

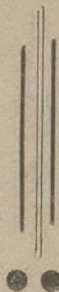
GOVERNMENT OF INDIA

W. S. Kerridge

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MINISTRY OF EXTERNAL AFFAIRS

Item no. 48.



Memorandum on Question of Treatment of
Indians in the Union of South Africa—
Exchange of Correspondence between
the Governments of India and the
Union of South Africa for
holding a Round Table
Conference

(SUBMITTED TO THE UNITED NATIONS)

1950



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**MEMORANDUM ON QUESTION OF TREATMENT OF INDIANS
IN THE UNION OF SOUTH AFRICA—EXCHANGE OF
CORRESPONDENCE BETWEEN THE GOVERNMENTS OF
INDIA AND THE UNION OF SOUTH AFRICA FOR HOLDING
A ROUND TABLE CONFERENCE.**

By a resolution dated May 14, 1949, the General Assembly of the United Nations invited the Governments of South Africa, India and Pakistan to resolve their differences over the Indian question in South Africa at a Round Table Conference. Certain preliminary talks were held between the delegates of the three countries in Cape Town in February 1950, when it was agreed that such a Round Table Conference should be held. As a result of subsequent developments in South Africa the Government of India have found it impossible to attend the proposed Round Table Conference. The reasons that led to this decision of the Government of India with a summary of the correspondence on the subject are stated below. (A copy of correspondence is also included as Appendix).

**PART I—CORRESPONDENCE LEADING TO THE PRELIMINARY
TALKS IN CAPE TOWN IN FEBRUARY 1950**

2. It is not necessary to go into details of the earlier history of the struggle of Indians in South Africa at this juncture, but it may be stated, in brief, that the Government of India have in the past consistently opposed attempts on the part of the Government of the Union of South Africa to introduce legislation on racial segregation. They have, similarly, consistently objected to and protested against the numerous social, political and economic disabilities imposed on the Indian community in South Africa. This was what led to the two earlier Round Table Conferences, in 1927 and 1932. The first of these conferences, in 1927, arose out of the proposal of the Union Government to introduce the Areas Reservation Bill. The Conference led to, what is known as, the Cape Town Agreement in 1927 and the Union Government abandoned the Areas Reservation Bill. In the second Round Table Conference of 1932, it was recognised that the scheme for assisted emigration of Indians had proved a failure. The Cape Town Agreement of 1927 was reaffirmed.

3. Matters again seriously came to a head in 1946, when in that year the Union Government passed the Asiatic Land Tenure and Indian Representation Act, under which inter-racial transfer of property was prohibited, both, for ownership as well as for occupational purposes, except in what were termed "Exempted Areas". The Government of India made suitable representations against this

measure to the Union Government, because the enactment aimed at racial segregation. When the Government of India failed to persuade the Union Government to discuss matters at a Round Table Conference, they were compelled to recall their High Commissioner and impose a ban on trade with South Africa.

4. The entire issue of disabilities suffered by Indians in South Africa and the Union Government's policy of racial segregation was then raised by the Government of India before the United Nations and the question was discussed at successive sessions of that International body, in 1946, 1947 and again in 1948-49.

5. The General Assembly of the United Nations at its 212th plenary meeting, on May 14, 1949, passed the following resolution, on the report of the First Committee on the question of the treatment of people of Indian origin in the Union of South Africa:—

“THE GENERAL ASSEMBLY.

TAKING NOTE of the application made by the Government of India regarding the treatment of people of Indian origin in the Union of South Africa as well as of considerations put forward by the Government of the Union, and having examined the matter,

INVITES the Government of India, Pakistan, and the Union of South Africa, to enter into discussion at a round table conference, taking into consideration the purposes and principles of the Charter of the United Nations and the Declaration of Human Rights.”

6. In their telegram dated July 4, 1949, the Government of India initiated the correspondence which led to the preliminary discussions in February 1950. In that telegram they quoted the text of the United Nations resolution and enquired “whether the Union Government are agreeable to a Round Table Conference being convened as provided for in the Resolution, and if so, where and when” (Appendix I). This is significant, because the Union Government have, on more than one occasion, attempted to make out that the subsequent Preliminary Discussions at Cape Town, in February, 1950, had been made possible only because of personal contacts established between Pandit Jawahar Lal Nehru and Dr. Malan in London and similar other contacts established at other Conferences. Even during the Preliminary Discussions at Cape Town the South Africa Delegation tried to make out that South Africa was not entering these discussions as a result of any resolution of the United Nations. The Leader of the Indian Delegation, however, made it abundantly clear at all discussions, both, inside and outside the official talks, that this view was entirely incorrect and that the Government of India had taken the initiative in the matter solely because of directions issued by the United Nations in their resolution referred to above.

7. Before making this initial approach to the Government of the Union of South Africa in their telegram of July 4, 1949, the Government of India had, on June 13, sent a letter to the Government of Pakistan suggesting that a Round Table Conference be held in terms of the resolution of the United Nations General Assembly, and indeed, throughout, the Government of India have kept them fully posted of developments, from time to time.

8. In the meantime, however, the Government of the Union of South Africa had gone on to introduce drastic alterations in the Land Tenure legislation of 1946, which had been the cause of the breach of friendly relations between the two countries. On June 30, 1949, the Government of India later learnt, the Union Parliament had enacted the Asiatic Land Tenure (Amendment) Act, 1949. The Act of 1946 had not imposed any restrictions in regard to occupation of any land or premises used exclusively for the purpose of business or trade. The Amendment Act of 1949 modified this, with the broad result that an Asiatic would, after July 1, 1949, be prevented from occupying any new land or premises even for the purpose of business or trade in areas in which ownership and residences had already been prohibited. The Act thus imposed, for the first time, territorial segregation on Asiatics even for trade and business. The limited Asiatic representation in the Union legislature that the 1946 legislation had conferred was also completely withdrawn, by a repeal of those provisions in an Amendment carried out in 1948—the excuse officially given being that Indians had refused to take advantage of the representation given them.

9. The Government of India could not but lodge a protest against this with the Union Government (Appendix II) and they also informed the United Nations (Appendix III) that they considered the new Act as constituting a fresh violation of the purposes and principles of the Charter of United Nations and the Declaration of Human Rights, but they did not allow this to come in the way of the discussion for the proposed Round Table Conference.

10. The Union Government's reply to the Government of India's telegram of July 4, was received in a telegram dated July 13 (Appendix IV). This said that the Union Government was not averse to a discussion of "the position of Indians" in South Africa with India and Pakistan, subject to certain conditions. With a view to finding a "mutually acceptable basis" for discussion, however, they emphasised, *inter-alia*,

- (a) "that they have always taken up the stand that the so called Indian question in South Africa is entirely a domestic matter and that unless reasonable prospect is opened for a solution satisfactory to South Africa herself, such a discussion must be regarded as interference in the domestic affairs

of an independent country". On this "principle" the Union Government could "countenance no compromise".

(b) Regarding the Charter of the United Nations and the Declaration of Human Rights they maintained that these could "in no way be accepted as a determining factor in any treatment of the subject under discussion."

A sound and realistic approach, according to them, offered a much better prospect of an enduring solution than an "exaggerated emphasis" on the Declaration of Human Rights and "abstract and often impracticable principles and ideals". In addition to these reservations, which are a negation of any spirit of compromise and which relegate the Charter of the United Nations and the Declaration of Human Rights to a secondary place in the scheme of things, it was suggested that preparatory talks might take place in South Africa for the drafting of the basis for discussion and agenda "should the reaction of the Government of India and Pakistan disclose a sufficient common ground" between them and the Union Government.

11. The Government of India in their telegram dated July 21 (Appendix V), while agreeing to the preliminary negotiations being held in South Africa, reassured the Government of the Union of South Africa that they "recognise that India can no more interfere in the domestic affairs of South Africa than the Union Government can in the affairs of India". They hoped, however, that the Union Government would "appreciate that the Indian problem in South Africa has to be viewed as one in which Governments of South Africa and India are both interested and that, because of its racial implications, it also has an international significance".

The Pakistan Government also replied that they were agreeable to the preliminary negotiations suggested by the Union Government.

12. The Union Government's reply to this was not received till September 14 (Appendix VIII). They referred to their previous telegram of July 12 as representing their "basically unalterable approach" and asked for a suitable date for the preliminary discussions between the last week of October and the third week of November, 1949. They further suggested that the success of these discussions would be enhanced if economic sanctions against South Africa were "voluntarily withdrawn".

13. The Government of India had, as already stated, reported the introduction of the Asiatic Land Tenure (Amendment) Act 1949 to the United Nations. They were informed that in addition to the promulgation of the Act, various other iniquities were being heaped on the Indian community, while this correspondence on a possible Round Table Conference or preliminary discussions leading to a conference were in progress. In their telegram dated September 22 (Appendix IX), they, accordingly, detailed some of these measures and said that

all these were "not calculated to create a propitious atmosphere for the Conference envisaged in the United Nations Assembly Resolution of the 14th May, 1949" and the Government of India hoped that the Union Government would "find it possible to suspend or postpone them until the proposed Tripartite Conference has reviewed the entire problem in an earnest effort to find a friendly and satisfactory solution".

