

# Indian Opinion

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## THE DEPUTATION

A DEPUTATION of the Natal Indian Congress went last Sunday to Pretoria to lodge their protest before the Government against the Boroughs' Ordinance recently passed by the Natal Provincial Council and which has been reserved by the Government in order to hear the case of the Indian community. The deputation consisted of the following members:—

Messrs. Amod Bayat (President N.I.C.), V. S. C. Pather (Jt. hon. Secretary N.I.C.), J. Royeppen Bar-at-Law, V. Lawrence, E. M. Paruk, M. B. Maharaj, A. I. Kujee, S. Enammally, B. M. Singh, Baijnath, Roonoodeen, M. A. Motala, Hoosen Cassim Coovadia, V. S. Pillay and Abdoola Moosa. Mr. Royeppen acted as spokesman.

The deputation was received on Tuesday the 9th instant in person by the Prime Minister, General Hertzog, who was accompanied by Dr. Malan, Minister of the Interior, Col. Creswell, Minister of Defence and Labour, Messrs. N. C. Havenga, Minister of Finance, F. W. Beyers, Minister of Mines, C. W. Malan, Minister of Railways, T. Boydell, Minister of Posts and Telegraphs, and Piet Grobler, Minister of Lands. Practically the whole Cabinet was present the absentees being the Minister of Justice, Mr. Tielman Roos, and the Minister of Agriculture, General Kemp, who were engaged with other deputations.

The deputation was given a very sympathetic hearing and a promise was given by the Prime Minister to discuss the matter thoroughly with the Cabinet before coming to any decision.

### THE STATEMENT

To the Honourable the Prime Minister and the Honourable Members of the Government of the Union of South Africa, Pretoria.

Sirs,—We, the undersigned, for the Natal Indian Congress, as representing the British Indian population of the Natal Province, venture hereby to lay before you a Statement of our objections to the Boroughs Ordinance No. 18 of 1924, (Natal), passed by the Provincial Council of Natal and now awaiting the assent of the Governor-General-in-Council.

We beg to tender our respectful thanks to the Union Government for the opportunity afforded us this day of bringing our grievances respecting this measure for their consideration.

As a voteless and voiceless section of the South African community, it will be seen that we have no other means of bringing our case before the authorities except by interviews such as this, and the Union Government in acceding to our request for a hearing have granted us a voice which we should not otherwise possess. Our appreciation of the opportunity afforded us is therefore all the more sincere.

It would be well nigh impossible to understand the Indian situation presently obtaining within the Province of Natal aught unless the past be in a measure understood. We would therefore crave leave to briefly trace the history of Indian settlement in this outpost of the Empire.

More than sixty-four years ago, Sir George Grey, the then Governor of the Cape, paid his first official

visit to Natal. The Corporation of Durban signalled the occasion by the presentation to the distinguished visitor of an address of welcome, and if that historic document could now be resurrected from the Municipal archives, it will be found to contain the following memorable request:—"Independently of measures for developing the labour of our Natives, we believe your Excellency will find occasion to sanction the introduction of a limited number of coolies or other labourers from the East, in aid of the new enterprises on the Coast lands, to the success of which, sufficient and reliable labour is absolutely essential; for, the fact cannot be too strongly borne in mind, that on the success or failure of these rising enterprises, depends the advancement of the Colony or its certain and rapid decline. Experimental cultivation has abundantly demonstrated that the issue depends solely on a constant supply of labour."

In response to a prayer so urgent, Indian labourers first landed in the infant Colony of Natal on the 16th day of November 1860, and in view of the Centenary recently celebrated of the European settlement in Natal, it is interesting that a few more years passing, the Indians themselves would celebrate their own Centenary in South Africa!

As stated, British Indians landed on the shores of Natal so far back as the year 1860; and what that event has meant to Natal, let one of her own illustrious sons attest. Speaking in the old Natal Legislative Assembly in July 1908, Sir Liege Hulett thus delivered himself:—"The condition of the Colony before the importation of Indian labour was one of gloom; it was one that then and there threatened to extinguish the vitality of the country, and it was only by the Government assisting the importation of labour that the country began at once to thrive. The Coast had been turned into one of the most prosperous parts of South Africa. They could not find in the whole of the Cape and the Transvaal what could be found in the Coast of Natal—10,000 acres of land in one plot and in one crop—and that was entirely due to the importation of the Indians. Durban was absolutely built up on the Indian population."

