

# Indian Opinion

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## NOTES AND NEWS

THE latest evidence of the concern felt by the Government of India regarding the position of British Indians in the Transvaal is a letter, dated the 4th August, addressed to Mr. Gandhi by Sir George Barnes, Secretary to the Government of India; in which he says—"Thank you very much for your letter. I need not tell you that all that you say shall receive very careful consideration, for we are in constant communication with the Secretary of State as to what action can be usefully taken."

In his letter to Mr. Gandhi, dated the 15th July last, Sir George Barnes refers to the fact that he was recently in South Africa and had several times discussed Indian affairs with Lord Buxton. So far as we are aware, he never took the trouble to interview members of the Indian community and get their views on questions vitally affecting their welfare. This, we suppose, is typical of the European official in India. And that is why the people of India so greatly desire a change in the form of government:

What a fine opportunity Sir George Barnes had of making himself fully acquainted with matters concerning which he would have to deal with later! But he missed it. He was content to confine his enquiries to Government officials and so learnt only part of the truth. His letter to Mr. Gandhi on the Asiatics (Land and Trading) Act proves that. Therefore Mr. Gandhi, in his reply, had to regret that the information placed at the disposal of Sir George Barnes was incomplete, if not misleading. We publish the correspondence elsewhere.

We much regret to hear of the sudden illness of Mr. M. C. Anglia who has been stricken with paralysis. Mr. Anglia is a man who takes an active part in public affairs and it is hoped by a large circle of his countrymen that he will soon recover and take his accustomed place in the life of Durban where he is such a well-known figure.

One day last week in the House of Assembly the Prime Minister informed Mr. Blackwell that the Asiatic Commission would shortly be appointed, and its composition was now being considered by the Government.

Mr. P. W. L. Van Neiterk asked the Prime Minister (1) Whether the Imperial Conference of 1918 discussed the Asiatic question in the Union; (2) did the representatives of the Union, on behalf of the Union Government, then give any undertaking in that respect; if so, what was the undertaking? (3) Is the Government prepared to lay the correspondence between the Union Government and the British Government with regard to that matter upon the table of the House; and (4) will the Commission to inquire into this question be a Union or an Imperial Commission?

The Prime Minister said: (1) Yes, by means of a memorandum drafted by Lord Sinha; (2) no; but a

resolution was unanimously adopted by the Imperial Conference which is merely a re-statement of the policy embodied in the Immigrants Regulation (Restriction) Act of 1913 and the Indians Relief Act No. 22 of 1914; (4) the Government has no intention to appoint a Commission to inquire into the whole Asiatic question. Presumably the hon. member is referring to the Commission to be appointed to inquire into the question of the issue of trading licence to Indians.

The last sentence of the Prime Minister's reply will be received with considerable surprise and not a little disgust by those who had been led to suppose that the whole Asiatic question would be under inquiry. We think the responsible Indian leaders should lose no time in ascertaining what the actual position is; and if the present impression be confirmed, an explanation should be demanded regarding the misleading statement made by Mr. Malan, Acting Premier, in regard to a Commission of Inquiry into the whole Indian question throughout the Union.

Mr. G. A. Natesan writes in the *Indian Review*:—A cable from South Africa brings the news that the British Indians in the Transvaal are taking a vow of passive resistance as a protest against the recent Asiatic (Land and Trading) Amendment Bill reported to have been passed by the Parliament of the Union of South Africa. When an attempt is thus made to confiscate their rights, it is by no means surprising that the Transvaal Indians should resort to passive resistance. We trust the Imperial Government will take early steps to prevent the legislation from taking effect and thus avert an agitation which is bound to grow more and more not only among the Indian residents of South Africa but in their mother-country as well. It is the good fortune of the South African Indians that Mr. Gandhi is now in India to advocate their cause and that he has been able to enlist the sympathy of H. E. the Viceroy to obtain for them the elementary rights of citizenship and the barest justice which is denied to them purely on account of racial and economic jealousy. It is a matter for satisfaction that the campaign against Asiatics in the Transvaal is confined mainly to the inferior white traders while some of the better class of their community recognise the justice of the claims of the Indians. The attitude of hostility to the Indian settlers in the Transvaal on the part of some of the white population, if not checked at the outset, will gravely imperil the growth of the true spirit of comradeship which has been promoted by the war that has just closed.