14. Pakistan had been informed of this representation made to the Union Government, through our High Commissioner and also that we were not in favour of the withdrawal of trade restrictions against South Africa before the preliminary discussions. In a telegram dated November 8, Pakistan informed South Africa that they were "glad to accept the Union Government's invitation for preliminary discussions on the agenda for the tripartite Conference."

15. The Union Government's reply to the Government of India's telegram of September 22 was received in a telegram from Pretoria dated November 11 (Appendix X). They complained, *inter-alia*, of the "persistent maintenance of the unilateral trade sanctions" by India; they also complained of the "unjustified attempts on the part of the Government of India to arraign the Government of the Union before the United Nations", and inferred that it was "not the desire of the Government of India that these talks shall take place in the most favourable atmosphere".

16. South Africa had apparently taken umbrage even at the deliberately mildly worded statement of India's representative in the General Assembly, wherein he had cautiously stated:

"We have lost no time in acting upon the Resolution, but the response so far has been disappointing and although the outlook at the present moment is not bright, we hope we shall not have to bring up the matter before the Assembly this Session" (1949).

17. The Government of India in their reply to this in a telegram dated November 21 (Appendix XI), regretted that the genuineness of their desire to find a friendly solution of a difficult problem had been doubted and expressed their anxiety to join in a preliminary discussion in, say, December, 1949. The Union Government however suggested that the discussions be held in Cape Town on February 6, 1950 (Appendix XII) and this date and venue was accepted by the Government of India (Appendix XIII).

PART II.—PRELIMINARY TALKS IN CAPE TOWN IN FEBRUARY 1950

18. The delegates of India, Pakistan and South Africa met at Cape Town for the Preliminary Talks, the discussion officially lasting from February 6 to 11, 1950. At the very outset, as already stated, Dr. Donges, the Minister of the Interior of the Union Government, who

was the Leader of the South Africa Delegation, tried to make out that the preliminary discussions were not being held because of any resolution of the United Nations but had been made possible solely as a result of personal contacts established between Pandit Jawaharlal Nehru and Dr. Malan in London and similar other conferences. The scope of the discussions, Dr. Donges said, was limited by the correspondence exchanged between the three Governments in which, as we have seen, the Union Government had stressed the domestic nature of the "so called Indian problem" and the Union Government expected "a solution satisfactory to South Africa herself, with the co-operation of an outside Government or Governments". According to the Leader of the South Africa Delegation, the objective of both the previous Conferences, in 1927 and 1932 had been only one, namely, the reduction of the Indian population in South Africa and the Cape Town discussions should take up the threads of these two earlier Conferences and seek a solution of the same issue.

19. The Leader of the India Delegation, Pandit Hirday Nath Kunzru, emphatically contended that India was entering the discussions solely because of the United Nations Resolution, as was obvious from Government of India's first telegram of July 4, 1949, and not as a result of the meeting of the Prime Ministers of India and South Africa that the mutuality of the problem had been admitted by the earlier Conferences also, and that India would insist on a full discussion of the discrimination and disabilities which the Indian community suffered from in South Africa. He also held that it was not true to suggest that the sole purpose of the 1927 and 1932 Conferences was to discuss the question of reduction of the Indian population in South Africa.

20. Later, when the three delegations settled down to drawing up the actual agenda for the Round Table Conference, South Africa proposed the "reduction of the Indian population in South Africa" as the item to be discussed on their behalf. India and Pakistan, on the other hand, jointly proposed the following as their item for the Round Table Conference agenda:—

"Removal of Political, Social and Economic disabilities of South African Nationals of Indo-Pakistan origin and the provision of opportunities for their fullest development."

There was complete understanding on the part of all the three delegations that agreement to discuss any matter at the proposed Round Table Conference did not imply agreement on the merits of the subject brought up for discussion by any of the parties. Dr. Donges, the Leader of the South Africa Delegation, further suggested that the agenda of the Round Table Conference "would be a formal document and its phraseology should create the least possible embarrassment from the point of view of the ultimate success of the

Conference. Nevertheless it was desired that privately the Delegates should have an accurate idea of the points which might be discussed under the particular agenda heads". This was agreed to by the other Delegates and it was decided that the ultimate wording should be such as not to wreck in advance the possibility of a successful discussion by undue criticism outside the Conference.

21. After considerable discussion over finding a common formula to cover both the agenda items it was finally agreed that the agenda should be drawn up in the widest possible terms and that the Delegations should recommend to their respective Governments that a Round Table Conference be convened "to explore all possible ways and means of settling the Indian question in the Union of South Africa". This common formula thus covered the two concrete items of the agenda for the Round Table Conference put forward by South Africa on the one hand and India and Pakistan jointly, on the other. A copy of the joint press communique published simultaneously in the three countries after the preliminary talks will be found at Appendix XIV.

22. Since repeated statements have been made by leaders of the Nationalist Party (Dr. Malan's) on the floor of the Union Parliament during the passage of the Group Areas Bill and by the Union Government in the correspondence that followed, that the leaders of the India and Pakistan Delegations had been informed in general terms the purport of the contemplated Bill and its possible effect on the Indian community, it is necessary to state briefly what discussion the Leader of the India Delegation had had with the Leader of the South Africa Delegation outside the official talks. On February 8, before the third meeting of the preliminary talks in Cape Town, the Hon'ble Minister of the Interior of the Union Government expressed a desire to see Pandit Kunzru in his office. In this personal discussion Dr. Donges reiterated the arguments advanced by him in his opening speech. Pandit Kunzru emphasised India's point of view, which had already been stated in the second day's meeting. Dr. Donges, *inter alia*, said that the non-homogeneous population of South Africa created very difficult problems which India did not appear to appreciate and stated frankly that the Union Government felt that they could not give political, social and economic rights to the Indians in South Africa, for fear that the Native population would inevitably claim the same rights for themselves. He also asserted that Indians who were different by race and religion could not assimilate the European Civilization in South Africa. Pandit Kunzru, in refuting a number of these issues, maintained that civilization had nothing to do with race and religion and that Indians could follow "the Western ways of life", referred to in the Cape Town Agreement of 1927 without any difficulty. Dr. Donges, however, insisted that according to them *apartheid* was the only solution of the racial problem and it

would place all the races on the same footing and remove the stigma of inferiority that the Asiatic Land Tenure Act placed on the Indian community. Pandit Kunzru understood from this that the Union Government probably intended removing discrimination against any community by introducing the same conditions for others. The Indian Delegation had no impression, as a result of this talk, that any legislative measure like the Group Areas Bill was intended to be introduced in South Africa before the Round Table Conference. Beyond what has been stated above there was no mention of any intended legislation, whatsoever, during the India Delegation's stay in Cape Town.

PART III.—DEVELOPMENTS AFTER THE PRELIMINARY TALKS

23. Even before the preliminary talks the Union Government had been resorting to anti-Indian measures in South Africa. After these talks, contrary to expectations, stern action against Indians holding property in the Transvaal in technical violation of certain discriminatory laws, was, if any thing, intensified. Information reached the Government of India that the Government of Union of South Africa was tightening up the enforcement of the Asiatic Land Tenure (Amendment) Act of 1949 and were vigorously enforcing segregation in other matters by various executive measures. Reports that stringent and far-reaching legislation on the lines of what later turned out to be, the Group Areas Bill was intended to be introduced in the Union Parliament were also received from South Africa. The Government of India informed Pakistan of this on or about March 10, through their High Commissioner in Karachi and requested them to join in a representation to the Union Government to withhold such measures pending the Round Table Conference.

24. On receiving reports that the Group Areas Bill was to be introduced in the Union Parliament in the middle of April, the Government of India's High Commissioner's office presented an *Aide Memoire* to the Department of External Affairs in Cape Town, on April 5 (Appendix XV). This drew pointed attention to prosecutions launched in respect of "illegal" ownership and occupation causing consternation and "vitiating the atmosphere preliminary to the Round Table Conference". The Government of India, requested the Union Government to withhold the extension of the provisions of the Asiatic Land Tenure Act to the Cape Province and the proposed introduction of the Group Areas Bill, which would add to the disabilities of Indians, matters which were part of the agenda, pending the Round Table Conference.

25. On April 20 the Union Government replied to this *Aide Memoire* in Cape Town, turning down the Government of India's

request, on the plea that they could not "be a party to a disregard and evasion of the Law", etc., etc. (Appendix XVI).

26. Simultaneously, in a telegram dated April, 20, they suggested without any reference to the Government of India's *Aide Memoire* or their reply, that a Round Table Conference may be held in October or November next "at a centre where all three Governments are represented so that full use could be made of the local staffs", i.e. not in South Africa. (Appendix XVII).

