MAHATMA GANDHI

VOLUME III

The Birth of Satyagraha—
From Petitioning to Passive Resistance

PYARELAL

NAVAJIVAN PUBLISHING HOUSE
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By

PYARELAL

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INTRODUCTION

Shri Pyarelal, Gandhiji's Secretary and biographer, had joined Gandhiji in 1920 as a young man of twenty. He had graduated and was to take his Masters Degree in English literature in six months when he non-cooperated, left his studies and joined Mahatma Gandhi. Pyarelal's father and uncles had occupied high official positions in the Punjab Government. His family had hoped that he would join the Indian Civil Service. They were sorely disappointed at his decision to join Gandhiji.

Like many other young men of that time, Pyarelal had been greatly upset by the Jallianwala Bagh massacre of innocent men, women and children, who had gathered at Jallianwala Bagh to hold a public meeting. General Dyer ordered his soldiers to fire at them without a warning. Later, he admitted before the Hunter Committee that the firing had continued till the ammunition was exhausted. He said he wanted to teach the Indians a lesson which they would never forget.

Bad as the tragedy of Jallianwala Bagh massacre had been, the British rulers had added insult to injury by clamping martial law, and inflicting untold humiliations on the people in the Punjab. Heads of educational institutions were ordered to rusticate a certain percentage of students, whether guilty of any offence or not, in order to instil a healthy respect for, and a fear of, authority in their hearts. What was worse, these heads of educational institutions were too frightened to resist the unjust orders of their white masters and did what they were told to do. This oppressed and suffocated the youth of the Punjab.

Pyarelal went to attend the Congress Session at Amritsar in 1919, where he saw and heard Mahatma Gandhi. The very first contact with Gandhiji convinced him that here was the master he would like to serve. But Gandhiji at first advised him to go back and complete his studies. But later when he launched

the Non-cooperation movement, which included boycott of Government educational institutions, he allowed Pyarelal to leave his studies before he could appear for his M. A. examination. Pyarelal joined Gandhiji's Ashram at Sabarmati and became a member of his entourage.

Gandhiji trained Pyarelal to serve him in various capacities, including secretarial work, writing for *Young India* and *Harijan*, meeting people on his master's behalf, guiding youth in Satyagraha as well as taking up spinning, sanitation and kitchen work. Offering Satyagraha and going to prison was a part of every one's life in the Ashram. Pyarelal went to jail in every Satyagraha movement. He was 20 when he joined Gandhiji and he served him for 28 years as a close associate till the master fell to the assassin's bullet on 30 January 1948 at Birla House in New Delhi.

Gandhiji did not accept Jinnah's two-nation theory which led to the partition of India. He was convinced that change of religion did not change one's nationality. But he could not convince Jinnah that adoption of Islam by some Indians did not make them a separate nation. He had, therefore, not been able to prevent the vivisection of India, but he was hopeful that he would be able to undo the evil effects of partition by removing the hatred and distrust between Hindus and Muslims.

Pre-partition communal riots had taken Gandhiji to Noakhali in East Bengal in 1946 to wipe the tears from the eyes of the victims of communal frenzy. He tried to put courage in the hearts of the Hindu minority, and make the Muslim majority aware of their duty towards the minority community. Pyarelal went with him to Noakhali and worked for his mission. From Noakhali Gandhiji went to Bihar when Communal riots broke out there. Muslims were the minority community in Bihar. Gandhiji took up the fight against communal violence in Bihar and later

went from Patna to Delhi for the same purpose. When he left Noakhali for Bihar, he had left behind Pyarelal, who was his Secretary and more than a son, to continue his mission of establishing peace and communal harmony in East Bengal. On leaving Bihar for Delhi, he left other colleagues behind to continue his mission of mercy and establishment of communal goodwill.

From Delhi Gandhiji had to go back to Calcutta as he had promised to be in Noakhali before 14 and 15 August, when the two dominions of India and Pakistan were to be born. Shaheed Suhrawardy, who had earlier been the Chief Minister of Bengal, saw him in Calcutta and detained him there, urging him to do something to bring back sanity to that strife-stricken city. Gandhiji agreed to his request and went to live in Shaheed Suhrawardy's house in a Muslim majority area of Calcutta. There he had to undertake a fast to touch the hearts of Hindus and Muslims and free them from communal hatred. Pyarelal had come to be by the side of the fasting Mahatma and he played an important role behind the scenes to bring about conditions which would enable Gandhiji to end his fast. The fast resulted in what has been called the 'miracle of Calcutta'. The ruffians of both communities, voluntarily surrendered their arms before the fasting Mahatma and peace returned to Calcutta. Lord Mountbatten called Gandhiji "The One-Man Boundary Force", who had achieved on the Eastern front, what several battalions of the army had failed to do on the Western front in the Punjab.

From Calcutta Gandhiji came back to Delhi where communal violence had broken out the day before his arrival. He had to undertake another fast on 13 January 1948 at Delhi to make Hindus and Muslims realise that untruth, exaggeration and intolerance must be given up by both sides. Men, who were angry and shouted for his death on the first day of his fast, came to see him with tears rolling down their cheeks, begging him to give up the fast when on the third

and fourth day newspapers reported that his condition had deteriorated. The fast was broken after five days when solemn assurances were given by all concerned that Muslims would be able to live in Delhi in peace and with honour and dignity.

Many Muslims had already gone to Pakistan from India and many Hindus and Sikhs had come away from Pakistan to India, especially to Delhi. These refugees had tried to squeeze out the Muslims in order to get Muslim houses for their own use to escape the Delhi winter. This had led to riots, insecurity and exaggeration with regard to the doings of the other community, by both Hindus and Muslims and had resulted in Gandhiji's fast on 13 January. After the successful end of the Delhi fast, Gandhiji decided to go to Pakistan taking back with him the willing Hindus and Sikhs who had come away from Pakistan and come back with Muslims who had gone from Delhi and other places in India to Pakistan, as soon as he had gained enough strength after the Delhi fast which had made him very weak. He sent for Pyarelal to accompany him to Pakistan. Gandhiji had planned to go to Sevagram early in February and after spending a few days there he was to go to Pakistan. But it was not to be. Man proposes and God disposes. Gandhiji fell to the assassin's bullet on 30 January at Delhi on his way to evening prayer meeting before he could go to Sevagram or undertake his mission of healing the wounds of partition by going to Pakistan.

The assassination of Mahatma Gandhi shocked the entire world. Hindus and Muslims in India and Pakistan were deeply grieved. Communal strife subsided for the time being. The close associates of Gandhiji felt like ship-wrecked mariners. Each one decided to do his or her best to continue the Master's work according to capacity. Pyarelal decided to write Gandhiji's biography so that the message of the Master could reach the people everywhere

and show the war-weary world an alternative to violence for fighting injustice and oppression.

Jawaharlal Nehru, the first Prime Minister of India, Sardar Vallabhbhai Patel, the first Deputy Prime Minister and Home Minister of India, and Dr Rajendra Prasad, the first President of India had all been close associates and followers of the Mahatma. They were keenly interested in Pyarelal's project and offered to help him in every way. Pyarelalji was given a place for his office and a first class Railway pass to enable him to travel for collecting material for the biography and was asked to let them know his other requirements. But Pyarelalji was a true disciple of Gandhiji. He lived and worked in the Gandhian way, spending the least amount of money possible and doing as much work as he could, by himself. He was essentially a lone worker. If he had taken sufficient help, instead of carrying on all the research and collection of material by himself, he might have completed his project. As it was, he could publish only four volumes comprising over 3,000 printed pages, and left the manuscript of the fifth one almost ready for publication. These five volumes cover the last years of Gandhiji's life from 1944 to 48, and the early years starting from the beginning up to the birth of Satyagraha in South Africa in 1906. Pyarelalji had intended to write at least three or four more volumes to cover the remaining years of Gandhiji's life if God had given him the time. But the final call came to him on 27 October 1982. On the last day of his life, 26 October, Pyarelalji worked the whole day and went to bed feeling fairly well, though tired, never to get up again. He suffered a stroke in the small hours of the 27th and by mid-day he was no more.

Pyarelalji had started by writing an account of the last years of Gandhiji's life, because for one thing his memory of the events was fresh, and for another, the period after Gandhiji's release from the Aga Khan's Palace detention Camp

on 6 May 1944, till his death on 30 January 1948, was full of momentous events. Gandhiji's faith in non-violence and truth was tested through and through during this period. He had laid down an outline of his picture of free India in various talks with his colleagues. Pyarelalji narrated this in *Mahatma Gandhi: The Last Phase.* The chapters, covering this portion, were separately published in *Towards New Horizons*. Both the volumes of the *Last Phase*, are a gold mine for historians as well as seekers after truth and non-violence. The volumes were published by the Navajivan Press between 1956 and 1958.

Pyarelalji then started on the life Story of the Mahatma from the very beginning. He travelled all over India, met as many persons as possible who had personally known young Mohandas Karamchand Gandhi – *The Early Phase*, covering the years from Gandhiji's birth in 1869 to 1896. He narrates in it the story of Gandhiji's childhood and student days in India and in England, his return to India in 1891 and his departure for South Africa in 1893 in search of a living.

Gandhiji's experiences of racial discrimination in South Africa made him interested in the problems of Indians in South Africa. There were pressing requests from the Indian settlers there that he should stay on in South Africa and help them to fight for their rights. He decided to do so and set up law practice in Durban. He returned to India in 1896 to take back with him his wife and children to South Africa. In India he met various political and social leaders and explained to them the plight of the Indians in South Africa.

The Early Phase narrates the historical, social and political forces that were operating in India and in South Africa in the latter half of the nineteenth century and had prepared the ground for the birth of a Gandhi in a princely State in Kathiawar and for his inner growth and development in the dark continent of South Africa. Young Barrister Gandhi's experiences in South Africa led to his rapid

spiritual, social and political growth and made him a leader of men and ultimately a *Mahatma*, a great soul. The book is full of information and inspiration for the young and the old.

The fourth volume *Discovery of Satyagraha: On the Threshold*, published by Pyarelalji, deals with the events after Gandhiji's return from India to South Africa in 1896 and goes up to 1901. It begins with the violent reception given to him by the whites on his return, which resulted in his being almost lynched. He forgave his assailants and refused to prosecute them. The book describes his early struggles to get justice for the Indians. It covers the Boer War and the participation of Indians in it as stretcher-bearers to help their oppressors in their hour of need. Gandhiji had advised Indians not to take advantage of the opponent's difficulties. The Indians accepted his advice. It was appreciated at that time when the whites were in difficulties, but was soon forgotten.

An important reason given for the Boer War by the British and the other non-Boer whites of South Africa was the Boer Government's unjust treatment of Indians. The Indians had, therefore, every reason to hope for better treatment after the British had won the war. But what happened was just the opposite.

Gandhiji's efforts to educate and organise the Indian community to be able to stand on their own legs and fight for their rights, had made him feel that he could now leave them to fend for themselves and go back to India. The book narrates his return to India in 1901 and setting up practice of law in Bombay and establishing a household at Santa Cruz, a Bombay suburb. He had, however, been allowed to come away from South Africa on condition that if the Indian community there needed him within a year, he would go back. He was just feeling well-settled in India, having established a fairly good practice, when a cable called him back to South Africa to meet Mr Chamberlain, the Secretary of State for the

Colonies who was coming to South Africa. The book ends with a glimpse of the shape of things to come. Chamberlain's response was unsatisfactory. Instead of getting better treatment at the hands of the non-Boer Whites, Gandhiji found that the Indians had to suffer greater hardship under the new government after the Boer War than they had under the Boer regime.

The fifth is the volume in hand, which Pyarelalji left in typescript form. It picks up the story from Gandhiji's return to South Africa at the time of Chamberlain's visit in January 1902 and takes it up to 11 September 1906 when in a mass meeting the Indians resolved to resist the oppressive law, which they named the Black Act, come what may. It deals with the problems that the Indians had to face in South Africa after the Boer War. The white traders' jealousy of the hard-working Indian traders with frugal habits, which had enabled them to do well, had resulted in further trade restrictions being imposed on the Indians. There was also imposition of severe restrictions on immigration. The Indians were forced to live and trade in specific locations. The sanitation of these locations was neglected by the municipal authorities. There was overcrowding and an outbreak of plague took place, which was made an excuse for further depriving the Indians of their right to trade and live with self-respect.

The book also deals with the problems of indentured labour and the cruelties inflicted on them by their white masters. Indentured labour was nothing short of a form of slavery. The whites wanted the fruits of this slave labour, and to deny the indentured labourers the benefit of settling down as free men in South Africa, after the period of their indenture was over, as had been agreed upon when they were first brought from India. There was conflict on the issue of terms and conditions of further import of indentured labour, between the Government of India, the India Office in London and the Government of South

Africa, resulting ultimately in putting an end to the system. A whole section of the book is devoted to this conflict under the heading, 'Lions in the Ring'.

The volume also describes some of the legal battles that Gandhiji fought on behalf of the Indians in South Africa with considerable success. This led to the plugging of the loop-holes and further draconian laws being passed by the Government and legislatures of South Africa. The Indians were forced to find a way of resistance against the oppressive laws which were aimed at depriving them of their right to live with dignity and self-respect.

The period from 1902 to 1906 was one of rapid inner growth and spiritual development for Gandhiji. His public life was consuming most of his time as well as his energies and earnings. He had resolved to reduce his expenditure and give all his savings for public work. The chapter on *Indian Opinion*, the weekly journal of the Indian community, describes how Gandhiji gave his time and money to make the journal a powerful tool of public opinion as well as education of the Indian community and their white rulers with regard to the political developments and their reaction on the Indians as also the implication of different events from the Indian point of view and in terms of basic values, so necessary in preparing for Satyagraha. *Indian Opinion* was to prove of great value in the coming struggle, in South Africa.

Gandhiji's friendship with H. S. L. Polak an English Jew who took his training in law under Gandhiji as an articled clerk had led to the latter giving him Ruskin's *Unto This Last*, to read on a train journey. The book made such a powerful impression on Gandhiji's mind that he decided to completely change his life-style. It made him realise the importance of simple living and the dignity of working with one's own hands. This led to his setting up the Phoenix settlement in 1904. He took the vow of celibacy in 1906 and also of voluntary poverty. Thus without

his being aware of it, he was being prepared for the great role he was to play in South Africa and later in India by discovering and deploying the soul-force, the mighty weapon of Satyagraha for offering resistance against injustice and oppression. M. K. Gandhi, Bar-at-Law was being moulded into Mahatma Gandhi.

Ahimsa or non-violence has been practised and preached by the Buddha, Christ and many other seers and sages all over the world, from times immemorial. But it was given to the genius of Gandhi to make it into a powerful instrument, a tool and weapon which could be used by the weak and the oppressed against the most powerful oppressor. Gandhiji demonstrated how Satyagraha enabled on the one hand, ordinary men and women, to develop their inner strength or soul-force, and on the other it awakened the spark of goodness, lying dormant in every human breast, in their oppressors so that the oppressors would begin to see the wrong of their own actions and give up the path of injustice of their own free will. Gandhiji said that at the end of a non-violent struggle, there are no vanquished. There is an all-round victory. Wars of violence, as everyone knows, degrade human nature. A non-violent fight uplifts and ennobles it.

Gandhiji was born in India, but he discovered himself and developed his inner strength in South Africa. Thus he may well be called a world citizen. The message of his life gives a ray of hope to all mankind by offering an alternative to war and violence. The book enables the reader to get a glimpse of the inner and outer changes that came about in the life of the young barrister, M. K. Gandhi, in South Africa. This volume ends with the mass meeting of Indians held on 11 September 1906, pledging themselves, with God as witness, to resist the Black Act. Gandhiji, as their leader, called it passive resistance at first and later coined the word ‘Satyagraha’. He taught the Indians to use the power of self-suffering and soul-force to awaken the conscience of their oppressors.

Prof. James D. Hunt, who has been interested in studying Gandhiji for some years and has written an excellent book *Gandhi in London*, read Pyarelalji's *The Discovery of Satyagraha - On The Threshold* and was much impressed by the meticulous research which had gone into that book. He began to correspond with Pyarelalji and they exchanged ideas as well as research material. Prof. James Hunt and Mrs. Hunt came to India and worked with Pyarelalji for over four months in 1981 while Pyarelalji was working on his fifth volume. Prof. Hunt was also studying Gandhiji's life in South Africa at that time and he read Pyarelalji's draft and made several valuable suggestions. They continued to correspond after the Hunts had gone back to the U.S.A.

It was, therefore, but natural for me to turn to Prof. Hunt for help after my brother's sudden death. He knew Pyarelalji's mind with regard to the volume in hand better than any one else. Prof. Hunt was good enough to agree to my request to edit the manuscript. Prof. Swaminathan, the Chief Editor of *The Collected Works of Mahatma Gandhi* very kindly agreed to be co-editor. The material that I could find in my brother's papers I sent to Prof. Hunt in the U.S.A. At least 15 out of 21 chapters were in final typescript, but there were some which Pyarelalji had been in the process of re-arranging or finalizing by weaving into them fresh material which he had obtained in the meantime. The last chapter was more or less in the form of extensive notes. I prepared drafts for these chapters with the help of my colleagues and sent them to Prof. Hunt.

Prof. Hunt and his wife, Mrs. Jane Hunt, came to India at my request in December 1983 to look at all the material in my brother's collection and helped in finalising the manuscript. They spent a month working at Pyarelalji's Office. Prof. Hunt finalised four more chapters during this period, and took back with him the drafts of two. Prof. Swaminathan, co-editor with Prof. Hunt, left the

decision with regard to the arrangement of Chapters and inclusion of material where necessary to Prof. Hunt.

I went to the U.S.A. in July 1984 and took the typescript, as finalised, with me. Prof. Hunt went over it in a meticulous manner. He had finalised the two Chapters that he had taken back with him. We discussed the rearrangement of the matter. We also selected the pictures and maps for inclusion in the book, some of which had been drawn up by Prof. Hunt himself. Soon after my return to India the final script was handed over to the publishers, Navajivan Press, in October 1984.

Pyarelalji had given this book the title: *The Discovery of Satyagraha—From Petitioning to Passive Resistance*. Though a continuation of *The Discovery of Satyagraha—On the Threshold*, it is a book complete in itself. Therefore, in order to indicate the distinct identity of this volume, we have called this book *The Birth of Satyagraha— From Petitioning to Passive Resistance*.

New Delhi SUSHILA NAYAR

June 7, 1985

EDITOR'S PREFACE

As this volume opens, Mohandas Karamchand Gandhi at the age of thirty-three is practising law in Bombay. After qualifying for the Bar in London, and failing to establish a successful practice in India, he had accepted in 1893 an invitation to help with a single lawsuit in South Africa. His countrymen there soon recognized his quality, and he was retained to help in the struggle for the preservation of their beleaguered rights, most notably through the formation of the Natal Indian Congress. As British power in South Africa reached its full ascendency during the Boer War, Gandhiji, believing his work in that country was over, returned home in October 1901 to begin a new career. This was not to be; thirteen months later came the call to return.

The man who returned to South Africa on December 25, 1902, was the veteran of a decade as a lawyer, a community leader, and politician, whose experience had deepened his character and his philosophy. Finding himself face-to-face with the arrogance of triumphant power, Gandhiji established his practice in Johannesburg, the center of the conflict.

This volume depicts the problems faced by the Indian community in the Transvaal Colony after the British conquest, where the liberators turned their backs on their own declarations and became oppressors more determined than those they had replaced, and it depicts also the continuation of the old grievances in Natal. To meet these dangers Gandhiji developed a network of friends and supporters in Africa, India, and England, and created new instruments for the struggle. In June 1903 he established his weekly journal *Indian Opinion*, in December 1904 his settlement at Phoenix, and on September 11, 1906, which may fairly be called the day of the birth of satyagraha, he led the Indian community of the Transvaal in a solemn vow of refusal to take out fresh

registration papers. The volume concludes a few days later, as Gandhiji embarks for London in the first phase of the struggle against the oppressive Act.

The forty-five months herein described were among the most decisive in the career of Gandhiji. During this time he not only established his first newspaper, his first ashram, and his first satyagraha campaign, he also marshalled his inner resources with the disciplines of poverty and the vow of lifelong *brahmacharya*. The outlines of the Gandhiji who would be called Mahatma can be recognized at the close of this story. The satyagraha campaign in South Africa would be a long drama of near-defeat and near-victory, and years of apparent inactivity and failure, until a final convincing demonstration made it possible for Gandhiji to take this new form of power home to India in 1915. The events between December 25, 1902 and October 1, 1906 are essential for understanding all that followed in the history of India and the world.

Shri Pyarelal began the account of the life of Gandhiji with *The Last Phase*, which described the events following upon his release from prison in 1944 until his martyrdom in 1948. These two great volumes were completed in 1958, whereupon the decision was made to write the whole biography. *The Early Phase* was published in 1965, carrying the Story through Gandhiji's twenty-seventh year, in 1896. The succeeding volumes matured slowly. *The Discovery of Satyagraha* did not appear until 1980; it covered a six-year span ending in 1902. When the author left us in October 1982, the present manuscript was well along. Fifteen chapters had been completed, while notes and drafts were on hand for six others. Some of these chapters had been written as much as a decade earlier, and as new documents and studies became available the author began to insert the new findings and to create whole new sections. Eventually the additions began to overwhelm the design, and he experimented with new arrangements

of his materials. Consequently no outline was available as a blueprint of the final edifice and for the climax of the story only the foundations had been laid. As a result of my correspondence with the author and exchange of research materials for more than a decade, culminating with three months in his office assisting with the preparation of the present manuscript at the end of 1980, I was asked to attempt the fulfilment of his intentions.

All that the author left in near-finished form has been retained, though with some adjustments in the order of presentation. His draft materials have been worked into new chapters, and to fill gaps I have prepared certain new sections. Of course I could not reproduce his elegant literary style, nor could I approach his profound understanding of Gandhiji's mind and manner, but I did have the advantage of some research in South Africa. Eventually the chapters were arranged in five parts. The first describes the initial six months in Johannesburg. Part Two moves between the capitals of South Africa, India and the Empire. Part Three continues the events in the Transvaal through 1905, while Part Four takes up the Natal story. All of these threads come together in the final part, which depicts the crisis of 1906 and Gandhiji's unexpected response. The new sections, for which the original author should not be blamed, are, in Chapter 13, "From Pillar to Post", sections 2, 7, and 9; in Chapter 14. "The Householder in Transformation", sections 5, 6, and 7; in Chapter 18. "The Phoenix Settlement", sections 5 through 9; all of Chapter 19. "The Reward of Gentleness": Chapter 20. "The Zulu Rebellion", especially parts 4 and 5; and Chapter 21, "With God as Witness", except sections 5 and 6. Most of these new sections incorporate a few passages by the original author.

Unfortunately, it is not possible to identify all who assisted the author during the years this volume was in preparation. Surely most persons mentioned

in the Acknowledgements for *The Discovery of Satvagraha* performed similar services in connection with this one: their generosity was a source of great joy to the author.

The completion of this work would not have been possible without the vision and energy of Dr. Sushila Nayar, who determined that it should go on, and assembled the necessary resources for the task. She had most of the relevant materials gathered for my use in her brother's office in December 1983, and prepared research drafts on several topics which greatly eased the work. My share in this enterprise has been a great privilege, and a means of expressing my lasting debt to the greatest of the chroniclers of the life and work of Mahatma Gandhi.

Raleigh, North Carolina — James D. Hunt

July 10, 1984

ACKNOWLEDGEMENTS

I am deeply indebted to Prof. Hunt for the trouble he has taken in editing the typescript and for being ever ready to extend all possible assistance. His unstinted support has been most valuable for me.

I am also grateful to Prof. Swaminathan for agreeing to be co-editor and making his valuable contribution.

I thank my colleagues in the office – Shri G. D. Gadre and Shri R. Subrahmanyam for doing research work, and Shri R. K. Ramanathan and Mrs Vimla Khosla for preparing the typescript for the press.

Dr. Hari Dev Sharma and Shri Tarlok Singh have given me help and guidance in various ways at every step for which l am most grateful to them.

Last but not least, I must thank the Indian Council of Social Science Research, New Delhi, whose financial support has made it possible to prepare and publish the book.

New Delhi SUSHILA NAYAR

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MAHATMA GANDHI – THE BIRTH OF SATYAGRAHA

CHAPTER I : A BRUSH WITH POWER

1

On receiving a peremptory cable [Pyarelal, *Mahatma Gandhi, Volume II- The Discovery of Satyagraha – On the Threshold.* Sevak Prakashan, Bombay. (April 1980), p.408] calling him back to South Africa, Gandhiji, after a brief hesitation, wound up his Bombay law practice and, scrapping his personal plans, set sail for Africa towards the close of November, 1902. After an uneventful voyage he reached Durban on December 25. Messrs Mansukhlal Nazar and Rahim K. Khan, acting secretaries of the Natal Indian Congress, had sent round a circular to announce his arrival, and the cream of the Indian community assembled at the Point to receive him and take him to the National Hotel. He had arrived not a day too soon. Joseph Chamberlain, the Secretary of State for the Colonies, was to arrive the next day to begin his tour of South Africa, and an appointment had been fixed for an Indian deputation to wait upon him that very day. Gandhiji was to lead the deputation and to draft the memorial to be submitted to him.

In his opening speech Chamberlain said that the Colonies "must realise that it is sometimes possible for those at the centre of the Empire to be able to take a wider view of things and to come to a right decision even though it should involve the sacrifice of the Colonial opinion". [*India,* January 2. 1903. p. 2] On the following day he urged his hearers "to take up the duties of a grand Empire whose foundations were based on mutual help". [*Ibid*] The Indians wondered if this was expressly intended to refer to their position. As *India,* the London weekly magazine of the Indian National Congress put it. "Nothing could be more appropriate, especially in Natal, which at the start owed so much to Indian labour and in the late war owed its safety to a force sent from India", [*Ibid*] not to mention the gallantry shown by the Indian Stretcher Bearers. Indian hopes began to rise.

The 26th December of 1902 being Friday, and the time for the interview being just the time for the midday Muslim prayer. Gandhiji requested the Mayor to change the date. [Gandhiji to Mayor of Durban, December 25, 1902, *The Collected Works of Mahatma Gandhi* (C.W.M.G.), Vol. III, Publications Division, Ministry of Information and Broadcasting, Government of India, Navajivan Press. Ahmedabad. (April 1960), p. 264: Sabarmati Sangrahalaya (S.N.) 4020] It was consequently changed to December 27. The memorial, which was signed by Gandhiji and 15 others, mentioned the difficulties created by the Dealers' Licences Act, the Immigration Restriction Act, inadequacy of facilities for Indian education, the Indian Immigration Bill, and Pass restrictions. [Petition to Chamberlain, December 27. 1902. C.W.M.G. Vol. III, pp. 265-69: Colonial Office Records: Petitions and Memorials. 1902, C.O.529/1]. On the eve of the Boer War, the Secretary of State for the Colonies had warned the Natal Government that, if the arbitrary powers given by law to them under the Dealers' Licences Act, continued to be abused, those powers might have to be revoked. The recent case of Amod Ibrahim Jeewa provided an instance of its continued gross abuse. A merchant of 17 years' standing in the Colony, Amod Jeewa could read, write and speak English fluently. He had held a trading licence for over six years in Greytown. In the current year, however, his application for the transfer of his licence from an old building to a new and more suitable one, had been refused without any reason although it was backed by 138 residents. Even in respect of his own land in Greytown he had been refused a licence. In the previous year the Greytown Board had passed a resolution to the effect that "the licences held by the present Arabs, at the pleasure of the Board", would only be renewed so long as they *"hold same, but no fresh licences will be issued for other Arab tenants for vacated premises".* The Governor, being approached in regard to this matter, had declined to interfere. The only remedy that could prove effective was to restore to the Supreme Court its jurisdiction over the decisions of the Town Councils and the Licensing Boards.

Under the Immigration Restriction Act, the memorial continued, an indian merchant of the highest standing, no matter how well-versed he might be in an Indian language, became a "prohibited immigrant". Indian merchants and business houses of long standing could not replenish their staff of storemen, salesmen, assistants, clerks, cooks or domestic servants from their home country, even when it was not possible to draw upon the men previously domiciled in the Colony. Applications made to the Natal Government to allow facilities for admitting such persons for local requirements had with very rare exceptions been invariably refused. A person domiciled in the Colony could not under this law bring even his “parents or his other relations with him, except his wife and minor children, although they may be dependent upon him". [Petition to Chamberlain. December 27, 1902. C.W.M.G. Vol. III. p.267]. The question of the education of Indian children was becoming day by day more acute. Under the Pass Law responsible men and women had lately been arrested on the suspicion that they were indentured Indians. One man was out in search for a doctor for his wife who was in labour. He was arrested for being without a pass. Bail was refused. "The matter was duly brought before the Government, who advised legal steps!" [*Ibid.* p.268]

Drawing attention to the heartless cruelty of putting an annual poll tax of £3 on indentured labourers, if they decided to stay on on the expiry of their indenture, and the proposed extension of the tax to children above the age of thirteen years in the case of girls and sixteen years in the case of boys born of Indian parents under indenture, the memorialists in conclusion prayed that the proposed measure should not receive the Royal assent.

> When years ago we protested against disfranchisement .... because of the degradation it involved .... Sir John Robinson ... said that no such fear was to be entertained as, after disfranchisement, it would be the special

> duty of the Legislature to look after the interests of the disfranchised. The disabilities narrated above show how unavailing the Honourable Gentleman's assurances have been .... We know we have your sympathy, and we pray that you will be graciously pleased to exercise your great influence in our behalf." [*Ibid.* p.268]

Chamberlain gave short shrift to their hopes, "You know", he said, "that the Imperial Government has little control over self-governing Colonies. Your grievances seem to be genuine. I shall do what I can, but you must try your best to placate the Europeans. if you wish to live in their midst." [M. K. Gandhi. *The Story of My Experiments with Truth,* Navajivan Publishing House, Ahmedabad. (May 1956)), p.255]. It was no use passing legislation which was sure to be repealed so quickly since the Colony would be granted self-government within "two or three years". To an anti-Indian deputation that later waited on him, he said they must remember that Indians were their fellow-subjects and were "entitled to fair and honourable" treatment. "At the same time. I would be prepared to sympathise with you in your opposition to unrestricted influx of millions from India who may easily swamp you. I would, therefore, recommend restriction on further immigration in undue numbers, but cannot undertake to place disabilities on those that are already settled in the Colony." [Statement regarding Indian Question in the Transvaal sent by Gandhiji to Dadabhai Naoroji, February 23, 1903. C.W.M.G. Vol.III, p.281].

This was an "eye-opener". Chamberlain had practically endorsed the Europeans' plea that they stood in danger of being swamped unless further restrictions were put on the Asiatic influx, a plea wholly unwarranted by facts. But Gandhiji was glad that Chamberlain had not minced matters. It was better to know how and where one stood and what one should expect. He mused. "I saw that we should start with our work *de novo* .... As a matter of fact there was

nothing wrong about Mr Chamberlain's reply.... He had brought home to us in a rather gentle way the rule of might being right or the law of the sword. But sword we had none. We scarcely had the nerve and the muscle even to receive sword-cuts" [M. K. Gandhi. *The Story of My Experiments with Truth,* p.255]

The main purpose of Chamberlain's visit was to obtain from South Africa a substantial contribution towards the ruinous cost of the war in order to provide some relief which, he felt, the British tax-payer, by whose sacrifices the war had been won, was entitled to. Normally this would have been realised by levying a war indemnity. But assimilation was the goal of English policy in South Africa. A contribution levied in the spirit of a war indemnity on the vanquished foe would have alienated further the feelings of a people whom Chamberlain wished to make willing partners in the British Empire. Besides, the brunt of such levy would have fallen on the British Transvaalers in any case, as a direct heavy tax on the Burghers' landed property had been expressly disavowed at the recent peace talks. In the circumstances, the only course open was to realise the bulk of the contribution from the British Transvaalers as an "equitable return for the benefits they had gained through the war." This took the form of a loan of £ 35,000,000 at 3 per cent, with Imperial guarantee, underwritten by some eighty of the leading men on the Rand. Chamberlain could not afford to stand out for the British Indians' rights in Natal or in the Transvaal at the cost of exasperating the Boers, whom he wished to reconcile, or the British vested interests, whose goodwill he was anxious to gain. The Indians had to be satisfied with mere lip sympathy.

Another Indian deputation waited on Chamberlain at Maritzburg. Gandhiji was present here also. But when he wanted to point out to Chamberlain that the white Colonists' fear that, unless the immigration of free Indians was checked and

indentured Indians were driven back to India on the termination of their indentures, South Africa would be swamped by Indians was groundless, he was told not to "discuss" any matter. So, he reiterated what had been represented to Chamberlain at Durban and the latter repeated what he had said before. [Gandhiji to Dadabhai Naoroji. January 30, 1903, C.W.M.G. Vol.III, p.278: S.N. 4035]

The whites were jubilant. Referring with ill-concealed malice to the discomfiture of the Indian merchants, who had "laid before the Colonial Secretary the entire budget of grievances, chief among which was insecurity of tenure as traders", the special correspondent of the *Standard* quipped: "Considering that none of them came to the Town Hall arrayed in costly apparel, with carriages and pairs and liveried servants, this insecurity would seem to have its compensations." [*India,* January 2, 1903, p.2]

2

With limited time at his disposal Chamberlain had to cover the whole of South Africa at hurricane speed. On January 4, 1903, he started for Pretoria. Here also the Indian community had organised a deputation to wait on him and it was mainly on that account that Gandhiji had been sent for from India. But how was he to get there?

There was no check or restriction on the entry of British Indians before the war; they could enter and leave without hindrance. During the war large parts of South Africa had literally been turned into a "howling wilderness"; from end to end of the two colonies there was hardly a farm house left standing; in large areas the livestock had been almost exterminated; in the cities rows upon rows of empty shops were waiting to be replenished. [M. K. Gandhi. *The Story of My Experiments with Truth,* p.255]. Even refugees could not be allowed to return until the shops were ready with provisions. After the war, therefore, a system of military permits had

been introduced to regulate the entry of those who might wish to return. There were no definite regulations on the subject to begin with. Permits were given on verbal instructions by the Military Governor, issued whenever an occasion arose. [W. H. Moor's Report on the operations of the Asiatic Department, *Indian Opinion,* August 13, 1903]. We saw how, after the first abortive spurt, the return of the Indian refugees to the annexed territories was completely stopped and how futile all exertions on their behalf by their friends in England had proved (see *The Discovery,* p.359). However, under growing pressure from the India Office an Army Order was issued by the General Officer Commanding-in-Chief, empowering the Commissioner for Native Affairs to grant permits to "coloured" persons to enter the Transvaal. [*Ibid*]. A Superintendent for Asiatic Affairs was appointed with a staff of three regional Supervisors of Asiatics, stationed one each at Pretoria. Johannesburg and Germiston. An official in the office of the Commissioner for Native Affairs was put in charge of the sub-department for Indian affairs and was supposed to function without interference from the Commissioner for Native Affairs. The Pretoria permits were issued in the order of application. In the Witwatersrand they were issued on the recommendations of a "Committee of Influential Asiatics". The number of general permits to be issued was restricted to 200 a week. [*Ibid*]. This lasted till September 1902.

In his despatch of March 15, 1902 (see *The Discovery,* p.426) Chamberlain had strongly objected to the Indians being classed with the Natives, and had asked why matters relating to them could not be dealt with by a separate official. [Chamberlain to Milner, March 15, 1902, National Archives of India (NAI) Progs. No. l-B, September, 1902 (Emig. Rev. and Agr.)]. Taking advantage of it, Milner's administration promptly put it to a use altogether different from what Chamberlain had contemplated.

The Permit Offices that had been opened were manned mostly by European officers and adventurers, who had come during the Anglo-Boer War from India and Ceylon. A number of them had stayed behind. The British policy was to help settle as many of their demobilised men as might wish, in pursuance of the goal of achieving a preponderance of the British element in the annexed territories. So, why not make use of these of proved loyalty and experience?

The newly appointed officers wanted money. The prospect of return to normalcy made them feel insecure. If there was no work, they would be found to be unnecessary and their services would be dispensed with. To justify their existence they created work for themselves.

There was a separate department for the Natives. Chamberlain had objected to matters relating to the Indians being handled by it. So, why not have a separate department for the Asiatics also, and kill two birds with one stone – satisfy Chamberlain and at the same time find secure jobs for themselves in the bargain? Accordingly, in September 1902, a separate Department for Asiatic Affairs was constituted as a sub-department of the Colonial Secretary's Office. The Witwatersrand Committee of "Influential Asiatics" was then abolished, on the complaint of foreign nationals that the power entrusted to it was liable to "grave abuse" [Mr. Moor's Report, *Indian Opinion,* August 13. 1903] and its functions were taken over by the newly created Asiatic Department.

To the Indians this made little difference. Old officials continued under new designations. E. J. Burgess. Supervisor of Indian Immigrants, for instance, now carried on as "Supervisor of Asiatics" just as before. It was like the change from King Log to King Stork in the fable. The newly created Asiatic Office bore down upon them even more heavily than the Department of Native Affairs.

Indians desirous of going to the Transvaal had to apply to the head of this department in the first instance. The Department itself did not issue permits. It only recommended applications for permits. After it had granted the applications, the Supervisor of the regional office sent the list of recommendations to the nearest Permit Office and the Permit Office sent intimation of it to its office in Durban (or Cape Town). Permits could then generally be obtained at the port of entry.

In justification of this procedure it was argued that, if permits were granted on the recommendations of this department, the burden of the Permit Officers would be lightened. In practice it only opened up endless opportunities for corruption and harassment of the Indians by the servants of the Asiatic Department. The officers who issued permits might issue the permits as a matter of course to all for the asking, but an Indian who applied to the Asiatic Department had, because of the special procedure prescribed in their case, often to wait for many days before he was vouchsafed a reply. And as there were large numbers wishing to return to the Transvaal there sprang up "an army of intermediaries or touts" who in collusion with the officers mulcted the poor Indians "to the tune of thousands". [M. K. Gandhi, *The Story of My Experiments with Truth,* p.256]

During the war a number of Indians had come with the armed forces from India as personal servants, bearers and camp-followers. Many of them had remained behind. The Whites were determined under cover of military rule not to allow the Indians to obtain a foothold in the post-war Transvaal. Since the practice prevailing under the Boer regime and the British declarations before and on the eve of the war made it difficult to shut the door in the face of all Indians, resort was taken to indirect means.

In the middle of November, 1902 to mollify General Kitchener who wanted a continuation of the Martial Law – which had already caused much bitterness in the Cape – and its extension to the ports, a measure known as the Indemnity and Peace Preservation Ordinance (Ordinance No. 38 of 1902) was passed by the new Transvaal Administration with the declared object of "maintenance of good order and Government and public safety". It was a compromise proposal agreed to between him and Sir Gorden Sprigg, the Premier of Cape Colony, calculated to give Kitchener the substance of his demand. [22 Cecil Headlam, *The Milner Papers (South Africa),* 1899-1905, Vol.ll, p.271, Cassell and Company Ltd., London. 1933]. It put an end to Martial Law as from November 19 but substituted for it certain special provisions, chief among which was a continuation of the Permit system that was in force under the military regime, for the purpose of preventing the entry of "political intriguers and undesirable elements" into the newly acquired territories. [*Ibid,* p.378] It was essentially a continuation of a war-time measure specifically aimed at checking subversion. This was clear from the language used in section 20, which disqualified for a permit any person “who having been a burgher of the South African Republic or the Orange Free State had not taken the Oath of Allegiance to His Majesty". It ought, therefore, to have been abrogated as soon as the emergency was over. But civil authority has seldom been known willingly to part with special powers assumed under an emergency. The Peace Preservation Ordinance was continued even after the reasons for which it was promulgated had ceased to exist. The authorities began to use it improperly as an Immigration restriction measure for the exclusion of Indians.

This Ordinance was in force when Gandhiji arrived in South Africa. Under it no one after the date of promulgation could enter without a permit, unless he was “resident and within this Colony" on the thirty first of May. 1902, or had since

then and "before the date of the Peace Preservation Ordinance" received a permit to enter the Colony from some "duly constituted authority", which in the case of Indians, as we have seen, could be obtained only through the Asiatic Department.

Gandhiji's friends had warned him that they would not be able to obtain a permit for him. It was beyond them. They thought, however, that he would be able to obtain one for himself on the strength of his old connections in Natal. But at Durban no permit could be had without influence, and even then in some cases people had to pay as much as one hundred pounds as *douceur* in spite of the influence that they had brought to bear. Gandhiji was entitled to a permit on the strength of his having stayed for a year in Pretoria in 1893, but he did not know the permit officer at Durban. That officer, therefore, might well refuse to endorse his application. And if he had to go through all the formalities prescribed by the Asiatic Department to establish the validity of his claim, there was not a chance of his obtaining a permit before Chamberlain left the Transvaal.

In this predicament Gandhiji sought out his old friend. Mr Alexander, Police Superintendent of Durban, and said to him, "Please introduce me to the Permit Officer and help me to obtain a permit. You know that I have been a resident of the Transvaal." Mr Alexander

> immediately put on his hat, came out and secured me a permit. There was hardly an hour left before my train was to start. I had kept my luggage ready. I thanked Superintendent Alexander and started for Pretoria. [M. K. Gandhi, *The Story of My Experiments with Truth.* p.256]

3

On New Year's Day, 1903, a large party of Indians rode out 3S miles to Germiston, the railway junction for the Pretoria line, to meet Gandhiji on his

arrival and accompany him into the city. From the station he was driven to Haji Habeeb's residence in Prinsloo Street. The atmosphere in Pretoria was decidedly "ominous". The whole day was spent in his hearing the tales of woe of the resident Indians that poured out to him.

Despite some disquieting echoes that had reached him while he was in India, Gandhiji had thought that although the pin-pricks and harassment that they had been accustomed to before the war might continue for some time even now, yet after the clear, unequivocal declaration of the British Government on the eve of the Boer War, and the repeated assurances given by British high officials while he was in South Africa, there would be no serious trouble, at least so far as the Transvaal and the Orange River Colony were concerned.

> The Europeans too believed that, as the Transvaal was now under the British flag, the old laws of the Boer Republic directed against the Indians could not be enforced. This principle was so widely accepted that the auctioneers who before the war did not accept bids from Indians for the purchase of land now openly accepted such bids. Many Indians thus purchased land at public auctions, but when they tendered the deeds of transfer to the revenue officer for registration, the officer in charge refused to register the deeds quoting Law 3 of 1885! All this I learnt on landing in Durban. [M. K. Gandhi. *Satyagraha in South Africa,* Navajivan Publishing House, Ahmedabad, (1928), p.81]

"I was ... simply amazed." says Gandhiji.

This was, however, only the beginning. The news of Gandhiji's arrival had caused a flutter in the dovecots of the Asiatic Department. The officers at the head of the department could not make out how Gandhiji had succeeded in entering the Transvaal. They did not consider him to be capable of smuggling

himself into the country hut thought that he might have entered there on the strength of his old connection without a permit. If it was so, under the Peace Preservation Ordinance he was liable to arrest and imprisonment. The idea of arresting him for a violation of that Ordinance was mooted, but the amending Ordinance (No. 5 of 1903) had not yet been promulgated and there was no provision under the current Ordinance – the Peace Preservation Ordinance No. 38 of 1902 – to interrogate anyone on mere suspicion. No one could muster sufficient courage to ask Gandhiji to produce a permit. The Indians of whom they enquired could tell them nothing. So they had to resort to surreptitious means.

Since its inception the Department had been steadily spreading its tentacles. There were a number of Indians in its employ as secret agents. Sardar Ladha Singh – a Sikh from the Punjab – was deputed by Captain Hamilton Fowle. Chief Secretary of Permits and Registrar of Asiatics, to watch Gandhiji's movements and find out whether he had obtained a permit or not. He was also empowered to arrest him and produce him before the Registrar of Asiatics, if he was found to be without a permit.

This agent began to shadow Gandhiji. At last he overtook him in Cassim Camroodin's house near the *Star* office. After formal exchange of civilities, he began:

"Mr Gandhi, have you a pass of entry into the Transvaal?"

"Yes, I have."

"Show it to me, please."

Gandhiji put his hand in his pocket. The document was not there. (After searching further) "It is not on me."

"In that case, will you accompany me to the Registrar's office please?"

The officers of the Asiatic Department had in the meantime sent a telegram to Durban and had learnt that Gandhiji had entered the Transvaal after obtaining the necessary permit. At the Registrar's office Mr Fowle only asked him if he had a pass, and on his reply in the affirmative, sent him away. He afterwards told his agent, the Sardar, that he had done all that on purpose – to harass Gandhiji "as Gandhi is the chief agitator among the Asiatics". [Sardar Ladha Singh's written statement dated November 11, 1963 to the author. In his memoir, Ladha Singh says that this incident occurred "some good while later" than Gandhi's arrival in Johannesburg, after Mr Chamney was appointed (in April 28). However it accurately reflects the activities and attitudes of the Asiatic Department at the beginning of the year].

When Gandhiji came to know of the Sardar's role in the Asiatic Department, he sent for him. "So, for a miserable mess of pottage you have allowed yourself to be used by the Asiatic Department as a tool against your own countrymen!", he said to him more in sorrow than anger. The Sardar left the Asiatic Department forthwith and became a clerk in Gandhiji's office. During the Satyagraha struggle he courted imprisonment as a civil resister.

The officers of the Asiatic Department, however, were not the men to take defeat easily. Unsuccessful in their attempt to prevent Gandhiji's entry into the Transvaal, they thought they would still prevent him from waiting on Chamberlain. They asked the Indian community to furnish the names of their representatives in advance, although there was absolutely no warrant for it. Gandhiji tried to get into touch with Mr Davidson, the Colonial Secretary, but failed. The local Indians had failed before him. After repeated efforts he was able to see that official who then politely referred him to the Assistant Colonial Secretary, W. H. Moor, formerly of the Ceylon Civil Service. A crusty pucca saheb, this official was not even courteous. He summoned the leaders of the resident Indians, among them Seth Hajee Khan Mohammed.

"Who is this Gandhi?" the *saheb* boomed out, as soon as the Sheth appeared before him.

“He is our adviser and he has come here at our request.”

"Then what are we here for?" the *saheb* snapped. "Have we not been appointed to protect you? What can Gandhi know of the conditions here?"

"Of course, you are here." Hajee Khan Mohammed replied quietly but firmly. "But Gandhi is our man. He knows our language and understands us. You are after all officials."

Annoyed, the *saheb* ordered Gandhi to be "produced". The Sheth fetched Gandhiji. "No written order was sent to me," Gandhiji records. "I was summoned to see the Chief. During the interview none of the Indians was offered chairs. They were kept standing.”

"What brings you here?" Gandhiji was brusquely asked, as soon as he entered in.

"I have come here at the request of my fellow countrymen to help them with my advice.”

"But don't you know that you have no right to come here? The permit you hold was given you by mistake. You cannot be regarded as a domiciled Indian. You must go back. You shall not wait on Mr Chamberlain. It is for the protection of the Indians here that the Asiatic Department has been especially created.''

Gandhiji tried to explain. The *saheb* cut him short, "I do not wish to see you nor to discuss these matters with you. Well, you may now go," he shouted; and without giving Gandhiji even an opportunity for a reply, dismissed him.

But he detained those who had come with him. "gave them sound scolding for having brought Gandhi to South Africa", and told them "to send him away". [M. K. Gandhi. *The Story of My Experiments with Truth,* pp.258-9]

On the following day the Indians wrote to ask for an appointment to wait on the Colonial Secretary and sought his permission for Gandhiji to accompany the deputation which the Assistant Colonial Secretary had refused. ["The Honourable the Assistant Colonial Secretary, on whom I and our Secretary, Mr. Hajee Habib, waited this morning, as also did Mr Gandhi, says that he (Mr Gandhi) not being a resident of the Transvaal will not be allowed to represent us before Mr Chamberlain. But as we have not among us one who has studied and knows anti-Indian laws of the late Republic as Mr Gandhi has and does, and as he has specially been sent for from Bombay, I am to beg respectfully to ask for permission for Mr Gandhi to accompany the deputation above referred to if the Right Honourable Gentleman graciously consents to receive it." – Tyob Hajee Khan Mahommed to the Hon. The Colonial Secretary, January 2, 1903. C.W.M.G. Vol. III, p.269; S.N. 4023). After several oral and written reminders and four days' delay, on January 6, Tyob Hajee Khan Mahommed received the Colonial Secretary's reply. It was to the effect that Chamberlain would be pleased to meet the Indian deputation at the Residency at “Sunnyside" next day at noon. "The deputation”, the leader of the Indians was instructed. "should consist of not more than 15 people, of whom *Mr Gandhi cannot be one* as he is not a resident of the Transvaal. Mr Burgess, Supervisor of Asiatics, Pretoria", the Colonial Secretary's reply continued, "will be present to assist in any way that may be required and to interpret to those who do not understand English." [Assistant Colonial Secretary to Tyob Hajee Khan Mahommed, January 6, 1903, S.N. 631; S.N. 4025, (Italics by the author)]. Confidentially this official minuted to the High Commissioner:

> A Mr Gandhi, a lawyer from Natal, (who unfavourably impressed me) should not be allowed to pose as the champion of the Asiatics. Their champion is the Protector of Asiatics. They should look to him for defence. [Transvaal Archives (T.A.) Minute by W.E. Davidson, Colonial Secretary (undated) according to

Huttenback, probably early 1903, See R. A. Huttenback, *Gandhi in South Africa.* Cornell University Press. Ithaca & London, (1971), p.l48

The Indian community was indignant. E. J. Burgess was the man who with his counterpart at Pretoria, F. A. Gillam, Supervisor of the Indians, had defended the locationing of the Indians in Pretoria and Johannesburg. (see *The Discovery*, pp. 362-65). It was he who had opposed their petition of protest against it as being unrepresentative or the Indian community's mind, and libelled their leader. G.H.A. Lateef, behind his back, as a self-seeker who had misappropriated public funds and swindled his compatriots. And this on the strength of an unverified statement made by an Indian anonymously. In a letter addressed to E. T. Fraser, Private Secretary to the Governor of Transvaal, Tyobji Khan Mohammed protested against the Supervisor of Asiatics being imposed upon them as their interpreter and spokesman. He also protested against the refusal "to allow Advocate M. K. Gandhi to be the spokesman of the deputation", and sought His Excellency's intervention. [C.W.M.G. Vol.III, p.270]

E. T. Fraser replied on January 7. His Excellency was "not desirous" that there should be any alteration in the arrangements made in regard to the British Indian Deputation. "He regrets that he cannot accede to the request for Mr Gandhi's attendance – nor can he see the slightest objection to the presence of Mr Burgess." [Mr E. T. Fraser to Tyob Haji Khan Mahommed, January 7, 1903, S.N. 633]

This was strange. Gandhiji had been allowed to represent the British Indians before British officials, including the British Agent at Pretoria as well as the British Vice-Consul at Johannesburg, before the war. Even the late Republic, hostile as it had been to the Indian interests, had allowed him to represent them before its members. Smarting under the insult, the Indians said they would have nothing to do with Chamberlain: they would rather not wait upon him at all than

see their leader insulted. Gandhiji felt it not less keenly. He had even dictated the draft of what he wished to say on the occasion as the spokesman of the Indian community. But he saw that if they failed to make a representation it would be presumed that they had no case at all and the judgment might go against them by default. "I decided to swallow this insult as I had done many such in the past. What difference will it make if I read the address or someone else reads it?" he said to the resident Indians. "After all Mr Chamberlain is not going to let us argue the matter with him. Forget me."

"Is not an insult to you an insult to the community." Tyob Sheth cried out. " How can we forget that you are our representative?"

Gandhiji liked the spirited reply but he also saw that it was not going to help them. "Even the community would have to swallow many an insult like that in the course of the struggle." he told them.

Tyob Sheth could hardly contain his temper. "Come what may we are not going to swallow a fresh insult. Nothing worse can happen to us." Had they any rights to lose, he asked.

But Gandhiji knew the limitations of the community better. In the tough struggle that lay ahead, not words but deeds would count. He persuaded them to have James Godfrey, the Indian barrister, in his place.

This was Gandhiji's first experience of "autocrate from Asia". That colour prejudice was rampant everywhere in South Africa, he well knew. But he was hardly prepared for "the dirty and underhand dealing among officials", that he had been familiar with in India. The reason for it was not far to seek.

In South Africa the public departments were maintained for the food of the people and were responsible to public opinion. Hence officials in

charge had a certain courtesy of manner and humility about them, and coloured people also got the benefit of it more or less. With the coming of the officers from Asia, came also its autocracy, and the habits that the autocrats had imbibed there. In South Africa there was a kind of responsible government or democracy, whereas the commodity imported from Asia was autocracy pure and simple, for the Asiatics had no responsible government, there being a foreign power governing them. In South Africa the Europeans were settled emigrants. They had become South African citizens and had control over the departmental officers. But the autocrats from Asia now appeared on the scene, and the Indians in consequence found themselves between the devil and the deep sea. [M. K. Gandhi. *The Story of My Experiments with Truth,* p.258]

4

The Indian deputation waited on Chamberlain on January 7, 1903 as scheduled, James Godfrey reading the address that Gandhiji had prepared for him. Among the disabilities of the British Indians, inherited from the late Republic and not repealed by the Imperial Government, listed in their representation, were that they (1) could not own property except in locations. (2) were required to have their names entered in a separate register, within eight days of their arrival by paying a sum of £3 Sterling therefor, (3) must trade and reside only in locations, (4) could not remain out after 9 p.m. without special permission, (5) were not permitted to travel on the railways except by third class, (6) were prohibited from walking on the footpaths or driving in hired vehicles in Johannesburg and Pretoria, and (7) could not own native gold or take out digger's licences.

In the past, when approached by the Indian community, Chamberlain had replied that although their complaint was admittedly just and they had his sympathy, he was then "powerless to do anything further than making friendly representation to the late South African Republic". When the war came, It was declared officially that the disabilities of the Indians were one of its causes. They were therefore entitled to hope, the memorialists submitted, that with the end of the war their difficulties would be over. That hope had not been realised. The admittedly un-British anti-Indian laws promulgated during the Boer regime, were as a rule now being enforced with unprecedented rigour, while the curfew and other laws, which had of late been in some measure relaxed were never rigorously enforced even under the old regime. As a result there were fewer Indian merchants and storekeepers in the Transvaal now than before the war, and the tendency was towards greater strictness. For instance, under the Boer regime many Indians who had been refused a licence had carried on their business without a licence, on simply tendering the licence fee, with the knowledge and encouragement of the British authorities. At the commencement of the British occupation some licences had been issued to those who did not hold them before the war. But the Government had now notified their intention not to issue licences to such people. "Thus, many of us, who traded before the war without a licence ... are now confronted with the prospect of our licences being stopped." In Pieter-maritzburg notices had been issued to such holders that they would receive only temporary licences for three months to enable them to sell off their stock. The Resident Magistrate of Wakkerstroom had informed the Chamber of Commerce that the existing Indian licences would not be renewed for the current year. And all this was "an incident of the separate administration of Asiatic Affairs".

> When it (Department of Asiatic Affairs) was inaugurated, we respectfully protested; but it was understood that it was only a temporary department, to be withdrawn on regular business being resumed. Under the old regime, there was no separate department with only Indian matters to attend to. [Address to Chamberlain, January 7, 1903, C.W.M.G. Vol.III, p.273]

Adducing the closure of public schools to Indian children as a further instance of the worsening of their position after the war. the deputation went on to recall how the earlier attempt of the late Boer Government to remove the Indian Location at Johannesburg to a place far away from town had been stalled by the intervention of Mr Evans, the then Vice-Consul. Since then the matter had progressed far enough to fill the Indian residents with alarm. [*Ibid*]. The Medical Officer had condemned the Indian Location in unmeasured terms and pressed for its removal on sanitary grounds. Even if it was insanitary, as alleged, the fault, from what that official had himself stated, was "not one-fourth that of the residents". The sanitary requirements of the Location had been neglected deplorably under the Boer regime. The charge of insanitation had been discussed threadbare and thoroughly refuted by the Indian community before, and Chamberlain had in the past declared himself satisfied that restrictions on their liberty were an outcome of "trade jealousy". Was it not strange. the deputation asked, that when the famous Uitlander petition was sent to the Home Government the Indians were invited "as brethren to join in protest against the Boer misrule'"? Their disabilities, They were told, were sure to be removed as soon as Imperial rule was established. "Now, these gentlemen (members of the White league) are passing resolutions asking the Imperial Government to keep the very disabilities afoot." [*Ibid.* p.274]

As for the disabilities under which the Indians suffered in the Orange Free State, the deputation prayed that they would in the near future be removed and "the gracious assurance" of His Majesty the King-Emperor to the people of India "at the Great Delhi Durbar" would be "translated into an act of freedom" to enable them in common with other British subjects, to earn their livelihood in the new colonies without being subjected to the indignities and restraints such as they had described. [*Ibid*]

During representation, Gandhiji's name being mentioned, Chamberlain, referring to his exclusion, said: "Rather than hear the same representative over and over again, is it not better to have someone new?" [M. K. Gandhi, *The Story of My Experiments with Truth,* p.260] His intention perhaps was thereby to heal the wound. His remark only sprinkled salt over it. But what could he do?

> Mr Chamberlain spoke out as he had been tutored by the Asiatic Department, which thus tried to import into the Transvaal the atmosphere which pervades India. Everyone knows how British officers consider Bombay men as foreigners, in, say, Champaran. At that rate how could I who lived in Durban know anything about the situation in the Transvaal? Thus did the Asiatic Department coach Mr Chamberlain. Little did he know that I had lived in the Transvaal, and that even if I had not, I was fully conversant with the Indian situation there. [M. K. Gandhi, *Satyagraha in South Africa,* p.84]

Once more it was borne in upon Gandhiji that "arguments based on reason do not always appeal to men in authority". [*Ibid*] As he put it, Chamberlain was then "so much under the influence of the men on the spot and so anxious was he to humour the Europeans that there was little or no hope of his doing us justice." Still the deputation waited on him "in order that no legitimate step for obtaining

redress might be omitted whether by oversight or through a sense of wounded self-respect". [*Ibid*]

Reported Gandhiji to Dadabhai Naoroji on January 30, 1903:

> Two Indian deputations waited on Mr Chamberlain in Natal .... The Rt. Hon. Gentleman considers that with reference to the laws already in force he can do very little, as the Colony is 'responsibly'(?) governed ....He also said that, with reference to the recent Bill imposing a tax of £3 on the children of indentured Indians he would be guided by advice from the India Office ....

Gandhiji did not know at the time that the Indian Government had already yielded to the Colonial viewpoint on this issue. Lord Curzon's personal doubts as to the soundness of the reasons given by his Councillors in its favour notwithstanding (see *The Discovery*, pp.417-8). In the same despatch, referring to the Delegation from Natal that had been sent to India to secure the termination of indentures in India, Gandhiji remarked that if it was at all countenanced by Lord Curzon, it would be "the climax in injustice", for which there was absolutely no precedent. It would spell nothing short of "unadulterated slavery" to the indentured Indian labourers for a term of years.

> That, after the preaching of Imperial patriotism by Mr Chamberlain, Natal should still make an effort to exploit Indian labour for its sole benefit, in total disregard of reasonable principles of contract, passes comprehension, and shows that the Colony has not in the least degree changed its hostile attitude towards British Indians. [Gandhiji to Dadabhai Naoroji, January 30, 1903, C.W.M.G. Vol.III, p.278; S.N. 4035]

Further proof that the leopard had not changed its spots was provided by the action of the Maritzburg Town Council which was endeavouring to debar Indians from owning land. It admitted of only one solution, as simple as it was effective, "prohibition of indentured emigration to Natal, as suggested by Lord George Hamilton". [*Ibid*]

5

Following summary rejection by Chamberlain of the Johannesburg Town Council's proposal for compulsory locationing of the Indians, both for residence and trade, put forward by Milner in August, 1902, the Transvaal Administration

was asked to formulate an alternative plan of policy in respect of the Asiatics. Accordingly, under Milner's directions. G. V. Fiddes, Secretary to the Transvaal Administration, set to work and in November, 1902 submitted a memorandum on the subject. So far as segregation of the Indians was concerned, it reiterated with hardly any substantial change the earlier proposal which Chamberlain had vetoed. The only difference was that, acting on a hint thrown by Chamberlain himself in disallowing the original proposal, locationing was now supposed to be on the ground of sanitation and the word 'Bazaar' was used in place of 'Location'. The first was given the lie when the scope of locationing was extended so as to include both residence *and trade:* the second was a matter merely of semantics, 'Bazaar' being only a euphemism for location, a word which had come into bad odour with everybody.

Feeling, however, that its hands would be strengthened if it could secure the consent of the leaders of the Indian community to its plan, the Town Council thought it expedient to sound them first. Chamberlain was still in South Africa, when the Town Council decided to see the prominent Indians with this end in

view. Again Gandhiji's name was struck off the list proposed by the leaders of resident Indians. This time, however, they took the bit between their teeth and absolutely refused to send any deputation from which their trusted adviser was excluded. The Town Council had to give in. But they were bent on a remorseless fight against Gandhiji in order to eliminate his influence from the Asiatic affairs in the Transvaal. And this, as Joseph Doke put it, was but the natural course for the officials to take. "It appeared to them that one clear legal mind in the community, coupled with a spotless character and wide experience, could make it impossible for them (Indians) to be driven like cattle, or to be treated with contempt. It would also render impossible the continuance of that system of official corruption which had already commenced. The officials were afraid of Mr Gandhi. They were all weaker, smaller men than he, and they knew it. It was natural that they should resent his appearance upon the scene." [Doke Joseph, *M. K. Gandhi: An Indian Patriot in South Africa,* p.93]

As a result of the dogged resistance put up by the Indian community Gandhiji was granted an interview with the Lieutenant-Governor, Sir Arthur Lawley. On February 12, 1903. he waited with a small deputation on His Excellency who told them that the whole question of the institution of bazaars would be considered *en bloc* when the enlarged Legislative Council was formed. In the meantime the Lieutenant Governor wished to know the Indian view of the proposed Location. His idea obviously was to secure the Indian leaders' acquiescence in, if not their support for, the Town Council's proposal and to present the Secretary of State for the Colonies with a *fait accompli*. In this he failed. In the course of the interview it came out that Chamberlain had not sanctioned the Transvaal Government's intention to introduce the so-called Bazaar plan: it had only been discussed in general terms in some of the numerous despatches that were addressed to the Colonial Office. Another question by

Gandhiji elicited the information that Government's policy towards Indians had not yet been formulated. though a number of suggestions had been submitted to the Secretary of State. Had any assurance been given to the anti·Asiatic deputation that had waited on Chamberlain in the previous month, Gandhiji next asked. He was told that Chamberlain had impressed on the white deputation that any legislation which imposed restrictions on Indians would have to receive the sanction of the British Cabinet. The intention was to still the Indians' fears by a vague hint at the possibility of the Home Government's vetoing the extremist white section's anti-Asiatic demands.

This was enough. Anxious, however, as always, to assuage the white colonists' legitimate fears, as advised by Chamberlain, Gandhiji offered to meet the Government halfway. In a letter to Davidson, the Transvaal Colonial Secretary, on February 18, he wrote that the institution of bazaars would be acceptable to the Indian community, and they would be prepared to cooperate

with the Government in making the institution a success, provided that (1) Bazaars were situated well within the town limits in a business portion usually frequented by all classes including Europeans; (2) there was no legal obligation on the part of the Indian community to reside or trade in the Bazaar; (3) in any case, the Indian merchants and traders who were at the time residing in towns, or those who traded or who resided within town limits and any township in the Colony before the war, were not expected to reside or trade in Bazaars; and (4) the Indian community was allowed to purchase Stands in any such Bazaars subject to the buyer's acceptance of the Building and Sanitary Regulations that might be imposed by the Government. [Letter to Colonial Secretary, February l8, 1903, C.W.M.G. Vol.III, pp.279-80]

Davidson, the Colonial Secretary, upon transmitting Gandhiji's letter to Lt.-Governor Lawley, cynically observed, "The letter is carefully worded so as to secure the benefit which may arise from the Bazaar system and anything else that he could manage to get." [Colonial Secretary to Lt.-Governor, March 2, 1903, T.A. (Transvaal Archives) Huttenback microfilm list No.31] Nothing could reveal more than this the cavalier attitude held by the British officials toward the assertion of Indian rights and their lack of interest in Gandhiji's efforts at finding a mutually acceptable solution.

Lawley had given the Indian deputation to understand that the whole question of the institution of separate bazaars for the Indians would be considered *en bloc* by the enlarged Legislative Council. Chamberlain, on the other hand, was said to have told an anti-Indian deputation that it was a question which would have to be submitted to the Cabinet at Home "when it will be finally decided". [Gandhiji's statement to Dadabhai Naoroji, dated February 23, 1903, C.W.M.G. Vol.III, pp.280-82; India Office Judicial and Public Records 402] Putting the two statements together Gandhiji concluded that Chamberlain, after consultation with the Home Government, would cable to the Transvaal administration a scheme of legislation which would be submitted to the Legislative Council. Against such legislation there would be no appeal, if after it was passed it was found to be against Indian interests. On February 23, 1903, therefore, Gandhiji in a statement which he sent to Dadabhai Naoroji [*Ibid*] and friends in England suggested that they must concentrate all efforts upon the proposed legislation in the new colonies. Locations were not in vogue in the self-governing colonies of the Cape and Natal. He hoped that, as Lord George Hamilton had hinted in his remarks to the Deputation of the Joint Committee that had waited on him in the first week of November 1902, there would be no acceptance of that principle.

In regard to the issue of Indian immigration, Gandhiji felt that Chamberlain's reply to the deputation of the White League offered a ray of hope, assuming that his words meant what they conveyed to the Indian ear. Indians could not swamp the Colony, there being not more than 12,000 of them in the Transvaal as against nearly 100,000 Europeans in Johannesburg alone. Nevertheless, if the Government wished to give legislative recognition to the Europeans' fear of being swamped, the utmost to which the Indians could agree was a measure on Natal lines with this modification that in the education test in place of "European languages" in the legislation for the restriction of immigration in force in Natal words "any language used or spoken in His Majesty's Dominions" should be inserted. This would leave room for the respectable merchants etc., and yet shut out "the illiterate millions". There should also be a clause added that special permission would be granted to those who may be *bona fide* required in the interests of the domiciled community, "such as domestic servants, cooks, etc., who are, illiterate, but are absolutely required for the old settlers". Moreover, any such legislation should not affect those domiciled in South Africa.

[Gandhiji's statement sent to Dadabhai Naoroji, February 23, 1903, C.W.M.G. Vol.III, p.282]

Dadabhai forwarded this statement to the Secretary of State for India. A copy was sent to Sir William Wedderburn, the chairman of the British Committee of the Indian National Congress. He enclosed it with a covering note to Lord Curzon in India. who wrote a powerful letter to Milner, urging practically the whole of Gandhiji's demands for the Transvaal Indians, as the price for the indentured labour Milner was in the process of requesting.

Mr Gandhi has been forced to accept the situation, and he suggests local legislation should be on the lines of the Natal Act", reported a representative of the *Star* after an interview with him. "He will urge the removal of the regulations,

which will provide the locations for Indians and in support of this, he argues that the poorer class of Indians would of their own free will reside in any place set apart for them, while only a few more wealthy and prosperous merchants would live in the town itself." As the Transvaal was a Crown Colony, the *Star* continued, "he is pressing on the Government the desirability of removing the restrictions governing the issue of trading licences to Indians. Natal and Cape Colony are self-governing, and can make their own laws affecting internal affairs, but the Imperial Government, he contends, must apply its general policy of freedom in trade and action to the subjects of the Crown in the Transvaal." [Reproduced from the Witness in *The Times of India* of April 6, 1903, C.W.M.G. Vol.III, p.290]

6

An inkling of the working of Gandhiji's mind is provided by a letter of his to Gokhale, dated May 10, 1903. "The more I observe the effect of emigration of our people on their character," he wrote in that letter, "the more convinced I become that if an open door is kept for us to migrate to the Colonies even tho' under restrictions of a general character applicable to all, there are great possibilities for us." [C.W.M.G. Vol.III, p.300] At the annual session of the Indian National Congress at Calcutta he had held up the example of European emigration for his countrymen to emulate. "No wonder if, wherever they (the Europeans) settle, they blossom into independent, prosperous, self-governing communities." (see *The Discovery,* p.386). European emigration had for its goal Imperial expansion. India had no such ambition but she needed the benefits that accrue from a well-directed and properly conducted emigration as a corrective for the cramped, insular outlook and habits engendered by the long spell of subjection into which her people had fallen. Ever since she had come under foreign rule, the only contact with the outside world that her people had was

through their intercourse as members of a subject race with their alien rulers. They had not known how a free people think, feel or act in respect of another free people. In South Africa they had an opportunity to mix with the Europeans, not as their subjects but as fellow citizens, and to have an experience of how a people who have not a captive mind deport themselves. He had seen the extremely beneficial effect that contact with an independent and independence-loving people had upon the Indian settlers in South Africa. It had imbued them with a progressive outlook and a pioneering spirit. Many of the Indian traders and colonial-born Indians had rubbed shoulders with and won the respect of their European compeers by dint of their ability, acumen, honest dealing and philanthropy. They had adopted European habits and manners and a style of living calculated to overcome the current prejudice against them of their fellow Europeans. Above all, they had developed a keen sense of self-respect and an identity. India had need of all these in an ample measure if she was to take her due place with other free and progressive peoples.

To have an absolutely open door, Gandhiji saw, was well-nigh impossible. It was the settled policy of the colonists that they would regulate immigration into their country. Under it many white aliens also had been turned away. [Letter to Gokhale of May 10, 1903, C.W.M.G. Vol.III, p.300; Gandhi Sangrahalaya (G.N.) 4101]. The only practical course was to take up fight against legislation based on colour. The British authorities had repeatedly told the Indian settlers that they would have to put up with the laws inherited from the late Republic *till they were modified*. It could therefore, be taken for granted that consistently with the British Government's past declarations, these laws would be repealed. Whatever delay there was, must be presumed to be due to administrative difficulties arising out of the contemporary European mood. Otherwise, it was difficult to understand

why "the very tax from which we were protected by the British Government should now be collected in its name". And that too when there was not "even the excuse of popular prejudice in favour of the tax". The agitation from the Europeans was against trading licences. No one at any of the anti-Asiatic meetings had "ever whispered a word as to the collection of the tax". [C.W.M.G. Vol.III, p.301, May 16, 1903, India Office: Judicial and Public Records, 402]. From this it followed that it could not be part of the British policy that old laws should be harshly enforced against His Majesty's Indian subjects while they stood unrepealed. And if this was so, all manifestations to the contrary must be set down to local prejudice and overzeal of the Crown Colony officials. Chamberlain had consistently denounced the principle of racial legislation. The British Government had made it a *casus belli*. This led only to one conclusion, namely, that the anti-Indian prejudice of the whites and what the Indians recently had to put up with at the hands of the Crown Colony Administration were incidental to, not inherent in, the situation. They had, therefore, to wear down the one and patiently bear up under the other to secure for themselves equal treatment in the Empire, which loyal acceptance of the Imperial ideal offered.

That provided to Gandhiji his cue. They must exert themselves might and main to get the Imperial Government to disallow, in terms of its own declared policy, all special legislation directed against the Indians and to strengthen its hands by tendering the fullest cooperation consistently with their self-respect. If the anti-Indian laws did not mention the Indians by name and were not made expressly applicable to them, but to all subjects, and their enforcement was left to the discretion of administrators; in other words, if the laws imposed general restrictions which could for the time being be enforced against the Indians in a specially rigorous manner, the object of the legislators would all the same be

achieved. But it would leave room for administrative relief, so long as the Government did not become positively hostile.

There is one important fundamental difference between general laws, however heavily they might weigh on a particular section or community, and special laws specifically and exclusively directed against a class or a community, which Gandhiji never wearied of reiterating. In the case of general laws, if in course of time the dislike for the victims of prejudice should become less and the Government was unwilling to injure them, there would be no need to abrogate the law but a more liberal administration of the law would suffice to provide relief to the aggrieved community. In the case of a special law such a possibility is foreclosed. "Once a law is enacted, many difficulties must be encountered before it can be reversed. It is only when public opinion is highly educated that the laws in force in a country can be repealed." [M. K. Gandhi. *Satyagraha in South Africa,* p.88]. And this is as it ought to be. "A Constitution under which laws are modified or repealed every now and then cannot be said to be stable or well organised. [*Ibid*]. The Indian community had accordingly in their petition to Lawley expressed its readiness to accept legislation to check unrestricted immigration. Explained Gandhiji in his letter to Dadabhai Naoroji on May 10, 1903 that, while not an Indian had accepted the principle of compulsory removal to Bazaars, in order to prove their *bona fides* they were prepared to accept legislation on the Natal basis with some very reasonable modifications, and had offered to cooperate with the Government in making the bazaar system a success if it was applied only to new applicants. "The real point is there should be no legislation to that effect compelling Indians as such to submit to the institution of Bazaars." [Gandhiji to Dadabhai Naoroji, May 10, 1903. C.W.M.G. Vol.III. p.300]. Once the racial stigma was removed the poorer class of Indians would naturally take advantage of the cheap

housing and other facilities that the Bazaars offered, if the sites were carefully chosen in respect of sanitation and opportunities for trade.

But hardly had the ink dried on the pen when, contrary to the advices from London that the law was to be modified if not abolished, information was officially received that the Government intended to enforce the £3 registration tax in terms of Law 3 of 1885.

7

In a letter to Chhaganlal in the first week of February, Gandhiji had written, "I may leave in March .... I shall make every possible effort to return home. It is no bed of roses here." [C.W.M.G. Vol.III, p.279] His cousin need not be in a hurry therefore, he had added in a postscript, to vacate the bungalow at Santacruz that they had rented for Kasturba and the children. But with every day that passed, the prospect of his early return to India had become more and more remote.

Gandhiji to Gokhale *Feb. 23, 1903.*

Events have been progressing very fast in this country and naturally I have been in the thick of the fight. The struggle is far more intense than I expected.... There is a great deal of underhand work going on. The old laws are being severely enforced. And it probably means my having to stop here longer than March. [C.W.M.G. Vol.III, p.282, February 23, 1903: S.N. 4100]

He hoped Gokhale would do what he could in India. On the same day he wrote to Dadabhai Naoroji: “Mr Chamberlain will probably sail for England this week, but the position of the Indians remains unchanged." [C.W.M.G. Vol.III, p.280]

Two days after this, Chamberlain sailed home after delivering 80 speeches during his nearly two months' stay in South Africa. To the Indians he left little hope beyond a vague promise of "fair and honourable treatment" as fellow

subjects. He recommended restrictions on further immigration of the Asiatics, with protection to vested interests already established in the Colony, which the Asiatic Department interpreted to mean that they could now completely shut the door to any Indian, refugee or not, refuse at will to recognise vested interests, 'location' the Indians already settled there and expropriate them of their ownership rights if the locations began to thrive.

A period of agonising suspense followed Chamberlain's departure. From one responsible source came the information that the Government, in order to please the Colonists, were going to "sell" the Indians and propose legislation that would go farther than the Cape, Natal and even Australia. From another equally responsible quarter it was learnt that legislation would be adopted on the lines of the Natal anti-Asiatic legislation. The Indian community faced an uncertain future.

The one business of the Asiatic Office seemed to be "to invent new engines of torture" [C.W.M.G. Vol.III, p.284, March 16, 1903] for the people. It had already instituted a new system of passes. When an Indian reached the Colony, he was deprived of his permit and given a pass which was supposed to secure his registration. The original permit was valid for life. The Asiatic Department's pass was of only temporary duration, and did not allow the holder to leave and re-enter the Colony. As a result an Indian on entering the Colony found his freedom of movement curtailed. If he wanted to visit a friend or a relation in another Colony he had to obtain a separate pass the duration of which depended on the sweet will of the issuing officer. Those who wanted to leave the country with the intention of returning were required to take out visiting passes on which were to be affixed their photographs. [*Ibid*] Ostensibly this was meant to prevent the passes from being unlawfully used. In effect it only meant that because some

might make a fraudulant use of the passes the whole community was to be branded as criminals. No notice was taken of the religious objection on the part of the Muslims to have themselves photographed at all.

Even in official notifications Indians were dubbed “coolies''. In the town of Standerton a notice issued by the District Commandant required "all coolies, being holders of licences", to obtain permits to walk on the footpaths by applying to the police officer. Any "coolie or other coloured person” found walking on the footpath, not being in possession of a permit after April 1, was liable to be prosecuted according to the law. [C.W.M.G. Vol.III, p.291, April 12, 1903] In Johannesburg Abdul Gani, Chairman of the British Indian Association, and managing partner of the premier Indian firm in South Africa, Messrs N.C. Camroodeen and Co., was ordered to get off the footpath. He stood his ground and would not. All the same he had to suffer much indignity.

In February a slight outbreak of bubonic plague in Natal, mostly among the Kaffirs, provided a pretext to the Transvaal authorities to stop the entry of every Indian from the Colony without even the option of a temporary quarantine. As a result even those refugee Indians who could prove their claims in the ex-Republic were shut out, but Europeans and Kaffirs were allowed to come in freely. Obviously, Indians alone were supposed to carry the contagion; Europeans and Kaffirs were immune! When Kruger had issued a similu order, the British authorities had threatened to stop all negotiations with him that were then in progress and forced him to reverse his order. Gandhiji wrote in one of his despatches, that even “in the darkest days of the community under the old republican regime, it was not subjected to the treatment it is now undergoing" [C.W.M.G. Vol.III, p.284] What was more, then the British Government served as an effective shield against any serious wrong. But where were they now to find a

shield against attacks from the very quarters which had formerly afforded protection, he asked.

8

The work which had brought Gandhiji to South Africa was practically over, and he could have now returned home if he had so wished. But the more he saw of the working of the Asiatic Department the more he felt that he dared not leave the Transvaal with all that mess uncleared. Slowly he was driven to the conclusion that all the difficulties the Indian community was struggling against stemmed from the anti-Indian legislation bequeathed by the late Republics; the fate of the Indians in other parts of South Africa would, therefore, depend largely on the turn their fortunes took in the annexed territories. Their main endeavour must therefore be to get this objectionable legislation abolished. Lopping off a branch here or a twig there would not do; they must strike at the root. But the repeal of the anti-Indian laws might take time, and in the meantime the autocracy of the corrupt Asiatic Department was making things impossible for the Indian community. The immediate task before them was to tackle the Asiatic Department and work for its abolition.

It was on Gandhiji's advice that the Indians had decided to put behind them their grievances and help the Imperial power unconditionally in its hour of need by organising the Indian Ambulance Corps. Some of them now cast his advice in his teeth. "We followed you in faith", they said, "and see what we have come to." He did not mind the taunt. He sympathised with them: they were so bewildered and confused. He did not regret giving them the advice he had given. He said to them: "We simply did our duty. We may not look forward to any reward for our labours ... all good action is bound to bear fruit in the end. Let us forget the past and think of the task before us." [M. K. Gandhi, *The Story of My Experiments with Truth,* p.260]

If they failed to take up the challenge, he told them, the community would be hounded out of the country, besides being thoroughly robbed. "Every day it will have fresh insults heaped upon it . ... It will become impossible to put up with the veritable dog's life that we shall be expected to lead." [*Ibid,* p.261] What he had suffered at the hands of the officials was nothing before the humiliation of the whole community. He decided to pick up the gauntlet: "If I returned with the vain fancy of serving on a larger field in India while I was fully aware of the great danger which stared the South African Indians in the face, the spirit of service which I had acquired would be stultified." [M. K. Gandhi, *Satyagraha in South Africa,* p.84] Even if they permitted him to return home, he grimly told them, he would not do so, leaving them to the tender mercies of the Asiatic Department. He had confidence in his capacity to deal with this new department. "I thought that even if that meant living in South Africa all my life, I must remain there until the gathering clouds were dispersed or until they broke upon and swept us all away." [*Ibid.* p.85] As at the time of the Indian Disfranchisement Act, without a moment's hesitation he took up the challenge that Providence had thrown in his way, declared his intention to maintain himself by legal practice, and abandoning his plan to return home, applied for admission to practise in the Supreme Court of the Transvaal.

It was feared that the Law Society here also might oppose his enrolment as it had done in Natal in 1893, but the fear proved groundless. His application was heard on April 15, and he was duly enrolled as an Attorney of the Transvaal Supreme Court. [Nazar to Gandhiji, dated April 9, 1903, No.29: see also Nazar to Gandhiji, dated April 17, 1903, No.35.] Jan Christiaan Smuts was also already enrolled there.

Gandhiji's decision to locate in Johannesburg went against the advice of at least one of his closest workers. Mansukhlal Nazar had for some months set his

heart on sending him to London where, he thought, his presence would be of the greatest value when the crucial decisions in respect of the future status of the Indians in the newly acquired territories would come up for consideration

before the Imperial Government. The Delhi Durbar was to be held on January 1, 1903, and the King's message was expected to be of unusual significance. Nazar prepared a petition to be submitted to the Imperial Government on behalf of the British Indians. [M. H. Nazar to Atmaram Maharaj, September 20, 1902, Nazar Letter Book] Writing to a co-worker on September 20, 1902, Nazar therefore suggested that Gandhiji ought to reach England by November, so as to be able to explain "the deeper" meaning of the Indian petition to the authorities concerned before the terms of the royal message were settled. [Mansukhlal Nazar to Atmaram Maharaj, Letter No.1 (Gujarati) dated September 20, 1902; Mansukhlal Nazar to Sheth Haji Habib, Letter No.2 (Gujarati) dated September 20, 1902] Accordingly on October 3, 1902, he cabled to Gandhiji asking him if he could go to London so as to participate in what came to be known as Sir William Wedderburn's Breakfast Meeting, and thence to the Transvaal (see *The Discovery*, pp.434-35). But owing partly to his state of health and mental fatigue and partly to his children's illness, Gandhiji expressed his inability to comply with that suggestion. Nazar did not give up. Even after Gandhiji's arrival in South Africa he continued to hope, as Chamberlain prepared to leave South Africa at the end of February 1903, that Gandhiji might be persuaded to go to London to represent the Indian community as soon as the principal business that had brought him to South Africa was over. " I believe that the sooner you go to Britain, the better", he wrote in a letter to Gandhiji on February 18. [Mansukhlal Nazar to Gandhiji, Letter No.19 (Gujarati) dated February 18, 1903] Three days later he again returned to the charge, pointing out that the Colonial Conference would meet in London in March. [Mansukhlal Nazar to Gandhiji, Letter No.20 (Gujarnti) dated February 21, 1903] On February 26 he even thought that a decision had been made that Gandhiji

would go. [Mansukhlal Nazar to Atmaram Maharaj, Letter No.21 (Gujarati) dated February 26, 1903] He was mistaken. Gandhiji strongly held the view that diplomacy alone could not take the place of strength and what it would achieve depended entirely on the popular sanction behind it. The forging of that sanction was conceived by him to be his principal task. And that could not be done from London. He decided to stay in South Africa "for as long as it might be necessary".

Nazar felt heart-broken but resigned himself to the inevitable as "a decree of fate". On March 9 he wrote to a friend in Johannesburg. "Some one is very much required in Britain. If Bhai (Gandhiji) had gone, it would have been good. If he decides to stay here, we must help him in every way". [Mansukhlal Nazar to Atmaram Maharaj, Letter No.23 (Gujarati) dated March 6, 1903]· And a week later he lamented. " I still believe that this time Bhai should have gone to Britain. He was needed there. Well, that was destined." [Mansukhlal Nazar to Atmaram Maharaj, Letter No.24 (Gujarati) dated March 13, 1903] A letter to Atmaram Maharaj written a month later shows that even as late as April 15 he was still not reconciled to Gandhiji's decision: "I still believe that had Bhai gone to Britain, the atrocities would not have been as many as they now are." [Mansukhlal Nazar to Atmaram Maharaj, April I5, 1903 (Nazar Letter Book)

9

To find accommodation for a coloured person in Johannesburg was not easy. For two or three days Gandhiji stayed in the Indian Location with an Indian landlord, Badri, afterwards his client and a prominent Satyagrahi. Later, through the good offices of Mr Charles H. Kew of the firm of Thurston and Kew, Estate Agents, Johannesburg, who was known to Lewis W. Ritch, suitable rooms for an office were found for him for £7 a month in Rissik Street, the legal quarter of the city. For the first year he accommodated himself in a small room at the back of his office. Settling down in Johannesburg he started on his professional work.

Visiting Gandhiji in his office some time later, Mr Kew was intrigued to find on the walls pictures of Christ, Tolstoy and Mrs Annie Besant. He wanted to know the significance of the selection but never got the opportunity to discuss it with him. Four years later, Joseph Doke, Gandhiji's lifelong friend and earliest biographer, found these pictures still there when he paid him his first visit in his office in Rissik Street. They represented the three formative influences in Gandhiji's life at this juncture that helped him rediscover the faith he was born in.

A vivid pen picture of Gandhiji on his return to South Africa at the time of Chamberlain's visit after the Boer War has been left us by Mr Arthur Hawks, a friend of W. T. Stead of the celebrated *Review of Reviews*. [Mr Arthur Hawks in *Unity,* reproduced in *The Modem Review,* February, 1930] In April, May and June, 1903, Hawks was on a visit to South Africa. The Boer war had ended less than a year before. Friends of Stead, admiring his stand on the war, thought a South African edition of the *Review of Reviews* might be published on the lines of the Australian edition of that monthly. Stead sent Hawks to report on the situation. In Johannesburg he met Gandhiji and had an hour with him. Churning his memory of his meeting with the "still obscure Indian lawyer" twenty seven years after the event, he recalled how in "a very plainly furnished office, about 12 feet square", he was received by "a little man, apparently about 40 years old, with a small black moustache on a face not specially dark in colour, but very bright in understanding. His voice was of that singular softness which seems to distinguish all Indians. From the opening of the conversation I was struck by his exquisite English – as natural in flow as if he had never spoken another tongue and as mellifluous in diction as it was in inflection".

Mr Hawks noted another peculiarity of Gandhiji's that has since been remarked upon by some others also. His speech was distinguished by an "intermittant sibilance, which he may have outused, though I should expect to hear that he retains it. There would be a slight – a very slight – hesitance; and then, before the word came, two faint 'tss' 'tss'— the whisperiest thing you ever heard, though I can hear it yet. It added to the charm of his utterance, and at times, seemed to ward off a temptation to speak keenly of what must have been keenly felt''.

Continuing his impressions, Stead's friend went on to note:

> Soft voice, mellifluous diction, charm of manner, without a semblance of rancour, these characteristics of a memorable talk remain vividly in my mind and will ever remain. Somewhere a grammar of the divine science of suffering must be available, which we vaunting whites may be allowed to comprehend when we are ready yearly to celebrate the day of atonement we owe to our brethren in several continents over whom we have presumed to lord it as if we alone were of God's lineage.

What impressed Gandhiji's visitor most was that just as he found in South Africa, Boers, "Who discussed the destruction of their republics without vehement resentment", so he found this barrister, “the victim of humiliation which would make the Christian rage, tell his story with a calmness, and absence of bitterness", the memory of which enabled him understand how it was that a little over a quarter of a century later in his city of Toronto, two Christian missionaries from India – C. F. Andrews, the Englishman, and Stanley Jones, the American – "devoted half their addresses in praise of the man I saw under the British flag, newly in the golden city of the Southern Cross". [*Ibid*]

About the first thing to engage Gandhiji's attention, following his decision to settle down in South Africa, was the need for a political organisation to conduct his struggle. In Natal he had founded the Natal Indian Congress (NIC). In the Transvaal he did not have to start from scratch. There was a political organisation in existence already.

In the first meeting of the Indians to be addressed by him in Pretoria in 1893, Gandhiji had suggested "the formation of an association to make representations to the authorities concerned in respect of hardships of the Indian settlers'' and had offered to place at its disposal as much of his time and services as was possible. But, due either to lack of adequate response or to his own inexperience, no such association came into being and he did not pursue the matter further. There was no certainty as to the tenure of his stay in South Africa. He had come to South Africa not to engage in politics but on a professional engagement only and looked forward to returning home by the end of the year, or even earlier if the case he was engaged in was finished before the year was out.

Providence had, however, ordained otherwise. The formation of the Natal Indian Congress in the following year and its phenomenal success, began to send out ripples of political awakening in the neighbouring Colonies and encouraged formation of political organisations there also. The first time we hear of a political association in the Transvaal was in October 1895 (see *The Early Phase* p.442). The name of the association was "British Indian Defence Committee". Gandhiji used to help and guide the Indian political struggle in the Republic as and when required, from Natal.

There were a number of political organisations in existence in Pretoria and Johannesburg at the time of Gandhiji's advent in the Transvaal. They do not seem to have been formally organised with a definite constitution or a clearly defined set of aims and objectives. They functioned sporadically, mostly as ad hoc bodies, centring around a single individual who was recognised as their spokesman. In Pretoria Haji Habib Haji Dada had often taken the lead (see *The Discovery* pp. 240, 259), while in Potchefstroom Abdur Rehman and in Johannesburg H. O. Ali. M.S. Coovadia and Abdul Gani were prominent (see *The Discovery*, pp. 249, 359). They were all big merchants, mostly Gujarati Muslims.

The other group of Indian merchants consisting of South Indians—largely non-Muslims of Tamil origin – had been able to draw to itself a considerable number of Colonial-born Indians. It formed rival associations, often in opposition to the Gujarati section, which was dominated by Surati Bohras. In 1896, C. M. Pillai was writing to the press as "Hon. Secretary, Pretoria-Johannesburg Indian Congress". In the autumn of 1902, T. Doraisamy Iyer of Johannesburg conducted a meeting of “British-born subjects and Natives of India", which passed twelve resolutions and sent a petition to Lord Milner. In March 1903, the same group sent petitions to Lord Curzon and Lord George Hamilton, the Secretary of State for India.

In consultation and collaboration with a number of friends—Mohanlal, Atmaram Maharaj and Abdul Gani among others – Nazar had been trying to help form out of this welter a well-knit political organization (Sabha) which would enable the Indian struggle to be conducted in an effective, sustained, organised manner. It was proposed to name this sabha “East India Association”, but Nazar disapproved of the choice of the name as there was an association by that name in existence in London already. “Better to name (it) 'Colonial or Transvaal Indian

Association"' he suggested. [Mansukhlal Nazar to Mohanlal, Letter No.3 (Gujarati) dated September 24, 1902] But not much progress had been made and the situation was still nebulous when Gandhiji arrived on the scene.

At the outbreak of the war, or in anticipation of it, practically all the wealthy Indians in the Transvaal had to leave and temporarily settle in Natal. They were waiting for permits to return to the Transvaal and these were mostly not forthcoming. In Pretoria. of the Indians who stayed behind, as we saw, all but four had been forced by the Supervisor of the Indians to remove to the Location (see *The Discovery*, p.364). Threatened with the same fate, the Indians in Johannesburg met at Burghersdorp on October 5, 1902, to protest against the White League's move for locationing them. At this meeting a "Vigilance Committee" was formed to take steps for the protection of the rights of the Indian community (see *The Discovery*, p.434). Here for the first time we come across the name of the British Indian Association with Abdul Gani as its Chairman. [*Transvaal Leader,* October 7, 1902: S.N. 3983] Little is known about the origin, constitution or the early history of this Association. This much, however, is clear that by the time Gandhiji returned to South Africa, it had either become defunct, or was dormant. The earlier representations to the authorities, on Gandhiji's arrival in the Transvaal in January 1903, in connection with the Indian deputation that was to wait on Chamberlain, were made not in the name of the British Indian Association but British India Defence Committee. Tyob Hajee Khan and Hajee Habeeb were the Chairman and the Secretary of this Committee. [C.W.M.G. Vol. III, pp.269-70; S.N. 4023, January 2, 1903] Both of them resided at Pretoria. Even as late as March 22, 1903, a cable of condolences to the late Mr Caine's family was sent not over the name of the British Indian Association but British India (Defence ?) Committee. [C.W.M.G. Vol.III, p.287; S.N. 2282, March 22, 1903]

The Pretoria Indians would have liked Gandhiji to settle in their midst but more than half the Indians were residing in Johannesburg. Besides, Johannesburg was politically the nerve centre of the Transvaal. Gandhiji felt that from there he would be able to serve his countrymen better, and so – much to the disappointment of the Pretoria Indian traders – he decided to settle in Johannesburg.

The first communication appearing over Abdul Gani's name as Chairman of the British Indian Association after Gandhiji's return to South Africa was dated April 22, 1903. No announcement of its inauguration was made, as in the case of the Natal Indian Congress, nor was any notice taken of it in the Press. From its inconspicuous entry it is reasonable to conclude that the British Indian Association was not a new political organisation founded by Gandhiji, as has frequently been stated, [*Vide* a statement to the author by the late S. Ladha Singh; the late Shri Harishankar Joshi of Limbdi in a letter to the author; and Mr E. R. Ritch's tape-recorded Oral History interview to Dr. A. D. Lazarus at Port Shepstone on January 9, 1976 for the Nehru Memorial Museum & Library, New Delhi] but was either resurrected, or reactivised after a brief spell of hibernation. It was reconstituted under Gandhiji's advice sometime between March 23 and April 23, 1903.

Be that as it may, one thing is clear. Unlike the Natal Indian Congress till then, the British Indian Association was not the only political organisation in the Transvaal; there were other political organisations existing side by side with it. To instance, we find that the resolution in the 6th May mass meeting of the British Indians at Johannesburg was moved by Sheth Haji Habeeb as Secretary of the British India (Defence ?) Committee of Pretoria.

In another respect, too, the British Indian Association differed from its proto-type in Natal. Unlike the Natal Indian Congress, it was not a membership

organisation with a regular register of subscribing members, but an action body. All the Transvaal Indians were assumed to be its members and officers were elected to the executive by acclamation at mass meetings, funds being raised as needed to meet the work at hand. Sheth Abdul Gani was its Chairman from 1903 to April 20, 1907, when Essop Mian took over as acting Chairman. He held that position till September 10, 1908. He then resigned and Sheth Cachalia became the Chairman. Gandhiji continued to be its Secretary for the whole of his stay in South Africa with H. S. L. Polak to help him as Assistant Secretary and to carry on his work during his absence.

The British Indian Association provided Gandhiji the platform he needed to conduct the Indian struggle in the Transvaal as the Natal Indian Congress had done in Natal. In 1926 when the Transvaal Indian Congress replaced the Transvaal British Indian Association which, by that time had become defunct, [Fatima Meer – *Portraits of Indian South Africans* – Avon House, Durban, 1969] the latter's constitution was bodily adopted by the successor organization.

To educate public opinion Gandhiji needed a medium. Here he had to break fresh ground. *Indian Opinion*, beginning June 4, 1903, became his weekly letter to friends and the bulletin and barometer of his struggle.

These two creations of Gandhiji provided to the Indian Satyagraha struggle its thews and sinews. A third one, the Phoenix Settlement, established in December 1904, became its power house. Though a subsidiary and offshoot of *Indian Opinion*, it became the focal point of all his subsequent activities in South Africa and an integral part of his own life and spiritual development.

CHAPTER II : WHIPS AND SCORPIONS

1

The post-war Johannesburg to which Gandhiji had returned was very different from Johannesburg before the war. Most of the people who held power now were known before the war as Uitlanders. They called themselves British subjects and were quick to raise an outcry against the Boer regime and demand "justice" for themselves. In this the English, the Germans and others were all united. They vociferously denounced the Boer rulers who, they complained, had reduced British subjects to the position of “helots”. But these same “British subjects'' had first incited the Boer Government against Indians, then questioned its authority to legislate against them, and at last got Milner and Chamberlain to go to war with the Boers. During the war they went about trumpeting that after the war all discrimination based on race and colour would be eradicated from the Statute Book. This was the first act of the drama. In the second act all this was forgotten, and they became engrossed with serving their own interests. Followed the third act in which open enmity to the Indians began to be manifested. In the fourth act, oppressive laws began to be passed against the Indians. This was in progress when Gandhiji arrived.

Deterioration in the position of the Indians in the Transvaal after the war, had set in about the same time as in Natal and the Cape. But there was this important difference. Before the war Natal took the lead in racialist legislation and the other colonies, including the Transvaal, followed. After the war the position was reversed. The Transvaal became the exemplar and pace-setter; others followed. One thing common to both these phases was that it was the British section, whether in the Transvaal or in Natal and the Cape, that, with its diehard imperialist outlook and tradition – by and large the product of British rule

in India (see *The Early Phase*, p.63) – was largely behind the clamour for discriminatory legislation against the Indians. Even in Kruger's Republic it was the British shop-keeper class that was most active in the anti-Indian agitation. But it was then not all-powerful. Distrusted by Kruger and Chamberlain alike, and often at loggerheads with the Boer population, it could not always have its way (see *The Discovery*, pp.441-42). After the annexation of the Republics, this section became all-powerful and practically took the older British Colonies in tow in the crusade against the Indians.

By the conventions of London and Pretoria, Indians had full privileges of residence and trading. Article 14 of the London Convention gave all persons, other than Natives, liberty to enter and reside in the Transvaal, to hire, possess houses, shops, etc., and to carry on trade. In 1885 the Volksraad had by a resolution demanded that Indians must *reside* and *trade* in Locations set apart for them, take out a licence to trade by paying a £25 fee and be prohibited from owning property. In 1886 the British Government conceded the Boer Demand, not on the basis on which it had originally been presented but for "sanitary considerations". [*Indian Opinion,* June 4, 1903, Abdul Gani's speech at the Johannesburg meeting on May 6, 1903] No penalty was prescribed for non-compliance with its provisions, and contravention of it was not made a penal offence.

Subsequently the registration fee was reduced to £3 and Indians were permitted to own property within their residential areas. The registration fee had to be paid only once and those who had paid it were exempted from any other special tax while they were domiciled in the State. [Iqbal Narain, *The Politics of Racialism,* p.l76] The Indians protested against the disabilities that had been put upon them. The British Government intervened on their behalf. The question was referred by the two Governments to the arbitration of the Chief Justice of the Orange Free

State, Melius de Villiers, who on April 12, 1895 decided that the Government of the South African Republic was bound to act according to the laws of 1885-86, that a resolution of the Volksraad interpreting and extending these laws was invalid and that all disputes should be settled by the ordinary legal tribunals. This left the position just as it was before the arbitration.

Under the amended Law 3, unless an Indian agreed to reside in Locations, he was not granted a licence to trade. In theory no Indians could thereafter trade without a licence; in practice they could, owing to the strong stand taken by the British Government. Nobody forced them to reside in a Location. They could trade anywhere either by taking a licence in the name of some poor Boer, styling themselves managers of the firm, or without any licences simply by tendering £3 as the licence fee. This was done with the knowledge, connivance and even encouragement of the British officials, and of the Land-rost, who used to turn a blind eye to it. Immediately after the British occupation, the policy of the Government was to respect the position that the Indians held before the war, pending new legislation on the question. The military officers made no distinction between refugees and refugees so long as they were loyal British subjects. As a result in some places many persons who did not trade there before the war but were fortunate enough to reach the Colony during the first few months were allowed licences to trade in Town, which were subsequently described as "temporary licences". After the establishment of the Asiatic Offices that policy was set aside. Some of the officers felt sorry for the past mildness and began to enforce old Boer laws vigorously and systematically. In consequence, those who arrived later, unless they agreed to reside in locations, were refused licences to trade in spite of the fact that they had traded before the war. [On the Position of the British Indians in the Transvaal, March 30, 1903, C.W.M.G. Vol.III, p.288]

Similarly, under the Boer regime Indians could not own property outside their residential areas, but in practice they were permitted to own fixed property outside Locations through nominal white trustees. [*Vide* J. Emrys Evans, Vice Consul, despatch No. 16, December 3, 1898, Progs. No.2 (Emgn), September 1898: Iqbal Narain, *The Politics of Racialism,* Delhi, 1962, pp.l80-181] In fact, it was stated by Eugen Marais of Pretoria in his evidence before the Asiatic Inquiry of 1921 that the late Republican Government itself had appointed trustees to hold fixed property for the Indians. On the Gold fields, where Indians acquired lands, either the Mining Commissioner or someone else was appointed to hold land in trust for them. In 1888, for instance, one Mohamed Ismail purchased (see *The Discovery*, p.261) several stands in Klerksdorp at a Government sale, and was permitted by the Government to register them in the name of the Mining Commissioner as trustee. [Statement of Sir Benjamin Robertson before the Asiatic Inquiry Commission, of 1921, p.32; Iqbal Narain, *The Politics of Racialism,* p.181]

In this way, in Pietersburg some Indians who did not trade before the war had been granted licences to trade in Town in 1902. In December the Magistrate gave them notice that after March 1903 they would not receive licences to trade except in Locations. Chamberlain was then in South Africa. The matter was brought to his notice, but the Supervisor of the Asiatics, who was present, said to him that he had seen the Magistrate and that the notice would not be acted upon. Despite the assurance, however, the Magistrate insisted on giving the notice in question to every Indian who applied for a renewal of his licence. The Supervisor being approached, repeated what he had stated before Chamberlain, but said he was helpless, "as the Assistant Colonial Secretary was against the applicants". [March 30, 1903, C.W.M.G. Vol. III, pp.288-89] The matter was taken by Mr Lunnon, a well-known solicitor of Pretoria, and Gandhiji to the Colonial Secretary, who assured them that, even if the Magistrate made it a condition before

granting a quarterly licence that the applicants should trade only in a Location, he would see that the licences were renewed. Consequently, when the quarterly licences were issued, the Magistrate did not give any notice to the applicants to shift to the Locations. But on March 23, 1903, he reminded them of the previous notice that had been served on them in December 1902. The Colonial Secretary was again approached. The Assistant Colonial Secretary, W. H. Moor, however, insisted that the notice of December last must be adhered to. A telegram was sent to the Colonial Secretary himself, he being the officer who gave the assurance. The matter was also brought to the notice of Sir Arthur Lawley, the Lieutenant-Governor. The licences were subsequently renewed until December 31, 1903, but the holders were warned that on that date they would be required to remove to streets and bazaars selected for them. [Milner's Despatch of May 11, 1903, C.W.M.G. Vol.III, p.431]

Indians alone were granted the trading licences on a limited quarterly basis. This was no small injustice. On top of it, transfers of licences from one store to another or from one person to another were refused. An Indian might be trading in rented premises. If the landlord gave him notice to quit, and the Indian wanted to remove to another place, the licensing officer would not transfer the licence to the buyer. The original owner could. Therefore, only sell out by auction. New licences were, of course, not granted. [March 16, 1903, C.W.M.G. Vol.III, p.284]

The European traders had never liked Indians residing in a European locality and doing business on equal terms with them. In this they had Milner's sympathy. His Government had, in January 1903, even when Chamberlain was in South Africa, refused to grant any licence to Hoosen Amod of Wakkerstroom, and Suleiman Ismail of Rustenburg. [*Ibid.* p.283] Both the merchants had large stocks. Their stores were forcibly closed. The licence to Suleiman Ismail was granted

towards the close of March [March 30, 1903. C.W.M.G. Vol. III, p.288] after his store had remained closed for over two months, but the licence to Hoosen Amod was refused. The Government declined to interfere, "as there is a Location there". [*Indian Opinion,* October 1, 1903, pp.460-63; C.W.M.G. Vol.III, p.288. March 30, 1903] Now the Location at Wakkerstroom was not for the Indians. It was fixed by the late Boer Government, but it had remained totally unoccupied, as it was situated two miles from the town. To send Indian traders to a Location of this kind or to any Location was equivalent to confiscating their business. As *India* put it, if the principles enunciated by the Governor were established, every Indian store-keeper must go insolvent. "Is it not monstrous", *India* asked, that the property of these law-abiding British subjects should depend upon the caprice of officials, "because laws and bye-laws which Mr Chamberlain vehemently reprobated when they were enacted by the Boer Government are still allowed by him to remain in force?" [*India,* April 24, 1903. p.194]

On April 17, 1903 Sir Muncherji Bhownaggree asked in the House of Commons whether the Secretary of State for the Colonies was aware that the store of Hoosen Amod had been closed by the British authorities and his trading licence refused; and that another trader, Suleiman Ismail, who had a trading licence in the previous year, had also been refused a licence that year, and that they were not allowed to transfer their business to persons willing to purchase them. Answering the question Chamberlain said that he had no information on the matter, but he had asked the Government to furnish his report.

2

The hope of early relief in the Transvaal raised by the Lieutenant Governor's statement that the whole question of anti-Asiatic legislation would be dealt with *en bloc* by the newly-formed enlarged Legislative Council was finally

destroyed on April 8, by Government Notice No. 356 of 1903, known as "The Bazaar Notice". It announced that the Lieutenant Governor in Executive Council had decided that, in the disposal of applications made by Asiatics for licences to trade, the provisions of Law No.3 of 1885 would be enforced "with due regard to the vested interests of those Asiatics who were trading outside Bazaars" before the war. The Indians were further informed that to this end (1) the Government would take immediate steps to have Bazaars in every town set apart in which alone Asiatics must reside and trade, and no new licences would be granted to any Asiatic except to carry on his business in Bazaars set up for the purpose. (2) In the case of Asiatic traders, who held licences at the commencement of the late war to trade in places not specially set apart by Government, *licences would be renewed to trade* under the same conditions *during the residence in the Colony of the licencee*, *"provided that such licences shall not be transferable"*. [C.W.M.G. Vol.III, p.292, (Italics by the author)] (3) No licencee would be entitled to hold more licences in any one town than were held by him before the war. (4) With regard to the residence of Asiatics an exception would be made in favour of those "whose intellectual attainments or social qualities and habits of life might appear to entitle them to it". For this purpose the person concerned would have to apply for and obtain a letter of exemption from the Colonial Secretary, by proving to his satisfaction that he held "any higher education certificate from the Education Department in this or any other British Colony or Dependency", or that he was "able and willing to adopt a mode of living not repugnant to European ideas, nor in conflict with sanitary laws". It was practically the same policy proposed in Milner's despatch of April 3, 1902, (see *The Discovery*, p.429) which Chamberlain had summarily disallowed in August, now resurrected as a "provisional" administrative measure. In a change of tactics, Milner and his "kindergarten"

decided to act first and explain it to the home government and obtain its sanction afterwards.

The Crown Colony Government, as *India* put it, thus "quietly accomplished, what the Boer authorities wanted to do but failed in, and what the British Government themselves, including Lord Milner, h.ad so vehemently reprobated before the war". Previous declarations were all forgotten and Lord Milner and his "Kindergarten" succumbed to the persistent demand of petty British traders who out of jealousy of the Indians had repeatedly urged the Boer Government "to location the coolies".

The publication of this notice threw the Indian community into panic. It seemed to shelve indefinitely the question of the repeal of the anti-Indian legislation of the old Government, and it left in suspense the Indian traders, who were not trading on the outbreak of the war but were granted licences in the previous year, licences which Chamberlain had told them could not be touched. While pretending to respect the vested interests of those who were trading on the outbreak of the war, it dealt a death-blow to them by sanctioning the prohibiting of transfers of licences from one place to another, and from one person to another. The first left the storekeepers to the mercy of their landlords; the other prevented them from ultimately realising profits by selling their businesses as going concerns. What was more, it cast a slur on the whole community in that it implicitly assumed every Indian to be unfit to reside in civilised townships unless he proved the contrary. [Gandhiji's statement dated April 12, 1903 in *India,* May 15, 1903, p.236; C.W.M.G. Vol.III, p.290-92] The Indian community urged these points on the attention of the Lieutenant Governor of the Transvaal. On April 12, Gandhiji communicated them for publication to India.

India commented:

> In giving practical effect to the Boer law the British authorities in the Transvaal, with Mr Chamberlain behind them, will really be taking a course more hostile to British Indians than any that was taken by the Boers themselves. Incredible as this undoubtedly seems, it is nevertheless strictly true. Mr Chamberlain through his agents will be giving effect to the policy from which he repeatedly and vehemently urged Mr Kruger to abstain and from which Mr Kruger under pressure from Mr Chamberlain did abstain.

Quoting Lord Lansdowne's speech delivered on the eve of the Boer War, it continued:

> Where in the history of political tergiversation shall we find words more ironical? The War is fought. An army equipped by the tax-payers of India saves Natal....And yet the melancholy, the amazing sequel is that the British victor resolves to enforce the anti-Indian legislation the operation of which had at its own request been suspended. [*India,* May 15, 1903, p.232]

The *Morning Leader* vitriolically observed that when it was proposed by the South African Republic to confine the Indian coolies to locations, the South African League had "violently denounced" the late Boer Government. What made “the cry of 'Oppression of British subjects' ... the more dishonest” it added, “was the fact that the Boer Government agreed to location the coolies only after being repeatedly urged to do so by the Uitlanders themselves, who thereupon denounced the Boers for adopting their own suggestion, and have now proceeded to carry out the same policy themselves”. [*Ibid.* p.236]

The reverberations of the Bazaar Notice reached India also at a time when the conflict between the extremist and the moderate wings of the Indian National Congress was heading for a crisis (see *The Early Phase*, p.159). *The Tribune* of

Lahore, the leading nationalist English daily of Northern India, known for its sobriety and level-headedness, editorialised: "There are scoffers in India who say that justice and fairplay is all moonshine; what actually tells is the fear of disturbance. Are we to take it that the scoffers are not far wrong in their idea of the hidden springs of Government action?" As for the alleged insanitary habits of the Indians that were said to be the reason which necessitated their segregation, they could not be worse than those of the Boers, if the London journals were to be believed. [It is a well-known fact that in comparison with other countries the general standard of personal cleanliness is much higher in India, where it forms part of the daily ritual prescribed for both Hindus and Muslims. Instances of deviations from the accepted norms can however be found among all people everywhere. Here is what appeared in the *Natal Mercury* at a time when locationing of Indians on "sanitary grounds" was being proposed in the Boer Republic: At Johannesburg a "lady" whose elaborate costumes have excited the envy of her sex and have been described in ladies' letters, was taken ill in a shop. She was partially undressed by the female assistants, who were horrified to find they had struck a veritable whited sepulchre. Her body was so filthy that no woman could be persuaded to touch her, and she was left on a couch until her friends were communicated with. The explanation was that her delicate health forbade her washing her body. Her bill for perfumes is said to have averaged £100 a year. *Natal Mercury,* January 13, 1898; S.N. 2664] Would not "the intriguing sedition-monger in his attempts to turn the hearts of Indians from their rulers, now point his finger to South Africa and say: 'there you see what the British think of their Indian fellow subjects'?" [*India,* May 15, 1903, p.236] it asked.

3

The Peace Preservation Ordinance (No.38 of 1902) was little more than an expression of policy. It provided no machinery by which non-compliance with its provisions could be detected or prevented. [*Crocker African Monthly,* Vol.III, December 1907—May 1908, p.344 referring to Lord Selborne's despatch of January 14, 1907, p.8] Early in 1902 it had been stated that, after the conclusion of peace, permit regulations would be relaxed and all those who were entitled to settle and trade in the South African

Republic would be able to return to the annexed territories as a matter of course. A few days after the Peace Preservation Ordinance was put into force, the railway authorities, thinking that there were no permits compulsorily required, issued railway tickets without production of permits. As there was no supervision at the border towns, 579 Indians and 41 Chinese were able to enter the Colony although they held no permits. They were subsequently prosecuted and ordered to leave the Colony. Twenty Indians who refused to leave were sentenced to various terms of imprisonment. Following it, the number of permits allotted to Indians was reduced from 200 to 70 per week. [20 Hamilton Fowle's Report, *Indian Opinion,* January 28, 1904]

To put teeth into it, the Peace Preservation Ordinance (No.38 of 1902) was amended by promulgation of a new Peace Preservation Ordinance (No.5 of 1903). Section 5 of the amended Act, assented to on February 22, provided among other things that any person entering or residing in the Colony was liable to be called upon by any member of the constabulary or police force, or any other person authorised thereto by the Colonial Secretary, to produce a permit or to give satisfactory evidence that he belonged to one of the categories exempted from the necessity of having such permit. If he failed to do so he could be arrested without warrant.

Compulsory exchange of Asiatic passes, under the May, 1901 order of the Indian Immigration Office for Permits, which the Indians previously held, had led to much abuse of the pass system by unscrupulous people—Indians as well as Europeans—of whom there was no lack in the Colony. There were frequent cases of impersonation. To check the evil the new arrivals were required to prove their knowledge of the places where they were supposed to have resided, by answering questions as to the topography of the places concerned and the names

of some prominent Indians there. But even the immigration staff could not know all the villages in the Transvaal and before long it was complained by the Immigration Office that an intensive course of coaching by the friends and relatives of the immigrants, which made them proof against any test by the border Permit officials, had come to be looked upon by the intending immigrants as a necessary part of their preparation for immigration into South Africa. In the face of universal outcry against the pass system by the Indians and the South African Government alike, therefore, as soon as the Peace Preservation Ordinance was amended, the Chief Secretary for Permits issued instructions that the Asiatic passes were again to be exchanged for Permits. The intention was itself good but the way in which the Asiatic Department carried it out brought cruel persecution on thousands of Indians, showing how even a beneficent measure turns into a curse when the system administering it is corrupt. No notice was published in the papers. Instead, on April 23, 1903, at 5.30 in the morning at Heidelberg, the employees of the Asiatic Department accompanied by the police, surrounded every Indian store, rudely opened the doors, entered in and woke up all the people sleeping in the rooms in spite of being told that some of them were occupied by women in *purdah*, and "struck terror into the people by shouting 'Come out, come out'". [Petition to Governor of the Transvaal dated June 8, 1903, C.W.M.G. Vol.III, p.293; *Indian Opinion,* June 18, 1903] They did not allow them time even for ablutions, or to take tea or any refreshment. "Many opened their shops at 6 o'clock, thinking that two or three might remain in the shops, while the others accompanied the police. But the masters were taken beforehand." On the men declining to close their shops, the police closed the doors themselves, handed the keys to them and marched them out. "Thus, every man was arrested as if he was a criminal. The only difference was that we were not handcuffed." [Letter from

Abdul Gani to Colonial Secretary, dated April 25, 1903, published in the *Rand Daily Mail.* April 28, 1903, C.W.M.G. Vol.III, p.293]

Brought to the Charge Office at 8 a.m., they were kept under custody. Each man was then taken separately into the office room, asked to produce his permit or proof of former domicile and new permits were issued to those who could prove their claim. They were then led out through the front door one by one. Even they were at first kept under custody, and were allowed to go only when they protested. Those that were set free were not allowed to mix or hold conversation with those that were detained. The latter had in consequence to go hungry and thirsty till past midday. At 12.30 p.m. some merchants were still in custody. The spectacle of respectable Indian store-keepers being arrested at the crack of dawn and marched through the streets became the talk of the town. ''When (we) asked by what order we were being arrested, the reply was: 'By order of the captain; we are going to take everyone except women and children, and if you do not come willingly, we will force you.' The written order was asked for. They declined." [*Ibid*]

A similar incident happened in Johannesburg. The matter was brought to the notice of Captain Hamilton Fowle, Chief Secretary of Permits, and it was thought that such a thing would not be allowed to be repeated. But the same thing happened at Potchefstroom also. Even in the "darkest days of our time under the old regime", wrote Gandhiji in a petition to the Colonial Secretary that he drafted for Abdul Gani, Chairman of the British Indian Association, "we were not subjected to such physical ill-treatment. The community has ... committed no crime, and yet it has not only to face popular prejudice and its effects, but has now to face ill-treatment from those who are expected to protect us." [*Ibid.* p.294]

In a covering note forwarding this letter to the Editor of the *Rand Daily Mail* of Johannesburg for publication, Gandhiji wrote: "If there is one thing that is dearly cherished by the British Constitution, it is the respect for personal liberty of the meanest of the King's subjects, whether white or black. This evidently is at stake in the Colony, as far as the British Indians are concerned." He hoped that, irrespective of the paper's views on the question of the status of British Indians in the Colony, it would sympathise with the Indians in the physical ill-treatment to which they had been subjected.