Testimony respecting the worth and value of Indian introduction into Natal might be adduced *ad infinitum*. It is incontrovertible that but for the introduction of Indian labour, Natal would hardly ever have experienced her undoubted prosperity and progress of the present day. Her name of the "Garden Colony" and the "Brighton of South Africa" have been gained for the Natal Province and Durban town by the labour and industry of the Indians and the Indians alone. But times have changed and men and manners have changed, and the pioneer Indian who by the sweat of his brow supplied the essential life blood for the reclamation of a primeval wilderness to civilisation, stands to-day bereft of not only his character as a British citizen, but is held as something less than a human being.

We would crave your attention to an examination of the transformation, how the pioneer Indians, landing in Natal as subjects of the King, with

capacity to attain in this part of his realms to the fullest stature of British citizenship, stand to-day deprived of the last trace of that capacity.

It will be within the knowledge of the present South African Government how at the Imperial Conference of Premiers in London in the year 1921, a resolution according equality of citizenship to British Indians in the Dominions was unanimously accepted by the Dominions, South Africa alone dissenting, her rejection of the motion being conveyed by no less a personage than the Union ex-Premier, the Rt. Hon. J. C. Smuts.

It devolves upon us to analyse briefly the situation how one particular representative of the vast commonwealth of the Empire has been able, as with one stroke of the pen, to denude the entire Indian population of this Union of their very character of British subjects. The developments leading to this loss of status by the South African Indians are of the deepest political importance. South African Indians have long since existed as independent subjects of the South African Union, not from their own choice however, but by your compulsion. In handing over this sub-continent to South Africans on the consummation of Union, Great Britain simultaneously passed over her quondam Indian subjects, body and soul, into the keeping of the newly born Dominion. The local Indians had neither lot, part nor parcel in the transaction, they being thrown in as a "free gift" with the passage of the South Africa Act. They had no determining voice in their transition from Imperial subjects to subjects of South Africa, their change of status being effected arbitrarily and without reference to them or their Government. The stroke of the pen that sanctioned the South Africa Act was also the stroke that denuded them of their Imperial character. Indians landed in this sub-continent as Imperial subjects in the year 1860, and for fifty years thereafter preserved their Imperial character, that is, to the date of the Union. That status should have been considered and set at rest as to the future during the passage of the South Africa Act. The agents engineering the Act through the Imperial Parliament either lost sight of that special community of Indians permanently settled in South Africa, or conveniently avoided the fact of their existence.

Thus it will be seen that the British Indians in South Africa, without their voice or view being heard, have been reduced to a condition in an outpost of the Empire wholly without the Imperial status by which they were once characterised with consequent total loss of vote and voice.

In thus referring to our present position of helplessness and despair consequent upon the death of England's voice in matters Indian in South Africa, we would beg to invite your attention for a moment to what the Imperial Government was able to say on behalf of South African Indians in the past.

Mr. Joseph Chamberlain in disallowing the Natal Franchise Law during his regime as Colonial Secretary thus advocated the Indian cause:—"We ask you to bear in mind the traditions of the Empire, which makes no distinction in favour of or against race or colour, and to exclude, by reason of their colour or by reason of their race, all her Majesty's Indian subjects would be most painful, I am quite certain, to her Majesty to have to sanction it. The United Kingdom owes as its brightest and greatest dependency, the enormous Empire of India with 300 millions of subjects, who are as loyal to the Crown as you are yourselves, and among them are hundreds and thousands of men who are every whit as civilised as ourselves; who are, if that is anything, better born in the sense that they have older traditions and older families, who are men of wealth, men of cultivation, men of distinguished valour, men who have brought whole armies and placed

them at the service of the Queen, and have, in times of great difficulty, saved the Empire by their loyalty. I say you who have seen all this cannot be willing to put upon them a slight, which I think is absolutely unnecessary for your purpose, and which will be calculated to provoke ill-feeling, discontent and irritation, and would be most unpalatable to the feelings, not only of her Majesty, but of her people."

