

Indian Opinion

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THE INDIAN DEMANDS

THE following letter, dated the 12th instant, has been sent to the Government. Up to the time of going to press, no reply has been received by Mr. Cachalia :—

"On behalf of the British Indian Association I have the honour to submit, for the information of the Honourable the Minister, that, after having read your telegram of the 9th instant addressed to Mr. Gandhi, it has been most reluctantly and with the utmost regret decided to revive Passive Resistance, owing to the inability or unwillingness of the Government to concede the points submitted by Mr. Gandhi in his letters to you, which my Association has seen.

"I venture shortly to explain the position that unfortunately faces the community represented by my Association.

"Ever since the British occupation the position of the Indians residing in this province has admittedly grown worse than it was during the Republican regime. In 1906 it culminated in the Bill of that year, which not only summed up the black past but foreshadowed a blacker future, and which, though then vetoed, was re-passed almost as the first act of the Responsible Government, and became known as Act 2 of 1907. As the measure was considered by the community to be humiliating and as the circumstances surrounding it showed a policy deliberately hostile to an honourable existence of the community in the Transvaal, my countrymen solemnly decided in the month of September, 1906, to adopt Passive Resistance. As is well known, over 3500 imprisonments were suffered by my countrymen during the struggle, over 100 deportations to India took place and even two deaths occurred, owing to the suffering gone through during the crisis. Several families were rendered homeless, and they had to be supported from public funds. Then came the provisional settlement of 1911, which the Indians thought not only promised them what they had been suffering for but also meant an attitude of friendliness towards them such that, almost complete prohibition of Indian immigration being attained, the resident Indian population would be free from the state of uncertainty it had lived in and might look forward to a steady improvement in its status, as a permanent element of the new nation that was forming in South Africa. Moreover, the inauguration of the Union gave it some hope, though it filled it equally with misgivings and threw on the Passive Resisters a responsibility for the whole of the Union instead of for the Transvaal only.

"But the community was soon disillusioned. The administration of existing laws specially affecting it grew steadily harsher. The Cape Licensing Act, the Natal Licensing Act, the Gold and the Townships laws of the Transvaal and the existing Immigration Laws of the Provinces began to be administered as they never had been before. What had been termed the 'North-

ern' spirit began to pervade the administration in Natal and the Cape. Thus the spirit of the settlement certainly began to be broken so soon as it was effected.

"The abortive Bill of 1912 showed that even the letter would be broken. The original draft contained serious flaws and was in conflict with the two principles of the settlement—the removal of the racial bar and the maintenance of existing rights throughout the Union. I must admit in fairness that, so soon as the defects were pointed out, there was a willingness on the part of the Minister to remodel the objectionable clauses. But that Bill fell through, and fresh assurances were issued to the community that the settlement would be carried out.

"Then came the memorable visit of the Honourable Mr. Gokhale. High hopes were again raised. The position was made perfectly clear. And declarations were made by responsible statesmen inducing the expectation that a satisfactory Bill would be passed during the ensuing Session, and that the iniquitous and admittedly unjust tax of £3 on certain ex-indentured men and women would be withdrawn. The Honourable Mr. Gokhale declared at public meetings that he had every confidence that the tax would be abolished both for men and women.

"But the last Session dashed all hope to the ground. The draft Immigration Bill broke almost every condition of the settlement of 1911, and it showed that the community was to expect nothing from the Government, who would have carried the Bill as it was, could they have done so. That the Act itself is a great improvement on the original Bill is due entirely to the unexpected opposition that the Government met from all quarters of both Houses of Parliament. The attempt of the Government to remit the £3 tax only on women showed also that they, at any rate, were not prepared to remove it from men.

"Notwithstanding such gloomy indications of the hostile spirit of the Government, Mr. Gandhi was authorised to enter into negotiations for a settlement by submitting proposals which, if accepted, would have just, but only just, sufficed to fulfil the letter of the provisional settlement of 1911 above referred to. The community had hoped that, if even such a settlement were effected, the terrible Passive Resistance could be avoided, and that the grievances could be pressed on the attention of the Government by means involving less personal sacrifice and suffering by the community.

