

Indian Opinion

No. 20—Vol. XXVI.

Friday, May 25th, 1928.

Registered at the G.P.O. as a Newspaper,
PRICE FOURPENCE.

IMPORTANT SUPREME COURT JUDGMENT

CLAUSE 5 OF ACT 37 HAS NO RETROSPECTIVE EFFECT

DAYA PARSHOTAM vs. IMMIGRANTS APPEAL BOARD

FOLLOWING is the full text of the judgment delivered by Mr. Justice Krause in the above case in the Transvaal Provincial Division of the Supreme Court on April 27:—

This matter comes before us as a stated case in terms of section 3 (a) of Act 22 of 1913. The appellant is an Indian and arrived at Delagoa Bay on the 30th January, 1915, and then made a statement regarding his relatives claiming that his father was Purshotam Jivan, and Purshotam Jivan also made a statement on the 11th February, 1915, in which he claimed to be the father of the appellant. It now appears, according to the facts found and stated by the Board, that the appellant is not the son of Purshotam Jivan, and furthermore the appellant admits that Jivan is not his father but that his father's name is Odhav Morar and that his real name is Govind Odhav. Appellant has been served with a notice of prohibition as a prohibited immigrant on the 20th September, 1927, and then he appealed to the Board.

Various contentions of the appellant are set out in the stated case and the question which was originally reserved for our consideration was whether or not Act 37 of 1927 is retrospective. Counsel admitted that the form in which the question was put to the Board was far too wide and thereupon by consent, it was amended to read: "The question of law reserved is whether or not section 5 of Act 37 of 1927 is retrospective," and that, therefore, is the only question which we have to answer.

I may add before I deal with the law that it would appear from the stated case that the appellant, when he made the statement that this man Jivan was his father, knew perfectly well that his statement was false and that Jivan was not his father. That I infer from the facts as disclosed.

Now section 5 of Act 37 of 1927 amends section 10 of the principal Act, which is Act 22 of 1913, by adding a second sub-section. Section 10 of the principal Act provides that a prohibited immigrant is not exempted from the operation of the Act by reason of certain facts which are therein set out. The new sub-section, that is, section (2) provides that any such prohibited immigrant shall be dealt with in terms of section 19. The word "such" of course, is significant and clearly, according to my views, refers to what has been said in the previous sub-section. Section 19 is the section which provides what are the duties of persons arriving at any port and who are about to enter the Union. They must make the necessary application, and so on, and supply all information and satisfy the officer that they are not prohibited immigrants.

The new sub-section (2) proceeds further:—"If he is in possession of a registration certificate or a certificate of domicile, or any other document authorising him to enter, reside or remain in the Union or any Province, it shall be competent for any board to which he may appeal, if it is proved to the board that such certificate or other document was obtained by fraudulent representations made by

him or on his behalf, to order that such a certificate or other document be cancelled and that he be dealt with in terms of this Act; provided that if he does not appeal to a board, the Principal Immigration Officer concerned shall, subject to the approval of the Minister, cancel such a certificate or other document." In analysing this section one observes that very great powers are vested in the board and, what is more significant, very great powers are given to the Principal Immigration Officer. Both can now cancel, in certain circumstances, even a registration certificate or a certificate of domicile, or any other document authorising a person to enter or to remain or reside in the Union.

The appellant obtained a certificate of registration and he contended that he does not fall under the provisions of section 10 of the Act or the amendment thereof.

A certificate of registration of course, is a very important and valuable document because it is provided in section 10 of Act 2 of 1907 that such certificate is conclusive evidence of what is stated therein.

The effect of such certificates has been considered in the case of Registrar of Asiatics v. Salajee (1925 T.P.D. 71). The Act also gives a definition of the words "lawful holder." In that case it was laid down that where a person obtains such a certificate by means of fraud knowingly he cannot rely upon his own fraud and consequently an application may be made to the Court for the purpose of cancelling such certificates. But it also held that where a person although he is in possession of a certificate obtained by misrepresentation or fraud, is innocent of any fraud, then in that case his certificate could not be cancelled because he was not in *pari delicto* with the person who had committed the fraud in obtaining the certificate. This is consequently a very valuable right which is vested in an individual who has innocently come into possession of a registration certificate which has in fact been obtained by means of fraud.

The new sub-section deals with that position and now provides that the immigration officer as well as an appeal board has the power to cancel such a certificate if obtained by fraudulent representation made by the holder or on his behalf. Therefore a very important common law right is taken away from such an individual.

Now the Courts have repeatedly dealt with the effect of amending legislation and considered in how far such amending legislation has retrospective effect, and this is how Maxwell in his Interpretation of Statutes (6th edition) summarises the principles gathered from the various decided cases. He says, "Upon the presumption that the Legislature does not intend what is unjust rests the leaning against giving certain statutes a retrospective operation." And then he goes on to say, "They are construed as operating only in cases or on facts which come into existence after the statutes were passed unless a retrospective effect can be clearly intended. It is a fundamental rule of English law that no statute

shall be construed so as to have a retrospective operation unless such a construction appears very clearly in the terms of the Act, or arises by necessary and distinct implication; and the same rule involves another and subordinate rule to the effect that a statute is not to be construed so as to have a greater retrospective operation than its language renders necessary. And then at page 383 he says, "It is chiefly where the enactment would prejudicially affect vested rights, or the legality of past transactions, or impair contracts, that the rule in question prevails."

