

GOVERNMENT OF INDIA.
DEPARTMENT OF EDUCATION, HEALTH AND LANDS.

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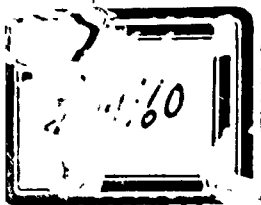
Correspondence between the Government of India
and the Government of the Union of
South Africa regarding the position
of Indians in South Africa.



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DELHI
GOVERNMENT OF INDIA PRESS
1926

(1)

TELEGRAM TO THE GOVERNOR GENERAL OF THE UNION OF SOUTH AFRICA,
No. 14-C., DATED THE 8TH APRIL 1925.

We have the honour to address you regarding position of Indian community in South Africa. During last four years it has frequently formed subject of representations on our part both in its general aspect and with reference to particular measures such as Durban and Natal Land Alienation Ordinances, Natal Rural Dealer's Licensing Ordinance, Class Areas Bill, and more recently Natal Boroughs and Township Ordinance. Last enactment though provincial in scope has given rise to feelings of profound apprehension in this country and, so far as we are aware, among Indian community throughout Union as to latter's future. Provisions of Mines and Works Act Amending Bill, which we understand has now been referred to a select committee of Union Assembly, and private bill introduced by Mr. Collins, which was designed to restrict still further Indian trading rights in Transvaal but which we learn has now been withdrawn, have, in conjunction with avowed determination of a strong party in South Africa to curtail Indian civil and economic privileges as much as possible, deepened sentiments of uncertainty and alarm.

2. We think it will serve no useful purpose to attempt to analyse causes and consequence of present situation. We recognise that Your Excellency's Government are bound to take account of public opinion in South Africa and that at least in two provinces an important section of electorate is not friendly to Indians. We are also anxious not to aggravate a delicate situation by indulging in generalisations about aims and motives. The problems of South Africa, we believe, are probably racial only on surface. They rest on differences in history, outlook and civilisation of constituent elements of its population which penetrate deeper than colour of their skins. To solve these problems can be no easy task. All that we wish to urge is that a satisfactory and permanent solution can be possible only if leaders of races concerned will exercise to their utmost qualities of mutual understanding and forbearance. We are confident that such a solution is as anxiously desired by Your Excellency's Ministers no matter from what political party they may be drawn, as it is by Government and people of India.

3. Our interest in Indian question in South Africa requires no justification. In their minute No. 984, dated 15th December 1922, Ministers of Your Excellency's predecessor observed that they fully realised "the interest taken by Government of India in this question and their sense of responsibility for welfare of Indian population in those provinces where the law does not accord to it privilege of franchise." We take liberty to assume that this is also view of Your Excellency's present Ministers. For our part we are less anxious to lay stress on our responsibility than on our earnest desire to assist in finding a satisfactory and abiding solution of Indian problem. In aiming at this objective we are inspired by a larger ideal than mere protection of interests of Indians in South Africa. That ideal is maintenance of relations of cordiality and good will between India and South Africa. We trust that proposal which we now make will be received and considered in same spirit.

4. In our opinion an essential preliminary to formulation of a comprehensive Indian policy in South Africa which will be acceptable to more reasonable sections of all parties concerned is a conference in which representatives of Your Excellency's Government and of Government of India should participate. Unless opportunity is provided for a full, frank and personal discussion between accredited spokesmen of these two Governments requisite conditions for a ready understanding of divergent points of view and for prompt adjustment thereof in a spirit of compromise will not be established. Correspondence can never be an adequate substitute for personal discussion especially when both distance and psychological difficulties tend to delay a settlement. During his visit to South Africa last September Mr. Thomas, then His Majesty's Principal Secretary of State for Colonies, made an informal suggestion more or less to this effect in a speech which he delivered at Pietermaritzburg. It was also pressed upon us

by a remarkably representative deputation consisting of members of Indian Legislature and prominent European businessmen and members of the Indian commercial community who waited upon His Excellency the Viceroy last January to draw attention to seriousness and urgency of this problem. We had hoped that Your Excellency's Government would take official cognisance of Mr. Thomas' suggestion. As they have not done so we now venture to take initiative and put it forward ourselves for their favourable consideration. We are not committed to any particular form or venue for this conference. We should prefer that it should be held in South Africa which is scene of action and where views of parties directly affected can most quickly be ascertained; but if for any reason Your Excellency's Government do not favour idea we shall be glad to invite your representatives to India or depute our delegates to any other convenient centre such as Geneva for purposes of discussion. Thus, during forthcoming session of Assembly of League of Nations representatives of two Governments could confidentially exchange views on this important question.

5. We do not propose at this stage to indicate in any detailed scope of these discussions. In our opinion economic and educational issues are of immediate practical importance and if Union Government consider that such a course would help in the acceptance of principle our suggestion we should be willing to consider desirability of excluding question of political equality from purview of proposed conversations. Educated opinion in India looks upon realisation of this ideal as a matter of vital national concern and our readiness not to raise this question for the present is an earnest of sincerity of our desire to arrive at a common basis of discussion. If none of these suggestions commend themselves to Your Excellency's Minister, we shall be glad to explore any other avenue that holds out prospects of a settlement which will ensure progress and contentment of Indian community in South Africa on a permanent footing and in a manner consistent with their national self-respect. We would repeat what we have already said that our main anxiety is to seek a settlement. We are not committed to any particular method.

6. There is one aspect of question on which we would like to dwell before we conclude. We understand that in replying to a deputation from the Natal Indian Congress which waited on your Government at Pretoria on 9th December in connection with Natal Boroughs Ordinance the Prime Minister stated that the constitution reserved the right to legislate on certain local matters to the provinces that Natal was acting entirely within its rights in the matter of this Ordinance, which had the support of the people and that 'it was hardly within the province of the Union Government to interfere with those rights unless it were prepared to substitute some other machinery to meet the wishes of the people. It would be presumptuous for us to question view of so high an authority on a point of domestic constitutional convention and we hope that our observations on subject will not be misunderstood. All that we wish to urge is that any piece of legislation that adversely affects existing Indian rights, even if its operation is to be strictly confined to boundaries of one province, has wider repercussions. It disturbs domiciled Indian community throughout Union; it agitates opinion all over India; it affects relations of two countries as a whole. We venture, therefore, to submit that such measures should be adjusted not in light of strict constitutional principles but in broader light of imperial and international considerations.

(2)

TELEGRAM FROM THE GOVERNOR GENERAL, SOUTH AFRICA, DATED THE
16TH JUNE 1925.

Your telegram dated 8th April. My Ministers have asked me to convey to you their observations on proposed conference to discuss *position of* Indians in South Africa in following terms. In response to communication from Government of India Ministers wish to express their sincere appreciation of every friendly spirit which pervades that document and of sympathetic understanding of their peculiar difficulty and evident desire *on part* Government of India *not in* any way to complicate a delicate situation.

In connection with reference in paragraph 3 of communication Ministers gladly endorse sentiment that it is only natural for Government of India to take an interest in welfare of Indians and generally in Indian questions in South Africa especially in view of possible effect of position in South Africa on disposition of people of India. They cannot therefore regard any representation and suggestion which Government of India may make otherwise than in a friendly light and as actuated by a sincere desire to promote welfare and contentment of Indians generally as well as good relations between their respective countries. Ministers further gladly recognise that although ultimate responsibility and decision in regard to South African problem rests with South Africa alone a friendly exchange of views between Government of India and South Africa on particular aspect of Indian question may lead to a better understanding of each other's standpoint and assist materially in its solution.

Such a conference as suggested in 4th paragraph of *communication between* representatives of Government of India and *South Africa* respectively has had most serious consideration of Ministers who feel however that difficulties surrounding this line of action are such that they find themselves unable to agree to it however much they would like to meet wishes of Government of India. Practically all parties in South Africa agree on broad principles that by strict prohibition of Indian immigration and by means of active repatriation that Indian population in South Africa shall be reduced as nearly as possible to irreducible minimum. For years this has actually been recognised and unchallenged policy of successive Governments whatever measure of success may have been which has attended their efforts. Under the circumstances it is evident to Ministers and they would desire to impress this on Government of India that feeling in South Africa in connection with political, economic and racial status of Indians bear a direct relation to and is almost entirely dependent upon effectiveness or otherwise of repatriation. In view of this it must further be evident that public opinion in South Africa will regard with gravest suspicion such a conference as suggested which does not explicitly open prospect of such a reduction of Indian population as will be considered satisfactory and will almost certainly look upon it as an interference from outside. If a satisfactory and effective process of repatriation could be initiated Ministers feel assured that alarm of European population will be so considerably allayed that public opinion will come to look much more favourably upon existing and future rights of Indians than has hitherto been the case. Any helpful suggestion which Government of India might, at any time, put forward in this respect will be cordially welcomed by Ministers.

