

Indian Opinion

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Indian Opinion

SATURDAY, JULY FIFTH, 1908.

A Licensing Case

We print elsewhere interesting correspondence between the Durban Corporation and Mr. Moosa Hajee Adam. It provides a painful reading, and it shows the dangerous working of the Dealers' Licences Act. Mr. Moosa Hajee Adam who is well known in Indian, as also in European, circles, has very considerable immovable property in that Borough, and has to see all his property practically tenantless because the would-be tenants are refused trade licences. No wonder that he considers his position unenviable and intolerable. Mr. Moosa adds that he pays £500 annually to the Municipal Corporation in taxes, rates, rents, etc. This he must earn from his property, but he says that at present he finds it difficult, and, whilst the Corporation would not issue trading licences to Indian tenants in respect of the premises, it has no hesitation in collecting the rates. Mr. Moosa Hajee Adam suggests also a simple remedy, and says to the Corporation: "If you do not want me, and if you do not want Indian tenants, you can buy out my properties at the present valuation, and I shall retire from the country bag and baggage." The Corporation, however, is soulless, and, therefore, will adopt neither suggestion. The reply given by the Corporation is evasive and discreditable. It says "The Council is not in a position to direct the Licensing Officers on questions relating to the granting of licences," and reminds the applicant "that many

other burgesses find it impossible to let their premises at the present juncture." Both statements are, as Mr. Moosa has shown conclusively, entirely misleading. The granting of licences is undoubtedly in the hands of the Corporation, because Mr. Moosa was told by the Licensing Officer to see the Mayor, the latter, in his turn, referring him to the Licensing Officer. It is a well-known fact that, throughout the Colony, the Town Councils and the Local Boards have given instructions to the Licensing Officers as to the issue of licences. With reference to the reply "that other burgesses find it impossible to let their premises," Mr. Moosa has a categorical answer: however the other burgesses may fare, he himself had no difficulty in getting tenants, if only they receive licences.

It is evident, too, that, in his conversations with the Mayor and other Councillors, Mr. Moosa Hajee Adam has been told something about locations, euphemistically called bazaars. The Corporation would willingly grant licences in respect of Bazaars, and he is, therefore, asked to use his influence and to persuade other Indians to accept the principle. To the credit of Mr. Moosa, let it be said that he not only point-blank rejected the bait, but has set forth in his letter to the Mayor and Councillors unanswerable objections to any such proposal. Indeed, it stands self-condemned, in that it can be no remedy for tenantry thousands of pounds' worth of immovable property owned by Indians in the Borough. Mr. Moosa Hajee Adam went to the Colonial Secretary, but no redress was obtainable even there.

What applies to this case applies to scores of Indians who are not so fortunate as to be able to write letters to the Town Council and ventilate their grievances. All the same, the working of the Dealers' Licences Act is, day by day, increasing the irritation among the Indian community, and the proposed licensing measures now before the Natal Parliament have added fuel to the fire. What is the remedy? The Local Government will grant no relief. The Imperial Government will grant no relief. The Imperial Government confesses its abject powerlessness to remedy the evil. In a matter of absolute justice, it goes no further than writing dispatches, offering bargains to sell the liberty of indentured Indians for the insertion of a clause in the Dealers' Licences Act restoring to the aggrieved party the right of appeal to the Supreme Court, or to give away the Municipal voting right of British Indians as against the same thing. Such being the case, the remedy is to

be sought not from without but from within. Mr. Moosa Hajee Adam can decline to pay his rates and let his property be sold by the Corporation, should it dare do so, or British Indians who cannot earn a living, except by trade, can continue their trade in defiance of the law and without licences. Both these courses have to be taken deliberately and unitedly. We hold it to be the right of citizens in any state to earn a legitimate living, and, if there are laws which interfere with such freedom, it is a greater duty to break them than to keep them; unless then, Indians acquire sufficient courage and strength of purpose, we have no doubt that, in these times of fierce struggle for existence, they will be wiped out of Natal and, indeed, South Africa, or they will have to be content with the status of serfs rather than free men.

IF THERE IS ONE DEMAND MORE THAN another, of those sought to be thrust upon the Asiatic communities by

When Education is a Crime

General Smuts, that should bring the hot flush of shame to the cheek of a sensitive man, it is that they shall accept the principle that educated Asiatics must be regarded as prohibited immigrants, whereas, for any other person of any other race, education is the "open sesame" to the Transvaal. What, in effect, General Smuts requires is, that Asiatics in the Transvaal shall bind themselves never to obtain, from outside the Colony, priests, teachers, lawyers, doctors—in fine, all who, by reason of their training and development of character, may be expected to raise the rank and file out of the rut of materialism and ignorance. Asiatics in the Colony must be content to be leaderless in the future. By that means it may be hoped to trade upon their lack of trained apprehension, and foist upon them legislation still more degrading than that already contemplated. It is a blank impossibility for the resident Asiatic population of the Transvaal to furnish the funds for the giving of a liberal education to any large number of Asiatics, who may, in the future, be born in the Colony. What a delightful picture of abject misery and doleful stagnation, a very Slough of Despond, General Smuts may hope to see in twenty years time, if he can succeed in seducing the Transvaal Indians from their loyalty to their Motherland! We believe that there is enough of patriotism amongst our brethren to induce them to reject with scorn a proposal which attacks the honour of their race.

The Transvaal Trouble

Supreme Court Application

[Affidavits Filed]

On Friday, the 26th ulto., in Chambers in the Supreme Court, Pretoria, before Mr. Justice Smith, the opposed application was heard of Ebrahim Ismail Aswat vs. Montford Chamney, for an order directing the respondent to hand over the applicant's application form for voluntary registration, together with certain documents filed therewith. We print the text of the affidavits filed with the Court.

Applicant's Affidavit

I, the within-named, EBRAHIM ISMAIL ASWAT of Vereeniging, do hereby solemnly and sincerely declare that the contents of the foregoing Petition are true to the best of my knowledge and belief.

Declared at Johannesburg, this 23rd day of June, 1908.

Annexure

SERIAL NO.

Number of Registration Certificate.....No of File.....E
APPLICATION MADE FOR REGISTRATION OF AN ASIATIC ADULT.

Name in full.....Race.....
Caste or Sect.....Age.....Height.....
Residence.....Occupation.....
Physical Description.....
Place of Birth.....
Date of first arrival in the Transvaal.....
Where resident on 31st May, 1902.....
Father's Name.....
Wife's Name.....Residing at.....

SONS AND MALE WARDS UNDER THE AGE OF 16 YEARS.

Names: Age: Residence: Relationship to Guardian: Description:

Signature of Applicant.....
Signature of person taking application.....
Date.....Office.....

Classification) Name..... (Testing

RIGHT HAND IMPRESSIONS.

Thumb: Index: Middle: Ring: Little

LEFT HAND IMPRESSIONS.

Thumb: Index: Middle: Ring: Little

SIMULTANEOUS IMPRESSIONS

LEFT HAND. The four fingers.
RIGHT HAND. The four fingers

Impressions of Adult taken by.....Date.....

Classified by.....Date.....

Tested by.....Date.....

The Right Thumb impression on this form has been compared with the Right Thumb Impressions on Permit No.....and the duplicate thereof, and found to be.....

Certified by.....Date.....

Mr. Essop Mia's Affidavit

I, ESSOP ISMAIL MIA of Johannesburg, Merchant, do hereby solemnly and sincerely declare as follows:

- I am Managing Partner of the firm of Suliman Ismail Mia & Co. of Johannesburg, and Chairman of the British Indian Association.
- I have read the Petition of Ebrahim Ismail Aswat of Vereeniging, dated the 23rd day of June, 1908.
- At the several meetings of the British Indian Association referred to in the said Petition I presided, and some of these meetings were attended by several thousand Indians.

3. As the British Indian Association has been informed by M. K. Gandhi of Johannesburg, its Honorary Secretary to the effect that the Government may not repeal the Asiatic Act No. 2 of 1907, the British Indian Association has decided to advise all British Indians to withdraw their voluntary applications for registration and other documents handed to Montford Chamney of Pretoria.

5. I have also applied for the return of my application and documents, but they have not yet been returned.

6. It was at very great personal risk that I and my fellow-countrymen have assisted the Government to carry out the terms of the compromise referred to in the said Petition so far as the Indian part of it was concerned.

7. By reason of so doing I was very severely assaulted on the 17th day of May last. The assault was so severe that I was laid up in bed for nearly a fortnight, and I very nearly lost a portion of my nose.

Declared at Johannesburg, this 23rd day of June, 1908.

Mr. Gandhi's Affidavit

I, M. K. GANDHI of Johannesburg, Attorney, Honorary Secretary of the British Indian Association, do hereby solemnly and sincerely declare as follows:—

1. I have read the Petition of EBRAHIM ISMAIL ASWAT of Vereeniging, dated the 23rd day of June, 1908, and the Affidavit of Essop Ismail Mia, Chairman of the British Indian Association, dated the 23rd day of June, 1908.

2. The statement made by the said Ebrahim Ismail Aswat, in his Petition, with reference to the compromise, is correct.

3. I was sentenced, together with many other Indians, to be imprisoned, for not having complied with the Asiatic Law Amendment Act No. 2 of 1907, which I believed, and do still believe, to be contrary to my independence as a free man, and my conscience.

4. While I was undergoing sentence of imprisonment, in the month of January, 1908, negotiations were put forward, I believe by the Government, for a compromise with the Indian community.

5. A letter was placed before me for my signature, copy of which is hereto attached.

6. As that letter was not considered by me to be satisfactory, and as it left the question of the inapplicability of the Asiatic Act to those who voluntarily registered open, I made certain alterations. Copy of the letter as altered by me is also hereto attached. The said letter was then signed by Leung Quinn, Chairman of the Chinese Association, and Thambi Naidoo, a British Indian, both of whom were my fellow-prisoners, and myself.

7. On Thursday, the 30th January, I was taken to Pretoria, under escort, to call on the Colonial Secretary.

8. At the interview I had with the Colonial Secretary, the repeal of the Asiatic Law Amendment Act was discussed, and the promise given definitely there and then that, if the Asiatics applied for voluntary registration, the Act would be repealed. At the same time, a formal reply to the said letter was handed to me, copy whereof is hereto attached.

9. After the said interview, my fellow-prisoners and myself were discharged.

10. On the 3rd day of February, I had another interview with the Colonial Secretary, and the repeal of the Act, as well as other matters, was discussed, and the promise made to me and referred to above was repeated; though, at the said interview, the Colonial Secretary, at the time I took leave, added "Remember if there is a single recalcitrant Asiatic who does

not take out voluntary registration, I shall enforce the Act against that man" or some words to that effect, which I took to mean that the vast majority of the Asiatics then resident in the Colony would have to take out voluntary registration certificates to bring about the repeal of the Act.

