APPENDIX V
THE ASIATIC LAW AMENDMENT ACT

TO AMEND LAW No. 3 OF 1885
(Assented to on 22nd March, 1907)

Be it enacted by the King's Most Excellent Majesty by and with the advice and consent of the Legislative Council and Legislative Assembly of the Transvaal as follows:

REPEAL
1. Sub-section (c) of Article two of Law No. 3 of 1885 as amended by Volksraad Resolutions, Article 1419 of the twelfth day of August 1886 and Article 1,28 of the sixteen day of May 1890 shall be and is hereby repealed.

DEFINITIONS
2. In this Act unless inconsistent with the context:
"Asiatic" shall mean any such male person as is described in Article one of Law No.3 of 1885 not being a Malay born and resident in any British Colony or possession in South Africa nor a person introduced into the Colony under the Labour Importation Ordinance 1904 and not being an officer in the Chinese Consular Service;
"register of Asiatics" shall mean the register to be kept under this Act as prescribed by Regulation;
"Registrar" shall mean the officer appointed by the Governor to keep the register of Asiatics and any person lawfully acting in such capacity;

"Resident Magistrate" shall include an Assistant Resident Magistrate;

"Regulation" shall mean any Regulation made under section eighteen of this Act;

"Guardian" shall mean the parent of an Asiatic under the age of sixteen or any other person under whose care or control such Asiatic is living for the time being or, failing any such person, the employer of such Asiatic;

"application for registration" shall mean an application to be placed on the register of Asiatics made in such manner and form as may be prescribed by Regulation and accompanied by the supplying of such particulars and the furnishing of such means of identification as may be required by this Act or by Regulation;

"applicant" shall mean any person who makes application for registration on his own behalf or any person on whose behalf application for registration is made by his guardian;

"certificate of registration" shall mean a certificate of registration under this Act in the form prescribed by Regulation;

"lawful holder" as used in relation to any certificate of registration shall mean the

ALL ASIATICS LAWFULLY RESIDENT IN COLONY TO BE REGISTERED

3. (1) Every Asiatic lawfully resident in this Colony shall subject to the exceptions hereinafter mentioned be registered in
the register of Asiatics and shall thereupon be entitled to receive a certificate of registration and no charge shall be made for such registration or certificate save as in section twelve of this Act provided.

(2) The following shall be deemed for the purposes of this Act to be Asiatics lawfully resident in this Colony:

(i) Any Asiatic duly authorized to enter and reside in this Colony by a permit issued under the Indemnity and Peace Preservation Ordinance 1902 or any amendment thereof or issued between the first day of September 1900 and the date of the passing of the said Ordinance, unless such permit shall have been fraudulently obtained; provided that any permit expressed to authorize any Asiatic to remain in this Colony for a limited time only shall not be deemed to be a permit within the meaning of this sub-section.

(ii) Any Asiatic resident and actually in this Colony on the thirty-first day of May 1902.

(iii) Any Asiatic born in this Colony since the thirty-first day of May 1902 not being the child of any labourer introduced into this Colony under the Labour Importation Ordinance 1904.
ASIATICS TO APPLY FOR REGISTRATION WITHIN FIXED TIME

4. (1) Every Asiatic resident in this Colony at the date of the taking effect of this Act shall before such date or dates and at such place or places and to such person or persons as the Colonial Secretary may prescribe by notice in the Gazette make application for registration.

(2) Every Asiatic who enters this Colony after the date of the taking effect of this Act and who has not previously been registered thereunder shall within eight days after entering the Colony, unless he shall have entered under a permit granted under section seventeen, make application for registration to such person and at such place as may be so prescribed;

provided that

(a) no application shall be required to be made under this section on behalf of any Asiatic child who at the expiration of the time within which such application is required to be made is under the age of eight years;

(b) in the case of any Asiatic child who at the expiration of such time is eight years of age but under sixteen years of age, such application shall be made on such child's behalf by his guardian and if not so made shall be made by such child within one month after attaining the age of sixteen years.
5. (1) The Registrar shall consider every application for registration made under the last preceding section and register every applicant who is lawfully resident in this Colony or whose application is approved by him and shall cause to be issued to such applicant or the guardian who made the application on his behalf a certificate of registration.