(3)

TELEGRAM TO THE GOVERNOR GENERAL, SOUTH AFRICA, CAPE TOWN,
No. 403, DATED THE 14TH JULY 1925.

We thank you for your telegram dated 16th June in which you communicate views of your Ministers on proposal for conference adumbrated in our telegram of 8th April. We deeply appreciate courteous and friendly tone of communication though we cannot disguise our profound disappointment at conclusion at which your Ministers have arrived. In view, however, of their apparent and earnest desire to grapple with Indian problem in a broad and sympathetic spirit and their invitation to us to offer suggestions on the question of repatriation, we venture to renew the suggestion in the hope that it may be reconsidered, in the light of the observations set out below.

2. So far as we can gather the main objection to our proposal is that public opinion in South Africa will view with gravest suspicion and as an interference from outside any conference which does not explicitly open prospect of a reduction of Indian population by strict prohibition of immigration and active repatriation. So far as prohibition of immigration is concerned Government of India acquiesced in principle in 1918 when right of each community to regulate composition of its population by means of suitable immigration laws was explicitly recognised and it was never our purpose to re-open that question. In regard to repatriation, we are quite

willing to explore this question with your Government and indeed this is a subject which the Conference, we suggest, could usefully discuss. But as responsible opinion in South Africa recognises, repatriation by itself cannot provide effective solution of problem of European and Asiatic competition in economic sphere which is in the main responsible for present tension between two communities since nearly 63 per cent. of resident Indian population was born in South Africa and the majority of that element regard that country as their home, and are hardly likely to return to India unless compelled to do so. If, as we are confident, your Ministers do not contemplate to make repatriation obligatory methods of improving present situation other than encouragement of resident Indians to return voluntarily to India will have to be explored. Thus the possibility of diverting Indians into channels of activity where they may not come into intimate or extensive competition with the European or of so regulating the conditions of employment as to render competition in spheres where it is unavoidable strictly equal and fair deserves careful investigation. It was with a view to assist in this task and work out a scheme which could be commended to both communities as offering basis for settlement safe and honourable to both communities that we asked for a conference. We venture to think that if the scope of the proposed discussions were fully explained and it were made quite clear that they did not commit the Union Government to the acceptance of any agreement that may result from them without consultation with the South African Parliament and public the conference could probably meet without arousing misgiving or suspicion.

3. We are repeating the suggestion with a single-hearted desire to secure a speedy, complete and amicable solution of a problem which for years has been a progressive source of danger to the continuance of friendly relations between the two countries, and we earnestly hope that Your Excellency's Government will consider it in the same broad and friendly spirit.

(1)

LETTER FROM THE GOVERNOR GENERAL OF SOUTH AFRICA, CAPE TOWN, TO
 HIS EXCELLENCY THE RIGHT HONOURABLE THE EARL OF READING,
 G.M.S.I., G.M.I.E., G.C.B., K.C.V.O., ETC., ETC., ETC., VICEROY OF INDIA,
 No. 15-1262, DATED THE 28TH JULY 1925.

I have the honour to transmit, herewith ten copies of the Areas Reservation and Immigration and Registration (Further Provision) Bill which was introduced into the House of Assembly on the 23rd July, together with a press report of the speech made by the Minister of the Interior on that occasion. Parliament was prorogued on the 25th idem and in the ordinary course of events will not reassemble until early next year. As Your Excellency will see from the Minister's remarks, the Bill has been introduced at this juncture in order that an opportunity may be offered for criticism before the matter is discussed in Parliament.

UNION OF SOUTH AFRICA.

**Areas Reservation and Immigration and Registration (Further Provision)
Bill.**

(To be read a Second Time on Monday, 27th July 1925.)

BILL

TO

Make provisions for the reservation of residential and trading areas in urban areas for certain persons having racial characteristics in common; to amend the Immigrants Regulation Act, 1913 (No. 22 of 1913), the Indians Relief Act, 1914 (No. 22 of 1914), and the Asiatic Registration Amendment Act (Transvaal), 1908 (No. 36 of 1908); and to amend or repeal certain laws.

(Introduced by the MINISTER OF THE INTERIOR.)

(To be read a Second Time on Monday, 27th July 1925.)

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(Introduced by the MINISTER OF THE INTERIOR.)

BE IT ENACTED by the King's Most Excellent Majesty, the Senate and the house of Assembly of the Union of South Africa, as follows:—

CHAPTER I.

RESERVATION OF AREAS.

Request by urban local authority for application of Chapter I.

1. (1) Whenever an urban local authority shall intimate to the Minister—
- (a) that any area within its limits is wholly or for the greater part occupied for residential or trading purposes or both such purposes by a particular class of persons;
 - (b) that it is desirable that the provisions of this Chapter should be applied in respect of such area,

the Minister may appoint a commission consisting of not more than three persons (hereinafter called the commission) to investigate and report upon the desirability of applying to such area and to the urban area within which it is situated the provisions of this Chapter.

(2) One of the members of the commission shall be designated by the Minister as the chairman thereof, and the Minister may make rules for the conduct of the business of the commission and governing the tenure of office of the members. In the event of the commission consisting of three members, two members shall form a quorum.

Duty and powers of commission.

2. (1) It shall be the duty of the commission to enquire and report to the Minister upon the following matters:—
- (a) The extent and nature of the area which was the subject of intimation under section one;
 - (b) the number, dimensions, situation and nature of sites occupied in such area for residential or trading purposes or both such purposes as the case may be;
 - (c) whether there would be afforded by such area proper and adequate facilities for residences or trading sites or both, as the case may be, for the particular class of persons concerned;
 - (d) whether due and proper provision exists or is assured for water, lighting, sanitary and other necessary services within such area;
 - (e) whether it is desirable that the provisions of this Chapter should be applied in respect of such area;
 - (f) whether there is, within the limits of the urban local authority concerned, any other area which is wholly or for the greater part occupied for residential or trading purposes or both such purposes by the particular class of persons concerned, and if there be such other area, the extent and nature thereof, and the number, dimensions, situation and nature of sites occupied in such other area for residential or trading purposes or for both such purposes as the case may be;

- (g) whether any other area within the limits of the urban local authority concerned is available for the exclusive occupation for residential or trading purposes or both such purposes by the particular class of persons concerned; and
- (h) any other matter which the Minister or the commission may deem necessary or desirable.

(2) The commission shall have all such powers, jurisdiction and privileges as were conferred upon the commission referred to in Ordinance No. 30 of 1902 of the Transvaal, and all and several the provisions of that Ordinance shall *mutatis mutandis* apply in respect of the commission and its proceedings.

3. (1) At any time within six months after the receipt of the report of the commission, the Governor General may, by proclamation in the *Gazette*, declare that, on and after a date to be mentioned in the proclamation, the area defined in the proclamation shall be a class residential area, or a class trading area, or a class residential and trading area, within the urban area. Proclamation of class areas.

(2) More than one area within the urban area may, by any such proclamation, be defined as class residential areas, or as class trading areas, or as class residential and trading areas, as the case may be.

(3) Notwithstanding anything contained in the Precious and Base Minerals Act of the Transvaal (Act No. 35 of 1908) or any amendment thereof, or in any other law, a class trading area or a class residential and trading area may be established under this Chapter on land within an urban area which, in terms of the said Act No. 35 of 1908, or any amendment thereof, is proclaimed land or land held under mining title.

4. From and after the date mentioned in any proclamation issued under this Chapter establishing a class residential area or a class trading area, or a class residential and trading area, it shall not be lawful, save as provided in section *ten*— Acquisition of immovable property in class areas.

- (a) for any person other than a person of the class concerned to acquire immovable property or a lease or renewal of lease of immovable property within any such area; or
- (b) for any person of the class concerned to acquire immovable property or a lease or renewal of lease of immovable property anywhere within the urban area save within the limits of the class residential area or of the class trading area or of the class residential and trading area, as the case may be:

Provided that nothing in this Chapter contained shall apply to the renewal of a lease of immovable property where the right to renewal was held under a written lease existing at the commencement of this Act.

5. (1) From and after the date mentioned in any proclamation issued under this Chapter establishing a class trading area or a class residential and trading area within any urban area, it shall not be lawful for any licensing court, board or authority, or for any person authorised to grant or issue licences or permits to carry on any trade or business within that urban area— Trading in class trading area or class residential and trading area.