"But the Government evidently thought otherwise. They have not only rejected most of Mr. Gandhi's proposals, but they are showing by their administration of the new Act in Natal and by their having passed regulations under the Act, some of which are harsh and unjust, that it is their desire not only to keep out new immigrants but also to keep out domiciled residents who, before the new Act, found no difficulty in re-entering, and

to put obstacles in the way of wives of domiciled Indians entering the respective Provinces.

"In the circumstances, there is now no course left open to the community but to take up Passive Resistance again, which now naturally will not be confined to this Province alone and which, on this occasion, will be taken up by women as well as men. The leaders of the community fully realise their responsibility in the matter. They know also what they and their countrymen will have to suffer. But they feel that, as an unrepresented and voiceless community which has been so much misunderstood in the past and which is labouring under a curious but strong race prejudice, it can only defend its honour and status by a process of sacrifice and self-suffering.

"Passive Resistance has been recognised by the Government as a legitimate means of securing redress. It is, therefore, hardly necessary to assure the Government that the community has no desire to defy the laws of the land, to which it will submit by bearing the penalties provided for a breach of the obligations thereunder which the community cannot discharge consistently with its honour and self-respect.

"In conclusion, I beg to state that the struggle will be continued so long as:

- (1) A racial bar disfigures the Immigration Act;
- (2) the rights existing prior to the passing of the Act are not restored and maintained;
- (3) the £3 tax upon ex-indentured men, women and children is not removed;
- (4) the status of women married in South Africa is not secured;
- (5) and generally so long as a spirit of generosity and justice does not pervade the administration of the existing laws referred to herein.

And it is respectfully submitted that a smooth and just working of the laws is not possible until the Government consult the leaders of the community in the different Provinces."

Press Comments on the Struggle

The *Natal Mercury* gave the following leaderette in its issue of the 16th instant:—

According to a telegram received from Johannesburg yesterday, and which is confirmed as the result of inquiries made locally, South Africa is to witness another passive resistance campaign conducted by the local Indian community, in concert with the Indians in other Provinces, as a protest against legislative and administrative acts of the Government which it is declared unduly oppress them. On this occasion it is intimated that the movement will not be confined to the Transvaal, the scene of the former struggle, but will extend throughout the Union, and in all parts of South Africa Indians will seek to be incarcerated in order to emphasise their protest against the existing order of affairs. . . . There can be no disguising the fact that the Indians, as a body, have considerable cause for complaint. The administration of the Immigrants' Regulation Act, which, it is understood, would mitigate in some degree their sense of grievance, has, on the contrary, rather accentuated it, whilst the failure of the Government to repeal the £3 tax on ex-indentured Indians, as was at the time of Mr. Gokhale's visit understood to be agreed upon, has added to the feeling. On the other hand, the Indian community should be well aware that European opinion generally is altogether opposed to extension of their present privileges, or perhaps, to put it more accurately, any mitigation of their disabilities, and that, whilst Indians in South Africa remain on conditions not dissimilar to those which have existed hitherto, the facilities afforded them cannot be extended. The Indian Association of Johannesburg, in the course of their letter to the Minister of the Interior, submit that "the smooth and just working of the laws is not possible until

Government consult the leaders of the Indian community in the different Provinces," but, in view of the diametrically opposed views of the parties to the proposed Conference, there seems little chance of any good resulting from it. Whilst, however, the Indians make their first cause of grievance "the racial bar which at present disfigures the Immigration Act," they are, in effect, crying for the moon, and are preventing those who sympathise with them in their other grievances from giving them the assistance which they might otherwise be able and inclined to afford them.

[NOTE: We deal with the latter portion of this leaderette in our Editorial columns.—Ed. I.O.]

Immigration Appeal Board

At Durban on the 12th instant, the first case was that of Ragwoonanda Bhgyro, for whom Mr. Chris. Binns appeared. Mr. Suter represented the Immigration Department. Appellant claimed his right to land, on the ground that he came here originally from Mauritius, that he had returned there on business, and had now come back to Durban in order to resume business here. He also claimed that he was Mauritian by birth, and that his father and mother were Mauritians, although his grand-parents were Indians.

Mr. Suter argued that the man was an Indian, and could not claim to be a Mauritian or Creole; that he came to this country as an officer's servant, and got a pass while he remained in the country. He was also a Mahomedan, and Mauritians were not Mahomedans.

