asiatic Tenure Bill they will, if the Indian community in South Africa so desire, agree to a scheme for the protection of existing interests, and the provision of machinery for the enforcement of existing laws. They will also oppose any attempt at segregation. Such a compromise would undoubtedly be unpalatable to the Indians in South Africa. They know that the existing licensing laws, based on racial distinction, are unjust, and they feel that it is the inherent right of every man to refuse to submit to an unjust law. But the Indians in South Africa are after all a minority, struggling against racial legislation. They have never been able to make their voice felt, and it is obvious that they have no other alternative but to accept a compromise, as indeed they have always been forced to accept compromise ever since the Gandhi-Smuts Agreement of 1914.” Mr. Kurma's forecast of the agreement has proved almost literally correct. It seems, however, that contrary to his expectation, the Indian community has approved of the compromise.

Conference Achievements

The *Leader* (Allahabad) comments thus on the restricts of the Round Table Conference:—

The new settlement with South Africa of which the contents have been announced is an improvement on the Cape Town Agreement of 1927 in one very important respect which is sure to be welcomed in Indian circles both in this country and South Africa, viz., the virtual abandonment of the scheme of assisted emigration to India. In the announcement made in the Assembly and the Council of State on Tuesday it was stated by the Government spokesmen, ‘It was recognized 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 population of the Union are now South African born.’ Indian opinion had never been enamoured of the scheme but it had to be accepted at the time because the white community of South Africa who attached much importance to it were insistent on its inclusion, and rather than wreck the whole agreement which gave promise of so much good the Habibullah delegation gave their consent to it. That the delegation were well advised in saving the agreement will be admitted by every one who knows how much progress Indians have achieved both morally and materially during the last five years that the agreement has been in existence. The progress made in the field of education alone should entitle the Habibullah delegation to the gratitude of the Indian community. And now at last the scheme of assisted emigration to India which has been the cause of much undoubted distress to large numbers of Indians, has also been abandoned, which should win the support to the new settlement of even those Indians who were opposed to the 1927 agreement. It is true that in the new settlement it is provided that ‘the Government of India will co-operate with the Government of the Union in exploring the possibilities of a colonization scheme for settling Indians both from India and from South Africa,’ but colonization is different from repatriation. Then in the investigation which will take place before colonization is attempted, a representative of the Indian community of South Africa will be associated, which is a valuable safeguard.

Besides this question of the revision of the Cape Town agreement, another question which claimed the attention of the Conference and which has been causing the deepest anxiety among Indians, was the Transvaal Asiatic Tenure Bill, which imposes serious disabilities upon Indians in regard to their trade, residence and occupation, aiming at their compulsory segregation and ruin. The ground on which the Union authorities took their stand is the Gold Law of 1908, of which sections 130 and 131 forbid the residence on or occupation of stands on proclaimed land by coloured persons in which terms Indians are included, and law 3 of 1885 by which the Transvaal republic had forbidden Asiatics to own fixed property. As will be seen from the announcement made at New Delhi clause 5 of the Asiatic Tenure Bill which embodied the principle of segregation by providing for the earmarking of areas for the occupation or ownership of land by Asiatics has been deleted. Instead, the Gold Law is to be amended to empower the Minister of the Interior after consultation with the Minister of Mines to withdraw any land from the operation of sections 130 and 131 in so far as they prohibit residence upon or occupation of any land by coloured persons. The Bill has also been amended so as to protect fixed property acquired by Asiatics in the name of companies up to March 1, 1930, as also to restrict the discretion of local bodies to refuse trading licenses. We admit that these concessions are much less than what the Indian community has been demanding. The South African Indian Congress has been demanding the repeal and not merely an amendment of the Gold Law or the law 3 of 1885 which still leaves much to the discretion of the Minister. Nothing is easier, for instance, for a reactionary Minister of the Interior than to refuse to withdraw any land from the operation of sections 130 and 131 in so far as they prohibit residence upon or occupation of any land by coloured persons. What will be the facts in that case of the Indians

community of the Transvaal? But we rely on the undertaking in the new settlement, viz., 'both Governments consider that the Cape Town 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 regard to Indians resident in the Union.'

News In Brief

"A Grand Picnic was held on Thursday the 5th of April 1932, under the auspices of the Transvaal Indian Women's Social Centre, at Muller's Farm Jackson's Drift, Johannesburg. Different Sports were arranged by the Committee of Management for those who were present, and Dr. Williamson Godfrey distributed the prizes to the successful Candidates. The Committee of management wishes to thank both Indian and Europeans who so kindly contributed towards the prize articles and donations.