But Mr. Chamberlain's advocacy pales into insignificance by the vehement protests of the then Secretary of State for India, Lord Landsdowne on the eve of the Anglo-Boer War. It may be in the recollection of some here present that the Boer treatment of the Transvaal Indians was made one of the *causæ belli* at the time by England and respecting which treatment, Lord Landsdowne protested:—"Among the many misdeeds of the South African Republic, I do not know that any fills me with more indignation than its treatment of the Indians. And the harm is not confined to sufferers on the spot; for what do you imagine would be the effect produced in India, when these poor people return to their country to repeat to their friends that the Government of the Empress, so mighty and irresistible in India with its population of 300 millions, is powerless to secure redress at the hands of a small African State?"

These quotations, Sirs, more than bear out our case as unfolded above, how South African Indians once having enjoyed the full measure of protection and guardianship of the Imperial Government, have thereafter through no act of commission or omission of their own, come to lose the last trace of that protection and guardianship. And thus it happens that we stand here to-day before the Government of the Union to advocate our cause in our feeble persons.

We apologise for this lengthy historical introduction which has been rendered imperative by the great gravity of the situation.

The Boroughs Ordinance No. 18 of 1924 (Natal) is the inevitable outcome of European agitation long directed against our community. Of recent times, measures have been introduced into the Natal Legislature containing provisions embodied in the present Ordinance, but all such legislation have been categorically disallowed by the Governor-General-in-Council. The reference is here made to show that some very important sections of the present Ordinance, far from appearing as original provisions for the first time, have on the contrary been embodied as part of the long-settled policy of Natal for the decimation of Indian rights and interests. So far back as the year 1906, the Natal Parliament passed a Municipal Laws Consolidation Bill whereby a deliberate attempt was made to deprive Indians of all voice in municipal affairs. By a cleverly conceived idea devised to disarm suspicion, Section 22 of that Bill denied the municipal franchise to all persons disabled in respect of the political franchise, by the Natal Act of 1896. That is to say, persons politically disfranchised were to be municipally disfranchised also. And it will presently be seen that eighteen years after, and that too after this insidious form of attack had in the interval been thrice repulsed by the Governor-General-in-Council, the Natal Ordinance appears with identically the same grounds of attack. What then can be the reason for the re-appearance of the provision each time it is rejected? Simply this, that the Natal Provincial Council have decided to pass the provisions again and again and so to persist until the same has been accepted by the Union Government. We will come to a consideration of the several provisions of the Ordinance in so far as they adversely affect our community.

It is significant that our strongest and most emphatic protest is in respect of one of the very first provisions of the Ordinance, to wit:—

Sub-SECTION 1 OF SECTION 13, Chapter IV, having reference to QUALIFICATION OF BURGESSES.

We most emphatically object to the provisions of the Section as being directed towards the destruction of the right enjoyed by the Natal Indian community since the first inception of municipalities in the Natal Province.

Now by the Natal Act No. 8 of 1896, Natal Indians have been disfranchised as descendants of a country not in the enjoyment of elective representative institutions founded on the parliamentary franchise. This measure was passed while Natal was as yet an independent South African State. But on the consummation of Union, the Natal Act was taken over by the Union Government and became one of the Union Acts. Thenceforward it was the Union Parliament alone that was concerned with the matter of the parliamentary franchise in the various Provinces. Section 36 of the South Africa Act lays down that "the qualifications of parliamentary voters as existing in the several Colonies at the establishment of Union, shall be the qualifications necessary to entitle persons in the corresponding Provinces to vote for the election of members for the House of Assembly.

Here then we have it definitely laid down by the Act of Union how the franchise is to be regulated in the various Provinces. That is to say, after the consummation of Union, it was the Union Government alone which could govern the question of the parliamentary franchise in the Provinces. And the Provincial Councils, thus deprived of all powers respecting that particular franchise cannot resort to the provisions of a present Union Law, i.e. the Natal Act No. 8 of 1896, to secure their present ends.

Now when we examine Section 13 of the Ordinance, we find that the Natal Provincial Council have thus encroached upon the Natal Act to enable them to disqualify a certain class of persons and since that Act disqualifies only British Indians, Section 13 of the Ordinance would also disqualify the same people. The simple truth about this section is that it presumes to legislate for the Union Parliament. We beg to protest that the lack of parliamentary qualifications on the part of Indians as a result of the Natal Act cannot be made the starting ground for the initiation of provincial legislation destructive of the Indian municipal vote.