27. The provisions of the Group Areas Bill were released in Cape Town on April 27, and immediately provoked a storm of protest, both, in South Africa and in India. The South African Indian Congress asked on April 22, whether the Round Table Conference would achieve any useful purpose "in the face of this most devastating racial Bill" and whether the Union Government were serious in agreeing to a Conference with India and Pakistan.

28. Officially the Bill proposed "to legislate on the lines urged for many years by various sections of the inhabitants of the Union, and to extend to all racial groups, the principle of separate residential and occupational areas". Not only Indian but every non-European section of the South African population has condemned this attempt at legislative *apartheid* by the white community of South Africa.

The main provisions of the Bill may be summarised as follows:—

The Bill provides for the division and control of all land in the Union for ownership and occupation by different racial groups. For this purpose, the entire population is divided into three main groups *viz.* White, Native and Coloured, Indians being included in the Coloured group which itself can be further sub-divided. The Government can establish by Proclamation "Group areas" for exclusive occupation or ownership or both, of any of the groups. Fresh acquisition of ownership by disqualified persons or company in any "group area" is prohibited; disqualified companies holding property at the commencement of notification cannot retain ownership after ten years; the Minister can after this period, sell such property compulsorily. All the property in a group area held at the commencement of the Proclamation by a disqualified individual will, after his death, have to be sold to a member of the group for which the area is set-apart. No disqualified person can occupy land or premises in a group area without a permit after one year of the notification of the area, with the exception of the servants and guests, etc. All areas, other than group areas and Native locations will be "controlled areas", in which the transfer of occupation and

ownership between members of different groups can take place only under the authority of a permit. No differentiation is made in the Bill between occupation for residence and occupation for trade. Trade licences may issue or be renewed only on proof that the applicant can lawfully occupy the premises where the trade is to be carried on.

29. That the legislative measure will spell the ruin of the Indian community which is mainly engaged in trade and business in South Africa is obvious from the above brief analysis. Although the South African Government has been at pain to claim that the Bill is equally applicable to all communities, there is every reason to believe that its principal aim is the segregation of Indians. This is amply borne out by the Joint Report of the Asiatic Land Tenure Laws Amendments Committee and the Land Tenure Act Amendments Committee, extracts from which were published by the Union Government almost simultaneously with the Group Areas Bill. According to this report "there appears to be an ever-growing belief in the public mind that the only satisfactory solution of the Asiatic question is repatriation, and that whatever is done by way of legislation should be such as not to endanger the possibility of repatriation and deprive the public of one of its most deeply cherished hopes." "In its most advanced form", according to the Committee, "this theme reads: repatriation and, failing which, compulsory segregation with boycott to induce repatriation". A detailed examination of the Committee's recommendations clearly shows that the Group Areas Bill could not have disappointed them, and the White Community which the Committee solely represented.

30. The Government of India being still unaware of the details of the Bill, in their telegram dated April 29 (Appendix XVIII) despite the universal feeling in India that the Round Table Conference had been sabotaged, refrained from infusing a "spirit of controversy into the discussion" and said that the Government of India's case was "not directed against the legality of the Union Government's action, but against its expediency". They said, "the fact that the Bill does not apply to Indians alone does not affect the principle of racial segregation which underlies it and to which the Government of India have consistently objected". They pointed out that whatever the legality of the action or the merits of the argument based on "domestic jurisdiction", which the Union Government had over and over again repeated the impression created was that segregation was its settled and irrevocable policy and "the only purpose of the Round Table Conference can be to discuss compulsory expatriation of Indians from South Africa". The Government of India said that a conference "held under such conditions could hardly yield any useful results". They, therefore, earnestly requested the Union Government to suspend further action in all these matters (executive action

under the Asiatic Land Tenure Amendment Act, 1949 and the introduction of the Group Areas Bill) and convene the Round Table Conference immediately as against the Union Government's proposal to hold the conference in October or November, which would be clearly after the Bill had passed into law. They pressed also that South Africa would be the most suitable venue for the Conference. The text of this telegram was communicated by the Government of India's High Commissioner to the Pakistan Government, pointing out that the second reading of the Group Areas Bill had been fixed for May 1, in the Union Parliament.

31. Pakistan in a telegram dated May 9 (Appendix XIX), informed the Union Government that October would be "somewhat late" for the Round Table Conference, and suggested an earlier date in July or August. In the same telegram they said that they had been "greatly concerned" to see press reports of fresh legislation aiming at racial segregation and while they did "not question the Sovereign legal right of the South Africa Government to pass legislation affecting all its citizens" they earnestly suggested postponement of such legislation pending the Round Table Conference. The telegram added "the Union Government will recall that Government of Pakistan's action to lift the Trade Ban on the eve of the last Conference contributed greatly towards the success of the Conference".

32. Meanwhile, on May 26, Dr. Malan moved the application of the guillotine, limiting the second reading of the Bill to 22 hours, the Committee stage to 24 and all stages to 52 hours.

33. The Union Government's reply to the Government of India's telegram dated April 29, was received in a Cape Town telegram dated May 26 (Appendix XX). It said that compliance with the Government of India's request would in effect amount to an abdication of the functions of the judiciary and the legislature generally. The inexpediency of ruining the atmosphere of the proposed Round Table Conference made no appeal to the South African conscience. "To promote a more objective approach to the problems" they again suggested that the Conference should be held in a country other than that of the participating Governments. South Africa could not hold the Conference before September 15.

34. While moving the second reading of the Group Areas Bill Dr. Dinges, for the first time, suggested that the principle of the Bill had been explained to the leaders of the India and Pakistan Delegations during the Cape Town Talks. This was immediately denied in a press interview in Poona by Pandit Kunzru, the Leader of the India Delegation.

35. After giving the Union Government's last telegram the most serious consideration the Government of India in a telegram dated

June 6, (Appendix XXI), informed the Union Government, with regret, that they had decided not to participate in the Round Table Conference. They pointed out that in view of the history of the case and the Government of India's consistent policy in regard to this question going into over half a century, they would undoubtedly have urged at the proposed Round Table Conference that uplift and not segregation would be the appropriate method for making the Indian community in the Union contented and useful members of the Union population. Referring to the Group Areas Bill, they said that the fact that the Bill would also put Europeans and Africans into separate areas could be no consolation to the Indian Community. "Apart from the fact that these measures must spoil the atmosphere for the Round Table Conference, they leave no room for doubt that the Union Government are determined to.....limit the discussion at the Conference to measures designed to reduce the Indian population of the Union." "Such a Conference", the Government of India telegram added, "could only be onesided and could provide no solution of the problem that would be consistent with the aims and principles that the Government of India have throughout advocated".

36. The attitude of the Government of India towards the Round Table Conference, thus, having been clearly defined, the Indian Representative on the United Nations at New York was asked to communicate the substance of the correspondence with the Union Government to the Secretary General of the United Nations. After due intimation to the Union Government, this correspondence was also released to the Press on June 9.

37. In a telegram dated June 8 (Appendix XXII) the Union Government describing the Government of India's decision not to participate in the Round Table Conference as "both disappointing and regrettable" said that they found it difficult to understand this because the leader of the South African delegation, in the course of the Preliminary Conference at Cape Town, had explained to the leaders of the India and Pakistan delegations in general terms the purport of the contemplated Group Areas Bill and the effect it would have on removing racial discrimination. The Union Government maintained that the Government of India was, thus, aware of the Union Government's intentions in this regard. It may be stated that Dr. Donges in the course of the debate in the Union Parliament on the second reading of the Bill, on 30th May, had alleged for the first time that the provisions of the Bill had been explained to the heads of the India and Pakistan delegations at the Preliminary Conference in February.

38 On June 9 the Government of India replied (Appendix XXIII) saying "No mention of the Group Areas Bill was made at any stage

in the Preliminary Conference. Outside the official discussions the Minister of the Interior is understood to have told the Leader of the India Delegation that the Union Government intended to remove discrimination against any community by providing the same conditions for all. Dr. Kunzru did not get the impression from this that introduction of a measure like the Bill before the Round Table Conference was intended". Pandit Kunzru in his statements to the Press, likewise, emphatically denied that he had been given any information about the Group Areas Bill beyond the hint thrown out outside the official talks to which reference has been made in paragraph above. The Pakistan Government in their reply dated 15th June also said "The Member of the Pakistan Delegation to the Preliminary Talks at Cape Town in February last has no recollection of any conversation in which the leader of the South African Delegation may have mentioned his Government's intention to put through any fresh anti-Asiatic legislation before the Round Table Conference is held."