The above Social Centre is formed for the purpose of undertaking Social work. Among other things it has commenced "Child Welfare," "Red Cross" and "Girls Guide Movement." The Europeans connected with this Social workers are, Mrs. Berman, head of the Red Cross Movement in South Africa, Mrs. Vogel, Dr. Podlasko, Mrs. C. S. Godfrey, Mrs. Erasmus Ellis. As one, who believes in Social work among the Indian community in the Transvaal, I have no doubt, that this institution is going to be a boom, to the Indian community who so badly need the reform.

The Hon. E. Baring, Acting Agent of the Government of India arrived in Durban last Tuesday from Capetown with his staff. The Agent's offices are at the Maville Castle. The Hon. Mr. Baring will remain in Durban for eight or ten days and then will proceed to Johannesburg. He will be accompanied by the Agent's new Secretary Mr. Boseman.

Notice

INDIAN UNEMPLOYMENT

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

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

SNOEK

New Season's salted snoek, Prime quality. Specially selected, 24/- per dozen. Cash with order or C.O.D. Railage paid to any Union station. COAST TRADING CO., 917 Kershaw St., Capetown

Indian Child Welfare Society Centre

150, BROOK STREET, DURBAN

Open daily, Monday to Saturday, 8-30 a.m. to 11 a.m. Infants, young children, nursing and expectant mothers.

Lady doctors give free attendance.

Tuesday morning 8-30 o'clock. Friday afternoon 3 o'clock.

Joseph Doke

The Missionary-Hearted

Price 5 Shillings

Merrivale Pure Butter Ghee

Wholesale Only

From The Merrivale Dairy

Phone Nos. 1460, 1845.

126 Berea Road, Durban.

Ask Your Storekeeper For It.

मेरीवेलनुं शुद्ध घट्टरनुं घी

हेलसेलधीन मणी शकरी.

मेरीवेल डेरीमांथी.

सन १९६० अने १९४५.

१२६ बीरीया रोड, डरबन.

तुमारा दुकानदारनी पासेधी येन घी मांगने.

BOROUGH OF DURBAN

(Province of Natal)

Issue of Six per cent. Local Registered Stock

Price of Issue £100 (One Hundred Pounds) per cent.

Interest payable 30th June and 31st December

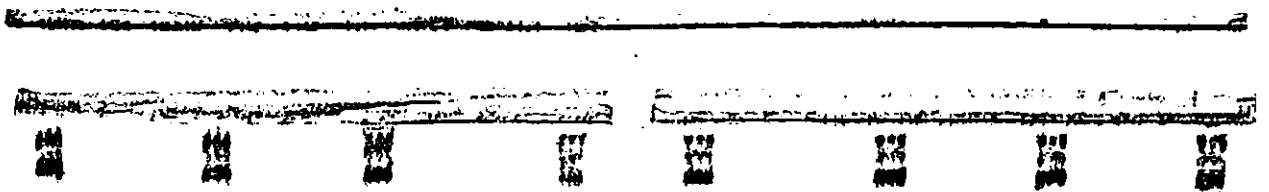
Principal repayable at the Town Hall, Durban, at par on the 30th June, 1972, but the Town Council retains the right to redeem the Stock at par on the 30th June, 1942, or at any time subsequent thereto, on giving six months' notice.

THE TOWN COUNCIL OF THE BOROUGH OF DURBAN invites applications for the purchase of the above Stock at par, in amounts of not less than £10 (Ten Pounds) or any multiple thereof. Interest will run from date of receipt of remittance by the Town Treasurer, Durban. All Transfers and Stock Certificates will be free of stamp duty and registration charges. All cheques drawn on any Bank within the Union, payable to the Council in connection with this Loan, will be accepted free of exchange. Commission of one half per cent. will be allowed to Stock Brokers, Banks or other recognised Financial Agents on allotments bearing their endorsement stamp.

Payment may be made in full on application, or not less than 5 per cent on application and the balance at such times and in such sums as may be convenient to the applicant provided that the whole amount be paid on or before 30th September, 1932.

Prospectus and Forms of Application can be obtained from the Standard Bank of South Africa, Ltd., at any of its Branches, or from the Town Treasurer, Durban.

**This Loan is open to all
classes of Investors**



ઇન્ડિયન ઓપિનિયન.

પુસ્તક ૩૦ મું.

