

An unjust tax on Indian immigrants.

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Indian Immigrants.

**Appeal to the Empire**

BY

**P. SUBRAMANIA AIYAR,**

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AND

HON. SECRETARY OF "SOUTH AFRICAN INDIAN COMMITTEE"

FOR THE ABOLITION OF £3 LICENCE.

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DURBAN, NATAL, 1911.

# *South African Indian Committee.*

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## **FOR THE ABOLITION OF £3 ANNUAL LICENCE.**

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22, CROSS STREET,

DURBAN, NATAL,

24TH DECEMBER, 1911.

DEAR SIR,

I am directed by my Committee to forward a copy of the pamphlet embodying the grievances of Indians who are liable to take out an annual licence of £3 for the privilege of residing in the British province of Natal. My Committee will be thankful if you will kindly extend your sympathy and support to the movement having for its object the repeal of this obnoxious tax.

I beg to remain, Sir,

Your obedient Servant,

P. S. AIYAR,

Hon. Secretary.

# An Unjust Tax on Indian Immigrants.

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## AN APPEAL TO THE EMPIRE.

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I VENTURE to make this appeal on behalf of a large number of Indian labourers who were brought to serve under indenture in Natal. In consequence of the imposition of an annual licence of £3 on every male and female after the expiry of their indenture, which inflicts on them considerable hardship and misery, I am persuaded to seek a remedy for their grievances. At the outset it is imperative that an endeavour should be made to narrate the origin, growth and termination of the indenture system in order to enable my readers to intelligently grasp the situation; and in doing so the writer is keenly alive of his shortcomings to undertake publication of such a nature, but spurred to action by a zeal for betterment in the existing unhappy condition of his labouring countrymen he has ventured to embark on the undertaking with the full hope that the readers in their magnanimity will treat him indulgently and extend to the movement their sympathetic help and co-operation so as to enable in bringing about the necessary reform in the desired direction. Many writers and speakers both in the Press and on the platform have led the public to believe that Indians have immigrated to South Africa on their own initiative with a view to compete with white men in all trades and occupations, and under the pretext of this unwarranted insinuation, extraordinary statements are often made calculated to inflame and intensify colour prejudice which render the position of those who are utterly helpless to defend themselves a pitiable one. Therefore with a view to place before the public how the Indians came to be in Natal in such large numbers and what circumstances that led to their remaining in the country as part and parcel of the South African Nation this pamphlet has been prepared.

About 50 years ago, Natal was clamouring for labour as she is now for the development of the country; the capitalists

and farmers were unable to depend upon native labour. The country seemed to have been at a stand still in all directions. At that time, when Sir George Grey, Governor of Cape Colony visited Natal, the Durban Corporation, in an address presented to him described the then condition of the country as follows :—

“Independently of measures for developing the labour of our own natives, we believe, your Excellency will find occasion to sanction the introduction of a limited number of coolies or other labourers from the East, in aid of the new enterprises on the coast lands to the success of which sufficient and reliable labour is absolutely essential; for, the fact can not be too strongly borne in mind that, on the success or failure of these rising enterprises, depends the advancement of the Colony or its certain and rapid decline. Experimental cultivation has abundantly demonstrated that the issue depends solely on a constant supply of labour.”

The above address clearly manifests the deplorable condition to which the country was reduced for want of a steady labour supply : it was also equally evident that Europeans in Natal were face to face with the impending ruin of their industries if no reliable labour supply was forthcoming, and therefore, after mature consideration, the Natal Government decided to import labourers from India on terms more favourable to the operatives than employers.

The first batch of labourers reached Natal on November 16th, 1860. Originally the terms of contract remained for three years. After the termination of indenture service, labourers were given great facilities to settle on the land which was granted to them free of charge. Living examples could still be seen in Umzinto and other places where the original settlers who obtained gifts of land are still in possession of their allotments. In addition to this liberal inducement, according to the original conditions of indenture, the descendants of labourers were afforded every facility for education and they became free citizens in full possession of the enjoyment of their citizen rights. Indeed, the Europeans seeing the indispensable nature of the Indian, persuaded them to remain in the Colony and the eagerness to see them remain in the country is clearly manifested by a rule that no free Indian was entitled to a free passage to India unless he had remained in the country for a period of ten years.

It is evident from this brief introduction that the advent of the Indian in Natal is due not to his own initiative but

owing to repeated solicitations on the part of Europeans that he came to remain in South Africa, and therefore the problem that is now awaiting solution must be solved in a sane and statesmanlike spirit. However, the indenture system was continued until the year 1866 without hitch under circumstances aforementioned. It was after this that it was temporarily suspended owing to objections raised at the large annual influx of such labourers in the country.

An experiment was made to utilise all available native labour; the result was the scheme miserably failed. Crops were actually rotting on the ground, and no sustained labour could be had at any price. Seeing the impending ruin of various industries, there was a great clamour for Indian labour again and the immigration was resumed in 1874. This continued for about 15 years, and again an outcry was raised against the much maligned Indian labourer, and in order to investigate the matter, a Commission was appointed in 1887 to consider the advisability of discontinuing Indian immigration, but the finding of the Commission was, they openly admitted that the stoppage of Indian immigration would bring widespread ruin to the Colony. In 1907, a Bill was introduced in the Natal Parliament by Mr. Haggart, M.L.A., with a view to put a stop to Indian immigration, which, after the first reading, was referred by the House to a Commission to investigate the whole question. After making an exhaustive enquiry, the Commission recorded their opinion as follows:—

“The abolition of Indian Immigration would cause industries to decline.

“That absolute and conclusive evidence has been put before the Commission that several industries owe their existence and present condition entirely to indentured Indian labour and that if the importation of such labour were abolished under present conditions, the industries would decline and in some cases be abandoned entirely.

“Replacing the Indians by natives would possibly raise up the wages to a prohibitive figure.

“That, the expansion of industries made possible by the presence of Indians has provided the native with further openings.

“The existence of these industries has been, is still and in the future will be increasingly beneficial to a very large number of people in the Colony and to the Colony as a whole, and that their extinction or restriction by whatever cause brought about

would be serious and irreparable to the individual and general interests.

“A far greater number of Europeans with their families dependant on them are obtaining a livelihood, directly owing to the employment of Indians than would have otherwise been the case and were any action taken to interfere with the labour supply great hardships would be caused to them, and in many cases they would be deprived of the means of earning a living.

“Further the employment of indentured labour has provided opportunities for whites which would not otherwise have existed.

“A supply of Indian labour is absolutely essential for the industries.

“The Indians are industrious, law-abiding and on the whole sober in their habits, and it has not been proved that their presence has an injurious effect on the morals of the whites or natives.

“Having, after very careful consideration, come to the conclusion embodied in this report, your Commission cannot in the interests of the Colony recommend that the importation of indentured Indian labour be discontinued.”

Notwithstanding the repeated outcries against Indian labour, the responsible industrial and capitalist class of the Colony has invariably acknowledged the merit of the Indian as a worker, and in unmistakable language both Parliamentary Commissions and responsible leaders of public opinion have expressed the utility of the Indian to the country. The Commissions appointed in 1887 and 1907 have declared unhesitatingly that it was Indian labour which saved Natal from impending bankruptcy and brought prosperity to the people; and I may quote here the words of a member of Parliament, who said: “At the time Indian immigration was decided, the progress and almost the existence of the Colony hung in the balance.”

During the regime of the Crown Colony Government the stipulations of the original contract remained inviolate and the Colony attained matchless progress in all directions, and it may be quoted here the very words of an eminent Natalian, who said: “Indian immigration brought prosperity; prices rose; people were no longer content to grow or sell produce for a song, and resulted in an immediate rise of revenue which increased fourfold within a few years; mechanics who could not get away and were earning five shillings a day and less, found

their wages more than double and progress gave encouragement to every one from the Berg to the sea."

