

MEMORANDUM

OF THE

SOUTH AFRICAN INDIAN CONGRESS.

17 pages

Submitted

to the Honourable

The Minister of the Interior.

Cape Town, February 21st, 1939.

SOUTH AFRICAN INDIAN CONGRESS.

20th February, 1939.

The Honourable the Minister of the Interior,
C A P E T O W N.

Sir,

We, the undersigned, officials and members of the South African Indian Congress, which, with its constituent bodies, the Natal Indian Congress, the Transvaal Indian Congress and the Cape Indian Congress, representing the Indian community of South Africa, and recognised in that capacity by the Government of India and the Government of the Union of South Africa, beg to submit the following representation on the subject of the local Option Servitude Scheme which you outlined in Pretoria last December.

1. At the outset we wish to express our deep gratitude to you for receiving a deputation of the South African Indian Congress and for giving us an opportunity of expressing our views on the Scheme. We now wish to submit to you a written statement, in which we explain more fully than was possible at the interviews, the reasons justifying our strong objections to the Scheme. Our considered opinion, based on such details as you were kind enough to give us last week, is that the Scheme is impracticable and unworkable, and that it would definitely result in trade and residential segregation, which the Indian community has always consistently and strenuously opposed.
2. The present demand by certain Europeans for the segregation of the Indian community is no new development in the party politics of this country. A similar agitation which had been raised in the country in an intense form during the years 1918 and 1920 resulted in the appointment of the Asiatic Enquiry Commission in 1920. This Commission

toured./

Town Agreement. On the conclusion of this Agreement the Areas Reservation Bill was withdrawn, the Union Government resolving not to proceed with it.

5. We strongly submit that the arguments urged against the Asiatic Reservation Bill of 1926 are equally applicable to the Scheme now under consideration. Under the present Scheme action is not to be initiated by any regulative body or local authorities but the application of its provisions would have the same results and would definitely lead to segregation. Indians, especially in the rural towns, where they form a relatively small minority compared to the European residents, would be at the mercy of their European competitors in trade, and of Europeans whose outlook is strongly influenced by colour prejudice. The 75% vote required for the introduction of the servitude clause against coloured occupation would easily be forthcoming, and this would entail the economic ruin and national degradation of the Indian community.

6. If it is your intention to remove or reduce the causes of racial friction, we submit that your Scheme will have just the contrary effect. Instead of diminishing racial friction it will definitely accentuate it and lead to bitterness between the two sections of the South African people. It will be open to any irresponsible person, actuated by the venom of race prejudice and race hatred, to organise and initiate a move to obtain the requisite 75% votes necessary to enable the insertion of a servitude in the title deeds prohibiting Indian occupation of land within that area. Every such move to exercise the powers of local option will be attended with intensive racial propaganda which will inflame passions and stimulate racial bitterness in the area.

7. This will recur at frequent intervals in different areas /

areas throughout the Union and will create ill-feeling where none exists at present, or has existed in the past. We urge, therefore, that the measure you propose, will assist in fostering just what you are attempting to prevent, and that far from improving the relations between Indians and Europeans, it will disturb the present goodwill and friendly relations which exist between them in the vast majority of places in the Union.

8. TRANSVAAL. The first intimation of your scheme was conveyed to us through your statement to the Ratepayers' Association deputation which interviewed you on December 7th, last year. We presume, therefore, that the Scheme under consideration is intended to meet the demands of the Conference convened by the Pretoria Ratepayers' Association, and the request made by the Transvaal Municipal Association. We emphasise that the allegation made by the Pretoria Ratepayers' Association and the Transvaal Municipal Association in respect of penetration by Indians into European areas, is baseless and untrue, and has not been supported by evidence. In refuting the allegation we desire to make the following observation:

9. Mr. M.G. Nicolson, Town Clerk of Pretoria, and Secretary of the Municipal Association of the Transvaal, representing over 100 local authorities, was one of the principal speakers at the Pretoria Conference. He emphasised to the Conference -

"That there was in fact a serious increase in the
"occupation of premises within European areas of
"Pretoria by Asiatics, and that the corresponding
"increase in the Asiatic licences was characteristic
"of the undesirable and unwanted development".