"We hold no brief", commented the *Rand Daily Mail*, "for the Indian, whose presence in the Colony we regard as inimical to the true interests of its European inhabitants. Nevertheless we have considerable sympathy with the Indian and respectable Arab merchants of Heidelberg .... It says little for the police that their overbearing and unnecessarily overbearing conduct ... should be calculated, as the petition of the British Indian Association bears out, to bring British ideas of fair play into contempt." The spirit of militarism which to a great extent permeated the police ranks of the Colony, the journal concluded, "is doubtless the cause of these autocratic doings ... and it is to be hoped that a reprimand will follow the complaint made by the Indian Association''. [*Rand Daily Mail,* reproduced in *Indian Opinion,* June 4, 1903]

Gandhiji had hoped that the exemplary patience shown by the sufferers under tyrannical conduct of the police in Heidelberg and elsewhere would create a favourable impression on the officers immediately concerned. But evidently their silence had been misunderstood. Feeling that it was necessary to treat these incidents more seriously, he had, therefore, in a note circulated to friends of India in England [Notes, May 9, 1903, C.W.M.G. Vol. III, p.298] at the request of the storekeepers sent a copy of the magisterial proceedings that the Government had instituted in

regard to the Heidelberg incident to Dadabhai Naoroji. But on further reflection he felt that outrageous as incidents like Heidelberg, Potchefstroom, etc. undoubtedly were, they must not be allowed to divert their attention from the larger issue of the repeal of the existing anti-Asiatic laws. Their fight was not against the abuse of anti-Indian laws but against anti-Indian laws themselves. On May 31, therefore, he wrote to Dadabhai to be chary of making use of any statements not received through either Nazar or himself. "Our countrymen here are at present naturally in such a state of unrest, confusion and terror, that they are unable to take a dispassionate view of things ... our policy is and must be to put up with the inconvenience such as those described in the Heidelberg proceedings. They are but a phase of the larger question. The whole effort has to be concentrated on the repeal of the existing legislation." [Gandhiji to Dadabhai Naoroji, May 31, 1903, C.W.M.G. Vol.III, p.312; S.N. 2257]

4

Disgusted by the way the Indians were being oppressed and persecuted by their fellow Europeans, a number of European traders, in response to an appeal by the British Indian Association, signed a petition to be submitted to the Lieutenant Governor. In the course of it they represented that if the Notice No. 356 of 1903 was meant to be permanent, it was in conflict with the declaration before the war of Her late Majesty's Government, in that the H. M.G. "were then opposed to the anti-Asiatic laws of the late Republic so far as British Indians were concerned", and had "protested against their enforcement". [Enclosure dated April (end of) 1903 to Chairman, British Indian Association letter of May 1, 1903 to Lt. Governor, Pretoria. C.W.M.G. Vol.III, p.296] The withholding of licences to trade outside Bazaars from those Indians who had obtained them in the previous year from British officers was manifestly "unjust", and the refusal to transfer existing licences from one person to another or from one place to another "tantamount to requiring the

present holders to close their businesses sooner or later, and then at a heavy loss". The best solution of the question, they urged, would be to grant to Town Councils or Health Boards powers, as in Natal, to refuse or grant licences to new applicants, " subject to safeguards against abuse thereof in the shape of the right to the aggrieved party of appealing to the Supreme Court against their decisions". [C.W.M.G. Vol.III, p.297] To remove the Indian traders' fear of uncertainty as to their future they recommended that the renewals of the existing licences, too, should be made subject to the sanitary report from year to year. In regard to the immigration of the Asiatics they suggested that in place of the existing anti-Asiatic legislation the Cape Act or the Natal Act might be copied with advantage, to remove any fear of an influx of undesirable people of any nationality, while doing away with race and colour question. [C.W.M.G. Vol.III, p.296]

In forwarding the Europeans' petition to the Lieutenant-Governor the Secretary of the British Indian Association pointed out that, with very few exceptions all the Europeans with whom they had come in contact had expressed sentiments "similar to those of the petitioners". In talking to the Europeans his Committee had further found that the Colonists' opposition was "not so much against the Indians as against the Chinese". For instance, when the Chairman of the British Indian Association drew the attention of the Executive of the Johannesburg branch of the South African League, which constituted the spearhead of the anti-Asiatic movement, to a statement in regard to the Asiatics in a League pamphlet, "they admitted at once that the use of the term Asiatic was an error". Their objection, they said, was "entirely against the Chinese and not at all against the British Indians". Praying for the removal from the Statute Book of the existing legislation, which put "an unnecessary affront on His Majesty's loyal Indian subjects" the Chairman of the British Indian Association reiterated the

Indians' willingness to accept "with slight modifications" legislation along the lines proposed by the European traders. This would not only meet the object aimed at by the notice in question, but also regulate the future immigration which the Bazaar Notice did not do. [Abdul Gani to Sir Arthur Lawley, May 1, 1903, C.W.M.G. Vol.III, p.296]

The signatories were all merchants of the highest standing. Among them were W. M. Hosken, and L. W. Ritch. William M. Hosken, the first signatory, was one of the most prominent leaders in the Transvaal, and a delegate to the recent Bloemfontein conference. Lewis W. Ritch was manager in a prosperous European firm. Later he got himself articled under Gandhiji. Both became staunch supporters of Gandhiji, and identified themselves completely with the Indian cause.

5

The promulgation of the Bazaar Notice forced the Indian community to act. On May 6, 1903 British Indians from all parts of the Colony assembled in the West End Hall, in Fox Street, Johannesburg to protest against the Government Notice No.356 of 1903. The meeting was held under the presidentship of Sheth Abdul Gani of Messrs Mohammed Cassim Camroodeen & Co., of Durban and Johannesburg, Chairman, British Indian Association. The hall was packed to capacity. Speaking as a settler of nearly sixteen years' standing, the Chairman recalled how, before the British occupation, the Law 3 of 1885 had remained a dead letter. "The slightest attempt to enforce it was at once checked by the British Government whose agents came to the rescue as ministering angels." The Government then promised support. Under the British flag, they reasoned, the old anti-British laws had lapsed. Then someone in authority discovered that "we were 'Asiatics' after all, so the yoke of the Asiatic Office was placed on our necks".

[*Indian Opinion,* June 4, 1903] And now the fiat had gone forth that the old laws were to be enforced. The Indians were to be "branded as a class apart, cooped up in locations, euphemistically ... called bazaars ... ", which the late W. W. Hunter had in the columns of the *London Times* compared to the Jewish Ghettos on the Continent. "In the one case the cause was religious persecution, in ours it is trade jealousy." In short, if they would live in the Transvaal, they must be content to live as "social lepers".

The Indians, the speaker continued, had never objected to South Africa being preserved as a white man's country where the white man would be supreme. The best of everything was theirs already. The chief industry was entirely in their hands. The millions were theirs. As hawkers Indians took nothing from their sphere. As traders they raised them one step higher in the social scale by acting as their middlemen. They paid rents to the whites, bought goods from them, banked their money with them. "Is it, then, the barest dregs which are left to us that they grudge us?" he asked. Chamberlain had repeatedly told the Europeans that as members of the great Empire they had to share the Empire's responsibilities, one of which was "not to slight the members of that Empire". He hoped that as fellow citizens of the Empire they would not grudge Indians bare justice.

Sheth Haji Habib, Secretary of the Indian Association, then moved a resolution protesting against the Government Notice No.356 of 1903, signifying the intention of the Government to enforce the Law 3 of 1885 of the late Republican Government, on the following grounds:

(1) It was a clear departure from the promises made on the eve of the war, and repeated after the British occupation of Pretoria, by or in the name of

His Majesty's Government, that the legislation referred to would be repealed as soon as Civil authority was established.

(2) The legislation intended to be enforced under the notice in question was one of the causes of the war, as publicly declared by the Rt. Hon. Joseph Chamberlain and Lord Lansdowne.

(3) It was opposed to British traditions, and in conflict with the Proclamation of 1858 given to the people of India by Her late Majesty, the Queen Empress, and often reaffirmed.

(4) Such legislation had never been countenanced even in self-governing colonies, and the attempt to pass it had been hitherto invariably defeated.

The resolution requested the Government to reconsider the notice and replace the terms especially applying to the Asiatics by "such legislation of a general character as may be in harmony with British traditions and the declarations before-mentioned''.

Speaking to the resolution, the mover recalled how on the eve of the war he had himself seen the British Agent in Pretoria, who had given the promises referred to by the Chairman in his speech, promises that were repeated to him by Mr Conyngham Greene, but which to their sorrow they now found were not being fulfilled. He hoped, the British Government that had raised their voice and entered their protest against ill-treatment of Roumanians and other down-trodden people in all parts of the world, would not refuse fair treatment to their fellow subjects.

H. O. Ally of Johannesburg in seconding the resolution referred to a leading article in the *Times* in which Chamberlain was quoted as having said that the Indian subjects of the Empire had helped to fight the battle of Great Britain, and

it would be foreign to the British sense of justice to use the blood and valour of that race and yet to deny them that protection of the British name and rights of peace. The speaker denied that the Indians were insanitary, but assuming that they were, herding them into ghettos would not remove the insanitation; the remedy was to make the municipal bye-laws as stringent as necessary and to enforce them relentlessly. In this he for one would accord the Municipality his whole-hearted support even if the offender were his own brother.

As for the Indians underselling the Europeans, he offered to take them round shops in Pritchard Street and Commissioner Street and they would find that it was Europeans more than the Indians who undersold one another. He concluded by reminding them of what Mr M. St. Leger had said as early as 1899; "It is un-English to claim rights for one and not allow them to others." Indians, St. Leger had gone on to say, were British subjects and surely were entitled to the rights and privileges of the British Empire.

Abdul Rehman of Potchefstroom, speaking in support of the resolution, characterised the steadily growing list of their disabilities as "a melancholy record, galling to our self-respect and unworthy of those who permit them". He narrated how he had been awakened in the early morning to find a policeman at his door ready to pull him out of bed, who rudely ordered him to accompany him as if he were a criminal. "What an insult to my family, who were present!" Someone at the East Rand was reported in the *Transvaal Leader* to have said that they would "outrage and drag every Asiatic into the gutter". Yet there were some who maintained that there was nothing in the new proclamation to complain of. His answer to them was. "Gentlemen, it is opposed to the principles of British freedom. It is opposed to all our feelings of humanity, it is opposed to the instincts of the British Constitution and British Law. It is opposed to the teachings of

economics. It is opposed to all the grave lessons which history has taught. It is opposed to the tenets of Christianity." Lord Roberts, writing from Army Headquarters in reply to an address by the British Indian refugees had expressed the hope that "in the two new colonies men of all races and all religions may live in perfect freedom as they do in other parts of His Majesty's dominions". If that was to be so, then Law 3 of 1885 ought to be swept away immediately.

After A. M. Bhayat of Heidelberg, Abdulla Haji Valli of Standerton and several other speakers had spoken, the resolution was unanimously passed. Copies of the resolution and the report of the meeting were forwarded to the Secretary of State for the Colonies and the Secretary of State for India.

Commenting on the meeting the *Transvaal Leader* observed:

> He (the Chairman) was supported by representatives of the whole Indian population in Johannesburg, on the Rand, and in the Transvaal generally. There were Madrassees, Bombayites and Bengalis, while every calling was represented from merchant to labour. For the most part, however, the crowded audience was composed of the higher and educated class of British Indians, while the speeches, as will be seen, were not lacking in ability.
>
> There was an almost entire absence of truculence – rather an appeal from the weak to the strong – though one or two speakers grew warm as they dilated upon their grievances. [*Ibid*]

What a distance had the Indian community travelled since Gandhiji had initiated them into public life only a decade ago! Could they be the same people, one wondered, who at the time of the Indian disfranchisement bill had said to Gandhiji: "What can we understand in these matters? We can only understand

things that affect our trade .... We are after all lame men, being unlettered." [M. K. Gandhi, *The Story of my Experiments with Truth,* pp.l38-9] And could their Chairman be the same Sheth Abdul Gani who in his first meeting with Gandhiji at Johannesburg had said to him "Only we can live in a land like this, because for making money, we do not mind pocketing insults .... This country is not for men like you." [*Ibid.* p.115]

First of its kind, the 6th of May meeting of the Indians in the Transvaal was a sign and a portent. It showed that the community had at last woken up from its long torpor and was not going to submit to usurpation of its rights without a struggle.

6

Three days after the Johannesburg protest meeting, the British Indian Association cabled to *India* on May 9, 1903, the gist of the resolution passed at that meeting. [*India.* May 15, 1903, quoted in C.W.M.G. Vol.III, pp.297-8] On the following day in a letter to Dadabhai Naoroji Gandhiji expressed his concern at any further delay in passing the desired legislation of a permanent character to define the position of the Indians and safeguard their fundamental rights as British citizens. With this letter he enclosed copies of his letter of May 1, 1903, to the Lieutenant Governor, Sir Arthur Lawley, and the "Notes on the Position", dated May 9, 1903. [Notes on the Position, May 9, 1903, C.W.M.G. Vol. III, pp.298-9] The Indians were prepared to accept legislation on the Natal basis as set down in their letter to Sir Arthur in order to prove their *bona fides*, he wrote. As to the Bazaars, "not an Indian has accepted the principle of compulsory removal... but we are ready to cooperate with the Government in making the Bazaar system a success, if it is applied to new applicants. The real point is there should be no legislation to that effect compelling Indians as much to submit to the institution of Bazaars" [Gandhiji to

Dadabhai Naoroji, May 10, 1903, C.W.M.G. Vol.III, p.300] In a note circulated to friends he reiterated that legislation on the Natal lines would be acceptable on condition that (1) the educational test must include a knowledge of the Indian languages and the power should be reserved for the Government to allow special permission to those Indians who, though devoid of a knowledge of languages, were specially required for the benefit of the domiciled Indians; this would exclude the millions which were a "bugbear" to the Europeans; (2) the existing traders' licences should not be touched, but new applications, whether of Europeans or Indians, should be dealt with by the Local Boards, provided that the Supreme Court should have the power to revise their decisions in cases of gross injustice. "What we feel most", he explained, "is not inconvenience due to the prejudice, but the utter degradation involved in Indians, as a class, being forced to the locations or Bazaars." The existing law applied to Indians, as such, a principle which Chamberlain had more than once set his face against. [Notes on the Position, C.W.M.G. Vol. III, pp.298-9]

To Gokhale he wrote: "The Cape Act is certainly bad. It required amending .... The Cape and Natal Acts are general in terms .... The legislation *here* is against Indians (described as the “aboriginal races of Asia") as such and deprives them of the right of owning property, etc .... If your health is good and if time permits it, please study the question and direct the movement in India against it....” [Gandhiji to Gokhale, May 10, 1903, C.W.M.G. Vol. III, p.300]

When the text of the resolution passed at the Johannesburg meeting and the accompanying papers reached England, Sir Arthur Basil Markham, M.P., asked Chamberlain in the House of Commons to lay down on the Table of the House a copy of the petition "addressed to him last month by Abdul Gani". [*India,* June 12, 1903, p.267] His question was particularly pointed at the ill-treatment of the Indians at Heidelberg and other places to which various speakers in the

Johannesburg meeting had referred and about which the Chairman of the British Indian Association had addressed a petition to the Colonial Secretary to be forwarded to London. Partying the point, Chamberlain replied: "I have received a resolution passed at the meeting of British Indians at Johannesburg on May 6, of which Mr Abdul Gani was Chairman, and I do not propose to lay it on the Table. This resolution does not refer to physical ill-treatment and I see no necessity for the proposed instructions. The whole subject (of the anti-Indian measures) is under consideration by the India Office and the Colonial Office, and I am in communication with Lord Milner on the matter." [*India,* June 12, 1903, p.267] A few days later Mr Markham returned to the charge. Again Chamberlain evaded the issue. In reply to a further question about "Abdul Gani's letter", detailing the "physical ill-treatment" of the Indians, on July 15, he quibbled: "I have not received any letter making these charges." [*India,* June 26, 1903, p.243]

Mr Markham: "Did not the Right Hon. gentleman say last week he had received a letter?"

Chamberlain: "The Honourable Member asks if I have received a letter making *specific charges*. I say I have not, but I have received a letter from Mr Gandhi." [*Ibid,* (Italics by the author)]

As soon as Chamberlain's disclaimer appeared in the Press Gandhiji joined issue with him. "It is very difficult to understand the meaning of Mr Chamberlain's reply ... when he says that there is nothing definite in the letter of the President of British Indian Association if he was referring to the Heidelberg incident." He was loathe to dwell on the incident in question, he said, for he believed firmly that it was isolated, and whenever such things had happened, the higher authorities on the spot were ready to see that justice was done.

> We are only concerned with the truth and definiteness of the statement made by the President of the British Indian Association, and ... we know that, when the letter was first published, the opinion was unanimous that it betrayed a serious breach of duty on the part of the police. [*Indian Opinion,* June 25, 1903; C.W.M.G. Vol.III, p.351]

7

The Transvaal Municipal Congress, with representatives from all the local governments, met on May 11, 1903. In his inaugural address, Milner, speaking as "the man on the watch tower (who) may see further than the man on the veldt." said that it would be “an unhappy day", when any large British community in South Africa "completely and finally repudiated the doctrine of … ‘equal rights for every civilised man'". But even if it was to be thrown into the waste paper basket "here or elsewhere", he hoped it would be done by argument, not by “rhetorical appeals to race prejudice or by reasons based simply upon considerations of colour". He sympathised strongly with the feeling that existed in the Colony against its being flooded with Asiatics. He was personally "most resolutely opposed", he told them, to indiscriminate influx of the Asiatics as traders and settlers. But to resist the influx of the Asiatics successfully they ought to take their stand on "the strong, the unassailable ground ... the social and economic reasons which exist for resisting that immigration, and not base our opposition purely on the weak ground of colour”. [*Indian Opinion,* June 4, 1903; *Milner & the Empire,* p.145; *Milner Papers* (Headlam) Vol.II, p.469] The greater danger of every sound policy was "its exaggeration and its travesty.” A South African statesman could perfectly well defend legislation restricting an indiscriminate influx of "a low class of Asiatics" without offence, but it would not be possible to enter into relationship with any Asiatic state if they were going to adopt sweeping legislation against every class

of Asiatics, or to defend such legislation by arguments and language which was an insult to Asiatics as Asiatics.

> Once more, I say it is not a question of colour, it is a question of civilization, and it has a material bearing upon the position of Asiatics already here. How can we hope to be regarded as anything hut blindly hostile to men of colour, because they have colour, if we are going to deny to the most educated and civilised Asiatic, who may be already established among us ... not ... political rights ... (but) all the other privileges which civilised men enjoy? [*Indian Opinion,* June 4, 1903, p.8

But apart from consideration of "humanity, of Christianity, (and) of good breeding'' was it justifiable, he asked ''to denounce Asiatics as Asiatics", and take the view that “all of them, whatever their degree of civilisation, must be unwelcome here, or, if they come here, should be treated as pariahs?"

The Indians read in Milner's strong reiteration of the principle of "equal rights for all civilised men", a message of hope. They were soon to be disillusioned. What came to be known as Milner's "Watch Tower Speech" was not at all intended to be a repudiation of the doctrine of racial superiority, but only a plea "in a spirit of wise statesmanship", for moderation in pursuit of that doctrine by avoidance of "needlessly offending sentiment" which might jeopardise its success. [This is how Milner put it in his "Watch Tower Speech": "By a spirit of statesmanship l mean ... a spirit which does not aggravate practical difficulties by needlessly offending sentiment. It may be the duty of a statesman to run counter to sentiment. He may have to attack it boldly, as a surgeon plunges his knife boldly into the human body in order to remove some dcepseated sore. But it can never be the part of statesmanship needlessly to wound susceptibilities.... "(*The Milner Papers, South Africa,* Cecil Headlam, Vol. II, p.466)] On the following morning the Indians received a letter from the Lieutenant-Governor of the Transvaal from which it appeared that the Government were determined to enforce Law 3 of 1885, and that it would not

be altered at all. In the words of Jan. H. Hofmeyr, Great Britain's Asiatic subjects got no more concessions from Milner than they got from Kruger. Republican restrictions were not relaxed but were even sought to be made severer. "Kruger had chastised them with whips; Milner was fain to chastise them with scorpions". [Jan. H. Hofmeyr, *South Africa,* p.149]

8

On May 21, 1903, Mr Herbert Roberts asked in the House of Commons whether any circumstances had arisen to necessitate revival and enforcement under British rule of the restrictions imposed by the late Boer Government. In reply Chamberlain stated that the restrictions referred to under the notice of April 8 last would be enforced ''with due regard to the vested interests of traders and with a provision for the exception of educated Asiatics from residence in places specially set apart for Asiatics". Lord Milner had informed him that it was necessary to take this step pending fresh legislation, "in view of public feeling", but that the existing law was being carried out "in the most lenient manner possible". On receipt of Lord Milner's despatch of May 11 which he was expecting, he would “carefully consider the whole question". [*India,* May 21, 1903]

Chamberlain's reply filled the Indians with the hope that relief from the agony of suspense under which they had lived since the British occupation, would not now be long delayed. Great was their disappointment when on June 11, answering a question by Sir Muncherjee, the Secretary of State for the Colonies said that the law was not being enforced "in all the rigour with which it was carried into effect by the Boers" and "considerable modifications had been made''· [*India,* June 30, 1903] Milner's despatch on his Bazaar policy had by this time reached London. If this was the result of the careful consideration of whole question promised by Chamberlain, then the Indians had little to look forward to.

Considerable modifications had indeed been made but all to the disadvantage of the Indians, making their last state worse than the first. This was how things actually stood in the Transvaal before and after the war. [C.W.M.G. Vol.III, p.343; *Indian Opinion,* June 18, 1903; Sir Muncherjee to Chamberlain dated August 15, 1903, C. D. 2239, August 1904, p.22]

Before the War	Under Crown Colony Government
The Indians were not compelled to pay £:3 registration fee.	Every Indian had to take out his registration on pain of being fined £10 to £ 100, or on failure, being imprisoned from 14 days to six months.
Any Indian could trade in any part of the Transvaal without a licence in most cases simply as against tender of licence money; and this because of the protection of the British Government.	Every Indian must remove to Bazaar for trade, except those who held licences to trade in town before the War.
Any Indian could live in any part of the Transvaal without molestation and without having to apply for exemption.	No Indian, unless he received a special exemption from Colonial Secretary could live in towns; but all Indians must remove to Locations, now to be called Bazaars.
Indians could hold landed property, if only in the name of white people.	It was extremely difficult for Indians to hold property in the name of white people.
Indians held 99 years' leases in Johannesburg, under the old Government for landed property in the Indian Location there.	This land was now being taken away from them under "Insanitary Area Commissioner's Report" and there was no guarantee that they would receive an equal title to land

	elsewhere in Johannesburg in a suitable place.
Indians were free to enter the Transvaal without any restriction whatsoever.	Even *bona fide* Indian refugees were only sparingly allowed to enter the Colony, and then after nearly 3 months' delay after application.
There was no separate Asiatic Department for Indians, with its passes and permits.	The Asiatic Department had become a painful fact with the Indian community in the Transvaal, with its inconveniences which were now occupying Lord Milner's attention.
Vested interests were never touched by the Transvaal Government, because of the mighty protection that was ever afforded to the Indians during the Republican regime by British Consuls.	Some existing "licencees" possessing thousands of pounds' worth of stock were under notice to shift to Locations at the end of the year; although they received the licences from British Officers.

What could have been in Chamberlain's mind when he made that statement? Had Milner deliberately misled his chief or, was he himself misled by his officials? Where lay the truth?

On the face of it, there seemed to be no escape from the conclusion that either Milner was deliberately misleading the Home Government – he had done this more than once before – or that he was himself being misled by his officials. But both by temperament and on principle, Gandhiji was loath, to question anybody's *bona fides* on mere suspicion. Ultimately he absolved both. In the last week of August 1903, referring to Milner's 11th May despatch on the Bazaar Notice as “a document of very great interest and also to some extent of hope" to the British Indians in South Africa, Gandhiji observed: "It shows at once what they have to fear and what they are to expect from the present Government in the

Transvaal. That His Excellency is actuated by great sympathy and excellent motives is evident throughout the despatch and where there is good ground for complaint the cause is not Lord Milner himself, but those who placed facts before him." [C.W.M.G. Vol.III, p.423; *Indian Opinion,* August 27, 1903] Characteristically he added, "Perhaps not even the latter because they, amid the overwork of office, have not been able to place before His Excellency correct facts."

From his spiritual preceptor— Shrimad Rajchandra – Gandhiji had received the philosophy of *Anekantavad* or relativity of truth (see *The Early Phase,* pp.276-77). In terms of that philosophy, many years later he declared; "Immediately we begin to think of things as our opponents think of, we shall be able to do them justice ... this required a detached state of mind and it is very difficult stage to reach. Nevertheless it is absolutely essential. Three-fourths of the miseries and misunderstandings of the world will disappear, if we step into the shoes of our adversaries and understand their stand quickly or think of them charitably." And in order to be charitable to them, "we must believe that they actually mean what they say". [*Young India,* March 19, 1925, p.85]

From it as a corollary followed the principle that "if you want to convert your opponent, you must present to him his better and nobler side. Work on, round, upon that side. Do not dangle his faults before him". [*Gleanings,* by Mitra, Navajivan Publishing House, October 1939, p. 17]

The Imperial ideal was in its essence predatory. But it owed its vitality and appeal not to this but to "the soul or goodness" that was in it. In its redeeming aspect Imperialism stood for "progress", equal rights and status for all members of the Imperial family irrespective of colour, race or religion, and universal peace through "the Parliament of man, the federation of the world" (see *The Discovery*, p.215). Dedicated missionaries of the Empire could in all sincerity point to acts

and pronouncements of the Imperial Government in support of their belief in its beneficent purpose. The principle of equality before law, embodied in the British legal system, was vindicated time and again by the highest courts of justice in South Africa in the teeth of the popular white prejudice. It buttressed Gandhiji's faith in the Imperial ideal. Consistently with that faith he felt it incumbent upon him to take that ideal at its face value, to be tolerant of its shortcomings and to seek to remove them by patient endeavour. Slowly, Gandhiji was groping his way to the discovery of the law of suffering for the vindication of right and justice which constitutes the core of Satyagraha.

9

Finding the danger, that had threatened them all along, imminent, the Indians sought permission to wait upon Lord Milner in deputation and a date was fixed for the meeting. As a counterblast, the General Secretary of the East Rand Vigilance Association addressed a memorial to Sir Arthur Lawley in terms of a resolution of its General Executive Council, in which the establishment of bazaars "inside our townships where they may trade and reside" was characterised as "most pernicious", and the class of the Asiatic (in the aggregate} that came to Africa as being not "other than of a very low caste". Although representative Government had not yet been granted in the Transvaal, it urged, that was no reason why the wishes of "by far the greatest majority of the inhabitants" should be set at naught. The memorial concluded with the following: "Asiatics must not be allowed to possess land or property in either of these our new colonies and, if they are allowed in at all, they must be confined to locations and not allowed to carry on any trade outside thereof." [*Indian Opinion,* June 4, 1903, p.6, Col.2, Arthur H. Gree, General Secretary. East Rand Vigilance Association Memorial to Lieutenant Governor Lawley]

On May 22, 1903 the Indian deputation consisting of Abdul Gani, Haji Habib, H. O. Ally, S. Y. Thomas and Imam Sheikh Ahmed with Gandhiji as leader, waited on Milner. In the course of their interview the deputation dwelt particularly on the following:

1. £3 tax and Law 3 of 1885.

2. The Asiatic Office, and the permit system introduced by it.

3. The denial to the Indians of the right to hold property.

In regard to the £3 tax Gandhiji said it was true it had been paid by some Asiatics to the old Government, but the British Government had never approved of it. After the matter was referred to arbitration and the arbitrator had delivered his verdict against the British Indians, Chamberlain had reserved to himself the right to make friendly representations to the Transvaal Government. He had told the British Indians that he heartily sympathised with them. In the end the law was never wholly enforced. Now all that was changed and they were to be compelled to pay the tax and to go to Bazaars. The tax was a grievous burden to a large number of Indians, who were employed as house-boys, domestic servants and waiters on a wage of about £3 a month. To have to pay one-twelfth of their wages by way of a special tax was no joke. Besides. it was a kind of penal measure. If they did not pay, a fine of from £10 to £100 could be imposed, or, in default, fourteen days' to sixteen days' imprisonment.

Milner: "Is this an annual tax?"

Gandhiji said it was not, and needed to be paid only once. It was intended to act as a deterrent to Indian immigration. That such payment should now be enforced against those already in the country came as a great surprise to them.

[C.W.M.G. Vol.III, p.302; *Indian Opinion,* June 11, 1903]

As for the permit system, Gandhiji described how it had recently been used by the Asiatic Department at Heidelberg and other places to harass the Indians. The enforcing of the law about £3 tax and the permit system showed that the intention of the Government was to perpetuate Law 3 of 1885, so that they would never be allowed to hold property in the Transvaal except in the Bazaars and Locations. This was contrary to the spirit of the British Constitution. The sites where stood the mosques in Johannesburg and Pretoria had been purchased many years ago but owing to this law, they could not be transferred to them. The same difficulty had arisen in connection with the mosque at Heidelberg. Lord Roberts had told them that as soon as the civil administration was established, all British subjects would be treated alike. Yet that very law was now being enforced against them.

Then there was the innovation about photographs on visiting passes that the Asiatic Department had introduced. The officer who heard their complaint was reported to have said in an interview that appeared in the *Star* that the Asiatic Office was "intended to advance the views of the White League and not to watch over the interests of Asiatics". Chamberlain had promised that those Indians who were already established in the country would receive fair and honourable treatment. The Indians hoped that that promise would be fully implemented.

H. O. Ally complained that they were not allowed to trade where they liked, and that they could not get transfers of licences. Imam Sheikh Ahmed narrated how he had applied for a permit for a Mohammedan priest but it was refused point-blank. It was strange for a country to refuse to allow a priest to enter in for ministering to a section of the inhabitants of that country, he said. Great

difficulties were put in their way when they went to any of the Government offices to see the officials. For instance. he could never see the Colonial Secretary.

Replying, Milner maintained that they had a perfect right to restrict "Asiatic" immigration, or any immigration, for the general good of the community. He was, however, emphatic that the “Asiatics" who were already there should be treated well and have their legal rights clearly defined and guaranteed. He reiterated his opinion that it was necessary to deal with the position of the Asiatics by a special law, but the law that he had in mind, he said, would have to be materially different from the existing one which was "far from satisfactory". He himself was not satisfied with Law No.3 of 1885 but it had to be enforced until it was replaced by a more satisfactory law. He deplored the delay that had occurred in passing a new law of a permanent character, owing to the difficulty in finding a middle course between the White League on the one hand and the Indian Government and the Home Government on the other. He spoke of his great faith in "the effect of time, discussion and consideration" to bring conflicting views together. He thought that a reasonable law was possible, “not a law which will give you all you want, but one which will give you a great deal, not a law which will altogether please the 'White League’, but one which will do much to conciliate the reasonable members of the White population." But as things stood, such law as he should propose might not have the consent of the Home Government, "and might cause protest from the Government of India; and...any law, which the Home Government suggested to us, might not meet with the public assent here, and, even if passed, might make your position worse by stimulating opposition to you, and would then, on the establishment of self-government, almost certainly be repealed at once". They must, therefore, make

the best of the existing conditions; it was no use "trying to force the position here against the overwhelming body of white opinion". [C.W.M.G. Vol.III, p.305]

Brushing aside their complaint that the £3 tax was burdensome and oppressive, Milner told them that, on the contrary, it was to their advantage to pay it. It gave them promise of protection.

> Once on the Register, their (the Indian settlers') position is established and no further registration is necessary, nor is a fresh permit required. That registration gives you a right to be here, and a right to come and go. Therefore, to me, registration seems a protection to you, as well as a help to the Government, and in any law that is passed, I should like to see registration included. [*Ibid*]

The Indians well knew that they were not bound in law to re-register, but to buy peace, promised by Milner, from ceaseless harassment they were prepared as a conciliatory gesture to pay even that price. They could hardly imagine at that time that Milner's assurance to them would remain in his mouth only while the incubus of compulsory registration would haunt them for years to come. [M. K. Gandhi, *Satyagraha in South Africa,* p.94; R. A. Huttenback, *Gandhi in South Africa.* p.158. Although the Indians were not bound in law, they voluntarily agreed to re-registration in the hope that new restrictions might not be imposed upon them, it might be clear to all concerned that the Indians did not wish to bring in fresh immigrants by unfair means, and the Peace Preservation Ordinance might no longer be used to harass newcomers]

In regard to the Asiatic Department, Milner told the deputation to their shocked surprise, that what he had just heard from their lips was "rather an illustration of the necessity of having an Asiatic Department". It would be an "immense advantage" to them if they had a special member of the Government whom they could approach regarding their affairs, "instead of having to compete

with so many other bodies for the attention of a very much overworked office like that of the Colonial Secretary .... I think such as Asiatic Department is very desirable, and its establishment is in your own interest". [C.W.M.G. Vol.III, p.304]

Similarly about the Bazaars; he thought it would be a "distinct advantage" to occupy them, provided that they were good Bazaars. It was no use "causing general opposition" to themselves by settling down "here, there, and everywhere among people who do not want them .... Rightly or wrongly, and for my own part, I think, not unreasonably, the white population resent and will resist any large and indiscriminate influx of Asiatics into their own midst". His advice to them was that they should submit to the existing law “until it was altered". He did not think the law was being carried out harshly.

He denied that the Government had not recognised all acquired rights. They had recognised the rights of Indians who were there before the war, and who held licences before the war. “We allow them to renew their licences for the premises they had prior to the war and to transfer them to other premises.”

Gandhiji pointed out that His Excellency had missed the point of their complaint. Some traders, on their return, had settled in localities different from where they had traded before. They had obtained fresh licences, and built new homes and shops in those localities. They were now told that they would have to leave as they would not have their licences renewed at the end of the year. Milner answered that this was a new point, which he had not thought of before. It would need further consideration before he could express an opinion on it.

In reply to the point made by the deputation, that the Law 3 had not been enforced by the late Boer Government, Milner almost took away their breath by remarking that this was just the point of his objection about the system of the

late Government of the Transvaal. “It was so arbitrary. The law was enforced and it was not enforced."

It is difficult to follow Milner here. What precisely was he finding fault with—with Kruger's racialist policy, or with his laxity and lack or uniformity in enforcing it? Would he have been satisfied if Kruger had shown the same thoroughness and vigour in enforcing it as his own Government did later in respect of the anti-Asiatic legislation inherited from the Republic? Or, was he only talking through his hat like the sort of British bureaucrat that we have known in India to whom the Administration Manual is his Bible and strict adherence to its rules and procedures the highest virtue? Kruger's Government had sinned against it by its administrative laxity; it could not be forgiven. Milner and his officials had faithfully kept all its commandments; they could do no wrong—no matter how arbitrary was the policy they pursued and how brutal its enforcement.

Milner took note of and promised to look into their complaint about the photographs and passes and about the difficulty in getting the mosques registered in their names. He was sure the Transvaal Government would provide that places of worship might be registered in the names of those who used them. He admitted that there was a good deal of trade jealousy but thought it was quite natural. "Our numbers are too small to allow of uncontrolled immigration, especially of a different race, when we have already so many racial problems.” [C.W.M.G. Vol.III, p.307]

Here again, we find Milner indulging in the habit of making irresponsible statements *ex cathedra* from his bureaucratic vantage ground without fear of contradiction. Who had ever asked for uncontrolled immigration"? Surely, not the Indians, not the members of the deputation who waited upon him. In theory every subject of His Majesty the King had an equal right of entry in all parts of the

Empire. But the Indians had never pressed that claim and Milner knew better than anybody else that under the Peace Preservation Ordinance even those of them who were entitled to come were being kept out by a misuse of that Ordinance, as his own officials, including his successor, Lord Selborne, attested to later. To conjure up an imaginary danger in justification of petty white shop-keepers' trade jealousy was hardly worthy of a statesman of His Excellency's eminence.

He agreed that removal to the Bazaars should not be made compulsory by legislation on the ground of race or colour, and promised that this would be considered in dealing with any new legislation. The Government had no prejudice against the Indians as such, he said. "For those already here, I can only say that I hope they may continue to prosper." [*Ibid*]

Gandhiji felt constrained to point out that that sentiment was confined only to His Excellency. It took, for instance, three months for an Indian from the time he landed at one of the ports to get up there. Milner rejoined that, on the contrary, at one time too many Permits were being issued to Indians and a far larger number of Indians were coming up there than people of all other nationalities, except the British, put together. H. O. Ally corrected him. This was only for a very brief while in the beginning, owing to a mistake of the railway authorities, who thought that any Indians who showed that they were refugees were entitled to return at once. The amending Peace Preservation Ordinance No.5 of 1903, had put a stop to any such recurrence, and those who had been able to enter unauthorisedly had since been prosecuted and put across the border.

Milner: (cutting H. O. Ally short) "To revert to the £3 tax I have heard no valid argument against it."

When the report of this interview was published, it brought forth an indignant letter to Gandhiji from Mansukhlal H. Nazar, who was at that time in Durban making arrangements for the first issue of *Indian Opinion*. "Lord Milner is a disappointment," he declared. He gave encouragement to the White League by assuring them that "the law will not be modified or altered in a hurry" and by indulging "in the 'indiscriminate influx' rot." [Nazar to Gandhiji, May 29,1903] Nazar suggested opposing him with his own statements against Kruger and the assurances of Lord George Hamilton. Then his indignation burst forth:

> If the laws are to be revised, why enforce them now? Why *now* do the dirty things you would not allow Kruger's government to do? When he speaks of protests from the Indian Government, is it not evident he recommends giving much less than the little contemplated by Hamilton? And what is 'fair and honourable'? In whose sense are the words to be understood? What may appear fair to him may seem tyrannical to us, e.g., Asiatic Office .... The Government would like to have a Secretary to mind Indian matters alone, therefore, a *department* should be created? If he really thinks the head officer must 'protect' our interests – how will he do that? By a department? By breaking the law? If not, what necessity to protest, and from what? From popular prejudice? He cannot. From Zulum (police raids)? It is a serious reflexion on the Administration. May it be from weather, or monetary losses, or illness? or hand and mouth –stomach diseases? Very likely. from funeral. [*Ibid*]

Nazar was perfectly justified in his comments. There was enough ground in the Bazaar Notice to warrant a raging, tearing campaign, if the object was to give fight. But what Gandhiji was in search for was not *casus belli*, but some means by which opposing view points could be brought together within a

common frame of reference and harmonised in an all-inclusive unity. This called for an integrated, comprehensive approach, an utterly honest, strenuous effort to view the problem from the angle of the other party and to look for and identify, wherever possible, areas of agreement – not to accentuate further points of difference, whether justifiable or not.

10

In the course of the interview Milner had said that the Government had no prejudice against the Indians, that he did not like the law of the late Republic as affecting the British Indian subjects, and that he wished the Indians already established there to prosper. A little before that in his famous "Watch Tower" speech he had boldly spoken against "the savagery of opposition" to the Asiatics and reaffirmed Cecil Rhodes' principle of "equal rights for all civilised men South of the Zambesi". [Milner's address to the Municipal Congress on May 18, 1903, *Indian Opinion,* June 4, 1903; *The Milner Papers* (Headlam) Vol.II, p.466] He had reiterated he would have none of colour distinction. But when he descended from generalities to particulars and to the practical application of his principles, the Indians, to their consternation, found that those principles were left behind. He was emphatic that the Government had decided to enforce the £3 tax but had advised them not to resist it, as it promised them full protection of their existing rights. Trusting to his *bona fides* the Indians had decided to bow to Milner's decision and not to appeal to Chamberlain. But it did appear strange that His Excellency should object to colour distinction and in practice justify the imposition of a penalty on colour. To the Indians it was not the amount but the principle that was objectionable. Then, Milner had said that the Asiatic Office was a necessity; the Indian could have his grievances heard there. The Indian found that the Asiatic Officer was only a "conduit, and a very faulty one" at that. In not a single instance was the

Indian able to avoid having to see the regular officers whenever he had any business to do. And the Asiatic Officer, having nothing of importance to engage his attention, found "some mischief still to do". Was it not the Asiatic Office that had "invented" the system of taking photographs which "branded its protege as a criminal"? [C.W.M.G. Vol. III, p.336; *Indian Opinion,* June 11, 1903]

The Deputation had very reasonably suggested that the removal to Bazaars should be left optional. The poorer class of Indians would then go to Bazaars of their own accord, attracted by the prospect of cheap housing and other facilities which it presented. Milner could not see his way to permit that. "Why", asked Gandhiji and replied: "Because the Indian is a coloured man! There is no law to force the poor whites to the particular quarter." [C.W.M.G. Vol. III. p.337: *Indian Opinion,* June 11, 1903] The Indian resented compulsion when its effect was to degrade him.

Assuming, however, that His Excellency's words meant what they conveyed to the Indian ear, Gandhiji felt that they need not despair. Milner had told them that the Bazaar Notice was only temporary and that he was even then considering new legislation. The Indian could therefore reasonably expect that at no distant date the anxiety and stress, under which he had been groaning in the Transvaal for the last eighteen months since the signing of the Peace, would come to an end and he would find rest "once and for all" from pin-pricks, to which he had been subjected to an even greater degree than under the old regime. To get the existing legislation suitably altered as quickly as possible, therefore, all their energies must be bent.

Two days after the interview with Milner, in a statement to Dadabhai Naoroji, Gandhiji summed up the grounds of the Indians' objection to the Bazaar Notice as follows: [Gandhiji to Dadabhai Naoroji dated May 24, 1903, C.W.M.G. Vol. III, p.309]

(1) The Law 3 of 1885 was never approved by the British Government; it remained on the Statute Book only after diplomatic representations had failed.

(2) The tax was never regularly imposed during the late regime.

(3) The Law, the removal of which was one of the causes of war, should not be enforced.

(4) The Indian community needed rest from the constant change of passes and officers. The Asiatic Office under whose yoke they were groaning, had taken away the permanent permits held by them and granted temporary passes for which there was no legal authority, and in the process had subjected them to no end of harassment. And hardly had the police persecution in the process of exchanging passes for permits been effaced from their mind when they were confronted with the new proposal for registration certificates for which £3 tax had to be paid.

(5) The payment would be crushing burden to poor Indian hawkers and others who were barely able to eke out a living.

(6) Unlike other personal taxes in the Colony, which were recoverable only by civil suit, failure to pay the £3 tax rendered a man liable to a penalty of £10 to £100 and, in default, 14 days' to six months' imprisonment.

(7) The tax was not meant for the purposes of revenue but as a deterrent to future immigrants. Considering that only *bona fide* refugees were being allowed to enter the Colony, there was no necessity for a deterrent.

(8) The £3 tax was a penalty for wearing a brown skin. It seemed that whereas Kaffirs were taxed because they did not work at all or sufficiently, the Indians were to be taxed evidently because they worked too much, "the only thing in common between the two being the absence of the white skin".

(9) The strangest part was that there was no demand even on the part of the White League for the enforcement of the payment; the only thing the League wanted which the Government had ruled out, was the banishment of the Indians, if not out of the country altogether, certainly to Locations outside townships.

11

As there had not been sufficient time during the Indian Deputation's interview with Milner to explain fully their views on some of the points at issue and some of the observations made by Milner were at variance with facts, Gandhiji drew up a memorandum to be submitted to the Governor by the British Indian Association in which he subjected to a close scrutiny all that had been said in justification of the Bazaar Notice and the establishment of the Asiatic Office. [Petition to the Transvaal Governor, June 8, 1903, C.W.M.G. Vol.III, p.322; *Indian Opinion,* June 10, 1903]

It had been argued that the Indians should not object to the Bazaars, as Bazaars were in vogue in India. The argument was based on a false analogy. The Indian Bazaar was situated in the very heart of a town, it was the busiest portion of it and there was no compulsion on any man to trade in bazaars. Besides, an Indian Bazaar was never a place of residence. The Transvaal Bazaars, unlike the *bona fide* Indian Bazaars of India, were not to be centrally situated. That the Government themselves did not think much of the Bazaars was apparent from

the fact that the pre-war Indian traders were not to be compelled to remove to Bazaars, and Indians of education and position were to be exempted from having to reside in them.

It had further been maintained that as the Bazaars were to be located within town limits, it showed that the existing law was not being harshly enforced. But the existing law clearly contemplated "the setting aside of streets and wards", which could only be in towns. The location of the Bazaars within town limits, therefore, was by itself no indication of a lenient construction of the law. Besides, according to the law, the streets, wards or locations were to be set apart for residence; *trade* was nowhere mentioned in it. To the Indians trade was the crux of the matter. They had been told that the High Court of the late Republic had laid down that "residence" should include "trade" also for the purpose of construing the law. But its decision was not unanimous. Mr Justice Morice being the dissenting judge. It was, therefore, hardly a lenient interpretation of the statute to enforce the decision of the late Republic's High Court, in view as well of the fact of dissent as of the fact that the British Government had always protested against any such interpretation even when they felt compelled to accept the law itself.

Milner had told them repeatedly that new legislation was under consideration. If that was so, where was the need or necessity for enforcing the existing law at that juncture? Very few Indians were being allowed to enter the Colony. Those who had traded before the war were to have the right to trade outside Locations renewed. The Government could very well exercise its discretion in the treatment of the new applicants — very few in number — pending new legislation.

His Excellency had made much of the need to placate European sentiment. But the White League had expressed its strong opposition even to the Bazaars being established within towns. It was obvious, therefore, that if the

Bazaars were established according to the declared intentions of the Government in accessible parts of towns, it would neither fully satisfy the White League nor serve the purpose the Government had in view, and the agitation against Indians would continue. Thus whatever the point of view, the principle of Bazaars was unsatisfactory. As against this, if in terms of their proposal to Sir Arthur Lawley, the municipalities were given the powers to control the granting of new licences to trade, subject to the revision of their decision by the Supreme Court, the existing licences would be left untouched so long as the law in regard to sanitation, proper book-keeping etc. was observed, while the granting of new licences, whether European or Indian, would practically depend on the Municipality which represented the will of the people. With such a law, without any compulsion, each community would be automatically settled in distinct localities best suited to each. The standard of buildings would improve year after year, the whole tone of the community would be raised and no offence given to any portion of it.

Milner had claimed during the interview that all existing Indian rights had been respected under Bazaar Notice. Chamberlain also had been emphatic that acquired rights of the Indians already established in the Colony would not be touched. But the Bazaar No1ice did not recognise all existing rights. Firstly, it did not protect the rights of Indians, who had returned to the Transvaal with permits and had received licences to trade, like the rest on the ground of their being refugees, in towns in which they did not trade before. These had been given them by British officers for the full year without any condition. Yet the Government

Notice No.3511 of April 8, 1903 threatened to relegate all such traders to Bazaars at the end of the year. In some cases these traders with long established business had en1ered into long leases of premises and built upon them, never suspecting that, under British rule, their tenure of licences would be assailed. They were entitled to a greater consideration even than old licence-holders who had not yet returned to the Colony but whose rights were respected because they traded outside Bazaars before the war. In the one case the new man had an established business, in the other, the man, though an old trader, had to start *de novo*. Lord Milner had promised to consider that point. It was but fair, therefore, that irrespective of any decision that His Excellency might arrive at on the other points, this must be decided favourably to the men in the first category to whom full protection of their vested interests would be a life-and-death matter.

Secondly, the Bazaar Notice did not give the right to transfer licences for trade outside Bazaars from man to man. It authorised renewal only up to the time of the residence of the holder. As soon as his business was in a flourishing condition, and he had established a goodwill and thought that he could now well retire, the full fruit of his labour was snatched away. He could not sell his business as a going concern as his licence was not transferable. If the vested interests were to be really protected, as the British Government had promised, it was essential that the right of transfer should be recognised.

Thirdly, it seemed that those alone who held *licences* to trade outside Bazaars were to have their licences renewed, not all who *traded* outside Bazaars before the war whether with or *without* licences. There were many Indians who, though they traded before the war, had no licences issued to them. In fact very few had licences. Many traded on tender of licence money and some in the name of white men. All this was done with the knowledge of the authorities, and the

late Republic had tolerated these things because of the pressure of the British Government. There was a contradiction between the various parts of the Bazaar Notice. The preamble of the latest Notice said: "... with due regard to the vested interests of those Asiatics who were *trading* outside Bazaars at the commencement of hostilities". But the 3rd Clause went on to speak of Asiatic traders "who *held licences* at the commencement", etc. Many Indian traders, therefore, would suffer if the exemption was restricted to those only who *held* licences before the war, as distinguished from those who *traded* before the war.

Fourthly all the partners of a firm trading before the war outside Bazaars were equally entitled to a renewal, but the Bazaar Notice seemed to restrict that right only to the partner who was lucky enough to be in the Colony at the time, and to refuse it to another or others who had an equal right to it, but were not on the spot to take advantage of it. This was most unfair to the latter.

Fifthly, the Bazaar Notice contemplated exemption only in respect of residence. To the Indian community, the whole business of exemption was a gratuitous affront. Why should an Indian be under a necessity to take out an exemption by posing as superior to his other countrymen before he could reside anywhere he liked on British soil? Milner had distinctly told them that he thought the exemption extended to *trade as well as residence,* but the Notice clearly limited it to residence. The Indians had protested against the whole Notice. It was a departure from the Declaration of Her Majesty's Government; it was unnecessary in view of impending new legislation; it was full of ambiguity; and it left the Indian community in practically the same state of suspense under which it had been for the last 15 years and from which it had a right to be free on the establishment of the British Government, "which had entered on the costly war,

if mainly for the redress of the grievances of the European Uitlander, not a little also for the redress of those of the Indians".

Sixthly, the Law 3 of 1885 prevented Indians from owning landed property except in the Locations. This disability was obviously to continue under the Bazaar Notice. Even in the Locations, where previously the Indians could own land under ninetynine years lease, it was by no means clear whether they would be confirmed in that privilege. That a British subject should be debarred from buying a piece of land where he liked in British territory was a thing difficult to understand. The Association hoped that this disability would be removed by the new legislation that was being considered.

While not questioning the right of every state to choose its citizens, the Indians had categorically challenged the assumption that there was really a danger of an Asiatic influx in the Colony, which was stated to be the chief reason for coercive legislation. But as the Europeans thought otherwise, in order to remove the growing fear, the Indians had expressed their readiness to accept without demur any legislation of a restrictive character, which was applicable to all, which did not recognise colour distinction, and which left the door open for a respectable class of Indians and such Indians as might be necessary for the business of Indians established in the Colony. They reiterated, therefore, that if legislation on the lines of the Natal or the Cape Immigration Restriction Act with certain modifications was adopted, they would accept it provided that the educational test recognised a knowledge of the principal Indian languages, and the law gave authority to the officers to grant special permission—even if it was for a limited term—to servants, managers and others who might be required for the local Indian merchants.

Finally, the Indians expressed their well-grounded fear that the Bazaar Notice was already having a far-reaching effect in other parts of South Africa, and any curtailment of Indian rights, or introduction of legislation based on colour distinction in the Crown Colony would not be slow to be copied in the self-governing Colonies of the Cape of Good Hope and Natal.

It had been asserted by the Europeans that South Africa had been won by the white men by their sacrifice of blood and treasure. This was only a half-truth. For it was the arrival of the Indian contingent during the war in the nick of time to turn the tide which helped to save the situation. Nor did the contingent consist wholly of white men; it had a large number of dhooley-bearers and other followers, who were just as useful, and had braved the perils just as much as soldiers. The Indians would gladly have fought too and proved their mettle and devotion to the Crown on the battlefield, if considerations of "high policy" had not barred their entry into the fighters' ranks. The local Indians had lagged behind none in the discharge of their duty as members of the Imperial family and it would be gross injustice to deny them the privileges of Imperial citizenship. Indian soldiers had fought the Empire's battles in many parts of the world.

What they asked for, the Indians submitted, was very little. They had not asked for political power; they had no wish to contest the dominant position of the white race in South Africa; they had conceded the principle of restricting the influx of cheap labour, no matter from which source it came. All they wanted was freedom for those who were already settled and those that might be allowed to come in future to trade, to move about, and to hold landed property without any hindrance save the ordinary legal requirements applicable to all. And they asked for abrogation of legislation that imposed disabilities on them merely on the ground of colour. [*Ibid,* p.330]

Not a small part of the memorandum was devoted to the question of the Asiatic Office. But of that later.

Gandhiji mailed to *India* papers containing the report of the Indian deputation's meeting with Milner and a copy of their 8th of June memorandum to the Governor. *India* commented: “we have seldom read a political paper more temperate in tone or more cogent and persuasive in substance. Its main contention is unanswerable ... If as Lord Milner assures us new legislation is under consideration there can be no adequate reason for giving effect to a policy which when it was only threatened by the Boers, provoked vigorous remonstrance from Mr Chamberlain." As for the “exemption" proposed to be given to persons of a "superior" class, “they are largely of an illusory kind ... The British Indian Association may well object to such provisions, which are equally offensive and injurious and if they are tolerated in the Transvaal under Crown-Colony administration, must have a pernicious effect beyond its borders.” [*India,* July 10, 1903]

12

Already Gandhiji had acquainted Dadabhai Naoroji with the gravity of the situation arising from the Bazaar Notice and indicated the lines on which a solution was possible which would be acceptable to the Indians and at the same time remove all reasonable fears of the whites. "The greater the delay in passing the desired legislation, the greater will be the difficulty,” he had warned. [C.W. M.G. Vol.III, p.299] Immediately on getting Gandhiji's letter Dadabhai got into touch with the East India Association and set things going in London.

On June 8, 1903 at a meeting presided over by Sir Charles Dilke, M. P. at the Westminster Palace Hotel, Sir William Wedderburn addressed the members

of the East India Association. The theme of his address was: "Indians in the Transvaal – Their Grievances as British Citizens". Quoting two letters—one of the Dutch, the other of the English Uitlanders, in favour of the Indians, he remarked that it showed that the public feeling of the local white community, to which Lord Milner had yielded, was “not of a kind to command general respect". The question affecting the rights of British Indians all over the world was “essentially an Imperial one", to be decided "not by local prejudices" but "by the central authority, in accordance with the established principles of the Empire". These principles had been well stated in a letter, recently addressed by the Manchester Chamber of Commerce to the Colonial Office, protesting against the legislative exclusion of British Indians from the South African colonies. Such exclusion, Sir William pointed out, appeared to the Chamber to be “unjust to the natives of India", who were entitled to “the same rights as other subjects of the King, of free movement and residence in any part or the Empire, entirely unrestricted by any legislation such as that complained of. This declaration, voicing the traditional British policy was more entitled to consideration. Sir William submitted, than “the interested clamour of the Transvaal monopolists". At the end Sir William laid down three propositions:

(1) Before any anti-Indian legislation was sanctioned there should be full and formal inquiry as to the necessity of such legislation, and this inquiry should be conducted by an impartial authority under the directions of the Colonial Office.

(2) The burden of proof should lie on those who desired to impose disabilities on any class of British subjects.

(3) Pending the result of the inquiry. the Pretoria Notification of April 8 should be withdrawn. [*India,* June 12, 1903, p.201]

Present at this meeting were: Sir M. M. Bhownaggree M. P., Sir Lepel Griffin, and Sir Raymond West, the distinguished jurist who at one time had adorned the Bombay Court, Mr S. S. Thorburn, I.C.S., Messrs W. C. Bonnerjee, and R. C. Dutt; Hon. Sankaran Nair, J. M. Parekh, N. B. Wagle and W. Martin Wood. Giving vent to his feeling over "the treatment of our fellow subjects by South African colonists", Sir Raymond West remarked that he wondered what would have been said if, after receiving aid from Tasmania and South Australia the Colonists had responded by passing a Bill that no Tasmanian was to walk on the side-path of the street or they had passed an Act to the effect that no one from New South Wales was to be admitted in the Colony without paying a poll-tax, and when so admitted, was not to be allowed Municipal privileges or rights of citizenship. He thought that if the appeal were to be properly made, the Colonists could not "for very shame continue to maintain the attitude they at present held". [C.W.M.G. Vol.III, p.375; *Indian Opinion,* July 23, 1903] He fell it his duty to speak strongly, he concluded, because the welfare of the Empire, built up with such care, and at the cost of so much money and blood, depended very much on the way the question before them was treated.

It was extremely significant, Gandhiji commented, that Sir William Wedderburn and Sir Lepel Griffin who were often ranged against each other on many another issue were at one in expressing their strong disapproval of the altitude of the Colonists towards the British Indians. Did it not strike the Colonists, he asked, that there must be something radically wrong with their attitude, when outside South Africa it met with almost unanimous condemnation?" [*Ibid*] As regards the demand for enquiry made by Sir William, "nothing can be fairer than such a procedure to either party". There existed a great deal of misunderstanding as well as "uninformed opinion" and a large number of colonists considered that

the presence of the British Indian was "an unmixed evil to be guarded against at all risk". But, if the findings of any impartial commission went to show that such opinion was not based on any sound data "as we have not the slightest doubt they would", and that, if anything, the presence of the Indians had contributed "be it ever so little to the welfare of the community in general" he was sure the public would accept any such pronouncement, and much of the ill-feeling and prejudice would die a natural death. [C.W.M.G. Vol.III, pp.385-86; *Indian Opinion,* July, 30, 1903]

In accordance with the suggestion made at this meeting, the East India Association submitted a memorial to the Secretary of State for Colonies on July 27, 1903, praying for the withdrawal of the Bazaar Notice of April 8, which revived and enforced the Boer laws of 1885 and 1886, imposing on British Indian subjects "disqualifications and indignities unmerited by their conduct, uncalled for by any public necessity and incompatible with the free and tolerant principles of British administration". [*Indian Opinion,* July 30, 1903] As fresh legislation on the subject was in contemplation, it was further prayed that before that or any other legislation imposing disabilities on British Indians in the Transvaal was sanctioned or approved, a full and formal enquiry as to the necessity for such legislation be made by an impartial authority under the direction of the Colonial Office as suggested in the resolution adopted at that meeting, and pending the result of such enquiry the Pretoria notification should be held in abeyance "so as to place all parties on a fair and equal footing".

The memorial was signed among others by Sir Lepel Griffin; Sir M. M. Bhownaggree, M.P.; Mr A. K. Connell; Mr Lesley C. Probyn; Mr J. B. Pennington, Sir W. E. Rattigan, Sir Charles Roe, Mr T. H. Thornton and Mr S. S. Thorburn.

Replying on behalf of the Colonial Secretary, on August 10, 1903, Mr H. Bertram Cox wrote that Chamberlain was in communication with the Secretary of State for India regarding the Notice in question. Meanwhile he was "unable to adopt the suggestions contained in the Memorial". [*India,* August 28, 1903]

"Truly does Mr Chamberlain hold a brief for the white colonists of South Africa," observed Gandhiji. "He believes ... that his business is to conserve the interests of the Colonists to the exclusion of every other, be it ever so great or just." As counsel for his clients, Chamberlain could not very well accept a proposal that might compromise their position, he would, therefore, enter into correspondence with Sir George Hamilton, Counsel for the British Indians. This would leave the position of the Colonists unfettered; the charges against the Indians would remain unrefuted, and they would have to be satisfied with much less than what they would be entitled to if the enquiry had been undertaken and its finding had exonerated them. [C.W.M.G. Vol. III, p.414: *Indian Opinion,* August 20, 1903]

With all his faith in British ideals of justice and racial equality, Gandhiji saw that reliance on the British Government's commitment to abstract principles alone would not take them very far if there was not enough sustained action in India to keep those commitments alive. Unless the hands of the Viceroy, who was known to be making ardent protests against the action of the Colonies were strengthened by public opinion, he was afraid, the situation might be lost. As the *Rand Daily Mail* put it, the people in South Africa were so engrossed in making money that they took very little notice of what was going on outside their own sphere, while a few interested agitators continued to send in protests to the Governor against any relaxation of the old anti-Asiatic laws. To counteract the effect of such agitation, Gandhiji thought, it was very necessary that "a well-directed movement ought to be taken up and continued throughout India".

[Gandhiji to Gokhale of July 4, 1903, C.W.M.G. Vol. III, p.356] He had, therefore, suggested to Gokhale that he should write to Mr Turner, President of the Bengal Chamber of Commerce, who had promised support while Gandhiji was in India. "I hope you will find time to take the matter up ... I doubt not that, if you wrote to him or could see him, he would be prepared to take action." In the course of the same letter Gandhiji also wrote: "The curious thing is that, even here, Lord Milner seems to be most anxious to do justice, but is almost frightened by what passes for public opinion on this side." [*Ibid*]

"Frightened" was too mild a word. Threatened by the Rand lords with withdrawal of their financial commitment on which depended the success of his plans for the economic reconstruction of the annexed territories, unless their demand for importation of cheap Chinese labour was conceded, Milner was almost at the end of his tether. His only hope lay in obtaining a supply of indentured labour from India as an alternative to Chinese labour. This the Viceroy of India was not prepared to provide without a suitable *quid pro quo:* and to his dismay Milner found that in this regard his hands were tied by his own anti-Asiatic laws. Chickens were coming home to roost.

CHAPTER III : "INDIAN OPINION"

1

The Indian community had long felt the need to have a press and a newspaper of its own ever since the movement for the disfranchisement of the Indians had been set on foot by the whites in 1894. But both the finances and personnel needed for it were lacking. Gandhiji's own plans for the future and the future of the Natal Indian Congress were as yet uncertain. The starting of a press consequently was not included in the objectives of the Natal Indian Congress. All that objective two of the Congress contemplated was "to inform the people in India by writing to the newspapers, publishing pamphlets, and delivering lectures". [C.W.M.G. Vol.I (Second Edition, 1969), p.163; S.N. 141]

After the establishment of the Natal Indian Congress, its minutes, office records—even its Constitution—and notices of meetings, circulars, etc. were copied on a cyclostyle copier in Gandhiji's office, often in Gandhiji's own hand. By the sheer force of his personality Gandhiji was able to command the hospitality of the South African white Press in the controversies raging round the Indian question, although at least on one occasion he was brusquely advised by a Natal daily that, "should the learned gentleman desire to address us again in a similar strain", he would “save time by communicating directly with the advertisement department of this journal". [Pyarelal, *Mahatma Gandhi— The Early Phase,* p.426; *Times of Natal,* October 26, 1894] With the crisis deepening everyday, it was vain to expect that the European Press would continue to lend its columns for propaganda in favour of the Indians. By the time Gandhiji left for India in the first week of June, 1896, the need to have a press and a newspaper of their own had come to be so keenly

felt that when, at the time of his departure, he appealed for raising a fund of at least £1000 for the Natal Indian Congress, the programme included the establishment of a press and a newspaper in the interests of the Indians in Natal.

In 1884, when Gandhiji was only fifteen, an African teacher in the Eastern Province of South Africa, John Tengo Jabavu, had started the first non-European paper, *Imvo Zabantsundu*, in South Africa under African direction in the Kingwilliamstown location. Its English title was *Native Opinion*. Gandhiji's paper was named *Indian Opinion*. [As an instance of the awakening among the Africans possibly triggered by the ferment introduced by the Indian struggle, one finds that in the same year in which *Indian Opinion* appeared other African leaders began newspapers. Among them was Dr. John L. Dube, who began in 1904 to publish the Zulu weekly *Illanga Lase Natal* (Natal Sun) only a few miles from Phoenix—Ellen Hellman, ed., *Handbook of Race Relations in South Africa* (Cape Town, Oxford, University Press, 1949), p.490] The comparison did not end there. In Jabavu's case, a political opponent, the Rev. Walter Rubusana, who later became the first and only African to be elected to the Cape Provincial Council, started a rival paper named *Izwi Ia Bantu*. In Gandhiji's case P. S. Aiyar started a rival paper whose object was stated to be to "save" the Indian community from the "insensate and short-sighted policy" by which "Mr Gandhi and his friends" had brought it to "the verge of ruin". [*African Chronicle,* February 23, 1914, *Africa Quarterly* July-September 1969, p.80. As for its tone and stand, the following in its editorial columns will serve as a specimen: "We have been fooled long enough by the wisdom of this great 'South African Indian patriot' and we hope and trust that our countrymen will no longer subject themselves to be victimized by his reputed wisdom" – *African Chronicle,* August 2, 1913 – Quoted by Pachai in *Africa Quarterly,* July-September, 1969, Vol.IX, No.2, p.80]

The cost of starting such a press or a paper by hiring the services of white workers would have been prohibitive. Besides, it was a question whether any whites would be willing or be permitted by the European colonists to serve in an Indian enterprise under Indian management. Gandhiji was consequently

commissioned to bring from India, besides a printing establishment with sufficient type, typesetters and skilled personnel needed for the paper to be started.

Gandhiji's attempt in India to persuade a suitable person who could take charge of the proposed paper to come out with him to South Africa, however, failed, but the false rumours started by it led to the Durbanite Europeans' demonstration which nearly cost Gandhiji his life.

After Gandhiji's departure for India, one James A. Duggen from Johannesburg wrote him a letter to his Durban address in regard to the starting of an Indian printing press and newspaper. Getting no reply for six weeks, on September 10, 1896 he again wrote to "Secretary of the Natal Indian Congress". to the effect that having heard that the Natal Indian Congress was about to bring out a paper to air the grievances of the British Indians, he would be willing to act as its Johannesburg Correspondent, and even to come and stay in Durban, if required. As for his bio-data, he was twenty-six years of age, had been educated in India and had spent fifteen years in South Africa; he could read and write Urdu with ease and was at the time acting as a correspondent of *The Transvaal Independent.* In reply he was informed that "the Congress had no connection with any such paper". The Secretary of the Natal Indian Congress, however, promised to "use his influence" in Duggen's favour.

On receiving this reply, Duggen began a search to find out who intended to bring out the newspaper, about which he had heard, and who its editor was going to be. His search proving fruitless, on November 19, 1896, he contacted the Secretary, Natal Indian Congress, once more to say that he had been championing the Indian cause in the Johannesburg papers under the pseudonym 'M. Sheikh Abdulla'. As for salary, he would be willing to work for "a nominal sum".

After the Demonstration episode, on January 25, 1897, Duggen wrote to Gandhiji that the Secretary of the Natal Indian Congress had informed him that on Gandhiji's return from India his application would be placed before him. He trusted that Gandhiji would now be able favourably to consider his offer. [S.N. 3649, Issac A. Duggen to Gandhiji dated Krugersdorp January 20, 1897]

In the meantime Gandhiji had come in contact with A. M. Cameron (see *The Discovery,* p.72). The idea of starting an Indian newspaper of their own had by this time taken a definite shape in the mind of the Indian community. After some preliminary correspondence, on February 15, 1897, Gandhiji invited Mr Cameron to meet him at Durban for a discussion in regard to the starting of a printing press and a newspaper, enclosing a cheque for £3 to cover the travelling expenses and adding "if you wish to travel first class you may do so and your further expenses will be paid." [C.W.M.G. Vol.II, p.183, S.N. 3645, February 15, 1897] Mr Cameron wrote back saying that he was currently acting as the special correspondent of the *Times of India* in Natal; he would be prepared to serve as a correspondent for Gandhiji's paper also on a professional basis and even to go out and put the case of the British Indians in South Africa before the people of India, if required. [Cameron to Gandhiji, March 8, 1897, Dalal C.B., *Gandhijini Dakshini Africani Ladat,* (Gujarati), Vol. V, p.133] The scheme however did not mature and the matter was left in abeyance.

2

Sometime in the first half of 1897 the proposal about starting a newspaper was revived, not by the Congress itself—although some members of it were among the promoters—but by a group of Congress-minded Indians. The basis on which the paper should be run, it was provisionally agreed, should be:

1. That the paper shall be trilingual weekly, issued in English, Tamil and Hindustani.

2. That it shall, as far as this is possible, be produced by a European staff and

3. That its objects shall be akin to those of the Congress, and briefly will be: (a) To bring about a better understanding between Europeans and Indians residing in the Colony; (b) To spread information about India and Indians; (c) To ascertain the grievances of the Indians and resort to all constitutional methods in seeking to remove them; (d) To inquire into the condition of the indentured Indians; (e) To educate the Indians, especially those born in the Colony, on Indian subjects and be a medium of education to the Indians; and (f) Generally to do everything that would tend to put Indians on a better footing morally, socially, intellectually and politically. [S.N. 2328; *Natal Mercury,* May 10, 1897]

The starting of such a paper, it was strongly felt, would be the "most effectual means" of attaining the objects they sought. "The promoters", reported the *Natal Mercury* on May 10, 1897,"also do not intend the paper to be a subsidised journal; they would own their own plant and commercially seek to make the concern self-supporting. The new venture when developed will, therefore, not be a 'Congress' paper, but a paper run by a company of Indians in their private capacity, although some of them will be attached to the Congress". [*Ibid*]

What part Gandhiji played in this move and in what capacity he would have joined the venture is not clear. But a letter written by him to Mr A. M. Cameron on the same day on which this report appeared confirms the impression that

Gandhiji was the moving spirit behind it. "I thought of you," his letter ran, "in connection therewith (starting of the newspaper) before the receipt of your kind letter. If it becomes an established fact I shall correspond with you further on the matter. Any hints you can offer will be valued." [C.W.M.G. Vol.II, pp.313-14] Mr Cameron replied on the following day, requesting Gandhiji to let him know when he was ready with his plans. He had considerable experience of journalism, Mr Cameron added, and had numerous contacts which Gandhiji might find useful. [C. B. Dalal, *op cit,* p.134]

Another gentleman, E. W. Gainsford, on learning from "Mr James of the Indian Natal Congress" that the starting of a newspaper was contemplated, wrote to Gandhiji on June 28, 1897, offering his services as manager of the proposed journal. He also suggested that the services of Mr James, who had "considerable experience as a machine-man", might be utilised.

One Mr C. E. Browned was contacted to help arrive at a rough estimate of the cost of the establishment. In submitting his figures on July 9, 1897, he wrote to Gandhiji to let him know when his plans were finalised, so that he could disengage himself and tell other workers also, who were similarly engaged elsewhere, to give notice to their respective employers to get themselves disengaged in order to join in the new venture.

From this it is reasonable to infer that Gandhiji was not only the prime mover in the scheme, but that he also took a prominent part in the working out of the details— from the preparation of an estimate of the capital needed to the formulation of the policy to be followed.

Writing to Gandhiji from Bulawayo (Rhodesia) on April 2 in the following year (1898) still another person, Lionel Goldsmid, next entered the picture. He had recently resigned his position as editor of a local paper. *The Owl,* he said, and

was writing at the instance of Hon. Ahmed Effendi of Bulawayo and other local Mahomedans who proposed to form a syndicate with £1 shares. He would be prepared to use his newspaper for the amelioration of the condition of the Indian Immigrants which was deplorable, and wished to know how many shares Gandhiji would be able to buy personally and how many shares could be sold in Natal. The Hon. Ahmed Effendi's own letter followed on April 5. Though an utter stranger, he wrote, he had heard a lot about what Gandhiji had done for the Indians and particularly for the Mahomedans in South Africa. In Rhodesia, specially in Bulawayo, he added, the Indians were treated "in some instances worse than Kaffirs". He suggested the formation of a syndicate with a share capital, say, of £250 for the purpose of starting a paper in English and Gujarati "to support the Indians and force the Chartered Company to deal fairly with them". Recommending the name of Lionel Goldsmid as editor, he intimated that in the event of such a syndicate being formed he would be prepared to buy fifteen shares and get another twenty sold in Bulawayo.

The Indian community in Natal was not interested in journalistic ventures in other parts of South Africa. The Hon. Ahmed Effendi's proposal in consequence evoked no response. The idea of starting a newspaper, however, was so catching, that in August of the same year Mr P. S. Aiyar formed a company for printing and publishing *The Indian World*—a weekly. The prospectus was published and it was noticed in the *Natal Mercury* and the *Natal Advertiser* on August 10, 1898. It ran: *"Inter alia,* it is contemplated to start a printing press in the interest of the Indian community in South Africa, and a weekly newspaper embodying commercial, industrial, political and general news of South Africa and India; articles on subjects tending to the promotion of better understanding between Europeans and Indians; a complete and unreserved exposition of the real grievances, wants

and aspirations of Indian colonists; and amongst others, various articles will be published in English, Tamil and Gujarati, with a view to the promotion and encouragement of general industries amongst the Indian community." The conductors hoped that it would tend to promote "better feeling and complete unity" between the Orientalists and Anglo-Saxons. "To those who have allowed their better judgements to be shrouded by colour prejudice the paper should be useful, enabling them, as it will, to become better acquainted with the history, traditions, and ancient civilisation of the Indian race." The paper, it was further stated, "will treat of matters political in the most unreserved language but always, if possible, with a view to cement rather than to estrange the classes". [*Natal Advertiser,* August 10, 1898; *Natal Mercury,* August 10, 1898]

Hardly had the prospectus been published when Mr Aiyar was seized with the fear lest he should be suspected of being associated with Gandhiji. To dispel the horrid suspicion, in a letter dated August 15, 1898, he wrote to the Editor of the *Natal Advertiser* that a great many of those who had the opportunity to peruse the prospectus of the *Indian World* laboured under "very mysterious apprehension" that

> Mr Gandhi had some underhand (sic) in my movement. I hereby beg to announce emphatically that I am the sole proprietor and editor of the 'Indian World' and I conduct the paper independent of any support either directly or indirectly of Mr Gandhi, nor Mr Gandhi in editing or directing the policy of the paper has anything to do with (sic). I trust this will serve to remove the clouds hanging upon the minds of those who would have otherwise joined to support such an independent organ as the 'Indian World' and I again beg to declare that neither I nor Gandhi will have neither

pecuniary nor any interest in each other's concerns. [*Natal Advertiser,* August 16, 1898]

It is difficult to guess the exact reason for P. S. Aiyar's panic and his post-haste disclaimer. Was he afraid that the white Colonists, to many of whom Gandhiji's name was like a red rag to the bull, would be antagonised by even a suggestion of Gandhiji's being associated with his venture? Or, was it a case of thwarted ambition and personal antagonism to Gandhiji? It could be any of those or a mixture of all the three. Whatever the reasons for P. S. Aiyar's disclaimer of connection with Gandhiji, it seems that the *Indian World* never reached publication. Three years later, however, Aiyar returned to the idea and began a weekly paper, *Colonial Indian News,* published in English and Tamil from 1901 to 1904, first from Pietermaritzburg and later from Durban. In 1906 he started the *African Chronicle*. It appeared on June 20, and became the mouthpiece of the section of the colonial-born Indians and the Tamil-speaking Indians opposed to Gandhiji. In 1914 it was joined by *Indian Views,* [The only known sets of *Colonial Indian News, The African Chronicle,* and *Indian Views* are in the Natal Archives at Pietermaritzburg. Microfilms are now at the Documentation Centre, University of Durban, Westville] published in Durban by a Muslim group. The one thing common to all the three was antagonism to Gandhiji. Giving evidence before the Inquiry Commission set up by the South African Government in 1914, which the Satyagrahis had boycotted, P. S. Aiyar described himself as Chairman of the Indian Patriotic Union that, together with the Natal Indian Congress, had fallen foul of Gandhiji. Gandhiji in one of his letters to Polak described Aiyar as "a man of the moment...thoroughly unscrupulous ... I like him best when he swears at me and publicly goes for me." [C.W.M.G. Vol.X, p.466, Letter to Polak, dated March 16, 1911; S.N. 5302]

3

The main obstacle in the way of establishing an Indian newspaper all along had been the lack of adequate finance. Gandhiji's entire professional income from Natal, after meeting his living expenses, was pre-mortgaged to the repayment of the debt that his brother, Lakshmidas, had incurred at the time of Mohan's going to England for his law studies, and to the discharge of other family obligations. His entire savings during this period consequently were remitted to his brother. He had in this way, by the time he returned to Bombay in 1902 at the conclusion of the Boer War, not only cleared the debt of 13,000 rupees incurred by his brother on sending him to England, but in addition had paid between his two brothers Rs. 60,000— up to the last penny of his Natal savings. [Letter to Lakshmidas Gandhi dated April 20, 1907. C.W.M.G. Vol. VI. p.432; S.N. 9524] Under the circumstances he could not take upon himself any further financial liabilities.

Things were different when he returned to South Africa at the close of 1902. He had freed himself of all family obligations and had pledged himself to devote all his savings thereafter to public service. As an Attorney of the Transvaal Supreme Court he was doing extremely well. The Indian community was faced with a grim crisis. The pre-war British pledges and the solemn declarations of the Imperial Government on the eve of the war had virtually been reduced to mere scraps of paper. With the tide of anti-Asiatic sentiment sweeping all over South Africa, and the Rand-lords infuriated by the Government of India's refusal to supply indentured Indian labour to the Transvaal with compulsory repatriation when it was no longer needed, it was vain to expect that the Indians would get in their struggle any cooperation, or support of the white press which was virtually controlled by big finance. Issuing of pamphlets or brochures could hardly fill the gap. An Indian newspaper that would voice the views and aspirations of the

Indians and serve as an organ of its struggle became supreme necessity. Gandhiji's mind again turned to the idea of starting a weekly.

At this juncture Madanjit Vyavaharik, a former Bombay school-teacher, approached him with a proposal to start an Indian paper and sought his advice. Gandhiji approved of the proposal. The International Printing Press, that had been established with Gandhiji's help and guidance, had already been four years in existence. [For the story of the founding of the International Printing Press *see* Pyarelal, *Mahatma Gandhi— The Discovery of Satyagraha— On the Threshold,* pp.192-194] It was ready to take up the printing of the proposed journal.

4

Who should be editor of the proposed journal? Gandhiji could have easily taken up editorial charge. But he felt that, he being a practising attorney. it would savour of self-advertisement if his name appeared as editor of the weekly. This his fine sense of professional ethics did not allow. Happily, Mansukhlal H. Nazar was already there. An undergraduate from Bombay and an erudite scholar, who by his frequent contributions to the *Advocate of India* had already made his mark, he was a trained journalist. He was named the editor.

Born in 1862, Mansukhlal had arrived in Durban at the time of the Demonstration. [Pyarelal, *Mahatma Gandhi— The Discovery of Satyagraha— On the Threshold,* p.22] In June 1897 he had represented the Natal Indian Congress on the occasion of the Queen's Diamond Jubilee celebration in England where, as a liaison between the Natal Congress and the British authorities and the friends of India in England, [*Ibid,* p.l03 ff] he won the golden opinions of Sir W. W. Hunter, Sir Lepel Griffin, Dadabhai Naoroji and Sir Muncherjee Bhownaggree. [C. B. Dalal, *op cit,* p.140] Incorrigibly improvident, he refused to accept any remuneration for his public

work. For his Jiving he was supposed to engage in some kind of agency business from No.14 Mercury Lane. It must have been in a Pickwickian sense only; his heart was not in it. His passion for public services claimed him all for its own, leaving no room for any other pursuit. One of his letters to Gandhiji has the following cryptic entry in regard to his princely earnings from business: "Business @ £2 per month! splendid prospects, don't you think so?" [Nazar to Gandhiji, May 22, 1903] He continued as unpaid editor of *Indian Opinion* till his sudden death in the early hours of the morning on January 20, 1906. [C. B. Dalal, *op cit,* Vol. V, p.140] For a short while Herbert Kitchin took his place. When he resigned due to a disagreement with Gandhiji on the adoption of passive resistance, H. S. L. Polak followed (1906-1916). At the time of Gandhiji's visit to London in 1909 as the leader of the Indian deputation, Polak was sent to India on a one-man deputation. Rev Joseph Doke then took over the editorship of *Indian Opinion*. [M. K. Gandhi, *Satyagraha in South Africa,* p.142] He had first met Gandhiji in November 1907. On February 2, 1910, he had to go on a long term visit to England in connection with a Missionary conference. From there he went to America. Polak then resumed the post, in which capacity he remained till his final departure from South Africa in 1916. Gandhiji, however, continued to be the *de facto* editor right to the end. As he put it, during ten years, that is until 1914, "excepting the intervals of my (his) enforced rest in prison", there was hardly an issue of *Indian Opinion* without an article from him. [M. K. Gandhi, *The Story of My Experiments with Truth,* p.286]

With the exception of Nazar thus all the editors were Europeans. This was in keeping with the ideal of a paper whose avowed object was to combat racial prejudice and enthrone in its place the ideal of the brotherhood of all mankind.

5

Indian Opinion had a hard birth, with a prolonged gestation and no end of pre-natal and post-natal troubles.

Even before Gandhiji had enrolled as an Attorney of the Johannesburg Supreme Court, Mansukhlal Nazar had begun to exercise his mind over the proposal to start a weekly. In Vryheid district, which was separated from the Transvaal and incorporated with Natal after the war, Indians were not getting licences. The Transvaal was closed on the excuse of the plague. Indians with outstandings and claims consequently could not go there to realise them. "All these should be on record", lamented Nazar. "There is a little while before Madanjit's paper can be published. Otherwise all this information can be published therein." [Nazar to Gandhiji, March 13, 1903] But Madanjit was extremely busy. It was seldom that Nazar could meet him. He did not even know when the prospectus of *Indian Opinion* would be circulated. [Nazar to Gandhiji, April 1, 1903] Deeply worried, he poured out his heart to Gandhiji:

> Day after day my anxiety about the paper increases. Just as Aiyar is unfit to edit so is (I do feel with sorrow) M. (Madanjit) unfit to 'manage' the paper. Though, to keep him under at least some restraint, I assume indifference. I do what I can for the paper, mostly without his knowledge. He works very hard certainly, but his notions of his responsibilities as a printer, are very crude and clastic. I am going to tackle him once again at next opportunity. There is very little preparation made for starting the paper. The first number must be really good ... where are the materials to make it so? [Nazar to Gandhiji, April 9, 1903]

In the meantime Gandhiji having decided that Nazar's name— and not his own—should appear as editor of the proposed weekly, felt that, in order to be able to give undivided attention to their new undertaking. Nazar should be freed from all personal worries. Accordingly he suggested that Nazar should draw some remuneration for himself. But to Nazar the very idea of a material reward for

serving a cause, which he had made his own, was an abomination. He flared up. "As to your suggestion to accept an honorarium ... thanks. I hope it does not emanate from your brain ... It smells M. (Madanjit)." [*Ibid*] At the close of the third week of April 1903, the possibility of the weekly coming out was still as distant as ever. Nazar could do no more than share with Gandhiji his hope that "Madanjit will get good support, in which case the paper can run splendidly". [Nazar to Gandhiji, April 21, 1903]

The question of distribution of medals to the leaders of the Indian Voluntary Ambulance Corps was at this time in issue (see *The Discovery*, p.322). The authorities were shilly-shallying. Only 13 out of 32 who were entitled to the medals had received them. What had the military authorities decided and, under the circumstances, should the medals be accepted at all. Nazar wished to know. [*Ibid*] He had been closely following the progress of the Transvaal Europeans' petition over the signature of Mr Hosken and others in support of the Indians' terms of compromise on the question of immigration restriction and the Dealers' Licences question. A suggestion had been made to canvas the support of the British Vice Counsel, Emrys Evans, and if he responded favourably, that of Edmond Fraser and some other Europeans also. [*Ibid*] This made the need for the *Indian Opinion* coming out at the earliest all the more urgent.

A vivid picture of the travail attending the birth of the new weekly is provided by one of Nazar's letters to Gandhiji:

> "Mr Master" (Madanjit?) has not returned so far and so I am not certain as to the date of the publication of the paper. He was keen on the 13th, but I think it will be the 20th. I do not know whether the licence has been obtained. Again nothing is decided on the columns other than those to be printed in English. He has gone to get two customers. It is thereafter

that he is to get advertisements. I do not know when and how. He is not organized at all and is doing it alone. I am really worried. I will get a clear picture only when he comes back. Anyway, I am keeping things ready. Please send the article on the Transvaal after due corrections and additions. Send them as you write them. Please write the names of the papers on the cuttings. Dates also. Please send them addressed to me personally or else they will be mislaid at the press. For the present you should write leaders etc. for one and a half to two columns. Send cuttings also because we do not have resources here. Please write on "volunteering". Since the Parliament is in session now, please write on the debates on the floor. Someone locally will write only after the paper gets established. I will make some arrangements for that. The problem will be only in the initial stages. Please take necessary action and care in the meantime. God is great and will help us. [Nazar to Gandhiji, May 7, 1903]

Five days later the article that Gandhiji had posted to Nazar had still not arrived. "Perhaps it was posted late," wrote Nazar resignedly." ... Yes, the first article is ready, and so is the introduction 'Ourselves'. Nothing can be put in type yet. But I hope it will be all right. There will be hurry and grumbling and all that, but I shall see that the proofs are properly corrected." Even a worse headache was the four languages. "Mere translations", Nazar was afraid, would be dry and would not be appreciated, and variations would be necessary. "In the first number there will be no need for special articles ... especially as the translation of the report of your meeting will be long and interesting." [Nazar to Gandhiji, May 12, 1903]

The licence did arrive at last and on May 14, Nazar thought the paper would appear on the 28th. "It will be ready by the end of next week", he joyfully

reported to Gandhiji, "and then taken to the postmasters at Pietermaritzburg, and then posted on 27 or 28. But you will hear more about it in a day or two ... something definite." [Nazar to Gandhiji, May 14, 1903]

From its very inception there was a clear recognition that the weekly was to be not a commercial enterprise but an instrument of service. Nazar therefore suggested that it ought to be made clear that the paper was being published for a "cause", not for profit. "It is very difficult to make a profit anyway, because we will have to send many complimentary copies. That is also the reason that we have kept dedicated people on the editorial staff...not those who are after making a quick buck. If we get good support, we will expand the scope of the paper. We will never publish any information without due confirmation. That all leaders have unanimously approved the publishing etc. etc." [Nazar to Gandhiji, May 9, 1903]

6

Now commenced the usual tussle between the terribly overworked *de facto* editor, immersed in a grim obstinate struggle that taxed every ounce of his energy, and the dedicated man on the spot, handicapped by a paralysing paucity of resources. Not all the newspapers from the Transvaal which he needed were available to Nazar in Natal, the editorial matter was mostly handwritten with no facility in the press to get it typed, carbon copies, that came from Johannesburg were often so dim as to be almost undecipherable, the editorial matter had to be translated into three languages. Sometimes Gandhiji had copies made in duplicate or in triplicate; at other times Nazar had to get these done in the Press. There were not enough men to cope with the work and some even of the skeleton staff could give of their time only at night. If copy did not arrive well in advance, the staff would have to be overworked and consequently to be paid

overtime. This would mean extra expense which the paper in its infancy was hardly in a position to bear. Gandhiji found in his man-on-the-spot a hard driver.

Nazar to Gandhiji *May 16, 1903.*

> As to the paper. The English version ought to be ready over a week before the day of issue. Two to three days for translations, at least; then as many if not more, for composing; and as the paper will appear on Thursdays, it must be printed on Wednesdays, and then wrapped and posted. So I think as soon as you think of a subject, let it be written out ... I shall then rewrite it if yours is in pencil, and hand it over for the different translations, which will be made on Saturdays and Sundays and I shall go over them on Mondays. You will now realize the difficulties...also, the necessity of having the English manuscripts ready by Friday at the latest...Thursday would be preferable.

This became the constant refrain of Nazar's letters to Gandhiji hereafter. By this time Nazar had realised that he would not be able to depend upon the translations but would have to attend to the translations also. He, therefore, wanted the matter to be translated to be in his hand as early as possible. His letter to Gandhiji dated May 19, 1903 ran:

> It takes longer to correct than to write the whole thing myself. I am doing that today. Unless the whole time is devoted to the work, evenings included. I don't see how the paper can run. Where then will be the time to collect news etc.? I hope the report of the meeting (of May 6) will be ready ... printed this week and the paper will be out on Wednesday. It will have to be printed on Monday and shown to the postmaster at

> Pietermaritzburg so that it would be posted on Tuesday night or Wednesday (May 28).

The copy that arrived three days later was again very faint. Nazar was in a quandary. To decipher it would be a task. "Kalyandas can make nothing out of it." Luckily "James and Doraswamy are in good humour. The latter is trying. If ready by tomorrow you will have it on Monday...i.e., it will be posted tomorrow." [Nazar to Gandhiji, May 22, 1903]

To coordinate the preparation of the copy with the conditions under which the work had to be carried on in the Press, Nazar worked out an order of priorities for Gandhiji. If Gandhiji gave Sundays to writing out articles and notes, they would reach the press on Tuesdays and then there would be ample time for translations, proof-reading etc. "In case of emergency, you may write at once .... Most of the translation (Gujarati) will have to be done by me .... the balance will have to be revised and touched up. Then will follow Hindi and Tamil...which means the English matter will have to be copied for the different translators, and as their knowledge of English is limited it will take time to hammer the spirit of the article or note." [*Ibid*] Detailing his difficulties which necessitated the exacting schedule he had laid down, Nazar went on:

> Then, I don't...cannot...get the Mercury at Sydenham, so it must be read in the office, where I cannot do any work, callers taking up time.... Evening, return tired to Sydenham, and then try to do some work. So far I have not written a page of news...much less anything else....If I had begun to translate myself, the work would have been over some time since...but in a way it was all for good...I know now how far to rely on outside help for translations. [*Ibid*]

> M. was here just now (2 p.m. May 26)... I do not know *when* the 1st number will be out. He is disappointed...extra types are overdue, expected every day. Then Saturday half day and Monday holiday...Press closed. But anyhow, it will be printed this week...again *next Monday holiday!* It is no use getting vexed...but so far the paper's immediate prospects are like my own...it will all depend on the subscriptions and advertisements. So far, cannot pay expenses. I pity M.; he works a bit too hard... I am afraid of a breakdown in his health. He has none to help him ...our folks must take an interest, and they do it by prejudicing workers. Now, I must send cuttings to Indian papers...mail closes at 3. [Nazar to Gandhiji, May 26, 1903]

Nazar worked out a solution also to the problem of having to provide separate copies of matter to the translators in each language. "Do not send triplicates," he suggested to Gandhiji, "and you may avoid using the carbon paper altogether. If you devote Sundays to writing, the translators will follow my translation, which will be free." Compilation of mailing lists for complimentary copies was another ticklish problem. If the complimentary list was too liberal, the strain on the resources of their weekly in its infancy might be too heavy; "You may send us a list of men whom we *must* send complimentary copies. I believe, for Natal, MIC's and MLA's, Town Councillors; Transvaal, Executive Council (Legislative), and Pretoria and Johannesburg Town Councils. Cape, MIC's; Orange River, Executive Council. What do you think?"

All these perplexities notwithstanding, on May 28, 1903, Nazar was definitely able to write to a common friend that the newspaper would be published in the following week. "The delay was caused by the time taken in the receipt of the licence. Events are moving so fast that often I have to cancel whatever I have written and rewrite again. The first issue is expected to be big. It

will include a detailed account of your (6th of May) meeting." [Nazar to Atmaram Maharaj, May 28, 1903]

To Gandhiji, on the same day he wrote:

> Your wire and two letters. The notes and articles are splendid....I do not suppose there will be much trouble in the future...the difficulties are at the start; and they are nearly overcome. [Nazar to Gandhiji, May 28, 1903]

7

According to the original announcement the weekly was to come out on April 30, 1903. The date had to be changed from time to time for various reasons. Actually. the first issue came out only on June 4, 1903.

Two days later it was a Nazar, utterly exhausted, but with heart dancing with joy, who, like a mother freshly discharged from the maternity ward, wrote to Gandhiji:

> Thursday night (June 4) in the Press till 3.10 a.m., then walked home. Last night till 11 p.m. Hindi and Tamil give a lot of trouble...more than the other parts put together. I have given a copy of the "Opinion" to Reuters, and Woodhead. Could not see *'Tiser.* Sir John and other will be seen on Monday. I hope the Press will receive the paper well. [Nazar to Gandhiji, June 6, 1903]

But there was no rest in store for him. The ordeal that awaited him in the following week was even severer than in the previous one, but he was fully braced for it. His letter to Gandhiji continued:

> I am now anxious about the second number. With a small staff, and lack of materials...types etc., and facilities, we have to keep the paper up to the mark. [*Ibid*]

Editing and desk work constituted only a small part of Nazar's burden. The weekly being essentially an adjunct to their struggle, he had to keep himself and Gandhiji constantly on the *qui vive* besides sharing his burden of active political activities. Four days after the first issue was published he was writing to Gandhi: "Every week we must have one article on disabilities...the manuscripts to be here about ten days in advance. Other articles and notes by Friday here. Specially important matter Monday morning in Durban, at the latest...a small note or two, in case of emergency, till Tuesday morning. With M.'s staff and management, and materials, we cannot do as may be done with a daily paper… I have not yet found time to read the cuttings! You have no idea of the time I have to *waste* in the press." [Nazar to Gandhiji, June 8, 1903]

The ordeal, however, was not without some small compensations. Madanjit was in Pietermaritzburg on Saturday to see the Post Master, where he saw the editors of the *Witness* and *The Times*. "They spoke very well.. ..Merchants here were quite pleased with the get-up, style, etc." [*Ibid*]

In the following week Nazar met Sir John Robinson according to plan. The ex-Prime Minister of Natal "was glad and advised me to remain moderate and dignified. Expressed sympathy. So did Mr Collins." [Nazar to Gandhiji, June 11, 1903]

8

The post-natal troubles of the new-born weekly proved to be as trying as the pre-natal ones. The following is probably without a parallel in the annals of probation for editorship. "Do you know *I was told by Virji (the type-setter) the other day, not to use too many* અ *(Gujarati letter 'A') because there were not enough in the case!* So, you will realize the difficulties. *Hindi and Tamil will be set,*

printed and distributed, and re-set if you want six or seven columns of either." [*Ibid,* (Italics by the author)]

A type-written copy of a petition that came from Gandhiji on the following day was again undecipherable. "Is it for publication?" Nazar asked despairingly, "If I can decipher that petition, I shall give it for publication." [Nazar to Gandhiji, June 12, 1903] Then his patience snapped and he delivered what virtually amounted to an ultimatum to his boss and mentor. "I know you are very busy...But if the matter is not in hand at the right time, the men in the Press may revolt, and it adds so much to the cost. Unless one sheet (i.e. pp.3-6) is printed on Saturday, the paper cannot be ready by Wednesday night, and cannot be posted on Thursday. You know my views about management; and there is no proper staff. To engage more men would be ruinous, as it is, the weekly losses will more than swallow up the other profits. The foreman and machine-man had to work till early hours two nights for the last issue...The first gave a lot more trouble. If this continues, grumbling will end in a strike, and we shall be nowhere. They cannot work till mid-night for three consecutive days, under high pressure week after week. I write this so that you may grasp our position here. I am anxious that we should be up to date. but I add, *as* circumstances permit....I hope your articles and notes will arrive by tomorrow morning at the latest...it will be even then Saturday, the extra will have to be paid to the men. Still, I hope, there would not be such difficulties in the future." [*Ibid*]

Thanks to the discipline that this weekly exercise imposed, during the twenty-eight years that I was associated with the English, Gujarati, Hindi and Urdu editions of Gandhiji's *Young India* and *Harijan* weeklies, with one exception, never once did his copy fail to reach the publisher on time, or his weeklies to appear on the day fixed, although during this period he was often engaged in

whirlwind tours over the sub-continent or was absent far away in Burma, Ceylon, or England, or somewhere in Europe. The mastery over his thought and the capacity for concentration that this gave him enabled him at a moment's notice to dash out a finished piece of writing even on a most delicate and intricate subject effortlessly within an astonishingly short interval, and hand it to the waiting pressman duly revised and checked. A seeker after truth, he used to say, must have his facts and all his points at his fingertips and ought to be able to recount them without faltering even in his sleep. Like many other things during this period, that we shall presently come to, his journalistic activities also became a part of his fierce penance for truth. The inward linkage imparted to his journalism an added dimension.

Nazar's ordeal continued unabated. The following excerpts from his letters to Gandhiji will provide a peep into it.

June 16, 1903

> Quite done up…feel too fagged to think of anything...don't know how to fill the Gujarati columns...Did you notice in the deputation on Chinese labour, the word coolies was freely used. [Nazar to Gandhiji, June 16, 1903]

And again two days later

June 18, 1903

> Another midnight journey home (in my own 'pair') in cold wind last night...feel quite fagged....The men worked whole day and night, and will have to work late today in the Press. You may get an advance copy by tonight's post... Gujarati only six columns.

I have to arrange about the meeting, and to think as to how to fill the English columns for the next number...and I feel so tired and bad!

I feel very drowsy, cannot lie down in the office!....I am now going to the Press. [Nazar to Gandhiji, June 18, 1903]

But the good ship had crossed the bar and was now safely launched on the open sea. Hereafter it would be exposed to every gust and squall, which would put its seaworthiness and the seamanship of its skipper and the crew to the severest test. But they were prepared to face all the hazards known and unknown with courage and confidence in themselves and their cause.

9

The weekly, as it came out, was in four sections—English. Gujarati, Hindi and Tamil. English was the language of most Indians in South Africa. Gujarati was spoken by the bulk of the trading community. Hindi and Tamil sections were meant as medium of communication with the indentured and the ex-indentured labour class comprising about 36,000 out of the total 50,000 Indian population of South Africa whose welfare Gandhiji had made his special concern.

It was to be a six page paper. Actually, the first issue ran into ten pages, the last four pages being by way of a supplement to carry the story of the 6th May, 1903. Indian protest meeting at Johannesburg against the Bazaar Notice.

Gujarati notice outlining the aims and objects of the paper appeared over 11 signatures; the Hindi over 10 signatures; and the Tamil over 6. A scrutiny of the signatures to the appeal shows that the weekly enjoyed the confidence and patronage of all influential sections of the Indian community. [*Indian Opinion,* June 4, 1903]

The annual subscription was 12s. 6d. in the Colony, 17s. outside the Colony—payable in advance. The cost of single copy was 3d. Advertisement charges were to be settled on application to V. Madanjit, the publisher and proprietor. The paper was printed by the International Press with its Office in 113, Grey Street, Durban. The size of the page originally was 20" X 14½"— these dimensions being necessitated by the type of newsprint available.

The policy of the paper was to be to advocate the cause of the British Indians in that sub-continent. "But while it would insist upon the rights of the community," the statement ran, "it would not be slow to point out to it its responsibilities also as members of a mighty Empire. It would persistently endeavour to bring about a proper understanding between the two communities which Providence has brought together under one flag." [*Ibid*]

The advantages to the Indian community subscribing to and supporting the paper, it was explained, would be that (1) it would have a newspaper of its own that would advocate its cause as well as give to all sections of it news in their own language; (2) it would contain news specially affecting Indians of all parts of South Africa, besides local and general information; (3) it would contain an epitome of events happening in India; (4) it would give commercial intelligence; and (5) it would contain contributions from competent writers, Indian as well as European, on all subjects—social, moral and intellectual. The service that it would render to the European community would be that it would give it an idea of Indian thought and aspirations, and acquaint it with such Indian matters "as were not commonly known to it, and yet which could not be ignored by true Imperialists". Besides, it would provide to Europeans and Indians alike, the best advertising medium, and especially to Indians, "in those branches of the trade in which Indians are especially concerned". [*Ibid*]

In the introductory statement for the June 4 issue, entitled "Ourselves", Gandhiji stressed the loyalty of the Indians to the King-Emperor, and their unbroken record of willing service rendered to the Mother Country in every crisis which entitled them to relief from the numerous local disabilities under which they laboured. The root cause of this, it averred, lay in ignorance which it would be the mission of the weekly to combat by a double process of education—the education of the Colonists in their duty towards their fellow British subjects of the Empire, and the Indian community in its obligation towards the Empire and their Motherland as inheritors of its rich culture and glorious past. Loyal subjects of the King-Emperor though they were, it began, the Indians resident in South Africa laboured under a number of legal disabilities which were ”undeserved and unjust". The reason for this state of affairs was to be found "in the prejudice in the minds of Colonists, arising out of misunderstanding the actual status of the Indian as a British subject, the close relations that render him kin to Colonists, as the dual title of the Crowned Head so significantly pronounces, and the unhappy forgetfulness of the great services India has always rendered to the Mother Country ever since Providence brought loyal Hind under the flag of Britannia. It will be our endeavour, therefore, to remove the misunderstanding by placing facts in their true light before the public”.

Admitting that Indians were not free from all the faults that were ascribed to them, the editorial proceeded: ''Wherever we find them to be at fault we will unhesitatingly point it out and suggest means for its removal.'' The Indian community had been deprived of the guiding influence of the institutions that existed in India and that imparted the necessary moral tone when it was wanting. “Those that have immigrated as children, or are born in the Colony, have no opportunity of studying the past history of the nation to which they belong, or of

knowing its greatness. It will be our duty, so far as it may be in our power, to supply these wants". [*Ibid;* C.W.M.G. Vol.III, p.313]

The paper was issued every Wednesday to begin with, but in consideration of irregularities in postal delivery, the day of the issue was changed to Friday to enable the subscribers to read it at their leisure on Sunday.

In the first week of January 1906, difficulty about finding type-setters and compositors for the Hindi and Tamil sections forced a reconsideration of the question of the continuation of these sections and they were discontinued as from January 27, 1906).

Keenly aware of the importance of being able to communicate with the Tamil section of the Indian community to which the bulk of the indentured and ex-indentured labourers belonged, Gandhiji had, as early as 1901, set about to learn Tamil. His Tamil studies were now resumed with redoubled vigour and were continued during his spells of jail-going. But his heavy preoccupation with public work prevented him from devoting sufficient time to it and ultimately forced upon him the unpleasant decision of stopping the Tamil section. In 1913, on the resumption of the Satyagraha fight after Gandhiji's release from prison, the Tamil section was revived but, following the final settlement, it was again discontinued as from April, 1914.

10

Indian Opinion made a rather quiet and unheralded entry into the newspaper world of Natal. The only important contemporary paper in the Colony to notice its advent editorially was the *Times of Natal*—not, however, without mixed feelings towards the people whose mouthpiece in their struggle the new weekly was to be: "We welcome the appearance at Durban of a newspaper which

voices their (Indians) views and states their case very temperately and fairly, but in view of the social, political and industrial conditions of South Africa today, to say nothing of the strong and ineradicable colour prejudice....it is asking too much to demand equality of treatment as between the one race and the other." [*Times of Natal,* June 13, 1903] The *Natal Mercury,* the *Natal Advertiser* and the *Natal Witness* took no notice of the appearance of *Indian Opinion*, although the *Natal Witness* editorially commented on the second issue of a newly launched European newspaper, the *Vryheid Independent* which appeared on the same day as the first issue of *Indian Opinion*.

By the end of the year, *Indian Opinion* had carved out for itself a position. Only a part of the programme that it had mapped out was realised, but its authors were determined to reach the goal they had set out for themselves with the least possible delay. In a review of its achievements at the close of the year of its birth Gandhiji wrote: "one thing we have endeavoured to observe, namely, never to depart from the strictest facts in dealing with the difficult questions that have arisen during the year." Summing up its creed, Gandhiji concluded: "Our duty is very simple... We believe in the righteousness of the cause, which it is our privilege to espouse. We have an abiding faith in the mercy of the Almighty God and we have firm faith in the British Constitution. That being so, we should fail in our duty if we wrote anything with a view to hurt." At the same time, facts we would always place before our readers whether they be palatable or not, and it is by placing them constantly before the public in their nakedness that the misunderstanding now existing between the two communities in South Africa can be removed. And if we can assist in hastening their removal to any extent whatever, we shall have been amply rewarded. [C.W.M.G. Vol.IV, p.100; *Indian Opinion,* January 7, 1904]

Almost from the start *Indian Opinion* made its weight felt in the world of South African journalism. The officers of the Asiatic Department were diligent readers of *Indian Opinion*. [M. K. Gandhi, *Satyagraha in South Africa,* p.145] The articles appearing in it on several occasions became the subject of correspondence between the Colonial Secretary and the Protector, Deputy Protector, Attorney General and the Magistrates. Clippings from it figured frequently in the official files in London at the Colonial Office, at Pietermaritzburg and Johannesburg, and in the Viceroy's Executive Council at Calcutta The authorities took serious note of what appeared in its columns, investigated reports appearing in the journal and gave due weight to opinions expressed in it.

What compelled their attention was its scrupulous regard for truth, complete absence of rancour and studied moderation. Wrote Mr Mountford Chamney, the Protector of Asiatics for the Transvaal in a letter to the editor. "I have read every number of the *Indian Opinion* since the first issue of the paper, and have been impressed by its moderation, even when discussing contentious topics, and by the spirit of loyalty displayed throughout....I sympathise with its objects." [*Indian Opinion,* March 25, 1905]

In response to an invitation to give the "readers' reaction to the journal" Mr Harold M. Millar, Solicitor, Durban, wrote: "With the hope that I may learn what is desirable, and thereafter give my assistance towards obtaining that good purpose, it is my wish to become acquainted with *Indian Opinion*."

Mr Harry Smith, Immigration Restriction Officer, Natal sent the following: "*Indian Opinion* has my best wishes for entire success in its efforts at raising the standard of life and generally furthering the interest of a section of the community for whom, because of their quiet but effective enterprise and patient industry, I hold a considerable respect—*although circumstances may often make*

it appear that the quality of my regard is somewhat thin." [*Indian Opinion,* February 4, 1905 (italics by the author)]

Indian Opinion was as unsparing in its criticism of the faults of the Indian community as it was of the lapses of the authorities and denial of justice to non-Europeans by the whites. The object was never to condemn but to help eradicate the shortcomings and the injustices. Typical of it was Gandhiji's refusal *ab initio* to attribute the alarming rate of suicide among the indentured labourers to the harsh treatment by the employers of labourers, though there was a strong *prima facie* case for it, while strenuously pressing for an inquiry into the true causes thereof with a view to their removal.

11

Consistently with Gandhiji's belief that the prevailing prejudices against the Indians derived strength and sustenance from the shortcomings of the Indians themselves, the journal missed no opportunity to bring home to them that their fight against the white prejudice would be effective only if at the same time they took up a crusade against their own weaknesses. They should turn the searchlight inward, give no quarter to any form of vice among them and do nothing which would besmirch their name. True, they were the victims of municipal neglect and adverse legislation. But that did not condone squalid living. By the same token he missed no opportunity of holding up to the Indian community for their emulation what was good in the Europeans. [*Indian Opinion,* July 2, 1903, The Balance Sheet, p.2]

Indian Opinion never advocated social intercourse between whites and non-whites, "this being unnecessary and inadvisable for many reasons". [*Indian Opinion,* January 7, 1905, p.4, Col.3] But it strained every nerve to promote goodwill between 'Indians and Europeans. In pursuance of this object Gandhiji set aside a portion of the weekly's space for the reproduction of matters of interest that

appeared in other, and when possible in Indian, journals. The underlying idea was that with better understanding of each other's ideals, tradition and social background the cobwebs of ignorance which fouled the relations between the two would be swept away. That the East should understand and assimilate the best that was in Western progress was eminently desirable, but no less desirable was it that the West should be given the opportunity of making a closer acquaintance with the spiritual ideals that constituted the rich heritage of the East. "We are sure that when once these phenomena are understood, there will remain no ground for discord between the two communities and that whatever strife will continue to exist will be due to wilful negligence on the part of either Europeans or Indians to appreciate better qualities of the other." Repudiating the current nineteenth century cliche that 'East is East, and West is West', it declared, "We recognise no race or colour distinctions, for we realise that humanity is one and indivisible."

This enabled Gandhiji to draw to him men of conscience and culture from among the whites also and, broadly speaking, he won their sympathy and support.

12

In many respects *Indian Opinion* set up a new style in journalism that has come to be associated with Gandhiji ever since. It shunned polemics and used journalism as a medium of communication for building golden bridges between himself and the opponent. Its austerity of style, rigorous economy of phrase meticulously pruned of epithet, blunted the edge of resistance and tended to make the mind of the adversary receptive. He never tried to hide or slur over adverse facts or take advantage of any weakness in the presentation of his case by the opponent, but with a disarming frankness admitted the faults of his client

or, the weakness, if any, in his case rather than leave it to the adversary to detect and light up. The aim was not to score a debating point or to get the better of the adversary in argument but to win his cooperation in the enthronement of truth and justice which should be a common ground between them. In keeping with this goal, he never wrote for effect but to reach the head and heart of the opponent. He urged Polak, too, to model his style upon the moderation and objectiveness of the *London Times*. [*Vide* Polak – *Incidents of Gandhiji's Life,* edited by C. S. Shukla, Vora, Bombay, 1949, p.236] His standing instructions to the editor were that letters in criticism of him should be given priority in the "letters to the editor" column and published, provided that they did not offend against the canons of propriety and restraint, but letters in support of him might be relegated. [C.W.M.G. Vol.V, p.197, Gandhiji to Chhaganlal Gandhi, February 19, 1906: "We should as a rule publish all letters against us, for instance, those of Habib Motan and Haji Habib"] Writings likely to cause bitterness or dissension in the community were not published. He took infinite pains in sifting evidence and testing facts, bringing to bear upon it all the discipline of his legal training, before publishing a report or committing himself to a view. But once he had made sure or his facts, he presented them with such skill and clarity that they spoke for themselves, rendering further comment largely unnecessary.

Gandhiji was one of the earliest advocates of investigative journalism, holding strongly that the function of the Press was not merely to purvey whatever news flowed in; it had a positive function, namely to prevent the abuse of power and miscarriage of justice by conducting an independent inquiry on its own in matters affecting common humanity and public weal. A few areas which he thought particularly called for the attention of the Press were the staggeringly high rate of suicide among the indentured labourers; the abuse of the immigration restriction legislation; and the scare that had been engineered of the

colony being swamped through organised illegal infiltration and of the white traders being wiped out by unfair Indian competition.

Gandhiji's passion for truth was matched by his bull-dog tenacity in driving it home by sheer persistence and weight of logic. In answering criticism he never raised his voice but concentrated on strengthening his argument instead. Once you have uncovered true facts and shown to the adversary the fallacy of his position he will have no legs to stand upon, he used to say. He may argue still, but the punch shall have gone out of it; sooner or later he must come round. It is for the Satyagrahi to make this easy by his unfailing politeness, courtesy, goodwill and friendliness of manner.

His writing for *Indian Opinion* became for Gandhiji an exercise in truth and non-violence. "Week after week I poured out my soul in its columns to expound this principles and practice of Satyagraha as I understood it." And in all that he wrote there was not

> a word...set down without thought or deliberation, or a word of conscious exaggeration, or anything merely to please. Indeed, the journal became to me a training in self-restraint, and for friends a medium through which to keep in touch with my thoughts. The critic found very little to which he could object. In fact the tone of *Indian Opinion* compelled the critic to curb his own pen. [M. K. Gandhi, *The Story of My Experiments with Truth,* p.286]

13

In a sense *Indian Opinion* was *sui generis.* In the words of Gandhiji, "*Indian Opinion* was a mirror of part of my life .... Changes in the journal were indicative of changes in my life." [*Ibid*] It became the mouthpiece of the Indian community, an organ of its struggle and a compendium of the "orders of the day" for the

Satyagrahis. "The readers looked forward to it for a trustworthy account of the Satyagraha campaign as also of the real conditions of Indians in South Africa." In it was reflected, as in a mirror, the entire panorama of the life of the Indian community in South Africa—its hopes and aspirations; its success and failures, as also the ups and downs of its struggle. As Gandhiji put it, *Indian Opinion* was "an open book to whoever wanted to gauge the strength and the weakness of the community, be he a friend, an enemy or a neutral". [M. K. Gandhi, *Satyagraha in South Africa,* p.145] For himself,

> .....it became a means for the study of human nature in all its casts and shades as I always aimed at establishing an intimate and clean bond between the editor and the readers. I was inundated with letters containing the outpourings of my correspondents' hearts. They were friendly, critical or bitter, according to the temper of the writer. It was a fine education for me to study, digest and answer all this correspondence. It was as though the community thought audibly through this correspondence with me....the hold I secured in this way over the community made the future campaign workable, dignified and irresistible. [M. K. Gandhi. *The Story of My Experiments with Truth,* p.286]

Indian Opinion was conceived principally as a means of conducting a political struggle, but that struggle itself being an expression of certain ethical principles in action, it imparted to what Gandhiji wrote in its columns a distinctive quality which lifted it above the plane of ephemeral journalism. An apt illustration of it was provided by the skirmish that he had over a proclamation issued by the Administrator of the Orange River Colony in the last quarter of 1903. His comments on the incongruity of opening with prayer the proceedings of the

Transvaal Parliament, which were anything but godly were as suave and uplifting as they were deadly polemically.

Here is another sample, presaging Gandhiji's latter-day belief in "the spiritual interpretation of history", an affirmation of which provoked a public debate with the Poet Rabindranath Tagore and Pandit Nehru that has become historical. Referring to a disastrous fire in the underground Electric Railway on August 10, 1903 in Paris in which eighty-four persons were killed, he observed that he did not look upon such "untoward happenings" as merely accidents, but "divine visitations" that should show to us the “grim tragedy" behind all the "tinsel splendour" of modern civilisation. "The dead will be soon forgotten, and in a very short time, Paris will again resume its usual gaiety....Those, however, who will give the accident...more than a passing thought, cannot fail to realise that behind...all the glittering appearance there is something very real which is missed altogether."

And that something "very real which is missed altogether" is that "all of us have to live the present life merely as a preparation for a future, far more certain and far more real. Nothing that the modern civilization can offer in the way of stability can ever make any more certain that which is inherently uncertain...”

The conclusion follows:

> The boast about the wonderful discoveries and marvellous inventions of science....is...an empty boast. They offer nothing substantial to the struggling humanity, and the only consolation that one can derive from such visitations has to come from a firm faith *not in the theory, but in the fact, of the existence of a future life and real Godhead.* And that alone is worth having or worth cultivating which would enable us to realise our

Maker and to feel that, after all, on this earth we are merely sojourners.

[C.W.M.G. Vol.III, pp.414-15; *Indian Opinion,* August 20, 1903, (Italics by the author)]

This presents in a nut-shell Gandhiji's spiritual philosophy which, after much searching and striving for self-discipline, he had evolved. He systematised and elaborated it afterwards but added hardly anything essential to it. The germ of the message which he found embedded in the *Geeta* and would later propound in his "Hind Swaraj" is already here. And it could not be otherwise, because his doctrine was rooted in what he had experienced in the core of his being where also, like all eternal verities, is inscribed the message which he read in the *Geeta.*

14

The Indian community hailed the advent of *Indian Opinion*. "The community", recounts Gandhiji. "had made the paper their own to such an extent, that if copies did not reach Johannesburg at the expected time, I would be flooded with complaints about it. The paper generally reached Johannesburg on Sunday morning. I know of many whose first occupation after they received the paper would be to read the Gujarati sections through from beginning to end. One of the company would read it, and rest would surround him and listen. Not all who wanted to read the paper could afford to subscribe to it by themselves and some of them would, therefore, club together for the purpose." [M K. Gandhi, *Satyagraha in South Africa,* p.145]

Two years and a month after its advent, *Indian Opinion* had attained the largest circulation of any weekly in Durban delivered by postmen from house-to-house. Its phenomenal success caused a stir in the Natal Assembly and heart-burning in some quarters. In July, 1905, three questions were asked concerning *Indian Opinion* in Natal Parliament, viz. (1) how many hundred-weights of the

paper called *Indian Opinion* were distributed each week by the Post Office; (2) the number of European and other carriers who were employed in distributing this paper; and (3) whether, if a newspaper made use of the house-to-house delivery for the free delivery of newspaper in forms, this was not an "abuse" of the system of free postage of local newspapers; and if so, would Government take any steps in the matter? Replying, the Prime Minister stated that approximately twenty pounds of *Indian Opinion* was dealt with by the Post Office over a week; that the delivery of the papers was effected by the permanent postmen and no extra men were employed; and that as under the Post Office Laws no postage should be charged on newspaper delivery, the Government could not stop the practice. [*Indian Opinion,* July 15, 1905]

The Post Master General's statement also contained the following tell-tale figures:

Weekly	Copies	Weight
Trade and Transport	132	12 Lbs. 6 Ozs.
Colonist	100	25 Lbs.
Prince	96	18 Lbs.
Ilanga Lase Natal	66	3 Lbs. 1 Oz.
Mercury	16	6Lbs.
Indian Opinion	201	25 Lbs. 2 Ozs.

The peak circulation of *Indian Opinion* was reached at the height of passive resistance struggle, when it had 3500 subscribers out of a possible readership of 20,000. [M. K. Gandhi, *Satyagraha in South Africa,* p.143]

"The newspaper press is a great power,' observed Gandhiji, commenting on this phase of his struggle in South Africa, "but just as an unchained torrent of

water submerges whole countrysides and devastates crops, even so an uncontrolled pen serves but to destroy". Should the freedom of the Press, then, be curbed by executive power in the interest of the public then? Gandhiji's reply to it is an emphatic 'no'. That would be a remedy worse than the disease. "If the control is from without, it proves more poisonous than want of control. It can be profitable only when exercised from within." [M. K. Gandhi, *The Story of My Experiments with Truth,* p.287]

Who then should be the judge of right use? Gandhiji's answer is "The useful and the useless must, like good and evil generally, go on together and man must make his choice." [*Ibid*] Creating a proper climate of opinion is the final solution. In a healthy climate of opinion the evil of irresponsible or vicious journalism would be sterilised and die of inanition.

After long experience Gandhiji came to the conclusion that "a struggle when chiefly relies upon internal strength can be carried on without a newspaper". [M. K. Gandhi, *Satyagraha in South Africa,* p.142] but it was also his experience, he wrote retrospectively, that they could not perhaps have educated the local Indian community, nor kept Indians all over the world in touch with the course of events in South Africa in any other way with the same ease and success as through *Indian Opinion*. [*Ibid*] "Satyagraha would probably have been impossible without *Indian Opinion*". [M. K. Gandhi, *The Story of My Experiments with Truth,* p.286]

Before it attained that stature, however, *Indian Opinion* passed through several phases in the course of which the lives of those who were running it underwent a series of changes. These were marked by corresponding changes in the character of the paper itself, affecting the journal's policy in regard to its

management and location, the publishing of advertisements, undertaking job-work; and finally the contents and style of writing.

15

One of the difficulties that Gandhiji had constantly to face in running the *Indian Opinion* was however to make the paper pay its way. The object of the journal being mainly propaganda, five hundred complimentary copies had to be mailed every week for presentation purposes. Further, the policy of the paper prohibited dependence on revenue from advertisements. Allotment of advertisement space was found to create unnecessary rivalries and bickerings and the management had therefore to put a severe curb on publication of advertisements and decline to accept certain categories of advertisements.

As a result, the weekly never showed profits. In the very first year of its inception Gandhiji had to pour into it Rs. 30,000/- out of his own pocket to keep it going. It was clear that unless he was prepared to pour out another Rs. 30,000/- in the ensuing year the paper would have to close down.

As has already been stated, the weekly was originally started by Madanjit and Gandhiji had loaned money to him for this purpose. In April 1904, Madanjit, the manager, came to Johannesburg to canvass subscribers for the *Indian Opinion* and realize subscriptions. By this time, the loan received from Gandhiji for the paper had increased enormously and Madanjit had also begun to entertain a keen desire to return to India. He therefore told Gandhiji that he could not continue to bring out the *Indian Opinion* any longer and expressed his desire to sell the paper and the press to Gandhiji.

It was known both to the Indians and the Europeans that though Gandhiji was not avowedly the editor of *Indian Opinion*, he was virtually responsible for its

conduct. It would not have mattered if the journal had never been started, but to stop it after it had once been launched would have been both a loss and a disgrace [*Ibid,* pp.285-6] – financial loss to Gandhiji and disgrace to the Indian community. So without pausing for a moment Gandhiji accepted the offer and finalised the deal then and there with Madanjit.