The appeal was dismissed, on the grounds of nationality and domicile, but the man was advised to make an application for special consideration to the Department.

The next case was that of Bulubhorree, for whom Mr. P. O'Hea appeared. After the hearing of some evidence, the matter was adjourned.

In the third case on the list, Kiroobegum, a woman, Mr. Romer Robinson appeared for the appellant, and was granted an adjournment, the facts being similar to those of another case which is to be heard by the Supreme Court.

The Immigration Appeal Board resumed its sittings on the 13th instant:—

During the hearing of one of the adjourned appeals the President referred to the unsatisfactory nature of the evidence, and said the Board desired to approach the work before them with the very greatest desire to do justice. They had even allowed a latitude in regard to the evidence that they need not have allowed. He wished to impress upon all that the evidence must be satisfactory, and not of the unfortunate character that had been heard in some cases. It was extremely difficult for the Board to get at the truth, and for the Board to hold the scale of justice evenly. In the case then before them the Court was not satisfied with the explanations given by the appellant. Everything pointed to the fact that he had left the country in 1905, and no satisfactory evidence had been brought as to his movements since. The appeal was refused.

In reply to Mr. Goulding, who appeared for the appellant, the Court agreed to state a case, and stated that each case would be presented on its individual merits apart from the question of general principles.

In the appeal of one Jamal Wali, the President, in announcing their decision, said that the Board was of opinion that the appellant took out his domicile certificate and left Natal in such circumstances as to justify the Board in coming to the conclusion that he did not intend to return to Natal. The evidence which the appellant gave in support of his statement was full of untruths. The appeal was refused.

On leaving the Court the appellant was arrested by the police on a charge of perjury.

The appeal of Suliman Essop was allowed. Mr. Sullivan appeared for the appellant. The Board then adjourned.—*Natal Mercury*.

From the Editor's Chair

MR. CACHALIA'S LETTER

THE irrevocable step has been taken. The British world knows, through the magnificent agency of Reuter, that the handful of Indians in South Africa have declared passive resistance—that this microscopic minority of men have pitted themselves against a mighty Government, against a European population comparatively overwhelming in numbers and enjoying the privileges which cannot belong to Indians in this sub-continent, perhaps, for generations. Indeed, this time, passive resistance is not merely against the Government and the Europeans of South Africa, but it is equally against the Imperial Government. Lord Amptill, in his great speech in the House of Lords, has made it clear that, had the Imperial Government done their duty, the course of legislation would have been different; had they been only neutral, the Immigration Act would probably have not been passed. We may not, therefore, expect any assistance from them unless, by passive resistance, we open their eyes and they begin to see clearly how criminally they neglected their trust.

Mr. Cachalia has made it perfectly clear why the great and awful step has been taken—a step that may mean ruin to hundreds of our countrymen. He states definitely the demands of the community. He asks for (1) removal of the racial bar from the Immigration Act, (2) the restoration of rights that existed prior to the legislation, (3) a generous and just administration of the existing laws throughout the Union affecting Indians, (4) the removal of the £3 tax, and finally (5) a spirit of friendliness towards the community in place of one of hostility which one notices in all their acts concerning Indians. And this is what Lord Amptill asked in his speech just referred to.

Let us examine each point as briefly as possible. We notice that the *Natal Mercury*, in its otherwise admirable leaderette on the situation, falls foul of the objection to the racial bar. We feel sure that our usually well-informed contemporary has in this instance secured the service of a leader-writer who is not yet *au fait* with the question. That the racial bar should be removed has been common cause since 1910. Indeed, the Union Government have defended and the Imperial Government have approved of the measure, contending that there is no racial bar in it. Nor does its removal in this case involve racial equality in every other case. To remove the racial bar merely means a reversion to the state that existed in 1906. It refers to racial equality in law for purposes of immigration. Even when this equality is granted, as it must be sooner or later, there will still remain racial inequality in respect of many other laws in all the provinces. That, in spite of the Government's protestations, racial inequality is to be found in the Act has been clearly shown by Lord Amptill. The Act requires from an Indian immigrant an unnecessary and insulting declaration which it does not from a European immigrant. The declaration is merely an admission of the legal disabilities imposed on the Indians of the Free State. Without the admission the disabilities, as has been admitted by the Government, will remain. The retention of this racial bar is due merely to the unreasoning obstinacy of the Free State Members of the Union Parliament. The Government do not wish to offend these their supporters. Otherwise, removal of the racial bar means nothing to the Government and it may not add a single Indian resident to the Free State

population. As a matter of fact, removal of the racial bar is one of the items of existing rights. It has been separated from other such rights because the struggle hinged, prior to 1911, only round the racial bar question.