(2) If it shall appear to the Registrar that any applicant is not lawfully resident in this Colony, he may refuse to register such applicant and in case of refusal where the applicant is of the age of sixteen years or over shall cause a notice of refusal to be sent by post to the applicant at the address given by him on the application and a copy of such notice shall be affixed to the principal door of the Magistrate’s office of the District where such application was made and the Registrar shall by such notice direct such applicant to appear before the Resident Magistrate of the District at a time therein specified being not less than fourteen days from the date of such notice and show cause why he should not be ordered to leave this Colony and if such applicant shall fail to appear at the time specified in such notice or having appeared shall fail to satisfy the Resident Magistrate that he is lawfully resident in the Colony, the Resident Magistrate if the applicant is of the age of sixteen years or over shall make an order in writing directing him
to leave this Colony within a time to be specified in such order; provided always that if such order is made in the absence of the applicant, such time shall run from the date of the service of the order upon him and such order shall be deemed to be an order made under section six of the Peace Preservation Ordinance 1903 and sections seven and eight of the said Ordinance shall apply accordingly; provided further that if the Resident Magistrate shall be satisfied that the applicant is lawfully resident within this Colony, such Magistrate shall make an Order upon the Registrar requiring him to register such applicant and to issue to him a certificate of registration.

PROVISIONS AS TO PARTICULARS TO BE SUPPLIED AND APPLICATIONS TO BE MADE BY GUARDIANS

6. (1) Any Asiatic who is the guardian of an Asiatic child under the age of eight years shall upon making application for registration on his own behalf supply such particulars and furnish such means of identification in respect of such child as may be prescribed by Regulation and if such guardian, is himself registered, the particulars aforesaid which he has supplied shall be provision noted on the register and such guardian shall within one year after the aforesaid attains the age of eight years make application for registration such child's behalf at the office of the Resident Magistrate of the District which he himself resides;
(2) The guardian of every Asiatic child born in this Colony after the date of the taking effect of this Act shall within one year after such child attains the age of eight years make application for registration on such child's behalf at the office of the Resident Magistrate of the District in which he himself resides; provided that

(a) where any guardian fails to make application for registration on behalf of any Asiatic child whose guardian he is within the time hereby prescribed for making the same, such guardian shall on being thereto required by the Registrar or any Resident Magistrate make such application at any later date;

(b) where any application which is required to be made under this section by the guardian of an Asiatic child is not made by such guardian or where such application is refused, application for registration shall be made by such Asiatic child at the office of the Resident Magistrate of the District which he resides within which he resides within one month after he attains the age of sixteen years.

The Resident Magistrate at whose office any application is made under this section shall cause the record of such application and all documents relating thereto to be forwarded to the Registrar, who shall if satisfied that the same is in order register the applicant and cause to be issued to him or his guardian a certificate of registration.
APPLICATION FOR REGISTRATION BY ASIATICS ON
ATTAINING AGE OF SIXTEEN WHOSE GUARDIANS HAVE
FAILED TO SUPPLY PARTICULARS

7. Where particulars as to any Asiatic child under the age of eight
years have not been provisionally noted on the register, as is in
the last preceding section provided, by reason of the failure of his
guardian to supply such particulars, application for registration
shall nevertheless be made on behalf of such Asiatic child by the
 guardian within one year after he attains the age of eight years
and if not so made shall be made by such Asiatic child within one
month after he attains the age of sixteen years at the office of the
Resident Magistrate of the District in which he resides and the
record of such application and all documents relating thereto shall
be forwarded to the Registrar, who may in his discretion register
the applicant and issue to him or his guardian a certificate of
registration.

PENALTIES FOR FAILING TO MAKE APPLICATION

8. (1) Any person who shall fail to make application for
registration as required by this Act, either on his own
behalf or as guardian on behalf of an Asiatic child, shall be
liable on conviction to a fine not exceeding one hundred
Pounds and in default of payment to imprisonment with or
without hard labour for a period not exceeding three
months.
(2) Any person who brings into this Colony an Asiatic under the age of sixteen years not lawfully resident therein and any person who shall employ such child in any trade or business shall be guilty of an offence and shall be liable on conviction to the following penalties:

(a) to the penalties mentioned in sub-section (1) of this section; and,

(b) if such person is the holder of a certificate of registration, to cancellation of such certificate by the Registrar;

and thereupon the Colonial Secretary may issue an order directing such person to leave this Colony and such order shall be deemed to be an order issued under section six of the Peace Preservation Ordinance 1903 and sections seven and eight of the said Ordinance shall apply accordingly.