It was contended that the new sub-section deals practically only with procedure and consequently that where a new procedure is provided, then in that case the Act has a retrospective effect, and we were referred to Maxwell (page 401) where he sets out the law to this effect: "The general principle, indeed, seems to be that alterations in the procedure are always retrospective, unless there is some good reason against it." That seems to be the general rule, and on page 400 Maxwell says, "Although to make a law for punishment that which, at the time when it was done, was not punishable, is contrary to sound principle; a law which merely alters the procedure may, with perfect propriety, be made applicable to past as well as future transactions; and no secondary meaning is to be sought for an enactment of that kind. No person has a vested right in any course of procedure."

Applying these principles to the section, it appears to us that this is not merely a matter of procedure. The jurisdiction of the Superior Courts is curtailed if not to some extent ousted, and a public official and the Board are given power to cancel and deprive Indians of important rights granted to them by the law. This clearly is not a question of mere procedure.

Furthermore the sub section deprives persons who might innocently have obtained their certificates of the benefit of those certificates solely by reason of the fact that eventually it was discovered that some fraud of which they were entirely innocent was connected with the granting thereof. Now these are very extensive powers; it involves an alteration of our common law—and consequently to hold that a section with such far reaching effects and such great powers could ever have a retrospective effect would be, in our view, contrary to the principles which I have already indicated and read from Maxwell. In these circumstances we have come to the conclusion that section 5 of Act 37 of 1927 has no retrospective effect, and therefore the question must be answered in favour of the appellant with costs.

Mr. Justice Gey Van Pittius, gave a concurring judgment.

It is understood that the respondents will appeal to Bloemfontein.

The following has been communicated to us:—

A special general meeting of the Springs Indian Community was held on May 6 at 3.30. P. M when the following Officials were elected:—Mr. A. M. Sahib (Chairman), Mr. B. Gangaden (Vice Chairman), Mr. M. Mativadia (Secretary), Mr. M. F. Pandor (Treasurer).

All Communications should be addressed direct to Box 110 Springs, Transvaal.

The House of Lords passed the third reading of the Administration of Justice Bill. The measure empowers the appointment of two Indians to the Privy Council. It also contains machinery to enforce in British courts judgments enforced in dominion courts in respect of revenue debts where reciprocal arrangements have been made with overseas government.

CONDONATION

HERE seems to be an almost universal misconception among the Indian community in the Transvaal that the recent judgment of the Transvaal Provincial Division of the Supreme Court in *Daya Purshottam v. Immigration Appeal Board* has rendered condonation of illegal entrants superfluous and unnecessary. And there is a growing tendency to disregard and resist the condonation scheme. Closer regard for the facts of the situation ought to remove the misconception. The Supreme Court judgment said only this, that Section 5 of Act 37 of 1927 had no retrospective effect. That is to say that the Principal Immigration Officer or the Immigration Appeal Board cannot cancel a certificate which is proved to have been obtained by an Indian by fraudulent representations made by him or on his behalf previous to the passing of the Act. It does not say that a judicial court cannot cancel such certificates under Sections 10 and 19 of the original Act 22 of 1913, if the Court is satisfied of the circumstances. This judgment leaves the situation as it was before Section 5 of the new Act was passed, at the stage in which the case of the Registrar of Asiatics v. Salajee left it in 1925.

There seems to be some misconception even with regard to the implications of the Salajee case. The appellate judgment in that case did not say that a certificate once given cannot under any circumstances be cancelled. The concluding sentence of Justice Stratford's judgment runs as follows:—"In the absence of any provision in the Act to that effect, in my opinion a certificate once granted in proper form cannot be annulled unless the holder is proved to have been guilty of fraud in its procurement." Here a distinction is made between a person who was himself a party to the fraudulent representations and a person who was innocent but on whose behalf such representations were made. The Court gave no protection to people proved guilty of participation in the fraud themselves. That view is quoted with approval in the *Daya Purshottam* case. In that case it was laid down that "where a person obtains such a certificate by means of fraud knowingly he cannot rely upon his own fraud and consequently an application may be made to the Court for the purpose of cancelling such certificates." But it also held that "where a person although he is in possession of a certificate obtained by misrepresentation or fraud, is innocent of any fraud, then in that case his certificate could not be cancelled because he was not in *pari delicto* with the person who had committed the fraud in obtaining the certificate." It is thus clear that even after the Salajee case, it was open to the Government to prove before a Court of law that a person was himself guilty of fraud in procuring his certificate and successfully invite the Court to cancel the certificate. As a matter of fact the Government did institute a case against G. Pema in 1926. But in view of the approach of the Round Table Conference, it was withdrawn.

In spite, therefore, of the Salajee and *Daya Purshottam* cases, all those illegal entrants who could be proved before a Court of law to have been parties to

the fraudulent representations by which they procured their certificates, are liable to have their certificates cancelled and themselves deported, however long they may have been in the country. These can be protected only by securing condonation from the Government.

It is now known that the Government intend to appeal to Bloemfontein in the Daya Parshottam case. Having regard to the policy of the Government, which is to give power to the Principal Immigration Officer and the Appeal Board to cancel certificates fraudulently obtained either by the party himself or on his behalf, it is fairly certain that, if the appeal fails, the Minister will secure power by express legislation. In which case, the certificates of not only the guilty but also the innocent will be liable to cancellation by the Immigration Officer or by the Appeal Board. Which means fraudulent entrants must all seek security in condonation and protection certificates. It must be remembered that the Supreme Court judgment makes the Minister's policy ineffectual, but does not change it.