ફ્રીડે, શુક્રવાર, તારીખ ૩ જુન ૧૯૩૨

અંક ૨૨

“ઇન્ડિયન ઓપિનિયન”

શુક્રવાર, તા. ૩ જુન ૧૯૩૨

ડોક્ટર મલાને આખરે ટેન્ચર ખીલ પાર્લામેન્ટની અંદર માન થોડા કલાકમાંજ સર્વ વિધિમાંથી ટેન્ચર ખીલ પસાર! પસાર કરાવ્યું છે. આજે લગભગ ત્રણ વર્ષ થયાં ટ્રાંસવાલના હોદ્દાઓને માથે તલવાર લટકાયા કરતી હતી તે આખરે હોદ્દાઓના મરતક ઉપર પડી છે અને કોમને એક સખ્તમાં સખ્ત કરામો કટકો લગાવી તેને ધાયલ બનાવી દેવામાં આવી છે. અમે અનેક વેળા દર્શાવી ગયા છીએ કે આ ખીલ જે પસાર થાય તો ટ્રાંસવાલના હોદ્દાઓનો નાશ જરૂર થવાનોજ. હવે કોમના વિનાશની સર્વ તૈયારીનાં સાધનો સરકારના હાથમાં આવી ગયાં છે. અને એ સાધનો દ્વારા ટ્રાંસવાલના હોદ્દાઓની સાથે એક હલકામાં હલકા ગુલામના જેવું વર્તન ચલાવવામાં આવશે. અસ્તીત્વ ધરાવતા જરી પુરાણા અધિકારક જુના કાયદાઓને હોદ્દા કોમે અદર ઉઠાવેલા છે, તેમણે કાયદા નો ભંગ કરેલો છે એવાં બહાનાં હેઠળ આ નવું ખીલ એટલું સખ્તાઇ અને નિર્દય રીતે ઘડવામાં આવ્યું છે કે હોદ્દા કોમ સ્વપ્ને પણ ટ્રાંસવાલમાં પોતાની ઉન્નતિ કરવાની આશા હવે રાખી શકે નહિ. ઉન્નતિની વાત તો એક બાબુએ રાખો પરંતુ રાત દિવસની સખ્ત મજુરી કરીને તેણે પોતાનો જે વેપાર કરાવેલો છે તેનો મોટા પ્રમાણમાં નાશ થઇ જશે એટલુંજ નહિ પરંતુ ભવિષ્યમાં પ્રોકલેઇટ્ડ લેન્ડ ઉપર હોદ્દાઓને હવેથી ખીલકુલ લાઇસન્સ મળી શકશેજ નહિ. આ ખીલની અંદરથી સેગ્રીગેશનની કલમ કહાડી નાંખવામાં હોદ્દાઓ આવેલા ડેલીગેશને ધાડ મારી છે એવાં બહુમાં તેઓ કુટે છે પરંતુ મીનીસ્ટર જોહ્ન મન્ડીરીઅરને એકએમ્પ્શન આપવાની જે સત્તા આપવામાં આવેલી છે તેની રૂપે તે હોદ્દાઓને ગેરાઓથી આખા રીતે સેગ્રીગેટ કરી મુકવાનો એ વાત ચોક્કસજ છે. હવે ડોક્ટર મલાન મુખ્ય કાર્ય એ હાથમાં લેશે કે તે એક કમીશન નીમશે અને તે દ્વારા બેહાનીસર્પર્સની અંદર વસતા અને વેપાર કરતા દરેકે દરેક હોદ્દાની જુના સોનેરી કાયદા મુજબ શી રચતિ છે તેની ખારીકાઇથી તપાસ ચલાવશે અને તે કમીશનની ભલામણ મુજબ કયા હોદ્દાને પ્રોકલેઇટ્ડ લેન્ડ ઉપર એકએમ્પ્શન આપવાં તેનો નિર્ણય કરશે. અને ડોક્ટર મલાને જેને એકએમ્પ્શન આપશે તેજ માણસ વસી અને વેપાર કરી શકશે. આ વાત તો જેઓ જુના વેપારમાં પડેલા છે તેમનેા ઘડો લાકડો કરવા માટે થઇ નવો એક પણ માણસ હવે પ્રોકલેઇટ્ડ લેન્ડ પર લાઇસન્સ મેળવવાની આશા ન રાખે. હા. ડોક્ટર મલાન જાહેર કરે કે અહીં જમીનને સોનેરી કાયદામાંથી તે મુક્ત કરે છે તે તે