The old order of things changed into new soon after the grant of Self-government, and since then an organised effort was made to reverse the just and humane policy which characterised the Crown Colony Government. The first measure in this direction entitled the "Immigration Law Amendment Bill, Act 17 of 1895" was passed, evidently intended to deprive the labourer of his birthright of British subject. The London "Times" condemned it and called it as "a state perilously near to slavery," and drew the attention of the Indian Government to "suspend indentured immigration to South Africa as it has on previous occasions suspended such emigration to foreign possessions until it obtains the necessary guarantee for the present well-being and future status of immigrants." A Radical London paper also remarked in scathing terms and observed that the Act "is a monstrous wrong, an insult to British subjects, a disgrace to its authors, and a slight upon ourselves." One of the Commissioners appointed to inquire into matters connected with this question, said: "Though the Commission has made no recommendation on the subject of passing a law to force Indians back to India at the expiration of their term of service unless they renew their indenture, I wish to express my strong condemnation of any such idea, and feel convinced that many who advocate the plan when they realise what it means will reject it as energetically as I do. Stop Indian immigration and face the results, but do not try to do what I can show is a great wrong. What is it but taking the best of our servants (the good as well as the bad) and then refusing them the enjoyment of their reward? Forcing them back (if we could but cannot) when their best days have been spent for our benefit. Shylock-like, taking the pound of flesh, and Shylock-like we may rely on its meeting Shylock's reward. Stop Indian immigration if you will; but force men off at the end of their term of service—this the Colony cannot do—and I urge on it not to discredit a fair name by trying."

This noble appeal on the part of one of the fair-minded Natalians did not gain response from Parliament and Act 17 of 1895 was passed. This measure did not pass through the Legislature without great opposition from influential quarters, and so a Commission was sent to induce the Indian Government to sanction a change in the terms of contract of indenture, and with great reluctance the then Viceroy acceded to the request, but subject to the reservation "that the refusal of the immi-



grant to return shall not constitute a criminal offence."

According to this Law, and by subsequent Acts, every Indian immigrant imported into the Province at the termination of five years' indenture is called upon if he or she wishes to remain in the Colony to pay, in addition to the annual £1 poll-tax imposed upon every male adult, an annual payment of £3; a similar sum is payable by both male and female offspring commencing from the age of 13 in girls and 16 years in the case of youths. It is apparent that an Indian immigrant, out of an average income of £12 to £15 per annum, which is the total sum he is capable of earning, has to pay £4 to the State for the privilege of earning that sum in this country under the protection of the Union Jack, and if he is the proud possessor of an immigrant consort he should pay for that privilege an additional sum of £3. And if he has any children, for each of them he must pay £3 a head.

These Acts, apart from the severe hardship which is inflicted on them, have been the ruin of many a home, and it has blighted the future career of many girls and youths by driving them to destitution and immorality. Indentured Indians, as a rule, come to this Province either accompanied by their wife or take unto themselves a partner in life after coming here, and during the term of their indenture additions are made to the family. Thus this law imposes on them a burden which they are absolutely unable to bear; this burden is rendered heavier still when a woman, whether she be married or single, is compelled to pay £3 annually commencing from 13 years of age. Can any of our readers imagine the reason why the age limit for purposes of this Act has been fixed for a female child at 13 years? when the age for a male is fixed at 16 years! Is it to be understood that what a male cannot pay until the age of 16 the female child can, because she has the charm and probably the recommendation attached to her sex? Under the ordinary laws of any civilised government not only women have no independent status, but a girl of 13 years of age is a minor and naturally it is presumed that she should be under the guardianship of her parents. Owing to the inexorable stringency of this Act, a disgusting system of traffic in girls took place, and the result was, in order to put a stop to this violation of moral code, the Legislatures had to pass a law (Act 2 of 1907) called the Indian Immigration Marriage Act, compelling the parties to the marriage to officially register the marriage performed under Indian rites with a view to prevent traffic among girls; in default a penalty of £20 or three

months' imprisonment without the option of a fine. Under the law the same obligation and penalty is imposed upon the parents of the girl if the girl be under 18 years of age. Just imagine how the age limit is made in this instance by the Legislature when the age limit for girls has been fixed at 13 years for those who are liable to pay the annual licence of £3.

It may be mentioned here that the original Act 17 of 1895 did not contemplate that the tax in question was liable to be paid by women and children; as a matter of proof of this assertion the first batch of children who came under Act 17 of 1895, soon after the law came into force, was granted a pass exempting them from the imposition of £3 annual licence. But, after the authorities discovered a flaw in the original Act, fresh powers were sought for and the Indian Immigration Amendment Act 2 of 1903 was passed, compelling those children who came under the original Act 17 of 1895, irrespective of sex, either to enter into re-indenture or to pay an annual tax of £3 after the termination of their indenture should they not choose to select the former. Seeing that these Acts, after a short trial, did not serve the purposes for which they were intended, that was to keep the Indian under perpetual servitude to the capitalist class in this Province, another Act was passed—Act 35 of 1905—which made it an offence on the part of any person to employ an Indian who has not paid his or her annual licence, and any employer contravening the provisions of this Act is liable to a fine of £5 for every month, or a part of a month, in which the Indian was so employed. In addition to these laws, the Natal Parliament passed another law—Act 42 of 1905—apparently intended to keep these Indians under indentureship so long as they have health and strength to serve.

In the year 1909 alone there were not less than 3,511 re-indentures. The conditions governing re-indenture are not different from the original indenture. In fact, in many respects it is worse. The Government under the cover of this Act held the employer responsible for the payment of annual licence by the immigrant, and naturally the employers deducted out of their servants' wages the sum of £3, or paid such low wages as to enable the employers to pay the Government tax on behalf of their servants. This Act in effect aims at a system of automatic life long indentureship of not only the male servant but also his wife and children, whose arrears of license money could be claimed by the Government from the employers.

A brief sketch of the history of this system must have sufficiently impressed on our readers' mind the position of the

workers, and I now proceed to state how the law is made operative on them. The income of the average Indian, as stated above, ranges from £12 to £15 per year; out of which he must pay house-rent—usually called the proverbial “insanitary and dirty shanty.” His rice and Indian groceries, which is taxed at his Majesty’s Customs houses heavier than European goods, cost him at least quite a portion of his monthly income, and after allowing for his clothes bill and other sundries, there is very little margin of saving left for him. These are absolute necessities of life, and after paying for these items he has to find the wherewithal for the payment of annual license of £3 and his poll-tax of £1.

According to the latest statistics available 10,508 immigrants are liable to pay this tax, of whom 6,131 have not paid their taxes. At the end of the current year another 10,000 Indians are expected to complete their indentures, thus making a total of 20,508 Indians liable to pay this sum. I have been informed by authoritative officers that at the end of the next five years, when the Indians now under indenture would have terminated their indentures, there would be a total of about 35,000 Indians, and their descendants who would be liable to pay an annual sum of £3 to the State out of their miserable earnings of 25s. per month.

Let me proceed now to state how the law is operating on these Indians. It must be remembered that when the Natal Government prevailed upon the Indian Government to “ratify Act 17 of 1895,” one of the primary conditions of confirmation of this Act was that the immigrants at the expiration of their indenture should not be subjected to a criminal prosecution if they desired to remain in the Colony but were unable to pay the £3 towards annual licence. This was done, no doubt, in view of the poor wages that an Indian worker gets, to protect the immigrant from being harassed and sent to gaol. But the ingenious method adopted by the local authorities has frustrated all the safeguards made by the authorities in India. In other words, the Natal Government have succeeded in gaining their ends by bringing defaulters of this annual licence according to civil process; in effect, the ground of objection of the Indian Government has been vindicated because, instead of applying criminal process which the Viceroy objected to, civil process is nominally applied with the same ultimate result.