The existing rights attacked by the new Act are, for instance, the right of South Africa-born Indians to enter the Cape under the now-repealed Cape Act by reason merely of their birth, the right that existed, or was assumed to exist, of the wives of resident Indians married in South Africa according to non-Christian rites, to be regarded as legally married; the right of Natal Indians to absent themselves for any length of time from Natal and to return if they were proved to be *bona fide* holders of certificates of domicile. We do not touch upon minor existing rights which may or may not have been taken away by the Act.

The £3 tax is the sorest question from many points of view. It is a burden imposed upon a most helpless class and it is a tax which was universally condemned, during Mr. Gokhale's stay last year in South Africa and, as Lord Amptill most emphatically states, "the Ministers in South Africa definitely promised Mr. Gokhale that this £3 poll-tax should be removed and Ministers told the Governor-General that they had given him this promise." We hold that a promise given to Mr. Gokhale is a promise given to the Indian community. It, therefore, becomes our sacred duty to offer passive resistance until the tax is repealed.

Indians cannot be expected to sit still if the administration of the existing laws is made harsher day by day. Formerly Indian wives were admitted without fuss and without much questioning. Now the Government have instructed Immigration Officers to demand closest proof, and then, too, there are all kinds of quibbles raised. Kulsambibi's case is the latest. There never has been any justification offered for such harshness of procedure in admitting Indian wives. There has been no charge brought against us of having attempted to bring in women of questionable character or of our women having offered any competition. Then take the unreasonable deposit of £25 required from men who want to prove their domicile as against £10 which used to be demanded before. Visiting passes which used to be issued fairly liberally are now being granted in a most niggardly spirit. We know of cases in which sons have been refused permits to visit their parents and business people to visit other provinces to collect their debts. It is no easy matter for an Indian creditor to secure a permit to visit the Transvaal for the purpose of collecting his book-debts. The tendency of the administration is to wipe out the resident Indian population by making its life in South Africa as intolerable as possible. The administration of the Gold Law and the Townships Act in the Transvaal and of the trade licensing laws in Natal and the Cape has been simply scandalous. Mr. Cachalia, therefore, insists that this method of administering the laws affecting us must be changed.

And none of the reforms Mr. Cachalia desires can possibly be attained unless the Government and the Europeans of South Africa adopt a less hostile and more reasonable attitude. If the former continue to frown upon us and the latter continue to pass resolutions demanding our destruction by a process of compulsory civic starvation, we must meet them by showing that we are capable of dying for our honour and an honourable existence in South Africa, not by fighting them bodily, but by a process of voluntary suffering which at once purifies and dignifies.

HOW TO DO IT

PASSIVE resistance, this time, will be comparatively an easy matter, as it will extend to all the Provinces of the Union,—not that the sufferings will be less; indeed, they are likely to be greater, but to court imprisonment will be easier. Hitherto, Passive Resisters have shunned arrest by crossing the Transvaal border. They

is how the present struggle, too, has been commenced. We may, on this question of the crossing of the border, at once say that this method of resistance does not mean that we are asking for a breaking of the provincial boundaries. On the contrary, as soon as the reason for the struggle ceases, those who will have crossed the borders of different Provinces will return to the Province of their domicile. Passive Resisters are not fighting—dare not fight—for personal and individual rights.

But the crossing is an expensive business. Those who feel inclined to take an active part in the campaign can, in a quiet and dignified manner, court arrest by hawking or trading without licences, or, if they have their licences, without showing them. They should, in each case, inform the Police or the Courts that it is not their intention thus to break the law but that, until there is a settlement with the Government, they propose not to assist the authorities in carrying out the laws of the land which have no moral or natural but only an artificial basis. This is not a struggle of a day. Each one can think out for himself how he can best court arrest. Time and experience will show the right way if we have the will to suffer for the sake of our own and our country's honour.