It is no use congratulating India on the elevation of her status in the eyes of the world, on recognition of her right to the membership of the League of Nations and so forth, when her children are dishonoured within the Empire, (says *Bombay Chronicle*). Our contemporary adds:—We may regard it as one of the natural reflex effects of our state of dependence and the lack of self-governing rights that the practice of justice and reciprocity is as far-off as ever.

## WHAT OF THE COMMISSION?

WE are thankful that Mr. Gandhi is in India, where he can be in touch with the Viceroy and the Government of India. He is able to give correct information on the South African situation. We have evidence of this in the correspondence between Sir George Barnes and Mr. Gandhi (published elsewhere in this issue). Were it not for Mr. Gandhi's presence in India, the Government would have remained in ignorance of the true facts. Sir George Barnes' letter shows only too clearly how ready he was to accept the official view and to believe that the Indian community was not being harshly treated. Mr. Gandhi, in his reply, was able to clear up some doubts. His inside knowledge of our affairs stands him in good stead at this juncture, and he is thus able to render our cause the utmost assistance. Sections 130 and 131 of the Gold Law of 1908, points out Mr. Gandhi, refer to residential rights. They have no reference to trade rights which a judgment of the Supreme Court has held to be inviolable so far as the existing Transvaal laws are concerned. The Asiatic (Land and Trading) Act deprives the Indian settler of his existing trading rights, thus completing the virtual ruin of Indians lawfully resident within the gold area of the Transvaal. In regard to the proposed Commission of Inquiry, Mr. Gandhi says that the Government of India can see (by sending a strong representative) that the Commission does not prove as abortive as the Select Committee of the House of Assembly. It will come as a shock to him to know that the Commission is to inquire only into the question of trade licences. From what we have been able to gather from the cables, the hopes of the Secretary of State for India will also be dashed to the ground. Everyone had got the impression that the Commission of Inquiry would investigate the whole Asiatic question and the status of Indians in South Africa. Now it would appear we are to have a "hash-up" of the evidence given before the recent Select Committee with the result a foregone conclusion. If our fears prove to be well founded, it will be a scandal. Nothing short of a full and complete investigation of the Indian position will suffice. The time is passed for tinkering with the matter. We learn from our contemporary that Mr. Polak has formed a committee in London that will charge itself with the welfare of Indians in the Colonies and the Dominions including that of the immigrant labourers. Such distinguished men as Lord Carnarvon, Lord Cled, Sir Matherji Bhownagare, Col. Wedgwood, M.P., Mr. T. J. Bennett, M.P., Capt. Grimby-Gore, M.P. and Mr. Charles Roberts, have consented to join, and Mr. Polak will himself be the honorary secretary. Then in Bombay we have the Indian Citizenship Association composed of some of the most influential public men in India. There is no doubt that the gentlemen composing these committees will make their views known, and we dare prophesy that a strong and urgent demand will be made for a full inquiry into the position of the Indian residents of South Africa. So, with Mr. Gandhi in India and Mr. Polak in England, both exerting their undoubted ability and influence in our favour, our hopes are raised. It rests, then, with us to show that we ourselves are not indifferent to our own position. There is evidence to show that our friends in India and England are exerting themselves on our behalf and for the honour of India more than we are. Shall we allow

that to remain so? The near future will bring a testing time for South African Indians, and it will be well if we prepare for it before it is too late.

## THE HOUSING PROBLEM

## DURBAN JOINT COMMITTEE'S REPORT ON ASIATIC PENETRATION

At a recent ordinary meeting of the Durban Town Council, the report and recommendations of the Joint Committee on Housing, Land and Rating, was submitted. One of the terms of reference to the Committee was as follows:—"To consider and report upon the question of Asiatic Penetration into localities occupied by Europeans in the Borough."

In this connection the following statistics relating to the value of properties owned in the Borough by Indians at certain periods during the past 30 years are submitted:

	July 1888.	July 1908.	July 1918.
Ward 1	1,600	15,430	22,520
Ward 2	950	16,080	31,870
Ward 3	.....	13,640	17,360
Ward 4	151,630	284,960	383,540
Ward 5	13,930	44,460	62,170
Ward 6	24,770	69,580	102,510
Ward 7	.....	47,600	30,920
Ward 8	.....	.....	8,510
Ward 9	.....	.....	33,490
	£20,880	£510,750	£650,810

In July 1888 the value was only £20,880.