Defaulters of payment of this annual licence are served by the Natal Police with a notice, which is equivalent to a summons, and they are brought up before criminal magistrates

instead of civil courts, and after a summary trial, probably may be in Chambers, they are ordered to pay the amount for which they are summoned together with costs (2/6) within a specified date. Non-compliance with this magisterial order is treated as contempt of Court, and the poor fellow is sent to prison. On the whole, in spite of Act 17 of 1895 being a civil law made for a specific purpose at a time when there was a necessity for it, and in spite of the fact that a delinquent is placed in the position of a hereditary debtor to the State, which assumes the roll of a standing creditor, and notwithstanding the solemn undertaking given by Natal not to render the provisions of this Act other than civil, yet by a circuitous, apparently illegal, method under the cover of civil procedure, the ultimate result is the same as if a criminal prosecution was instituted—which would have been a more honest procedure than this legal circumvention. Hundreds of poor helpless creatures, both men and women, haled to prison thus victimised and the court records will bear out this statement. •

Even women defaulters have not been dealt with leniently. The jewellery which is all the wealth a woman may possess, is at times, attached in payment of her arrears to the State. At Stanger a woman was sentenced to imprisonment for being in default to pay her tax. In the City Court, Maritzburg, some time about the beginning of December 1908, a woman was sentenced to 14 days imprisonment with hard labour for having failed to comply with an order of court made previously to pay 10/- per month in liquidation of arrears of licence money due by her to the Government. The defendant is said to have pleaded for mercy, stating that she was unable to get employment on account of her baby (which she produced in court) having sores all over its body and that having no husband, she was absolutely stranded and impecunious. She might as well have pleaded to a stone wall for every thing she said fell on deaf ears. The Magistrate sent her to gaol in spite of her entreaties for mercy.

In order to bring conviction to my readers how severe the law is operating on these workers I quote below one more case.

“On the 1st November, 1910, about 15 women were arraigned before the Magistrate at the Dannhauser Branch Court, and they were ordered to pay up their arrears; but the delinquents pleaded inability to pay, and thereupon the Court ordered that they should pay within a fortnight; and, furthermore, the Magistrate observed that non-compliance with his order will result in their being sent to gaol. Soon after the

tax became overdue the police looked for them, and five of them were found, and when taken before the Magistrate and asked why they did not pay their arrears, the women said that they were very poor and that their earnings were not enough for them to live. Sometimes, they said, 'we live on mealie-meal porridge once a day,' and therefore they could not pay. The Magistrate asked them three times whether they were going to pay or not, and on each occasion the women point blank refused to pay. Thereupon the Court ordered them to be imprisoned for one month."

While such is the relentless persecution made against weaker sex, it would be sheer impertinence on my part if I attempt to insult the intelligence of my readers by endeavouring to narrate the sordid story how men immigrants are treated under Act 17 of 1895. Before proceeding with further comments it may not be out of place to mention here that through misfortune, accident or owing to unforeseen circumstances over which they have no control if any immigrant lose his or her current year's annual licence they are required to take out a duplicate copy of it for the sum of 10/- in the case of male, and 5/- in that of a female, which is equivalent to a man's or woman's half-a-month's wages.

It will be remembered that the principles governing the indenture system apparently are based on civil laws rather than criminal; and any Acts that might have been passed in the Natal Legislature were subjected to the approval and confirmation of the Government of India. Though the Indian authorities had absolute right either to ratify or reject the laws made by Natal Legislature, yet the former relying on the sense of justice and great traditions of a British Colony such as Natal did not unduly interfere with the operation and making of the laws relating to Indian subjects until such time as they were proved to them that manifest injustice was done to their subjects when they had to intercede with a view to afford their subjects protection and redress to which they are entitled. Apart from serious illtreatment to which individual cases might have been subjected there has been flagrant abuses in the indenture system itself since Act 17 of 1895 became the law of the land. Previous to the passing of this Act, the labourer had as British subjects, the inalienable right of staying in the country, which they were instrumental in developing and no obstacles were placed in their desire to satisfy their latent ambitions. But this Act, by one stroke of the pen deprived them of their natural right to which every British subject is

entitled and simply reduced them to the position of serfs so long as they have strength to serve their white masters. The subsequent Acts in relation to these labourers made them and their descendants a species of hereditary serfs. Though the principle involved in these Statutes may be detrimental to the interests of the labourers, and though it may be totally in conflict with the principles governing British ideals of citizenship, yet the Indian Government agreed to these laws in deference to the wishes of Natal to restrict a large number of Asiatic settlers with a hope that they will not be unduly harassed and treated like convicts and aliens. However solicitous the authorities in Simla may have been to comply with the desire of Natal to restrict Asiatic immigration within reasonable bounds, the Viceroy has distinctly and in unmistakable terms expressed the mandate of his government that "the provisions of Act 17 of 1895 should not be made criminal." In other words, the Indian Government has laid it down without cavil as a distinct principle that if these Indian subjects, after the termination of their indenture decline to go to India or be disinclined to renew their indentures, or express their inability to pay £3 per year, they should neither be deported nor punished for default to comply with the requirements of the law. These conditions, clear as they are, has been acceded to by the Natal authorities in the name and on behalf of the people and electors of Natal, and despite this solemn undertaking, the law is made operative in violation of their pledges.

The function of enforcing Act 17 of 1895, and other Acts subsequently passed, instead of being worked as the contracting parties to this transaction contemplated, is entrusted in the hands of the Natal Police who deal with defaulters of £3 annual licence summarily as if they are criminals.

Until this Act became operative which was in 1901, the Indian public did not realise the hardships and severity likely to be inflicted on the labourers, neither the law was rigidly enforced on them. During the commercial depression which prevailed soon after the termination of the Anglo-Boer war, owing to scarcity of work thousands of Indians were thrown out of employment, when the rigidity and relentless persecution emanating from the operation of this Act was felt by the Indian community. While these people were starving, this law was strictly enforced, and in order to escape the dreaded prison life for non-payment, about 3000 men and women agreed to work on the Bengualla Railway in Portuguese West Africa. The contractors in Durban fed and

housed them until such time as sanction was obtained from the Indian and Imperial Governments as Lobito Bay was a foreign country. Their then condition was described by the local Press as most deplorable. In spite of their abject poverty and destitution, the Natal Government refused to allow them to enter into contract with the Bengualla Railway, because these Indians were in arrears to the government in large sums of money on account of their annual licences and taxation, and subsequently an understanding was arrived at between the contractors and the Natal Government by which the contractors agreed to pay out of their servants' wages the arrears of the licence money due to the Natal Government in consideration of the latter waiving their right to interdict the Indians from entering into this engagement.

This understanding settled the matter, and these poverty-stricken Indians were permitted to proceed to Lobito Bay. Owing to unhealthy conditions prevailing in that country hundreds of them died like flies, and out of the 3,000 who engaged themselves for work only 658 returned to Natal and about 948 starving and half-dying people were not allowed to land on the plea that they had no right of domicile in the Province. These returned immigrants, stricken with disease, without food, insufficient raiment on their back, were forced back to India against their will without a penny in their pocket, and this sorry tale alone ought to suffice to clear any misconceptions as to the unjustifiableness of the existence of an Act which has proved itself a blot on British traditions, rule and justice, not to speak of common humanitarian feelings of the civilised world.