Imperial Parliament

HOUSE OF COMMONS
August 7.

In the debate on the Indian Budget, Mr. PHILIP MORRELL moved the following:—

"That in view of the responsibility of this House or the Government of India it is desirable that a Standing Committee on native affairs should be appointed, and that the salary of the Secretary of State for India should be placed on the Estimates."

He did so on the ground that it was quite impossible in the course of a few hours' debate once a year that the House should be able to give to the enormous complexity of Indian affairs the consideration which they really deserved, and he proceeded to give instance of matters which required more attention from Parliament than, in fact, they received.

"Let me give the House" he said, "two or three examples of the sort of questions which are not dealt with, or are dealt with inadequately, under our present system. Let me take, first, the position of Indians in South Africa. There we have a large community of 150,000 Indians who feel to-day that by the new immigration law which has just been passed they are being subjected to an almost intolerable grievance. They say that faith has been broken with them, that a settlement has been reached as a result of a prolonged agitation, but it is not being carried out. I am not here now to say whether they are right or wrong. We could not discuss that matter at any length upon any Amendment. So far as I know, they have very strong grounds for what they say. They say that in two particulars the provisional settlement has not been carried out. In the first place, they say that their existing rights are not being preserved, and, secondly, that the racial bar which they objected to is being reintroduced under this law. Their leaders threaten that if this law which is in operation now is allowed to continue in operation without amendment, they will be again compelled to resort to that campaign of passive resistance which led in the past to such intense bitterness and to such great evils that finally, even in South Africa, the Government was compelled to find a way out. If that happens, grievances will reverberate right through India. It is not only the 150,000 Indians in South Africa that you are dealing with. They tell us that now South Africa is under the British flag their position is even worse than in the old days of the Republic. Surely it is, I would almost say, discreditable, to this House that when a difficulty of this sort arises, affecting the

Empire as it does, no opportunity whatever should be given to discuss it fully and freely as we ought to do. We cannot find out what the Government are doing, or what steps they are taking to protect our Indian fellow subjects."

The House of Lords Debate

(Continued)

THE LORD PRIVY SEAL AND SECRETARY OF STATE FOR INDIA (THE MARQUESS OF CREWE): My Lords, the noble Lord opposite expressed regret, which I fully share, that it has fallen to my lot and not to that of my noble friend the Under-Secretary of State for the Colonies to make the official answer on this occasion. Obviously it would have been infinitely more pleasant for me, as Secretary of State for India, to confine myself, if I had to speak, to sympathetic generalities on behalf of the Indian community in South Africa, and to express my sympathy with the undoubtedly deep feelings which my noble friend on the Cross Benches has described, which are held throughout India with regard to the troubles which South African Indians have undergone. But it is not possible, as the noble Lord knows, for my noble friend to be here; and therefore I must do the best I can, bearing in mind, of course, as the noble Lord will, that in a matter of this kind His Majesty's Government can only have one policy, that policy being conditioned by the circumstances of the case. Consequently it does not, in effect, greatly matter by whom it is stated. I entertain to the fullest degree the sympathy of which I have spoken, and I entertain it particularly for this reason, that it is altogether impossible for most Indians in India who consider this question or who hear vaguely of it to realise in any degree the difficulties which confront either His Majesty's Government or the Ministers of the South African Union in dealing with it, and it is not indeed easy even for those Indians in South Africa who are the subject of the legislation to look at the matter from the large standpoint from which we are compelled to regard it.

The noble Lord opposite has spoken of the various discussions and the failures of legislation which have taken place on this question for the last few years. What he describes as the Provisional Settlement embodied three things—first, that there should not be any exclusion or discrimination against Indians or Asiatics as such, though exclusion or discrimination might be brought about by administrative means; secondly, that there should be a clean slate for those who had engaged in passive resistance owing to their objections to the laws or regulations of South Africa; and thirdly, that there should be every year an admission into South Africa of a certain number of professional Indians, lawyers, or doctors, or priests, as the case might be, whose services could not be supplied from the Indian community in South Africa itself. I should like to say that I am quite certain, to a great extent from personal knowledge, that it has been the keen desire of General Botha and of General Smuts, with both of whom I have had many conversations on this question of the Indians, and also, as I think is evident from the Blue-book, of Mr. Fischer, with whom I did not at any time discuss the question because when I saw him he was not immediately concerned with it—I am certain that there has been a general desire on the part of those three public men in South Africa to meet the desires of the Indian residents so far as public opinion in South Africa will let them. When we talk, as my noble friend did, of a broad view being taken by the Union Ministers and of their regarding the question of Indian immigration or residence from a liberal point of view and in its economic aspect, it must be remembered that Ministers there have to contend with a vast amount of personal and racial prejudice, a great deal of which they would no doubt themselves regard as unwise, although per-