11. After that, correspondence passed between the Colonial Secretary and myself, confirming the question of repeal.

12. To my surprise, however, I saw a letter signed by the Private Secretary to the Colonial Secretary, stating that even voluntary registrants would be brought under the said Act.

13. I have since ascertained that it is the intention of the Government not to apply the said Act to those who have voluntarily registered, but they decline to give any assurance with reference to the repeal of the Act.

14. This news has created a great commotion amongst the Asiatics, and they have demanded the return of their voluntary applications for registration and documents handed to Montford Chamney of Pretoria.

15. When the compromise was completed, it gave dissatisfaction to a certain section of the Indian community, by reason of my having accepted, under authority of public meetings held at the time, the principle of identification by digit impressions; and, in my desire to carry out the compact with the Government, I proceeded to the said Montford Chamney, on Monday, the 10th February last, to make my application, and I was very severely assaulted by those who were dissatisfied with the compromise.

16. It is within my knowledge that many Indians, in order to carry out the compromise and to help the Government, had to suffer much inconvenience and undertook great personal risk.

17. The vast majority of Asiatics have accepted voluntary registration.

Declared at Johannesburg, this 23rd day of June, 1908.

Original Letter

CONFIDENTIAL,

To The Honourable,
the Colonial Secretary of the Transvaal.

Sir,—As representatives of the Indian community who have taken a prominent part in the opposition to the Asiatic Registration Amendment Act, we have the honour to lay the following considerations before you:

Our opposition has never been directed so much against the finger print requirements of the Regulations under the Act—in so far as such finger prints were deemed necessary for the identification of Asiatics who could not very well be otherwise identified—as against the element of compulsion contained in the Act itself. On that ground we have repeatedly offered to undergo voluntary registration if the Act were repealed. And even now at this late hour we would urge on the Government the adoption as far as possible of the course more than once proposed by us.

We recognise that it is not possible during the Parliamentary recess to repeal the Act, and we have noted your repeated public declarations that there is no likelihood of the Act being repealed. We would however point out that the periods fixed for registration under the Act by the various Government Notices have expired and that therefore any registration at present would necessarily have to be of that voluntary nature which we originally prayed the Government to concede.

Under these circumstances we would once more respectfully suggest to the Government that all Asiatics should be allowed within a certain limited period, say three months, to register themselves, and that to all who so register the penalties of the Act be not applied, and that the Government take whatever steps they deem advisable to equalise such registration.

In taking the registration of Asiatics we do not object that the requirements of the Act and the regulations be as nearly as possible complied with, provided the registration officials do not press for any information which offends the religious sense of the applicants, and receive discretion to dispense with the finger print requirement in the case of those applicants who by reason of their education, of property or public character, are well known or can be easily identified otherwise. In those cases we urge that the officials should have discretion to accept the signature of the applicant as a sufficient identification.

Should the Government agree to these suggestions and re-open registration on these terms, we assume that all further prosecutions or punishments under the Act will be suspended during the period set aside for registration. We on our part again would undertake to use all our influence to induce our compatriots to register and withdraw all countenance from those who refuse to register or are not legally entitled to register.

We put forward the above suggestions because we are sincerely anxious to prove to the Government that we are loyal and law-abiding, and that we are willing to adopt any course which will lead out of the present difficulty without inflicting any indignity or cast any stigma on us.

Letter as Amended
29th January, 1908.

CONFIDENTIAL.

To The Honourable,
the Colonial Secretary of the Transvaal.

Sir, —As representatives of the Indian and Chinese communities who have taken a prominent part in the opposition to the Asiatic Registration Amendment Act, we have the honour to lay the following considerations before you :

Our opposition has never been so much directed against the finger print requirements of the Regulations under the Act—in so far as such finger prints were deemed necessary for the identification of Asiatics who could not very well be otherwise identified—as against the element of compulsion contained in the Act itself. On that ground we have repeatedly offered to undergo voluntary registration if the Act were repealed. And even now at this late hour we would urge on the Government the adoption as far as possible of the course more than once proposed by us

We recognise that it is not possible during the Parliamentary recess to repeal the Act, and we have noted your repeated public declarations that there is no likelihood of the Act being repealed. We would however point out that the periods fixed for registration under the Act by the various Government Notices have expired and that therefore any registration at present would necessarily have to be of that voluntary nature which we originally prayed the Government to concede.

Under these circumstances we would once more respectfully suggest to the Government that all Asiatics over the age of 16 should be allowed within a certain limited period, say three months, to register themselves, and that to all who so register the Act be not applied, and that the Government take whatever steps they deem advisable to legalise such registration. Such mode of registration should apply to those also who being out of the Colony may return and otherwise possess the right of re-entry.

In taking the registration of Asiatics we do not object that the requirements of the Act and the regulations be as nearly as possible complied with, provided the registration officials do not press for any information which offends the religious sense of the applicants, and receive discretion to dispense with the finger print requirement in the case of those applicants who by reason of their education or property or public character are well known or can be easily identified otherwise. In those cases we urge that the officials should have discretion to accept the signature of the applicant as a sufficient identification.

Should the Government agree to these suggestions and accept registration on these terms, we assume that all further prosecutions or punishments under the Act will be suspended during the period set aside for registration. We on our part again would undertake to use all our influence to induce our compatriots to register and withdraw all countenance from those who refuse to register or are not legally entitled to register.

We put forward the above suggestions because we are sincerely anxious to prove to the Government that we are loyal and law-abiding, and that we are willing to adopt any course which will lead out of the present difficulty without violating our consciences, inflicting any indignity or casting any stigma on us.

We have the honour to be, Sir,
Your obedient servants,
(Sd.) M. K. GANDHI,
" LEUNG QUINN,
" THAMBI NAIDOO.

General Smuts' Reply
Pretoria, 30th January, 1908.

Gentlemen—I have the honour to acknowledge the receipt of your letter of yesterday's date addressed to the Colonial Secretary in which you tender voluntary registration of all Indians and Chinese legally resident in the Transvaal and entitled to register. The Colonial Secretary instructs me to say that he appreciates the wisdom of the step you have taken in response to his repeated public declarations that if the Asiatics in the Transvaal volunteer to register in a body an opportunity for registration should be given them. You have correctly set out the legal position in your letter and in default of registration under the Act which is no longer possible after the expiration of the notices the Colonial Secretary can only accept registration in a form similar to that prescribed by the Act and subject, as regards the regulations, to the small alterations you mention, and lay the matter before Parliament at its next session. In the meantime the penalties of the Act will not be enforced against those who do register, and the Colonial Secretary accepts your assurance that you will use your influence with your compatriots to make this registration effective and final.

I have the honour to be, Gentlemen,
Your obedient servant,
(Sd.) E. M. GORGES,
Acting Assistant Colonial Secretary.
Messrs. M. K. Gandhi, Leung Quinn, and
Thambi Naidoo.

Replying Affidavits

In a replying affidavit, Mr. Montford Chamney says :

I, MONTFORD CHAMNEY of Pretoria Registrar of Asiatics make oath and say :—

1. That I have read the Petition of the above named applicant with affidavits annexed served on me as Registrar of Asiatics.

2. I respectfully submit that the allegations set out in paras. 3, 4, 5, 6, 7, 8, 9, 10 and 14 of applicant's affidavit and in the affidavits of Essop Ismail Mia and Mohandas Karamchand Gandhi are irrelevant to the issue in this action however in regard to the allegations made the letter dated 29th January, 1908 addressed to the Colonial Secretary by Mr. Gandhi and others and the reply dated 30th January 1908 of the Colonial Secretary set out the whole position.

3. Ad. Para. 7 of the Petition I say that agreeably to the aforesaid letter of the 30th of January, 1908, I accepted from applicant a written application for registration.

4. Ad. Para. 11 The application made by the Applicant was on a Government form and is filed on record in my office, and I am unable to part with or return the same.

With regard to the documents submitted with that application viz. the Petitioner's Permit issued under the Peace Preservation Ordinance, and his Registration Certificate issued under Law No. 3 of 1885, there is no objection and has never been any to the

return of the same to the Applicant, immediately all necessary identification enquiries have been made.

Owing to the large number of applicants and the necessity of dealing with their applications in different batches, the Vereeniging applications, among which is that of the applicant, have only lately been taken in hand.

5. Ad. Para. 15. The Petitioner's Registration Certificate had already been signed before he filed the Petition in this matter and in the ordinary course would (together with the documents which accompanied his application) be delivered to him within about seven days from this day by a responsible officer instructed to see that the papers got into the hands of the right person.

6. The promise made by the Colonial Secretary in his letter of 30th January, 1908, to lay the matter before Parliament at its next session is being fulfilled.

(Sgd.) M. CHAMNEY.

Sworn before me at Pretoria, this 25th June, 1908.

(Sgd.) J. H. L. FINDLAY,
Justice of the Peace.

Mr. Smuts' Denials

Mr. J. C. Smuts, Colonial Secretary, filed the following affidavit :

I, JAN CHRISTIAAN SMUTS of Pretoria Colonial Secretary make oath and say :—

1. I made no promise to Mr. M. K. Gandhi either on the 30th January or on the 3rd February, 1908 that Act No. 2 of 1907 would be repealed.

2. The Letter of the 30th January, 1908, copy of which is attached to the Petition in this matter, sets out all that I agreed to.

3. The matter is being laid before Parliament as stated in that letter.

(Sgd.) J. C. SMUTS.

Sworn before me at Pretoria, this 26th day of June, 1908.

(Sgd.) J. H. L. FINDLAY,
Justice of the Peace.

Mr. Chamney subsequently filed the following additional affidavit :

I, MONTFORD CHAMNEY of Pretoria Registrar of Asiatics make oath and say :—

1. That the Petition in the above matter served on me on the 24th inst. was not complete as to all the Annexures referred to therein, the Annexures having only been handed to the Government Attorney yesterday morning.

2. I was present during the whole of the interview of 3rd February, 1908, referred to by Mr. Gandhi in para. 10 of his affidavit and heard all that passed; no promise to repeal Act No. 2 of 1907 was given at that interview.

3. Under Departmental instructions a licence to trade was issued to the Petitioner's firm at Vereeniging in March, 1908, as a result of his Application for Registration.

(Sgd.) M. CHAMNEY.

Sworn before me at Pretoria, this 26th day of June, 1908.

(Sgd.) J. H. L. FINDLAY,
Justice of the Peace.

