

# Indian Opinion

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## NOTES AND NEWS

**M**R Sorabjee Rustomjee, Jt. Hon. Secretary of the Natal Indian Congress is leaving on a short trip to India. He sails per the *S.S. Khandalla* which leaves Durban next Monday morning. We heartily join in the farewell reception to be given to Mr. Sorabjee on Sunday at the Parsee Rustomjee Hall. As the Secretary of the Natal Indian Congress he has worked like a trojan and his absence which very fortunately is not going to be longer than about two months will leave a gap in the public life of Natal. We wish Mr. Sorabjee bon voyage.

A representative meeting of the Indian community, under the joint auspices of the Natal Indian Congress and the Kathiawar Arya Mandal, was held at the Paree Rustomjee Hall, Queen Street, last Sunday afternoon, to celebrate the 59th birthday of Mahatma Gandhi. The meeting was presided over by Pandit Bhawani Dayal Sanyasi, who was supported on the platform by Messrs. Sorabjee Rustomjee, Virjee Nathoo, V. Lawrence, Pragjee Desai, P. R. Pather, A. I. Kajee, Manilal Gandhi, E. M. Ally and others.

In his speech, the Chairman extolled the high virtues of Mahatma Gandhi, and in giving instances of his remarkable career, he presented to the audience Mr. Gandhi's pure and simple life. His prayers before the Almighty were that Mahatma Gandhi would be showered with the choicest of blessings, and that he would be endowed with long life.

Messrs. V. Lawrence, Pragjee Desai, Pundit Prabin Singh, A. I. Kajee, P. R. Pather, and B. M. Patel also made speeches suitable to the occasion. The afternoon's proceedings terminated with a few Hindustani songs beautifully sung by Mr. Spider.

We have received the following for publication from the Secretary of the above Society:

The above Society was formed on the 23rd July 1927, under the Patronage of the Rt. Hon. V. S. Srinivasa Sastri, P.C. with the object of protecting the interests and promoting the well-being and the physical and moral welfare of the Indian children. To carry out the above objects we have already hired the premises at 137, Victoria St. and our work is in full swing. To pay for the expenses of carrying on the work subscriptions are kindly solicited from all well-wishers and sympathisers.

The following are a few donations received with thanks by the Society:

	£	s.	d.
Rt. Hon. V. S. Srinivasa Sastri P.C.	10	0	0
N. I. Congress (Monthly Instalments)	15	0	0
Bai Jerbai Rustomjee Trust	25	0	0
A. H. Moosa & Sons Ltd.	3	3	0
Bombay Bazaar	1	1	0

Dr. M. A. Ansari of Delhi has been elected president of the next Indian National Congress which meets this year in Madras. out of 17 Provincial Congress Committees that sent in their recommen-

dations 14 recommended Dr. Ansari and the Reception Committee has accepted the recommendation unanimously. Dr. Ansari on being informed of his election sent the following reply:—

"Prey convey my deep gratitude for the honour conferred by my country-men. I gratefully appreciate my unanimous election by the reception committee, especially in view of the difference of opinion regarding my statement. I assure you of my complete impartiality in conducting the congress deliberations."

## INDIANS IN TRANSKEIAN TERRITORIES

**W**E publish elsewhere in this issue the full text of the judgment of the Supreme Court in the case of Mrs Barmania who was prohibited from residing with her husband in the Transkeian Territories. The judgment is against her and the judgment of the Appellate Division has also gone against her. The Chief Justice in the latter Court said that "in view of the importance of the case the reasons would be given at a later date." The question of Indians in the Transkeian Territories has been a long standing grievance. There are only three Indian families domiciled in those Territories and by Proclamation 264 of 1904 Indians have been debarred even from bringing in their wives and children. To show what a grave injustice and cruelty this is we cannot do better than quote the very words of the learned Judges who notwithstanding their decision being against the Appellant could not help making the following remarks:—

JUDGE-PRESIDENT GRAHAM: "I cannot, however, refrain from expressing my opinion that it is to be regretted that the authorities did not grant a permit to the accused to enable her to reside with her husband and child in the Territories..... Under the very special circumstances disclosed in the evidence I think a permit should have been granted to her and a prosecution should thus have been avoided."