The Minister can make it effectual, by legislation in the last resort. It is inevitable. For otherwise, those who seek condonation would be placed at a disadvantage compared with those who do not. The condoned people are precluded from introducing into this country their wives and minor children if they are not already here; but those who do not seek condonation would be free to do so. That would be penalising the honest man who submits to the Minister's policy and seeks protection while putting a premium on those who are here illegally, but will not seek condonation and will try to defeat the policy of the Government. That would be intolerable. Either the Minister should give up his policy of putting restrictions regarding wives and minor children of the condoned or he must take power reversing the decision of the Supreme Court. There seems to be no hope of the former; the latter in consequence becomes inevitable.

From the forgoing it should be clear to everybody that even in the Transvaal a condonation scheme is absolutely necessary,

- (1) *immediately* for those against whom it can be proved in a court of law that they were themselves parties to fraud;
- (2) *prospectively*, but inevitably for all those who are here illegally, whether they are themselves guilty or innocent of the fraud.

We would therefore earnestly beg our community not to be misled into a false sense of security over the Daya Parshottam judgment and reject the condonation scheme. It would be suicidal. A rejection of the condonation proffered by the Government will only stiffen the Government against us and egg it on to a more ruthless enforcement of Sec. 5. It would be the path of wisdom to accept gracefully the scheme and at a later stage attempt to persuade the Minister to change his policy with regards the admission of the wives and minor children of the condoned.

Let it also be remembered that the scheme is a voluntary one and not every illegal entrant is compelled to seek condonation. It is for each illegal

entrant to decide whether he will seek condonation and surrender the right to bring in his wife and minor children if they are not already here, or stand out and attempt to introduce his wife and minor children and take the risk of being discovered and deported with his family and all. But it is unwise for those who do not wish to seek condonation to stand in the way of those who wish to do so. We would, therefore, urge the South African Indian Congress and the special committee appointed at Kimberley to proceed with the condonation scheme as expeditiously as possible.

While thus exhorting our people, we would address an appeal to the Government as well. We would beg them to pay some regard to the human aspect of the situation. Whatever be the juridical, moral and political justification of Sec. 5, it cannot be denied that it violates certain fundamental principles cherished by all civilized people. For one thing, it ousts, at any rate, curtails the jurisdiction of the judicial courts of the land and vests enormous powers in an executive officer and the Immigration Appeal Board, which certainly does not command the same confidence of the Indians as the Courts do. It is the extension of the jurisdiction of the courts that one expects and desires, not its curtailment. Secondly, the section puts the innocent on the same basis as the guilty. It speaks of "fraudulent representations made by him or on his behalf." Now it is impossible to reconcile any civilized people to these underlying principles of Sec. 5. The Condonation scheme is no adequate compensation for them. It involves the open confession of fraud and consequent humiliation, of any Indians who have built up a status in society. Secondly, it involves the voluntary surrender of the right to introduce wives and minor children, if they are not already here. To reconcile the Indians concerned to these conditions is difficult enough. The task is rendered more difficult by the judgment of the Supreme Court in Daya Parshottam's case. It has strengthened the reluctance of the Indian community to accept the condonation scheme and supported their fundamental objections to the retrograde principles of Sec. 5. On the top of it all, the judgment makes it unnecessary for illegal entrants to take condonation until the present position is altered by the appeal to Bloemfontein or fresh legislation. Under these circumstances it is well nigh impossible for the leaders of the Indian community to successfully persuade the bulk of the illegal entrants to come up for condonation within the time now offered, namely, the 1st of October next. We, therefore, suggest that some good time must be allowed after the appeal or fresh legislation.

We would also appeal to the Government to give due consideration to the weighty observations of the judges in the Daya Parshottam case, in which they animadverted against the ousting or curtailing of the jurisdiction of the courts and bracketing the innocent with the guilty in Sec. 5. We would plead that the full jurisdiction of the Courts be restored and the innocents protected.

Social Paralysis And Foreign Rule

Presence Of Third Party A Hindrance

Mr. C. F. Andrews' Views

Mr. C. F. Andrews writes in a recent number of *Foreign Affairs* :—

It is extremely difficult for people in England to understand that British rule in India constantly stands in the way of progressive social reform, acting as an obstruction. Yet so often has this happened of late, in practical experience, that most thoughtful Indians have bitterly come to the conclusion that without Swaraj being obtained, further social advance is almost hopeless. Even those who are most favourable to British rule are inclined to take this view, when questioned about the future relations of the two countries.

The tragedy of foreign government, even when benevolent and efficient, is this, that it remains foreign. It cannot be assimilated. It continues merely as something external. So it tends to come to grief, when it deals with internal affairs.

No doubt it is historically true, that when things are in disruption and internal dissolution is going deeper and deeper, an autocratic foreign rule may for time bring a semblance of peace and order and law. But such rule tends quickly to become burdensome, not because it desires to be so but because it cannot follow rapidly enough those infinitely subtle personal changes, which always proceed from within in any healthy organism. For foreign rule stands outside them and therefore cannot instinctively and spontaneously adapt itself to their needs.

Thus, while the rule of the foreigner may at times give the shock needed to startle into new activity a decaying social order, it cannot keep the inner life perpetually responsive. To take a convenient analogy, the injection of strychnine may stimulate the sinking patient; but an overdose of the same strychnine would be fatal. Perhaps it was for this very reason, that John Stuart Mill characterised foreign rule as no rule at all, but only a kind of anarchy masquerading under the guise of government. It lacks the primary requisite of growth, namely, organic assimilation.