(3) Any Asiatic over the age of sixteen years who after such date as may be notified by the Colonial Secretary in the Gazette is found within the Colony and fails upon such demand as is hereinafter mentioned to produce a certificate of registration of which he is the lawful holder may be arrested without warrant and brought before a Resident Magistrate and if he fails to satisfy such Magistrate that he is the lawful holder of a certificate of registration or that the time within which he is required to make application for such certificate has not expired, the Magistrate shall, save as in the next succeeding sub-section provided, make an order in writing directing such
Asiatic to leave this Colony within such time as may be specified in such order and such order shall be deemed to be an order made under section six of the Peace Preservation Ordinance 1903 and sections seven and eight of the said Ordinance shall apply accordingly.

(4) If an Asiatic who has failed to make application for registration within the time prescribed by this Act shall satisfy the Magistrate before whom he is brought that such failure was due to some good and sufficient cause, the Magistrate may instead of making such order as aforesaid direct such Asiatic forthwith to make application for registration and if such Asiatic shall comply with such direction his application shall be dealt with in all respects as if it had been made within the time within which it was required to be made by this Act and all the provisions of this Act which would have applied if the application had been so made shall apply accordingly but if he shall fail to comply with such direction, the Magistrate shall make such order for removal as aforesaid in respect of such Asiatic.

REGISTRATION CERTIFICATE TO BE PRODUCED ON DEMAND

9. Every Asiatic of the age of sixteen years or over entering or residing in this Colony and made upon him by any member of a police force lawfully established in this Colony or any other person authorized thereto by the Colonial Secretary produce the certificate of registration of which he is the lawful holder and
shall also on like demand supply such particulars and furnish such means of identification as may be prescribed by Regulation. Every guardian of an Asiatic child under the age of sixteen years shall produce on such demand as aforesaid any certificate of registration of which such child is the lawful holder and supply any, particulars and furnish any means of identification required by the Act or any Regulation in respect of such child.

EVIDENCE OF REGISTRATION CERTIFICATES

10. Every certificate of registration shall be accepted as conclusive evidence in all places that the lawful holder thereof notwithstanding anything in the Peace Preservation Ordinance 1903 contained is entitled to enter and reside in this Colony; provided always that this section shall not apply to persons who have under section ten of the, Peace Preservation Ordinance 1903 been ordered to leave the Colony.

DUTY OF PERSON FINDING LOST CERTIFICATES

11. Any person into whose hands shall come any certificate of registration or any permit issued under section seventeen of which he is not the lawful holder shall forthwith deliver or transmit the same by post as soon as may be to the Registrar of Asiatics, Pretoria. Any person who falls to comply with the requirements of this section shall be liable on conviction to a fine not exceeding fifty
pounds or in default of payment to imprisonment with or without
hard labour for a period not exceeding one month.

PROVISION WHERE REGISTRATION CERTIFICATE IS LOST OR
DESTROYED

12. If at any time any certificate of registration is lost or destroyed,
the person who was the lawful holder thereof shall apply
forthwith to the Registrar to have the same renewed and the
Registrar shall upon compliance by such person with the
Regulations relating to applications for the renewal of certificates
and upon payment of a fee of five shillings renew such
certificate. The said fee shall be denoted by means of revenue
stamps to be affixed to such application by the applicant for such
renewal and shall be defaced by the officer who receives such
application.

TRADING LICENSES NOT TO BE GRANTED TO ASIATICS
EXCEPT UPON PRODUCTION OF CERTIFICATES

13. After such date as may be notified by the Colonial Secretary in
the Gazette, no Asiatic shall obtain any trading license issued
under the Revenue Licenses Ordinance 1905 or any amendment
thereof or under any bye-law in force in a municipality unless he
shall produce to the person appointed to issue such license a
certificate of registration of which he is the lawful holder and
supply such particulars and furnish such means of identification
as may be prescribed by Regulation.
EVIDENCE AS TO AGE OF ASIATIC

14. Whenever in any prosecution or other proceeding under this Act the age of any Asiatic is in question, such Asiatic shall unless and until the contrary be proved be taken to be of the age which the Registrar shall in any certificate issued under his hand certify to be in his opinion the apparent age of such Asiatic.