39. Despite this specific denial of any prior knowledge of the Bill by the Government of India and by the Leader of the Indian Delegation himself as well as by Pakistan, the Union Government in a further telegram dated June 14 (Appendix XXIV) reiterated their contention that the Leader of the India Delegation had been given this information. In fact the Union Government here went on to say that in their opinion the passage of the Bill "with its concomitant of the removal of the discrimination alleged by India..... would contribute greatly to the salubrity of the atmosphere in which the Round Table Conference would be held". After justifying the introduction of the bill on the oft-repeated ground of "domestic jurisdiction" the Union Government reaffirmed its willingness to proceed with the Round Table Conference should the Government of India be prepared to reconsider their decision.

40. The Government of Pakistan replied to the Union Government's telegram of June 8 in a telegram dated June 15 (Appendix XXV). They regretted "the Union Government's inability to accede to their request to suspend fresh legislation pending discussion at the Round Table Conference". They said that they were convinced that the problem could only be solved "by means of a free and frank discussions between the parties and mutual accommodation of views" and they accordingly suggested "for the consideration of the Union Government that the enforcement of the Group Areas Bill may be postponed pending discussions at the Round Table Conference". They added "if the Union Government are agreeable the Government of Pakistan would be happy to request the Government of India to reconsider their decision".

41. The Union Government's reply to the Government of Pakistan's telegram of June 15 (Appendix XXV) was received in their telegram dated June 22 (Appendix XXVI). They reiterated their anxiety to proceed with the Round Table Conference but they declined to accept Pakistan's suggestion that the enforcement of the Group Areas Bill might be postponed pending the Conference. All they said was that it was "unlikely that the provisions of the Bill relating specifically to the proclamation of Group Areas will be brought into operation before December" and suggested that the Conference might meet earlier, between 15th September and 15th November. Still insisting that the Leaders of the Indian and Pakistan Delegations had been explained "in general terms.....the broad principles of the Group Areas Bill" "privately and individually", this telegram brought in a further issue, namely, that the Bill had been mentioned in the Speech from the Throne on January 20 in the Union Parliament, as one of the measures which would be introduced during the current session and that this had been reported in all important local newspapers.

42. The Government of India gave very careful consideration to the Union Government's telegram of June 14 (Appendix XXIV) and June 22 (Appendix XXVI). On June 27 they informed Pakistan of the text of the reply which they proposed to give to the Union Government on June 30. In a telegram of July 1 (Appendix XXVIII) Pakistan Government said that acceptance of their proposal by the Union Government would have meant parties sitting down in the Conference with an open mind and it would have followed that the Union Government "would be prepared to revise or modify their policy which forms the basis of the Bill in question and of previous anti-Asiatic legislation should discussions at the Round Table Conference indicate more satisfactory alternative method or methods of approach to the problem". They said that unless there was some minimum basis of understanding there would be no point in holding the Conference

43. On June 30 the Government of India finally informed South Africa that with the Group Area Bill on the Statute Book, the Round Table Conference if it were held, would in their opinion be one sided and they felt constrained to re-affirm their contention that no useful purpose would be served by their participation in it. They denied again the suggestion that any intimation regarding the Group Areas Bill had been given to the Leader of the Indian Delegation at the Cape Town Talks and maintained that the attention of the Government of India had been drawn to the Speech from the Throne only on receipt of the Union Government's telegram of 22nd June. They drew pointed attention to the denial in Pakistan Government's telegram of June 15 that the Leader of the Pakistan Delegation had

been given no such information either. They said "the passage of the Group Areas Bill has caused widespread public resentment in India and among South African nationals of Indian origin in the Union. Had the Union Government acceded to Government of India's request to postpone the new anti-Asian legislation.....not only would public feeling in India have been more hopeful of outcome of Conference, but the consideration by the Union Government Representatives of the proposals of Government of India for removing instead of tightening restrictions on nationals of Indo-Pakistan origin would have been easier." (Appendix XXVII).

44. In these circumstances the Government of India have requested the Secretary-General of the United Nations to include the question of the treatment of Indians in South Africa in the Provisional Agenda of the Fifth Session of the General Assembly (Appendix XXIX).

APPENDIX

Correspondence exchanged between Governments of India, Pakistan and South Africa for holding a Round Table Conference.

(N. B.—Some of the telegrams are paraphrased versions of actual communications).

I

TELEGRAM NO. 30386, DATED JULY 4, 1949, FROM THE GOVERNMENT OF INDIA TO THE GOVERNMENT OF THE UNION OF SOUTH AFRICA.

The Government of India invited attention of the Union Government to the resolution passed by the United Nations General Assembly on May 14, 1949 and enquired whether the Government of the Union of South Africa were agreeable to a Round Table Conference being convened as provided for in the resolution, and if so, where and when. It was suggested that details of agenda and other matters concerning the Conference could, if the Government of the Union of South Africa agreed to such a conference being held, be discussed later, and it was added that any suggestion that the Government of the Union of South Africa might make in that respect would receive the most careful consideration of the Government of India.

II

TELEGRAM NO. 30393, DATED JULY 9, 1949, FROM THE GOVERNMENT OF INDIA TO THE GOVERNMENT OF THE UNION OF SOUTH AFRICA.

Information has reached the Government of India that on 30th June, 1949, the South African Parliament passed the Asiatic Land Tenure Amendment Bill of 1949. One of the most objectionable restrictions which this latest law imposes on Indians in South Africa is the one contained in Section 11, which in effect imposes territorial segregation on Asiatics even for trading purposes after June 1949. Segregation of Indians in the Union in whatever form it may be, has consistently been opposed by the Government of India ever since the Gold Law has passed in the Transvaal in 1908. In the opinion of the Government of India this treatment is contrary to the purposes and principles of U. N. Charter. The restrictions imposed by the new Law have made the position of the Indians in South Africa much worse than it was in 1946. We feel duty bound to protest strongly against this legislation which further extends the policy of racial discrimination.

LETTER FROM THE INDIAN DELEGATION TO THE UNITED NATIONS, ADDRESSED
TO THE SECRETARY GENERAL, ON 11TH JULY 1949.

No. 1536.

Indian Delegation to the United
Nations, 350 Fifth Avenue,
Room 6212, New York 1,
N. Y.

11th July 1949.

The Secretary General,
United Nations,
Lake Success, New York.

SUBJECT:—*Treatment of People of Indian Origin in the Union of
South Africa.*

SIR,

I have the honour to refer to the resolution adopted by the General Assembly at its 212th Plenary Meeting on 14th May, 1949, regarding the treatment of people of Indian origin in the Union of South Africa, and to transmit the following message from the Government of India in the Ministry of External Affairs.

“Begins. The Government of India were anxious to take early steps in pursuance of the resolution on the treatment of persons of Indian origin in South Africa, which was adopted by the General Assembly of the United Nations at its 212th Plenary Meeting held on the 14th May, 1949. Immediately on the return of their Delegation from the United Nations they sent on the 13th June, 1949 a message to the Government of Pakistan suggesting that a Round Table Conference be held in terms of the resolution of the General Assembly. On the 4th July the Government of India addressed telegram to the Government of the Union of South Africa enquiring whether the Union Government are agreeable to a Round Table Conference being convened as provided for in the Resolution and if so where and when. Government of India also stated therein that while details of agenda and other matters relating to the conference could, if the Union Government agreed to such a conference being held, be discussed later, any suggestions that the Union Government might care to make now would receive Government of India's most careful consideration. No reply to this telegram has yet been received.

Government of India are now informed that on 30th June, 1949, the Union Parliament enacted a new Act called the Asiatic Land Tenure Amendment Act which amends the Asiatic Land Tenure Act of 1946 and some of the earlier Acts namely Transvaal Law 3 of 1885 and Asiatics (Land and Trading) Amendment Act (Transvaal) of 1919.

The Act of 1946 did not impose any restrictions in regard to occupation of any land or premises exclusively for the purpose of business or trade for which a licence was issued under the law. The new Act amends this provision with the broad result that an Asiatic will after 1st June, 1949, be prevented from occupying any land or premises even for purposes of business or trade in areas in which ownership and residence are already prohibited. The Act imposes for the first time territorial segregation on Asiatics even for trade and business. Government of India consider that the latest Act constitutes a fresh violation of the purposes and principles of the Charter of the United Nations and the Declaration of Human Rights. They have already lodged a protest with the Union Government against this legislation, but feel it their duty to convey the matter immediately to the notice of the United Nations for such action as the Secretary General may deem practicable. Ends".

Yours faithfully,
M. GOPALA MENON,
First Secretary.

IV

TELEGRAM No. 15, DATED JULY 13, 1949, FROM THE GOVERNMENT OF THE UNION OF SOUTH AFRICA TO THE GOVERNMENT OF INDIA.

The Union Government have very carefully considered the Government of India telegram of July 4.

Subject to what is stated below the Government of the Union of South Africa are, in general, not averse to the discussion with the Governments of India and Pakistan of the Indian question in the Union of South Africa.