Inevitable Misunderstandings

Since this aspect of foreign rule is not immediately apparent to those who view it from a distance, it may help readers in England if I give two illustrations to elucidate this lack of adaptability involving inevitable misunderstandings. The examples I take are extremely slight in themselves, but their consequences have been important.

The former of these happened twenty years ago. Lord Morley spoilt one of his finest speeches by calling Indians 'natives.' I can vividly remember, even today, the scene, when the leading professor in our college at Delhi read out, in the common room, Lord Morley's words, giving a faint stress to the word 'natives' wherever it occurred. There was a perceptible rearmament on the part of all those who were present. The conciliatory object of Lord Morley in making that speech was altogether lost, though the college staff was not unkindly disposed. It is quite relevant to note that this breach in modern etiquette in speech goes on quite unchecked in both Houses of Parliament. Lord Birkenhead commits the same offence today. No one takes the trouble to correct the offenders. Indians themselves say bitterly: 'What can we expect? We are a subject people, and we must drink the cup of our humiliation to the dregs.'

The second example is much more recent. It refers to Lord Birkenhead himself. Nothing was further from his mind than to hurt the feelings of educated Indians at the very time when he wished to pacify them. Yet, reading his conciliatory speech, I could see at once that it bristled with provocations. He declared with unctious that he would never, never have omitted a representative of the depressed classes, if Indians have been appointed to the Statutory Commission—blindly oblivious to the fact that when South African Dominion status was granted, nothing whatever was done to represent the interests of the African natives, who are exactly parallel to the depressed classes in India. Indians are not slow in instituting comparisons, when hypocritical professions are made of a superior righteousness. Earl Winterton's speeches were equally provocative; but since he habitually indulges in haughty, offensive arrogance, nothing better was expected of him. The net result of such speeches was to make the boycott of the Statutory Commission by all thoughtful patriots more certain than ever.

This lack of intimate contact between the two countries paralyses; high statesmanship can hardly exist in such a medium. The foreign rulers, realising that they are disliked, try to rule cautiously. They lose that courage which is necessary for great enterprise of reform. The one outstanding act in India, where such reform was accomplished, was the abolition of Sati, or widow burning, owing to Lord Bentinek's co-operation with Raja Ram Mohan Roy. But this was due to the happy coincidence of two remarkable personalities. It was rather the exception that proves the rule.

(To be Continued)

Gandhi—His Work And Ideals

A Lecture in London

'Gandhi, his work and ideals' was the subject of an address given by Miss Lister, at Kingsley Hall, London, recently to members of the Hull Women's Luncheon Club, says the *Hull Evening News*. Miss Lister has made a study of conditions in India and was a personal friend of Mahatma Gandhi.

In describing Mr. Gandhi's moral and social ideals, Miss Lister said that he urged that to solve the problems of the poor it was necessary to approach those problems with the minds of the poor. His activities were guided by a number of vows which were also observed by his followers. There was a vow of non-theft, which meant that it was wrong to the point of thieving to have more than was enough for one's own needs while others had not enough for their needs.

More important than this, Gandhi had set himself and his followers to break down the custom which made millions out of Indian's 320 millions people untouchable; people whose mere shadow was contaminating.

Many Brahmans, members of the highest caste, had joined with Gandhi in his work of abolishing 'untouchability.'

His second vow was that of purity which in its operation, aimed at abolishing the horrors of child marriages and promoting the co-education of the sexes. Other vows were those of strict truth and non-violence.

In answer to questions, Miss Lister said that Gandhi had stated that he was not a Christian; he was a Hindu. Analysed, his reply meant that he had been impressed with the truths of Christianity by the Plymouth Brethren with whom he came into contact and they had informed him that it was necessary to have a definite spiritual experience of Christ to be

a Christian. He had not had that experience, but nevertheless he followed the Christian ethical beliefs. He had been most impressed by reading the New Testament and the works of Tolstoy. She had heard him preach on the text 'Blessed are the peacemakers.'

Harmful Book

Asked if Gandhi was antagonistic to British rule, Miss Lister said that the question was somewhat equivocal. He definitely believed that India should have home rule and independence, and he endeavoured to differentiate between the character of the British people and the system of the British rule. He went so far as to tell his followers that they should copy some of the British characteristics.

With regard to the book *Mother India* Miss Lister said that the work was undoubtedly a very clever work, but its publication had been calamitous. In her work of endeavouring to make people interested in the conditions in India and to give help she had been often met with the remark from people she approached that after reading *Mother India* they would not lift a finger to help because they regarded the Indian races as degenerate.

Miss Lister remarked that if anyone were to write a book purporting to describe London and befit only the night club life and effects of venereal disease in the East End of London, it certainly would not give to anyone who had not visited London a proper impression of the city. *Mother India* described all the faults of India without mentioning the good.

The Story of My Experiments With Truth

[BY M. K. GANDHI]

Part IV. Chapter XIII.

"INDIAN OPINION"

Before I proceed with the other intimate European contacts, I must note two or three items of importance. One of the contacts, however, should be mentioned at once. The appointment of Miss Dick was not enough for my purpose. I needed more assistance. I have in the earlier chapters referred to Mr. Ritch. I knew him well. He was manager in a mercantile firm. He approved my suggestion of leaving the firm and getting articulated under me, and he considerably lightened my burden.