Section 13 of the Ordinance speaks of persons "entitled to be registered as parliamentary voters" and when we turn to the Natal Act, we find that those who are so entitled are only such persons as belong to countries possessing elective representative institutions. And since Indians have been held not to belong to such countries, *ipso facto*, by the 13th Section of the Ordinance, all Indians become disfranchised in respect of the municipal vote.

To show that the 13th Section of the Ordinance is wholly aimed at the exclusion of Indians, we have only to examine the 14th Section where general disqualifications are set out. Under the 14th Section, Europeans and all others will suffer disqualifications but Europeans can never suffer disqualification under the 13th Section. Hence we are led inevitably to the conclusion that Section 13 is embodied exclusively for Indian disqualification. The section therefore would be *ultra vires* the powers of the Natal Provincial Council under Section 147 of the South Africa Act which vests in the Governor-General-in-Council "matters specially or differentially affecting Asiatics throughout the Union."

It will have been observed as a matter of interest that the Natal Act and the Ordinance do not disqualify the unredeemed Native! Is it seriously contended that the race of Indians are inferior to the aboriginal races of South Africa?

The section is moreover designed to operate retrospectively. The conclusion of clause (b) of the sub-section reads: "provided however that no person who at the first day of July 1924 was enrolled as a burgess of any Borough shall be disqualified for or disentitled to such enrolment for the non-compliance with the foregoing provision in regard to Parliamentary qualification." The operative effect of the words under quotation marks is clearly this, that in view of the Ordinance coming into force on the 1st day of August 1925, all Indians enrolling as between the 1st day of July 1924 and the 1st day of August 1925 will, on the date of promulgation, *ipso facto* cease to enjoy the franchise and automatically drop off the Burgess Roll.

In concluding our consideration of this particular section, we would point out the egregious fact that the higher status is demanded as a condition precedent to acquiring the lesser status, that is, an Indian would require to be fully qualified as a Parliamentary voter before he could aspire to the Municipal Franchise!

#### CHAPTER XIII, SECTION 170. Conditions in regard to BUILDING OWNERSHIP and USE OR OCCUPATION OF LAND

This section has been boldly taken over from the Durban Land Alienation Act recently passed by the Natal Provincial Council. The provisions of the section will speak for themselves. Suffice it to say, that in their practical working, the provisions will be made applicable to the Indian community almost exclusively, that is, if our experience of the past respecting such legislation be any index to the future. Incidentally, we may illustrate our meaning by the action of a sub-committee appointed a while ago under the identical clause occurring in the Durban Land Alienation Ordinance, when that sub-committee, after exhaustive examination and enquiry concluded that, within the immense area of the Borough of Durban, there was not to be found more space for Indian settlement or occupation than one acre and a quarter certain! This finding of the sub-committee would serve sufficiently to illustrate how provisions such as those under consideration are calculated to be employed to the utter damage and detriment of the local Indian community. Our Deputation need hardly observe that Section 170 becoming law, our community would be instantly faced with the total deprivation of a long-enjoyed right, that is, the prospect of not any longer being able to purchase unalienated lands within the municipal bounds of the Natal Province.

#### CHAPTER XV, SECTION 185, By-laws under heading: "NUISANCES."

Under the heading of "Nuisances" within the purview of which are brought such matters as immorality, uncleanness, insanitary habits and the like, are included powers for making by-laws regulating "the use by coloured persons of vehicles plying for hire" (No. 10, 7th Schedule) under which, our Deputation rightly fears that harassing regulations may be devised making it wholly impossible for members of our community to use the public conveyances. The consideration here is not by us wholly confined to the practical difficulties anticipated, but it will be readily seen that minor provisions of this nature directly affect the esteem and self-respect of our community, differentiated as it would be, under the provisions complained against from other sections of the general community. Our Deputation most strongly condemns provisions which not only by inference and implication but directly launch attacks upon the communal self-respect and honour of our community under the cover of public general legislation. Our community perforce is doubly dishonoured by such undisguised assaults upon its good name by reason of its being wholly devoid of any political power.

CHAPTER XVII. SECTION 214. Sub-section 3.  
LICENCES.