Madanjit had no doubt given a colourful picture to Gandhiji about the profits of the press, Gandhiji told Mr West the same, but the very first report he received from Mr West was alarming. Mr West wrote:

> "I do not expect the concern to yield the profit that you had thought probable. I am afraid there may be even a loss. The books are not in order. There are heavy arrears to be recovered, but one cannot make head or tail of them. Considerable overhauling will have to be done. But all this need not alarm you. I shall try to put things right as best I can. I remain on, whether there is profit or not." [*Ibid,* pp.297-8]

Mr West's love for his friend saved the situation but Gandhiji felt pinched in his soul for simply accepting Madanjit's estimate without caring to examine it and telling West to expect a profit. "I now realise that a public worker should not make statements of which he has not made sure. Above all, a votary of truth must exercise the greatest caution. To allow a man to believe a thing which one has not fully verified is to compromise truth." [*Ibid,* p.298]

Now that he had assumed the proprietorship or both directly, the financial burden it cast upon him exercised him deeply. To put the paper on a stable basis Gandhiji selected a site two and a half miles from Phoenix railway station, which was eleven miles to the north of Durban and 14 miles from Durban railway station. In December 1904 he shifted the paper and the printing press from

Durban to the Phoenix settlement which served as a home for the workers also. The idea behind the change was that by shifting to a place far removed from city life, it would be possible to run the paper at much less cost. Thereafter the paper and the settlement became merged into one.

To cover the deficit several expedients were tried. Expenses were cut down, workers were paid less than the normal wage, life was simplified, an effort was made to obtain advertisements from Indian traders and to canvass subscribers.

In spite of all these efforts, the paper continued to be run at a loss. On April 23, 1906, Gandhiji at a public meeting in Natal announced that the paper was showing a loss of £75 every month and that it was therefore necessary to have more subscribers enrolled, if the venture was to continue.

In the meantime Gandhiji continued to cover the deficit out of his own pocket. In one case he had realized £1600 as his legal fees. The entire amount was eaten up by *Indian Opinion*. In a letter written from jail on 26th April 1909 during the Transvaal Satyagraha campaign, Gandhiji had even suggested that all the pieces of furniture which could be spared, his new law books, the Digest of Law Reports, his big iron safe and his set of Encyclopaedia should be sold to meet the demand of the paper and the settlement. He had further mentioned that he had taken out an insurance policy of £660, and to pay the premium due on it was eating his soul out. He therefore suggested that it should also be commuted for the surrender value it might fetch.

When the Transvaal Satyagraha struggle heated up, the expense of running the paper also rose. Owing to the torrent of messages that had to be exchanged, the expenses on postage and telegrams went up enormously. The circulation of

the paper increased to 2000 at this stage, but even this did not suffice to wipe out the deficit and the paper was faced with a financial crisis. As an economy measure, its size was reduced as from 1st January 1910 and the cover page was eliminated. On this occasion it received considerable help from the Transvaal Satyagraha Relief Fund. If it had not been forthcoming, the paper would have been forced to close down.

In the period of comparative lull that followed the second phase of the Satyagraha struggle, Gandhiji had again to consider the situation. Dissatisfaction over the policy and style of the paper was increasing apace even among the co-workers. One of them, Joseph Royappen, wrote:

> The whole paper is replete with dialectic pieces. It provides nothing to interest the youth. I seldom see a young man reading it, for he finds nothing about sports, recreative activities, fetes or festivals. Twenty out of 24 pages are in Gujarati but all colonial-born Indians know English only. Even settlers of long standing know no other language than English. Naturally the Gujarati columns do not interest them. Besides, the paper contains very few original contributions. The youth ought to be encouraged to contribute to its columns. Necessary prizes should be instituted to stimulate their interest. In this way the circulation of the paper can be increased. [Taken from Pyarelal's Notes. Source not traceable]

Gandhiji also had been furiously thinking about the policy of the paper. The financial aspect in his eyes was one of secondary importance only, although it was the cause of his principal worry. A deep ferment had been going on within him over some of the basic principles related to the running of the paper.

The weekly as well as the Phoenix settlement had been established entirely out of Gandhiji's own income. It was therefore his personal property. He now decided to renounce all ownership rights in it and to put it under a trust. After some thought, this was done in 1911. [For details of the Trust Deed etc. see Chapter XVIII, pp.429-43 *infra;* and also Appendix C]

CHAPTER IV : A FRIGHTFUL ENGINE OF OPPRESSION

1

Johannesburg, when Gandhiji established himself there in 1903, was not formally the capital of the Transvaal Colony, but with nearly half its population and situated in the midst of its mineral wealth, the city had been chosen also by Lord Milner as the most appropriate residence for one who must be at the centre of power. Decisions were being made there and in nearby Pretoria which would shape the future of the Colony and with it the status of the Indians. The machinery of government multiplied oppressions almost daily. The Transvaal Legislative Council, enlarged in April to include non-official members, immediately imposed new disabilities on the Indians. The government added to their woes by continuing beyond all reason the prohibition of Indian entry from Natal because of the plague, while allowing whites and Kaffirs to enter without hindrance. Most vexatious of all was the Asiatic Office, the concern of which was chiefly to enforce the immigration laws to the end of restricting as completely as possible Indian entry, and of deporting as many as might be found in default of the regulations. Had this office been administered with a sense of justice and on the basis of accurate knowledge, it still would have been a curse, but its officials sedulously adhered to false ideas about the Indians, as may be seen in their official reports. In the face of these trials, Gandhiji sought to protect the remaining rights of the Indians and at the same time to help them discover those truths which are among the "sweet...uses of adversity". [C.W.M.G. Vol.III, p.411; *Indian Opinion,* August 20, 1903]

The introduction of a representative element into the Constitution of the new Colonies had been settled during Chamberlain's visit. In the Transvaal the

Legislative Council was to consist of 30 members, namely, sixteen officials and fourteen nominated. Included in the new Council were Sir George Herbert Farrar and Sir James Percy Fitz-Patrick as representatives of capital and recognised leaders of the old Uitlander movement. [*The Times History of the War in South Africa,* p.89] Progressives and member of the Reform Party, they were both involved in the Jameson Raid. Sir George Herbert Farrar was President of the Transvaal Chamber of Mines. He was sentenced to death after the Raid, but the sentence was commuted on payment of £25,000 (see *The Early Phase*, p.374). Sir James Percy Fitz-Patrick was Secretary of the Reform Committee. Sentenced to two years' imprisonment, he was released in May 1896. In 1903 he succeeded [L. M. Thompson, *The Unification of South Africa,* p.508] Sir George Farrar as President of the Transvaal Chamber of Mines. To carry out the policy of the new legislature Lionel Curtis was made an Assistant Colonial Secretary. [*The Times History of the War in South Africa,* p.92]

The first session of the enlarged Legislative Council of the Transvaal was formally opened by Sir Arthur Lawley on May 20, 1903. One of the first things to come up before it was an important report on Municipal franchise, and a series of draft ordinances dealing with the area, constitution and powers of the Johannesburg Town Council that Lionel Curtis had prepared. The Government in their draft Ordinance had provided that all persons who could read and write, *to the satisfaction of the officer,* either English or Dutch and possessed certain property qualifications, were entitled to be placed on the voters' roll. [NAI Progs. 17-19 (Emigs.) A – November 1904] Very few Indians could have satisfied the officer concerned as to their knowledge of the English or the Dutch language. Besides, under Law 3 no Indians could own any property in the Transvaal except in the Locations. But the Bill was not a "class Bill" in the technical sense of the term, as Indians were not specifically excluded. To the nominated members this became

like a red rag to the bull. They protested against it and the Government was all too ready to meet them. At the second reading non-official members, thirteen in number, with one exception, all voted against the Government measure which reserved the right to all persons irrespective of race or colour under certain conditions applicable to all. They insisted that the Ordinance must limit the municipal franchise to white British subjects. Thereupon the Government in spite of their majority signified their intention of yielding to the opposition. [*India,* August 14, 1903, p.74; C.W.M.G. Vol.III, pp.371-73]

The amendment limiting the municipal franchise to white British subjects was announced in the middle of June, 1903. The British Indian Association addressed a petition to the President and members of the Legislative Council of the Transvaal, protesting that the amendment imposing on the British Indians, among others, a disqualification from becoming voters at the election of the Town-Councillors "cast a slur" [*Indian Opinion,* June, 18, 1903, C.W.M.G. Vol. III, p.341] on the ancient and loyal Indian race. The distinction of colour, "although legally made and recognised by the late Government", was "repugnant to the British Constitution", and "subversive of the broad foundation" on which the British Empire was built.

The debate in the Legislative Assembly on the Elective Municipal Ordinance provided several surprises, mostly of a rather painful nature, to the Indians. Sir George Farrar, who before the war was inclined to treat coloured people justly and had even "twitted Mr Harry Solomon for his *volte face"* and whom the Indians considered to be a champion of their just rights, voted against the Government clause. He admitted that it would be "very offensive" to the coloured people if they were debarred from the Municipal Franchise because they happened to wear brown skin, but excused himself on the ground that he

was only a nominated member; he could not, therefore, possibly have voted in favour of the Government clause. Sir Percy Fitz-Patrick said it was “a question of keeping up the dominance of the British race”. [*Ibid*] Mr Loveday, another non-official member and spokesman of the White League, was however quite frank. He bluntly admitted that the question was purely and simply “one of colour”. [*Ibid*].

It was argued in the course of the debate that if the Articles of Surrender were not broken to the letter by the Government clause they were certainly broken in spirit, "in that the Boers could not draw a distinction between municipal and political franchise". [*Ibid,* p.340] Now, the clause of the articles of Surrender referred to by the honourable members was to the effect that "the question of granting the franchise to *natives* will not be decided until after the introduction of self-government". Conceding for the sake of argument that "franchise” in the eyes of the Boers included political and municipal franchise, it was evident that it did not apply to coloured people other than the natives of South Africa, and, therefore, certainly not to the British Indians.

Commenting on the performance of the Milner Government which, after making the most able defence of their cause and after having a majority in favour thereof, yielded to the non-official members. Gandhiji wrote: "It very much appears as if the Transvaal was going not only to rule the whole of South Africa, but to trample under foot all that is most dearly cherished by the British Constitution, and that has stood the test of time." [*Ibid*]

Sir Richard Solomon, the Attorney General, in announcing the decision of the Government had said that "on a question of that kind, the Government did not intend to override the feeling of the non-official members". Observed

Gandhiji: "We, in our simplicity, would have thought that it would be exactly on a question of that kind that the Government would stand firm." [*Ibid*]

It had been remarked by the non-official members that the measure in question was only temporary and that there was no reason why within a few years a change should not be made in the clause admitting coloured people to franchise. If that was what had weighed with the Government, felt Gandhiji, then it was clear from past experience that the Indians had little to hope for. "We do not believe that when self-government is granted, the prejudice against colour would be removed at a stroke of the pen. On the contrary, the action of the Government during the transition stage would be quoted as a precedent for future restrictive legislation; and ... by that time the prejudice, having been fed, as it were, by the Government, would have hardened so much as to be ineradicable". [*Ibid*]

The only redeeming feature of the debate was that at least one non-official member had refused to bend before the storm of European prejudice, though he found himself in a minority of one, and spoke out boldly and fearlessly in favour of justice and humanity. This was Mr William Hosken, a gold mine manager who had been sentenced for his part in the Jameson Raid, became President of the Chamber of Commerce before the War, and was eventually to be one of Gandhiji's most prominent supporters. He had made it a principle, he confided to Gandhiji later, always to make common cause with the minorities. Like many other things that had soaked into Gandhiji's consciousness during this, the most formative part of his life in South Africa, this trait became a part and parcel of his being. Nearly half a century afterwards, recalling this incident, he presented the moral of it to the Indian Muslims whom the makers of Pakistan, in their hurry to

assume the reins of power in their new domain, had left behind as a minority to fend for themselves.

> A dear English friend in Johannesburg, while I was fighting the mighty Government of the Transvaal, told me that he always made common cause with minorities. For, he said, they were hardly ever in the wrong and if they were, they could be weaned from it without difficulty, whereas majorities could not be, owing to the intoxication that power gave them. [Prayer-speech, December 22, 1947, Pyarelal, *Mahatma Gandhi – The Last Phase,* Vol.II, p.689]

Commending to the Union Muslims the great truth that this friend had uttered, Gandhiji told them that now that they were free from the "oppressiveness" they were under whilst they were "falsely proud of the Muslim majority in the West and in the East", they should seize that opportunity to realise "the virtue of being in a minority" and "express in their own lives the best that is in lslam". [*Ibid*]

2

A cry had gone up when the Indians in Natal had been deprived of political franchise in 1895, to deprive them of the Municipal franchise also. But the Government of the day had stood four-square against it. What a self-governing colony had not dared to do then was now done by a Crown Colony Government under Lord Milner. Then the plea was advanced that the Indians did not possess "elective representative institutions founded on Parliamentary franchise". But the British Indians had known the privilege of municipal government for ages past. They had the authority of Sir Henry Maine, the late Sir William Wilson Hunter, the official historian of India, and a host of other eminent writers, for saying that "India enjoyed municipal self-government, long before even the

Anglo-Saxon race". [*Indian Opinion,* June 18, 1903; C.W.M.G. Vol.III, p.341] Chamberlain had come to South Africa as the apostle of Imperialism. Was it, then, Imperial to "cast a slur" on millions of His Majesty's subjects simply for the sake of gratifying a bit of prejudice, or was it "empirical", Gandhiji asked.

In the third week of July, 1903, replying to an address presented to him by the Cape Coloured people of the Transvaal, Lord Milner told them that he would not veto the Municipalities Election Ordinance which disfranchised British Indians and others. It was "notorious", he remarked, that that decision was contrary to his own personal view, as to what was right and politic. He had never any doubt, but it would not have been "wise, or justifiable", to use "the great power which is temporarily vested in the nominees of the Crown" in the Colony, in order to give effect to that personal opinion, "overriding the opinion of the great majority of the white population", when once it had been clearly expressed. It was not a power to be exercised except where the safety of the State was at stake or "some great fundamental principle of the Imperial policy" was involved. Obviously inviolability of British pledges and the sanctity of a solemn declaration made to three hundred millions of the Queen's loyal British Indian subjects in a Royal Proclamation were in Milner's eyes not "a great fundamental principle of Imperial policy". [*Indian Opinion,* July 23, 1903]

To add insult to injury, Milner went on to deliver a gratuitous homily to the coloureds. They were free men, he remarked, they were protected in the exercise of their industry and in the enjoyment of their property, the law knew no difference between them and any other section of the community. "Excepting this Municipal Franchise, I do not know what is withheld from them…." They must, therefore, be satisfied with what they were privileged to receive under the British flag and make the most of it. If these remarks were meant to apply also to

the Indians, who for the purposes of restrictive legislation in South Africa were included in the category of “coloured" people, commented Gandhiji, then they were sure misleading, because the Indians were denied the same property rights and other civic rights granted to the rest of the community. Besides, to call such ordinary rights of citizenship by the name of "privileges” to be highly valued “as if they were special concessions", was "with due respect to His Lordship, a little too much". But he had no hesitation in commending to the Indian community that portion of Milner's remarks in which His Excellency had said that it was "to their interest and their duty to take every advantage of the privileges already offered them without fretting over, though without ceasing to aspire to, any privileges which may still be withheld". Wholeheartedly agreeing with Milner that that, after all, was "not a bad position" for a man who had "any grit in him to develop", Gandhiji told the Indians that it was only by making the fullest use of the advantages they already possessed that they would overcome the prejudices and win the respect of the majority. [*Ibid,* p.379]

3

Shortly after this Milner gave his assent to the amended Ordinance. [C.W.M.G. Vol.III, p.371, July 18, 1903; *India,* August 14, 1903, p.374] Political rights the Indians had lost already. The latest Ordinance jeopardised whatever civic rights they still enjoyed. By eliminating their influence from the area of local self-government, it left them without any protection against neglect or against the abuse of the vast powers possessed by the municipalities which were completely dominated by the white trading community.

Another draft Ordinance was introduced in the Legislative Assembly in the same session for the suppression of immorality. Under it certain things were treated as a serious crime "if committed by any Native". Sub-clause 5 of clause

19 of the Ordinance defined the expression "Native" as a "person manifestly belonging to any of the Native or Coloured Races of Africa, Asia, America or St. Helena".

The Indians had not the slightest objection to the acts mentioned in the clause under reference being treated as crimes in their case also, but they strongly objected to the Ordinance sanctioning discrimination on the ground of colour and the Indians being bracketed together with the "Natives of Africa, America or St. Helena". As Gandhiji put it, the sting lay "in the manner of doing it". On July 4, the Indians made a representation to the Lieutenant Governor, who returned the following reply:

> It is not now possible to alter the section complained of... the wording is taken from clauses of similar enactments in other colonies. His Excellency hopes that you will accept the phrasing in the sense in which it is meant and that it is not intended to bracket British Indian subjects as suggested by you. [*India,* August 14, 1903, p.74. The reply was dated July 4, 1903; C.W.M.G. Vol.III, p. 371; India Office Judicial and Public Records: 402]

It was difficult to understand, why the alteration of the phraseology objected to could not be made during Committee stage. No such offensive definition occurred either in the Cape or in the Natal Acts dealing with the same subject. In fact, neither Act applied to British Indians. Gandhiji fought tooth and nail the principle of discrimination embodied in this Ordinance, but so far as the object of this Ordinance was concerned, he went all out to extend to it his whole-hearted support. When about this time an Indian was convicted by a Magistrate for an offence under this Ordinance for letting a house, that had been leased to him, for immoral purposes, he wrote: "The incident ought to serve as a lesson to our countrymen. Like Caesar's wife we must all be above suspicion. Living as we

are in a country where somehow or other everything against us is immensely magnified, the least of us have to be careful as to what we may do, lest we stultify the whole community....If a European commits a crime or a moral delinquency, it is the individual: if it is an Indian, it is the nation." [*Indian Opinion,* June 4, 1903; C.W.M.G. Vol. III, p.316] What had happened was that a European landlord, Harris, had leased the houses to one Latif, the accused in the case, knowing the use the latter made of them. Why make a scape-goat of an Indian, who, with one or two others, was regarded as a black sheep by his community, and ignore the greater sinner (Harris) who ought to have known better, a friend tried to expostulate. [M. Nazar in his letter to Gandhiji, dated May 16, 1903, Photostat – Nazar papers No.44] But Gandhiji refused to entertain the alibi. In a subsequent issue of his weekly, congratulating the Magistrate on "putting his feet firmly down on the serpent of immorality", he exhorted his countrymen on the contrary to go a step further and endorse the action of the Magistrate "by visiting the man (the Indian offender) with such ostracism as the Indians alone know how to do". [C.W.M.G. Vol. III, p.454; *Indian Opinion,* September 24, 1903]

4

The plague struck in Durban and Maritzburg in February 1903, mostly among the Kaffirs. The Transvaal authorities promptly stopped the entry of every Indian from Natal, while permitting Europeans and Kaffirs to enter freely. Aware of the weak legal basis of the permit system under the Peace Preservation Ordinance, the government had welcomed a new pretext for exclusion of Indians. Durban was declared free of the disease early in July. [C.W.M.G. Vol.III, p.362; *Indian Opinion,* July 9, 1903] The plague had not respected persons. It had been, to use Gandhiji's expression, "foolishly consistent in attacking all the three races inhabiting Natal". [C.W.M.G. Vol.III, p.316; *Indian Opinion,* June 4, 1903] Yet the embargo on

British Indian refugees in Natal who wished to return to the Transvaal continued. The continuation of the embargo on refugees and non-refugees alike month after month [C.W.M.G. Vol. III, p.362; *Indian Opinion,* July 9, 1903; C.W.M.G. Vol.III, p.446; *Indian Opinion,* September 17, 1903] reduced the stranded refugees, who were awaiting their return from Natal, practically to destitution. The times in South Africa were hard. The economic prospect of the Indian trading community was worsening day by day. This made it more and more difficult for the friends of the refugees to support them. Their condition as a result became pitiable to a degree. [C.W.M.G. Vol.III, p.381, July 25, 1903]

The authorities did not seem to be clear as to what line they would take.

For one thing, they were not sure of the reaction of the Home Government. Chamberlain had not yet replied to Milner's despatch of May 11 defending his Bazaar policy. But from the answers given by him in the House of Commons, it appeared that he would not in the last resort stand in their way. In the meantime, to prevent the Indians from establishing themselves in the annexed

Territories—justice or no justice—the Transvaal Administration was determined in the interests of the white traders to take advantage of every device. The plague scare came handy for this purpose. "The Indian may be forgiven", observed Gandhiji. "if...he arrives at the conclusion that the embargo placed on him is more in the nature of a political closure than a precaution in the interests of public health." [C.W.M.G. Vol III, p.316; *Indian Opinion,* June 4, 1903; C.W.M.G. Vol.III, p.362; *Indian Opinion,* July 9, 1903]

The humour of the situation was that the Indians in Natal could go to the Cape or to Delagoa Bay, and wait there till their turn came to receive permits after which they were accepted in spite of the plague restrictions. Indians were also allowed to enter Natal from the Transvaal and then return. If, therefore,

there was anything special in the Indians which made them carriers of the plague more than the other races, those who were allowed to go to Natal and return were just as liable to bring it as those who were now staying there and awaiting permission to return. [C.W. M. G. Vol.III, p.381] Europeans and Kaffirs on the other hand were allowed entry without any let or hindrance, as if the fell disease respected the colour of the skin!

Non-refugee British Indians were not allowed to enter the Transvaal at all. The reason given was that they could not be allowed until *all* the Indian refugees had returned to the Colony. This rule did not apply to the Europeans. The prohibition told especially on the Indian traders and residents who were unable to get storemen, salesmen and domestic servants from either the Cape, Delagoa Bay or Natal. It hampered their business and it affected those who had left India under the belief that there was no restrictive legislation in the Transvaal and they were, therefore, entitled to enter the Transvaal. [*Ibid*]

Hundreds of other people—both whites and coloureds—were freely allowed to enter the Transvaal week after week, but even *bona fide* Indian refugees were kept out and deprived of an assured livelihood that the Indian traders might offer them.

The Indians protested: If what the authorities were afraid of was that they might be unable to support themselves, there was a simple remedy for it. Every refugee could be asked to give reliable security that, on his entry into the Transvaal, he would not only be able to find suitable residence but that he had friends ready to support him in case of need. There would then be no fear of overcrowding or starvation. If, on the other hand, the embargo was political, then it would be “simple honesty to make the confession, and tell the British Indian refugees in Natal that they need not hope ever to return to the Transvaal."

[C.W.M.G. Vol.III, p.416; *Indian Opinion,* August 20, 1903] Such a reply though unjust would be honest and put an end to the extreme suspense under which the poor refugees were labouring. [*Ibid*] But it was no use. In reply to a petition by the Indians the Lieutenant Governor said that he was unable to remove the embargo on Indian arrivals although they might offer to undergo quarantine at their own expense. [C.W.M.G. Vol.III, p.381, July 25, 1903; India Office Judicial and Public Records; 402]

Despairing of obtaining relief from the Transvaal authorities Gandhiji appealed to the friends in England to move the home authorities. “It is high time”, he wrote to Dadabhai Naoroji on September 7, 1903 "that a definite pronouncement was made regarding the existing Indian licences here, and that the congestion regarding permits to *bona fide* refugees was removed". [Gandhiji to Dadabhai Naoroji dated September 7, 1903, C.W.M.G. Vol. III, p.436] Lord Milner had told the British Indian deputation that the Government had no prejudice against the Indians. What answer had His Excellency to give in justification of the plague embargo? [C.W.M.G. Vol.III, p.447: *Indian Opinion,* September 17, 1903]

Shortly after this Natal officially declared herself free from plague from the beginning of October, 1903. [*Indian Opinion,* October 22, 1903, p.142] Partly due to this and partly to the agitation by the Indian community, the Transvaal authorities at last cancelled the plague notice restricting the Indian departures from Natal to the Transvaal. The Indians were nevertheless required to take out medical certificates costing them 10s. 6d. each, and were further subjected to medical inspection at Volksrust. The medical officer gave them letters addressed to the Magistrates, saying that they were to be under medical surveillance for ten days. This was red-tape with a vengeance. " If the harassment is to continue in spite of the removal of the regulations, “remarked Gandhiji on November 5, 1903, "we do not know the meaning of the cancellation of the Plague Notice." The payment

was a totally unnecessary tax on the poor refugees. He, therefore, appealed to the Transvaal authorities to take necessary action to end the resulting inconvenience. [C.W.M.G. Vol.IV, p.29; *Indian Opinion,* November 5, 1903]

The utter destitution to which the refugees returning to the Transvaal had been reduced prior to their arrival, and the harassment to which they were subjected on their arrival in the ex-Republic, coupled with the rapid deterioration of sanitary conditions, in Johannesburg owing to the Town Council's neglect of the sanitary requirements of the Asiatic and native population under its care, created a situation of extreme danger which would exact a frearful toll before long.

5

The repeal of Law 3 of 1885 had now receded into the background as a distant goal. Past British declarations about equal Imperial citizenship rights for all British subjects in South Africa seemed to be all forgotten. Gandhiji saw that they would have to begin over again from the very beginning. But in the meantime the Asiatic Department threatened to turn life for the Indian community into a nightmare. To stop its inroads became the question of questions.

Lord Milner had told the Indians that the establishment of a special department to deal with their problems exclusively should be welcomed by them as a boon. The Government of India also had noted its creation with a sigh of relief. Why should then what had been presented as a boon turn into a curse? Under the Boer regime laws were very harsh, but the administration was as lax as it well could be. The officials who had to enforce the laws did not share the prejudice that gave them birth. The government, too, was by no means

overanxious to drive the Indian traders, who had a large number of Boer customers, into Locations; and if it ever showed signs of activity, the protecting hands of the British Agent were stretched forth to stay it. [C.W.M.G. Vol.III, p.333; *Indian Opinion,* June 11, 1903] The position now was that the British authorities in the Transvaal were determined to give effect to the Boer anti-Indian laws. When these laws passed into the hands of the Asiatic Department it began to enforce them with savage strictness. [M. K. Gandhi, *Satyagraha in South Africa,* p.89]

It is common experience that when a special department is created primarily to provide employment for people out of work, and "when restricting existing rights is the sole reason for its existence, officers are naturally inclined to devise fresh restrictions from time to time in order to justify their existence and in order to show that they are efficient in the discharge of their duties". [*Ibid,* p.83] Further, if the laws are worthy of being enforced, Government must arm itself with more powers in order to close the loop-holes left intentionally or by inadvertence in favour of Asiatics. The officials of the Asiatic Department raised the cry that the anti-Asiatic laws enacted by the late Government were inadequate and needed to be stiffened and augmented. The result was the Bazaar Notice.

President Kruger, with all his racist outlook, had been less prejudiced against the Indians than his Raad and in the Raad it was the non-Boer section, almost entirely English, that was behind the demand for anti-Indian legislation. There was at least one occasion when Kruger flatly declined to comply with its wishes. [In his statement on behalf of the Transvaal British Association before Asiatic Enquiry Committee on April 16, 1920, Dr. Krause described how "the painful question of Indian undesirability and trade jealousy" was initiated by a number of Chambers of Commerce as far back as 1886. According to him, in a discussion in the Volksraad of 1886 arising out of a petition by the white tradesmen to oust the Indians from Johannesburg, a statement was recorded to the effect that the European storekeepers

charged poor people "very high prices for the staff of life, while the coolies charged much less". Thereupon a deputation of white storekeepers waited upon the late President Kruger to urge him to enforce the petition and to do away with the Indian hawkers. The President flatly refused to listen to any such suggestions on the grounds that hawkers were 'very useful' to his people .... Having failed in this attempt, the White traders, small storekeepers principally, supported another petition with the plea that the Indian was likely to spread leprosy, syphilis and similar loathsome diseases, which the White community owing to the presence of the Asiatics were likely to contract. As against this, two counter petitions were presented to the President, one signed by about 500 Burghers, stating that the withdrawal of the Indian trader would impose a great hardship on them; another signed by 1340 Europeans including a large percentage of European wholesale firms declaring that the sanitary habits of the Indian traders and those who resided in Johannesburg and other principal towns, were not inferior to those of the European and that the agitation was due purely to trade jealousy ... Having failed in this, the Indians' rivals then adopted the plea of unfair competition. – Vide Minutes of Evidence of the Asiatic Enquiry Committee, 1921, pp.659-662, quoted in *Politics of Racialism* by Iqbal Narain, p.160, Shivlal Aggarwal & co., Agra, 1962] As Uitlanders, under the Republic, these people had not been averse to currying favour with Kruger to gain concessions for themselves. Chamberlain in consequence regarded them with a certain distrust. With the disappearance of Boer rule they became British subjects on whose loyalty and cooperation depended the establishment of a permanent British-race supremacy in South Africa. Chamberlain did not wish to antagonise them. The petty English trader and the "respectable" section of the working class, sections most sensitive to the Indian competition, found in the Asiatic Department's eagerness to enforce the existing anti-Indian legislation the consummation of their heart's desire, and Milner in his anxiety to woo them could see no evil in the Department that gave effect to their wishes.

It has everywhere been found that officials always want to create subordinates and the latter in their turn create work for each other irrespective of need. The Asiatic Department provided a perfect demonstration in action of what has come to be known as "Parkinson's Law". Multiplication of officials led

to a demand for more and fresh powers. The result was all-pervasive corruption, engendered by wider opportunities for the abuse of power.

6

In a petition to the Governor, dated 8th June 1903, [Petition to the Transvaal Governor, C.W.M.G. Vol.III, pp.323-325] the British Indian Association objected to the Asiatic Office on the following grounds:

(1) The Asiatic Office had caused a great deal of hardship in the matter of permits.

After the establishment of the Asiatic Office the Indians to obtain permits had to apply nominally to the Colonial Secretary like the Europeans, but virtually to this office. The Regional Supervisors appointed under it had no power to give permits; they only recommended them. The General Permit Officer then and not till then, sent instructions to his officers at the coast towns to give permits to the persons so recommended. The evidence as to the *bona fides* of the applicant produced before the Asiatic Office was exactly the same as would be produced before the General Permit Officer at the port of entry with this difference, however, that the officer on the coast could see the applicant face to face and weigh the evidence that he might produce; not so the Supervisor, who had to judge from a distance of several hundred miles. The procedure without being of any use involved an unnecessary waste of time. Far from serving the convenience of the Indian community, the establishment of the Asiatic Office added a great deal to their worry, legal expense and delay in the matter of granting the permits.

(2) With no jurisdiction over the Indians "save such as it could invent for itself", the Asiatic Office had instituted the system of passes which had proved to be utterly useless. Every Indian who arrived in the Colony was deprived of his

permit and was given an Asiatic pass, the only use of which was to have the name of every Indian arrival on the register of the office. But this the Office already had, as the permits were issued only after its recommendation. To the Indians, the innovation meant a further diminution of their rights. How exchange of Asiatic Passes for permits once again in the hands of the officials of the Asiatic Department brought cruel persecution to the thousands of Indians in Johannesburg and other towns has already been described. But for the existence of the Asiatic Office, such a thing would not have happened.

As if this was not enough, a new Registrar had now been appointed, independent of the Asiatic Officer. There appeared to be no special reason for it except perhaps the tendency to proliferation inherent in every bureaucratic organisation. Registration was once made by the Asiatic Office. It was made for the second time by the Chief Secretary for Permits. It was now being done for the third time. The enforcement of Law 3 of 1885 did not warrant any elaborate registration. The £3 tax could be collected without it from those who did not pay during the old regime. But when a separate office was opened, adoption of a bewilderingly elaborate set of arrangements for the collection of the tax followed almost as a corollary.

(3) The Asiatic Office had gratuitously interfered with the Licensing Office.

Contrary to the procedure followed under the Boer regime, the Asiatic Office had issued departmental instructions that an Indian trader or hawker was not to be issued his licence without the recommendation of the Asiatic Office. The law gave to the Asiatic Office no such authority. All that the law required was that the applicant should produce his permit and also make the usual declaration before he was granted the licence. If the object was to identify the applicant with the permit and his declaration, the Asiatic Office was in no better position than

the Revenue Officers to do so. Fraud in the very nature of things was practically impossible. The intervention by the Asiatic Office was thus both unwarranted and gratuitous.

(4) The Asiatic Office was responsible for the institution of the photographic passes to which the Muslims had religious objection.

The system of visiting passes which had lately been introduced interfered with the movement of the Indians for which there was no warrant in law.

(5) The Asiatic Office was an unnecessary burden on the revenue.

There was thus not a single function performed by the Asiatic Office which could not be better performed without its intervention. If the authorised number of passes could be issued by the officers at the port of entry and the Revenue Officers could similarly issue licences to British Indians in the usual manner, as well if not better, without the recommendation of the Asiatic Office, as was actually the case, there was nothing left for the Asiatic Office to do.

(6) Neither at the Cape nor in Natal where there was a far larger Indian population than in the Transvaal, had such a department been found to be necessary. Natal had an office of the Protector of Indian immigrants, but that office had jurisdiction only over the indentured Indian population. It had absolutely no control over the free Indian population. What was more, such need was never felt by the old Government of the Transvaal.

(7) The Asiatic Department had not done away with the approach to the other departments.

Milner in his interview with the Indian deputation had maintained that the Asiatic Office was necessary in order that Indians might have an easy access to officers who were solely devoted to Asiatic affairs, and not have to go to other

officials. In practice the intervention of the Asiatic Office had only become an additional hurdle without in any way doing away with the approach to the other officials.

7

Two days before the Indians pressed these considerations on the Governor in their memorandum of June 8, Milner submitted to the Colonial Secretary the report of the enquiry into the cases of Hoosen Amod and Suleiman Ismail which, Chamberlain had said in answer to Sir Muncherjee's question on April 17 in the House of Commons, he was expecting. A tissue of prevarication, *suppressio veri* and *suggestio falsi*, it showed to what lengths the officials of the Asiatic Department could go in order to hoodwink authority and cover up their oppression of those whom they were supposed to protect. It also showed, how completely Milner had put himself in the hands of his officials.

According to this report, Hoosen Amod was trading in 1899 in premises occupied under a lease, not in his name, which expired on the 15th July, 1899. By the First Volksraad Resolution, article No.1072 of the 5th August, 1892, he was prohibited from trading after that date "except on the coolie Location", and on the 15th July 1899 the Landrost of the district had closed the store. In June, 1902 he had applied, it was stated, to the Resident Magistrate of Wakkerstroom, saying that his lease had not expired, and the Resident Magistrate without making enquiries had granted him the licence to trade until the 31st December, 1902, but in November the Magistrate discovered that the lease had really expired and the licence granted had been obtained "under false pretences". [C.W.M.G. Vol. III, p.461; *Indian Opinion,* October 1, 1903]

As a matter of fact the lease stood in Hoosen Amod's partner's name and it had actually been renewed after it had expired on July 15, 1899, and both these

facts were within the knowledge of the magistrate who enquired into the matter. This was deliberately suppressed by Milner's officials. Suppressed also was the well-known fact that in no single instance had the first Volksraad's resolution been acted upon; that the licence-holder had denied that the Landrost had closed the store; and that in proof he had produced evidence of responsible European residents of Wakkerstroom, one of whom was a banker and the other an officer in the employ of the late Government. All this showed that the store was open at least up to the end of August, and after that Hoosen Amod had himself voluntarily locked it when the exodus from the Transvaal commenced owing to the imminence of war. If the charge of "false pretence" had been made by an ordinary man it would have made him liable for action. But being made from his privileged position by a Magistrate, it left the victim with no means of obtaining redress. Nor had the lease expired, for the licence had been renewed, and *at the time the Magistrate granted the licence, he had seen the lease in question.*

Again, it had been asserted that the case of Hoosen Amod was not covered by the principle by which the Asiatic Office was guided in dealing with the applications of Asiatics for licences to trade, namely, that only those who had licences to trade before the war, and whose trade was stopped by its outbreak, or in anticipation of it, were entitled to a renewal of their licences. Hoosen Amod, it was further alleged, was not trading at the outbreak of the war, and his trade was not stopped by any reason connected with the war. The inquiring Magistrate must have known that the practice at the time of the licence in question was that all who *traded* before the war, whether they closed their business *on the outbreak or in anticipation* of war, were able to get their licences; that many licences had in this way been granted to Indians who traded in the Transvaal in 1899, or even earlier, on the strength of their having tendered the £3 tax, and

that this matter was engaging the attention of the Government. Hoosen Amod had urged this consideration on the Government but without avail. Besides, contrary to what was stated in the report, if anybody could be said to have closed his store in anticipation of war, it was he.

Finally, with a gesture of magnanimity, the report had gone on to state that when it was found that Hoosen Amod had laid in a large stock of goods, in spite of the fact that this had been done "on the face of a licence obtained by him on false pretences", it was decided to extend to him "every leniency that was possible, and to renew his licences". What was kept back from the Colonial Secretary was that Hoosen Amod was a resident of the Transvaal of over ten years' standing; that he was one of the select few who were favoured by the old Government with licences to trade in their own names at a time when most of the British Indians traded in the Republic either without any licence whatever under the protection given to them by the British Agents, or under licences taken out by their white friends; and finally that even the white inhabitants of Wakkerstroom were so disgusted at the treatment meted out to him that they signed a certificate expressing their opinion that he was fully entitled to a licence.

[C.W.M.G. Vol.III, pp.460-62; *Indian Opinion,* October 1, 1903]

In the Suleiman Ismail of Rustenburg, it was made out that he held no licence to trade at the time of the outbreak of the war, but, during the British military occupation he had established this branch of his house and, when this was discovered, in October 1902 the Resident Magistrate of Rustenburg served on the representative of Suleiman Ismail a notice to the effect that he was not entitled to trade in the town. As against this the fact of the matter was that the military authorities had actually granted the licence enabling Suleiman Ismail to establish a business at Rustenburg and the Resident Magistrate had no authority

to question the decision of his predecessor-in-office given under the full knowledge that Suleiman Ismail did not possess licence to trade in that district previous to the war. Nor had that official the power to recall the licence to trade in that district previous to the war, or to recall the licence that the military authorities had granted. The Asiatic Department's report had likewise suppressed the fact that it was purely the accident that there was no Location whatsoever in Rustenburg when Suleiman Ismail was refused renewal of his licence unless he removed to a Location, that saved him. "The Government, being thus cornered, had no option but to grant a renewal." [*Ibid,* p.463] So patent was the injustice in this case that the Lieutenant Governor felt constrained to intervene, and the fine imposed by the Magistrate on Suleiman Ismail for trading after the expiry of the licence without obtaining a renewal was refunded.

Gandhiji had all along maintained that in spite of all the race feeling and colour prejudice that there was, the Indian in South Africa as a rule got as fair a deal as any other in Courts of Justice, especially the higher, and this had helped to prop up his faith in the British Empire. Here was an instance of how the quality of justice in South Africa was getting debased under the corrupting influence of the Asiatic Department and how under a separate Asiatic Administration it was becoming increasingly difficult for Indians to get “the barest possible justice”. [*Ibid*]

8

Complaints had kept pouring in daily from all quarters that rightful Indians were not being admitted into the Transvaal, while those who had no right were smuggled in on payment of £30 to £ 100 as bribe. Johannesburg was the Asiatic Office's stronghold. Colour prefudice made redress next to impossible. People came to Gandhiji and said, “if you will not remedy this state of things, who will?”

Gandhiji agreed with them. If he did not succeed in stamping out that evil, he felt, he would be living in the Transvaal in vain. Patiently he began to collect evidence. When he had gathered a fair amount, he approached the Police Commissioner.

The Police Commissioner was a conscientious man. He listened to all that Gandhiji had to say and asked to be shown the evidence that was in Gandhiji's possession. He then examined the witnesses himself. Having satisfied himself, he assured Gandhiji of his support. Knowing how difficult it was in South Africa to get a white jury to convict a white offender against a coloured man, he was doubtful as to the outcome of a case like that. “But,” said he, “let us try at any rate. It is not proper either, to let such criminals go scot-free for fear of the jury acquitting them. I must get them arrested." [M. K. Gandhi, *The Story of My Experiments with Truth,* p.274]

Gandhiji had suspected a number of officers but he had no unchallengeable proof against them all. Carefully the Police Commissioner began to lay his net around the culprits.

In July 1903 proceedings were taken up against one Sydney Harcourt, a young English clerk in the Asiatic Department. It was followed by another prosecution against an official of the Asiatic Department, Cecil Price Jackson by name. The story that came out in the course of the trials was as follows.

Cecil Price Jackson was appointed as Supervisor of the Asiatics, Johannesburg, in March 1902. He worked under Mr Chamney, the Protector of Asiatics.

The number of permits allotted to the Indians for return to the Colony had been cut down from 200 to 75 per week, following the entry of 579 Asiatics imo the Transvaal at the beginning of 1903. Of these 50 were for Johannesburg. A

refugee desirous of returning received a form of application, which he filled in and submitted either to the Colonial Secretary or the Supervisor direct. In all cases it went to the latter.

The duty of the Supervisor was to make the enquiries and satisfy himself that the statements made by the applicant for a permit were correct. He then had to submit on the basis of his enquiry 50 names weekly for return. On his recommendation, the Colonial Secretary authorised the Chief Secretary of Permits to issue permits to the refugees in question. The Chief Secretary sent the list of approved applicants to Permit Secretaries at different ports with instructions to issue permits.

The Supervisor was required by the Department to post the advice cards on receipt of which the applicant would get the permits. Instead of posting them Jackson used to pass them on to agents.

An agent, Mahomed Shaboodeen by name, acted as a go-between. He prepared a list of 50 refugees and charged £3 per head. Out of it £2 was paid to the Asiatic officials and the remaining £1 he kept himself. In fact refugees who were registered under the late Government were entitled to permits free of charge, while new arrivals had to pay a fee of £3. [*Indian Opinion,* October 29, 1903]

Sydney Harcourt was charged with theft by means of embezzlement before H. H Jordan. He was admitted to bail in the sum of £50. The case was adjourned until July 8, 1903. [*Ibid,* July 9, 1903]

On July 8, Harcourt was again brought before Mr Jordan, when five Indians gave evidence and deposed that the accused had taken £3 from each of them and in some cases returned part of the money. Marked money was also found in the accused's possession. It appeared from the evidence of Mr Bell and the

officer-in-charge of the Permit Office that Harcourt was delegated to attend to those Indians who produced the old registration certificates issued by the late South African Republic and to give them a new pass free of charge. The five witnesses for the prosecution stated that they had never paid the £3 to the late Government and were hence not entitled to a pass free of charge. The accused was not supposed to receive cash in any case. He declined to give evidence at the preliminary examination reserving the defence. He was committed for trial before the next criminal sessions of High Court. [*Ibid,* July 23, 1903]

Price Jackson was arrested in September on the charge arising out of "certain irregular practices connected with the granting of permits to lndians". About four months earlier in May 1903 a party of lndians was charged before the Chief Magistrate for being in the Transvaal without having obtained the necessary permits. Brought to the Court they all produced permits for which they said they had been charged various sums from 30 shillings upwards and which they had obtained at a certain office in Johannesburg. The permits were of course illegal, as they should have been granted only at the coast. The Indians were all ordered to leave the country, and nothing further was heard about the case. The arrest of Price Jackson, according to the *Rand Daily Mail,* was a development of this case. [*Ibid,* September 17, 1903]

One of the two accused absconded. The Police Commissioner obtained an extradition warrant against him and had him arrested and brought to the Transvaal. [M. K. Gandhi, *The Story of My Experiments with Truth,* p.275]

Price Jackson was brought up before Mr Jordan, "C" Court, on a charge of bribery. Mr Stellard appeared for defence. Mr Chamney, Protector of Asiatics, Captain Hamilton Fowle, Chief Secretary, for permits, and Public Constable Marshall appeared as witnesses.

Mahomed Shaboodeen, a livery stable keeper, stated that he remembered going to see Jackson at the Asiatic Permit Office in November or December, 1902. He first spoke to Walton, the clerk, who took him to Jackson. Walton then said to Jackson that witness had agreed to pay £1 a piece to obtain permits quickly. Jackson said it was all right, and told him to bring the list of applications. A week afterwards he handed Jackson a list. He also paid Jackson money by cheques, but could not say how much. He recognised the cheque, dated December 9, for £25 and said he gave it to Jackson for the purpose of sending the permit quickly. Another cheque, dated March 16, 1903, he recognised as one given by him to the accused who said he wrote the body of the cheque. A further cheque for £5, dated January 28, was filled in by Jackson and signed by witness.

The Public Prosecutor: How much money did you pay Jackson altogether?

Witness: I believe I gave £150. I do not know what he paid to Walton.

The Magistrate: We will confine ourselves to Jackson.

The Public Prosecutor: Why did you pay it?

Witness explained that persons in need of permits applied to him and paid him £3 each. From this sum he paid £2 to the ofricials in the Asiatic Office, and kept the remaining £1 for himself. Cross-examined he said. "I must take my fee. Walton took me to the accused's office. Jackson advised me to take out a licence as labour agent, and I did so. I did not get the permits quick enough. Walton told me that if I paid him I would get my permits quicker. I paid both Walton and Jackson. [*Indian Opinion,* October 29, 1903]

The case was adjourned to November 10, 1903.

As both the Police Commissioner and Gandhiji had anticipated, although there was strong evidence against both the officials and in spite of the fact that

the jury had evidence of one of them having absconded, they were declared to be not guilty and acquitted.

"I got disgusted with the legal profession," records Gandhiji. "The very intellect became an abomination to me inasmuch as it could be prostituted for screening crime." [M. K. Gandhi, *The Story of My Experiments with Truth,* p.275]

The guilt of these officers, however, was so patent that in spite of their acquittal the Government could not harbour them. Both of them were cashiered. The Asiatic Department became comparatively clean after that and the Indian community was somewhat reassured.

It had not been easy going for Gandhiji. The Asiatic Department was a very powerful institution. It had under it a network of spies, who used to patrol Gandhiji's office. They shadowed him and reported his movements to the Department. The two officers, one of whom was the head of the Johannesburg office, did their best to entrap him but they were so notorious that they could have very few sympathisers. The entire Indian community was solidly behind Gandhiji and so also were the Chinese. But for their wholehearted cooperation the two officers would never have been arrested and brought to trial.

The event, says Gandhiji, "enhanced my prestige and brought me more business". It did not immediately put an end to corruption altogether as there were black sheep among the Indians also. "All could not be saved, for the dishonest still plied their trade. But it was now possible for the honest man to preserve his honesty." [*Ibid*]

9

Sometime afterwards a chance arose of the two dismissed officers being employed by the Johannesburg Municipality. Such was, however, Gandhiji's

prestige even among the whites that the Municipality made it a precondition that he did not oppose the proposal. Gandhiji knew that these officers were thoroughly corrupt, and he had worked to get them removed. But he had nothing against them personally, and they knew it. In their extremity they approached him through a friend of theirs. Gandhiji agreed not to thwart them and they were both employed.

This trait of his was not the result of a conscious striving. He was not even aware of it. But consistent practice of it, even though unconscious, brought him a rich reward. It "put the officials with whom I came into contact perfectly at ease and though I had often to fight with their department and use strong language, they remained quite friendly with me." [*Ibid*]

Much later he realised that such behaviour on his part was an essential part of Satyagraha, a characteristic of *Ahimsa.* A man and his deeds are things distinct. Evil has to be fought and destroyed, not the evil-doer. The evil that a man does is an aberration, not an essential part of his nature. A wicked man is a victim of his circumstances which he does not understand or know how to combat. It should be our endeavour to help wean the evil-doer from what is as harmful to him as it is to society. This calls for sympathy which is the key to understanding, in other words *Ahimsa.* In Gandhiji's words: "This *Ahimsa* is the basis of the search for truth...the search is vain unless it is founded on *Ahimsa.* "From this followed his second deduction: The system is more than the man: it overpowers him. One must differentiate between the two. If the system is evil, it must be fought but to direct one's fury against the man, who is the author of the system or whom the system has thrown up, would be like trying to still the sea-storm by admonishing the waves. Therefore, said Gandhiji, "It is quite proper to resist and attack a system, but to resist and attack its author is tantamount to

resisting and attacking oneself. For we are all tarred with the same brush, and are children of one and the same Creator, and as such the divine powers within us are infinite. To slight a single human being is to slight those divine powers, and thus to harm not only that being but with him the whole world ." [*Ibid,* p.276]

"But", observed Gandhiji, with the help of hind sight gained through nearly a quarter of a century of striving and experience," 'Hate the sin and not the sinner' is a precept which, though easy enough to understand, is rarely practised, and that is why the poison of hatred spreads in the world." To acquire the strength to turn that precept into a living example the Mahatma-to-be had to tread a long and weary path and pass through much sorrow and suffering to come out of it as pure burnished gold.

10

The Asiatic Department was not only grinding down the Indians but also creating headaches for the administration. It was deposed in the course of his evidence by Mr Chamney, Protector of Immigrants, that one Giorafry, who was recommended by the Department as a refugee, was found not to be so on further examination. The Department was not following the instructions of the Colonial Secretary, nor did the officials take pains to undertake independent inquiries as required. What was more, the existing regulations were being interpreted wrongly. [*Indian Opinion,* October 29, 1903]

The Legislature, too, was not feeling happy over the expenditure on the Department. [The *Barberton Goldfield News* was quoted by the *Rand Daily Mail* to the effect that Englishmen from England were being recruited at the top of every Department with a very high salary at a time when the country was passing through poverty. The salary figures after the war compared with before the war were much higher while "the men obtained their official positions through the aid of personal influence, instead of honest merit". The writer concluded: Never before in the history of

the Transvaal had there been such poverty and distress as prevails today; never was the country administered at greater expense and with less satisfaction to the people; never before had family influence and personal motives assisted to such an extent as at present in the appointment of officials on the Government Service. In the days agone we told the Boer Government where they erred—surely there are many men among us to day who can do the same now that we are ruled by men of our own tongue and race.—*Indian Opinion,* October 8, 1903] The whole policy of Government expenditure was under fire. When the Colonial Secretary asked the Council to vote £10,000 in the estimates of Asiatic Affairs, Sir Percy Fitz-Patrick expressed surprise that the Indians cost about£1 per head per annum. Sir George Farrar thought the sum of £10,000 to manage 10,000 people "extravagant". The Colonial Secretary, however, proposed a reduction of the expenditure by £2,000, and the estimate was ultimately passed with that cut not, however, without leaving a bad taste in the mouth.

The exasperated legislators were watching with a critical eye the functioning of the Department. So, when the scandal of its hopeless inefficiency and corruption broke out, the Government had no alternative but to close it. The Permit Office at Germiston was abolished and the work relating to the issue of permits was re-transferred to the Chief Secretary for Permits. On September 25, 1903, a notification was published in the Transvaal *Gazette* over the signature of Captain Hamilton Fowle announcing that from that date onward applications for permits must be made to the Chief Secretary for Permits instead of the Colonial Secretary as theretofore. The applicants were reminded that there was no charge whatsoever either for application form or for permits. The application would be considered only if made personally and not through an agenl. Should an applicant have any complaint against any member of the Permit staff at any time, he was requested to communicate with the Chief Secretary for Permits.

"It is seldom that we get an opportunity for congratulating the Transvaal Government," Gandhiji observed on October 1, 1903, "and we sincerely trust that the reform in the matter of issuing permits is the beginning of the end of the Asiatic Department." [C.W.M.G. Vol.III, p.464: *Indian Opinion,* October 1, 1903] Trusting that Captain Hamilton Fowle would deal with the Indian permits as justly as he had dealt with others, he went on to say: "We do not want to flood the Transvaal with Indians, but we do want prompt attention, and we do want the refugees to receive their permits both without vexatious delays and useless expense." He saw in these permit regulations "an altogether new era before the poor refugees who have hitherto been simply robbed of honest money in endeavouring to get what they ought to have got without the slightest trouble or expense". [C.W.M.G. Vol.IV, p.7; *Indian Opinion,* October 8, 1903] It would be their own fault, he warned, if after that they spent any money over agents or solicitors. To the Government he said: "Retrenchment is in the air. The whole of the Civil Service of the Colony is to be overhauled. We think that the first department to go overboard should be the Asiatic Department." [*Ibid,* p.5]

Reverting to that subject on October 15, Gandhiji again wrote that now that the Permit Department had been taken away from the Asiatic Office, one wondered what work was left for it to do. "It exercises no financial control. The licensing officers issue licences. Registration of Asiatics is being effected by the Chief Secretary for Permits. It is inconceivable, therefore, where the utility of the Department comes in." He hoped that, considering the great harm that the Asiatic Office had done since its inception without doing any good to anybody, the Government would now go a step further and do away with the Department altogether. [C.W.M.G. Vol.IV, p.15; *Indian Opinion,* October 15, 1903]

11

Towards the close of 1903, Mr (later Sir) Patrick Duncan was appointed Colonial Secretary of the Transvaal. W. D. Davidson having resigned. The Asiatic Department was under the immediate control of the Colonial Secretary, who delegated his duties to his assistant. W. H. Moor, Commented Gandhiji on December 3, 1903, "The appointment is not devoid of interest to our countrymen in the Transvaal. We do not know whether to congratulate them on the change or not, for we have no knowledge of Mr Duncan's attitude on the Asiatic question." [C.W.M.G. Vol.IV, p.67; *Indian Opinion,* December 3, 1903]

As a result of the introduction of reform in the malter of issuing permits, corruption completely disappeared, and *bona fide* refugees were able to get their permits without unreasonable delay. But owing partly to the administrative set-up in which he had to function, Mr Chamney, the "Protector of Asiatics", [C.W.M.G. Vol.IV, p.96; *Indian Opinion,* January 7, 1904] was able to do little. His title was a misnomer. With no independent powers of his own, he had merely to act under the Colonial Secretary, who held the management and control of the Asiatic Department entirely in his hands. "Even the Protector of Immigrants in Natal has far wider powers and the title carries weight and influence." observed Gandhiji on December 3, 1903. "He is responsible to the Governor, but evidently in Pretoria things are managed in a different way. A gentleman of position is appointed as Protector and yet has no power to initiate anything." [C.W.M.G. Vol.IV, p.70; *Indian Opinion,* December 3, 1903]

So far as Gandhiji's appeal to do away with the Asiatic Department was concerned, however, it fell on deaf ears. The Asiatic Office continued to exercise its evil influence in diverse unseen ways.

To conclude the story of the Asiatic Department, in August, 1905, Mr William Hosken criticising the vote for £1000 for the Protector of Asiatics, said that the office was unnecessary or could be very well carried out by the police, especially as the Inter-Colonial Conference had voted a sum of money for the same purpose.

Replying, the Colonial Treasurer said that, as long as the Asiatic question remained so important and acute, they must have a special officer to take charge of Asiatic affairs. The vote of the lnter-Colonial Council was for the general administration of a Personnel Department which was "quire a different matter". The vote was carried our by 11 vores to 9. The minority consisted of all the non-official members with the exception of Mr Bourke. [*Indian Opinion,* August 5, 1905]

In December 1906, the Chief Secretary of Permits committed an egregious mistake in refusing a permit to Mr Nomura. a Japanese merchant of high standing, who was armed with credentials from his Government and had applied for a temporary permit to dispose of his shares in the Transvaal. It created an “incident". *The Transvaal Leader* offered a public apology to Mr Nomura, the High Commissioner ordered the Chief Secretary for Permits to issue a permit immediately, and it was delivered to Mr Nomura personally at his residence in Durban. Following it, the administration of Asiatics was transferred to the Protector of Asiatics, Mr Chamney. At the same time, his title was altered to Registrar of Asiatics, it being presumed perhaps that in future his functions would not include the protection of the Asiatic residents of the Transvaal, [Johannesburg letter dated April 28, 1907; C.W.M.G. Vol.VI, p.444] progressive elimination of the Asiatics being thereafter the goal of the Colony's policy.

Slowly a section of Europeans, too, began to feel that the Asiatic Office was a white elephant. A report appeared in *The Rand Daily Mail* in April, 1907 to the

effect that it had proved a "failure". Although it had several clerks, inspectors and liveried peons, Indians, it was alleged, could enter without permits. It disbursed over £4000 annually in salaries, but all the power, everybody knew, was concentrated in the hands of a single Eurasian clerk. If that was so, said Gandhiji, then it was much better to entrust everything to that clerk and save £4000 a year to the public exchequer. The permit problem was essentially one of adequate police vigilance; it did not call for maintaining a separate establishment exclusively for the Asiatics. [*Indian Opinion,* August 13, 1903] But, as before, here he found himself up against a stone wall. His plea that, as the various functions of the Asiatic Department had been taken over by other agencies and there was no work left for it to do, it should be wound up and the enormous waste of expenditure of public money over it avoided, fell on deaf ears. An instrument of the policy of colour prejudice and white race superiority, so long as the cult that gave it birth held sway, it would also remain.

The Eurasian clerk in question was one Mr Kodie. An erstwhile Permit Agent, in his earlier days, he used to be a familiar figure in Gandhiji's office. In his struggle for bread he received much encouragement from Gandhiji and many kindnesses from the Indian community. But times changed and different times brought different manners. After his translation to the Assistant Colonial Secretary's office, and subsequent hardening of the white colonist's sentiment towards the Indians, like his chief, Mr Chamney, he also underwent a transformation and ill-requited those, whom he owed not a little, by his excessive zeal and ill-mannered impetuosity as an employee of the Asiatic Department. We shall come to his story in its proper place.

In August, 1903 was published the report on the working of the Asiatic Department for the year 1902-03 by W. H. Moor, the Assistant Colonial Secretary. It embodied the more important ones of the suggestions that G.V. Fiddes had made under a directive of the Transvaal Administration as an alternative plan of policy in respect of the Asiatics after Chamberlain had refused to sanction the Johannesburg Town Council's original proposal for the locationing of the Indians (see *The Discovery,* pp.431-32). Among other things it stated:

(1) Under the Government of the late South African Republic, Resolution No.1101 which required the Asiatic to reside in Location had come into force from 1st January, 1899, ‘and was being acted upon when the outbreak of war removed the cause for it'.

(2) The £3 Law had been 'generally held in abeyance in expectation of the adoption of a definite policy ‘which will either abolish the fee altogether or alter the amount of it'.

(3) Safeguards to control the immigration into the Colony of Asiatics adopted were similar to those adopted in other South African Colonies. [CO 291/54, Memorandum by G. V. Fiddes November 1902; Bala Pillay, *British Indians in the Transvaal,* p.102]

As for the first, Mr Moor appeared to have forgotten that the Volksraad's Resolution No.1101 was never put into force owing to the pressure from the British Government. In the result, not a single "Asiatic" was removed to the Locations.

As for the second, the irony of il was that, when Mr Moor's report was published, not only no new definite policy had been adopted, but the

Government had declared its intention of fully enforcing the law in question; several prosecutions had already taken place under it and in some cases fines had been imposed on those who had failed to have their names registered.

In regard to the third, the following were the measures detailed by Mr Moor which Mr Fiddes, the Secretary to the Transvaal administration, had recommended for adoption, following Chamberlain's summary refusal to sanction special legislation to control the immigration of the Asiatics into the Colony (see *The Discovery,* pp.431-32) [*Indian Opinion,* August 13, 1903]:

(1) To grant permits to Asiatics to enter the Transvaal on condition that they were able 'to produce indentures from a responsible employer of labour for a term of six months certain'.

(2) To require a payment, by way of registration, of £3 per head, and

(3) To Register all Asiatics and control their movements by means of Municipal passes issued at a cost of one shilling. [C.W.M.G. Vol.III, pp.408-9; *Indian Opinion,* August 13, 1903]

Evidently, Mr Moor had confused immigration of Indian labour with the free immigration of the people who paid their own passages and wished to enter the Transvaal as independent men. He had likewise mixed up the Indentured Immigration Act of Natal with the free immigration, and had then proceeded to suggest controls under the belief that they would be "similar to those adopted in other South African Colonies". The first presupposed that every Asiatic had to enter only as an indentured labourer, whereas indentured Indian labour had not been introduced in any part of South Africa outside Natal, and even in Natal the question of free immigration was distinct from that of Government-assisted labour immigration. The payment of £5 had obviously been copied from the Natal

Act, which imposed a penalty of £3 annually on those indentured labourers who might wish to settle in the Colony on the expiry of their indentures. Resting on a false analogy, it made no sense. The same was true of the pass proposal. In Natal, the pass system had been introduced as a necessary accompaniment of the indenture system. The incorporation of these proposals in the projected legislation for the Transvaal showed that Mr Moor had failed to distinguish between the Natal legislation regulating labour and the proposed legislation regarding immigration into the Transvaal.

Finally, Mr Moor had stated that "Asiatics would, on the whole, welcome the restriction of Bazaars on plans in conformity with those traditions to which they have been accustomed in the East". This was purely a fiction. In an erstwhile member of the Ceylon Civil Service, whom one would expect to know better, this showed a special blindness. To the Indians acceptance of these restrictions would have been suicidal and contrary to the effort they had been making for the last 15 years to have the Location legislation revoked.

The incredible confusion reflected in Moor's report, that characterised the post-war official thinking on the Asiatic Question in the Transvaal, confirmed Gandhiji in his belief that much of the prejudice against the British Indians in South Africa arose from want of knowledge. If even the Colonial Secretary and Assistant Colonial Secretary could not help mixing up the "coolie" with the free Indian, was it any wonder that the average colonist failed to distinguish between the two and put both into the same sack? The remedy was clear. Every British Indian should make it his duty to dispel the existing prejudice by spreading correct information with reference to the habits of the Indian community as well as its aspirations. "The best way to do it is for each and every one of us to endeavour to live the life of a model Indian. What that means is known to everyone who

knows anything at all about India, and ought to be known to every Indian child."

[Memorandum by Milner for Chamberlain's information presented to the Assistant Colonial Secretary at Maritzburg before Chamberlain's entry into the Transvaal in December, 1903. (Headlam Vol. II, *op cit.* pp.429-30)

13

The cultivation of this attitude constituted a necessary part of Gandhiji's preparation for the coming struggle. By accepting *prima facie* the *bona fides* of the opponent, whether he deserved it or not, he put him on his honour and was able to draw out the best in him. It saved him from gnawing suspicion and bitterness than which nothing can be more corroding or debilitating. Finally, introverting combat, by turning the searchlight inward for self-correction, purified the environment, kept out frustration and helped build strengths needed for a creative conflict; and this irrespective of whether the leader's diagnosis of the external evil was correct in every respect or not. That this sovereign remedy. Satyagraha, covered even what lay beyond his immediate diagnosis is, however, a different matter that need not detain us here.

Regarded objectively, however, it seems that the malady that Gandhiji was fighting lay deeper than he thought. When our thinking is governed by fundamental moral principles, a rational, logical and consistent code of conduct results, which is easy to understand and conform to and therefore to enforce. But when expediency rules and principles are tailored to yield pragmatic predetermined answers to suit a passing convenience, we get bogged in a quagmire of inconsistencies and contradictions. Lack of an inner sanction breeds popular discontent, and ultimately disrespect for the law itself, both among the ruled, who are the victims, and the rulers who administer it and from the

frequency of dubious uses they are forced to put it to, they develop a cynical contempt for what they have abused.

In the period preceding the war the British statesmen had solemnly declared that as members of the Empire their Indian and coloured subjects were entitkd to equal Imperial citizenship rights in South Africa, irrespective of race, colour or religion. On this issue they had fought against Kruger. In retrospect their pre-war parade of principles was clearly seen as a part of their political war-fare against the Kruger regime. The men on the spot were under no delusion. They knew what they were doing when they used the rights of the British Indians and the Cape Coloureds in South Africa as a lever to force Kruger's hands. That purpose served, their passion for the redress of the wrongs of their coloured proteges subsided and the interests of the white colonists began to weigh with them more and more. The Home government on the other hand were more concerned with the future of the British Empire as a permanency. This demanded a measure of justice and fair dealing for all British subjects in the Empire. The petty trading interests of the white shop-keeper class did not weigh with the Home Government so much. Chamberlain was perhaps quite sincere when, during his visit to South Africa, he gave the assurance to the British Indians that those of them who were already established there, would get a just, and even a generous deal and that the vested interests that had been allowed to grow up under British suzerainty would be fully respected. Milner also then believed that this was the minimum justice to which the Indian community were entitled and which no fair-minded European would grudge them. [C.W.M.G. Vol.III, p.347; *Indian Opinion,* June 25, 1903] But, as these assurances rested not on the rock of inviolable moral principles but the politics of expediency only, in the face of resurgent post-war racialism in South Africa, which was shared by Boer and Briton alike, and the

financial pressure by the Rand Lords, who had entered into an unrighteous compact with the petty white trader class in return for its support to the importation of cheap bonded Chinese labour for the gold mines. Milner and his chief began to wobble and equivocate in order to wriggle out of their commitments. In the process they were driven into weaving such a tangled web of legal quibbling and deceit that they were themselves lost in its mazes. The administration was confused; its right hand did not know what its left hand did; they contradicted themselves and one another. This called for something more than appeal to cold reason alone to remedy it. Consistently with the logic of their stand (see *The Discovery,* pp.268-69) it required the Indians in the first place, as loyal citizens of the British Empire which they claimed to be and on which they based their claim to equal treatment, to accept unreservedly the British *bona fides* and act accordingly. This would serve to bring out in bold relief the contradiction between the actions of the British Government and what its professions demanded, so that it must either live up to its ideals or repudiate them altogether.

14

In every prolonged unequal struggle there is always the danger of a mood of frustration and bitterness setting in. To combat the one and keep out the other, Gandhiji began when things looked the darkest to use the columns of his weekly to focus attention on the bright side of the picture and to help his countrymen enter into the mind of those they were pitted against by patient sympathetic analysis of its working.

Rather than curse fate and nurse futile anger against the whites, he told his compatriots, they should be on the lookout for grounds for optimism and thanksgiving. They should try to understand why the whites behaved in the way

they did. They would then find that the latter were perhaps not so much to blame. For, "circumstances control men's actions to a very great extent". [*Ibid*]

They must not forget, he urged, that they were living in the midst of a "thoroughly active and selfseeking European community" in which there was no room to be found for those who would not help themselves. Colonisation could be made only on that condition. People did not emigrate to the Colonies from altruistic motives. That being so, the European community were naturally "slow, if not absolutely unwilling" to tolerate any competition with them. "That to our mind is the key to the whole situation." [*Ibid*]

The Europeans, Gandhiji wem on, regarded it as a necessary condition for their survival—so much so, that but for the presence of a large number of coloured people in South Africa, there would have been an economic warfare going on between one white race and another, as was actually happening in Europe. Even in England, the apostle of Free Trade, Chamberlain was championing Imperial preference, which was a mild form of protection, to gain relief from foreign competition. "We lay stress on this...to show how much need there is among ourselves for patience and also for thankfulness—patience, because the causes for the colour prejudice lie deeper than we ourselves may perhaps care to admit and thankfulness, because the situation is due not merely to the opposition to colour, but to well-defined laws which govern new communities." [*Ibid,* p.348]

Mentioning Harry Escombe's instance as a ground for hope and optimism, Gandhiji reminded the Indians how one of the topmost leaders of the white community had come to their rescue in their time of need (see *The Discovery,* p.121). When he came to realise what harm the Dealers' Licences Act was doing to the Indians, did he not throw the whole weight of his influence in their favour

and see to it that justice was done to them? Even Milner had defined for the Colonies a true policy that ought to be followed "and if we have cause to complain of His Lordship's view when they are translated into acts, we can well believe that it is not because he is less willing, but because he considers himself to be powerless". [*Ibid,* (Italics by the author)] The administration, over-whelmed by the pressure of local vested interests, might not be able to live up to the Imperial ideal, but so long as the Imperial Government stood by that ideal there was ground for hope.

After referring to the examples of Mr Garlick and Mr William Hosken who had ranged themselves on the side of right and justice in the Cape and in the Transvaal, Gandhiji affirmed his faith that, as the European community grew in the maturity it would shed some of its brashness and the principles of justice and fairplay, embodied in the Imperial ideal, would prevail. The different members of the Imperial family in South Africa would then be able to live in perfect peace in the not distant future.

> That time may not come within the present generation; we may not live to see it, but that it will come no sane man can deny; and that being so, let us all strain our every nerve to hasten its coming, *and that can only be done by calmness in discussion—and strict adherence to facts and high ideals, and last, though not least, by trying to step into the shoes of our opponents and endeavouring to find out what may be running in their minds—to* find out, that is to say, not merely the points of difference, but also points of agreement. [C.W.M.G. Vol.III, p.411; *Indian Opinion,* August 20, 1903]

15

The earlier hopes of automatic relief associated with Chamberlain's visit had by now vanished like a mirage. “There can be no question that the British

Indians in South Africa are hemmed in on all sides by restrictions more or less severe according to the Colonies in which they are imposed, and that they are also very much misunderstood," [C.W.M.G. Vol. III, p.355; *Indian Opinion,* July 2, 1903] mused Gandhiji in his weekly. Turning its columns into a moral audit sheet, he invited the Indian community to take stock of their disabilities and shortcomings and strike a correct balance, as a businessman must of his assets and liabilities, if he is not to go bankrupt. He had focussed attention before sufficiently, he said, on the "unreasoning and unreasonable colour prejudice" which was generally at the bottom of the disabilities they laboured under. He wanted them now to examine the other side and see how far they were themselves liable for the situation. Firstly they must realise that they were charged with insanitation and niggardly living. Neither charge was supported by evidence. But they all knew that in matters political, where masses are concerned, technical evidence is of little account. The white population would go on believing and repeating that the habits of the Indians as a class were so insanitary as to be a danger to the whole community, and they would have to suffer the consequences of it so long as that impression was not removed. But prejudice apart, it could not be denied that they could have done better in either respect. While it was perfectly true that their poverty was responsible for their shanties and over-simple habits, no amount of poverty could be sufficient excuse for "gross untidiness and offensive simplicity observable in many an Indian home". It was certainly within their power to keep their huts scrupulously clean, and insist on living "in a decent style even amid humiliating surroundings such as avail in the Eastern Vlei and Western Vlei in Durban, or Locations in the Transvaal".

Secondly, they must make the best of the unique opportunity they had of learning from their neighbours. "Left to themselves, a body of Englishmen would

evolve order out of chaos, and would make a garden in a wilderness. Durban owes its elegance to English enterprise and English taste." The Indians had been the earlier colonists in Africa. A large Indian population had settled in Zanzibar before the Englishman set foot there. But the Indian settlers, though in many instances they had built substantial structures, had certainly not made it an elegant town. "The reason is obvious. We lack the spirit of unity, cooperation, and a full measure of the spirit of sacrifice for the sake of the general good."

Lastly, they must look upon adversity as a divine chastisement calling upon them to turn the searchlight inward. If only they learnt the lessons that had to be learnt from adversity, their adversity would become a blessing in disguise. "We would then emerge from the trial, a community richer in social virtues, stronger in the justness of our cause, and...with a far larger credit balance in our favour than we started with." [C.W.M.G. Vol.III, p.411; *Indian Opinion,* August 20, 1903]

Resuming his musings a few weeks later on the "sweet...uses of adversity" which should be "the instructor of the wise", [*Ibid,* pp.411-12] Gandhiji continued: They had brought with them from India sharp divisions between the different races inhabiting it. If they continued to hug those differences and divisions it would clog them at every step and prove to be their undoing. "South Africa ought to be to the British Indians a great Puri (Jagannath Puri, the celebrated place of the Lord of the Universe) where all divisions are abolished and levelled up. We are not, and ought not to be, Tamils or Calcutta men, Mahomedans or Hindus, Brahmans or Baniyas, but simply and solely British Indians, and as such we must sink or swim together." Secondly, every Indian ought not merely to be satisfied with having made sufficient to feed and clothe himself and his family; he must be prepared to loosen his purse strings for the public weal. Thirdly, they must realise that "courage and patience are the qualities which one needs very badly when

one is placed in difficult circumstances". [*Ibid,* p.412] They had seen these qualities exemplified *par excellence* by Englishmen in South Africa during the war in the face of fearful odds and reverses at Colenso, Spion Kop and Ladysmith. "Ours is not a struggle so difficult, or so heroic...but it teaches a lesson in courage and patience which we ought to learn. If no sum of money, no quantity of blood and no amount of time were considered too great for the honour of the British Empire to relieve what were, after all, a handful of the besieged in Ladysmith, shall we not think similarly when we are engaged in a struggle for our liberties, and come to the conclusion that we must have courage and patience enough to tide over passing misfortunes? We should not forget that 'Calamity is man's true touch-stone', and that 'none can cure their harms by bewailing them' ". [*Ibid,* pp.412-13]

But they needed something more. "We are apt as a nation...to look at things material with philosophical indifference, and make little of everyday comforts of life. Now, that is an attitude...which...would be a credit to those who do not strive after material gain, but it becomes a misnomer in the case of those who strive their utmost in order to enrich themselves....To such, then, it would be more philosophical to fall in with the natural order of things, and to be prepared to spend in proportion to their earnings. The charge, then, against the Indians that they live on nothing a year would be dispelled." [*Ibid,* p.413]

This did not mean that they should as a community make pursuit of pleasure their supreme goal, Gandhiji told them; he only wanted them to follow the maxim "Do in Rome as the Romans do". This, however, had to be done in a spirit of detachment "still retaining the altitude of mental indifference" so as not to let the craving for natural comforts grow upon them.

Last but not least, what a community, which considered itself ill-treated at the hands of others needed above all else was the virtue of love and charity. "It

is well known that, after all, men, being creatures of circumstances, would do things which are unjustifiable quite unconsciously, owing to the control exercised over them by the circumtances in which they are placed. Is it not, then, necessary for us to be charitable in our judgements? We, as a people, are devoted to religious speculations, and to doctrines of non-resistance and of returning good for evil. We believe firmly in the fact of even our thought colouring the actions of those of whom we may think." [*Ibid*] With an obvious reference to Oscar Wilde's "The Picture of Dorian Gray", which he had read as a student in London and to which in later years he used often to refer. Gandhiji proceeded: "A great crime committed by a man has been known to change his face in such a way as to stamp the crime on it. Similarly, a great good act done by a man has produced the opposite effect on his features, and he has been known, as the case may be, either to attract to, or to repulse from, himself people by his very act. We then hold it to be our paramount duty not to think evil of those who we may consider are dealing unjustly by us. There is hardly any virtue in the ability to do a good turn to those that have done similarly by us. That even the criminals do. But it would be some credit if a good turn could be done to an opponent." 87 They should carefully ponder what he had said, he concluded, and be always on the alert, "otherwise, storm-tossed as we are, a surging wave may all of a sudden come upon us and engulf us, when any action we may wish to take will be *Too Late".*

CHAPTER V : A PROCONSUL'S APOLOGIA

1

In reply to a question by Herbert Roberts in the third week of May, 1903, as to what circumstances had arisen to necessitate revival and enforcement under British rule of the restrictions imposed by the late Boer Government, Chamberlain had stated that Milner had informed him that it was necessary to take that step "in view of public feeling"; on receipt of Milner's despatch, which was expected, he would carefully consider the whole question. The Indians were, therefore, naturally anxious to know what Milner had reported to his Chief and how he proposed to modify the legislation inherited from the Boer Government to bring it in line with the Imperial ideal and the British declarations made on the eve of the war. But all this time Milner's despatch of May 11 on the Bazaar Notice had, more or less, remained enshrouded in official secrecy stretching the Indian patience almost to breaking point. It reached London on June 1. On July 31 it was placed before the Parliament. Sir Charles Dilke had referred to it in the House of Commons on August 13. Its contents were widely known in London circles, but in South Africa it came through only in driblets. Its full text was published only on or about August 22, 1903.

In his despatch Milner stressed the absolute necessity on "moral and sanitary grounds" of protecting the European population from the presence in its midst of the "low-class Asiatics" who tended "to bring down the general level, both as regards health and morality".

"It is illustrative of the difficulty which besets any kind of action on this thorny question," complained Milner, "that the publication (of the Bazaar Notice)

has led to strong protests on the two opposite sides." On the one hand, there had been considerable agitation on the part of the European population in favour of more stringent measures against Asiatics. On the other hand, a large meeting of British Indians had denounced the action of the Government at a public meeting held at Johannesburg with "considerable acerbity", and claimed for themselves "absolute equality of treatment with all other British subjects". In the result the Government was between two fires:

> On the one hand, it is accused of not enforcing the present law with sufficient strictness and is called upon to legislate in the direction of a complete conclusion of Asiatics, except as indentured labourers. Even in that capacity their introduction meets with strenuous opposition. On the other hand, the Asiatics of whom British Indians form by far the most numerous section, not only protest against any fresh legislation but demand the repeal of the existing law.

The position which the Government of Transvaal had taken upon the matter "of which I entirely approve", Milner then went on to say, was that they were unwilling, without the previous approval of His Majesty's Government, to embark on any legislation on the subject of the difficulties of which they were fully aware. They had therefore decided that pending fresh legislation they had no option but to carry out the existing law.

Challenging Milner's statement in the House of Commons on August 13, Sir Charles Dilke asked why the South African Government had no option but to enforce a law inherited from the late Republic, which the late Republic itself had never enforced. "In the South African Republic itself, under a law which was not enforced, there were Locations and when notice was given to the British Indians to go into these Locations the British Agent was instructed to protest. Our Vice-

Consul supported the resistance to the order, and the State Secretary of the Transvaal gave an assurance that it was not intended to enforce the law. That was one of the very laws which Lord Milner now said he had no alternative but to enforce. Many of the orders had been altered, but this law had not only been not altered but was being enforced more harshly than before." [*India,* August 18, 1903]

When Lord George Hamilton and others, commented *India,* were discussing, there were subordinate authorities in South Africa who were acting. They were going farther than the Boers went or were permitted to go "and yet strangely enough they profess to be treating the Indians with a consideration that the Boers refused". *India* pressed the Colonial Secretary once more to act on the "just and practical" suggestions laid before him in July last in the East India Association's Memorial. [*India,* September 4, 1903]

Milner had protested that while for reasons stated, the Transvaal Government had no option but to carry out the existing law, they were anxious to do so "in a manner most considerate to the Indians already settled in the country" and "with the greatest respect for vested interests *even where these have been allowed to spring up contrary' to law".* This, however, Gandhiji pointed out, was contradicted by the Bazaar Notice itself. For, hundreds of Indians who traded and were allowed to trade before the war "contrary to the law", i.e. without trade licences, were now under notice to remove to Locations at the end of the year. [C.W.M.G. Vol.III, p.423; *Indian Opinion,* August 27, 1903] Besides, the restrictions in regard to transference from place to place and from one person to another with which the granting of licences was hedged in, and the allowing of licences to only one partner of a firm, who was there, *practically meant that "every Indian*

trader must ultimately remove his business to the Location". [C.W.M.G. Vol.III, p.418; *India,* September 18, 1903, (Italics by the author)

During the war, and since the declaration of peace, Milner had then gone on to say, a large number of temporary passes had been issued to new-comers. Those licences had been renewed until the 31st December, but the holders had been warned that on that date they would be required to remove into bazaars. "You (Chamberlain) also had laid stress on the exemption of Asiatics of a superior class from all restrictions." This had been provided for.

Citing chapter and verse, Gandhiji maintained that none of the licences had been issued on a temporary basis. Nor was any licence issued to “newcomers". Neither during the war, nor since the declaration of peace, had any newcomers been able to enter the Transvaal, or at any rate, able to secure licences to trade. It could be proved without the slightest difficulty, he asserted, that those who were given licences were *bona fide* refugees, and had before the war engaged in trade in some place or the other in the Transvaal. The British officers who had granted them licences had attached absolutely no conditions either verbal or written, and the licences were given on the usual terms—that is, up to the end of the year 1902. *It was only when agitation against Indians was mounted by the whites about the time of Chamberlain's arrival that Magistrates had begun to give notices that such licences would not be renewed, but the government had over-ridden such notices and had granted them renewals up to the 31st of December.* This showed that they were not temporary licences. *When Chamberlain’s attention had been drawn to this he had pooh-poohed the idea that under the British Government the licences referred to could ever be disturbed.* He had said emphatically to the British Indian Deputation at Pretoria that all licences issued to British Indians in the Transvaal, whether they were trading before the war or

not in the localities in respect of which they were issued, were to be respected, and Milner, when this point was brought to his attention by Gandhiji on May 22, had promised to give it further consideration. [C.W.M.G. Vol.III, p.432; *Indian Opinion,* September 3, 1903]

The existing Indian licences could be divided into three categories. Under the first came licences issued to those Indians who, although *bona fide* refugees and traders before the war, had been granted licences in respect of districts in which they did not trade before the war. Under the second came licences of refugees who traded before the war without licences, but with the knowledge of the old Government, in the same district in which they were now trading. Thirdly, there were the licences of British Indians who held licences prior to the war and were trading now. The Bazaar Notice guaranteed security in unequivocal terms only to the third class. The tenure of the other two classes hung precariously in the balance. In many cases, believing in the perfect security of their rights under the British Government, they had built at considerable expense substantial stores imported very largely from home manufacturers, and formed good connections. To relegate them to Locations at the end of the year would practically spell ruin for them. Both on the ground of justice and on the strength of the promise made by the Secretary of State for the Colonies, therefore, urged Gandhiji, they had a right to expect an assurance of perfect safety. [*Ibid*] To deny them relief would be cruel injustice.

2

In answer to the criticism made at the protest meeting of Indians at Johannesburg on 6th May, that the British Government in South Africa was enforcing the very laws it had protested against under the Kruger regime, Milner had argued that, as the Secretary of State for the Colonies had accepted the

award of the Chief Justice of the Orange Free State, Mr Melius de Villiers, who had held that the South African Government was entitled to give effect to the law, and its provisions had received the assent of the previous Secretaries of State, and it had also been accepted by Chamberlain, the Government of the Transvaal did not feel justified in altering Law 3. It, however, intended to interpret it as liberally as possible.

Granting that Chamberlain and his predecessors in office had accepted de Villiers' award, rejoined Gandhiji, that did not fully represent the attitude of the British Government. Even when Chamberlain accepted that award, he had reserved to himself leave to make friendly representations to the Boer Government and had in the same despatch appealed to Kruger "not to enforce a law which his own people did not desire". Numerous telegrams on the subject were exchanged between the Home Government and South African Republic after the publication of Chamberlain's despatch in question. In the result, up to the outbreak of the war, the British Government had successfully prevented the Kruger Government from enforcing Law 3 of 1885. And, on the eve of the Bloemfontein Conference, Milner had himself raised the issue of the "coloured" people's rights to break off negotiations wirh Kruger when Kruger was prepared to concede terms which Chamberlain was inclined to accept (see *The Discovery,* pp.251-52). Besides, a careful reading of the whole correspondence between the two Governments showed conclusively that "the Law itself was assented to under a misapprehension". [C.W.M.G. Vol.III, p.-422; *Indian Opinion,* August 27, 1903. This is the story behind Gandhiji's observation. Soon after the anti-Indian agitation was launched in Kruger's Republic, the Transvaal State Secretary in a letter to Lord Derby, dated Pretoria, January 6, 1895, intimated that "numerously" signed petitions of merchants of European descent to the *Volksraad* had asked for, among other things, the locationing of "Orientals emigrated from Asia or Northern Africa, nearly all of them being store-keepers and settled in this Republic". The Volksraad were "not unwilling"

to meet the wishes of the white petitioners, the letter continued, but the decision was postponed till the view of Her Majesty's Government on the subject was known. £

Hercules Robinson, the High Commissioner, forwarded the letter of the Transvaal Government to the Colonial Secretary with the observation that "as it was doubtless not the intention of Lord Kimberley to prohibit the Transvaal Government from adopting, if necessary, *special legislation for the regulation of Indian and Chinese coolie immigrants",* he would be disposed to recommend that the Government of South African Republic be informed that Her Majesty's Government would be "willing to amend Article 14 of the Convention by inserting the words "African natives or Indian or Chinese Coolie immigrants".

'The Article as amended, 'the High Commissioner explained, *'would still* leave *the few Arab traders at present in Pretoria entitled to the liberties secured under the existing article to 'all persons other than natives' and I* can see no sufficient grounds for their being deprived of these rights'.*

"Thus Sir Hercules Robinson recommended the exclusion of Arab traders from the restrictions imposed on the natives under Article XIV of the London Convention. He, however, suggested that the Article might be amended so as to include Indian and Chinese immigrant coolies in the category of the natives. "The Earl of Derby agreed with the recommendation of Sir Hercules Robinson and intimated his consent to be communicated to the Transvaal Government in the following words:

> I have carefully *considered your suggestion* as to the amendment of the Convention, and, if you are of opinion, that it would be preferable and more satisfactory to the Government of the South African Republic *to proceed as you propose,* Her Majesty's Government will be willing to amend the Convention as suggested. It seems to deserve consideration, however, whether it would not be more correct for the Volksraad to legislate in the proposed sense, having received an assurance that Her Majesty's Government will not desire to insist upon any such construction of the terms of the Convention as would interfere with reasonable legislation in the desired direction."%

The entire tenor of Lord Derby's letter suggests that what Lord Derby agreed to was Sir Hercules Robinson's suggestion, and not the amendment as suggested by the Transvaal State Secretary. The words 'your suggestion', 'you are of the opinion', 'to proceed as you propose', point indisputably to this conclusion. The transvaal Government, however, held the other view before the arbitrator, who also did not agree with them.

> £ State Secretary to Lord Derby, dated Government Office, Pretoria January 6, 1895, *vide* Blue Book C. 7911, p.51; Iqbal Narain, *op cit,* pp.160-61.

* Sir Hercules Robinson's letter to the Earl of Derby, dated, Government House, Cape Town, January 28, vide Blue Book C. 7911, p.51; Iqbal Narain, *op cit,* p.162.

% Iqbal Narain, *op cit,* p.l62.]

The moot point so far as the British Indians were concerned, was not that the Law was not accepted by the British Government, but that "in spite of the acceptance, it was never enforced owing to the protests made by the British Agents from time to time". [C.W.M.G. Vol.III, p.422; *Indian Opinion,* August 27, 1903] Whether, therefore. the Law remained on the statute book or not, it did not matter much to the British Indians so long as the protecting arm of the British Agents gave them immunity from it. Such being the case, Gandhiji reiterated that the statement that the British Government was now enforcing the very law against which they protested so effectively, was literally true.

Justifying the vigorous enforcement by his Government of a measure which was admittedly of a temporary character, Milner in his despatch had argued that "influx of the Asiatics since the conclusion of peace" made it impossible for the authorities to remain passive until a new law could be framed acceptable to all the parties concerned:

> Had we to deal mainly with the Asiatic population as it existed before the war it might have been possible to remain passive until the new law could have been framed....But with so many new-comers pouring in and applying for licences to trade and with the European population protesting with ever-increasing vehemence against indiscriminate granting of such licences and against the neglect of the Government to enforce the law which restricts Asiatics to locations...it became impossible to persist in the policy of complete inaction.

This, pointed out Gandhiji, was belied by what Milner's administration had itself admitted. There were at this time, according to a statement made by the Colonial Secretary himself, only 10,000 Indians in the Transvaal, whereas before the war their number was stated to be 15,000. [C.W.M.G. Vol.III, p.417] It had further been admitted by the authorities that only seventy Indian permits were issued weekly after the war against hundreds of European permits. Indians who had innocently entered the Colony without a permit had been hounded out of it. [C.W.M.G. Vol.III, p.401] The plea that the “influx of Asiatics” since the conclusion of peace had resulted in the “growing alarm and irritation" of the European population and that this left no option but to enforce the law, when on the Government's own showing even *bona fide* refugees had not yet returned, was, therefore, on the face of it untenable. Moreover, *the Bazaar Notice dealt not merely with applicants for new licences but with all, whether they held licences prior to the war or not,* subject to certain reservations. Had the Government declined to issue licences to non-refugees it would have been a different thing. As it was, the whole of the law was being directed against *bona fide* refugees. [*Ibid,* p.417]

3

Stung by the Indian criticism that the Asiatics actually received worse treatment under the Crown Colony Government than under the late Republic, the Colonial Office issued a white paper on July 30 in which as "a complete answer” to the Indian complaint it was claimed on behalf of the Transvaal administration that in three important respects the position of the Indians had improved after British occupation as a result of special consideration shown by the Crown Colony Government which the late Boer Republic did not show. They were:

(1) It had provided in every town special quarters for the residence of Indians and in selection of these quarters it was doing its best to choose sites not only healthy but affording reasonable opportunities for trade.

(2) It had declared its intention not to disturb Asiatics who had established themselves in business before the war, but to renew their licences. Under the old Government all these men were under notice to quit.

(3) It proposed to exempt Asiatics of a superior class from all special legislation.

In an indignant rebuttal the Indians protested that, as for the first, it offered them poor consolation that Locations would be established in every town. For it was against the establishment of these Locations that they had successfully protested under the old regime, so that with the exception of a few towns, the late Transvaal Government did not dare lay out any Locations. Now the British Government had already selected sites for nearly 20 townships. [*Ibid,* p.418; *India,* September 18, 1903]

As for the second, the irony of it was, that, in spite of any non-declaration of intention not to disturb vested rights, the representations of the British Agents had protected them up to the outbreak of hostilities. The notices to quit were then considered "'not to be worth the paper on which they were written ....As soon as an attempt was made, a protest was sent to the Home Government and relief was instantaneous". [*Ibid*] Now all these traders were under notice to remove themselves to the Locations on pain of being refused renewal of their trading licences after December 31, 1903.

Besides, it could positively be stated that under the Bazaar Notice licences were being granted only to those who held them on the outbreak of hostilities, and *not to those who had established business before the war if they did not also possess licences.* All those British Indians who traded on the strength of tenders made for licences which were never granted them, with the full knowledge of the Boer Government, would now under the Bazaar Notice, be prevented from exercising trading rights. [C.W.M.G. Vol.III, p.425; *Indian Opinion,* August 27, 1903]

With regard to the exemption that had been provided to Asiatics of a "superior class" from all “special legislation", the crux of the matter, the British Indian Association submitted, was that the exemption was granted merely as to residence and even to qualify for this small privilege respectable Indians would have to prove to the authorities that they were "in the habit of using soap", that they did not "sleep on the floor" and so on, whereas Indians of the servant class were entitled to reside in the towns without any special permission. Thus, ''hundreds of Indian servants...if not thousands....may live in towns without having to make any application for exemption, but a handful of well-to-do respectable British Indians may not reside in towns without having to undergo the indignity of an offensive examination". [C.W.M.G. Vol.III, p.419; *India,* September 18, 1903. This is what the Law said: "Government shall have the right to appoint special streets, wards and locations as their residence. *This provision shall not apply to servants living with their masters."*—C. W.M.G. Vol. III, p.427; *Indian Opinion,* August 27, 1903] No such examination was necessary under the old regime because compulsory segregation was never adopted. The Bazaar Notice thus, far from freeing Asiatics of a superior class from all special legislation, in fact conceded to them nothing they were not in possession of before the war. The Rand had passed a resolution requiring them to reside in the Locations on sanitary grounds but, as there was no penalty attaching to non-compliance with the order, no one was compelled to reside in Locations; not a

single Indian had any difficulty in trading and, since there was no compulsion as to residence, there was naturally no question of exemption. [C.W.M.G. Vol.III, p.425; *Indian Opinion,* August 27, 1903]

"We have no wish to subject respectable British Indians or civilised Asiatics to any disabilities," Milner had reassuringly gone on to say.

Thanking His Excellency for this small mercy in isolating British Indians from other Asiatics and recognising their status as British subjects, Gandhiji observed, "All British Indians, respectable or otherwise, are at present labouring under the fullest disabilities common to the Asiatics, except that they may be exempted as to residence, and that alone." [*Ibid,* p.424]

As for Milner's statement that the laws, which were either "obsolete" or "wholly bad", had simply been abrogated, Gandhiji challenged the authorities to point out a single such instance. The experience of the Indians was to the contrary. Laws that had been dormant for years under the late Republic had been unearthed by the Asiatic Department and were now being applied with unprecedented vigour.

Finally, Lord Milner had told them that in the first place they would see whether, when the sites of the proposed Asiatic quarters had been marked out, the opposition of the Indians would be maintained. It was a vain hope, Gandhiji warned. "If we know the feeling of our countrymen correctly, we do not think that the opposition will taper down so long as the sting of compulsion keeps it alive and smarting." [*Ibid*]

4

The "influx" theory was later reiterated by the authors of the "Asiatic Inquiry Commission" of 1921. According to them advantage was taken of the

provisions under the Peace Preservation Ordinance (No.38 of 1902) and Ordinance No.5 of 1903 by many Indians who had not been previous residents in the Transvaal and who by fraudulent means obtained admission to the Colony. This, according to them, had given rise to some agitation among the Europeans as a result of which Government Notice No.356 of 1903 was issued. What seems to have been overlooked was the crucial fact that the policy envisaged in the Bazaar Notice was formulated by the Johannesburg Town Council even before the signing of the peace, being just what Milner had telegraphed to Chamberlain as early as April 3, 1902 (see *The Discovery,* p.429), and Chamberlain had turned down with the remark that it was "practically a continuance of the system of the late South African Republic against which we so strongly and repeatedly protested, and which was moreover contrary to the settled policy of His Majesty's Government" [Telegram dated August 6, 1902, Chamberlain to the High Commissioner] (see *The Discovery,* p.431).

The most categorical refutation of Milner's contention, that a "continuous influx" of the Indians since the war had left the Government no option but to issue the Bazaar Notice, came before the year's end from his own Department. Time and again had the Indians demanded the appointment of a Commission which would enquire into the alleged "large-scale influx" of the Asiatics into the Transvaal, but Milner's Government had been unwilling to oblige at the risk of displeasing the white colonists. Later, however, when it became necessary to combat the anti-Asiatic cry raised by the advocates of white labour who were opposed to the importation of bonded Chinese labour, it took prompt action. On December 28, 1903, Geoffrey Robinson, Private Secretary to the Governor, issued a directive to Captain H. W. Hamilton Fowle, Chief Secretary for Permits, asking him to furnish him with a report on the administration of the Permit

system, specially as regards the number of permits that were issued and whether there had been a great increase in the Asiatic population. "It must be within your power," the directive ran, "to verify or disprove the assertions to that effect." [Geoffrey Robinson to Hamilton Fowle, Chief Secretary for Permits, dated December 28, 1903; *Indian Opinion,* January 28, 1904. The memorandum requested:

"Will you be good enough to furnish him with a report on the administration of the permit system...especially as regards the number of such permits, which he understands to be limited, and whether, as a matter of fact, the grant of such permits is not confined with rare exceptions, to Asiatics who were already here before the war.

"If they are so limited, then the alleged great increase in the Asiatic population must be due to their finding their way in without permits. Have you any reason to believe that this is the case? It must be within your power to verify or disprove the assertions to that effect." – *Indian Opinion,* January 28, 1904.] Hamilton Fowle's findings published in January, 1904, were as under:

(1) Since the Peace Preservation Ordinance came into force on November 19, 1902, no Asiatic had been authorised to enter this Colony unless in possession of a document signed by himself (Chief Secretary for Permits), or one of his Assistant Secretaries, permitting such person to cross the frontier.

(2) Since August 22, 1903, with 21 exceptions, permission to enter the Colony had *only* been granted to Asiatics who were resident there previous to the outbreak of war. The exceptions referred to were personal servants engaged by residents.

(3) It was practically impossible for any unauthorised Asiatics ro remain in the Colony for any length of time without being detected.

In regard to the working of the Permit system and the increase in the Asiatic population, the Chief Secretary for Permits reported:

> (1) No Asiatic can enter or reside in the Transvaal without a permit. (2) The number of such permits is strictly limited. (3) At the present time, with very few exceptions no permit is granted to any Asiatic who was not here previous to the war. (4) There is no reason to believe that Asiatics are entering the Colony without authority. (5) Both the Permit Regulations and the Registration laws have been, and are being, rigidly enforced. [Hamilton Fowle's Report on the Administration of the Asiatic Department for 1902-1903; *Indian Opinion,* January 28, 1904]

To make sure that there were not any Asiatics in the Colony without being registered or without authority, the services of Major Birdwood were temporarily placed at the disposal of the department by the Inspector General, South African Constabulary. *He, after eight weeks of thorough enquiry on the spot, had reported* that up to December 31, last, *only 77 Asiatics had failed to comply with the Registration Laws and of these only two were in the Colony without the necessary authority.*

An even more important admission in Hamilton Fowle's Report was that many Asiatic refugees who were there previous to the war, had not yet returned to the Transvaal. But, as *"with three exceptions, no Asiatic registers or records compiled by the late Boer Government* (if such records were kept) were found in any district", it was difficult to give their exact number. [*Ibid,* (Italics by the author)] His rough computation disclosed that *there were still two to three thousand refugees, who were entitled to return to the Colony, but had not yet applied for permits.* An Asiatic, before he could enter the Transvaal, he concluded, had to obtain a written authority from the Asiatic Office to enable him to cross the frontier. He had then to proceed to Johannesburg where he obtained his permit, and he had,

under the Registration Law, to take his certificate of registration within eight days of arrival" which he cannot obtain unless he is in possession of a permit". This rendered any surreptitious entry practically impossible. And since, before an Asiatic could obtain a trading licence he had to show the revenue authorities that he was in possession of a certificate of registration, *this practically ruled out the possibility of Asiatics settling down and establishing a business in the Transvaal without authority or failing to comply with the registration law.*

Not only was the policy envisaged in the Bazaar Notice thus anterior to the supposed ''influx of Asiatics" but the "influx" itself was chimerical.

What had happened was that some people who traded before the war had been forced to leave the Transvaal on account of or in anticipation of the war, but, owing to changed circumstances after the war, they had settled in places other than those in which they had originally carried on their business. There was, as a result, a slight addition to the number of Indians in those places but not in the Colony as a whole. The presence of new faces in their midst led the people of those places to think that an Asiatic influx was in progress all over the Colony. This was later acknowledged by Milner's successor, Lord Selborne, himself.

Regarded in retrospect this provides a classical instance of one of those historical fictions that are deliberately fabricated in the first instance and are then left to gain currency and momentum by dint of sheer repetition and uncritical acceptance. And when, after going their round, they return to their progenitors and earlier promoters, they are with a characteristic naivete seized upon and adduced as fresh evidence of the truth of what they themselves had set going.

The anti-Asiatic sentiment was further aggravated by the agitation of the mining magnates in favour of the importation of indentured Chinese labour in

preference to white for a rapid expansion of the gold industry and increased profits for themselves.

5

To justify segregation of Indians under the Bazaar Notice on the ground of insanitation, Lord Milner had quoted from Dr Porter's report in which the Indian Location at Johannesburg was described as consisting of "a congeries of narrow courtyards, containing dilapidated and dirty tin huts...without any regard to sanitary considerations of any kind". [*Indian Opinion,* August 27, 1903. Here is a further sample from Dr Porter's Report, as quoted by Lord Milner: "In the middle of each slop-sodden and filth-bestrewn yard there is a well from which the people get their water supply, and, as in other places, they choose this well for washing purposes, the urinals and closets in one of the places being in the immediate vicinity....It is densely populated and its existence and continuance is fraught with danger to Johannesburg, and it surpasses all insanitary spots I have ever seen in my previous experience." "Dr. Porter's Report": Report of the Johannesburg Public Health Committee, 19 March, 1902] Both the general mortality and the occurrence of infectious diseases within the area were in consequence, Dr Porter had stated, "excessive in comparison with the figures of the rest of the town".

Gandhiji saw in the myth of "insanitation", that was being propagated by the Transvaal Administration, a grave threat to the Indian community, as the resulting panic among the whites could be used to force the hands of the Home Government into sanctioning anti-Indian measures. To counter it, he marshalled evidence from the Government's own reports which showed that each and every part of Dr Porter's "highly coloured and imaginative" Report had categorically been controverted before the Johannesburg Insanitary Areas Committee by Dr E. P. Marais and Dr Johnston, both of whom had much greater experience of South Africa and of the British Indians in Johannesburg than Dr Porter. He further showed that where there was any truth in Dr Porter's report the responsibility

for the state of things described rested not on the Indians or their alleged insanitary habits but the criminal negligence of its duty by the Johannesburg Town Council.

In refutation of Dr Porter's sweeping remark that Indians "would never think of calling in a doctor and, ostrich-like, would consider it the right thing to conceal the existence of the disease", Gandhiji adduced Dr Johnston's evidence. Asked what he had to say to Dr Porter's evidence, Dr Johnston retorted: "You have Dr Marais' statement to the contrary." [C.W.M.G. Vol.III, p.404, *Indian Opinion,* August 13, 1903]

Dr Marais had been ten years in medical practice. He had worked among Indians for nine years and had a good practice. He possessed an M. D. degree of Edinburgh. He testified that the position of the Location was good; North side was "perfectly clean"; South side "good"; on East side the big open space was, "till lately, used as a depositing site for nearly the whole of Johannesburg". It was in consequence in “a filthy condition". On the West side Kelly's Home was clean, *"beyond that most disgraceful due to all sorts of rubbish, manure etc., being deposited there by the Town Council’s sanitary carts, and others".* The Location was thus "fairly well isolated", and the surroundings were clean, *"except where they have been rendered insanitary by the Town Council, past and present. For the rubbish, etc., on the square north of Fordsburg....the present Town Council alone is* responsible. [*Ibid,* p.405, (Italics by the author).]

In regard to infectious diseases, Dr Marais had "only two cases of acute dysentery in the Coolie Location. Not a single case of typhoid". There were a few cases of malaria, "but all contracted in Delagoa Bay". Not a single case of diphtheria "of which I had lately four in Vrededorp, four in Fordsburg, and one in Burghersdorp".

Cross-examined by Mr Balfour in regard to the Town Council's neglect, Dr Marais said:

> It is only since the new Town Council was appointed that the square has been used for depositing the rubbish and manure which has not been wanted anywhere else.
>
> Mr Balfour: Did you see some carts there recently?
>
> I saw them every day, and some time ago, I went to...the new sanitary manager, and complained to him....
>
> Have you had any case of enteric?
>
> Not a single case.

With regard to the sanitary service in the Indian Location the interrogation and reply were as follows:

> Have you ever had occasion to look at the buckets there?
>
> Yes, in the beginning of September, I attended on an old woman, one of the cases of consumption..and I saw three buckets in a row, all overflowing, which ought to have been carted away by the authorities.
>
> Have you ever noticed anything in the streets with regard to the insanitary service?
>
> One day I was passing when one of the coolies called me in and showed me...two buckets being emptied into the road. He asked me to give him a certificate to the effect that I had seen it, as he wanted to go to the Town Council and complain. I gave him a certificate that I saw the contents lying there but I did not see them being emptied... there was no doubt that the contents had come out of the buckets.

As to the overcrowding among the poor Indians, Dr Marais did not think coolie Location "nearly as bad as some parts of Ferreira's Township, and other parts of Johannesburg". Compared to the Indians, "the Europeans were very much overcrowded...almost worse...than in the Coolie Location".

He was subjected to a gruelling barrage of questions.

Are you prepared to pledge your professional credit and state that the Location is a sanitary place?

I am prepared to state that it is as sanitary as many parts of Johannesburg ...

You say that, on the whole, you consider this area sanitary?

Yes.

You are aware that several medical gentlemen in practice in Johannesburg have given strong evidence to the contrary?

I know doctors differ.

And you are prepared to differ from them?

I am prepared. [*Ibid,* pp.404-406]

Dr Johnston was a specialist on the condition of the buildings in the Indian Location. A fellow of the Royal College of Surgeons, Edinburgh, he held a diploma in Public Health of Glasgow and Edinburgh, and had been practising in Johannesburg since August 1895.

Examined by Mr Balfour, he said:

With regard to the buildings on the Coolie Location...what is your…opinion?...Dr Porter calls them ‘congeries of narrow courtyards'.

Taking the area as a whole it is not overcrowded with buildings. On nearly every Stand...they have got a regular square courtyard, and in most instances the buildings are ranged round the courtyard....

The result of building the rooms round the courtyard is that every room opens directly into the air?

Yes, into the courtyard. [*Ibid,* p.407]

On August 6, referring Lord Milner to the voluminous evidence produced by the Indians in 1896 in refutation of the "hackneyed charge" of insanitation, Gandhiji wrote: "That portion of it which is true is not serious...and the serious portion of it is, in the opinion of unbiased Europeans, not true." In support he quoted Dr H. Prior Veale who had testified:

Class considered...the lowest-class Indian compares more favourably with the lowest class white...lives better and in better habitation, and with more regard to sanitary measures, than the lowest class white...Generally...it is impossible to object to the Indian on sanitary grounds provided always the inspection by the sanitary authorities is made as strictly and regularly for the Indian as for the white. [C.W.M.G. Vol.III, p.401; *Indian Opinion,* August 6, 1903]

About Dr Porter, Gandhiji observed: "He has next to no experience of life in South Africa...There is only one word we know that would describe his evidence, namely, hysterical.” [C.W.M.G. Vol.III, p.404; *Indian Opinion,* August 13, 1903]

No part of Milner's despatch aroused the indignation of the Indian community more than his description of the Indian small trader and hawker as

"low-class Asiatics" whose presence in the midst of the European population constituted a moral hazard ro the latter. " 'Moral grounds' is an expression which has been probably for the very first time used by any British representatives," commented Gandhiji when this remark of Milner's was telegraphed to South Africa. "When it was made a basis of a petition to the late Orange Free State Legislature, it was resented by the British authorities. Not even the bitterest opponents of the British Indians have laid any such charge against them during the present controversy, and it is beyond our comprehension on what proof His Excellency has been pleased to bring such a charge." [C.W.M.G. Vol. III, p.392; India Office Judicial and Public Records, 402]

On the following day Gandhiji cabled the protest to the British Indian Committee of the Indian National Congress. Reverting to the topic in his weekly, a couple of days later, he wrote:

> It grieves us to find Lord Milner appealing to the gallery, and that too in State documents. His Excellency's despatches to Mr Chamberlain on the Indian question show unmistakably that Lord Milner, the statesman, has not left behind Mr Milner, the editor of the *Pall Mall.* [C.W.M.G. Vol.III, p.400; *Indian Opinion,* August 6, 1903]

"Segregation is necessary on moral and sanitary grounds!" he exclaimed. "We seem to be reading the pre-war petitions of interested traders presented to the President of the late Orange Free State...The British agents then protected us from them." It had remained for Lord Milner to revive them and give the stamp of his high authority.

> That the staid, sober,industrious, God-fearing Indian can do a moral injury to a community with which he may come in contact is a 'novel' idea. Even the late Transvaal Government never brought such a charge against

him. In justice to the King's inoffensive Indian subjects, he (Milner) should either withdraw it, or substantiate it by producing facts. [*Ibid,* p.401]

6

Soon after Chamberlain's departure from South Africa, in March 1903, Milner held a conference of leading men in the new colonies at Bloemfontein to discuss issues of common interest such as customs, the position of natives, alien immigration and preferential trade as a step towards closer union in the Empire. Its aim was to create "a South African habit of mind", as distinct from a Colonial one. Besides establishing the Customs Union, the Conference unanimously passed a resolution expressing the hope that a future conference might provide for "the Union under one Central federal administration of the whole of the colonies and territories under British rule, and the establishment of the Commonwealth of South Africa". [*Times History of War in South Africa,* p.87] Another question that came up for consideration before this Conference was the importation of labour for the work of post-war reconstruction—particularly railway construction, and exploitation of the gold mines of their full capacity.

One of the proposals adopted in the Customs Conference at Bloemfontein included a substantial preference to the United Kingdom, amounting to 25 per cent, of the duty in most cases, and to a total remission of duty in certain others. During the Boer War a small tax had been imposed on imported cereals. At the end of 1902, before he left for South Africa, Chamberlain had proposed that this tax should remain, but he remitted it in favour of Colonial cereals under the impression that he had behind him the Cabinet's full support.

Both the issues were fraught with far-reaching consequences. The labour issue, involving as it did the importation of Chinese bonded labour in preference

to white, provided the dynamite that the Boer leaders needed to blow up Milner and his administration. The preferential tariff raised a storm in Chamberlain's own party. On his way back at Madeira he received a telegram informing him that his colleagues had withdrawn their support to his programme of tariff reform. The budget introduced in 1903 was a Free Trade budget. On May 15, he spoke out, pleading for a measure of Imperial Preference and on September 17, he resigned from the Government in order that he might be free to carry on his campaign. [*The Times History of the Boer War,* Vol.VI, p.129] Alfred Lyttelton succeeded him as the Secretary of State for the Colonies.

With Chamberlain's retirement the last restraining influence on Milner went. Chamberlain had shared his general outlook and endorsed most, though not quite all, of Milner's demands. But with rare exceptions Milner had managed, in the last resort, to force his chief's hands. His technique of wearing down the opposition at Home, which he had developed into a fine art, might have proved equally efficacious against Chamberlain's successor, also, had not the storm raised by "Milnerism" forced its author prematurely to resign.

7

The prospect seemed hopeless. Chamberlain's replies to the East India Association's memorial for the repeal of Law 3 of 1885, or its suspension pending the adoption of fresh legislation to define the status of the Indians, had left little room for optimism. But one resource still remained. The question of the status of the British Indians overseas was an Imperial one on which in the last resort Whitehall alone could decide. Dadabhai and Sir Muncherjee Bhownaggree had been able, through the British Indian Association and the British India Committee of the House of Commons, to constitute an influential lobby which had kept the question of the Indians in South Africa steadily before the Parliament. Soon after

Milner's May 11, 1903 despatch was presented to the House of Commons, Sir Muncherjee swung into action and on September 15, addressed a comprehensive letter on the question to Chamberlain. Two days later, before it could be posted, Chamberlain resigned. Sir Muncherjee, therefore, waited till Chamberlain's successor was appointed and on December 21, sent the letter that he had drafted to the new Secretary of State, Mr Lyttelton, unaltered.

Comprising twentyeight paragraphs of closely packed argument and two appendices, it showed by citing precise chapter and verse how the racial disabilities and harassment which the British Indians had suffered had remained unredressed in spite of numerous Imperial declarations and promises of redress by successive Secretaries of State for the Colonies including Chamberlain.

IIIustrating his remarks with copious apt quotations from the utterances of Sir George Napier, Lord Lansdowne and other Ministers' condemnatory references to the anti-Indian legislation of the Transvaal, Sir Muncherjee observed that these declarations had led friends of India to regard it as a foregone conclusion that the obnoxious legislation which had filled Lord Landsdowne and other Ministers of the British Government with such righteous indignation would be abrogated at the earliest possible opportunity on the establishment of British Rule. It had, therefore, given them a rude shock to find that two years after the signing of peace, taken as a whole, the grievances of which British Indians complained before the war had not only remained unredressed but the position of British Indians had indeed actually become worse than under the Boer Regime.

Chamberlain had defended in Parliament the current anti-Indian regulations in the Transvaal and the Orange River Colony on the principle that "unless a distinct Imperial interest" was concerned, the Transvaal was "to be

treated as though it were a self-governing Colony" (House of Commons, July 27, 1903). Sir Muncherjee asked whether it would not be injurious to British prestige for the people of India to learn that, more than three years after the annexation of the Boer Republics the grievances of their fellow countrymen had not only remained unredressed but, owing largely to the enforcement of laws which were inoperative under the Boer regime, had been aggravated and whether this was not a matter of "distinct Imperial interest"? [Cd. 2239, p.8, para 7]

Again, Chamberlain had enunciated the principle that under the system of Crown Colonies, in practice, if not in fact, "the late Republics shall be placed in respect of domestic affairs on a footing with the Cape Colony and Natal." But even on the basis of this parity of treatment, Sir Muncherjee submitted, it could be shown that in the matter of restrictive legislation against Asiatics the law obtaining in the Colonies that were self-governing compares favourably in several important respects with laws still in force in the newly-acquired territories actually under the control of the Colonial Office.

> I contend that the grant of autonomy to any portion of His Majesty's dominions does not carry with it the right to undermine the noblest traditions of the British Constitution and the pledges of the Crown in respect of the rights and liberties of subjects of the King belonging to other portions of his dominions. The Imperial connection is dissolved into a mere figment if His Majesty's Ministers are unable to protect Indian subjects in all parts of the British dominions, and especially in Colonies controlled from Downing Street, from humiliation and injustice. [*Ibid*]

Moreover, the plea, that because the Colonies were, or were to be, self-governing they must not be interfered with even when they denied justice to their fellow British subjects, was inconsistent with the underlying policy of the

War which was "that of interfering with a practically independent power to deliver British subjects, including many Indians, from oppression and injustice". [Ibid] Was it not a blot on British statesmanship, Sir Muncherjee asked, that though the grievances of British Indians formed a *casus belli* against the Boers, those subjects of His Majesty had "lost rather than gained in status and liberty by the administration of the country having passed into British hands". [*Ibid*]

Turning to specific instances of the British regime going the Boers one better, Sir Muncherjee began with the Bazaar Notice and Milner's defence of it in his despatch of May 11, 1903. Seeing that the Transvaal Locations law had been rendered inoperative under the old regime "partly owing to your own protests," it was, he observed, delivering a 'home thrust', "disheartening…to find the deliberate stultification of those protests by our own administrators being permitted by the Colonial Office". [*Ibid,* p.9, para 8]

Milner had further argued that the hostility of the European element would be mitigated by the location law, but this, Sir Muncherjee pointed out, was a futile exercise. For, the White League, to whose views Milner paid such great deference, objected even to Bazaars being established within town limits. This showed that such mitigation as Milner sought could only be purchased by the complete elimination of Indian traders from the arena of general trading competition which was wholly inconsistent with the principle laid down in His Excellency's despatch that "the policy of the present Government is not directed against colour or against any special race." [*Ibid,* p.11, para 12]

Milner had placed heavy weight on the alleged sanitary grounds for confining Indians to Locations, citing in evidence Dr Porter's reports, but in his despatch he had not made even a passing reference to the testimony of Dr Marais and Dr Johnston, both with longer South African experience, which

completely controverted Dr Porter's report. Even if for the sake of argument his view of the case was accepted, contended Sir Muncherjee, there was no reason to suppose that, whether residing where they desired without restrictions or confined to Locations, the Indians would not be amenable to the sanitary regulations. [*Ibid,* p.9, para 9] The location law as it stood, rested on principles that were derogatory to His Majesty's Indian subjects. The minimum justice to which the Indians were entitled called for the adoption of the three conditions laid down by the British Indian Association which Chamberlain had himself put forward in August 1902 at the instance of the Government of India [The three conditions were (a) The restriction of the law to those classes of Asiatics whose segregation was required on sanitary grounds; (b) business outside Locations to be freely carried on; and (c) Indian servants to be allowed to reside with the exempted better-class Asiatics who wished to employ them. –Cd. 2239, pp.I0-11, para 12] (see *The Discovery,* p.432).

Expressing his indignation at Milner's characterisation of the British Indians as "low-class Asiatics" who had to be segregated in the interests of "civilization", Sir Muncherjee showed that besides being untrue, this was incongruous, being contradicted by the terms of the Bazaar Notice itself. For, from the text of the Bazaar Notice, it was clear that "the trader, and not the coolie alone" save in a few instances was to be banished to the Locations. [Cd. 2239, p.10, para 11] Like thousands of well-informed Englishmen, Indian traders could in most cases pass a reading and writing test in their own language though in no other, but it was hardly fair on that account to brand them as "Asiatics of a low type", or to insinuate that they lacked respectability and civilisation. The education test that was now proposed to be applied would "most probably condemn to segregation among coolies and Chinamen the distinguished Sir Partab Singh, Maharaja of Idar" who had been justly described by Lord Curzon as "a gallant Rajput nobleman, a brave warrior, a genuine sportsman, a true gentleman and a loyal

and devoted subject". [*Ibid*] This single instance was enough to show the utter absurdity of the proposed education test under the Bazaar Notice.

Milner must not forget, Sir Muncherjee urged, that the Indian trader was in his own country "a respected and often an affluent member of the community''. To suggest that in lands where his competition was objected to by small shopkeepers of Continental or British birth, his presence constituted "a moral and physical danger to the general community", was adding insult to injury. [*Ibid,* para 12]

Sir Muncherjee also surveyed the other disabilities of the Indian community in the Transvaal, and incidentally in the other Colonies as well. Among these were the loss of existing licences by those who were trading outside the Locations, the inability of the Indians to hold real estate, the problems caused by the permit system and the Asiatic Office, the exclusion from the municipal franchise, imposition or special penalties by the grouping of Indians with the Natives under the Suppression of Immorality Act, and the problems of the indenture system, including forced repatriation, and physical assault. It was a detailed and comprehensive review.

All these, Sir Muncherjee showed, were instances of British Indian subjects of the King receiving worse treatment than under the Government of the late Republic and in none of them could that policy be justified "by the necessity of preventing people of a higher grade of civilisation, whatever their race or colour may be, from being degraded by enforced contact with people of a lower grade." [*Ibid,* page 12, para 13]

Taking strong exception to Milner's sweeping statement that the Colony was being "flooded by petty Indian traders and hawkers," whom he had incorrectly stigmatised as being "of no benefit whatever to the community." Sir

Muncherjee protested that it was "a serious blot upon the fair name of our Empire that while non-British subjects, however ‘undesirable' were freely admitted provided they had white skins, vexatious and needless restrictions existed against the entry of law-abiding British Indians" against whom no valid objections could be urged, and whose countrymen had participated in the "dangers and sacrifices" of the late war.