EXEMPTION FROM STAMP DUTY OF AFFIDAVIT OR SWORN DECLARATION REQUIRED BY REGULATION

15. Any affidavit or sworn declaration which is required by Regulation to be made by any person who makes an application for registration either on his own behalf or on behalf of some other person shall be exempt from stamp duty.

OFFENCES RELATING TO APPLICATIONS FOR REGISTRATION AND TO REGISTRATION CERTIFICATES

16. Any person who
(i) for the purpose of or in connection with an application for registration or for the purpose of obtaining a certificate of registration commits any fraudulent act or makes any false statement or false pretence or incites any person to or aids or abets any person in such act, statement or pretence;
(ii) forges any certificate of registration;
(iii) uses or attempts to use as his certificate any certificate of registration of which, he is not, the lawful holder or any forged certificate of registration;

(iv) incites any person to use or aids and abets any person in using as such person's certificate any certificate of registration of which such person is not the lawful holder or any forged certificate of registration,

shall be liable to a fine not exceeding five hundred pounds or in default of payment to imprisonment with or without hard labour for a term not exceeding two years or such fine and such imprisonment.

POWER TO ISSUE PERMITS TO ASIATICS TO REMAIN IN COLONY FOR LIMITED PERIOD

17. (1) Notwithstanding anything in the Peace Preservation Ordinance 1903 contained a permit to enter this Colony may in the absolute discretion of the Colonial Secretary be issued in the form prescribed by Regulation authorising Asiatic to enter and remain in this Colony for any period named in such permit and after the expiry of such period the person authorized by such permit to enter this Colony shall be deemed to be a person not duly authorize to be in this Colony and if found may be arrested without warrant and the provisions of sections seven and eight of the said Ordinance shall apply to such person as if he were a person who at the date of such expiry had been ordered to leave this Colony under section six of the said Ordinance and had failed to comply with such order.
(2) The provisions of section nine of the said Ordinance shall in all cases apply to permits issued under this section.

(3) Any permit issued before the date of the taking effect of this Act to an Asiatic under the Indemnity and Peace Preservation Ordinance 1902 or any amendment thereof and expressed to authorize such Asiatic to remain in this Colony for a limited time only shall be deemed to be a permit issued under this section.

(4) The Colonial Secretary may in his discretion order that the person authorized by any permit issued under this section to enter and remain in this Colony shall not during the currency of such permit be deemed to be a coloured person for the purpose of the provisions of the Liquor Licensing Ordinance 1902 or any amendment thereof and such order shall be endorsed on such permit and shall be of full force and effect for such purposes.

(5) The Colonial Secretary may issue any such order as in the last preceding sub-section mentioned in respect of any person who is a member of an Asiatic race, and is not subject to the provisions of this Act.

POWER TO MAKE REGULATIONS

18. The Governor in Council may from time to time make, alter and repeal Regulations for any of the following purposes:

(1) prescribing the form of the register to be kept under this Act;
(2) prescribing the manner and form in which application shall be made for registration, the particulars to be supplied and the means of identification to be furnished by any applicant or the guardian of any applicant for the purpose of or in connection with such application;

(3) prescribing the form of certificates of registration;

(4) prescribing the particulars to be supplied and the means of identification to be furnished:
   (a) by the guardian of any Asiatic child under the age of eight years under section six of this Act;
   (b) by any Asiatic upon such demand as is in section nine of this Act mentioned;
   (c) by any Asiatic applying for the renewal of any certificate of registration which has been lost or destroyed;
   (d) by any Asiatic applying for a trading license;

(5) prescribing the form of permit to be issued under section seventeen of this Act.

20. Notwithstanding anything contained in the Labour Importation Ordinance 1904, no Asiatic who is the lawful holder of a certificate of registration and no Asiatic who was lawfully resident in this Colony or allowed to enter it under a proper permit before the date of the said Ordinance shall be prohibited from entering or residing in or being introduced into this Colony by reason of the fact that he is under a contract of service and has not entered into the contract referred to in section eight of the said Ordinance.
GENERAL PENALTIES

19. Any Asiatic or the guardian of any Asiatic failing to comply with any requirement of this Act shall except where otherwise specified be liable on conviction to a fine not exceeding one hundred pounds or in default of payment to imprisonment with or without hard labour for a period not exceeding three months.