The same Mr. Nicolson gave evidence before the Murray Commission and under cross-examination, admitted,

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that Indian traders were confined within predominantly Indian areas, and that there was a very small percentage outside of such areas. He also agreed that only a very small percentage of the total Indian population in Pretoria was resident outside of predominantly Indian areas.

10. In respect of licences held by Asiatics, Mr. Nicolson gave the following figures for Pretoria -

1932 - 711

1936 - 794

1938 - 748.

The figures in respect of traders were 493 for 1932, and 602 in 1938. There has been a decrease in the total number of licences, and the increase in traders had been definitely confined to Asiatic Bazaars and non-European townships. No licences are granted to Indians in European suburbs such as Sunnyside. The general licensing figures reveal an actual decrease in the number of licences held by Indians. The overwhelming majority of these licencees have their shops in the Asiatic Bazaar at Pretoria and the Indian area of Prinsloo Street. Outside of such areas Mr. Nicolson admitted that in Pretoria West there were only 14 Indian traders, one of whom had established his business in 1912, some in 1919, some in 1924, and none since 1936. Mr. Nicolson said that the total Indian population of Pretoria was 2,722 and of this number possibly 2,200 were resident in the Asiatic Bazaar, and the majority of the remainder were occupying land in the Indian area round about Prinsloo Street. This evidence by Mr. Nicolson which was given under oath before the Murray Commission of 1933, clearly indicates the unreliable nature of the evidence adduced before the Conference, and proves that the conclusions of the Pretoria Conference were based on misleading and inaccurate statements.

11. The Commission visited rural towns such as Bethal, Ermelo, Standerton, Heidelberg, Lydenburg, Pietersburg and Louis Trichardt, and heard evidence from the Municipality of Rustenburg. In all these places responsible witnesses who appeared on behalf of local authorities agreed that Indians had voluntarily confined themselves to their own areas, and there was no penetration or intrusion into European areas. They emphasised that the part of the town occupied by Indians today, was the same as that occupied by them fifteen, twenty or thirty years ago. The evidence of Councillor Croeser of Bethal, summarises the position -

"Up to now I am sure the Indians have acted rather nicely; put it this way, they have not asked for licences, or they have not occupied houses in residential quarters, or intruded into European quarters, and as long as that state of affairs lasts we do not mind".

We submit that the position in other rural towns which were not visited by the Commission, is the same as in the towns mentioned above.

12. All witnesses representing local authorities who appeared before the Murray Commission, agreed, without exception, that the number of Indian licences in respect of the towns for which they appeared, have been constant for the last six or ten years, and that there has been no appreciable increase in the number of Indian traders. In some towns such as Lydenburg, there is an actual decrease, and it must be remembered that the local authorities in the rural towns have adopted the policy whereby they only grant licences to Indians in Indian areas. As mentioned above, Indians have voluntarily remained within their own areas; but this rigid licensing policy

effectively /

effectively prevents entry into European trading areas and thereby the fear of any intrusion in the future is unfounded. The Mayor of Standerton, in giving evidence before the Murray Commission, said that the Council would only grant licences to Indians in Indian areas, and would refuse applications for licences by Indians in European areas. We also stressed that the number of Indian traders in the country districts bear no relationship to the volume of trade as the Indian trader, to use a common phrase, is a "petty trader" doing a small turnover, and it must also be remembered that many of the Indian traders in the rural towns have been established for the last twenty and thirty years. The evidence we have quoted was tendered by responsible witnesses to an impartial Commission, and as such can truly be said to reflect the true position relating to Indian occupation of land in the rural towns in the Transvaal. This evidence is sufficient proof that the evidence led before the Ratepayers' Conference in Pretoria and the United Party Congress was exaggerated and untrue. As an indication of the misleading nature of the evidence we quote from the following summary of the Pretoria Ratepayers' Conference -

"(c) Immigration of Asiatics is increasing".