The Rateable Value of the Borough at certain periods was as follows:—1881, £1,618,604; 1898, £4,668,950; 1908, £9,689,560; 1918, £12,422,050.

Having regard to the Council's reference, the Committee decided to take the opinion of an eminent Counsel in the following points:—

(1) Whether it would be *ultra vires* the Provincial Council of Natal to legislate in the direction (a) of the segregation of the Indian community either as regards business or residential premises? and (b) of prohibiting Europeans from occupying certain areas at present populated by Indians?

"In the event of Counsel advising in reply to the above in the negative, will Counsel advise what steps he would recommend the Town Council to take with the object of preventing further Asiatic penetration of European districts?"

## COUNSEL'S ADVICE

Counsel advised that "in my opinion, the questions involve a direct interference with private rights of property and the law respecting the holding of private rights, and that in these circumstances, and especially considering the extent to which property is held by Asiatics throughout different parts of Durban, and that the passing of legislation for segregation would have the effect of very seriously interfering with these rights, that our Council would hold that that was going beyond the province of the Provincial Council, and in my opinion, the Provincial Council would not have power to legislate in the direction of questions (a) and (b). If the Council are desirous of obtaining these powers, then, in my opinion, the proper course to take is to introduce a private Bill in the Assembly, in which Bill while existing rights could be recognised, the future control of the acquisition of property in the Borough by Indians should be subject to the control of the Council, or, in other words, limited to areas defined by the Council."

With regard to the proposed further Section to the draft Ordinance, giving the Council power to allocate certain areas to Europeans and certain "black areas" to others of the population, Counsel advised that, in his opinion, the Provincial Council "have power to legislate in this respect, because the power that is asked is

to enable the Town Council to deal with their own asset in the way of unalienated lands or properties still under their control and disposal, and that is one of the existing institutions of the Corporation, and it has been held in law that as the Corporation are the representatives of the people, they are entitled to say in what manner the municipality may be carried on."

**RESTRICTED OWNERSHIP**

Counsel added that in view of the circumstances existing in Durban, it does not seem to me that there is anything unreasonable in giving to the Corporation power to preserve the amenity of their property in certain districts, while at the same time making provisions in other districts for other sections of the population. I would, therefore, suggest in substitution of the suggested clause, the following:—

"After this Ordinance comes into force, the Town Council, on selling, leasing, letting, or otherwise alienating any immovable property belonging to them, may, with the consent of the Administrator, restrict the ownership and occupancy of any such property exclusively to Europeans, or Asiatics, or Coloured Persons, or Natives, and also to restrict the use of the said property solely for residential or business purposes, or for both purposes, and insert in the Title Deeds or Leases of any such property the necessary conditions to give full force and effect to such restrictions."

The Joint Committee recommended that the Council promote legislation in the Union Parliament, and in the Provincial Council during the next Session of those institutions on the line recommended by Counsel in the foregoing report.

**THE ASIATIC TRADING ACT**

**CORRESPONDENCE BETWEEN MR. GANDHI AND GOVT. OF INDIA**

The following correspondence passed between Mr. Gandhi and Sir George Barnes regarding the South African situation:—

Simb, the 28th July, 1919.

Dear Mr. Gandhi,—I sent you only a very short note a few days ago in answer to your letter of July 3rd, because I wanted to offer the fuller answer which I was able to deal with the subject at the length which it deserves.

I told you in my first note that I felt certain that you needed no assurance from me that the events in South Africa which have led up to the passing of the new statute have caused his Excellency the Viceroy and myself the deepest anxiety, and that his Excellency has repeatedly pressed "the Indian case" on the Colonial Office through the Secretary of State for India. I was myself, as you very possibly know, in South Africa when the present situation was beginning to develop. I saw Lord Buxton many times and know that he was in constant touch with his Ministers on the subject and did everything in his power to safeguard Indian interests.