This sub-section is so happily worded for the promoters of the Ordinance that it would appear at first sight futile for Indians to complain against its provisions. But the Deputation most emphatically and unhesitatingly states that the several provisions of this sub-section will be employed destructively of Indian rights and interests. The sub-section is, as it were, the vigorous child of European agitation which has been in evidence for years past. That agitation has been directed towards the decimation of Indian rights and the destruction of Indian commercial interests. The progress and advancement of the Natal Indian community commercially has ever been resented by the European community. Innumerable efforts, both individual and communal, have been made by the European section to not only reduce Indian trade and commerce to the irreducible minimum, but no small measure of European opinion has been from time to time in favour of total effacement of Indian trade and commerce. The sub-section under consideration then, our Deputation is confirmed, is as it were, the concentrated essence of the aims and objects actuating the aforementioned European agitation continued for years past. The danger of the provisions as perceived by our community really lies in the very general terms in which the sub-section is drafted. No one unacquainted with the history of Indian trade and commerce in Natal in the past or at the present, can detect or anticipate harmful results from the provisions now considered, for the manner of their general wording at once disarms suspicion. But our community can assert from bitter and long-continued experience, that the provisions of Section 214, Sub-section 3, will, in their practical working, be almost exclusively to the detriment of the Indian mercantile community. It is from provisions of this very general character, our community fears great harm and danger to come to itself.

Other obviously objectionable features contained in the Ordinance would readily present themselves to the Ministers upon a first perusal of the measure, but the Deputation for the time being will content itself with enumeration of the above grievances.

The Deputation is sincerely of hope that the objections so far brought out will appear sufficient in the eyes of the Ministers to disallow the Ordinance. We feel that the measure under consideration is by far the most extensive engine of destruction yet devised for the arrest of Indian progress and happiness in the Province of Natal. Our Deputation is aware in times past, measures have been promulgated which, though ostensibly of general application have been generally and exclusively employed to the detriment of our community. But our Deputation can recall no law whose provisions have had in them the germ of great potentialities for evil than the present measure.

We again thank you in the name of the Indian community for affording us the opportunity to submit our objections to this Ordinance and for the courtesy and patience with which you have heard our representations.

The Secretary of the Hindu Young Men's Association (Maritzburg) writes:—

A grand Bazaar will be held in the H.Y.M.A. Hall on the 16th instant (Dingaan's Day), in aid of H. Y. M. A. Free Tamil School. Much enthusiasm is being evinced in the holding of a Bazaar which promises to be a large success. As the object of the Bazaar is a deserving one it is expected that the Bazaar will draw a large crowd. Any donations whether money or in kind, will be thankfully received by the Secretaries of the H.Y.M.A. No. 548 Church Street, Maritzburg.

## NOTES AND NEWS

IN the course of an article contributed to *Nort and Sud* in 1910 on the Race Question in East Africa Mr. Winston Churchill said:—

"On what are the claims of the Indian based? Have not Indian labour and Indian money made East Africa what it is to-day? The Indian was on the scene before the British official. Is it possible for any Government to drive the Indian out of a country where he has created in good faith a position for himself? Above all, is such a policy possible for a Government which has 300 millions of Indians as subjects?"

The recent resolution of the Durban Town Council forcing the flower-sellers to vacate the stands at the Post Office was re-considered by the General Purposes Committee. The committee had received several memorials from flower-sellers and growers pointing out the hardship incurred, and yesterday the committee received a deputation representative of the Indian flower-sellers. Mr. Harold Stuart spoke on behalf of the deputation. It is understood that the Council will review the whole position, as there is now a disposition to restore the *status quo* of the sellers, especially as it is thought that this can be done without inconveniencing the public.

After three years' secession, Mrs. Annie Besant has rejoined the Indian National Congress. Mr. Gandhi's youngest son Mr. Devdas Gandhi is at present teaching her spinning.

London, Dec. 9 (Reuter)—The King's Speech at the opening of Parliament to-day announces that the Government proposes to proceed with the plan already made for the construction of a naval base at Singapore. It does not doubt that the happy results which attended the Prince of Wales' previous visits to the Dominions will be repeated when the Prince visits South Africa in the spring of next year. The invitation of the President and Government of the Argentine for the Prince of Wales to visit the Argentine next year has been gladly accepted. The date of the Prince of Wales' visit to the Argentine is not mentioned in the King's Speech, but it is assumed that he will go thither from South Africa.