Mr. A. D. Home (instructed by Mr. M. Lichtenstein) appeared for the applicant, and Mr. D. De Waal (instructed by Messrs. Findlay, Mac Robert, and Nimeyer), on behalf of the respondent.

Mr. Home stated that the replying affidavits had only been filed that morning at 10 o'clock.

Mr. De Waal said he wished to hand in two affidavits, one by Mr. Chamney, Registrar of Asiatics, and the other by General Smuts, the Colonial Secretary.

These are the affidavits quoted above. Mr. Home said that he did not object to the affidavits going in, but he wished to ask for time in which to answer them. His

learned friend, Mr. Ward, could not be present this morning, and he (Mr. Home) suggested an adjournment until next Thursday.

Mr. De Waal said that they did not wish it to appear that they were not prepared to give the applicant every opportunity to lay his case before the Court, but he (Mr. De Waal) submitted on the affidavits before the Court there was nothing to reply to. An allegation was made of a breach of compromise by General Smuts, and General Smuts denied that there was such a breach. He did not know what his learned friend wished to reply to, at the same time they were prepared to give him an opportunity to reply in the fullest possible form.

His Lordship said that he did not like to take it upon himself to say that the applicant should not reply to any statement he wished to reply to. If the applicant wanted an adjournment to reply to the affidavits, His Lordship felt inclined to grant it. From every point of view it seemed desirable to grant it.

Mr. De Waal said he was quite prepared to agree to that. He, however, would make one stipulation, if the case was adjourned until next Thursday, and that was if any fresh matter was filed proper notice should be given to him so that he could reply.

Mr. Home said he would undertake to file any affidavits, and he hoped to have them ready by Tuesday next.

His Lordship: The matter will stand adjourned until July 2.

Applicant's Answering Affidavit

The following answering affidavit by the Applicant has since been filed:—

I, EBRAHIM ISMAIL ASWAT of Vereeniging, do hereby solemnly and sincerely declare as follows:—

1. I have read the affidavits of Mr. Montford Chamney of Pretoria, dated at Pretoria on the 25th day of June, and on the 26th day of June, 1908, and the affidavit of Mr. J. C. Smuts of Pretoria, Colonial Secretary, dated the 26th June, 1908.

2. I attach hereto copy of my letter to the said Montford Chamney for the return of the documents therein mentioned.

3. The said Montford Chamney has never offered to return the permit and registration certificate referred to in Paragraph 4 of his said affidavit.

4. I am willing and prepared to pay the price of the Government paper on which I made my voluntary application, and which it is now my desire to recall.

(Sd.) EBRAHIM ISMAIL ASWAT.

Declared at Johannesburg this 29th day of June, 1908,

Before me,

(Sd.) HARRY H. JORDAN,
Justice of the Peace.

Johannesburg, June, 1908.

M. CHAMNEY, Esq.,

Colonial Office, Pretoria.

Dear Sir,—I have been informed by the British Indian Association that it is the intention of the Government to legalise under the Asiatic Act No. 2 of 1907 the voluntary registration taken out by me. As, when I accepted the compromise with the Government, it never was my intention to accept legalisation under the Asiatic Act, I beg to apply for a return of my application and other documents possessed by you. The documents I ask may be sent to the Secretary, British Indian Association, P.O. Box 6522, Johannesburg.

I am, etc.,

(Sd.) EBRAHIM ISMAIL ASWAT.

Mr. Gandhi Replies

Mr. Gandhi has also filed a further affidavit:

1. MOHANDAS KARANCHAND GANDHI of Johannesburg, do hereby solemnly and sincerely declare as follows:

1. I have read the affidavits of Mr. Montford Chamney of Pretoria, dated at Pretoria on the 25th day of June and on the 26th day of June, 1908, the affidavit of Mr. J. C. Smuts of Pretoria, Colonial Secretary, dated the 26th June, 1908, and the affidavit of Mr. Ebrahim Ismail Aswat of Vereeniging, dated at Johannesburg the 29th day of June, 1908, and copy of the letter addressed by him to Mr. Montford Chamney.

2. As Secretary to the British Indian Association, I never received any letter from the said Montford Chamney, offering to return the Permit and Registration Certificate of the said Ebrahim Ismail Aswat.

3. I adhere to my statement that a promise of repeal of Act 2 of 1907 was made by Mr. Smuts, but I am advised that the question of repeal is not germane to the issue before this Honourable Court. I, therefore, refrain from adducing further proof in respect of my statement.

(Sd.) M. K. GANDHI.

Declared at Johannesburg, this 29th day of June, 1908,

Before me,

(Sd.) HARRY H. JORDAN,
Justice of the Peace.

The Proceedings

In the Supreme Court, Pretoria, on Thursday, the 2nd inst. before Sir Wm. Solomon, the postponed application was heard of Ebrahim Ismail Aswat for an order on Montford Chamney, wherein the applicant claimed return of three documents handed by him to the respondent, consisting of a permit to reside in the Transvaal granted to the applicant under the Peace Preservation Ordinance, a registration certificate under Law 30 of 1885, and a form of application for registration. The first two documents were admitted to be the property of the applicant, and the main argument turned upon the question of the ownership of the third, containing the applicant's finger impressions, with particulars of age, caste, etc., which the respondent claimed was the property of the Government.

Mr. Chas. Ward, K.C., who, with Mr. Home, appeared for the applicant, said that by notice in the *Gazette* November 30, 1907, was fixed as the last date on which Indians claiming to be entitled to reside in the Transvaal could apply for registration certificates under the Asiatic Law Amendment Act, No. 2 of 1907. Very few registrations took place, and after Mr. Gandhi and others had been prosecuted for failure to comply with the Act an interview took place with the Colonial Secretary, at which it was agreed that, the Asiatics objecting to the compulsory provisions of the Act, they should be permitted to make voluntary applications for registration, to be subsequently ratified by Parliament, and that the Act of 1907 should be repealed. Mr. Smuts denied that any promise was made to repeal the Act; but it was clear that the present applicant, when he applied for registration, was under the impression that such a promise had been made. It now appeared that the Government did not intend to repeal the Act, and the applicant desired to have his papers returned.

His application for registration was not made under the Act, and was not intended and did not purport to be made under it. He had formally withdrawn his application in writing, and claimed that the application form containing his finger impressions should be returned to him. Counsel contended that the latter document was as much the property of the applicant as if it were a photograph which he had sent in for a temporary purpose. It was sent in merely with the intention that it should be retained by the Government if an Act were passed confirming the voluntary registration, until such an Act were passed confirming the voluntary registration; until such an Act were passed, the applicant had a locus penitentiæ, and could withdraw his application for registration. In that application the applicant had supplied the Government, under certain conditions, with information which he had formerly refused to supply. The conditions not having been complied with, the applicant claimed that he was entitled to have the document returned to him. He attached a value to it, arising from the fact that this and other similar applications were refused to be made until January 30, when the compromise was arrived at. Counsel contended that the position was the same as if the applicant had sent the respondent an article of value for sale, with a document containing its history; if the sale did not go through, surely he was entitled to reclaim the document.

Mr. D. de Wall, for the respondent, said that on the 4th of June, when the applicant applied for the return of the documents, some 600 or 700 similar applications were received. As a matter of fact, the permit and registration certificate had been sent to the Magistrate at Vereeniging for return to the applicant. With regard to the other document, containing the finger impressions, it was a Government form, the contents on which were filled in by a Government official, and it was filed of record in a Government department. The Indians' objections were directed not against registration *per se*, but against the element of compulsion contained in the Act. Counsel then read correspondence between the British Indian Association and the Colonial Secretary in regard to the terms of the compromise, and referred to a statement in Mr. Smuts's affidavit, that "I made no promise to Gandhi, either on the 30th January or on the 3rd February, that Act 2 of 1907 would be repealed. The matter is laid before Parliament, as stated in the letter" to the Indian Association. The compromise alleged by the applicant was improbable. The whole object of Act 2 of 1907 was to regulate and restrict Asiatic immigration, and the effect of repealing the Act would be to throw the Colony open to free and unrestricted immigration. Mr. Smuts's statement of the compromise,

which counsel submitted was correct, was that he agreed with the Asiatic leaders to grant them an extension, and allow them to register voluntarily, as they could no longer register under the Act of 1907, the time limit having expired, and that he would see that an Act of Indemnity was brought before Parliament to legalise such voluntary registration.

Mr. Ward replied generally to the arguments of counsel for respondent, and pointed out that there was a specific Immigration Act which dealt with Asiatics, apart from the Act in question. Counsel added that it seemed a pity that the Colonial Secretary did not state exactly what the Government's intentions were.

Sir Wm. Solomon, in giving judgment, said it appeared that there had been great opposition on the part of the Asiatics to the provisions of the Act, amongst others to the compulsory provisions of Section 4, under which every Asiatic was compelled to make application for registration. The result was few registrations took place before the 30th November, the date fixed. Prosecutions took place under Section 12 of the Act, and eventually negotiations took place between the Colonial Secretary, on the part of the Government, and some of the prominent Asiatic residents in the Colony, as a result of which a compromise was arrived at, which was embodied in a letter to the Colonial Secretary, signed by some of the leading Asiatics, and a letter in reply thereto from the Colonial Secretary. The arrangement was that the Asiatics should voluntarily send in applications for registration, that they should then be registered by the proper officials, and that subsequently the matter should be laid before Parliament with a view of confirming the compromise. The applicant contended that it was one of the terms of that compromise that Act 2 of 1907 should be repealed at the next session of Parliament. That was denied both by the Colonial Secretary and by the Registrar of Asiatics, who was present at the interview between the Colonial Secretary and the leading Asiatics. Certainly no such promise was contained in the letters, nor anything to show that such was the intention of the Colonial Secretary. It seemed extremely improbable that the Colonial Secretary would have agreed to repeal the Act: and, in a letter by the Asiatics to the Colonial Secretary, they said: "We recognise that it is not possible during the Parliamentary recess to repeal the Act, and we have noted your repeated public declarations that there is no likelihood of the Act being repealed," from which it would appear that they accepted the position that the Act would not be repealed. The applicant said that it was upon that undertaking that he sent in his application for voluntary registration, which was upon a printed form obtained from the Magistrate at Vereen-

iging, and contained, *inter alia*, the applicant's finger impressions. It was handed by the applicant to the Magistrate with the intention that it should be forwarded to the Registrar of Asiatics, in order that registration might take place. The applicant now claimed return of the document, on the ground that the Colonial Secretary had receded from the undertaking he had given, that the Act should be repealed. The whole question of law was simply this—in whom was the property of the document? In his Lordship's opinion the document was not the property of the applicant. As long as it was in his possession when he had filled it up, it was his property, and he could reclaim it from anyone who took it from him. But, having handed it over to the Registrar of Asiatics, with the intention, in his Lordship's opinion, that the latter should retain the document, the property passed from the applicant, and the document then became the property of the Registrar of Asiatics. His Lordship found it difficult to distinguish the present case from the ordinary case of a letter written by one person to another. As long as the letter remained in the possession of the writer it was his own property; when it passed into the possession of the person to whom it was written, it became that person's property. It was said that the applicant had a *locus penitentiae*, and could recall the document. That depended on the intention at the time it was handed over to the Registrar of Asiatics. In his Lordship's opinion the applicant never intended or contemplated, when he handed the document over, that he should have a right to reclaim it. Therefore, on the simple ground that the property in the document passed to the Registrar of Asiatics when it was handed to him with the intention that it should be permanently retained by him, it could not now be reclaimed by the applicant. With regard to the other two documents, it was clearly never the applicant's intention to part with his property in them, and, in his Lordship's opinion, it was the duty of the Registrar of Asiatics, as soon as the applicant said he did not wish to proceed with his application for registration, to return them to the applicant. As a matter of fact, they had been sent to Vereeniging in order that they might be handed over to the applicant, and would be handed to him on his applying for them. Even had they been returned immediately, the whole of the costs of the present application would have been incurred, for it was patent that what the applicant mainly desired to have returned to him was the form which bore his finger impressions. The application would therefore be refused, with costs.