GANE, A. J.: "I confess, however, that it seems to me somewhat inhuman to deny the applicant, the wife of an Indian who since birth has resided peacefully and legally in Griqualand East, the right to join her husband at Umzimkulu with their child.....The parents of the Indian husband apparently acquired a domicile there quite legally, and it seems hard now to compel him to leave the territory or to live in separation....."

In reply to the representations made by the South African Indian Congress delegation on the question of entry of wives and children of Indians domiciled in the Transkeian Territories the Minister of the Interior has replied that the Native Affairs Department has reluctantly come to the conclusion that the privilege cannot be granted; that it has been the policy of successive Governments since 1904 resolutely to oppose the entry of Asiatics into the Territories and that it is felt that a reversal of this policy is most inadvisable. The Minister will, however, be pleased to make special representations to the Department in the case of Barmania.

Whilst the generosity of the Minister of the Interior to make special representations in the present case will be acknowledged with thanks by the community we feel that the privilege asked for by the community is not at all an extravagant one. There are only three Indian families domiciled in the Transkeian Territories and what is asked for is the admission of the wives and minor children of those few Indians already resident there. It is quite a legitimate demand and to refuse it seems to us a cruel injustice.

In view of the fact that the Union Government have accepted under the Capetown Agreement the principle that Indians should be allowed to lead a happy family life in accordance with the Reciprocity Resolution of the Imperial Conference of 1918 and in view of the fact that the laws of the Union have been likewise amended it would be only an expression of the goodwill of the Government to remove this restriction from its Native Territories.

## Another Rebuff To A T'vaal Licensing Board

License Cannot be Refused on the Ground of Colour or Race

In a considered judgment, delivered in the Supreme Court, Pretoria, recently, in the case of Dungshe Morarjee and Co. vs. the Zoutpansberg Rural Licensing Board, the Judge-President said the application was one to review the proceedings of the Board in refusing to grant a certificate to the applicant, under section 6 of Ordinance 12 of 1926, on the ground of gross irregularity. The company was the lessee of the trading rights in respect of portion of the farm Beuster, situated in an area comprising three native locations. To the application for a certificate opposition was entered by certain general dealers carrying on business in the vicinity, on the ground that the premises sought to be licensed were less than five or seven miles from other trading stores. The Board, in refusing the certificate, held that, where such objections were raised, and it was shown the new businesses would be prejudicial to numbers of existing businesses of the class, it could take cognisance of the fact; the establishment of a general dealers' business by applicant in that locality would actually be prejudicial to the public interest.

His lordship came to the conclusion that the fact of the objectors owning similar businesses within a specified distance of the proposed business of the applicant was not a ground for objection, or for the refusal of a certificate, which could be taken into consideration by the Board. The Board, in exercising its discretion on an application for a certificate, was limited to the ground enumerated in Section 6—that the proposed premises were not suitable, that the locality was an undesirable one, or that the applicant was not, for personal reasons, a fit and proper person to carry on the proposed business.

The Board might conceivably refuse the certificate because it bona fide believed that under the section it could do so to person because of his colour or race or class. It would be startling if the Court had no power to review the Board's decision in such circumstances, merely because the Board had exercised its discretion in a bona fide manner.

Following the decision in other cases of a similar nature, the reason advanced being the only ground on which the certificate was refused, an order would be made directing the Board under the circumstances to issue a certificate to the applicant.

The Board was not the custodian of commercial morality, nor was it any concern of the Board whether the grant of a trading certificate might operate disadvantageously to existing competitors in the same trade. If the Board refused a certificate on grounds other than those mentioned in the Ordinance the Court would interfere.—Reuter.

## Tenancy at the Indian Market Stallholders' Emphatic Protest

A crowded protest meeting of the Indian Market Stall-holders and Squatters' Association, which was presided over by Mr. S. K. Pather (chairman of the Association), assisted by Mr. A. A. Peters (secretary), was held recently in the Tamil Institute, in order to record the emphatic protest of the squatters and stall-holders in reference to the Town Council's new conditions of tenancy in respect of stalls and stands at the Indian Market, which were unanimously approved by the Town Council at its meeting held on Sept. 3.