About this time Sjt. Madanjit approached me with a proposal to start INDIAN OPINION and sought my advice. He had been already conducting a press, and I approved of his proposal. So the journal was launched in 1904, and Sjt. Mansukhlal Nazar became the first editor. But I had to bear the brunt of the whole work, as indeed for most of the time I had to be practically in charge of the journal. Not that Sjt. Mansukhlal could not carry it on. He had been doing quite an amount of journalism whilst in India, but he would never venture to write on intricate South African problems so long as I was there. He had the greatest confidence in my discernment, and so threw on me responsibility of attending to the editorial columns. The journal has been until this day a weekly. In the beginning it used to be issued in Gujarati, Hindi, Tamil and English. I saw, however, that the Tamil and Hindi sections were a make believe. They did not serve the purpose for which they were intended, and I even felt that there was a certain amount of deception involved in continuing them. So I felt at ease only when I discontinued them.

I had no notion that I should have to invest any money in this journal, but I discovered in no time that it could not go on without my financial help. The Indians and the Europeans both knew that though I was not nominally the editor of INDIAN OPINION, I was virtually responsible for its conduct. No harm would have happened if the journal had never been started, but to stop it after starting it would have been both a loss and a disgrace. So I kept on pouring my money, until ultimately I was practically sinking all my savings into it. I remember a time when I had to remit £75 each month.

NOT A COMMERCIAL CONCERN

But after all these years I feel that the journal has served the community well. It was never intended to be a commercial concern. So long as it was under my control, the changes in the journal were indicative of changes in my life. INDIAN OPINION, like YOUNG INDIA and NAVAJIVAN to-day, was a mirror of part of my life. Week after week I poured out my soul in its columns, and expounded the principles and practice of Satyagraha as I understood it. During ten years, that is until 1914, excepting the intervals of my enforced rest in prison, there was hardly a single issue of INDIAN OPINION without an article from me. I cannot recall a word in these articles set down without thought or deliberation, or a word of conscious exaggeration, or anything merely to please. Indeed the journal had become for me a training in self-restraint, and for friends a medium through which to keep in touch with my thoughts. The critic found very little therein to object to. In fact I know that the tone of INDIAN OPINION compelled the critic to put a curb on his own pen. Satyagraha would probably have been impossible without INDIAN OPINION. The readers looked forward to it for a trust-worthy account of the Satyagraha campaign as also of the real condition of Indians in South Africa. For me it became a means for the study of human nature in all its casts and shades. As I always aimed at establishing an intimate and clean bond between the editor and the readers I was inundated with letters containing the outpourings of my correspondents' hearts. They were friendly, critical or bitter, according to the temper of the writer. It was a fine education for me to study and digest and to answer all this correspondence. It was as though the community thought audibly through this correspondence with me. It made me understand thoroughly the responsibility of a journalist, and the hold I secured through it over the community made the future campaign workable, dignified and irresistible.

In the very first month of INDIAN OPINION, I had realised that the sole aim of journalism should be service. The newspaper press is a great power, but as unchained torrents of water submerge whole countrysides and devastate crops, even so an uncontrolled pen serves but to destroy. If the control is from without, it proves more poisonous than want of control. It can be profitable only when exercised from within. If this line of reasoning is correct, how few of the journals in this world would stand the test? But who would stop those that are useless? And who is to be the judge? The useful and the useless must, like good and evil, go on together, and man must make his choice of them.

"Unlike Great Britain, the arch-rover who flaunted her military power before King Amanullah, the Soviet will show her culture. King Amanullah has left the land of tyrants who are endeavouring to make Soviet Russia a British colony, and has come to the land of the free." Thus was the King of Afghanistan welcomed during his recent visit to Russia by the Soviet Press.

INDIAN TRADE DELEGATION

હોદ્દી વેપારી પ્રતિનિધિમંડળ

Dr. Meek is Director-General of Commercial Intelligence and Statistics in India, where he has resided for the past 17 years. During the past ten years he has been associated with the development of industries in Bengal and was awarded the Order of the British Empire for valuable services in this connection. He holds the degrees of M.A. and B.Sc.

Mr. Jeevandas Dutia is a partner in the well-known firm of Mooljee Jeitha & Co., cotton and cotton piece goods dealers in Bombay. He is also connected with the ginning and pressing industry. He is commercial adviser to the Commission. Mr. Dutia is related to Mr. Laljee Naranjee, who was at one time sheriff of Bombay and who gave a garden party in honour of the South African Parliamentary delegation that visited India.

Mr. T. Maloney is secretary of the Bombay Millowners' Association, a position he has held for five years. Previously he was engaged by the Government of India to investigate conditions in the textile mills, and before going to India he was identified with the cotton industry in Lancashire.

The members of the above delegation are at present touring throughout the Union in a special coach supplied by the Union Government. They will complete their tour about the middle of June when they will proceed from Durban direct to India.

ડૉ. મીક એ હોદ્દી સરકારના વેપારી સ્થિતિના ડીરેક્ટર જનરલ છે. એ સાહેબે હોદ્દીસ્તાનમાં ૧૭ વર્ષ આજેલા છે. છેલ્લા ૧૦ વર્ષે દરમીયાન તે બંગાળના ઉલ્લેખની ખીલવણી કરવામાં જોડાયા હતા અને એ કામમાં બનવેલી ઉમ્મદા સેવાઓના બદલામાં "ઓર્ડર ઓફ ધી બ્રીટીશ એમ્પાયર"નો ખેતાબ પામ્યા છે. તે એમ. એ. અને બી. એસ. સી. ની ડીગ્રીઓ ધરાવે છે.