haps in arguing from the African point of view they cannot be expected to admit it. I should also like to say that I am certain that Lord Gladstone has done his very best to place the Indian claim in the fullest and fairest light before the South African Government and that no shortcomings can be complained of on his part any more than on the part of the Ministers themselves.

Both noble Lords who have spoken have alluded to the visit of Mr. Gokhale to South Africa. I cordially approved of that visit, and I fully hoped that its results would be, as indeed I hope they have been, good in more ways than one. In the first place, it was an advantage for a distinguished Indian politician like Mr. Gokhale to see for himself on the spot what the difficulties are of meeting to the full the desires of the Indian community, and it was not less a marked advantage for the South African Ministers; and I was glad to observe that the noble Lord opposite stated what I am able to confirm, that those Ministers received Mr. Gokhale with all the distinction and kindness which was due to his position and character. It was of the greatest possible advantage for them to have the benefit of hearing the views of an Indian gentleman of such eminence who was able to impress upon them what the weight of Indian public opinion generally is on this particular subject.

The noble Lord opposite, Lord Amptill, called attention to the fact that this Immigrants Regulation Bill is not in accordance with the Provisional Settlement of 1911 or with the stipulations of His Majesty's Government, and my noble friend on the Cross Benches has also pointed out certain particulars in which, in his opinion, it fails to carry out that settlement. The noble Lord drew attention to the correspondence between Mr. Gandhi and General Smuts, in which Mr. Gandhi mentioned the removal of the racial bar throughout the Union as a necessary concomitant of legislation, and General Smuts replied that there should be legal equality for all immigrants, although I think he went on to qualify that by excepting mere administration from this necessity of equality. It is maintained by the noble Lord opposite that Section 7 of the Act contravenes that arrangement or engagement by maintaining in the Orange Free State the law which forbids any Asiatic to carry on business there; and both noble Lords have pointed out that my Despatch of October 7th, 1910, was opposed to any differentiation of the kind. That is quite true, and it is also true that we did desire at that time, and I should desire still if I was in a position to enforce it, the obliteration of all the provincial boundaries in South Africa for this purpose. It would be far more agreeable from the point of view of the Indian population there if the South African Union could be regarded for this purpose as simply one. But I am afraid at the time I wrote that Despatch the idea of the Union was new, and possibly we were somewhat carried away—I have no doubt that I myself was—by the belief that the result of the Union Act would be the practical elimination of those provincial boundaries. Such has not proved to be the case, either in reference to this particular Indian matter or in reference to a great many other matters. Natal is still Natal, and the Orange Free State is still the Orange Free State, or the Orange Colony as it was at one time. I do not believe that it will be found possible to compel the inhabitants of the South African Union, either for this purpose of the migration of Indians from one province to another or for a great many other purposes, to bring about the complete absorption of their various provinces into the Union. It appears as though the Orange Free State, sooner than admit the repeal of their old law, will do their utmost to wreck in the Union Parliament any design of this kind for the amelioration of the inhabitants generally.

LORD AMPHILL: It is quite unnecessary for the Orange Free State to repeal their old law in order to adjust this matter. It can be adjusted without that.