It is the conviction of the Union Government that for such discussion to be fruitful a mutually acceptable basis for discussion must be found. The Union Government are constrained to stress the following points with a view to arriving at such a basis:—

Firstly, it has always been the stand point of the Government of the Union of South Africa that the so called Indian question in the Union is entirely their domestic concern and that unless a reasonable prospect is opened for a solution satisfactory to the Union herself with the co-operation of an outside Government or governments such a discussion must be regarded as an interference in the domestic affairs of an independent State. The Government of South Africa takes an unequivocal stand on this principle and can counterance no compromise.

Secondly, the Government of South Africa have subscribed to purposes and principles of the United Nations Charter and that while the Declaration of International Human Rights may well be taken into consideration it should in no way be accepted as a determining factor in any treatment of the subject under discussion. It cannot be denied there is hardly a State which is in a position to comply in every respect with the requirements of the Declaration of Human Rights and in these circumstances an exaggerated emphasis of this declaration can only prejudice the solution of this and similar questions. A sound realistic approach offers indeed a much better prospect of a generally satisfactory and enduring solution than the emphasising of abstract and often impracticable principles and ideals.

The message of the Government of India is accepted by the Union Government as a token of Indian Government's genuine desire to restore and perpetuate friendly relations with the Government of South Africa. The Union Government are also animated by a similar desire. When the Government of South Africa insist on the frank recognition of the existence of mutual problem in the Union and on realistic approach and solution thereof by co-operation between the Governments concerned they do so with a view to that strengthening of those bonds of friendship which are so desirable particularly between the members of the Commonwealth.

In the opinion of the Government of the Union of South Africa the above is a sufficient indication for the present of their view point as well as of what it considers necessary in the eventual drafting of a basis of discussion and the agenda for the Round Table Conference.

If the reaction of the Governments of India and Pakistan discloses a sufficient common ground the Union Government would propose that negotiations for the drafting of the basis of discussion and agenda should be conducted through personal contacts rather than by exchange of messages. This can be done either by the restoration of diplomatic relations which formerly existed or by means of a special deputation by agreement between the Governments concerned. The Union Government would suggest that these preliminary talks may be held in South Africa.

V

TELEGRAM NO. 30399, DATED JULY 21, 1949, FROM THE GOVERNMENT OF INDIA TO THE GOVERNMENT OF THE UNION OF SOUTH AFRICA.

The receipt of Union Government's telegram of 13th July is acknowledged with thanks and the friendly spirit by which it is animated is appreciated. It is recognised by the Government of India that India can no more interfere in domestic affairs of South

Africa than the South African Government can in affairs of India. It will, however, no doubt be appreciated by the Union Government that Indian problem in South Africa has to be viewed as one in which Governments of South Africa and India are both interested and that, because of its racial implications, it has also an international significance.

Further it is recognised by the Government of India that consideration of an emergent character may involve deviation from the principles of the U.N. Charter and the Declaration of Human Rights. The Government of India, however, think that the Government of South Africa would probably agree with them that these principles represent ideals to which every member of the United Nations must in due course conform.

Government of India agree to preliminary discussions for drafting basis of discussion and agenda. But they would prefer to have an idea of the Union Government's intentions in the matter before they send a delegate, as this would enable them to suitably instruct their delegate before the discussions commence. The Government of India will not, however, press this request for advance information regarding the agenda in case the Union Government prefer the procedure suggested in their telegram under reply.

The proposal that the discussions should be held in the Union of South Africa is acceptable to the Government of India.

VI

LETTER FROM THE UNION DELEGATION TO THE UNITED NATIONS ADDRESSED TO THE ACTING SECRETARY GENERAL ON 9TH AUGUST, 1949.

9th August, 1949.

SIR,

I have the honour to refer to your letter No. 1204-4-2/FYC of July 21st, 1949, and this Delegation's interim reply of 29th July 1949, relative to the implementation of the General Assembly resolution of 14th May, 1949, concerning the treatment of people of Indian origin in the Union of South Africa, and to transmit the following message from the Government of the Union of South Africa:

Begins. (1) The Union Government have received from their Deputy Permanent Representative to the United Nations the text of the letter addressed to you under date July 11th, 1949, by the Indian Delegation to the United Nations. This letter you will be aware purports to inform the United Nations of (a) the action taken by the Government of India up to July 11th pursuant to the resolution on the treatment of persons of Indian origin in the Union of South Africa,

adopted by the General Assembly of the United Nations at its 212th Plenary meeting held on May 14th, 1949, and (b) the enactment by the Union Parliament, during its recent session of the Asiatic Land Tenure Amendment Act, a measure which the Government of India affirm, places further restrictions upon the right to occupation of Land by Asiatics.

- (2) Referring to (b) above, the Union Government would remark that their views on the question of the treatment of Indians in the Union of South Africa, brought before the United Nations by the Government of India, are well known to the United Nations. The Union Government wish, however, to state for the information of the Secretary General and without admitting the right of the United Nations to intervene in the domestic affairs of the Union and without prejudice to the Union's right of complete liberty of action to legislate with regard to Indians in South Africa, that the amending Act mentioned leaves untouched the main principle of the Act which it amends. It is designed to close up loopholes and opportunities of evasion which experience of operation of the principal Act has disclosed. It preserves all existing rights.
- (3) As to (a) above the Union Government are obliged to express surprise that the Government of India have seen fit to suggest, as they did in paragraph one of the letter to the Secretary General of the United Nations, that there has been dilatoriness on the part of the Union Government in replying to the said telegram of July 4th. It must be pointed out that receipt of the telegram was acknowledged the following day and it was at the same time explained that it had been received in the interim between prorogation of the Union Parliament at Capetown and re-assembly of the Government at Pretoria. At the same time an assurance of an early reply was given. Only seven days later a full reply was in fact sent by telegraph setting out in full the attitude of the Union Government. They are, therefore, at a loss to understand the allegation implied in the words "no reply to this telegram has yet been received".
- (4) This reply of July 12th (13th?), 1949 together with the text of the Government of India's telegram of July 4th, was simultaneously telegraphed by the Union Government to Karachi for the information of the Government of Pakistan.
- (5) The contents of the letter dated July 11th, 1949, by the Indian Delegation to the United Nations, were conveyed to the South African Permanent Delegation only on July 26th. The Union Government are at a complete loss to understand

why the Government of India did not, on receipt of the Union Government's telegram despatched on July 12th, *i.e.*, a day after the Government of India's letter to the United Nations was despatched immediately by telegram inform the United Nations of the receipt of this full reply to the Government of India's telegram of July 4th. Such immediate action would undoubtedly have removed the false impression conveyed by the Government of India's said letter. Even up to July 26th, when the contents of this letter were conveyed to the South African Permanent Delegation, apparently no intimation of receipt of this full reply to their telegram of July 4th was vouchsafed to the United Nations by the Government of India at any rate no such intimation was conveyed to the South African Permanent Delegation by that date.

(6) Since July 12th further telegraphic communications from the Governments of both India and Pakistan have shown a considerable measure of agreement with the proposal of the Union Government that representatives of the three governments should meet at a mutually agreed venue, probably in South Africa, in an effort to reach agreement as to the basis of discussion at, and agenda of, the Round Table Conference. The question of time and place for the holding of this preliminary meeting is now receiving the attention of the Union Government. It should be pointed out that the Union Government were fully entitled to ask that the unilateral sanctions imposed against the Union by India, first be removed and that diplomatic relations be restored so as to allow of the discussions between the two governments being conducted on an equal footing. In order to facilitate discussion and to make the position easier for the Government of India such a request was however, not made as a condition precedent to the holding of the proposed Round Table discussion.

(7) In conclusion the Union Government are constrained to state that the Government of India's inexplicable attitude, as set out in paragraphs (3) and (5) above, is not calculated to ensure the proper atmosphere for the proposed discussions between the three governments. The Union Government feel that the success of the proposed discussions will be seriously prejudiced in advance unless the unfounded charges against the Union Government are withdrawn. Ends.

I have the honour to be,
Sir,

Your obedient servant,
J. R. JORDAAN,
Delegation Secretary.

VII

LETTER FROM THE INDIA DELEGATION TO THE UNITED NATIONS ADDRESSED
TO THE SECRETARY-GENERAL OF THE UNITED NATIONS ON 14TH
AUGUST 1949.

India Delegation to the United Nations,
350 Fifth Avenue, Room 6212, New York 1, N. Y.

14 August 1949.

No. 1821.

The Secretary-General,
United Nations,
Lake Success, N.Y.

SUBJECT:—*Treatment of People of Indian Origin in the Union of
South Africa.*

SIR,

I have the honour to refer to your letter No. SCA 1204-4-2/ LM, dated the 10th August, 1949, with which was forwarded copy of a letter dated the 9th August, 1949, from the Permanent Delegation of the Union of South Africa to the United Nations, on the above mentioned subject, and to transmit the following message from the Government of India:—

Begins. 1. The Government of India have seen the comments of the Union Government on the letter of their Delegation dated the 11th July. As regards para (1) (a) of the Union Government's message the Government of India wish to point out that para. 1 of their Delegation's letter dated the 11th July was in no sense intended to suggest dilatoriness on the part of the Union Government. Having regard to the date on which the Government of India addressed the Union Government, namely the 4th July, they did not expect that a reply from the Union Government would be forthcoming by the 11th July. Para. 1 of this Delegation's letter was intended merely as a statement of fact.