After describing the new conditions "as harsh, oppressive, and unjust," the Chairman said that immediate representations would be made to the

Town Council, when it is hoped to present the Association's objections.

Mr. Pather also referred to the Council's high-handed action in adopting the new conditions without even giving the Association due notice of its decision. This, he concluded, was most arbitrary and unjust. It was also decided to send a deputation to the Council. Messrs. A. A. Peters, Maharajh, Sheikjee and Ally also spoke in support of the chairman's remarks. Subsequently the following resolution was passed:—

"That this meeting of the Indian Market Stallholders and Squatters' Association, assembled in the Tamil Institute, deeply regrets the Town Council's high-handed and arbitrary action in adopting a comprehensive code of regulations governing the administration of the Municipal Indian Market in Victoria Street."

"This meeting places on record its emphatic protest against the aforesaid regulations, as it is felt that the policy of investing the Marketmaster with unlimited discretionary powers will ultimately result in the gradual elimination of every Indian stallholder and squatter in the new regulations are calculated to impose new and severe hardships on the stallholders."

Dealing with the question of traffic control in the vicinity of the Indian Market, the Chairman said that he was pleased that the Town Council had decided to place a barrier at each end of Victoria Street between the hours of 4.30 and 9.30 a.m., as originally suggested by the Indian Market Stallholders and Squatters' Association.

## Original Correspondence

The Editor, INDIAN OPINION.

### Ignore The Diehards !

Sir,—I have read with interest your leading article on "Let us work with peace and Amity" in your issue of Sept. 23. You have struck the right note in asking the community to leave aside all their internal bickerings and be vigilant and to set about earnestly with the work that lies immediately before us, viz., the working of the Agreement with peace and amity. Let me assure you that in that you have the majority of the community with you. It is a thousand pities that there are some in our community who claim to be the intelligentsia have sunk to the level of gutter journalism and who posing as well-wishers are out to do the utmost harm to the community. Such people, however, should be given little importance. They have abused the Agent of the Government of India, they have abused the Congress, they have not a word of praise for those who are at present doing public service and they have even abused Mahatma Gandhi, once our revered leader and now a world teacher. But they have not come out with what they actually want. They are not satisfied with what they have, they are not satisfied with what they are being given and yet they are not able to say what they would like. That is how naughty children act. They are indulging in destructive criticism and that is all. But what does their past record show? Did they ever do any constructive work? Are they not those that Mahatma Gandhi even failed to put right. How much did they help to bring about the 1914 Settlement? It was a communal cause. Thousands of their brethren bore the Cross. Did they help their suffering brethren like patriots? No. On the contrary, they tried to help our enemies in frustrating our efforts like traitors. What did they do to abolish the £3 tax? Did they suffer with their poor brethren? No. They were assisting the authorities in getting the strikers to go back to their work and not be led by Mahatma Gandhi. This is the patriotic (?)

work that is to their credit! They were abusing then and they are abusing now. Abusing is their motto. But, Sir, let our motto be "work." In those days we had the community on the side of the workers. And let me assure you that we have the community today too on the side of the workers and not of the destroyers. It is advisable, therefore, to ignore the diehards in our community, and get on with our work, and the present work is to work unitedly under the Congress banner to fulfil our part of the Agreement and to see that the Government fulfil their's.—I am etc.,

OPTIMIST.

## The Story of My Experiments With Truth

[ BY M. K. GANDHI ]

Part III.

Chapter XI.

### SANITARY REFORM AND FAMINE RELIEF

I have always found it impossible to reconcile myself to any one member of the body politic remaining out of use. I have been always loathe to hide or connive at the weak side of the community or to press for its rights without having purged it of its blemishes. I had, therefore, set about, ever since my settlement in Natal, clearing the community of a charge that had been levelled against it not without a certain amount of truth. The charge had been often made that the Indian did not keep his house and surroundings clean and was slovenly in his habits. The principle men of the community had therefore already begun putting their houses in order, but house to house inspection was undertaken only when plague was reported to be imminent in Durban. This was done in consultation and with the approval of the city fathers who had desired our co-operation. Our co-operation made work easier for them and lessened our hardships. For whenever there is an outbreak of epidemics, the executive, as a general rule, get impatient, take excessive measures and behave to such as may have incurred their displeasure with a heavy hand. The community saved itself from this oppression by voluntarily taking sanitary measures.