મી. જીવનદાસ પુરૂષોત્તમ હતીયા એ મુંબઈની જાણીતી વેદી મુજબ નેહાની કા. ના બાગીદાર છે અને જનના ઉલ્લેખ



Standing :—Messrs. A. T. Brennon, economist to the Union Government, who is travelling with the delegation, A. N. Bose, Secretary to the delegation. Seated :—Mr. T. Maloney, Dr. D. B. Meek, O.B.E., Mr. Jivandas P. Dutia.

ઉલ્લેખ: મેસર્સ એ. ટી. બ્રેનન, (યુનીયન સરકારના પ્રતિનિધિ), એ. એન. બોસ, (પ્રતિનિધિ મંડળના સેક્રેટરી). બેઠેલા: મી. ટી. મેલોની, ડૉ. ડી. બી. મીક, એ. બી. ઈ., મી. જીવનદાસ પુરૂષોત્તમ હતીયા.

માં પણ જોડાયેલા છે. એક વખત મુંબઈ શહેરના શેરીફ અને બહિંથી યુનિયન પાર્લામેન્ટનું પ્રતિનિધિ મંડળ હોદ્દી મધ્ય હુદુ તેમને મુંબઈમાં માર્ડન પાર્ટી આપનાર જાણીતા શેફ બાલજી નારણજીના તે બચીલ છે.

મી. ટી. મેલોની એ મુંબઈના ખીલખાભેટાની એસોસિએશનના સેક્રેટરી છે કે જે હોદ્દાપર પોતે પાંચ વર્ષથી છે. પહેલાં પોતે કાપડની મીલોની સ્થિતિ તપાસવાને હોદ્દી સરકાર તરફથી રોકાયા હતા અને હોદ્દીસ્તાન આવ્યા પહેલાં બેંગ્લાદેશના કાપડના ઉલ્લેખ સાથે જોડાયેલા હતા.

મી. એ. ડી. બ્રેનન એ યુનીયનની બોર્ડ ઓફ ટ્રેડના સભ્ય અને યુનીયન સરકારના ઇકોનોમીસ્ટ છે. તેમને યુનીયન સરકારે આ પ્રતિનિધિ મંડળની સાથે કરવા અને જોડાવી સગવડો પુરી પાડવાને નીમવામાં આવ્યા છે.

પ્રતિનિધિ મંડળનું કામ (૧) હોંદુસ્તાનનું સુતર અને હોંદુસ્તાનનું સુતરાઉ કાપડ હાલિજી આફ્રિકામાં અપાવવાની સંકલ્પનાઓ તપાસવાનું (૨) પોતે ફરી ચુકેલા દેશોમાં હોંદી સરકારના ડેડ કમીશનરો નીમવાના વાળખીપણા વિશે સરકારને રીપોર્ટ કરવાનું અને (૩) યુનીયન અને હોંદ વચ્ચે અરસ પરસ વેપાર ખોલવાની બાબતમાં સામાન્ય તપાસ કરવાનું છે.

પ્રતિનિધિ મંડળ પરથીયા, ઇંગ્લેન્ડ, સીરીયા, પેલેસ્ટાઇન, હજીજ, પોર્ટ સુદાન, એડન, કેનીયા અને ઇસ્ટ કોસ્ટના મુખ્ય બંદરોની મુલાકાત લઈ ચુક્યું છે અને હવે આખા યુનીયનની મુલાકાતી ફરી રહ્યું છે જેને માટે યુનીયન સરકારે પ્રતિનિધિ મંડળને રેલવેના ટિકિટ આપવાનો આદેશ આપેલો છે. જુનની મધ્યવયમાં તેઓ પોતાનું કામ પુરું કરી ડરબનથી સીધા હોંદુસ્તાન જવા ઉપરશે.

How Indian Licences Are Refused

Maritzburg Town Council's Action

Four Indians appeared before the Maritzburg City Council recently to appeal against decisions of the licensing officer, but in only one case was his decision reversed.

Laloo Lakha had been refused a licence to carry on his trade of a cobbler at 44 Church Street, in which premises he had been for the last six years.

Mr. von Gerrard, who appeared for Lakha, submitted a petition signed by 100 European residents in the vicinity requesting that licence be granted, but the Council upheld the licensing officer's decision to refuse the licence.

Chhitta Pema also a cobbler, appealed against the licensing officer's decision in respect of the premises at 257, Pietermaritz Street. In the vicinity of the premises there are a native beer house and several Indian stores, the owners of the properties being the Corporation.

Mr. Acutt, who appeared for Pema, submitted a petition signed by 237 people. The Medical Officer of Health had certified the premises to be fit for the use to which they would be put.

The decision of the licensing officer was reversed.

A. C. Kahn, represented by Mr. Ian Fraser, appealed in respect of the premises at 296, Longmarket Street, for which he had been refused a licence as a refreshment room. It was generally felt that there was need of an Indian refreshment room in the vicinity of the market and the Courts for the use of Mohammedans. The refreshment room at the market was run by a Hindu, and the food was not prepared after the fashion of the Mohammedans. A petition was signed by more than 500 Indians and 100 Europeans in favour of the granting of the licence.

The licensing officer's decision was upheld by eight votes to three.

A. V. Moodley, represented by Mr. von Gerrard, appealed in respect of the premises at 83 Church Street, but the licensing officer's decision not to grant a licence was again upheld by seven votes to four.

WANTED

A Librarian and Assistant Librarian.
Apply for further particulars to:—

The Secretary,

M. K. Gandhi Library and Parsee Rustomjee Hall Committee,

140 Queen Street, Durban.

ઓ. આર. પટેલ

ફ્રેશ એન્ડ વેલ્થેબલ કાર્મર.