In defence of his notification Milner had pleaded that the attitude of the Europeans in the Transvaal was one of "intense hostility" and that this in view of the possible introduction of self-Government was "the greatest danger" by which the Asiatics were confronted But, rejoined Sir Muncherjee, to promote amity and concord between the various races who made up the population of the sub-continent was a most necessary task of statesmanship in South Africa in that juncture but he was afraid the High Commissioner's "absorbing labours and anxieties", as he euphemistically put it, left him little time to promote that end in respect to the relations between the white population and Indian subjects of the Crown; otherwise he would have recognised that some of his words and executive actions were likely to have a contrary effect, "such as he would be the first to deplore". He could not, Sir Muncherjee went on, banish a strong feeling that the High Commissioner had "somewhat misinterpreted and auached undue weight to the anti-Asiatic feeling" and that by so doing he had greatly stimulated its growth". [*Ibid,* p.13, para 15] Besides, if the hostility of the Colonists was so "intense" as it was made out to be, continued Sir Muncherjee, was it not of the utmost importance for those in authoriry to utilise every opportunity ro demonstrate its unreasonableness, rather than to lay emphasis upon its existence and to yield to its extravagant demands? "Racial hate grows upon the

concessions it receives, upon the subordination of justice for the injured community to the gratification of its own prejudices." [*Ibid*]

Then, Milner had laid great stress on the Europeans' cry against the granting of licences, etc., to the Indians and the non-enforcement of the old inoperative law of the late Republic but, pointed out Muncherjee, he had chosen to ignore the European mercantile and trading community's petitions praying the Government to give British Indians rights freely accorded them in the self-governing Colonies, or of the British Indian Association's readiness to make the grant of new licences dependent upon “the will of the people” as represented by the Municipalities subject to the appellate jurisdiction of the Supreme Court. And this in a Colony, where public opinion was believed by Milner to be intensely hostile to the Indian community. Chamberlain himself, and many fair-minded Natalians, had admitted that the Dealers’ Licences Act was defective in not giving appellate jurisdiction to the court of justice. [*Ibid,* p.16, para 17] Sir Muncherjee, therefore, was emphatic that in the forthcoming legislation for the Transvaal the licensing law should apply to all traders without distinction of nationality in accordance with Milner's pledge "not to legislate on the line of race or colour.” [*Ibid*]

The need for speedy amendment of the Bazaar notification of April 8 was all the greater, urged Sir Muncherjee, the right of property held by men of Asiatic race was violated thereby to a degree for which there was not even “an approximate parallel in the laws and administration of the late Republic.” The Pretoria Mosque's was a case in instance. Lord Milner had assured the Indian deputation that had waited on him on May 22, 1903 that whenever there was legislation on the subject Government would provide that “places of worship may be registered in the names of those who use them". [C.W.M.G. Vol.III, p.306; *Indian*

Opinion, June 11, 1903] But Sir Arthur Lawley had since suggested as an alternative that the property should be transferred to the Colonial Secretary to be held in trust for the Mohammedans. *This, however, was open to the "very valid objection that it would be contrary to their faith and practice for a non-Moslem to be the owner for them of their place of worship".* [Cd. 2239, p.12, para 13, (Italics by the author)]

The tendency of the Transvaal administration had all along been, protested Sir Muncherjee, "to yield to the extremists belonging to the White League. This had had the result of "stultifying the pledges of just treatment under the British flag repeatedly given to the Indian peoples (sic) and also of some of the professions made by the Ministry when entering upon the late War". [*Ibid,* p.17, para 20] The draft Ordinance for the regulation of Municipal elections was an instance in point. What became of Milner's undertaking to exempt Asiatics of a superior class from all special legislation in the face of this Ordinance, he asked. [*Ibid,* p.16, para 18]

Finally, Sir Muncherjee submitted that the anti-Asiatic legislation of the Government, had naturally, produced in the minds of certain sections of the white population and of many subordinate officials the belief that "even the common liberties of the subject still accorded British Indians by law may be denied them with impunity". This had led to an ever-increasing number of brutal assaults resulting in the severe injury or even death of the victim, to arbitrary illegal confiscation of trading rights or property, to refusal lately to allow a Mahommedan priest to enter the country even for the purpose of performing religious rites and giving religious instruction to the members of the community, and to the ever-recurring question of excluding respectable Indians from the footpaths. [*Ibid,* p.19, para 23]

Pointing to the passing of such retrograde measures as the latest Natal and Cape laws and regulations as an illustration of how injustice toward His Majesty's Indian subjects in any part of South Africa, more especially in the Crown Colonies, reacted injuriously upon their rights and liberties in other parts of the sub-continent. Sir Muncherjee emphasised that in so far as anti-Asiatic laws within territories for whose administration Downing Street was responsible exceeded in illiberality those of the self-governing Colonies, they constituted "a direct incentive to the extremists in Natal and at the Cape to agitate for equally harsh enactments". It was no answer to the complaints in respect of them that the law had been passed and the question was closed. "No law repugnant to the British principles of justice can be defended on such ground."

Concluding, Sir Muncherjee reminded the Secretary of State for Colonies that the introduction of permanent legislation that was to replace the existing regulations, admittedly of a temporary stop-gap nature, which Milner had envisaged in his despatch, was overdue. He hoped that when that legislation was introduced (1) it would nor be passed until the Government of India had had an opportunity of considering it and making representations thereupon; and (2) the Indian view would be allowed to be represented in the Legislature "by the nomination thereto, during the period the Ordinance was under discussion, of a suitable representative of the community". Finally, he hoped that the Secretary for the Colonies would not let "too excessive devotion" for the principles of local autonomy in respect of the annexed territories get the better of his devotion to the Imperial sentiment.

Local autonomy confers upon its possessors under the British flag no right to undermine the noblest traditions associated with that emblem

– otherwise the term ‘self-government' applied to the overseas possessions of the King would be but a synonym for Imperial anarchy.

With this letter Sir Muncherjee set down a statement cataloguing the Indians’ grievances and the suggested remedies.

On January 23, 1904, Lyttelton transmitted to Milner Muncherjee’s letter with the remark that it appeared to him to be "a good statement" of the case for the British Indians. "I cannot but feel much sympathy for the view expressed in it and I fear it will be difficult to meet his representations with a fully satisfactory answer." The subject was almost certain to be raised in the House of Commons, he added, and though fully alive to the difficulties which the Transvaal Government had to contend with he felt equally that "the position of His Majesty’s Government and its responsibilities in the matter must also be considered”. The new Secretary of State for the Colonies was, therefore, anxious to receive from Milner his views on Sir M. Bhownaggree's memorandum.

This despatch, like several previous cases, might have been pigeonholed – nobody can say for how long—had not two extraordinary events supervened, viz. the outbreak of plague in Johannesburg and the institution by the Indians of a test case to decide the legal validity of their compulsory locationing for residence and trade under Law 3 of 1885. The adverse decision of the Supreme Court of the Transvaal in the test case forced the Transvaal Government to search for immediate alternative means to prevent the Indian traders from trading in towns; the outbreak of plague provided the lever with which to press its demand for the segregation.

Before continuing this story, we must turn aside to examine another conflict, a true battle of the Titans. A three-cornered struggle between South

Africa, India, and the Home Government on the question of imported labour had fateful effects for Gandhiji and the Indians. At first it was merely another chapter of Natal's incessant demand for Indian labour for agriculture and the coal mines, at least cost. No sooner had that discussion been concluded, to Natal's disadvantage, than Milner raised the question of using Indian labour for the rejuvenation of the railways and gold mines in the Transvaal. Finding resistance in the form of a demand for protective legislation, he tried to bend Curzon with pressure from London. Failing in that, he turned to a measure which created one of the political issues which destroyed him, "Chinese slavery". On the face of it Gandhiji was not involved in this conflict, though such was his stature even by this time that his reports were carefully noted in the three capitals. In the aftermath of this struggle developed the crisis which gave birth to satyagraha.

CHAPTER VI : MUCH WANTS MORE

1

By a curious irony, while the anti-Indian hysteria was mounting up in South Africa the Colonists were being driven more and more to depend upon indentured labour from India for the building up of their post-war prosperity. The Garden Colony, Natal, whose economy was based almost entirely on Indian labour, now pursued a contradictory policy, seeking the cooperation of India in recruiting still more labourers, while asking that the Indian Government also cooperate in denying the Indians the fruits of their labour. Too often in the past the Bruish Indians' case had gone by default, due to their political unawareness and lack of organisation. They were now politically awake and well organised. Lord Curzon's commanding personality had shaken the Government of India officials and the India Office out of their complacency. The Natal Government's latest request for more facilities for the recruitment of indentured labour in India had in consequence been cold-shouldered, and imposition of further disabilities on the Indians already settled in Natal had caused protest from the Government of India (see *The Discovery,* pp.410-18). To persuade Lord Curzon's Government to consent to their fresh proposals, including the one for the compulsory repatriation of "coolies" recruited from India on the termination of their indentures, the Natal Government had decided to send a delegation to India consisting of B. De Gersigny and H. C. Shepstone.

The delegates left for India in the first week of January, 1903. As soon as the news of their departure got into the Press, the Indians addressed a petition [C.W.M.G. Vol.III, p.275, Petition to Lord Curzon before January 7, 1903] to Lord Curzon to

oppose the Natal Government's proposal. It was well-known that Natal could not prosper without indentured Indian labour. According to the Protector's report for 1902 the demand for Indian labour was day by day increasing.

Mr T. L Hyslop, President of the Farmers' Association, in his annual address had warned that any attempt to stop the introduction of Indian labour in the Colony would paralyse every industry in the country. There had been much loose talk among badly informed people. Mr Hyslop had gone on to say, that they should do this, that, and the other thing with the Indians, but it was no use "blinking the fact" that they were "very much in the hands of the Indian Government" in regard to this question.

> It is a fact that recent legislation in this Colony, and still more, ill-advised speeches by some of our legislators, have occasioned considerable irritation in India, and it is useless for us to appeal for further concessions at present. I understand that the proposal to have the indentures of Indians to terminate in India has no chance of being listened to by the Indian Government. [*Ibid,* p.276]

Commenting on this the *Natal Mercury* had observed that the colonists must not forget that the Indian Government had naturally to consider the well-being of people under their care "more than our convenience...At one time, it was only the sugar planter that made much use of the Indian labourer. Now the up-country farmer is quite as much in need of his services, and not only the farmer, but the mine owner, the contractor, the manufacturer and the merchant". [*Ibid*] This showed, the petitioners continued, that the thoughtful leaders of public opinion recognised the unfairness of the proposal. Natal had more than a lion's share in the partnership. But the goal of its ambition, as a legislator of Natal had put it, was that either "the coolie must remain under

bondage in the Colony, or must return to India if he wants to remain free". That in returning to India he might have "to face starvation" [*Ibid*] was a matter of no consideration to the Colony.

It had been argued in support of the proposal of compulsory return, that "there cannot be any hardship in the conditions of a contract a party willingly undertakes to perform". The fact of the matter, however, the petitioners went on to say, was that the contract under which the indentured labour was brought into the Colony was neither free nor voluntary. The late Mr Harry Escombe had observed, "A man is brought here, in theory with his own consent, in practice very often without it." In conclusion the petitioners prayed that His Excellency would not allow Indian labour “to be exploited for the one-sided benefit of Natal" and that he would graciously be pleased to advise the Colony to discontinue importing Indian labour.

2

The Natal Governor's letter of October 11, 1902 was received by the Government of India in the middle of January, 1903. From the accompanying papers it was seen that the Natal Government felt that the £3 tax, that had been imposed to discourage time-expired indentured "coolies" from settling in the Colony, had failed of its purpose and the number of Indians settled in the Colony during the interval had consequently increased enormously. [N.A.I. Emig. A-Pros No.46, May 1903. In 1894 the Indian population was put at 46,000 including 500 so-called "Arabs". In 1901 the number of Indian immigrants and their descendants was estimated at 72,965 of whom 47,599 were free and 25,366 indentured in addition to some 9,000 Arabs. At the same time the coloured population of African extraction was estimated at 750,000, while the whole white population numbered only 64,000 souls.] According to the Protector of Immigrants' Report for the year 1901, less than 20 per cent, of the Indian Immigrants had reindentured at the end of their indentures; 11 per cent, had returned to India, while 51 per cent, had

remained in the Colony, the balance of 18 per cent, being unaccounted for. [*Ibid.* According to the Protector of Immigrants' Report for 1901, out of 644 persons whose indentures had expired in that year only 53 had elected to return to India, 101 had accepted a fresh term of service and 135 had paid for licences to remain in the Colony, the remainder at the close of the year being on leave or otherwise unaccounted for.]

At the same time the demand for Indian immigrant labour in the Colony had been growing. Applications for Indians for various purposes had increased from 2000 to 4000 and 6000, and in the beginning of 1902 to 15,000. [N.A.I. Emig. A-Pros 40-46, May 1903] The mines alone had applied for from 2500 to 3000 men. [Ibid] The general opinion was that Indians were necessary for working the collieries, and that after some years' experience they became "invaluable". But if this increased rate of importation were maintained, it was feared that a corresponding rise of free Indians would be inevitable. [*Ibid*] About 1000 men who were due to come out of their indentures in October 1902, would, if they were not properly taken care of, omit to take out passes or refuse to do so, and would go to swell the number of Indians who were already in the Colony.

In the beginning, when the Colony's economy was in a parlous state, to attract Indian labour the Natal Government had given to the immigrants who had served for a period of nine to ten years under indenture the choice of a free passage to India or in lieu a grant of Crown land equivalent in value of the free passage to settle down in the Colony as free men (see *The Early Phase,* p.388). That privilege was withdrawn in 1891 by an Act prohibiting the acquisition of land by ex-indentured labourers [*Ibid*] (see *The Early Phase,* p.395). In 1895 Lord Salisbury had unequivocally declared that immigrant labourers should rest assured that after their indenture had been served they would be "in all respects free members, with privileges no whit inferior to those of any other class of his Majesty's subjects resident in the Colonies". [Jan. H. Hofmeyr, *South Africa,* Earnest Ben.

Ltd., London, 1952, p.147] Yet, following the Durbanite whites' demonstration of 1896, the Natal Government had imposed a £3 residential tax on every immigrant labourer who neither entered into a fresh indenture nor availed himself of a free passage to return to India. Lord Elgin's Government had agreed to it subject to the condition that a breach of the covenant not to return to India at the conclusion of a period of indenture was not made a criminal offence (see *The Early Phase,* pp.505-6). [N. Gangulee, *Indians in the Empire Overseas,* The New India Publishing House Ltd., London, 1947, p.46] At the same time the conditions of service under which the labourers were recruited were so modified as virtually to abolish the definite contract either to re-indenture or to return and to allow an option of remaining in the Colony on payment of the tax in question. [N.A.I. (Emig.) A-Progs, Nos.40-46, May 1903]

The Natal Government regretted having made this concession, which the Government of India had extracted for the indentured labourer at the cost of an annual poll-tax that came to one and a half times the then average per capita income of an Indian. To render it nugatory, in April 1902 it further amended the Immigration Law of 1895 so as to render liable to the tax not only the Indian immigrants themselves but their adult children also. But even this measure, it was feared, would be insufficient to put an effective check on the time-expired immigrants settling in the Colony on a large scale.

The reasons for the failure of the Immigration Law of 1895 were stated to be that (1) the cost of licence was very low; (2) there was no penalty attached to the non-payment of the licence, and (3) there was no method by which the Indian could be forced back to India.

Of these the first had largely been remedied by the amended Bill which had been passed by the Natal Parliament and which the Government of India had

accepted. [*Ibid*] The delegates had come to obtain concessions in regard to the other two.

The strategy that Gandhiji had evolved to enlist British opinion for the Indian struggle in South Africa and the valuable contacts that he had established both in England and at home for the purpose with important individuals from all parties whose respect and confidence he had won, were now bearing fruit. The Joint Committee of the British Committee of the House of Commons and the East India Association, spearheaded by Dadabhai Naoroji, Sir Muncherjee Bhownaggree, and Sir William Wedderburn, had by its unflagging activity kept the question of Indians overseas constantly before the eyes of the British sympathisers both in Parliament and without. Gandhiji had succeeded in making the question of equal Imperial citizenship rights for the British Indian subjects in South Africa into a live issue which commanded the support of every party in India without exception. Sustained publicity and propaganda by the Bombay Presidency Association and the East India Association, under the dynamic leadership of Gokhale, Sir Pherozesha Mehta and others, had helped to build a strong public opinion in India, which, though largely confined to the intelligentsia and the nationalist section of the Indian Press, was just what Lord Curzon needed to strengthen his hands in his tussle with the India Office and the Colonial Office over the question of the rights of Indians in South Africa.

Surprisingly early in South Africa Gandhiji had arrived at certain conclusions marked by an insight, originality and penetration, that compelled attention. Embodied in the Government of India's thinking they now found expression in the official notings, and even in the form and substance of the Government of India's despatches.

The principal ones of these were:

1. The Indian grievances fell under two categories—those arising from the anti-Indian attitude of the South African whites and those that arose from the translation of the anti-Indian feeling into anti-Indian legislation. The latter derived strength from and were sustained by the former but the former derived its sanction from the existence on the Statute Book of the latter. The removal of statutory disabilities was, therefore, needed to clear the way for combating irrational race prejudice also.

2. The British Government did not have a free hand in the English colonies, owing to its past commitments, and because of the Colonies being self-governing. But in the annexed territories, it had a free hand, and was bound by its own declarations to make a clean sweep of the anti-Indian laws of the late Republic. The Indians must, therefore, concentrate all their energy on their removal first.

3. The removal of the anti-Indian legislation inherited from the ex-Republics must be effected while the latter were under Crown Colony Rule; after the advent of self-government it would become extremely difficult if not impossible to get it removed.

4. If the British Government took a strong attitude in respect of the conquered Colonies, Natal and Cape Colony would willy-nilly fall in line. *Per contra* if in the conquered territories disabilities on the Indians were countenanced it would adversely affect the position of the Indians in the self-governing colonies.

5. Administrative relief from the existing anti-Indian legislation was not enough; it must be supplemented by statutory guarantees if the Indian community was to Live in peace.

6. If the Indian public and the Government of India delayed matters, vital decisions adversely affecting the Indians might be taken by the Cabinet, which it would be impossible afterwards to get changed. They must, therefore, take time by the forelock and act immediately.

7. The most effective means for the redress of the grievances of its Indian subjects in South Africa was the ability of the Government of India to exert pressure on the India Office and the Secretary of State for the Colonies by virtue of its power to stop the supply of cheap Indian labour on which depended the prosperity not only of the self-governing colonies but the Crown Colonies also. It must, therefore, be brought into play, and the sooner the better.

3

The climate of opinion in the Government of India had changed vastly since Lord Elgin's time. Under his successor Lord Curzon, who succeeded him in 1899, no longer was the Government left to gather information about drastic legislation affecting the Indian immigrants overseas from the Bombay newspapers (see *The Discovery,* p.416). Communications sent by Gandhiji were not pigeonholed any longer but were carefully studied and were treated by the officials concerned as an authoritative statement on the Indian question and on the viewpoint of the Indian community in South Africa. More hard-working and better informed than any of his officials, the new Viceroy kept them constantly on the *qui vive.* In the past the question of emigration had often been handled by the Government of India officials as if it were largely, if not wholly, one of providing cheap labour supply to the white Colonies and, incidentally, of relieving unemployment in the congested districts of India, the consideration of which must not be allowed to be affected by such issues as the treatment of the Indian emigrant labour or the

status of Indian settlers overseas. Lord Curzon was emphatic that the two were interrelated and must be considered together as matters of equal Imperial concern. He was not prepared to let India, with its three hundred millions, be treated as an appendage of the Colonies. Unremitting pressure by his Government had stiffened the back even of the hitherto complaisant Secretary of State, who, at least once on an earlier occasion, had betrayed an unconcern in respect of the interests of British Indian subjects in South Africa, which even Chamberlain had found too much (see *The Discovery,* p.129).

The new spirit that the Viceroy had injected into his Government was very much in evidence in the minutes on the Natal Government's file when it was circulated to the Honourable Members of the Viceroy's Council for their views, though fundamental streaks of their old "white saheb" outlook did show at times through the new veneer.

Mr R. E. V. Arbuthnot, Under Secretary to the Government of India in the Department of Revenue and Agriculture, minuted on January 15 that since the Government of India could at any moment by prohibiting emigration to Natal "paralyse the productive resources of the country" they had practically the power to command their terms. [*Ibid* "We hold an exceedingly strong position. What Natal wishes is to be allowed to take all the labour she requires, freed from any kind of restriction or supervision and when the contract term of service is completed, to compel the emigrants to return to India...she has nothing to offer us in return and no means of putting pressure on us to give what she wants. We must recognise in short that this is a game in which we hold all the trump cards and we must play our game accordingly". January 15, 1903] While sympathising with Natal's stand to remain a white man's Colony, and holding that they should, where possible, "assist our Colonies", he was emphatic that in this matter they were acting "primarily as trustees of the ignorant emigrant" and that they should not "for the sake of the Colony adopt any steps which will be of doubtful advantage to the coolie". He was strongly in

favour of using their strong position to obtain some relaxation of the restrictions—"many of them personally degrading"— that Natal had imposed on the free Indian settler "since any such concession would tend to improve the position of the Indian community as a whole". But there again their first duty, he emphasised, was to the indentured emigrant. [*Ibid,* May 1903]

Mr Arbuthnot was quite clear that their reply to any proposal by the delegation to make the refusal of an emigrant to return a criminal offence or to permit recusants being forcibly deported to India on conclusion of their terms of indenture or re-indenture, must be an emphatic "No". While he was prepared to acquiesce in the raising of the amount of the licence tax, say, to £10 as a lesser evil, he felt they must absolutely object to the adoption of "any measures more stringent than those which are ordinarily adopted by the Government of Natal for the recovery of Government dues". He was further of the view that no further concessions should be given to Natal without any stipulations. "She is the only Colony which does not encourage immigrants to remain". [*Ibid,* January 15, 1903]

Mr J. O. Miller, Secretary to the Government of India, likewise saw no reason why they should change their attitude and offer to relax the rules about recruiting of coolies etc., "especially at a time when Natal is making its own rules more stringent". [*Ibid,* January 16, 1903] As regards the provision for securing the termination of the Articles of Indenture in India, he was afraid that the logical consequence of what they had already accepted was compulsion in some form. "What the system is likely to lead to is a condition of perpetual servitude...it will not pay the colonist to return him (the indentured labourer) after five years— he will…be induced to stay on under a fresh indenture as long as he is fit for work and willing to serve under indenture...but in the end, when all connection with

India has been long broken off and relations have been formed in a new country, he and presumably his family, will be shipped back to India.'' This they must resist.

Sir Denzil Ibbetson, Head of the Department of Revenue and Agriculture, in charge of the emigration policy, saw no particular objection to the imposition of a prohibitive tax upon the time-expired coolie or, in the alternative, to his deportation to India on the expiry of his term of indenture. And since it would be as "easy to evade a £10 as a £3 tax", while there would be "more temptation to do so, he preferred deportation. [*Ibid.* On January 17, 1903, Sir Denzil lbbetson minuted: "It would be necessary to lake power to deport forcibly however seldom it might be necessary to use it. If the Government did not exercise its power of deportation the coolie should be allowed to settle in Natal free of obligation to indenture or to pay any special tax."] But he too agreed that they must adhere "absolutely to our refusal to allow the presence of a coolie in Natal after the expiry of his indenture to be treated as a criminal offence, punishable by imprisonment". He was not in favour of using the threat of stopping the supply of indentured labour to Natal unless Natal agreed to remedy the grievances of free immigrants who went there of their own accord. It might be as well to employ it, he thought, if it was certain that it would be successful, but he very much doubted if it would succeed. "And if it failed we should have to carry it into effect, and to cut the coolies' nose to spite the face of the Natal Government, without doing any good to the free emigrant." [*Ibid*]

His known sympathy with Natal's all-white policy notwithstanding, Sir Denzil was no less opposed than his colleagues to making any further concessions at the request of the Natal Government except in return for the amelioration of the law regarding Indian subjects, "even at the cost of Natal discontinuing Indian immigration altogether". He would tell the delegates from the very beginning, he minuted, that the Government of India were conducting discussion on the understanding that those grievances would be remedied, that any concessions

that they might agree to would be on that condition and that they reserved "the fullest liberty of action to stop emigration altogether at any moment, if this should appear to be necessary in order to secure proper treatment of their Indian subjects".

By way of guidelines for the forthcoming talks with the Natal delegation he suggested that they should:

1. begin by recognising the good treatment extended to "our coolies in Natal";

2. impress upon them that the emigration was "of the very smallest importance to us";

3. set forth their grievances as regards the treatment of the free Indian population in Natal, and point out that these disentitled the Colony to "any special consideration at our hands", and that they expected them to be removed as a condition of any concession; and

4. tell them that the first thing was for them to formulate on paper exactly what they wanted of the Government of India and the concessions which they proposed to make in return. [*Ibid*]

4

The "white sahebs" of India found it easier to sympathise with the "coolie" than to stand up for the rights of the free Indian settlers. The "coolie" was uncomplaining, he made no exacting demands, and was grateful even for small mercies doled out by the *ma-bap sircar.* As provider of cheap labour for the advancement of the white man's civilization, he fitted in perfectly with the nineteenth century doctrine of "progress" which the Imperialist found so comforting (see *The Early Phase,* p.137). The British *sircar* could afford to extend

the mantle of its paternalistic benevolence *to* the "coolie", so long as this did not involve displeasing the white colonist or touching his interests. For the rest it cared little so long as the "coolie" was kept off its hands and did not become an "administrative nuisance" by adding to the volume of mass poverty created by over a century of ruthless British exploitation, and his grievances did not assume the proportion of a major scandal. To sustain this attitude a myth was built and sedulously fostered that all was well with the emigrant "coolie" as a "hewer of wood and drawer of water" in the white colonies, that he was better off where he was, and that his treatment left nothing to be desired. The trader, as a potential rival of the white shopkeeper, was a misfit in this set-up – even an obstacle. More aware of his rights, he was often critical of the Government's policies; worse, he was a "protege" of the politically conscious class of the Indian intelligentsia, who were like a thorn in the flesh of the British rulers. The British officialdom's feeling towards him varied from one of ambivalence to a mild hostility. Consequently, neither the Indian bureaucracy nor the India Office was inclined to use the power that the stoppage of the supply of indentured labour to Natal gave them to obtain redress of the grievances of the free Indian settlers in Natal or elsewhere. "I have no interest in the Indian permanently domiciled in a Colony. He is likely to become a source of annoyance and trouble through his aspirations to be treated on terms of equality with his fellow citizens in the Colony", minuted a member of the Viceroy's Executive Council. [*Ibid,* Minute by E.F.G. Law, dated January 31, 1903] "The India Office has no special concern with any 'Arabs'", said an India Office representative to the Colonial Office. [CO 417/57, India Office to Colonial Office, November 19, 1899; R. A. Huttenback, *Gandhi in South Africa,* p.110] The argument that the free Indian settler who went to South Africa of his own accord knew what disabilities awaited him there and the British Government owed him no special responsibility, came in handy for this purpose.

This assumption Lord Curzon challenged, and for all practical purposes he was able to carry his colleagues with him. But he also had his blind spots. Unable, because unwilling, to see the relationship that existed between India's mass poverty and what Dadabhai Naoroji had called, "un-British rule" in India, he readily fell in with the view of his officials that all was well with the indentured labourer overseas. But, as a blue-blooded idealist of British Imperialism and custodian of the "brightest jewel in the British Crown", he resented the tendency at home to treat India, with its three hundred millions, as an appendage of the Colonies. India's interests must not be subordinated, and its nationals denied fair and equal treatment in the white colonies to which. as members of the Imperial family, they were more than entitled, he insisted.

After studying the case that had been put up before him by his officials, he expounded his view in a comprehensive note on January 27, 1903. Dividing the question of the disabilities of the Indian emigrants in South Africa into three categories, differentiated by the areas concerned, he took first the case of the Cape Colony where the Indians had till recently enjoyed full civil rights and the political rights of those privileges, but which of late had begun to modify its laws in the direction set by Natal. [N.A.I. (Emig.) A-Progs. No.40-46, May 1903. On this occasion, too, Lord Curzon proved himself to be more vigilant than his officials. He pulled up the Department concerned for its neglect in not putting up "if at all the possessed" a copy of "a very useful Parliamentary paper issued by the Colonial Office in England in December, 1900 or January 1901", in which were summarised all the restrictions, conditions, disabilities or penalties imposed upon Asiatic Immigrants in all the colonies under the British Crown. "It is a valuable compendium and ought to be in our file."] Then there was the case of Natal. Natal was not a Crown Colony, and as such was, in the last resort, free to order its affairs the way it liked. But unlike the Cape, the number of British Indians, either settled or labourers, in this Colony greatly exceeded that in any other Colony.

Finally, there was the case of the recently acquired territories of the two Boer Republics—the Transvaal and the Orange Free State. In these States, and particularly in the Transvaal, "harsh and insulting" disabilities were imposed upon British Indians. Several of these disabilities had been repeated in Natal. He listed the following disabilities under this head. (1) Land laws directed against Asiatic proprietors; (2) enforcement of pass system; (3) exclusion from franchise and juries; (4) closing of high schools; (5) refusal of trade licences and (6) Curfew regulation. [*Ibid*] So far as he was aware they had not been modified since the annexation of the two States. Although the matter was not immediately related to the file before them, he felt that the Government of India could not fail to take note of it.

> because whatever we do in Natal now is certain to be treated as an argument or precedent for whatever is hereafter done in the Transvaal... some form of constitutional Government cannot for long be delayed in the Dutch Colonies;...(and) when they get this their Cabinets and Parliaments are likely to be not less hostile and bitter towards British Indians, perhaps even more so than Natal, and accordingly...if we want to secure any exemption or relief we shall probably be wise to try for it, while a form of Government analogous to that of a Crown Colony still exists.

Taking up next the two "entirely opposite standpoints" represented by those who regarded the problem "through Colonial and Imperial glasses respectively", Lord Curzon continued his analysis. The Colonists argued that a self-governing Colony had absolute right of admitting whom they pleased and excluding whom they pleased from their country. The Imperialists, on the other hand, contended that all citizens of the Empire, independently of colour or origin, ought to be at liberty to live and labour in all parts of the Empire on the same

footing, unhampered by any racial disabilities or social and economic restrictions. Curzon conceded that there was some reasonableness in the Colonists' viewpoint "though I do not carry my sympathy with it quite as far as the Honourable Member (Sir Denzil Ibbetson)". The Imperialist stand, on the other hand, postulated

> a development to which the British Empire has not yet attained, or may perhaps never succeed in attaining; and...if logically carried out...would involve the removal or many other differentiations which are not likely to disappear at least in our time.

For himself he preferred to regard the case neither from the Colonial nor from the Imperial point of view; but to treat it as "a matter of business in which as the official representatives of our clients (the Indian population)...we are bound to make the best terms that we can for the people, *using every legitimate weapon in our power to extract from the opposite party the conditions or concessions that we desire and not hesitating to push matters to extremes, even to the possible detriment of the Colony,* in order to secure what we hold to be just and fair play for our Indian clients". [*Ibid,* (Italics by the Author)] He felt pretty sure that in this matter they held a "very strong position". In their bargaining with the Natal delegates, therefore, they should hold "resolutely" to the position that "it is they who are asking favours of us, not we of them; that it is we, who so far have grave cause of complaint, not they; that Indian emigration is nothing like so important to us as Indian immigration is to them; that some things we decline to give at all, and that others we are only prepared to give in return for what we regard as of equivalent value". [*Ibid*]

Spelling out in detail his view on the Natal Delegation's proposal he minuted:

He was not in favour of increasing the poll-tax of £3 per head. It had the invidious appearance of a fine upon a lawful action or intention. The Secretary of State had described it as being "contrary to the spirit of British institutions". Besides, if they agreed to the increase in the adult poll-tax from £3 to £10, for instance, it would set a dangerous precedent which might presently be used by the Natal Government (if this increase proved ineffective) to make a corresponding increase in the poll-tax on the children so that an Indian with wife and family would be penalised to the extent of £30 to £80 a year for the privilege of staying in Natal at the expiration of his indenture. Having conceded the principle, they would in that event be enabled to contest such an extension of it.

He regarded with "invincible repugnance" any procedure that put it in the power of the Colonial Government to imprison or haul up a British Indian settled “for the offence of desiring to continue to live in the place where he has made his money and which he has made his home".

Regarding as a lesser evil the proposal about deportation forcibly to India of the time-expired coolie who did not reindenture, he preferred it to the alternative of increasing the poll-tax. But he had his misgivings as to how it would work out in practice. "Supposing the time-expired coolie declined, even though he had voluntarily contracted at an early stage to go, how would you make him go? What would you do with his home and property? Forcible deportation has not a very nice sound; but forcible expropriation sounds worse!"

He reiterated what he had said at the time of their letter to the Natal Government of June 5, 1897 in regard to any general relaxation in favour of Natal. "I see no reason why we should differentiate in favour of Natal and many reasons why we should not.”

Rejecting the pro-colonist argument, that the free settlers who went of their own accord knew beforehand the restrictions in respect of them that were in force and therefore the Government of India had no right to make a grievance of the disabilities on the free Indian immigrants, which had often passed muster with his predecessors in office, his own officials and the Secretary of State for India, he minuted:

> The grievances that excite the greatest feeling and indignation among our Indian emigrants are those affecting the free, rather than the indentured emigrant, the respectable shopkeeper, trader, or artisan, rather than the coolie. It is of no use saying to him that he knows what he is in for when he starts. He answers that he does not, which is strictly true, and he might also answer that he can't since the Colony is continually adding to its vexatious regulations, and increasing their stringency. [*Ibid,* Lord Curzon's Minute of January 27, 1903]

If the Natal Government wanted the Government of India to meet them in respect of the indentured coolie, he concluded, they should realize that the Government of India were also entitled to demand as *quid pro quo* the removal of the disabilities on free settlers. Public opinion would be justly indignant if the Government gave anything away "without redressing familiar and notorious wrongs" that he had listed already.

5

On the evening of January 23, the Natal delegates arrived in Calcutta. On the 29th the file was circulated among the Honourable Members of the Executive Council, who expressed themselves in broad agreement with the Viceroy's views. [30 *Ibid.* On January 30, 1903 in a noting A.T. Arundale expressed "entire agreement" with Lord Curzon that they should "utilise to the utmost the admittedly great need Natal has for Indian immigrants in

order to obtain relaxation of the conditions under which they lie as residents when their indentures have expired." He strongly dissented from "the Colonial view of the immigration of the dark races". He was of the view that Parliament would warmly support any steps they might take for the protection of Indian immigrants. "It is only with Natal that the difficulty arises".

Concurring generally with Sir Denzil, T.A. Raleigh on the same day minuted that they might allow Natal to insist on return to India of immigrant labourers as part of the contract. But he did not think that "a breach of this term of the contract should be treated as a criminal offence".

F. G. Law did not see any objection to the time-expired "coolie" being forcibly sent home. "On the contrary I want him back and from a business point of view *I have no interest in the Indian permanently domiciled in a Colony. I cannot see that he is of any use to India. He is likely to become a source of annoyance and trouble through his aspirations to be treated on terms of equality with his fellow subject in the Colony."*

Agreeing with the Viceroy's views on the matter, Kitchener on February 2, 1903 remarked: "I have no doubt *the Transvaal and the Orange River Colony will watch closely what arrangement is arrived at in Natal.* The Boers feel very strongly on this point." (Italics by the Author)]

Sir Denzil Ibbetson had a meeting with the Natal Delegates on February 5. In the course of it he bluntly told them that there were great grievances regarding the treatment of the free Indian population in Natal; that if Natal was to be kept as a white man's Colony it should be kept so by "just legislation and by measures not open to strong objections"; that in the first place, legislation should not be retrospective, and secondly, that it should not involve "personal degradation". As concrete instances he mentioned Dealers' Licensing Act, Immigration Restriction Act, Nine o'clock laws and Servants' Act. He also impressed on them that the Indian was not on a level with the native of Natal; he was of "a far higher order of civilization". The delegates were asked to write down their demands and their reaction to the interview. [*Ibid*]

On February 10, 1903 the delegates sent to the Secretary to the Government of India a memorandum containing their reaction to the discussion

they had with Sir Denzil lbbetson on Thursday the 5th February on the grievances of the Indians mentioned by Sir Denzil.

Firstly, they admitted that denial of any appeal to the Supreme Court under the Dealers' Licences Act could be regarded as a hardship by both the Indian and the white section affected by it, and offered to "represent this hardship to our Government very strongly, and to urge upon it that steps should be taken, with as little delay as possible, to remedy the matter". They had "every reason to believe" that their Government would adopt their view and "cause legislation on the subject to be introduced into Parliament".

Secondly, they maintained that, according to their reading of the Immigration Restriction Act, the expression "prohibited immigrant", as defined in section 3, applied only to those who had come into the Colony "surreptitiously" since the passing of the Act. They believed the Act was not retrospective in any way except in so far as it gave the right to an Indian previously "domiciled" in the colony to re-enter. Nevertheless if the Government of India was not satisfied with the view the delegates took of the matter, they would be prepared to represent its view that "something be done to do away with what is feared may be possible under a strict interpretation of the words of the Act". [*Ibid*]

Thirdly, they explained that under the Pass Law the Municipal authorities, on an application by uncovenanted Indians, readily gave them passports exempting them from its operation. These Indians, being well known to the Police, were never molested or called upon for their passports when out after hours.

Fourthly, they denied the existence of any official rules debarring Indian children from admission into Government schools. This was not true and the

Natal Government itself later admitted that on this point their delegates were misinformed.

Finally, they admitted that the term "uncivilised races" used in the Registration of the Servants Act (Law I of 1897) was deemed to include all Indians introduced into the Colony as indentured labourers although they might not "be serving under such indenture or a renewal thereof". It was, however, only an enabling measure. No bye-laws affecting Indians had been made, and the law as regards Indians was, therefore, inoperative. They promised, however, that "the objection felt by Indians" in this regard would "be brought to the notice of our Government". [*ibid*]

In a further memorandum they catalogued the following concessions that they had discussed in their interview on February 5:

(1) Contract of indenture to terminate in India.

(2) Registration of intending emigrants at the port of embarkation, should the intending emigrant prefer to do so, instead of at the registration office of his district.

(3) (a) Percentage of women for shipment to be reduced from 40 per cent. to 33 per cent. and (b) this percentage to be reckoned on the total number of labourers only, as against the total population of the Indians in Natal.

(4) Government of India to place such interpretation on Act 10 of 1902 as would allow the emigration of special servants to be resumed on the same lines as before the promulgation of the Act.

(5) Emigration of indentured Indians to be authorised from the Bombay Presidency that had been stopped as a precaution against the plague. [*Ibid*]

Another point which they discussed was about effect on the status or an indentured woman labourer who married a free Indian or of a free woman who married an indentured “coolie”. [*Ibid*]

Originally the Natal delegation had proposed that the indenture should be for five years and one month so as to cover the time spent by the “coolie'' in getting to his depot, and waiting there to make his choice of return to India or of a further period of service. The intention behind it was to bring the “coolie” under the law which made desertion under indenture a penal offence. The Government of India officials immediately saw through it and, confronted with it. Mr Brousse De Gersigny candidly admitted that this was the real object at the back of their proposal. That proposal was subsequently modified and in its final form it allowed the time-expired coolies to be dealt with under the Pass Law." [*Ibid,* A. Progs. No.40, Secret No.11, May 1903, p.16]

6

Long before this Gandhiji had returned to South Africa. Already he had addressed a petition on behalf of the Indians to Lord Curzon and also wired to Dadabhai Naoroji to protest against the iniquity of the Natal delegates’ proposals. In the petition, Gandhiji had drawn the attention of Lord Curzon to the fact that while Natal was badly in need of Indian labour, it was not prepared to grant the indentured Indians the elementary rights of British citizenship, *viz.* freedom of settlement in the Colony. The aim of the Natal delegation to India was to “induce the Government of India to sanction the compulsory return of the indentured Indians who go to Natal, after the expiry of their indentures”, so that they do not have the opportunity of settling down in Natal. It wanted that either “the coolie must remain under bondage in the Colony, or must return to India, if he wants to remain free.” The petition requested His Excellency to realize the utter iniquity

of the situation and refuse to agree to the Natal delegation's proposals. [C.W.M.G. Vol.III, p.275]

In a letter to Dadabhai dated January 30, 1903 also, Gandhiji referred to the sinister object of the Natal delegation and said that if it was "countenanced by Lord Curzon" it "would be the climax of injustice" and would mean "unadulterated slavery" for the Indian labourers for a term of years. He added that it showed that the Colony had not in the least degree changed its hostile attitude towards British Indians and a "simple and most effective" solution to the whole problem was only the prohibition of indentured emigration to Natal. [*Ibid,* p.277]

The Indian petition had not yet arrived but Mr Miller, Secretary, Department of Agriculture and Emigration, had seen what had appeared in regard to it, in the Press. During the talks the Government of India officials had noted with some misgivings that while Messrs Shepstone and Gersigny seemed to be quite anxious to meet them as far as they could in regard to "'the treatment of the native" they were unable to pledge their Government to anything or even to promise that they would make recommendations which, perhaps they felt, would have "no chance of being carried into effect". Besides, there was the ever-present danger of any amendment of the law in favour of the Indians inflaming public feeling in the Colony which might make things worse for the Indians. Grievances arising out of extra-legal discrimination could not. Mr Miller recognised, be directly touched, but the Government of India could, he minuted almost in Gandhiji's words, object with hope of success, if the law itself put the Indians in a "degrading position", or if it gave "a special opening for race animosity to act" (see *The Early Phase,* p.405). Under this category came the Dealers' Licences Act, which the delegates had promised to get removed by allowing an appeal to the High Court. Discounting the Natal Delegates' statement that they

had no idea of the intensity of the feeling in India in regard to the ill-treatment of Indians in Natal, and were, therefore, entirely without instructions on the subject. Mr Miller characterised their "surprise" at having this question raised as "unnecessary, if not to some extent affected". For he had seen from the papers that a petition by the Natal Indians was on the way, in which quotations were given from a speech by "a Mr Hyslop—whom the delegates know". [*Ibid,* p.276] This showed, he commented, that the Natal delegates were well aware of the feeling in India on Natal's treatment of free Indians.

In regard to a change in the definition of the word “domiciled" in the Immigration Restriction Act, the expression apparently applied only to those "doing some permanent business for a term of at least two years". Strictly interpreted, it would have excluded those born and bred in the Colony but who had not taken up a permanent business there. [NAI, Progs. A-Rev. & Agri. Emig. Maconochie's Minute June 20, 1900] Mr Miller doubted if it would do the Indian any good if they asked for change in it and might "do him harm". [*Ibid*] They should instead ask that "domiciled" should not be interpreted strictly with retrospective effect. "At present it is not interpreted in its strict sense, retrospectively or otherwise – and this is better for the Indian than if domiciled were interpreted liberally up to the date of passing of the Act, and rigidly construed thereafter." [NAI (Emig.) A-Progs. 40-46, May 1903] As a further safeguard, he was of the view that they should intimate that "we hold ourselves free to withdraw from any arrangements we may enter into if the administration of the Act changes its present character".

With regard to the Servants’ Registration Act Mr Miller felt that they should press for the removal of Indians altogether from the purview of the Act, though the delegates themselves did not think that they could themselves offer "to recommend this with any hope of success”.

As for the Pass Law, after looking up the reports as directed by Lord Curzon, Mr Miller came to the conclusion that the cases of complaint were "few and trivial", and considering that "Mr Gandhi himself admits that a Pass law is a necessity", the only change they could press for was that wrongful arrest of a person not a coolie should be made liable to summary fine and damage, just as wrongful arrest under the Vagrancy Act was at the time. He did not think it worthwhile to raise the question of the franchise. It was decided years ago that the Government should not interfere in this matter and "the resident natives do not, according to Mr Gandhi, themselves wish for it".

After inviting the opinions of the Governments of Bengal, Madras and Bombay, Mr Miller submitted for the approval of the Viceroy the draft of the letter to the Governor of Natal; Lord Curzon signed it with the remark: " I have never read a better draft.'' It was despatched on April 25, 1903.

7

It had been a common enough practice in the past for the Secretary of State for India to take decisions on matters affecting Her Majesty's British Indian subjects in South Africa with the Colonial Office first and communicate the same to the Government of India afterwards "for information only". Lord Curzon reversed the order. Taking advantage of an arrangement sanctioned by an earlier Secretary of State, Lord Kimberley. in his Despatch No.4, Public dated 24th January, 1894, Curzon communicated his Government's reply of April 25, 1903 to the Governor of Natal direct, at the same time intimating that their reply was to be considered "strictly confidential" until his Lordship the Secretary of State for India's orders were known.

In their letter to the Governor of Natal, Sir Henry McCallum, the Government of India expressed their readiness to meet "if not altogether, at any rate to a considerable extent" the wishes of the Natal Government in respect of matters numbered 2, 3 and 5 in the Natal delegates' memorandum.

They were not prepared, however, to alter the law in regard to the matter numbered 4. Since any inconvenience that might be experienced in the engagement of private servants from India for service in Natal would be owing to the Colonial legislation for the restriction of immigration, they maintained, it would "furnish an argument for amending the Colonial Law, rather than for altering the Indian Emigration Act". [*Ibid,* From Lord Curzon to Governor McCallum, Natal, April 25, 1903] As for compulsory repatriation of time-expired labourers, they refused to countenance any arrangement under which the labourer would be kept "indefinitely in a state of indenture to be returned to India when unfit for further work, and when all his Indian associations had been broken by long absence". But if the period of indenture was not "too prolonged", they thought they could agree to a labourer *who had definitely agreed to return* at the end of it and *who fully understood the agreement,* being repatriated, in terms of his contract, provided that this did nor involve any "undue harshness", or any resort "to penal laws or methods". By way of *modus operandi* they suggested that on the expiry of each successive term of indenture the immigrant might be returned under escort to the care of the Protector for being sent back to India free of cost if he did not re-indenture.

Further, in order that such indentured labourers did not land penniless on their arrival in India, they stipulated a system of deferred pay of one shilling per month to be remitted by the employer to the Protector of Indian immigrants, who would credit it to the labourer's account – the deferred payment to be in

addition to the minimum wage, as the minimum wage admitted of no further reduction and some increase was fully justified by the increase in the wages of the labourers in India. [*Ibid.* If, however, a labourer entered into an agreement stipulating a higher wage than the sum of the minimum wage and deferred pay, the Government of India proposed that the deferred wage might be considered in the bargain and could if so agreed be deducted from his pay. In such cases the Government of India proposed that the rate of deferred pay be doubled.]

Since under the proposed scheme of compulsory repatriation the immigrant labourers would necessarily be free from any liability to pay a licence tax for leave to reside in the Colony, and only a small proportion, or 17 per cent. of emigrants had re-indentured at the expiry of their first term of contract, and this percentage would drop further at the end of each succeeding period of reindenture, the Government of India argued, within a maximum period of nine years from landing practically every emigrant would either have returned to India or have made up his mind to be free from indenture, even at the cost of paying the tax, and the tax would have "exhausted its effect as an element in inducing the coolie to return to India". They, therefore, proposed that this tax should altogether be abolished after ten years, and an *undertaking that this would be done should be given as a condition precedent to their acceptance of the proposed arrangements for repatriation.*

The delegates were prepared to accept immediate and complete abolition of £3 tax if all labourers currently serving under indenture could be brought under the arrangements for compulsory repatriation. The Government of India, however, demurred to this as they felt that they could not take away without a breach of faith the option [*Ibid*] that the emigrants already enjoyed under the terms of their contract. They therefore insisted on unconditional abolition of the £3 tax after the stipulated period as “a condition to which they attach the very greatest importance". [*Ibid*] The significance of this stand will become clear when

it is seen that, according to Natal *Government Gazetteer,* 11,175 indentured men and 5334 women had become free by December 31, 1904 since the introduction of £3 poll-tax. Of these 7,585 men and 1,845 women had paid the poll-tax. In other words, 9,430 men and women chose to settle down in some vocation or carry on trade in the Colony, by contributing £28,290 to the Natal treasury, [C.W.M.G. Vol. IV, p.417; *Indian Opinion,* April 22, 1903] not to mention years of weary toil, blood and tears as the price of their freedom. They would have lost that precious right if the Government of India had yielded to the Natal Government on this issue. Lord Curzon was not prepared for that.

Besides the 80,000 ex-indentured labourers and their descendants, there were some 10,000 "Arab" traders, and since the Government of India were as greatly interested in the fair treatment of one class as of the other, they urged that the subject of their discussion should he regarded from a point of view "which extends beyond the mere welfare of the indentured labourer, and to treat it as a broad question of policy between the two Governments". The free Indian in Natal had of recent years been "treated with harshness, and in some cases with positive injustice". Various Statutes frames under the Pass Laws included the Indian in the same category with the Native African "than whom he stands on an immeasurably higher level of civilisation", and subjected him to regulations which he regarded as personal indignities, while the immigration law of Natal forbade "those who pride themselves upon being subjects of the British Empire to settle in a portion of His Majesty's Dominions" [NAI (Emig.) A-Progs. No.45, From Lord Curzon, Viceroy of India to the Governor of Natal] and imposed upon the time-expired labourer a pecuniary penalty "for the offence of desiring to remain in the country where he has earned his money and which he has made his home". Granting that some of the grievances complained of were sentimental rather than practical, they were

not less keenly felt on that account. "Indeed it is the distinction of colour upon which many of the regulations in question rest which is resented even more than any practical inconvenience which may result from them." The complaints that had reached them with "increasing frequency" about the treatment of their subjects "in South Africa generally and not least in Natal," the Government of India protested, were "intensely irritating", and had aroused a very widespread feeling of resentment.

> ...(It is) a feeling which is shared to the full by their brethren in this country and which it is impossible for my Government to disregard. This treatment extends to matters outside the law, but it receives countenance from many of the laws in force, and the Government of India would not be justified in altering existing arrangements to meet the wishes of the Government of Natal, unless the concessions which they make are to be accompanied by such reciprocal concessions on the part of the Colony as may secure some substantial amelioration of the conditions of the life of the free Indians in Natal. [*Ibid*]

The Government of India did not ask for an exemption in favour of Indians from the operation of the Immigration Restriction law, on the diplomatic ground that it would be "interference" in the general policy of the Colony. Similarly, they did not suggest the abolition of the residential tax upon time-expired labourers as they had accepted it before on principle. They also conceded that some form of Pass Law was a natural accompaniment of a system of inckntured labour. But they felt that they must press for the following concessions for the free Indians as a precondition of their acceptance of the Natal Government's proposal for compulsory repatriation of Indian immigrant labour:

(1) The Government of Natal should undertake to amend the Dealers' Licensing Act so as to give the appeal to the Supreme Court against the decisions of the Licensing authority.

(2) The Servants Registration Act should be altered, so as to take out Indians altogether from its operation. If the Indians could not in practice be subjected to its provisions, as claimed by the Natal Delegation on their Government's behalf, there was no reason why any mention should be made of them in the Act.

(3) Respectable free Indians were not properly subject to arrest either under the Vagrancy Act, which applied only to the "coolies", or to indentured Indians, or under the Immigration Act, which provided for the arrest of "undesirable" or "prohibited" immigrants only. The Government of India saw no reason why, if they were arrested "wrongfully" or "maliciously" and without adequate cause under any such law, the law should not provide a summary remedy against the aggressor, as the Vagrancy Act already provided under certain similar cases. [*Ibid*] This was all the more necessary, as the Indians in Natal found that the remedy by a civil suit for damages for wrongful arrest provided under the law, besides being tardy, in the case of poor persons was "almost wholly illusory".

(4) The Government of Natal should undertake to repeal altogether the £3 annual tax on the time-expired indentures, from a period of ten years afrer the introduction of the system of compulsory repatriation of Indian indentured labour.

(5) Any official rule or law excluding Indians from Government schools should be cancelled.

(6) In regard to the proposals made by the Natal Delegation for dealing with cases of marriage between free and indentured persons under the new arrangement, the only condition to which the Government of India could agree was that if a free woman were to marry an indentured man, the marriage would not affect the status of the latter, subject to the stipulation that if he were to be repatriated against his will, his wife and children would be entitled to free passage together with him. In the case of a free man marrying an indentured woman, the latter should be bound to work out her current indenture, but after that she should be free to settle in the Colony without being subject to any special tax or other disability.

(7) Dispensing power should be reserved to provide against any occasional hard cases to which the enforcement of the power of compulsory repatriation might give rise.

Finally, anticipating that their object could not be wholly attained by any changes in the law, still less by any changes which it would be possible for the Government of Natal to accept, though such changes would "apart from their direct effect, be of service in accentuating the necessity of fair treatment to persons coming from this country", the Government of India insisted that in any arrangement into which they might now enter notwithstanding, they must reserve to themselves "full discretion to prohibit emigration altogether" should the continuance of the treatment "which has caused so much well-founded irritation in this country render such a measure necessary in their opinion". They regarded the existing state of affairs as open to "the most serious objection". They felt bound, therefore, to make it plain, that it might not be possible for them, if the terms offered were rejected, "to continue the existing arrangements

upon their present footing," and it might even "become necessary for them to reconsider the whole position". [*Ibid*]

8

On May 14, 1903, the Government of India in a comprehensive Despatch communicated their views to the Secretary of State for India. With it they enclosed copies of their correspondence with the Natal Governor and the related documents. Recalling that in their earlier Despatch No.36 of July 12, 1900 they had expressed the hope that the loyalty of the Indian population during the war and the recollection of the services rendered by the Indians at that time would pave the way for some remedy of their numerous grievances, they regretted that that hope had not been realised, and the various efforts of the Secretary of State for India and of the Secretary of State for the Colonies in that direction had proved unfruitful. In spite of it they had resisted the pressure of public opinion in India to procure the redress of their grievances by threatening to stop, and if neccssary actually stopping, the supply of labour to Natal, which everyone well knew could be a serious blow to its economy, as they very much doubted whether any Natal Government would find it possible "in the present state of public feeling" to remove the restrictions upon the entry and residence in the Colony of Indian immigrants" even if the penalty of not doing so were to be the cessation of the Indian labour supply, and the serious injury of the Colonial industries".

They had felt constrained to reject the Natal delegation's proposal to raise the residential tax on time-expired coolies to a prohibitive amount and to make a failure to pay it penal, as that proposal had been made "with the scarcely concealed intention of facilitating the constant harassment of those labourers who might venture to settle in Natal". It was obvious that even if the enhanced tax were recoverable by distraint alone, it would be "ineffectual" in the case of

the well-to-do, while the poor man "might be shadowed by the bailiff and sold up as often as he acquired anything saleable, with the avowed object of rendering residence in the Colony intolerable to him". In order to meet the wishes of a self-governing British Colony as far as they could, they had reluctantly agreed to the principle of compulsory repatriation subject to the conditions laid down in their memorandum to the Natal Government, [NAI, (Emig.) A-Progs, No.46, From Lord Curzon to the Secretary of State for India, Para 16 of the Despatch of May 14, 1903 ran: "We object as strongly now as before to the introduction of any special criminal law for dealing with labourers who fail to carry out their agreements to return. But we see no objection to permitting the Colonial Government to forward labourers on the expiry of their term of indenture to the Protector under civil escort, nor can we see any hardship in keeping labourers, who have already served for a term of five years or more, under further restraint for a maximum period of three months at a depot, until they have made up their minds whether to return to this country or to accept a fresh period of indentured service ...." Although the quasi-compulsory return to their homes of time-expired emigrants lessens the permanent relief afforded by emigration to the overcrowded districts, the Despatch continued, still the return of the emigrants was on the whole to the advantage of India. Their argument was that when "such emigrants settled down in the Colonies, the money saved by them remained in the Colony instead of being brought back to India; while the increase in the number of Indians born in the Colony tended to decrease the demand for imported labour and thereby adversely affected the relief afforded to congestion in India. On the other hand, 'the coolie' who returned to India was generally well-to-do and threw no burden upon his native country and his place in the Colony was taken by those who were a burden."] but they were not prepared, they said, to accept any proposals that would further restrict the liberty at the time enjoyed by their immigrants to settle in the Colony, or to make concessions of any sort to the Government of Natal unless they could obtain in return some guarantees for the more fair and equitable treatment of free Indians already settled there. [*Ibid,* para 17]

> In return for our agreement to the principle of repatriation, we accordingly stipulate for the eventual abolition of the licence tax....We also insist upon the amendment of the Traders' Licensing Act...We press for removal of Indians from the Servants' Registration Act where they are

> classed with barbarous races...and we stipulate that following a precedent already adopted by the Natal Legislature, a summary remedy should be provided for free Indians who are wrongfully arrested. We trust that these stipulations will...serve to convince the people of Natal that the free Indian residents there must be treated with some measure of respect for their rights as British subjects, and that should this result be not attained, the Government of India may find itself no longer able to permit the immigration of its subjects. [*Ibid*]

Since they would have to reckon with certain aggravation of the already daily growing bitterness of the feeling of the educated class in India if the current negotiations failed to secure better treatment of their Indian subjects in Natal, the Despatch concluded, they had reserved to themselves the freedom to withdraw from the arrangements into which they had offered to enter, should they "at any time consider such action necessary in order to secure the proper treatment of our subjects in the Colony".

9

Lord Curzon was confident that Natal would have to make the best of the Government of India's offer since the alternative would be a complete paralysis of that Colony's economy. "Natal we hold in the hollow of our hand", ran one of his demi-official letters addressed. to the India Office. But he had reckoned without the impact on Natal of the evil example of the Transvaal under Milner's dispensation. The developments in the Transvaal were now setting the pace of anti-lndian sentiment in Natal and other parts of South Africa, as the events in Natal had done on the eve and towards the close of the war in respect of the Transvaal.

On August, 13, 1903 Governor Sir H. E. McCallum sent to the Government of India the Natal Ministers' minute rejecting practically all the conditions laid down by the Government of India. They could not quite see how the detention of the emigrants by the Protector could be ensured by executive action without the aid of police power, and they objected to the cost of detention falling on the general funds of the Indian Immigration Board. The right to settle at the end of eleven years' period free from the annual tax, in their opinion, "more than counter-balances the repatriation scheme". They were "doubtful" as to the assent of Parliament to the repeal of £3 residential tax as from a period of ten years after the introduction of the system of compulsory repatriation of indentured immigrant labour, and were "very doubtful" as to the assent of Parliament to abolition of that tax. In regard to an amendment of the Dealers' Licensing Act giving appeal to the Supreme Court against the decision of the Licensing bodies, they thought, Parliament was not likely to pass it and, if appealed to by the "Arab" traders in respect of their "grievances", was "more likely to increase rather than to mitigate such grievance".

As for the removal of the ban against Indians being admitted to Government schools, the Natal Government thought that it would be "hopeless" to ask Parliament to remove distinctions based on colour. "No Government dare throw the doors of their schools open without distinction of colour to all children, and any attempt to abrogate the present practice will in all probability lead to stringent legislation on the subject." It was even darkly hinted that if the question was mooted, "the boys of white parents might make the presence of boys of coloured parents impossible in the schools" which the Natal Government could not contemplate with equanimity.

The Natal Government's minute continued.

> Speaking generally, if the repatriation of the indentured Indian is only to be secured on the terms of the unrestricted admission of 'Arab' traders into the 'Colony', with all the rights of European British subjects without any disabilities...it appears to Ministers that the Government and the people of Natal can only regard the price to be paid as too great for the concession which the Government of India is prepared to give. [NAI (Emig.) A- Progs, Nos.16-21(A), December 1903, Governor of Natal to Lord Curzon, dated August 13, 1903, Memorandum Part II]

As a parting shot the Natal Government pointed out that Natal's laws did not bear so harshly on the 'Arab' traders "as do the regulations now in force in the adjoining colonies of the Transvaal and Orange River, which are, as Crown Colonies, under the direct control of the Imperial Government". Menacingly it added: The recent proposals as to Indian or 'Arab' traders and their location in Bazaars in the Transvaal had led the Corporation of Durban to make suggestions as to the class of traders and occupiers of premises in Durban, "and these proposals, if they were introduced in legislation private or public", and sought to be enforced could not expect to meet with the approval of the Indian Government" but will undoubtedly find warm advocates in the Natal Parliament". Ministers had, therefore, come to the decision, the minute concluded, that "the manner in which their negotiations have been met and the counter-proposals which are made conditions upon which alone the requests of this Government will be granted by the Government of India, render it imperative on the Government of this Colony to no longer press for those measures of relief as to indentured immigrants, which are only to be obtained by such concessions to the 'Arab' trading population as the people of this Colony will not favour or concede". [*Ibid*]

On September, 24, J. O. Miller minuted that the Natal Government having rejected out of hand the Government of India's offer, it was not for them to proceed with the question for the time being any further. "We may await the orders of the Secretary of State on the subject." [NAI Progs. (Rev. Agri & Emgn.) A-Nos. 16-21, J. O. Miller's demi-official letter to Sir W. Lawrence, P.S. to the Viceroy, dated September 21, 190] Very sharp was Lord Curzon's reaction. "It will certainly not be for Secretary of State but for us to take the next step, and we should wire to the Secretary of State and ask if he desires to hear from us on the subject." [*Ibid,* Curzon's noting on the above] Accordingly a wire to that effect was sent on October 7, 1903. [NAI Progs. A Nos.16-21, December 1903 (Rev. Agri & Emgn. No.17)]

In the meantime Lord George Hamilton having made his exit. St. John Brodrick took his place as Secretary of State for India as from October 7, 1903. On November 14, the new Secretary of State wired back to ask if the Government of India had "any modified proposal to put forward". The Government of India had none. "In agreeing on certain conditions to system of compulsory repatriation", they telegraphed on December 19, 1903, "we offered a valuable concession...in return for mitigation of certain grievances. Colonial Ministers who themselves opened negotiations have declined our terms and in view of general tenor of their reply we see no advantage in further discussions as they evidently are unable to accept conditions which we consider essential". [NAI Progs. A No.16-21 (Rev. Agri & Emgn.) December 19, 1903] Referring to the Secretary of State's wire of the 14th, on the following day Lord Curzon wrote: "I was never more relieved than when the Natal Government rejected these terms, for I am confident that we should have been accused throughout India of a weak-kneed surrender." [NAI Curzon Papers: From Curzon to John Brodrick. November 15, 1903, Archives Reel No.4, No.87, p.406]

CHAPTER VII : GREEK MEETS GREEK

1

Ever since his Despatch of July 12, 1900 to the Secretary of State for India [NAI (Rev. Agri. & Emign.) A-Progs. No.4, July 1900] that had brought Sir Arthur Godley's cynical reply [Sir Arthur Godley to Lord Curzon, July 27, 1900. "I cannot help feeling that there is a certain amount of unreality and cant about our proceedings; for if Natives of India showed any inclination to immigrate…or underbid the small British tradesmen….we should behave...exactly as Natal has behaved."— NAI, F.III/159; Curzon Papers, Reel No.1; Pyarelal. *Mahatma Gandhi — The Discovery of Satyagraha — On the Threshold*, p.348] (see *The Discovery* pp.347-8) Lord Curzon had been on the lookout for a suitable opponunity to take up with the India Office once again the question of the future of the British Indian subjects in post-war South Africa. That opportunity came to him sooner than he had thought.

In later years Gandhiji used to remark that a little act of duty perseveringly performed in faith sometimes introduces into the web of history an element which becomes the determining factor in shaping the course of events and gives to it a turn that nobody had thought of. [C.W.M.G. Vo1.56, p.325; *Hindustan Times,* December 14, 1933. "A duty religiously performed carries with it many other important consequences."] Over the years, he had often, in the face of severe discouragement, kept up a ceaseless flow of memoranda, notes and personal letters addressed to the authorities and friends of India both at home and in England. One of them arriving *at* a critical juncture set off a chain of incidents that had a profound effect on the developments in South Africa with a result that even its author had hardly dared to expect.

This is how it came about.

On January 31, 1903 the Assistant Private Secretary to the Viceroy transferred to the Department of Emigration and Agriculture, which was in charge of Government of India's emigration policy, for necessary action a copy of a petition, which Messrs Coovadia and Asvat had made to Lord Milner on November 6, 1902, [NAI (Rev. Agri. & Emig.) A-Progs. Nos.36-39), May 1903] against the anti-Indian legislation that was in force in the Transvaal. The Secretary of the Department thought it would be better to wait till the discussions with the Natal Delegates were over when they would be able to suggest definitely the course to be followed. [*Ibid,* J. O. Miller's minute dated January 31, 1905] Lord Curzon agreed and it was decided to keep the matter pending till the outcome of negotiations with the Natal Government was known.

In the meantime on March 20, 1903 Sir William Wedderburn, on receiving Gandhiji's circular of February 23, 1903 wrote to Lord Curzon a demi-official letter in which he urged that while the Transvaal and the Orange River Colony were still Crown Colonies, the question of the rights of the British Indian subjects should be settled "according to recognised British principles". [*Ibid,* Sir William Wedderburn to Lord Curzon dated March 20, 1903] If this was done.

> the *onus* will be on the colonists if afterwards, when they have self-Government, they desire to alter an arrangement approved by the Imperial authorities. If things are now allowed to drift, the colonists will (not without show of reason) say that the British Government has condoned the present exceptional treatment of British Indian subjects. [*Ibid*]

With this letter he enclosed the circular letter in which Gandhiji had expressed his apprehension that if appropriate action was not taken immediately, an adverse decision by the Home Government on the Transvaal question might be taken which it would be impossible to get altered afterwards.

Sir William Wedderburn's argument appealed to Lord Curzon. Seized of the urgency of the situation he acted swiftly. [*Ibid,* D. Ibbetson to Lawrence, dated April 17, 1903] Under his instructions his Private Secretary, W. R. Lawrence, passed on the letter with its enclosure to the Honourable Sir Denzil Ibbetson who likewise, was so impressed by Sir William's argument as to the danger of delay that, modifying his earlier view, he suggested that simultaneously with their despatch to the Secretary of State for India on the question of the Natal Delegation's proposal they should once more take up with him the subject of the Transvaal anti-Indian laws in a separate despatch. On April 17 he put up a rough draft on the proposed Despatch for the Viceroy's approval. The Viceroy found it "luminous and forcible" but thought that, in view of what Sir William Wedderburn had written they should promptly telegraph the Secretary of State to await their despatch which was on the way, "since, for all we know, the matter may even now be under discussion and His Majesty's Government may be in course of committing itself". [*Ibid*] A telegram was accordingly sent to the Secretary of State on April 28 to request that no action be taken on the question of British Indians in South Africa until their despatch was received.

The draft that Sir Denzil had prepared was with a few modifications despatched on May 14, 1903. The same mail also carried their Despatch on the Natal Government's proposal about compulsory repatriation of "coolies" from India on the termination of their indenture.

2

Picking up the threads where they had been dropped in July 1900, [Pyarelal, *Mahatma Gandhi—The Discovery of Satyagraha—On the Threshold,* p.348] the Despatch urged that the question of the treatment of Indians in the annexed territories was likely to come under the consideration of His Majesty's Government, and its decision

once made public would be difficult to depart from, "at any rate in the direction of treatment more liberal than public opinion in the Colonies would be disposed to approve of". [NAI (Rev. Agri & Emig.) A-Progs, No.18 of 1903] Already the treatment of their fellow-subjects in South Africa had aroused "a very strong and bitter sentiment" among the educated and articulate sections of the Indian people.

> Their resentment is primarily based upon a reeling of pride in the fact that India is a member, and the people of India, subjects of the great British Empire. This feeling...springs in the main from...those principles of freedom and equality which they have learnt to regard as the birthright of a British subject; and *though not without its inconvenience...it constitutes almost the only basis upon which active loyalty to the role of an alien conqueror is likely to be developed.* [*Ibid,* (Italics by the author)]

What was most resented by public opinion in India, the Despatch continued, was the legislation which differentiated Indians from other subjects of His Majesty, which classed them as "undesirables", which denied them access to portions of their Sovereign's dominions "save in the capacity of indentured labourers", or which subjected them "to a pecuniary penalty for the offence of desiring to remain in them". Though legislation was not expressly directed against the Indians exclusively, the Government of India protested, the Indians were "as fully aware as we are" that after the Chinese it was at them that these precautions were in reality directed. "They resent most bitterly the distinction of race and colour upon which many of the Colonial regulations are based... Above all they resent being included in the same category with the indigenous inhabitants of Africa, whom the history of their country and people justifies them in regarding as standing far below themselves in the grades of humanity". [*Ibid*]

In the past it could be said and the Indian had recognised, observed Lord Curzon, that so far as the Dutch Colonies were concerned, it was the Boer and not the British Government which was responsible for the treatment which they resented. As regards the British Colonies of South Africa also they had accepted, "though not wholly", the plea that there was a limit to the pressure which the mother-country was justified in exerting upon Colonies, to which she had granted the privilege of Government especially in the matter of domestic and municipal administration. When, however, the two Republics were annexed to the British Crown they looked for

> an immediate reversion to that general principle of equal treatment for all which they regarded as the central tenet of the British constitution; and they were amazed to find that regulations and restrictions which under Boer administration had remained mere rules upon paper, were enforced with a vigour hitherto unknown. [*Ibid*]

Even this was explained for the time being by the fact that the country was under the regime of martial law, and by the "Constitutional dislike of the Englishman to consent to the non-observance of a rule, however objectionable, so long as the rule is in force". [*Ibid*] The martial law had since been withdrawn and the Colonies were under the direct administration of the Crown, so that this explanation no longer held. The educated and articulate section of Indians were therefore confidently expecting that whatever action would thereafter be taken by the British Government would be based upon the principle of equality by which they set great store and would constitute "a standing protest" against what they regarded as "the unjust and illiberal action of other Colonial Governments".

> We do not hesitate to express our conviction that, if this expectation is disappointed, the confidence which the educated classes of India repose

> in the justice of the British Government and in the benefits of inclusion in the British Empire will be materially shaken. [*Ibid*]

But apart from this, it was obvious that whatever regulations and restrictions it was now decided to impose upon Indian settlers would be establfshed for ever "as an irreducible *minimum".* In due course, "possibly after a not very long interval" self-Government would be conceded to the Transvaal and the Orange River Colony;

> and it is very certain that the tendency...will not be in the direction of relaxation, while all protests on our part would be vain against any action which they could defend by the argument that it had authority of the Colonial Office as its sanction. [*Ibid*]

On the other hand, if the principle of "reasonable equality" was adopted as the basis of the regulations which were about to be made" at least the onus of abandoning it", as Sir William Wedderburn had pointed out, would rest with the popular Government of the future, should it adopt that course. [*Ibid,* (Italics by the author)]

The Government of India, therefore, urged on the Secretary of State that in negotiating on the subject they should stipulate for the improved treatment in general, and they should have "far freer hand" in imposing such a stipulation.

For, "it would be useless for us to object to anything which was supported by the express authority of His Majesty's Government, as having been introduced by them into Crown Colonies in Africa". [*Ibid*] Unless this was done, the Government of India warned, the Secretary of State might find himself in the same predicament in which the Home Government found themselves in their representations to the Boer Government regarding the British Indians in the

Transvaal as a result of what they had themselves sanctioned in the case of Natal as pointed out by Chamberlain to Milner in his Despatch of 22nd June, 1898 (see *The Discovery,* p.241).

Granting that it was impossible wholly to disregard the unanimous public opinion of the African colonies, the fact remained, the Government of India contended, that the public opinion in the case of the Transvaal was on all accounts largely based on "trade jealousy and race prejudice", and that, in so far as it rested on a broader basis, it was possible to educate it. They earnestly hoped, therefore, that His Majesty's Government would not *"endorse by imitation action on the part of the Colonial Governments which we understand that they have hitherto regarded with regret,* that they will be more liberal than those governments in their treatment of the Indian question", and "at least not less liberal" than the Boer Government to which they have succeeded, "whose action in the matter must, we submit, be measured by the manner and degree in which their laws were enforced in practice, rather than by the provisions of the law themselves". [*Ibid,* (Italics by the author)]

Anxious, however, to show that he was no irresponsible “radical", and that in upholding the principle of white race supremacy he yielded to none, Lord Curzon hastened to add:

> We do not for one moment suggest, nor do we regard it possible, that Indians should enjoy in an African Colony an absolute equality of rights with the white colonists, unhampered by any racial disabilities or any social and economic restrictions whatever...such equality does not exist even in India. We do not, for instance, claim for them admission to franchise, or inclusion on the general jury roll, for these institutions are foreign to their own ideas. We all of us understand, and some of us sympathise with the

> determination of the African Colonists that their colonies shall be white man's colonies...and we should not regard as unreasonable a provision that no Asiatic can acquire property in agricultural land, or precautions against pauper immigrants of whatever nationality. [*Ibid*]

But all the principles, the infraction of which the Indian community so deeply resented, the Government of India went on, had been most strenuously asserted by His Majesty's Government itself in opposition to Pretoria authorities. [*Ibid,* para 8. In illustration, Lord Curzon's Despatch mentioned the freedom to travel and dwell in any part of the Republic, to rent and own buildings, and to carry on trade; and equality of taxation with the Burghers in the Republic, secured to them by Article XIV of the London Convention which Her Majesty's Government most vigorously held, just as they had always resisted any attempt on the part of the Transvaal Government to read 'Natives' as including natives of India. Besides. they had demanded the restriction of freedom of residence in the case of "coolies" should be limited to cases in which it was justified on 'sanitary grounds', and they had consistently opposed the invidious attempts of the Transvaal Government to extend the meaning of the expression "coloured persons" in order to include "natives of India" within their respective provisions] If four years ago the Government of Pretoria had proposed, as was now proposed, to have legislation to restrict immigration into the two new colonies upon the model of the Natal and Cape Colony law on the subject, it would have been promptly disallowed by Great Britain as an infringement of the London Convention. That Convention secured to Indians absolute freedom of access to the Transvaal. The Government of India could not believe that its nationals in the annexed territories would now be "obliged to date their virtual exclusion from that country, from the time when it became subject to His Majesty and was administered by his Government". [*Ibid,* Para 9]

The despatch dismissed as groundless the fears of the two colonies of an Indian “invasion". The Indian "coolie'' had neither the means nor the enterprise to wander unassisted to foreign lands in search of employment. [*Ibid*] The only

class of Indians who were at all likely to seek admission were merchants and traders and domestic servants. The supply of the latter would be regulated by demand; while the former could never "imperil" general interests of the Colony though, as Chamberlain had pointed out to President Kruger, they could "well be objects of a trade jealousy which I have some reason to believe does not emanate from the governing class in the Republic". [*Ibid*]

3

The Government of India, therefore, submitted firstly that, should any such legislation be decided upon, the current test consisting in the ability to write some European language, which invidiously excluded not only illiterate and therefore presumably pauper immigrants of all nationalities but also all Indians, however highly educated, who were unable to write English, should be suitably modified so as to admit all those who were able to write in a language which was "the vernacular of any portion of His Majesty's Dominion".

Secondly, they reiterated their objection to the use of the word ‘domiciled’ in section 6 of the Natal Immigration Restriction Act. If it was copied elsewhere, it would expose British Indians to all the risks of hardships from which in Natal they were for the time being saved only by a lenient administration of an otherwise harsh and unjust law. They asked that this be remedied by a statutory safeguard.

Thirdly, there was the Pass Law and its corollary, the Curfew System. Under the Boer regime in Johannesburg Indians were nominally subject to Pass Law. In Pretoria, however, where there was no law on the subject, both Pass and Curfew regulations were applied to them by virtue of custom. Lord Milner in his letter of May 15, 1899, had observed that the question “is not one which admits of

argument", while in an earlier letter he had said that “there was nothing to be urged in its defence". [*Ibid,* Milner's letter dated March 25, 1898 quoted in para 11] Later, Passes were required from all alike, but they were told that this was "a purely military regulation" which must have since been "discontinued''. [*Ibid,* Secretary of State for India Despatch of September 20, 1901, quoted in para 11] Granting that some scheme of passes was a necessary accompaniment of a system of indentured labour, the Government of India maintained that it was altogether unwarranted in the two new Colonies where no such system was in force. The only justification for it that they could think of was to be found in "practices of a persistently criminal nature", such as obtained among certain criminal tribes in various parts of India, who were subject to a regular system of registration and passes. They refused to believe that this justification would "ever be found to exist in the case of our emigrants to Africa”.

Fourthly, there was the system of locations. It had never been enforced by the Boer Government "in anything but the most half-hearted manner”, owing chiefly "to the strenuous opposition by the British Government". Was it not surprising then, the Government of India asked, that after annexation its provisions had already been enforced under military law in Pretoria and that the Town Council of Johannesburg now proposed to follow the example?

In justification of its action, it had been contended by the Johannesburg Town Council that enquiries instituted by them in 1901 showed that the condition of the Indian location as it stood was beyond question insanitary. But the same enquiries had also revealed the fact that the condition of the adjoining area, where out of the total population of 1000, half were Europeans and which contained only 67 Indians, was even worse. In both cases, the Government of India maintained, this condition was the natural result of "absolute and long

continued neglect to enforce the most ordinary sanitary precautions upon a population of the lower orders of whatever nationality", and apparently afforded no ground for differentiation to the disadvantage of Indians, while in so far as the habits of the lower class of Indians were insanitary, on the Transvaal authorities' own admission, it was open to question whether in the event of an epidemic "they would not constitute a greater danger to a town if concentrated in a single location, than if more widely distributed and therefore living under more favourable conditions". The ground of insanitation, therefore, did not hold.

An even more decisive argument was provided by the example of Natal. It had a population of over 80,000 Indians, but it had as yet found no necessity for the location system. While in the Cape Colony, where in the solitary instance of East London application of such a system to Indians was authorised by law, the town people had been content to allow the law to remain a dead letter. How could the system be then required in the case of the Transvaal, the Indian population of which was estimated in 1898 to number under 15,000 souls, the Government of India asked.

But even if it was desirable and necessary, from a regard for public health, to confine the lower classes of Indians to locations, it surely could not be justifiable to include the more respectable and well-to-do classes in the measure. The Government of India, therefore, insisted that an express provision should be made for it in any law upon the subject. Failing that, the executive instructions should be interpreted more liberally than in the case of Pretoria, "where, out of the whole Asiatic population, only four persons 'of known respectability' were, in 1901 exempted by the Supervisor of Indian Immigrants".

Supposing, however, it was decided that residence in locations was to be enforced, the Government of India questioned whether the measure should

apply to places of business not used for purposes of residence. The British Gov·emment had contested the attempt of the Government of Pretoria to include places of business within the provisions of Law 3 of 1885. Even after the decision of the High Court in a test case, which was adverse to their contention, they had made it abundantly clear that they did not by any means accept or acquiesce in that decision, and that the suggestion which they eventually made to the Pretoria Government that a bazaar should be set up for the use of the Indian traders was simply made because they felt that their hands were tied, and that this was the best which they could do for their people. If after all this they now sanctioned the proposal to the effect that the trade of Indians would in future be confined to separate bazaars set apart for the purpose and the order requiring Indians to evacuate their existing dwellings was to apply to 'places of business as to places of residence, it would appear, the Government of India submitted, that the British authorities were "actually doing what a few years ago they strongly protested against the Pretoria Government's only proposing to do". [*Ibid,* Para 14]

Fifthly, there were the regulations by which Indians were forbidden to walk upon footpaths, to make use of public conveyances, to travel by the higher classes on the railways, and so forth. The British authorities had so vigorously protested against them before, "not only as being technically open to objection, but also as being opposed to all propriety and fair dealing", that the Government of India were confident that no official countenance would be lent to any such invidious attempt. Similarly, they hoped that in any legislation in which it might be necessary to mention them, the Transvaal practice of including all classes of Indians indiscriminately under the generic term of the 'coolie' would be abandoned, "since the term is properly applicable solely to the class of daily labourers". [*Ibid,* Para 15]

From their past experience the Government of India had come to feel that it would be futile to rely on oral assurances given by the Colonial Governments that were not embodied in their laws. They, therefore, asked that, as an additional safeguard, whatever exemptions it might be found possible to permit from the provisions of the general law should be given "express statutory authority and not left to mere executive instructions", as the effect of such instructions depended largely upon the views of the individual who might be charged with carrying them out. Besides, they could be set aside or neglected.

Finally, they urged that whatever measures of restriction it might be decided to adopt, they should in no case have any retrospective effect, and that vested interests should in all cases be scrupulously respected. Restrictions, the effect of which was wholly prospective, could not be justified on the specious ground that the free Indian who chose to come and settle in South Africa well knew the restrictions under which he would have to live. Actually he did not know and had no means of knowing as the number and magnitude of disabilities was constantly being added to from time to time. Still less was it possible to justify those restrictions which affected interests that had already come into existence. [*Ibid,* para 16. We do not accept the argument so often used, that an emigrant who goes to another country in the hope of bettering himself knows or might know what he is going in for, and in any case must take his chance of the treatment which he will receive there. Our answer is that the ordinary Indian emigrant knows nothing of the restrictions to which he will be subject, and, quite apart from the fact that they are liable to be added to any moment, has no means of ascertaining what they are, and that when he emigrates to a British Colony, he goes there in the belief that it is administered upon British principles]

> When an immigrant has by years of honest labour established a business, acquired property, built up a connection, and created a home, in the belief that the law which had allowed him to acquire will not be altered so as to forbid him to enjoy, almost any new restriction upon the freedom

which has previously been permitted him must of necessity be injurious, and if injurious, then unjust. [*Ibid*]

The Government of India also protested against the time-honoured practice, that obtained under Boer regime and that had been resorted to by the Natal Government before the war, of using anti-plague measures for the exclusion of Indians, and hoped that "no measures of any lasting effect" would be adopted in a Crown Colony which were "not fully justified by the necessities of the case".

What they had said in respect of the Transvaal, the Government of India concluded, applied *mutatis mutandis* to Orange River Colony also, from which under Boer rule Indians were virtually excluded. "We do not doubt that the general principles which regulate the future arrangements made in either colony will be identical in the two cases."

* * *

Lord Curzon's persistent advocacy of the "coolie's" rights created an impression at home that, by carrying his protest beyond certain well-recognised limits in an issue involving the interests of black against white, he was violating the rules of the Imperialist game. It is a measure of the sensitiveness that had developed at home on this issue that his Councillors felt it necessary to insert in their Despatch an apologia for their outspokenness. "We know that a decision must shortly be arrived at....We realise that if any representation on our part is to avail aught, it must be made before that decision is announced; and we have felt it our duty, as guardians of the interests of our subjects in this country, to lay our views strongly and frankly before your Lordship". [*Ibid,* Para 18] Further to cushion the impact of their pertinacity, they added: "We are aware...that the

question at issue...must be decided upon considerations of which the greater, and indeed the more important, portion lies beyond our purview. All that we can ask is, that due consideration may be given to our representations before any decisive action is taken in the matter."

Practically all this had been urged before in almost identical language by Gandhiji in his numerous memoranda and petitions. Coming now with the *imprimatur* of the Government of India and with the weight of Lord Curzon's powerful personality behind it, it caused a flutter both in the India Office and Whitehall and precipitated a near-crisis in inter-Imperial relations. For years the seed that the sower had sown had fallen mostly on stony ground either to wither away or to be devoured by the fowls of the air. It had at last found good ground. Here it took root and grew to come to its full fruition in the reign of Lord Curzon's successor. Lord Hardinge of Penshurst, when the system of indentured labour was stopped completely.

4

While the Government of India were mulling over the draft of their Despatch of May 14, 1903 to the Secretary of State, they received the following wire from Lord Milner, dated May 7, 1903, "Would Government of India be prepared to consider favourably scheme for employment of coolies on construction of Government Railways in Transvaal and Orange River Colonies? I am ready to employ 10,000 at least and I can offer very favourable terms provided that I am allowed to repatriate them at the end of their period of indenture." In view of public opinion in South Africa, the cable continued, it would be "impossible to introduce them (coolies) except with a promise that they would ultimately return to India". They would be employed entirely on surface work in a healthy climate and would be kept separate from Kaffir labourers under

supervision of Government. "The Government of the Crown Colonies can absolutely guarantee their being well-treated in every way...My belief is that as far as the Transvaal is concerned, objections to importation of coolies in large and regular batches under the care of Government, whether these objections come from your Government or from public of this Colony, would absolutely disappear if experiment could only once be tried under favourable conditions." The construction of the railways, Milner thought, promised to provide such a favourable opportunity, but he would not, he added, approach Home Government on the subject till he knew that Curzon would not object. If the Viceroy agreed generally and the Home Government approved he would send an officer to India to arrange details, [NAI (Rev. Agri & Emig.) A-Progs. Nos.48-50. May 1903] he concluded.

On receipt of this telegram R.E.V. Arbuthnot put up a note on May 9, 1903, saying that as far as climate, treatment of labourers, etc. were concerned, there should be no objection to opening emigration for Government work in the Transvaal and Orange River Colonies. As regards repatriation "we have accepted the principle in the Natal case, and there would perhaps be no objection to our replying at once that we have no objection to repatriation on the terms proposed in that case." [*Ibid*]

J. O. Miller recommended approval of Arbuthnot's note, "reserving to ourselves, of course, full power to decline the proposals when we hear the terms in detail".

Sir Denzil Ibbetson saw in Milner's telegram. "the first sign of that expansion of emigration on condition of repatriation which we anticipated was likely to follow if our Natal proposals are sanctioned and work well." Approving the stand taken initially by Arbuthnot, he suggested a reply to be sent to Milner

to the effect that the Government of India were favourably inclined to his proposal on its merits. But since the question of repatriation of "coolies'' had been referred to the Secretary of State for India they could not introduce new principles without his sanction. "Moreover, question of treatment of Indians in Transvaal had created intense feeling in India, and unless we obtain some assurance that it will be more liberal than in self-governing Colonies, it would be difficult to sanction emigration

He further suggested that Lord Curzon should address Milner demi-officially saying that, if the Secretary of State agreed to repatriation and if the treatment of free Indians was settled in "reasonable accordance with our views", they would be very glad to receive the officer whom Milner proposed to send, and copies of both the despatches should be sent to the Secretary of State. The Despatch to the Secretary of State should also contain, he thought, that if the Natal proposals were approved of, and if such substantial concession was made to the Indian feeling regarding the treatment of free Indians as would justify their opening a new field of emigration to those colonies, he might telegraph to Lord Milner to send on his officer.

Lord Curzon approved of all the suggestions of the Hon'ble Member and directed the office to take immediate action.

On May 11, a telegram to that effect marked "confidential" was sent to Milner. ln a demi-official letter on May 13, the Viceroy enclosed to Milner the correspondence with the Secretary of State on the subject "which will place you in full possession of the views of my Government on the question at issue". The correspondence was, of course, to be treated as confidential until the orders of the Secretary of State were received. [*Ibid*]

The Government of India thought Milner's request put into their hands just the sanction they needed to obtain better treatment of their subjects in South Africa for which all their efforts hitherto had proved infructuous. Accordingly on May 14 they forwarded to the Secretary of State copies of the telegrams exchanged with Milner, and of their demi-official letter of May 13. In their covering letter they expressed the hope that "the need for Indian labour in South Africa, which appears to be daily becoming more fully recognised *may prove a powerful lever in our hands in securing better treatment for our subjects in that country".* [*Ibid,* Lord Curzon, Viceroy of India, to Lord George Hamilton, Secretary of State for India, Simla, May 14, 1903, (Italics by the author)]

5

In the meantime Milner, sensing that he would not be able to persuade the Government of India to come to his rescue on his terms, sent an S.O.S. on May 12, 1903 to Chamberlain requesting him "to represent to the Indian Government our desire in that respect and use your influence to induce their consent". [*India,* August 7, 1903; *Indian Opinion,* July 30, 1903] At his wits' end to find labour he so desperately needed to develop the new colonies in order to meet the frightful expenditure that his Government had had to undertake, he protested in the same despatch: "If we are destined to meet with a refusal wherever we turn to look for labour, we must soon be landed in financial embarrassment," [*Indian Opinion,* July 30, 1903] and he hinted that such embarrassment would be felt elsewhere—perhaps in Downing Street.

The coolies were needed for the railways so as to release Kaffirs for mines and agriculture. "At present we are in an absurd position of being flooded by petty Indian traders and hawkers, who are of no benefit whatever to the

community and not allowed to have Indian labourers, whom we greatly need." Milner pleaded.

"We should have thought," commented Gandhiji, when this correspondence was published, "that of all persons Lord Milner would be the first man to know his own laws. The Peace Preservation Ordinance had effectually prevented the entry of any British Indians unless they were refugees, and time and again it had been shown how difficult it was even for *bona fide* refugees to enter the Transvaal. The question of the Colony being flooded by petty Indian traders and hawkers, therefore, simply did not arise." [*Ibid,* C.W.M.G. Vol.III, p.389]

As for the usefulness of the Indian traders and hawkers to the white community, it had been recognised by the white populace itself in a petition to ex-President Kruger in 1896 "when it did not suffer from the high gold fever which has evidently stricken it since". [*Ibid*] That petition was prompted by nearly 2000 Europeans including many late burghers. Even under the Crown Colony Government the hawkers were considered to be almost indispensable; it was they who supplied the wants of families living in the suburbs. But the best proof of the usefulness of the hawkers, and indeed the traders also, urged Gandhiji, consisted of the "indisputable fact" that they were dependent largely on the European support which they continued to receive. Besides, there was the voluminous testimony given in favour of the Indian traders before the Commission that sat in Natal to investigate the Indian question. The Commission had recorded its "strong opinion", that the presence of the Indian traders had been "beneficial" to the whole Colony and that "it would be unwise, if not unjust, to legislate to their prejudice". [*Ibid,* p.388] But all this irrefutable proof notwithstanding, Gandhiji was afraid that since Lord Milner had made that statement it would be taken up throughout South Africa like the Bazaar Notice

and the Indian trader would come in for a “good round of abuse" from which it was extremely doubtful whether he would be able to come out totally unhurt.

Chamberlain replied on May 23, 1903: "Your proposal...contemplates the introduction of a fixed number of manual labourers for a special purpose and on a strictly temporary footing, provision being made that by the terms of the contract these labourers will return to India at the end of their indenture and will not be a permanent addition to the population of South Africa." [*Indian Opinion,* July 30, 1903] His Majesty's Government would need to satisfy themselves that the essential features of this policy were acceptable to the general opinion of the white population, he added. "I am exceedingly anxious that you would be fortified by public opinion in taking this step, and I desire to know in which way you...(propose) to ascertain the real verdict of the public opinion of the Colonies upon it. The Legislative Council will assist you in arriving at an opinion.” [*Ibid; India,* August 7, 1903, Chamberlain to Milner, dated May 23, 1903]

Long before the receipt of Milner's telegram Chamberlain had received Lord George Hamilton's views on the question. So he added at the end of his letter:

> The Secretary of State for India feels strongly that the position of British Indians in the two new Colonies is most unsatisfactory, and regards the conditions which he lays down as moderate and reasonable, and it is necessary to convince him that his objections to the present state of things will be fairly met by the reforms you contemplate before it would be possible to enter in negotiation with the Indian Government with any hope of a favourable result. [*Ibid*]

And the conditions that Lord George Hamilton had insisted upon were modification of the existing legislation in relation to the position of Indians in the

Transvaal in the sense of the stipulations that the Government of India had made for the supply of Indian labour and which he had communicated to the Secretary of State for the Colonies by his telegram of August 6, 1902. [Pyarelal, *Mahatma Gandhi—The Discovery of Satyagraha—On the Threshold,* p.431; *Indian Opinion,* July 30, 1903; NAI (Rev. Agri & Emig.) B-Progs. No.1 September, 1902, Secretary of State to Chamberlain telegram dated July 29, 1902] They were (1) the abolition of registration for Indians generally, and the substitution therefor of a measure for keeping "undesirables" out of the Colonies. (2) Locations for the Asiatics to be restricted to those classes for whom it was required on sanitary grounds. (3) Business outside the Locations to be permitted to be carried on. (4) The existing restrictions on acquisition of real property by Asiatics to be replaced by a general law against speculative acquisition and (5) better class Asiatics to be exempted from all special restrictions and allowed to have Indian servants to reside with their employers.

"I have not yet received your own proposals, for fresh legislation in modification of the law of the late Republic", Chamberlain concluded, "and I am not aware whether you have contemplated the possibility of meeting the wishes of the Indian Government on all these points. It will be very difficult, if not impossible, to obtain the consent of the Indian Government to the proposal for special indenturing of coolies for the railways." [Chamberlain to Milner dated May 23, 1903, quoted in *Indian Opinion,* July 30, 1903]

"The Imperial Government is between Scylla and Charybdis," commented the *Rand Daily Mail.* "On the one hand, it is faced by the Indian Government, jealous of the denial by the Transvaal of equal British privileges to its subjects; while on the other, there is the desire to, if at all possible, help this Colony out of its labour difficulty. But in view of the fact that no British Government could afford to bring, or ever dream of bringing, pressure to bear upon the Indian Government in respect of its people supplying indentured labour to this or any

other Colony, it is easy to understand that Mr Chamberlain's hands are tied by our own Asiatic laws. Hence the impossibility of our securing labour from India unless these laws are mitigated in their rigour, and modified to such a degree that Indians would be regarded as British subjects, and not be prejudiced by reason of their colour. As we see no sure hope of the anti-Asiatic laws being altered, all idea of receiving labour from India may be finally dismissed." To have the restrictions on educated Indians relaxed might be found possible, it concluded, when the labour position was taken up by the Legislative Council in October. "No doubt it would be politic...to do so; but it remains to be seen whether the people would be prepared under any circumstances to accede to what, in the broader Imperial view, is an Imperial obligation and an Imperial necessity." [*Rand Daily Mail* quoted in *Indian Opinion,* July 30, 1903]

6

In the first week of June 1903 a deputation of the White League waited on Lord Milner. In the course of discussions Milner told them he was in negotiation with the Indian Government for a supply of indentured labour on the condition that the Indians were forcibly repatriated. From his reply it appeared that the Government of India's response was not satisfactory. [C.W.M.G. Vol.III, p.321]

For the first time the Indians learnt what was afoot. As the negotiations were still in progress, they sent a cable on June 6, over Gandhiji's name expressing their hope that the Government of India would not agree to the supply of indentured labourers under compulsory repatriation at the end of their terms of indenture.

"The proposal means nothing short of a reversal of the whole British policy," Gandhiji commented on the same day. "The Indians are wanted for the benefit of those who require their labour as bondsmen. As soon as their bonds

are loosed they are to go back." In other words, the Colony would, if it could, take everything from India and give little in return. The wages that would be offered would be always below the standard wage and, no matter how high they might be, they could hardly be high enough to compensate the Indian for the deprivation of his personal liberty and the right to settle in the country. "Apart, therefore, from the fact that the Transvaal cannot expect to receive any assistance from India until it is prepared to treat the free Indian population in a reasonable manner," he concluded, "it is to be sincerely hoped that it will not be allowed to exploit Indian labour for its own one-sided benefit." [*Ibid*]

In the following week he appealed to Lord Milner as a fair-minded Christian man not to allow his immediate difficulties to warp his judgment on the question but to regard it in the broad perspective of the Imperial question as whole. "We ask His Excellency whether he would for one moment accept such a proposal, as he has made to the Indian Government, for the Europeans." Indians were entirely at one with the White League, that there should be no assisted Indian immigration, and that encouragement and even assistance should be given to white men. They appreciated the sentiment that the country being suitable for European settlement it should be kept for them so far as it was consistent with the well-being of the Empire as a whole. Where they begged to differ was when it would shut out free Indian immigration altogether, or refuse equal opportunity to the Indians who had already settled in the country. The true solution of the colour prejudice was "not in treating every coloured man as a beast, an animal having no feelings, but in actually flooding the country with white men. If this cannot be done, if you must introduce Indian labour then we say, be just, be fair, do unto us as you would be done by". [*Ibid,* pp.337-38; *Indian Opinion,* June 11, 1903]

In the last week of July 1903, the correspondence between Milner and the Secretary of State for Colonies on the subject of the supply of indentured labour to the Transvaal was laid on the table in the Legislative Council by the Colonial Secretary, Pretoria. Gandhiji, while agreeing with the Secretary for Colonies that indentured labour from India could not be thrust upon the Transvaal in the teeth of the opposition of the majority of its European inhabitants, devoutly hoped that the majority would "always remain opposed to the introduction of indentured labour from Asia, whether it is India or China". It gave him the greatest satisfaction, he said, that on this point, though not for the same reasons as would guide the Europeans, there was complete agreement between European opinion and the Indian. "In the long run, indentured labour under the conditions mentioned can do absolutely no good to either party. To the Europeans it would be in the highest degree demoralising, and to the labourers entirely unprofitable." [*Ibid,* p.394; *Indian Opinion,* August 6, 1903] This view of Gandhiji about the all-round baneful effect of the system of indentured labour for any purpose whatever, which was anathema to the Rand Lords and was hotly contested by the Milner administration, was expressed in even stronger language not long afterwards by Lord Curzon who had independently come to the same conclusion after seeing it in operation on the Assam tea gardens. "A thoroughly pernicious system...that has caused untold trouble..., and which I believe in the long run is injurious rather than beneficial to the industry which temporarily profits by it", [NAI Curzon Papers, Reel 4, No.17/86, Curzon to Brodrick, March 31, 1904] was the description he gave of it in one of his letters to the Secretary of State.

As to compulsory repatriation, there was no precedent for such a step and it was unthinkable, Gandhiji thought, that the Indian Government which had so far "turned a deaf ear to any such advance from other Colonies" would ever listen

to the novel proposal, as Chamberlain had termed it. "We are aware that the influence that can be set in motion on behalf of the Transvaal are very weighty and great, (but) we think that they cannot be allowed to outweigh the interests of the Indians, which it is the special duty of the Indian Government to safeguard." Even Milner had not claimed that compulsory repatriation was in the interests of India; he had suggested it "in view of public feeling". The British Indians in South Africa *"would be simply selling for a mess of pottage the rights of thousands of their humbler brethren in India if, in a weak moment, they ever accepted the principle of bargaining away the liberties of Indian labourers in exchange for their own."* [C.W.M.G. Vol.III, p.394; *Indian Opinion,* August 6, 1903 (Italics by the author)]

It was heartening to find, Gandhiji concluded, that the Government of India was so resolutely sticking out on behalf of the British Indians in the Transvaal but he was very much afraid that there would not be the same interpretation put upon the expressions "better class Asiatics" and "speculative

acquisition", by Lord Curzon and Lord Milner. "It may be perfectly possible by a process of elimination to refuse to admit any Asiatic as 'belonging to the better class', and there is no knowing that in the term 'speculative acquisition' even an ordinary ownership may not be included." Gandhiji's fears on this score were fully shared by the Viceroy and his officials, who had learnt to be wary of the intentions and verbal assurances of Governments, whether of the annexed territories or of the older self-governing English speaking Colonies in South Africa.

Lord Curzon had tenaciously held to the view that British Officials, on retirement, after a very few years, lost touch with the developing Indian situation completely. As a result their views became obsolete and lost all title to any special consideration. A telling instance of it was provided by Sir Edward Buck, Secretary

to the Department of Agriculture and Emigration in the pre-Curzon era, whose unsympathetic attitude *vis-a-vis* the Indian indentured labourer has already been noted in our earlier volume (see *The Early Phase,* pp.403-4). When the news that the importation of Chinese labour might provoke a severe reaction in the Transvaal and that the Government of India had refused to concede the principle of compulsory repatriation of indentured labourers unless something was done to redress the grievances of the Indians already living there reached England, he wrote to the *Times* to urge that the settlement or retention of Indian labourers in Africa, "to which there is so much objection in the Colony, was against the interests of India itself". *India,* July 24, 1903] The introduction of "coolie" labour in South Africa under indenture terminable in India was, therefore, in the interests of both. If any labour was to be imported from the East into the Transvaal, it should be brought from India, and not China.

7

Soon after the publication of Sir Edward Buck's letter, Sir William Harcourt, in the course of his address on the second reading of the South African Loans Bills in the House of Commons, on July 27, 1903, said that the mining industry in the Transvaal had made what he might call "a declaration of industrial insolvency", in stating that with the resources which they could command they could not conduct the industry unless they were allowed to conduct it upon the basis of Asiatic labour. If the main industry on which the Colonies depended could exist only on the basis of Asiatic labour, what they had got to determine was "whether these new colonies, which we had purchased at such great expenditure of life and money, were to be a white man's country or a yellow man's country". Was Milner's request for the importation of "coolie" labour from India, when the Kaffirs were willing to work on the railways, at the instance of the miners, he

asked. “The mine-owners were determined to force the British Government, if they could, to sanction the introduction of Chinese labour.... and were insisting...on the importation of this Chinese labour." Would the Government speak out "as to whether or not they were against the introduction of Chinese cheap labour?" [*Ibid,* August 7, 1903]

Replying, Chamberlain defended the employment of "coolie" labour on the railway construction by saying that it would set free Kaffir labour for the mining and the agriculture which the Boer farmers and their friends in the opposition should welcome. He had given his assent to a proposal which the Indian Government had already accepted with regard to Natal". This proposal stipulated that the indentures should expire in India, and the balance of their pay should be given to the coolies in India "so that they would not be permanent residents" in South Africa, but would "return to their native country with their savings in their pockets". [C.W.M.G. Vol. III, p.429; *Indian Opinion,* September 3, 1903] He did not see why he should make a protest against an agreement which in the case of Natal had been assented to on both sides because the Transvaal was not a self-governing Colony, but a Crown Colony. Unless a distinctly Imperial interest was concerned he intended to treat the Transvaal, as if it were a self-governing Colony. "I am not going to interfere in the case of the Transvaal in this matter of labour any more than I would interfere in the case of Cape Colony or Natal.” [*India,* August 7, 1903] He had told Milner that before he assented to any introduction of Asiatic labour, whether Chinese or Indian, in the Transvaal, he must have a reasonable proof that it was a policy which the Transvaal, if they were a self-governing Colony, would approve, and had further pointed out to Lord Milner that the India Office had clearly indicated to him that they "would not care to give any assistance to a proposal of this kind until they were convinced that fair consideration was being

shown to those for whom they were responsible...in the Transvaal." He did not think that there would be any difficulty in arriving at an arrangement between the Government of the Transvaal and the Government of India as to the treatment of the Asiatics, which would be regarded by both as a fair and satisfactory arrangement. "Why should

coolie labour...be refused by a British Colony?" [*Ibid*] Was there to be Free Trade for everything except labour, he asked.

Chamberlain's adroit fling at the Liberal doctrine of free trade, which was to apply to everything but not to labour, drew cheers from the Treasury Benches but he made a *faux pas* when in his anxiety to justify his stand he went on to state that both the Indian Government and the Government of Natal had accepted the principle of compulsory repatriation of the imported "coolie" labourers from India on the expiry of their terms of indenture. He was counting his chickens before they were hatched.

As soon as the text of Chamberlain's remarks in the House of Commons reached South Africa, Gandhiji characterised the reported acceptance by the Indian Government of the principle of compulsory repatriation in Chamberlain's

speech as an unrighteous compact. "All we can say...is that, if the statement is correct, the poor Indian labourer has been sold for the benefit of the Colony, and that a form of modified slavery is to be revived in South Africa in this twentieth century under the sanction of the British Government and in the name of a people who have spent any amount of blood and treasure for the sake of the emancipation of slaves." [C.W.M.G. Vol. III. p.430; *Indian Opinion,* September 3, 1903] The partnership into which the employers of Indian labour and the employees were to enter in the Transvaal was "a leonine partnership, in which one party gets all

the benefit and the other party bears all the burdens", and the proposal as to importation of labour under the restrictions mentioned "an outrage on the instinct of humanity". [*Ibid*] The late Harry Escombe had said that he could not think that "it ought to be compulsory on any man to go to any part of the world, save for a crime for which he is transported". [*Ibid*] To Dadabhai Naoroji, he wrote: "This will be nothing less than temporary slavery, and we, in South Africa, feel it so strongly that such a stipulation should not be agreed to even in exchange for a grant of more rights, to free Indian settlers in Natal." The fight regarding matters affecting free Indians ought to be carried on independently of the question of indentured labour "except that, if free Indians are not guaranteed fair treatment, indentured immigration may be withdrawn entirely. But to give away the libenies of indentured Indians who may be brought,...for the sake of a better treatment of free Indians, would be highly immoral.... It is to be hoped...that a continued protest will be made against the principle of compulsory repatriation." [C.W.M.G. Vol.III, p.435, Gandhiji to Dadabhai, September 7, 1903; India Office Judicial and Public Records, 2852]

The final outcome of the Natal Government's proposal about the indentured labour under condition of compulsory repatriation was still pending. The publication of Chamberlain's despatch to Milner, about the proposal to introduce 10,000 indentured Indians into the Transvaal aroused a suspicion that the Viceroy might think that, if he could secure better treatment for free Indians in the Colony, he might yield to the wishes of the Natal Government regarding indentured labour. To dispel any notion that this would be acceptable to the Indian community, Gandhiji hastened to clear the point as emphatically as possible. "We think we do but voice the universal Indian sentiment," he wrote on September 17, 1903, *"that there is not in the Colony a free Indian who would agree to buy better treatment at the expense of his indentured countrymen."*

After all, the free Indian could look after himself but the indentured Indian was practically helpless. "He comes from India in order to avoid starvation. He breaks asunder all the ties, and becomes domiciled in Natal in a manner that the free Indian never does. To a starving man there is practically no home. His home is where he can keep body and soul together. When, therefore, he comes to Natal and finds that he can, at any rate, have no difficulty as to feeding himself, he quickly makes of it a home. The associations he forms in Natal among his own class are to him the first real friends and acquaintances, and to expect him to break that home is nothing short of cruelty. We have, therefore, no hesitation in saying that an Indian with any humane feelings, and any sense of common tie and common blood, would simply decline to have his position bettered at the price which may be asked by the Natal Government." [C.W.M.G. Vol.III, p.446; *Indian Opinion,* September 17, 1903]

The Government of India's reply to Milner's request enraged Sir George Farrar. Speaking at the monthly meeting of the Chamber of Mines, on September 17, 1903, he observed that while feeling strongly their position as a

fellow unit of India in the British Empire, yet they had to consider "the welfare of the white population" in the Colony of the Transvaal. They had already offered a labour market to the people of"over-populated India" but it was the right of the people of the Transvaal to decide "whether they will allow this country to be overrun by Indian traders, free to compete and settle in a country which, we hope some day will be wholly a white man's country". They had given to their fellow subjects in India the right to trade in bazaars, which was a "generous concession" and in return, they certainly did not expect, "when we have pledged ourselves to a contribution of £30 millions towards the cost of the South African war, the interest of which we are only able to pay out of the results of our industrial

prosperity, that the Indian Government should be so shortsighted as to refuse to help us to meet our obligations incurred in the interests of the Empire of which India is a portion". [*Ibid,* p.457; *Indian Opinion,* September 24, 1903]

It was easy to understand the wrath of the multi-millionaire and the Colonial Secretary, against the Government of India "for daring to insist for less than half of the rights of the British Indians" as the price for providing cheap bonded labour, observed Gandhiji on September 24, 1903. "With a money-making man, the end very often justifies the means...It matters little to Sir George, and other mining magnates, how the source of their wealth is to be fed, and to them, from such a point of view, if anyone offers any opposition, just or otherwise, he is a man to be silenced somehow or other." [*Ibid*] It remained to be seen, he added, what effect "the weight of millions" that Sir George could bring to bear on any problem he might handle, would have on the objects of his indignation.

CHAPTER VIII : THE CONFRONTATION

1

Lions had entered the ring. The Government of India had taken over as the natural guardian of the interests of the British Indians overseas. While the mettle of the Indian community was being put to the test in South Africa a joust—albeit a friendly one—had developed within the Calcutta-Pretoria-Whitehall triangle with the Government of India, the Colonial Office and the Home Government representing its three sides. To the interplay of forces within this triangle our attention must now be turned.

Soon after Milner's S.O.S. to Chamberlain, Lord George Hamilton wrote to Lord Curzon about the talks that he had with the Secretary of State for Colonies in regard to Milner's proposal. While agreeing with the Viceroy that it would be very difficult, if not impossible, for them officially to extend the system of indentured immigration, he felt that if the Colonial Government would undertake to exempt "Indians of position and education" from the rules and regulations made for them, it might be possible to participate in the plan, "or some plan similar to it, which Milner suggested". Anticipating the Viceroy's objections, he urged: "Chamberlain is not unfriendly but he is greatly impressed by the intense and universal hostility which exists among traders and working classes against free Asiatic immigration, and he is apprehensive *that if he exercises pressure beyond a certain point, his action will be so resented as to set on foot a movemem of secession from the British Empire."* [NAI Curzon Papers Reel 3, No.34/149, Lord George Hamilton to Lord Curzon, May 28, 1903]

On June 11, 1903 Lord George Hamilton again wrote that he found Chamberlain ''very reasonable", but he understood that the feeling in South Africa was so intense against the coloured races that the repeal of the existing laws or the amelioration of the condition of British Indians had to be worked "very circumspectly". Chamberlain had accepted their view that no propositions

of any kind could be put forward with any chance of success, unless they were accompanied by proposals for removing the more objectionable features of the existing legislation and regulations to which natives from India were subject. The Secretary of State for India believed that if they could obtain recognition of the distinction between the “coolies" and educated men of position, such as barristers and bankers and the exemption of the former from the more onerous of the regulations in force, "we should do much to satisfy Indian Native opinion". But in any case he assured the Viceroy, "I will cordially support you, and do everything I can to try and bring about an improvement in the present indefensible treatment of our subjects". [*Ibid,* Reel 3, No.38/163, Lord George Hamilton to Lord Curzon, June 11,1903]

Before he could sell his idea to the Government of India, however, he was eased out of office by Arthur Balfour, following Chamberlain's resignation, by what Lord George described as a “mean trick...practised upon me by an old and valued friend, which I can never forget". [*Ibid,* Reel No.4, No.67/264, Lord George Hamilton to Lord Curzon, September 24, 1903. This is the account given by Lord George Hamilton in his letter dated September 24, 1903, to Lord Curzon of the Cabinet meeting of September 14, 1903 and how he was eased out of office:

At that meeting...we were befooled for three hours, that Balfour had up his sleeve Joe's resignation and the withdrawal of the tax on the food scheme, and that the only object of the meeting was to entice and trick into resignation certain of us, so that Joe might in his overthrow take his opponents with him. Unfortunately for Balfour, both Ritchie and I wrote our resignations in terms which unmistakably state

that the scheme of preferential tariffs was one of our reasons for going, and when these letters are published, I do not know what he can say in vindication of his conduct.

I sent in my resignation with the assent and approval of Devonshire, who intended to follow suit immediately. Balfour played with him, till he got my and Ritchie's resignations; then he told him the scheme he had pre-arranged with Chamberlain. The Duke said. 'Then George Hamilton, who (resigned) on my advice and under a misapprehension of the actual state or things, ought to be told, as he might wish to reopen his case.' To this Balfour replied, 'No.' The first intimation I got of the changes was through a newspaper, containing the acceptance of my resignation. Balfour's behaviour is all the more unpardonable as he knew from what I told him that I was ready to go at any moment.

Poor fellow, he is a child in Joe's hands, for the trick played on us emanated from that worthy. The agitation which Balfour is to head, is assuming a purely Protectionist character, and his finicky definitions and limitations will soon disappear.

The Cabinet and House of Commons have been far from pleasant this session, and I am only too pleased to be out of office, though I can 'never forget the mean trick practised upon me by an old and valued friend'] St. John Brodrick's name had been telegraphed by *Reuter* as the next probable Secretary of State. The prospect of his succeeding Lord George Hamilton at the India Office filled Lord Curzon with apprehension. It was with him as Secretary of State for War that Lord Curzon had most of his rows with the War Office in connection with the South African Garrison Scheme, the pay raise of the British troops in India and the purchase of unwanted military armaments at home which were sought to be dumped in India. Neither he nor Lord George Hamilton thought of him as the right choice for the India Office. "If he is transferred from the War Office," wrote Curzon to Lord George Hamilton on September 23, 1903, " it will be because he is not thought to have succeeded there, and no Department is particularly overjoyed at receiving the failures of others". [*Ibid,* Reel No.4, No.68/330, Curzon to Hamilton, September 23, 1903] He was one of his oldest and closest friends, he wrote in the course of the same letter, and "I think that we should find no difficulty in working together". But "at the same time loyalty to India would require him to surrender many points of view which he has acquired

in the War Office". In view of Brodrick's recent record in the War Office his appointment, Lord Curzon was afraid, would be "extraordinarily unpopular" in India. More explicitly he wrote in a letter to Sir Arthur Godley on the same day: "I must honestly confess that I think there will have to be many changes of clothes before he (Brodrick) can be generally recognised as the whole-hearted champion of Indian interests. The War Office point of view is not the India Office point of view, and even if it is that, it is most certainly not the point of view of the Government of India. [*Ibid,* Reel 4, 68/69/333, Curzon to Godley, September 23, 1903]

What worried Lord Curzon particularly was whether he would continue to receive from the new Secretary of State and his Council the support that his predecessor in office had always extended to him in what constituted the crux of his Indian policy and of which the question of the British Indian subjects in South Africa was an offshoot. "Since I have been in this country," he wrote to Lord George Hamilton on the same day.

> I have never wavered in a strict and inflexible justice between the two races. It is the sole justification and the only stable foundation for our rule. If the support of the Secretary of State and the sympathy of His Majesty's Government were not behind me and my colleagues in the endeavours which we have been making to lift matters on to a higher level, I should at once resign a task which has not only become distasteful but impossible. [*Ibid,* Reel 4, No.68/332, Curzon to Hamilton, September 23, 1903]

Just as both Lord Curzon and Lord George Hamilton had feared, Brodrick's appointment at the India Office raised an outcry in India. The Indian community in South Africa felt perturbed.

Gandhiji had closely followed the new Secretary of State's record at the War Office. The universal judgment about his career, he observed on September

10, 1903, had been that he had "succeeded in utterly mismanaging the War Office, and...shown himself incapable of holding a ministerial position". The only explanation for his inclusion in the Balfour Cabinet seemed to be that Mr Balfour "could not very well give him the go-by''. He had therefore given him a position against which there could not be an effective outcry. "He (Mr Balfour) is not likely to forfeit a single vote by Mr Brodrick being installed at the India Office. India may unanimously cry out against the appointment, but then India has no votes and no say whatsoever in the election of Members of the House of Commons. It did not matter a bit that Mr Brodrick brought out, in order to save himself, the preposterous proposal to saddle India with an annual cost of nearly £500,000 towards the upkeep of the South African Garrison. It did not matter at all that the scheme was so universally condemned that it had to be abandoned. "The injustice and heartlessness of the appointment have appealed even to the people in South Africa," Gandhiji concluded, and he quoted with approval the *Transvaal Leader's verdict:* "That Mr Brodrick should have left Pall Mall is unquestionably a gain, but we doubt whether the people in India will be pleased to see him at the head of their affairs. It is difficult to resist the unanimous verdict that he is a thoroughly incompetent man, and that being the case, he should be quietly dismissed into unofficial life". [C.W.M.G. Vol.IV, p. 13, *Indian Opinion,* October 15, 1903]

2

Acting on the advice of Sir Arthur Godley never to spring anything on the Secretary of State or to take him by surprise, but always to warn him in advance of plans and ideas, that had been taking place in his mind, Reel 4, No.71/341, Curzon to St. John Brodrick, dated Garhwal, October 2, 1903] Lord Curzon set about straightaway to take the new Secretary of State into his confidence. Stressing the importance of reciprocity in respect of Godley's very practical advice which he had always

followed, he lodged a gentle protest against the failure to observe the same rule at the other end which had caused "friction and annoyance". He hoped that he could expect from the new Secretary of State "the same full measure of prior notice in consultalion that I shall always make my object to share". [*Ibid*]

Coming to the moot point of the relationship between the Viceroy and the Secretary of State, Lord Curzon put it to Brodrick that the India Office was invested with powers "which...Godley and I…unite in thinking excessive and ill-advised". These, so far as they were dangerous, were kept in abeyance by "the tact and influence" of the Secretary of State. These qualities were, however. shown by different Secretaries of State in different degrees. "Some dominate, or at any rate lead, their Councils; others are led by them. I feel disposed to say that in a case which the Secretary of State and I he Viceroy are agreed, the former ought never to allow the latter (and himself at the same time) to be defeated by the Council". [*Ibid*] The Government of India were the *de facto* rulers of the country. As men on the spot they knew every stick and stone of the administration. Yet over them, to advise the Secretary of State, were placed "with plenary powers, where money is concerned" a body of retired officials "some of whom did not attain to the highest rank in this country and who are inevitably affected by the partialities and prejudices of their own Indian careers" and who, with every month that passed since they left India had drifted "further away from actual touch with Indian affairs". [*Ibid,* No.71/343., Curzon to St. John Brodrick dated Garhwal, October 2, 1903] Lord Curzon was emphatic that the Secretary of State ought to be "very reluctant to let them overrule or thwart the Government of India", [*Ibid*] particularly when the latter were unanimous.

Lord George Hamilton had once assured the Viceroy that he would be "most averse" to overruling the unanimous opinion of the Viceroy and his

colleagues on purely Indian matters, i.e. on any matter which did not present an Imperial aspect. Referring to it, Lord Curzon expressed the hope that the opposition of the members of the India Council, who were fearful of innovation and suspicious of everything that they themselves, while they were in India, had not attempted, would not "lightly be set in motion against us". [*Ibid*]

There was still another consideration, Lord Curzon felt, which ought to weigh with the Secretary of State. India looked to the Secretary of State

> as her representative to be her champion, and to fight her battles in the Cabinet. She expects him to be Secretary of State for India in the strict sense of the word. She pays his salary, and of everyone in the great office around him, and nothing causes warmer resentment here than the idea that the huge and costly machinery is not always or exclusively devoted to her interests. [*Ibid,* 71/344]

Incisively pointing out that the two dangers which British rule in India had to face arose firstly from "the racial pride and the undisciplined passions of the inferior class of Englishmen in this country" and secondly, from the impression "should it ever gain substantial foothold in India that injustice, neglect or indifference are shown to her cause by those who are governing her in London", he ventured to suggest to the Secretary of State that it was "better to make a stand for India and be beaten by your colleagues, than to make no stand at all". Finally, he asked Brodrick to bear in mind what "your...political experience...will have taught you" that "the number of things that can be done at the expense of India (and that were done in old days) is diminishing year by year", the recent experience of the South African Garrison being a case in point:

> I do not hesitate to warn all public men at home that India will become more and more and not less clamant in the future; and in every case of divergent interest that I have been called upon to examine, it is my conviction *(although I doubt if at present it is yours) that justice is on her side. I hope you will let me warn you, therefore, in advance of the cases when I think that the Home Government or your own advisers are going wrong.* My advice may not always be taken, it had not always been in the past. But I can recall few cases in which I have proved a false prophet, at any rate, as regards Indian opinion. [*Ibid,* (Italics by the author)]

It was a straight-from-the shoulder talk. A weaker or a less committed proconsul might have balked at this degree of outspokenness. But Curzon could not have cared less. His fears both in respect of the Secretary of State and the Cabinet proved true before long.