But I had some better experiences too. I saw that I could not so easily count on the help of the community in getting it to do its own duty, as I could in claiming rights for it. At some places I met with insults, at some with polite indifference. It was too much for them to bestir themselves to keep their surroundings clean. It was out of the question to expect them to find money for the work. That without infinite patience it was impossible to get the people to do any work was the lesson these experiences taught me better than ever before. It is the reformer who is anxious for the reform, and not society from which he should expect nothing better than opposition, adhorrence and even mortal persecution. Why may not society regard as retrogression what the reformer holds dear as life itself.

Nevertheless the result of this agitation was that the Indian community came to recognise more or less the necessity for keeping their houses and environments clean. I gained the esteem of the authorities. They saw that if I had made it my business to ventilate grievances and press for rights, I was no less keen and insistent upon self purification.

There was one thing, however, which still remained to be done, namely, awakening in the Indian settler a sense of duty to the Motherland. India was poor, the Indian settler went to South Africa in search of wealth and he was bound to contribute part of his earnings for the benefit of his countrymen in the hour of their adversity. The year 1897

was a year of famine followed by the still severer famine of 1899. South African Indians contributed gladly for famine relief, very much more in 1899 than they did in 1897. We had appealed to Englishmen also for funds and they had responded well. Even the indentured Indians gave their share in the contribution, and the system inaugurated at the time of these famines has since been continued, and we know that Indians in South Africa have never failed in sending handsome contributions to India in times of national calamity.

Thus service of the Indians in South Africa revealed to me ever new implications of truth at every stage. Truth is like a vast tree which yields more and more fruit the more you nurture it. The deeper the search in the mine of Truth, the richer the discovery of the gems buried underneath in the shape of openings for a greater variety of service.

## Indians In Transkeian Territories Wife Can't Accompany Husband

### JUDGMENT OF THE CAPE SUPREME COURT

The facts about Mr. Barmania are that he is an Indian of South African birth, domiciled and residing at Umzimkulu, East Griqualand. His father, Dawood Amod Barmania, is a general dealer, who has been carrying on business as such at Umzimkulu since April 1894. Mr. Barmania was born on the 2nd April 1895. In the year 1901, his father took him to India for education, and there he graduated Master of Arts, from the Calcutta University. In June 1910, whilst in India, he married one Ayesha Valid by Mohammedan Law, and in March 1917 the only living female child was born of the marriage. At the time of the said marriage, Mr. Barmania was domiciled in South Africa. In July 1921, he returned to Umzimkulu, leaving his wife and child in India. He entered into partnership with his father in his said business. He is a registered voter and he is the registered owner of landed property at Umzimkulu. On the 12th August 1924 he instructed his Attorneys to communicate with the Chief Magistrate at Umtata for a Permit for his wife and child, he received a reply dated the 27th August wherein his application that his wife and child be allowed to enter the Transkeian Territories, was refused by the Chief Magistrate. In company with his Attorneys he then waited on the Secretary for Native Affairs in Cape Town but without any avail. Then a futile correspondence was carried on with the Prime Minister in his capacity as the Minister for Native Affairs. Finally his wife was convicted which led to an appeal, as a test case: the judgment of which speaks for itself.

### Full Text of the Judgment

GRAHAM J. P.