Anyone who takes an interest in the problems of this country must know that Indian immigration from India has ceased since 1913, and that the only persons now admitted to the Union are the wives and minor children under the age of sixteen, of domiciled Indians, and a very small number of educated entrants who are allowed to enter on temporary permits. It was also said -

"(e) that Indians were chiefly responsible for the boycott of National Mark Products".

Nothing /

Nothing can be further from the truth; the Department of Agriculture can testify that the Transvaal Indian Congress assisted greatly in the settlement of the boycott which was initiated by interested European agents in the Diagonal Street area, and that the Indian Congress was largely responsible and instrumental in calling off the boycott. These two examples are quoted in support of our contention that the conclusions of the Ratepayers' Conference are based more on ignorance, race prejudice, and misrepresentation than on any true appreciation of the position. The members of the Asiatic Land Laws Commission, presided over by the Honourable Justice Murray, inspected the areas occupied by Indians in the different rural towns, and we are confident that their findings (if given) would strongly support our contention.

13. NATAL. We now come to deal with the position of Indians in Natal. Emigration of Indians into Natal commenced in 1860 through insistent demands by White Colonists for the supply of labour on Sugar plantations and for agricultural developments. This emigration was temporarily stopped between 1866 and 1874, when it was resumed on further representations made by the then Lt. Governor of Natal to the Secretary of State for Colonies. From the period of their entry into Natal in 1860 Indians developed Sugar, Tea and Mining industries and served on the Railways. The Natal Government gave a solemn undertaking that these Indians would be treated with consideration during their term of indenture and thereafter; and that they would be encouraged to settle in the Province and every facility would be given them to secure their permanent settlement in Natal. To induce them to remain in the country Indian immigrants were granted free gift of land in lieu of a free return passage to India. The value of Indian labour
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and the prosperity it contributed to the country generally, was recorded by the 1907 Commission in the following terms -

"Absolute and conclusive evidence has been put
"before the Commission that several industries owe
"their existence and present condition entirely to
"indentured labour. The expansion of industries
"made possible by the presence of Indians, has
"provided the Native with future openings.

" The existence of these industries has been,
"is still, and in the future will be, increasingly
"beneficial to a very large number of the people in
"the Colony and to the Colony as a whole, and their
"exhaustion or restriction, by whatever cause brought
"about, would be serious and irreparable to the
"individual and general interests.

" Further, the employment of Indian labour has
"provided opportunities for whites which would not
"otherwise have existed.

" The Indians are industrious, law abiding, and
"on the whole sober in their habits, and it has
"been proved that their presence has had no injurious
"effect on the morals of the whites or Natives".

14. Numerous Official and public statements prove the value of Indian labour and enterprise in the development of the country. It is an accepted fact that, but for this contribution, Natal could not have reached its present state of prosperity. We quote one testimony out of many in support of this statement. Speaking in the Old Natal Legislative Assembly in July, 1908, Sir Leige Hullett said -

"The conditions of the Colony before the importation
"of Indian labour was one of gloom, it was one that
"then and there threatened to extinguish the vitality
"of the country, and it was only by the Government

assisting /

"assisting the importation of labour that the country
"began at once to thrive. The Coast has been turned
"into one of the most prosperous parts of South Africa.

" They could not find in the whole of the Cape
"and Transvaal what could be found in the Coast of
"Natal, 10,000 acres of land in one plot and in one
"crop - and that was entirely due to the importation
"of Indians. Durban was absolutely built up on the
"Indian population".

The Report of the Natal Commissioners in relation to Indian
traders is illuminating. They said -

"We are content to place on record our strong opinion,
"based on much observation, that the presence of
"these traders has been beneficial to the whole
"Colony and that it would be unwise, if not unjust,
"to legislate to their prejudice".