ફ્રેશ ભાતની સાકલાઈ, લીંબુ, ચેરડી (આવા લાલ), અને ફેબ્રુઆરી અભાસ બજારમાં પાકે છે.

બહારગમના ઝોડરો પર પુરતું ધ્યાન આપવામાં આવશે.

બધો:

Telephone 1.

P. O. Box 1,

Warmbaths, T'vaal.

વેચવાના પુસ્તકો

	શી.	રૂ.
બનીસ પુતળીનીવાર્તા	૧૦	૬
ચંદ્રકાન્ત ભાગ ૧	૨૨	૬
" " ૨	૧૩	૬
" " ૩	૨૨	૬
સાચી આંકની ચોપડી	૦	૩
બાળ વર્ગની નોટ		૬
મધુકાન્ત	૧૦	૬
મેઘદુત	૭	૦
બળવાનો ઇતિહાસ ભાગ ૧	૧૧	૬
" " " ૨	૧૧	૬
પ્રાટલી પુત્રની પડતી	૧	૬
કલાપીનો કેકારવ	૧૦	૦
ધરવેદ	૧૫	૦
લોકમાન્યની વધિ	૨	૦
(આ પુસ્તકમાં અનેક વખતના લોકમાન્ય તીલકના ચિત્રો છે, તેમજ અંગ્રેજી, મુબરાતી અને ટામ્બીલ ત્રણ ભાષામાં લોકમાન્યની જીવન કથા આલેખી છે)		
કમ્પીરવાણી	૭	૬
(મહાત્મા કમ્પીરજીનાં ચુંટી કાઢેલાં ૬૦૬ કોલરોનો ૨૫ બજનો તથા તેમના ખાસ ૩૦ બંત્રો અર્થ સાથે, તથા કમ્પીરજીનું જીવન વર્તાવ.)		
સોરાષ્ટ્રની રસધાર ભા—૧	૩	૬
" " " ૨	૩	૬
" " " ૩	૩	૬
" " " ૪	૪	૬
લોહીનો વેપાર	૮	૧૧
વનિતાની વાતો	૬	૬
મહીલાની મહાકથાઓ	૮	૦
સ્વર્ગમાં સેશન્સ	૭	૬
અધકાર પર પ્રકાશ	૭	૩
આદર્શ અરિત્રાવલિ	૪	૦
વિશ્વ લીલા	૫	૩

ઈન્ડિઅન ઓપિનિઅન.

પુસ્તક રફ મું.

ફ્રીનીક્સ, શુક્રવાર, તારીખ ૨૫ મે ૧૯૨૮

અંક ૨૦

નોંધ અને સમાચાર

ઈંદુ મુબારક.

આવતા શુક્રવાર તા. ૩૦ મેનો દિવસ ઇસ્લામી લાઈએનો મહરી ઇફતો પવિત્ર તહેવારનો દિવસ છે. એ દિવસે આખી ઇસ્લામી આલમ નવનવાં કપડાં પહેરી ખુદાની બંદગી કરી કુટુંબ કમીલાની અને સ્ટેડીઓની મુલાકાત લેશે, અરસ પરસ બધી દુવાઓ ઇસ્લામી અને ખુશાલીમાં દિવસ પસાર કરશે. એ તેઓની ખુશાલીમાં અને બધી દુવાઓ ઇસ્લામીમાં અને તેઓને ઇંદુ મુબારક ઇસ્લામીમાં હમેશ મુબારક અને પશુ સામેલ થઈએ છીએ. એ શુભ દિવસના જેવુંજ તેઓનું આખું વર્ષ સુખ અને આબાદી અને તંદુરસ્તીમાં વ્યતીત થાય એવી ખુદા પાસે અમે દુવા માંગીએ છીએ.

ઈંદુ સમાજ ક્યારે સુધરશે?

મુબઈનો માધવબાગમાં અખીલ ભારતવર્ષીય ભારવાડી અગ્રવાલ મહાસભાનું ૬૩મ અધિવેશન ભરવામાં આવ્યું હતું તેમાં પસાર થયેલા ઠરાવોમાંનો એક નીચે પ્રમાણે હતો:—

“ડેડ, બંગી, અને અલગે સાથે આનપાન કરનારા અથવા તેમના હાથે અનાવેલું ભોજન ખાનારા બાઈઓ, કુર્મવિરુદ્ધ આચરણ કરે છે. તેથી આવાં સહભોજનનો પંચાયત નિષેધ કરે છે કે અહુતે સાથે ભોજન કરવું અથવા તે તેમના હાથનું અનાવેલું ભોજન ખાવું એ મહાપાપ છે. તેથી એવી રીતે સહભોજન કરનારાઓને આ પંચાયત ગાતિબહાર કરે છે.”

ઉપરો ઠરાવ મીસ મેયોના આલેપોનું વાલખીપણું પુરવાર કરે છે. એ ઠરાવ તદ્દન નામોષી બનેલો છે. ડેડ, બંગી અને અલગે દરેક શહેરના પાંચખાના, રસ્તાઓ વગેરે સાફ કરી ચોખ્ખા રાખે છે. અને એ રીતે દેશની અનુપમ સેવા કરે છે. એટલે પંચાયતે તેઓની સાથે સલાહ સંપથી વર્તવું જોઈએ અને ઉપર સૂચના ઠરાવો પસાર કરી તેઓને અહુતો મણવા ન જોઈએ. તેઓ આજે જો એ કામ કરવું છોડી દે તો ઉપરો ઠરાવ કરનારાઓ શું કરે? શું પાંચખાના, રસ્તા વગેરે તેઓ સાફ કરશે? તે તેઓ પશુ ડેડ, બંગી કહેવાશે અને તેઓને માટે પશુ ઉપર મુબઈના ઠરાવો પસાર થશે. અને જો એ કામ તેઓ નહિ કરે તો પરિણામ નફવાસ થશે અને સમાજ પંચાયતને તેના “હાથપણ” માટે આજિવાંદ દેશે. આવા ઠરાવો પસાર કરવાને જમાનો હવે બદલાયો છે. એ દરકત નીચેના ઝાકુવાળાઓનું પમથું સિદ્ધ કરે છે.