જમીન ઉપર વેપાર અને વસવાનો અધિકાર રહેશે. અને અહીંજ તે હોદ્દાઓને ગેરાઓથી અલગ કહાડી શકવાનો. હોદ્દાઓને સેગ્રીગેટ કરવાની સત્તા આ પ્રમાણે ડોક્ટર મલાને હાથમાં લીધી છે. કેપટાઉનનું પહેલું એગ્રીમેન્ટ, આ વેળાનું ખીજું એગ્રીમેન્ટ, તેમાં ઉન્નતિની કલમ અને તેને માટે કુકાર્તા બહુમાં આ સૌ ઉંધા પાટા ખાંધવાની વાત હતી. હોદ્દાઓ પ્રત્યે યુનીયન સરકારે જરા સરખો પણ હલ્લ પડેલો ક્યોં નથી. તેણે આ ટેન્ચર ખીલ પસાર કરી હોદ્દાઓને એલેન્ડ ફ્રી છે, હોદ્દા સરકારને એલેન્ડ ફ્રી છે અને હોદ્દાની પ્રબળ એલેન્ડ કરી છે કે તમે ગમે તેટલા જુમ બરાડા આર્ચા કરો, ગમે તેટલી ઉન્નતિની કલમ વિષે વાતો કર્યા કરો, અમારી નીતિ આ દેશના હોદ્દાઓ માટે એજ રહેશે કે તેમની સખ્તિને જેમ અને તેમ આ દેશમાંથી ઓછી કરી નાંખવી અને અહીં વસેલાને ગેરી પ્રબળથી વેપાર અને વસવાટ એ બંને સવાલમાં અલગ કહાડીને જુલા રાખવા. ટ્રાંસવાલમાં ટેન્ચર ખીલથી સચોટ રીતે ડોક્ટર મલાન આ કાર્ય હવે હોદ્દા સરકારની સમર્થિત સાથે સાધી શકવાનો. અમને સમાચાર મળ્યા છે કે હવે પછી જે કમીશન નીમાવાનું છે તે સખ્તેર માસમાં નીમાશે. ખીલ વિષે પાર્લામેન્ટમાં સભ્યોએ જે ચર્ચા કરી છે તેનો માત્ર ટુકો સરખો રીપોર્ટ ‘મરક્યુરી’ પત્રમાં જોવામાં આવે છે. ડોક્ટર મલાનનું બાબુ જેને સભ્યોએ કરેલી ચર્ચા વિગત વાર અમે મેળવીને હવે પછીના અંકમાં આપીશું. ખીલમાં સુધારા શું કરવામાં આવ્યા છે તે છાપાઓ માં જોવામાં નથી આવ્યું પરંતુ અમને એવા ખબર મળ્યા છે કે સ્પ્રીંગ્સમાં સન ૧૯૩૦ સુધીના હોદ્દાઓ છે તે સર્વંતું રક્ષણ ખીલમાં થએલું હતું પરંતુ સકસેસરને રક્ષણ મળતું નહતું તે મળી શકશે એવા સુધારો થયો છે, તેમજ ૧૯૩૦ માં જે કંપનીએ મિલકત ખરીદેલી હોય તેની આમલી અને નવી ખરીદેલી સર્વ મિલકત સરકાર જમ કરી લે એમ ખીલ માં હતું તેમાં ફેરફાર થયો છે તે એવો કે ૧૯૩૦ પહેલાંની જે મિલકતો છે તેને રક્ષણ મળશે પરંતુ ૧૯૩૦ પછી જે ખરીદવામાં આવેલી છે તેનેજ માત્ર સરકાર જમ કરશે. ત્રીજો સુધારો એ થયો છે કે જે યુરોપીઅન ડ્રેટીના નામ ઉપર મિલકત લેવાયેલી છે તે યુરોપીઅન ડ્રેટી ગુજરી જતાં ખીલ ડ્રેટીના નામ ઉપર તે મિલકત કરી શકાય એવી વ્યવસ્થા ખીલમાં નહતી તે હવે કરવામાં આવી છે. મલાઇ એરતના નામ ઉપર મિલકતો ખરીદતા હતા તે વિષે ખીલમાં મલાઇ એરતને પણ બાધિત ઠેરવી હતી તે મલાઇ લેકોના પ્રેટર કરવાથી ખીલમાંથી કહાડી નાંખવામાં આવ્યું છે. આ સુધારાઓનું કશું મહત્ત્વ અમારી દ્રષ્ટિએ નથી. આ ખીલને પસાર કરીને સરકારે હવે આખા યુનીયનના હોદ્દાઓને માટે કેવો નિકાલ કરવો તેને માટે માર્ગ ખુલ્લો કરી લીધો છે. જે આ ટેન્ચર ખીલ સખ્તિ સાઉથ આફ્રિકાની હોદ્દા કોમ સાંત ખેસશે તે અમે ચોક્કસ માનીએ છીએ કે આવતીજ