15. An important Licensing measure known as the "General
Dealers' Act of 1897 (Natal)" was passed by the Old Natal
Parliament giving unfettered discretion to licensing
officers in Natal to confine Indian businesses within the
limits of localities occupied by Indians. This policy of
restricting Indian trade and confining it to Indian areas
is of general application throughout Natal, and is rigidly
enforced. To show how this policy gradually squeezed out
Indian traders from central parts in certain towns of
Natal, one illustration will suffice. In the early days
there were sixty Indian trading establishments in West
Street, Durban; this number has been reduced to five as
the result of the ruthless and arbitrary manner in which
licensing officers have exercised the powers vested in them.
The evidence of the licensing officer for Durban before
the Lange Commission in 1921, supports this statement.
He said -

"We /

"We do what we can to restrict further Indian licences.

"A European licence is granted as a matter of course:

"whereas the Indian licence is refused as a matter

"of course".

Even in Ladysmith, where an agitation has been fostered by rival European traders who constitute the local Chamber of Commerce, the number of licences held by Indians is decreasing.

16. The Boroughs Ordinance No. 19 of 1924 and the Townships Ordinance No. 39 of 1926 (Natal) empower Boroughs or Townships to insert conditions of sale, or lease in respect of unalienated land prohibiting and restricting the ownership thereof to persons of European, Asiatic, or Native descent. On the protest lodged by the Congress that these two Ordinances gave unlimited powers as to the sale or lease of unalienated land in Municipalities and Townships, the Government gave an assurance in the following terms -

"The Government considers it reasonable that the Administrator, in giving his approval to racial restriction introduced into land sales, should see as far as possible that Asiatics are given reasonable opportunity of acquiring adequate residential sites".

17. The sales of land under this Ordinance proved most detrimental to Indian interests. Local authorities, in dealing with the disposal of unalienated land, paid no heed to this assurance. In Durban alone, for the past sixteen years hundreds of acres of unalienated land have been cut up and sold to Europeans from time to time, whilst during the same period only about twenty building sites were made available to Indians. When the Central Housing Committee inquired into housing conditions in 1926, the unreasonable exercise of powers by the Durban Council in the disposal of unalienated land exclusively to Europeans

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was proved. Sir Edward Thornton, the Chairman of the Committee, agreed with the Congress that there was a breach of the undertaking quoted above by the Durban Municipality.

18. In Natal the bulk of the Indian population is essentially agricultural in character. The rural population of Indians in Natal is estimated by the last census to be 70,213. Of the total acreage of 11,299,360 in the Province of Natal the ownership of land by Indians in the rural areas is computed to be at between 100,000 and 125,000 acres, being less than one acre in every 100 acres. In neither the urban nor rural areas of Natal has there been any penetration of Indians into European areas; the normal increase in the Indian population has necessitated expansion, but such expansion has been confined to areas contiguous to those occupied by Indians.

19. GENERAL CONSIDERATIONS. The Boroughs and Townships Ordinances of Natal give powers to local authorities to prevent Indian purchase of unalienated land. The Private Townships Ordinance empowers the township owner to prevent Indian residence in new townships. The Townships Ordinance of the Transvaal prevents Indian occupation of land in new European townships. So far as trade is concerned, the arbitrary operation of the licensing laws has relegated Indian traders to Indian areas. We have consistently protested against the disabilities entailed by the operation of these ordinances and the harsh application of the licensing laws, and sought their repeal. The imposition of fresh disabilities by means of the Scheme now under consideration will involve the ruination and humiliation of the Indian community, inasmuch that its provisions will disturb existing lawful occupation of land by Indians.

20. We have, in the preceding paragraphs, proved that there is no necessity for any disabling legislation of the nature

now /

now under consideration. The Indian community voluntarily accepted the closed door policy in relation to Indian immigration in 1913, in the expectation that the status of the resident domiciled Indian population would be maintained and improved. This view was supported by the Honourable General Smuts at the Imperial Conference in 1917 when he said -

"I feel sure, I have always felt sure, that once the
"white community in South Africa were rid of the fear
"that they were going to be flooded by unlimited
"immigration from India, all the other questions
"would be considered subsidiary, and become easily
"and perfectly soluble. That is the position in
"which we are now. The fear which formerly obsessed
"the settlers then has been removed, the great prin-
"ciple of restricting immigration is now on our
"Statute Book with the consent of the Indian population
"in South Africa and the Indian authorities in India".