Had the criticism of the Union Government been intended the Government of India would have, immediately on receipt of the Union Government's reply of 13th July, communicated it to the United Nations. Since that reply was of an interim character the Government of India preferred to await conclusion of the correspondence on the subject of the United Nations Assembly's resolution adopted on 14th May 1949 before communicating copies to the United Nations. The friendly tone of the Government of India's communications to the Union Government regarding this resolution should satisfy that Government that, far from

seeking to prejudice the chances of negotiations, the Government of India have been desirous to do everything possible to create the proper atmosphere for proposed discussions.

2. Regarding 2(b) of para. (1) the Union Government's argument that the Asiatic Land Tenure Amendment Act has not introduced any new principle, the Government of India wish to point out that they have never accepted the principle of territorial segregation involved in the Asiatic Land Tenure, Act, 1946, or any of the earlier Acts of the same character. Para. (2) of their Delegation's letter of the 11th July purported to draw attention to the broad result of the amendments incorporated in the new Act, namely that an Asiatic, after 1st June, 1949, would be prevented from occupying any new land or premises even for purposes of business or trade in areas in which ownership and residence are also prohibited.
3. To avoid further misunderstanding the communications exchanged so far between the Government of India and the Union Government on the subject matter of para. 1 of this message are being despatched by fast air mail and will be sent to you as soon as they are received. When the Government of India hear from the Union Government in reply to their last telegram (dated the 21st July) they will promptly communicate that also to the United Nations. Ends.

I have the honour to be,
Sir,
Your obedient servant,
M. GOPALA MENON,
For Permanent Representative of
India to the United Nations.

VIII

TELEGRAM NO. 17 DATED SEPTEMBER 14, 1949, FROM THE GOVERNMENT OF THE UNION OF SOUTH AFRICA TO THE GOVERNMENT OF INDIA.

Your telegram of 21st July is acknowledged.

The Government of the Union of South Africa after further consideration feel that their intention on the point raised in para. 2 of your telegram is clearly stated in Union Government's earlier telegram of 13th July which represent their basically unalterable approach to the question of discussions between the three Governments.

The Government of India may now indicate a suitable date for preliminary discussion in South Africa. The Union Government however would suggest the last week of October or the week beginning the 14th November.

The Government of the Union of South Africa would like to state that success even of preliminary informal talks would be enhanced if trade sanctions are withdrawn voluntarily by India so as to allow the parties to negotiate on an equal footing.

IX

TELEGRAM NO. 30440 DATED 22ND SEPTEMBER, 1949, FROM THE GOVERNMENT OF INDIA TO THE GOVERNMENT OF THE UNION OF SOUTH AFRICA.

The Government of India will try to reply Union Government's telegram of 14th September as soon as possible. Meanwhile they would like to invite Union Government's attention to the under-mentioned matters:—

- (i) Indian traders in Native Reserves whose leases have expired are not being granted renewals.
- (ii) All Indians, not Union born, including those who are Union Citizens are being deported on conviction for offences, endeavour being made to deport them on any legal pretext.
- (iii) Indians are being prosecuted under the Price Control Regulations even for minor irregularities.
- (iv) Documents of Indian companies are being examined with a view to seeing if they can be prosecuted for possible holding of fixed property in contravention of the restrictions.
- (v) The Municipality has refused transfer of licences even between Indians in Pretoria Asiatic Bazar. Building permits are also being refused.
- (vi) In railway stations, post offices and in Cape Town buses segregation is being introduced.

The Indian Government are much concerned over humiliation and harassment which such measures are bound to cause to Indians in South Africa.

2. Dr. Malan has been reported in the press to have said in a speech at Standerton on the 27th August, 1949, that Europeans in Cape Province and Johannesburg are to have separate residential areas and in European reserved areas only Europeans can move in houses vacated by non-Europeans and should the latter sell them only Europeans can buy. The Government of India would request to

be informed whether the Departmental Committee established to consider further amendments to Asiatic Land Tenure Act, 1946, has recommended the implementation of measures mentioned by Dr. Malan.

3. They (Government of India) feel obliged to point out that such measures mentioned above are not calculated to create a propitious atmosphere for the Round Table Conference and they hope that the Government of the Union of South Africa will suspend or postpone such measures until the proposed Round Table Conference has reviewed the entire problem in an earnest endeavour for finding a friendly and satisfactory solution.

X

TELEGRAM NO. 19 DATED NOVEMBER 11, 1949, FROM THE GOVERNMENT OF
THE UNION OF SOUTH AFRICA TO THE GOVERNMENT OF INDIA.

Reference Government of India's telegram of 22nd September 1949. The Union Government feel compelled to draw attention to the following facts which cannot but adversely affect the proposed preliminary discussions already approved in principle by both the Governments:—

- (a) It was unjustified for the Government of India to arraign the Government of the Union before the United Nations on the ground of its unwillingness to seek a solution by means of a round table conference while correspondence was still being exchanged between the two Governments.
- (b) While the whole matter was *sub judice*, criticism of the progress of the discussions in regard to the conference by Indian delegation at the United Nations was irrelevant and unfounded.
- (c) The Government of India are persistently maintaining unilateral trade sanctions against the Union of South Africa.
- (d) The Government of India has further attempted in its latest communication to concern itself with the matters which are within the domestic jurisdiction of South Africa disregarding the basis as far as the South African Government is concerned of the proposed talks as explained in their telegram of 12th (13?) July and again in their telegram of 14th September to the Government of India.

2. The Union Government view with grave concern the spirit underlying these series of actions and they infer the Government of India do not desire that these talks take place in the most favourable atmosphere.

3. The Government of South Africa would be glad to have indications supported by necessary action that their inference mentioned above is invalid. As far as they are concerned they reiterate their desire to discuss the Indian problem in South Africa on a realistic basis as mentioned in their telegram of 12th (13th?) July.

TELEGRAM NO. 30480 DATED NOVEMBER 21, 1949, FROM THE GOVERNMENT'S invitation for the preliminary discussions on the agenda etc.

XI

TELEGRAM NO. 30480 DATED NOVEMBER 21, 1949, FROM THE GOVERNMENT OF INDIA TO THE GOVERNMENT OF THE UNION OF SOUTH AFRICA.

This is in reply to your telegram of November 11. With reference to paragraph (a) Government of India's position has already been explained in their telegram of 21st July. A copy of Government of India's letter to the U. N. Secretary General dated 14th August, in which they have clearly disavowed any intention to suggest dilatoriness on the part of the Union Government, should have by now reached the Union Government. The same applies to paragraph (b). The representative of the Government of India had no intention to criticise Union Government's conduct of negotiations or to dispute their desire to reach friendly solution. As far as paragraph(c) is concerned it is the view of the Government of India and has been, that the question of lifting trade ban should be dealt with as part of the preliminary discussions relating to the Round Table Conference. Regarding (d) the Government of India telegram of September 22 did no more than request the Government of South Africa to consider suspending or postponing certain measures, which, in the opinion of the Government of India are not conducive to the creation of the right atmosphere for attempting a friendly and satisfactory solution of the Indian question. The Government of India regret that the Government of South Africa should have regarded this as an attempt to interfere in the domestic affairs of the Union.

2. From the time the General Assembly of the United Nations passed its resolution on 14th May 1949, the Government of India have made all endeavours to ensure that the proposed discussions are held in an atmosphere of goodwill on all sides. But the Government of India are sorry to know that genuineness of their desire to find a friendly solution of a difficult question should have been doubted. It is their keen desire to participate in a preliminary conference early with the Government of South Africa and wish to have an indication for a date in December for the purpose which would be convenient to the Government of South Africa.

XII

TELEGRAM No. 20 DATED NOVEMBER 23, 1949, FROM THE GOVERNMENT OF THE UNION OF SOUTH AFRICA TO THE GOVERNMENT OF INDIA.

The Union Government thank the Government of India for their telegram of the 22nd November and note their proposal that the preliminary discussions might take during December. It would however be not possible for the Union Government to arrange for the preliminary talks during December or January. On account of this fact indeed, it was that the Union Government suggested October or November 1949 for the conference in their telegram of September 14.

The Union Government would suggest that the preliminary discussions should commence on Monday the 6th February 1950 and they hope that the Government of India would find it possible to send their representative in time.

They would also suggest that the delegations of India and Pakistan should not consist of more than two representatives each if not inconvenient. So far as the Union Government are concerned they would probably send one and in any case not more than two Ministers as their representative. Cape Town will probably be the venue.