THE MARQUESS OF CREWE: I should be exceedingly glad if it could, and I should not at all despair of an arrangement being come to on this particular point. I think it is by no means impossible that such an arrangement might be achieved. The noble Lord opposite went further than I should venture to go, while admitting that, as a matter of reality, very few Indians have ever desired to go into the Orange Free State. He stated—I am not attempting to quote his words, but I think I am not misquoting him—that the important point was the principle of admission, and that whether Indians actually wanted to go there or not was a matter of unimportance. There I cannot quite agree, because to be debarred from going to a place which one particularly desires to visit is surely a greater hardship than being excluded from a place to which one at no time desires to go. I do not by any means, I hope, underrate the feeling of soreness which is, in my opinion, quite legitimately felt by any exclusion of a kind which can be described as purely racial, and I agree that the maintenance of this provision, although I cannot regard it as crucial in itself, is a distinct blot upon the Bill.

LORD AMPHILL: I am sorry to again interrupt the noble Marquess, but I must venture to correct him. It is not a question of exclusion: it is a question of making the Indians who enter the Free State by right sign a humiliating declaration, a declaration which is quite unnecessary for the purposes of the Free State Government. It is not a question of excluding them.

THE MARQUESS OF CREWE: The noble Lord is quite accurate in saying that it is not a question of excluding them. It is a question of forbidding them to engage in particular occupations, and that, I have no doubt, they regard as quite an equal, if not a greater, grievance.

(To be continued)

Passive Resistance Forward Movement

Passive Resistance has commenced in right earnest. As soon as the publication of Mr. Cachalia's letter became known, some of the resisters, who were only awaiting instructions, entrained on Monday last at Durban for Volksrust. They went by the Kaffir mail, all travelling third-class, taking with them only the most necessary things. Although only the most intimate friends were informed of the proposed departures, nearly 200 Indians, representing all classes, saw them off at the Central Station. Messrs. Parsee Rustomjee and Sanghvee supplied for the travellers baskets of fruit also. On reaching Volksrust the party was stopped by the Immigration Officer who was quite unprepared for the company. He did not know what to do. The party would not give any information. Only one of them acted as interpreter and spokesman for all. The others declined to hold any converse with the examining officer. It must be said that the officers were all polite and considerate. The spokesman also was equally polite. He courteously informed the officer that although he and his companions did not wish to embarrass the officers in any way, it was part of their campaign not to disclose their full names for the time being or to furnish any means of identifying themselves. On the officer asking whether the spokesman would make and sign any statement, the following statement was given and signed as an earnest of their absolutely good faith:—

"I, on behalf of the party travelling with me, make this declaration that I am travelling with a party of 12 men (adults) and 4 women and we are entering the Transvaal now without any documentary reasons for doing so and that we are not prepared to undergo the educational test nor any other test required by the present law (being practically Passive Resisters against the said law.)

"Further that we, being Passive Resisters, refuse to recognise any of the provisions of the existing law.

"On behalf of the party of 16th September, 1913."

[Signature.]

We know the names of the party but we must disappoint our readers whilst the proceedings are pending. The party consists of four ladies and twelve gentlemen and young men. It contains Bombay, Calcutta and Tamil men. It represents Hinduism, Christianity and Zoroastrianism. We may add that, as soon as the fate of the first batch is known, others are likely to follow. At the time of going to press we were informed by wire that as the authorities at Volksrust had no accommodation for the resisters at the Police-station, they begged them to find shelter at the houses of their friends. The resisters therefore accepted the hospitality generously extended to them of the Volksrust merchants, Messrs. Valli Peerbhoy, A. M. Badat, S. M. Munshi, and Mrs. G. A. Mayat. The resisters were summoned at the charge office on the 18th instant and charged under Section 4 of the New Act as prohibited Immigrants. The officer in charge is getting warrants out from Pretoria, on receipt of which they will all be deported. Needless to say, they will all re-cross immediately.

Can Transvaal Asiatics Own Land?

This question was somewhat answered by the Transvaal Judges on the 12th instant when they disposed of the appeal of *Khamisa v. Mahomed & Co.* The following is the text of the judgment as reported by the *Transvaal Leader* and given by Mr. Justice Mason:—