At a recent meeting of the Public Health Committee of the Durban Town Council, it was stated that at their next meeting the Borough Medical Officer of Health will submit a list of houses which in his opinion are no longer fit for human habitation, the commendation being that they be condemned. The Committee decided to recommend the Council to make arrangements for owners of property so condemned to appeal to the Town Council against the decision.

Among the results of the London College of Music Examination, held in the Durban Town Hall last week the name of Miss May A. Lawrence, the eldest daughter of Mr. V. Lawrence, appears as having passed the degree of Licentiate which entitles her to add after her name the letters L. L. C. M. First time in the history of the Indians in South Africa has an Indian taken that degree. There are further Indian successes notable among them being another daughter of Mr. V. Lawrence aged 9 years passing the Intermediate Examination with Honours. We congratulate the Misses Lawrence and also their parents who have every reason to be proud of their daughters for their grand success.

## MR. BUTLER'S LICENCE

It has been the declared policy and continual practice of the Licensing Officer of Durban to diminish Indian licences from what are called European localities. Any paltry excuse against the licensing holder is required and he is doomed. The Licensing Officer takes advantage of it and refuses the application and in very rare cases does the Town Council reverse the decision of the Licensing Officer. West Street is considered to be one of the European trading localities where there are a few Indian stores of very long standing and the latest victim of this policy of the Licensing Officer is Mr. S. P. Butler a very well-known merchant whom we have known to be trading for the last fifteen years in 476 West Street and whose ability to trade cannot be questioned. Unluckily Mr. Butler had suffered a big loss in business recently and had to make a composition with his creditors whereby he agreed to pay 10s. in the £, payments to be spread over thirty months. After having made this composition he succeeded in getting a renewal of his licence for 1922 and in the year 1923 he made application for rehabilitation before the Circuit Court, Durban, which was refused on the ground that he had been reckless in his business. The Licensing Officer who was impressed with the Master's report notified the applicant that in considering the next application for renewal he would have to answer the Master's objections. The applicant's explanation did not, however, satisfy the Licensing Officer who on that account refused to grant the renewal. An appeal was thereupon made to the Durban Town Council who upheld the decision of the Licensing Officer and against that an appeal was made to the Supreme Court. The judgment given in the appeal case, which is reproduced elsewhere in this issue, is very interesting. Though the judges have not in open words denounced the action of the Licensing Officer it is easy enough to read between the lines. Judge President Sir J. D. Wilson in the course of his remarks said it was impossible to say that there was not evidence upon which the Licensing Officer could give his decision against the applicant. His Lordship, however, would not say that he would have come to the same conclusion on the evidence. Mr. Justice Hathorn went even further. He praised the appellant for his ability in ordering goods to the extent of £147,000 during four years and selling all this stock except £6,000 worth and said that he felt that his offer of 10s. in the £ was a very fair one and that "the refusal of the renewal of the licence was very cruel to the applicant." And yet that the appeal should fail is not a little surprising. The powers of the Courts of Justice in these matters are, however, a mere mockery and unless, as His Lordship said, it could be shown that the Licensing Officer did not exercise his discretion honestly and had acted arbitrarily or capriciously the Court could not interfere. This much, however, is quite clear from the judgment that the Licensing Officer had not exercised his discretion with a sense of justice, and it would not be an unhonourable step on the part of the Licensing Officer to take the hint given by their Lordships and reconsider his decision.

## LICENSING APPEAL

S. P. BUTLER V. DURBAN TOWN COUNCIL

The appeal of S. P. Butler against the decision of the Town Council of Durban was heard in the Supreme Court, Natal Provincial Division, on Wednesday, Dec. 3, before Sir John Dove Wilson, J. P., Mr. Justice Carter, and Mr. Justice Hathorn:—

The firm of S. P. Butler, the partners of which are Shaikhoo Peerbhoy Butler and Rahimal Peerbhoy Butler, and who are unrehabilitated insolvents, applied for a renewal of their wholesale and retail licenses in respect of 476 West Street. The Licensing officer after hearing evidence refused the application on the grounds (a) that the Supreme Court had refused their application for the rehabilitation on the grounds that prior to their insolvency they ordered goods recklessly and (b) that within a short period of their insolvency they gave accommodation bills to their friends for over £800. Appellants made a composition with their creditors whereby they agreed to pay 10s. in the £ payments to be spread over thirty months. Appellants appealed first to the Durban Town Council who dismissed the appeal and it was now brought before this Court.