The accused in this case was charged before the Magistrate of Umzimkulu with the contravention of Proclamation 264 of 1904 in that she, being an Indian, did wrongfully and unlawfully enter the District of Umzimkulu, Transkeian Territories, without a special permit signed by a Resident Magistrate or by his order and approved by the Chief Magistrate of the Transkeian Territories. She pleaded not guilty but was convicted and sentenced "to pay a fine of (5s.) five shillings or in default to undergo 4 days' imprisonment and ordered to leave the Transkeian Territories forthwith." The Magistrate in the trial Court found the following facts to be proved: (1) That the accused is an Indian woman; (2) That she is married to an Indian residing and born in the Transkeian Territories; (3) That she entered the Transkeian Territories without a special permit signed by a Magistrate and approved by the Chief Magistrate, Umtata; (4) That she entered the Union of South Africa under lawful

authority. It appears that the accused was born at Port Louis, Mauritius, on the 12th August 1897 and was married in 1910. The accused landed in Durban on the 8th September 1926 having her passport vised at that date by the Immigration Officer, Natal. She appears to have been accompanied by a female child aged 9 years. On the 29th November 1926, Sergeant W. Hatt of the S.A.P., called upon her at Umzimkulu, and ascertained she had no permit to enter the Territories, and a persecution followed. The husband of the accused admits his wife had no permit and states that he had been advised that the Proclamation stating that permit was required was *ultra vires*, and that in consequence he permitted her to join him at Umzimkulu.

The appeal against the decision of the Magistrate is brought on the following grounds:— (1) The Proclamation 264 of 1904 is *ultra vires*; or (2) Alternatively, if *intra vires*, the Proclamation is no longer in force, it having been superseded by Proclamation 79 of 1907, which applied the provisions of the Cape Immigration Act of 1906 to the Territories; and further that the Proclamation of 1904 had been repealed by Act 22 of 1913 and Act 22 of 1914; and (3) The conviction is otherwise contrary to law as Act 28 of 1914 provides for the entry into the Union of the wife and child of a domiciled person.

In the case of *Rex vs. Goga* (1926) E.D.L. 326 the facts showed that the accused and her husband were natural born British subjects of South Africa. The accused was convicted by the Magistrate on a charge of contravening the provisions of the Proclamation, and subsequently appealed to this Court. The Appeal was dismissed.

By Section 1 of Act 38 of 1877 (Transkeian Annexation Act) the law applied to the Territories shall be the law in force in the Cape Colony except as the application of the same may be modified by Proclamation. Section 2 provides that from and after the annexation of the Territories the laws which may be in force therein by virtue of Section 1 until it shall be otherwise provided by Act of Parliament, may be repealed, altered, amended and modified, and any new laws applicable to the said Territories respectively may be made and may be repealed, altered, amended and modified by the Governor with the advice of the Executive Council by Proclamation published in the *Government Gazette*, and no Act shall be extended or be deemed to extend to the said Territories, or any of them, unless such Act shall be extended thereto by express words either contained therein or in some other Act of Parliament, or unless the operation thereof shall be extended to any or either such Territories by the Governor with the advice of the Executive Council by such Proclamation, and in such case any Proclamation may be amended or repealed from time to time by the like Proclamation, and no Proclamation published in the *Government Gazette* after any Proclamation or Proclamations as in the last preceding section mentioned shall be deemed to extend and apply to the said Territories or any of them unless the same shall be declared by express words contained in such or some other Proclamation as aforesaid to apply thereto. The Section further provided that all laws made under and by virtue of this Act shall be laid before both houses of Parliament within 14 days of the beginning of the Session of Parliament next after the Proclamation, and shall be effectual unless and in so far as the same shall be repealed, altered or varied by Act of Parliament.

Act 29 of 1897 provided that notwithstanding anything to the contrary contained in Act 38 of 1877 or the Tembuland Annexation Act 1895, or the Pondoland Annexation Act 1894 or any other law the second section of the said Acts shall be read and construed as if the Governor were thereby authorised by Proclamation, to appeal, amend, and modify the laws, statutes and ordinances now in force within

the Transkeian Territories, Tembuland and Pondoland, or which may hereafter be put in force, and to make new laws applicable to the said Territories and to repeal, alter, amend and modify the same.