The Union Government would be glad if the delegations of India and Pakistan would agree to be their guests during their stay and would request for intimation of their names as early as possible. Pakistan is being addressed in similar terms.

An early reply is requested.

XIII

TELEGRAM No. 30487 DATED NOVEMBER 28, 1949, FROM THE GOVERNMENT OF INDIA TO THE GOVERNMENT OF THE UNION OF SOUTH AFRICA.

The Government of India accept your proposal that preliminary talks should commence on 6th February 1950. The Indian delegation will be a small one and details about its personnel will be conveyed to the Union Government later. The invitation of the Union Government to Government of India delegates to be their guests is cordially accepted.

XIV

PRESS COMMUNIQUE DATED 20TH FEBRUARY 1950.

The delegations of the Governments of India, Pakistan and the Union of South Africa met in Capetown from the 6th to the 11th

February 1950 and held preliminary discussions in accordance with their terms of reference to consider the possibility of convening a Round Table Conference on the Indian question in South Africa and the subjects which might be discussed at such a Conference.

2. The discussions took place in a cordial and sympathetic atmosphere and were animated by a sincere desire to restore and develop friendly relations between the three countries.

3. After a frank and friendly discussion which enabled them to achieve a better understanding of one another's viewpoints the delegations agreed to recommend to their respective Governments that a Round Table Conference be convened to explore all possible ways and means of settling the Indian question in the Union of South Africa. It was agreed that neither the discussions under this formula nor the holding of the Round Table Conference itself would involve any departure from or prejudice to the standpoints of the respective Governments in regard to the question of domestic jurisdiction.

4. It was agreed to leave the venue and the date of the Round Table Conference to be decided after consultation between the three Governments.

XV

AIDE MEMOIRE DATED 5TH APRIL, 1950, SENT ON BEHALF OF THE GOVERNMENT OF INDIA TO THE GOVERNMENT OF THE UNION OF SOUTH AFRICA.

I am desired by the Government of India to make the following representations to the Government of the Union of South Africa.

2. Since the Governments of India and the Union of South Africa have agreed to hold a Round Table Conference on the Indian question in South Africa, it is most desirable that nothing is done to jeopardise the chances of success of the Conference.

3. My Government is deeply concerned therefore that action is being taken and contemplated in the Union which must perforce react adversely on the prospects of success of the Conference.

4. The prosecutions launched in respect of illegal ownership and occupation of property by Indians in the Transvaal have caused consternation and are vitiating the atmosphere preliminary to the Round Table Conference. Some cases have already resulted in confiscation without compensation. My Government would urge the postponement and suspension of all legal and executive action of this type pending the deliberations of the Conference.

5. The Government of India also considers it most desirable that if there is any intention to introduce further legislation which would add to the disabilities of Indians in the Union of South Africa which

are part of the agenda of the Conference, such legislation should be stayed pending the deliberations of the Conference. In urging this the Government of India has particularly in mind the declared intention of the Union Government to extend to the Cape Province provisions regarding Asiatic Land Tenure analogous to those now in force in other provinces as well as the proposed introduction of the Group Areas Reservation Bill.

The Government of India hopes that the Union Government will accept and act upon these representations in the spirit in which they are urged, which is to secure that pending the Conference nothing is done to vitiate the atmosphere and jeopardise the chance of success of the Conference.

XVI

AIDE MEMOIRE DATED 20TH APRIL, 1950, FROM THE GOVERNMENT OF THE UNION OF SOUTH AFRICA

The Department of External Affairs presents its compliments to the Office of the High Commissioner for India and with reference to the aide-memoire left by Mr. Chari with the Department on 5th April has the honour to reply as follows:—

The Government of the Union of South Africa are fully in accord with the Government of India in their desire to ensure that the Round Table Conference, when it is held, should prove successful and they have accordingly no wish to prejudice the prospects of a favourable outcome of the Conference.

The Union Government have therefore noted with regret the statement of the Government of India that prosecutions in respect of illegal ownership and occupation of property by Indians in the Transvaal are "vitiating the atmosphere preliminary to the Round Table Conference". The Union Government would remark that by their use of the word "illegal" the Government of India have recognised that the actions complained of are contravention of the existing law. The Government of India are therefore in effect requesting the Union Government to be a party to a disregard and an evasion of the law, which in certain cases has been flagrant. The Union Government feel sure that this could not have been the intention of the Government of India and are confident that the Government of India will readily agree that no Government can acquiesce in the breaking of its own laws.

In regard to paragraph 5 of the aide-memoire the Union Government would recall what was stated in paragraph 3(a) of their telegram No. 15 of the 12th July, (13th?), 1949, viz., "they have always taken

up the standpoint that the so-called Indian question in South Africa is entirely a domestic matter and that, unless a reasonable prospect is opened for a solution satisfactory to South Africa herself with the co-operation of an outside Government or Governments, such discussion must be regarded as interference in the domestic affairs of an independent country. On this principle the Union Government takes an unequivocal stand and can countenance no compromise". In reply to this the Government of India in their telegram No. 30399 of 21st July, while maintaining that the Indian problem in South Africa should be viewed as one in which both Governments are interested, nevertheless recognise that "India can no more interfere in the domestic affairs of South Africa than the Union Government can in the affairs of India". The Union Government would also invite attention to the Government of India's telegram No. 30440 of the 22nd September 1949, and the Union Government's reply thereto No. 19 of the 11th November 1949.

The Union Government while reiterating their standpoint as outlined in the above exchange of telegrams, wish nevertheless to state that it is not their intention, in the legislation which they propose to introduce, to apply any regulations to Indians in South Africa which will not equally be applicable to other communities in the Union.

XVII

TELEGRAM NO. 15, DATED APRIL 20, 1950, FROM THE GOVERNMENT OF THE UNION OF SOUTH AFRICA TO THE GOVERNMENT OF INDIA.

The Government of the Union of South Africa have been considering as to the most suitable time and place for the holding of the proposed Round Table Conference. It will be recalled that during the preliminary discussions held in Cape Town in February last the leader of the Pakistan Delegation extended an invitation to the Indian and South African Delegations to hold the Conference at Karachi and this invitation was followed by an invitation, subsequently by the leader of the Indian delegation, to hold it at New Delhi. So far as the Union Government are concerned they expressed no views as to the venue but would request for the opinion of the Governments of India and Pakistan in this matter. According to the Government of South Africa it would be advantageous to hold the Conference at a centre where all the three Governments are represented so that full use can be made of local staffs. As regard the time of the Conference it would be difficult for the Government of the Union of South Africa to participate before next October and would suggest that it be held in October or November.

XVIII

TELEGRAM DATED 29TH APRIL, 1950, FROM THE GOVERNMENT OF INDIA TO
THE GOVERNMENT OF THE UNION OF SOUTH AFRICA.

The aide Memoire of the Government of the Union of South Africa, dated 20th April, has been given most careful consideration by the Government of India. The Government of India deeply regret the inability of the Government of the Union of South Africa to accede to their requests for (i) postponement or suspension of executive action under the Asiatic Land Tenure Amendment Act 1949 and (ii) for postponement of the Group Areas Bill which has since been introduced in the South African Parliament. While they are most anxious to avoid infusion of the spirit of controversy into the discussion, the Government of India feel bound to point out that South African Government's answer to their first suggestion is most disappointing. The argument of the Government of India was not directed against legality of Union Government's action but against its expediency. The same holds true of their request for the postponement of the Group Areas Bill. The fact that this Bill does not apply to the Indian community alone does not affect the principle of racial segregation which underlies it and to which the Government of India has consistently objected.

2. It is the duty of all parties to the proposed Round Table Conference to refrain from taking action that may spoil the atmosphere for the Conference, if it is wished that the Conference should succeed. Whatever be the legality of the action of the Government of South Africa or the merit of their argument based on domestic jurisdiction the Government of India feel that progress with executive action under the Asiatic Land Tenure Amendment Act or with Group Areas Bill is bound to create impression that segregation is the settled and irrevocable policy of the Union Government and that the only purpose of the proposed Round Table Conference can be to discuss compulsory expatriation of Indians from South Africa. A Conference held under such conditions could hardly yield any useful results and the whole purpose of the preliminary conference which concluded successfully last February in Cape Town and which was to enable all the parties concerned to put forward their respective proposals for the solution of the Indian question in South Africa without prejudice, would be defeated.

3. The Government of India, therefore, again earnestly request the Government of the Union of South Africa to suspend further action on both these matters and to convene the Round Table Conference immediately. Any settlement that may emerge from the Conference should be acceptable not only to the Governments participating in it but also to the Indian community in South Africa and

the most expeditious and effective way of consulting the Indian community would be to hold the Conference in the Union of South Africa. The Government of India, therefore, feel that the best venue for the proposed Conference would be South Africa.

XIX

TELEGRAM NO. 2220, DATED MAY 9, 1950, FROM THE GOVERNMENT OF PAKISTAN TO THE GOVERNMENT OF THE UNION OF SOUTH AFRICA (REPEATED TO THE GOVERNMENT OF INDIA).