Seeing the incalculable hardship inflicted on the ex-indentured Indians by this Act, the representative organs of the Indian community and their representative bodies commenced to voice the grievances of these people, and a systematic agitation was set on foot with a view to approach the Legislatures to repeal this and subsequently passed Acts. At a mass meeting of the Indians held in Maritzburg on the 23rd August, 1908, the following was one of the resolutions passed by the meeting, and a representative delegation, headed by Mr. P. S. Aiyar, presented the resolutions to the then Colonial Secretary, which reads as follows:—

“That this meeting deplores the hardship and suffering to which our countrymen are subjected, owing to severe enforcement of the provisions of Act 17 of 1895, and that in consequence of poor and indigent men and women being in-

flicted with imprisonment for failure to pay the annual payment of £3, this meeting approaches the Natal Government with a view to ameliorate the condition of those who are affected by the aforesaid Act."

This resolution was followed by a strong memorial to the Legislative Assembly, in which the petitioners mentioned:—

"That a certain class among your petitioners and their descendants are subjected to an annual imposition of £3 tax per head irrespective of sex.

"That at the time of their engagement for indentured service in this Colony, the section of people alluded to herein were not fully aware of the hardships and struggles to which they would be subjected owing to this apparently inoffensive mode of taxation.

"That owing to strict enforcement of this Act they are subjected to an intolerable treatment which drives some of them to the committal of criminal offences, immoral practices, or suicide.

"That in the case of those who have not the courage to procure the necessary sum for the payment of the annual licence, in the manner above mentioned, they are subjected to serve imprisonment, notwithstanding the fact that at the time when this Act was sanctioned by the Indian Government this Colony solemnly and faithfully undertook not to render the provisions of this Act penal.

"That owing to rigorous enforcement of this Act Indian women who are subjected to this annual payment and are unable to meet their obligations are ruthlessly thrown into gaol, thus separating the wife from the husband, children from their mother.

"That your petitioners beg to illustrate a case in which a woman, with a child at breast, was separated from her offspring, and during her incarceration the infant not being pacified by the nursing of the father its life was despaired of and a philanthropic gentleman (Mr. B. A. Magharaj, living in Durban) was informed of this pitiful case, who quickly repaired to the authorities and paid the taxes due to the Government and rescued the child probably from death.

"That your petitioners further beg to draw the attention of this Honourable House that the enforcement of this Act on women has fostered in them an immoral tendency; that those who are sufficiently courageous to withstand temptation for immorality are, owing to their real helplessness for payment of the annual licence, so terrified as to remain in perpetual



dread of being harassed by the authorities and dragged to the Courts."

The petition signed by so large a number of Indians, did not arouse the Legislatures to action, and therefore the Indian community decided to hold another mass meeting in Durban in order to bring the distress prevailing among ex-indentured Indians and others to the notice of the Imperial authorities. On the 12th September, 1908, one of the largest gatherings of Indians ever held took place at Mayet's Auction Mart in Queen Street, Durban. There were representatives from all parts of the Colony. The meeting deplored the inexplicable attitude of the local authorities to redress a manifest injustice done to helpless and defenceless men, women and children, and therefore it resolved to submit a humble petition to the Throne, beseeching our late beloved Sovereign to appoint a Royal Commission to investigate the grievances.

While the responsible leaders of the Indian community were agitating and making representations to the authorities respecting the inequity of this taxation, and the distress caused by it, Indian women, through the Indian Women's Association, directly represented to Parliament their condition under the Act. The following is the main feature in the petition which their Association submitted to the Legislative Assembly on behalf of their sex :—

"Your petitioners' Association in their endeavour to ameliorate and elevate the condition of their sex, have been informed of startling revelations of misery and serious annoyance which have resulted from the severe enforcement of the aforesaid Act that your petitioners deemed it their duty to bring the unfortunate and unhappy state of existence to the notice of this Honourable House.

"Whilst the sterner sex—men—keenly feel the severity of this Act, the women-folk, weak and gentle by nature, who come under the category of the aforesaid Act, must naturally feel the stringency of this measure more acutely.

"Your petitioners beg to draw the attention of this Honourable House to the tendency of the aforesaid Act on women and girls who are liable to pay this £3, which is not calculated to afford protection to the inherent rights of the gentler sex, for it fosters domestic infelicity.

"Your petitioners regard with great shame and sorrow that women, who in default of payment, are sentenced to imprisonment, and the very dread of being marched to Court and goal is enough to numb their intellect and cause terror, to

escape from which the aforesaid Act fosters in them a temptation to barter their female modesty and virtue.

“The aforesaid Act has been a source of breaking up many a home, alienating the affection of husband and wife, besides separating child from mother.

“There is no precedent in the legislation of any other country under the British flag where women are taxed for the privilege of living with their husbands or under the protection of their natural guardians.”

This is the kind of language which the wronged subjects used in order to bring conviction to the legislators of the injustice which they were inflicting in the name of the citizens on a section of people who were not represented in the government of the country and to whose ungrudging toil the prosperity—nay, the very existence of Natal is indebted. But memorials and remonstrances, interviews and articles in the Press, did not avail, and the Government remained unmoved despite forcible representations. In the meantime, the four Self-governing Colonies of South Africa were negotiating to form a closer Union, and with this object in view the National Convention commenced deliberations. Indians in Natal being apprehensive of their ultimate fate, decided to petition the Imperial authorities with a view to placing before them a review of the many grievances under which they as a community labour, and to endeavour to secure redress before their affairs were handed over to be dealt with by a Union Parliament composed generally of men hostile to the race from which the petitioners were derived. The petition was the combined effort of about half-a-dozen leading public bodies among the Indians, and also it contained the signatures of 1,124 leading Indians in Natal.

In effect the petitioners vehemently protested against handing Natal to the Union authorities. In addition to mentioning other grievances under which Indians labour, the disabilities of those who are liable to pay £3 per annum were emphatically stated, and the petitioners mentioned that relying on the Proclamation issued by Her late Majesty's Government in 1843, when Natal became an integral part of the British Empire, they emigrated to Natal. The Proclamation reads as follows:—

“That slavery in any shape or under any modification is absolutely unlawful as in every other part of Her Majesty's Dominions.

“That there shall not be in the eye of the law any distinction or disqualification whatever founded upon mere

distinction of colour, origin, language or creed; but that the protection of law in letter and in substance shall be extended impartially to all alike."

The petitioners, in conclusion, said that :

"Placing implicit confidence in the sense of British fair-play and justice your petitioners were induced to emigrate to this Colony, the responsibility for whose development they have been ready to share both in peace and in war, where they have built their homes and brought up their families, in which they have invested their capital and have established themselves in various pursuits—agricultural, commercial, industrial and otherwise.

"In view of the fact that in the Draft Constitution for a United South Africa British Indian subjects of the Crown have been totally excluded from exercising those rights to which they, as natural-born subjects of His Majesty, are justly entitled, and in view of the many grievances under which they have laboured in the past in this Colony, and there is no prospect of a brighter future for them under the Union Government, your petitioners have to emphatically protest against the ratification of the aforesaid Draft Act (Union) until their grievances have been redressed."

Apparently this petition brought about a slight change in the attitude of the local authorities, and as there was a tacit understanding with the Boer party that sooner or later the indentured immigration must cease to exist the Natal Parliament appointed a Commission to investigate the Indian labour problem. Indian representatives gave evidence before this Commission, and in clear terms told the Commission that £3 annual licence on ex-indentured Indians was not only tending to demoralise the workers, but it was breeding in the Colony a class of people whose name indicates the sign of poverty, disease and the concomitant results emanating from these two dire evils of modern civilisation and legislation.