The following letter has appeared in the Transvaal Press.

The Supreme Court has decided that Asiatics have no right to recall

voluntary registration applications. The object of going to Court was for voluntary registered Asiatics to place themselves on the same footing as their unregistered brethren who, they contend, have a right to be placed on a par with them but who, General Smuts contends, ought to be banished out of the country or, being absent, should not be allowed to return to the country of their domicile.

The questionable victory gained by General Smuts on a highly technical point of law will not thwart the purpose of the Asiatics to become disregistered, provided that they have sufficient courage and spirit of self-sacrifice.

The application to the Supreme Court had to have a legal as also a moral basis. The legal basis consisted in the ability on either side to treat the compromise as a nullity without getting any relief from the Court. The moral basis consisted in showing that Asiatics wished to treat it as a nullity, because of its breach by General Smuts.

The breach is twofold. General Smuts will not repeal the Act without imposing unacceptable conditions, and he will not take voluntary registration in terms of the compromise from those who are now entering the country and who are entitled to enter it. General Smuts denies having promised to repeal the Act, and interprets the compromise to mean that those who entered the country after the lapse of three months after the date of the compromise should register under the Act. Let the public judge the meaning of the following: "Under these circumstances, we would once more respectfully suggest to the Government that all Asiatics over the age of 16 should be allowed within a certain limited period, say three months, to register themselves, and that to all who so register the Act be not applied, and that the Government take whatever steps they deem advisable to legalise such registration. *Such mode of registration* should apply to those also who being out of the Colony may return and otherwise possess the right of re-entry." General Smuts says that the men who were out of the Colony should have returned within the three months in order to entitle them to come under the compromise. I ask whether it was possible ever to inform Asiatics throughout the world of the existence of the compromise, or for them to return within that period.

As to the promise of repeal, I beg to ask your indulgence for publication of the enclosed correspondence and to leave it to the public to judge whether the repeal was promised or not. I would draw attention to the fact that in answer to my letter of the 22nd February detailing the legislation to repeal and replace the Asiatic Act, there is not one word of repudiation of the promised repeal. Of my allusions to the promise in the correspondence that took place after my

pictions were roused, there is no repudiation. My pointed questions are evaded. I add to this the statement that immediately after the assault committed on me, as a result of my acceptance of the compromise, Mr. Chamney saw me at Mr. Doke's house, and he and I drew up a notice for publication in Asiatic languages that, the Asiatics complying with the compromise, the Act would be repealed. This notice Mr. Chamney said would be taken to General Smuts and then published. He returned the next day or the day after and informed me that Asiatics were registering and inquired whether, in view of that fact, it was necessary to publish the notice. I, never dreaming of recantation on General Smuts' part, said it need not be published. I challenge him to produce the original draft, if it is still in existence. I add, further, that Mr. Chamney, not once, but often, told me that General Smuts would keep his promise and repeal the Act, and that, not much over a month ago, I met him by appointment at Winchester House, where he actually discussed the draft submitted by me, and, in the main, approved of it. He has, on oath, denied that General Smuts promised repeal in his presence. He may similarly deny the statements I am now making. But Truth is superior to General Smuts, him, and me.

The path before my countrymen is clear. They must be prepared again to suffer. Through their sufferings the public will see who was right.

Let me reiterate the points of dispute. Though promise of repeal is denied, General Smuts is ready to repeal the Act, if we would submit to the rights of domiciled Asiatics, and educated Asiatics who are entitled under the Immigrants Restriction Act to enter the country, being taken away.

I am, etc.,

M. K. GANDHI.

Johannesburg,
2nd July, 1908.

Big Johannesburg Meeting

On Sunday last, a meeting was held in the precincts of the Fordsburg Mosque, to discuss the new position that had arisen in view of the Supreme Court's decision. So large an attendance was there, that what had previously been intended as a private meeting had to be converted into a Mass Meeting. Mr. Essop Ismail Mia presided, and the proceedings were most enthusiastic throughout. Among those that addressed the meeting were Messrs. Imam Abdool Cadir Bawazeer, N. A. Cama, C. H. Desai, M. Kandubhai, G. K. Desai, E. M. Cachalia, H. S. L. Polak, Sorabji Shapurji and M. K. Gandhi. Mr. Sorabji declared that he would not submit, as a British subject, to the Registration Law, and was quite prepared to go to gaol. He claimed as an educated man, free right of entry into the Transvaal.

His remarks were greeted with applause. Finally, the meeting resolved to call a further meeting for 4 p.m. next Sunday whereat voluntary registration certificates would be burnt unless a settlement had already been arrived at.

The Ultimatum

6th July, 1908.

The Honourable
the Colonial Secretary,
Pretoria.

Sir,—A Mass Meeting of over eight hundred British Indians was held yesterday at the Hamidia Mosque to consider the Indian position as it is affected by the Supreme Court decision on the application for the return of the voluntary registration application. My Association still respectfully trusts that these forms may be returned. The Mass Meeting decided to hold another next Sunday for the purpose of burning voluntary registration certificates, in order that, in the event of the claims of domicile British Indians and others not being considered by the Government, they may range themselves alongside of such Indians and suffer with them. My Association is most anxious to avoid such a drastic step and, therefore, once more humbly approaches the Government for assistance.

My Association reminds you of the speech delivered by you at Richmond just after the compromise, and reported in the *Star* of the 8th February last. In that speech, you are reported to have said as follows:—"He had told them (that is the Asiatics) that the law would not be repealed so long as there was an Asiatic in the country who has not registered." And, again, "still every Indian in the country had registered the Law would not be repealed." This shows that the only condition of repeal was complete registration. My Association need hardly say that practically every Asiatic in the Colony has made voluntary application in terms of the compromise. But now my Association understands that the Government, in exchange for repeal, asks British Indians to consent to the following:—

(a) That British Indians holding Dutch Registration Certificate, for which they have paid either £3 or £25, should become prohibited immigrants, whether they are within the Colony or outside the Colony.

(b) That pre-war Indian refugees who have not yet returned to the Transvaal should become prohibited immigrants.

(c) That the voluntary applications which are now under consideration by the Registrar of Asiatics should be finally decided by the Registrar without their right of appeal to the Supreme Court.

(d) That British Indians who can pass the severe test under the Immigrants Restriction Act should also be treated as prohibited immigrants.

My Association ventures respectfully to submit that it is highly unfair to ask the British Indian Community of the Transvaal to consent to a deprivation of the rights of some in whose name the community cannot even speak with any effect. It would be one thing for the Government to pass legislation independently of the community affected thereby, and another thing to ask that community to consent to such legislation restrictive of the liberty of a portion of that class.

With reference to (a) and (b), my Association ventures to state that their claims have never been summarily rejected as it is now proposed, but that pre-war refugees have received more or less consideration and have been granted permits to return. The repeated declarations of responsible officials after British occupation have made it perfectly clear that the domiciliary rights of pre-war Asiatic residents would be respected. In wishing to treat such people now as prohibited immigrants, a most novel and, for British Indians, painful, position is sought to be created. My Association is quite willing that the burden of proving *bona fide* ownership of registration certificates should be thrown on the holders, and that the claims of

those pre-war residents who do not hold registration certificates should be limited to residence for a fixed period of, say two years, such residence to be proved to the satisfaction of a Court of Law, always with the right of appeal to the Supreme Court, so as to bring decisions of different lower Courts into harmony. My Association further, in order to prevent any possible frauds, is prepared to accept a reasonable period within which all these outstanding claims should be submitted. It is within the knowledge of my Association that at least one Indian is outside the Colony who paid, in 1885, the sum of £25 to purchase his domicile in terms of Law 3 of 1885 before it was amended, and who holds European credentials, and has not yet been allowed to return. There are several such cases, though not of payment of £25 but of £3. My Association invites your attention to the following Clause in Law 3 of 1885, which shows clearly that the fee of £3 was imposed to entitle the payer to settlement in the country:—"Those who settle in the Republic for the purpose of carrying on any trade or otherwise shall be bound to have their names entered in a register to be separately kept for the purpose by the Landdrosts of the various districts, in accordance with a form to be prescribed by the Government. On such registration, which shall be effected within eight days after arrival, a sum of £25 sterling (subsequently £3) shall be paid."

With reference to (c), it would be manifestly unfair to deprive those Indians who have already applied for voluntary registration of the right of having their claims examined judicially, when the claims of those who are entitled to return may be judicially examined. My Association fails to see any reason for such a differential treatment between Indians having similar claims.

With reference to (d), my Association cannot help feeling that the proposal that Indians domiciled in the Transvaal should be consenting parties to the deprivation of the rights of Indians with high educational attainments, professional men, to whom British Indians in general are always prone to look up for assistance, is extraordinary. My Association respectfully contends that the interpretation of the Immigrants Restriction Act leaves it open for Indians with European education to enter the country, and the fact that Mr. Sorabji, who has entered the country to test such interpretation, is now to be tried under the Asiatic Act for failing to produce a registration certificate, seems to uphold the contention of my Association and to show that the Government have abandoned their interpretation of the Immigrants Restriction Act. My Association thinks that, so far as the European Colonists are concerned, in this question there is no substantial point involved, whereas it is one of deeply-cherished sentiment to British Indians. In effect, the vast majority of even educated Indians will be shut out of the Colony because of the stringency of the test, and my Association does not object to any reasonable stringency, so long as education of a real type is respected and recognised as much in an Indian as in a European. In Natal, where the test is by no means so severe as in the Transvaal, according to the last Immigration Report, only a few Indians entered under the test. Australia, which has also a similar education test, has successfully solved the problem of Asiatic immigration. My Association, therefore, ventures to trust that the Transvaal will not be an exception, and that the Government will be pleased to spare the natural feelings of British Indians in the matter.