- (a) to grant or issue to any person other than a person of the class concerned any licence, permit or other authority to carry on any trade or business within the class trading area or class residential and trading area, as the case may be; or
- (b) to grant or issue to any person of the class concerned any licence or permit to carry on any trade or business within the urban area elsewhere than in the class trading area or class residential and trading area, as the case may be:

Provided however, that if the Governor General is satisfied that it is in the general interests of the public that it should be permitted to persons of the class concerned or any restricted number of such persons to carry on any particular trade or business within the urban area elsewhere than in the class trading area or class residential and trading area, as the case may be, he may, by proclamation in the *Gazette* for such period as he may therein fix, exempt persons of the class concerned or a restricted number of such persons from the operation of paragraph (b) of this sub-section in respect of that particular trade or business.

(2) Nothing in this section contained shall be deemed to prohibit the grant to any person holding, at the date mentioned in any proclamation issued under this Chapter establishing a class trading area or a class residential and trading area within any urban area any licence, permit, or other authority to carry on any trade or business, which is actually being carried on, of a renewal of such licence, permit or other authority.

Extension or
reduction of
class areas.

6. (1) Whenever, in the opinion of the urban local authority concerned, any area established under this Chapter as a class residential area or a class trading area, or a class residential and trading area proves inadequate or more than adequate for, or unsuitable either wholly or in part to, the requirements of the population of that class in the urban area, and the urban local authority deems it desirable to extend or reduce any such area or to alter the boundaries thereof, or to create a new class residential area or class trading area or class residential and trading area, the urban local authority may communicate its opinion to the Minister, who thereupon may take all such steps as he may take upon receipt of an intimation under section one.

(2) All and several the powers exercisable under this Chapter in respect of the establishment of a class residential area or a class trading area or a class residential and trading area shall be exercisable in respect of the creation of a new area or the extension or reduction of any existing area of like character or the alteration or the boundaries thereof.

(3) Nothing in this section contained shall be deemed to affect in any manner whatever any right to the renewal of a lease of immovable property where such rights was held under a written lease existing at the commencement of this Act or any right to the grant to any person holding at the date mentioned in any proclamation issued in pursuance of this section any licence, permit, or other authority to carry on any trade or business which is actually being carried on, or a renewal of such licence, permit or other authority.

Suspension of
provisions of Act.

7. (1) If at anytime the Governor General is satisfied that a class residential area or a class trading area or a class residential and trading area established under this Chapter is inadequate for, or wholly or partly unsuitable to, the requirements of the population of that class in the urban area concerned, and that, by reason of the delay which would necessarily take place in removing the causes of the inadequacy or unsuitability, serious prejudice would be suffered by that population unless the provisions of this Chapter in respect of such inadequate or unsuitable area be suspended, he may, by proclamation in the *Gazette* declare that, from and after a date to be therein mentioned, the provisions of this Chapter shall be suspended in respect of the class residential area or class trading area or class residential and trading area concerned.

(2) From and after such date the provisions of this Chapter shall in all respects cease to apply to the area deemed to be inadequate or unsuitable, and, in respect of such inadequate or unsuitable area, to the other parts of the urban area within which it is situated.

(3) The Governor General may, whenever he may deem fit, reproclaim as a class residential area or a class trading area or a class residential and trading area, as the case may be, any area which has been the subject of a suspending proclamation under sub-section (1) of this section, or proclaim as a class residential area or a class trading area or a class residential and trading area under this Chapter any area which wholly or partly includes any area which has been the subject of a suspending proclamation under sub-section (1) of this section.

Class area for
Asiatics to be
deemed to be area
in which under
Law 3, 1885
(Transvaal), Asiatics
may own fixed
property.

8. Any class residential area, or class trading area, or class residential and trading area established under this Chapter for any Asiatic race shall, for the purposes of section two (b) of Law No. 3 of 1885 of the Transvaal, be deemed to be an area within which, in terms of that law, fixed property may be acquired and owned by Asiatics.

Class advisory
board.

9. (1) For every class residential area, or class trading area, or class residential and trading area established under this Chapter there shall be an advisory board consisting of not less than three persons of the class concerned

resident within the urban area, in addition to a chairman who in the case of a non-European class area may be a European. The mode of election or selection of members of any such board, the period and conditions of office of members, and the procedure of the board shall be defined by regulations made by the urban local authority and approved by the Minister.

(2) It shall be the function of an advisory board established under this section to advise the urban local authority in respect of any matter referred to it by such authority for advice, and no by-laws or regulations particularly affecting the interests of the class of persons concerned shall be made or withdrawn by an urban local authority unless the advice of such advisory board shall first have been obtained in respect of the making or withdrawal, as the case may be, of such by-law or regulation.

10. (1) The Governor-General may by proclamation in the *Gazette* declare that from and after a date to be specified therein no member of any race indicated therein shall acquire immovable property or the lease or renewal of lease of immovable property in the Province of Natal save in the coast belt as provided in sub-section (2) of this section: Provided that nothing in this section contained shall be deemed to prohibit a renewal of a lease of immovable property held under written lease at the commencement of this Act. Acquisition of immovable property by certain persons in Natal, except in class areas, prohibited.

(2) A person who is a member of the race indicated in any proclamation issued under sub-section (1) of this section may acquire immovable property or the lease or renewal of lease of immovable property in the coast belt, from a person who is a member of the same race, but from no other person, except where the immovable property or the lease or renewal of lease of the immovable property acquired is within the limits of a class area established under this Chapter within the coast belt.

(3) From and after the date specified in any proclamation issued under sub-section (1) of this section, no member of any race indicated in such proclamation shall by testamentary disposition acquire any land or interest in land or the lease or occupation of any immovable property in the coast belt, except from a member of the same race.

(4) For the purpose of this section the coast belt means so much of the Province of Natal as lies between the coast line and a line to be defined by the Governor-General by proclamation in the *Gazette* corresponding as far as practicable with the coast line and drawn at an approximate distance of thirty miles therefrom.

(5) Nothing in this section contained shall be deemed to affect the operation within the coast belt of any other provision of this Chapter.

11. (1) Subject to the provisions of sub-section (3) of section *three*, Savings. section *eight* and sub-section (3) of section *ten* of this Chapter, nothing in this Chapter contained shall be deemed—

- (a) to affect the operation of Law No. 3 of 1885 of the Transvaal or any amendment thereof; of section *two* of Act No. 18 of 1913; of Act No. 37 of 1919; of Chapter CXIII of the Orange Free State Law Book or any amendment thereof: or of any other law prohibiting, restricting, regulating, or in any way affecting, the ownership or occupation of immovable property or trading by persons of non-European descent; or
- (b) to prohibit the acquisition by the Government or any urban local authority for educational, municipal or any other public purpose of the ownership or occupation of any immovable property; or
- (c) to prohibit the acquisition at any time of land or interests in land or the lease or occupation of any immovable property by devolution or succession on death whether under will or on intestacy from a person of the same race; or
- (d) to prohibit any executor of a deceased estate or any trustee in insolvency from holding any immovable property or trading under any licence where power to do any such thing is conferred upon him by any law; or

- (e) to invalidate or affect in any manner whatever any agreement or other transaction for the sale or purchase of land lawfully entered into prior to the date mentioned in any proclamation under this Chapter establishing a class residential area or a class trading area or a class residential and trading area or extending or reducing any existing area of like character, or altering the boundaries thereof.

Exemptions.

12. (1) The Governor-General may grant to any person a certificate exempting him, either wholly or for such period as he may therein specify from all or any of the provisions of this Chapter; and such person shall either wholly or for such period, as the case may be, be so exempted.

(2) Nothing in this Chapter contained shall be deemed—

- (a) to affect any person who is duly accredited to the Union by or under the authority of His Majesty or the Government of any foreign state, or the wife, family, staff or servants of any such person;
- (b) to refer to natives as that term is defined in section *twenty-nine* of the Native (Urban Areas) Act, 1923, (Act No. 21 of 1923);
- (c) to refer to—
- (i) persons born in the Union and ordinarily resident in the Province of the Cape of Good Hope who are members of the class or race known as “Cape Coloured” or of the class or race known as “Cape Malays”;
- (ii) persons born in the Union and ordinarily resident in the Union elsewhere than in the Province of the Cape of Good Hope who would if resident in that Province, be regarded as members of either of the classes or races known as “Cape Coloured” or “Cape Malays”; and
- (iii) the people known as Mauritius Creoles or St. Helena persons or their descendants born in the Union.

Interpretation of terms.