Act 30 of 1906 which has been repealed by Act 22 of 1913 refers chiefly to prohibited Immigrants. But section 26 and 27 seem wide enough to cover others than prohibited immigrants; and the use of the words "any other law" in subsection (a) of section 27 must refer to any other law controlling the admission of immigrants to any Province in the Union, and if so, does "any province" not include portion of any province? But so far as the Act 22 of 1913 is concerned, the accused does not appear to have been affected by any of its provisions. Since she was the wife of a person domiciled in any province, as described in sub-section (f) of Section 5 of Act 22 of 1913 she could properly be admitted into the Union. But the right of the applicant to admission to the Transkeian Territories is another question and depends upon other considerations. "I do not think that there is anything in Act 22, 1913 to indicate that the Legislature ever intended to repeal any of the Proclamations issued by the Governor restricting entrance of Asiatics to the Territories. If the Proclamation was valid at the date of the promulgation, then validity is not in any way affected by the Immigration Act of 1913.

It was strongly argued that the particular Proclamation under which the accused was convicted, No. 264 of 1904, is *ultra vires*, because these terms of the proclamation, being repugnant to the laws of England, should in terms of section 82 and 84 of the Constitution Ordinance have received His Majesty's assent.

Now the provisions of Section 2 of the Colonial Laws Validity Act (Acts 28 and 29 Victoria Cap 63) appears to me to limit the test as to whether a Colonial Law is repugnant to the laws of England to the question whether the law is repugnant to the provisions of any Imperial Act of Parliament or any order or regulation made under such Imperial Act extending to the Colony. The Act recognises the power of the legislatures of the Colonies to which it applies to make laws for the peace, order and good government of the Colony; but if such law is repugnant to the provisions of an Imperial Statute which has been extended to the Colony, or any order or regulation made under authority of such Act, to the extent of such repugnancy and to that extent only shall the law be deemed to be void. In the case under consideration it has not been shown that the terms of the Proclamation No. 264 of 1904 are inconsistent with the terms of any Imperial Statute which was extended to the Colony of the Cape of Good Hope, and this being so, the Proclamation cannot be deemed to have been void or inoperative on the grounds of repugnancy to the laws of England.

This view of the effect of the Colonial Validity Act is supported by the cases of Phillips vs. Eyre (L R 6 Q B Ca 1) and Queen vs. Marais (1902, L R A C 51).

To restrict the movement of a British subject from county to county in England, and from entering into Scotland from England and *vice versa* might in England well be deemed a high handed and extreme measure. But to restrict the movements in the Colony of the Cape of Good Hope of Asiatics into those portions of the Colony which are mainly occupied by Natives, might be and very probably is a measure largely in the interests of both the Natives and the Asiatics; and if similar conditions existed in Great Britain and similar restrictions were in-acted, I find it hard to conceive that a law passed with the object of safe-guarding the interests of both races, would be repugnant to the laws of England. If, for example, a large influx of British Asiatics was threatened into any of the industrial centres of England, and it be desired that legislation

to control such a movement would be demanded and enacted?

It is further contended that the Proclamation 264 of 1904 is *ultra vires* of the Acts empowering the Governor to legislate by Proclamation in as much as the Proclamation purports to be of a racial or class nature, and the empowering statute gives the Governor no such power. The appellant relies on the case of Rex vs. Hildick Smith 1924. (T P D 69). It is equally clear that had the discrimination been contained in a municipal bye-law or statutory regulation, without statutory authority thereto, it would have been invalid as *ultra vires* of the enabling statute. But as already pointed out, Acts 31 of 1877 and 29 of 1897 are in the widest possible terms. The powers of the Governor, acting with the advice of the executive council, to make laws applicable to the Transkeian Territories is not limited in any way.

There is nothing in our Constitution to prevent Parliament enacting class or racial legislation, should it so desire. If, as I think it did, Parliament intended to give Council the widest powers of legislation thus exercised, it is impossible for me to say that they have been wrongly exercised. In the case of Rex vs. Nejawuse 1913, A.D. page 312, Lord De Villiers, C.J., in dealing with effects and meaning of Act 38 of 1887 stated; "Under that Act the Governor of the Cape Colony had certain powers of legislation in regard to the Native Territories. Those powers were subject to the control of the Cape Parliament, but until Parliament exercised its control, Proclamations made by the Governor under the Act had the force of law."