Notwithstanding the emphatic protest made against the existence of this tax on ex-indentured Indians by representatives of the Indian community the Commission, composed as it was of men who were not interested in the welfare of the Indian working men, made feeble recommendations in regard to this unjustifiable tax though they were very liberal in extolling the virtues of the Indian as a worker. However, the Government being fully aware of the hardships and sufferings of these taxpayers came to the conclusion, though tardy it was, that some measure of relief should be given to these people, and in

the last session of the last Natal Parliament a Bill was introduced, entitled "To Amend the Indian Immigration Act No. 17, 1895; and Act 2, 1903." The Colonial Secretary in moving the second reading of the Bill in the Legislative Assembly said that "representations had been received both from the Indians themselves and from the Magistrates to the effect that the £3 licence was unable to be paid, and the Government felt that the obligations would be met if the licence were removed so far as Indian women were concerned, and that was the object of the present measure. The Indian Immigration Commission had enquired into the matter and had recommended the course now proposed." The Colonial Secretary added that under the present circumstances a free Indian had to pay as much as £7 to the revenue of the Colony before he could call his soul his own, and the result was that many of these Indians deserted their women, who, in a state of destitution, had to be repatriated by Government at the expense of large sums of money drawn from the Contingencies Fund.

Mr. Saunders said there was never any idea that this tax was to apply to women. The effect of this tax was bad in the extreme. It was causing a pauper population to spring up through inability to meet the numerous taxes payable by the Indians, and was driving these people to crime. He quoted instances in support of his contention showing the harsh treatment to which these people had been subjected. These cases had all been brought to his personal notice. He considered the Magistrates and others should have discretionary powers in connection with these taxes so that hardship should not result in the future. He said that the Session had been marked by the fact that liberty of speech had degenerated into license and that the epithets hurled across the House had been more worthy of Billingsgate than of a National Assembly. He asked them not to add to this by refusing to repeal unjust legislation.

Mr. Hulett observed that in certain cases the Magistrates and Police should have power to remit the tax in case of Indian males.

Sir Liege Hulett said that it was never contemplated that the £3 tax should be placed upon women or girls. The decision of the Courts that women were liable had made it almost impossible for these people to meet the taxes and live on the balance. The imposition had led to immorality, many Indians having gone back to India leaving their wives in Natal. He hoped the justice of the measure would be seen, and that it would meet with the approval of the House.

Mr. Clayton touching upon the question of the destitution caused by this taxation showed that in one Magisterial Division alone there were not fewer than 253 of these women who were living no one knew how. The tax was especially bad upon the older women, who were not able to assist their husbands to the same extent as the younger women.

Mr. C. P. Robinson observed if hon. members knew of the distress among these people, they would not hesitate to support that Bill.

The Hon. J. Baynes congratulated the Government on the removal of a cruel tax.

The Hon. R. Jameson said that they should wipe out the tax on women altogether, and let the incidence of the tax fall on men only.

But the opposition, even to this partial measure of relief, was so great in the House that the Government gave in, and the result was an Amendment was added to the original Draft which gave discretionary powers to the Magistrates to exempt women from paying the tax "on the grounds of ill-health, old age or other just cause." On the whole though a sorely needed reform, the necessity for which has been acknowledged on both sides of the House, was neglected, the Legislatures, by passing this enactment and suffering it to be placed in the Statute Book, openly confessed inflicting a monstrous injustice on a class of people who deserve well of the citizens of Natal. However, this amending Act, instead of proving an instrument of relief proved the reverse, and the effect of this law could not be described in more fitting language than in the well-known lines of the great English poet Dryden, who sang:

"Fooled with hope, men favour the deceit,  
Trust on, and think tomorrow will repay.  
Tomorrow is falser than the former day.  
Lies worse, and while it says we shall be blest  
With some new joys, cut off what we possess.  
Strange cozenage."

Soon after the law passed the Houses of Parliament, the Natal Indian Congress, discontented with the amended Act, held a mass meeting, drawing the attention of the Imperial Government to their disapproval of the Act. The text of the resolution reads thus:—

"The mass meeting of British Indians of Natal, held under the auspices of the Natal Indian Congress, hereby respectfully protests against the Immigration Law Amendment Bill passed

during the last session of the local Parliament in that:

(1) It is so contrary to the original draft as published in the *Gazette*. (2) It fails to give the very relief it was intended to give. (3) It retains the £3 tax on poor Indian woman affected by the Immigration Law. (4) It establishes a new departure not warranted by the Draft Bill and quite foreign to its scope, in that it authorises recruiting of indenture labour in the Colony and hopes that the Imperial Government will refuse to advise His Majesty to sanction this iniquitous measure.

This mass meeting of British Indians reaffirms its opinion that the whole of the £3 tax is oppressive, unjust and immoral, and requests the people of Natal in whose name it is collected to repudiate the measure and failing action by them requests the Imperial Government to secure relief."

Not only local public opinion condemned the oppressive and un-British nature of this tax, but people in England marked their sense of disapprobation in unmistakable language. At a meeting of the New Reform Club held in London in October 1911, the following resolution was unanimously passed and submitted to the Prime Minister with a request that it be forwarded to the Union Government:—

"This public meeting strongly protests against and urges the repeal of the annual tax of £3 imposed in Natal upon every Indian male of 16 years and upwards, and every Indian female of 13 years and upwards whose contract of indentures have expired, and who elects to remain free in the British Province of Natal which tax has resulted in the demoralisation of a large portion of the resident Indian community."

It will be remembered that the principle aimed at by Act 17 of 1895 was, to discourage the Indian after the expiry of their indenture from remaining in the Colony as a free Indian with facilities for permanent settlement. It is with that object in view that the tax was imposed. As a great many of them evaded or escaped payment Act 34 of 1905 was passed, which imposed a penalty on the employer to engage an Indian who had not taken out a licence and held the employer responsible for the payment of this tax. The Government did not meet with much success even by the use of this Act. Year after year it was brought to light that much distress prevailed among these Indians owing to their sheer inability to meet their obligations, and in addition to complaints made by Indians, the Government Commission recommended the necessity for affording partial relief, at least, in the case of women. In view of these reasons Government, with the object of affording partial

relief, introduced the amending Act in 1910, which provided under Section 3 that "The payment of arrears of licence money due under Act 17 of 1895 by any Indian shall be suspended during the period of re-indenture or contract of service for a term of not less than two years, and in the event of his return to India at the expiration of such contract or indenture payment of arrears shall be waived."

The intention of Parliament is made manifest in a circular issued by the Government in English, Tamil and Hindustani languages, conveying the true interpretation and purport of the law. The circular reads as follows:—

"Notice is given to Indians (men and women) who should have taken out the annual licence of £3, but have not done so, that they can re-indenture or enter into a civil contract for not less than two years, and while under contract or indenture the licence money due will not be claimed and should they return to India, they will not be made to pay the licence due.

Indians must understand however, that only those who enter into a contract or re-indenture can claim the right to return to India when the indenture is finished."

The above circular was freely distributed among the Indians, and relying on it, hundreds of them entered into contract of service or re-indenture with the hope of escaping payment of this iniquitous tax. But it created the greatest astonishment among the community when scores of them were summoned before the Court for failure to pay the current year's licence, which was demanded in spite of the circular letter above referred to and the Government contended that the annual licence should be taken out for the current year. It would appear that the Government became aware of the fact that ex-indentured Indians were engaging their services to free Indians under the Master and Servants Act, and the authorities took steps to claim the licence money from these servants apparently with the object of preventing the free Indians from hiring the services of their own countrymen.