3

Brodrick began well. Confessing that he might be unable to tackle matters with the vigour and independence that the Viceroy expected of him, he pleaded he was differently placed. The Viceroy monopolised all initiative, but the Secretary of State had to deal with his subjects, "not according to his own idea of what is necessary, but following on opinions brought to him by a very able body of administrators with whom discussion for physical reasons is impossible". Besides, he had at his elbow in the Council "a body with great powers" who were less likely to agree with the Viceroy, than to hold independent views. He hoped that the Viceroy would also bear in mind that on the most important subjects he had also to deal with the Cabinet.

> But you are inclined to think the Secretary of State deficient if he allows either his Council or the Cabinet to triumph. I can only say that when I...get fairly into the saddle I shall do much to use such experience as I have in Council and otherwise to secure the very best terms in our power.

He trusted that the Viceroy would give him credit on every possible subject for at all events wishing to agree with him and believe that if he had to disagree at all, the opposition would be carried on "with the greatest reluctance". [Reel 3, No.75/281, Brodrick to Curzon, October 29, 1903]

Brodrick's assurances were soon put to the test.

During his visit to England Milner had had several talks with Brodrick and was able to persuade him and the Cabinet that on the quick recovery and expansion of the gold industry in the Transvaal depended the prosperity and pacification of South Africa; that this made it an issue of vital Imperial concern, and that if sufficient labour that he had asked for was not provided to him on his terms there could be trouble "in which the whole Empire will share". Reel 3, No.85/308, Brodrick to Curzon, November 26, 1903] On October 29, 1903 Brodrick wrote to Lord Curzon that he had found a draft with reference to Lord Curzon's Despatch of May 14, 1903 in which his predecessor had surrendered "most of the points at issue". He himself was perfectly convinced that on no terms could they get from South Africa, "or indeed from other colonies" the freedom of entry for their Indian subjects which they might desire. Would it be possible, he asked, to find a way out which would admit "the higher class trading Indian and the coolies", but which would exclude the "intervening class of pedlars and the like, who... constitute in their trade and their habits, exactly the class against which South African opinion is most bitter". He then repeated Milner's stock argument which Lord Curzon had almost wearied of hearing: Self-government for the annexed

territories could not be "indefinitely delayed" and "if the Transvaal is then prosperous, and above all, if it is full of British settlers, self-government need not be much feared". [*Ibid,* No.75/283, Brodrick to Curzon, October 29, 1903] As an alternative to the *quid pro quo* stipulated in the Viceroy's Despatch of May 14 he put forward a proposal which was only an elaboration of the Milner-Chamberlain formula which Lord George Hamilton had tried unsuccessfully to sell to the Government of India when he was manoeuvred out of office by his Chief. The main features of this proposal were that

> (1) India should provide 20,000 "coolies", who would be administered by some experienced Indian—and repatriated at the end of a term, say of three years.
>
> (2) In regard to immigration some money qualification (say) of £500 should be attached to the test of education, though he was afraid that even this arrangement would not be palatable to the South African. "The test of education, if it only involves writing in the vernacular, will not help us much. My idea is to establish only two classes of Indians in the new Colonies, the pure labourer class which would mix with the ordinary population, and would live under definite restrictions, and the superior class which with an experienced Commissioner, might be subjected to practically no restrictions at all."

The consequence of it would be that the intervening class who were already in South Africa "would gradually be pressed out of the Transvaal". Such of them as could not be placed in the higher class would have “to acquiesce in the coolie restrictions....I can see the principle for which you are contending, and entirely sympathise with it, but the case of racial prejudice is extremely strong". [*Ibid,* No.78/291, Brodrick to Curzon, November 6, 1903]

On November 11, 1903, Brodrick telegraphed to Lord Curzon that the Cabinet would be considering in the following week the question of the scarcity of labour for the Transvaal, and "the necessity for doing something without delay" to relieve the scarcity.

> I...have pressed very earnestly on...(Milner) the improvement, you desire in the position of Indians in the Transvaal. He is personally anxious to secure this, and will introduce amendments in the law as soon as circumstances will allow. But Mr Chamberlain's repeated declarations that the Asiatic questions would not be dealt with, unless in a manner approved by public sentiment in South Africa, tie his hands for the moment as to what is feasible....For the present, all that the Colonial Government can do is to administer the existing law in the most lenient manner towards Indians already resident. They are anxious to go further than they have hitherto done in this direction by allowing Indian traders who had established business under the old Government, but without licences, and who are therefore now under notice to remove to the bazaars, to retain their present places of business and to take out licences for them. The granting of this considerable boon will be much facilitated, if Lord Milner could point to any advantage to South Africa's progress in public works by arrangement with India. In view of Mr Chamberlain's pledges, I do not think that we can press for more at present. I have written you privately a suggestion that future immigrants should be confined to coolies *imported* for a period under government restrictions and to be repatriated, and to Indians of substance who should enter without restrictions. But at this moment we must dissociate the grant of coolies, which is of Imperial importance and not detrimental to India, from the larger question which,

owing to pledges given cannot be completely resolved now. [Reel 5, No.438/139, Brodrick's telegram to Curzon, November 11, 1903]

The telegram ended on a minatory note: "The matter is extremely urgent, and while I am ready to press your views strongly at the proper time, you will concur with me that *it would be undesirable that the Cabinet should be forced to override the Indian Government* when our objects are the same." *Ibid,* (Italics by the author) He asked for the Viceroy's reply to be telegraphed to him within four days "before you leave for the Gulf".

4

This wire and Brodrick's earlier letter of October 29, overtook Curzon when he was on tour with not a single paper with him on the subject. The Revenue and Agriculture Department and its Secretary, Miller, were some- where between Simla and Calcutta. Ibbetson was far away in Assam inaccessible even to the telegraph. A telegram was at once sent to Miller and Ibbetson. But the Viceroy was doubtful whether he would receive their answer before setting sail from Karachi on the following day. So he thought that he should let the Secretary of State have in the meantime an indication of his mind. This he did in a demi-official letter from Hyderabad (Sind):

Lord Curzon to Rt. Hon'ble St. John Brodrick *November 15, 1903.*

There are...certain considerations which I would ask you to bear in mind. They are as follows:

(1) The name of South Africa stinks in the nostrills of India. The most bitter feeling exists over the treatment meted out to Indians in the Transvaal and Natal. Any attempt to ignore or to override this feeling would produce a

commotion greater even than that over the South African garrison, while the recollection of the latter would tend to inflame it.

(2) Last winter we endeavoured to come to an agreement on the subject with some official delegates from Natal. We consented to forcible repatriation at the end of the term of indenture. I was never more relieved than when the Natal Government rejected these terms, for I am confident that we should have been accused throughout India of a weak-kneed surrender.

(3) We are not in the least anxious to send Indian coolies to work upon Railways in the Transvaal or anywhere else. They do not relieve our population problem, they take away from India a class for whom we are finding ample and increasing employment here; and all sorts of troubles follow in the train of undertaking.

(4) No arrangement that did not provide for a good bargain would be tolerated by public here. There are tens of thousands of natives of India in South Africa already. These persons are subject to invidious, and in some cases odious, disabilities. The public wants us to lessen the burden upon them before sending any more.

(5) In the concluding words of your telegram you spoke of overriding the Indian Government....Surely you do not mean to order the Government of India to send coolies to the Transvaal, whether they like it or not.... Such a step would be without any precedent; while the reception that it would meet with here would be such as to make all recent experiences pale.

...I would do anything within reason to assist Milner, or the South African policy of the Government. *But I cannot* without a good deal of

> thought and study *swallow outright the proposition that, having saved South Africa at the outbreak of the war, it is now the duty of India to develop it.* [Reel 4, No.87/406, Curzon to Brodrick, dated Hyderabad (Sind) November 15, 1903, (Italics by the author)]

If, however, after discussing with his colleagues, he found that his Government could do anything to help the Secretary of State, Lord Curzon concluded, they would do anything to help him.

Ibbetson's telegraphed reply was received on the following morning. It characterised Brodrick's proposal as "politically inadvisable and morally indefensible, unless we could show some substantial *quid pro quo".* [Reel 3, No.90/419, Curzon to Brodrick, December 1, 1903] To his previous day's letter Lord Curzon, thereupon, added the following by way of a postscript:

> ...I said in one of my earlier letters that there were certain things that Home Government can no longer do at the expense of India. This is one of them. If Milner or the Home Government cannot, in face of Chamberlain's pledges, give way, then the matter had better drop. Perhaps you hardly realise the strength of Indian sentiment in this matter. For five years I have been preaching to them the doctrine of imperialism. But they are disposed to regard it as a farce; for in practice it means to India a full share of the battles and burdens of Empire, but uncommon little of the privileges or rights.

As an instance in point, he mentioned the intense resentment caused at the complete omission of India, in all the Home speeches about Fiscal Reform. "This sort of indifference sinks down, and it gnaws at the roots of the loyalty and contentment which we are all doing our best to inculcate." [*Ibid,* No.87/406, Curzon to Brodrick, Hyderabad (Sind) November 15, 1903]

From Karachi, he telegraphed in reply to the Secretary of State's wire of November 11, 1903: "I am compelled in the strongest manner to advise against the suggestion in the present form. We should be severely and justly condemned for making new and important concessions to South Africa, unless we can show in exchange substantial improvements in the treatment of Indians actually obtained and secured by law". [Reel No.5, No.442/165 Viceroy to Secretary of State, Karachi November 15/16, 1903] The proposed concessions were wholly inadequate. *"The so-called considerable boon" was only "an act of justice, since the licence law was not generally enforced by a former Government".* Moreover, it might, at any time be withdrawn under pressure of public opinion. "If we now give way we shall have sacrificed the sole lever for obtaining improvements detailed in our Despatch of May 14th. We offered the most generous terms to Natal which have been curtly refused. We have had no reply to statements of grievances in Transvaal, and public sentiment in South africa, fortified by Chamberlain's language, does not seem likely to change. *If the Colonial Government appeals to us for aid as part of the same Empire, then it should treat our people as fellow citizens.* Unless we can show some substantial concessions such as (1) liberty to all Indian traders to trade outside residential allotments and bazaars, and (2) inclusion of Indian as well as European languages in any legislation for the exclusion of illiterate immigrants, we would strongly dissuade a departure from the *status quo".* [*Ibid,* (Italics by the author)]

Referring to the threat at the end of the Secretary of State's wire, which he characterised as "very imprudent and tactless", [*Ibid*] Lord Curzon concluded: "It is my duty to point out that any such action would be a public misfortune, for it would produce a feeling here greatly in excess of that about the South African garrison." [*Ibid*]

Privately he intimated to Brodrick that this was "the last way in which to obtain his desires". [NAI (Rev, Agri & Emig.) A-Progs. Nos.17-19, November 1904, Lord Curzon's minute dated December 28, 1903]

This telegram had a "somewhat sobering effect" on Brodrick who again conferred with Milner and on November 27 telegraphed that Milner was now prepared (1) "by an administrative act" to at once issue the licences mentioned in Secretary of State's private telegram of 11th November and (2) to exempt all Indians of superior class from the restrictions currently imposed on non-white population, and (3) in the next session of the Transvaal Legislature to propose a Bill to allow the Indian as well as the European languages test to be included in the proof of literacy for immigrants. The attempt to legislate further at the moment, or to propose that all Indian traders should be allowed to trade outside residential allotments and bazaars, Brodrick thought, would "inevitably cause violent opposition to the Bill introducing Asiatic labour" [Reel 5, No.470/140, Brodrick to Curzon, November 27, 1903] and would defeat their object. "I have obtained all the concessions which appear feasible, and feel assured that, having regard to all the circumstances, His Majesty's Government will not sanction refusal of a measure not only in itself beneficial to South Africa, but also in a lesser degree to India, namely, to retain what you describe as a lever to obtain certain other comcessions." [*Ibid*] His council had seen all the documents and were unanimously agreed on this, he concluded. As for the impact on public opinion in India, if the Viceroy supported the Secretary of State's proposal, ''and if no idea transpires in India of a difference of opinion", it would "go far to obviate the feeling in India which you apprehend''. [*Ibid*]

This letter had just the contrary effect to what was intended. Curzon was not awed by the prospect of the displeasure of the Cabinet whose members

were—most of them, if not all—men of lesser calibre than he. Nor did the “unanimous" opinion of the Members of the Secretary of State's Council, who since his assumption of Viceroyalty had tried consistently, though mostly unsuccessfully, to thwart him, and who, while in India had, in Sir Arthur Godley's words, "trembled at the Viceroy's nod", cause him any tremors. As for the suggestion that Indian public opinion could be hoodwinked by resorting to the expedient of secrecy, it went against the grain of his temperament. Replying from Kuwait on November 29, 1903, he declined to deal with a matter of such importance away from the Department and without any papers or possibility of conferring with his colleagues. Nor was he prepared, pending his return, to hazard any comments on his own. [Reel 5, No.464/172, Telegram from Curzon to Brodrick]

5

On his return from his Gulf tour Lord Curzon found awaiting him two communications. One was a telegram from Sir Arthur Godley, dated November 13, 1903. The Cabinet were much exercised on the subject of labour for South Africa. This was "natural enough considering the financial stake that they have in the prosperity of the Transvaal". They would, therefore, "be rather stiff...on this question," he warned. The whole question boiled down to this: "Are you, or are you not, to use the power that you have of refusing coolie labour to the Transvaal, in order to put on the screw for the better treatment of the natives who are there already?" So far as he could make out, Sir Arthur concluded, the result, if the question was answered in the affirmative, would be that "the Transvaal will go without the coolies, India will lose the very considerable advantage of lucrative employment for 20,000 of her population and the natives already settled in the Transvaal will be treated no better, but possibly worse, than they are at present".

[NAI Curzon Papers, Reel 3, No.81/298-99; Sir Arthur Godley to Lord Curzon, November 13, 1903]

The other was a letter from Brodrick. Dated November 20, 1903, it appealed to the Viceroy "not to leave it open to the (Home) Government...out of their necessity to take some steps which the Indian Government would be found to oppose". Did the Viceroy realise how great was the "friction" caused by the "tone" of his reply, which was "practically an intimation" that, unless the view the Viceroy took, "that this was a favourable moment for turning the screw on the South African Government", was adopted by the Home Government, an outcry would be produced in India which would have serious effects?

> The opinion has been strongly expressed in the India Council that such feeling would not exist in lndia...unless it was fomented by the knowledge that a strong opposition to this useful proposal was being carried on at Simla. In the judgment of everybody here, the question whether such an agitation was serious or not lay largely in your hands. *They may be wrong...but...the Cabinet...have every reason to believe that you individually are placing yourself athwart them at a moment of extreme difficulty, when it is no doubt in you power to invoke public feeling in India in your support.* [Reel 3, No.83/301, Brodrick to Curzon, November 20, 1903]

He would be but a poor assistant to the Viceroy's policy, Brodrick concluded, if while supporting the Viceroy by voice, he left him by silence to take all the steps which were most likely to render that ineffective.

Lord Curzon took a very grave view of this charge and protested vehemently against it: "If on any occasion that I feel it to be my duty to stand up for the interests of India, I am suspected of disloyalty to the Government (I know of a Cabinet Minister who said that my refusal to accept the South Africa scheme was 'an act of gross disloyalty to the Ministry')—there will be no getting on. I should have thought that, after the experience of the war in South Africa, the

expedition to China, and the Somaliland expedition, the charge of not being willing to help the Home Government in its troubles is the last that could have been brought against me. I have stinted or refused nothing in any of these respects, and I am as anxious to help in the matter of South African labour as any other." [Reel 3, No.90/419, Curzon to Brodrick, December 1, 1903]

The boot, he felt strongly, was rather on the other leg. Here was "a sudden and far-reaching" proposal sprung upon him at a moment's notice, when he was away on tour. He was told that the Cabinet was to consider the matter within a week and he was given barely three and a half days in which to commit his Government one way or the other. He was further "not obscurely warned" that if his views did not coincide with those of the Home Government, his Government might expect to be overriden by Great Britain.

> Surely this was not altogether a happy way of opening the discussion. It seemed to me that the Cabinet at their next meeting were in danger of coming to a decision that would very likely lead to serious friction with the Government of India, if not to a public agitation in this country; and I thought it my duty to warn you against this privately, with the utmost emphasis. [*Ibid*]

He had already intimated that on getting back to Calcutta he would consider the matter "with the most earnest desire to do whatever we can". Surely, the Secretary of State would not have him throw over his colleagues without consultation or discussion. As for the suspicion that he was actively promoting opposition to the Home Government policies in India, he said:

> When you attribute to me the power to suppress public feeling or agitation here by siding with His Majesty's Government, I think that you

> credit me with an influence, that I do not possess. The experiences of your predecessor will have shown you how greatly public opinion in India resents the idea of being thrown over by the Secretary of State. Its sole refuge is then the Viceroy. If he throws it over too (of course, I am speaking in the language of India, not my own), the feeling is deep and lasting. The echoes of...Elgin's famous mandate speech, though delivered nine years ago, have not yet died down; and he is always spoken of (of course, quite unfairly) as the Viceroy who was willing to sacrifice any Indian interest to the views or desires of the Home Government. [*Ibid*]

Following his minatory letter of November 20, Brodrick again wrote to the Viceroy "earnestly requesting your good offices" to prevent the matter becoming a conflict between the Home Government and the India Government. "We cannot gain anything by trying to score a point against Chamberlain and the South Africans in consequence of their necessity," he interceded. He was prepared to press for anything which Milner could yield but surely it was " too much to ask us to stand aloof, and let all our South African efforts perish by stagnation, because we cannot immediately obtain something for our Indian subjects which we are resolutely determined to obtain, as soon as circumstances make it possible that it should be granted". [Reel 3, No.85/308, Brodrick to Curzon, November 26, 1903] Reiterating the threat with which he had concluded his telegram of November 11, 1903 he continued:

> If I fail in convincing you, the Cabinet will probably take the bit between its teeth; and then there will be trouble. I do not think public opinion here, apart from Wedderburn & Co., will give any practical support as regards the privileges of the Indian subjects in the long run. From this I would urge that the feeling excited, though it may do a good deal of harm

between the British Government and India, will otherwise, do no good whatever. [*Ibid*]

If the whole matter could not be settled amicably round a table, he concluded, the Viceroy might not be able to count on his support to his policies in the future, "as the Cabinet feel very strongly at present on the point". *Ibid*]

6

Sir Arthur Godley now felt that it was time he took up the role of "a timely dispenser of oil". On the following day in his inimitable style he emptied Poloniuswise on the headstrong Viceroy, for whom he had no little affection and esteem, the vials of his worldly wisdom, gathered through a long and distinguished career as an India Office 'Permanent'.

“You know our Secretary of State much better than I know him", he began, "I need not, therefore, dwell upon the changes which you will doubtless

expect in your relations with the head of this office. When I say this I by no means mean to imply anything uncomplimentary but merely to ask you to bear in mind that you have another and a different hand upon the reins”. The new Secretary of State's relations with “everyone in this office” were "most cordial", Sir Arthur continued, and showed '"every sign of remaining so". Besides he was new to the task and naturally could not strike an independent line without fear of disaster. The Viceroy could, therefore, very well imagine what his angle of approach to questions, which had often been the bone of contention between the India Office Council and the Government of India, was likely to be. Their new Chief was not “going to do what we want him to do in all matters,” he added, nor was he "at all more likely...to take his cue from India”. About one thing the Viceroy could be pretty sure. "You would be wrong if you were to count on his (Brodrick's) being

either ductile or malleable". [Reel 3, No.86/310, Godley to Curzon, November 27, 1903] Behind the Secretary of State was the Cabinet which again was a new Cabinet. They showed already indications of a disposition "to look narrowly—I will not say jealously—at proposals which might have passed muster with their predecessors easily enough'". Then there was the India Office Council. "It would be a mistake to suppose that their disposition has undergone any sudden or recent change. But it would be vain to deny that they are in a somewhat critical and recalcitrant mood." All this was the result of sufficiently obvious causes "which are necessarily operative wherever a vigorous and active Viceroy has been for some years in office". The wisest course in the circumstances, Sir Arthur thought, would be for the Viceroy to do what he could

> to remove the impression, which certainly exists, that you are inclined, when there is a difference of opinion, to carry your protest beyond the recognised officials limits, to bring pressure to bear, to force the hand of the Government at Home. You will say at once...that this impression is most incorrect and unfair. Let that be granted; still I venture to urge you
>
> to remember that it exists, and to do what you can to remove it, not of course, by denials, which are perfectly useless, but by your official acts and utterances, and still more by your abstention from acts and utterances, whether official or private, which might even seem to justify it.
>
> I hope you will clearly understand that I do not venture to say a word as to the question of right and wrong....*Quicquid vis valde vis:* this is your strength; but it is also a weakness when you find yourself in disagreement with those to whom the law gives the right of saying the last word upon subjects which you have at heart. And it is very poor consolation to say, what I nevertheless will say, that this sense of being thwarted by persons

whose ignorance and stupidity is (to put it modestly) greater than one's own is common to every official in this country, from the Prime Minister (as l know by experience, having been a Prime Minister's Secretary) down to the humble 'Permanent' such as he who has the honour of addressing you.

He concluded his advice with:

> If you are prepared to do what is necessary—which no one can do more skilfully or tactfully than you can—you will find it far easier to carry out your policy during the remainder of your term of office. What...you should aim at is to produce on the minds of the people in this country—I mean official people—the impression that if, for instance, on such a question as this of the Transvaal coolies the decision of the Cabinet should be against you, you would (after due protest) acquiesce, and *do your best to conceal all dtfferences of opinion, and to carry out the policy of the Government 'as if you liked it'*...If you could do this, I am quite sure that it would not only make things easier and pleasanter, but would, in the long run, strengthen your hands and increase your influence. [*Ibid,* (Italics by the author)]

If in place of Lord Curzon there had been a career diplomat, Sir Arthur's wise counsel could not have been bettered. But Lord Curzon was made of different clay. One would not be surprised if he felt that his mentor's admonition in regard to "forcing" the hands of the Government could have more appropriately been addressed to his opposite number, Milner, who had known to perfection the bureaucratic art of defeating in detail what was conceded in principle, and had on more than one occasion demonstrated successfully his skill at wearing down the resistance of the Home Government and forcing the hands

of his Chief by a system of manipulation that can only be described as "dictation from below''. Sir Arthur's attempt to "tame" the Viceroy failed. Lord Curzon wrote back:

> Of course, if at any time I do not fall in with all the Cabinet's views, I am suspected of unworthy motives, there is no good going on, and no one would more gladly surrender the task than myself. But my first duty lies, in my judgment, to my constituents, and they are the people of India. I would sooner retire from my post than sacrifice their interests, and if I see anything unfair being done or contemplated, I fear it is too much to ask me to stifle my protest.

* * *

> A good deal turns upon the method of approach...Heaven knows I am a willing horse enough, and it is no use laying on the lash. For instance, to expect me to answer those important points about reinforcements and Transvaal labour at three to four days' notice without any papers and with no possibility of reference to my colleagues was really too much. [Reel 3, No.94/438, Curzon to Godley, December 17, 1903]

Quick followed Godley's riposte:

> I will not attempt any excuse or defence, and so far as it depends on me I will try to amend. But, of course, it is obvious that, occasionally, we must hold a pistol at your head in this way; and I suppose it must be admitted with respect to the Government of India...that it ought to be so organised and so decentralised that in an emergency it can give a prompt reply. [Reel 4, No.3(4), Godley to Curzon, January 8, 1904]

7

While this correspondence was in progress, a Mr Allen, son of Sir George Allen, proprietor of the Anglo-India daily of Allahabad, the *Pioneer,* saw Curzon with a letter from Brodrick. There had never been any love lost between the *Pioneer* and the Viceroy, who felt that its proprietor had never forgiven him for having put an end to the *Pioneer's* monopoly by throwing out the Telegraphic Copyright Bill, and has "ever since lost no opportunity of belittling and disparaging what I do". [Reel 2, No.32/142, Curzon to Lord George Hamilton, May 30, 1900] What *locus standi* Mr. Allen had in the matter was not clear. He had no official status but was rather a sort of *amicus curiae* to whom, as Lord Curzon put it, "all parties apparently unbend including the Secretary of State". He had been to South Africa and had obviously been taken into his confidence by Milner. He showed to Sir Denzil Ibbetson and the Viceroy a letter from Milner which, in the words of Lord Curzon, seemed to have been written "under the influence of great excitement or great depression", [Reel 3, No.95/441, Curzon to Brodrick, Calcutta December 24, 1903. (Italics by the author)] and which was explained by Mr Allen" as the utterance of a statesman who was almost distraught by the worries of office and 'disappointments of his position". [NAI (Rev. Agri. & Emig.) A-Progs. Nos.17-19, November 1904. Noting by Lord Curzon, dated December 28, 1903] In it Milner had spoken about "Obstacles placed in the way by the Indian Government" as being "shortsighted and inexcusable". [Reel 3, No.95/443, Curzon to Brodrick, December 24, 1903]

"Milner seemed to think," wrote Lord Curzon to Brodrick on December 24, 1903, "that he would be doing us a great favour by taking our coolies, and that so long as conditions were agreed upon for rendering the treatment of these coolies fair, we had no business whatever to connect the larger question of Indian emigration to South Africa, or into the Transvaal, and that we ought to jump at

an opportunity of doing a good turn, both to him and ourselves. You yourself took rather the same line in one of your earlier letters on October 29th. You said that in our Despatch of May 14th we wanted to make Milner's need the occasion for making a good bargain as regards the status of Indian emigrants generally in the Transvaal." The fact of the matter was that “at the time our despatch was written we knew nothing of Milner's need. In our letter we made no suggestion of a bargain. All we pleaded was fair treatment for the Indian Colonists on its own merits". [Reel 3, No.95/441, Curzon to Brodrick, December 24, 1903] However, if at that stage the matter regarding the "coolies" had been raised, then the question, "if not of a bargain, at any rate of some *quid pro quo* undoubtedly would come in, and unless we are able to show something in return to our people, we shall be looked upon, after all that we have said on their behalf, and still more after all that has been said...on their behalf, while they were still under the Transvaal, as having been untrue to our trust". [*Ibid*] Curzon agreed that Milner was in a most desperate situation. Mr Allen had told him only a little while ago that he (Milner) was "almost distracted with worry and work'', and that a helping hand at that moment would be of value both to him and to the Empire "Indeed...the only really strong point of the case now put before us is the desirability of doing something on Imperial grounds. When these issues are proposed, it is always a very difficult thing to balance the local interest against the wider and larger one to which it is suggested that it should be subordinated; and it is all the more difficult when the local interest is itself a very important factor in the Imperial problem."

Curzon proposed to have a meeting of his Council as soon as Christmas was over when he hoped after discussion with Ibbetson, he informed the Secretary of State, to be able "to some extent to meet your desires''. He, however, felt

constrained to say, "quite plainly" that it was "more than likely that we shall be severely denounced in the Indian newspapers, and, if this be so,…denunciation will not fall upon you or upon Milner, but upon myself. The whole question turns upon the nature of the conditions which we shall be compelled to ask for and for the fulfilment of which. if granted, some guarantee must be given." [*Ibid*]

8

Brodrick found Lord Curzon's last wire to be "rather less uncompromising" than his earlier one. The crisis, however, continued. Wedged in between the Cabinet and the unyielding Viceroy he was in a fix. "You take so absolutely divergent view from the Cabinet of the attitude of India to this country," he wrote plaintively on December 11, 1903 and that "my only wish being to keep things smooth, I hardly know how to achieve it." [Reel 3, No.88/316-17, Brodrick to Curzon, December 11, 1903] He then went on-to touch on a couple of points which he would have done better to leave alone. The argument developed into a hot debate between the India Office and the Government of India, or rather between Brodrick and Curzon with Godley acting as a free-lance knight, peace-maker and second to his Chief, combined in the friendly joust. The dialogue proceeded somewhat like this:

Brodrick: You constantly speak of the Indian army having saved Natal and write rather as if the Empire owed India a debt in consequence. You also think, because your foreign policy in India has not hitherto created any demand on the Empire for men or money, that therefore India owes no debt in return. But surely...seeing that for the moment the whole question of the upkeep of our Army is with the view to supporting Indian policy, there is room for the opposite conclusion to yours...the fashion of politicians and the Press and of

public men of all descriptions is at the moment to exalt the navy; and to declare that we are invulnerable at home....It absolves Great Britain in most people's view from keeping a strong Army for home defence...it comes to India being our first, if not our only, thought.

You will no doubt see that...it is possible for people here to take the view that you who above all others promote a strong frontier policy which requires large armaments and reserves, should assist us where you can. This is especially felt about these Indians in Natal (sic: the Transvaal?), when we feel on our side that we are getting all for the resident Indians which is feasible, and that the provision of indentured coolies is not a disadvantage to India. [*Ibid*]

Curzon: I do undoubtedly hold that the Indian Army saved Natal— indeed I do not understand you to dispute it—and I do also think that the service we rendered to the mother country both in South Africa and in China is entitled to more recognition than it ever received. Again, I do not think that the line of argument...that India is the sole vulnerable frontier of the Empire, that the British army is being kept up in the main for its defence, that large portions of that army may require at a time of danger to be drafted ro India, and that the obligation thereby becomes mainly, if not exclusively, an Indian one, to be charged upon Indian revenues—is an altogether fair line of argument.... For instance, if a strategist were to discover tomorrow...that the strategical frontier of the Empire lay in Canada, and that our real enemies were Americans....would any British Government be found to contend that the main obligation for defending that line rested with the colony whose territories it

> defended? ...the Home Government has assumed the responsibility...for the defence of the whole Empire...all parties ought to contribute in due proportion. If we conduct the enquiry... we...find that the contribution of the Colonies is absurdly small, while...that of this country is adequate and generous. We further think...that instead of the military exigencies of Great Britain being sacrificed to those of India, it quite as often happens that the reverse is the case, and that we are ordered to do things which are not required for India at all, but in wider interests, in which we have no voice and little part. [Reel 3, No.96, Curzon to Brodrick, December 31, 1903]

As an illustration in point Lord Curzon referred to Brodrick's telegram of December 13, 1903, suggesting that the Government of India should substitute the purchase of guns and rifles for the proposed creation out of their realised surplus for the current year of a fund for special defences.

> Our military authorities were quite opposed to this...Since then a little bird has whispered in my ear that the explanation of the proposal is that the War Office at Home have placed large orders for field artillery armament for next year, but that as the military estimates are now being cut down, and Arnold Forster wants to get rid of these, India is suggested as the obvious place in which they should be dumped...Our soldiers have heard on good authority that it is the case, and, if so, it is one of the little incidents that make them somewhat suspicious of the absolute unselfishness, of the proposals that sometimes come from home. [*Ibid*]

All his colleagues, the Viceroy continued, were quite prepared to recognise the Imperial character of the emergency,

and, if you will pardon me the phrase, once more to come to the rescue in South Africa, as we have before done. But we must certainly get something for it; for though it is easy enough to sit down philosophically, and say that there is no connection between the Indian coolie and the Indian pedlar, and that the treatment of Indian labourers on railways may be wholly differentiated from the treatment of Indian hucksters and bazaars, yet the fact remains that the public opinion in this country will be reluctant to draw any such distinction and that the Government would be justly blamed for throwing away its advantage for no corresponding return. In all these matters, however,...though we have our own point of view, though it is my duty to fight most strenuously for it, and though no one would respect me less if I did not do so than yourself, no other desire actuates us than to play our part loyally and to the full measure in the work of the Empire, and if we err at all, certainly to err on the side of excess, rather than of deficu!ncy. [*Ibid*]

Sir Arthur now look up the debate.

Godley: After all is said and done, the fact remains that the responsibility for every one of your acts, great and small, lies with the Secretary of State, the Prime Minister, and the Cabinet, and when the responsibility is absolute, there must be a corresponding right of control, absolute and unshared....

We hear a good deal more now-a-days than we used to hear (say) 8 or 10 years ago about ‘outcries' and public opinion; but, for all that, I cannot say that I see any reason why what is called public opinion in India should have any more overwhelming weight either with your

Excellency's Government or with the Secretary of State for India than it had 10 or 15 years ago. [Reel 4, No. 1(i), Godley to Curzon, January 1, 1904]

Curzon: Your...statement of the finest old-crusted doctrines of the royal prerogative (as embodied in the Secretary of State in Council)—'right of control, absolute and unshared', and so on. But when you say that the responsibility is also absolute and unshared, I am not with you. Do you mean that if we were landed in a war in Afghanistan, I should be held free of all responsibility and that the Prime Minister and Secretary of State would take it all?...I think it is a convenient one (doctrine) to pull out of the cupboard when it is thought necessary to reduce the Viceroy to proper subjection. But at other moments it is discreetly left on the shelf....

You say that you see no reason why what is called public opinion in India should have any...overwhelming weight (etc.)....To you in England, it seems...that there is no difference between the end of Lord Dufferin's regime and the end of mine. To me in India... there is all the difference in the world....Public opinion has been growing all the while, is articulate, is daily becoming more powerful, cannot be ignored....

In Lord Dufferin's days you could have carried through with ease making India pay for her Coronation guests in London, or for the South African garrison. You cannot do it now....I do not...argue that public opinion is to be kowtowed to. No one has more consistently defied it than I. But to contend that it does not exist, that it has not advanced in the last 15 years, or that it may be treated

with general indifference is, in my view, to ignore *the great change that is passing over this country, and which I believe that history will recognise myself as having done much (whether wisely or unwisely) to accelerate, viz., the lifting of India from the level of a dependency to the position which is bound one day to be here, if it is not so already, namely, that of the greatest partner in the Empire.* [Reel 4/11, Curzon to Godley, January 2, 1904, (Italics by the author)]

Godley: I think we ... all agree that the real Government of India is in the House of Commons; that the Cabinet speaks with the authorityof the House of Commons, and must decide everything with *reference* to the question: 'Can we defend this in the House?' and that a Viceroy who cannot conscientiously acquiesce in carrying out the policy of the Cabinet has no choice but to resign.....Right or wrong, so tong as the law and practice of the Constitution remain what they are—they are entitled, not only to the last word, but to the cooperation of the Viceroy. [Reel 4, No.3(4), Godley to Curzon, January 8, 1904]

Curzon: I again dissent from the proposition that the 'real Government of India is in the House of Commons'....I remember well when the House of Commons passed a foolish resolution about simultaneous examination in England and in India...The Government of that day—even though it was a radical Government—instead of acting upon the above theory allowed the Government of India to dissent altogether from the House of Commons, and finally itself disregarded the latter. The House of Commons took it lying down. No—for everyday purpose the Government of India is the Secretary of State and Cabinet at one end (with the India Council as their

advisers) and the Viceroy and his Council at the other. Their powers are not equal, for the former is the superior and the latter the inferior authority....But the real friend of India will aim at the coordination of these powers....Of course, in matters of foreign affairs involving other Powers the Home Government must be absolutely supreme....In internal affairs, I should myself let the pendulum moving the other way and I would, as a general rule, let the men on the spot decide....These, however, are the reflections of the man who is under the millstone not of the man, who is seated astride on the top. So you will perhaps not agree with them. [Reel 4, No.4, Curzon to Godley, January 27, 1904]

Brodrick: I have been very much struck with your continued reference to Indian public opinion since I took office....But hardly any of those around me appear to share your view that public opinion is seriously to be counted with...although one realises that a very loud outcry on any particular question may cause difficulty, and should be avoided wherever possible; I can see that the 'damned nigger' sentiment still obtains as regards taking their views into account in most cases of practical business. [Reel 4, No.9(18), Brodrick to Curzon, February 12, 1904]

Curzon: An Indian official can hardly be brought to think that there is such a thing as public opinion in this country. He has spent the greater part of his life in decrying and denouncing it. He does not see that it is growing, and he thinks that the same attitude can be maintained to the end of the chapter...There does exist, and there is growing in the background, a steady volume of public opinion as distinct from that

> of the man in the street....which it is becoming difficult for the Government to ignore....It is not wise or desirable to place this public opinion...in conjunction with the India Government against some policy or decision imposed upon us very often upon abstract lines by the Government at Home. [Reel 4, No.11/43, Curzon to Brodrick, March 3, 1904]

Being made to feel time and again that the Government of India was the "inferior authority" *vis-a-vis* the Secretary of State, liable to be overridden by the Cabinet, must have left a deep trauma on the "most superior person's" mind, which surfaced many years afterwards. He had it back on the Secretary of State, when as Foreign Secretary, he had Edwin S. Montagu sacked for allowing Lord Reading's Government to publish its despatch on the Treaty of Sevres without the previous clearance of the Cabinet. Recalling how he himself had once been rebuked for a much smaller indiscretion, he delivered himself to the India Office chief thus: "That I should be asked to go into the Conference in Paris while a *subordinate branch of the British Government* 6000 miles away dictates to the British Government what line I ought to pursue in Thrace seems to me quite intolerable." [Indian Annual Register 1922, Vol.II, p.163, Lord Curzon's letter to Edwin S. Montagu, dated March 6, 1922, (Italics by the author)]

9

The Viceroy's Executive Council met as scheduled on January 1, 1904. In a comprehensive note prepared under the direction of the Viceroy Sir Denzil Ibbetson minuted that the Transvaal Government's stand was that in the existing state of public opinion in the Transvaal, to give anything like what the Government of India had asked for, and above all, to give Indians freedom to trade all over the Colony without restriction to bazaars and locations, was

impossible and this must be taken as a fact. But he did not believe for one moment that with improvement in public opinion it would become possible to get a great deal of what they wanted; and the thing that was most likely to modify public opinion in favour of India, was their being able to point to a great benefit conferred upon the Colony by India. It amounted to relying upon the generous feelings of the Colonists, and "in this matter they have none. If ever it is to change, it will change, not because of past favours, but because of present and future needs and their urgeney". [NAI (Rev. Agri & Emgn.) A-Progs. Nos.17-19, November 1904, Sir Denzil Ibbetson Minute dated December 22, 1903, para 4]

He repudiated the imputation that the Government of India were attempting to use the needs of the Colony to drive a hard bargain with the Colony. But admitting that they did look upon their coolie labour as the one consideration which they had to offer in exchange for fair treatment "which will never be conceded on unselfish grounds", what was there wrong or unfair or unreasonable in that? How could they otherwise justify themselves in the eyes of the people of India "for offering our only sop to Cerberus without getting anything for it?" [*Ibid,* para 5]

Ibbetson demurred to the argument that even though India could expect nothing from the Colony, it was selfish or unreasonable of them to refuse the aid which the Colony needed, because to agree to it would not injure India. "If a man has persistently insulted and ill-treated me, and shows no sign of any intention to amend his ways, am I selfish and unreasonable if I refuse a favour which he asks, merely because to do him the favour would not injure me?" Was it to be all give and no take for India? he asked. [*Ibid,* para 6] Material gain or loss was not everything. The Home Government bowed before public opinion in the Colony. Public opinion in India had not the same means of asserting itself; but that was

all the more reason "why they should not disregard it when it is reasonable". They had the whole sentiment of educated India to consider, to which such action on their part would "simply be an outrage". The Secretary of State in the letter of July 21, 1897 to the Colonial Office [*Ibid,* Nos.8-20, November 1897, From Under Secretary of State for India to Under Secretary of State for Colonies, para 11] had written with reference to Natal, that the power of stopping the supply of indentured labour would "undoubtedly be exercised in the future" as it had been in the past, whenever the Government of India had reason to believe that Indian immigrants were "unfairly or oppressively dealt with", and in May 1899 that warning had been passed on to the Natal Government by the Secretary of State for the Colonies, with the remark that "such action on the part of the Indian Government would be perfectly justifiable and indeed inevitable". But His Majesty's Government now proposed to force them to open a new supply of indentured labour and thought them "unreasonable" when, as a condition of the Government of India doing so, they asked for a redress of grievances about which Mr Brodrick had in his letter of 29th October, 1903, himself remarked that "the present position of affairs must be intolerable to any Indian except of the lowest class"! [*Ibid,* Nos.17-19, November 1904, para 8, quoted by Denzil lbbetson in his note dated December 22, 1903]

As for the concessions subsequently offered by the Secretary of State, "presuming that he was in a position to implement what he had proposed", Lord Milner now offered (1) to include Indian languages as proof of literacy in the proposed legislation for the exclusion of 'undesirable immigrants'. This, Sir Denzil thought, was what they were concerned with. Lord Curzon's comment on this was: "But only in the next session of the Transvaal Legislature", (2) by administrative act at once to give licences to Indian traders who had established business under the old Government but without licences and who were,

therefore, now under notice to remove to a bazaar to retain their present places of business.

"This considerable boon," as the Secretary of State had called it, Sir Denzil pointed out, did not meet the case of (a) the itinerant pedlars who were numerous and had established a business and a clientele under the Boer Government or (b) those traders who had entered the Colony since the war. Nevertheless, as it was proposed to enforce it with retrospective effect, it removed in the main the greatest injustice of the licence law and, on the whole, Sir Denzil thought, he would accept the proposal.

As regards the Pass Law, and its corollary, the Curfew system, the Government of India had protested absolutely; in regard to the restriction of Indians to "Locations" for residential purposes they had questioned its justification and had contended that at any rate, it could not apply to the respectable and well-to-do class; as for the regulations that forbade Indians of all classes to walk upon the footpaths, to make use of public conveyances, to travel by the higher class on the railways, and so forth, while recognising that public feeling in the Colony would no doubt enforce distinctions of that sort, they had urged that at least no official countenance should be lent in such invidious treatment. Mr Brodrick now proposed, by administrative act, to exempt all Indians of "superior class". In 1901 only 4 Indians in the whole population of Pretoria were adjudged by the Supervisor of Indian Immigrants to satisfy the condition of "known respectability". The Government of India, minuted Sir Denzil, should therefore insist that all those should be exempted from the obligation to reside in locations whose limitation to them was not necessary on sanitary grounds. [*Ibid,* para 13] On the question of disabilities of a humiliating character, Sir Denzil felt that if he were the British Government, "even in the Transvaal, he

should indignantly refuse to allow them to continue to sully the Statute Book, leaving towns and municipalities to make any regulations which they may have power to make under the existing law", But if that was impossible, he would insist that “Indians of superior class", should include "all respectable traders and shopkeepers".

In exchange for supplying 20,000 indentured coolies, therefore, he recommended that they should ask for the following terms:

(1) The inclusion of Indian languages in the literacy test to be applied to immrgrants.

(2) The exemption from the necessity to reside in locations of all Indians whose residence it was not necessary ro enforce on sanitary grounds.

(3) Licences to trade outside bazaars to all Indians who had established business under former Governments, even though they might not have held licences.

(4) Exemption of all respectable traders and shopkeepers (and higher classes) from the Pass Law, the Curfew system, and the prohibition against walking on footpaths, riding in public conveyances, travelling in the higher classes on railways, and the like.

Sir Denzil was emphatic that these conditions should be treated as the minimum, and they should insist on being allowed to publish the correspondence relating to them "in order to show what we have got in exchange for our concession”.

The Viceroy in his correspondence with the Secretary of State had raised the question whether the Home Government could guarantee their ability to fulfil their promises and whether they should not insist that the concessions that

they had asked for shall be "actually obtained and secured by law" before they supplied the coolies? Sir Denzil recalled that some time ago when a provision conferring the municipal franchise upon Indians had actually been passed in the Legislature, despite the opposition of non-official members, a strong public feeling was aroused and the Government was compelled to cancel it. According to *Reuter's* telegram, the "administrative action" that Lord Milner had already taken in relaxing the Bazaar Act in respect of the system of licences to trade outside bazaars, had resulted in strong agitation and a public mass meeting. Mr Brodrick had told them that Lord Milner "thinks it would be possible to take up in the next session the position of the Indians", and that he would "propose the inclusion of Indian languages in the literacy test". All the rest was to be done by "Administrative Act" and in his telegram of 11th November, all that Brodrick had said was that the Colonial Government were "anxious to go further than they hitherto have done" in the direction of the lenient enforcement of the existing law. "There does not seem much security for us here," Sir Denzil commented. "I think we must leave it to the Home and Colonial Governments to say whether they can give us the undertaking we require. But if we supply coolies on the strength of that undertaking and they then find themselves unable to carry it out, the feeling here will be intense." [*Ibid,* para 17]

10

A note of suppressed irritation and indignation at the step-motherly treatment meted out to India by the Home Government in its anxiety to promote the material advancement of a small white Colony, ran through Lord Curzon's note giving the genesis of the question, which the Members were to consider. Lord Milner was "almost at his last gasp" for want of men. The anticipated recovery in South Africa as soon as the war was over had never even begun; there

was universal depression and stagnation; the country was not settling down; industry and enterprise were at a stand-still; and there was no labour, either to build railways, or to reopen the mines. "In these circumstances Lord Milner turns to us, and he persuades Mr Brodrick that he is offering to do a very good turn to India by taking 20,000 Indian immigrants...and that we are extremely short-sighted and unreasonable in not jumping at this proposal and in trying to connect it with the larger question of the treatment of Indian settlers in the Transvaal in general, and using it as a lever for obtaining the concessions for the latter, which we pleaded for in our despatch of May 14th last. Mr Brodrick is overcome by these arguments and represents the Cabinet as being far more impressed by the needs of the Empire in South Africa than by the feelings aroused in India." [*Ibid,* para 1(c), Lord Curzon's Minute dated December 28, 1903] And now he had hinted that if the Government of India did not give way, the Cabinet would have no choice but to overrule them.

There were two ways of looking at the question, minuted Lord Curzon. One was the point of view taken by Lord Milner and in a less degree by the Cabinet. Because the Indian petty traders or even persons of position were ill-treated in the Transvaal, that was no reason why the Government of India should refuse to that Colony coolies who belonged to a wholly different class. On the contrary India ought to welcome an opportunity for immigration of its congested population under suitable conditions; and by the introduction, "with a good grace, of this orderly class", they could even hope to modify the attitude of the Colonists towards Indians in general and to secure concessions which they might not otherwise obtain.

The other point of view was that the whole question of Indians in South Africa hung together, that because "coolies" did not need special protection that

was no reason why India should not make the loan of them an occasion for securing better terms for other classes, that the Government of India were in "the rare position of having the whip hand", and that it would be "foolish not to use it". Curzon held to the second view. "We have fought a strenuous but hitherto unsuccessful battle on behalf of our Indian settlers; we are asking no more for them than the usages of civilised communities, particularly under the British Crown, prescribe; we are not particularly concerned with the incautious utterances of Mr Chamberlain; we have to consider Indian labour much more than South African railways; and we should be open to the charge of throwing away a unique opportunity if we were to yield to the present request without demanding any *quid pro quo* at all." [*Ibid,* para 4]

At the same time, Lord Curzon felt that they should be prepared to make some concessions to the Imperial aspect of the case and should not be "too exacting" in their bargain; and if they could get "reasonable security" for immediate or early reforms, they should be willing to lend a helping hand.

He drew pointed attention to the fact that with one exception the preferred concessions were all to be given by administrative i.e. executive act; and the exception—*viz,* the allowance of Indian as well as European languages as a literacy test—was only to be given by future legislation i.e. in the next session of the Transvaal legislature. Whether the legislature would pass such a proposal they were not told.

He agreed with Sir D. lbbetson that they should press for the definite minimum terms suggested by the Honourable Member and that they should insist on their publication. But he did not think that it would be "sage" to trust to the *"bona fides* or the good intentions" of the authorities. "We want to be in possession of some check on our side." He, therefore, proposed that indentured

coolie labour should be provided for a fixed term only, say two years and that, if the promised concessions were not made at the end of that time, the supply should be stopped or the force withdrawn.

As regards recruiting, management and organisation of the “coolies'', the Viceroy felt that the Colony should be asked to raise them in the ordinary way, and be responsible for the selection. The Government of India should "have a supervisory officer or officers while they are in South Africa".

The file was circulated to the members of the Executive Council and there was a general agreement on the conclusions presented by Sir Denzil lbbetson and endorsed by the Viceroy. Lord Kitchener felt that the terms proposed by Sir Denzil should be insisted upon. [*Ibid,* Lord Kitchener’s noting dated December 30, 1903] Even A. T. Arundale, who was “much impressed by the Imperial aspect of the case" and did not "attach much importance to the attacks of the native press in India" on the treatment of the Indians in the Transvaal, was of the view that "we should not be content with mere assurances and promises", but secure the concessions by the conditions under which indentured labour would be permitted. [*Ibid,* A.T. Arundale, Noting dated December 30, 1903]

On the following day an Order·in·Council was passed that an offer be made to the Secretary of State to furnish a force of 20,000 coolies in return for concessions proposed by Sir Denzil Ibbetson; the force to be indentured for a period of two years only to begin with, at the end of which time the Government of India would be free to reconsider the matter in the light of the experience which may have been gained. The minimum terms laid down by the Government of India were:

(1) The Transvaal Government to be asked without delay to include Indian languages in the literacy test to be applied to immigrants.

(2) Only those Indians to be compelled to reside in the Locations whose residence it was desirable to restrict on sanitary grounds.

(3) Licences to be given to all Indian traders who had established business under the former Government, whether with or without licences, allowing them to retain their original places of business.

(4) All Indians of the superior class, including respectable traders and shopkeepers, to be exempted from the Pass Law, the curfew system, and other restrictions that were currently imposed on the non-white population, in connection with the use of footpaths. public conveyances, the higher classes in railways and the like.

A telegram to that effect was accordingly despatched to the Secretary of State on January 2, 1904 and on January 4, 1904. Alfred Lyttelton telegraphed the contents of that wire to Milner. [NAI Curzon Papers, Reel 5, No.53, Viceroy to the Secretary of State, January 2, 1904. Also see NAI (Rev. Agri & Emig.) A-Progs, Nos.17-19, November 1904, Telegram from the Viceroy to Secretary of State]

11

Surprisingly, after months of hectic clamour for Indian "coolie" labour for South Africa, Milner seemed suddenly to have lost all interest in it. Not receiving any acknowledgment of his wire of January 2, 1904, Lord Curzon wrote to Brodrick on January 7, to enquire the reason for his strange silence. He had half-suspected that the plea of extreme urgency which the Cabinet had taken up at Milner's instance and which Brodrick, as a duty-bound Chief of the India Office, had pressed upon him so vehemently, had really been forced upon Milner by the Rand Capitalists. And Milner, as we have seen, had on his part put himself altogether at the mercy of the white colonists by pandering to their racial

prejudice and their sentiment of trade jealousy, in order to rally to him the loyalist Afrikaner section and the English section of the white settlers in pursuit of his goal of achieving English race supremacy in South Africa, even at the cost of the principles for which Imperialism stood and which he himself had professed and cherished. This stood out in marked contrast with the inflexible determination with which Curzon had resisted infractions of the Imperial ideal by Europeans in India, however influential. He felt uneasy.

Voicing his misgivings, on January 7, 1904, he wrote to the Secretary of State to say that he did not feel certain that the public opinion in South Africa would permit "the very modest concessions" that Milner was "willing and anxious to give". [Reel 4, No.1/1, Curzon to Brodrick, January 7, 1904] On January 14, he got Brodrick's reply that he was pressing Milner "to accept your South African proposals" and that he hoped to telegraph "in a few days". [Reel 4, No.4/6, Brodrick's telegram to Curzon dated January 14, 1904] Sir Arthur Godley also wired on the following day saying how very much pleased they were that the Viceroy had taken up an attitude on the "Coolie" question "that ought to make a *modus vivendi* possible". [Reel 4, No.5/7-8, Godley to Curzon, January 15, 1904]

Milner replied on January 20, 1904. His reply was, however, not communicated by the India Office to the Viceroy, as Brodrick wished to satisfy himself on several points which, he thought, were either not clear, or would need to be modified to be acceptable to the Government of India. Brisk communications between the India Office and the Colonial Office on the one hand, and the Colonial Office and the Transvaal Government on the other, followed in the course of which Milner completely receded from even the limited concessions that he had himself in the first instance, proposed and confirmed in

his letter of January 20. But this and the subsequent developments relating to it form part of another story to which we shall be returning presently.

Unaware of the turn of developments and three weeks after Brodrick had spoken of being able to say something definite about the Government of India's South African offer and Milner's reply, Lord Curzon again wrote on February 17: “I conclude that some hitch has arisen”. In any case," he added with fine irony, “the matter does not seem to have been quite so urgent as it was thought to be at the beginning of November last.” [Reel 4, No.9/88-89, Curzon to Brodrick, February 17, 1904]

The denouement came on March 11, when Brodrick revealed that in the previous November when they were pressing the Government of India for immediate reply they were under the impression that the popular sentiment against the importation of Asiatic, i.e. Chinese, labour in South Africa would be their main difficulty, and that "it would be far easier to start by putting in the thin end of the wedge”, and bringing Indian “coolies" under indenture on the same lines as had been done in Crown Colonies to work on the rail roads, "to which comparatively little objection could be taken there, and none in South Africa”. But circumstances had altered exceedingly in December. On Milner's return he found that the whole attitude of the Transvaal which had been disinclined to change when he left had completely reversed, and absolute stagnation was apparent in the industry. The revenue had fallen enormously in the previous two months, and the market had sunk to a very low level. Brodrick wrote:

> As soon as Milner arrived, he found that instead of his pressing the Transvaal Legislative Council and encountering the hostile resistance of public meetings as regards Asiatic labour, he would be almost impeached if he did not push it on at once. But he also found that money was running

> short, that he could not get the extra £5,000,000 which they were to borrow on anything like reasonable terms, and reduction of expenses all round was the order of the day and that instead of pushing on railways, he must first put Johannesburg on its legs as it contributes seven-eighths of its revenue. Once restore the revenue, and progress in other respects will be rapid. [Reel 4, No.15/36, Brodrick to Curzon, March 11, 1904]

This "coupled with your objections and stipulations" Mr Brodrick concluded, was Milner's reason why he pressed on Chinese labour in front of Indians. The result, as he put it, was fairly disastrous.

> Milner lost no time in putting your proposals before his Council. Great exception was taken to them, and he has had a very heavy fight. The idea of licensing Indian traders, even when they had a title before the war, is vehemently resented. Milner is prepared to sledge-hammer this portion of the agreement through by the votes of the official members, but he could not resist an enquiry which was asked for as to the numbers of those affected under different classes, and this enquiry has put off the decision till the meeting of the Legislative Council in May, when he hopes they will be more reasonable; but he proposes in any case on the point being carried. [*Ibid*]

The climate of opinion at home was even worse. "It is curious," Sir Arthur Godley wrote on March 18, that "the feeling which makes the anti-Chinese cry so popular, is identical with that which compels the Natives of India in the Transvaal to live in compounds and excludes them from the 'sidewalks'. *There is a very strong racial excitement now in this country about alien immigrants, and I am sure, that if the Government would introduce a Bill compelling them to walk in the*

roadways of the East End, they would regain much of their lost popularity." [Reel 4, No.18/48, Godley to Curzon, March 18, 1904, (Italics by the author)]

Once more Lord Curzon proved to be a true prophet and as on many previous occasions had the last laugh. On March 17, he wrote back to the Secretary of State. "You will probably agree that if in November last I had sent you the hurried agreement on the part of the Government of India for which you pressed, I might have added to instead of diminishing your Parliamentary troubles." [Reel 4, No.13, Curzon to Brodrick, March 17, 1904]

Brodrick had concluded his letter of the 11th March with the following: "To be quite frank with you, though I may have to give way, I have very grave doubts, whether, as things now turn out, I shall not have to oppose the introduction of Indian indentured labour." [Reel 4, No.15/36, Brodrick to Curzon, March 11, 1904]

Here was, indeed, a Gilbertian situation in which the respective roles of the parties in the combat were virtually reversed. The temptation was too great to be resisted for a tart comment.

Lord Curzon to St. John Brodrick *March 31, 1904*

> You, with your sense of humour, will, I am sure, be as keenly tickled as myself at the situation, should it arise, and your having to set down to pen a despatch to the Government of India protesting against the suggestion by us of a form of indentured labour which we secretly detest, which we only put forward with extreme reluctance, and which we would never have recommended at all, had it not been for appeals amounting almost to orders from yourself. [Reel 4, No.17/66, Curzon to Brodrick, March 31, 1904]

Referring to the storm of criticism at home that the debate on the Labour Ordinance had provoked, Lord Curzon continued: "The criticisms that I then anticipated are likely to be aroused in India, but to which we were told to pay no attention on account of the superior claims of the Imperial position, are precisely the criticisms which appear to have been excited with ten-fold violence and ferocity at home."

With one breath Curzon blew away all the cant and humbug about the usefulness and morality of the system of indentured labour that the authorities at Home and in the colonies, the Government of India officials and even some of the Viceroy's own predecessors-in-office had indulged in in the past and against which the Indian community had been crying itself hoarse. "To tell you the truth," he wrote to Brodrick, who had proposed that the Government of India should help grow cotton for Lancashire in Burma and elsewhere in India with the help of indentured labour, "I have had enough of indentured labour in my time, it is quite true to say that it is not slavery in the old American sense of the term...and yet from another point of view indentured labour is slavery, in so far as all element of freedom has gone out of it."

Rejecting outright Brodrick's proposal for the extension of a labour system that had caused "untold trouble in Assam" he told him that if there were people who were interested in foreign labour they must import themselves.

> But do not ask us to place at their disposal the machinery of the law. Once a contract is formed, the wretched coolie is tied hand and foot, and is liable to arrest for breach of his contract on the smallest provocation. He cannot escape. He has scarcely any means of redress... he is a serf, and nothing more. My own view...is that the position will never be satisfactory until our labour laws have been swept away, and the planters have to come

> to draw their coolies from the open market, which would mean in the first place, that they would have to pay them good wages to make them come; and, in the second place, to treat them well in order to keep them after they have arrived. [Reel 4, No. 17/68, Curzon to Brodrick, March 31, 1904]

Holding these views, Curzon was not disposed to countenance an extension of the indenture system for the benefit of any particular class - European or other.

The Home Government's opposition to the importation of coloured indentured labour incensed Lord George Canning Harris, as it had Sir George Herbert Farrar, President of the Transvaal Chamber of Mines. An Ex-Governor of Bombay, whose father had been Governor of Madras fifty years before, he had, in April 1901, been recipient of an address of welcome by the Indian community in Durban on his way back home. He was then full of praise of India and the Indian community in Natal for the help rendered during the war. But he was now Chairman of the Consolidated Gold Fields. In an interview he gave to the Press in Johannesburg in February 1904, he dubbed the attitude of the Home Government “very unreasonable". In support he cited the instance of the West Indies and other countries that had before imported coloured labour. What he forgot was that the indentured labourers who went to the West Indies and elsewhere did not go there as slaves. As soon as their contract was finished, they were free to settle in the country, and enjoy ordinary civil rights. Between the indenture laws elsewhere and in the Transvaal, as Gandhiji pointed out, there was all the difference "which exists between the contract of slavery and a free contract". Besides, the climate of West Indies was hardly suited for white labour, whereas the climate of the Transvaal was ideal and the white workmen would have no difficulty in doing the same kind of work that they were used to in

England. The real ground of objection to the employment of white labour was that white labour was more expensive. This argument had been effectively disposed of by Mr Morley, who had told the mine owners to be satisfied with less profits. If there were mines that could not be worked at all by white labour, Morley had added, they "need not be in a hurry to give up their gold".

Drawing a distinction between the trader and the coolie, Lord Harris had further said that it would be "a splendid thing" for India if the coolie, having given the Transvaal the benefit of his labour, went back to his village with his rupees, the capital that India precisely needed. Considerable trade would then spring up between India and the Transvaal. Granted that the coolie and the trader were different persons, did it follow, asked Gandhiji, that the "coolie must always remain a coolie and be treated as chattel"? Why should he be denied the right, if he was brought to the country at all, of settling and earning an honest livelihood? And why should the Indian Government go out of its way to accommodate a Government which was "callous to all ideas of justice in treating the resident Indian population with fairness?" A few thousand Indians " going to the Transvaal as slaves" would hardly solve the problem of Indian poverty. The Government of India were therefore perfectly right in not allowing indentured immigration from India to the Transvaal on the terms suggested and without amelioration of the condition of the British Indians who had already settled in the Colony, he concluded. [C.W.M.G. Vol.IV, p.l28; *Indian Opinion,* February 11, 1904]

CHAPTER IX : THE CHINESE CURE

1

On his return from his disappointing visit to Europe, Louis Botha had taken a house near to where J. C. Smuts lived, plunged in the abyss of a dark despair. A sense of his utter helplessness and defeat ate into Smuts till, as one of his biographers put it, he was "half-throttled by the claustrophobia of a proud man of a proud race held down by force". [H. C. Armstrong, *Grey Steel,* p.112] Botha's presence acted on him like "some cool fern breeze after a night of fever". [*Ibid,* p.114] Under his influence Smuts began to revive.

Botha had already sensed that English public opinion was swinging away from the Conservatives towards the Liberals—and the Liberals had promised that, when they came to power, they would give self-government to South Africa. His talks and experience in England coupled with what Kitchener had told him at Vereeniging, and Joseph Chamberlain's remarks about the need for the Dutch and the English to work together had convinced him that they could count on self-government to come in time; the only question was how to get it as quickly as possible. He infected Smuts with his faith. Together they worked out their strategy. They would studiously observe the treaty, try to get it modified by agreement if they could; but in any case they would proclaim their acceptance of the Empire and they would on all occasions and at all points attack Milner and his administration; refuse to give him any active help, proffer advice, but without taking any responsibility; accentuate his difficulties; and when Milner would make mistakes, as he was bound to, use them to discredit him and his administration.

Doubts had been felt almost till the last moment what attitude the Boer leaders might adopt towards Chamberlain's visit to South Africa. Smuts and Botha laid these doubts at rest by their friendly declarations on the eve of his visit and by their presence with Piet Cronje and de Ia Rey at the first reception held in his honour by the Governor Lawley on January 5, 1903. They attended again on the following night a public banquet. But Chamberlain saw them in a joint body in a public deputation only once. On January 30, they met in the Assembly Hall of the Volksraad building in Pretoria and presented him with an address of welcome. Smuts acted as spokesman. Refusing to transact his part of the business in English, he spoke through an interpreter. [W. K. Hancock, *Smuts—The Sanguine Years,* p.193] "We are loyal to the Treaty and the Empire", he submitted. "We now come to you, to our new Government....and it would be wiser...now and at once to give self-government and so win the complete confidence of South Africa." Chamberlain cut him short. He would not listen to reopening of the questions settled at Vereeniging, he said. [H. C. Armstrong, *Grey Steel,* p.118] The Boer leaders felt deeply hurt and humiliated. [W. K. Hancock, *Smuts—The Sanguine Years,* pp. 192-193. Giving an account of this meeting in a letter to L. T. Hobhouse Smuts afterwards wrote: At the public meeting he adopted a line of reply which could not but be considered insulting and which was so considered by everybody present. When we prayed for amnesty he pointed out how we had sjambokked and shot *our* rebels; when we asked for equal rights for Dutch and English, he asked us whether that was in our Charter—the conditions of surrender at Vereeniging; when we asked that in view of the impoverishment and devastation of the country no war debt be laid on the country until the population had been given self-government and the people's voice could be heard thereon, he did not even deign to reply to us. His great taunt was our ingratitude and non-recognition of the fact that the government was spending 15 millions sterling on the restoration of the country to its pre-war condition. Everybody then and since has been wondering and asking where and how and on whom this vast sum of money has been spent, for there is certainly no public evidence of it, except perhaps in the Blue Books which are sent to the Colonial Office for home consumption]

In pursuance of the line that they had settled they continued to make much of Chamberlain, flattered him with consummate subtlety and showed him exaggerated attention, while reserving all their fire for Milner and his administration. As a counter-manoeuvre, Milner invited Botha, Smuts and de Ia Rey to serve on the Legislative Council that was ruling the Transvaal. If they were so loyal, he said, and so ready to be helpful, let them show what they could do. But they refused to enter “a sham legislature" [*Ibid,* p.193] in which they would be only three among thirty. They would rather wait, they declared till they could take a real and substantial share of responsibility. In the meantime they would "let Lord Milner's Government take the whole praise and blame of its deeds and misdeeds". [*Ibid*] They had enough to do for the time being with helping individual farmers to rebuild their shattered fortunes and their own. They had both suffered heavily. Botha's farm had been blown up in the war. So he bought a farm in the Standarton district. But for the time being he felt that his primary duty was to help his own countrymen in their distress. He made himself easily accessible to those who came to him with grievances against the Government to seek his advice, and was generous to those in need. Smuts occupied himself through this harrowing time with watering his oranges and reading Kant, [*Ibid,* p.191] while he prepared himself for the coming battle. He did not have long to wait.

2

It had been roses, roses all the way for Milner so far. Fortune had smiled upon him. He had imposed his will on the Home Government and forced the hands of his chief. A grateful Home Government had set him up as ruler, and almost autocratic ruler, of the annexed territories with all the power in his hands, that Rhodes and Kruger had contended for. But of late his luck seemed to have run out. The prospect of the prosperity of the country had suddenly dissolved. A

severe drought, such as South Africa had not known for forty years, had resulted in a total crop failure. Imports were checked; there was a steep fall in customs and railway revenue; administrative expenditure spiralled, unsettling all calculations. There was all-round economic recession.

The goal of Milner's policy was to convert the new colonies into English ones, and their rapid economic development was to be the means to the achievement of that goal. This depended on the development of the gold mining industry at the highest pace of expansion. The faster its pace of development the greater would be the "overspill" needed for the development of the vast untapped agricultural and mineral resources, which would ensure South Africa's prosperity even after its gold fields had been exhausted. The rise of new vested interests and the steady inflow of the new British population in the wake of the affluence resulting from rapid economic development, would render any revival of old ambitions chimerical. Quick exploitation of the gold mines became the key to South Africa's plans for achieving the goal of British race supremacy in a white man's South Africa. The autocrat of the annexed territories consequently found himself at the mercy of the gold industry with its voracious demands.

The effort required in extracting the yellow metal from the ore is incredible. Some two tons and a half of rock must be crushed and processed to produce an ounce of gold and a sliver of silver. In most mines the yield is only a third of an ounce for each ton of rock. Such poor ore can be profitably worked only if the labour costs are extremely low. Before the war, the mines yielded as much as 3,823,400 ounces yearly, valued at £16,240,600, but by 1901 production had dropped to 258,000 ounces, and did not return to pre-war levels until 1904.

In the silence of the night in those days, especially when the wind was blowing from the south, one heard a dull far-away roar "like the beating of surf

on a distant shore". It was the batteries of ore-breaking stamps ceaselessly working, crushing the rocks that yielded the golden harvest. Hidden from the eye, something more was being crushed. Beneath the gentle hills the shafts ever went down and down toward the earth's' hot core. Down there, over 5000 feet down in the steaming bowels of the earth were men, a few whites in the skilled positions, and vast numbers of Kaffirs, over 100,000 of them before the War. Lured from their distant kraals by unscrupulous labour touts, deceived by tales of "high" wages, they worked for only a fraction of those a white miner got. In a labyrinthine maze of shafts, galleries and inter-connected tunnels, they crouched between rock shelves in the gold-bearing strata, drilling holes for blasting in extreme discomfort, often in real danger. Their naked torsos glistened with sweat. The heat was appalling. At the lowest depths, two or two and a half miles below the earth's crust, temperacures were up to 138°F. Rocks might explode without warning in the relentless pressure at these depths; scalding water might spurt from hidden fissures. In spite of the cooling systems the heat was brutal with humidity at 90 per cent, for, water must be sprayed continualy to keep down the mining dust. Even so, silicosis took a heavy toll— the death rate in 1903 reached the appalling figure of 71 per thousand.

The Batteries on the Reef were the heart of the Rand. They provided the life-blood that kept South Africa's economy going. It was the greed for the Witwatersrand's gold which was the fundamental cause of the war which Milner had forced on the Boers. It also became the decisive factor in Milner's downfall. By bringing to a head the question of the rights and status of the British Indian subjects in South Africa that had long been an issue with the Government of India, but which on one excuse or another Milner had evaded so far, it precipitated a confrontation between him and Lord Curzon, who as guardian of "the Brightest

Jewel in the Imperial Crown" was as jealous of his special charge as Milner was of his in South Africa. He saw in Milner's extremity India's opportunity and resolutely set about to use it as a lever to the best of his advantage.

From the very beginning Milner had given top priority to the restarting of the mines at the earliest. By April 1901, he had secured Kitchener's consent to the starting of three mines, with a total of 150 stamps. Till the middle of November 1901, 450 stamps had resumed work. Their number had risen to 1000 by the end of the year, to 1500 by the end of March 1902 and to 2000 by the end of May, against the full pre-war level capacity of 6000 stamps. This was far too slow. Only by a rapid expansion of the gold industry could a disastrous financial crisis be averted and the rapid development of the gold industry demanded an enormous supply of cheap labour. In the words of Headlam, "the financial position depended upon the gold industry, and the gold industry depended upon the employment of native labour". [Headlam II, p.457]

Paradoxically, this was just the commodity, which South Africa was reputed to have in such abundance, that was found lacking. Almost from the very beginning South Africa had been plagued with labour shortage. The reason largely was the white man's repugnance to rough labour, or ''Kaffir's work", which he considered to be incompatible with his dignity to engage in, and a matching reluctance on the part of the "native" to serve as the white man's Caliban. With few wants beyond food, and plenty of land to cultivate, the "native" was under no necessity of working for the white man on a subsistence wage. Besides, in spite of his splendid physique, he was not accustomed to sustained heavy toil. He could be tempted away from his kraal only for a time. As soon as he had enough money in his pocket he would go away and not reappear till forced by necessity. [Bridglal Pachai, "Indentured Chinese Immigrant Labour on the Witwatersrand Goldfields",

India Quarterly, Vol.XXI, No.1 (Jan.-Mar, 1965), p.60; PP Vo1.39, p.137, (In later citations, Pachai, "Indentured", P._____; PP _____, etc.)]

The Anglo-Boer war aggravated the trouble. Natal, short of labour in spite of its importation of indentured labour from India, forbade any recruitment for the Transvaal within its territories, and competed for Shangaan labour from Mozambique. Labour touts, attracted by extravagant recruiting fees, ran up the price of labour by their competition, and would induce natives away from one mine and pass them on to another to earn their fees. Early in 1898, the Transvaal Chamber of Commerce had tried to obtain miners from India. But the suggestion was turned down by the Indian Government [Pachai, "Indentured….", p.59, Notes, Vd.-28-11-73, p.3] because of widespread resentment over Law 3 of 1885, the denial of citizenship rights to the "Asiatics" in the newly acquired Colonies, and a series of restrictions imposed in Natal.

During the war the leading Rand mining magnates occupied their enforced leisure in discussing how to organise the labour supply on a sounder footing. The outcome of these discussions was the formation of the Witwatersrand Native Labour Association as a single organisation that would be

responsible for the recruitment of labour for all the mines. To make the working of the less productive mines profitable, it was further decided to lower the native monthly wage from 50s. to 30s.– this at a time when the mines were short of labour. The lowering of the wage, it was cynically argued, would "actualy increase" the labour supply "by making the natives stay longer to earn the same amount". Milner was in the meanwhile concerting vigorous measures to facilitate the supply of labour as soon as peace should be restored, and it was confidently expected that as a result a return to the 1899 level of 6,000 stamps would be reached almost the moment the fighting ceased, and that an increase to 10,000

within the next two years was a matter of certainty. [*The Times History of the War in South Africa,* p.105] These expectations were soon belied.

The British had made the fullest use of the natives in the struggle against the Boers while the war was on. The natives had, therefore, naturally expected that on the return of normalcy they would not again be pushed under the yoke of the conquered, who had been represented to them as the "common enemy". They were soon made to realise that whatever the relationship between the Boer and the Briton, so far as the black man was concerned, no "insolence" against the erstwhile "white enemy" would be tolerated; and that the British conquest "involved no essential alteration in the superior status of the white man, whether Briton or Boer". [*The Times History of the War in South Africa,* edited by L. S. Amery, Vol. VI, p.52] When peace came, everybody else flocked back to the mines, but the Bantu labourer kept away. Conditions were too unattractive; "the long hours, deceitful wage promise, unfit sleeping quarters, indifferent medical care and physical abuse". [Sacks, p.47]

The mine-owners at first thought that the war had disrupted their habit of going to the mines, and that in time it would be restored. They expected that after the Bantu had spent his fat wartime earnings he would return to earn more. In time however it was realised that if the mines were to compete with the increased demand for labour for post-war expansion and development they would have to pay more. In January 1903 the Chamber of Mines decided to restore the wage cut and pay 45s., but this was not enough. In March the total number of Bantus at work was still only 50,000.

In the year in which the war ended, i.e. 1902, the Transvaal Chamber of Mines had suggested importation of Asiatics "under the most stringent Government control by which they would not be a menace of any kind in the

Transvaal". When the Chamber's suggestion was placed before Chamberlain during his visit to South Africa, he however, took the view that on the whole large-scale recruitment of white labour would be the better solution. In a report he addressed to His Majesty's Government on January 20, 1903, he minuted: "Milner would be inclined to favour an experiment in the importation of Chinese labour...I consider that such action would be extremely unpopular and would raise a storm at home...The feeling at present all over South Africa is against such a policy, and as long as this continues it is not likely that the Home Government would give its assent". [Milner p.139, Headlam Vol.II, p.438]

3

An influential section of the mining magnates was opposed to the introduction of Chinese labour. Sir Percy Fitzpatrick, President of the Chamber of Mines, addressing the Annual General Meeting of that body on February 26, 1903, pointed to Natal's experience with Indian labour and the difficulties to which this gave rise in subsequent years. He did not subscribe to the view that Africa's labour resources were exhausted. [Pachai, "Indentured..." p.453; PP. Vol.61, 1904, p.275] Sir George Farrar, at a great meeting held at Boksburg, compared the mines to "treasure chests". The gold locked up in those chests was not going to rust away for want of labour. Why not then keep some of these chests locked up for the use of future generations, he asked. Why should they be forced open for the benefit of the few at the sacrifice of everything else? [C.W.M.G. Vol.III, p.453; *Indian Opinion,* September 24, 1903] To this pro-gradualist argument the counter-argument of the advocates of rapid development was that slow development involved eventual exhaustion of the gold mines just as certainly as rapid development, but it solved no problem, economic or political. In effect "it left the inheritance of South Africa to the Kaffir". Rapid development meant "not only a

British South Africa, but a white South Africa". Slow development on the other hand would end in "the recrudescence of Afrikanderdom followed by the eventual domination of the Kaffir and the half-caste".

A month later, however, when the Bloemfontein Conference met, the majority of the mine-owners had come round to the view that the South African labour supply could not meet either the immediate or the prospective demands of the industry. The Conference resolved that "the permanent settlement in South Africa of Asiatic races would be injurious, and should not be permitted", but that, if industrial development positively required it, "the introduction of unskilled Asiatic labour under a system of government control providing for the indenturing of such labourers and their repatriation at the termination of their indenture, should be permissible." [C.O. 879, Vol.82, No.734, Resolution II; Pachai, "Indentured…" p.62]

The Conference and the mine-owners apart, the proposal for the employment of unskilled Asiatic labour was received by nearly all other sections of the white population with the greatest aversion. [Taken from Pyarelal's notes. Source not traceable. The white miner objected to the introduction of labourers capable and willing to do his skilled job at a fraction of his pay. The shopkeeper saw in him a more frugal, more industrious, and very often more intelligent rival whose competition he dreaded. The citizen reacted to the presence of the coloured men in his midst with all the irrational frenzy of inbred racial prejudice] Gradually, however, as the crisis continued and the depression increased, men got reconciled to the idea of controlled and restricted importation of Asiatic labour. By April the Chamber of Mines was practically solid in favour of Chinese labour. [*Ibid*]

The strongest opponents of Asiatic labour were the White League and the African Labour League. The white League advocated employment of unskilled

white labour as a radical cure for a situation "that placed the white community in perpetual economic dependence on the black" and must sooner or later inevitably involve "the predominance of the coloured element". [*Times* Vol. VI, pp.108-09] The African Labour League, founded on June 30, 1903, was committed to a policy of fostering the use of cheap unskilled white labour in the interests of white supremacy. It believed that South Africa was destined to become "the home of a great white nation", and it "hopefully looked forward to the amalgamation of the various white races''. It further believed that by virtue of its "strongest geographical position in the Southern Hemisphere" South Africa would hold "in the event of any great European war, the keys to the South and the East"; its future therefore "must never depend upon a race of helots". The League was consequently uncompromisingly opposed to "the introduction, however temporary in character, of labour of any Asiatic nationality". [Pachai, "Indentured…", p.63, PP. Vol.61, p.273; Johannesburg *Star,* July 1903]

4

One mine manager, F. H. P. Creswell, did make a specific proposal to employ white labour in his mines. This was in answer to Kitchener's appeal, at the close of the war, that work should be found for discharged soldiers. The mining magnates rejected Creswell's proposals, on the ground that the employment of "white" labour, however cheap, would reduce profits. They had in fact an even more important reason for their opposition, which they never openly admitted. They feared that white labour would in course of time become master of the situation. From the early eighteen-nineties, the phantom of the Rand developing into "one of the most active centres of militant socialism in the world "had begun to haunt the Rand capitalists and to send shivers down the spine even of the leaders of the non-Syndicalist labour party in the neighbouring colony of Natal

(see *The Early Phase,* p.597). The failure of the Jameson Raid was attributed to the attitude of the Cornish Miners' Union on the Rand, on whose armed assistance the Reform Committee had based their hopes; it was said that they had shown little enthusiasm for any undertakings against the South African Republic, which they regarded "as undertaken by capitalists in their own interests". [*Natal witness,* February 2, 1896; Pyarelal, *Mahatma Gandhi—The Early Phase,* pp.596-98] The dread inspired by labour unions had softened even the violent anti-Indian sentiment of the *Natal Witness* and had led it to advocate admission of "qualified Asiatics and natives" to modified franchise as a counter-poise to the militant Rand socialist agitators who, "constituted the worse danger to society as at present constituted" [*Ibid*]

The cat was let out of the bag by the Transvaal Chamber of Mines to Milner in January 1903, in a report emphasising *"the need to guard against any opening for that trail of the serpent, the formation of labour union."* [The *Times,* February 9, 1903; Sacks, p.57 (Italics by the author)] In a memorandum read before a meeting of directors of the South African Gold Trust Limited on February 9, 1903 by Charles Dunell Rudd, a partner of Cecil Rhodes, it was argued that even if 10,000 whites could do the work of 20,000 blacks *"there was the undesirable consequence that they would simply hold the Government in the hollow of their hands".* [The *Times,* February 10, 1903; Sacks, p.57 (Italics by the author)] Most revealing was a letter dated July 3, 1902 sent to Creswell by Percy Tarbutt, Chairman of the Village Reef Mine, disapproving of Creswell's experiment.

> I have consulted the Consolidated Goldfields people (wrote Percy Tarbutt)...and the feeling seems to be that if a large number of white men are employed on the Rand...the combination of the labouring classes will become so strong as to be able to dictate, not only on questions of wages,

but also on political questions by the power of their votes when a representative government is established. [*Manchester Guardian,* February 10, 1903; *Westminster Gazette,* February 11; Sacks, p.57]

There was a strong suspicion in England that what the mining magnates really wanted was not so much to work for honest production as to attract investors for gold mines. In the case of the poorer mines, it was suggested that the importation of cheap Chinese labour was meant to create "a false sense of prosperity" for a short time and stimulate a rise in the value of the stock, enabling the holding companies to unload shares upon the public at a profit. Excessively high dividends had been declared in the past in order to raise the market value of gold shares. Those who purchased them at higher figures expected comparable returns from their investments. The mining structure was being manipulated by multi-millionaire mining magnates "seeking desperately by sensational means to buttress the strength of their 'Kaffirs', the vernacular for shares of stock in gold mining companies." [Campbell Bannerman Papers, 41211, pp.263-64, Campbell Bannerman to Bryce, December 31, 1903; *Daily Chronicle* February 1, 1904, Quoted in Sacks, p.46]

The reduction of the native wage in 1901 from 50s. to 30s. per month, was seen as a calculated move on the part of mine-owners to "promote an artificial scarcity of labour and rush the Transvaal into a decision on Chinese coolies", [*Manchester Guardian,* March 25, 1904, Quoted by Sacks p.46] and it was pointed out that, significantly when the aftermath of the wage rise in 1903 brought a steady increase in native labour averaging oetween 1500 and 3000 monthly, "the faucet of recruitment" was "deliberately shut off,...obviously to provide the Transvaal Labour Commission with data of a pessimistic kind". [Sacks, p.46] William Grant, past Native Labour Commissioner to the Transvaal Chamber of Mines, was

quoted by John Burns, a Lib-Lab M.P., as saying that "the labour shortage had been arranged to support the Transvaal's demand for Asiatics". [*Ibid,* p.47]

That suspicion was not confined to Radical critics of the Capitalists. Even before Milner had made his proposals to the Government of India for importing Indian labourers for railway construction work in the Transvaal, it had found expression in a letter by Lord George Hamilton to Lord Curzon. As early as April 24, 1903 the Secretary of State wrote demi-officially to the Viceroy that, as far as he could see, the big South African millionaires were "developing for their own purposes the Native labour difficulty in Johannesburg". The public had been "stuffed with so many different gold mines" that they were "very reluctant to take up new prospectuses". [C. Papers, Reel 3, No.25 (403), p.104, Lord George Hamilton to Lord Curzon dated April 24, 1903] Reiterating that feeling on June 11, 1903 he again wrote:

> There is a curious game going on in South Africa which nobody has yet been able...completely to fathom. I understand that the mining magnates wish to bring the gold industry into such a condition as will necessitate the importation of coloured Asiatic labour, and in consequence the mines here are being shut up, and the mining market here is in a most depressed condition. On the other hand, I understand that the white working population, understanding these tactics, are using very strong language and holding indignation meetings against the idea of Asiatc coolie immigration. [C. Papers, Reel 3, No.38, p.167, Lord George Hamilton to Lord Curzon dated June 11, 1903]

Be that as it may, Milner saw that his only hope of averting the financial crisis that faced South Africa lay in the mining magnates' underwriting one-third of the £30 million war indemnity that the Balfour Government sought from the

Transvaal. [Sacks, pp.39 and 45] The mine-owners declared that the only way to increase gold production, so as to meet his demand, was to import Chinese labour. Milner was in no position to resist them, or to insist on the "white labour" alternative. [Taken from Pyarelal's notes. Sources not traceable] The result was that Creswell and his friends of the White League, sorely disappointed, plunged into a fierce anti-Chinese agitation which eventually developed into an anti-Capitalist one.

5

In July 1903, as an eleventh hour expedient Chamberlain at Milner's request approached the British Government at Lagos for an experimental batch of 1000 labourers. He was informed that Nigeria could not spare any labour for the Transvaal. As in Natal in 1860, so in the Transvaal during the latter part of 1903, only Asiatic labour stood between the country and disaster. Early in July the advocates of Chinese labour formed themselves into a "Labour Importation Association". Like the White League it stood for the policy of making South Africa a "White man's country", but unlike the League it held that a "White man's country" had to be made up of "superior beings", not of "a low class" of unskilled white labour. "Unskilled labour must be left to those alone who are best fitted by race and the conditions of life to undertake it." This definition excludes the white. [Pachai, "Indentured…" , p.63, Vol.61, pp.283-85]

To the capitalists, the labour question may have been a matter of profit or loss; to Milner it meant the success or failure of British policy. He threw himself unreservedly into the fight to win approval for the importation of Chinese labour. Ingeniously he argued: Unrestricted immigration of labour was, of course, impossible. But importation restricted to certain classes of work and limited by compulsory repatriation was not only possible, it also offered a number of distinct

advantages over the use of native labour. The use of native labour would result in industrial development being limited by the available total of the native population and would be an obstacle to the realisation of a white South Africa, but the indentured Asiatic would serve as a ''vector'' to bring a permanent white population into South Africa without becoming a permanent element himself. When the structure of the Colony's prosperity had been built, the Asiatic, having served his purpose, would be gradually eliminated. As this elimination took place the scope for white labour would extend. The goal of a white South Africa could not be achieved by "the vain undesirable attempt to introduce an unmarried white proletariat in a country where it was essential to maintain the standard of white civilisation at a high level, and to preserve the purity of the white race'', but by "the gradual taking up of a new occupation by an already established white population". In reply to a deputation of the White League in June, 1903, he delivered himself as follows:

> Our welfare depends upon increasing the quantity of our white population, but not at the expense of its quality. We do not want a white proletariat in this country. The position of the white among the vastly more numerous black population requires that even their lowest ranks should be able to maintain a standard of living far above that of the poorest section of the population of a purely white country. But, without making them the hewers of wood and drawers of water, there are scores and scores of employments in which white men could be honourably and profitably employed, if we could at once succeed in multiplying our industries and in reducing the cost of living. [Headlam II, p.459]

The Chinese policy was, therefore, ''in fact, the true white policy". It supplied the "scaffolding" with the help of which the permanent structure of white industry would be erected.

Milner realised, however, that he dared not take so momentous a step against the wishes of the South African white community, and that there was no prospect of securing assent to the necessary legislation from Chamberlain and the British Government unless the demand came from the people. He, therefore, put it upon the employers of labour to build up the required climate of opinion in South Africa. The mining magnates undertook to educate the public and to convince the Secretary of State that the demand for the Chinese was a popular one. George Farrar, the ex-Reformer, now completely convinced of the necessity of the importation of Chinese labour, opened the campaign. The Labour Importation Association made good headway in spite of the White League, the African Labour League, and the Trades Labour Council. The Boer leaders, disapproving of the proposed importation, stood aside and counselled their people to take no responsibility in the matter. [Walker: *A History of Southern Africa,* p510]

As a result of the mining magnates' labours the general consensus of opinion of those who were supposed to be best qualified to judge and speak on the subject gradually came round in favour of recommending the importation of foreign labour to exploit the mineral resources of the country. [Taken from Pyarelal's notes. Sources not traceable] By the middle of July 1903, Milner was able confidentially to report to Chamberlain: "A Mass Meeting against Asiatic importation is no longer possible. A Mass Meeting in favour of it may be possible very soon....Three months ago the Boers were to a man against Chinese. Now a very considerable minority...are strongly in favour of them." [Headlam II, p.465] To

rope in the rural Dutch element the bogey of consequences to themselves if the mine-owners were forced, in absence of cheap Chinese labour, to raise the native labourer's wages, was held up before the Boer farmer. That did the trick. Gleefully Milner reported home: "They argue and rightly, 'If the mines can get Asiatic labour there will be more Kaffirs to spare for us.'...It is sincerely to be hoped that the Chinese since they are now our only hope—may come, and come quickly." [*Ibid,* July 13, 1903]

Accordingly, in July 1903, the Transvaal Government set up the Transvaal Labour Commission comprising fourteen prominent citizens, to enquire what amount of labour would meet the requirements of the Transvaal and to ascertain how far it was possible to obtain an adequate supply of labour to meet such requirements from Central and South Africa.

In the meantime, partly to mollify the champions of white labour and partly to relieve the strain on the native labour supply, Milner tried the expedient of employing white natives on railway construction. As a beginning some 500 were recruited in England and began to arrive in June. The result was an expensive failure. The work cost nearly four times what it would have cost if given out to a contractor employing natives and they were all sent back before the end of the year. [*Ibid,* p.458; Cd. 1895, pp.109-66]

At this time Milner decided to secure also some 10,000 Indian labourers for the work of railway construction. On May 7, he wired Lord Curzon to ask if the Government of India would be willing to provide the required supply of "coolies" under condition of compulsory repatriation on the expiry of their indentures. The outcome of this request we have already seen.

6

The question of the importation of Chinese labour was not directly related to the Indians. But the controversy over it affected them indirectly. It affected them in two ways: Milner had asked the Government of India to provide “coolies” for railway conslruction. Indians in Natal had suffered a lowering of their status as free settlers by its being mixed up with that of the Indian indentured labour. They did not want that situation to be repeated in the Transvaal by the importation of such labour for the railways. Secondly, instead of the term "British Indians" which Gandhiji preferred, as it emphasised their status as British subjects, the Governments and the press called them “Asiatics”, as in the “Deparrment of Asiatic Affairs” in the Transvaal, which in its turn had spawned "Asiatic Supervisors” and "Asiatic Bazaars". This had resulted in isolating Indians from British subjects of European origin and curtailing their rights. More, to the average European the “Asiatic'' simply meant a “China-man”. Being labelled "Asiatic” under the dispensation of the Asiatic Department, consequently made the Indians the target of all the popular prejudice aroused by the importation of Chinese labour in preference to European with which they had nothing to do.

To Gandhiji the importation of Chinese bonded labour was, over and above everything else. a question of elementary justice and humanity. He saw in the Chinaman a fellow human being threatened with "semi-slavery" for the sake of quick profits. He took up the cudgels in their behalf.

The conditions laid down by the Labour Importation Association for the importation of unskilled coloured labour included the following: (1) immigration should be admitted under legal indentures for a maximum term of five years, (2) they should be employed on the mines in the Transvaal on unskilled work only, such as that for which Bantu labour was currently engaged, (3) heavy penalties

should be imposed on all those who employed them on skilled labour, (4) each employer should provide guarantees, to the satisfaction of the Government, to ensure the return of such labourers to their own country, (5) a proper system of compounding should be established and the provisions, *clothing and requisites, for the use of the immigrants should be purchased locally and not imported by the employer directly or indirectly,* (6) a proper pass system should be devised to regulate and keep a strict check on the movements of the immigrants and (7) severe penalties should be imposed for any violation of the indenture law. [*Indian Opinion,* July 16, 1903 (Italics by the author)]

Gandhiji was surprised and shocked to find that these proposals had been signed by men like G. H. Goch and J. W. Leonard K. C., for whose culture and breadth of sympathy he had the greatest respect. If the system they envisaged was not "temporary slavery", what was, he asked indignantly. The labourer was to sell himself for five years to a life confined to compounds, and limited to unskilled labour, with no freedom of choice or of movement, and liable to criminal prosecution if he violated any of the terms of contract. [*Ibid;* C.W.M.G. Vol. III, p.367]

> ... If we understand the term 'slavery' correctly, it is a state in which a man sells his services for life beyond recall to a fellowman, and any attempt to shirk the same makes it a crime punishable by imprisonment....What Mr Goch and his co-signatories propose is nothing less than slavery for a term; for, according to them, the labourer is to sell his services for a term of five years...he can only work as an unskilled labourer,...each employer is to be 'bound to provide adequate guarantees to the satisfaction of the Government for his repatriation',...he (the labourer) would be confined to

compounds, and...severe penalty should be imposed for any violation of the indenture-law.

It had been argued in defence of the proposed restrictions that every form of contract involves some curtailment of individual freedom. The sailor who articles himself as a hand on board a ship, a jack-tar who signs up for naval service, a recruit who joins the colours, has to put up with restrictions more or less severe in respect of his movements, place of residence etc., including separation for long periods from his family. The restriction on the Asiatic under the proposed Labour Ordinance could not therefore be dubbed "slavery" by any stretch of language. The analogy, Gandhiji pointed out, was false. ''The vital difference between the ordinary contract of service and the proposed indenture is that, whereas in the first case the servant can free himself from the liability to serve by paying damages, and...in no case does the shirking of it become a criminal offence, in the other case freedom from liability is ordinarily impossible ....We do not consider the payment of a wage, no matter how high, to be any satisfactory recompense to the labourer, who is prevented in spite of himself, from selling his services at their market value, or from recouping himself for any loss he may bave sustained by reason of his indenture after it is completed." [*Ibid*]

The European agitation against the importation of Asiatic labour, Gandhiji had sensed, was almost entirely rooted in the whites' fear of the Asiatic settling down in the Transvaal as a free man at the end of his indenture. If it were at all possible "to repeat the days of slavery" and the whites could be assured absolutely that "the labourers would ever be labourers, and that, at the end of their indenture, they would be transported back to their countries", the agitation against the importation would vanish. This he regarded as being an "unethical stand". If the Colony must have Asiatic labour—whether Indian or any other—it

must suffer "the full consequences of its introduction", and be prepared to grant the labourers "the ordinary human liberty". But such a condition was admittedly out of the question for the Transvaal. The result of the introduction of Asiatic labour could not, therefore, but be "unfair alike to the Asiatics and demoralising to their masters". [C.W.M.G. Vol.III, p.360; *Indian Opinion,* July 9, 1903] The importation of Indian labour into Natal had complicated the Indian question not only in that Colony, but throughout South Africa. Assisted Asiatic immigration was likewise bound in the long run to prove disastrous to white settlement, as it would make any white immigration of the special class required in the Transvaal on a large scale practically impossible. It would be equally unfair to the natives of the soil, since cheaper imported labour would inevitably give a setback to the efforts to increase native labour supply. From whatever view-point it was regarded, so far as the labour question was concerned, there was thus complete accord between the European and the Indian opinion. The true solution of the question lay in "stopping assisted Asiatic immigration, and in assisting throughout South Africa white immigration", urged Gandhiji, "leaving under reasonable restrictions free immigration of all classes to work itself out. The balance will then be redressed, and there would be hardly any opposition to the Indian trader, or to Indian enterprise in general." [*Ibid*] He hoped the introduction of the Asiatic labour—whether Indian, Chinese or any other—would never be embarked upon in the Transvaal.

Gandhiji's opposition to the "assisted emigration" (i.e. indentured) of Asiatic labour was grounded in ethical principles; it was unjust both to the Africans and the Asiatics, and it was damaging and demoralising to the whites. His ethical approach provided a viable immediate solution to a baffling issue, which had defied all attempts at solution based on purely "pragmatic"

calculations of profit and loss. There could, of course, be no final solution to the complex racial problem without the restoration to the African of his lost birthright; but Gandhiji's solution was viable for the Africans, and the Indians, without being inimical to anyone. What is more, it did not close the door to further progress when the time should be ripe for it. Adherence to this principle of seeing clearly and taking any step ahead enabled Gandhiji later in life to steer clear of numerous difficulties and to find his way through many an apparently pathless maze with unperturbed serenity.

7

The White League's reasons for the opposition to the introduction of Chinese labour were not the same as Gandhiji's. Nevertheless Gandhiji extended his moral support. If be were asked to choose, he declared on July 16, 1903, he would have no hesitation in casting his vote in favour of Mr Quinn's (the White League's) Manifesto as against the Labour Importation Association's, and this in spite of the League's known hostility to any Indian presence in South Africa—whether free or bound, trader or "coolie". [C.W.M.G. Vol. III, p.366; *Indian Opinion,* July 16, 1903]

Mr Wilfred Wybergh, the Commissioner of Mines for the Transvaal, resisting interested pressure, stated before the Labour Commission that, apart from all questions of "loyalty or disloyalty". he would not like South Africa "to sink into the position...where the white man was the taskmaster and the bulk of the population little better than slaves." It was a "most demoralising thing", he further stated, to take up the attitude that "if they could not get enough coloured labour in South Africa, they must supplement it from some other source". [C.W.M.G. Vol. IV, p.3; *Indian Opinion,* October 8, 1903] Much pressure was brought to bear on him, he later testified, but he preferred to resign rather than alter or

suppress his political opinions. The British Colonial Office, thereupon guided by the mining interests, dutifully minuted that Wybergh had really been retired for "inefficient administration of his department''; but "resignation was permitted to save face and he had taken advantage of the Asiatic question to connect his resignation with his dissenting views on the subject". [P.R.O. Cd. 879/90, No.715, C.O. 251/59, Quoted by Sacks, p.50]

"Mr Wybergh is evidently a man with principles," commented Gandhiji. He expressed the hope that Wybergh's evidence would "turn the scales against those gentlemen who are so eager, irrespective of considerations of right and wrong, to exploit the Asiatic labour in order to benefit themselves". [C.W.M.G. Vol. IV, p.3; *Indian Opinion,* September 24, 1903]

As the Labour Commission's labours drew to a close, it became obvious from the nature of the evidence produced before it what its findings were likely to be. It was a foregone conclusion that they would find the labour supply available in South Africa inadequate to the demand and recommend importation of labour—most likely Chinese labour. Gandhiji followed its proceedings with close interest. On September 24, 1903, he commented that the capitalists, in their eagerness to make quick profits by the importation of Chinese labour had entirely ignored both the claims of the sons of the soil and the interests of the future generations of white settlers. But what was infinitely

worse was their disregard of the well-being of the poor people who would be imported into the country under most galling terms. "The millionaires, in their eagerness to add to their millions, and others in their rush to become suddenly rich, do not even consider it necessary to give a passing thought to the fact that the Chinese, much abused as they are, have some claim as their fellow human beings on their attention. And we make bold to say that the mere fact of their

agreeing to conditions that may be imposed on their arrival would not, in any degree, lessen the awful responsibility of those who would make them." [C.W.M.G. Vol. III. p.452; *Indian Opinion,* September 24, 1903] Apart from the physical impossibility of discussing adequately the thirty-five clauses and fifteen penalties with each of the 200,000 recruits, Gandhiji questioned the morality of a contract which involved any body of men being put under servitude of colour. "According to the British laws there are some contracts which are void or voidable even though the contracting party may have given the necessary consent. For instance, those entered into by minors or married women....If any undue influence is used in obtaining the ratification of a contract, it is also void. A starving man giving away all his possessions and all his liberties would be able to recall them as soon as he wished to." Similarly, if a ruffian obtains a signature at the point of a revolver "the law steps in and says it is of no effect whatsoever". [*Ibid*] It is no longer held legal for a person to sell himself into slavery to pay his debts as in olden times. The contracts under which the Chinese would be brought belonged to this category. "And we have no hesitation in saying that,... in spite of their assent thereto in the presence of big officials, it would be morally, at any rate, if not legally, undue influence, for we cannot conceive the possibility of a free human being willingly agreeing to the terms such as those proposed at the various meetings that have recently been held in the Transvaal." [*Ibid*]

To illustrate, on their arrival in the Transvaal the Chinese would be confined to compounds. They would not be allowed to use their brains, or their pens, or the brush or the chisel.

> All they may use would be the shovel and the spade. We have hitherto been accustomed to think that the natural abilities of a man would be allowed to have full play when coming in contact with a type of men

other than himself, but the poor Chinese will not be able to do anything of the kind, and it is no earthly use whatever for him to find out after his arrival that he would be able to earn, for instance, in cabinet-making, as much in one hour as he would as a mining labourer in eight hours. *He must allow his intelligence to be dwarfed and be content to remain an unskilled labourer, pure and simple. This we consider to be totally indefensible and unjust.* The pity of it all is that, after creating such an artificial situation, the Colonists would grumble if the 'Heathen Chinese', as he is called, turns out to be a moral leper, resorts to all kinds of make-shifts in order to throw off his yoke, and by hook or by crook endeavours to make use of his abilities which he may have inherited from his ancestors." [*Ibid,* (Italics by the author)]

Whether Gandhiji realised it or not, these words were to prove prophetic before long.

As Gandhiji had feared from the very beginning, all the resources of the White League proved of no avail against the power of the mining magnates who were determined to bring in 200,000 Chinese. Gandhiji considered that the basic reason for their failure was that they had taken their stand on selfishness rather than on the "rock of morality". Only an appeal to justice and broad humanity could release the moral forces necessary for success against the overwhelming material odds against them. "Ours, we know, is a very insignificant voice in the wilderness.... May we not appeal to them to add to their mode of propaganda, …by defending the defenceless and the voiceless also? Let us make it perfectly clear that, in making our appeal to them, we do not wish to be understood as advocating the free immigration of Asiatics. We have said before, and repeat here, that restrictions of immigration will be perfectly justified within reasonable bounds. We believe as much in the purity of race as we think they do, only we

believe that they would best serve the interest, which is as dear to us as it is to them, by advocating the purity of all the races and not one alone." [*Ibid,* p.453]

The Labour League had argued in its manifesto that the introduction of great numbers of Asiatics would be "fraught with the gravest danger" [*Indian Opinion,* July 9, 1903 because restrictive laws could not be maintained should they demand the rights of free men. Gandhiji felt that this argument from expediency was wrong. Even if all the restrictions that were proposed could be enforced, and the Chinese could be brought to and sent back from the Transvaal without trouble, the proposal should still be rejected "as inhuman and unworthy of a race that leads other races in civilization". He reminded the Labour League of Macaulay's celebrated words: "We are free, we are civilised to little purpose if we grudge to any portion of the human race an equal measure of freedom and civilisation." [C.W.M.G. Vol.III, p.453]

8

In February 1903, when the debate on Asiatic labour was in progress, the Witwatersrand Labour Association had commissioned Mr Ross Skinner to proceed to California and all countries that had any dealings with Chinese labourers. He travelled round the world from February to September 1903. As regards the Chinese in California, he sounded a note of warning which echoed the complaints made in Natal in the 1890s against the free Indian population. [Pachai, "Indentured...", p.64, PP. Vol.61, 1904, pp.302-314. "The Chinese labourer, by his industry and frugality, gradually accumulated money and insinuated himself as a competitor with the American into various branches of labour....He also, in time, became a formidable rival in the world of commerce. He was willing to work for less wage and content to accept much smaller profits...the latter (Americans) found themselves unable to compete with the yellow man. Against this state of things the American labourer cried out long and loud until the present law (The Exclusion Law 1894) was promulgated."] More ominously, he reported

the existence among them of "a system of cooperation somewhat akin to freemasonry". The power of this system, he thought, might become a danger especially if mines became entirely dependent on the Chinese for unskilled labour. The Colonist was prepared to welcome the cheap imported labour only as long as it was "regulated" or indentured labour; labourers were needed, not settlers; British interests must be paramount. The preservation of white supremacy in the Transvaal demanded a strict, foolproof system of regulating imported labour from the East. Ross Skinner's report recommended that Chinese coolies should be recruited in China as indentured servants, restricted in movement and occupation, and repatriated at the termination of the contract. [C.W.M.G. Vol. IV, pp.8 & 9; *Indian Opinion,* October 15, 1903. The following were some of the restrictions which Ross Skinner had proposed should be imposed on the labourers: (1) Indenture for a term of years, (2) the restrictions to certain classes of labour and places of abode, (3) prohibition of trade and inability to lease and own property for such period, (4) compulsory return on termination of indenture, unless indenture was renewed, and (5) the necessity of complying with English laws and health regulations. The exceptions mentioned by Gandhiji were numbers (1) and (5)]

"An able document" that "bristles with facts and figures", but "the want of humanity...makes it an exceedingly disappointing report", was Gandhiji's verdict on Skinner's Report. Occupying five and a half columns of the *Star,* it proposed a series of restrictions all of which with the exception of two i.e. "indenture for a term of years" and "the necessity of complying with English laws and health regulations" were undisguisedly intended "to prevent the Chinaman from making use of his brains or his limbs more profitably than his masters will allow him to". This coupled with the Compound System, envisaged in the report, observed Gandhiji, would make the labourer “a prisoner, pure and simple". What else could be expected of a deputy who had been sent out by the mining magnates to secure

labour for the mining industry "under terms the most favourable to it, and the least favourable to the labourers themselves", he asked. [*Ibid*]

In anticipation of guilds and combinations of Chinese labour working against the interests of the capitalists, Ross Skinner had recommended that individual mines should be manned by white skilled and Kaffir unskilled or by white skilled and Chinese unskilled labour. No mixing of Kaffirs and Chinese in any one mine should be permitted. "All the present efforts to increase the supply of Kaffir labour should be vigorously continued with a view to balancing,

as far as possible, the supply of Kaffir, Chinese and other unskilled labourers on the mines." This principle might also be adopted in the cases of Chinese from different districts. Indeed, it would be advisable to prevent mixing in districts, if it could be so arranged. "For instance, experience points to the fact that it is unlikely that the northern men would cooperate with the Southern Chinese." [*Ibid*] Gandhiji characterised this as "a policy of 'divide and rule"'. In basing his hope on legislative enactment to break down combinations Mr Skinner, he warned, would find that he was counting without his host.

> However much the northern Chinese and the southern Chinese may quarrel among themselves in their own land, he will find that "common grievance would make them good companions, and that it would not prevent them from combining together in order to resist the practical working of Compounds and the deprivation of their personal liberties.

To control Chinese labourers in the mines and to keep them docile, Mr Skinner had further recommended that along with the first main flow men accustomed to Chinese ought to be brought "to see that the coolies are properly handled". [*Ibid,* p.9-10] To this end he had suggested a complement of "headmen",

"underheadmen", "over-men", "boss-coolies", Chinese cooks and Chinese doctors for each mine. Gandhiji predicted that this policy of cold-blooded machiavellianism recommended by Mr Skinner, would fail of its purpose utterly.

He said:

> As soon as he imports Chinese doctors and Chinese headmen, he will find that they will want their personal liberty, and they will want to use their brains in an unrestricted manner. It would be a most interesting experiment to watch one set of intelligent people trying to dwarf the intelligence of another set of people equally intelligent. [*Ibid*]

He asked all concerned to judge for themselves whether any legislation that could be devised by Sir Richard Solomon would be sufficient to carry out "the paper policy so light-heartedly drawn up by Mr Skinner". He hoped that even if the Legislature sanctioned the introduction of such restrictions the people affected would turn a "deaf ear to the persuasion *of* labour agents and simply decline to accept the inhuman terms". [*Ibid*]

Two more heads rolled, following W. J. Wybergh's, before the Labour Commission was through with its business. William Flavell Moneypenny, editor of the *Johannesburg Star,* had always been a thorn in the side of Milner's administration. He resigned when he felt himself unable to toe the capitalists' line. Reaffirming his faith in the ideal of a White South Africa, "Which...is very different from a Chinese South Africa", he wrote: "As the financial houses which control the mining industry of the Transvaal have for the present enrolled themselves among its enemies, the present editor of the *Star* withdraws." [*Johannesburg Star,* Weekly Edition, December 5, 1903, quoted by Sacks, p.50] F. H. P. Creswell was called upon to explain his conduct when he made public the letter of Percy

Tarbutt, Chairman of the Village Main Reef Mine to him, which contained the damaging admission that the opposition of the mining corporations to Creswell's white labour policy was due to their dread of the political power of the white labour Trade Unions in their class struggle against the capitalists. "Your directors," he was informed, "consider that publication of Tarbutt's private letter...of the 23rd July, 1902 was inexcusable". In a stinging rejoinder he maintained that the attempt on the part of the mining corporations to import indentured Asiatic labour for the working of the mines was "more of a political move than an economical necessity". The resignation of Mr Creswell, remarked Gandhiji, was "a small and personal matter...but his withdrawal makes the cause of the reformers all the more difficult and on that account is a very serious loss to those who, while they are anxious for the welfare of the present generation, are equally anxious for the interests of the future generations." [C.W.M.G. Vol. IV, p.61; *Indian Opinion,* November 26, 1903]

Gandhiji's spontaneous sympathy with the Chinese in their struggle against injustice forced a bond of *camaraderie* which made them fellow-fighters

with the Indians in the coming Satyagraha fight. Unsolicited extension of moral support to the leaders of white labour brought him into touch with the Trade Union movement on the Rand and drew to him several labour leaders. Some of them, as he used often to recall afterwards, came to him wearing red bedraggled ties to convert him, but stayed to be converted by him instead. It also won him the friendship of several liberal-minded Englishmen.

9

The mining magnates with their formidable resources bulldozed their way through all obstacles, crushing what could not be bent or brushed aside. After meeting for an aggregate of thirty-two days from July 21 to October 6, 1903, the

Transvaal Labour Commission submitted its findings which were published on November 19, 1903 in a series of Blue Books. [*Milner and the Empire,* p.140, Sacks, p.32; Headlam II, p.478] The finding of the majority report of the Chairman, signed by all members of the Commission except Messrs Quinn and Whiteside, was that the demand for the native labour for the Transvaal mining industry exceeded the supply by about 129,000 labourers, and that for the next five years an additional supply of 196,000 would be needed. As for the possibility of obtaining adequate supply from Central and South Africa, the report's findings were in the negative. [Pachai, *"Indentured…",* p.65]

Messrs Quinn and Whiteside, in their Minority Report, disagreed as to the unavailability of labour in Central and Southern Africa and stated that the supply of native labour could be supplemented and superseded by white labour.

By 11 votes to 2, the Commission recommended the importation of labour. This could only mean Chinese labour.

An ordinance of the Transvaal Legislature was necessary to set the importation machinery in motion. During Chamberlain's visit in January 1903 it was agreed that, if a Commission's finding were favourable, a resolution of the Transvaal Legislative Council should call for an enabling Ordinance. But without waiting for it, the Transvaal Government and the Mining Companies on their own initiative set out to obtain information concerning the importation of the Chinese. The mining groups secretly sent off their agent, Perry, to China. The British Government did everything possible to assist this unofficial agent. For the Transvaal Government, Mr Evans, the Protector of the Chinese in the Straits Settlement, acted as an adviser as from December 1903 on the instructions of the Secretary of State for Colonies, not publicly announced. *Importation of the Chinese was taken to be a settled fact long before the law sanctionod it.*

Early in August 1903, Milner, feeling the need to educate the British Cabinet in the necessity both for Chinese labour and for special safeguards by which its importation would have to be guarded, had gone home on extended leave. He took with him the unpublished testimony of the Labour Commission. After a short stay in England he went on a holiday to Carlsbaad. While there, he received an urgent invitation to accept the Colonial Secretaryship made vacant by Chamberlain's resignation. But he declined the offer, feeling that his first duty was to stay at his post in South Africa to bring to port the policy that he had launched there. On his return to England he utilised the occasion to impress his views on leading men of both parties. By December he was back in South Africa.

On December 17, Sir George Farrar moved a resolution in the Legislative Council of the Transvaal calling attention of the Government to the report of the Transvaal Labour Commission and requesting the Government to introduce a draft Ordinance providing for the importation of "indentured unskilled coloured labourers" for the purpose of supplementing the supply of labour on the mines within the Witwatersrand area, "under such restrictions as will ensure their employment as unskilled workmen only and their return to their native country on the completion of their contracts". [*Ibid,* p.66]

The voting in the Council was 20 to 9 in favour of resolution. By skilful propaganda the mine-owners had been able with the backing of Milner, to overcome the opposition of the Dutch farmers and the loyalist Afrikaner section to the importation of Asiatic labour. Out of the non-official members, 9 voted in favour, 4 against. Of those who voted in support of the motion, 4 were Dutch members, 2 were in the mining industry, 2 were businessmen and 1 was a British farmer. Four of the nine supporters were from Johannesburg, while the remaining 5 were from the outlying districts. This, it was claimed, showed that

both European language groups in the Council were in favour of the Majority Report and that their views were representative of both the urban and the rural constituencies. [*Ibid*]

Milner accepted the Majority Report, made most of the votes of the Transvaal Legislative Council in favour of the resolution; discounted the protestations of the anti-Asiatic White League as the voice of a small minority, countered the dissentients' statements with resolutions from Boer Committees and resolutions accepting Asiatics as a temporary necessity, and reported to the British Government that he did not feel that the opposition was serious enough. His critics retorted that, as a nominated body and influenced by Milner, the Transvaal Legblature had only recorded the wishes of the mine-owners; that the four non-official members who opposed the Resolutions were all Britishers; that one of them was a leading member of the Traders' Council, indicating that a large number of the European working class was still opposed to the importation of labour; and finally that the spontaneity of the petitions supporting the case of the mine-owners was questionable in view of the reports that the instructions to the whites were "sign or sack". Credence to this suspicion was lent by the resignations forced from Creswell, Moneypenny and Wybergh. [Sacks, p.49]

The Conservatives presented little difficulty. With them consideration for the investors, shareholders, trading interests, and manufacturers came first. It was estimated that it would mean £1600 worth of machinery for every new stamp erected and £330 worth of material for every stamp at work. A proposed addition of 8,000 stamps by 1908 would require £12,800,000 worth of new machinery. The annual purchases of expendable stores imported to service 8000 new stamps plus the existing 6500 stamps (7,145 to be more correct) should total £5,500,000. The *Morning Post* estimated the daily loss to 200,000 Rand

shareholders, mostly British, at £10,000 because of curtailed production i.e. a drop of £3,000,000 annually in dividends spent mainly at home. [*Ibid,* p.39]

The Liberals predictably regarded the Majority Report's findings with suspicion. Sir Henry Campbell-Bannerman disliked "centering an empire around economic advantages". The emphasis of the Conservative on orders for machinery and dividends for shareholders smacked to him of "predatory colonialism". [*Ibid,* p.46] The British Colonial Office maintained an attitude of "correctness"," [*Ibid,* p.37] though Ommanney, the Permanent Under-secretary, preferred the Minority Report. [*Ibid,* p.36]

Gandhiji commented on the report of the Labour Commission on December 3. Congratulating Messrs Quinn and Whiteside on doing their duty fearlessly by putting forth their views in the Minority Report, he observed that if the country was to be ''boomed and exploited'' for the benefit of the capitalists "and only for the present generation", there was no doubt the Majority Report was perfectly sound, but if it was to be gradually developed, there could not be the slightest doubt that "it must rest content with what labour may be available in the Colony. There is all the difference in the world between a manufactured, unnatural growth and a studied, gradual process of evolution. The one would be a hot-house production, good and tempting to look at but rank poison in the end. The other, though not equally tempting, would produce lasting benefit". [C.W.M.G. Vol. IV, pp.68-69; *Indian Opinion,* December 3, 1903] He noted with deep regret that throughout the "long and weary debate" in the Transvaal Legislative Council on Sir George Farrar's motion not a single voice had been raised against the clause relating to restrictions; no one had thought it worth-while to consider it from the Chinese standpoint; not one person had considered it incongruous that *''the* China-man would be treated as a slave, that he should be forcibly deprived of the

use of his intelligence and capacity except in so far as they may be necessary for the development of the mines". Sir Richard Solomon, in the course of the debate, had said that if a Kaffir was made to work by Government intervention or by taxation, it would be compulsory labour and it should not be tolerated by a British Government. Was it not very much the same, Gandhiji asked, "to take what you can out of a man, to restrict his movements and pack him away as suon as he has served his indenture?" [C.W.M.G. IV, p.101; *Indian Opinion,* January 7, 1904]

10

On January 4, 1904, Milner sent to Lyttelton the text of the draft Labour Importation Ordinance to be introduced in the Transvaal Legislature, about which he had already sent a wire to the Secretary of State for Colonies. It was published on January 6. The indenture was primarily to be for three years plus another renewal for three years if mutually agreed upon. Repatriation was mandatory at the termination of the contract. The coolies would be restricted to unskilled labour on the Rand and a schedule of fiftyfive prohibited trades was drawn up. They were forbidden to hold fixed property, must reside in compounds, and could not venture outside the compounds without a permit for more than fortyeight hours. An identification card was to be carried at all times and to be shown on demand to the constabulary.

"The draft Ordinance is drastic enough in all conscience" commented Gandhiji "and will turn thousands of Chinese...into so many beasts of burden". One of the provisions in the draft Ordinance laid down that if any of the indentured labourers refused to go back they were to undergo practically perpetual imprisonment which would be ended only on their consenting to be transported. Pointing to it, Gandhiji remarked in the following week: "So the days of refined slavery are to be revived in the Transvaai....The mines must be worked

at any cost—even at the sacrifice of the most dearly treasured principles of British policy". And yet there were people in England, he observed, "who busy themselves with the concerns of other nations", and "read lectures to the South Americans and others, who in their opinion, fall from Christ's teaching". What had they to say with respect to the draft Ordinance, "which is to be promulgated in the Transvaal in the name of the King of Grear Britain and lreland and Emperor of India''? [*Ibid,* p.102; *Indian Opinion,* January 14, 1904]

The serpent of indenture under compulsory repatriation had been killed so far as India was concerned but it left behind a trail. On receiving the draft Ordinance from Milner, Lyttelton telegraphed to him on January 16, that as it stood the draft Ordinance would also apply to Indian labour imported for the mines, and "its provisions, if applied to British Indians, would probably be objected to by the Indian Government". On the assumption, however, that it was intended to apply to the Chinese only, he made a few suggestions "in the interests of the mines as well as those of the labourers", the principal of which was that the terms and conditions of his employment should be fully stated in the contract with the labourer and already understood by him. "Of course, you will reserve the Ordinance, for it will be necessary to obtain the views of the Chinese Government." [NAI (Rev. Agr. & Emig.) Nos.17-19, November 1903, Lyttelton's telegram No.2 to Milner, dated January 16, 1904]

Milner telegraphed back on January 20: "Cannot the Chinese Government be consulted at once so that the necessary changes, if any, may be introduced into the Ordinance in the Committee stage?" [*Ibid,* Milner's telegram No. 1, dated January 20, 1904] If the objections were raised after the Ordinance was passed, it would mean a new Ordinance and doing all the work over again. To prolong greatly the current ordinary session of the Legislature would be difficult, "and is for other reasons

undesirable" and the economic and political consequences were likely to be "very serious" if the settlement of the matter had to be deferred to another session, he urged. [*Ibid*]

On January 30, 1904, Lyttelton again wired: "Provision must be inserted expressly excluding all British Indians from operation of Ordinance". For the rest he did not consider it necessary to suggest further amendments in its detailed provisions. [*Ibid,* Lyttelton's telegram No. 1 to Milner, dated January 30, 1904]

Following this on February 1, he telegraphed Milner authorising him to assent to the Ordinance, provided that it contained a suspending clause to the effect that the Ordinance in question "shall not take effect unless and until the Government shall by Proclamation in the Gazette certify that it is His Majesty's pleasure not to disallow the same and thereafter it shall come into operation upon such day as the Governor shall notify by the same or any other Proclamation". This procedure would provide to the opposition the promised opportunity of discussing the question on the debate on the Addresses while the delay involved in the formal reservation would be obviated. [*Ibid,* Telegram No.3 dated February 1, 1904]

On February 5, Sir Muncherjee asked the Secretary of State for the Colonies whether British subjects of all the nationalities would be exempted from the contemplated operation of the Ordinance regulating the introduction into the Transvaal of unskilled labourers and if so, whether he would undertake to have such exemption specially provided for in that Ordinance.

Lyttelton replied that it was not proposed to employ British Indians in the Transvaal mines under the Ordinance and that the intention was to employ the Chinese. The Colonial Secretary added that he was in communication with Lord Milner on that subject." [*India,* February 12, 1904]

On February 23, in the House of Commons again Sir Muncherjee asked the Secretary of State for the Colonies whether he had drawn the attention of Lord Milner to the fact that clause 34 (referred to in subsequent despatches as clause 29) in the Ordinance relating to the Chinese labour for the mines related to British Indian subjects to whom the Ordinance itself was not applicable; and whether he would advise the Crown to veto that clause if the Transvaal Legislative Council did not take steps to abrogate it.