My Association, in conclusion, respectfully trusts that the Government will take into serious consideration the above representation, and finally close the Asiatic question so far as it is affected by the Asiatic Law Amendment Act, and thus not only fulfil its part of the compromise but give the lawful Asiatic residents of the Colony the rest and peace to which their conduct during the recent trouble has, by universal acknowledgement, entitled them, and, last but not least, to save the British Indians from the step to which they are committed, as above mentioned.

ed, in the event of the Government's unfavourable decision.

I have the honour to be
Sir,
Your obedient servant,
(S.L.) ESSOP ISMAIL MIA,
Chairman, British Indian Association.

"The Friend"

The Friend (Bloemfontein) of the 4th instant contains the following leading article:

The difficulty about the Asiatics which seemed to have been happily ended by the compromise of a few months ago, has cropped up anew and threatens serious trouble. Some six thousand, it appears, are about to cancel the registration which they voluntarily made and to resume their passive resistance. That is to say, they will tear up their permits of residence and trade without licences. Of course, they expect to be imprisoned or deported or both, but they express their willingness to submit to this punishment rather than condone what they consider a breach of faith on the part of the Government. It requires a sentence or two of history to indicate their position. When the Asiatic Registration Act was passed last year with the object of checking fraudulent entry, it called upon all Asiatics in the colony to submit their proofs of legal domicile and to give their finger prints, the latter as a means for their future identification. Protest at once broke out from the whole Asiatic community. It was not so much the mode of registration that they objected to as its compulsion. To give their finger prints of their own free will in reply to a challenge to establish their identity was one thing; but to give finger prints under compulsion was quite another thing, especially when such registration had previously been limited to the case of criminals. A number went to gaol rather than forfeit their self-respect, and several thousands left the country. In the end the Government through the mediation of Mr. Cartwright, the editor of the *Leader* accepted their offer of voluntary registration, and allowed them three months for that purpose, the Act being meanwhile withdrawn. It now appears that the Asiatics understood it was to be repealed. Mr. Gandhi, as our readers saw yesterday, has written to the papers alleging a promise to this effect on the part of the Colonial Secretary. He mentions also a draft proclamation as jointly framed by himself and Mr. Chamney, the head of the Registration Department, and declares that this proclamation announced a forthcoming repeal, but states that on the request of Mr. Chamney he waived publication, the Asiatics having already begun to register. Mr. Chamney, Mr. Gandhi further states, has denied on oath any knowledge of a promise of repeal as made by the Colonial Secretary, but the question

as to the proclamation should be capable of settlement, seeing it is declared by Mr. Gandhi to have been drawn up in the house of the Rev. Mr. Doke and, presumably, in the latter's presence. What makes the point important is that the Act, if it still stands, bars the return of those Asiatics who fled the colony. It was believed by Mr. Gandhi and his friends that these, too, would have the opportunity of voluntary registration. This, we understand, was the impression in the mind of Mr. Cartwright, though he has no memory that repeal of the Act was promised. There is no need, in this whole business, to question the sincerity of either side. Those who know Mr. Smuts and Mr. Gandhi will prefer to believe that both are speaking what they believe to be the truth. But there are moderating considerations that one would like to address to both sides. To the Government it might be represented that whether repeal was promised or not it is reasonable that legally domiciled Asiatics who have left the country should be allowed to return on the same terms on which the others have been allowed to stay. Otherwise the Government would be convicted of conceding more to those who defied its law than to those who yielded. Now a space of three months was clearly not long enough to enable the majority of the latter to return. They have gone to India, to British Burmah, and some even to Mecca. The last named have probably not yet heard of the compromise which was arranged in their favour. They should be allowed reasonable time, say a year or two, in which to arrange their affairs and return, if they so choose. To Mr. Gandhi and his friends one would like to say that the formal repeal of the Act seems a point which it is hardly worth their while to debate. Even if the Act is repealed, and if the terms of the compromise were what they contend, the Government were left free to introduce another bill and not only to bar out immigrating Asiatics, but to impose conditions of residence for those in the colony. Mr. Gandhi should be satisfied if he gets those of his people readmitted who can prove their legal domicile. As to fresh grievances, there will be time for protest whenever they arise. In such a contingency the protest will be the more effective if the people whom Mr. Gandhi speaks for adopt now a law-abiding attitude. He may safely appeal to the sense of justice among his European fellow-subjects in the Transvaal. These, while determined to restrict Asiatic immigration, do not want to be unjust to Asiatics who are lawfully domiciled. We would hope the Government will take into consideration that the Asiatics who registered did so in the belief (even if it was a mistaken one) that their friends would have time to return. Further, it stands to the honour of the Asiatics

that when an agreement was made in their behalf they loyally redeemed it, and registered in a mass. With a people who have both the spirit of honour and the spirit of martyrdom no government need be ashamed to negotiate. It would be lamentable if, through a sheer misunderstanding, such a people had to be punished by their thousands, the Transvaal unsettled and Lord Morley's troubles in India grievously added to.

Rev. Doke's Letter

The Rev. J. J. Doke writes on July 4th to the *Transvaal Leader* :—

We all deplore the reappearance of the Asiatic difficulty. When passive resistance came to an end five months ago we earnestly hoped that the trouble would never recur in such a form. It dislocated trade; it filled our prisons with men who, as General Smuts said, were "not criminals," it embarrassed the Government, and made us all feel extremely wretched. The resuscitation of this would be indeed a calamity. We still hope it may be averted. It behoves us to work for this end, "with both hands earnestly." But at present the outlook is very serious, and those who should know best say passive resistance is once more inevitable.

My apology for writing is that I have some knowledge of the subject as it appears from the Asiatic point of view, and that a re-statement of it may be of some value at this crisis.

The Colonial Secretary has at last agreed to repeal the objectionable Asiatic Law Amendment Act. This, I believe, is inevitable to any just and hopeful settlement. When the compromise was being effected circumstances placed me at the very focus of the trouble, and I am convinced from personal knowledge that the Asiatics did not doubt that the repeal of the Act was an essential part of the agreement. The Colonial Secretary himself fostered this conviction in his speech at Richmond, published in the press of February 6, when he said: "He had told them (i.e., the Asiatics) that the law would not be repealed so long as there was an Asiatic in the country who had not registered." And again: "Until every Indian in the country had registered the law would not be repealed." This prospective repeal was thus evidently made an incentive to obtain the registration of all the Asiatics. This is simply to show that these men had good ground for believing what is now so emphatically denied. But the Colonial Secretary has now agreed to repeal the Act, only unfortunately in offering this concession he has attached conditions to it which the Asiatics deem themselves unable to accept. These conditions are new to the subject. The idea has apparently been promulgated that the Asiatics have brought forward new claims

This is untrue. The conditions insisted on by General Smuts are new claims, not one of them having been contemplated in the compromise.

Briefly, they amounted to this:—
(1) That the Immigration Restriction Act shall not be regarded as applying to Asiatics in respect of admitting educated men to residence here. This has always been the interpretation which General Smuts has given to this Act. He has said repeatedly: "It is a law that completely and finally shuts the door from India." The Asiatic leaders have never accepted his interpretation, but they have always professed themselves willing to accept this very drastic Act according to its interpretation by the Supreme Court. And their position is unchanged. But now apparently, not being quite sure that his reading is the right one, General Smuts requires the Asiatic leaders to accept an amendment of this Immigration Restriction Act, incorporating his interpretation of it. The effect would be that they would consent to the exclusion of the most cultured of their brethren from entering the Colony, though they might be able to pass the most vigorous educational test enforced by the Act. The Asiatics reply: "You cannot expect us to accept this new amendment. We have not understood the Act in the sense you have given to it, but we may be wrong. We are willing to stand or fall by the decision of the Supreme Court; only do not force us to decide the matter ourselves." But General Smuts answers, in effect: "You must take my interpretation or have no repeal!"

The singular part of the whole affair is that a few weeks ago the Colonial Secretary himself granted an educated Indian full registration, at the instance of Mr. Gandhi on this ground, among others, that he fulfilled the requirements of the Immigrants' Restriction Act!

2. The second and third points at issue are also entirely new conditions. The leaders are asked to consider all Asiatics, whether in the Colony or out of it, who hold Dutch registration certificates under Law 3 of 1885, for which they paid from £3 to £25, as prohibited persons. Also, that all Asiatics who were residents in the Transvaal before the war, and who can prove their previous domicile in any court of law, but who had not returned to the Colony during the three months allowed by the compromise, and do not hold the "peace preservation permits," shall be counted as prohibited persons. This is a distinct contravention of the compromise. It means that those Asiatics who have established their right to be here, through long residence, and by costly registration under the old Dutch law, shall be refused their rights, and be turned out of the Colony. While the Asiatics who were so far from home that they could not

return within the three months of grace, and who probably did not know of the compromise within that time, shall be prohibited from entering the Colony, unless they have "peace preservation permits." These measures would probably affect 600 men!

3. But the last new claim is perhaps the worst of all, because of the principle involved. General Smuts demands that all those Asiatics who have applied voluntarily for registration, but who have been, or shall be, rejected by Mr. Chamney, shall be regarded as prohibited persons, without any right of appeal from Mr. Chamney's judgment! Surely this is monstrous. A rejected Asiatic is to be allowed no right to have his case properly tried! He may not even know why he is rejected! Even Mr. Chamney is not infallible, and may blunder like the rest of us; but if the Registrar says he is not satisfied, the poor Asiatic must leave his home and go, without any right of appeal! This is not common humanity, and I do not wonder that the Asiatics refuse to buy the promised "repeal" at such a price.

It is well to have a clear perception of the principle at stake. In these "terms" the spirit of autocracy is dominant. The Asiatics claim simply the interpretation and protection of the Supreme Court. They do not resent the "Immigration Restriction Act." They only claim that it be not interpreted by any official, however exalted he may be, but by the recognised Court, and by that judgment they will stand. They do not resent the rejection of Asiatics by Mr. Chamney, and their deportation, but they claim that no official shall be made supreme. They ask for the right of appeal in such cases to the well-balanced judgment of a properly constituted tribunal. It is a protest against new claims not contemplated in the compromise, and against the spirit of autocracy which dominates them. But surely, while these points are of supreme moment to the sufferers, they are not, after all, vital matters, so far as our Government is concerned. There can be no inrush of Asiatics under the stringent tests possible by enforcing the Immigration Restriction Act, and there can be no loss of prestige in acting justly. To these men the new conditions involve so much that I understand they are prepared to return to the position in which the compromise found them, and that passive resistance will be commenced again in a few days! Cannot something be done even now to effect a settlement without suffering such a calamity? We recognise that whatever is done must be a real settlement this time. I trust a patchwork will be tolerated by no one. But we may rest assured of this, that there will be no such thing as final settlement unless justice and good faith are alike satisfied.