It should be noted that the law does not debar a free Indian from engaging the services of an ex-indentured Indian. But after this became known the Department of Justice devised that these people should not enter into contract of service with the Indians, since by so doing, they would have to pay £3 tax. Therefore, the Government in order to force these men to re-indenture, which is allowed only to Europeans but not to free Indian masters, had recourse to this strategem and played this legal trickery, and, in fact, flatly set aside the established laws of the country

and issued the mandate calling upon those who had entered into contract of service to pay £3 tax. This high handed autocratic action of the ministry aroused considerable ill-feeling in the mind of the Indian community and in response to an appeal to the public press, it is pleasing to state here that the two daily journals published in Durban severely commented on the action of the Department of Justice and demanded an explanation from the Government,

The Government, instead of openly confessing the illegality of their conduct, replied to the caustic criticisms showered on them in a letter which Mr. W. Stead, Secretary of the Immigration Trust Board, addressed to the "Natal Mercury," and which reads as follows:—

"With reference to a leading article in your paper a few days ago, and later correspondence bearing on the subject of the payment of the £3 licence by Indians, I am directed by the Board to ask you to kindly publish the following: (1) Indians under re-indenture are not being asked to pay either arrear or current licence. In a few cases where judgment has been given against an Indian previous to his re-indenturing the Board understand that the magisterial judgment is being carried out, and that these Indians are being asked for the amount of arrear licence for which judgment was given. It is not considered quite right that an Indian should evade a magisterial judgment merely by entering into re-indenture. (2) Indians under civil contract have all arrear licence suspended during the course of the contract the Indian has entered into. I understand, however, that Indians under civil contracts are being asked for current licences only. The Board at first understood that Indians entering into civil contract would be relieved from current as well as arrear licences, and a circular to that effect was drafted and issued by the Protector. It has been ruled, however, that while Indians under civil contract are entitled to suspension of arrear licence, they are not entitled to the same benefits as re-indentured Indians in having their current licences waived as well."

It is obvious from the foregoing narrative that the condition of the Indian labourers since Act 17 of 1895 became the law of the land has been sufficiently miserable. As the indentured immigration was in continuance, and as thousands of labourers were incoming year after year it was allowed to remain in the Statute Book in order to restrict an undue settlement of these people in the Province. Though the law was suffered to exist, the Indian Government felt uneasy about it,



because the law did not recognise the merits and services of a hard-working and industrious class of people. Since this Act became operative the Indian Government, on more than one occasion, protested against the rigorous enforcement of the Act on their subjects. Neither the authorities in Maritzburg nor at Simla realised the consequences following the passing of this Act. The Natal legislatures evidently intended that this law may act as a deterrent on these people to remain as free men after finishing their indenture, and they apparently believed that coolies would be induced to go into re-indenture *ad infinitum*. They little counted on human nature and the ambitions and desires which actuate and which are universally similar. The principles governing the indenture system in Natal are tantamount to serfdom pure and simple. By the time an indentured Indian completes his five years' engagement he is thoroughly conversant with the nature of his duties and the strict discipline to which he is subjected. However poor, low and degraded an indentured Indian might be, previous to his engagement for service in Natal, he had been accustomed to a tolerable extent of freedom in his mother country. Soon after his arrival in Natal, when he finds himself face to face with work governed more or less on a system akin to slavery, he naturally feels himself dragged to an atmosphere not congenial to his nature, breeding and accustomed method of life. Neither does he benefit pecuniarily by his indenture. He earns 10s. per month during the first year of his indenture, and by the time he completes his fifth year of contract of service, his wages is increased to the princely sum of 14s. per month. During this period his sum total of earnings proves inadequate to maintain himself, much less could he save any sum to enable him to get back to the land of his forefathers.

It is, therefore, plain that generally an Indian on the eve of the termination of indenture finds himself in the same poverty-stricken condition as he commenced; in addition to that, the experience he has acquired, and the kicks, blows and cruel ill-treatment to which he has been subjected during the five years he has served, impel him to seek a free atmosphere where he may have an opportunity to better his position in life with less irksome duties and under a more favourable and gratifying system of work.

It is manifest that the intention of the Legislatures in passing Act 17 of 1895 has not been fulfilled, and instead of the Act proving a source of constant supply of labour, it

has not only nullified that object but it has proved a fertile source of creating an ever-increasing pauper population, whose condition if left unremedied may prove a menace to the peace, prosperity and vitality of the country. Knowing this and with a desire to mend matters, the Legislatures passed Act 34 of 1905, which placed these workers under a specific disability in getting work from any one under penalty for failing payment of £3 licence; and another Act held the employers responsible for payment of their servants £3 tax. Though this Act has been in operation for five years, neither the country nor the operatives have benefitted by this instrument for wresting the tax from these people. Though these Acts did not work well and discontent was growing among them, the authorities had not the courage to confess the blunders which they made in pursuing such a mad policy. In the meantime serious distress and chronic poverty was taking a firm grip in the country. Owing to the growing numerical strength of a poverty-stricken people, crime and immorality was raising its nasty head. The Indian community kept continually reminding the public and the authorities, both in India and in England, of the misery, hardship and impotent state of the ex-indentured Indians. Both the Imperial and Indian Governments recognised the distress prevailing amongst these people and made forcible representations to Natal to remedy matters. In order to accede to the request of the Imperial authorities, Act 17 of 1910 was introduced in the Natal Legislature as a measure of relief, but as the Act in question did not go far enough to satisfy the demands of the authorities in India, so as to bring contentment and happiness to His Majesty's Indian subjects in Natal, Lord Hardinge, on behalf of His Majesty's Government, announced in the Viceroy's Council at the beginning of the current year that further emigration of indentured Indians to Natal will be prohibited. The reason for so doing is said to be that "the decision in regard to the stoppage of the immigration of indentured labour for Natal has been made owing to the position created by the divergency of Indian and Colonial standpoints, and also owing to the absence of a guarantee that Indians will be accepted as permanent citizens after the expiration of their indenture."

This reprisal on the part of the Anglo-Indian authorities at Simla did not come as a surprise to those who are acquainted with the history of this question. It will be remembered that when Act 17 of 1895 was passed, the Indian Government laid

it down as a distinct principle that those ex-indentured Indians who elect to remain in Natal and who are unable to pay £3 tax should not be dealt with criminally. But the process adopted to recover this tax is in actuality criminal under cover of civil form. In this manner the Natal authorities broke faith despite representations made by India on behalf of these Indians. The Natal authorities passed a number of legislative measures more or less intended to keep them under hereditary bondage. In view of the fact that there is no prospect of bringing the Natal authorities to a sense of justice and fairplay, the Viceroy of India decided to cut off further labour supply.

As it was indicated in the foregoing pages, both the authorities in Natal, India and England have acknowledged in unmistakable terms, the harshness and un-British nature of this tax on Indian men, women, and children. The object with which this and subsequent Acts were enacted by which an imposition of £3 was imposed, has not been achieved. In effect it has not induced these men and women for a hereditary re-indentureship, neither has it done the operatives any good. On the whole, these Acts instead of doing good to either the country or worker, proved a double edged instrument for playing havoc with the common well-being of Natal. It has proved the breeding ground of an ever growing poverty stricken population, who, owing to the existence of these laws, are debarred from selling their labour in the highest market and enjoying the benefit of it for themselves; and on the other hand, by having a large number of people, whose sphere of activity and freedom are narrowed down and who are controlled by spies and police officers, the very vitality of the province is being sucked day by day, and her spontaneous progress is hampered in all directions. However one may wish to restrict the Asiatic population, it should be borne in mind that these people who form a considerable bulk of the working men are here, and they have toiled day and night for the development of the country. Their best years of life has been devoted to the improvement of the garden colony and for the enrichment of their white masters.

After devoting the best part of a man's life to the service of his white master, he has emerged from bondage and just bought his freedom with no better prospects before him in life than he had when he commenced serving his indentureship. In a word, these people have no savings put away, and their only hope is to better their position in life by sheer, hard, honest labour. While such being the position, is it fair, is it just, is it

Christianlike on the part of the Union Government to let this tax remain in the Statute Book, and harass these unfortunate useful workers? Owing to their incessant poverty, they can neither leave this country in search of a foreign land, nor remain here and improve their condition in life in face of the heavy burden imposed on them. The tax in question was imposed at a time when the country was supplied with plentiful labour from India; but now the country is clamouring for labour as the Indian immigration has been cut off.