3. As you know, the present trouble arose from an injunction which the Krugersdorp Municipal Council obtained at the beginning of this year from the Supreme Court at Pretoria under Section 150 and 151 of the Transvaal Precious and Base Metals Act, 1908, restraining a European firm from permitting Indians to reside on or occupy certain stands in the township of Krugersdorp. The Chairman of the Transvaal British Indian Association thereupon telegraphed to his Excellency the Viceroy that the effect of this order would be the virtual ruin of the Indian mercantile community throughout Witwatersrand. Another cable to the same effect from the same Association was received by yourself, a copy of which you forwarded to us. His Excellency at once gave instructions that the cable addressed by the Transvaal British Indian Association as you know was correct as far as its terms (that the one addressed to him) should be cabled in full to the Secretary of State, and this was done.

3. The next step was a motion by a Cape Town member for a Select Committee of the House of Assembly to enquire into the new disability on Indians created by the judgment of the Supreme Court. The original object of this motion seems to have been the removal of the disability, and it is most regrettable that an amendment was carried to extend the scope of the Committee's enquiry to cover the alleged evasion of the old Beer Law, No. 3 of 1885, by the formation of limited liability companies. The whole position of Indian traders in the Transvaal thus came under examination, and the reports of the subsequent debates in the House of Assembly reveal only too clearly the feelings which were aroused.

"We have not yet received a copy of the Bill which was introduced as a result of the Committee's report. But from the information received, I understand that the effect of the new law (for the Bill is now a statute) is as follows:—

(1) Statutory protection is given to existing trading rights held by Indians on May 14, 1919, in Government townships and on proclaimed land in the Transvaal, both in respect of present holders of licences and of their successors in title, so long as the business remains in the same township.

(2) The existing restrictive provisions of the Precious and Base Metals Act, 1908, remain in force, and from the 1st May, 1919, no fresh trading licenses, except renewals, will be granted to Indians in Government townships or on proclaimed land in the Transvaal.

(3) Rights in the fixed property acquired before May 1, 1919, by Indian Companies are respected, but in future the restrictions of Law No. 3 of 1885 will apply to Companies as well as to individuals. We do not yet know how the right to hold mortgages on fixed property is affected but we have telegraphed to the Secretary of State for information.

5. On the other hand, I am glad to be able to tell you that an additional clause which was adopted by the House of Assembly empowering licensing authorities to refuse trading licenses to Indians generally, not only on proclaimed land but throughout the Transvaal, was deleted in the Senate. A telegram which we received from the Chairman of the Transvaal British Indian Association towards the end of May, gave us reason to anticipate that the refusal of new licenses might be made general, and his Excellency the Viceroy at once warned the Secretary of State, who was able to press for the deletion of the clause before it was too late. This, I think, was the clause to which you specially referred in your letter, and you did not, of course, know that its deletion had been secured, when you wrote.

5. So far as trading licences and the administration of the Precious and Base Metals Act 1908 are concerned, I do not think that the Union Government would admit that they had broken the compact of 1914. They would claim, indeed, to have scrupulously observed it. In the words of Mr. Gorges' letter of the 30th June, 1914, to you they then undertook, with regard to administration of existing laws, "to see that they are administered in a just manner and with a due regard to vested rights." They would now claim, with some reason, that they had not only undertaken legislation to set aside a ruling of Supreme Courts, which affected vested rights existing from before 1914, but had also gone beyond their compact with you as to protect vested rights which had come into existence between 1914 and the 1st May, 1919. They would not admit that it was a breach of the compact to take steps to prevent what they would call further evasion of a law which was passed in 1908. We may protest against the law of 1908, but you will know from your own experience how hard it is to get it altered. The present position is that all vested rights have been validated beyond dispute and cannot again be challenged in the Courts. Your compact in 1914 with General Smuts, which has hitherto rested only on Mr. George's letter of 30th June, 1914, to you, has now been definitely

legalised. This is to the good. The bad side from the Indian point of view is that the growth of new vested rights is stopped as from the 1st of May, 1919.

6. The Union Government might also argue that the vested rights which have already been acquired by companies in spite of Law No. 3 of 1885 are respected, and that the amendment of the Act is only intended to prevent similar evasions in the future. The Government of India would refuse to accept this argument. They associate themselves entirely with the views expressed by Lord Sinha in the Memorandum which he laid before the Imperial Conference of 1918, that Law No. 3 of 1885 is an anachronism, and opposed to the spirit of modern legislation. They have pressed this view, and consider that the new law is difficult to reconcile with Mr. Burton's undertaking at the Conference of 1918, when he said:—"As far as we are concerned in South Africa, we are in agreement with the proposal referring the (Lord Sinha's) Memorandum to the consideration of our Government, and we will give it the most sympathetic consideration that we can certainly." It is greatly to be regretted that the protests of the Government of India have been unavailing. At the same time, I understand that the view of those in Capetown, who have at heart the interest of Indians in South Africa, is that no more generous recommendations, even if made by the Select Committee, would have had any prospect of acceptance by the House of Assembly. We are now awaiting the receipt of the full text of the new Statute, and we shall then consider most anxiously what further action should be taken. Of course, you are welcome to make any use you may think fit of this letter.—Yours Sincerely,

(Sd.) G. S. BARNES.