Immigration Restriction Test Case

Under What Law?

[SPECIAL TO INDIAN OPINION]

On Wednesday last, the 8th instant, before Mr. Jordan in 'B' Criminal Court, Johannesburg, Sorabji Shapurjee was charged under Sub-section 3 of Section 8 of Act 2 of 1907, with being in the Transvaal without a registration certificate or failing to produce a registration certificate issued under that Act. Mr. D. J. Schuurman prosecuted. The accused, who was defended by Mr. Gandhi, pleaded not guilty.

After hearing evidence for the prosecution, Mr. Gandhi at once asked for the discharge of the accused under the very Section under which he had been charged. He contended that the case for the Crown had not been proved, since in the terms of the Section, the Crown had to prove the notice terminating registration and this could not be done by oral evidence, but only by proving it by the *Government Gazette*.

The Court wished to consider this point, and adjourned the hearing until the following morning for judgment thereon.

The following testimonials speak for themselves:—

Charlestown Local Board,
April 6th, 1908.

To whom it may concern. I have known Mr. Sorabjee Shapurjee for at least five years and can certify to his excellent character. In business I have always found him straightforward, obliging, civil, and attentive. He holds the good opinion of the residents of Charlestown and District generally.

(Sgd.) SAML. R. HIGGINS.
Chairman,
Charlestown Local Board.

I have known Sorabjee Shapurjee of Charlestown for the last five years. He is manager for the firm Hajee Hassim. He is exceptionally well educated and speaks and writes English well. He has always borne the most excellent character, and I have pleasure in stating that in my opinion he deserves the greatest consideration in any application he may make to Government or generally.

(Sgd.) I. E. BRISCOR,
Dist. Surgeon, J. P., etc.,
Charlestown.

Resident Justice of Peace,
Charlestown, 6th April, 1908.

I have much pleasure in certifying that during my tenure of office at Charlestown, I have always found Mr. Sorabjee Shapurjee very obliging, and eager to assist me in interpreting the Indian languages, and in any other matter.

That he bears a very good character, and I have always heard him well

spoken of by the residents of Charlestown.

(Sgd.) G. F. BENNETT,
Res. Justice of Peace,
Charlestown.

Immigration Restriction Department,
Charlestown, 7th April, 1908.

It gives me great pleasure to certify as to the character and ability of Mr. Sorabjee Shapurjee.

During my tenure of office at Charlestown he has assisted me by interpreting a great number of Indian cases, and I have always found him obliging and willing to help my department. He appears to be a complete master of many dialects, and his knowledge of the English language is by no means small—he speaks, reads and writes it very well. In all my dealings with him I have always found him honest, upright and straightforward.

I have always heard him spoken of by the residents of Charlestown (and also in Durban) in the very highest terms.

(Sgd.) H. M. CALLACHOR,
Immigration Restriction Officer,
Charlestown.

The Editor, INDIAN OPINION.

Sir,—The test case brought against Mr. Sorabji, a Parsi gentleman of culture and English education, who has entered the Colony under the Immigrants Restriction Act, marks another stage in the Asiatic struggle. Mr. Sorabji, who holds splendid testimonials from the Chairman of the Charlestown Local Board and other prominent Europeans, is now to be tried *not* under the Immigrants Restriction Act but under the Asiatic Law Amendment Act, for being an Asiatic without registration under the Act. I say nothing with reference to the trial under the Asiatic Act because it is *sub judice*: but the fact of the case being brought under the Asiatic Act proves the point I have ventured to raise before General Smuts that educated Asiatics were free to enter under the Immigrants Restriction Act. That they become liable to a removal order if they do not accept the Asiatic Act has been known all along, and that was why the petition against the Immigrants Restriction Act stated that what the Government gave with the one hand they took away with the other. Could Mr. Sorabji bring himself to accept degradation under the Asiatic Act, he would not be a prohibited immigrant. What General Smuts asks Asiatics to give against repeal of the Asiatic Act is that they should surrender the rights of say Sir Mancherji Bhownagree.

It will now be seen clearly that Asiatics are not asking for anything they are not entitled to by law. The anomalous position before the Colony in view of the arrest of an alleged permit forger at Pretoria, to-day is that those who are rightful residents

and who helped the Government can be kept on tenter-hooks whereas those Indians who are dishonest and steal into the country by forgery or otherwise may remain in it without molestation, because they would never approach the Government officials for identification, licence, or otherwise.

I am, etc.,
M. K. GANDHI.

Johannesburg,
4/7/08.

Indians at the Cape

The Recent Conference

Deputation to the Government

[SPECIAL TO INDIAN OPINION]

The Indian Conference of Cape Colony commenced its sittings on the 25th ult., at the Hall of the South African Indian Association, Hanover-Street, Mr Ebrahim Norodien, the President of the South African Indian Association, was unanimously elected chairman of the Conference. By a formal resolution, it was decided that the proceedings should be conducted in private.

The subjects discussed by the Conference comprised the hardships experienced by the Indian community through the restrictions of the Immigration Act, the General Dealers' and other Licences Act, minor grievances of the Indian community, and union of the various political associations. The business of the Conference was carried on continuously on Thursday, Friday, and Saturday, and the deliberations were conducted in an admirable spirit throughout. Resolutions were adopted as to the course of action to be taken by the Conference with regard to the several subjects of discussion. The subject of affiliation of associations in outside centres with the South African Indian Association as the central body, was the subject of keen debate, as it was one of the most important topics of discussion. The interest displayed in this matter was unusually lively, each and every member speaking earnestly upon the desirability of unification. The result of the deliberations on this important question was an unanimous adoption of the principle of union, subject to the confirmation thereof by the different associations concerned.

On Sunday afternoon, the 28th ult., a public welcome was accorded to the delegates to the Conference at the National Theatre, William-Street. A gathering almost as large as that which assembled at this building on the occasion of the reception of Mr. Keir Hardie foregathered there to do honour to the representatives. The chair was occupied by Mr. Ebrahim Norodien, the President of the South African Indian Association, the platform being crowded by a large number of leading Indian residents of the

Cape district. Three resolutions were put to the meeting, and all carried with acclamation. The first resolution, proposed by Dr. Edward Nundy and seconded by Hadjee Sulaiman Shahmohamed, was as follows: "That this meeting extends a hearty welcome to the provincial delegates, and accords them a hearty vote of thanks for the work accomplished by them." The next resolution, "That this meeting cordially supports the decision arrived at by the first Indian Conference of the Cape Colony, viz., to unite all the political associations in the Cape Colony into one body, under the name of 'The South African Indian Political Association,' and tenders its thanks to all the delegates (town and country) for bringing about this desirable result," was proposed by Mr. M. S. Maurice and seconded by Mr. Rattanjee Norosjee. The third resolution was proposed by Mr. Hormasji Mancherjee Surtee as follows: "That this meeting tenders a cordial vote of thanks to the country associations for nominating the delegates to the first Indian Conference of Cape Colony." This was seconded by Mr. S. Casimali. The resolutions were supported by Esuff Ahmedje Patel, Hassen Mia, and A. G. Ghansar. The delegates replied in suitable terms to the appreciative speeches of welcome. The meeting, which was altogether a most enthusiastic one, dispersed at about five o'clock, after a hearty vote of thanks to the chairman, proposed by Mr. A. S. D. Pillay, and three cheers for the Conference delegates.

The Deputation

Capetown, July 6 (Reuter).—A deputation of Indians, to-day, waited upon the Colonial Secretary in connection with their grievances, citing their disabilities at East London under the municipal regulations, the Immigration Act, the General Dealers' Act, Hawkers' Licences, etc.

Mr. De Waal said he was sympathetic, but the country had to protect itself. There was no room for Indians in countless hordes here. As to the hawkers' licences, the Divisional Councils were composed of farmers, but they did not recognise the necessity of these hawkers in the country districts. As to the East London disabilities, he would make representations.

East London Petition

The following has been presented to the Cape Parliament:—

To The Honourable the Speaker and Members of the Honourable The House of Assembly of the Colony of the Cape of Good Hope.

The humble petition of the undersigned, Abdool Gafoor Ismail, Chairman of the British Indian Association, Suleman Casoojee, Secretary, and Maganlal Mohanbhai Desai, Treasurer of the said Association, and other residents of East London:

MOST RESPECTFULLY SHEWETH :—

1. That your petitioners, all natives of British India, at present settled and domiciled in East London, humbly venture to appeal to your honourable House in respect of the following grievances under which they now labour as a race in their present place of abode.

2. That petitioners have always conducted themselves, individually and collectively, as entirely loyal and staunch subjects of His Most Gracious Majesty the King, and continue to be thoroughly law-abiding colonists, enjoying the protection of their common Flag in this country.

3. That petitioners have been recognised by those in authority, in East London to be an orderly community in the peaceful pursuit of their respective callings as merchants and traders, and that, as natural born subjects of the British Empire, they have always expected—as they have every right to claim—all the rights and privileges of full British citizenship in His Majesty's Colony of the Cape of Good Hope, as in every other sphere of His Majesty's Dominions.

4. That your petitioners, although settled within the Municipality of East London for some considerable time, as registered voters and rate-payers, have within the past two years been subject to treatment wholly inconsiderate and unjust, as compared with people of other nationalities. Their status as a class has suffered considerable, to the detriment of their highest and most vital interests, while personally they have been made to suffer many indignities and restraint of liberty, whereas Chinamen and Armenians—who are non-British subjects, have not been so discriminated against as regards Municipal administrative requirements.

5. That your petitioners in view of the invidious treatment meted out to them as citizens by virtue of municipal regulations promulgated under Act. No. 11 of 1895 look to the future with some degree of alarm and fear. That, despite the fact that their place in the scale of civilisation and enlightenment is well attested and recognised by every civilised nation, and by all cultured classes throughout the world, your petitioners are in the Municipality of East London—and in that Township alone in this colony—deliberately and without any just reason placed on a level with raw Kaffirs.

6. That petitioners would specifically mention the Regulations :—

(a) Prohibiting them from using the sidewalks of the Public Streets.