Mr. R. J. Harrison with Mr. S. W. Harrison instructed by Messrs. Livingstone and Doull of Durban appeared for the appellants. Mr. F. G. Mackerthan, K. C., with Mr. H. B. Morcom instructed by Messrs. Shepstone and Wylie of Durban appeared for the respondents. After argument, the Judge President said that having regard to the decisions of the Court, they could not entertain this appeal. The evidence showed that after the composition was accepted, the appellants got a renewal of their licence for 1922 and in 1923 they made application for rehabilitation before the Circuit Court, Durban, which was refused on the grounds that the objections of the Master of reckless dealing had not been answered. The question of the power of the Court to rehabilitate a partnership was not raised. After this application the Master sent a copy of his objections to the Licensing Officer and the Licensing Officer was impressed with the report and notified the applicants in considering the next application for renewal they would have to answer the Master's objections.

The applicants set themselves to reply to the objections when they made their application for renewal. They failed to satisfy the Licensing Officer and it is impossible to say that there was not evidence upon which the Licensing Officer could give his decision against the applicants. His Lordship would not say that he would have come to the same conclusion on the evidence but unless it could be shown that Licensing Officer did not exercise his discretion honestly and had acted arbitrarily or capriciously this Court could not interfere. He felt that the Licensing Officer had acted honestly and not capriciously and arbitrarily and consequently the appeal must be dismissed. Mr. Justice Carter concurred. Mr. Justice Hathorn delivered a short concurring judgement holding that in view of the very limited jurisdiction of the Court in Licensing appeals, and in the previous decisions of this Court, this was not an appeal which should be upheld. His Lordship commented on the notable feat performed by the applicants in ordering goods to the extent of £147,000 during 4 years and selling all this stock except £6,000 worth.

He felt that their offer of 10s. in the £ was a very fair one and the refusal of the renewal of the license was a very cruel one to the applicants. They should have had their renewal, not only for their own sakes but for the sake of their creditors who now stood very little chance of getting all the amount due.

The appeal was dismissed, no order as to costs.—Natal Witness.

### MR. THOMAS ON THE GRAVITY OF THE INDIAN PROBLEM

London, Dec. 3 (Renter).—There were a number of Empire Parliamentary Delegates present at a dinner given by the African Society, presided over by Earl Buxton.

Earl Buxton expressed the opinion that the Thomas regime in the Colonial Office proved that, whatever Party was in power, there was harmony in views and continuity in policy as regards the Dominions and Colonies.

He described South Africa as one of the most fascinating of the Dominions.

Mr. J. H. Thomas stated that in the course of his recent visit to South Africa he had officially suggested a Conference of representatives of all the parties in South Africa, the Imperial Government, and also India, to discuss the Indian question.

He laid stress on the fact that it was impossible to divorce the question from its Imperial aspect.

Referring to his trip: "Which cost me the Colonial Office—a parrot is no substitute for five thousand a year, especially when it dies on hearing my fate"—(loud laughter)—he declared that the future of South Africa was quite safe, and the spirit of racial reconciliation manifest, was an example for the world.

Despite the threats of separation from the Empire, at the last election, the delegates' experience of the members of the Herzog and Smuts Governments convinced them that not the least importance could be attached to the threats. He emphatically laid stress on the fact that it was impossible to solve the Indian problem on party lines. He still believed that a conference was the best method of solution.

It would be idle to deny the strong feeling in this connection in South Africa, or the serious urgency of the problem, but he would be a hypocrite to the sense of responsibility he held if he did not say, clearly and definitely, that the question could not be separated from the Empire as a whole.

Mr. Thomas proceeded to urge that while there were tremendous possibilities in the development of other parts of Africa, Britain must discharge her duties as trustee of the Natives. This could not be discharged by a stroke of the pen in Downing Street, but Britain must implicitly trust those sent out to maintain the authority and prestige of the country.