MR. GANDHI'S REPLY

Bombay, 26th July, 1919.

Dear Sir George Barnes,—I thank you for your full letter of the 18th instant regarding the recently enacted Transvaal Asiatics Law.

In view of the last sentence of your letter, I am publishing it together with my reply. I am deeply grateful that H. E. the Viceroy and you have been moving in the matter. I am however, sorry to have to observe that the information placed at your disposal as to the true nature of the Bill is incomplete if not misleading, and so is the information regarding the judgment of the Transvaal Supreme Court referred to in your letter.

Here is the true position regarding the Supreme Court judgment. Sections 130 and 131 of the Transvaal Precious and Base Metals Act 1908 merely refer to residential rights. They have no reference to trade rights which another judgment of the same Supreme Court has held to be inviolable so far as the existing Transvaal Laws are concerned. You will therefore, see that the new law deprives the Indian settler in the Transvaal of his existing trading right. Section 130 and 131 of the Law of 1908 attempted to curtail residential rights; the new law superadds the curtailment of trade rights and thus completes the virtual ruin of Indians lawfully resident within the gold area of the Transvaal. How can the Union Government with any decency claim to have scrupulously observed the compact of 1914? Let me add that the Law of 1908 has always been a bone of contention between the Transvaal Government and the Indian community, and it was, I am thankful to say, because of the strenuous fight that the Imperial Government put up in our behalf, that the provisions of Sections 130 and 131 remained practically nugatory. You will perhaps, now see, what is meant by the promise, in General Smuts' letter to me, "to see that they (the existing laws) are administered in a just manner and with due regard to vested rights." The vested rights regarding residence were the rights which were exercised and enjoyed by the Indians even before 1908, viz., the right of holding fixed property under leases throughout the Transvaal. Let me recall a bit of old history. Law 3 of 1885 itself had become a matter

of protracted correspondence between the South African Republic and His Majesty's Government through the British Agent at Pretoria. The matter was then referred to the arbitration of the then Chief Justice of the Orange Free States. He declared all legislation apart from Law 3 of 1885 as amended in 1886 to be contrary to the London Convention. All laws, therefore, passed after the award in further restriction of the liberty of British Indian settlers of the Transvaal were contrary to it; and it was, I expect, for that reason, apart from the equity of the case, that Mr. Harcourt declared on 27th June 1911, from his place in the House of Commons. "Complaints against that legislation (the Gold Law and Townships Amendment Act) have been made and are now being investigated by the Government of the Union of South Africa, who have lately stated that there is no intention of interfering with any business or right to carry on business acquired and exercised by Indians prior to the date of legislation." Similarly, in 1912, Mr. de Villiers the then Attorney-General of the Transvaal said:—"No right or privilege which a coloured person has at the present time is taken away by the new Act." Indians had a right to rely upon Mr. Harcourt's assurance and Mr. de Villiers' interpretation of the Act in question and if the Transvaal Judgment has gone against us it is the duty of the Union Government, not merely in virtue of the compact of 1914, but also of the assurance and the interpretation above referred to, now to amend the Law of 1908 and not to put a further restriction upon Indian liberty as the new law does.

I know you are overworked. My only fear is that as you have to act upon briefs prepared for you, and as a powerful Government like the Union Government can far more easily gain your ear than a handful of British Indians of South Africa, their case may suffer simply from want of information. Do you know that the Indians of South Africa raised an Ambulance Corps which served under General Smuts in South Africa? Is the new law to be their reward? I ought not to have to bring in the War Services in order to secure the protection of an elementary right, which considerations alike of honour and justice entitle them to. I command to your attention the report of the Select Committee of the Union House of Assembly. I will gladly lend you a copy, if you do not have one yourself.