Mr. Justice Mason, in giving judgment, said:—The appellant sued the respondent on a promissory note for £25. The plea was that the promissory note was given in terms of a deed of sale by which the plaintiff purported to sell to an Asiatic landed property, and that the promissory note was therefore void. It is quite clear that if the plaintiff purported to sell registered rights in land, there would be nothing to support the promissory note. The first question is: What is the meaning of the deed of sale? Defendant contends that it is a sale of landed property; if that were so he would be entitled to succeed. Plaintiff and defendant are both Asiatics, and the one-third share of the erf in question is registered in the name of somebody else. The one-third share may very well be something else than plaintiff's one third share in the dominium of the land. If we construe that share as meaning rights of the plaintiff—not registered rights—then the deed would be valid, and I am satisfied that the deed does not refer to sale of fixed property, but other rights which the plaintiff may have to the ground. Then the question arises whether an Asiatic can hold equitable interests in land in the name of a European, so that a European can hold land for him so as to give him the benefit of the land. Such a contract is not a *ius in re*; the European is the owner, and the Asiatic only has personal rights against the European. Where the law (Law No. 3, 1885) contains a prohibition, the Court must be satisfied that the acts in question come within the prohibition. The law says that Asiatics shall not be owners of fixed property, but subject to that there is no prohibition whatever. It is clear from the decisions of this Court that the prohibition—e.g., does not include leasehold property. We are therefore bound to come to the conclusion that rights may be conferred by contract which do not come within the prohibition. The decided cases seem to show the position quite clearly. So long as an Asiatic does not acquire a registered title or become an owner of fixed property, the law does not touch him. There may be circumstances in which the doctrine of evasion of the law may arise, but that is not the case here. I think the judgment of the Magistrate is wrong, and his judgment will be altered into one for the plaintiff

for the amount claimed, with costs, respondent to pay the costs of appeal.

Mr. Justice Bristowe concurred, and Mr. Justice Gregorowski delivered a concurring judgment.

Agitation Against the Transvaal Gold Law

As a result of the Chhotabhai case, already reported in these columns, an influential meeting, representing Indian merchants of the Transvaal, met at the premises of Messrs. Chhotabhai and Dadoo, Krugersdorp, on Monday last, the 15th instant, to consider the steps to be taken in view of the Government prosecutions under the Gold Law. Over one hundred delegates from all parts of the Transvaal attended. On Mr. Cachalia's proposal, Mr. Haji Ebrahim Dindar was elected Chairman. The proposal was supported by Messrs. Fancy and Babubhai. Mr. Haji Habib proposed that a special Committee be formed to collect subscriptions, in order to carry on a fight against the Gold Law, the Townships Act and in respect of other grievances of the community. Mr. Fancy added a rider to the effect that the Committee should work in conjunction with the British Indian Association and support it. This was seconded by Mr. Amod Moosaji. The proposal, with the rider, was carried. Mr. Cachalia warned the meeting that, if the laws themselves were so bad that the Supreme Court could not grant relief, the only remedy was passive resistance. A list was then handed round and over £1,000 were subscribed on the spot. Mr. Dadoo gave a cheque for £150. The funds are to be specially banked and cheques are to be signed by Mr. Dindar, as Chairman, Mr. I. U. Patel, as Secretary, and Mr. Gardi, as Treasurer. Mr. Dadoo then entertained the guests, who dispersed after the usual votes of thanks.

A Social Gathering

At the invitation of the Durban Indian Cricket Union, Indian sportsmen and men of business attended a dinner given in honour of Mr. Amod Mahomed, of Kimberley. It will be remembered that during the Barnato Cup Cricket Tournament the majority of the Natal men were his guests and he was hospitality itself to them, and they were not slow in testifying to the kindness of heart manifested by him in making them feel at home. In responding to the toast of the guest, Mr. Mahomed, speaking in English, told them how happy and proud he was, when he beheld for the first time in Kimberley, a team of Indian Sportsmen from Natal. They had lost on the field but their gentlemanly conduct more than compensated for the defeat in the tournament.

The opportunity was taken of it also being the eve of the birthday of the Grand Old Man of India, the Hon. Dadabhai Naoroji, and the toast proposed in his name was heartily joined in by the assembly.

Mr. Mahomed's two sons, who he is taking with him to India, were also referred to in felicitous terms by the several speakers.

The usual toasts followed including one specially for India's G.O.M.

The St. Aidan's Indian Mission has issued the first number of a quarterly magazine devoted to the various activities of the Mission in Natal. It is illustrated and well printed.

Owing to the change in the time of posting the English mail, we intend publishing hereafter on Wednesdays, and rather than delay the readers for four days, we propose to issue a small edition on the 24th instant.