In conclusion, it must be borne in mind that these men and women are natural born British subjects who have a right to claim from this Government that even handed justice to which they are entitled. Lord Ripon in one of his despatches writing to the Government of Natal said: "It is the desire of Her Majesty's Government that the Queen's Indian subjects shall be treated on a footing of equality with all Her Majesty's other subjects," and every successive British Sovereign and statesman has proclaimed that British Indians have a claim for just consideration at the hands of the authorities. No popular Government can reach longevity if it is guided by principles that set little value to the moral claims of weaker races, and laugh at their sufferings and poverty. However weak the subjects races may be, and however despicable their condition in life may be, it is outrageous to altruistic feelings of Christians to treat a class of loyal subjects as beyond the pale of common humanity. It is unjust and unrighteous to treat them in the manner done now who have been the pillar of strength in building up Natal's industries. These people are poor to an extremity of which human mind could have no conception and which affords no parallel of any kind. They are over-taxed to a degree which is hard to describe; and they are also oppressed to a degree that you cannot turn the screw any more. The Indian community has been unceasing in their efforts to bring the present discontent arising from this tax to the notice of the authorities, but all our prayers have not been heeded. In replying to a petition bearing on the subject along with others, His Majesty's Secretary of State for the Colonies assured us on the eve of the closer Union of the various Colonies in South Africa that "questions affecting Indians would be treated in a broad and generous spirit" by the Union Government. But so far, we do not see any symptom of the Union Government treating us in the manner indicated by the Imperial Government.

It should be noted that these Indians are here to stay, and there is growing ill-feeling and discontent among them which is the inevitable consequence of this heavy tax. Any more undue pressure on their poverty, perhaps on their patience also, will not redound to the credit and glory of a government which must necessarily rest on the solid principles of mercy and justice to its subjects. On the whole I address this appeal to the electors, who are the sole depository of power and justice, with the hope that their help and sympathy will enable to remove this unjust taxation from the head of my countrymen. In ancient times, the subjects looked up to their kings for relief as personification of divine justice and mercy. But the progress of civilisation has demolished personal form of government and has vested that divine power in the hands of the democracy. Every elector, be his station in life what it may, is responsible to discharge that divine power vested in him in a manner befitting his position. And this responsibility is rendered still more onerous when the electors, as men and Christians, are appealed to for help by a section of people who are not represented in the government of the country, and who cannot vindicate their rights owing to their subjugated position in body politic. Therefore, it is obvious that the electors of this great Empire have a solemn duty to perform towards the subject races who are committed to their care and protection. No elector, who conscientiously discharges his duty to the State, can get out of this solemn obligation to their fellow creatures.

From whichever standpoint one may look at the question, the £3 annual licence on Indians must be abolished. If we look at it from a material point of view the country needs this large army of trained workers; on the other hand, if we study the question from a higher platform of morals and humanitarian motives, the tax is the most wicked thing ever imposed, and it has been productive of creating a pauper population amidst us whose existence if left unameliorated would prove a source of constant anxiety to the wellwishers of the progress of humanity. I respectfully submit that the principles at issue are much broader than those of ordinary contention. It seems to me that whatever opinion one may hold regarding the colour and Asiatic questions, the disabilities of the people referred to in this pamphlet do not become the subject of party or colour controversy. Thousands of poor, illiterate, voiceless creatures, ground down by a heavy tax, cry aloud for relief, and I trust that the public in South Africa as well as other parts of the Empire

will co-operate in bringing pressure to bear on the Union Government to abolish this tax and afford relief to these poor Indians.

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## APPENDIX.

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On the invitation of Mr. P. Subramania Aiyar, Proprietor and Editor of the "African Chronicle," a meeting of the Indian working men and their sympathisers was held on the 21st September, 1911, at the Hindoo Young Men's Society's Hall, South Coast Junction, in order to take practical action for the repeal of £3 licence on ex-indentured Indians. The meeting in pursuance of the above object unanimously adopted a resolution to form an organisation to be known as "the South African Indian Committee for the abolition of £3 licence on ex-indentured Indian Indians." All those present at the meeting, and also their sympathisers were declared to be the first members of the Committee.

Commenting on an appeal addressed to the Natal Press by the Hon. Secretary of South African Indian Committee for the abolition of £3 licence, the "Natal Mercury," one of the most leading daily papers in the province commented in its leading article of the 9th November 1911 as follows:—

An organisation has been formed among the Indian community for the purpose of endeavouring to secure the repeal of the £3 licence imposed under Act 17 of 1895, which has been drawn up by the Indian Committee on the subject. The clause in the Act of 1895, imposing the licence says that: "Every indentured Indian who shall have entered into the covenant set out in Section 2 of this Act (the covenant relates to re-indenture, and the wages to be paid), and who shall fail, neglect, or refuse to return to India, or to become re-indentured in Natal, shall take year by year a pass or licence to remain in the Colony to be issued by the Magistrate of his district, and shall pay for such pass or licence a yearly sum of three pounds sterling, which may be recovered by summary process by any clerk of the peace or other officer appointed to get in such licence money." The object of this clause was to induce indentured labourers to either return to India or re-indenture. When it passed the Legislature it was intended to apply to men only but it was found afterwards that it was applicable to women also, and in defiance of all

practice and precedent in taxation it was so applied and has unquestionably been the cause of much cruel hardship. It is more than doubtful if these men who came here from India after the passing of the Act of 1895 ever had explained to them the real nature of the obligation into which they had entered, but the obnoxious part of the business was the imposition of the tax on all Indian women over 13 years of age who came here under indenture after 1895. The children of indentured immigrants on reaching the age of 13 years for girls and 16 for boys also became liable to pay the tax, and on occasions it has been enforced under conditions that constitute the gravest reflection on those concerned in its imposition. A man may re-indenture, but not wish his wife to do so, or he may have children over the legal taxable age, yet these women and children are liable to pay the tax or else return to India and be separated from the head of the family. It is an unheard of thing to impose such a tax on women at all, and to make girls of 13 and boys of 16 liable for such an impost is beyond all reason, and was never intended when the Act was passed, only some over-smart official discovered it could be applied to both sexes owing to the wording of the clause, and the Government, instead of having the honesty to rectify what Parliament never intended, and what the Imperial and Indian Governments never dreamt of as the meaning of the Act, allowed it to stand, and authorised their officers to institute proceedings against women and girls for the payment of an impossible tax and these people have been thrust into prisons because of their inability to pay a sum of money they could not earn by honest means. Some have been driven to earn the amount required by dishonesty and immorality. In the first instance the desire to induce indentured men to return to India or to re-indenture had nothing wrong in it, seeing that the Indian Government declined to allow indentures to terminate in India. The subsequent action of the authorities, however, in taking advantage of a technical oversight in the wording of the Act, has been scandalous and disgraceful, and a serious reflection on the good name of the Colony for which the people as a whole have not been responsible, but have, nevertheless, been blamed for a state of affairs unparalleled in any other part of the world.