I cannot, however, refrain from expressing my opinion that it is to be regretted that the authorities did not grant a permit to the accused to enable her to reside with her husband and child in the Territories. It may be necessary in the interest of both the Native and Asiatic races that the influx of Asiatics into the Territories should be very strictly limited and controlled, but even if the accused acted unwisely in entering the Territories without first applying for a permit, under the very special circumstances disclosed in the evidence I think a permit should have been granted to her and a prosecution should thus have been avoided.

PITTMAN, J. : I agree that the appeal must fail and the conviction and sentence be sustained.

GANE, A. J. : I agree that this appeal should be dismissed. It does not appear to me that Proclamation 264 of 1904 and the Cape or Union Immigration legislation can fairly be considered to be in *pari materia* at all.

I do not think it ever was that a subject of the Crown can as such subject demand the right to enter any part of His Majesty's dominions, it is no longer true at the present day, when most of the self-governing Dominions have their own restrictive immigration legislations. And the lesser proposition that an admitted immigrant has, in virtue of being admitted, the right of penetration to every portion of the country to which he is admitted, is no more acceptable. The validity of such restrictions, even of a class or racial nature will depend not upon his admission as an immigrant, nor on his imagined right in virtue of such admission, but upon the law of the particular country to which he had been admitted.

In the case of Griqualand East no resident could originally leave the country without a Magistrate's pass; see Section 51, of Proclamation 112 of 1879. No Native can enter that Territory without a pass signed by a Magistrate or competent Officer, see Proclamation 109 of 1894, "Native" was subsequently made to include not only all aboriginal Natives of South or Central Africa, but also Arab, Indian or other Asiatic; see Proclamation 92 of 1903. The stringency of this legislation was only slightly increased by Proclamation 264 of 1904.

As to the argument that the Proclamation has been impliedly repealed by the Immigration Act, His Lordship said, ".....As to the safe-guarding by Section 7 of the Act of certain disabilities attaching to Asiatics in the Orange Free State, it appears to me that the insertion of the section was merely due to superabundant caution. The disqualifications are purely internal to the Free State, and do not touch the question of right of entry. Chapter 33 of the Wetboek is not repealed in the Schedule to the Act and even without Section 7 being inserted I cannot see the effect of these provisions would have been destroyed by the Act. It did not impliedly destroy the effect of a similar law in the Transvaal which continued to operate thereafter, see for an illustration of such operation, Dadoo Ltd., and others vs. Krugersdorp Municipal Council (1920) A.D. 530.

I refuse to believe that the effect of the Act 22 of 1913 is that once an immigrant has obtained admission to the Union, he has an unlimited right to range through the Native Territories at will.....and I am glad to say that I find nothing in the enactments we have been referred to which obliges me to accept it as a necessary consequence of admission to the Union.

I confess, however, that it seems to me somewhat inhuman to deny the appellant, the wife of an Indian who since birth has resided peacefully and legally in Griqualand East, the right to join her husband at Umzimkulu with their child. The authorities probably consider that to give their permission would be to allow an Indian community to develop in the course of time at Umzimkulu. But the parent or parents of the Indian husband apparently acquired a domicile there quite legally, and it seems hard now to compel him to leave the Territories or to live in separation from his wife so long as he remains there, whilst I have not full knowledge of all the circumstances, I am prepared to join in the recommendations, so far as this isolated instance is concerned, that, when applied for, the permit required should be granted.

**પંચાંગ**

નવાં વરસનાં હીંદુ પંચાંગ આવી ગયાં છે. કીમત રૂ. ૧. બહાર ગામથી મંગાવનારાઓએ પોસ્ટેજની પેની ૩ વધુ મોકલવી. ડરબનમાં કેપીટન બાલકની ટી રૂમ અને મકનજી એન્ડ સન્સ, ૩ સ્ટ્રીટમાં મળી શકશે.