Mr Lyttelton: "I have already informed the Hon. Member that it is not proposed to employ British Indians in the Witwatersrand Mines under the Ordinance. The clause is intended to be a temporary provision pending the passing of special legislation in regard to Indian labour, and to provide for the possible contingency of Indian labour being employed on the railways and other works under the control of the Government."

Major Seely asked if the Right Hon. Gentleman would lay on the table a communication received from the Indian Government with reference to the proposed importation of Chinese labour and the applicability of the Ordinance to British Indian subjects.

The Speaker: "Notice must be given of that question." [*Ibid,* February 26,1904]

Two days after this (February 25) Mr Buchanan gave notice to the Colonial Secretary asking whether, before the third reading of the Transvaal Ordinance was taken, there were communications between the Home Government and the Transvaal Government as to the retention of clause 34 that related to British Indians; and whether the retention of that clause in the Ordinance was sanctioned by the Home Government and the Indian Government. [*Ibid*]

The Secretary of State replied on February 27, 1904: "The Government of India has not been consulted as to any clause of the Transvaal Draft Ordinance, nor is its assent necessary; but subject ro the authority of the Secretary of State-in-Council, it controls the exportation of labourers from India, and its action will of course depend on the state of the law on the subject in the Transvaal, as well as on their consideration. I may add that the clause to which this question refers is intended to have only a temporary effect, pending the passing of special legislation on the subject of Indian labour". [*India*]

When the draft Ordinance reached the hands of the Government of India in the second week of March, they took the view that the clause that most interested them was clause 29, since as it stood, it would "apply to all Indians introduced under the contract of service except those specially introduced for employment on public works". [NAI (Rev. Agri & Emig.) A-Progs. No.5A, March 1904, minute by J. Wilson, March 10, 1904. The clause 29 of the Ordinance enacted that "Nothing in this Ordinance contained shall apply to the introduction into this Colony by the Lieutenant-Governor of British Indians to be employed on the construction of railways sanctioned by the Governor or on other public works; provided always that such introduction shall be subject to such regulations as the Legislative Council may approve of, and provided further that the provisions of this Ordinance in respect of the return of labourers to the country of origin shall *mutatis mutandis* apply to such British Indians." – *Indian Opinion,* January 14, 1904] The Government of India, however, took little notice of it since, the Secretary of State had told the House of Commons that special legislation on the subject of Indian labour was intended. [*Ibid*]

Introduced in the Council on January 19, 1904, the draft Ordinance was passed on February 10. On March 10, a deputation several hundred strong representing some thirty public bodies and associations and about forty mines in the Witwatersrand district, handed Milner a telegram which was addressed to the Colonial Secretary. The deputation said that the interests of the whole community especially the British population engaged in commerce and industry were at stake owing to the shortage of adequate supply of coloured labour and

that failing the immediate giving effect to the ordinance, an increasing number of white workers would find themselves without the means of livelihood and the present acute depression would be intensely aggravated. [Milner, p.140] On the following day Milner wrote to his Minister about this telegram, pointing out that the deputation was really remarkable since at least half its members were workers. One of these had declared. "It has been said that this is a capitalistic question, but I consider that it is a workman's question". Besides the Transvaal, he added, both Natal and Rhodesia were definitely in favour of the importation of Chinese labour. [*Ibid,* p. 141]

The Legislative Council of the Transvaal having passed the Ordinance and His Majesty's assent having been obtained, the Governor notified by Proclamation that Chinese labourers would henceforth be imported under indenture. The first batch of 1000 Chinese labourers arrived in South Africa in June and by the end of the year 23,000 were employed in the mines. [*Ibid,* p. 142] By June 1905, the number of Chinese labourers in the mines approximated to 50,000. [*Ibid*]

The two currents of the controversy over the Indian labour and Chinese labour questions after mingling in the maelstrom of the postwar Witwatersrand's gold mining crisis for a while, resumed their separate courses. Overnight the Chinese, whose trading licences were threatened along with those of the Indian trader, became *persona grata* especially among the mine-owning community and those who lived on their favour directly or indirectly. Thomas A. See, a Chinese living in the Transvaal, published in *The Star* of January 14, 1904, a long letter which contained the following: [C.W.M.G. Vol. IV, p.102; *Indian Opinion,* January 14, 1904]

> 1. As a result of thousands of years of...training (by China's great master) the Chinaman has learnt to be submissive and to be able to control his

temper in such a manner that it is unequalled in any other nation. Do not think for a moment that Chinese submission is due to cowardice....

2. The Chinaman has been painted so black out here that he is classed among the semi-civilised and is taken by many to be only equal to the Kaffir (sic) or even worse. Such a poor opinion of the Chinaman can on only have originated through mere ignorance of his qualities and characteristics or from misleading statements made by speakers on the subject who do not know a "potato from an onion"....

3. What sense is there in judging a whole nation of 400 millions by the handful of Chinese to be seen in this country?...It cannot be said that the bad qualities of the Chinaman are not to be matched in any other country. Apart from his vices some consideration should be given to his virtues.

4. Why should not the Chinaman take away the money he has earned? Are they to be stupid enough to cast it away?...The money taken away from here by Chinaman bears no comparison with that taken away from China by the European or American. Why? The money taken away to Europe or America by a single European or American merchant from China is equal to that taken away by the whole lot of Chinese put together in South Africa.

The correspondent then pointed to the two checks that would work out to eliminate “China’s poorest and lowest classes”. This might have allayed, as it was intended to allay, the fears of the whites, he went on and asked, “Is the Chinese shopkeeper of the Transvaal not a ‘boon’ to the poor community, who are desirous of making their scanty incomes go as far as possible? Then why try to take away his trading rights?"

Even the editor, who as a duty-bound employee of the capitalists had extended the hospitality of the columns of his paper to Thomas A. See's piece, must have felt constrained to turn away his gaze from the raised eye-brows of his colleagues!

CHAPTER X : INTO THE COOLIE LOCATIONS?

1

The Ghost of Law 3, to which Milner had given a new lease of life by the promulgation of the Bazaar Notice, now began to stare the Indians everywhere in the face. Notwithstanding repeated assurances by Milner and the Secretary of State for the Colunies that the Bazaar Notice was necessarily of a stop-gap nature which would soon be replaced by permanent legislation defining the status of the British Indians in the Transvaal, the Transvaal Government seemed bent on enforcing fully and with immediate effect what Chamberlain had himself in the first instance disallowed, whose legal validity was open to question and for which the Home Government's sanction had not yet been obtained.

In the latter half of July 1903, the Colonial Secretary at Pretoria put up before the Legislative Assembly under the estimates for Asiatic Affairs a budget proposal for £ 10,000. Asked by Sir George Farrar to explain the item, he said that in pursuance of the future policy of the Government, as indicated in the recent Government Notice, it might be necessary to establish bazaars in various towns where the Asiatics were and where they were not provided with a place such as the law required. There were 9730 Asiatics at the time in the country, he said. For them they required locations in 54 different places. He also stated that the Government had arranged with various Health Boards and local authorities to survey and prepare bazaars to which Asiatics who were not especially exempted in the Notice should repair at the beginning of the next year. [*Indian Opinion,* July 23, 1903]

Out of the total of 9730 Asiatics nearly 7171 were settled in Johannesburg, Pretoria and Germiston. This meant that the remaining places had only a

sprinkling of Indian settlers. To lay out Locations at public expense in 54 different places when in many of them, on the Government's own showing, the number of Indians to be moved could be very small would, it was observed, be sheer waste of public money, especially as Chamberlatn had promised to consider the whole situation, and the Colonial Secretary himself had admitted that the existing legislation was to give place to something “quite new". On the other hand, if the bazaars were to be established, what was the meaning of Chamberlain's declaration?

Having obtained the vote on its proposal for £10,000 under the heading ‘Asiatic Affairs’, the Administration set about vigorously to take steps for the removal of the Indians from the existing Locations to more distant sites. Under the Boer regime, when a concession was proposed to be given to Tobianski in connection with the establishment of a new Location in Johannesburg, the Indian community had an opportunity to make its voice heard effectively, and in the end not a single Indian was removed, nor was the concession ultimately granted. The position now was that at 19 different places Locations had already been established without taking into confidence those who were to be settled there. This showed that the Government did not intend to make any satisfactory change in the existing legislation, otherwise they would not have gone to the expense of laying out Locations in different places in the Transvaal. Yet, on July 30, Chamberlain had said in reply to a question by Mr Sidney Buxton that he sincerely hoped that "some reasonable arrangements may be made in the future”. [*India,* September 4, 1903, C.W.M.G. Vol.III, p.380, *Indian Opinion,* July 23, 1903] The net result of the resolution was that everything was “cut and dried", and the British Indians, when the Stands were ready, would be forced to remove to these places willy-nilly. “And be it remembered," Gandhiji added, "that their trading rights also will be

confined to the Locations. This is a decided improvement on the methods of the Boer Government." [C.W.M.G. Vol. III, p.387; *Indian Opinion,* July, 30, 1903]

Chamberlain had stated in the House of Commons that the law was being enforced "more leniently than before". [*Ibid*] If that was so, then the least that was expected of the Government was that they should give whatever little benefit the Indians could be given under Law 3 of 1885. That law gave them the right to hold fixed property in Locations. In Johannesburg full rights were given under the law to the residents of the Indian Location, and every one of the 96 Stands in that Location was held under a 99 years' lease, as almost all the Stands in Johannesburg were. But the Government now proposed to grant only 21 years' lease, and then the leases were hedged in with so many restrictions that they did not possess any marketable value. [*Ibid*] Leases contemplated by the resolution were thus in curtailment of the right to which the Indians would be entitled under the existing law, for there was nothing therein to show that within the Locations they had no right to own fixed property as the community had elsewhere in the Transvaal. [*Ibid*]

2

Boksburg, a small town in the East Rand mining area, was once described by Gandhiji as "a village that cannot rise beyond the consideration of its own pump", and so it proved when it examined its Indian Location. Chosen by the late Government in none too generous a spirit, it was far enough from the township. Merely due to the force of circumstances the Location was favoured with some trade. This became an eye-sore to the members of the Boksburg Health Board. The Board recommended to the Government the removal of the Location to One Tree Hill about one and a half miles from the town where on their own showing there was not the slightest prospect of trade.

The ground given was that owing to overcrowding the Location had become “extremely insanitary". If the Board were really anxious about the health of the town, and if it were not actuated by trade jealousy or other prejudices, it should have set about in right earnest to remove the sanitary defects or departure from strict principles of sanitation in the Location as the Health Board at Krugersdorp had done, rather than coop up all the Indians in a place far away from town, where it would be very difficult to control the sanitary conditions. [*Ibid,* p.376; *Indian Opinion,* July 23, 1903; Boksburg population (1904) 2240, Whites 1223, Asiatics 222] The introduction of the Location system on the ground of sanitation had found many sincere supporters among the whites. But the motive of trade jealousy was so obvious in the present case that the authorities felt constrained to put their foot down. Mr W. H. Moor, the Assistant Colonial Secretary of the Transvaal, refused to give his consent to the removal of the Indians from the site they were occupying, as the site was "excellent in every way". However, as it did not provide sufficient accommodation for the population that was settled on it, he thought that it would be necessary to establish another Location for the excess population. He accordingly got into touch with the Mines Department to ascertain whether the land near the Town was available and suitable, the site known as One Tree Hill proposed by the Health Board being too far off to allow the Asiatics to obtain a fair share of the trade of the town. The Supervisor of Asiatics for Germiston (Mr von Guttenburg) supported the stand taken by the Assistant Colonial Secretary. He thought that the claims owned by Messrs Brown and Hill were "suitable for a bazaar and provided good ground for Asiatics to cultivate". [*Indian Opinion,* July 16, 1903]

The Board expressed great indignation at the "tone" of both letters. They were better qualified to know what was best for the Asiatics in the town than

"strangers", they claimed. Mr Creed, Member of the Board, thought no time should be lost in going at once to Lord Milner "to prevent the Government officials abusing their authority''. [*Ibid*]

It was resolved to reply that the residents of Boksburg "felt very strongly that the adoption of any other site than One Tree Hill would be detrimental to the best interests of the town", and that the Board should urge the Government to reconsider the matter. They felt sure the public of Boksburg would endeavour to get their recommendation adopted. [*Ibid*]

The attitude of the Health Board was nothing to be surprised at, commented Gandhiji. The fault must rest "absolutely with the Government" which had allowed the people to think that it would be ready to tamper with the liberty of the British Indians, if there was a sufficient clamour for it. He hoped that, having taken up a reasonable attitude with reference to the Boksburg Health Board, the Government would stand firm and not recede from it. [C.W.M.G. Vol.III, p.370; *Indian Opinion,* July 16, 1903]

The Boksburg Chamber of Commerce met at night on July 10 and strongly supported the Health Board. The Chairman of the East Rand Vigilance Association at a meeting of the members at Assembly Hall characterised the Colonial Secretary's reply as a "snub" to the Health Board. The meeting unanimously adopted a resolution expressing its "fullest approval" of the action of the Health Board and called upon the Colonial Secretary to "carry out the wishes of the town...". Copies of the resolution were sent to the Colonial Secretary and the Chairman of the Health Board. [*Indian Opinion,* July 23, 1903]

Joining issue with the East Rand Vigilants, Gandhiji emphatically maintained that the Government and the Government alone were responsible for laying out Locations. It was a question whether even the Government, reading

the Law strictly in favour of those to whom it was to be applied, had the power to remove Locations once they were fixed. The position taken up by the members of the Chamber was "utterly untenable'' from whatever view-point considered. [*Ibid,* C.W.M.G. Vol.III, p.377]

The *East Rand Express,* a Boksburg daily, raised a point of law: Proclamation No.356 of 1903 explicitly stated that the Colonial Secretary "shall be charged with the duty of defining such Asiatic Bazaars in consultation with the Resident Magistrate or the Town Council or Health Board" where those existed. The Colonial Secretary had no right to override the unanimous opinion of the Health Board. Countered Gandhiji: The Law said "the Government shall have the right to appoint special streets, wards, and locations as their residence". The Government could not alter or add to the law itself. If the Government had the "right" to appoint special streets, wards. etc., *as laid down in the law,* there was no power reserved to Health Board to convert what was "a compliment during pleasure'' into a right and to "dictate" to the Colonial Secretary. The *East Rand Express* ended with a threat: If the Indians were allowed to establish in certain Locations against the will of the people, "we fear that the consequences may be of the most unpleasant character. The Randites are a law-abiding people, but under circumstances such as those suggested, it is only too probable disturbances might arise which would have deplorable results". [*Indian Opinion,* August 6, 1903; text of law in C.W.M.G. Vol.III, p.292] Rejoined Gandhiji: "We should be sorry to think that the people of Boksburg would so far forget themselves and the Imperial tie as to take the law in their own hands." As for the Indians, if they allowed themselves to be frightened by threats, they would deserve to go. "There is no room for cowards in South Africa." [C.W.M.G. Vol.III, p.411; *Indian Opinion,* August 13, 1903]

Even Captain Colly, the Chairman of the Health Board, who had recently returned from Europe, found it difficult to sympathise with the Health Board's unreasoning proposal. The question was whether he would be able to stand up single-handed against the pressure of the members of the Health Board. To allay the fear of the whites Gandhiji put forth an extremely practical proposal. The members of the Health Board had alleged that nearness of the Locations to the town was a source of danger to the health of the community. Dr Johnson, on the other hand, had expressed the view that the removal would merely aggravate the danger. Assuming that the fear of the members of the Association was justifiable, the remedy was to put the Location in a thoroughly sanitary condition, and preserve it in that condition by relentlessly enforcing the sanitary regulations regardless of who violated them. "A few prosecutions would do a far greater amount of good than prejudiced agitation for removal of the site, and then leaving the residents of the Location without sufficient sanitary control." [C W.M.G. Vol.III, pp.434-35; *Indian Opinion,* September 3, 1903]

3

Klerksdorp followed suit. [Klerksdorp population (1904): 4240; Whites 2203, Asiatics 102] On July 25, an order over the signature of G. K. Charlton, Receiver, Klerksdorp was served by the Magistrate of Klerksdorp on all licence-holders that they must "prove to the satisfaction of the British Government" that they held a licence and were actually doing business as General Dealers in the town of Klerksdorp on the outbreak of the war, viz. 11th October, 1899. The proof must be filed in the Receiver's office not later than 12 noon August 7, 1903. Failure to offer the required proof would involve the cancellation of the existing licences and they would have to remove their business from the premises occupied by them. The

licensees whose licences were thus cancelled would have the option of renewal in the Asiatic Bazaar that was being set apart for them.

The Bazaar set apart by the Health Board and the Chamber of Commerce, Klerksdorp was situated a quarter of a mile outside the town upon a low level, and was separated from it by a narrow stream. The Kaffir Location was one mile and a half from them. A white man could not be expected to walk a quarter of a mile on the other side of the stream in the extreme cold or extreme heat of Klerksdorp. The merchants who went there ran the risk of certain starvation. No compensation had been fixed by the Government for loss of goodwill, leases, and forced sale of goods. [*India,* September 4, 1903]

Naturally, the merchants were in a panic. Both Chamberlain and Milner had said that they were considering in what direction the existing law was to be modified. All of them certainly did not trade before the war in that locality, although all of them were *bona fide* refugees and did trade in some part or other of the Transvaal. Nor did all of them hold licences to trade prior to the hostilities in the township of Klerksdorp. But they were allowed to trade outside Locations prior to the war, owing to the protection afforded by the British Government in spite of the fact that they did not hold any licences. Very few people, therefore, were in a position to show that they held licences to trade prior to the war. [C.W.M.G. Vol.III, p.391; India Office: Judicial and Public Records, 402]

The Indians protested against the Klerksdorp Magistrate's order. They were told that the site that had been allotted to them having been selected by the Government, the matter was out of the hands of the Board and the Board was therefore helpless; the only site available in the town itself was the low-lying portion, part of which had been condemned by the District Surgeon and so could not have been utilised as an Asiatic Location. A small number of Stands could be

pegged on the north and west of the town close to the existing township "but holders of contiguous Stands would naturally object to such a proceeding".

If the Board could not find the site where the British Indians could trade with equal facility as in the Town itself, the Indians objected. the existing Location should have been left undisturbed. Once the principle of segregation was admitted people would no doubt be found objecting to the British Indians being housed in their neighbourhood. Were the Boards in towns then to plead helplessness in the face of the whites' opposition, and on that ground remove the Indians, who were fellow British subjects, from a place where they had built up a good trade and send them so far away to what was "practically a desert"? [C.W.M.G. Vol.IV, pp.61-62; *Indian Opinion,* November 26, 1903]

4

The authorities now began to compel Indian hawkers to remove to Locations. On August 4, 1903, ten "Asiatics" were charged before the Assistant Resident Magistrate (A.R.M.) for Potchefstroom with a contravention of Law 3 of 1885, which provided that "Asiatics" should reside in Locations set aside for them by the Government. [*Indian Opinion,* August 6, 1903. Potchesfstroom population (1904): 9348; Whites 6014, Asiatics 237]

The police in its evidence deposed that the accused did not comply with the verbal notices to quit premises on the Market Square as residential quarters. It then went on to refer to the dirty conditions of the rooms and the surroundings.

Mr Conradie, appearing for the "Asiatics", stated that he was prepared to admit the evidence of Mr Curlewis, Government Surveyor, who surveyed land to the South of Town near the native location on the instruction of the late Administration, but would not admit that the spot surveyed had been set aside for purposes of an Asiatic Location.

Upholding the objection, the Assistant Resident Magistrate ruled that it was for the prosecution to prove that the location referred to had been actually ordained by the late Government as a place of residence for Asiatics.

The hearing was adjourned.

On the second hearing the case was withdrawn, there being no proof that the late Government had formally set aside the site which was surveyed before the war as an Asiatic Location. [*Indian Opinion,* August 13, 1903]

The Indian residents of Potchefstroom met at "India House", Potchef-stroom, under the chairmanship of Mr Patel. Mr Abdool Rehman, the Secretary of Potchefstroom Indian Association, moved a resolution saying that the proposed action of the Government to segregate "Asiatic" traders was unjust and that no action should be taken by the Transvaal Government "until His Majesty's Government have declared their views on the subject". [*Ibid,* August 6, 1903] Referring to the statement made by the Chambers of Commerce that trade licences were being issued to new entrants who had not traded before, he challenged anyone to prove that there were any existing traders in the town who were not in business before hostilities. The Government had, Mr Rehman further maintained, given them the right to trade unconditionally after the occupation. The authorities must, therefore, take the consequences of what they had done. The Lieutenant Governor had told them that the Indian was under the protection of the Imperial Government. The local police, he revealed, still visited their houses in the early morning and marched them to the police station "like a herd of criminals", merely for the purpose of exchanging their permits. As citizens they demanded justice from the great English nation. They were not begging for privileges, but asking for their rights.

The cry had gone forth, the Secretary concluded, that they did not contribute towards the prosperity of the country they lived in. But the Colonial Secretary had himself stated the other day that there were 9730 Asiatics in the Transvaal who had to pay £3 each while they contributed over £40,000 annually in licence money alone. They were accused of sending money to India and yet a law had been passed by which they could not invest their money in property. The Government proposed to segregate them on the pretext of sanitation, he concluded, but they would fight on that issue. [*Ibid*]

Gandhiji congratulated the Indians on having held a successful meeting. The reasonableness of their resolution was “undeniable". He endorsed their demand that the Government should institute a searching enquiry into the allegations in regard to the conduct of the police which seemed to be "insufferably high-handed". [*Ibid,* C.W.M.G. Vol.III, p.397]

Irked by the withdrawal of the summons against the Indian traders, the Potchefstroom Chamber of Commerce met in the first week of September 1903 under the chairmanship of Mr J. J. Hartley. It decided to collect evidence to find out whether or not there was a location set apart by the late Government and applied for permission to examine the old Statsraad records. [*Ibid,* September 10, 1903; C.W.M.G. Vol.III, p.442]

Ninetysix members signed a petition asking for the Chamber's influence in preventing "the further issue of licences to British Indians" and particularly "to prevent one Patel, opening on the Burgher Right Erven". The attitude of the Chamber betrayed lack of confidence in the decision of the Magistrate, commented Gandhiji. The Chamber now proposed to sit in judgment upon that decision. lt had also promoted the petition signed by 96 white traders to prevent the granting of further licences. The issue of the British Indian licences was

regulated by the Bazaar Notice. To go outside that notice in order to harass the poor Indian traders was unconstitutional and unworthy of the white traders. "The Notice...grants precious little to the British Indians....Would the influential members of the Chamber of Commerce at Potchefstroom deprive the British Indian traders even of what little remains to them under the Notice?" [*Ibid*]

The Potchefstroom Chambers of Commerce next set about to launch a concerted move with other Chambers of Commerce for the removal of every Indian store-keeper in the Township to a Location where he would not be able to do any business whatsoever. In a statement to the Potchefstroom Chamber of Commerce in the first week of October Mr Hartley said that new stores were being opened in various parts of the town. They had been in communication with other Chambers of Commerce to take united action in this matter and he would strongly urge upon the members to leave no stone unturned to restrict the importation of Coolies, as they would undoubtedly prove “a source of serious danger" to the European trader.

Shortly after this, at a meeting of the Chamber Mr Hartley announced that he was in a position to state that the matter was in the hands of the higher authorities, and from what he had been told he believed that it would be well to allow it to stand in abeyance for three months during which time, he was sure, the Government would have done something to meet the wishes of the white traders. It was clear that the European traders of Potchefstroom were bent on eliminating Indian fellow-traders somehow. If the Government listened to their complaint it would be a question of interested agitation succeeding in having all to itself. [C.W.M.G. Vol.IV, p.8; *Indian Opinion,* October 8, 1903] The Indians, therefore, asked what the High Commissioner had to say to their petition which was presented to

him some months ago anticipating all the troubles which threatened to overwhelm them in the Transvaal in the coming year. [*Ibid*]

5

The Transvaal Administration's hurry to put into operation Law No.3 of 1885, after it had been dormant for 12 years, created a number of complications. Some Indians had bought Stands in the Edendale Estate near Johannesburg from Messrs P. Arun & Sons. Neither the auctioneer nor the purchaser seemed, at the time, to have been aware that Law 3 of 1885, as amended in 1886, was in force. When the Transvaal was occupied by the British, the people—including officers, the general public and the Indians—believed that the old discriminatory laws had lapsed. The land in question was bought in a perfectly *bona fide* manner, and the purchasers' price together with interest duly paid. But when the time for transfer came, they discovered that the Transfers could not be registered in the name of the British Indians. The questions that the transaction gave rise to were: (1) Whether the purchasers could compel the sellers to put up again at auction the property in question and receive the benefit of any increase in price that might be offered at sale; (2) If not, whether the purchasers could obtain damages in connection with the breach committed by the sellers, if their legal liability to give transfer constituted a breach; (3) If the damages could not be recovered, whether the sellers could be made to return the monies received by them together with interest thereon at the usual rate for the use they had made of them; and (4) what generally the legal position of the purchasers was under the circumstances.

[C.W.M.G. Vol. III, pp.372-73; S.N. 4068, July 21, 1903]

In a similar case in the East Rand, the poor man appealed to a white friend to help him by taking up the property in his own name till a suitable buyer could be found and it could be disposed of. Thanks to the white friend's cooperation,

this was done and the calamity that threatened the Indian was averted. [C.W.M.G. Vol.IV. p.41; *Indian Opinion,* November 12, 1903] The only way to prevent innocent people being put to unmerited suffering was to withdraw the Notice of April 8 as suggested by Sir William Wedderburn on July 27, 1903. The other course was to hold it in abeyance. This Chamberlain had declined to do.

The way the Transvaal Government were rushing things just when Chamberlain was supposed to be considering new legislation to replace the existing law in the light of Milner's despatch, made Gandhiji wonder whether before the result of their considerarion was made known it was the intention of the Transvaal Government to give full effect to the Bazaar Notice irrespective of consequences to those affected by it. Even the late Orange Free State, when it passed drastic anti-Asiatic legislation, had the decency to give a year's time to those who were already settled there under the late Republic. But here the Bazaar Notice was published only in April last and, within three months of its publication, while protests against it were still being considered, summonses were being sprung upon the people. [C.W.M.G. Vol.III, p.398; *Indian Opinion,* August 6, 1903]

Gandhiji had cabled to the British Committee of the Indian National Congress about the cordon of restrictions that was closing in upon them and the need for immediate minimum relief, pending fresh legislation, if the Indian traders were not to completely go under in the meantime. [C.W.M.G. Vol.III, p.393] He now felt he must explain his cablegram. In a letter to Dadabhai Naoroji on August 10, he set down in detail the intricacy of the situation and the resulting confusion. [*Ibid,* p.402; India Office: Judicial and Public Records, 402] And the minimum immediate relief that he demanded was:

(1) All existing Indian licences should be renewed without restraint.

(2) They should be transferable from place to place.

(3) They should be transferable from person to person "as all ordinary licences are". [C.W.M.G. Vol. III, p.391; India Office: Judicial & Public Records, 402]

6

The time set by the Bazaar Notice for removal to the Locations was due to expire on December 31, 1903. As the zero hour approached, Magistrates in the towns began to publish notices offering Stands in the new Bazaars, the terms of which were hedged in by fresh restrictions. [C.W.M.G. Vol.IV, p.26; *Indian Opinion,* October 29, 1903]

At Standerton, in a notice dated October 20, 1903, the Magistrate invited applications for consideration subject to the provision that

(a) no person is to be given any Stand who had nor actually resided or traded in the town and does not require Stands for the purposes of his residence or trade;

(b) no person is to be given more Stands than he actually requires for his residence or trade;

(c) if there is more than one applicant for any particular Stand, the appointment shall, in the absence or the possession by any claimant of a good claim to preferential treatment, be decided by law or in some other way as the Magistrate may decide. [C.W.M.G. Vol.IV, p.27; *Indian Opinion,* November 5, 1903; Standerton population (1904) 4589; Whites 2136, Asiatics 163]

Under the law it was open to Indians to hold land without objection in places set apart for the purpose. Every Indian Location established during the Boer regime had owners or lessors who were not residing on the Stands, but they were allowed to deal with them freely, to sublet them as also to hold any number

of Stands. Why should they under the British Government be deprived of such freedom of action? If the Government intended to drive the Indians out by harassing regulations, said Gandhiji, it would be "mercy" to send them out bag and baggage at once. "They will then know their position and there will be no hypocritical justification for any action that the Government may take." [*Ibid*]

Although notices more or less on the same lines were sent to British Indians in many places in the Transvaal, each notice was differently worded. This pointed to the conclusion that Magistrates had acted on their own initiative, "probably on very geucral instructions from the headquarters", and that there was no consistent settled policy in regard to the Indians who would be left more or less at the mercy of the Magistrates or other officers to be dealt with leniently or severely according to the degree of their prejudices for or against them.

The lessees had not only to pay surveyor's fees and rental, but also to erect their own buildings. Even then they could get the Stands only for their residence or trade, and enough only for such purposes and no more. The cost of construction came to from £400 to £500 for each Stand. [C.W.M.G. Vol.IV. p.110; Statement January 18, 1904. "£300 to £400 to build a decent structure." (C. W.M.G. Vol.IV, p.48; *Indian Opinion,* November 19, 1903) How did the Government expect every Indian to take out a lease, build on the Stand and live there, presumably without being allowed to sublet? Describing their plight, Gandhiji observed: "In order to be able to comply with the ridiculous conditions laid down in the notice, every Indian would have to be a man of considerable means, which, unfortunately, he is not. And then if he fails to erect handsome structures, or erects only tin shanties, the blame will be placed on his shoulders and he will be held up to scorn and contempt because he lives in mere shanties, although the situation will have been not at all of his creation, but of the Government's". [C.W.M.G. Vol.IV, p.28; *Indian Opinion,* November 5, 1903]

7

Barberton, a small town three hundred miles east of Johannesburg, provided an instance par excellence of the gross abuse of power under the new restrictions. The Indian Location at Barberton had been established by the late Boer Government before the war. The few Indian traders that were there were all in the real sense very poor. [C.W.M.G. Vol.IV, p.88; *Indian Opinion,* December 24, 1903; Barberton population (1904) 2433; Whites 1214, Asiatics 136] The Barberton Health Board decided to shift them to a new Location further away from town. It was obvious that as most of them were hawkers, who went on foot from door to door with their merchandise, they would as a result face great hardship, even starvation.

There was a provision in the Bazaar Notice that the Health Board could not eject anybody from the Location without the consent of the Government. So the Board approached the Government and the Government permitted them on condition that the buildings of the existing location should be removed to the new one at the expense of the Health Board or that due compensation in respect of the buildings only should be paid to the owners. [C.W.M.G. Vol. IV, p.52; *Indian Opinion,* November 19, 1903]

As soon as the notices were issued, the occupants, grasping the situation, approached the Government. They sent several petitions, and an enquiry was made. The grounds taken up by them were: (1) that they had been established for a long time in the Location and had formed goodwills in connection with their trade; (2) that to people in their category it would mean a very serious loss to have to remove to the new Locations; (3) that the site to which it was proposed to remove them was not such as would enable them to do any trade at all, as it was much farther away from the town than the existing Location; and (4) that it was not a healthy site.

In support of their petition they submitted a special report in which Mr Bertier, a well-known surveyor of the town had stated that the new site was over one and a half mile from the Market Square by the shortest route; that the soil of the new site was of the same granitic nature as that of the adjacent Hospital kopje, where it had resulted in ravages by white ants to the hospital buildings, and that after going exhaustively into the question he was emphatically of the view that the removal of the existing Locations was not at all called for. The new site would be only in one corner on the Main Road, and the increase in distance from the town would entail increased difficulties in the transaction of business, the more so as public passenger transport was unprovided for in the township and suburbs. Whatever road east of the Hospital kopje was made to penetrate in the proposed Location would pass within one hundred yards of the Health Board site, "where mules are stabled, night soil and rubbish waggons out-spanned, and buckets tarred and stocked". [*Ibid,* pp.52-53]

The Government, however, returned a reply, saying that it did not consider the site to be unhealthy. It ignored the fact that the removal was totally unnecessary but, on the ground that the Local Board was not prepared to pay compensation or bear the cost of removal, it decided that the occupants should for the time be left undisturbed. [Ibid] It, however, allowed its left hand to do what it had refrained from doing with its right. The Resident Magistrate sent notices to the people of Barberton, saying that only the existing licensees, their wives and children, should have the option of remaining in the present Location; that in default of payment of the rent due on the prescribed date the tenancy should be determined; that no licensee should sub-let or permit others to occupy his Stand on pain of eviction; and finally that no new licences should be issued in respect of the present Location, nor any right to transfer licences granted. [*Ibid*]

The Health Board evidently wished to override the Law of the Colony and without paying any compensation compel the people to remove to the new Location—law or no law. To drive the people away from their position "by underhand indirect policy", observed Gandhiji on November 19, reflected little credit on its authors. "Either the site at present occupied by the British Indians is a Location in terms of Law 3 of 1885. or it is not. If it is, then unless we have misread the law, any Indian has not only the right to live there but to have subtenants and certainly to have guests, also to trade in any part of the Location he likes on payment of the licence fee. But..according to the new conditions, the Board would prevent the residents from having any guests on 'pain of eviction'." [*Ibid,* pp.53-54] For this there was absolutely no warrant.

The matter being referred to the Government, a notice appeared in the Government Gazette over the signature of W. H. Moor, Assistant Colonial Secretary, appointing the present Indian Location in Barberton as a site for the Bazaar, but with the following condition:

> Stands in this Bazaar will be rented on a monthly tenancy, with no power to sub-let, to those Asiatics *only* who are at present residing or trading in it. Leases will not be given. [*Ibid,* p.77: *Indian Opinion,* December 10, 1903. The italics appear in the Notice itself]

By this Notice the Government thus legitimized the most objectionable feature of the Resident Magistrate's action.

Commented Gandhiji:

> In trying to secure substantial justice by protesting against the threatened closing up of the Location, the Indians find themselves face to face with the prospect of being compelled, owing to the restrictions on

> sub-letting, to remove without compensation to the new Bazaar against which...serious objections have been raised, or of leaving Barberton altogether. And yet Lord Milner says that the Indians are being treated better now than they were during the Boer Regime! [*Ibid,* pp.77-78]

In the Spelonken, a vast but sparsely populated tract in the far north near the Rhodesian border, a couple of Indian traders had narrowly escaped deprivation of their licences. Even this was resented by the whites as an encroachment on their preserve. "What has become of the Government Notice No.356 of 1903 if its provisions can be so flagrantly broken," complained the *East Rand Express.* The Government, the editors charged, had issued new licences to Indian traders "despite the fact that before the war no Indians were allowed licences." Furthermore, the Government had failed to establish a Bazaar in the district (it being chiefly open land occupied mainly by natives). By allowing the Indians to trade there the Government was deliberately violating its own proclamation, and setting open the gate of unlimited Asiatic competition. If the Government intended to introduce such "Natal laws" as to Asiatics by an "underhand movement", the journal thundered, "let it do so publicly and we shall know how to act, but let us have an end of such underhand business...." [*Ibid,* p.30: *Indian Opinion,* November 5, 1903]

Gandhiji, observing that Pietersburg, the chief town of the district, was a chief source of the troubles of the Indian traders, declared that the information was inaccurate. [Pietersburg population (1904) 3276; Whites 1620, Asiatics 163] He thought it had been thrown out as a "feeler" by white agitators, and portended further trouble for the Indians. Believing that the anti-Indian prejudice was largely rooted in ignorance as to true facts about the Indians, he gently asked the *Express* to first test the accuracy of the information supplied to it. It would then be found that

no new licences had been granted. All Indian traders trading in Pietersburg district had done business there at least for the last ten years and it was after a very strenuous struggle that some of them were able to have their licences renewed.

In the following week The *East Rand Express* declared that what the East Randites wanted was: (1) no Asiatic trading save in Bazaars outside the towns as provided by the laws; (2) the support of the existing law prohibiting Asiatic ownership of land and fixed property; and (3) the placing of all Asiatics on the same basis as Kaffirs. [C.W.M.G. Vol.IV, p.42; *Indian Opinion,* November 12, 1903]

The placing of all Asiatics on the same basis as Kaffirs, observed Gandhiji, was "a very simple solution", if only the question of the status of British subjects could be indefinitely shelved. And he recalled how the attempt was often made by President Kruger to secure the consent of Her Majesty's Government to the amendment of 14th article of the London Convention so as to include all Asiatics in the term 'Natives of South Africa', "but Lord Derby was quite firm and would not think of any such proposal". The plan suggested, therefore, was not "free from some difficulty" so long as there was "the slightest vestige of fair dealing with the Indians left in the Transvaal", as it would mean "the abrogation of Law 3 of 1885 in favour of Legislation which they never allowed the old Government to pass". [*Ibid*]

8

The misinformation and misconceptions about the situation of British Indians were not confined to South Africa. A paragraph appearing in the *Morning Post* of London showed utter confusion prevailed even informed circles at home on the Indian Question. While still hoping that the gold mines would be worked

by British Indians rather than by the alien Chinese, it observed that it was entirely in the interests of the British Empire and Mr Brodrick, the Indian Secretary, should urge Lord Curzon to come to some arrangement with the Transvaal which would assure "good treatment but not political rights" to “coolies in the Transvaal".

This was rather strange. Franchise, the Indians did not aspire to. All they asked for was complete liberty to travel and reside where they liked, so far as such liberty was not " in conflict with sanitary arrangements and customs which may be applicable to all irrespective of colour distinctions". If, however, compulsory repatriation and the other restrictions urged by the people of the Transvaal were to be inflicted on the indentured people, then, submitted Gandhiji, the rights of Indian traders would have been bought too dearly. And seeing that such an influential organ as the *Morning Post* continued to urge the necessity of Indian labour for the Transvaal, the friends of Indians in England could not be "too careful in watching the trend of events in England as in South Africa." [C.W.M.G. Vol.IV, p.78; *Indian Opinion,* December 10, 1903]

Milner in his despatch of May 11, 1903 had argued that the situation created by the "influx" of Asiatics in the Colony left him no choice but to enforce Law 3 of 1885, pending fresh legislation. This could create the impression in England that the anti-Asiatic measures were being enforced wholly in respect of the newcomers. In fact there were very few newcomers, as under the Peace Preservation Ordinance only refugees were allowed, and even on official admission thousands of former Indian residents, who were entitled to return, were yet awaiting their turn for obtaining permits. Milner well knew this, yet he continued to misguide the Colonial Office. Gandhiji, therefore, cautioned Dadabhai that it would not do to rely upon the despatch and sit still. "Time is quickly passing by and it is very necessary that in accordance with the dispatch,

there should be a guarantee given to the poor British Indians that their licences would be respected." [C.W.M.G. Vol. IV, p.45; Weekly Statement Ending November 16, 1903]

Again, Milner in his despatch had said that the Law 3 would be enforced in a manner "most considerate to the Indians already settled in the country and with the greatest respect for vested interests". There was not a word in the despatch to show that those Indian refugees who, although they did not trade in the respective districts before the war, but had their licences granted since, would be disturbed. Yet, with the exception of the very few who were able to obtain licences to trade before the war, all the others, even though they were engaged in trade before the war but without licences, would have to remove to locations as if such people did not have any vested interest. Gandhiji warned all concerned not to be lulled into a sense of security by the language of Milner's despatch: "Unless Herculean efforts are made to protect these innocent men,... hundreds of Indian traders are likely to be ruined at the end of the year." [*Ibid.* p.47; *Indian Opinion,* November 19, 1903]

The Indian National Congress was to hold its annual session in December, 1903 under the presidentship of that veteran nationalist, Lal Mohan Ghose. In an appeal to the President-elect Gandhiji urged that the Indian question in South Africa was one of the few questions which were totally above party politics and about which there was no difference of opinion "between the powerful Anglo-Indian element and the Congress". Lord Curzon had more than once said he viewed the attitude of the Colonies on this question with strong disfavour. All that was needed was "a continued movement in India such as to strengthen His Excellency's hands in his endeavour to secure justice for British Indians in South Africa". [*Ibid.* p.52] And few though they were as compared with the millions in India

he hoped that the Congress under the presidency of the great patriot would not forget them.

Lest the language of goodwill in Milner's despatch should lead the Government of India to believe that the existing anti-Asiatic laws were being administered leniently and that men of position experienced no difficulty, Gandhiji felt it necessary to point out how mistaken that impression was. [*Ibid,* p.62: *Indian Opinion,* November 26, 1903] If the Indian Government did not wake up forthwith and take strong steps, he warned, with the advent of the new year many of those who would be considered successful traders in December, 1903, would become "insolvents and beggars" by January 1904. "Our compatriots in India will realise from this that the present moment is critical and that it is very necessary to deal with the situation boldly." [*Ibid,* p.63] The Congress should, therefore, he urged, pass a strong protest resolution, and a number of leaders from each province should wait on Lord Curzon and request him to make an immediate representation by cable to the authorities at home to get the Colonial Office to stay the oppressive measures in the British Colonies in South Africa.

Gandhiji's appeal to the Congress to strengthen the Viceroy's hands could not have been timed better. There was nothing Lord Curzon's Government needed and wished for more at this juncture. Even while Gandhiji's appeal to the Congress leaders was on its way, Sir Denzil was minuting to Lord Curzon:

> The Home Government bowed before public opinion in the Colony. Public opinion in India has no means of asserting itself; but that is all the more reason why we should not disregard it when it is reasonable....If the only persons concerned were ourselves, the coolies and the Indian traders in the Transvaal, I would give way. But we have the whole continent of educated India to consider, to which such action on our part would simply

be an outrage. [NAI (Rev. Agri. and Emig.) A-Progs. Nos.l7-19, November 1904, Note dated December 22, 1903. F 159(111) p.318-42]

9

In view of the impending deadline, a British Indian deputation waited on Lieutenant-Governor, Sir Arthur Lawley, on October 30, to persuade him to respect the licences of all British Indians who were at that time trading in the Colony under licences duly granted to them. [C.W.M.G. Vol.IV, p 33. Notes, dated November 9, 1903 (see footnote 4 on p.33)]

According to the Notice, strictly speaking, only those who held licences at the commencement of hostilities were permitted to trade outside Locations after the end of the current year. A second group traded before the war outside Locations but without licences. This was a very large group, comprising more than fifty percent [*Ibid,* p.34] of the nearly six hundred [*Ibid,* p.83] licences currently held in the Transvaal. Still a third group consisted of those former residents who, though not pre-war traders outside the Locations, were admitted by British officers as *bona fide* refugees and given post-war licences outside the Location areas. Less than one hundred traders were included in this group, which was located chiefly in Johannesburg. [*Ibid,* pp.73-74] Both of these latter groups were now to be forced into the Bazaars.

From their previous correspondence with the Lieutenant-Governor, the Indians had hoped that there would be no difficulty in regard to the traders who had traded before but not with licences because none were granted. Were they to remove to Locations at the end of the year, although it was for these very men that Chamberlain had fought strenuously and successfully during the Republican regime? These traders had been allowed to trade outside Locations because of the strong backing of the British Government which Kruger could not resist. Why

should the favoured few who were able to obtain licences from the Boer Government receive better treatment, and those who owed their survival to the backing of the British Government be discriminated against?

The case for them became all the stronger when one considered the reason why they were not able to obtain licence before the war. It was only in 1899, after voluminous correspondence with the British Government, that the Boer Government had decided to grant licences to British Indians to trade outside Locations. The Boer machinery of administration was slow; the Licensing Officers hardly ever acted promptly or according to instructions. Consequently, in the outlying districts, in spite of applications, many Indians were unable to get their licences. But they were not disturbed in their business for reasons already stated. Were they to be deprived of their licences to trade in the town for no fault of theirs?

Unfortunately Sir Arthur Lawley took a different view and told the deputation that he had never meant to convey to the Association that any but those who actually *held licences* before the war should be allowed to continue to do so after the 30th December, 1903. [*Ibid,* p.34. In his letter of November 4, 1903, Sir Arthur Lawley wrote to Gandhiji that there was no room for any difference in the interpretation of his replies. "In every case the words used arc clear and explicit and distinctly limit the number competent to claim exemption under the notice, who 'held licences' to trade before the war."

Gandhiji wrote back on November 7: "I have no wish to lay stress on the question of His Excellency's replies regarding Notice No.356 of this year to the representative of the British Indian Association. But I do venture to hope that in the light of facts placed before His Excellency, the request respectfully made by the Association would be favourably considered." In support, he referred to Milner's Despatch of May 11, 1903 to Mr Chamberlain. In that despatch Milner had said that the Government were anxious to enforce the Law of 1885 "in the manner most considerate to the Indians already settled in the country" and "with the greatest respect for vested interests", even when these had been "allowed to spring up contrary to law". (C.W.M.G. Vol.IV, p.43, Gandhiji's letter to Lieutenant Governor's Secretary, dated November 7, 1903, C.W.M.G. Vol.IV, p.33)] When, however, it was pointed out to him that there were hundreds of Indians who traded before

the war without licences owing to the protection granted to them by the British Government, he said that he would consider the question at a meeting of the Executive Council. [*Ibid,* Notes, November 9, 1903, p.34]

This left the third class, those who, although they were not trading before the war, being refugees. were granted licences to trade outside Locations by British Officers after British occupation without any reservations. The policy of enforcing Law 3 of 1885 was evolved only in April, 1903 one year after the signing of peace. Before that nobody ever thought of enforcing the anti-Asiatic law of the Government which the British authorities had themselves denounced as "un-British". The newly appointed British Officers could not understand why they should refuse to grant trading licences to British subjects when they were being given to foreigners and so gave them to Indian refugees who applied for them. *It was only when the Asiatic office took over, that it began to unearth the anti-Asiatic* laws *and to press for their being enforced.* The result was the promulgation of the Bazaar Notice.

The British officers who issued the licences to the Indian refugees after British occupation had done so in the normal course without any conditions. Chamberlain, when the matter was referred to him, had said that a British official's word was as good as a bank note. He could not understand how licences once granted could ever be taken away. He thought it must have been merely a mistake on the part of a local officer who had issued that threat. [*Ibid,* p.71; *Indian Opinion,* December 24, 1903: "An Appeal" to the *Transvaal Leader* dated December 7, 1903]

Relatively few in numbers, the men belonging to this class also had large stocks on hand and in some cases held long leases. To be compelled to remove to Bazaars in January next would mean utter ruin to them, as contrary to what both Milner and Sir Arthur Lawley had time and again assured them, the sites for

the Bazaars in every one of the cases were fixed in out-of-the-way places which held out little prospects for Indian trade and were besides insanitary. [*Ibid,* pp.34-36] This is what Mr J. A. Nessir J. C., Solicitor, said of Klerksdorp Bazaar:

> The site proposed is not suitable for trade purposes, as it is not likely that inhabitants from the town will proceed all the distance to make purchases....There was no Indian Bazaar under the old Government.

Dr Jupp, M.B., B.Sc. reported: "'The site at present marked is to be condemned from a sanitary point of view." Even the District Surgeon of the place had since condemned it.

10

In September 1903, with the crucial issue of the importation of bonded Chinese labour unresolved and the fate of his proposal for Indian indentured labour under compulsory repatriation as an alternative to the Chinese labour still hanging in the balance, Milner had gone on a visit to England to "educate" the new Colonial Secretary and particularly the liberal section of the politicians ar home into the "realities" of the South African situation, leaving the mining magnates in the meantime to bring round the dissident elements in Sourh Africa. Long before that Chamberlain had communicated to him the five conditions which Lord George Hamilton had laid down as the minimum *quid pro quo* which the Government of India insisted upon before it could favourably consider Milner's request for Indian labour. Exposed for the first time to the full brunt of the Government of India's insistence with the backing of the India Office, he realised that he would have to satisfy in part, if not in their entirety the terms laid down by the Secretary of State for India. Perforce he had to climb down. He agreed to meet the Government of India half-way. In the last week of November

the Private Secretary to the Lieutenant Governor wrote to the Secretary of the British Indian Association that in terms of Lawley's promise to consider the status of the second class of Indian traders, the Government would ask the Legislative Council to amend the Bazaar Notice to the effect that all those who were trading on the outbreak of hostilities, whether with or without licences, would have the right to trade outside Locations. [*Ibid,* p64; Photostat GN 2259. Gandhiji to Dadabhai, dated November 30, 1903]

This did not go far enough. Nothing short of an assurance with regard to all the existing licences could meet the ends of barest justice. Besides, the expression “trading on the outbreak of hostilities” was bound to give rise to many complications. For instance, what would happen to those who were engaged in trade in the beginning of 1899 or earlier but were not actually in the Transvaal and trading on the 11th of October when the war broke out? In fact, a man who commenced to trade just two months prior to the outbreak of war had far less right than those who were engaged in trade for years in the Transvaal but had left the Republic in anticipation of the war. Gandhiji, therefore, requested Dadabhai to secure an interview with Mr Brodrick and Mr Lyttelton and “put the cablegram in motion” to avert the impending calamity. [*Ibid*]

The simplest way of avoiding numerous difficulties and invidious complications, Gandhiji urged in an appeal to the *Transvaal Leader,* was to respect all the existing Indian licences on condition—if necessary—that the holders thereof were residents of the Transvaal before the war. He hoped the journal would nor forget that "the Indians were not during the war behind-hand in doing their humble share". [C.W.M.G. Vol.IV, p.72; *Indian Opinion,* December 24, 1903]

11

On December 8, 1903 the Indian community submitted a petition to the Honourable the President and Members of the Legislative Council of the

Transvaal. Signed by Abdool Gani as Chairman of the British Indian Association, it took three days to prepare. [C.W.M.G. Vol.IV, p.75; *Indian Opinion,* December 17, 1903]

After quoting what Chamberlain and Milner had said in regard to vested interests and explaining the position of the three classes of licence-holders, the petitioners prayed that the Honourable House would so amend the Notice in question as to exempt from its operation the existing Indian licences on production of proof that they had been resident in the Transvaal before the war and make it "consistent not only with justice and fairplay but also with the declarations of the Rt. Honourable Mr Chamberlain and His Excellency Viscount Milner". [*Ibid*]

The Chairman of the British Indian Association sent a circular letter to all members of the Council also. The reason given for the attempt to remove the Indians to the Bazaars, he submitted, was that they had not traded in the Transvaal before the war, or, rather, they had not traded before the war in the respective places for which they now hold the licences. The justice of this distinction was difficult to understand. The only question, according to Milner, was that of newcomers, but the appeal of the Association was not on behalf of newcomers; it was on behalf of *bona fide* refugees only. The bulk of the Indian traders were settled in Johannesburg where, the European traders being in an overwhelming majority, competition could not be felt. The prejudice here in consequence was not so strong. It was the so-called competition on the part of the Indian traders in the small townships that was feared. In such townships, however, there were very few Indian traders. In Rustenburg, for instance, there was only one Indian trader who had not traded there before the war. The case of Schweiser Reneke was even worse. There were only two Indian traders there who did not trade in that locality before the war, although one of them had traded

before the war in the Transvaal. The place itself consisted of very few houses and was sparsely populated. [Rustenburg population (1904); 1501; Whites 610, Asiatics 35. Schweizer Reneke population (1904); 428; Whites 232, Asiatics 1] What business could those two men possibly do in the Location which was situated far away and was at the time totally uninhabited? Hardly any, considering the extreme disproportion between the means to be adopted and the results to be attained, was it necessary, the Chairman asked, to enforce Law 3 against a bare handful of Indian traders who were being branded "new comers", involving as it did, gross injustice to members of a community that, as already pointed out by Gandhiji, had been behind none in service to the Empire in its hour of trial? [C.W.M.G. Vol.IV, p.81, General letter by Abdul Gani; *Indian Opinion,* December 17, 1903, prior to December 11, 1903]

12

On December 10, a notice was sent out of a public meeting to be held of Indians from all parts of the Colony on the next day. In response to it representatives from Pretoria, Pietersburg, Heidelberg, Standerton, Krugersdorp, Potchefstroom and other places arrived in Johannesburg in full force within twentyfour hours.

The meeting was held in the West End Hall at Johannesburg at 10 o'clock in uhe morning on Friday December 11. About five hundred people attended. Sheth Abdul Gani, Chairman of British Indian Association of the Transvaal, presided and was supported among others by Gandhiji. [*India,* January 15, 1904; *Indian Opinion,* 17 December 1903] Sheth Abdul Gani delivered a short impressive address in Hindustani and George Godfrey read its translation in English. [*Ibid*]

While all would enjoy the Christmas holiday, the Chairman observed, a hundred traders, more or less, and those that were dependent on them, would have ruin staring them in the face on New Year's day. The licences of those

traders who were carrying on trade under licences obtained prior to the war were being renewed. The Government had agreed also to renew the licences of those who had been trading before the war without licences. But those who obtained licences after the British occupation would be denied a renewal of their licences. They had assembled in that meeting so that those who were granted licences by the British officials after the war might also obtain them—Chamberlain had himself said that they, too, should get the licences. [C.W.M.G. Vol.IV, p.85]

A resolution to that effect was proposed by Haji Habib of Pretoria, who said that Mr Davidson, the former Colonial Secretary, gave his assurance that all those licences would be renewed. The resolution enumerated seven grounds on which the Indians claimed the right to trade outside Locations. [The resolution ran: "This meeting of British Indians publicly assembled hereby respectfully requests the Government and Members of the Legislative Council of the Transvaal, to extend all the present licence-holders outside Bazaars or Locations on production of proof that they have been residing in the Transvaal before the 11th day of October, 1899, the principle of exemption from liability to trade only in Bazaars or Locations in virtue of Government Notice No.356 of this year, known as the Bazaar Notice."]

After Mr Coovadia of Johannesburg had seconded and Mr Abdool Rahim of Potchefstroom and some other delegates had supported the resolution, it was carried unanimously.

Gandhiji congratulated the Indians on the methodical manner in which they had placed their representations before the authorities. Between Tuesday and Friday of the same week to send a petition to the Legislative Council, to address a long circular letter to the members, and to convene a successful meeting attended by over 500 people from all over the Colony was a very creditable performance. [C.W.M.G. Vol.IV, p.83; Indian Opinion, December 19, 1903] He promptly requested support for the protest by means of a report to *India* and a cable to Dadabhai Naoroji and other friends. The cable ran:

GOVERNMENT PROPOSE BRING AMENOMENT BAZAAR NOTICE BEFORE LEGISLATIVE COUNCIL EXEMPTING SOME INDIANS FROM LIABILITY TRADE WITHIN BAZAARS WITHOUT INCLUDING ALL EXISTING LICENSES. THIS WOULD MEAN COMPULSORY REMOVAL ABOUT HUNDRED TRADERS LOCATION CAUSING UTTER RUIN. BRITISH INDIAN MASS MEETING THEREFORE PASSED RESOLUTION REQUESTING PROTECTION ALL EXISTING LICENSES PENDING PROMISED ALTERATION ANTI-INDIAN LAWS. COUNCIL CONSIDERS AMENDMENT MONDAY. PLEASE HELP. [C.W.M.G. Vol.IV, p.79]

13

When the Legislative Council of the Transvaal met on the 14th of December 1903 at Pretoria, Mr Patrick Duncan, the new Colonial Secretary, proposed that Government Notice No.356, dated April 8, 1903 be amended by the addition of the following words after the word "hostilities" in clause 3:

> Licences may be granted under similar conditions in the case of Asiatic traders who were *bona fide* carrying on a trade at or immediately before the commencement of hostilities in places not specially set apart by the Government though such traders may not have held the licences required by law for such trading. All traders claiming to be licensees under the clause must produce evidence to the satisfaction of the Receiver of Revenue that the above conditions are fulfilled in their cases. [*Indian Opinion,* December 24, 1903]

In speaking to the motion the Colonial Secretary reiterated, firstly, that the British Government had agreed only to the Transvaal Republic legislating to restrict the coming into the country and the settling there of emigrant labourers of Asiatic races. Secondly, he emphasised, that the Imperial Government had agreed to the Republican Government's amending the Law 3 of 1885 only when

the latter put words into that law to the effect that the object of the legislation was sanitation and not colour or race. "The British Government gave its assent on the clear understanding that it (the restriction) referred only to residence, and that...Asiatics...would still be allowed to continue to trade in towns outside the limits of those places". The House must bear in mind, he said, that they were not going into consideration of the question with a clear slate; they had a tradition behind them which they could not possibly neglect. He hoped, the Council would give serious consideration to the position in which the Government was placed and to the question of justice and equity which arose out of that position and out of the actions which made that position. "Considering the extent to which the Imperial Government was committed to that question in the past, and how for years they had defended the position of those Indian traders and maintained that they should be free to trade where they liked, they were bound to maintain as far as possible the *status quo* and respect the interests which had been built up by those traders."

The intention of the Bazaar Notice was to protect the vested interests of the traders who had established business there before the war, Mr Duncan stated, and that was the sole object of the amendment of the Notice that stood in his name.

As to the reason why this was necessary, the Colonial Secretary said that many Asiatic traders in the Boer Republic had applied for licences. "They were refused. They went on trading just the same—openly. They were not molested, they were not prosecuted. In view of this toleration they went on, year by year, some 10 or 15 years, trading on these conditions without licences. The Government had been asked whether they thought it to be a reasonable policy not to allow a licence to a trader who traded before the war, but who had not

obtained a licence. The Government had been asked on what ground they could defend any distinction made. He himself thought that there was no ground. The resolution did not go further than that."

The Asiatics were men, the Colonial Secretary urged, who had come into the country believing, and having reason to believe, they were under the protection of the British Government. "They established their business here, and made their residence here with the permission, or at any rate with the toleration, of the Government of this country. They were not prevented from carrying business or from residing here, they were not prosecuted, even when they did carry on their business without a licence."

It might be said that it was against the Law 3 of 1885, the Colonial Secretary continued, *"But the rights of these men went on owing to the non-enforcement of the law, rights which could not be taken away without injustice after a lapse of time.* In any case the argument that these men were here against the law could not be addressed with much force to the representatives of the British Government who used every effort short of actual interference to see that these men were protected from what was considered an entirely arbitrary and unjust law". [*Ibid,* (Italics by the author)]

It seemed to him, the Colonial Secretary said, that "if they turned these men out of the business that they had built up under that protection, and with the toleration of the Government...they would be wanting in that simple and common justice which should be extended by every Government to every inhabitant of every state, without distinction of race or colour".

He asked the members to separate entirely in their minds the question of doing justice to those men from the future policy with regard to the Asiatic

traders in the Colony. The two were distinct. "The Government absolutely desired to give to the people of this country every chance of looking at the question all round." At the same time the people were bound to consider the position in which the Government stood towards these men, "and not to expect the Government to legislate as if this country had only just come from Heaven and that there was no past to think about and no vested interests". [*Ibid*]

On the request of some members to postpone the consideration of the move till the meetings of the Associated Chambers of Commerce were over, Mr Duncan said that the Government were willing to do so. The consideration was postponed for a week.

Gandhiji congratulated the Colonial Secretary, on his "able, sympathetic, and historical survey" of the anti-Indian legislation in the Transvaal. He wished, however, that the Colonial Secretary had gone a step further. He had himself admitted that the Bazaar Notice had no legal value because it could not be considered a piece of legislation; it was merely an expression of policy which the Government desired to pursue in interpreting the law of the country. If that was so, it was altogether unnecessary to bring forward the matter before the Legislative Council at all. The amendment could have been easily carried out departmentally. lt was clearly a mistake on the part of the Government to have, in the first instance, brought the Bazaar Notice before the Legislative Council. By doing so it had "voluntarily tied its hands down and given rise to an undesirable agitation—unless the Government intended that such agitation should take place in order to strengthen its hands in pursuing an anti-Asiatic policy". [*Ibid,* C.W.M.G. Vol. IV, p. 90]

Regretting that the Colonial Secretary had not included in the exemption Indians who were granted licences to trade in the previous year without any

conditions although they were not trading before the war, Gandhiji remarked that Mr Duncan had based his plea on the strength of the past acts of the British Government. "The same argument would apply, only more forcibly, to the case of the traders we have just referred to. In the case of traders who received licences last year, it is the act of the present Government which is now being overridden if these men are to go to the Locations. Mr Chamberlain has assured us that the note of a British officer is as good as a bank note. Well, the licences granted to these traders are notes signed by British officers. We have seen many, and we do not notice any conditions whatsoever endorsed thereon." [*Ibid,* p.91]

His conclusion was that the Government was "afraid to do justice" and, seeing that the proposed amendment had raised a hue and cry at Boksburg and Barberton, the Government probably thought that "it had better not risk its popularity" for the sake of doing the right by the British Indians. "Such are not the traditions of Government owning the British flag." [*Ibid*]

14

The proceedings of the Transvaal Legislative Council were opened as usual with prayers. At the conclusion of his remarks the President of the Council commended the members "to the guidance of Almighty God" and he "fervently prayed that all their consultations might lead to the advancement of His glory and the prosperity of the State" and trusted that "God's blessings might rest upon their labours". The halo of sanctimony with which the Transvaal Legislative Council clothed the adoption of measures that were manifestly unchristian, iniquitous and ungodly by invoking the guidance of God drew from Gandhiji some sharp comments. It was all very religious, and so far very satisfactory, he observed, but then those who offered the prayer had to ask themselves whether their acts squared with their professions.

There is nothing to be feared from those who walk in the fear of God and invoke His guidance in all their doings. Unfortunately, expressions such as the above have become very much stereotyped. We pray because it is the fashion. We call in the assistance of the Almighty also because it is the fashion and not because there is any special stress laid upon the fact or that there is necessarily that attitude which is indispensable before there can be any guidance from on high. And we are very much afraid that when His Excellency read the prayers or concluded his speech, he never asked himself the question whether there was not something in what was to be placed before the Legislative Council which could not possibly be to the glory of God. [C.W.M.G. Vol.IV, p.82; *Indian Opinion,* December 17, 1903]

The amendment that was to come up before the Council proposed to extend the protection against being relegated to the Bazaars to those who were trading without any licences on the outbreak of hostilities but, continued Gandhiji, it excluded from that protection those Indians who, although they did not trade before the war, had been able on the strength of their being *bona fide* refugees to secure licences from British officers. The Indians in effect said to the Europeans: "You have often promised to protect all those licences. Mr Chamberlain has done so; Lord Milner has done so. Before the war British Agents secured the trade of the British Indians by making representations to the Republican Government. Therefore although you have the lion's strength, you should not use it in order to crush these few men out of all extstence. You charge us with faults which, if properly examined, are not faults at all, and even trade jealousy may not be allowed to go so far as to endanger vested rights." In the face of these facts, was the attitude taken up by the Government consistent with the commending by His Excellency of the Members of the Legislative Council to the

guidance of God? Was it consistent with the fervent prayer that the consultations of the Council should tend to the advancement of the glory of God? "We frankly confess that we fail to see herein the hand of God, and we certainly do not see that the ruin of hundreds of inoffensive traders can advance His glory, or even tend to the prosperity of the State." [*Ibid,* pp.83-84]

In regard to the argument advanced by the East Rand Vigilants from Boksburg that it would be a "breach of faith" with the white inhabitants of the Transvaal if the Government were to amend the Bazaar Notice in any direction whatsoever, Gandhiji asked how the Government could make any promise whatever of that sort without, in the first instance, committing a very serious breach of faith with the Indians themselves? "How could our friends expect the Government to make any definite promises to relegate Indians to Locations when the Imperial Government went to war on that very question?" The Transvaal Government was bound to carry out not only the promises made to the British Indians but, apart from any such promises, it was in honour bound to protect them, the weaker party, from the opposition and prejudice of the stronger party, the Europeans. [*Ibid*]

15

Four days after Duncan's proposal was introduced, the Associated Chambers of Commerce in the Transvaal met at the Grand Hotel, Pretoria, to pronounce on the Asiatic question. Mr Abercrombie taking the chair in the absence of the Mayor. Sheth Abdul Gani, Chairman of the British Indian Association, had sent a circular letter to the members in anticipation of the meeting, setting forth the Indian position and attempting to disarm the fears of the European traders. It concluded with an appeal in the name of justice "that the meeting of the Associated Chambers would decide to recommend protection

of all existing Indian licences". [C.W.M.G. Vol.IV, p.87] The circular letter produced not the slightest effect on the delegates. Very intemperate speeches were delivered and irresponsible statements were made by some members. Mr Hubbard from Boksburg said that he was "entirely opposed to Asiatic trading of any kind or residence of Asiatics in town". [*Indian Opinion,* December 24, 1903] It appeared to him, he was reported to have stated, "that the Colonial Secretary held a brief for Indians", for while explaining his motion in the House the other day, he only gave their side of the question. "There must have been palm-oil at work...The Conference must pass a resolution that would go the whole hog." [*Ibid*]

The Conference adopted a statement that it was "absolutely detrimental" to the welfare of all coloured and white races to 'co-mingle'; that the tendency of all legislation in the Transvaal should be to prevent the demoralisation resulting therefrom, and that the "terrible responsibility which will rest upon the Government in altering legislation, which has been proved in the past, both by history and experience, to be in the best interests of the country". [*Indian Opinion,* December 24, 1903] The Conference, therefore resolved that

(1) It regarded "with intense alarm and disfavour any legislation which might stultify such principles". All legislation contrary to the same should, therefore, be withdrawn, notably Notice No.356 of 8th April 1903, and consequently the proposed amendment by the Colonial Secretary, in relation to that notice.

(2) The Law of 1885 with "all subsequent amendments by the late Volksraad, as approved by the Imperial Government by arbitration", should not only be strictly maintained but enforced in its entirety. [*Ibid*]

The Chairman in his opening remarks had said that from a circular issued by the Barberton Chamber of Commerce it appeared that the "wealthy Indians" in Barberton had approached leading merchants in the town asking them to lend their names for the purposes of securing premises and licences. The Indians, it was said, had boasted that if they succeeded "every other Kaffir store there would have to close within twelve months".

Now all this was a farrago of distorted facts. Barberton, for instance, had no "wealthy Indians". There were very few Indian traders, and these were in the Location only. The few who were doing business in the Location were, as Gandhiji put it, "too poor even to dream of the ambition ascribed by the Chairman to them." [*Ibid,* C.W.M.G. Vol.IV, p.88]

The members felt that it was derogatory to the good name of the Colonists that the Asiatics should be allowed to trade. It was, therefore, further resolved that the Government be requested that a special Act effectually to put a stop to Asiatics trading under the cover of white men's names be introduced without delay. [*Indian Opinion,* December 24, 1903]

By another resolution it was decided that a deputation on behalf of the Conference should wait upon the Colonial Secretary on the following day. [*Ibid*]

Striking a minatory note, the Chairman in his closing remarks said that the colour question was a question upon which both white races were united, and if the Government carried out their intentions they would both say: "They had but one foe, namely, the Imperial authorities who tried to alter legislation against the wishes of the people." [*Ibid*] He would say to the authorities, therefore: "Mind what you do. You had better be careful. It is the one question that would unite the people against the Government, and it is an exceedingly grave matter if

Government takes up the attitude of partisanship of the coloured races as against the white population." He did not wish people to say when the existing Government was succeeded by a responsible Assembly "that the late Government was a bad Government, that it altered legislation when the people objected to such legislation, and although they were under the British flag they did not cherish any friendly feeling towards it". He hoped that when the time of the nominated Government was ended they would be able to say: "You paid attention to the wishes of the people of the country...you did not try to force imperialist ideas down our throats and you acted in the interests of the whole country."

Referring to the Chairman's remark that "the feelings of the people of the country in this matter" were deeper than the authorities believed and that "in giving effect to the Chambers' wishes" they would act "in the interest of the whole country", Gandhiji observed that it was rather odd for gentlemen who were interested, being themselves engaged in trade, to speak in that strain in the name of the community, as if the traders' interests and those of the vast numbers of buyers were identical. [*Ibid,* C.W.M.G. Vol.IV, p.88] In saying that the feeling of the people was deeper than might be believed, the Chairman had obviously forgotten that the Indians were largely dependent upon white custom, and if the European feeling was so very deep, then how was it that the support was still held out to them? Why was it necessary "to ask the legislature to harass the Indians into leaving the Colony when the remedy of ostracism is in their own hands"? [*Ibid*] He hoped that the members had not mistaken the proposed amendment of the Colonial Secretary for the promised legislation to decide the status of the Indians in the ex-Republics. "For no legislation has yet been given to the public, and, for aught we know, when the much-promised legislation does come, it would be worse from the Indian standpoint than the present laws." [C.W.M.G. Vol.IV, p.89]

16

On Monday, December 21, when Mr Duncan's motion was again moved for the consideration of the Council, it was opposed by Mr Edward Bourke of Pretoria, who said that the fact that the Indians came into the country and were allowed to trade and did trade without licences gave them no claim to any vested interest. "They were here against the wish of the ruling power," he said. He contested the right of these men "to derive any benefit from the fact that they traded in the Transvaal under the protection of the Imperial Government". The present Government had no obligation to protect them; indeed, on this matter the Boer Government had "represented and voiced the people of the country, and he (Mr Bourke) claimed that what was said to the British Government stood as the voice of the people today". [*Indian Opinion,* December 31, 1903]

Mr Loveday had consistently been anti-Indian in his attitude whether during Kruger's regime or under Milner's administration. To him the Indian was an unmitigated curse. But the stand taken by Mr Bourke, who was known as "a very generous-minded citizen of the Transvaal and one capable of taking an unbiased view of any case that may come up before him for decision", came as a surprise and disappointment to the Indian leaders who had known him from close quarters. A merchant of long standing himself, it seemed that, in his anxiety to advance the interests of the white trade, he let himself be carried away by his class prejudice. [*Ibid,* C.W.M.G. Vol.IV, p.92] The principal protesters against the intrusion of the Asiatic trader under the Boer regime, he argued, were generally speaking British traders, and they were the men to whom the British Government must look in the future for the development of the country. If the Government was anxious to develop and foster the commercial prospects of the country, "then their first duty should be to protect these men, who had done the most

work for the advancement of the country, and to protect the best interests of these men, who had been there for so many years, and who attracted not Asiatics but Europeans from all parts of the world". [*Indian Opinion,* December 31, 1903] He proposed an amendment that the issue of licences to the Indians in the future be suspended and that a Commission of enquiry be appointed to deal with the whole question of Asiatic traders and hawkers, more especially those claiming the right to trade; the renewal of existing licences, in the meantime, to be provisional.

The amendment was supported by Mr R. K. Loveday of Pretoria, who called attention to the Indian hawker, who though confined to a location for his residence was trading elsewhere. The intention of the law, he submitted, was otherwise, and he wished the Commission to enquire into this question thoroughly and produce a report on it "such that it would have an effect upon the Colonial Office." [*Ibid.* Mr Loveday opposed the Colonial Secretary's motion on the following grounds:-

(1) At the time the first Convention was entered into—the Pretoria Convention—there was no such creature or person as the Indian trader in the country. At that time the Indian trader was never contemplated.

(2) There was a distinct line drawn between black and white in the *Grondwet.* It said there could be no equality between black and white. It could not therefore be contemplated that the Indian trader could come into the South African Republic and have the same rights as the white man. The whole spirit of the law was against anything of the kind.

(3) The Convention of 1884 only repeated the article in the 1881 Convention. Neither the 1881 not the 1884 Convention, thus, gave to the Indian the rights he had claimed having acquired under the Convention. If there had been any intention on the part of the contracting parties, some mention would have been made in that Convention, but they found only the two parties, namely the whites and the natives of the country (aboriginals).

(4) Immediately after the convention of 1881, the Law No.3 of 1885 came in, and the Indian trader knew of the Convention when he came into the country, but when he came he found that there was the Law 3 of 1885, and he did his best to get the government to take up his cause and he used the Convention for that purpose. The Indians who entered the country before Law 3 of 1885 could be counted on one's fingers. Any

Indian who came after them knew that the conditions were precarious, and did not know how the question could be settled. It was settled by arbitration at Bloemfontein and the Indian got notice to proceed to his location. But the Indians defied the law and now they were asked to condone a breach of the law by giving these men the rights which they never really had and never possessed.

(5) The Legislative Council were taking upon themselves burdens as a Crown Colony, which they should avoid until they had a representative Constitution, for, to be sure, the resolution placed before them by the Colonial Secretary would never be accepted by an elected Council.

(6) It was desirable that the white traders should remain in the country and that their children should remain there. If they took no steps to prevent the white settlers being eaten up by other factions, instead of building up a white population they would practically drive the white population out of the country.]

Mr William Hosken, a non-official member of the Council, took up a very sympathetic position. The agitation against the Indians was after all confined to the traders, he pointed out. The Johannesburg Chamber of Commerce did not identify itself with it, and the presence of the Indian trader was by no means a disadvantage. "The attitude taken up there (by the Johannesburg Chamber of Commerce) was that the very fact, that the people traded with Indians was a proof of demand for them, and if there were a pronounced objection to them, they would be boycotted and their trading would be rendered impossible." [*Ibid,* C.W.M.G. Vol.IV, p.92]

The Colonial Secretary had told them that the Indian traders were practically retained in the position they had secured. The only fair and equitable course for the representatives of the British Government, therefore, Mr Hosken thought, was to support them in the same position and to carry out the claim as then put forward to the other Administration. To take any other action would be "a breach of trust of a most flagrant nature". [*Indian Opinion,* December 31, 1903]

Sir George Farrar said he would oppose the amendment unless the Colonial Secretary furnished a list of those *bona fide* traders who carried on trade in the Colony prior to the war. "If the British Government insisted on those rights,

let them (Transvaal) compensate such Indian traders concerned." He hoped a Commission for the purpose would be appointed and an exhaustive list would be compiled showing what vested rights or interests the Asiatic traders might claim. In the meantime Government might allow temporary licences to be granted. He tabled the following motion:

> That the Government be requested (1) to appoint a commission to investigate the cases of those Asiatics who traded in the towns before the war without licences, to report what vested rights or interests they may reasonably claim in respect of such trade; and that meanwhile provisional licences be granted to *bona fide* Asiatic storekeepers who traded before the war. (2) To draft a law embodying Law 3 of 1885 and also Government Notice 356 of 1903; and (3) to introduce legislation embodying the principles of the Cape of Good Hope Immigration Law, 1902 regulating the status of Asiatic Traders in that Colony. [*Ibid*]

Mr Bourke withdrew his amendment, accepting Sir George Farrar's.

The Attorney General (Sir Richard Solomon) said that they were all agreed upon the general policy declared in Law *3* of 1885, that it should be carried out. " But wherever you carry a policy in respect of a law, that has been a dead letter for years past, you must respect vested rights; you must respect vested rights which have grown up when that law is asleep, else you do not do justice to the people who had acquired certain rights without being interfered with by the Government." [*Ibid*]

Replying to the objection that those who had traded without licences had "evaded" the law and could claim no protection, the Attorney General observed that Indians had not done so intentionally. [*Indian Opinion,* December 31, 1903. Said Sir Richard Solomon: "The Honourable Mr Bourke had said it was no injustice because those traders traded without licences and

evaded the law. But they did not evade the law intentionally...These traders had acquired the rights and built their business, and if they (the Council) took away those rights they would be doing those traders a monstrous injustice and the Indians would say: 'We did not take out licences, but we traded for years before the war, and we were allowed to trade by the South African Republic Government, because we were subjects of the British Empire; and now we have come under the flag to which we have sworn loyalty, and you are going to take away our rights which were respected by a foreign Government. If you do, surely it will be gross injustice.'"] He reminded the House of the attitude that the Imperial Government took with regard to Law 3 of 1885 in the past in its dispute with the South African Republic and asked them to consider whether they thought the Imperial Government, after taking that attitude, would allow an injustice to be done to men who traded before the war because they were British subjects.

The Hon. Members seemed surprised at the attitude of the Imperial Government, the Attorney General continued, but surely

> when they remembered the responsibilities of the Government with regard to the Indian Empire, when they remembered the millions who inhabited that Empire and whose loyalty depended to a large extent upon their confidence in the administration of justice, not the administration of justice by courts of law but the doing what was just, holding the scales evenly between man and man in every department of State; when they remembered that, it was not difficult to see the reason of the attitude of the Imperial Government. Great Britain could rely on the loyalty of the millions who inhabited the British Empire, because those millions had confidence in the administration of justice and surely it was nothing to be surprised at that Great Britain should protect her people in whatever part of the Empire they were situated. [*Ibid*]

So far as he was concerned, the Attorney General said, he would readily consent to the appointment of a Commission to go into the whole question but

he must warn the Council that when legislation was introduced to give effect to the report of the Commission, that legislation would have to contain some protection for the persons who traded before the war, whether they did so with or without licences, because in the Letters Patent by which the Council was constituted, they could not introduce legislation of any kind, without the consent of the Imperial Government and from the attitude taken up by that Government before the war it was not likely to consent to any legislation which did not recognize the rights established previously to the war.

Concluding amidst cries of "hear, hear", Sir Richard Solomon reiterated most emphatically that "in accepting the Commission *he was not driven from the position which he took up strongly, and which he would take up were he the only man of that Council* and that was *that in putting into force a law which had been dead for years past, which was dead under the late South African Republic, they must, as in all their legislation, respect vested rights.*" [*Ibid,* (Italics by the author)]

At this stage Mr Bourke intimated that he would accept the amendment proposed by Sir G. Farrar.

The Colonial Secretary said that he was prepared to accept the amendment moved by the Hon. Member, Sir George Farrar. But, in doing so, he would like to make it quite clear that the Government could not depart from the position that it was bound to respect the vested interests acquired by Asiatics before the war. Whether the ultimate decision would be to allow those men to trade or compensate them for their rights could not be discussed at that stage; the proposed commission would enable them to come to some decision.

In regard to the opinion expressed by Mr Loveday that Law 3 of 1885 could and should be used to prevent the multiplication of hawkers, the Government

did not believe that was a correct interpretation of the law; that law did not enable them to refuse licences to Asiatics who traded, whether by hawking or otherwise, outside towns where places had been pointed out for them to reside at.

Sir George Farrar, accepting a suggestion of Mr Duncan's, omitted the second clause from his amendment, whereupon the Government accepted it, the Colonial Secretary withdrawing his original motion.

Mr Raitt, while agreeing with the motion before the House, said that it did not go far enough. It was perfectly well known that the licences were taken out in the name of some white person. This was a gross abuse of the law's terms. He wished that the powers of the Commission should be extended so as to enable the Commission to deal with the whole question of Asiatic trading in all its branches.

The President: "Who seconds the amendment?"

Sir Richard Solomon pointed out that if Mr Raitt's rider were adopted it would take a very long time before there could be any report by the Commission and they wanted the matter to be settled as quickly as rossible.

Sir George Farrar's amendment was then agreed to.

The Colonial Secretary's attempt to amend the Bazaar Notice, so as to protect the interests of those Indians who traded without licences, thus ended in a compromise. The Indian leaders welcomed the appointment of the Commission. They had from the very beginning maintained that there was a great deal of misunderstanding as to the number of existing Indian licences and that the members of the White League and other bodies had exaggerated the effect of Indian trade. On December 31, Gandhiji wrote:

> The Indians have always asked for daylight to be shed upon their doings and we look forward with every confidence to the result of the Commission. And if our expectations are realised, the sober-minded colonists in the Transvaal could have no excuse for continuing the anti-Indian agitation which can do no good to either party, and which unnecessarily embitters the feeling between two communities who ought to be able to live side by side in peace. [*Ibid,* C.W.M.G. Vol.IV, p.93]

The Government of India learnt of the appointment of the Commission through the Reuter's Agency on December 23, 1903. [NAI (Rev. Agri. and Emig.) A-Progs. Nos. 17-19, November, 1904, P.S.S. to Denzil lbbetson's Note dated December 23, 1903]

The Indians had hoped that the appointment of the Commission meant that all those who were trading before the war would have provisional licences granted to them forthwith to trade outside Bazaars and that, the passing of an Act similar to the Cape Act would mean a total repeal of the existing anti-Asiatic laws, and not an addition to the burden the Indians were already labouring under, and that, at any rate, under the British Government their position would not be made more intolerable than it was under the old regime. [C.W.M.G. Vol.IV, p.96; *Indian Opinion,* January 7, 1904] This expectation of theirs was belied. Milner and his bureaucracy set about to defeat in detail what the Government had conceded in principle. What they gave with one hand they tried to filch with the other.

CHAPTER XI : THROUGH PLAGUE AND FIRE

1

Ever since Major O'Meara had drawn up his highly sensational report on the alleged insanitary condition of the Johannesburg Location in the middle of October, 1901, and asked Lord Milner for extraordinary powers to be given to the Johannesburg Town Council for the expropriation of what was dubbed "Insanitary Area" (see *The Discovery,* Chapter XVII, pp.425-26), the fate of the Johannesburg Location had hung in the balance. Also called Burghers-dorp or Brickfields, the Johannesburg Location was a piece of low-lying land immediately west of the central business district of Johannesburg. Being low-lying, it received the drainage from the town and some part of it was a swamp. It was the place where bricks were made (hence "Brickfields"). The site was a wilderness when the Indians were first settled on it in 1896. By their doggedness and perseverance they had made it flourish. Its proximity to the city and the railway yards had made it valuable commercial property. This had excited the greed of the Johannesburg Town Council. Later, Dr Porter, the Medical Officer of Johannesburg, and Lionel Curtis, took up the cry. After the initial rebuff by Chamberlain, Milner temporised for a while and then profiting by a hint thrown out by Chamberlain himself effected a compromise by appointing a Commission to enquire into and report upon the proposition made by the Town Council. [C.W.M.G. Vol.III, p.459; *Indian Opinion,* October 1, 1903] The name of the Commission was the Johannesburg Insanitary Area Improvement Scheme Commission.

The plea of insanitation was only an excuse for expropriation and a cover for the Town Council's cupidity.

The farce was gone through. The report was published on January 22, 1903.

The Commission decided in favour of the Town Council, condemning the area. The danger to public health was so immediate, the Commissioners represented, that they advised Milner to give the Town Council the power of expropriation. They also advised that the Town Council should not wait for expropriating until an elected Council was given to Johannesburg. On April 30, 1903, Milner gave the Town Council authority to expropriate. [C.W.M.G. Vol.IV, p.160; *Indian Opinion,* April 9, 1904]

More than half of the Indian population in the Transvaal was accommodated in Johannesburg in its 96 Stands and it was the only area where the Indians held full ownership right in landed property. Major O'Meara's leisurely report resulted in the deprivation of the just rights of thousands of inhabitants within the area. [C.W.M.G. Vol.III, p.460]

The Town Council had then the right, as it was its clear duty, to fix upon a spot for the habitation of the people who had to be dispossessed. Instead, It gave notice of its intention to expropriate, but failed to provide a site for the housing of the residents of the Insanitary Area, holding the dispossessed at its mercy.

Two years had elapsed since Major O'Meara had made his sensational report and yet no epidemic had visited Johannesburg. [*Ibid, Indian Opinion,* October 1, 1903] This was sufficient proof of the unreality of the cry that had been raised.

The Town Council entered upon possession on September 26, 1903. [C.W.M.G. Vol.IV, p.160; *Indian Opinion,* April 9, 1904] It did not disturb the occupation of the tenants, but graciously allowed them to occupy its premises at the same rental they used to pay to their respective landlords before September 26. If, therefore,

there were rack-renters, the Town Coucil had now the honour of taking up that role. [C.W.M.G. Vol.III, p.460; *Indian Opinion,* October 1, 1903] If, as Dr Porter had asserted, there was overcrowding before, then, such overcrowding also remained with this difference, that, whereas prior to the 26th September the poor individual landlords were subject to the Town Council regulations as to overcrowding etc., the Town Council itself was practically free from any such restrictions. The danger to the health of the community, it appeared, vanished altogether after the Town Council became the landlord.

To circumvent the objection of class legislation some areas not occupied by the Indians were also included in the Town Council's expropriation scheme. The pinch, however, was felt by the British Indians of Johannesburg alone. Others could reside and trade, investing what they received by way of claims in landed property elsewhere. The Indians had no such rights. They could not reside and trade wherever they pleased.

The hardest to be hit were the Indian lease holders of the Stands. They were deprived of their only means of livelihood. The assessment of their claims for expropriation took no notice of the high rents they were receiving. Day after day newspapers reported how the claims for the compensation were being starved out. [*Ibid*]

2

The valuation of the expropriated properties was entrusted to the Insanitary Area Committee. As soon as the decision was published, the lease holders gathered in a mass meeting at Johannesburg Main Road. Mr Mark Gibbons, Chairman of the meeting, considered the action of the Town Council as "really disgraceful;...it imposed a burden which they (the lease holders) ought not

to bear". Another speaker described expropriation to be "confiscation", and motives were freely attributed to the Town Councillors.

While deprecating the attribution of motives, Gandhiji condemned the Town Council's action as "niggardly". Out of 1200 Indian claims only 164 claimants had thought fit to accept the ridiculous offers made by it. It had been argued that the claimants knew their business far better than outsiders, and that their having accepted a settlement showed that the offer must have been fair. But the Council and claimants were not equally matched. The lease holders who were deprived of their property had in most cases lost their only support in life. Hard pressed by creditors, they had no choice but to come to terms with the Town Council, which controlled an inexhaustible purse. Even so the largest number of claims were still undisposed of. [C.W.M.G. Vol.IV, p.11; *Indian Opinion,* October 15, 1903] The Town Council stood self-condemned.

The valuation of claims was arbitrary. There were Stands on which very decent buildings had been erected. These had been valued at the same price as those on which there were rickety structures only. In many more cases, Stands, when last changing hands, had brought a fair value. They had been undervalued by the Council Valuators. In adopting the "cheese-paring policy", Gandhiji urged, the Council had done but an ill-service to the general body of ratepayers. It had inflicted an injustice on those ratepayers who were "most in need of fairness, if not generous treatment". The charging of rents from the owners who were dependent on the income from their properties, betrayed a sad insensitiveness to considerations of humanity. The question of finding residential sites for those who had been dispossessed had indefinitely been postponed. If, therefore, pending full arrangements for their housing being made, the owners were not allowed to make use of their properties temporarily and receive income

therefrom, what were they to do? Rains were much belated, the industries were stagnant, the money market was dull, and thousands of men in Johannesburg, were without work. The Council, being still nominated, could perhaps afford to disregard popular feeling but did not its "irresponsible" position render it doubly imperative, asked Gandhiji, that it should cleal with the inhabitants of the Insanitary Area with justice and fairness or at least suspend action until the elective Council was established in Johannesburg? [*Ibid,* p.12]

On October 16, 1903, the claimants gathered in a protest meeting and drew up a memorial to be submitted to the Insanitary Area Committee. The Committee after studying the whole of the record recommended that in the case of claimants whose claims had not been agreed to, who were not in occupation of their property, and on whose Stands rentable buildings existed, the Committee be authorised, (1) either to pay to them monthly, pending settlement, interest on the net amount of the Council's final offer at the rate of 7 per cent, per annum, or (2) to advance to them on account of their claims a sum equal to 20 per cent. of the net amount which under the Council's final offer they would receive. [*Indian Opinion,* October 29, 1903]

The Town Council's decision confirming the Committee's recommendations [*Ibid,* November 5, 1903. It was to the effect that the Town Council had decided that (1) in the case of owners who remained in occupation of their property, pending the settlement of their claims they would remain as the Council's tenants, but that instead of actually paying rent to the Council, they should agree to forego 7 per cent. interest which they would otherwise be entitled to receive as from the 26th September, on the amount eventually awarded them. (2) In the case of owners who were not in occupation of their property, but on whose Stands rentable property existed, the Council would, subject to their titles being in order, either pay out to them monthly, pending settlement, the interest on the net amount of the Council's final offer, which was accumulating in their favour, at the rate of 7 per cent. per annum, or advance to them on account of their claims, a sum equal to 20 per cent. of the net amount which under the Council's final offer they would receive] was read out at a gathering of about 200 expropriated stand-holders on October 24 by Mr Mark Gibbons, the Chairman, who had received a communication from the Town Clerk that very day.

3

The Public Health Committee in its report to the Town Council for the resettlement of the dispossessed population of the Insanitary Area had recommended that, (a) provided the Government consented to vest in the Council the ground currently occupied by the native location and the vacant 55 acres of ground to the west originally intended for a "coolie" location, this area be laid out afresh so as to provide accommodation for a "native" Location and Asiatic bazaar in accordance with a scheme that the Committee had prepared; (b) that the native location be then removed from the existing site to the western portion of this area, and the Asiatic bazaar be established on the ground currently occupied by the native population; (c) that the Asiatic bazaar and native population be kept distant from each other, and placed under a separate management, and (d) that the expenditure of a sum of £16,238 should be sanctioned for this purpose. [*Indian Opinion,* October 8, 1903]

Now the existing Kaffir Location was at least a mile from the Location that had been expropriated by the Town Council. This was the site where the Health Committee proposed to remove not only the people dispossessed but also the Indian population residing in the town of Johannesburg which, the Health Committee expected, would be forced to the Location. This meant that bread would be taken out of the mouth of British Indian store-keepers as it was "utterly impossible for Indians to carry on any trade whatsoever, except among themselves, there". [*Ibid,* C.W.M.G. Vol.IV, p.6] For, the Indians living in the Location being mostly hawkers, the question of any trade among themselves could not arise. And yet Lord Milner had assured them that Bazaars would be so selected that the Indians would have a fair amount of the trade of the town, both white and Kaffir! "Things are done post-haste in the Transvaal," observed Gandhiji. "The

millionaires want to extract their gold within a few years. The Town Council has deprived thousands of innocent people of their holdings within an incredibly short time. We can, therefore, quite understand what the Health Committee means when it says. 'it is desirable that the scheme in question should be put in hand with the least possible delay in order that accommodation may be provided for the Asiatics who will have to be removed from the old Coolie Location in Burghersdorp and other parts of the Insanitary Area'". [*Ibid*]

When the Health Committee's recommendation that the existing Indian Location should be removed to the Kaffir Location and that the Kaffir Location should be placed further up became known. the European ratepayers and residents of Johannesburg asked that the two Locations should be removed to "a more suitable position". In a petition signed by 1300 they represented that, if the extension was persisted in, it would not only deteriorate the townships of Brixton, Mayfair, and Fordsburg and the Government township for Civil Servants for residential purposes, "but also the whole district for a considerable radius". The rateable value of all the land in the vicinity would shrink and the annual income necessary for the maintenance of the actual township of Johannesburg itself would be reduced. "The townships in the neighbourhood will become entirely valueless for residential purposes." The *Transvaal Leader* thought that the memorialists appeared to have "the balance of reason" on their side. [*Indian Opinion,* October 15, 1903]

Gandhiji agreed with the European memorialists that the two Locations should be removed to a "more suitable position", but with a difference. [C.W.M.G. Vol.IV, p.12] The Kaffir Location itself was too far away from the Expropriated Area to be of any use to the British Indians. The law provided that the residents within the Insanitary Area should not be removed from their occupation until a site near

the Insanitary Area was pointed out to them for their residence. Removing the men fully one mile away from their existing places, could hardly be considered to be in accordance with the requirements of the Expropriation Law. Either, therefore, the men had to be allowed to remain within the Expropriated Area, or another less objectionable site had to be pointed out to them.

The Example of the Kaffirs in Cape Town being brought all the way from Maitland [*Ibid,* pp.12-13: *Indian Opinion,* October 15, 1903] had been cited in support of the proposal of the petitioners. The analogy did not hold. If the Indians residing in the Location had all of them been workmen pure and simple, something could have been said in favour of the Cape Town system being reproduced in Johannesburg. But, seeing that most of them were independent men engaged in trade and some of them depended for their living on the trade in the Location itself, the site had to be near enough the town so as to afford "reasonable facilities for attracting the town custom alike from the white people as the Natives". [*Ibid*]

The Indian protest was ignored, but how could the Health Committee remain firm in the face of the white ratepayers' opposition? It changed its mind. In reply to the petition of the 1300 the Committee stated: "We propose to abandon for the present the relaying out of the existing Kaffir Location." In its place it now proposed that the vacant space to the west of the Kaffir Location which was marked on the map "Coolies and Chinese" should be laid out to house 9000 persons (Asiatics 5350 and Natives 3650) for whom accommodation had to be provided. The additional Natives, who needed accommodation, would be provided for on the land immediately adjacent to the Kaffir Location, while the Asiatic Bazaar would be placed further to the west. [*Indian Opinion,* March 3, 1904]

To mollify the Europeans the Committee further recommended that the site should be laid out in such a way that a clear space of about 200 feet in width

would be left on the western boundary between the Asiatic Bazaar and Brixton, and that a road into Brixton from Mayfair might cut the western corner of the site without actually passing through the Bazaar. It also proposed to erect on the western and northern boundaries ''an unclimbable fence, to prevent the residents in the Location gaining direct access to Brixton", and to plant trees "which will serve as a screen between Brixton and the Bazaar". [*Ibid*]

"To sum up," the Committee concluded, "it is absolutely necessary that provision should be made for the establishment of an Asiatic Bazaar within a reasonable distance from town."

The Committee had expected that the adoption of these measures would satisfy the residents in the neighbourhood and they would withdraw their opposition to its proposal. This expectation was belied. The recommendations being communicated to the representatives of the white residents, they still persisted in their objection to the use of any portion of the 55 acres of vacant ground to the west of the Location, either for an Asiatic bazaar or for a native Location. The Committee, however, stuck to its position that it was impossible for it to make any arrangements whereby the use of the 55 acres of vacant ground to the west of the Location for the purpose of accommodating the Asiatics, and of providing temporarily for a certain number of natives, could be avoided. The objections to the use of this site for the purposes indicated were, it maintained, less strong than could be brought against the use of any other site within the same distance from the town. Besides, there was no prospect of obtaining any other site.

As for the site eventually to be chosen for a native Location, the Committee left the matter open, hoping that at a very early date it would be possible to remove the native Location a considerable distance from the town. Pending the

settlement of that question, it suggested that the natives for whom there was no room should be accommodated in the existing Location. The money thus spent on preparing the ground between the proposed bazaar and the existing Location for those natives would not be thrown away when the time came to remove them. For, "it is probable that it will be necessary, before long to remove the Malays, from the existing Malay Location and it will then be desirable to locate all Asiatics together in one bazaar. The Malay will...be able to occupy the ground...vacated by the Natives." They, therefore, urged that, as originally proposed by them, (a) the Government consent to vest in the Council the 55 acres of the vacant ground to the west of the Kaffir Location, which was originally intended for a coolie Location to be laid out for the purpose of accommodating Asiatic bazaar, and for temporary extension of the Native Location in accordance with the scheme shown on the plan they had submitted; (b) an unclimbable fence be erected along the western and northern boundaries of the Asiatic Bazaar and the extension of the location and (c) a capital expenditure of £9200 be sanctioned for the purpose of laying out and equipping the proposed Asiatic bazaar and the extension of the native location. [*Ibid*]

Now the proposed 55 acres meant for Location was none other than the notorious Vaterval area, four and three quarters miles from the Post Office. It was here that in 1899 the Kruger Government had proposed to remove the Indians. The very site which they had now recommended was the one against which the British Government before the war had very strongly protested, against which the then Vice-Consul, Mr Emrys Evans, drew up a scathing report, and which was ultimately rejected also by the late Government. "Is the site now so wonderfully improved? Or has the distance between the Market Square and

the site during these years decreased so as to make it suitable under the British regime?" Gandhiji asked. [*Ibid,* C.W.M.G. Vol.IV, p.139]

Finding the Town Council so susceptible to the slightest pressure by the whites, a deputation of the white residents of Brixton and Mayfair waited on the Town Council. Reverend Brown acted as spokesman. The petition which they presented contained, among other things, the following:

It will be impossible and dangerous for our women and children to live in this district. [C.W.M.G. Vol.IV, p.147; *Indian Opinion,* March 17, 1904]

"It will be interesting to know," remarked Gandhiji, "how these gentlemen have been able to live within the district all these years, for it should be remembered that the Kaffir Location and the Indian Location have been where they at present are for over ten years, and the Europeans in the neighbourhood have been able to live without danger''. [*Ibid*]

What the Europeans really wanted was that tne Indians should be sent to some place south of the reef where they would be cut off from all communication with the town except with difficulty. When it was pointed out to them that sites south of the reef were all within the Mining Area, and therefore proclaimed, they argued that the Government had the right to appropriate so much of the Mining Area as they found necessary for "cutting roads, depositing purposes etc.", and as the Town Council had already taken up some portion of it for depositing the refuse of the town, it might also deposit what was to them "the living refuse of the town"! It was useless arguing with people with that sort of outlook, wrote Ganrlhiji on March 17, 1904, and that the Colonial Secretary was the final arbitrator between the gentlemen represented by Mr Brown and the Indians. It was up to him to see that the latter, who were by law entitled to be housed as

near to the present location as possible, were placed in a position that would enable them to eke out a livelihood. [*Ibid*]

But the Town Council, instead of finding a new location for Indians without any delay, added more tenants to the existing one, thus making the state of things worse than before.

4

Far too long had the Johannesburg Town Council played with the health requirements of the Indian Location in its leisurely pursuit of the game of expropriation on the ostensible ground of insanitation. At last nature hit back. Plague appeared.

The sanitary condition of the Johannesburg Location had deteriorated alarmingly since the Johannesburg Town Council had entered into possession of the property in the last week of September, 1903. It was then already over-crowded. After the take-over, Kaffir elements were dumped into it in large numbers and tenants were accepted irrespective of the capacity of the buildings let by the Town Council.

To this was added the increase in insanitation, resulting from the inability of the Town Council to keep the premises clean. Before the 26th September, the owners of the Stands in the Indian Location were individually responsible for proper sanitation. When the Town Council assumed control, therefore, it meant employing at least 96 topazes (sweepers). This the Council could not or would not do. The responsibility having been taken out of the hands of the Stand-holders, they were powerless to control fifty or more people that were now settled on each Stand. The area that never was so insanitary as to call for expropriation was in this way made so by the Council. [*Indian Opinion,* March 24, 1904]

The early part of January 1904 was phenomenally wet. Johannesburg was simply drenched. For seventeen days in a row the clouds hung low. The rain soaked the city. The insanitation resulting from over-crowding and the neglect of its duty by the Town Council, combining with the foul weather, gave rise to acute pneumonia, which could become highly infectious. And this infection, finding a suitable soil in the squalor of the "Insanitary Area", assumed a very deadly form and became the pneumonic plague.

About the end of January a case of pneumonic plague was discovered in one of the gold mines in the vicinity of Johannesburg. The city authorities were unable to diagnose the disease and the necessary precautions were neglected. Having served on two Plague Committees and as a voluntary nurse for plague patients for two years, Gandhiji immediately saw that these scattered cases of mortality were actually cases of plague. Convinced that, unless timely precautions were taken, a severe outbreak might be expected, he warned the authorities. On February 11, 1904 in a letter to Dr Porter, Medical Officer of Health, he wrote:

> I venture to write to you regarding the shocking state of the Indian Location. The rooms appear to be overcrowded beyond description. The sanitary service is very irregular, and many of the residents of the Location have been to my office to complain that the sanitary condition is far worse than before.
>
> There is, too, a very large Kaffir population in the Location for which really there is no warrant.
>
> From what I hear, I believe the mortality in the Location has increased considerably and it seems to me that, if the present state of

things is continued, the outbreak of some epidemic disease is merely a question of time. [C.W.M.G. Vol.IV, p.129; *Indian Opinion,* April 9, 1904, Gandhiji to Dr Porter, February 11, 1904]

Maintaining that the occupants of the Location were in no way responsible for the shocking state of things in the Location, he requested the Health Officer to pay a personal visit to the Location and offered to accompany him "should you approve of my suggestion".

On receiving this letter, Dr Porter visited the Location. It was Saturday, February 13, 1904. [*Ibid,* p.130] He asked Gandhiji to suggest remedies.

On February 15 Gandhiji replied:

> The more I think of it, the uglier the situation appears to me...if the Town Council takes up a position of *non-possumus,* it will be an abdication of its function, and I do respectfully say that nothing can justify the Public Health Committee in saying that neither overcrowding nor insanitation could be helped. I feel convinced that every minute wasted over the matter merely hastens a calamity for Johannesburg and that through absolutely no fault of the British Indians.

Referring to the dumping of the Kaffir population of Johannesburg into the Indian Location by the Town Council, pending selection of a suitable site for a permanent Kaffir Location, Gandhiji continued:

> Why, of all places in Johannesburg, the Indian Location should be chosen for dumping down all the Kaffirs of the town passes my comprehension. While the great projects for sanitary reform of the Public Health Committee are undoubtedly very laudable and probably necessary, the obvious duty of dealing with the present danger of insanitation and

> overcrowding in the Indian Location, in my humble opinion, is not to be neglected. I feel that a few hundred pounds now spent will probably cause a saving of thousands of pounds; for, *if unfortunately, an epidemic breaks out in the Location, panic will ensue and money will then be spent like water in order to cure an evil which is now absolutely preventible.* [*Ibid,* (Italics by the author)]

The only thing that could keep the area clean was to have a *topaz* for each Stand. This the Medical Officer was not in a position to provide for lack of funds. Before expropriation, every Stand-holder, Gandhiji pointed out, was held responsible, and very naturally, for the proper sanitation of the Stand. "The result, as I know personally, was that every Stand had a *topaz* attached to it who continually looked after the Stand, and I have no hesitation in saying that, compared to what the Stands are now, they were kept in an ideally good condition." After expropriation, sanitation ceased to be anybody's particular responsibility. "What is everybody's business is...nobody's business. You cannot expect every resident to look after the sanitation." It was little wonder then that in the circumstances the Medical Officer of Health's hard-worked staff was unable to cope with the insanitation in the Location. Gandhiji was confident that if the Town Council adopted a reasonable attitude immediate improvement without any cost to the Town Council, "and probably to the saving of a few pounds", was possible. His proposal in short was that leases—six monthly or quarterly—be given to the Stand-holders. The leases might state exactly how many people were to be kept on each Stand or in each room. They could pay, say, 8 per cent. on the valuation of the valuators and should be made strictly responsible for the sanitation of the Stand leased by them. In the result they would see "a vast improvement in two or three days, and you, by a stroke of the pen, could deal effectively with insanitation and overcrowding". In addition, the

Town Council would be saved the necessity of having to make individual collections of rents.

Concluding, Gandhiji repeated his previous offer: "My services... are entirely at the disposal of yourself and the Public Health Committee.... I have no doubt that, if the Town Council would but give the Indian community a fair chance of proving what it is capable of doing in the way of sanitation, I do not think it would be much mistaken." [C.W.M.G. Vol.IV, p.131]

Dr Porter acknowledged this letter on February 18 and forwarded copies thereof to the Mayor, the Chairman of the Public Health and Insanitary Area Committee, and the Town Clerk. [*Indian Opinion,* April 9, 1904] He sincerely hoped that something would be "speedily" done in the matter. [*Ibid*]

The Chairman of the Public Health Committee paid no heed to Gandhiji's well-meaning advice and even resented it. And Dr Porter, it seems, had second thoughts on the subject. On February 20, he wrote again traversing practically all the statements in Gandhiji's letter. He denied that the Town Council had taken up a position of *non-possumus,* or that it had said that either overcrowding or insanitation could not be helped. Already, on the 17th March, 1904, the Public Health Committee had resolved to recommend to the council "to establish an Asiatic Bazaar with the least possible delay on the site set apart for that purpose by the late Government". The Public Health Committee was making an energetic effort to keep the Location clean. A daily night-soil removal service was now in operation "instead of a tri-weekly one as formerly". It was not true that the Council was "dumping down" Kaffirs of the town in the Indian Location. On the contrary, it was the Indians who were responsible for it. "Indeed, I am informed that in the majority of instances those Kaffirs are taken in as lodgers or sub-

tenants by the Indians themselves." He demurred to the suggestion that his staff were unable to cope with the sanitation in the Location, or that its condition was in any measure better before the Town Council assumed control of it. He promised to submit to the Insanitary Area Committee "at the next meeting" Gandhiji's suggestion about short-term leases "which at first sight, appears to commend itself to me", but held out no hope that it would be accepted. In short, he saw no cause to be dissatisfied either with the existing situation or with the effort that was being made to cope with it. "Now that we have had the advantage of an inter-change of views, and are thoroughly acquainted with the conditions prevailing in the Location, I feel sure that you will agree...that for the present at any rate, no useful purpose can be served by further correspondence between us on this particular point." As for Gandhiji's offer of cooperation, "if occasion should arise in regard to which I fed that your assistance would be helpful I shall not hesitate to avail myself of your kind offer", he concluded.

Gandhiji immediately wrote back: "I cannot... help correcting your impression that Kaffirs are taken by the Indians as lodgers. They have absolutely no power to sub-let." [C.W.M.G. Vol.IV, p.133, Gandhiji to Dr Porter dated February 20, 1904]

On the 1st of March Gandhiji informed Dr Porter that in his opinion plague had broken out, as he suspected and that all the cases of death were due to the fell disease.

Dr Porter's reply, dated March 8, ran: "I have caused careful enquiry to be made...I can find nothing to confirm the suspicion you mentioned." [*Indian Opinion,* April 9, 1904]

5

Actually the piague did not break out in the Location but in one of the mines in the vicinity of Johannesburg among the Negro workers for whose

cleanliness white employers solely were responsible. There were also a few Indians working in connection with the mine. Fourteen of them were suddenly attacked. A few cases of death among them took place on March 10. *A communication was sent to Dr Porter stating that plague symptoms had developed. Dr Porter wrote back that after four days' investigation the Health Officers had failed ro find any indication in substantiation of the statement.* [*Ibid,* March 24, 1904; *The Star,* March 21, 1904]

Exactly four days after this came the crisis. Twenty-three Indians who had caught the infection returned to their quarters in the Location on the afternoon of March 18th with very acute symptoms. Madanjit, the proprietor of *Indian Opinion,* was in the Location at the time, canvassing subscribers for the paper and realising subscriptions. He saw a number of "dead or dying" men being "dumped" down in the Location by rikshaws. [C.W.M.G. Vol.IV, p.150] Immediately he sent a pencil note to Gandhiji: "There has been a sudden outbreak of the black plague. You must come immediately and take prompt measures....Please come immediately." [M. K. Gandhi, *The Story of My Experiments with Truth,* p.291]

It was 4.30 p.m. As soon as he received Madanjit's note, Gandhiji accompanied by Dr William Godfrey, Dr Pereira and a health inspector, set out on a bicycle for the suspected area after informing the authorities. His letter addressed to Dr Porter, dated March 18, 1904 ran: "I send you the enclosed rough note as it comes to me. I understand there are about fifteen Indians, in the condition described, in the Location. Many of them are paupers. One man has died, and no one has removed, or is in a position to remove, the dead body." [*Indian Opinion,* March 24, 1904] Describing the work that was being done by the volunteers and the Indian community to tackle the situation as well as they could unaided, Gandhiji requested the Medical Officer of Health to do all he could.

[C.W.M.G. Vol.IV, p.149; *Indian Opinion,* April 9, 1904] "If you will give one of the vacant Stands in the Location to be used as a temporary hospital, it will be very much appreciated." [*Ibid*]

In the meantime, Madanjit had broken open the lock of a vacant house and put all patients there. On entering it Gandhiji and party discovered fourteen plague patients inside a room. It was by now 6.30 p.m. Dr William Godfrey at once took control of the improvised hospital and arranged that a medical attendant should be present through the night. [C.W.M.G. Vol.IV, p.150]

Gandhiji had at this time in his office four young Indians—Kalyandas, Maneklal, Gunvantrai Desai and another. He had never regarded them as clerks, but as members of the family, sons. They were then all unmarried. He decided to sacrifice all four. Son of a friend in Bombay, Jagmohandas Kapol. Kalyandas had been entrusted by his father to Gandhiji. He had inherited the splendid qualities of his father, who in his time had given his services to the plague-stricken victims in Bombay. He did not need to be consulted at all. The others expressed their readiness as soon as they were asked. "Where you are, we will also be," was their prompt reply when Gandhiji invited them to join him as voluntary nurses for the victims of the fell disease. [M. K. Gandhi. *The Story of My Experiments with Truth,* p.291]

No financial help being immediately available from the authorities, the Indian community raised a fund by subscription and all the necessary arrangements were made. Later the same day (Friday, the 18th), the Health Inspector came on the scene and gave a helping hand, still being unable to take up financial responsibility. But the community now took the matter in its own hands. [C.W.M.G. Vol.IV, p.152] Dr Godfrey, Madanjit, and the young educated Indians became at much risk nurses and carefully attended to the patients crowded into

the small rooms in the vacant house that Madanjit had commandeered and turned into an improvised hospital.

While the patients were being looked after on one Stand, a very largely attended meeting was being held on another Stand. Nearly £1000 was subscribed by the rich and the poor within one or two hours. The manner in which the poor men came forward with subscriptions reflected the greatest credit on them. There were many cases of very poor people—hawkers and basketmen—who emptied their pockets and purses freely, and in some cases borrowed money in order to give. [*Indian Opinion,* April 30, 1904]

There were in the improvised hospital fourteen patients and only three volunteer nurses to attend upon them on the first night. To cope with that number was more than the three of them could manage, but somehow they pulled all the patients through that night. [M. K. Gandhi, *The Story of My Experiments with Truth,* pp.291-2]

> It was a terrible night—that night of vigil and nursing. I had nursed a number of patients before, but never any attacked by the black plague. Dr Godfrey's pluck proved infectious. There was not much nursing required. To give them their doses of medicine, to attend to their wants, to keep them and their beds clean and tidy, and to cheer them up was all that we had to do. [*Ibid,* p.292]

"Those who witnessed the scenes at this hospital." Gandhiji recorded afterwards, "patients who should never have been ill suffering agony, Dr Godfrey, Mr Madanjit, and young educated Indians becoming at much risk nurses and carefully attending to the 14 patients...crowded into the small rooms and the patients dying one after another, would never forget the sight at once ghastly and inspiring—ghastly, because of the grim tragedy, and inspiring, because the

event showed the ability of the community to rise to the occasion and to organise." [C.W.M.G. Vol.IV, p.153; *Indian Opinion,* March 24, 1904]

On Saturday morning (19th March) at 6.30 Dr Pakes and Dr MacKenzie, the District Surgeon, visited the Location and reported that the symptoms exhibited by the patients up to that time were of acute pneumonia. Medical opinion was even now not made up as to what the symptoms indicated, but from the virulence of the disease Dr MacKenzie subsequently came to the conclusion that what the disease the patients were suffering from was pneumonic plague.

The Town Clerk also visited Gandhiji on the same morning and informed him that he was unable to take either charge of the patients or incur any financial responsibility on behalf of the Town Council beyond allowing a large warehouse, the Government Entrepot, to be used as a temporary hospital and providing a nurse. [C.W.M.G. Vol.IV, p.286] He also told Gandhiji that Dr MacKenzie would supervise the arrangements, leaving the details to Dr Godfrey. In consequence every bed, and mattress, all the medical comforts and food and everything had for the time being to be found on the spur of the moment by the Indians unaided. [Later the Town Council paid the expenses incurred]

The building that had been placed at their disposal was unkempt and unclean. Under Gandhiji's guidance the volunteers cleaned the new premises, disinfected them, and brought in 25 beds. [M. K. Gandhi, *The Story of My Experiments with Truth,* p.292] By 3.30 p.m. 25 patients had been admitted. All told 30 volunteers were put on the work.

The Plague in Johannesburg was of the deadliest type known. The victims were carried away in an inordinately short time. What at first appeared to be a slight fever and a little coughing, in a few hours, or on the second day, developed into high fever, spitting of blood and violent paroxysm. The suffering of the

patients was terrible. Delirium and death followed on the third day. During the last stage the patient got so exhausted that even though one noticed intense agony on the face, the poor sufferer was not able to give it speech. [C.W.M.G. Vol.IV, p.155; *Indian Opinion,* April 9, 1904] The mortality was almost hundred per cent. Of the 25 patients that were admitted only 5 were alive on Saturday night.

His experience during the plague had a deep spiritual significance for Gandhiji. Regarding it in retrospect he wrote: "It is my faith...that if one's heart is pure, calamity brings in its train men and measures to fight it." [M. K. Gandhi, *The Story of My Experiments with Truth,* p.291] Dr Godfrey had just returned from Glasgow and was practising in Johannesburg. In answer to an appeal by Gandhiji for help he at once consented, although he knew that he could nor be paid for the work. One of the first cases, a young man, was found in a wretched condition with scarcely any clothing upon him. Dr Godfrey sent one of his own sleeping suits for the poor fellow and gave all medical assistance possible. He worked for the night of Friday (March 18) unceasingly, scarcely giving himself time to take a little food.

But Dr Godfrey could have done little without the nurses. Kalyandas, so young and none too strong, set a brilliant example of fearlessness and devotion, tending the sick and the dying from 5 o'clock on Friday evening to midnight on Monday. The terrible scenes of those three days and nights were enough to shake the nerves of even hardened men. The disease was so violent that at the height of the delirium stage the patient would rise out of bed and rush away for some distance until overcome either by weakness or the efforts of five or six assistants. [*Indian Opinion,* April 30, 1904]

U. B. Mehta and Nandlal Shah did splendid work in the temporary hospital during those black days and like Kalyandas had to witness the Chamber of

horrors. One of them, again, was a clerk in Gandhiji's office. They looked death in the face and worked ceaselessly.

Gunvantrai Desai and Maneklal gave valuable assistance in going to and from the infected area, assisting the doctors and nurses.

Brave and kind-hearted, V. Madanjit was the very life and soul of the hospital. His personal example infused courage and enthusiasm among the other nurses, and his presence in the Location did much to allay the popular panic.

Lewis Ritch had a large family. He and Albert West both wanted to help Gandhiji but Gandhiji did not allow them to work within the danger zone.

The indefatigable zeal and fearlessness with which the youths and all worked rejoiced Gandhiji beyond measure. As he put it, “One could understand the bravery of Dr Godfrey and of an experienced man like Sjt Madanjit. But the spirit of these callow youths!" [M. K. Gandhi, *The Story of My Experiments with Truth,* p.292] He published in his weekly *Indian Opinion* a piece from the pen of an Englishman under the caption *“Heroes of the Plague”* in which a glowing tribute was paid to the spirit of service and self-sacrifice displayed by these youngsters as volunteer nurses during the plague.

Dr MacKenzie had arranged that sister West should be brought over from the nurses' quarters to superintend the work of the male nurses. She came with brandy and other hospital equipment. The volunteers had instructions to give the patients frequent doses of brandy. The nurse asked them even to have a few drops themselves for precaution, as she was doing herself. But none of the nurses would touch it and Gandhiji had no faith in the efficacy of brandy even for the patients. With the permission of Dr Godfrey he gave mud-packs to three patients

who were prepared to do without brandy. Two of them were saved. The other twenty died. [*Ibid,* p.293]

The kind-hearted nurse would gladly have attended the patients but Gandhiji rarely allowed her to touch them, lest she should catch the contagion. Unfortunately, within a few days she caught the infection, and succumbed to it.

How was it the two patients who had been given the mud poultice survived and the volunteers remained immune to infection? Was it due to the efficacy of earth treatment in the one and to the abstention from liquor in the case of the others? Gandhiji refused to dogmatise, but left everybody to draw his own conclusion. For himself, "the experience enhanced my faith in earth treatment, as also my scepticism of the efficacy of brandy, even as a medicine, I know that neither this faith nor this scepticism is based on any solid grounds, but I still retain the impression which I then received". [*Ibid*]

The two surviving patients were removed to tents near a Lazaretto for contagious disease about seven miles from Johannesburg and arrangements were made by the Municipality for sending fresh patients there. [*Ibid,* C.W.M.G. Vol.IV, p.150] This relieved the voluntary nurses or further responsibility.

On March 21, 1904 in an interview with the *Star* Gandhiji Stated:

> In my opinion, the plague has broken out entirely owing to the insanitary and overrowded condition of the Insanitary Area, aggravated by the recent wet weather. I do not think that the germ must necessarily have been imported....The Indian community was not at all to blame for the outbreak. It is the machinery of the Government that is faulty and I say with all due deference that, if the Public Health Committee had been more practical, there would have been no outbreak. The only thing now to be

done is to burn the whole of the buildings on the Insanitary Area, and move the people to a temporary camp and feed them. This would entail expense, but it would be well worth incurring. [C.W.M.G. Vol.IV, p.151; *Indian Opinion,* March 24, 1904]

The Johannesburg correspondent of the *Natal Mercury* in a special telegram reported on March 22, 1904: "All those imprisoned in the affected area are...behaving splendidly...Mr Gandhi is doing yeoman service. [Joseph J. Doke, *M. K. Gandhi, An Indian Patriot in South Africa,* p.101, Akhil Bharat Sarva Seva Sangh, Varanasi]

The following laconic entries in the report published by the Rand Plague Committee give the official version of this episode which meant so much in sorrow and surfering to the Indian community and evoked such spirit of heroic self-sacrifice in the little band that worked under Gandhiji:

During the evening of the 18th March, Mr Gandhi, Dr Godfrey, and Mr Madanjit interested themselves, removed all the sick Indians they could find to Stand 36, Coolie Location, procured some beds, blankets, etc., and made the sufferers as comfortable as possible.

At 6.30 a.m. on the 19th, the patients had been removed from their homes to a vacant Stand No.36, and temporary arrangements had been made by the Indians themselves for nursing and feeding the sufferers, chiefly through the agency of Mr M. K. Gandhi and his friends. [*Ibid*]

6

The plague settled the fate of the Indian Location. On March 22, 1904 Mr P. Duncan, Colonial Secretary, issued a notice (Government Notice No.430 of 1904) urging all the Town authorities to take stringent measures to check "the disease known as Bubonic Plague" that had broken out in the Municipality of

Johannesburg. On the following day under Sections 3 and 5 of the Government Notice No.466 of 1904, issued by Lionel Curtis, Assistant Colonial Secretary, the Municipality decided to burn down the Indian Location. Since this could not be done without the residents of the Location being removed to a safe place first, a cordon was placed round the Location in the meantime to prevent the Asiatics mixing with the rest of the people and spreading the disease.