Mr. Thomas paid an eloquent tribute to the respect in which the Earl and Countess Buxton were held in the Union.

Lord Burnham, referring to the visit, warmly supported Mr. Thomas' reference to Lord Buxton's influence in the Union, and also paid a tribute to General Hertzog, in risking unpopularity with the extremists in advocating a policy of brotherhood and co-operation.

The Delegation felt they had reason to be of good cheer for the future of South Africa and Rhodesia.

#### 'NATAL ADVERTISER'S' COMMENT

In its issue of the 5th instant, the *Natal Advertiser* writes:—

The Right Hon. J. H. Thomas—whose brief stay at the Colonial Office won much credit for the party to which he belongs—has found himself talking to London about the Indians in 'South Africa.' If any man, by birth, predisposition and party bias, could be expected to take the extreme view towards Asiatic penetration in the Union it should be Mr. Thomas. Yet he has not hesitated, out of office equally as when he was in office, to say that the Indian question out here must not be divorced from its Imperial bearings, and must not be approached on party lines. Any solution, he maintains, must be hammered out by a conference representative of all parties interested, the implication being that it is only by consent that a settlement can be reached which will not breed more discord than it sets to rest.

Thus are we thrown back once more—this time by a Labour leader and spokesman of the employed class—on the view persistently advocated for years in these columns. Who is going to take the lead in bringing together all the contending elements in this highly controversial issue? Will General Hertzog? General Smuts lost the opportunity when he failed to summon representative South Africans, Indians and Imperial authorities to a conference or convention at which a final settlement of this problem could have been hammered out which the Governments of the three nations concerned would have been bound to accept. Is General Hertzog big enough to do what General Smuts failed to do; or is the Labour wing of the Pact progressive enough to take Mr. Thomas' hint and urge this course on its colleagues in the Cabinet? Or are we to contemplate another five or ten years of sullen neutrality, the Asiatic and the European in Natal facing one another, recognised economic enemies, but each unable to prevail utterly over the other; while the rest of South Africa looks on indifferently, its barbed wire legislation making it secure against any part of the problem spilling over into the other Provinces?

There is probably no other question of first-rate importance in this country on which absolutely nothing fresh remains to be said. In this regard the Asiatic controversy in Natal is unique. The other day, in a Cape newspaper, Mr. Kemp stressed: point that, outside of these columns, is not nearly sufficiently forced home by the people of Natal. That is, the manifest injustice done this Province at Union when we were compelled to carry the whole of the Indian problem ourselves, as well as carry our share of the other common problems of the Union. In other words, Union permitted three Provinces out of four to "contract out" of one of the main burdens of South Africa; though no corresponding relief from problems outside of Natal was conceded the people here. This was an initial inequity that could only be justified on the grounds that very shortly the whole legislative resources of the country would be concentrated on relieving Natal of its intolerable handicap. But in fifteen years practically nothing has been done; and the pessimist may be forgiven who contends now, with a shrug of the shoulders, that nothing ever will be done.

Nevertheless, Mr. Thomas' words are a challenge to South Africa, and a challenge particularly to General Hertzog to initiate an effort that will bring in sight some solution of this question. People recently have talked glibly about raising a loan of fifty million pounds for road-making in South Africa. If we are to be condemned to listen to financial extravagances, let them at least be directed to matters that positively are vital to this land and are not merely contributory to its luxury note. Indians? There are a dozen ways in which Natal could get relief from its intolerable and unjust burdens of to-day; and though these ways might cause pain, money and some surrender of *amour propre*, they are at least worth some collective exploring. As it is to-day we do not know—we have no collective means of knowing—whether the general attitude of the remaining Provinces of the Union towards this question is not represented by a quiet chuckle and a secret resolve to let Natal "stew in its own Asiatic juice." There is no evidence that the other parts of South Africa care a tinker's curse about our Indian problems, so long as it does not spill over their borders. Yet it is obvious that, in this national temper of indifference, nothing can possibly be done. The baby was ours at Union. It is growing large enough now to contend for mastery in the nursery. Yet apparently we have to carry it or else surrender ultimately the room to it. The door is locked, and no one else in the house cares in the slightest degree what is happening—no long as the lock holds.