It was understood that one of the objects of the amending Act of 1910 was that it would help to overcome the labour difficulties likely to arise from the stoppage of indentured labour from India. It was anticipated that it would popularise the

system of re-indenture, and it was certainly never believed that the intention was to demand a £3 licence from those who re-engaged seeing that it was done under the original Act. No one imagined for one single moment that the amending Act would impose a new tax on indentured labourers, or men or women entering into a civil contract, but this is the interpretation that is now being put on the amendment by the Department of Justice. The whole business is a monstrous act of injustice, legal trickery, and bad faith. All further immigration of indentured labour has been stopped, and whatever justification there may have been for the original Act of 1895—although there is none for its subsequent interpretation—the main reason for the maintenance of the £3 tax has passed away. In any case, however, it most certainly ought to be repealed in the case of women and girls, and it is a wicked imposition to demand it from anyone who accepted re-indenture, or entered into a contract on the strength of the Government notice of December of last year. The repeal of the tax, it is pointed out, would not only ameliorate the condition of the poor unfortunate people who have been literally inveigled into re-indenturing themselves, but would go a long way towards retaining the workers who are so essential at the present time of labour scarcity to so many of the industries of the Province. This is a material point of view that will appeal no doubt to a great many, but a more important point of view from the higher platform of British justice, British ideas of fairness, and of the elementary principles of common humanity, is the manner in which the law is being interpreted and being enforced is a disgrace to modern civilisation, as it creates conditions repugnant to any man who has the least regard for his fellow-creatures, and above all, scorns to oppress the weak, the ignorant and the helpless. The present state of affairs is nothing short of a scandal, and is a disgraceful abuse of power by the so-called Department of Justice.

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The "Natal Advertiser," in its issue of the 11th instant, commented as follows:—

It is quite evident that the matter of the £3 tax on ex-indentured Indians cannot possibly be left as it is at present. . . . The law itself is, in many regards, deplorable and reprehensible. However necessary it may have been to restrict Indian immigration by imposing such a tax on ex-indentured Indians to press them either to return to India or re-indenture—and it was the stubborn and native refusal of



the Indian Government to allow indentures to expire in India that necessitated the tax—it was simply abominable to enforce the tax on children and young girls. It was nothing more nor less than indirect pressure to immorality. Even if it be held necessary to maintain this pressure on adult male Indians to re-indenture, the tax should certainly be taken off women and most certainly be taken off young girls.

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Commenting on Mr. Harcourt's reply to a question asked in the House of Commons, the "Natal Mercury" in its issue of the 17th November said, as follows :—

It is quite true, of course, that the legislation was passed with the knowledge and consent of the Home-Indian Governments, and the fact is not much to their credit. What Mr. Harcourt did not explain, however, was that, when the law was passed, it was not even understood by the Natal Parliament that the tax was meant to apply to women and children, and there cannot be any doubt that the Imperial and the Indian Governments were equally of the belief that it was only intended for adult male immigrants, who decided to remain in the Colony on the completion of their indentures. It is simply disgusting to have a matter of this kind treated in an off-hand manner by a member of the Government that shrieked themselves hoarse with mock horror at the "atrocities" of having Chinese labourers on the Rand mines. The Imperial Government, of course, cannot repeal the law, as it originated in a Colonial Parliament and received in due course the Royal assent but a Government with any sense of moral rectitude or the faintest suspicion of a desire to protect a helpless section of the King's subjects, would at least have declared their intention of using their influence to induce the Union Government to remove from the Statute Book a law which is a disgrace to any civilised country, and a foul blot on the name of British administration. It is a tax that every right-minded man and woman in South Africa must condemn as immoral and flagrantly unjust. The refusal of the Union Government to consider its repeal and the manner in which they are now interpreting the law are actions unworthy of a Christian Government, and would be denounced as vile if they are perpetrated by some heathen community; but the attitude of the Union Government is no excuse for the callous indifference that is being shown in the matter by the Liberal Government, which comprises so many advocates of peace and humanity, yet has not a

single word of protest to make against conduct that no words can sufficiently condemn.

The following letter was addressed to the Union Government by Mr. P. S. Aiyar, Hon. Secretary of the South African Indian Committee:—

29th November, 1911.

To the Right Honourable  
The Prime Minister of the  
Union of South Africa,  
Pretoria.

Sir,

I am desired by the South African Indian Committee to make certain representations on behalf of a large number of Indians who are liable under Act 17 of 1895 (Natal) to take out an annual licence of £3 for the privilege of remaining in that Province. But before I deal with the subject, I respectfully venture to state for the information of the Union Government that at a meeting of the Indians, principally comprised of Indian working men and their sympathisers, it was unanimously resolved to form an organisation to be known as the South African Indian Committee, with the one and only object of endeavouring to get this tax on ex-indentured Indians repealed.

I beg to enclose herewith for the information of the Union Government a copy of articles published in the "Natal Mercury," setting forth the disabilities and grievances and the urgent need for the repeal of this tax.

In replying to a question recently asked in the House of Commons respecting the hardships imposed on ex-indentured Indians owing to this tax, His Majesty's Secretary of State for the Colonies is reported to have said that "the Union Government was not prepared to repeal the law." While my Committee feel greatly disappointed at this reply, they still hope that in view of a pauper population that this tax has been creating in our midst, the Ministers would give due consideration to the assurance given by His Majesty's Government in reply to a petition bearing on this subject along with others in a despatch addressed to the Natal Government dated the 24th December, 1909, in which it was stated by the Secretary of State for the Colonies that questions affecting Indians would be treated in a broad and generous spirit "by the Union Government."

In view of this solemn assurance the Indian community cherished and still hope that this tax will be removed under the regime of the Union Government. My committee, therefore,

respectfully submits that the Ministers may be pleased to give their earnest consideration to this question, and that any announcement that the Government may be pleased to make, especially on the unique occasion of Their Imperial Majesties Coronation at the Delhi Durbar, will not only be hailed with unbounded joy, but the moral effect of it will have a far-reaching influence on the consolidation and stability of the Empire.

In conclusion, my committee ventures to hope that relief will be meted out to those Indian men, women and children who are groaning under the burden of this iniquitous taxation

[REPLY].

P. M. 12/3/11.

Prime Minister's Office, Pretoria,  
4th December, 1911,

The Honorary Secretary,  
South African Indian Committee,  
22, Cross Street, Durban.

Sir,

I have the honour to acknowledge the receipt of your letter, dated the 38th ultimo, on the subject of the repeal of £3 annual licence on ex-indentured Indians.

I have the honour to be, Sir,  
Your obedient Servant,  
J. E. Bok,  
Secretary to the Prime Minister.

Commenting on the above letter the "Natal Mercury," in its issue of the 7th December, said as follows:—

The whole history of this tax is discreditable, but whatever reason there may have been for the original idea of imposing it, that reason has mainly disappeared with the stoppage of further Indian immigration. The interpretation of the law to make it applicable to women and girls, and the subsequent administrative procedure in connection with the levying of the tax, is a reflection on the name of the Province as a civilised community. The methods which have been adopted have certainly not the sanction or approval of any of the European inhabitants who have any sense of right or morality. The callous indifference which the Liberal Government at Home has shown in the matter has been in striking contrast to their display of unctuous rectitude and hypocritical solicitude over the Chinese who were

in the Transvaal; but there is now a unique opportunity for both the Imperial and Union Governments to redeem the promise of December 24th, 1909—that “questions affecting Indians would be treated in a broad and generous spirit.” The presence of the King and Queen in India, at the Imperial Durbar at Delhi, is an occasion which should be taken advantage of to declare that at the earliest possible opportunity the burdensome tax will be repealed. It would be a graceful compliment on the part of the Union Government, and there is not the slightest doubt that it would be highly appreciated by the King and Queen, and have a very beneficial effect and far-reaching influence throughout the Indian Empire. It is not a question of finance, so far as the Union Government is concerned. It is something far more important. It is a matter of high principle and of Imperial good faith towards another race by the ruling caste. We can only hope that the great opportunity which presents itself will not be lost, but will be taken advantage of, to remove a nasty blot on the Statute Book, and to repeal a tax that is a disgrace to any civilised Christian country.

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In the Annual Report of the Department of Justice for the year 1910, it is stated that “The Magistrate of Umlazi points to the trouble with the collection of the Indian £3 licences, as the Indians when liable to arrest for these amounts quit the district, and it takes months before they are found again.”  
—Page 79, para. 134.