(b) From being out in the streets after 8 p.m. and otherwise from enjoying their unrestricted privileges of good citizenship.

(c) From residing and carrying on their business within certain limits of the Municipal area, ex-

cept upon securing a Municipal Certificate—literally a police pass—both which first-mentioned disabilities or restraints have been considered by the best legal opinion in the Colony to be *ultra vires* and unreasonable.

7. That while petitioners are thus legally and practically deprived of full individual liberty, and placed below their Kaffir servants, they have, as masters and employers, to grant permits for free movements in the town to those servants who are also protected and whose interests are safeguarded by special legislation.

8. That owing to the above mentioned restrictions against them as a community your petitioners suffer various minor grievances within the said Municipality, and are otherwise worried and harassed in their daily life and vocation. They would mention the indignity placed upon them as a people in the following ways :

(a) They may not use the seats in the Public Parks, all of which are marked "For Europeans only."

(b) In respect of the Parliamentary Voters' Lists, British Indians are required to fill forms in European language, ignoring their degree of civilisation and knowledge of the great languages of India.

9. Wherefore your petitioners humbly solicit the earnest consideration of your honourable House to the end that the invidious distinction, and what they consider to be class legislation may be amended and modified, that the obnoxious Regulations of the East London Municipality may be withdrawn, and that your honourable House may be pleased to afford them the relief they sorely need, and such gracious consideration as you may, in the circumstances, deem meet and expedient to bestow upon them.

And, as in duty bound, your petitioners will ever pray,

A. G. ISMAIL, Chairman,
British Indian Association.

S. CASOJEE, Secretary,
British Indian Association.

M. M. DESAI, Treasurer,
British Indian Association.

The Municipal Congress and Asiatic Bazaars

The remarks of the Chairman upon the Report of the Executive Committee of the South African Municipal Congress contains the following: As for the acquisition of sites by coloured people, particularly Asiatics, we are suffering for past neglect in every township in Natal. Only a few years ago, Durban's principal street was disfigured by the filthy and insanitary buildings wherein Arab traders conducted their business. We have got

rid of that eyesore, but others remain, and I would like to see an area set apart for Indian bazaars—(applause)—and houses in which none but Asiatics should live and do business, and which would be reserved for their use alone. This would remove some of the evils caused by Europeans, Asiatics and natives living side by side. It would solve the licence difficulty, and better control could be exercised over the commercial part of the community. "I thoroughly support these recommendations of the Executive Committee."—*Natal Mercury*.

Shaving Indian Women's Heads

Government Response

The following reply has been received by the Natal Indian Congress from the Attorney-General in answer to the letters of the Congress remonstrance regarding the scandal of the Stanger gaol, where an Indian woman had her hair cut off by the prison authorities :—

With reference to your letter of the 15th inst, relative to a letter published in the *Natal Mercury* in regard to the alleged shaving of the Indian woman imprisoned in the gaol of Stanger, I have the honour to inform you that strict orders have been issued to all gaolers that the hair of female prisoners is only to be cut by the order of the Medical Officer.

Mr. Keir Hardie

On the Indian Question in S. Africa

Writing in the *Labour Leader*, Mr. J. Keir Hardie, M.P., says :

The Indian question in South Africa is also one which is bound to have far-reaching effects. Many of the Indians who were on the point of being expelled from the Transvaal were ex-soldiers, who had gone to South Africa to "save the Empire" during the Boer war. Having saved the Empire they now find that as a condition of being allowed to remain in that part of it which they helped to save, they must register themselves and give their finger-prints, as so many felons. In India this is resented with a degree of bitterness of which the people at home can form no conception. For the moment the trouble is in abeyance in South Africa, but in every bazaar in India the thing is spoken of and pondered over. The real Empire wreckers are the profit-mongering jingoes.

INDIAN MAIL. For Bombay, per S.S. *Kansler* until 3-30 p.m., Tuesday, the 14th instant.

Licences in Natal

A Shameful Situation

Putting on the Screw

The following correspondence between Mr. Moosa Hajee Adam and the Durban Town Council has been handed to us for publication:

Javaree Bazaar,
Pine Street, Durban,
March, 1908.

Sir,—I respectfully beg leave to place before you certain facts concerning myself—and generally concerning the Indians placed in similar circumstances—which it is necessary to bring before you and persons possessing administrative authority so that the extremely harassing and unreasonable position in which I am placed at present may be realised and some method adopted to remove the hardships.

I propose to call your attention to some simple facts which are common knowledge to all and request that you shall consider my unenviable and intolerable position and effect relief in the required directions.

I am a British Indian Merchant residing and having resided and carried on business in Natal for over 25 years. My permanent residence is in Natal and I have children in the Colony dependent upon me.

I am the owner of extensive landed property in the Borough of Durban and also in other parts of the Colony.

Since the Licensing Act of 1895 was enacted I have had generally about 10 or 12 stores continually empty, as no Asiatic tenants could get licences for my premises.

I pay annually to the Durban Corporation about £500 in taxes, rates, rent, etc.

I held the "Kafir Market" in Queen Street, Durban for some years and I was the one to commence the idea of such a Market for the natives, which the Durban Corporation deliberately and forceably closed down and established a similar one themselves for their own benefit. The Durban Corporation had paid nothing to me as goodwill or compensation for the loss resulting to me through the Corporation taking over the "Kafir Market." I was deriving good profits from the "Market" and was in a position to pay the Corporation its rates, etc., and other liabilities regularly, and of which income the Durban Corporation has deprived me.

In one of my premises—Javaree Bazaar, Pine Street, Durban, a store was empty for a considerable period although many Indians took option of renting premises and applied to the Durban Corporation for licences, all of which were refused, but some months ago a Mr. Sparks tenanted the same store and applied for a licence which was granted him without limitation. He has now vacated

the store. Stores belonging to Europeans are licensed without delay.

Several of my stores are now empty and how is it possible for me to find Sparks for all the stores?

When the times were good and premises were licensed I was able to pay my liabilities, and how is it possible to meet them now when no licences are granted to my premises and are thus forced to remain empty.

The present order of things is that I must pay the Durban Corporation its rates, etc., and the Corporation is using all influence and power to deprive me of the income out of which I am to pay them their dues.

I appeal to you, gentlemen, as men imbued with the ideal of justice and fairplay to consider the above facts and to either buy in all my properties at the last Corporation value, in view of the gradual and evident ruin being brought about by the attitude of the Corporation, in which case I will leave the Colony for good, or to grant licences to my premises.

I am pained and am no longer able to keep things in order—in view of this oppression and pray that you may relieve me in either of the two ways suggested.

Yours very respectfully,
(Sd.) MOOSA HAJEE ADAM.

A Feeble Reply

Borough of Durban,
Town Clerk's Office,
Durban, Natal, 8th April, 1908.

Mr. Moosa Hajee Adam,
Javaree Bazaar,
Pine Street.

Sir,—I beg to inform you that your letter, dated March, 1908, setting forth your position by reason of your inability to let your premises on account of the difficulty of obtaining licences therefore, and asking the Council to either buy in your properties at the amounts given in the last Valuation Roll or, alternatively, to grant licences to your premises, was duly laid before the last meeting of the Town Council, when I was directed to point out to you that the Council is not in a position to direct the Licensing Officer on questions relating to the granting of licences.

I would also remind you that many other Burgesses find it impossible to let their premises at the present juncture. In view of these facts, Councillors are powerless to accede to either of your suggestions.

Yours faithfully,
(Sd.) WM. COOLEY
Town Clerk.

A Powerful Appeal

Javaree Bazaar,
Pine Street,
Durban, May 28th, 1908.

To The Mayor and Councillors
of the Borough of Durban,
Durban.

Gentlemen.—Your letter, dated the 8th April, 1908, in reply to my application to either purchase my property

ties at last Corporation value or to grant licences to my premises, to hand and contents noted.

I think my letter of March, 1908, which you appear to have considered, has not been sufficiently gone into, and would beg that the same be fully considered or re-considered. Your reply is vague and somewhat subtle as to the meaning it conveys. You state "that many other Burgesses find it impossible to let their premises at the present juncture," which I do not dispute, but emphatically state that it is not the case with me. I have numerous tenants, but their tenancy is prevented by your officials refusing to grant licences.

Prior to receiving your reply—above referred to—I saw the Licensing Officer on the subject of granting licences to my premises several times. He referred me to the Mayor, saying that he had no instructions to grant new licences to Asiatics and that as soon as the Mayor requests him to grant any he will do so. I accordingly saw the Mayor, who after seeing me, referred me back to the Licensing Officer, saying that he was in charge of licensing matters. Answers identical to this were given me on the many other occasions I had called on these two Municipal Officials, one referring me to the other. On the last occasion I saw the Mayor, he suggested me that if I saw all other Indians and arranged to have an Indian Bazaar or trade location, at which all Indians' businesses could be confined, then he opined that there would be no trouble about licences for Indians.

A few days after this, the Licensing Officer writes to one of the applicants for a licence for one of my stores the same suggestion that the Mayor had suggested me—although the Licensing Officer says that his suggestion is un-official, and that he had not seen any one over it. Whether it is a coincidence that the suggestion of the Licensing Officer and the Mayor should agree, or whether it emanated from one or other of the Municipal Officers I could not say, but the fact remains that the suggestion for an Indian Bazaar is being seriously suggested by both the Officers. It was hinted, at my conversation with the Mayor and also in the letter of the Licensing Officer, that unless the suggestion is carried through, there would be no consideration given to the Indian licences.

I have thought over the suggestion, but the more I think over it, the more evident is the utter absurdity and impossibility of the suggestion. The Indian properties, businesses, buildings and interests are not centred in any one particular part of the Borough. How is it possible for the Indians to abandon their properties and concentrate in one given place. If the suggestion is to be carried out, it would necessitate the buying out of the Europeans and other property owners of the locality, which would be a very

be selected. What prices would be demanded by these owners for their properties it is very difficult to foretell. Who will buy my properties and that of other Indians, those that are situate in the different parts of the Borough for which you are not prepared to grant licences? How is it possible for traders to cater at a place where it will not be convenient for or within reach of the purchasers and public? This would mean—if the Council intend the traders to maintain themselves at all—to have all Indians confined to a location which, of necessity, should be situate alongside the Indian Bazaar or trade location above referred to.

The only way, a just and reasonable way, for the Corporation to pursue, I think, in this matter would be to purchase my properties as suggested in March, 1908, by me. This will fulfil your desire to oust the Indians, but with justice as you compensate him.

Although there is no law that forbids licences to Indians, the Licensing Officer has taken it upon himself, with the instructions from some unknown party, to refuse and to give as reason for his refusal that no new licences will be issued to Asiatics.