13. In this Chapter unless inconsistent with the context—

- “class or class of persons” includes any persons having, in the opinion of the Minister, common racial characteristics, and all white persons shall be regarded as having common racial characteristics;
- “person of a class” or “member of a race” includes any company or association of persons whether registered under any law or not in which one or more persons of the class or members of the race referred to have a controlling interest;
- “Minister” means the Minister of the Interior or any other Minister to whom the Governor-General may assign the administration of this Act;
- “urban area” means any area under the jurisdiction of an urban local authority;
- “urban local authority” means any municipal council, borough council, town council or village council, or any town board, village management board, local board or health board.

CHAPTER II.

IMMIGRANTS REGULATION.

Amendment of section two of Act No. 22 of 1913.

14. Section *two* of the Immigrants Regulation Act, 1913 (hereinafter in this Chapter called the principal Act) is hereby amended by the deletion from sub-section (7) of the words “sufficient in the opinion of the Minister” and the substitution therefor of the following words “fixed by the immigration officer not exceeding one hundred pounds”.

15. Section *three* of the principal Act is hereby amended—

Amendment of
section *three* of
Act No. 22 of
1913.

- (a) by the addition to sub-section (2) of the words "From any such opinion there shall be an appeal to the Appellate Division of the supreme Court";
- (b) by the deletion from sub-section (3) thereof of the following words:
- "and 'a superior court having jurisdiction' shall mean the Provincial Division of the Supreme Court which has jurisdiction where the board was sitting or any judge of such division or the Eastern Districts Local Division having jurisdiction or any judge thereof".

16. Section *four* of the principal Act is hereby amended—

Amendment of
section *four* of
Act No. 22 of 1913.

- (a) by the addition to paragraph (a) of sub-section (1) of the following words "Provided that for the purpose of this section the Northern Districts of Natal, as described in section *three* of 'The Northern Districts Annexation Act, 1902' (Act No. 1, 1903, Natal) shall be deemed to be included in the Province of the Transvaal"; and
- (b) by the addition to paragraph (f) of sub-section (1) after the words "have been stolen" of the following words:
- "incest, sodomy, bestiality, any offence involving fraudulent conduct in connection with any insolvency"; and
- (c) by the deletion of paragraph (a) of sub-section (2).

17. Section *five* of the principal Act as amended by section *three* of the Indians Relief Act, 1914, is hereby amended by the deletion of paragraphs (e) and (g) and the substitution therefor of the following new paragraphs:—

Amendment of
section *five* of Act
No. 22 of 1913.

- "(e) any person other than an alien, who was born in any part of South Africa included in the Union and whose parents were at the time of his birth lawfully resident therein and were not at that time restricted to temporary or conditional residence therein by any law then in force: Provided that any person who, if he were a prohibited immigrant, would be included within any class of persons which has, in terms of paragraph (a) of sub-section (1) of section *four*, been deemed by the Minister to be unsuited to the requirements of the Union or any province thereof shall lose the protection accorded by this paragraph if he has acquired or shall acquire a domicile in a province of the Union other than that in which he was born;
- (g) any person who is proved to the satisfaction of an immigration officer or in the case of an appeal to the satisfaction of the board, to be the wife or child under the age of sixteen years of any person exempted by paragraph (f) of this section:

Provided

- (i) that the wife or child (as the case may be) is not such a person as is described in paragraph (d), (e), (f), (g) or (h) of sub-section (1) of section *four*; and
- (ii) that where exempted person belongs to one of the clauses described in paragraph (a) of sub-section (1) of section *four* the wife or child (as the case may be) enters the Union within five years after the first day of August, 1925, or within ten years after the date of the first entry into the Union, whichever period may be the longer, of the person so exempted."

In the interpretation of this paragraph "the wife" shall include any one woman between whom and the exempted person mentioned there exists a union recognised as a marriage under the tenets of an Indian religion notwithstanding that by those tenets the union of that exempted person with

other women at the same time would also be recognised as a marriage : Provided that no woman shall be deemed to be the wife of such exempted person—

- (i) if such a union exists between him and any other woman who has under any law relating to immigration or to Asiatic registration been recognised within the Union as the wife of such person and has resided or reside or is domiciled in any province ; or
- (ii) if such exempted person has offspring resident or domiciled in any province by any woman who is still living,

and a union shall not be for the purposes of this section be deemed to have ceased to exist by reason only of the fact that according to the tenets of an Indian religion it has been dissolved.

“The child under the age of sixteen” shall mean a child who is the offspring of the exempted person and the wife as herein defined or the child of the exempted person and a deceased woman who if she had been alive could have been recognised at the time of the birth of the child as the wife (as herein defined) or whose union with the exempted person could have been registered at the time of the birth of the child as a marriage under section *two* of the Indians Relief Act, 1914.

Amendment of
section *ten* of Act
No. 22 of 1913.

18. Section *ten* of the principal Act is hereby amended by the addition of the following words :—

Any such person may be declared to be a prohibited immigrant and dealt with in terms of section *nineteen* of this Act and if such person is in possession of a registration certificate or a certificate of domicile or any other document authorizing him to remain in the Union or any province it shall be competent for any board to which he may appeal, if it be proved to the satisfaction of the board that such certificate or other document was obtained by fraudulent representations by or on behalf of the holder, to order that such certificate or other document be cancelled and the holder thereof be dealt with as a prohibited immigrant : Provided that if such person fails to appeal to a board the Principal Immigration Officer concerned may exercise all such powers as to the cancellation of any certificate or other document as are by this section conferred upon a board.

Amendment of
section *twenty-two*
of Act No. 22 of
1913.

19. Section *twenty-two* of the principal Act is hereby amended by the addition of the following paragraph :—

- (d) for any offence under section *twenty* of this Act for which imprisonment is imposed without the option of a fine.

Amendment of
section *thirty* of
Act No. 22 of 1913.

20. Section *thirty* of the principal Act is hereby amended by the deletion of the definition of the term “domicile” and the substitution therefor of the following definition :—

“domicile” shall mean the place in which a person has his present permanent home, or present permanent residence or, to which he returns as his present permanent abode and not for a mere special or temporary purpose ; and a person shall not be deemed to have a domicile within the Union or any province (as the case may be) for the purposes of this Act unless he has lawfully resided therein for a continuous period of three years, otherwise than under terms of conditional or temporary residence permitted by this Act or any other law or as a person under detention in prison, gaol, reformatory or mental hospital, and a person shall be deemed for the purposes of this Act to have lost his domicile within the Union or any province (as the case may be) if he absents himself from the Union or that province (as the case may be) and does not return to the Union or that province (as the case may be) within three years from the date of departure therefrom or in the case of a person who absented himself from the Union or any province (as the case may be) prior to the 1st August, 1925, does not return to the Union or that province (as the case may be) before the 1st August, 1928 : Provided that in cases where a person proceeds overseas for a special or temporary purpose the

Minister may authorize the issue of a certificate of identity under the provisions of sub-section (2) of section *twenty-five* of this Act allowing the person concerned to return to, and resume his residence in the province named within the period specified in such certificate or any extension thereof not exceeding ten years in all.

21. Section *six* of the Indians Relief Act, 1914, is hereby amended by the addition after the words "any port in India" of the words "or elsewhere." Amendment of section *six* of Act No. 22 of 1914.

CHAPTER III.

REGISTRATION OF ASIATICS.

22. A registration certificate issued under the provisions of the Asiatic Law Amendment Act, 1907, of the Transvaal (Act No. 2 of 1907), or the Asiatics Registration Amendment Act, 1908, of the Transvaal (Act No. 36 of 1908), may be surrendered by the holder to the Registrar of Asiatics and such surrender shall be conclusive evidence that such Indian has abandoned any right of or incidental to entry, residence or domicile in the Transvaal Province. Surrender of Asiatic registration certificate.

23. If an Asiatic, who has failed to make application for registration in accordance with the provisions of paragraph (2) of section *five* of the Asiatics Registration Amendment Act, 1908, of the Transvaal, shall satisfy the Registrar of Asiatics that such failure was due to some good and sufficient cause, the Minister of the Interior may, in his discretion, authorize the Registrar to receive an application for registration from such Asiatic and the application shall be dealt with in all respects as if it had been made in accordance with the provisions of the said section and all the provisions of Act No. 36 of 1908 of the Transvaal as amended by this Act which would have applied if the application had been so made shall apply accordingly. Circumstances in which application for Asiatic registration certificate may be made.