મેનેજર "ઇન્ડિયન ઓપિનિયન"

લો. તિલકના પુત્રો અને ટ્રસ્ટીઓ—પુનામાં લો. બાલ મંગાધર તિલકના બે પુત્રો અને "કસરી" અને "મરાઠા" પત્રોના ટ્રસ્ટીઓ વચ્ચે લોકમાન્યના વીલમાં કમલાની કાંધક ખામીઓને લીધે તકરાર થતાં લોકમાન્યના પુત્રોએ કોર્ટનું કારણ લીધું છે. તેમનું કહેવું એવું છે કે તેઓ જે વખતે કોલેજમાં ભણતા હતા તે વખતે ટ્રસ્ટીઓએ લોકમાન્યની ખાનગી મીલકતમાંથી અને ટ્રસ્ટીની મીલકતમાંથી ભગભગ ત્રણ લાખ રૂપિયાને ગોઠાવે કર્યો હતો અને તેમણે મુખ્ય કાઉન્સિલમાં એક ટ્રસ્ટી ઉપર ૪૪ હજારનો દાવો પણ કર્યો છે.

અંગ્રેજીની તુડ મીગલ—મુખ્યના 'હોલ્ડ' પત્રના માજી અધિપતી અને માલિક તેમજ 'મુખ્ય સમાચાર' ના એક રીપોર્ટ મી. નવરોજ પંચડી જે ગુજરાત સંકલનવારણ માટે સ્વયંસેવક તરીકે મુખ્યમાં ફડ ઉપરાવતા હતા તેમણે રસ્તામાં એક યુરોપીયન પાસે ફડમાં ભરવાની માંજણી કરતાં તે યુરોપીયને ફડમાં કંઈપણ રકમ ન ભરતાં બોલ્યો હતો કે હોલ્ડીઓ અને હોલ્ડી દોલખમાં જાઓ આ સામે મી. પંચડીએ વિરોધ ઉઠાવતાં તે યુરોપીયને મી. પંચડીના કાજ ઉપર રટકો મારી ચાલતી પકડી હતી.

ગવરનરની છપ્પી સામે વિરોધ—અંગ્રાજાની ધારાસભાના હોલમાં ધારાસભાના સભ્યો સાથે મસલત ચલાવ્યા સિવાય ના. લોર્ડ લીટનનો ફોટો મુકવા બાબત મી. સેન ગુલાએ પ્રમુખને પત્ર લખી વિરોધ ઉઠાવ્યો છે.

**નુતન વર્ષ પુષ્પાંજલી**

દર સાલ કરતા આવેલા છીએ તેમ આ સાલ પણ હીંદુઓના નવા વર્ષની અલિનદન પત્રીકાઓ સુદર આટ પેપર ઉપર સચિત્ર અને રંગ બેરંગી શાહીઓથી છપાઇ તક્યાર થઇ રહી છે. હીંદુસ્તાન મોકલવા ઇચ્છનારાઓ સવેળા મોકલી શકે તેથી તે વહેલી તક્યાર કરવામાં આવી છે. પોસ્ટેજ સાથે ડબનની રૂ. ૨, રાખવામાં આવી છે. મંગાવનારાઓએ ઓર્ડર તાકીદ મોકલવા અને પોસ્ટલ ઓર્ડર સાથે મોકલવા મહેરબાની કરવી.

Manager INDIAN OPINION  
Phoenix, Natal.

**KAPITAN'S BALCONY HOTEL**



બહાર ગામના મહાદેવે ઓરડર સાથે પકડા મોકલવા મહેરબાની કરવી.  
Phone 3623 Central. મેનેજર: Manager, R. K. KAPITAN

**ડરબનમાં મનાઈ ચુક્યું છે કે પ્રખ્યાત કેપીટનના શિયાળાના પૌષ્ટિક પાકો**

એટલે કે સ્વાદહાર ધાતુ પૌષ્ટિક અને સસ્તા. તમે પણ એક વખત ખરીદી ખાત્રા કરો.

ભાવો	તદન	સસ્તા
પંજબી શાલમપાક. ૫/- રતલ.	બહામપાક. ૫/-	ગુંકરપાક. ૩/૬. કુવારપાક. ૩/૬.
મેથીપાક. ૩/૬.	અડકપાક. ૩/-	

બીજી જાતના પાકો મનપ્રસન્ન બનાવી આપવામાં આવે છે. વધારે બાજુ માટે હેન્ડબીલ લુઓ.

Corner, Grey & Victoria Street Durban