What the Natal legislature intends to enact, that is, for the compensation of the Indian traders after a certain period, I think unnecessary, as I have already made the suggestion and am prepared to hand it over now without waiting for any period. I think it unjust that the people should be gradually ruined and extinguished by improper methods, before the time for compensation. It will be honourable and just to do so now when they have their businesses with them.

From the intolerable position the Indians are now placed in, they will readily follow my suit and receive whatever they get as compensation and leave the country. This is the only alternative they have under the present circumstances.

The above subjects are of serious consideration, which I commend to you for your very deep consideration.

Two applicants for licences by reputable Indians for stores in my premises were refused during last month, I only mention this to show you how determined and uncompromising is the attitude taken up by the Licensing Officer. One application was by Messrs. Osman Cassim and Co., of Durban, and the other by Tayab Brothers, my sons—who have traded in partnership with me for 15 years in Natal.

After very deep consideration of the cause and consequence of the attitude of the Licensing Officer and the unreasonable methods adopted by your Council, I see nothing but a clear and determined attempt to ruin me gradually.

You are able by the power you possess, to force my stores to remain empty and which you have done and

are doing. You are also able by legal process to enforce payments of rates and taxes, though of the income from which I could pay you, you deny and deprive me. If this order of things continue for some years, you can clearly see I will have exhausted my capital in paying your rates, etc., and eventually appear a ruined man.

I have invested a very large sum of money in this Colony, and have taken up permanent domicile here for over a quarter of a century.

Without tenants and rents or any income at all, how could I comply with the sanitary requirements and other Bye-laws?

I beg that your Council may be pleased to go into the matter fully, and seriously consider the whole position as affecting Indians, and the best and just method to relieve them from some of the hardships.

I respectfully ask that you may kindly re-consider your last decision arrived at previously.

Yours faithfully,
(Sd.) MOOSA HAJEE ADAM.

Licence Refused

Javaree Bazaar,
Pine Street,
Durban 22nd May, 1908.

To

Licensing Officer,
Borough of Durban,
Durban.

Dear Sir,—Upon your written request, made on 20th instant, to call upon you in respect of my application for a wholesale licence, I accordingly called and saw you to-day, when you informed me that you were not inclined to grant a licence, but advised me that I should see the Mayor.

I have previously seen the Mayor, who informed me that you were in sole charge of Licensing matters.

I therefore ask you that you definitely write me about my application.

Yours faithfully,
(Sd.) MOOSA HAJEE ADAM.

Licensing Department,
Town Hall,
Durban, 26th May, 1908.

Mr. M. H. Adam,
Pine Street,

Dear Sir,—I am in receipt of your favour. I confirm my verbal statement that I have refused your application for a licence.

I am,
Yours truly,
(Sd.) G. MOLYNEUX,
L. O., Durban.

"Non Possumus"

Prime Minister's Office, Natal.
Pietermaritzburg,
9th June, 1908.

Sir,—In reply to your letter of the 12th March last and subsequent correspondence, wherein you call attention to certain hardships under which you, as an owner of property, labour, by reason of the refusal of the Licensing Authorities in Durban

to issue Trading Licences to Indians who are prepared to become your tenants. I have the honour to inform you that Government is precluded by Section 3 of Act 18 of 1897, from exercising any jurisdiction over Licensing Authorities in boroughs or townships.

I have, etc.,
(Sd.) G. T. PLOWMAN,
Secretary, Prime Minister.
Mr. Moosa Hajee Adam,
Javaree Bazaar,
Pine Street, Durban.

A Dangerous State of Things

At Clare Estate

Police Protection Wanted

For some time past, says the *Natal Mercury*, crimes of the worst character, have been committed in the vicinity of the Springfield and Clare Estates, and beyond the report of the bare facts in the newspapers—and not always that—nothing further has been heard of them. This state of things has assumed a serious position for, as was only to be expected, the fact of several criminals going undetected and unpunished, has led to dark deeds being committed.

It is now reported to us that, on July 1, a man and a woman (Indians) were brutally murdered on the Clare Estate. Immediately on the outrage being discovered, the Natal Police were communicated with, but, despite the anxious wishes of the relatives of the deceased to perform the usual religious burial rites, the police authorities refused to grant permission for the bodies to be removed. No particular notice was taken of this at first, because it was thought that there was a high motive behind the action of the police, but the bodies were in the same position as that in which they were originally found on the following day, and still permission was withheld. The Indians concerned then conveyed information to the Natal Indian Congress, and a telegram was despatched to the Colonial Secretary. The reply instructed the Indians to communicate with the Magistrate, but on the third application to the police, i.e., two days after the murder, custody of the bodies was given to the relatives, and the usual burial rites were duly performed.

As far as we can learn, adds the *Mercury*, many representations have been made at different times for more adequate police protection in the district named, but no steps have been taken to accede to the demand made. The Indian community now propose to hold a public meeting with a view to bringing pressure to bear on Government to remedy the state of things now existing.

As to the statement, that the bodies of the two unfortunate Indians were allowed to remain at the scene of the

tragedy for two days, we presume there already has been some inquiry as to the reason, and we shall be happy to publish any explanation that may be forthcoming.

[We have received copies of telegrams sent to the Colonial Secretary and the District Health Officer by the Natal Indian Congress, in connection with the above matter. At the same time a letter was sent to the Colonial Secretary stating the facts and calling attention to the state of affairs at Clare Estate. The letter states that "the locality in question is very badly policed and very inadequate protection is afforded to the inhabitants of that district who are mostly Indians."—Ed. I.O.]

Correspondence

Indian Education

To the Editor INDIAN OPINION

Sir,—Writing in your paper on the above subject and under date the 11th ulto., you enquire, "Are these young men (the England returned students) to use their professions as a means merely or largely of amassing wealth or are they going to devote their learning to the betterment of their country's condition—political, social, moral and educational?"

I cannot help the feeling that the question betrays a lack of appreciation of some of the fruits of a right learning. The first positive result of a real education is the birth of a love of learning, the second the desire for more learning, the third, the thirst for much more learning. The desire for material wealth decreases uniformly as the love of learning increases. It is only that which masquerades under the garb of learning whose be all and end all is the magnetising of every unguarded piece of copper lying within the sphere of its ignoble influence. It is the "little Latin and less Greek" scholar who is the social octopus putting forth his pitiless tentacles to reach the pence, be they to be found in the dungheap of social refuse or in the granary of honesty and industry. Wealth and Learning are two divergent and unconnectable terms, conditions each of which is never the outcome of the other.

From a perusal of the first part of your article one would conclude that a call to the Bar marked the high water mark of learning. May I observe that by itself it does not even record the low water mark! Indian parents would do well to disillusion themselves if they cherish such fond hopes. The present requirement for an Indian desiring to be enrolled as a student of one of the best Inns of Court is the barest knowledge of some period of English history. After this, cheered by the old adage that every failure is a stepping stone to success, he passes the Bar final and qualifies for "call."

The barrister-elect has as much reason to regard himself educated as the rustic who is initiated into some ancient order of freemasons. Let me not be misread. As a distinction, there are few in England to equal the honour attaching to a call to the Bar; and the wonder is that it is so easily had. In England the honour is chiefly sought after by independent gentlemen and retired officials. But English parents who desire their sons to take up the law seriously, regard call to the Bar as a post graduate degree. Thus it happens that nearly all the English students at the Inns of Court are graduates or undergraduates of our great universities. Very few students from India now enrolling are without their sound college education. The Inns of Court do not claim to educate their members in any shape or form. They take it for granted that men seeking call to the Bar are educated. They are fountains of honour; but what are honours to sensible parents without the wherewithal in the shape of a good educational foundation to support them.

I commend to parents, therefore, that future students be given a thorough education in general knowledge at some public school here or at least be made to go through the London Matric. before call to the Bar.

Yours, etc.,

J. ROYEPPE, B.A. (Cantab.)

36 Stapleton Hall Road,
Stroud Green, N., 8th May.

Transvaal Parliament

HOUSE OF ASSEMBLY.

Monday, July 6th.

Asiatic Passive Resistance

Sir Aubrey Wools Sampson, speaking on the Native Occupation of Lands Bill, said he wished to raise his voice in very serious warning to the Government, for he felt that they were not as sure of their position as they ought to be. There was the recent exhibition in their dealings with the Asiatics, which was by no means edifying. Still, immediately pressure was brought to bear, and immediately the Asiatics began to agitate, the Government compromised, and if the Government did not feel strong enough to deal with 14,000 or 15,000 Asiatics, even though they had the support of all parties, he did not see how they were strong enough to deal with the native question, which involved the rule of several hundred thousands of people.

THE INDIAN BILLS. In the Natal Legislative Assembly on Wednesday evening, the Colonial Secretary gave notice that, on Monday, he would move the second readings of the Indian Bills, and of the Increased Representation Bill.

Late News

[SPECIAL TELEGRAM]

Johannesburg, Thursday.

Mr. Sorabji Shapurji's case came before the Court to-day; the Magistrate upheld Mr. Gandhi's contention and discharged the accused, finding him not guilty. Mr. Sorabji immediately received warning to appear before the court to-morrow (Friday) to answer to a similar charge, on instructions from the Magistrate. Mr. Sorabji received several telegrams and letters of congratulation.

The Mass Meeting called for Sunday for the purpose of burning voluntary registration certificates is postponed on representations by European sympathisers and in view of the Government considering the delicate situation.

Was a Promise Made?

Mr. H. S. L. Polak has sent the following letter to the Press:

The question having arisen as to whether General Smuts ever promised to repeal the Asiatic Law Amendment Act, I would take this opportunity of stating positively that, shortly after the commencement of voluntary registration in the early part of February last, that is to say, immediately after the compromise had been effected, Mr. Chamney, the Registrar of Asiatics, told me within the Registration Office that of course the Law would be repealed immediately Parliament met, if the voluntary registration had been satisfactorily completed. I have a distinct recollection also, although I did not take special note at the time, of hearing Mr. Chamney make similar remarks to several persons who were at the Registration Office at different times.

THE RHODESIAN ORDINANCE.—Mr. Ritch, who took a prominent part in the controversy regarding the Asiatic question in the Transvaal, addressed a letter to the Press, in which he describes the Rhodesian Asiatic Registration Ordinance as almost an exact reproduction of that in force in the Transvaal.—Reuter.

THE POWER OF COMBINATION. A speaker at a recent Johannesburg meeting of market dealers and hawkers said: The power of combination had been proved in the case of the coolies, who had got their own way with the Government simply because they stuck together for their common good.

"THE SNAKE CHARMER"



"The Cobra that would not be charmed."

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