24. Section *seven* of the Asiatics Registration Amendment Act, 1908, of the Transvaal, is hereby amended by the deletion of the words "save as in the next succeeding section is provided." Amendment of section *seven* of Act No. 36 of 1908 of Transvaal.

25. Section *nine* of the Asiatics Registration Amendment Act, 1908, of the Transvaal, is hereby amended by the deletion of the words: Amendment of section *nine* of Act No. 36 of 1908 of Transvaal.
 "any Asiatic who fails upon lawful demand to produce such certificate shall, unless he is the lawful holder of a certificate of registration be liable to be dealt with in manner mentioned in section *eight*."

CHAPTER IV.

SUPPLEMENTARY.

26. The laws mentioned in the Schedule to this Act shall be and are hereby repealed to the extent set out in the fourth column of that Schedule. Repeal of laws.

27. This Act may be cited as the Areas Reservation and Immigration and Registration (Further Provision) Act, 1925, and shall come into force on the first day of August, 1925. Short title and commencement of Act.

Schedule.

Province.	No. and year of Law.	Title or Subject of Law.	Extent of Repeal.
Natal	Act No. 28 of 1897	To protect uncovenanted Indians from arrest in mistake for absconding indentured Indian servants.	The whole.
Cape	Act No. 37 of 1904	The Chinese Exclusion Act, 1904.	The whole.
Transvaal	Act No. 36 of 1908	The Asiatics Registration Amendment Act, 1908.	Sections <i>three, four, five</i> (paragraph one), <i>six, eight, sixteen, seventeen</i> (paragraphs five and six).

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TELEGRAM TO THE GOVERNOR GENERAL OF SOUTH AFRICA, CAPE TOWN,
No. 522-Os., DATED THE 7TH SEPTEMBER 1925.

I thank you for your despatch No. 15-1262, dated 28th July 1925, forwarding copies of Areas Reservation and Immigration and Registration (Further Provision) Bill introduced into House of Assembly on 23rd July. I would be failing in my duty if I did not inform Your Excellency that my Government and I feel deep concern at the provisions of the Bill. We propose to address you at length on the subject when we have had an opportunity of examining fully all implications of the measure.

2. We have not yet received a reply to our telegram dated the 14th July repeating the proposal for a Conference to discuss position of Indians in South Africa. We should be glad to learn the views of your Government as soon as possible and trust that it may be possible for them to accept our suggestion.

TELEGRAM FROM THE GOVERNOR GENERAL, SOUTH AFRICA, PRETORIA, DATED
THE 24TH SEPTEMBER 1925.

Your telegram dated 14th July. Indian question in South Africa. My Ministers very much regret their reply has been delayed so long. They wish, however, to assure the Government of India that this delay was due entirely to circumstances over which they had no control.

2. In the light of the views expressed in your telegram, my Ministers have very earnestly reconsidered their previous attitude with regard to holding of a conference on Indian question. They regret, however, that they cannot find sufficient reasons for departing from their views as conveyed in my telegram dated the 15th June. Being in close contact with the public feeling in South Africa and knowing as they do how holding of a conference on the Indian question without limiting the scope of such conference to some definite and concrete questions is likely to be looked upon and resented by the people here as an interference from outside. My Ministers are satisfied by deciding as they have, they merely give expression to great masses of responsible public opinion in the country.

3. My Ministers further wish to express their satisfaction and gratitude for readiness of Government of India to explore with them the possibility of more effective repatriation scheme which will result in a considerable reduction of Indian population in South Africa and which, if successful, is sure to facilitate enormously a generally acceptable and final solution of the general question of political, social and economic status of that residue which cannot be repatriated. In this connection my Ministers wish to point out that the extent to which repatriation is possible is not necessarily limited to number of Indians born overseas, as is evidently supposed by Government of India, as official figures show more than one-third of Indians hitherto voluntarily repatriated are South African born.

4. The question whether conversations between Government of India and Union Government with regard to repatriation shall be carried on through ordinary *channel* or at a conference as proposed must, in the views of my Ministers, depend upon the nature and practicability of any concrete proposals which during the preliminary discussions might tentatively and provisionally be brought forward. In order to give the Government of India some indications of the lines on which the Union Government have been thinking, my Ministers state that for a considerable time they have contemplated the possibility of supplementing the inducements now offered to voluntary repatriates by land settlement scheme in India or some adjacent territory together with such other provision for those who do not intend to settle on the land as may prove to be practicable. Such a scheme or schemes can naturally only be

undertaken with the co-operation of the Government of India, which co-operation together with further suggestions will be heartily welcomed by my Ministers.

5. With regard to the points raised by the Government of India as to "the possibility of diverting Indians into channels of activity where they may not come into intimate or extensive competition with the Europeans or of so regulating the conditions of employment as to render competition in spheres, where it is unavoidable, strictly equal and fair", my Ministers will gladly welcome any concrete suggestions which the Government of India might desire to make. They further wish to state that if further discussions about repatriation, as indicated above, might point the way to the holding of a conference definitely restricted in scope, they will raise no objection to the inclusion of this particular aspect of the question within the range of the conference.

(7)

TELEGRAM TO THE GOVERNOR GENERAL, SOUTH AFRICA, CAPE TOWN, No. 606,
DATED THE 9TH OCTOBER 1925.

Your telegram dated September 24th. Indian question in South Africa. We greatly regret that we have been unable to persuade Your Excellency's Ministers to agree to a conference, as we had hoped that the limitations on its scope suggested in our telegram of July 14th would have assisted them in acceding to our wishes.

Paragraph 2.—The Government of India are as ever ready to help the Union Government in finding a just and satisfactory solution of this difficult question, but they feel it only right to point out that a misunderstanding has arisen regarding the intention underlying the reference to repatriation in my telegram of July 14th. It was not our intention to suggest that we were willing to co-operate with Your Excellency's Ministers in exploring the possibility of more effective repatriation with the object of bringing about a considerable reduction in the Indian population in South Africa. All that we meant was that while repatriation would never by itself afford a solution of the problem, the existing scheme of repatriation on a purely voluntary basis might be re-examined with a view to ascertaining what difficulties had arisen in its working and how these difficulties could best be smoothed away. Conference of which the main object was to expedite Indian repatriation was not contemplated by us.

Paragraph 3.—Your Excellency's Ministers refer to the ultimate possibility of a conference regarding repatriation in certain circumstances, but the Government of India feel that they are not in a position to enter into a discussion of the repatriation question without fuller knowledge of local conditions than they at present possess. We note with satisfaction that your Excellency's Ministers would welcome any concrete suggestions which we have to offer either on this question or on the general question of mitigating direct competition between Europeans and Indians. We should be glad to avail ourselves of this offer, but feel that as a preliminary to entering into such a discussion, it is essential that we should be equipped with full and up-to-date knowledge of local conditions. We should therefore like, if your Government see no objection, to send a deputation to South Africa with instructions to collect information regarding the economic position of Indians and to investigate their general condition. We are anxious that this preliminary investigation should be completed as soon as possible in order that no avoidable delay may occur in arriving at a satisfactory conclusion. We trust that your Ministers will be able to accept this suggestion and hope that by this means we may be able to be of real assistance to them. As the object of our deputation would be to suggest an alternative solution of the Indian question to that embodied in the Areas Reservation and Immigration and Registration (Further Provision) Bill, we trust that your Government will have no objection to postponing further progress with that Bill until our considered suggestions are before them.

TELEGRAM TO HIS EXCELLENCY THE GOVERNOR GENERAL OF SOUTH AFRICA,
CAPE TOWN, No. 609-Os., DATED THE 12TH OCTOBER 1925.

Reference Areas Reservation and Immigration and Registration (Further Provision) Bill, copies of which were received with Your Excellency's despatch No. 15-1262 of 28th July. We have carefully examined above Bill and, as foreshadowed in my telegram of 7th September, beg leave to make following observations on it :—

(1) According to statement made by Minister when introducing it, Bill assumes that Indian is an alien element in population of Union and is designed to reduce that element considerably. We question whether the Indian population, of which more than 60 per cent. is South African by birth, can justly be regarded as alien element. Bulk of them have been settled in Union for long periods, have in their own respective spheres contributed to development of country, and proved their value to the other elements in the population. They have acquired vested interests and established manifold associations severance of which will be a source of distress to many and great economic dislocation and loss. As British subjects resident in South Africa they look, and, we submit, are entitled to look upon Union Government as the trustee of their interests equally with other elements in the population.