The Location was put under strong guard. Nobody could enter or come out without permission. Gandhiji and his co-workers had free permits of entry and exit. The people, whose misfortune it was to be quarantined, were in a terrible fright, but Gandhiji's presence consoled them.

Once awakened to the danger, the Municipality took prompt measures and poured out money like water to stamp out the disease. In spite of many acts of omission and commission in regard to the health of the Location that Gandhiji had laid at its door, he appreciated its solicitude for preserving the health of its white citizens and cooperated with it in its laudable efforts. If he had withheld his cooperation, the task would have been more difficult for the authorities and they would not have hesitated to use armed force and do their worst. All that was averted as a result of Gandhiji's tact and timely intervention. The Municipal authorities were pleased with the Indians' behaviour and much of the work regarding plague measures was simplified. The authorities on their part provided them all reasonable comforts. Gandhiji's personality acted as a catalytic agent in making the Indians submit to the requirements of the Municipality. No Indian resisted his advice.

It was decided to send all the residents to Klipspruit Farm, a municipal property some 13 miles southwest of the city, which had been used for the depositing of refuse. [C.W.M.G. Vol.IV, p.147] There a camp was established on the open

plain for the Indians, and a mile away another for Kaffirs. The empty location was burned on Sunday, April 3, 1904, after which it was surveyed, replanned, and named Newtown.

The total population of the Indian Location on the morning of March 20 was 3160, about half of whom were Kaffirs. These were tenants of the Municipality who had been settled there since the city took possession in September 1903, greatly increasing the congestion. [*Ibid,* p.166] At the time of the drawing of the cordon, there were 1361 Indians. [*Ibid,* p.154] All were removed by special train to Klipspruit where they were supplied with provisions by the Municipality at public expense. The despatch of the people was carried out with considerable haste and complaints, unavoidable when things are to be done in a rush, were attended to promptly. Religious prejudices were respected.

Mr Burgess, Supervisor of Asiatics for Johannesburg, was in charge of the camp. Dr Godfrey, who had endeared himself to the people, was appointed Assistant Medical Superintendent, and smoothed matters for them considerably. The city under canvas looked like a military camp. The people, who

were unaccustomed to camp life, were distressed and astonished over the arrangements. Gandhiji cycled out to them daily. His daily visits put heart into them and soon they forgot their misery. "Whenever I went there, l found them enjoying themselves with song and mirth", he recorded afterwards. Three weeks' stay in the open air evidently improved their health. [M. K. Gandhi, *The Story of Experiments with Truth,* p.296]

The Indians deposited all their hoarded savings in coins with Gandhiji. These amounted to sixty thousand pounds. The banks were by no means anxious to accept large amounts of copper and silver. There was also the fear of the bank clerks refusing to touch money from the plague-affected areas. But Gandhiji

knew the bank manager well. "I told him that I should have to deposit these moneys with him...the manager accommodated me in every way." [*Ibid*] All the coins were disinfected and then deposited in the bank. This meant much hard work. Somehow he was able to cope with it. He did all this without charging any fees.

Gandhiji also advised such of the people as had enough money to place it in fixed deposit and they accepted the advice. The result was that some of them became accustomed to invest their money in banks.

Gandhiji's work "as appreciated by many Europeans, but a section of Indians that was opposed to him availed itstelf of the hospitality of the columns of the *Rand Daily Mail* to issue a tirade against him and the rest of the Indian community, in the hope of reaping a little benefit for itself, even as some of the same set had done before (sec *The Discovery,* pp.9, 188-89). And Lord Milner's Government thought fit to mail this stuff to the Colonial Office as an appendix to the Lieutenant Governor's despatch on the subject to make out a case for compulsory segregation of Indians in order to propitiate the white prejudice. [Cd. 2239, pp.35-37. Here are a few specimens:

I

"We like the public to know how the plague was Breakout (sic) and from who it was breakout (sic) was the Bombay Soortheys...We the civilised English speaking Indians beg to ask you...Most Generous to Separate out Madrasse community from the Soorthey coolies Bombay Natives for the Future quarter (sic)."

II

"The Bombay Bunnias, with very few exceptions, are the most filthiest classes imaginable....they are peculiarly susceptible to the bubonic plague...it is impossible to impress upon the Bunnias...principles of cleanliness and sanitation...for they ascribe everything to fate – even their insufferable filthiness....

"The Indian community in general are not imbued with sentiments of this kind; but are made to suffer for the criminal perversity of a section whose chronic antipathy to cleanliness, fanatical adherence to superstition in its grossest form, and mammon worship is a most prolific source of contagious disease of the most virulent form.

* * *

"Now that the Transvaal is infected with the plague with the darkest prospect, any amount of vigilance on the part of the Health Board and others will certainly not check the spread of this disease unless all the Bunnias within the location and other parts of the town are isolated from other Asiatics and placed in rigid quarantine until the plague is effectually stamped out."

The Location was set on fire on the very next day after its evacuation. The inhabitants were not allowed to take with them anything beyond their bedding. All their valuables, furniture, even bedsteads, were ordered to be left behind, and were burnt. The Municipality showed not the slightest inclination to spare anything. Even dogs and other pet animals were destroyed and not allowed to escape. On the owners' protesting, Dr Pakes made a definite promise that compensation would be given them by the Committee. They should, therefore, have no anxiety on that score, he told them.

Dr Pakes' assurance notwithstanding, the Rand Plague Committee repudiated its liability later on the ground that in terms of the Plague regulations no compensation was payable "in respect of any act done in execution of their powers or duties under the regulations". C.W.M.G. Vol.IV, p.307; *Indian Opinion,* December 10, 1904. Wrote the Assistant Secretary of the Committee in repudiating the claim:

"I am directed to advise you that, acting on the opinion of Counsel, the Committee cannot accept liability for payment of the amount. In terms of the Plague regulations, any articles which are likely to be or become infected with, or spread infection of bubonic or oriental plague, may be disinfected, and in case, disinfection is impossible for any reason, may be destroyed, and the Committee are advised that no compensation is payable in respect of any act done m execution of their powers or duties under the regulations."]

Among the goods destroyed were whole bags full of dry cereals and pulses and tinned foods which, according to the Vienna Convention, had been held not to carry infection. There was also household furniture, both wooden and metallic, destroyed. It could not be said that all these articles were incapable of being disinfccted. As a matter of fact some of the goods from the Location stores were actually purchased by the Committee, and were even sent to Klipspruit. The

inmates themselves were quite willing to use up the stores that were in the Location.

The Indians petitioned to the Lieutenant Governor. Irrespective of its legal position, they submitted, the Committee was morally bound to respect the plighted word of its officer who was at a critical time responsible for the public safety. After protracted negotiations the Committee agreed to accept claims for goods actually used by it from the Location stores, although at one time even these claims were practically repudiated. It was admitted that the goods that were used were of the same class as some of the staple goods that were destroyed. The distribution of orders for the purchase of goods was by no means impartial and was mostly confined to a few store-keepers only. In the result only a lucky few, who were able to get rid of all their stores, in so far as their claims were confined to stores, received full payment; their less fortunate brethren received little or nothing. Many residents were thus, by reason of the wholesale destruction of their belongings reduced to a state of utter penury. [*Ibid,* p.306, Petition dated December 3, 1904]

7

Thanks to the glorious weather and the high altitude of Johannesburg, the energetic measures taken by the Town Council arrested further progress of the plague and the city began once more to breathe freely. There were very few cases after the 20th March. The toll exacted by the plague from the 20th till the 30th of March 1904, was : proved cases—whites 6, Asiatics 50, Natives 6 – total 62; suspected cases—whites 9, Coloured 4, Asiatics 6 and Natives 23—Total 42. Deaths of proved cases were: whites 6, Asiatics 47, and Natives 3–total 56. [C.W.M.G. Vol.IV, p.154; *Indian Opinion,* April 9, 1904]

Though the scourge had not entirely been eradicated, it had been robbed of its terror, and it was officially notified that the few cases that might happen were not expected to be so fatal. There was therefore no need for panic. Yet the fiction that the Indian Location alone was infected was kept up and the plague continued to be used as ground for special restrictions and disabilities being laid on the Indians. At Pietersburg, Krugersdorp and Potchefstroom full advantage was taken of the trying condition of the Indian community more in order, as Dr Pakes in a moment of truth put it, "to eradicate the Indian than to prevent the plague". [*Ibid,* p.162] Jealousy of Indian enterprise was allowed full play without let or hindrance; under cover of plague precautions Indian trade was ruined, and all kinds of inconveniences were put in their way. [*Ibid,* p. 155] In Krugersdorp there had not been a single case of plague. But the authorities suddenly came to the conclusion that they must remove all the inhabitants of the Location to the Klipspruit Camp. The Indians had every reason to be exasperated at this high-handed action but in view of the virulence of the white prejudice against them, which was further aggravated by the outbreak of the plague having been discovered officially first among them, Gandhiji felt that they would be better advised for the time being to fall in with the wish of the authorities. This was not time for them to assert their rights, "but to realise their responsibility by suffering". The majority of the cases were Indians. The popular inference was that the Indian was the cause of the evil. "Whether right or wrong, it has got to be recognised." [*Ibid*]

Accordingly Ritch was sent to Krugersdorp to explain the position to the people and they, with the exception of a few storekeepers, were removed to Klipspruit. The majority of them were hawkers. They had to live on the charity of friends, as the Municipality had not undertaken the feeding of the people. There

was no help against individuals declining to deal with hawkers, but what was one to say of the action of the Municipality in closing the market against them? It was, Gandhiji had no hesitation in saying, "harsh, uncalled for, illegal". [*Ibid,* p.162]

The position in Pietersburg was much the same. But, in the undeclared war against the Indians, Potchefstroom headed the list. On the arrival by train of two or three Indians from Johannesburg they were taken by the authorities of Potchefstroom to the Location and their position in the midst of the people of the Location was made an excuse for quarantining the whole of the location. [*Ibid.* p.166. Potchefstroom authorities issued additional health regulations providing:

(1)That Asiatics and Coloured persons arriving in Potchefstroom from plague-infected areas be given their choice of quarantine for ten days or returning to their point of departure.

(2) That the police authorities be requested to stop Asiatics and natives from entering the town by trunk roads; and to stop the importation of fruit of all descriptions from stations between Potchefstroom and Johannesburg, and stations north of Johannesburg.

(3) The Section 7 of the Public Health Bye-Laws be enforced for six months.

(4) That natives accompanying their masters or in charge of cattle, be allowed to pass to and fro, provided they were in possession of their usual Monthly Passes, proving them to be residents in the District.] It brought Indian trade to a dead stop. The Kaffirs, however, because they were wanted for European householders, were left untouched.

The movements of Indians were thus far more severely controlled than those of the Natives. And yet plague in the district outside Johannesburg was by no means more predominant among the Indians than among the other races. In fact, the Indian seemed to have been more immune. [*Ibid,* p.167; *Indian Opinion,* April 23, 1904] The Government, when appealed to, said it was powerless to give any aid in the matter.

At Heidelberg, the Municipality established a most dangerous precedent by disallowing religious worship in a mosque. Happily the prohibition, after much diffrculty. was withdrawn. [*Ibid,* p.163; *Indian Opinion,* April 9, 1904]

The Orange River Colony, as might be expected, outdid all the rest. A week after the official discovery of the plague, it issued two regulations. One of them made it unlawful for any Asiatic to enter the Colony from the Transvaal "so long as the said regulations shall remain in force". Any Asiatic contravening these regulations was liable to a fine not exceeding £5 or in default of payment to imprisonment not exceeding one month. And such convicted person would further on payment of the said fine or completion of imprisonment be forthwith deported beyond the limits of the Colony. The other regulation provided that every coloured person entering the Colony by rail or otherwise would be subject to examination and if, in the opinion of a duly qualified Medical Practitioner, he or she displayed any actual or suspicious symptoms of plague, or had been in contact with actual or suspicious cases of plague, such person was liable to be detained and segregated in a camp until such time as the Medical Officer in charge was of opinion that it was safe for him or her to be allowed to travel.

Thus a Coloured person other than an Asiatic could enter the Colony under restrictions, but an Asiatic, no matter who he was, was prohibited from setting his foot on the soil of the Orange River Colony, so long as the plague scare lasted, under penalty of a fine. And even after he had paid the fine or completed his term of imprisonment, he was to be "forthwith deported beyond the limits of the Colony"! At the time of the war, in Queenstown among the followers of the army that had come from India, a plague case had actually occurred, but neither the Orange River Colony, nor, for that matter, any other part of South Africa was prepared to put an embargo on the entry of the British Indian *syces, bhistis,* and *dooly*-bearers then. In spite of the outbreak of the plague, they were sent to all parts of South Africa as fast as the transport could be provided. Time had, however, since changed. The Indian was no longer required for the wants of the

Colonials, and, therefore, any excuse was good enough to keep him out indefinitely. [*Ibid.* p.169, *Indian Opinion,* April 16, 1904]

Towards the close of April two Europeans were attacked with the bubonic plague in the Market Square. Johannesburg, but for nearly a week nothing was done by the Rand Plague Committee beyond removing the patients to Lazaretto at Reinfontein. Normally, if a case of plague or any other infectious disease occurs in a particular locality that locality is presumed to be infected and steps are taken to try to trace the source of infection in the place itself. In Johannesburg the ordinary rule was reversed. The market place was given the benefit of the doubt and it was presumed that, unless the contrary could be proved, the infection must have come from some outside source! Failing to trace the infection elsewhere, the Committee set about to discover if it was not, after all, where the plague cases had occurred! It succeeded after four days' search in finding that rats were plague-infected. Following it, as if to make up for its previous indifference, on May 4 at noon suddenly it surrounded the market place with a police cordon in a theatrical manner and placed the premises under "modified quarantine". All the timber in the timber godown, where infected rats had been discovered, was burnt down, putting the Municipality to a loss of some ten thousand pounds.

This looked "very much like locking the stable door after the steed is gone". For full four days after the discovery of the two cases, the infection was allowed to spread in the town through the market. The wonder, remarked Gandhiji, was that the whole of Johannesburg was not "reeking with plague". [*Ibid,* p.187; *Indian Opinion,* May 14, 1904]

8

Gandhiji's interview to the *Star,* drew from Mr Roy, Chairman of the Health Committee, a denial that notice was ever given either to the Medical Officer of

Health or to the Public Health Committee, as to the imminence or the actual outbreak of the Plague. On April 5, therefore, Gandhiji released the full text of his correspondence with Dr Porter to the Press. In his covering letter he pointed out that it was exactly a month and nine clays before the official discovery of the existence of the plague in their midst that sufficient warning was given of what was impending. It was repeated in strong terms on the 15th February. That left no excuse to the Public Health Committee to take a complacent view of the situation. On the 1st of March he had written to Dr Porter definitely informing him that, in his humble opinion, plague had actually broken out. "Was there not a terrible confirmation thereof in the mortuary record, which showed, as we are officially told, a pronouncedly abnormal mortality in the Insanitary Area?" But the warning was ignored. "No, Sir, it required an ocular demonstration of the ghastly tragedy that took place on the 18th, 19th and 20th of the last month (March) before energetic measures could …be performed by volunteers who...had to wade through what was a chamber of horrors." [*Ibid* p.159; *Indian Opinion,* April 9, 1904]

If the danger to public health was considered to be so immediate that the Town Council was advised not to wait for expropriating until an elected Town Council was given to Johannesburg, why had the Council failed to fix upon a spot for the habitation of the people who had to be dispossessed even after it had received the authority to expropriate on April 30, 1903, Gandhiji asked. It gave notice of its intention to expropriate on June 6, 1903, but it still failed to provide a site for the housing of the residents of the Insanitary Area. It entered upon possession on 26th September. If, on that day, "instead of becoming landlord to every individual tenant and leaving it to its collectors, who received a commission to let the premises to as many tenants as chose to apply", it had dealt with the area as it was doing now under stress, would the ratepayers have been mulcted

of £20,000? Would a whole family, save one member left as a reminder, have been wiped out? “And yet the Indian is being made to feel the heat of the burden especially in outside districts. He is debarred from the markets. He is prevented from earning his livelihood. Though there may be no plague there, he is quarantined or at least removed to isolation camps far away from towns.” [*Ibid,* p.160]

What if the poorer section of the Indians did not observe the laws of sanitation "except under supervision", Gandhiji continued, they were not the keepers of public health. They were defaulters as individuals, and they had suffered as such. It was for the Public Health Committee to enforce obedience to such laws, and not "flagrantly break them, as it had done since the 26th of September last".

On April 13, 1904 the Public Health Committee came out with its apologia. It questioned the reliability of the statistics of mortality in the Location, before the discovery of the plague in the Location, given by Gandhiji, and compiled another set of statistics. These, however, on a careful analysis only vindicated Gandhiji's contention. According to these figures, for the period commencing from July 1903 to February 1904, the highest mortality from pneumonia in any single month was 7, and the average mortality from the same cause 4.75 per month. This, it was claimed, showed that there had not been any pronounced increase in the mortuary record. Rejoined Gandhiji, this was juggling with statistics. On the Committee's own showing, during the first 17 days of the month of March, 1904 immediately preceding the discovery of the plague, there were 14 deaths from the same cause which worked out to 25.35 per month. In other words, the mortality during the first fortnrght after the date of his letter was over three and a half times as much as the highest mortality during the preceding eight

months, and six times as much as the average mortality per month during the same period. Was this not a terTible confirmation of the Opinion expressed by him on March 1st'? "It is a gratuitous assumption that my reference to the mortality has any connection with the period prior to March 1. The letters addressed to Dr Porter in February merely gave warning of the calamity that was impending but never once stated that the plague had actually broke out." [*Ibid,* p.165; *Indian Opinion,* April 23, 1904]

The Committee also stated: "When Mr Gandhi wrote to Dr Porter at the beginning of March that in his belief plague had broken out in the Indian Location, an Inspector (Mr McCann) was sent to see him and to ask for particulars of any suspicious deaths of which he was aware. Mr Gandhi, when first appealed to, was unable to give a single instance which was capable of identification. Subsequently, he was able to supply the name of one person who had died of pneumonia...and nothing was found which could be regarded as in any way confirming Mr Gandhi's suspicions." [*Indian Opinion,* April 23, 1904]

Reminding Mr Roy that previously he had denied that notice of any plague case had ever been given either to Dr Porter or to the Public Health Committee, Gandhiji observed: "It is worthy of note that it is not now any longer denied that I did give information as to the outbreak on March 1." As regards his alleged inability to furnish particulars of suspicious deaths: "What happened was this. I had not the names nor the numbers of the Stands before me. I rang for the clerk...and it was there and then that Mr McCann was supplied with the names of at least three men, who, in my opinion, had died from the plague, and the numbers of the Stands." [*Ibid,*. C.W.M.G. Vol.IV, p.166]

As for the Kaffir population, the Committee now came out with the explanation that they were already there in the Location when the Council went

into possession in September, 1903. The Council was not in a position to turn them out, without providing accommodation elsewhere, and there was no room for them in the Native Location. This was begging the question. Gandhiji had nowhere stated that the Kaffirs were first introduced into the Indian Location when the Council entered on possession, but that they were "dumped down" in the Location after September 26th last, “and I am in a position to show that several Stands which were never occupied by Kaffirs before that date were crowded by them after it". Even if the Council could not remove the overcrowding that existed on that date, any increase thereto was unpardonable, "and that there was an increase in the Location, both in the Indian population and the Kaffirs, is capable of proof”. [*Ibid.* Gandhiji's statement ran: "There were 96 Stands in the Location. Deducting, say, six unoccupied Stands, there were, on March 30, 1904 in the Location over 35 residents per Stand: and if you will add at least 1000 (which I think is the number that left during the month of (March) you have 45 to the Stand.”]

The Committee remained diplomatically mum as to when the plague was officially declared, despite repeated warnings that an outbreak was imminent, and simply stated that the Council was fully aware of ''the steps that were taken as soon as this discovery was made''. [*Indian Opinion,* April 23, 1904] The gravamen of his complaint, Gandhiji pointed out incisively, was not that the Public Health Committee had failed to declare the outbreak of plague, but that it, or the Town Council, had "failed in its duty to anticipate and provide against the disaster of which it had received warning in the year 1902, (which was) repeated in 1903 and still more forcibly repeated in February last, although it was in a position to do so effectively, at any rate, on September 26 last". [*Ibid,* C.W.M.G. Vol.IV, p.166]

The publication of the correspondence in the Press attracted the attention, among others, of Henry S. L. Polak, the sub-editor of a virulently anti-Indian

paper, who before long decided to cast his lot with Gandhiji as a colleague, a member of his family, and a fellow-seeker in his experiments with Truth.

The sinister significance of the attempt by the Health Committee to whitewash the Town Council's and its own record of failure in the discharge of its duty was underscored by the evidence of a definite move to use the outbreak of the plague as an excuse for imposing further legal disabilities on the British Indians in the Transvaal and to colour the negotiations between the Indian Government and the Transvaal Government in respect of the supply of indentured labour from India, which were then known to be in progress. Realising that in the aftermath of the panic created by the outbreak of the plague any argument was good enough to work up the Europeans' anti-Indian prejudice to a white heat, Gandhiji at once sounded the tocsin. Alerted by him, Dadabhai took prompt action. On April 25, 1904 he wrote to the Secretary of State for India that he had reliably been informed that the visitation of plague would "in all likelihood be used as a handle to impose further restrictions on the Indians". It was, therefore, very essential "that the blame should be placed on the right shoulders. But for the criminal neglect of the Johannesburg authorities, the outbreak would never have occurred". [C.O. 291, Vol.75, India Office; C.W.M.G. Vol.IV, p.162; *Indian Opinion,* April 9, 1904 (From footnote)]

On April 23, 1904 Gandhiji again returned to the charge. The published correspondence between him and the authorities clearly showed that it was "the utter incapacity of the Johannesburg Town Council to attend to details" that was the real and the chief cause for the outbreak of plague in Johannesburg. From the figures published by the Town Council it was clear that the mortality in March from pneumonia was so abnormally high that the inertia of the Town Council in the face of this tremendous fact was totally unaccountable unless the Council as

a body believed that Johannesburg was proof against an outbreak of plague. It was always possible for the Town Council to prevent the outbreak by attending to the elementary principles of sanitation, and yet, for nearly 18 months, the Council never went beyond framing big schemes on paper. It was, therefore, "nothing but a hollow mockery" [C.W.M.G. Vol.IV, p.172; *Indian Opinion,* April 23, 1904] now for the Health Committee to state that they did everything they could, and that it was not possible for them to fix a new site in place of Insanitary Area by reason of public opposition, as if any such opposition could warrant the Council endangering, as it undoubtedly did, the health and lives of the community at large.

Pointing out that the plague broke out five months after the Council took possession of the Insanitary Area, Gandhiji continued: "The questions then arise: Why did not the Council, before expropriating, sound the public sentiment as to the choice of a site? Having failed to do that, why did not the Council remain satisfied with a more constructive possession? Why did it not allow the people, who were prepared to continue to perform the work of landlords, to do so? Having rejected that proposal, why did the Council not cease deriving rents from property which was condemned by itself as unfit for human habitation and which was allowed to be inhabited either, as we would say, owing to its gross neglect, or, as the Council would say, owing to public opposition to the adoption of the site selected by it in place of the Insanitary Area? Having, however, undertaken the landlordship of each individual tenant in the Area, and having decided to derive an income from the tenants, why did the Council introduce overcrowding and horrible insanitation? Why did the Council allow the Area to be occupied by a single new tenant? Why were the Kaffirs dumped down in the Indian Location? Why was the rubbish allowed to remain on the Stands? Why, while there was

time, did not the Council accept the very reasonable suggestion made in Mr Gandhi's letter to Dr Porter in February?" He could not recall any any instance, observed Gandhiji, of a public body having stumbled upon mistakes after mistakes, declining to profit by past experience, and declining to see even the natural conclusions and propositions laid down by itself.

> Was it merely a subterfuge that the Town Council went to Lord Milner for authority to expropriate the Area on the ground of its insanitation, which was described to be so great that nothing but... complete taking over of private property could cure the evil? And if it was not a subterfuge, then it was certainly its clear duty to see that the first thing to do, after (obtaining the) authority to expropriate, was to remove the people within the Area to healthier quarters. Unfortunately, beyond the removal of the inhabitants of the Indian Location to a temporary camp of Klipspruit, *we see even now no sign of a movement towards* selection of a permanent site. [*Ibid,* p.173. (Italics by the author)]

That the Council rose to the occasion after the actual discovery of the outbreak was beside the point in considering the issue of the Council's failure to take measures in time that would have prevented the outbreak. It was a cruel travesty of truth to fasten the responsibility on the Indian residents instead.

> The power for observing sanitation, as the poorer class of Indians know it, was taken away from them on the 26th September. It was so bad that they cried out against it, and the overcrowding that took place in the Location after the 26th September under the direct control and supervision of the Town Council was such as they were not used to and though they themselves wanted to escape from it, there was no provision made by the Council for them and so they were helpless. [*Ibid*]

It must be clear, Gandhiji concluded, that "outbreak of plague amongst the Indians, in the first instance at Johannesburg, was due to exceptional circumstances, for which the Council, and it alone, is responsible".

Commented the *Times of Natal: "*A good deal has been said concerning the promptitude of the Johannesburg Municipal authorities in dealing with the outbreak of the plague, but if the statement of Mr Gandhi…is correct, very great carelessness was shown until within the last few days." [*Times of Natal,* quoted by *Indian Opinion,* April 9, 1904]

In a letter to the Press Dr Turner, Medical Officer of Health for the Transvaal, had given as his deliberate opinion that apart from simple, ordinary restrictions nothing more was necessary to be done to stamp out the epidemic and that the extraordinary measures that were being taken were merely an "appeal to sentiment". Endorsing Dr Turner's remarks, Gandhiji observed that the burning down of the Indian Location was essentially a theatrical display calculated to fire the imagination of people. The rookeries outside the Location were infinitely worse than were the worst parts of the much-abused Indian Location. The most deadly cases came from Station Road in Burghersdorp. Other cases also happened within the Insanitary area of Johannesburg but outside the Location. Nothing was done and nothing was probably necessary beyond disinfecting these places. The movement of the people residing there was not interfered with. The cordon round the Location and the control over the movements of the inmates were merely a fiction kept up not to meet the requirements of sanitation but to satisfy popular feeling. Even so the fiction had its use. No amount of argument and cold reasoning by Dr Pakes would have eased the public mind as this burning down of the Location and isolation of the people residing in it. That having been

achieved, Gandhiji hoped, that so far, at any rate, as Johannesburg was concerned, the British Indian population would be left fairly free, and not subjected to unnecessary restrictions to placate the white sentiment. [C.W.M.G. Vol.IV, p.168; *Indian Opinion,* April 16, 1904

Even after this unimpeachable testimony, absolving the Indian population of any special susceptibility to, or exclusive responsibility for, the outbreak of the plague, the Transvaal authorities—from Milner to Lawley onwards—continued to exploit the scare created by the plague in furtherance of their anti-Indian policy instead of protecting their British Indian subjects as their statutory guardians from the racist frenzy of the white Colonists, provoked by the introduction of bonded Chinese labour into South Africa at the instance of the Rand Lords.

9

The sudden removal of the Indians from the old Locations meant to them a loss of thousands of pounds. Unlike the Kaffirs in the neighbouring Kaffir Camp, who were by and large employed in the mines, and for whose regular attendance their employers were responsible for providing adequate transport facilities, the Indians were by no means all daily wage earners. Among them were twenty storekeepers of considerable standing and a number of laundrymen with a very large custom. At the time of the outbreak seven hundred pounds worth of washing was taken out of the Location by the Plague Committee, disinfected and delivered. To the storekeepers the stoppage of their business threatened utter ruin. There was no place to which they could remove on the withdrawal of quarantine and it was a question whether authorities would allow them to open stores within town limits, pending the fixing of a permanent site. All their goods were stored by the Municipality, and their being stored loose without being aired for any length of time had resulted in considerable damage.

That the outbreak among the Indians was solely due to the neglect of the Town Council was proved by the fact that in the outside districts Indians had remained almost absolutely free. In Pretoria, the few cases that had happened had been confined to Europeans and Natives. In Benoni, two Natives had been attacked. In Germiston also, it was the Natives that had been attacked, and at all these places the Indians had been living in their own premises. In Johannesburg, it was after the Municipality had become the immediate landlord to every individual tenant that the mischief of excessive overcrowding and insanitation arose. *When the removal from the Location took place, it was found that, contrary to regulations, there were nearly fifteen hundred Kaffirs there—all tenants of the Municipality.* [*Ibid,* p.163; *Indian Opinion,* April 9, 1904] *This was sufficient evidence to dispose of the allegation that the plague was something personal to the Asiatics. There had not been a single case of plague since the camp had been inaugurated at Klipspruit on April 11.* [*Ibid,* p.170; *Indian Opinion,* April 23, 1904] *The increase, wherever it had occured, had been mostly in the Native cases, and a little in the white cases.* [*Ibid.* The figures for Johannesburg till April 20 were 3 white suspects. 1 Asiatic and 2S Native suspects. In Germiston, there had been 5 proved cases of Natives. 1 Asiatic, no Asiatic suspects and 13 Native suspects. In Benoni, there had been only one Native case of proved plague, which had turned out to be fatal. In Krugersdorp, one Native plague case and five suspects, also Natives, of which three had proved not to be the plague.]

Yet, camp regulations continued to be enforced at Klipspruit in all their rigour, reducing the state of the residents virtually to one of duress. Their movements were most uncomfortably controlled. They could not leave except on permits, which had to be renewed from day to day. To obtain these permits the applicants had to produce registration certificates, which were merely receipts to show that they had paid £3. There was train service between the camp and Johannesburg, the morning train leaving at 6 A.M. and the evening train leaving Johannesburg for the camp at 6.15. For this, a sum of 3 sh. was charged

per week—Sundays excepted. Only third-class compartments were provided and no lights for the evening train. Those who wanted to leave the camp for any town in the Transvaal, except Johannesburg, had to inform the Superintendent of the camp, giving the description of the dwelling to be occupied by the applicant. The Medical Officer of Health then entered into correspondence with the officer of the town named by the applicant, and after the dwelling was certified as habitable and sanitary, permission was given to leave the camp entirely. Those who wished to reside in Johannesburg had to follow the same routine, and if the dwelling pointed out was approved by the Medical Officer of Health, a leaving pass was granted. Unless a man was in possession of a leaving pass he had to report himself at the camp at or before 8.30 p.m. Failure to do so made him liable to a penalty not exceeding £15, or, in default of payment, imprisonment for three months for the first offence. A repetition of the offence subjected the offender to a penalty not exceeding £50 or to imprisonment with hard labour for a penod upto six months. Rations had been stopped as from April 18, 1904 except for women and children, and employment was offered for excavation or quarry work at 2 sh. per day, rising to 3 sh. per day. if the labourer proved to be first class. On their return the inmates were examined and also searched.

This was more or less a prison life, hardly deserved by the men who, as the authorities themselves admitted had behaved splendidly. On April 20 Gandhiji wrote: "lf the camp is really open, there seems to be no reason why there should be such a sharp distinction between the Asiatics living in the camp and the Asiatics living in Johannesburg. The only purpose that the camp should really serve now is to afford shelter to those who cannot find residence elsewhere. Why they should be obliged to point out such residences, and make applications, and go through the whole of the tedious routine...it is difficult to understand." [*Ibid,*

p.171] If the authorities wished to examine the dwellings they surely could do so without subjecting the people to all those harassing restraints. It was—and if it was not, it should be—an offence for anybody to occupy any dwellings which did not fulfil the requirements of the sanitary regulations, and the Rand Plague Committee, which was constantly on the *qui vive* for insanitation, should certainly be in a position to hound out any Indians who may occupy insanitary dwellings. But there was hardly any justification for putting what were, after all, unlawful restraints on the liberty of the subject.

Outside the camp also the condition of British Indians was very difficult. No Asiatic could travel beyond the district of Witwatersrand unless he was in possession of a health certificate. In many places they were debarred from the use of the market. Potchefstroom refused to receive any Indians from the Transvaal at all. The result was that the railway authorities declined to issue any tickets. The Indian merchants and storekeepers suffered heavily owing to the ousting of the 1600 persons from the Location, many of whom were indebted to these merchants and storekeepers, and were now unable to meet their liabilities.

The stoppage of free rations—except in the case of women and children—after April 18, made it necessary for the menfolk to do something for a living. For this they must reside in the town, as the camp was in an out-of-the-way place. No Location had been built in place of the old that had been burnt down. In the city it was impossible for every man to get a place to live in. Landlords, taking advantage of the difficulty of the Indians, demanded exorbitant rents which the poor could not afford. Even the few who were abk to rent accommodation could go to stay in the city only after the Municipality had inspected the houses and passed them as fit. The procedure for getting the house was not easy. After the house was approved the poor man would go post-haste to Klipspruit. On enquiry

there, he might learn that his application had not been received back by the Camp Superintendent. He then returned to Johannesburg only to find that the Superintendent was not at fault. He was worried. On the one hand, money was hard to come by, on the other, there was the desire to get away from the Camp. Landlords insisted on being paid the rent well in advance. The Municipal authorities, having checked the plague, were content to do their duty now at a leisurely pace with the result that the landlord continued to pocket the poor tenants' advance payments of rent week after week. Those who had the money could perhaps pay high rents for a month or two, but even they could not afford it much longer. On April 20, Gandhiji suggested that so far as the poor were concerned, (i) they should petition the Municipality to set apart special places for them, and (ii) if the Municipality was unheeding, they should apply through the Government for employment in the Railways asking for reasonable wages. If the Government was willing to pay a reasonable wage—say, 5 or shillings a day—they should accept work in the railways. Of these two the latter appeared to be the better course since it would no longer be possible for the people to live as inexpensively as in the Locations. [C.W.M.G. Vol.IV, p.178]

10

The plague had put the Indian community through the fire. Gandhiji was disturbed to find that in spite of the fact that they had been punished sufficiently; many of them had not learnt a lesson from it. For instance, some people were found to have smuggled bottles of liquor into the Camp from the city. In consequence every night each man was made to line up like a prisoner opposite the Camp Station and had to submit himself to an unreasonable search of his person by the Camp Superintendent. Many suffered for the fault of the one. Gandhiji asked them to regard the visitation as a call to turn the searchlight

inward and to purge themselves of their shortcomings. The Nemesis that had overtaken them was "more or less deserved". They ought to have protested against neglected sanitation and overcrowding. That the Council allowed such things was no excuse. "While we are the first to defend our countrymen from violent attacks and...charges often brought in in order to make political capital, we would not be true to our profession if we failed to apportion the blame without flinching." The fact that there were 47 cases among them was proof positive of the low degree of sanitation observed in quarters inhabited by the poorer section of the community.

Gandhiji had not hesitated to lay the blame on the Public Health Committee for its past neglect, he said, but the Committee had since risen to the occasion. It had given unlimited powers to its special plague officers, Drs Pakes and MacKenzie, who were grappling with the scourge with great courage and devotion, and thus expiated for its laches. Had they, the Indians, done anything likewise to atone for the crime against nature? The reply was an emphatic 'yes'. They woke up when the Council was asleep. They improvised a hospital and collected funds. Volunteers came forward to do the nursing. They brought every case to the notice of the authorities, and they had with great resignation been complying with the restrictions imposed upon them. "It shows the spirit of obedience to law and order....A community that is amenable to control can easily be purged of any defects in it." But the punishment that they had received would be too small, if they did not learn a permanent lesson and emerge from the ordeal "well able to take care of the sanitary laws without supervision or control." [*Ibid,* pp.156-57; *Indian Opinion,* April 2, 1904]

Elaborating the point a few weeks later, Gandhiji remarked that rightly or wrongly, as a community they had in South Africa earned a bad name for being

insanitary and ignorant of the first principles of hygiene. Restrictions for which there was not the slightest warrant had as a result been imposed on their liberty throughout South Africa. In the Transvaal, the inhabitants of the late Indian Location were being treated practicaly as prisoners. The Local Boards of the different towns were erecting "barbed-wire fence regulations" against the Indians. The Orange River Colony had entirely closed its gates against the Indians from the Transvaal. The Cape and Natal admitted them under severe restrictions which lacked any rational basis. But they must not get angry over such restrictions, harsh as they undoubtedly were. Rather they should set about putting their own house in order literally as well as figuratively. "The meanest of us should know the value of sanitation and hygiene. Overcrowding should be stamped out...We should freely let in sunshine and air. In short, we should ingrain into our hearts the English saying that cleanliness is next to godliness." [*Ibid,* p.176; *Indian Opinion,* April 30, 1904]

He did not promise that this would at once free them from the yoke of prejudice as if by magic. “A name once lost is not to be so easily regained. The loss of name is like a disease, it overtakes us in no time, but it costs us much to remove." But why think of reward?

> Is not cleanliness its own reward?...By and by, when we have asserted our position as a people regarding sanitation and hygiene as part of our being...the prejudice in so far as it is based on that charge will go. And we shall gain for ourselves a name for the practice of the laws of health....This is the lesson we would have our countrymen learn from the recent trial they have undergone. [*Ibid*]

It was well for them to protest against exaggerated charges, Gandhiji concluded. It was their duty to strain every nerve to prevent legislative measures

based on them. "But we hold it to be equally our duty to examine those charges critically, admit the partial truth in them, and strive to correct the evil that may be in us. It is thus, and only thus, that we can rise in the estimation of our neighbours." [*Ibid*]

Notwithstanding the overwhelming evidence of indifference and even harassment by the authorities, Gandhiji refused to attribute evil intentions to them and counselled the Indians to suspend judgment. At this time persons entering Natal were subjected to a very strict medical examination and it was alleged that the examination of women was conducted without regard to modesty. Gandhiji had a suspicion that the allegation lacked foundation. Deprecating their proneness to believe all they heard without caring to enquire what was true and what was false, he warned: "Menacing clouds...will always loom over Indians in this land of the white men. And when we are at fault, we can expect that the sky will darken further." It would take them time to live down the blame for the outbreak of plague, he finally told them: "We shall be rid of this blot only when we demonstrate our loyalty to the Crown on some other occasion as we did by rendering assistance during the lastwar." [*Ibid,* p.178] That opportunity came to them soon enough.

11

As might be expected, what was happening in Johannesburg was more or less being duplicated in many other communities at the same time, and Gandhiji had to keep an eye on each and provide guidance to these various struggles simultaneously. Twenty miles to the west, a similar saga was being enacted in Krugersdorp, the chief town of the West Rand. As has been seen, the Krugersdorp Indians were evacuated to Klipspruit although the plague had not appeared among them, and the municipal authorities thereupon took up the question of

burning the location. [C.W.M.G. Vol.IV, pp.155 and 162. Krugersdorp population (1904) 4762; Whites 3437, Asiatics 250. Some confusion is possible in respect to the Locations in Johannesburg and Krugersdorp in that both were evacuated to Klipspruit, and both towns have a district called Burghersdorp. In Johannesburg this is one name for the "Coolie Location" which was evacuated and burned, and the proposed new Location (eventually named Pageview) was situated immediately to the west of Burghersdorp, In Krugersdorp the Location was situated outside of Krugersdorp, and the proposed new Location was situated to the east of Burghersdorp, though on the west end of Krugersdorp]

In its fortnightly meeting of April 12, 1904, it being over a week since the removal of the Indians, and no case of the plague having occurred, the Krugersdorp Town Council therefore instructed the Market Master that the restrictions respecting the "coolies" attending the morning market had been removed. The Town Clerk was also instructed to renew licences the issue of which had been suspended by the Council. [*Indian Opinion,* April 23, 1904, vide the *Star,* April 16, 1904] This was more than the white ratepayers could stand. The Council tried to take away with the other hand what it had given with one.

At the same meeting the Medical Officer of Health and Town Engineer submitted a certificate, showing that the occupation of certain premises in the "Coolie Location" constituted "a great and imminent danger" to the public health by reason of their "liability...to retain and engender infection", and further that the demolition of such premises was desirable in the interests of public health. The Council thereupon resolved that all premises in the old "Coolie Location...with the exception of the Church of the Mohammedan Community", and the stores of about half a dozen Indian and European storekeepers, "be destroyed by fire". All the rooms attached to those shops were, however, to be demolished. Compensation amounting to £240, in accordance with the valuation of the Town Council Valuator, Mr W. R. Macnab, was to be paid to the owners of the premises after they had been destroyed.

After all this fanfare, however, it was decided not to expropriate the buildings in the old Indian Location that had been condemned. The Public Health Committee recommended that as their own valuator. Mr F. J. Beeker, had put a higher valuation (£529) on the buildings than the original valuation (£425) arrived by Mr Macnab on behalf of the Town Council and as the valuation made by Mr Arthur Barnett on behalf of "Mr Gandhi, the coolies' advocate" of Johannesburg was so much in excess of that of the two sworn valuators of the town, considering the heavy drain upon the finances of the Council which the payment of claims would entail, "for the present the Indian Locations should not be destroyed by fire." [*Indian Opinion,* May 7,1904]

The "buildings" that were only till recently considered "disgracefully insanitary", and a menace to the public health, thus suddenly ceased to be so and were to be allowed to remain where they were. Did it mean, that it was a question simply of £.s.d., Gandhiji asked, and all talk of hazard to the public health was hypocritical make-believe?

But although the premises were not to be destroyed but were to be allowed to remain the property of the British Indians, the Town Council now proposed that "before any of the Indians were allowed to re-inhabit the old location they must provide buildings in accordance with the building regulations of the town". [*Ibid,* May 28, 1904] If this meant that the Indians were to pull down the buildings and rebuild them, commented Gandhiji, it was simply an easy way of depriving them of their property without the Town Council having to pay a single penny in compensation. The question that the decision of the Town Council raised, he observed, was how far, if at all, were the buildings really in an insanitary state; to what extent were alterations and improvements required and what was generally the authority of the Town Council with reference to the embargo placed

upon the Indians, who were still compelled to live under canvas far away from town. Since there was absolutely no plague in Krugersdorp and it had generally died out in the Transvaal, Gandhiji hoped the Indians would be allowed to reoccupy their premises "without having to question in a court of law the right of the Town Council to adopt the high-handed procedure it evidently has." [*Ibid,* May 7, 1904; C.W.M.G. Vol.IV, p.181]

It was getting bitterly cold, too, but the Council still seemed to be of the opinion that they could not go to the extent of destroying the condemned buildings by fire. At the Town Council's next meeting at the end of May, therefore, the Mayor urged that the matter must be decided definitely that day as it was certain they could not have "coolies" out in tents any longer. Thereupon Councillor Tanner moved that no Indians be allowed to return to the old location until permission had been granted by the Council. The motion was carried unanimously.

Councillor Lewis next proposed that the "coolies" be offered compensation on the valuation of Mr Beeker "in full settlement of their claim... (to) finish the difficulty once and for all". However, in view of Health Committee's anticipation of establishment of an Asiatic Bazaar "in the near future", [*Indian Opinion,* May 28, 1904] it was decided to wait until Government had taken steps with regard to the Asiatic Bazaar. [*Ibid,* May 28, 1904] Now the site for the Asiatic Bazaar that the Government had reserved was directly east of Burghersdorp on both sides of the main road. Against this the Councillors objected that at the time the site for the Bazaar was fixed, the late Health Board was in power, and they being Government nominees, "did not represent the feeling of the Town" which was opposed to the “Asiatics" being settled in close proximity of the town. Besides, the members of the Board had understood, that the Asiatic Bazaar was to be a place simply for trade and

the residence only of those engaged therein and not a general Asiatic Location. The General Purposes Committee thereupon proposed that it should be represented to the Government that the site appointed by them for an Asiatic Bazaar was too close to the town and "would be a source of great danger should an epidemic break out among the Asiatics". Its being placed so near would also raise a barrier to the extension of the town west-wards.

Adoption of a recommendation to that effect was moved by Councillor Mr J. Seehoff. No secret was made as to what was the real object aimed at by their recommendation. Councillor Tanner, seconding, remarked that the Committee had devised "a very wise recommendation" in trying to get the Location for ''the lower classes of coolies, hawkers and riff-raff erected where they were at present situated.'' His observation was received with loud cries of "hear, hear". The recommendation was then unanimously adopted. [*Ibid*]

The resolution of the Krugersdorp Town Council being communicated to the Government, the Colonial Secretary wrote back that the Government was unable to adopt the Town Council's proposal. The site of the appointed Bazaar was approved by the late Health Board and the District Surgeon and it was not thought that the residence of Asiatics in it would constitute any danger to the white inhabitants.

The Town Council thereupon resolved to ask the Colonial Secretary to "instruct the A.R.M. of Krugersdorp to carry out the terms of the Government Notice" and further to fix a time when all Indians must be established on the site appointed for Asiatic Bazaar and to vacate the premises that they were at the time occupying. [*Ibid,* July 2, 1904]

The Johannesburg Indian Location had been expropriated by the Town Council authorities so as to remove the Indians to other locations, the site for which, however, they could not decide, owing to wrangles and the opposition of the white population to the Locations or Bazaars being formed anywhere in proximity to them. Plague provided the opportunity and the Indians were removed to Klipspruit Camp. This had led the Europeans to believe that they had got rid of the Indians, and that this camp would be a permanent Location. As only one case had occurred at Klipspruit after the transfer and no further case had occurred twelve days after the death of this case, the camp ceased to be a suspect camp, and became an accommodation camp. In consequence the usual plague procedure was thereafter applied to it and when the isolation period had expired, the Indians were allowed to remove to the town, provided they could show dwellings to the satisfaction of the Rand Plague Committee.

Following it, acting on Gandhiji's advice, the majority of the Indians who had been removed from the Krugersdorp Location went back and reoccupied their old premises, the Krugersdorp Town Council's ban notwithstanding. Since those who wished to return could not be legally prevented from reinhabiting their old premises, the Town Council declared that the Indians returned "at their own risk" and that "non-action on the part of the Council must not be taken as tacit permission." [*Ibid*]

The Indians removed from Johannesburg also gradually domiciled themselves, chiefly in Burghersdorp, the Malay Location, and Vrededorp; some few found residence in other parts of Johannesburg and some left the Colony altogether.

The return of even a part of the Indians from the Klipspruit Camp to their old premises was resented by the whites. In a meeting of the Johannesburg Town Council at the close of May 1904, Councillor Dele Lace expressed his surprise that when they thought they had got rid of the Location it should have come back to them so soon. He urged immediate action to keep it away. [*Ibid,* July 30, 1904]

Mr Roy explained that the Klipspruit Camp was not under the control of the Health Committee in any shape or form. It was brought into existence by the Plague Committee. After all natives were free from disease, therefore, it was impossible for the Council to prevent their coming back into town and pursuing their ordinary avocations. The question before them was that, pending the removal permanently of the whole of this Location, whether they should not force, so far as possible, natives to return to the Locations in which they previously lived.

Up rose Councillor Langermann. An immigrant Pole he, as often happens in the case of people who have suffered persecution, instead of sympathising with the persecuted, took particular delight in the persecution of others as the Poles had themselves suffered in Russia. He was under the impression, he said, that all the natives would be removed to Klipspruit. In a visit the Council paid to the Location, he asserted, they were definitely told that those natives would never come back. “They knew," he recklessly went on, "that where natives lived together there would be plague and disease, the same as they had before. *Now they had an opportunity of turning the blacks out from amongst the whites.”* [*Ibid,* (Italics by the author)] Concluding, he reiterated that the impression he held in common with some members of the Council "must be a general one", and that they all were of the view that Klipspruit “should in future be the Location for natives and Asiatics in the town". [*Ibid*]

It was explained to him that it was not possible for the Council to establish a permanent location at Klipspruit as (1) The Council had not yet acquired the farm but had only entered into a provisional agreement for its purchase subject to the necessary power to carry out sewerage works thereon being obtained. (2) The farm was outside the Municipal boundaries and, the Council had no power to establish Locations outside the Municipal boundaries, and to control them under the Municipal bye-laws. A section had, however, been included in the draft Further Powers Ordinance, giving the Council the power with regard to location for natives.

Seconding Langermann, Councillor Buckland thereupon proposed an amendment that there be added to the resolution the words, "provided that residence within the old Locations shall be considered temporary and provisional and that, as soon as legal obstacles and obstacles arising in connection with the Plague Committee shall be removed, the location referred to in the preceding portion of the resolution be considered to be the Location on the farm at Klipspruit".

Mr Buckland's amendment being opposed by Mr Roy and Mr Goch was withdrawn by the mover with the consent of the seconder.

In his concluding remarks Mr Epler, the acting Chairman, categorically denied that when the Klipspruit Camp was established it was understood that the camp was to become a permanent Location. The Committee had "nothing of the sort in their minds." All they had said was that "they had the removal of the natives to a permanent location outside of the town in view, and the Committee were now busy considering this."

The original recommendations being agreed to, the remaining clauses of the report were accepted. [*Ibid*]

13

In the first week of June the Johannesburg Town Council gave notice of its intention to introduce a Private Bill in the Legislative Council to ask for authority to the Council "to establish locations for Natives and Coloured persons, and *bazaars for Asiatics, beyond the limits of the Municipality, and to render any such locations or bazaars subject to the bye-laws by Council.* To erect buildings for the occupation of Natives, Asiatics or Coloured persons in any location or bazaar." [*Ibid,* June 11, 1904; C.W.M.G. Vol.lV, pp.208-9. (Italics by the author)]

This meant that the Town Council had no intention of providing accommodation for the men dispossessed from the expropriation areas in the neighbourhood thereof as required by the Expropriation Ordinance. The sixteen hundred people who had heen removed from the Indian Location to Klipspruit were still without suitable residences. Some of them were living under canvas in Klipspruit in enforced idleness. Those who had been allowed to return to town were obliged to pay enormous rents for the privilege of living in Johannesburg, the Town Council having failed to carry out its legal duty.

But it had even more ominous significance. The proposed legislation went even beyond the Republican legislation in the curtailment of the Indians' rights. As matters stood, the Town Councils had no control, except in matters of sanitation over Indians' Bazaars or Locations. The power of fixing these sites rested in the Government and the Government alone, and the people had the right within the restricted area, to own fixed property and to build their own dwellings. The effect of the proposed legislation would be to put the Indians on the same level with the natives, and they would be totally at the mercy of the Town Councils—merely tenants-at-will, subject to constant removal without any

ownership of land even in the Locations. This state of things was too dreadful to contemplate.

Yielding to the clamour of the white colonists, the Public Health Committee at last discarded all camouflage, and came out in its true colours. It had at first fixed a site for the Indian Location very near the Malay Location. Next it had recommended the site which was used by the Boer Government (Vatervaal area). It now finally fixed upon the site at Klipspruit which was used as an isolation camp during the plague outbreak and which was situated thirteen miles away from Johannesburg. The reason given for this decision was that if the existing state of things was allowed to be continued, certain kinds of industry, as for instance, that of small tradesmen and artisan class, which could otherwise afford a means of livelihood to a considerable number of Europeans, would inevitably fall into the hands of the Asiatics and the growth of the self-supporting European population be consequently materially impeded. Gandhiji immediately joined issue with the Public Health Committee. This was, to put in naked terms, “a policy of slow confiscation", he commented. The Indian artisan class, in Johannesburg, simply did not exist, with the exception of a "few indifferent carpenters and fewer bricklayers", and they were in no position and did not wish to enter into any competition whatsoever with the Europeans. The existing Indian population of Johannesburg had been resident there since at least 1896, and yet the Indians had not been able to oust the Europeans from any department whatsoever. White Johannesburg was still white. To this had to be added the fact that the European population was ever on the increase, whereas, owing to the misapplication of the Peace Preservation Ordinance to the Indians, their population could not but be on the decrease.

In support of its contention the Committee had produced census statistics which must have been meant purely for "home" (that is, English) consumption. For, as Gandhiji pointed out, they could not mislead anyone on the spot. To instance, it was stated that the Coloured population of the Transvaal outnumbered the white population by 77.83 to 22.17. This was a palpable misrepresentation which one would have never expected from a representative body like the Public Health Committee of Johannesburg. For, the figure 77.83 included the Native population. What possible connection could there be between the vast Native population of the Transvaal and the Coloured population, in which category the British Indians were included, one failed to understand. If the Public Health Committee had only confined itself to the Indians for whom alone the Location was to be established, it would have shown conclusively that the fears of the Indians' cutting out the Europeans were altogether imaginary. For, the Indian population was hardly 7,000 as against 84,000 whites in Johannesburg, and for the whole of the Transvaal hardly over 10,000, as against the European population of 5,00,000. To talk of Indian competition ruining the whites on the one hand, and to palm off on the unsuspecting English public figures for the "Coloured", *including the native population,* on the other; as a proof of the terrible disproportion between the Indians and Europeans was chicanery, pure and simple, hardly worthy of a great public body.

The Committee had then gone on openly to demand that the British Indians should not have any share in European trade at all, and that "the Bazaars should be kept completely apart from any neighbourhood inhabited by Europeans". Was it for that reason, then Gandhiji asked, that the Committee had chosen the wilderness at Klipspruit for dumping down the Indians, who could

neither do any hawking nor any trade, except among themselves and the few Kaffirs? Even the Kaffirs could not provide any customers to the Indians as most of them were workmen, who went to town early in the morning and returned only at night after eight o'clock, when they were not likely to go to the Asiatics and make their purchases from them; more likely they would make them in the town.

The charge of insanitation was raked up again. It was impossible by any method of supervision, the Committee stated, "to ensure the observance of Public Health bye-laws by these people." Gandhiji challenged the Committee to produce figures showing how many prosecutions under the Public Health bye-laws had taken place against the Indians. He was certain that not even six prosecutions against Indians had been brought throughout the year, and "we make bold to say that in hardly a single instance has there been a second prosecution against the same man." Sanitary Inspector throughout South Africa had laid stress upon the docility of the Indian and his willingness to comply with lawful orders.

Again, the Committee had stated that the recent outbreak of plague and the events connected with it, had proved "the difficulty of effectively isolating a Location situated within the town itself." But, Dr Pakes had shown in his report that he successfully cordoned off the Indian Location and thus stamped out the plague, and he had even been congratulated on his splendid work! It was, therefore, obvious that either Dr Pakes was wrong or the Public Health Committee was wrong. Repudiating the insinuation that the Indian was more susceptible to the plague or to small-pox—which was belied by the experience in Natal—Gandhiji reiterated once again that the plague had originated in the Indian Location for which the Public Health Committee alone was responsible. It

had remained confined to the Location and the plague statistics outside the Location showed that the Indians were not more attacked than others.

The last reason given by the Public Health Committee was the plea of social intercourse between the poorer whites and the poorer Indians. In the first place, rejoined Gandhiji, there was absolutely no social intercourse between the two, and, secondly it had to be shown in what way the presence of the Indian had contributed to the social deterioration of the white men; what was the particular vice of the Indian community which the white man had contracted during the last seventeen years. More, the two classes had been living together not in Johannesburg alone. In Cape Town, in Kimberley, in Durban, in Mauritius, in Ceylon and in India they had lived together for generations. Nowhere had this charge been brought against them; nowhere had this plea been urged for their complete isolation. “Better by far", concluded Gandhiji, "that instead of such slow torture, as is proposed by the Public Health Committee, the Indians should by legislation be bundled out of Johannesburg, once and for all." Either the resident population should be well treated, or it should be driven out of the country, he urged. "The latter operation, though drastic, would be far more merciful than the process of slow but sure arsenical poisoning, in the shape of cooping the community up within an enclosure miles away from its scene of activity, and letting it to die for want of nutrition.” [*Ibid,* October 8, 1904; C.W.M.G. Vol.IV, p.276]

Despite the hardships they suffered and the difficulties presented by their confinement to Klipspruit, the residents of the former "Insanitary area" slowly managed to re-establish themselves. By July most of them had already moved back into town, now settling half a mile to the west in the Malay Location and Vrededorp. [*Ibid,* July 30, 1904; C.W.M.G. Vol.IV, p.231] No new location was fixed for them, although for the next two years or more there were plans put forward to establish

the Klipspruit Camp site as the official Location. [See *Memorandum on the Proposed Asiatic Bazaar at Klipspruit* by M. Chamney, May 30, 1905, in Huttenback microfilm prints. (Transvaal Archives)] Thanks to the grit and the capacity for organisation under proper guidance, which they showed on this occasion in the face of calamities, both natural and man-made, the Malay Location (renamed Pageview in 1943) and Vrededorp remained the centre of the Johannesburg Indian community for nearly seven decades, until at last in the 1970's all Indians were compelled to move to the new suburb of Lenasia, only a few miles beyond Klipspruit.

CHAPTER XII : JUSTICE IN THE HIGHEST COURT

1

The dawn of 1904 brought to the Indians a dubious "new year gift". The Government instructed the Receivers of Revenue in the different parts of the Transvaal to issue provisional licences only to those who could satisfy them that they were trading before the war with or without licences. [C.W.M.G. Vol.IV, p.103; *Indian Opinion,* January 14, 1904] The original proposal of the Colonial Secretary was that the licences of all those who traded before the war, although without licences and could satisfy the Receiver of Revenue, should be renewed. Sir George Farrar's amendment was to the effect that all such licences should be provisionally renewed and that a Commission should be appointed to investigate the licences of such people. One would have thought that under the circumstances all the existing licences would be provisionally renewed, but the Government narrowed down the scope of the amendment and issued instructions to the Licensing Officers that they were to take evidence as to previous trade, and if satisfied, issue provisional licences. Others were not to have their licences except for Bazaars. This was a clear departure from the policy enunciated by the Colonial Secretary. Proof had still to be submitted to the Receivers of Revenue as provided for in the original amendment; but, whereas under the amendment unconditional licences would have been granted on the submission of a satisfactory proof, under the instructions provisional licences only were to be granted.

The Indians had already once tendered proof of former trade. No one was granted licences to trade without recommendations from Supervisors of Asiatics

who went thoroughly into the claims of applications for licences, subjected them to a rigorous examination and recommended the granting of licences only to those who, they were satisfied, traded before the war or were otherwise fit to receive them. Now all these recommendations made by officers appointed by the Government were to be treated as worthless scraps of paper, and further proof was to be submitted to the Receiver of Revenue and then, as if the torture was not complete, every Indian licence-holder was to be dragged before a Commission again to be put through the ordeal of proof, with no certainty whether his licence would be rehabilitated. "The result of the decision of the Government is," wrote Gandhiji on January 14, 1904, "that the Indian community will have to spend hundreds of pounds on affidavits and other documents before provisional licences are issued. Those who cannot prove that they traded before the war will have to close down their shops; it does not matter that they received unconditional licences last year or the year before on the recommendation of the Asiatic Officers."

And, what was the reason for this *volte face?* The Government carried away, like ordinary people, by the boom that had set in on the declaration of peace, had incurred heavy liabilities and undertaken works which they could not carry on without funds. This made them particularly vulnerable to the threat of the mining magnates to withdraw the promised war contribution of £30,000,000 which was publicly announced with a flourish of trumpets during Chamberlain's visit. They were in consequence anxious to conciliate all who were likely to have a voice in these matters, even if such conciliation involved a flagrant breach of promises and consequent ruin to inoffensive citizens and cancellation of documents given by their own officials. They were, in Gandhiji's words, "too weak and too much afraid to do justice." [*Ibid*, p.104]

What were the British Indians to do under the circumstances? In prescribing the remedy Gandhiji for the first time suggested resort to civil disobedience, allhough the term was not used. They must, he said, keep themselves absolutely cool and remain patient; they must not cease to rely on justice being ultimately done; they must make respectful representations to the Government, but they should firmly decline to give proof to the Receivers of Revenue, offering to do so before the Commission that was to be appointed. "lt may be that prosecutions will take place for carrying on trade without licences, and if summons are issued and penalties imposed for carrying on trade without a licence, the persons prosecuted should rise to the occasion, decline to pay any fines and go to gaol. There is no disgrace is going to gaol for such a cause: the disgrace is generally attached to the offence which renders one liable to imprisonment, and not to the imprisonment itself. In this instance, the so-called offence would be no offence at all, and it would be a most dignified course to adopt." [*Ibid,* p.105]

Civil disobedience, however, is a fiery weapon to be used with utmost caution and only after all other means for settling an issue peacefully have been exhausted.

The Indians had been advised from the very beginning that the interpretation of Law 3 of 1885, on which the Bazaar Notice was based, was not legally valid and if it were contested in a court of law, the verdict would in all likelihood go in their favour. Yet they had hitherto deliberately refrained from standing on their legal position, hoping that ultimately the Government would not fail to do justice. But if the Government abdicated its function and declined to protect the Indian community, said Gandhiji, there was still a way open to them

short of civil disobedience. They could invoke the aid of the Supreme Court to test the question whether the expression "residence" in Law 3 of 1885 included trade. The Law 3 of 1885 required Indians to reside in the Locations; it said nothing as to trade. The Boer High Court, by a majority, had decided that for Indians residence included trade. Gandhiji was sure that the decision of the Boer High Court would not be binding on the Supreme Court. [*Ibid,* pp.104-5] Before resorting to civil disobedience, they should, therefore, institute a case to test the validity of the Boer High Court's decision.

On January 16 under Gandhiji's directions the B.I.A. wired Lord Milner:

> BRITISH INDIAN ASSOCIATION JUST INFORMED BY GOVERNMENT LICENCES UNLESS HOLDERS TRADED BEFORE WAR WILL NOT BE RENEWED EVEN IN OLD LOCATIONS IN TOWNS WHERE NEW ONES HAVE BEEN ESTABLISHED. [*Ibid,* p.108]

This, the telegram continued, was altogether beyond the scope of the Bazaar Notice and was not warranted even by anti-Indian agitation. The Association, therefore, appealed for His Excellency's intervention and prayed that existing licences be renewed pending Commission's report. "Early reply solicited as traders fear prosecution", the telegram concluded.

On January 18, Gandhiji sent a note to Dadabhai Naoroji saying that although a commission to investigate the claims of Indian traders was constituted by the Transvaal Legislative Council, the Colonial Secretary wanted the Indian traders to show that they had traded here before with or without licences, if they applied for provisional licences. This meant "a commission within a commission". [*Ibid,* p.109; Colonial Office Records: C.O. 291, Volume 75, India Office] He then gave instances of persecution resulting from arbitrarily declaring as provisional

licences that in fact had been granted without any condition whatever by the officers concerned. Five or six such Indian traders had on the strength of their licences obtained five years' leases for the premises they occupied. One of them was granted a licence because he was engaged in trade somewhere else in the Transvaal before the war and was instrumental in saving a soldier's life during the war for which he received a very good certificate. In another case, the man, being too afraid to take over responsibility, submitted his lease to the Magistrate which the Magistrate initialled before granting the licence, thus clothing him with full legal protection. And yet both these men, and many others, more or less similarly situated, would now have to remove to wildernesses, miscalled Bazaars, because they were not trading in the respective places immediately before war.

> This is far more than Mr Kruger ever attempted....One of those men in 1899 was threatened that he should have to remove to Bazaars. He approached the British Agent who was good enough to telegraph to him to disregard the notice and remain where he was. The same British Government which was then ready to protect its subjects is now paralysed and afraid to do so when...it is in a better position to grant such protection.....Receivers of Revenue now decline to do so. [*Ibid,* p.110]

At Middleburg and Pietersburg there were Bazaars or Locations established by the old Government. They were fairly favourably situated. Milner's Government, however, had fixed Bazaars in these places further away from centres of business. "Now in these old Bazaars there are several Indians trading. There is absolutely no white competition. No white traders will open businesses there. And yet, painful to relate, the Government has decided that Indians trading in these Bazaars must go to new sites, thus going beyond even what the interested European traders would like the Government to do." [*Ibid*]

Gandhiji also showed how not one of the three claims made by Milner in his despatch to Chamberlain, namely, that Bazaars were being selected in quarters which would be accessible to all communities and not far from centres of business, that licences held by *bona fide* refugees to trade outside Bazaars would be renewed for the respective places, and that Indians of better standing would be free from all legal disabilities, was borne out by facts. He closed his note with the following: "If the Indians on whose behalf the war was partly undertaken cannot better their position, they have a right to claim that the position they enjoyed before war might at least be maintained." [*Ibid,* p.111]

During the debate on the amendment in the Legislative Council, Mr Hosken had said that the Johannesburg Chamber of Commerce was not unfavourable to the presence of Indian traders. To counter it, the Executive Committee of the Chamber met and passed a resolution urging the Government not to allow any Asiatic trader "to trade in a white man's name or have any interest in the profits of any business in which the licence is taken out in the name of a white man". The Government was further asked "to take into consideration the advisability of removing into Bazaars all Asiatic traders without distinction, compensation being provided for such as may have vested interests which have been legally acquired." [*Ibid,* p.120; *Indian Opinion,* January 28, 1904]

The Chamber also recommended that the exceptions in regard to residence mentioned in the last clause of the Bazaar Notice should be granted "with great reserve" as any extension of the number of Asiatics residing in the midst of the European community would be against the general feeling of the community. [*Ibid*]

Observed Gandhiji: "We may assure the committee that the Indians have so far exercised sufficient self-restraint, and declined to take advantage of any

exemption whatsoever. *Unless they can make good their legal status, the Indians are not going to depend for their residence on the charity of the Government".* [*Ibid, (*Italics by the author)]

3

Having hinted at the necessity of their having to resort to civil disobedience, Gandhiji began to educate the Indian community (which consisted largely of traders) into the meaning and working of the law of suffering.

In his weekly for January 21, 1904 under the caption "Self-sacrifice" he laid emphasis on self-abnegation and self-transcendence as being a vital necessity for survival and progress. "Sacrifice is the law of life. It runs through and governs every walk of life. We can...get nothing without paying a price for it, as it would be said in commercial parlance or, in other words, without sacrifice. .....No race or community has ever achieved anything without the communal spirit." The individual must, therefore, sacrifice self so that the community might gain. He further explained that "working for the community we may keep for ourselves only a portion of what is secured, and no more." It would be the salvation of the community.

> True sacrifice lies in deriving the greatest pleasure from the deed, no matter what the risk may be. Christ died on the Cross of Calvary and left Christianity as a glorious heritage. Hampden suffered but the ship-money went. Joan of Arc was burnt as a witch to her eternal honour and to the everlasting disgrace of her murderers; the world knows the result of her self-sacrifice. The Americans bled for their independence. [*Ibid,* p.113; *Indian Opinion,* January 21, 1904]

In terms of this law "individual differences must be sunk in the face of common danger. Personal ease and personal gain should be surrendered. To all

this must be added patience and self-control." British machinery was slow to move, the genius of the nation being conservative, but it was also quick to perceive and recognise earnestness and unity. [*Ibid*] "It takes time, but in the end the thing...does come to pass (if it is reasonable)". [*Ibid,* p.116] Gandhiji, therefore, hoped that his compatriots throughout South Africa would make a careful note of this aspect of the British Constitution and refuse to rest until full justice was granted. [*Ibid,* p.113]

On the same day giving his analysis of the situation facing them he wrote in the Gujarati section of his weekly: The whites were bent on making their condition in this country, chiefly in the Transvaal, extremely difficult. One by one their common rights were being snatched away from them. Even then no one put up a strong fight on their behalf. Therefore, "the whites think us to be helpless and weak; and their arrogance grows daily". [*Ibid,* p.116] His reading of the situations was that the local Government was completely dominated by the whites. It fought shy of displeasing them. It, therefore, accepted and endorsed every perverse demand they made, however extravagant and then gave the British Government to understand that it had to do so in order "to respect public opinion". The British Government, on the other hand, was not prepared to assert its authority in discharge of its Imperial obligations towards the British Indians in South Africa. The Government of India, whose special obligation it was to protect them, raised its voice "a liltle at times out of fear—but only a little". [*Ibid*] As the price for making a few halting concessions, Milner had asked for Indian labour on terms which amounted to semi-slavery of labourers for a time. "Our rights have nothing to do with the slavery of labourers and yet such a condition was laid down." [*Ibid*] It was clear therefore that if the Transvaal withdrew its proposal to indent Indian labour, (as it was in fact then doing), the Government of India would

be in no position to do anything for Indians settled in the Transvaal. The only ground of hope they were left with was that the British Government's intentions were fair and that it desired to do justice. *To obtain justice, the Indians would have to understand the way British statecraft worked and to shape their conduct accordinlgy.*

Continuing his analysis in the following week Gandhiji observed: Government had decided upon “a dog-in-the-manger policy", so much so that "even in Kaffir Locations Indians may not trade, lest thereby they may be able to eke out a living....It thinks that it has granted a mighty concession in that it has changed the term 'Location' into 'Bazaar' and having done so, it is natural that to offset this concession they should remove Locations further away from where they were during the Boer regime, and to places where, according to its own admissions, in some cases at least, trade is not possible at present". [*Ibid,* p.117; *Indian Opinion,* January 28, 1904] For nearly two years the Indians had deliberately refrained from obtaining a ruling from the Supreme Court and setting the question finally at rest. Instead they had meticulously followed Chamberlain's advice to come to a reasonable understanding with the white traders and had asked for protection of existing interests only. But if even this was denied to them they must perforce see what they could raise out of the Supreme Court. [*Ibid*]

In the Gujarati section of *Indian Opinion* he wrote: "Until now we believed that the Government would certainly do us justice and we did not think of going to a court of law. But if the Government remains under the influence of the white population and is either disinclined or powerless to do justice, it will be absolutely necessary for the entire community to meet, consider the matter and take appropriate steps....The situation has become very critical, and the opportunity once lost may never recur....Our Transvaal brethren should bear this in mind and

make the fullest endeavour to protect themselves..." He concluded his advice with: "Our demand is just, and if we direct our movement with wisdom, victory is bound to be ours ultimately. We must do our duty: the will of God will then come to pass." [*Ibid,* p.121, (Author's translation; not C.W.M.G.'s)]

Analysing the decision of the Boer High Court in the test case of *Tyob Haji Khan Mahommed* Vs. *F. W. Reitz N.O.,* Gandhiji remarked that of the three judges constituting the full bench, Justice Morice had given the leading judgment, Justice Esser had concurred, but Justice Jorrison dissented. Even Justice Morice had argued entirely in favour of the British Indian contention but had felt constrained to respcct the previous unanimous decision of the High Court. Justice Esser had likewise based his concurrence on the same technical ground. Justice Jorrison, the dissenting Judge, had delivered himself as follows:

> To infer from this that the Government can take any measures against the coolies that it may think fit is, in my opinion, giving an extensive interpretation which could never have been intended by the legislature. The coloured people in this article are those coloured people who lived here at the time, namely, the Kaffirs. That the coohes are not included hereunder appeared to be the feeling of the Volksraad when they made a separate law for them. [*Ibid,* p.l23; *Indian Opinion,* February 4, 1904]

There was, therefore, every possibility, Gandhiji thought, of the Indians winning the cases.

In accordance with the resolution of the Legislative Council in the first week of February Sir Arthur Lawley, the Lieutenant Governor, appointed a Commission consisting of Messrs. Honey, Sheridan, Rubie and Chamney, the last named as Secretary, " to consider the cases of Asiatics who were trading in the

Transvaal in towns outside locations without licences at, and immediately before, the outbreak of hostilities, and to enquire and to report as to the number of such traders and the nature and value of the vested interests claimed by them in respect of their having been allowed to trade outside locations". [C.W.M.G. Vol.IV, p.124] Mr Mountfort Chamney, formerly of the I.C.S., was Protector of Immigrants in the Asiatic Department. Mr Honey, Director of Customs, Mr Sheridan, Inspector of Revenue and Mr Rubie, a Barrister of attainments. They could have nothing to say with regard to the personnel of the Commission, commented Gandhiji on February 4, 1904, but he had his doubts as to the utility of the Commission, as the Indians had in the meantime embarked on a test case. If it was decided in their favour, as he had no doubt that it ought to be, the labours of the Commission would have been in vain. Nothing could have been lost if the appointment of the Commission had been postponed pending the result of the test case and it would have saved good money from being thrown away in a wild-goose chase. Besides, the vague expression "immediately before the outbreak of hostilities" in the terms of reference of the Commission was bound to give rise to much confusion. How would, for instance, the Commission fix a date which in its opinion would be "immediately before the war"? [*Ibid,* p.125; *Indian Opinion,* February 4, 1904]

4

The first regular meeting of the ill-fated Asiatic Traders' Commission was held in the Hall of Justice at Pretoria on the 16th of March, 1904. The flaws in its terms of reference, to which Gandhiji had pointed attention, and the pretentious role arrogated to themselves by the whites plagued its proceedings from the very beginning. Mr Houghton, appearing for the Chamber of Commerce, claimed the right to put certain questions to the witnesses called in support of claims on the

ground that the commerce of the Transvaal, and Pretoria in particular, had a large interest at stake and he was there to watch the proceedings of the Commission on their behalf. [*Indian Opinion,* April 2, 1904] He claimed the right to appear on behalf of the Pretoria Chamber of Commerce.

Mr Rees, representing Asiatic traders, objected to any questions being put to any of his clients. There was nothing in the Government notice, he maintained, allowing for the appearance of anyone but claimants and no other formal appearance could be allowed.

Mr Rubie said, the Chamber of Commerce could watch like any other person with a watching brief.

Gandhiji was present at the proceedings as an observer on behalf of the British Indian Association. [*Ibid*]

Just as Gandhiji had anticipated, [C.W.M.G. Vol.IV, p.143: *Indian Opinion,* March 10, 1904] the Commission ruled that they had no authority to examine the claims of those British Indian traders *who were not in a position to prove that they* were trading outside Locations *with licences on the eve of the war* and that they were obliged to leave their business owing to the outbreak of the war. Its terms of reference, further, required the Commission only to *report* as to the number of such Asiatic traders who were trading in the Transvaal in towns outside Locations *"at and immediately before* the outbreak of hostilities" and the nature and the value of the vested interest *claimed* by them in respect of their having been allowed to trade outside the locations; *they were not to deal with the question of trading at all, or even to value the vested interests* or to determine their nature, *but merely to report what the Asiatics might have to say* in respect of them.

While the whole debate in Legislative Council on the proposed Amendment of the Bazaar Notice, pointed out Gandhiji, went to show that the intention was to protect the rights of those who either traded actually *at the outbreak* of hostilities *or* immediately before, the effect of the wording of this part of the reference was that claimants must show that they were not only *trading at* but *also immediately before* the outbreak of hostilities. ln other words, it was not enough that an Indian was trading, say, in the month of June,

1899 and left the Transvaal owing to the prospect of war, but he would have to prove that he was actually engaged in trade on the 11th of October, 1899. *This would give protection to only a dozen Asiatics,* who leaving their trade intact at the time of war went out of the country out of fear; [*Ibid,* p.198; *Indian Opinion,* May 28, 1904] hundreds of the remaining claimants would be simply brushed aside. [*Ibid,* p.144; *Indian Opinion,* March 10, 1904]

Both the Colonial Secretary and Milner had repeatedly said that it was not the intention of the Government to disturb the trade of those Indians who were carrying it on prior to the war, whether with or without licences. There could, therefore, be absolutely no distinction between those few Indians who managed to get licences to trade in 1899 and those who did not, and yet were trading. In the estimation of the Boer Government, the latter were doing so illegally, but the illegality was created and fostered by the British Government to which Law 3 of 1885 was absolutely hateful. As a result they were allowed during the fifteen years before the war, to have confidence in the British protection so much so that they left the Transvaal and re-entered at will, established businesses, and disposed of them and re-established them also at will. A vested interest was thus created in the right to trade outside Locations in defiance of the law. At this stage the war broke out, and one of the causes of the war was Law 3 of 1885. Indians

therefore naturally believed that the successful tssue of the war would see the end of Law 3, and it followed that if they could trade in defiance of the law at any time before 1899, they had now a stronger claim, for it did not in the slightest degree matter whether they were trading immediately before or at the outbreak of the war or not. The test was whether they had traded in the Transvaal before the war; and if they did, they at least had the right to do so now in accordance with the policy that the British Government followed during the Boer regime, for any Indian who entered the Transvaal and established himselt in trade before the war knew that he could set up in trade any time he liked and break it up and renew it. Gandhiji was, therefore, emphatic that if any justice was to be done to the British Indians, the Reference to the Commission would have to be widened.

Mr Burgess, Supervisor of Asiatics, had in his evidence before the Commission clearly stated that very few Indians (only 3) were granted licences after the war, unless they could prove to his satisfaction that they were doing business in the Transvaal outside the Locations before the war. All these Indians who were now licensed to trade outside Locations had, therefore, already proved their right to do so. It would, therefore, be a miscarriage of justice. Gandhiji contended, if on the score of conditions that were now attached to the issue of these licences a single lndian trader who was currently doing business in the Transvaal outside Locations was interfered with. [*Ibid,* pp.157-58; *Indian Opinion,* April 2, 1904]

After the Commission's ruling as to its authority, the British Indians, under Gandhiji's advice, withdrew all claims and ceased to participate in its deliberations. The Commission succeeded in doing little work; only 223 of the nearly 600 Indian licences were presented to it, and, as Gandhiji had predicted,

the Commission was suspended after the ruling in the test case in May. It disappeared from view with an "interim" report. [*Ibid,* p.195; *Indian Opinion,* May 21,1904 and p.474, *Indian Opinion,* September 3, 1904]

5

The test case, *Habib Motan* Vs. *the Transvaal Government,* came up for hearing before the Supreme Court in the first week of May, 1904.

A native of India and a natural born British subject, Habib Motan had resided in the Transvaal since 1889. He had carried on business as a general dealer first in Pietersburg from 1889-99; thereafter till the 8th September, 1899 at Prinsloo Street, Pretoria. On the outbreak of the war he with other British subjects left the country, but returned on the 27th February, 1902. After his return he again carried on business both in Pretoria and Pietersburg under a general dealer's licence until December 31, 1903.

In January 1904, he in the ordinary course applied for licences both in Pietersburg and Pretoria for the current year. In the former place he was refused a licence while in the latter the Receiver of Revenue granted him a quarterly licence provisionally, pending the decision of the Commission appointed to consider the question of Indian traders' licences. In both cases the Receiver of Revenue acted on the instructions received from the Government. Habib Motan now approached the Supreme Court asking

> (1) for a declaration against the Government that such instructions were illegal, and that he was by right entitled to demand that such licences be issued to him to carry on business as a general dealer in Pietersburg and in Pretoria and

(2) for an order compelling the Government to issue the said licences to him on payment of the licence money required by law. [*Indian Opinion,* May 14, 1904]

The plaintiff further prayed that Law 3 of 1885, as modified by Volksraad Besluit No.1419, dated 12th August, 1886, was unconstitutional and was contrary to the fundamental principles of the laws of England and lapsed on the conquest of the Republic and 'was void and of no effect.

The case was filed against the Government, and Sir Richard Solomon in his capacity as Attorney General represented the defendant. [*Ibid,* May 14, 1904]

Admitting the refusal of the licence to the plaintiff, the defendant justified its action on the ground that the plaintiff was a native of India, and that by reason thereof was not entitled to licence to carry on the business in any town or place in the Transvaal except on grounds which might be pointed out by the Government of the Transvaal as a place for the carrying on of business or trade by members of the native races of Asia. The defendant therefore prayed that each and all of the plaintiffs claims brought be dismissed with costs.

The case was heard on May 4, 1904 before the Honourable Chief Justice Sir James Rose-Innes. Mr Justice Solomon and Mr Justice Curlewis Mason. Messrs Leonard, Gregorowski, Esselen and Ducksburg appeared for the plaintiff and were instructed by Messrs Lunon and Nixon, Solicitors, Messrs Charles Ward, R. Burns-Begg and E. I. Matthews appeared for the Government, instructed by Mr Findlay, the Government Solicitor. [There are reports that Jan Christiaan Smuts, the illustrious adversary of Gandhiji, argued on behalf of the Indians in an important test case, which may have been the Motan Case. The evidence is as follows:

"My office drafted and published an Ordinance which affected the rights of Indian traders. A prominent Indian questioned the constitutional legality of its terms; brought an action against the Government and instructed Mr Smuts, as he was then called, to appear on his behalf. 1 was ordered to give evidence on behalf

of the Government. Unfortunately, I was no match for Mr Smuts. In a ruthless cross-examination he soon tied me up in knots and was reducing me to helpless confusion when the presiding judge intervened, reproved him for pressing me 10 answer questions that were unfair and saved my race by directing me to stand down. It is hardly necessary to add that we lost our case." Sir Arthur Richmond, C. B. E.—Twenty six years 1879-1905. Geoffrey Bles Limited, London (1961) p.193.

Confirmation was provided by Mohammed Ismail Nagdee—the super octogenarian of South Africa—who, during his last visit to India in 1969, in course of a meeting with the author, stated:-

"A test case for trading licence was started in 1903 by Habib Motan and was decided in his favour by Pretoria High Court. General Smuts was our attorney. We won the case."]

At the beginning Mr Justice Curlewis mentioned that at the time of the submission of the British Indian question in the Transvaal to the then Chief Justice of the Orange Free State and later also, he represented the British Indians and that if Counsel on either side had any objection on that account to his sitting on the bench, he would retire. Both Messrs Leonard and Ward said that they had absolutely no objection to his Lordship hearing the case.

Arguing for the plaintiff, Mr James W. Leonard contended that according to Law 3 of 1885 residence simply meant dwelling house. On the other hand it was maintained by the Government that residence meant residence for purposes of trade also. Before he could show how glaringly fallacious the defendant's contention was he was met by the judgment given on the point by a majority of the late High Court. He, however, proposed to show that it was intrinsically bad. In that judgment, although the judge himself considered that the term residence could not include residence for purposes of trade, he felt bound by a previous decision on the point raised in the matter of *Ismail Suleiman and Co.* Vs. *the State* and that, he said, was the fundamental reason that operated on the mind of the two judges in the case *Tyob* Vs. *the State.* In the case of *Tyob* Vs. *the State,* the then Chief Justice Kotze had based his decision on the principle that Law 3 of 1885 should be extensively interpreted in that the State did not recognise any

equality between the white people and the coloured races. The learned Judge, therefore, held that the Law 3 of 1885, as amended in 1886 was “rather an enabling act which gave certain privileges which by Constitution the British Indians did not possess”. That this view was wrong was shown by the fourteenth article of the London Convention which gave equal rights to all the people, whether white or coloured, other than the aboriginal natives of South Africa. Happily, however, the Court was not bound by the previous judgments of the late High Court.

The term “Ter Bewoning”, the learned Counsel continued, in Dutch only meant a house for living in. It was a well-known canon of interpretation that the law could give to a word that meaning which was its natural and popular meaning, unless it was shown otherwise clearly and definitely by the context. Now, the context, too, left no ambiguity whatever, for the amendment made in 1886 in the law added the expression "sanitary purposes". The law that the court had to interpret ran that the Government had the right to point out for sanitary purposes streets, wards, and locations for their (the Asiatics') residence. Now, it could not he said that there was any sanitary purpose frustrated in allowing a man to trade in any part of the town. To take an extreme case, an Indian might be residing outside the Transvaal for that matter and carrying on business in Church Street in Pretoria, employing European clerks. This was an apt enough illustration to show that the legislature could never have meant “residence" to have any other meaning but the natural meaning.

Conversely, if the decision in the case of *Tyob* Vs. *the State* were upheld, contended Mr Leonard, the natural conclusion would be that even the hawkers would not be allowed to hold licences except to hawk about in the Locations which would, of course, be altogether absurd. Moreover, the Legislature, if it

meant to restrict Indian track would have said so in the enactment itself, because there were so many other disabilities also imposed on the Asiatics and it would have been the easiest and most natural thing to have stated that Indians were not only not to reside within town limits but that they were not to trade either.

In reply Mr Ward argued that when the hostilities ceased and the British occupied the Transvaal they took over the Transvaal laws and with certain exceptions all the old laws had been adopted. Now in adopting them they could not but adopt the law as interpreted by the High Court. It would, he submitted, be tantamount to overruling the law itself if the Supreme Court overruled the decision of the Boer High Court in the case ol *Tyob* Vs. *the State.* Certain rights were created by the interpretation of the law as laid down in *Tyob* Vs. *the State.* It should, therefore, be extensively interpreted.

The Chief Justice here interrupted Mr Ward and asked him what rights were created by the law, and whether it was not a fact that the law had remained inoperative, and that plaintiff himself had been allowed to trade in spite of the decision up to the outbreak of hostilities and even up to the previous year.

Mr Ward submitted that it was so but he maintained that such practice was not warranted by the decision and it was merely a question of favour granted to certain Indians. Moreover, as to the intention of the legislature the late High Court, moving in the atmosphere that immediately followed the enactment, was in a better position to know the intention than their lordships. Mr Ward further argued that the intention of the Law 3 of 1885 was to put the Asiatics on the samc level as the Natives of the soil who had very few rights.

Mr Leonard in reply accepted Mr Ward's challenge and said that even if it was the intention of the legislature to put the Asiatics on the same level as the

Natives, it presupposed that by the London Convention the Asiatics had full rights. The restriction therefore that was placed on them by Law 3 of 1885 as amended in 1886 *was to be interpreted very strictly and not extensively.*

The Chief Justice here questioned whether the Natives could not trade in towns outside Locations and Mr Leonard in reply said that he knew no law which prevented a Native from obtaining a trading licence within towns. His position, therefore, was strengthened even on ground taken up by his learned friend. As to the meaning of the term "residence", the law was clear. The Encyclopaedia of the Laws of England defined the term "residence" as meaning houses lor the purposes of living only. He hoped no British Court would ever hold that restrictive legislation should be extensively interpreted. The Legislature might have intended many things but owing to the British opposition they could not dare to do anything more than what was stated in Law 3 of 1885, and it was well known that the British Government would never have agreed to the restriction of the right of the Indian traders to trade in any part of the Transvaal.

In reply to a question by the Chief Justice whether before 1885 there were any Indian traders at all. Mr Leonard informed the Court that in 1883 the firm of Aboobaker Amod not only traded in Church Street, Pretoria, but held propertics in their own names and one of the properties still stood registered in the name of the late Aboobaker Amod.

In view of the importance of the issue involved, the Court reserved judgment. [*Indian Opinion,* May 14, 1904]

Gandhiji had full faith in the integrity of the British Judges but he felt apprehensive of the technicalities of the British legal system. The Indian community felt perturbed. Referring to their fear, on May 7, Gandhiji observed

that the Indians had so much in their favour that they could afford to breathe freely. Should, however, the British judges feel bound by the decision of the majority of the late High Court, the Indians had "yet one more desperate chance, namely, appeal to the highest tribunal in the British Dominions—the Privy Council". [*Ibid,* May 7, 1904; C.W.M.G. Vol.IV, p.182]

For once their fears proved liars. Delivering judgment on May 11, the Chief Justice observed that he could not accept the view that it was illegal or impossible for a court to revise its own findings upon questions of law. At the same time a Court of Law should be bound by its own decisions unless and until they were overruled by a higher tribunal on appeal. "But this Court is not, in the full sense of the term, the successor of the High Court and the decisions of the latter upon legal matters...do not stand so far as we are concerned on the same footing as our own...We are bound by the rulings of the Privy Council in the past as well as the future whereas the High Court was not."

The Chief Justice further observed that in investigating a point already decided by the late High Court, they would naturally be inclined to examine it more narrowly than they would have been had the decision been delivered by themselves. "Yet even if compelled to differ from the High Court, I should be slow to give effect to my view, if vested rights had grown up under what I consider a faulty decision, or if a course of legal practice had been settled and followed in consequence of it. But nothing of that kind is present here. The judgment in the two cases which have been mentioned conferred no rights; rather it took some rights away. Nor have vested interests grown up under them."

Considering all the circumstances the judgment, the Chief Justice concluded, must be for the plaintiff. The instructions given to the Revenue Officers to refuse the licences asked for must be declared to be illegal and the

plaintiff must be declared entitled, upon the payment of the licence moneys, to receive licences to trade as a general dealer in the towns of Pretoria and Pietersburg. The defendant must pay the costs.

Mr Justice Solomon and Mr Justice Curlewis concurred. [*Indian Opinion,* May 14, 1904]

6

The Supreme Court's judgment in the Test Case had a tremendous impact throughout South Africa. The judgment was remarkable, too, for some severe strictures on Lord Milner's Government in the *obiter dicta* of the Chief Justice. Stating the law he was called upon to interpret, he observed:

> It is quite clear that the legislature contemplated the case of Asiatics settling in the country for the express purpose of trading, and if it was intended to confine the business operations of such settlers within the limits of locations, some definite provisions to that effect would surely have been inserted, for it was no small matter, but one of great importance to Europeans and Asiatics alike. If the Indian was to enter the country without restriction and to trade where he pleased, he would be a most formidable competitor to the white storekeeper, and if, on the other hand, his commercial dealings were to be restricted to the location in which he lived, situated out of the town proper and peopled only by men of his own race, then he might, for practical purposes, as well not trade at all. The law, while recognising his right to settle in the country for the purpose of trading, and while charging him a registration fee on arrival, would be insisting on conditions which make such trading impracticable and unprofitable. It would be given with the one hand and taking away with the other. [C.W.M.G. Vol.IV, p.190]

Differing strongly from the plea advanced by the Counsel for the defendant that the intention behind the Law 3 of 1885 was to put the Indians on a level with the Natives of Africa, the Chief Justice remarked:

> I do not think that the correspondence which passed between the Governments of Great Britain and the South African Republic can be allowed to affect or vary the clear wording of the Statute. Where the Legislature has definitely said one thing, it is not permissible on the strength of alleged evidence of intention, drawn from matters outside the Statute, to contend that it meant another....I have carefully read the documents to which it was agreed that the Court should refer, and I should like to say that, even if it were right to draw inference from these documents as to the true meaning of Law 3 of 1885, I should not be able to arrive at a different conclusion than the one to which a consideration of the wording of the Statute itself has led me. [Blue Book, Cd. 2239, p.47]

But the sharpest sting came in the tail. After giving his view on the meaning of the term "residence", he went on to observe:

> One thing, however, is clear from the despatches, and that is that the interpretation which the Transvaal authorities now seek to place upon the law is the one which the Government of the South African Republic always advocated, and which the British Government consistently opposed. Under the circumstances, *it does strike one as remarkable that without fresh legislation the officials of the Crown in the Transvaal should put forward a claim which the Government of the Crown in England has always contended was illegal under the Statute, and which in the past it has strenuously resisted.* [Cd. 2239, p.47: *Indian Opinion,* May 21, 1904. (Italics by the author)]

Characterising it as a "luminous and momentous judgment", the *Star* paid a glowing tribute to Sir James Rose-lnnes. By securing his services as Chief Justice of the Transvaal Lord Milner had ptaced at the head of the administration of justice in this Colony "a man whose presence would do honour to the judicature of any country".

The Transvaal Advertiser was alarmed by the Court's ordering the Government to pay the costs of the trial, "which will not be light, as the plaintiff had engaged four of the leading members of the Bar to plead his cause". Worse, as a result of the decision a race which could undersell and underlive its European competitors was now on an equality with them so far as business was concerned. To boycott them would be "one way of bringing most pointedly before them the fact that their room was preferable to their company". But were people "sufficiently public-spirited to forego purchasing alleged bargains" from them, the journal asked, or, could "the Kaffirs be made to understand this"?

Another and perhaps the most effective method, the journal suggested, was the refusal of granting leases to them. This, again, required "a strong national spirit to pervade in order to induce a man to turn away a tenant just to satisfy a principle". But it could be done "if the right men are amongst us". Failing these two courses, it lay with the Government to frame legislation on the lines "which it imagined was already on", and in the meantime to strictly enforce the immigration laws "to prevent the country from being flooded with a race of people who have nothing to recommend them, but everything to rouse antipathy to them". [*Indian Opinion,* May 28, 1904]

The Transvaal Leader thought that if a law were passed prohibiting the issue of new licences to Asiatics no argument against it could be raised. The country in that case could yet get its mines worked by the Indian coolie who is no

kin with the coolie traders, rather than by the Chinese. The right course to follow would therefore be: "exclude a further influx of this latter personage and India, as a potential labour source, would yet remain intact". [*Ibid*, June 4, 1904]

The Pretoria News thought that trade boycott by the whites might make the position of the Indian trader "more difficult if not entirely impossible", but there would still remain to the Asiatics the native trade of the Colony, which was increasing each year to an enormous extent "and *the European merchant—whatever theories he may have on the 'nigger' queslion—is as anxious to trade with him as with his white compatriots since their money is of the same colour and of the same value".* Expulsion of the Asiatic with compensation recommended by some members of the White League, on the other hand, raised another thorny issue: Who would foot the bill for the repatriation of the Indians after being fully compensated. "The money for such a scheme...would have to come from the mines and *the mines might, not unreasonably, demur at having to find cash for a scheme that would benefit them only very indirectly and would directly confer upon the European trading class enormous advantages at the expense of the community as a whole.* The European merchant cannot be permitted to be submerged by his Asiatic confrere; yet the Asiatic, claiming the privileges of a British subject, must have nothing less than British justice." [*Ibid,* June 4, 1904 (Italics by the author)]

The Western Transvaal Advertiser was afraid that nothing could be done till fresh legislation was introduced "to prevent hordes of Asiatics from entering our towns and establishing themselves there". It hoped that before long some steps would be taken. [*Ibid,* June 11, 1904]

The Krugersdorp Standard praised the British Court for its high standard of integrity but felt concerned at the result of the judgment. The one thing that all

the white classes in the Transvaal were absolutely unanimous about was the segregation of the Asiatic and there was "reason for believing that Government will at the earliest opportunity possible draft laws to coincide with the wishes of the community". [*Ibid*]

Following the Supreme Court's judgment in the Test Case, the Asiatic Traders Commission suspended further sittings. [*Indian Opinion,* June 25, 1904] The British Indian Association had implored the Government, when the test case was brought, to postpone the sittings of the Commission until after the case was decided. The Government's reply had been that the Commission having been appointed by the Legislative Council it could not interfere.

Now that the test case was decided against the Government, it suddenly found itself armed with the power to suspend the sittings of the Commission! It would be interesting, remarked Gandhiji, if a member were to ask the question at the next meeting of the Legislative Council how the Government justified its conduct [C.W.M.G. Vol.IV, p.196; *Indian Opinion,* May 21, 1904] and the incurring of the expenditure which could have been saved if it had accepted the British Indian Association's suggestion to suspend the sittings of the Commission when it was made.

To the Indian traders the Supreme Court's decision came as a *deus ex machina;* they heaved a sigh of relief. But for it more than 7S per cent of them would have been swept out of existence. [*Ibid,* p.474; *Indian Opinion,* September 3, 1904] Infuriated, the whites raised a cry for the holding of a National Convention "to combat the Asiatic menace".

7

The decision in the test case gave to the Indian community what it had been fighting for for 15 years. [C.W.M.G. Vol.IV, p.180] Its stand was completely

vindicated by the highest tribunal in the land. Every complaint that they had made regarding the operation of Law 3 of 1885 and the establishment of Locations had been proved to be fully justified. The Indians had never spoken so strongly, observed Gandhiji on May 16, 1904. Their complaint, so hotly repudiated by the Government, that the Locations were totally useless for trading purposes and that they were meant merely to starve the Indians out of the Colony, was now fully corroborated. [*Ibid,* p.190; *Indian Opinion,* May 21, 1904]

The learned judge might not have gone into the different phases of the question, he went on. He might have spared the feeling of the Government but he had no such compunction. He evidently felt that justice and truth demanded that he should speak plainly and set the seal of legal approval on the complaint that had been reiterated without intermission by the British Indian Association. "Probably he also felt that it was demanded of him as the Chief representative of the British nation in the legal department of the Transvaal that he should entirely dissociate himself from the incompatible position taken up by the Government." [*Ibid*]

Gandhiji congratulated the Indian community on the successful ending of the case. They had behaved in accordance with their traditions. They could have brought the test case soon after British occupation. They had been advised to do so by the best counsel of the day in the Transvaal. But they decided that they must try first to get justice from the Government instead of challenging it. They also felt that they should approach the Chambers of Commerce and other public bodies who had taken up a hostile attitude towards the Indian traders and try to convince them of the injustice that was being done to the Indians owing to the refusal to grant licences. To remove all legitimate fears of the white colonists they were prepared to make every reasonable compromise. They had, therefore, cut

down their demand to the barest minimum and only asked that all the existing licences should be left untouched, that their licences to trade outside locations should be renewed from time to time, and that other applications should be dealt with on merits. This was rejected. "It was after every means to arrive at a compromise was exhausted that the community embarked upon the test case." [C.W.M.G. Vol.IV, pp.183-85; *Indian Opinion,* May 14, 1904] The result could not well be otherwise.

The judgment was worthy of study both by the Transvaal Government and the Indians, observed Gandhiji. It showed *"how much there is to love in the British Constitution and in British rule in spite of temporary aberrations on the part of the local authorities".* [*Ibid,* p.190: *Indian Opinion,* May 21, 1904. (Italics by the author)]

> *In British Dominions, no matter how high prejudices may run, there is always a haven of safety in the highest courts of justice.* Tradition has made the British judges practically invulnerable against prejudice or sentiment, and the meanest subject can, if he has only sufficient means at his command, get un-adulterated justice if the law itself allows it. [*Ibid,* pp.183-85; *Indian Opinion,* May 14, 1904]

Unfortunately the Government, he added, was one thing and the Supreme Court totally another. The former was swayed and affected by all the pressures, prejudices and sentiments to which it was exposed. Lord Milner, in spite of his strong rule and stronger will, had succumbed to the anti-Indian agitation and failed to protect the weaker party. It was difficult to say, therefore, what the final outcome would be—the clear verdict of the Supreme Court in their favour notwithstanding.

His countrymen must not be "too much elated" by their success, Gandhiji told them. Opposition was bound to be raised against them throughout the

country and the Government might bring in a Bill to counteract the effect of the judgment of the Supreme Court. Faint whisperings of it were already beginning to be heard. They would have yet to work hard, and to exercise "patience and prudent restraint". [*Ibid*] The dark cloud that was forming was, however, not without its proverbial silver lining, he concluded. The Decision in the test case had made it impossible for the Government to shelter itself behind Law 3 of 1885 and tell Mr Lyttelton that the demand of the Colonists to enforce the old legislation could not be resisted. "We now know that the old legislation puts no restriction on Indian trade, and the burden is doubly on the Government to show that there is any cause whatsoever for any special restriction on Indian trade. [*Ibid*]

8

Gandhiji now set about in grim earnest to combat the new menace which threatened to rob the Indians of the full fruits of their victory. Summing up their position as defined in Law 3 of 1885 as amended in 1886 and interpreted in the light of the decision in the test case, in a letter to Sir Muncherjee Bhownaggree on May 23, 1904, he wrote:-

(1) An Indian could immigrate into the Colony without restrictions.

(2) He could trade anywhere he liked in the Colony. Locations could be set apart for him but the law could no longer force him to reside only in Locations, as there was no sanction provided in the law for it.

(3) He could not become a burgher.

(4) He could not own landed property except in Locations.

(5) He must pay a registration fee of £3 on entering the Colony. [C.W.M.G. Vol.IV, p.196; Gandhiji to M. M. Bhownaggree, May 23, 1904]

With the exception of the prohibition as to holding landed property, the position of the Indians under law 3 of 1885, as amended in 1886 and interpreted by the test case was thus not altogether precarious. Freedom to immigrate, however, had been almost absolutely taken away by making an unjust use of the Peace Preservation Ordinance wich was passed to restrict rebel and other disloyal people but not law-abiding British subjects. Gandhiji, therefore, suggested that, in view of the impending new legislation, to define the status of the Indians which was to replace the Bazaar Notice. Sir Muncherjee should seek an early opportunity to discuss the question with Mr Lyttelton. "For, after he has given his sanction to a particular course, it would be very difficult to get redress." [*Ibid,* p.197] The minimum they should press for was that (1) the Law 3 of 1885 should be entirely repealed as also town regulations regarding footpaths and other laws specially disqualifying Asiatics, (2) an Immigration Act on the Cape lines should be introduced but so as not to taboo, in the education test, the Indian languages, and (3) a Dealers' Licences Act should be introduced on the Natal lines, provided that the right of appeal to the Supreme Court be granted against decisions of the Local authorities on licensing applications, and provided further that the existing licences were not touched except in so far as the shops were found not to be in accordance with the sanitary or ornamental requirements. This would set at rest the bogey of immigration once and for all and there would be no question of undue competition in trade as the local authorities would be able to regulate the number of licences. All that the Indians asked for was that they should have the right, under the general laws of the Colony, and so long as they conformed to Western requirements, to trade and to hold landed property and to enjoy other rights of citizenship. Milner had committed himself to some such legislation and not to legislation disqualifying British Indians. He had also committed himself to the principle that British Indians of education or standing should be entirely

exempted from any restrictive legislation. [*Ibid*] He could not, therefore, very well object to the proposals that had been outlined to Sir Muncherjee.

Repeating his warning not to let their victory go to their head, Gandhiji strongly advised the representatives of the community to restrain the ardour of its members and make only a moderate use of the right of trading which they had obtained after strenuous struggle against enormous odds. "We know it is very difficult to carry out the precept Into practice. It is not always possible to say who shall apply for a licence and who shall not when everyone has the right, but it is just when there are difficulties of such a nature that the real stuff of which a community is made can be measured." [*Ibid,* p.191: *Indian Opinion,* May 21, 1904] If the people lost their head and began to apply for licence to trade "here, there and everywhere", a great deal of harm would result and their detractors "would not be slow to use such a state of things as a weapon for dealing further blows". [*Ibid*]

What made the warning all the more cogent was the reported remark of the Lieutenant Governor, Sir Arthur Lawley in reply to an Indian deputation, which had presented him with an address during his visit to Heidelberg on May 18, 1904, that the liberty of the Indians to trade unrestricted by virtue of the decision in the test case would not be tolerated and Mr Lyttelton had already been approached with a view to sanction action in the desired direction. [C.W.M.G. Vol.IV, p.197; *Indian Opinion,* May 28, 1904]

CHAPTER XIII : FROM PILLAR TO POST

1

The judgment of the Supreme Court of the Transvaal in the Test Case, *Habib Motan* vs *the Government,* gave a severe jolt to the Government of the Transvaal, in that it not only decided against the Government notice No.356 of 1903 but also condemned in unambiguous terms the action of the Government that tried to perpetuate in the name of the Crown a law which the Crown had already condemned. Yet Sir Arthur Lawley, the Lieutenant-Governor, was even more determined than Lord Milner to reverse the judgment with fresh legislation.

On May 18, 1904, a week after the judgment of the Supreme Court, Sir Arthur visited Heidelberg to receive an address presented by the Town Council. The Indian community also took the opportunity to present him an address. Messrs A. M. Bhayat, Anmod Suliman, V. Ragoon and Mahomed Amod were present on the platform representing the British Indians there. The address was tastefully illuminated and read for the British Indians by the Town clerk. [*Indian Opinion* May 28, 1904]

The address, among other things, brought to the notice of His Excellency the fact that the Stand on which the Heidelberg mosque had been built had not yet been registered in the name of the Mahomedan community. It also expressed the hope that "the Government would be pleased to let us enjoy the fruits of the decision of the Supreme Court regarding Indian licences under such sanitary regulations as may be considered necessary." [C.W.M.G. Vol.IV, p.189]

While appreciating the loyalty and devotion of the Indian community to the throne and their temperate and law-abiding nature, Sir Arthur said:

> We have...for some time past realised that sooner or later, some legislation will have to be introduced to take the place of that which now stands upon the Statute Book....Meanwhile, the law exists as it stands and will be interpreted as the Supreme Court has interpreted it rccently.... That same law contains provisions with regard to the tenure of land, which make it impossible for the Government at the present time to register property in your names....No doubt in the laws to be introduced, provision will be made to meet you in this respect, because, I think, however bitter the feelings may be on either side, we realise that in a question such as this, where religion is concerned, we must be generous and broad-minded.

The Lieutenant-Governor did not, however, forget to mention his difficulties in framing the laws as desired. He added, "We have been pressed on the one side to make those laws even more stringent than they are to-day, and on the other side to relax them to the fullest possible extent."

He paid an encomium to the Indians by saying that Indian soldiers had fought side by side with British soldiers on many a field of battle and that "they rival us in the fields of commerce and of art" and are "also our rivals in the field of philanthropy." [*Indian Opinion,* May 28, 1904]

Sir Arthur proceeded from Heidelberg to Volksrust, and at a luncheon given in his honour at the Grand Hotel by the Urban District Council, said, in reply to Mr F. J. Fisher, Chairman: "Only those who had seen for themselves realised that Indians were able to live here—they could not live in a colder climate, such as England—and to compete with white men and oust them from many fields of trade and commerce." [*Ibid*]

About the Supreme Court's decision, he said, "Everyone must realise that the present state of affairs with regard to Asiatics in the Colony is most

unsatisfactory." [*Ibid*] He could see that there was some apprehension in the minds of the whites that the trade of the country might pass out of their hands into those of Asiatics, "if an unrestricted influx of Asiatics was ever permitted." [*Ibid*] He therefore assured his fellow-countryment that he would use his endeavours to protect their interests.

On May 28, Gandhiji analysed Sir Arthur Lawley's speeches point by point. He found many good points in the speech, such as that the Government would act with strict justice and that they would protect vested interests and accurately define the position of those who were already settled in the Colony. But, said Gandhiji, "unfortunately...the past does not inspire hope for the future." When His Excellency said that the vested interests of British Indians would be protected only during their life-time, it meant that no traders would give them any credit, resulting thereby in the automatic closure of their business.

The most damaging statement in the Lieutenant-Governor's speech, Gandhiji felt, was that Indians were able to oust Europeans from many fields of trade and commerce. " Is there any department of trade or commerce in which the Asiatic has ousted the white man?" asked Gandhiji.

Most of the Indians, he said, were hawkers who brought to the very door of the householder vegetables and other things and enabled the wholesale European merchants to make easy profits out of the Indians. If they suspended credit to the Indian, it would be thoroughly impossible for the Indian in South Africa to trade as a hawker. No Europeans except Syrian and Russian Jews were found as hawkers in South Africa.

Pointing out the difficulties of the Indian traders, despite the decision of the Supreme Court, Gandhiji wrote: "The speech made by His Excellency just

shows how much work there is yet to be done before the Indians in the Transvaal will be in a position to retain any hold of the trade which ought to be theirs as a matter of right by reason of the decision in the test case." [*Ibid:* C.W.M.G. Vol.IV, p.199]

Surmising from the speeches of Sir Arthur that the Colonial Secretary had already been approached with a view to sanctioning legislation in the direction the Transvaal authorities desired. Gandhiji wrote to Sir Mancherjee Bhownaggree on May 23, explaining the decision of the Supreme Court. Saying that nothing was known about the nature of the proposed legislation, he wrote:

> What I venture to suggest is that the Law 3 of 1885 should be entirely repealed, as also the town regulations, regarding foot-paths and other laws specially disqualifying Asiatics; that an Immigration Act on the Cape lines should be introduced, but so as not to taboo, in the educational test, the Indian languages, and (that) a Dealers' Licences Act should be introduced on the Natal lines, provided that the right of appeal to the Supreme Court be granted against decisions of the local authorities on licensing applications and provided that the existing licences are not touched by it, except in so far as the shops may not be in accordance with sanitary or ornamental requirements. [C.W.M.G. Vol.IV, p.197]

If this suggestion was accepted, Gandhiji thought, the great bogey of immigration would be set at rest once and for all and there would be no question of undue competition in trade. The local authorities would also be able to regulate the number of licences.

Gandhiji reminded Sir Mancherjee that Lord Milner had committed himself to some such legislation and not legislation specially disqualifying British Indians, and also that British Indians of education or standing should be entirely exempted

from any restrictive legislation, [*Ibid*] without realizing that Lord Milner had already backed out of his commitment to Lord Curzon in this respect. [NAI, Department of Revenue of Agriculture, November, 1904: A-Progs. Nos. 17-19. Notes by Lord Curzon dated May 23, 1904. Lord Curzon has minuted as follows: "On 2nd January 1904, the Government of India sent a telegram to the Secretary of State, in which they stated the conditions under which they would be prepared to send 20,000 Indian coolies to work on the railways of the Transvaal. These conditions had been suggested by Lord Milner and the Secretary of State; and their concession had been as good as promised by the former...The four conditions for which we asked (and which had, in fact, already been promised) in our telegram of 2nd January were:

(1) that Indian languages should be included in the literary tests;

(2) that only those Indians should be compelled to reside in locations whose residence it is desirable to restrict on sanitary grounds;

(3) that licences should be given to all Indian traders who had established businesses with or without licences under the former Government;

(4) that all superior and respectable Indians should be exempted from the vexatious regulations now in vogue.

Lord Milner has now felt himself, as I read the Despatch, forced to recede from each of these conditions, though originally proposed by himself." See also Chapter VIII, Section 11]

On the Home Government's efforts to effect a change in the existing legislation, Gandhiji wrote on June 11:

> We can quite understand why, now that its policy and interpretation of Law 3 of 1885 have been judicially condemned, it has become serious about the matter. Mr Lyttelton has shown himself to be strong-willed in more matters than one....Will he hold his own with regard to the Indian legislation in the Transvaal.... The Imperial Government is, moreover, tied down to a policy favourable to the British Indians...There is in all this much to guide Mr Lyttelton aright. He is bound as an Imperialist to protect Indian interests. He is further bound by the promises made to the British Indians by his predecessors, and we can only hope that any new legislation that is

framed to replace Law 3 of 1885 will be in consonance with the Imperial spirit and the promises. [*Indian Opinion,* June 11, 1904; C.W.M.G. Vol.IV, pp.209-10]

Sir Mancherjee, on receiving Gandhiji's letter, forwarded it to the Colonial Secretary on June 21 with his personal comment:

> Being assured of your sympathy in my efforts to safeguard the interests of our fellow-subjects of India, I have cherished the conviction that you have heen doing all that lies in your great power to do them justice and that you have impressed on the local authorities the desirability of acting
>
> towards them with some consideration. You can therefore understand that I have learned with no little alarm the report that now reaches me that the Transvaal authorities have been asking you actually to let them legislate even in fresh restriction of the few rights of which they remain in legal possession. [*India,* June 24, 1904]

Sir Mancherjee requested Lyttelton to receive a deputation on an early date for the purpose of discussing the matter with him, and on June 23, tabled the following question in the House of Commons:

> To ask the Secretary of State for the Colonies whether he is aware that Sir Arthur Lawley stated, in reply to an address presented him at Heidelberg by a deputation of British Indian residents on May 18 last, that the liberty of licensed traders to carry on business outside locations, declared by the Supreme Court in the Test Case of *Habib Moran* vs. the *Transvaal Government* to be legal, will not be tolerated and that the Secretary of State for the Colonies had already been approached with a view to sanctioning legislation to annul the decision; and if so, whether in case he

is so approached, he will refuse to countenance any such legislation in view of the pledges given by Lord Milner that existing rights will not be interfered with. [*Ibid;* C.W.M.G. Vol.IV. p.217, According to C.W.M.G. the question was drafted and forwarded by Gandhiji to Mancherjee]

Mr Lyttelton replied:

I have seen a newspaper report of Sir Arthur Lawley's reply to the address presented to him at Heidelberg, in which he referred to the question of the introduction of legislation with regard to Asiatic residents in the Transvaal. Such legislation will, of course, be subject to the approval of the Secretary of State, and in dealing with the question I shall have specially in mind the safeguarding of the interests of British Indians now settled in the Transvaal. I am in communication with Lord Milner on the subject.

Mr Gibson Bowles asked, whether Mr Lyttelton had ascertained or would ascertain whether Sir Arthur Lawley did made such an outrageous declaration.

Mr Lyttelton observed that it was only a newspaper report.

Mr Gibson Bowles: Will the Right Honourable gentleman endeavour to verify or contradict the newspaper report?

Mr Lyttelton: Yes. [*India,* July 1, 1904]

The difference of opinion between Milner and Lyttelton over the Asiatic question was clear in the despatches. What Lyttelton wanted Milner to realise was evident, when he wrote the following:

His Majesty's Government cannot believe that the British community in the Transvaal appreciate the true nature of the proposition which some of its members are pressing upon you. They, as Britons, are as jealous of the honour of the British name as ourselves, and even if a material sacrifice

were necessary to vindicate that honour, I feel assured they would cheerfully make it.

The words, "some" and "Britons" are here significant. Milner was caught in the trap of the mine-owners, but if the issues were properly explained to the British community, thought Lyttelton, they would never deviate from the path of decency and logic. The same logic was the main weapon in Gandhiji's armoury as well. He had full faith in British integrity and sense· of decency. Unfortunately, Milner as head of a British Crown Colony could not maintain the same standard; he rather allowed himself to be led away by the interests of a few, who counted very little in the history of the British nation.

As the time for his departure approached, Lord Milner got bogged into the mire of racialism more and more. Every opportunity he carefully utilised to ventilate his opposition to Indian immigration. In the Inter-Colonial Council that sat at Pretoria, he remarked that the Permit Office had been their "only means of defence against the immigration of floods of undesirables." He added that if they were to give up that weapon before they had a permanent law of a satisfactory character, he did not know what the lives of any of them would be worth. [C.W.M.G. Vol.IV, p.214]

It had time and again been admitted by the highest authority in the Transvaal that the Peace Preservation Ordinance, which produced the Permit Offices, was used for purposes for which it was never intended. Lord Milner, however, seemed to have been satisfied with such a weapon. Commenting on his remarks, Gandhiji wrote,

If such remarks had proceeded from a demagogue, we would have understood them, but coming as they do from the head of the state, and

one, moreover, who is believed to be one of the foremost statesmen in the British Empire and an out-and-out Imperialist, they fill one with pain and dismay. In the first instance, to talk of floods of undesirables is an exaggeration unworthy of His Lordship, and in the second place, to state that in the absence of the weapon, the lives of the people in the Colony would not be worth anything, is to make a confession of utter weakness. And, after all, is the country so much over-populated? [*Ibid,* p.215; *Indian Opinion,* June 16, 1904]

2

Sir MancherJee Bhownagree's great letter to Lyttelton of December 21, 1903, transmitted by the Colonial Secretary to Milner for reply, received its response in a letter of Lt. Governor Sir Arthur Lawley on April 13, 1904, transmitted five days later to London with a covering letter by Milner. The exchange was of sufficient importance to be published as a Parliamentary Blue Book. Though the correspondence occurred before the Test Case decision, it was not made public until August.

Lawley took the occasion to ask the Colonial Secretary to endorse Legislation embodying the principles of the Bazaar Notice, having been advised by the Attorney General that in his opinion the government was about to lose in the Test Case then pending, "and that it will be impossible for the Government to carry into effect the restrictions upon Asiatics in regard to trade and residence which they deem necessary". [Lt. Gov. to Gov., April 13, 1904, in Cd. 2239, *Correspondence relating to the position of British Indians in the Transvaal,* 1904. p.28] The recent plague in Johannesburg added urgency to the matter, as white residents were now still more insistent that the Indians should be located in Bazaars outside the towns. Therefore he called for legislation moving all Indians to Bazaars except those who had

established businesses before the war, and those with a European mode of living, who would be allowed to live outside the Bazaar area.

Sir Arthur devoted the remainder of his letter to answering Sir Mancherjee, acknowledging that his letter had fully set forth the Indian position, and endeavouring in reply to explain the sentiment of the white population, saying "I do not seek to justify the prejudices that exist; I merely desire to set them forth. They cannot be ignored. They have got to be reckoned with....I do not urge that these sentiments are reasonable." [Cd. 2239, p.30] But having attempted to distance himself from these "prejudices," he did not attempt to disprove them.

Lawley dealt boldly with Sir Mancherjee's catalogue of British promises of equal treatment for the Indians, by arguing that "Sir M. Bhownaggree's argument is almost entirely historical," [*Ibid*] acknowledging the promises were made, but maintaining that they were made in ignorance. "I do not think that the consequences...were realised at that time," he declared. [*Ibid,* p.31] For an example of their evil consequences, he pointed to the little town of Pietersburg where many small white traders, he claimed, "have now been crushed out of existence", and to Natal where "the moment one crosses the Transvaal border he loses the impression that he is travelling in a European country at all." The Asiatic competition, he argued, was destroying the economic basis for an increase in the white population.

Lawley further contravened Sir Mancherjee's complaint about Milner's description of the Indians as "Asiatics of a low type". He did this in two ways. First he cited a pair of letters by Johannesburg Indians in which the writers, identifying themselves as Tamils from Madras, blame the outbreak of plague on "the Bombay Bunnias" who are alleged to be "the most filthiest classes imaginable". [*Ibid,* p.36] Next he defended Dr Porter's report against the criticism of Dr Marais by

pointing out that the latter, who refused to believe in the plague danger, died of it along with his wife and three of his four children.

As to the petition of Mr Hosken and the other Europeans, Lawley argued that while the big Johannesburg firms are unaffected by the presence of Indian traders, the "European trader in the smaller towns" was greatly threatened.