Regarding fixed property I see you have not got full information. I know you will share my sorrow that the Union Government, unmindful of their trust and equally unmindful of the written word accepted an amendment "prohibiting the holding of mortgages by Asiatics on property except as security for a *bona fide* loan or investment and providing that any Asiatic company, which acquired fixed property after the 1st instant, should dispose of the same within two years or a further period as fixed by a competent Court, with a rider that in the event of failure to do so the property might be sold by order of the Court." I am quoting from Reuter's cable, dated the 23rd May from Capetown. You will see that this completes legalised confiscation of property rights throughout the Transvaal and virtually the trade rights within the gold area of Indian settlers. There was no evasion of Law 3 of 1885. The Indians did openly what the law permitted them to do, and they should be left free to do so.

I do not wish to prolong this tale of agony. The Government of India are bound to protect the rights of the 5,000 Indian settlers in the Transvaal at any cost.

Here is my solution: Law 3 of 1885 authorises the Government to appoint wards and streets in which Indians can hold fixed property. In virtue of this authority they can declare streets and wards of gold area townships for Asiatic residence and ownership, and they can instruct receivers of revenue to issue trade-licences in respect of such streets and wards, to lawful Indian applicants. This will be pending the Commission promised by the Acting Prime Minister Mr. Malan. The Government of India can see, by sending a strong representative, that the Commission does not

prove as abortive as the Select Committee of the House of Assembly. The Dominions may have the right to regulate immigration. But as part of a professedly civilised Europe they cannot restrict or take away the trading and property rights of lawfully resident settlers. The proposed Commission should result in the abolition of all racial restrictions upon such settlers.—Yours Sincerely,

(Sd.) M. K. GANDHI

### A TRAMCAR INCIDENT

#### INDIAN TEACHER CLAIMS DAMAGES

A case of some interest was heard last week in the Chief Magistrate's Court, Durban, before Mr. Percy Binns, K.C., in which an Indian schoolmaster named Anboo Royeppen, residing at South Coast Junction, sued the Durban Corporation for the sum of £200 as damages for injuries sustained in an assault committed upon him by a tramcar conductor named J. W. Baker, on May 31. In his claim the plaintiff states that he not only suffered injuries to his face and body, but was moreover held up to ridicule and contempt, and had suffered damage to his dignity and reputation.

The defendants in their plea state that the conductor requested the plaintiff to leave the car because it was already full, and they denied the use of any force by the conductor in the course of his duty, and aver that the latter had no authority, and was expressly forbidden to use force in the execution of his duties. They further deny that any injuries which the plaintiff received were caused to him by the conductor in the course of his duty or employment, and they deny liability.

Mr. W. T. Clark appeared for the plaintiff, and Mr. Geerds (Garlick & Bonsfield) for the defendants.

The plaintiff said he was an Indian schoolmaster, residing in Durban. He was 58 years of age, and had lived in Natal nearly 50 years. He was assaulted by a conductor on the tram on May 31 about 5.45 p.m. He boarded a car for Umbilo at the corner of Umbilo and Berea Roads. The car was not full, there being room on top for more passengers. Plaintiff did not go on top, but he could see from below before he got on the car. When he got on the platform he was told by the conductor to get off. Plaintiff told the conductor that there was plenty of room on top, and that he wanted to get home. The conductor did not give any reason for ordering him to get off. The car started while the conductor was trying to push him off, but plaintiff held on to the bars, and pointed out that the car was in motion, and he was not going to break his neck in trying to alight. He asked him to stop the car first. When the car did stop, plaintiff asked for the conductor's name and number, but this was refused. Plaintiff was on the point of getting out when the conductor pushed him and hit him on the left cheek, knocking plaintiff off the car. The conductor then got off the car and struck him another blow on the right side of the mouth, causing his mouth and nose to bleed. A police constable who was on the car then took him to the Congella Police Station. The conductor was brought off the car on its return journey, and plaintiff, was given a note to the C.I.D., who sent him to hospital. The next time plaintiff saw the conductor was in the Criminal Court. As the result of the assault three of his teeth were loosened, his mouth and cheeks were swollen, his lip was split, and his cheek was cut. He was treated at the hospital, and afterwards went home. He was laid up for a week, and was unable to do any work. He felt the effects for three weeks, and still suffered from pain in the cheek, and had difficulty in eating.