(2) *Chapter I.—(a)* As regards residential and commercial segregation Bill in the main reproduces provisions of the class Areas Bill of the late Government. Our objections to the principle of racial segregation were set forth in paragraphs 7 to 9 of our despatch of August 23rd, 1923, and to the provisions of the Class Areas Bill in our telegram of March 14th, 1924, No. 257. In our opinion those objections have lost none of their force. Materially applications of these provisions will entail loss on Indian community by reducing value of immoveable property now owned by Indians outside areas to be set apart for them and restrict their opportunity for trade. Socially Indian community will regard measure as inflicting humiliation, sense of which, we fear, will be aggravated by clause 12 of new Bill which excludes classes known as Cape Coloured and Cape Malaya from its scope.

(b) Clause 10 is evidently based on recommendation made by majority of Asiatic Inquiry Commission but is wider and more drastic in that it is evidently intended to apply not only to agricultural land and purports to restrict the right of Asiatics to acquire immoveable property within reserved belt from non-Asiatics, except within urban class areas set apart for them. To prohibit acquisition of agricultural land except from existing Indian holders would increase congestion in areas round Durban and at such places as Stanger where it is already so great that the Indian cultivators can hardly obtain a living from the small patch which he cultivates. As Indians in coast belt are largely descendants of agricultural labourers introduced some generations ago such prohibition will be a source of great hardship to them. In Minute No. 984 of your predecessor's Minister, dated 15th December 1922, we were informed that the recommendation of the Commission did not commend itself to them. We earnestly hope that in light of the consideration now put forward as well as those advanced in paragraph 6 of our despatch No. 307-B. A. of 19th—27th December 1921, your present advisers will consent even now to revise decision in matter.

(3) *Chapter II.—(i)* Clause 16 (c) of Bill will have effect of restricting further entry of Asiatics lawfully resident in other parts of Union into Natal and Cape of Good Hope. The reasons for proposing this provision are unknown to us, but we venture to point out that the restriction of freedom of inter-provincial movement must seriously affect vested interests. Again imposition of time-limit in respect of entry into Union of wives and children of lawfully resident Indians prescribed in (ii) of proviso to clause 17 is scarcely in consonance with terms of paragraph 3 of reciprocity resolution of 1918, which did not contemplate any such limitation and which representatives of South Africa accepted. In view of disparity between two sexes of resident population, it will inflict great hardship on unmarried Indians.

(ii) Sub-section (e) which clause 17 of Bill substitutes for present sub-section (e) of section 5 of Immigrants' Regulation Act (No. 22 of 1913) empowers Ministers to withdraw from Asiatics born of parents lawfully resident in any province of the Union, domicile that they have already acquired or may hereafter acquire in another province. Here, again, we fear that existing rights will be seriously prejudiced.

(4) *Chapter III. Registration.*—We have no comments of principle to make in regard to provisions in this chapter.

(5) In our previous telegrams we have drawn attention to widespread apprehension which recent developments in regard to position of Asiatics in Union have created in India. Terms of new Bill, text of which has been published in newspapers, are regarded here as deliberately harsh and oppressive towards Indians. We have always pleaded with utmost earnestness for comprehensive consideration of Asiatic problem in broad and dispassionate spirit with a view to finding some solution acceptable to all communities in South Africa. In our opinion Bill will destroy hope of ever arriving at such solution and will have most harmful reaction on public opinion here. A conference on lines suggested in our telegrams of 8th April and 14th July would, in our opinion have provided best opportunity for exploring situation, but we have learnt with regret from your telegram of 24th September that idea does not commend itself to your Ministers. We trust, however, that they will accede to request made in our telegram dated 9th October to send a deputation to South Africa to collect information regarding economic and general conditions of Indian community so as to enable us to suggest solution of this difficult problem less unacceptable than that embodied in the Bill, and will also agree to postpone further progress of measure until our alternative proposals are before them.

(9)

TELEGRAM FROM THE GOVERNOR-GENERAL, SOUTH AFRICA, TO VICEROY,
DELHI, DATED THE 10TH NOVEMBER 1925.

10th November. In reply to your telegram 9th October 1925, 606-Os., my Ministers state that they very much regret that Government of India find it impossible to co-operate with them in devising some more effective scheme of voluntary repatriation. They do so more especially because as they have previously pointed out there exists no better and surer means of favourably influencing the attitude of European population and thus of eventual furthering general interest of Indians in South Africa than the reduction of present Indian population to irreducible minimum. They feel that it is not necessary to add that any assistance which the Government of India might be able and willing to render to ensure the more effective working of existing repatriation arrangements will be heartily welcome.

(ii) Ministers have very carefully and sympathetically considered request to postpone their proposed legislation until the Government of India shall have taken certain steps as outlined in your last communication. If such postponement is to mean that Asiatic question will not be effectively and, if possible, finally dealt with during the forthcoming session of Parliament as seems likely to be the case, they very much regret that they will be unable to meet the wishes of the Government of India. In this connection they desire to point out that their proposed legislation is not only generally considered to be very urgent, but that it is also admittedly long overdue. Apart from the fact that present Government have publicly undertaken to introduce their Bill and have actually done so during the last session but were unable to pass it, similar legislation, as must be well known, was already attempted in the form of Class Areas Bill by my Minister's predecessors and would probably have been enacted by this time if dissolution of Parliament and a change of Government had not intervened. Furthermore my Ministers wish to point out that on broad lines the Areas Reservation and Immigration and Registration (Further Provision) Bill follow the recommendations of the

Asiatic Enquiry Commission which reported as far back as March 1921 and that of these recommendations the Government of India cannot have been unaware nor were their views in this connection unrepresented as throughout that Commission of Enquiry they were officially represented by Sir Benjamin Robertson, late Chief Commissioner of the Central Provinces, India, accompanied by Mr. G. L. Corbett of Indian Civil Service.

(iii) With regard to the proposal to send a deputation to South Africa for the purpose of investigation my Ministers state that if Government of India consider this to be best and most desired method of obtaining such first hand information as they require no objection will be raised by them against proposed course of action. Ministers naturally realise that under certain circumstances and without exercise of all due discretion it is possible that an enquiry of this nature may exercise a disturbing effect on the minds of Indian population in South Africa and may in the beginning increase the Union Government's difficulties and lead to profound irritation on the part of the European population but in spite of this they have sufficient confidence in good intention and discretion of the Government of India to concur in the action they desire.

(iv) With reference to the contents of your later telegram dated 12th October 1925, No. 609, my Ministers wish to assure the Government of India that their observation on various provisions of Areas Reservation and Immigration and Registration (Further Provision) Bill will have their fullest and most earnest consideration.

(10)

TELEGRAM TO THE GOVERNOR-GENERAL OF SOUTH AFRICA, No. 667-Os.,
DATED THE 18TH NOVEMBER 1925.

Clear the line.—Your telegram dated 10th November 1925. We are most grateful to Your Excellency's Government for agreeing to our sending deputation to South Africa to make certain enquiries. Deputation will consist of one senior British official of the Indian Civil Service and two prominent Indian non-officials who either have been or are members of the Indian Legislature, as members, one officer of the Indian Civil Service as Secretary and possibly one clerk. We shall communicate to you the names of the gentlemen composing the deputation as soon as they have been selected. Its defined purpose will be to inquire into and report to us on economic position and general condition of Indians in South Africa and Your Ministers may rest assured that we fully appreciate the importance of selecting representatives who will exercise due discretion in the conduct of such an enquiry.

2. We are trying to arrange that deputation should sail from Bombay per S.S. "Cargola" on 25th November. It is possible that special facilities in regard to its travelling and accommodation in South Africa may be required. We shall address you again on this point as soon as personnel of deputation is settled, and trust that Your Excellency's Government will be ready to assist us.

3. It was not our intention to suggest that no attempt should be made during the forthcoming session of the Union Parliament to deal with Indian problem. It would be sufficient if next stage in the progress of the Areas Reservation and Immigration and Registration (Further Provision) Bill could be postponed until we have had time to consider report of our deputation and make representations in light of that report. If, as we anticipate, deputation complete their work rapidly, we should be in a position to formulate our conclusions early in the New Year. If after consideration of our views Your Ministers decide to proceed with Bill, they would still, we believe, have sufficient time before end of session. We shall therefore be grateful if Your Ministers would agree to defer action relating to Bill for short time to enable us after receipt of views and suggestions of deputation to submit representations for your consideration.

4. We thank you for assurance that remarks on the provisions of the Areas Reservation and Immigration and Registration (Further Provision) Bill communicated in our telegram No. 609 of the 12th October will receive fullest and most earnest consideration of Ministers.

(11)

TELEGRAM TO THE GOVERNOR-GENERAL, SOUTH AFRICA, NO. 703-OS., DATED DELHI, THE 26TH NOVEMBER 1925.