મદ્રાસના કેટલાક ઝાકુ વાળાઓએ હડતાળ પાડી હતી. આ ખબર મળુર નેતાઓને પશુ નહોતી. ફારપોરેશન કમીશનરના કહેવાથી ડો. વરદાણુબુ નાયડુ હડતાળીઓને મળ્યા હતા. એટલે તેઓએ ઠામ શરૂ કરવાને નિર્ણય કર્યો છે. કલકત્તાના ઝાકુવાળાઓએ પશુ હડતાળ પાડી તોફાન મચાવ્યું છે. કે જ્યાં પુસ્તકો અપાયા છે.

“ઈન્ડિઅન ઓપિનીઅન”

શુક્રવાર, તા. ૨૫ મે ૧૯૨૮

ટ્રાંસવાલના દોઢી બાઈઓમાં સર્વત્ર એવી ખોટી માન્યતા વર્તી રહેલી જેવામાં આવે છે કે ઇમીગ્રેશન માફીપત્ર અપીલ ખોડા વિરુદ્ધ કાલા પરપોતમના કેસમાં ટ્રાંસવાલની સુપ્રીમ કોર્ટે આપેલા કદા પછી યુનીયનમાં ખોટી રીતે દાખલ થયેલાઓએ માફીપત્ર મેળવવાનો સવાલ અર્થ વગરનો અને ખીનજરૂરી થમ ગયો છે, અને તેથી તેની તમ્મ ખેપરવાઈ અતાવવાની બદકે એ મેળનાની સામે થવાની પણ વલણ વધતી જતી જેવામાં આવે છે. ખરી હકીકત જલ્લવાથી એ ખોટી માન્યતા દુર થવી જોઈએ. સુપ્રીમ કોર્ટના ચુકાદાએ માત્ર એટલુંજ કહ્યું છે કે ૧૯૨૭ ના ૩૭ માં કાયદાની કલમ ૫ ની રીટાસ્પેક્ટીવ અસર થઈ શકતી નથી. એટલે કે, એ કાયદો પમાર થયા પહેલાં જો હોદીએ જાતે જુડી હકીકતો જણાવી અથવા પોતાની વતી ખીલ તરફથી જુડી હકીકતો જણાવવાથી સર્ટીફિકેટ મેળવેલું હોવાનું પુરવાર થાય તેનું સર્ટીફિકેટ ખીનપલ ઇમીગ્રેશન ઓફીસર કે ઇમીગ્રેશન અપીલ ઓફીસર રફ કરી નહિ શકાય. પરંતુ તેણે એવું નથી કહ્યું કે જો સંજોગોને નિશી કોર્ટને સંતોષ થાય તો ૧૯૨૩ ના ૨૨ મા કાયદાની કલમો ૧૦ અને ૧૯ ની રૂએ એવું સર્ટીફિકેટ કોર્ટથી રફ નહિ કરી શકાય. આ ચુકાદાએ વ્યાપત નવા કાયદાની કલમ ૫ પસાર થયા પહેલા ૧૯૨૫ માં સાલેજ વિરુદ્ધ રજીસ્ટ્રાર ઓફ એશીયા-ટીક્સના કેસમાં અપાએલા ચુકાદાથી જે સ્થિતિ થઈ હતી તે સ્થિતિએ આણી મકેલી છે.

સાહેબના કેસના પરિણામને વિશે પશુ કેટલીક ગેરસમજુતી ઓ વરતી રહેલી જણાય છે. એ કેસમાં અપીલેટ ડીવીઝને એ કેસમાં એવું નહોતું કહ્યું કે એક સર્ટીફિકેટ એક વખત અપાઈ ગયા પછી તેને કોઈ પશુ સંજોગોમાં રફ નહિ કરી શકાય. જસ્ટીસ સ્ટેટફોર્ડના ચુકાદાનું છેલ્લું વાક્ય આ પ્રમણે હતું: “કાયદામાં એવાં કંઈ પશુ વિધાનની ગેરલાજરીમાં મારા મત પ્રમાણે સર્ટીફિકેટ યોગ્ય રીતીથી એક વખત અપાયા બાદ તેને જ્યાં સુધી તે ધરાવનાર અપ્સ જાતે તે મેળવવામાં ખેતરખોડી માર્ટે ચુ-હેગાર હોવાનું પુરવાર ન થાય ત્યાં સુધી રફ કરી નહિ શકાય” અહીં એક માણમે પોતે જાતે જુડી રજુઆતો કરેલી હોય તેની અને જે માણસ જાને નિર્દોષ હોય પરંતુ તેની વતી જુડી રજુઆતો થયેલી હોય તેની વચ્ચે તફાવત પાડવામાં આવેલો છે. જેમણે જાને જુડી રજુઆતો કરેલી હોય તેને કોર્ટે રક્ષણ આપેલું નથી. એજ અનર્થ સાહેબ પરપોતમના કેસમાં અપીલ કરવામાં આવેલું છે.