PROVISIONS AS TO CERTAIN ASIATICS UNDER CONTRACTS OF SERVICE

PROVISION AS TO HOLDING FIXED PROPERTY

21. Notwithstanding anything contained in sub-section (b) of Article two of Law No. 3 of 1885 as amended by Volksraad Resolution Article 1419 of the twelfth day of August 1886, any fixed property in this Colony acquired by an Asiatic before the taking effect of such Law and registered in the name of such Asiatic whether before or after the taking effect of such Law may be transmitted by such Asiatic to another Asiatic by testamentary or other inheritance.

TITLE AND DATE OF TAKING EFFECT

22. This Act may be cited for all purposes as the Asiatic Law Amendment Act 1907 and shall not take effect unless and until the Governor shall proclaim in the Gazette that it is His Majesty’s pleasure not to disallow the same and thereafter it shall take
effect upon such date as the Governor shall notify by
Proclamation.

PEACE PRESERVATION ORDINANCE

The following are the sections referred to in the above Act from
the Peace Preservation Ordinance No. 5 of 1903:

PERSONS ARRESTED TO BE EXAMINED BY A MAGISTRATE

6. Every person so arrested shall with all convenient speed be
brought before a Magistrate and if he fails to satisfy the
Magistrate that he is duly authorised to enter or reside in this
Colony under the provisions of this Ordinance, the Magistrate
may make an order in writing directing such person to leave this
Colony within such as may be specified in such order provided
that if such person declares upon oath that has already obtained a
permit and gives satisfactory reasons for his inability to produce
same or if he declares upon oath that he can produce satisfactory
evidence that he belongs to one of the classes exempted from the
necessity of obtaining a permit by the provisions of section two
hereof, he may be released upon entering into a recognizance
with or without sureties to produce before any Magistrate named
in such recognizance and within the time stated therein such
permit or evidence, as the case may be. If such person fails to
comply with the conditions of his recognizance, it shall be
forfeited.
PENALITIES FOR NOT COMPLYING WITH THE ORDER TO LEAVE THE COLONY

7. Any person who may be ordered to leave this Colony and fails to do so within the time specified in the order and any person whose recognisance has been forfeited under the provisions of the last preceding section may be arrested without warrant and brought before a Magistrate and shall upon conviction be sentenced to imprisonment with or without hard labour for a period of not less than one month and not more than six months and with or without a fine not exceeding five hundred pounds and in default of payment to a further term of imprisonment for a period not exceeding six months.

FURTHER PENALTIES FOR REMAINING IN THE COLONY

8. If any person imprisoned under the terms of the last preceding section shall remain in that Colony for a period of more than seven days after the expiration of his term of imprisonment or any subsequent term of imprisonment imposed under this section without obtaining permission in writing from the Colonial Secretary to remain in the Colony the burden of proving which shall be upon him, he may be arrested without a warrant and brought before a Magistrate and shall on conviction be sentenced to imprisonment with or without hard labour for a period of not less than six and not more than twelve months and with or without a fine not exceeding five hundred pounds and in default
of payment to a further term of imprisonment for a period not exceeding six months.

FALSE PERMITS

9. Any person who
   (1) obtains or attempts to obtain or incites any person to obtain or aids or abets any person in obtaining a permit by any fraud, misrepresentation, false pretence, falsehood or other improper means;
   (2) uses or attempts to use or incites any person to use or aids or abets any person in using any permit so obtained;
   (3) enters or attempts to enter this Colony on a permit so obtained or on a permit not issued to him by proper authority shall be liable to a fine not exceeding five hundred pounds or to imprisonment with or without hard labour for a term not exceeding two years or to both such fine and such imprisonment.

PERSONS DANGEROUS TO PEACE AND GOOD GOVERNMENT

10. It shall be lawful for the Lieutenant-Governor on its being shown to his satisfaction that there are reasonable grounds for believing that any person within this Colony is dangerous to the peace and good government of the country to issue an order under the hand of the Colonial Secretary to such person to leave the Colony within such time after service of such order as may be stated
therein. If on the expiration of the said period such person shall be found within the Colony, he shall be proceeded against in manner prescribed in sections seven and eight of this Ordinance and shall be subject to penalties therein provided.

Indian Opinion, 30-11-1907