Please refer to my telegram of November 18th. Our deputation has now sailed, and we hope that they will complete their investigations and telegraph a summary of their conclusions to us five or six weeks after their arrival at Durban. In paragraph 4 of your telegram dated September 24th your Government expressed the opinion that the question whether conversations between Government of India and Union Government with regard to repatriation should be carried on through ordinary channels or at a conference must depend on the nature and practicability of any concrete proposals which during the preliminary discussions might tentatively and provisionally be brought forward. In sending our deputation, we have, as we explained in paragraph 3 of our telegram of October 9th kept the possibility of a conference in view and have hopes that the proposals which we may be in position to put forward as result of deputation's report may form acceptable basis for conversations between Union Government and our representatives. We trust that Union Government on their part will not in meantime take any action that will preclude possibility of such conversations, if it is ultimately agreed that they are desirable.

(12)

TELEGRAM TO THE GOVERNOR-GENERAL, SOUTH AFRICA, PRETORIA, NO. 705, DATED THE 28TH NOVEMBER 1925.

Reference my telegram dated November 18th. Personal of deputation, which sailed from Bombay for South Africa by S.S. "Karagola" on 25th November, is as follows:—

G. F. Paddison, C.S.I., I.C.S., Commissioner of Labour, Madras—*Leader.*

Hon'ble Syed Raza Ali, Member of Council of State—*Member.*

G. S. Bajpai, C.B.E., I.C.S., Acting Deputy Secretary to the Government of India—*Secretary.*

C. S. Ricketts—*Assistant.*

It is anticipated that the third and only remaining member of deputation whose name will be communicated in a few days, will sail by boat leaving Bombay on December 6th. The deputation will then be complete.

2. Deputation will arrange its programme of work after reaching Durban and we would welcome any assistance that Your Excellency's Ministers and administrative officers may be able to give them in carrying out the duties entrusted to them. Deputation will probably have to travel extensively and as it is important that its report should be completed as quickly as possible, much of the work connected with preparation of report will probably have to be done in the train. We should, therefore, be grateful if your Government could see its way to placing a special saloon with kitchen, on payment if desired, at their disposal. This arrangement may be useful if difficulties arise up-country about accommodation in hotels. Where the deputation has to stop at any place for a number of days and cannot live in the train, we should appreciate any assistance that can be given them in securing suitable accommodation. Paddison is accompanied by his wife.

(13)

TELEGRAM TO THE GOVERNOR-GENERAL, SOUTH AFRICA, PRETORIA, No. 713,
DATED THE 1ST DECEMBER 1925.

My telegram No. 705, dated 28th November. Third Member of Indian deputation to South Africa is Sir Deva Prasad Sarvadhikary, Kt., C.I.E., Member of the Council of State, recently dissolved. He will sail for South Africa from Bombay per S.S. "Karapara" on 9th December arriving at Durban, about the 30th December and is accompanied by his son.

(14)

TELEGRAM FROM THE GOVERNOR-GENERAL, SOUTH AFRICA, PRETORIA,
DATED THE 9TH DECEMBER 1925.

Your telegram 18th November, 667-Os., and 28th November, 705. My Ministers have noted that the Government of India is sending a deputation to South Africa to enquire into and report upon (the) Economic position and general condition of the Indians in South Africa and they appreciate the undertaking to select representatives who will exercise due discretion in the conduct (of) such an enquiry.

2. Union Government will grant without payment facilities for deputation in regard to its travelling in South Africa and will also render all possible assistance if difficulties arise in connection with accommodation in hotels. If suitable accommodation cannot be secured arrangement will be made for saloon to be available for this purpose.

3. Ministers add that Areas Reservation and Registration and Immigration (Further Provision) Bill will be introduced early in forthcoming session which will begin on 22nd January next but that in ordinary course of Parliamentary procedure some time will necessarily elapse before second reading stage will be reached. This will probably give deputation as much time as they will require for their investigation. Government intend to move that after second reading Bill shall be referred to a select committee and will favour fullest opportunity being given to deputation laying case of Indians before that committee if it desires to do so.

(15)

TELEGRAM TO THE GOVERNOR-GENERAL OF SOUTH AFRICA, PRETORIA,
No. 745-Os., DATED THE 15TH DECEMBER 1925.

Your telegram dated 9th December. We are most grateful for courtesy of Your Excellency's Government in undertaking to grant without payment travelling facilities for our deputation and promising to render all possible assistance if difficulties arise in connection with accommodation in hotels.

2. We also desire to thank Your Excellency's Ministers for assurance that they will favour fullest opportunity being given to our deputation of laying case of Indians if so desired before Select Committee on Areas Reservation and Immigration and Registration (Further Provision) Bill. We will address you further on this point as soon as we have received report from our deputation and have considered their conclusions and recommendations. In the meantime we would be glad to be informed as soon as Your Excellency's Government are in a position to do so, of date on which it is proposed to take second reading of Bill.

TELEGRAM TO THE GOVERNOR-GENERAL OF SOUTH AFRICA, DATED THE
10TH JANUARY 1926.

Clear the line.—Our deputation after enquiry in Natal have telegraphed their interim and provisional conclusions and recommendations to us. Firstly, they have been unable to find any justification for the general opinion held by Europeans in Natal that Indian competition in trade is increasing and is closing fruitful avenues of employment to Europeans. Similarly, they are unable to obtain accurate or complete statistics to indicate how far, if at all, Indians have recently displaced Europeans in skilled or semi-skilled occupations. They suggest that a fresh survey of the situation, if one were undertaken, would probably prove fears to be unfounded, so far at least as trade and commerce are concerned. Their investigations tend to show that during the last few years Indian penetration has increased only in certain trades, such as tailoring and furniture, especially in Durban area, while in the sphere of business proper the Indian has not improved his position since the report of the Asiatic Enquiry Commission. Further expansion of Indian trade is barred by action of Municipalities, who refuse issue of any new licenses to Indians, and frequently refuse transfer of old licenses to new premises even in close proximity to old ones. Same policy is being followed by Licensing Boards in rural areas. For these reasons, they suggest that, in order to verify the facts on which demand for Bill is based, a fresh enquiry is advisable.

2. Secondly, our deputation lay stress on the point that it is questionable whether the Bill will effect any mitigation in the economic competition between the two races, which European opinion in Natal regards as crux of whole Asiatic problem. The positive remedies which Bill contemplated are—

- (1) commercial separation ;
- (2) residential separation ; and
- (3) restriction provided for in clause 10.

As regards (1), our deputation find that municipal administration of existing licensing laws has already resulted in Indian traders being concentrated in areas distinct from those occupied by Europeans, except in the case of certain old-established Indian firms which carry on business in European quarters. From European point of view, therefore, legislation now proposed appears unnecessary, while it will seriously aggravate position of Indian trading community. They assume that elimination of Indians from trade is not aimed at, as such a policy would not be in accordance with general standard of fairness, particularly since they report that aliens from Europe are monopolising new opportunities for trade. If object aimed at is mitigation of competition, other remedies seem more likely to be effective. Allegation of unfairness of Indian competition is said to be based on payment of lower wages to shop assistants and evasion of regulations governing terms of employment. They consider that means could be devised to prevent such evasion and are strongly of opinion that matter deserves investigation, especially as they have been told that if board and lodging and other amenities allowed free to Indian assistants are included, the total wages of the latter equal those paid for the same class of work by European employers.

3. With regard to (2) residential segregation, the enquiries of our deputation confirm the objections to this measure which we have consistently urged upon Your Excellency's Government. They report that condition of many localities occupied by Indians around South Africa causes Indian community to be full of apprehension that class area created for them will share similar fate. Any measure tending to depress the social and economic standards of Asiatics may be expected to intensify rather than to mitigate industrial and commercial competition between them and the white population.

4. Clause 10 of the Bill will in the opinion of our deputation, have most serious consequences. They point out firstly, that Indian market gardeners, who tend to cluster in every township in Natal and a large proportion of whom

held land on monthly and yearly tenure from Europeans, will be driven into coast belt where no fresh land is available for them as area within that belt owned by Indians is small and almost entirely taken up. Secondly, Indian market gardeners, who are now tenants of Europeans, will be deprived of their means of livelihood. Thirdly, Indian traders outside belt, who now carry on business in premises leased from Europeans, will be driven into belt on expiration of their lease. This will not only impose great hardship on Indians but many Europeans will suffer as well. Asiatic congestion around Durban which is already great will be seriously intensified. Sanitary conditions of Asiatic suburbs of Durban which are already regarded as a menace will become a greater source of danger to public health. Indians shut off from land will turn for a living to more or less skilled trades in which position of Europeans will be further threatened. It is stated by our deputation that Durban Corporation seems to be alive to sanitary danger of this provision of Bill and they add that Europeans with whom they have discussed the question have also begun to realise its probable effects.