Many thanks for your telegram No. 18 April 20th. Government of Pakistan have given full consideration to Union Government's proposals regarding suitable place and time for holding projected Round Table Conference. They feel that October will be somewhat late and would suggest for consideration of Union Government an earlier date such as July or August. As regards venue we shall be happy to make arrangements for Conference at Karachi as already offered. But if other two Governments feel that it will be more convenient to hold conference elsewhere we would have no objection.

2. We have been greatly concerned to see in press certain reports that fresh legislation aiming at racial segregation is being introduced in Union Parliament. While we do not question sovereign legal right of South African Government to pass legislation affecting all its citizens we would earnestly suggest that a postponement of such legislation pending forthcoming Round Table Conference would be conducive to success of talks all of us so much desire. Union Government would recall that Government of Pakistan's action to lift trade ban on eve of last Conference contributed greatly towards success of Conference.

XX

TELEGRAM DATED 26TH MAY, 1950, FROM THE GOVERNMENT OF THE UNION OF SOUTH AFRICA TO THE GOVERNMENT OF INDIA.

The Government of the Union of South Africa note that the Government of India continue to press for the suspension of prosecutions of persons who transgress the law and for postponement of legislation which is at present before the South African Parliament.

2. The South African Government have given their most careful consideration to these further representations of the Government of India but in reply must reiterate what was stressed in their previous communication, namely, that acceding to Government of India's request would in effect amount to an abdication of the functions of the Judiciary and the Legislature generally. Though the Union Government are anxious to promote a propitious atmosphere for the

proposed Round Table Conference, they nevertheless feel confident that the Government of India cannot in reality expect the Union Government thus to surrender their responsibilities of Government any more than the latter could ask for a similar abdication of their powers on the part of the Government of India in any matter which might be of interest to South Africa but which lies within the jurisdiction of the Government of India.

3. Regarding the convening of the proposed Conference the Government of the Union of South Africa wish to thank the Government of India for their views and to express regret that due to various ministerial commitments and other circumstances it will not be possible for them to arrange for adequate representation at such a Conference if it is held before the 15th September earliest. They also consider that in the interest of the success of the Conference and also to promote a more objective approach to the problems at issue, the Conference should better be held at a venue other than in the territories of the participating Governments. They, therefore, will suggest that the Conference be held in London where each Government has adequate diplomatic representation which could assist the Conference and that it be convened at any time from 15th September to 15th November as communicated to the Governments of India and Pakistan.

XXI

TELEGRAM DATED 6TH JUNE, 1950, FROM THE GOVERNMENT OF INDIA TO THE GOVERNMENT OF THE UNION OF SOUTH AFRICA.

Your telegram dated May 26. Government of India regret that the requests made in their telegram dated April 29, should have been misunderstood as attempt to challenge the executive or legislative authority of the Union. During the Preliminary Conference that met in Cape Town in February last, it was agreed that the three Governments to be represented at the Round Table Conference should, without prejudice to their respective standpoints, be able to attempt a constructive solution of the problems of South African Nationals of Indo-Pakistan origin. The Government of India have, practically over the last half century, consistently opposed the principle of segregation. In the proposed Round Table Conference they would undoubtedly have urged that uplift, not segregation, would be the appropriate method for making the Indian community in the Union a contented and useful member of the Union population. On the other hand, the Union Government would have been free to put forward their own proposals for solving the problem. The executive and legislative measures that the Union Government have taken or are taking since the Preliminary Cape Town Conference met admittedly intensify and enlarge the application of

the policy of segregation. That the present Group Areas Bill would also put Europeans and Africans into separate areas could be no consolation to Indians. Apart from the fact that these measures must spoil the atmosphere for the Round Table Conference, they leave no room for doubt that the Union Government are determined to go ahead with their policy of *apartheid* and to limit the discussions at that Conference to measures designed to reduce the Indian population of the Union. Such a Conference could only be one-sided and could provide no solution of the problem that would be consistent with the aims and principles that the Government of India have consistently advocated. In the circumstances, the Government of India have, though with regret, decided not to participate in the Conference.

2. In view of the wide-spread concern in India over the imminent passing of the Group Areas Bill and the urgent need of defining publicly our attitude to the Round Table Conference in the present situation, we propose to release the following correspondence for publication in India in the morning papers of 9th June:—

- (i) *Aide Memoire* dated the 5th April from the Secretary to the Indian High Commissioner to the Union Government.
- (ii) Union Government's reply to the *Aide Memoire*.
- (iii) Telegram dated April 29 from Foreign New Delhi to Primus Cape Town.
- (iv) Telegram dated May 26 from Primus Cape Town to Foreign New Delhi.
- (v) This telegram.

XXII

TELEGRAM NO. 19, DATED 8TH JUNE, 1950, FROM THE GOVERNMENT OF THE UNION OF SOUTH AFRICA TO THE GOVERNMENT OF INDIA.

In acknowledging the receipt on the 7th June of your telegram 29045 of the 6th idem, the Union Government would express its disappointment and deep regret at the decision of the Government of India not to participate in the proposed Round Table Conference.

This decision is both disappointing and regrettable. It is difficult moreover to understand for the following reasons:—

- (A) The leader of the South African Delegation in the course of the preliminary talks at Capetown in February last was at pains to explain to the leaders of the Indian and Pakistani Delegations in general terms the purport of the contemplated Group Areas Bill, and the effect it would have

in removing racial discrimination in the field in which it would operate. Furthermore as explained by the South African leader it would in all probability ultimately replace the Indian Land Tenure Act of 1946, as amended, against which such strong opposition has consistently been raised by the Government of India.

- (B) The Government of India was therefore aware of the Union Government's intentions concerning the Group Areas Bill and its probable content and effect several days before (repeat before) the mutually agreed public announcement with regard to the Round Table Conference and its agenda.

As to the desirable atmosphere at the projected Round Table Conference, perhaps the Government of India will not take amiss a reminder that their attitude in continuing the unilaterally imposed trade sanctions against South Africa was hardly one calculated to create the best possible climate in which to foregather. But at no time did the Union Government insist upon the removal of these sanctions.

With regard to the prospects of the Round Table Conference, the Union Government, with all respect cannot agree with the contention of the Government of India that the Conference would have been one-sided. On the contrary, the Government of the Union had hoped that with full co-operation on all sides (which at one time was thought would be forthcoming) solutions of at least some of the more important aspects of the problem of the Indians in South Africa would be found.

The Union Government have taken note of the proposal of the Government of India to release the substance of certain of the correspondence for publication in the morning newspapers of India on 9th June. For its part, the Union Government propose to release to the morning papers on the same date paraphrased copies of all the more important communications in the matter that have been exchanged between the two Governments from and including the Government of India's telegram 30386 of 5th July 1949. We would hope to follow this up by a white paper that would include paraphrased versions of all the exchanges that have taken place between the three Governments.

We hope that you will find it possible to publish this telegram together with the substance of the others you propose to release to the press, or, if such substance has already been published, immediately upon receipt.

XXIII

TELEGRAM No. 29052, DATED JUNE 9, 1950, FROM THE GOVERNMENT OF INDIA TO THE GOVERNMENT OF THE UNION OF SOUTH AFRICA.

Your telegram No. 19, dated June 8. Arrangements are being made for immediate publication of this together with following reply, which Government of India consider to be due in courtesy to Union Government:—

1. No mention of the Group Areas Bill was made at any stage in the Preliminary Conference. Outside the official discussions, the Minister of the Interior is understood to have told the Leader of the Indian Delegation that the Union Government intended to remove discrimination against any community by providing the same conditions for all. Dr. Kunzru did not get the impression from this that introduction of a measure like the Bill before the Round Table Conference was intended. Had either he or the Government of India had any such indication they would immediately have emphasised the grave damage that such action would do to the prospects of a Round Table Conference.
2. The "Trade Sanctions" to which Union Government have referred were introduced by Government of India four years ago as a protest against extension of principle of segregation, to which they have always objected, involved in Asiatic Land Tenure Act of 1946. In Government of India's opinion it cannot be reasonably argued that action taken by them in 1946 can have the same adverse effect on the prospects of the proposed Conference, agreed upon last February, with the full knowledge that these trade restrictions would be continued, as the entirely new steps taken by Union Government to tighten up and enlarge segregation.
3. The Government of India beg to demur to the suggestion that the proposed Round Table Conference, if held after passage of Group Areas Bill, would not be one-sided. If the Union Government insist that all legislative and administrative measures affecting Indians in South Africa are matters of domestic concern and outside the purview of discussion, the Government of India fail to see how it would have been open to them at the Conference, to consider anything except proposals which, in the opinion of the Union Government, would lead to a satisfactory solution of the Indian problem.
4. Government of India have offered these views not in any spirit of controversy but only to answer the arguments used by the Union Government in their telegram.

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