21. The Round Table Conference between the Government of India and the Union of South Africa culminated in the Cape Town Agreement and marked a new era in the relationship between India and South Africa. The Indian, who had been deemed an alien, was now acknowledged by the Union Government as a part of the permanent population of this country. The "Uplift" Clause of the Cape Town Agreement indicated in no uncertain terms the policy which the Union Government proposed to follow in conduct of Indian affairs. The Uplift Clause reads -

"The Union Government firmly believes in and adheres to
"the principle that it is the duty of every civilised
"Government to devise ways and means and to take all
"possible steps for the uplift of every section of
"the permanent population to the full extent of
their /

"their capacities and opportunities, and accept the
"view that in the provision of educational and other
"facilities the considerable number of Indians who
"remain part of the permanent population should not
"be allowed to lag behind other sections of the people".

In announcing the Agreement, Dr. Malan said -

"The Governments re-affirmed the recognition of the
"right of South Africa to use all just and legitimate
"means for the maintenance of Western standards of
"life. The Union Government recognised that Indians
"domiciled in the Union who are prepared to conform
"to Western standards of life should be entitled to
"do so".

22. We have regarded the Agreement as our "Magna Charta"
and it is pertinent on our part to ask whether the Scheme
of Optional Servitude now under consideration is compatible
and consistent with the letter and spirit of the two solemn
declarations set out above. The Segregation Bill of 1926
was dropped as the result of the first Round Table Conference.

The Segregation Clause in section 5 of the Transvaal
Asiatic Land Tenure Amendment Bill of 1932 was amended as
the result of the deliberations of the second Round Table
Conference, and section 131 A substituted therefor to
provide for exemption of areas in the Witwatersrand without
segregation. These facts indicate that the two Governments
agreed that the principle of segregation should be avoided
in respect of Indians domiciled in the Union. At the
conclusion of the Agreement Dr. D.F. Malan also made an
eloquent appeal to South Africa in the following moving
terms -

"But in a matter like this where sentiment can so
"easily be aroused and where any agitation of the
"public mind can so easily wreck the results of the

"Conference, I know that with the fullest confidence
"we can once more rely on the good sense and the true
"patriotism not only of this House but of all sections
" of the people and Press of this country".

23. Finally, we wish to point out that more than 85% of the South African Indians were born in this country, but have, as yet, no representation in the Legislatures of the Union. Under the circumstances, it should be the special concern of the Government to see that the interests of this voiceless section are adequately protected. Unfortunately, owing to the composition of the various political groups in the country it has become easy to exploit the Indian issue for Party purposes; but we have a right to expect that the present Government, whose policy is based on the principles of justice, equity and fairplay, rather than on questions of political expediency, will not yield to a racial agitation based on prejudice and ignorance of the facts. Ethical considerations demand that the Indian community should not be subject to the humiliation and ruination which the Servitude Scheme would undoubtedly inflict.

24. We request that the Government view the present situation in the light of this lofty sentiment, and continue along the path of wise statesmanship initiated by the Honourable the Prime Minister and the Honourable Dr. D.F. Malan in 1927. We are South Africans and our desire is to live on terms of friendship and goodwill with the other sections of the population. We appeal to you and the Prime Minister, who have been guided by noble Christian and liberal ideals, to make it possible for us to live as decent and self-respecting citizens of this great country, which we have come to regard as our own.

We remain /

We remain,

Sir,

Your most obedient Servants,

V.S.C. PATHER
President,

A.I.KAJEE AND S.R.NAIDOO
Jt. Hon. Secretaries,

SOUTH AFRICAN INDIAN CONGRESS.

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20th February, 1939.

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