5. These facts and considerations strengthen our conviction, which we have often pressed on Union Government, that a Round Table Conference would be most satisfactory method of dealing with the situation and we hope that, as result of discussion during the last few months and of wider appreciation of implication of Bill, there may have been some such modification in attitude of European public referred to in your telegram of September 24th as to justify your Government in reconsidering view they have taken of this proposal. We wish to make it clear that we are still willing and anxious to participate in a Round Table Conference in any place or manner which may seem to them most convenient.

6. If the Government of South Africa for any reason find themselves still unable to agree to a Round Table Conference, we hope that Union Government will agree that there is a *prima facie* case for some fresh enquiry before the proposed legislation is proceeded with. Apart from other considerations, the enquiry appears to be necessary firstly, because exact facts regarding extent of Indian competition in trade and industry do not seem to be fully known and secondly, because ultimate consequences of proposed legislation may be reverse of those which are expected and desired. Our deputation will we understand reach Cape Town on January 10th and we should be gratified if a Minister of the Government would consent to receive them informally and give them an opportunity of explaining and illustrating more fully the arguments in favour of holding an enquiry which we have only been able to indicate in brief outline. We believe that there is a great deal to be said in favour of allowing representatives of Indian community in South Africa and our representatives to place their views before a Committee of Enquiry before the Bill is proceeded with any further. The moral effect of holding the enquiry would be great. It would convince Indian opinion that Union Government were not averse to hearing representations which can be urged against policy embodied in Bill and that Parliament will not allow Indian case to be prejudiced in consequence of their not being represented politically.

(17)

TELEGRAM FROM THE GOVERNOR-GENERAL OF SOUTH AFRICA, DATED THE 5TH (RECEIVED 6TH) FEBRUARY 1926.

Your telegram dated 10th January 8-Overseas. My Ministers desire me to thank Your Excellency very cordially for your courtesy in communicating to them so fully and promptly the interim and provisional conclusions and recommendations of Deputation sent to South Africa to enquire into position of Indian population in Union.

2. With regard to Your Excellency's suggestion that it might still be possible for Union Government to agree to the holding of a Round Table Conference, my Ministers fully appreciate desire and motive of Government of India in pressing for this particular method of dealing with problem. They

wish me to state, however, that they have repeatedly given their most earnest and anxious consideration to the proposal but that for reasons already stated and in spite of their desire to meet the wishes of Your Excellency's Government, if possible, they cannot see their way to alter decision to which they have previously come.

3. With regard to observation in deputation report on general situation in South Africa and more particularly on probable effect of various (group omitted) on its proposed legislation my Ministers wish to point out that any conclusions to which deputation have come must necessarily and do admittedly rest on very fragmentary evidence gathered within a very limited period. They agree, therefore, in general conclusion this evidence must be supplemented before final and reasoned judgment shall be possible. They cannot, however, agree such further evidence must be collected by means of a fresh enquiry on the part of a commission appointed for purpose as this course seems to be unnecessary in view of similar and very exhaustive enquiry by Asiatic Enquiry Commission held only a few years ago and of information which can be made available from official sources. Besides a fresh enquiry as suggested will of necessity further delay legislation which is urgent and is already long overdue while on the other hand the Parliamentary select committee to which it is proposed to refer Bill will provide most suitable means and opportunity to supplement, as far as such may be required, any evidence which is already in hand.

4. Whilst on one hand my Ministers must regret their inability to accede to request of Government of India for a round table Conference or a fresh enquiry they on the other hand fully realize the anxiety of that Government to place as fully as possible the case of the Indian Community in South Africa before the Government of the Union. It is for this reason that they previously adumbrated the possibility of evidence before a parliamentary Select Committee by the deputation from the Government of India now in the country after Bill shall have passed the second reading. Although reference to a Select Committee after second reading will imply maintenance of the general principle of Bill it will at the same time offer a very wide scope for evidence and will not even exclude evidence on such a fundamental question in which Government of India is primarily concerned as to whether proposed segregation shall be voluntary or compulsory. To this suggestion which they have offered my Ministers have thus far received no reply and they are consequently in doubt as to the existence of any difficulty on the part of the Government of India in accepting the same. If such difficulty should, however, exist on the ground of too great a restriction of evidence which deputation might desire to bring forward my Ministers would agree to propose reference of Bill to a Select Committee before second reading thus widening scope for evidence so as to include principle of Bill. They wish it, however, to be understood that such a proposal on their part will be subject to Government of India intimating their willingness to availing themselves of this opportunity specially offered to place evidence before select committee through their deputation now in South Africa and further that it will be subject to Select Committee being required to report to Parliament within such limited period as will enable Parliament to deal finally during the present session with legislation proposed.

5. My Ministers have gladly acceded to the request of Your Excellency's Government that deputation who are now in Cape Town shall be received by one of Members of the Union Government. Intimation to this effect was sent to head of deputation immediately after the receipt of Your Excellency's last communication and proposed interview has already taken place.

(18)

TELEGRAM TO THE GOVERNOR-GENERAL OF SOUTH AFRICA, CAPE TOWN,
No. 105-Os., DATED DELHI, THE 9TH FEBRUARY 1926.

Priority—

We are in receipt of Your Excellency's telegram dated the 5th February and would be grateful if you would be so good as to convey to Your Excellency's

Ministers our warm appreciation of the courtesy and consideration they have extended to us and to our deputation.

2. While we cannot conceal from Your Excellency our deep disappointment that Your Excellency's Ministers have found it impossible to agree to either of the alternative methods put forward by us as best calculated to lead to a satisfactory solution of this problem we recognise that our proposals have been given the fullest and most anxious consideration. We further understand that the offer now made to us involves a departure from normal parliamentary practice and procedure, and we see in this another proof of the desire of Your Excellency's Ministers to find a solution of this difficult question. My Government are in the circumstances prepared to accept, subject to the conditions stipulated in Your Excellency's telegram and to our observation in the succeeding paragraph, the offer made by Your Excellency's Ministers of an enquiry by a Parliamentary Select Committee before the second reading of the Bill. We note with satisfaction that terms of reference to the Committee will be sufficiently wide to include consideration of the principles of the Bill and we assume it is intention of Your Excellency's Ministers also to allow representatives of Indian opinion in South Africa an opportunity of presenting their case to the Committee which we feel sure Your Excellency's Ministers will agree could not fail materially to assist the Committee in its task.

3. As Union Government are aware our objections to the Bill are fundamental and are against the principles on which the Bill is based. We propose therefore to instruct our Deputation to present the case before the Select Committee in respect of the general principles, although it necessarily follows from our arguments that we object also to the details of the Bill. We realise that Your Excellency's Ministers are anxious to avoid unnecessary delay but we trust in view of the very grave consequences for Indians which the proposed legislation must involve, fullest possible opportunity compatible with the limitation laid down in Your Excellency's telegram will be afforded for presentment of Indian case.

4. We are anxious that the offer made by Your Excellency's Ministers and our reply thereto should be published here with least possible delay and should be glad to know urgently by telegram when it is proposed to make these public in South Africa to enable us to arrange for publication here.

(19)

TELEGRAM FROM THE GOVERNOR-GENERAL OF SOUTH AFRICA, CAPE TOWN,
DATED THE 12TH FEBRUARY 1926.

Your telegram dated 9th February, 105-O. S. My Ministers note with great pleasure and appreciation the readiness of Government of India to avail themselves of opportunity specially offered to them for presentment of Indian case through their deputation now in South Africa in accordance with the contents of my telegram dated the 5th February. With reference to observations in paragraphs 2 and 3 of Your Excellency's telegram and for further information of Government of India they desire to state that ample time will be given to proposed Select Committee to hear and consider evidence and that reference of Bill to a Select Committee before second reading implies that Indian community in South Africa will, through their representatives, have same opportunity and scope for presenting their case as will be accorded to deputation from India. With reference to last paragraph of your telegram I am informed by my Ministers that they propose to lay on the table of House a copy of correspondence between the Government of India and Government of the Union with regard to the position of Indians in South Africa on Wednesday afternoon the seventeenth instant. The Honourable the Minister of the Interior will then make a statement in the House and give notice that he will move reference of Bill to a Select Committee before second reading. My Ministers submit that it will be suitable if publication referred to in your telegram could take place in India at the same time.