P.C. Polsen, a police constable attached to the Congella Police Station, said he travelled from town with the car, and was seated inside. He noticed several coloured people attempted to board the car at the

corner of Umbilo and Berea Roads, and heard the conductor order them off. When the car got to Moore Road the conductor pulled the strap to stop the car. And as it did not stop, sounded the gong. The car stopped at the corner of Clark Road. Witness then heard the conductor shout, "Why don't you get off the car when you are told to," or words to that effect, and then heard a sound like a slap on the face. On looking through the window he saw a coloured man stagger away some six or seven feet from the car. The conductor followed him up and struck him a blow in the face.

Henry Nichol Thomas, General Manager of the Municipal Tramways, said in reply to Mr. Geerds, that the by-laws did not provide for the forcible ejection of persons from tram cars, except in cases of drunkenness or infectious diseases. There were definite instructions to conductors (Rule 123) that "no force must be used."

John William Baker, motorman on the Durban Tramways, said that he was employed as a motorman, but was occasionally sent out as a conductor. On May 31 he was acting as conductor. About seven or eight Indians were waiting to board the car at the corner of Umbilo and Berea Roads. He told them that there was no room on the car. The Indians all got off, with the exception of the plaintiff. When he first told plaintiff to get off, the car was at a standstill, but plaintiff did not comply with his request. The car moved off, and he stopped it at the first stop in Umbilo Road, and again requested plaintiff to get off, but he refused. The car then moved on to Clark Road where it stopped for some passengers to alight. A male passenger grabbed the plaintiff and pushed him off. Witness then got off the car and struck plaintiff.

All the Indians were clean and respectable, barring two. There was no objection to the plaintiff on this score. Witness was angry with the plaintiff, and followed him off the car and struck him because he had lost his temper.

Mr. Percy Binns pointed out that the main point in question, was whether the assault committed came within the scope of the conductor's service to his employers.

After hearing Mr. Clark's arguments in support of the plaintiff's claim, the case was adjourned until Monday, the 22nd inst.

### "RESISTANCE IS A DUTY"

Commenting on the South African situation, *Young India* says:—

The European traders have raised the issue. They were not satisfied with the temporary position arrived at in 1914. They challenged the Indian position in the Law Courts. They put effective pressure on their representatives in the Union Parliament and brought about the introduction of the Asiatics Bill. And now elated by success they are asking for further restrictions on the liberty of the Indians. In the midst of this torrent of unreasoning prejudice what are our countrymen to do? Are they to be swept away by the torrent? Are they ignominiously to give up the struggle and leave South Africa or are they to resist? For men there can be but one answer. Resistance is a duty. Violent resistance is insanity. But they are seasoned soldiers in civil—mis-called passive—resistance. And they have evidently resolved upon it. It will be a sight fit for the gods—this handful of Indians putting their spiritual force against the physical might of their European rivals backed by the Government of the Union. In spite of the uneven odds the issue is clear. The truth in them will triumph through their suffering.

## THE COMMISSION OF INQUIRY

ADVOCATE GODFREY'S VIEWS

The Editor, INDIAN OPINION.

Sir.—The Commission to enquire into the status of Indians within the Union, will, it is hoped, be not long in commencing its labours. It behoves us, as being the principal parties concerned, to see to it that we place before the Commission every possible shred of evidence so as to assist them in coming to definite and correct conclusions. We know our cause is just, but the Commission will require us to actually prove and satisfy them of any allegations we may make. Our weakness has largely been that general and vague statements were made without sufficiently convincing, concrete, and actual instances to support the allegations. Judging from past results obtained, I opine that we shall not make favourable headway for ourselves if we do not get up our hands and get ready. It will not do to wait till the Commission is actually sitting and then seek for any favourite we can conveniently lay hold of and put him forward to give evidence on a subject of which he is perhaps wholly ignorant. The result is bound to be fatal to our cause. We must begin now to call small meetings all over the Union and select the best men amongst us, who should then meet in a Provincial meeting of their own and decide exactly what should give evidence and upon what subject or grievance. They should collect all information, secure definite and accurate data of actual cases concerned, and have it properly prepared in writing. They should then tabulate all they have collected and show clearly

- (a) exactly how the law is broken. Every point must be made to avoid unduly enlarging and magnifying things. A simple, clear straightforward statement is far better than a much-worded meaningless phrase.
- (b) Show that the rule, law and regulation is either illegal or against all good principles of good Government. That even ostensibly general laws are in practice chiefly directed against our countrymen.
- (c) Prove that it is an unwarrantable fear of the Europeans that caused the particular law to be brought into operation against us and that its operation is unjust and in British.
- (d) Above all and most important is that we must be able to make healthy suggestions for improvement. It is useless to make suggestions which we know are impracticable or incapable of being brought into harmonious co-operation with the present existing elements.

The gentlemen selected say, to investigate into able Immigration difficulties, may work on the lines suggested, could and should be prepared with the fullest possible information required. A selected body of school teachers could deal equally with the questions of education and so on.

We must see to it that the Commission is utilized for our benefit. By careful selection of respectable and responsible men we ought to be able to convince the Commission that our grievances are neither inflated nor sentimental.

We must also be satisfied with the selections made of those who should represent us. We may quarrel amongst ourselves as much as we please before the selections are made, but once they are made, it is our bounden duty to loyally support such selected gentlemen to the best of our ability.

It is a much-to-be-deplored policy of many of our men, who, because they are not selected, at once become obnoxious and in many cases actually and actively exert themselves against their own countrymen. All personalities should be laid aside. A man is great only if he is so called and not if he so styles himself.

We are out to secure our status in this Union, and we must realize that there is a large selection of the European population who are determined to work against us on methodical lines. They clearly mean business, and we must meet them likewise; and what is more, we must go in the spirit that we are going in to win. Remember we are hopeful of some of our countrymen from India coming here to take part in this Commission. We shall need to sink all our personal and sectional differences, as we did at the last

Conference, and present a united front and speak with a unified voice.

We must be fully prepared to give full weight to our opponent's arguments and be ready to refute his statements, prove the fallacy of his reasoning and show him how unfounded is his fear of us.

These are serious matters, and we must obtain the best assistance possible. There is a great deal to do if the work is to be done properly.

My only object in penning these lines is to warn my friends and countrymen of the great task before us, and I sincerely hope that those who have already done much for our upliftment will bestir themselves and see to it that we be not found sleeping when the Commission is here.—Yours etc.,

J. W. GODFREY.

Dundee, Natal.

20/9/19.

(Note: We agree with Mr. Godfrey, but a different aspect has been put on the matter by the Prime Minister's statement that only the question of trading licences will be dealt with by the Commission.—E. I. O.)

## A DIGNIFIED PROTEST

## Native Editors' Letter

In declining the invitation to attend the Provincial Anti-Asiatic Conference, the editor of the Native paper, *Akantu-Batho*, writes:

I regret to say we are unable to accept the invitation for the simple reason that, while ostensibly this agitation is against Asiatics, we cannot help entertaining the fear that it is a movement against colour and nothing else. In the interest of the Bechu people generally, we are unable to encourage morally or otherwise any movement based on colour lines. In the experience of the recent Native Land Legislation, we are forcibly impressed that the white people of this country are, as a whole, openly developing a keen sense of colour prejudice prompted by the fear of competition with Natives and others in land, trade and other occupations; and that, in spite of all the fortifications they possess in their defence such as the Franchise Cap and Civilisation, they will yet resort to artificial means of excluding to deny equal opportunities to everyone of dark colour. This sort of bolstering up superiority by the white man, is not only difficult to understand but in our humble opinion extremely reprehensible.

## INDIAN NATIONAL COLLEGE

We have received the following letter for publication:

National College,

Cawnpore, 3rd July 1919.

The Editor INDIAN OPINION.

Sir,—May I request you to publish in your valuable paper the following results of the Preparatory Examination 1919, of the National University from the National Collegiate School, Cawnpore.

Results.—The following candidates for the Preparatory Examination of the National University 1919, have passed from the National Collegiate School, Cawnpore:—

Amar Nath Sharma, Ramesh Sharma, B. L. Merhara, Sri Krishna Rohatagi, Anand Nath Singh, Ganesh Narayan Parayya, Murtaza Hussain, Fateh Singh Srivast, Vishnu Swarup Verma, Balj Nath Behari and Chandra Lal.

(Sd) N. C. PARAYYA B.Sc.,

National College and School,  
Cawnpore.

Hony. Principal,