Having set forth the Anti-Asiatics' case, and responded to Bhownaggree's evidence. Lawley raised the issue to the level of a major question of policy. "In my opinion we are face to face with a most difficult problem of modern civilisation," he opined, South Africa, he said, "is one of the countries inhabitable alike by Europeans and Asiatics, and it is difficult to conceive any question at the present moment more momentous than the struggle between East and West for the inheritance of these semi-vacant territories. Promises have been made without knowledge of perception of the consequences involved in their fulfilment." [*Ibid,* p.33]

It is strange indeed that South Africa with its huge black population should be considered "semi-vacant", and that a handful of Indian traders should be confused with the thousands of indentured labourers in Natal and seen as a threat to Western civilization, but on the strength of these beliefs, Sir Arthur Lawley gave his full suppon to what he had called the "prejudices" of white settlers, and in a famous phrase undertook to undercut the idea of the equality of all British subjects:

> If the redemptipn of the pledge upon which Sir M. Bhownaggree depends both in letter and spirit means that in fifty or a hundred years this country will have fallen to the inheritance of the Eastern instead of Western populations, then from the point of view of civilization they must be

numbered among promises which it is a greater crime to keep than to break. [*Ibid*]

Lord Milner, in his letter endorsing and transmitting Sir Arthur's, took a strangely apologetic tone, implicitly acknowledging the power of Sir Mancherjee's case. In the opening paragraph he spoke of the Transvaal's government's "embarrassment" in dealing with the Asiatic question; the second stressed the "caution" with which it must be handled; the third began, "I must frankly confess that I am greatly disappointed with the position in which I find myself placed in this matter." Even in his conclusion, he defended weakly the proposed legislation as "the best we can arrive at" in the circumstances. He explained that he had now retreated from some of his previous positions. The status of "civilised" Asiatics in the proposed bill was to be "very far from being on the same level as Europeans." [*Ibid,* p.26] And now he also announced his abandonment of allowing literacy in the Indian languages as a qualification for immigration. His reason for these changes was the pressure of white prejudice, and his unwillingness to use the official majority in the Legislative Council to override the views of the non-official members. At the conclusion of his letter he referred to the Government of India and its insistence on modifying South Africa's racial policies, but once more made a plea for the immigration of coolies nonetheless. "This, however, is only the expression of my personal views. I do not suppose the Government of India is likely to share them," he concluded. [*Ibid,* p.28]

The Colonial Office yielded once more. Lyttelton accepted English literacy as an immigration requirement, denying the acceptability of non-European languages, although asserting that the rights of Indians already resident in the Transvaal, as interpreted in accordance with the Test Case decision, should not be abridged. [Cd. 2239, Telegram to Gov. July 8, 1904, p.27 and letter Gov. p.44]

When the correspondence was published as a Blue Book in August, Gandhiji found the despatch of the Colonial Secretary "both pleasant and distressing", pleasant in its strong statements ''on behalf of the Indians, and on behalf of the Imperial policy and promises made by British statesmen and ministers" [C.W.M.G. Vol.IV, p.243; *Indian Opinion,* August 27, 1904] but distressing in its final proposals which protected only existing trading licences while leaving intact the pernicious principles of compulsory segregation and Colour legislation. "But all this later," he concluded, "because even what little the Colonial Secretary requires, the Transvaal Government is not prepared to grant." [C.W.M.G. Vol. IV, p.243] It was toward that Government that Gandhiji directed his sharpest criticisim. A petition was drawn up and sent to the Transvaal Colonial Secretary, Mr Duncan, refuting Lawley's statements concerning the plague, the domination of retail trade in Pietersburg by Indians, and the suggestion that the Transvaal would soon look like Natal in the numbers of Indians in the population. Turning to the question of Legislation, Gandhiji, accepting the English literacy restriction on immigration, pointed out that this would assure that few Indians could enter the Transvaal in the future, and he called for the fullest possible "civil liberty, as distinguished from the political", including the right of appeal to the Courts on trading licence refusals and the right to own fixed property. [C.W.M.G. Vol.IV, p.251, Memorial to the Colonial Secretary, *Indian Opinion,* September 3, 1904]

3

The decision of the Supreme Court in the Test Case also gave birth to a series of agitations by the white community in different towns in the Transvaal, not without the connivance of the Government, to get laws enacted to curb even the existing rights of the Indians. These agitations were resorted to with a view to show that there was sufficient public backing for such legislation, as otherwise

it was not possible to have any measure approved by His Majesty's Government before getting it passed by the Legislative Council.

Soon after the Test Case, on May 13, the East Rand Vigilants Association met and discussed the position resulting from the decision of the Court. In a resolution passed unanimously, it said that the European population had been placed "in a position of great danger by giving Asiatics equal trading rights with Europeans" and the Government should therefore "formulate a new and comprehensive ordinance with all possible despatch", "to provide that no Asiatic trading or residence of any kind be allowed in the Transvaal save in the bazaars set aside for the exclusive use of Asiatics." It further said that "in the case of Asiatics legally trading in towns under licences granted by the late Boer Government, fair compensation be paid and the Asiatics removed." Lastly it affirmed that "in view of the susceptibility of Asiatics to plague and the impossibility of Europeans competing in trade with Asiatics on equal terms, no less stringent measure will prove satisfactory to the white inhabitants of the Transvaal." [*Indian Opinion,* May 28, 1904]

The resolution was sent to the Colonial Office. Mr Moor, the Assistant Colonial Secretary, replied to the Association saying that the Government was seriously considering a change in the existing legislation, namely, Law 3 of 1885 as amended in 1886.

On May 27, the people of Volksrust, meeting at Abnerthy Hall, demanded "a referendum to the people giving them the opportunity to assert their opposition to the introduction and settlement of the Indian trade in their country" and called upon the white community in Volksrust not to either directly or indirectly encourage Indian trade. Mr Fisher, Chairman of the Volksrust Urban Board, suggested that "pending legislation, by hook or by crook, they must tide

over the next few months." Gandhiji wrote on 4th June that these remarks were unworthy of the gentleman occupying the responsible position that Mr Fisher does", and that the white community of Volksrust seemed to "have absolutely no confidence in their ability to carry out the programme, for in the same breath as they propose a wholesale boycott, they also call upon the Government to introduce legislation" depriving the Indians of their right. [C.W.M.G. Vol.IV, p.208]

At a Mayoral banquet given in Pretoria in June 1904, Mr R. K. Loveday demanded that the conditions which existed with regard to the Indians in pre-war days "should remain unchanged, inviolable and sacred" until the advent of responsible Government. According to Loveday "that was the cry of the whole people, and it was a cry of self-preservation." Whatever representations might come from India, there could be only one reply. There was no room in South Africa for any more black people. [*Ibid,* p.207]

In Boksburg, where anti-Indian feeling ran high, the Chamber of Commerce towards the end of July addressed a manifesto to all Chambers of Commerce in the Colony with a view to taking some united action. The manifesto, among other things, said that "injustice and danger are being inflicted on the white community by allowing unrestricted Asiatic trade to obtain a footing in the colony" and bluntly asked the Legislative Council "to suspend the issue of licences to Asiatics, pending the bringing into force of a permanent law governing Asiatics. It even went to the extent of threatening the Imperial Government with a demand for responsible government, if they were not granted what they wanted. [*Ibid,* p.226; *Indian Opinion,* July 23, 1904]

At a public meeting, the residents of Boksburg further adopted a resolution pledging themselves to use "every possible means to prevent any Asiatic storekeeper from trading or residing in Boksburg Municipality outside the

locations" and urging upon the Government to enact a new law absolutely prohibiting Asiatic trading. [*Ibid,* p.227]

Speaking at the meeting. the Mayor of Boksburg said that the Government was not indifferent to their problems but felt powerless to prevent licences being granted to Asiatics with the law as it stood then. They were however, trying all they could to get permission to legislate immediately that no further licences be issued. The Government was quite in sympathy with the white population, and as proof of that, he had been asked to send copies of the resolutions adopted at the meeting to be sent to the Government for being passed on to the home authorities, as it was felt that the resolutions would strengthen the hands of the Government in obtaining speedy relief. He also revealed that Mr Duncan, the Colonial Secretary, was working hand in glove with them and had told him that cables dealing with the question had already been sent Home. [C.W.M.G. Vol.IV, pp.228-9] whereupon Gandhiji observed,

> We cannot give stronger or better proof...that the whole of this agitation is being engineered, and to find that the Colonial Secretary, as representing the Government, should take up a partial attitude and stand behind the agitation asking for strength and so on, is a humiliating spectacle.... As it is, they (Indians) have absolutely no notion of what is going on behind the curtain. The Mayor has only allowed us a peep behind but that peep is enough to stagger us and to make us despondent. When all these reports of the meeting are telegraphed to Mr Lyttelton, there will be no one to tell him that these meetings have been practically called forth by the Government, have been encouraged by it and that the policy of the Government is the policy of the meeting. *Fiat justitia ruat Caolum* has been proclaimed from thousands of British platforms. The saying will now have

to be revised in the Transvaal in order that it may fit with the new order of things which has been established. [*Ibid; Indian Opinion,* July 30, 1904. The Latin phrase means "Let justice be done, though the heavens fall."]

The next to follow suit were the people of Pietersburg. In addition to passing a resolution, they also formed the Transvaal White League with the following objectives:

(1) to make a united stand against the influx of Asiatics;

(2) to promote legislation to regulate the control, the issue and renewal of licences to Asiatic traders and to force them to vacate the towns and country districts and to reside and trade in Bazaars specially set aside for them;

(3) to lay the views of the white population before the Colonial and Imperial Governments by means of petitions;

(4) to invite the cooperation of all the white inhabitants and kindred associations of the colony to effect the above objects; and

(5) to arrange at a future date for a congress at Pretoria of delegates from all parts of the country to lay their views before the Government and if necessary to choose delegates at that Congress to proceed to England to represent their views and desires to the Home Government. [*Indian Opinion,* October 1, 1904]

Following this, a new type of persecution raised its head. The Indian Location at Pietersburg was suddenly converted into a Native Location. Since none but the Natives could reside in a Native Location, Indians were summarily evicted without being given any compensation.

The inhabitants of Potchefstroom did not lag behind those of Pietersburg in giving expression to their resentment of the Indians. At a meeting held at the Lyric Theatre, with Mr F. G. Edgell in the chair, they resolved:

> to urge upon the Imperial Government the necessity of authorising the Transvaal Legislative Council to suspend the issue of any further licences to Asiatics pending the bringing into force of a permanent law governing
>
> the Asiatics, and further to impress upon the Imperial Government... ...that unless the desired legislation is introduced and immediately enforced, the sacrifices which have been made by the European races in the past to make South Africa a country in which the white man can permanently settle, will have been futile. [*Ibid,* August 6, 1904]

They further demanded the introduction of measures immediately stopping the further influx of Asiatics into the country. The Town Council went ahead to "order all Asiatics in the town to retire and reside at night in the Indian location. It decided to give a month's notice to Asiatic traders by way of advertisement in the local newspapers, to conform to the Council's direction, and if necessary, to enrol fifty special white police and ask the Resident Magistrate to assist in carrying out this operation. [*Ibid,* September 10, 1904; C.W.M.G. Vol.IV, p.260]

To harass the Indians still further, even intimidation seems to have been resorted to. A fire took place in an Indian store in Potchefstroom and it was believed to be the work of an incendiary. Captain Johns of the town police, who investigated into the matter, said he was convinced that the attempt was made by some malicious person from without and asked the Chamber of Commerce to employ its own watchmen, in addition to a few policemen he could provide, to prevent the recurrence of any such vandalism. He, however, received a reply that

it was not considered that any danger to white merchants' stores existed. [C.W.M.G. Vol.IV, p.269; *Indian Opinion,* October 1, 1904]

4

The Indians were careful not to give any room for complaints. When the Town Council proposed to regulate the shopping hours, the Indian community at Potschefstroom decided to close their shops at the same hour as the Europeans. Hoping that the Indians in Pietersburg would follow the lead, Gandhiji wrote, "It will be a graceful and timely action on their part and perhaps it will go a long way to show the would-be members of the proposed White League that, so far as possible, they (Indians) are anxious to conciliate their (Europeans) sentiments." [C.W.M.G. Vol.IV, p.263; *Indian Opinion,* September 17, 1904]

In spite of all these conciliatory gestures, there seemed to be no limit to the ill-will of the Transvaal authorities towards the Indians and even the plague was taken as an excuse to beat or taunt them at the slightest opportunity. Thus, when an Indian football team from Kimberley (Cape Colony) wanted to visit Johannesburg, and asked for permission, the acting Chief Secretary, Mr G. Robinson wrote in reply that since the outbreak of the plague in the Transvaal, the issue of permits to Asiatics had been almost entirely suspended. He added "you will understand that in these circumstances, when men whose home and business is in the country are not allowed to return, it is impossible to grant permits for men to come here for the purpose of playing football." This was nothing short of being ridiculous. *Indian Opinion* commented, "perhaps in the transvaal, people are living in the Middle Ages." [C.W.M.G Vol.IV, p.260; *Indian Opinion,* September 10, 1904]

Although the judgment of the Supreme Court had enhanced the status of the Indians, the row it had created drowned the pitiable cries of those who had

been deprived of their residences in the Johannesburg Location on account of plague and had been shifted to Klipspruit Camp. They were still without suitable residences, and some of them living under canvas in Klipspruit had to be satisfied with enforced idleness. The Johannesburg Town Council, which had expropriated the land of the Insanitary Area, now little thought of these poor Indians. It was instead thinking of how to harass the Indian community. It now gave notice for introducing a Private Bill in the Legislative Council, whereby it would ask for authority for the Council to establish Locations for Natives and coloured persons and Bazaars for Asiatics beyond the limits of the Municipality, to render any such location or bazaar subject to bye-laws made by the Council and to erect buildings for the occupation of Natives, Asiatics or coloured persons in any Location or Bazaar. It appeared to have conveniently forgotten that it was bound to provide for the men dispossessed from the expropriated Area accommodation in the neighbourhood thereof. "If the intention of the Town Council is carried out," warned Gandhiji, "the Indians will be placed on the same level with the Natives and will be totally at the mercy of the Town Council. They would be merely tenants-at-will and be subject to constant removal. There would be an end then to any ownership of land in the Locations. Such a state of things is too dreadful to contemplate." [C.W.M.G. Vol.IV, p.209; *Indian Opinion,* June 11, 1904]

On July 1, a draft ordinance to regulate brick-making, lime-burning and quarrying on proclaimed land was gazetted, authorising "any white male inhabitant of the colony over the age of 18" to take out a licence for the purpose at the office of any District Registrar. As the economic depression continued, the Legislative Council responded only to the need of the white working class, protecting their jobs by excluding Indians and the Natives. [C.W.M.G. Vol.IV, p.224; *Indian Opinion,* July 9, 1904]

5

Amongst the members of the Legislative Council, Mr E. F. Bourke from Pretoria of late had become very much anti-Indian and seldom let any opportunity pass without making some caustic remarks. During a motion in the Legislative Council on July 5th 1904, he called upon the Government to pass legislation restricting the liberty of the Indians and uttered the usual platitudes dangling before the members the prospect of utter ruin for the petty white trader, in case such a legislation was not passed. However, there was also some silver lining in the clouded atmosphere of the Council as Mr William Hosken, another member, showed from figures that Natal owed its prosperity to the presence of Indians. Dr Turner conclusively proved that the authorities alone were to blame for the so-called insanitary habits attributed to Indians, while Duncan, the Colonial Secretary showed that Indians had been allowed to enter the Transvaal most sparingly. He, however, promised the House to bring the whole matter before the Colonial Office, agreeing also to bring legislation, during the current session, more or less on the lines expressed in Mr Bourke's speech and motion. He was at the same time cautious enough to admit that the British Government were tied down by promises made to Indians before the war. [C.W.M.G. Vol. IV, p.223; *Indian Opinion,* July 9, 1904]

On September 5, Gandhiji wrote to Dadabhai Naoroji forwarding a copy of a representation made by the British Indian Association. He said:

> You will there see all the most reasonable objections of the colonists met. Even the point as to the educational test has been yielded but the right of review by the Supreme Court on the question of licences and the ownership of land are absolutely essentiai...Any Licensing Act should leave untouched the existing licences and the right to trade freely to those who

were trading before the war whether with or without licences...As to new licences, the Government or the municipal authorities may have full discretion subject to the right of review...If the proposals of the Association are accepted, the appointment of a Commission would appear to be quite unnecessary. [C W.M.G. Vol.IV, p.256]

Copies of these letters were sent to Sir Mancherjee and Sir W. Wedderburn. Gandhiji mentioned in the postscript Sir Arthur's and Mr Duncan's departure to London a week earlier, and suggested that a mixed deputation should wait on them and discuss the question. "'It might influence them very greatly and in any case it will show them that influential men holding different shades of opinion are absolutely unanimous in connection with this question'' he had said. [*Ibid,* p.257]

The commission, which Gandhiji's letter mentioned, had been suggested by Sir Mancherjee to enquire into the grievances of the Indians in the Transvaal. The *East Rand Express* opposed the suggestion saying, "the white Transvaalers have already made up their minds as to the only Asiatic legislation which will suit this country, and it is hypocrisy to pretend that any compromise is possible. At the first sitting of the representative council to come into power next year, all pro-Asiatic legislation will be swept away. The minimum which can be accepted as permanent is the placing in bazaars of all Asiatics for both residence and trade and the absolute prohibition of the introduction of new Asiatics save as unskilled indentured labour. The question is not one for decision by outsiders, and the inhabitants are determined that on all internal affairs their voice shall be law. Whatever it may be, the findings of the Commission cannot be binding on the people of this country." [*Indian Opinion,* September 17, 1904]

On September 26, Gandhiji wrote to Dadabhai. "The Government has written saying that it does not propose to introduce legislation along the lines laid down in the latest representation submitted by the British Indian Association. This shows that the Government is not going to be satisfied with merely accomplishing its object, namely, to restrict future Indian immigration and to regulate the issue of licences to new applicants. It evidently intends to establish the principle of legislation applicable to British Indians as such. If so, it is a most dangerous doctrine and it will be a reversal of Mr Chamberlain's policy. If differential legislation is sanctioned for the Transvaal, the Cape and Natal will certainly follow suit." [C.W.M.G. Vol.IV, p.267]

The agitation of the whites, with the tacit support of the Government of the Transvaal, was carried further by the calling of a national convention to show to the Home Government the intensity of feeling of the community on this question and the possible outcome, if its demands were not acceded to.

The idea of this convention was first mooted in Pietersburg, following the collection of signatures for a mammoth petition, which had begun in the District of Potchefstroom. Later on, the East Rand Vigilants Association made a definite proposition to Mr Loveday and Mr Bourke that they should call a convention from all parts of the country to meet in Pretoria and deal with the Asiatic question. The Association had felt that no action of an individual District, however united and vigorous, was sufficient to meet so wide-spread a difficulty. They therefore stressed the necessity for joint action on the part of the whole country, if any permanent result was to be achieved. [Enclosure to Milner's Despatch No.913, dated October 24, 1904 to Lyttelton (Judicial & Public Department Records No.611 dated March 24, 1905); also *Indian Opinion,* November 19, 1904] Thereupon Mr Loveday and Mr Bourke, after consulting others, issued a circular letter to the various districts, associations and public

bodies, requesting them to intimate their views on the idea of holding the convention. [*Ibid*] The replies they received being heartening, the convention was fixed to be held on November 10th.

When the news of the proposed convention was announced, both the Chamber of Commerce and the Chamber of Trade of Johannesburg, who represented the larger wholesale houses, declined to associate themselves with a convention whose object was to confiscate the property of inoffensive people. They also fell that the draft resolutions received were too drastic to be acceptable to the British community in that they contemplated forcible removal of British Indian traders to Bazaars without compensation and took no notice of vested interests. [C.W.M.G. Vol.IV, p.291] Even the Potchefstroom Vigilance Association, which was violently hostile to the Indians, found the resolutions too strong.

The first draft of the resolutions was therefore recast in the light of the objections received from Johannesburg. The modified resolutions were then approved of and the representative associations in Johannesburg decided to send their delegates. The resolutions now embodied the principle of compensation.

On this Gandhiji wrote:

> It is a relief to recognise amid the heap of blind, unreasoning prejudice sober views and sentiments expressed by representative bodies. A little more patience, a little more time, and perfect equanimity on the part of the British Indians will, we doubt not, do the rest. Unwearied reiteration is, as the late Professor Max Muller used to say, the only remedy for driving a new truth home, and for enabling people to remove preconceived notions. Our duty is therefore plain. We should continue, in season and out of

season, to show that the case for the Indians is invulnerable and that the Indian has never asked for anything that could not reasonably he granted, consistently with the interests of the white traders and white predominance. [C.W.M.G. Vol.IV, p.292; *Indian Opinion,* November 5, 1904]

The convention was held in Johannesburg on November 10, 1904 with Mr Loveday in the chair. About 160 delegates representing commerce, mining. agriculture and labour interests attended.

Opening the convention, Mr Bourke said that as far as the Asiatic races were concerned, he acknowledged their many good qualities and speaking for himself, he would welcome them in many ways as assistants, helpers and workers. He however opposed their entry into the Colony on "public grounds", because he was afraid that they would gradually usurp the place of the Europeans and eventually to a very great extent dispossess the whites of all classes. Answering the point that an ami-Asiatic stance would affect Imperial interests, he said that there was no safety in an Imperial policy which allowed one state or community to interfere in the internal affairs of another state of the empire. An Imperial parliament could not allow the imposition of disabilities upon any one state for the benefit of any other. In the Transvaal, the coloured races were subject to very serious disabilities and it must be so from their circumstances and condition, and he could not see how any objection could be made to it by His Majesty's coloured subjects who belonged to other countries. [Enclosure to Milner's Despatch No.913, dated October 24, 1904, *op cit*]

In his address, the Chairman, Mr Loveday refuted the contention of the Under-Secretary of State for India that every square yard of the Empire should be open to the Empire's Indian subjects and said, "We know that Australia and New Zealand have legislated so effectively that neither of these countries is open

to the Indian and that legislation after many protests was accepted by the Imperial Government". [*Ibid*] He mentioned that "We have the sympathetic support of our Government" and thanked both Lord Milner and Sir Arthur Lawley for the clear and masterly manner in which they had presented the Transvaal case to the Home Government and recommended a short resolution for adoption by the convention, embodying its appreciation of these two gentlemen.

Louis Botha, Chairman of the recently formed Boer Congress, sent a message expressing his gratification that the movement in connection with the Asiatic question had taken up a “manly position" and assured the convention of the sympathy of his organisation. [*Ibid*]

At the end, the convention unanimously passed a resolution, which *inter alia,* stated that

(1) Asiatic immigration should be prohibited except under the provisions of the Labour Immigration Ordinance;

(2) Asiatic traders should be removed to Bazaars, compensation being provided for such as may have vested interests, which have been legally acquired;

(3) All Asiatics should be required to reside in Bazaars or locations appointed or to be appointed by the Government;

(4) the Government should take immediate steps to pass the necessary legal enactments to prevent any further issue of trading licences to Asiatics; and

(5) early legislation should be introduced with a view to prohibiting any class of Asiatics being employed at skilled trades.

The convention further decided to invite all public bodies in the Orange River Colony, Cape Colony, Natal and Rhodesia to cooperate and bring pressure upon their respective Governments to secure unanimous legislation in the matter. It also decided to form an association to deal with the Asiatic question and elect a central committee to take such measures as may be necessary to give effect to the resolution. Finally, it urged upon the Government to include, apart from officials, men with a thorough knowledge of the conditions of South Africa, whenever any commission was proposed to be appointed to deal with the Asiatic question. [*Indian Opinion,* November 19, 1904]

The “National Convention" represented only a small but vocal portion of the Transvaal public, the small retail businessmen. The larger business houses, who supplied the Indian merchants, were cool toward it. [Donald Denoon, The *Grand Illusion.* p.121] The South African press also, with some exceptions, viewed the proceedings as arbitrary and unjust.

Describing the outcome of the convention as "disappointing," the *Star* said that the actual resolution afforded ''little or no assistance towards a practical solution of a question, which has entered upon a stage in which both moderation and Statesmanship are required to avoid an awkward conflict, not to say an absolute deadlock". [*Indian Opinion,* November 19, 1904]

The *Rand Daily Mail* said, "We fear the demands contained in the resolution can only create friction between the Home authorities and the Colonies, thus not only occasioning delay in the required legislation but perhaps altogether forbidding its enactment." [*Ibid*]

The *Transvaal Leader* regretted that the convention had "produced a cleavage of opinion...calculated to weaken the case for the Transvaal" and had

"enormously increased the difficulty of obtaining any settlement of this important question."

The *Natal Mercury* wrote that India was "amply justified in trying to secure as liberal rights for her subjects in other countries as they have in their own. We want labourers to do our work. She is agreeable that they should come on certain conditions. We refuse to grant these conditions and she refuses to give permission for those labourers to leave the country."

The *Pretoria News,* edited by Vere Stent, pleaded the case of the Indian: "the operations of these small traders operate very effectually towards a reduction in the cost of living, and although the profits of the better class of merchants may incidentally be reduced thereby, the interests of the community in general are not seriously injured. It added, "To go to the Secretary of State with a proposition which, if made law, would mean the exclusion of British subjects. Asiatics though they be, in favour of aliens of a distinctly inferior class, is obviously to make ourselves ridiculous". [*Ibid,* November 26, 1904]

The London *Times* stated that the leaders of the convention "betrayed lack of statesmanship" and added that "agitation of that nature, however violent, could not be allowed to override Imperial obligations." [*Ibid;* C.W.M.G. Vol.IV, p.301]

To Gandhiji, the most grievous fact about the Convention was the utter lack of knowledge shown by the speakers. "Wildest statements were made regarding British Indians, as also the intentions of the Imperial Government," he noted. The delegates seemed to demand that "one party must have all, and the other must give all." They had no sense of the true nature of the Empire. "The Empire has been built up as it is on a foundation of justice and equity," he declared. "It is the acts of peace and mercy, rather than those of war, that have

made it what it is, and we make bold to say that the members of the Convention are much mistaken, if they think that, for their selfish ends, the established policy of the Imperial Government is going to be suddenly changed...at their bidding." [*Ibid* p. 302]

6

On November 17, a public meeting of British Indians was held at 4 P.M. at the West End Hall, Fox Street, Johannesburg, to protest against the proceedings of the recently held convention. Mr Abdul Gani presided. The commodious hall was filled long before the meeting time. Delegates from Pretoria, Pietersburg, Krugersdorp, Potchefstroom and Klerksdorp were also present.

Dr William Godfrey opened the proceedings by reading the addresses in English. They were translated to the meeting in Gujarati also. [*Indian Opinion,* November 19, 1904]

A number of resolutions were passed unanimously; the first of these criticised the convention for non-drawing a "distinction between British Indians and non-British Asiatics", for "placing the British Indians under the same category as the natives of Africa" and for "lack of knowledge as to the true facts about the British Indians and their wants." The second requested the Government to "institute a thorough, impartial and public inquiry into the allegations made at the convention in so far as they apply to the British Indians". The third expressed its sense of grievance that the resolution of the convention was "calculated to wound the feelings of Indian subjects of His Majesty the King Emperor and to deprive...thousands of inoffensive people of their means of livelihood." The fourth affirmed that the proposals submitted by the British Indian Association accepted the principles of "European predominance in the Transvaal" and of "restriction of immigration" on general lines sanctioned "in the Cape of Good

Hope and Natal subject to necessary changes." The last expressed the opinion that any legislation which went beyond the proposals of the British Indian Association and was based on distinctions of race or colour "would be in violation of the solemn declaration of Her Late Majesty's Government and of the assurances given up to the time of the outbreak of the Boer War, would be a reversal of the policy laid down by Mr Chamberlain" and "would put a totally unnecessary affront on the millions of Indian subjects of the King Emperor". [*Ibid*]

The next day, on November 18, the British Indian Association also cabled the gist of the resolutions of the meeting to Dadabhai Naoroji. [C.W.M.G. Vol.IV, pp.298-9]

On November 26, Gandhiji congratulated the Association by saying that "it was well that the British Indian Association promptly convened a public meeting of Indians throughout the colony, in order to consider the proceedings of the convention". [*Ibid,* p.302]

A sharp controversy developed as a result of the Anti-Asiatic convention. Mr T. Kleinenberg, the Boer Mayor of Pietersburg, in the course of seconding a resolution, said that before the war, Pietersburg had 14 Asiatic storekeepers and after the war, it had 49 coolie storekeepers and the Indians imported 70 per cent. of the goods brought into the district. [*Indian Opinion,* November 19, 1904] Dr Godfrey, while addressing the Indian meeting held a week later, emphatically denied the statement. [*Ibid*]

Enraged at this refutation, the Mayor immediately took up cudgels against the Indian leader and wrote to the *Star* stating that there were 49 Indian storekeepers as against 13 white storekeepers at Pietersburg. [C.W.M.G. Vol.IV, p.413] He deposited a sum of £50 with the Editor, *Star,* declaring that if his figures were disproved, he would forfeit the amount to the Nazareth House and challenging

the other party to forfeit a like sum, in case his figures were proved true. Mr Abdul Gani promptly took up the challenge and wrote to the *Star* on December 9, [*Ibid,* p.310] saying, "I do not admit the figures quoted by Mr Kleinenberg. I deny that there are at present 49 Indian traders in Pietersburg; there are only 28 stores owned by Indians within the township, as distinguished from the Location, and of these, some are held by the same Indians. l have not in any way endeavoured to amend my original statement, which was a denial of the allegation that there was a great disproportion between the numbers of Indian traders trading in town before the war and after.....Within the township before the war, there were at least 23 Indian stores....If my figures are incorrect, I shall be glad to admit the correction. If on the other hand, they cannot be challenged, and if you think that my statement has been verified, I hope you will be good enough to collect the sum of £50 from Mr Kleinenberg and hand it to the Nazareth House". [*Ibid,* pp.308-9; *Indian Opinion,* December 31, 1904]

Mr Kleinenberg did not answer but Mr Loveday, while addressing a meeting held in Potchefstroom in the second week of December, accepted as correct what the Mayor had stated. He said that the Mayor had sent him the figures and had further written to the *Star* throwing up a challenge. Mr Abdul Gani on the other hand, he said, would only call it a misunderstanding and would not put up *£50* from his side as a counter-challenge. The actual fact, however, was that Mr Gani did not want to take advantage of Mr Kleinenberg, and take his money, which was indeed a magnanimous action on his part. [*Indian Opinion,* December 17, 1904]

Replying to Mr Loveday on December 24, Mr Gani refuted all the charges made by Loveday and maintained that there were Indian settlers as early as 1881, while the latter had said that there were none in 1884. He said:

> If he has not rendered himself utterly incapable of seeing things in their true light when the question of colour is under discussion, I would appeal to his sense of justice and fairness and would merely ask him to study his history and his facts. [C.W.M.G. Vol.IV, p.319: *Indian Opinion,* December 24, 1904]

Gandhiji also ridiculed Mr Loveday on January 7, 1905 by citing the story of a merchant who used to tell his travelling salesman. 'Get business, honestly if you can, but get business'. Similarly Mr Loveday and his men seemed to have said to each other; 'create a strong anti-Indian feeling, honestly if you can, but create it'. [C.W.M.G. Vol.IV, p.329; *Indian Opinion,* January 7, 1905]

Seeing that the Mayor had not proceeded any further in his challenge, Gandhiji wrote on January 7:

> If Mr Kleinenberg finds that he has made a serious error in endeavouring to rebut the facts given by Mr Gani, he will have the moral courage to acknowledge the correctness of the figures that Mr Gani gave and to withdraw his own statement. [*Ibid,* p.330]

Ultimately on January 28, Gandhiji wrote:

> The most painful part, however, of this whole affair is that those who pose as leaders have shown themselves utterly incompetent even to examine the truth of matters that have been placed before them. They have, in their eagerness to make an anti-Indian argument, accepted any fiction that has been passed on them. [C.W.M.G. Vol.IV, p.345; *Indian Opinion,* January 28, 1905]

The sordid episode finally ended with Mr Kleinenberg neither proving Mr Gani's statement to be incorrect nor paying the amount he had promised to the Nazareth House.

After the convention of November 10, a notice was served on the Indians residing in the Indian Location at Boksburg to the effect that their tenancy in the location was only temporary and subject to a month's notice as ordered in Government Notice No. 1379 of 1903. Persons erecting permanent buildings there were therefore warned that if the position of the Location was changed at any time, they would not be entitled to any consideration for any loss incurred by them. [C.W.M.G. Vol.IV, p.304; *Indian Opinion,* November 26, 1904]

Gandhiji wrote on November 26, 1904:

> Although all such tenancies were, during the late Mr Kruger's regime, temporary nobody ever thought of disturbing the tenants' occupation... Many Indians, wishing to live better, have begun to erect suitable buildings and the Notice is the result. Thus conditions unfavourable to the better mode of life are artificially created and then the people who have to labour under such disabilities are blamed for any results that flow therefrom. [*Ibid*]

The Vigilance Association of Potchefstroom took the law into their own hands and established a reign of terror in the town. They wanted to clear the town entirely of Indians and would not allow an Indian mosque to be built there. The householders were not allowed, on pain of social ostracism, to buy from Indians; the merchants, similarly were not to trade with them and the landowners were to evict their Indian tenants. [C.W.M.G. Vol.IV, p.321] Even the insurance agents suddenly withdrew without notice their fire policies from the Indian merchants. [*Ibid,* p.330]

7

Encouraged by the tide of protest demonstrations generated by the white retail merchant class, the anti-Asiatic officials in the Transvaal administration

began to impose fresh restrictions in Asiatic immigration into that colony. To accomplish their objective, they did not hesitate to go beyond the limits of the law, and increasingly they were forced to resort to secrecy concerning their methods. In the summer of 1904, following the test case decision, a permit officer explained that,

> Seeing that all these people who are allowed to return have now a perfect right to take out trading licences, it is important to fence with them in the matter of permits as long as possible. The plague has formed a very good reason for keeping them out for the last five months, and now there is an outbreak of small-pox in Natal which we are also making the most of. [Transvaal Archives, P.S. 56, Vol. 156 (1904), From Governor's Office to 'Noel', August 20, 1904, as quoted in Denoon, *The Grand Illusion,* p.115]

This abuse of the health regulations was in addition to the continuing application of the Peace Preservation Ordinance restrictions solely to Asiatic immigrants, while its provisions were simply ignored in the case of all other travellers.

The steering committee of the National Convention against the Asiatics, consisting of Messrs Loveday, Bourke. Chappell, and Lillienfield, met on July 13, 1905 with Lt.-Governor Lawley to press further their demands. Present also at the meeting were the Colonial Secretary, Mr Duncan, and the Chief Secretary for Permits, Captain Hamilton Fowle. Mr Loveday presented one by one the resolutions of the Convention and sought an accounting of the government's response. The delegation strongly presented their belief that illegal Asiatic immigrants were coming into the country in large numbers, and wanted more stringent controls. Mr Loveday asked if the government could not prevent the settling of traders under false pretences by means of a Commission of European

gentlemen who had been residents before the war and could recognise genuine refugees. There should, he said, be such a board in every town. [Transvaal Archives: Lionel Curtis to PS/Lt.-Governor, September 23, 1905]

Following up on this suggestion, Captain Fowle recommended on August 26 that Boards of three members each be established, with the Chairman in each case being the local Magistrate. He suggested that such boards be established in Johannesburg, Pretoria, Krugersdorp, Boksburg, Heidelberg, Standerton, Klerksdorp, which were the towns in the Rand and its approaches which had the largest Asiatic populations, and also for some reason little Rustenburg, in the countryside 70 miles west of Preroria. All applications claiming residence before the war in certain towns or districts would be forwarded to the local board concerned and whether or not a permit was issued would depend upon the report received from the local board. However he was not at ease with this plan. ”The great objection to the above proposal in my mind is that a great deal of political capital would be made out of it by the British Indian Association, and they would, I think, be sure to say that the Government were handing over their interest to civil Boards whom they consider would look upon their interests in a prejudiced manner,” he advised Lawley. [Hamilton Fowle to PS/Lt.-Governor, August 26, 1905. Transvaal Archives] To prevent Gandhiji's association from learning about it, he advised instead an arrangement shrouded in secrecy. In order to “cause less comment" he suggested that the Deputation from the Anti-Asiatic Convention, headed by Mr Loveday "should send me the names of three reliable persons in each town.” [*Ibid*] To these he would privately refer applications, and the persons would make "private enquiries" concerning the applicants. The police official advised the Lt.-Governor that the matter was of great difficulty because refusals could be subject to court challenge, once the required affidavit had been given by an Asiatic. For this reason he counselled silence, thereby once more revealing

the poor legal basis for his action. On September 4, Mr Duncan, the Colonial Secretary, asked Mr Loveday to provide nominations for these "Advisor Boards" in every town, which he did.

Captain Fowle added that he had on his own initiative already taken two steps to restrict immigration along the lines suggested by the Deputation. He had practically halted the issuance of new permits pending the adoption of a new scheme, and had also taken up Loveday's suggestion that all applications had to furnish a European reference. Thus it appeared that the immigration policy of the Government was given over to the most extreme of the Anti-Asiatics. It is hardly any wonder that the actions had to be concealed both from Gandhiji and from the eyes of Parliament in London.

The system was not as effective as had been hoped for, except in producing delays. The Registrar of Asiatics, Mr Chamney, reported in the following year that while all applications were being sent to the Magistrates and Advisory Boards, they were not in the large towns very successful and caused great delay. They worked effectively only in the smaller places, but since the greater numbers of Indians were in Johannesburg and Pretoria, this meant that little useful information would be produced for the Asiatic Affairs Office. [M. Chamney, "Report on the Position of Asiatics... ", April 17, 1906, p.9, Transvaal Archives, GOV 950] Gandhiji was soon aware of the secret system, and described it in the columns of *Indian Opinion.* "The public have no knowledge of the fact that there are practically secret advisory boards, which control the action of the Registrar of Asiatics who has charge of the issue of permits," he declared. ["Secret Justice", C.W.M.G. Vol.V, p.379; *Indian Opinion,* August 4, 1906] Raising no objection to the excercise of the greatest strictness in reviewing the applications of refugees, he called into question the secrecy which surrounded the doings of these advisory boards. It

seems that the parties concerned were not heard before the boards or allowed to be represented. The boards alone knew what evidence they took and what evidence they deemed sufficient for establishing the claims of returning refugees. Under such circumstances favouritism must surely exist. "It is a strange method of dealing out justice," he remarked, "to entrust avowed partisans with the duty of judging their opponents or persons whom they have hitherto traduced in unmeasured terms." [C.W.M.G. Vol.V, p.379] The severest rules of procedure, if public, would be preferable to this "hole-and-corner enquiry" now being held. He called it "discreditable in the extreme."

8

With Milner's day of retirement at the end of March, 1905 drawing near and the condition of the ruling party in England on the eve of the general elections being what it was, there was some quiet on the anti-indian front in South Africa. Every eye was turned on London to learn of the new development and the nature of the new High Commissioner to be appointed.

Although Lord Milner's Chinese policy was under fire everywhere, the Conservatives in London were generally not against him. What baffled them however and for which they could hardly find any justification was Milner's Indian policy. Lyttelton's correspondence with Milner, referred to earlier, reveals this as well as Milner's lack of understanding of ihis aspect of Imperial policy. If South Africa was important from one point of view for the safeguarding of Imperial interests, India was far more important than South Africa. Milner appears to have been little aware of it; otherwise, by honouring the pledges given by the Home Government on the eve of the Boer War, Milner could have recruited the required number of labourers from India on his own terms. But Milner believed

in the policy that might makes right and was beaten by Lord Curzon at his own game.

He tried to justify his Chinese policy at the time of his departure by showing that the mine-owners were not enriched by the deal. According to him, the *per capita* expenditure for recruiting and bringing the Kaffirs to Johannesburg had been £10.15.0 during the last three years, while the cost of getting the Chinese was £16.11.3 per head. But as Gandhiji pointed out, he had

overlooked one tact and that was that the Kaffirs hardly worked for six months while the Chinese had to do so continuously for three years and the Chinese being more active than the Kaffirs, much more work could be taken from them than from the latter. [C.W.M.G. Vol.IV, p.465]

Lord Milner banked on the good-will of the mine-owners and as such tried to benefit them as much as possible. But he sometimes exceeded his authority, as for instance, when he supported the plea of Sir Arthur Lawley for severe anti-Indian measures in the face of the decision of the Supreme Court. He sat tight on his chair in a detached mood so far as Indian interests were concerned and that caused his failure.

Perhaps it was the recent rise of the Boer political organization that contributed to a pause in anti-Asiatic agitation. Since July 1904, a series of meetings among the Boers had been held, resulting in the formation of “Het Volk” ("The People”), a political group though not yet a party under the leadership of Louis Botha and J. C. Smuts. No less determined than the rank and file of English colonists to restrict the Indians, they looked forward to completing the work when Crown Rule was replaced by responsible government. For whatever reasons, the Indian community was not threatened by further legislation, until it unexpectedly appeared under Lord Selborne.

Lord William W. P. Selborne (1859-1942), leaving his Cabinet post as First Lord of the Admiralty, became High Commissioner and Governor on April 2, 1905. [Walker, P.XXI] Able, approachable and a keen farmer, he was a man who could be expected to be continued in office even if the Liberals came to power in England and yet whose views were nearly akin to those of his predecessor and would ensure a certain continuity of policy. [Walker, p.5l5] An inkling into the working of his mind could be had from what he said before the war. In a speech on November 1, 1899, he had said that:

> The British fought the war not in order to deprive the Boers of their rights, but to accord equal rights both to Boer and Briton. The British Government was not actuated by self-interest or monetary consideration, but they wanted to determine and uphold the rights of other peoples. The British Government were the trustees of the people of Canada and Australia, the Negroes in South Africa and the Indian immigrants in the Transvaal. It was therefore their duty to wage war for the protection of these peoples. Since it was the duty of the British to keep the promises they had made, they were bound to protect the rights of all these peoples. It was the duty of the British Government to protect the rights of British subjects wherever they were, whether white or coloured. [C.W.M.G. Vol.IV, p.425; *Indian Opinion,* May 13, 1905]

Lord Selborne arrived in the Transvaal by the end of May 1905. The Indian community decided to present an address of welcome to the new High Commissioner and accordingly, a ceremony took place at the Government building in Johannesburg on Wednesday June 7. The address was richly illuminated on vellum and executed by Mr Williams of Johannesburg. The text was written on a tint map of India painted on the vellum and there was a typical

ornamental border all round. It was enclosed in a chastely carved silver casket with a suitable inscription thereon. A delegation from all parts of the Transvaal attended the presentation. The address, dated May 28, was signed by leaders of the Indian community from Johannesburg. Pretoria, Heidelberg, Krugersdorp, Potchefstroom, Pietersburg, Standerton. Middleburg and Klerksdorp. [*Indian Opinion,* June 10, 1905]

The text of the address, suitable to the occasion, was colourless, but it showed that, in spite of the irritating circumstances surrounding the Indians, they did not forget their inherent courtesy. On the other hand, the Mayors of Pretoria and Johannesburg, when they received the Governor, could not refrain from alluding to the Indian question, although the occasions were intended to be non-political in nature. [C.W.M.G. Vol.IV, pp.464-5; *Indian Opinion,* June 10, 1905] Lord Selborne, appropriately, remained noncommittal.

A deputation led by Mr Hosken made it clear to His Excellency that the treatment the coloured races had been receiving in the Transvaal since the British occupation was worse than before. Selborne then said that since he had not sufficiently studied the question he could not pronounce an opinion, but added, "If in any respect, the British administration is unjust to the Native, civilised or uncivilised, it is a blot and stain on our administration, and one which I feel personally as an implication of disgrace," to which Gandhiji observed in a hopeful mood. "It is a matter for congratulation that in Lord Selborne the Transvaal has a Governor and South Africa a High Commissioner who is determined to hold the scales evenly between conflicting interests." [C.W.M.G. Vol.V, p.40]

Lord Selborne travelled throughout the different parts of the Transvaal early in October 1905. He was approachable to all parties. At Zeerust during his tour, when questioned about the alleged influx of Asiatics, he replied that the

influx of Asiatics had been stopped and there were currently fewer Indians in the country than before the war. At the Ottoshoop, one Mr Kuhn, submitting grievances about the ousting of Europeans by Indian traders and the evils of Indians intermarrying with whites, expressed to His Excellency his fear that South Africa would ultimately contain only mixed native races and would not be a white man's country. Lord Selborne said in reply that he would be the last man to wish to see honest whites driven out by the competition of Indians. He however added that the matter would be looked into by the new Government. [*Indian Opinion,* October 14, I 905]

At Klerksdorp, both the town's Chamber of Commerce and the British Indian Committee presented addresses to His Excellency. The former complained that the immediate result of the decision of the Supreme Court was "an alarming increase in the number of trading and hawking licences granted throughout the Colony" and that "large numbers of Indians have entered this Colony without permits." [*Ibid*] The latter simply said that they had "always endeavoured to conform to the local laws and respect local sentiment as far as possible" and with regard to their interests the British Indian Association was in touch with him. [*Indian Opinion,* October 14, 1905]

Making his weightiest pronouncement here, Lord Selborne said:

There is a general impression that there are a great many more Indians in this Colony than before the war, but the contrary is the truth. No Indian subject of the King has been allowed to come to the Transvaal who was not here before the war, and as all who were here before have not come back, there are fewer here now than before the war. It has been said that many come in without permits over the Portuguese frontier. I do not think there is any evidence to that effect.... While it is true that there are fewer in the country now than before the

war, it is also true that there are more licences than there were before the war, and the reason for that is the decision of the Supreme Coutt.....It is stated that while before the war there were 19 such licences in Potchefstroom, there are now 155. I am informed by the Resident Magistrate that those figures are so exaggerated as to bear no proportion to the truth....I am glad to recognise a general consensus of opinion that His Majesty's Indian subjects who were here before the war are entitled to special consideration and special treatment. The question is to what extent future immigration is going to be permitted and you may rest assured that the Government will do nothing in this respect until you have your own representarive in your Parliament. [*Ibid*]

At Potchefstroom too, both the Vigilants' Association and the Indian Association presented addresses to Lord Selborne. The petition of the former prayed for immediare passing of Legislation to prevent further immigration of Asiatics in the Colony except as provided under the Labour Ordinance and to require all Asiatics other than those who had established businesses before the war to reside, trade and hawk only in bazaars set aside for the purpose. [*Ibid*] The British Indians in their address, refuted the allegations made against their mode of life and the manner in which their business premises were kept and invited His Excellency to inspect them on his own. They were always anxious to conform to local customs and to conciliate popular sentiment. All they asked for was freedom of locomotion, trade, residence and ownership of property under general sanitary and other regulations, without introducing class legislation. [*Ibid*]

Speaking about British Indians in the Transvaal, Lord Selborne said in reply, "these men are subjects of the King. They come from a country with which not many of you are familiar, where the King is Supreme Lord and where these people on the whole live peacefully and loyally and usefully". Referring to the Queen's

proclamation, where they had been promised the rights of British citizenship all over the world, he remarked:

> As the result of it, in the late South African Republic, when these people were settled in this country and had been permitted to come into this country, it was the natural part of the Queen's duty, in pursuance of the proclamation, and consequently the duty of her Ministers, to see that these men, who had been allowed to come into this country, were fairly and justly treated here, and consequently you will find a series of diplomatic incidents right up to the period just before the war, in which His Majesty's Government had maintained what they considered the just rights of these British subjects resident in the Transvaal and had continued to press President Kruger on the subject. Now, I don't think there is any gentleman in this room, no matter how strong his views may be on this question, who would say it is an honourable thing on the part of His Majesty's Government—having pressed President Kruger up to the period immediately before the war on behalf of these men, in certain aspects of their life—that at the moment when the country has become part of His Majesty's dominions, the rights of these men should be taken away. I really don't think people will get up and say that, but they might fairly hold that His Majesty's Government should not have taken up the lines they had in the past. But a man's past is his past, and a Government's past is its past, and I don't think any man can say it will be honourable to refuse that interest and protection when the country is British, which was given them when it was not.

Regarding the entry of Indians into the Colony in future, Selborne assured, "No Indians, who were not here before the war, will be admitted into the country

till you have your own Parliament, and by your own representatives you can express your own opinion. I give you that assurance as your Governor and your High Commissioner and, therefore, the future is in your hands". [*ibid*]

Mr Abdool Rahman, Secretary of the Potchefstroom Indian Association. in a representation to His Excellency refuted the charges made by the whites against the Indians and mentioned a few disadvantages under which the Indians had to labour. There were separate counters for Indians in the post offices and in a "public park" they were debarred from having a breath of fresh air, although they had to pay rates for the same in common with others. [*Ibid*]

On October 9, in a petition presented to Lord Selborne, the Europeans of Krugersdorp had mentioned that under the old regime, the law was such that an influx of Asiatics was impossible. His Excellency denied this and said that there was no law against the influx of Asiatics before the war and as the registration law was very laxly enforced, many of the Asiatics in the country were not registered. A large number of Asiatics left the country during the war and it was these men only that the Government allowed to return and there were still a considerable number of Asiatics who had not returned. The British Government had over and over again been pressing on the Government of South Africa measures for the amelioration of condition of British Indians and asserting its duty to protect them. Would it be consistent with honour, he asked, if the British Government and he, representing the King, were to turn round now and deal with the Indians in a manner different from what they had always been pressing on Kruger to deal with them.

Gandhiji formed a good impression of the new High Commissioner and wrote in *Indian Opinion.* "Lord Selborne has been in South Africa only a short while, but already, he has gained the confidence of all sections of the people that

he will do his duty to everyone without fear or favour". *Ibid,* C.W.M.G. Vol.V, p.100] Thanking the Governor for his balanced speeches and his desire to uphold the promises made by the Queen, Gandhiji took exception only to his remark that no new Indians would be admitted into the Colony until its people had their own parliament and expressed their own opinion through their representatives, pointing out to the authorities that Indian merchants drew upon India for confidential clerks, managers and other trustworthy servants. "It is weII nigh impossible for them to continue to do business with any degree of safety without such facilities", he observed. [C.W.M.G. Vol.V, p.99]

Lord Selborne who was for a long time associated with Mr Chamberlain in formulating the colonial policy with Lord Milner, could not be said to be unaware of the conditions of the British Indians in the Transvaal. He knew well the aspirations of the white traders, and so could easily say at Potchefstroom that it was "impossible for him *to* see with satisfacuon the complete trade of the country passing into the hands of their Indian fellow-subjects". [*Indian Opinion,* October 28, 1905] As an Imperialist, to whom India was the brightest jewel in the crown of his sovereign, he could not ignore the verdict of the Supreme Court. He, therefore, urged his European audience "to draw the clearest distinction between Indians who were in the country before the war and those they did not want to come into the country". [*Ibid*]

Whatever the Transvaalers could say against the British Indian subjects, he was firm in maintaining the old rights of the Indians. "No one", he repeated, "would contend that it would be honourable to refuse that interest and protection when the country was British, which were given to Asiatics when it was not". [*ibid*]

Obviously, Lord Selborne was in the midst of difficulties. Before the war, Milner and the British Government had declared that an improvement in the condition of the British Indians in the Transvaal was imperatively necessary; the War Secretary had even said that nothing made his blood boil more than the treatment of the Indians by the Republican Government. After the war, however, High Commissioner Milner not only treated the Indians as President Kruger had treated them, but of his own accord created another great inconsistency. The Chinese. who were not British subjects, were brought into the country without waiting for the opinion of a representative Parliament, while the Indians, who were British subjects, were kept out. This discrimination was possible because the Chinese helped the mine-owners. Indeed, gold was of much more concern in the eyes of the Imperial Government than the accident that the Indian was a British subject! It might be argued that a man like Lord Selborne would never have lent himself to so base a tergiversation were he not in the grip of circumstances created for him by his predecessor. It is a fact that Lord Milner little knew what he was about, when he drew up his indictment against the Republican Government. He vilified it for acting as it did towards the Indians, and no doubt thought his accusation just. But when he was himself in the place of President Kruger, he did exactly what the President had done, and his successor. Selborne only urged the people not to treat the Indians worse under the British flag than they were under the Republic flag. "Lord Selborne stands", remarked the *South African News* "on the brim of an abyss. Out of its sightless depths, the shadow of Lord Milner calls to him to look before he leaps". [*Ibid*]

9

Trained as he was in jurisprudence, Gandhiji continued to encourage the Indians to assert their claims through the courts, confident that the British

tradition of an impartial judiciary was being maintained in South Africa. In this he was not disappointed. More than once a case pushed to the highest court obtained satisfaction for Indian plaintiffs and at the same time revealed the flimsy legal foundation for the Government's anti-Indian policies. Such was the experience of the two brothers, Ismail and Amod who, though they lost their suit, succeeded in providing a small legal advantage in respect of the holding of land in the Transvaal.

Law 3 of 1885 forbade the holding of real property in their own names by lndians, whether by purchase or by lease. Some obtained possession with the help of Europeans who registered the land in their own names, acting on behalf of their Indian friends or clients. A Mr Lucas obtained licences for brickmaking on two stands in the Brickfields in 1896 for Syed Ismail. The father of Ismail and Amod. In 1897 the government converted the brickmaking stands into ordinary building stands. The next year Lucas gave a power of attorney to Ismail and Amod to take charge of the stands.

They remained in possession and paid all assessments and rates. When in September 1903 the property was expropriated by the municipal corporation under the Insanitary Area Scheme, Lucas was offered £2000 in compensation. Before payment could be made, Lucas died in a condition of insolvency. The trustees of his estate asked the Municipality for the £2000, and the brothers opposed the claim. The case was heard in April, 1905.

The attorneys for Ismail and Amod argued that as the land was held on a ninety-nine years' lease, it could not be regarded in the ordinary sense as immovable property, and thus did not come under the prohibition of Law 3. Sir William Smith, the judge, did not hold this argument valid. They also argued that the law did not lay down that immovable property could not be held by others,

such as whites, in their own names on behalf of the Indians. Sir William granted this plea, and added that the law would protect the rights of an Indian owner if a white holding the property intended to commit fraud. Therefore he handed the verdict to the heirs of Syed Ismail. "This decision is very satisfactory," [*Ibid,* April 8, 1905; C.W.M.G. Vol.IV, p.400] commented Gandhiji, and he advised Indians who were hesitating to purchase land in the name of whites that they need have no more fear. They should nevertheless be sure that the white concerned must be a trustworthy person, and a clear title-deed should be obtained from him. The decision was certain to strengthen the Indian position in their fight with the Government for their rights.

The heir of Lucas appealed to the Supreme Court, which reversed the decision, but did so in such a way that the question of the competence of the trust agreement was not contested. Attorneys for both sides and the judges assumed for purposes of argument that the transaction was not illegal and one directly prohibited by law. The £2000 went to the Lucas estate, but the brothers were allowed a personal claim of £650 for improvements made to the buildings. Despite the defeat, Gandhiji welcomed the court's *de facto* acceptance of the principle that the holding by Europeans of land for Indians is not illegal. He warned, however, that in case of insolvency of such Europeans, the Indians concerned must take the risk. He concluded, "This case, therefore, takes the Indians a step further in their fight, and renders Law 3 of 1885 still more ineffective as a weapon to be used against them." [C.W.M.G Vol.IV, p.451; *Indian Opinion,* May 27, 1905; see Transvaal Law Reports, 1905; Lucas Trustees *vs* Ismail and Amod, May 8, 12, 1905]

Gandhiji then proposed a further legal step, suggesting that an Indian should seek to have his name entered on the title deed as *cestui que trust* that is, as a person for whom a legal trust has been established, and find out if his name

could in fact be so registered. "In the event of a successful prosecution of such a test case, Indians would practically be able to hold land in any part of the Transvaal without the slightest risk; and looking at it from a common sense standpoint, we are inclined to think that it follows as corollary from the judgment of the Supreme Court," he wrote. [C.W.M.G. Vol.IV, p.451] Having won a fundamental point in the Motan case a year before, Gandhiji had good reason to believe that the false position of the government could be undermined by further resort to the courts. His confidence was bolstered by a decision that same month in which African Natives were recognized as legally capable of holding landed property in any part of the Transvaal, and to have it registered in their own names. Before long, the Indians also would win several impressive victories in the courts.

10

Under these circumstances, when certain elements were consistently advocating their removal from the Colony, Gandhiji realised that unless the Indian community acquainted the new High Commissioner with the nature of their grievances, he might very soon be misled by the agitators and the local Government and then it would be too late for the Indians to approach Lord Selborne. So, the British Indians, acting on his advice, decided to wait on the High Commissioner at the first opportunity. The deputation consisting of Mr Abdul Gani, Chairman of the British Indian Association, Mr Haji Habib, Secretary, Pretoria Committee, Mr E. *S.* Coovadia, Mr P. Moonasamy Moonlight, Mr Ayob Hajee Beg Mahomed and Gandhiji met the High Commissioner at 3 P.M. on November 29, 1905. [*Indian Opinion,* December 2, 1905]

In presenting the petition, Gandhiji drew the attention of His Excellency to two remarks made recently in his speeches. Referring to the statement that "no non-refugee British Indians would be allowed to enter the Colony until the

representative Assembly has considered the question", he said, "It would be a very grave injustice to the vested rights of the Indian community." [C.W.M.G. Vol.V, p.144] "There are merchants who have constantly ro draw upon India for confidential clerks, in order to enable them to carry on their business. It is not easy to pick out reliable men from the resident population", he informed the Commissioner. “If, therefore, new Indians are absolutely shut out of the country until the establishment of representative Government, it will seriously interfere with these vested interests". [*Ibid,* pp.146-7]

Lord Selborne was reported to have used the expression "Coolie storekeepers" at Ermelo. Gandhiji said that the word "coolie" had given very great offence to the British Indians in the Colony. He explained to the Governor the meaning of the word and its implication and showed how it caused a great deal of mischief in Natal.

Gandhiji then referred to the Peace Preservation Ordinance and its effect upon the British Indian refugees, the restriction on the entry of children, Law 3 of 1885 and Bazaars and Locations. As regards Sir Arthur Lawley's adverse views on the Queen's Proclamation, he said:

> Sir Arthur had stated that even if promises were made to British Indians, they were made in ignorance of the facts as they now are and, therefore, it would be a greater duty to break them than to carry them out. With the greatest deference, I venture to submit that this is a wrong view to take of the promises. We are not dealing with promises that were made fifty years ago, though we undoubtedly rely upon the Proclamation of 1858 as our "Magna Charta". That Proclamation has been reaffirmed more than once. Viceroy after Viceroy has stated emphatically that it was a promise to be acted upon....It cannot be said that there are today any new facts that have

> come to light to change all this. Indeed, even immediately before the war, declarations were made by Ministers that one of the reasons (for the war) was to protect the rights of British Indians. [C.W.M.G. Vol.V, p.149]

Mr Haji Habib, endorsing Gandhiji's statements, said that the Peace Preservation Ordinance, which was designed to keep out dangerous characters and political offenders, was in actual working aimed entirely at British Indians, while dangerous characters were allowed to enter the country.

Lord Selborne, in his reply, first referred to Gandhiji's remark on the use of the word "coolie" by him and said. "I do not think I did (use the expression). If I did it was by pure inadvertence and it was never used by me intentionally." Justifying the Government's action in defending the law before the Supreme Court, he said, "If the Government had not argued the case against the British Indians, no one else would have been in the position to argue the case properly, and if the Supreme Court had then given the decision in favour of the Indians, public opinion in this country would have said that it had been given in their favour because the case on the other side had never been argued. That position would not have been accepted. While at the present moment many people, it is idle to deny, dislike this decision, nobody doubts the correctness of the law, and therefore...the Govcrnment...did a positive service to the British Indians in taking the line it did." As regards the immigration of British Indians into South Africa, he asserted that "no ground can be permanently gained" in its favour unless public opinion in the country was behind it. "It is in the interests of India that this subject should be dealt with not by force or by theory, but with the recommendation of facts and carrying public opinion in the Transvaal behind it, because after all, true as it is that a British Indian has a hereditary right as a British Subject, it is equally true that the Transvaaler has his rights as a British subject, and in any

consideration of this question to take only the British Indian point of view would be of no avail, unless consideration was also given to the opinion of the British subject in his own country. That is the policy at present….”

"It has been suggested today that for the purposes of business, Indians should be allowed in without restriction as regards bringing in clerks, Assistants etc. I shall not give that permission, for if the door were once thrown open and the principles abandoned, I do not know where I would be able to draw the line ....British Indians who were in this country before the war, many of whom rendered brave service during the war...I would never be a party to taking steps tn send them out of the country and I shall always use my influence with the force of public opinion to deal with them on the line of justice.”

Gandhiji thanked the Governor on behalf of the deputation for giving them a full hearing, adding that as regards new entrants, he would be glad if it were possible for temporary permits to be granted to them, as otherwise it might mean immense harm to British Indian interests. Selborne readily agreed to this proposal saying, "Temporary permits will, of course, be considered by me on their merits, and in the strictest sense of the term temporary, and they would not in any case be given in any large number.” He also assured Haji Habib that permits to refugees to enter the Transvaal would be granted as fast as applications were received and considered. [*Indian Opinion,* December 9, 1905]

Despite Lord Selborne’s willingness to listen to all sides of the question, he was led to believe that if Indian traders were allowed to enter the Transvaal in greater numbers, the British traders would be completely ousted, resulting ultimately in diminishing the British population in the Colony. It would in the long run, Selbnrne felt, do Indians no good, "if this country fell again under Boer domination, owing largely to the absence of Englishmen, Scotchmen and

Irishmen, ousted by their pressure into other lands." [Proceedings of the Department of Commerce & Industry, April 1906; Proc. No. 11, Letter from Lord Selborne to the Secretary of State for the Colonies dated August 21, 1905] This explains the stand taken by Lord Selborne on the question of future Indian immigration into the Transvaal, during his talks with the Indian deputation.

Selborne appears to have persuaded the Transvaal authorities to modify some of the procedures with regard to the issue of permits to Indian refugees. Owing to the changes made by Mr Loveday and his like, permits to Indian refugees had been issued only if they could furnish European references, which of course was almost impracticable for all except a handful. These orders were rescinded by Selborne, immediately before the deputation met him, [C.W.M.G. Vol.V, p.193] and soon after the deputation, he ordered that the entire control of the Permit Office in Johannesburg should be made over to the Colonial Office. A few innovations made in the conditions for the issue of permits were not, however, sufficient to ease the entry of Indians. Their condition is best described in the following words of Gandhiji:

> The lot of the British Indian is by no means enviable. He is being hemmed in on all sides by restrictions of the most galling nature. If he is a domiciled resident of the Transvaal and wishes to enter their Country, he is met with disappointment at every step, and he is in a position to make good his claim only if he has an abundance of patience and money. Before he can get a permit to reside in the country, he is driven about from pillar to post. He has to submit to a most searching investigation, and his word is accounted for nothing, so that he has to supplement it by evidence of witnesses and of documents before he can get his foot upon the sacred soil of the Transvaal. If he happens to have his wife with him, he is called upon to

prove that he is her husband. If he has his children with him, no matter how young they may be, they must have separate permits, and he must prove that he is their father. If his children are not under twelve, they cannot accompany him on any account whatsoever. These are the preliminaries an Indian has to undergo before he is allowed to re-enter the Transvaal, which is his place of his adoption. [*Ibid,* p.201; *Indian Opinion,* February 24. 1906]

CHAPTER XIV : THE HOUSEHOLDER IN TRANSFORMATION

1

In a letter to Chhaganlal, in the first week of February 1903, Gandhiji had written "It is no bed of roses here....I may leave in March." [C.W.M.G. Vol.III, p.279; Letter to Chhaganlal, February 5, 1903] That prospect soon faded. For all he could see there could be boisterous times ahead with no clear weather in sight.

In his profession he did not do badly. "During the few months that I have opened office here," he wrote in June to Haridas Vora, "I have built up a decent practice...I can afford to pick and choose." [*Ibid,* p.352, Letter to H. V. Vora, June 30, 1903] If he had come to South Africa in search of a living, nothing would have been more natural for him than to send for his wife and children and give himself a spell of quiet domestic bliss. But his profession with him was only subsidiary to his public work, which was of a most exacting character. The two had kept him busy from nearly quarter to nine in the morning to ten o'clock at night, with intervals only for meals and a short walk. "It is a time of constant exertion and worry," ran Gandhiji's letter to Haridas. "and I see no prospect in the near future of the public work slackening. The Government is now considering the modification of the existing legislation, and one has to be very much on the alert."

In the circumstances it was not possible for him to see far ahead. His letter to Haridas continued: "The thing is most difficult to foresee. Such being the case, I do not know what my future plans will be, but the more I look into things, the more I feel that it will be almost impossible to get away for several years. Very likely, what happened in Natal might repeat itself here." In Natal he had gone to stay for a year, but stayed on for ten years.

This brought to the fore the question of fulfilling his promise to his wife. Before leaving India he had promised Kasturbai that either he would be back in India before the end of the year or she should be with him in South Africa. He was most anxious to fulfil his promise, he confided to Haridas; how to do so was the question.

> To return at the end of the year is out of the question. If, however, she (Kasturbai) would allow me to recede from the promise and not insist on coming here, there is a likelihood of my being able to return to India earlier than otherwise I would. In any case, according to my present plans, I must not think of returning for three or four years. Would she consent to remaining there for all that time? If she does not, then, of course, she must come here at the end of the year, *and I must be content quietly to settle down in Johannesburg for ten years or so.* [*Ibid,* p.353]

Another consideration that he wished to be brought home to his wife was that in case she decided to come it would mean that he must set up house in Johannesburg. "It will, however, ...be a terrible thing to establish a new home there and to break it up as I did in Natal. Experience teaches me that it would cost a very great deal, and if there were great difficulties in Natal, they will be greater in Johannesburg." He recoiled from the prospect.

Besides, as Kasturbai knew, "she had very little of my company in Natal; probably she would have less in Johannesburg". If, on the other hand, she consented to remain at home for the time being, "it would enable me to give undivided attention to public work." All said and done, Gandhiji concluded, he wished to be guided "entirely by her sentiments and", he added, "I place myself absolutely in her hands."

On the same day he instructed Chhaganlal to explain to Kasturbai that life in South Africa was rather expensive. If she remained at home. "savings made in this place will enable her and children to lead a comparatively easy life in India. More, I might in that case, be able to return home in two or three years' time." [*Ibid,* p.353, Letter to Chhaganlal, June 30, 1903] But if she insisted on coming. "I would not retreat from my promise I made her on the eve of my departure". Chhaganlal accordingly was directed that in that case, if he had not already started with Harilal, he should bring Ramdas and Devdas also with Kasturbai. As for Manilal and Gandhiji's sister's son, Gokuldas, Chhaganlal was to make appropriate arrangements for their education and stay in Bombay. "But if Manilal is not willing to stay behind, let him also join you."

2

High Court pleader and a leading lawyer of Kathiawar, Haridas Vakhatchand Vora was a close friend of the Gandhi family. On Gandhiji's return from England he had pleaded against his excommunication by his castemen, and helped him with his advice in his early legal practice at Rajkot. One of his nieces, Kashi, was already married to Chhaganlal Gandhi. After Gandhiji's departure to South Africa, he with Revashankar Jagjivan had filled in respect of Gandhiji's children their absent father's place. In April-May 1903, Harilal was laid up with a severe illness. He was at that time staying at Rajkot with Gandhiji's widowed sister, Raliat. Living all by herself, Raliat with no male member of the family to help her, felt herself unable to provide the nursing care that such a case of illness demanded. Haridas, as soon as he came to know of it, took charge of Harilal, removed him to his house and nursed him back to health with a father's tender care.

A believer in nature-cure, like Gandhiji, it was he who according to one account, had initiated Gandhiji into the nature-cure method of healing. Gandhiji had cabled to him already that now that Harilal was out of danger, he should be sent back to South Africa with Chhaganlal. In his letter of June 30, 1903, while expressing his appreciation of what he and Revashankar Jagjivan had done for his children, he wrote; "I hope that he will be sent here. By the time this reaches you, cold weather will have passed and seeing that he (Harilal) must not go to school for some time to come, perhaps he will benefit by the change." [*Ibid,* p.352, Letter to H. V. Vora, June 30, 1903] As a further bait to a nature-cure enthusiast like himself, He added: "Your ideas about natural living will be far better enforced here than there and I shall see, so far as possible, that he does not receive any drugs."

As for Kasturbai, "If she must come, then she may make preparations in October and leave in the beginning of November."

Providence had, however, planned things differently. Haridas was in no hurry to send Harilal, nor was Harilal himself eager to go to South Africa just then. Thereby hung a tale.

A broad-minded man with enlightened views, Haridas was a firm believer in education for women. Father of three daughters he had given to them all a good education. The youngest of them, Gulab, had been Gandhiji's favourite while Gandhiji was in India. She had often sat on his lap and had captured his affection. Many were the occasions when Gandhiji and Haridas had discussed together the future of their children in the course of which more than once Gandhiji had remarked that no father in search of a bride for his son could wish for or expect to find a more sensible or eligible girl than Gulab. One wonders if he would have been so free in his expression of opinion if he had realized that his words could, with good reason, be taken to imply his tacit approval of an

engagement of his son with Gulab. No proposal was specifically mentioned or discussed but certain it is that Haridas and the members of his family had from the start set their eyes on Harilal as a prospective son-in-law and considering the close relation and the bond of affection that united their respective families, the women-folk of the girl's family in particular had made up their mind that Gulab and Harilal were made for each other. After consultation with Lakshmidas and other elders of the Gandhi family, following the tradition in an undivided Hindu joint-family, they formally betrothed Gulab to Harilal. Neither Kasturbai nor Gandhiji was taken into confidence. Perhaps, regarding it in the Gandhi family tradition, they thought it unnecessary.

The betrothal ceremony in Indian orthodox families is more or less a formal—albeit a solemn—affair. A long interval, sometimes measured by years, may separate it from actual marriage. It may even be revoked, unlike the Hindu marriage which was irrevocable. Gandhiji felt unhappy. He was opposed to early marriages, and was strongly in favour of guiding, encouraging and helping children to prolong the stage of *brahmacharya* as much as possible. But he did not very much mind it now that the engagement had taken place and accepted it as a *fait accompli.* Writing to Chhaganlal on November 11, 1903, he even directed that the customary *sari* as a token of confirmation of the engagement should be sent to the prospective bride, if it had not already been sent. It, however, increased his anxiety to take Harilal away from the musty traditional Kathiawar environment and the usages of the Gandhi family, of which he himself had been the victim, to be brought up under his direct supervision so as to undo, as far as possible, the mischief of his early—in his opinion too early-engagement.

But as the old adage says: man proposes; God disposes. Harilal's illness had resulted in his living under the same roof as Gulab. "I was then not so raw," he

afterwards wrote in his famous "open letter" addressed to his father. "Haridasbhai's family was known for its reformist outlook. I realised that I was staying in my prospective father-in-law's house. I was naturally anxious to see the girl that fortune had chosen for me. I first saw a photograph of hers. 'What a nice girl....', I said to myself, 'and in the right sort of family too'. I was now eager to see my *fiancee* in person. My desire was fulfilled. Time did the rest. Luck favoured us. We were able to meet, talk to each other and have some innocent fun and amusement together. A bond of deep affection developed and held us together."

[Taken from Pyarelal's Notes; source not traceable]

The golden spell was, however, soon broken. When Harilal was fully recovered, he had to go back to his own home. Since they could no longer meet, the young couple started communicating with each other by writing letters.

Mounting pressure from Gandhiji for Harilal to be sent to South Africa put the young couple into a dilemma. If he went to South Africa, Harilal felt, he might not be able to return to India for five, six, even seven years. Would the girl's parents wait for his return that long? The girl's parents and other members of her family, on the other hand, felt that to keep their girl unwed for so long after she had attained the marriageable age, would be frowned upon by the orthodox section of the community and provoke criticism. The best and the wisest thing, they thought, would be to marry them off as soon as possible. This coincided with the innermost desire of the young couple also. In the result, in spite of repeated letters and pressing messages from Gandhiji to pack off Harilal to South Africa at the first opportunity with any intimate friend who might be going there. Harilal stayed on in India, and Kasturbai like Chhaganlal before her, had to sail away without him.

At last the day of their marriage was fixed. Harilal's *fiancee,* when she came to know of it, wrote a *billet doux* to her prospective husband in Gujarati verse of her own composition, signing herself as "in eager expectancy of the moon-rise—Your Chandrika (i.e. moonlight) Gulab''. [Taken from Pyarelal's Notes; source not traceable] They were married on February 19, 1906. Harilal was then seventeen.

3

In his letter to Haridas Vora of June 30, 1903, Gandhiji had suggested that if Kasturbai ultimately decided to come to South Africa, she should make preparations in October and leave in November. But Chhaganlal had to come away without her and her departure was postponed from time to time. At last on receiving a cable from Gandhiji she broke up their home in the Bombay suburb of Santa Cruz, a first class passage was booked and a cabin was reserved for her by the S. S. *SULTANA.* The Steamer set sail from the port of Bombay in the last quarter of 1904. With her were their three children, Manilal, Ramdas and Devdas, i.e. all except Harilal. A friend from Rajkot, Vasudev Dave, acted as their guardian and escort during the voyage. The captain of the ship knew the Gandhi family well. The ship's officers were very friendly and tried to make the illustrious Indian barrister's wife and children as comfortable as possible. At a port between Bombay and Delagoa Bay the ship weighed anchor. The staircase leading to the first class cabins had a wooden protective railing. The captain and the ship's crew used often to slide down this railing instead of using the stairs to come down. Gandhiji's third son had often seen them do this and thought it was great fun. He tried to imitate them. Unfortunately, just at the moment the steamer started moving with a jolt, which sent little Ramdas rolling down and landed him at the foot of the stairs with a broken arm. The ship's doctor immediately rushed to the

spot, removed the boy to his cabin, put him under chloroform, and after setting the fracture, immobilised the arm by putting it in a splint.

But the captain was not quite satisfied. He signalled a warship that was sighted at some distance to come alongside. The doctor of the war vessel, after examining the casualty, told Kasturbai that the first-aid treatment that had been given was quite adequate but it was really a case for an operation. This she should be able to easily arrange on reaching Johannesburg, with her husband's help.

From Delagoa Bay the passengers for Johannesburg were transhipped by train. Kasturbai and the children were provided first class accommodation. As ill-luck would have it, Manilal got his thumb crushed under a falling window shutter and suffered excruciating agony.

At the Johannesburg railway station Gandhiji was shocked to see Ramdas's arm in a sling and Manilal's thumb heavily bandaged. "What is this? And what was your escort busy with when all this happened?" he asked looking at the imperturbable escort who appeared to be quite unconcerned—a picture of unruffled calm.

To allay Manilal's agony his father bandaged the injured thumb after giving it a cold mud-pack. It brought instant relief from pain and the injury healed by itself after a daily renewal of the cold mud-pack for a few days.

As for Ramdas, the doctor was afraid that unless an operation was performed, gangrene might set in, but on removing the bandage he showed no sign of sepsis. So Gandhiji cleaned the wound with potassium permanganate solution, applied a thick mud-plaster and bandaged the arm, with the result that in three, four days' time the wound on Ramdas's arm also healed up without the intervention of surgery.

4

Seen under the fatigued sunlight filtering through the industrial haze, the vista of Johannesburg with its deafening roar of busy traffic, thronging squares and crowded streets reminds one of Manhattan. But at the beginning of 1903 when Gandhiji arrived there, it was still in the post-war doldrums—no better than a mining camp. The neglected streets were filthy and its dust was a veritable plague, lying inches thick on the ground on calm days, and when the wind came, it was whipped up into dense khaki-coloured clouds, that hung like a pall over the city. Many of the buildings were of wood and iron, including the Municipal Offices. The Market Square was "a huge sandy area large enough for a span of sixteen oxen to swing around with its long wagonload of farm produce." [Albert West, *Early Days With Gandhi,* p.2] Even the main streets were rough tracks which would often become impassable during a dust-storm. There was a tramway running down Commissioner Street between Jeppe and Fordsburg, which was known as a "toast rack". It was horse-driven and "passengers jumped on or off and paid six pence for the ride". Coppers were not used, the coin of the smallest denomination being a three-penny piece called a "ticky", but memories of the early "gold rush", when penniless adventurers became multi-millionaires overnight, still lingered investing the city with an aura of romanticism and led its citizens fondly to refer to it as the Golden City where the streets were "paved with gold".

Like many popular legends this one was not without a foundation in fact. For, the earth used as road-making material consisted of crushed quartz ore from the gold mines from which the bulk of the yellow metal had been extracted, but the residuary gold still remained in such small quantities, however, that it did not pay to process it.

In some other respects however the "City of Gold", the more it changed the more it remained the same. The problem of vice and poverty that taxes some of its best humanitarian minds today is only a hangover from its past tradition. Green shoulders and jaded hearts were as familiar a sight on the Rand at the turn of the century as it is today. Same about the law and order problem. Rumbustious elements, associated with the life of every mining camp that have since earned for it the nick-name of "University of Crime", were quite as conspicuous even in those early days of the gold rush, making life out of doors unsafe after dark; and the anti-Indian prejudice of its white population, inherited from the Boer regime, which has since found expression in Dr. Vervoerd's doctrine of *Apartheid* was not less but had increased after the British occupation.

It was in this "great wicked city", as the late C. F. Andrews used to call it, that Gandhiji had his political headquarters for twelve years, while he was engaged in a grim struggle against the mounting tyranny of colour and racial prejudice, by means so novel that they have added a new dimension to our concepts of political and social struggle. Many of the landmarks associated with that struggle and with Gandhiji's sojourn in the Golden City have been obliterated. The Indian War Memorial (see *The Discovery,* p.298) is no more in existence, nor is the building at the bottom of Rissik Street where Gandhiji had his legal office. But clearly recognisable even in picture postcard is the white-walled, red-tile-roofed building at the summit of Hospital Hill—the "Fort" (Johannesburg Prison), Gandhiji's first gaol. Surrounding it is a mound of earth, originally piled up by the Dutch after the Jameson Raid to overawe the city. From here could be seen the pleasure grounds of the "Wanderers" lying below, while between and over the lines of the blue gum trees which guard "The Wanderers" were visible the towers and roofs of Johannesburg.

In anticipation of the arrival of his family, Gandhiji again asked Ritch to approach Mr Kew, the estate agent who had found an office for him, who arranged a tenancy for him in Troyeville, a white middle-class residential district on the east side of the city. "Considerable indignation was displayed," Kew recalled in a letter to Gandhiji many years later, by residents of Troyeville "who tried, before you took possession to offset the tenancy but the owner of the house supported me, and in a few weeks the agitation died down." He also recalled that Gandhiji paid the rent of £20 "very promptly on the first day of every month". [Charles H. Kew to Gandhiji from Cape Town, October 24, 1947]

Gandhiji's residence in Troyeville was situated in a fairly good middleclass neighbourhood on the outskirts of the town. It was a double-storeyed, detached, eight-roomed building of the modern villa type. Surrounded by a garden, and having in front the open space of the *kopjes,* it had a verandah upstairs, roomy enough to sleep on, and in the warm weather it was frequently so used.

5

Theosophy had helped Gandhiji when he was a student to clarify his religious philosophy (see *The Early Phase,* p.259) and in Johannesburg he once more found himself among theosophists, though in a new way. Whereas before Christian friends had sought him with the purpose of converting him, now theosophist friends tried to draw him into their society with a view to getting something from him as a Hindu. Theosophy is replete with Hindu influence, teaching the doctrines of *samskara* (tendencies caused by previous births) and *punarjanma* (rebirth). Gandhiji, they hoped, could help them understand Hindu philosophy. A sort of "Seekers' Club" was formed, and regular meetings were held in which were read the works of Vivekananda, Patanjali, and above all the *Bhagvad Gita.*

The Johannesburg Lodge of the Theosophical Society had been chartered on April 14, 1899, in the names of Lewis W. Ritch, Herbert Kitchin, Louis Playford and others, who had been drawn together by a newspaper advertisement inserted about four years earlier by Lewis Ritch, who had listened to Annie Besant when he was only a boy of 15. Scattered during the war when the English evacuated Johannesburg, the members reconstituted the Society when peace returned and by the beginning of 1903 were holding regular meetings and began a publication, *The South African Theosophist* in April of that year. The issue of August 18, 1903 reported an address by M. K. Gandhi in which he acknowledged that to the Theosophical Society he was indebted for the turning of his attention to matters spiritual and, as a Hindu, he rejoiced that his attention had been thus directed to the mighty spiritual philosophy of his native land. [Phyllis Lean, compiler, *Fifty Years of Theosophy: A Brief History of the Johannesburg Lodge,* Johannesburg, 1949, pp.14-16, 46]

In March 1905 Gandhiji was invited to give a course of four lectures on Hinduism to the Theosophists, which he accepted on two considerations. It could help in the removal of misunderstandings held by people about his compatriots, and thus to some extent the opportunity would help him in the fulfilment of his duty. Since one of the objects of the Society was to compare the various religions, find out the truth underlying them and show the people how they were only so many roads leading to the realisation of God, and how one ought to hesitate before calling any one of them false, he might further that aim by speaking on Hinduism. [C.W.M.G. Vol.IV, p.405] At the conclusion of his lectures he stated,

> "All religions teach that we should all live together in love and mutual kindness. It was not my intention to preach you a sermon, neither am I fit to do so. But if it has produced any favourable impression on your mind, I would appeal to you to let my brethren have its benefit and, as behoves

the English people, to defend them, whenever they are maligned." [*Ibid,* p.409; *Indian Opinion,* April 15, 1905]

On another occasion, addressing the Theosophical Society on the subject of "The Real Life", Gandhiji remarked that while there were many admirable works in Theosophical literature which one might read with the greatest profit, it appeared to him that too much stress had been laid on mental and intellectual studies, upon argument, upon the development of occult powers and that the central idea of Theosophy, the brotherhood of mankind and the moral growth of man, had been iost sight of in these. [Phyllis Lean, compiler. *Fifty Years of Theosophy: A Brief History of the Johannesburg Lodge,* Lecture of August 22, probably in 1905, p.41] Later for this reason, he discouraged his friends from taking up theosophy.

The request to teach the *Bhagavad Gita* to his English friends made him realize the necessity of diving deeper into it. He decided to memorize one or two verses of the text each day. He wrote verses on slips of paper which he posted on the wall where he brushed his teeth in the morning, and with this help succeeded in memorizing thirteen chapters. The *Gita* became for him "a dictionary of conduct". He found himself gripped by its words, such as *aparigraha* (Non-possession) and *samabhava* (equability), and he adopted their meaning. "I understood the *Gita* teaching of non-possession to mean that those who desired salvation should act like a trustee who, though having control over great possessions, regards not an iota of them as his own," he concluded. [M. K. Gandhi. *The Story of My Experiments with Truth,* p.265] He began to interpret this teaching of the trusteeship as meaning that his possessions should not be for the benefit of himself and his family alone, but for the benefit of the whole community. This soon caused a rift with his brother, which he struggled to heal.

Many of the English friends and associates of Gandhiji in Johannesburg were theosophists. Some of these friendships had existed before the Boer War. Now they helped him in many ways. Lewis Ritch, the founder of the Johannesburg Lodge, helped Gandhiji locate his house in Troyeville, and later became an articled clerk in his law office. A manager of a business concern, with a large family, he continued to support the cause of the British Indians after he went to England for further legal training in 1905. When Gandhiji went to London and established the South African British Indian Committee in 1906, Ritch became its secretary and did valuable work. Herbert Kitchin, another founder, was an electrical engineer who lived in Gandhiji's house while a refugee in Durban during the war (see *The Discovery,* p.172). Adopting the Indian style in many aspects of living, he became practically a member of the family. Later he was editor of *Indian Opinion* and a resident of the Phoenix Settlement.

Louis Playford, the Chief Resident Magistrate of Johannesburg, was the third founder, and he also was a friend of Gandhiji. William Wybergh, Commissioner of Mines, was President of the Lodge and kept up a friendly relation with Gandhiji for years. A member of his staff, Major Peacocke, was the editor of *The South African Theosophist* and a contributor to *Indian Opinion;* he had come to Johannesburg from the Theosophical Society's headquarters at Adyar, near Madras. Charles Nelson, a chartered accountant, became General Secretary of the South African Theosophical Society; he became a member of Gandhiji's European Committee, as did Herbert Robins. Gabriel Isaacs, a jeweller, and T. A. R. Purchas, a Member of the Transvaal Legislative Assembly, were other Theosophists who aided Gandhiji's work. John Cordes, a German, who taught at Phoenix Settlement, was also a member of the Johannesburg Lodge.

6

"One day, in a vegetarian restaurant, a number of men sat together having lunch. At the table was a stock-broker, a private member of the Exchange, an accountant, a machinery agent, Gandhi the lawyer and a printer, Albert West. There was some talk about gold-mining shares and the state of the 'Market'. This usually happened daily in the city whenever men met. But these men talked of other things too. They were all interested in food reform, some for health reasons and others because they preferred fruit and vegetables to a meat diet. We were all drawn into the conversation, including Gandhi, with whom they were on friendly terms. This first accidental meeting with Gandhi soon developed into a firm friendship, and we would walk together after dinner every evening to the top of Hospital Hill, overlooking the city, and back to his offices where he lived alone, as his wife and family were still in India. Our conversations were deep and broad," recalled Albert West many years later. "There were intervals of relaxation when a part of young Europeans and Indians, joined by Gandhi, had picnics in the country or bathing at Rosherville Lake at week-ends where we had happy times together. People who only got to know Gandhi as an old man will find it hard to realise that he was once a young man, a little over thirty, bright and cheerful and full of the joy of life." [Memoir of Albert West, 1963]

Albert West was then 24, ten years younger than Gandhiji. A printer, he had been in South Africa only a year at the time of meeting, and was then unmarried. The friendship ripened to such trust that when Gandhiji asked West during the plague to go to Durban and look after the International Printing Press, he wound up his own printing business in a single day and left immediately. Later he moved to Phoenix and continued in charge of the press after Gandhiji's final departure from South Africa in 1914. West was only one of many staunch friends

Gandhiji encountered through a common interest in food reform and the philosophy behind it.

Not content with merely practising vegetarianism alone, Gandhiji used part of his income to help sustain the indispensable institutions of food reform, the vegetarian restaurants. A German named Adolf Ziegler, who shared with Gandhiji a common interest in Kuhne's hydropathic treatment, ran a restaurant which was in financial difficulties. Gandhiji patronised it, brought his English friends there, and invested money in it, but ultimately it was closed down. Miss Ada M. Bissicks opened another vegetarian restaurant, "The Alexandra" on a grand scale in October, 1904. "She was fond of art, extravagant and ingnorant of accounts," he recalled. [M. K. Gandhi, *The Story of My Experiments with Truth,* p.267] Unaware of her financial irresponsibility, Gandhiji invested £1,000 in the venture. The money was not his; it belonged to Mr Badri, later the head of the Tamil Benefit Society and a Satyagrahi, and when the restaurant failed it was lost. Gandhiji had to make good the loss; he callecl this "a sacrifice to vegetarianism" and resolved never again to loan money given him in trust. [*Ibid,* p.268]

Another loyal supporter encountered through vegetarian restaurants was Henry S. L. Polak. Only 22 years old, he had come to South Africa as the sub-editor of *The Transvaal Critic.* In the course of his duties he had to read the other papers including *Indian Opinion* and began to learn of the Indian struggle and of Gandhiji. His interest was increased by Gandhiji's letter to the press after the plague, which showed that the municipal corporation was greatly to blame for the outbreak. Polak sought a meeting, and it came about by means of vegetarian restaurants. " ...he was pointed out to me one day by a friend as we entered a vegetarian restaurant (Ziegler's) shortly after my conversion to a non-flesh diet by the great Russian, Tolstoy. He was a pleasant-looking man, sitting alone. Apart from his

black lawyer's turban and his rather dark complexion, there was nothing specially to mark him out." [H. S. L. Polak, *Some South African Reminiscences,* p.1]

"A few days later, I mentioned my desire to meet this interesting personality to the proprietress of another vegetarian restaurant (Miss Bissicks) which I frequented. It was my lucky day. 'That's easy.' she said. 'Come to my "at home" tomorrow night. He always comes, and I will introduce you to him.' " [*Ibid*]

On meeting Gandhiji, Polak mentioned he had just finished reading a book on the nature-cure of disease by Adolf Just, entitled *Return to Nature.* Gandhiji was greatly interested in Just's views, and an intense conversation began, during which Polak mentioned his interest in Tolstoy. "I have a shelf-ful of his books at my office. Come and look at them", Gandhiji said, [*Ibid,* p.2] "At the time of our first meeting, as his family was still in India, he was living in a modest room behind his chambers in Rissik Street. A little later, and when he had settled down with the family as a modest householder, he offered me its use, which helped to bring me into closer contact with him." [*ibid*]

Polak soon offered his services as an unpaid occasional writer for *Indian Opinion,* to help make the South African Indian question better understood among his countrymen. He soon found himself being schooled not only by a master of journalism, but by a master of life. When he learnt that Gandhiji intended to stop depending upon advertisements for the support of the paper, he asked if this meant that it was to be closed down. By no means, replied Gandhiji. The number of subscribers must be increased, and Polak must set out to persuade potential Indian subscribers of its importance. Polak remembers: "I set out on a most interesting set of journeys, in which I made many friends; which brought me into direct contact with individual Indians whose hospitality I shared,

thus helping me the better to understand the Indian way of life; and which gained for the paper a number of new enthusiastic subscribers." [*Ibid,* p.7]

When a leading English magazine published an article by L. E. Neame on "The Asiatic Danger in the Transvaal", Polak was alarmed at some mis-statements in the article regarding the Indian community. He urged Gandhiji to

write a response, but he did not and Polak spent the rest of the day in stony silence. At length Gandhiji sent for him and asked what was the matter, and when he found out, urged Polak to write the response himself. He did so with enthusiasm. The article was printed in England and reproduced in India, and led to Polak's being requested to write further articles for the Indian press. For this he learnt something of the importance of acting on matters of conviction. [*Ibid,* p.6]

Once Polak decided to fast for three days "partly as an exercise in will-power and partly as a health-cure". [*Ibid,* p.9] He continued to visit the vegetarian restaurant at lunch-time, as did Gandhiji, his family not yet having returned to Africa. Gandhiji and others tried unsuccessfully to persuade him to give up his fast, it being some years before Gandhiji took his own first long fast for self-purification.

Polak reports that meals then usually consisted of fresh salads and other uncooked foods, including plenty of onions. The four companions: Polak, Gandhiji, "a Jewish Theosophist" and one "who prided himself upon being a rationalist and an agnostic" considered the formation of the "Amalgamated Society of Onion-eaters", with Gandhiji as president and Polak as treasurer. [*Ibid*]

When the Theosophist tried to persuade Polak to join the Johannesburg Lodge and he showed signs of hesitancy, Gandhiji added his own earnest persuasions, and he yielded, later becoming an officer of the British Section of the movement.

Polak moved into the room behind the chambers on Rissik Street when Gandhiji rented the Troyeville house in anticipation of the arrival of his family. After Phoenix was purchased and the press moved there, Polak gave up his position with the *Critic* and joined the community in early 1905, returning to Johannesburg to take articles as a clerk in the office when Ritch decided to go to London in May. He was invited to join the Gandhi household in Troyeville. Polak had been for some time engaged to marry Millie G. Downs, who was in London, and Gandhiji now urged him to cease putting off the marriage on financial grounds. "When there is a heart union, as in your case, it is hardly right to postpone marriage for financial considerations. If poverty is a bar, poor men can never marry. And then you are now staying with me. There is no question of household expenses. I think you should get married as soon as possible," he advised his friend. [M. K. Gandhi, *The Story of My Experiments with Truth,* p.308] Mr Polak's father, concerned over Millie's fragile health, wrote to Gandhiji and urged the postponemem of the wedding. Gandhiji's response, assuring him of the healthy climate and the care she would receive, set the tone of his relationship with her, which, she said, established him in her life "as a loving and understanding elder brother." [M. G. Polak, *Mr. Gandhi—The Man,* Bombay, 1949, p.11]

The bride reached Johannesburg at six o'clock in the morning of December 30, 1905, and the civil wedding ceremony had to be completed by noon, it being a Saturday. Millie was a Christian and Henry a Jew, but they had met at the South Place, Ethical Society in London, and needed no religious rites. They thus saved on the wedding expenses, not even requiring a special dress, but the wedding was nearly shipwrecked on the reefs of the Transvaal's racial laws. The Registrar, seeing Gandhiji in the party, assumed that Polak was not white, and he hesitated to register the marriage. Gandhiji then sought out the Chief Magistrate, who was

his friend. Louis Playford of the Theosophical Society, who promptly performed the ceremony.

The Gandhi household, at the time Millie Polak joined it, consisted of the Gandhis and three sons, Manilal, aged eleven, Ramdas, aged nine, and Devdas, aged six, a young Englishman named Smith in the telegraph service, a young Indian ward of Gandhiji's, and the Polaks. Millie found herself in a household where all the male members assembled at 6.30 each morning to grind the daily wheat for flour in a large handmill. This took from fifteen to thirty minutes, accompanied by talk and laughter. Gandhiji commended it as form of exercise. He also exercised by skipping, at which he was adept.

The dinner hour was nearly always a happy one, she found, where guests were often welcome, and from ten to fourteen people often present. “Various kinds of vegetable dishes were served as the first course, accompanied by a kind of lentil dish, hard-baked wholemeal bread and nut butter, and various little dishes of raw salad would be on the table. The second course would be a milk dish and raw fruit. After this, a kind of cereal coffee or lemonade, hot or cold according to the season, would be served, and that completed the meal. It was never a hurried one, and more than an hour would be spent at the table, the time being occupied often by serious discussions. More often, however, dinner-time was passed in light conversation, jest and wit playing a big part in it.” [*Ibid,* p.23]

"After dinner,” she recalled, "if no strangers were present. we used to sit together whilst Mr Gandhi or one of his wards intoned a couple of *slokas* or verses from the *Bhagvad Gita,* whilst my husband would read the English equivalent from Arnold's beautiful *Song Celestial.* Mr Gandhi explained the difficult passages to us and general discussion followed....When guests were present, philosophies

of different countries would be compared and many varieties of religious and mystic experience dwelt upon." [*Ibid,* p.25]

This household arrangement remained intact throughout the first five months of 1906, after which Gandhiji moved his entire establishment to Phoenix Settlement, upon acceptance by the Governor of Natal of his offer to form an Indian Stretcher-bearer Corps for service in the Zulu Rebellion.

7

The changes in Gandhiji's life now began to affect his family in Kathiawar also. On May 12, 1905 he addressed a letter to his brother Lakshmidas, who had written him after a long silence to chide him for neglecting his obligations to the family. There was now "a wide divergence in our views," Gandhiji responded. He explained that his financial arrangements, although different from what Lakshmidas desired, did not constitute a separation from his family. He was making separate arrangements for his children to stay with Haridas Vora and Revashanker Jagjivan due to the extreme divergence in his views from those of the others in the family, but he was obliged to take full responsibility for their upbringing himself. He was remitting enough to Revashankarbhai for the expenses, but, he assured his brother, he was not handing over his savings to him.

His debts to his family he had already paid. "I deemed it to be my duty to clear the family accounts and I paid them off in full....I have paid off in full brother Karsondas's debt also." It did not seem to be proper to send out more money than that. Most particularly he wished to avoid subsidising extravagant customs: "I do not wish to get involved in all this bother about marriages, etc., indeed I regard it as sinful more or less." Still he would continue to aid the family. All his

earnings from Natal he had made over to the two brothers, but his earnings, in the Transvaal would now be devoted to public work, especially the heavy expenses of the press. In addition, he declared that "such members of the family as are willing to join and make good in the press project will automatically be taken care of."

His present practices reflected the development of his views, and he acknowledged that this may have caused some disappointment:

> "I have never wished to resile from what I may have told you at the time of my going to England or on any other occasion, but owing to the change in my views I have used my money in a way that did not appeal to you. I do not feel I have done anything wrong in this as I have not spent anything on enjoyment for myself or for my children....I am eager to please you and serve you, but (unfortunately) my engaging in public work has caused you distress. This makes me unhappy but I cannot give it up."

He concluded the letter with a pledge, "No matter how wide the differences in our views may be, the bond of blood that unites us will never be sundered; my devotion to you will abide for ever." [All quotations from M. K Gandhi to Lakshmidas Gandhi, May 12, 1905]

The inner changes in Gandhiji were difficult for the Polaks to understand also. Gandhiji had been thinking seriously about the education of his sons, and he had concluded that they should not receive an English education. It was his conviction that Indian parents who train their children to think and talk in English from their infancy, betray their children and their country, depriving them of the spiritual and social heritage of the nation, thus rendering them to that extent unfit for the service of the country. Accordingly, he always made a point of talking to the children in Gujarati. Polak never liked this; he thought Gandhiji was spoiling

the future of his children, depriving them the benefit of a universal language which would give them considerable advantage. The discussions became heated, but Polak failed to convince Gandhiji. [M. K. Gandhi, *The Story of My Experiments with Truth,* p.312]

CHAPTER XV : EVIL EXAMPLE IS QUICKLY FOLLOWED

1

As was but to be expected, the Bazaar Notice and other enactments based on the distinction of colour in a Crown Colony, for whose administration Downing Street was directly responsible, could not but adversely affect the position of Indians in other parts of South Africa.

On June 2, 1903, Mr Ellis Brown, the Mayor of Durban, did a strange thing. On receipt of a copy of the Transvaal Bazaar Notice and of the resolution by the Transvaal Executive Council from Sir Albert Hime, the Prime Minister of Natal, he made a statement in the Committee of the Whole Council of Durban Corporation in the course of which he remarked that by permitting Asiatics to reside and carry on business in every part of the borough they were '"perpetuating a very serious menace to the health of the community." By way of a remedy he proposed a Bill to bring Natal's anti-Indian legislation to the level of the Transvaal. The Bill, he suggested, should provide:

(1) For the registration of all Asiatics in boroughs or townships in a similar manner, as provided by the Transvaal Law 3 of 1885;

(2) The Asiatic bazaars (or Locations) be set apart by the Municipal authorities in which shall reside all Asiatics, other than domestic servants in the employ of Europeans, or employees of Government, corporations, or firms providing suitable barrack accommodation;

(3) That no new licences shall be granted to Asiatics except to carry on business in such bazaars:

(4) That existing licences held by Asiatics be not transferred to other Asiatics, but on the expiry of the existing licences they be cancelled forthwith;

(5) That no Asiatic shall be permitted to hold more licences than held by him on the date of the promulgation of the Bill; and

(6) That any Asiatic who proves to the satisfaction of the Colonial Secretary that he held any high educational certificate from the Education Department in that or any other Colony or dependency', or that he was 'able and willing to adopt a mode of living not repugnant to European ideas, nor in conflict with sanitary laws', might apply to the Colonial Secretary for a letter of exemption which would enable him to reside elsewhere than in a place specially set apart for Asiatics. [C.W.M.G. Vol.III, p.320; *Indian Opinion,* June 4, 1903]

"This is ominous", remarked Gandhiji when the news about the Mayor of Durban's latest move appeared in the Press. "Whom would Sir Albert...send to Bazaars?" he asked. "Surely, not those who are already established; for, such are not affected by the Transvaal Notice". It was a strange comment on the Imperial mission of Chamberlain to South Africa, he said. Imperial spirit and Imperial unity were the burden of his eighty speeches. He had laid down the principle that such Indians as were already settled were entitled to 'fair and honourable treatment'. Was to force Indians to Bazaars, in plain terms, Locations, "fair" or "honourable" treatment? [*Ibid,* p.318]

The value of properties had doubled in Durban from what it was before the war as a result of the post-war boom; customs receipts had gone up by leaps and bounds and merchants were making large profits. This undreamt of prosperity

had whetted the greed of the European section who wished to appropriate the whole of the fruits of the post-war prosperity to themselves and deny it to the Indians. The locationing of the Indians was to be the means to that end. The charge of insanitation came in handy as a convenient excuse. Realising the need for prompt action, the Natal Congress resolved to call a meeting of representative Indians from all parts of the Colony to discuss the Mayor of Durban's minute. June 23 was fixed as the day for the meeting.

The chagrin of the Europeans was understandable, observed Gandhiji on the eve of the meeting, but they had expected better things from the “sober-minded, patriotic and just" Ellis Brown. The Bazaar proposal was neither sober, nor patriotic, and the manner in which he had seen fit to support it was hardly just. The proposal was not sober, because it was not considered final in the land of its birth (the Transvaal) and was now being reconsidered. It was not patriotic, because it had been made irrespective of what his fellow British subjects would think of it. As to the manner in which it had been supported, the less said about it the better. "We can only hope that under the spell of Lord Milner's authority, and in the hurry of the modern rush, having no time to study the subject, the injustice done to the Indian community has been unconsciously done." [*Ibid,* p.335; *Indian Opinion,* June 11, 1903]

In the latest Report of the Immigration Restriction Office it had been shown that the Immigration Restriction Act had not proved a failure from the anti-Asiatic standpoint. As for the Dealers' Licences Act, unless His Worship accused the Town Officers in the Colony of not carrying out their duties conscientiously, a material increase in the Indian licences, Gandhiji thought, was impossible, "if only because the traders are absolutely at the mercy of the licensing officer.” [*Ibid*] Pointing out that one of the most potent causes of the revival of the anti-Asiatic feelings was

the continued increase of indentured labour from India, he concluded: "Stop the indentured Immigration and you will soon see the number of Indians in the Colony materially diminishing as years roll by." It would also furnish a practical demonstration as to whether the Colony could or could not dispense with such labour. "If it can, well and good. If it cannot, then, it will be a potent reason for stopping the 'pin-prick' policy towards the Indians." [*Ibid,* p.336]

2

On the evening of June 23, the day of the Indian protest meeting, [Gandhiji played a large hand in the organisation of such protest meetings and in guiding the speakers. An insight into his methods is provided by a letter to Gandhi from M. H. Nazar, the editor of the new weekly *Indian Opinion* on June 3, 1906 the day after the Mayor's minute had been presented:

Dear Mr Gandhi,

If you can send 3 or 4 short and decent speeches, may not a public meeting be held in Durban to protest against the Premier's action and the Mayor's minutes? If I get your views as soon as you come to a conclusion,

I may, if you approve, arrange for a large meeting where even delegates may be invited. But I must get the speeches and prepare the speakers before fixing the date— so that the whole thing will be smooth and serene. Unfortunately, too many will want to speak, and there will be a lot of bickering. But it cannot be helped….

Yours

M. Nazar.]

the Congress Hall presented an appearance not to be easily forgotten. There was no standing room in the spacious hall. Even the verandah was thickly crowded, and it was difficult to move in the passage. Ladysmith alone sent 17 delegates. Never before had so many leading Indians assembled in the Colony to discuss their position. Abdul Kader (of Messrs Mahommed Cassim Camroodcen & Co.) took the chair.

Laying his finger on the heart of the matter, the chairman remarked that behind the talk of "insanitation" and "danger" to the white community was

nothing but trade jealousy and the insatiable greed of the European trader who could brook not the slightest trade rivalry by the coloured man and did not scruple to employ the arm of political injustice to grab what he could not gain by fair means. "Why does he ask for new legislation? Because, he says, the Immigration Restrictions and Dealers' Licences Acts have failed." [*Indian Opinion,* June 25, 1903] But the Immigration Restriction Officer, in his latest Report dated March 1903, had stated that the Immigration Act had been in force for five and a half years and the results of each successive year's application of the powers it conferred appeared to afford gratifying evidence of gain to the Colony by the addition of that measure to their Statute Book. [*Ibid*] In 1902 alone Mr Smith had excluded 3907 Indian immigrants and admitted only 115 Asiatics who were not domiciled in the Colony but had passed the education test. "I commend to Mr Brown's attention the whole of Mr. Smith's report."

Coming to the Dealers' Licences Act, the Chairman, after referring to the cases of Somnath Maharaj. Dada Osman and scores of others, whose licences had been arbitrarily refused, asked the worthy Mayor to turn up the Privy Council case of Vavda and the New Castle Corporation whereby the community dropped over £500 in costs for a decision (see *The Discovery,* p.147). When the Act was passed it was condemned even by the Europeans as "a terrible engine of oppression". The late Sir Henry Binns had called it un-British.

The bug-bear of the plague had been dragged into the controversy, continued the speaker. The plague was essentially a poor man's disease, born of filth and squalor. Everyone knew that there were more poor Indians in the Borough than Europeans. Was it then a wonder that there was a greater number of plague cases among them? Besides, most of the Indians attacked by the plague were indentured labourers for whose mode of living their employers—

the Corporation and the European firms—were responsible.

> Eastern Vleis and Western Vleis, and Bamboo Square...are the 'plague spots', the offspring of the Corporation....Does it not behove the Corporation to put its own house first in order? Or, does it wish that we should all be cooped up in swamps and shanties and then become extinct, or (be) held up to scorn and contempt for its own neglect? [*Ibid*]

As for the land owned by the Indians, the speaker went on, it was perhaps true, that some Indians had speculated in land. Durban had been passing through a "land fever". If, as a result, the Indians owned half a million pounds worth of land, it could be shown that over eight million pounds worth of land was owned by the Europeans. "Formerly, when many of us were not in a position to buy land, these very men were accusing us of not investing money in the Colony, and remitting to India. Does Mr Brown grudge us that slice of land for which moreover we have paid the best price in the open market to Europeans who were willing to sell it to us?"

The Chairman concluded with an appeal to the white colonists, as the dominant race inhabiting the Colony, not to make mock of the Imperial ideal. They proudly called Natal the most loyal British Colony in South Africa. They were members of the British Empire and had sworn allegiance to the old flag.

> The same flag waves over us. We belong to the same family. We provide seasoned, well-trained soldiers to fight the Empire's battles. Our loyalty is proverbial. Our sobriety, our modesty, and our law-abiding character are acknowledged even in this Colony. We have accepted the principle most dear to them, viz., that they shall have the right to regulate immigration so long as they do not thereby slight a whole race....In the

name then of humanity, justice, fairplay and in the name of the British Constitution, I ask them to stay their hand, and give us rest to which we are fairly entitled. [*Ibid*]

Adamji Miyankhan, speaking next, recalled how during the war in that very Congress Hall, Sir John Robinson, Benjamin Greenacre, Nicol and others had extolled the Indians' loyalty and expressed their belief that their services to the Empire would never be forgotten. If he was not mistaken, Mr Ellis Brown himself was there on the occasion. They had but to think of their Imperial obligations and he was sure they would "cease to insult" their Indian fellow subjects, "as they unconsciously do in this matter." [*Ibid*]

With that he moved that "this meeting of British Indians from every district in the Colony respectfully protests against the minute issued by his Worship the Mayor of Durban regarding the proposed institution of Asiatic Bazaars and the adoption thereof by the local Town Council", [*Ibid*] on the following grounds:

(1) The Minute was based on statements which were not capable of being supported by facts.

(2) The anti-Asiatic laws of the Transvaal which the Minute copied, were such that they could not be adopted by a British Colony, and were being considered by the Transvaal Government with a view to their repeal.

(3) The existing Immigration and Licensing Laws of the Colony were sufficient for all reasonable requirements, the Immigration Act having succeeded, according to the official reports, in practically stopping the entry of free Indian immigrants, and the Licensing Acts by giving the Corporations almost unlimited powers in the regulation of licences.

(4) So far as segregation was concerned, the poorer class of Indians were already living in separate localities.

(5) The loyal British Indians were entitled to rest from the ever-changing and harassing legislation.

After J. L Bhayat of Maritzburg had seconded and A. M. Omar of Ladysmith, A. M. Amod (New Castle), Parsi Rustomji and several others had spoken in support of the resolution, Mr Akmal, striking a new note that portended things to come, exhorted the gathering to brace themselves for action which alone could help them in the struggle for survival, and not mere verbal protests however strongly-worded. “It is not the existence of our grievances which requires the confirmation of so many able speakers....what we ....need is the discovery of some means to remove those political and social disadvantages to which we are subjected....It is but of little use to pile reproaches on the Europeans... *If the Europeans of this Colony turn the wheel of law to grind us down, let us not waste our time in useless laments or supplications, but stand bravely together to turn the course of the crushing wheel.* " For a moral he referred the audience to Socrates who had taught that "There is not an ailment which has not a remedy; accordingly, the disease of the political weakness cannot be without a cure." [*Ibid,* July 2, 1903. (Italics by the author)]

The resolution was carried unanimously. Copies of the resolution were semt to the Governor, the Prime Minister of Natal and the Mayor of Durban.

3

The *Natal Advertiser* defended the proposed segregation on the principle "salus populi suprema lex", [*Ibid,* July 9, 1903; C.W.M.G. Vol.III, p.362] and that the unrestricted intermingling of the two races did not conduce to the highest interests of the European population. Asked Gandhiji, whether the Indian was or was not included in "populi". As for ''intermingling", barring business

intermingling, there was none even as things stood. And this intermingling was bound to continue whether the Indians were compulsorily segregated or not, so long as the Europeans chose to do business with them, or to avail themselves of their services. What was more, the Mayor's minute had expressly provided for such intermingling so long as the Indians were in the employ of the Europeans.

> Supreme the English are, and must remain in the Colony. Nor do we want them to practise altruism in our favour. But we do request them not to use the supremacy in order to do us injustice, to degrade and insult us. 'Fair field and no favour' is the just and reasonable demand of the Indian community. [C.W.M.G. Vol.III, p.363; *Indian Opinion,* July 9, 1903]

The *Natal Advertiser* had deplored the fact that the Indian population was equal to the European. But out of the total 50,000 Indians in the Colony, rejoined Gandhiji, nearly one half were serving their indenture, and were, therefore, not to be reckoned for comparison for the purposes of the argument. The remedy lay in the hands of the whites themselves; "Cease to import Indian labour, and the problem is solved." [*Ibid*]

Once you bring home to the adversary the fallacy of his position, Gandhiji used to say, his opposition is bound to collapse soon or late. He may still continue his opposition from sheer obstinacy but the punch will have gone out of it. The key to success lies in making his mind receptive instead of resistant and in this nothing helps more than a genuine appreciation of the adversary's view-point and readiness to admit a flaw in one's own position as soon as it is discovered. These traits in conducting a public controversy won Gandhiji the sympathy and moral support of many large-hearted colonists. Wrote one such, signing himself "an Englishman":

It seems incomprehensible to all right-minded thinkers that such an ukase should be issued by the Municipal Government....Some of our worthiest and most respected traders have nought but Indo-Asiatic blood flowing in their veins....An Indian...is wrapt up in his own business...He has an intense love for his wife and children...The coolie or labourer was introduced into our midst at our request, when our sugar estates demanded labour which our native population could not supply. Because he has now emancipated himself, and proved himself to be...a magnificent tiller of the soil, making a wilderness, which a European would not look at, into a veritable garden of Eden, why should we point the finger of scorn at him? Let us rather take the beam out of our own eyes before we attempt to remove his minute mote. [*Indian Opinion,* July 2, 1903]

4

Gandhiji now set himself to combat in all earnestness the bogey of insanitation among the Indians that the Natal Town Council had raised. It had been said that effective supervision was not possible when Indians were scattered about and when their habits were so different from those of the Europeans. Both parts of the statement were incorrect. The Indians were, by and large, living in particular locations, and their habits had really very little to do with sanitary control which could most effectively be exercised, in keeping with the Borough bye-laws, “in spite of any habits to the contrary." The buildings were built in accordance with the plans approved by the Town Council; and, so far as the sanitary upkeep thereof was concerned, it was merely a matter of the Borough bye-laws being strictly and rigorously enforced. “Does the Town Council intend, if it succeeds in segregating the Indians, to leave them absolutely to themselves, without any sanitary supervision, or does it intend to exercise stricter

sanitary control after segregation?" he asked. “How compulsory segregation is going to solve a difficulty that does not exist, we cannot understand.” [C.W.M.G. Vol.III, p.342; *Indian Opinion,* June 18, 1903]

To drive home his point Gandhiji confronted the Town Council with the findings of a report of the Sanitary Committee, appointed by the Town Council itself, which was submitted at a meeting of the Town Council with the Mayor in the chair on September 19, 1899 and was published in the *Natal Mercury* on the following day. It revealed a state of things in the "coolie" settlements under the direct management and sanitary control of the Town Council where the "coolie" population in the employ of the Durban Corporation was housed, that was nothing short of scandalous. [*Indian Opinion,* July 2, 1903.

The following are excerpts from a report by the Sanitary Committee, after an inspection of the Durban Corporation coolie compounds:

(1) Albert Park— Western Corner:

We inspected the compound of the flat... in which are accommodated…coolies…numbering 50 men, and 98 women and children and divided among a number of shanties…in a state of dilapidation, constructed of reeds, old sacking, scraps of tin casting, and portions of old packing cases...entirely without light or any ventilation except what finds its way through numerous crevices, which at the same time admit the rain... erected on ground which is always...damp....The floors are in most instances below the level of the soil; entrance can only be effected by crawling....They are all in a deplorable condition, and utterly unfit for human habitation.

(2) The Western Vlei:

… to bring them (corrugated iron buildings) within the terms of our own sanitary bye-laws they require to be provided with roof, guttering and down pipes, more light and more ventilation and another latrine, the existing one not being sufficient for decency.

(4) Old Compound on the Depot Road:

No roof guttering or down pipes exist. The surroundings as well as the rooms are insanitary and much so.... The condition of lavatories and latrines is...unsatisfactory. We recommend that at the earliest possible date these structures be demolished....They are quite beyond repair.

(6) The Public Works Department Barracks:

The grass huts the hovels and the kitchens are quite unfit for human habitation. The hovels and grass huts should be destroyed by fire, the kitchens should be vacated and restored to their original use....

(7) Bamboo Square:

... Indescribable huts, dilapidated, over-crowded, insanitary in every respect...and...unfit for human beings ....We recommend that the huts or hovels..be destroyed...and adequate provision for latrine accommodation be provided as well as a wash house.

(8) Umgani quarries:

(The Sanitary Inspector) states: ".....1 condemn them all as unfit for use, and urge that they be vacated.]

In the course of the discussion in the Town Council that followed the presentation of this report, Mr Jameson, member of the Natal Legislative Assembly, was reported as having said that a "very serious responsibility rested upon the Committee." The rate of mortality among the corporation coolies was "as His Worship well knew, enormous." [*Indian Opinion,* July 2, 1903]

Commented Gandhiji: "The Town Council has furnished an object lesson to the Indian community in sanitation by allowing 'two plague spots' to exist in this model Borough of Durban....May we, then, ask the Town Council, first of all to deal with the Eastern Vlei and the Western Vlei...and make them habitable before it thinks of undertaking the compulsory segregation of thousands of British Indians residing in the Borough?" [C.W.M.G. Vol.III, p.341; *Indian Opinion,* June 18, 1903]

Gandhiji's well-meant advice to set its own house in order was lost on the Durban Town Council. Nearly two years afterwards, according to a report by the Inspector of Nuisances, things in the Eastern and Western Vleis continued to be much the same. [C.W.M.G. Vol.IV, p.359; *Indian Opinion,* February 25, 1903] This drew from Gandhiji the following comments: "So we have it on record that the Corporation has had the evil pointed out to it; that such evils, being permitted to continue,

cast a stigma upon the body that condones them; and last, but not least, that the Corporation has in the cases of the Eastern and the Western Vleis, done practically nothing to remedy them." Was it not adding insult to injury then to urge the "insanitation" of the Indian community as a reason why they should be wiped out of existence, he asked. [*Ibid,* p.361]

The thorough exposure of the awful conditions obtaining in areas under the Town Council's direct control nipped the mischief of the Mayor's Minute in the bud. The ink on the Mayor's Minute had scarcely dried when news was received from the Transvaal confirming that the Bazaar Notice was merely a temporary regulation and that it was not intended to become a part of the permanent laws of the country. On the other hand, the last word on the Natal delegation's request for indentured Indian labour under compulsory repatriation plan had not yet been said; it was still under the consideration of the India Office, and under increasing pressure from Lord Curzon the Transvaal Government was busy formulating its proposals for legislation which would replace the Bazaar Notice. The Durban Town Council realised that in issuing its Minute it had acted in haste and now stayed its hand. By the end of the year the Durban Mayor's proposal was pronounced to be "dead as Queen Anne". [C.W.M.G. Vol.IV, p.98; *Indian Opinion,* January 7, 1904]

5

In the wake of the extraordinary Minute by the Mayor of Durban came the announcement of an Immigration Restriction Amendment Bill to be introduced during the current session of the Natal Parliament "to place closer restrictions on Immigration". [C.W.M.G. Vol.III, p.344; *Indian Opinion,* June 25, 1903, vide petition by Abdool Caadir of Mohammed Cassim Camroodein & Co. and others to the Natal Parliament, dated June 23, 1903]

The Bill contemplated the following modifications: (1) the raising of the educational test so that instead of simply filling up particulars in a *pro forma* application for immigration the applicant had to write an application in a European language to the dictation of an Immigration official; (2) fixing the age of majority at 16, instead of 21; (3) the necessity for an applicant for a visitor's pass to attend before the Immigration Restriction Officer or other officers thereto appointed, instead of an agent or a representative doing it for him; (4) the requiring of a residence in Natal for a period of not less than three consecutive years instead of two as hitherto; and (5) the denial of the benefit of domicile to indentured Indians in spite of the five years' minimum service in the Colony. [*Ibid*]

As soon as the Bill was introduced in Parliament a petition signed by Abdool Caadir and 146 others [NAI (Rev. Agri & Emig.) Progs.-A, March, 1904, C.W.M.G. Vol.III, p.344] on behalf of the Indian community residing in Natal was submitted to the Honourable the Speaker and Members of the Assembly.

The petitioners had little to say about the education test if only the principal Indian languages were recognised by the Act, but they felt that the fixing of the age of majority at 16 would be a great hardship to those who were entitled to immigration to the Colony. [C.W.M.G. Vol. III. p.345; *Indian Opinion,* June 25, 1903] The requiring of the attendance of an applicant for a visiting or an embarkation pass before an officer, the petitioners felt, was due perhaps to oversight. The applicant might be residing in any part of South Africa and it was hardly to be expected that the Government would provide for stationing officers at each and every place or part of the Colony and it would be manifestly impossible for an applicant to always appear before officers appointed under the Act for the purpose. The petitioners, therefore, hoped that attendance of an agent before the Immigration Officer would be deemed sufficient.

The raising of the period of residence by one year for the purpose of domicility was a great hardship as it would "prevent many members of the Indian community from returning to Natal, although they may have businesses and connections in the Colony. It may mean in many cases very serious loss to individuals." [*Ibid,* p.346] The petitioners emphatically protested against the denial of simple rights of citizenship to time-expired indentured Indians who "have deserved well of the Colony". [*Ibid*]

The petitioners finally prayed that now that the whole of South Africa had come under British control *all who were domiciled in British South Africa should be free to enter the Colony* unless they came under the prohibited categories mentioned in Section 5 of the Bill.

In moving the second reading of the Bill the Colonial Secretary said that they found themselves in a very different position from that in 1897 and they had to deal with “a class of immigrants coming from a direction that was never dreamt of in the old law." About the education test he admitted that the proposed test was much more severe. Experience had, however, shown that it was necessary. He emphasised that he had refused to include even Yiddish, the language of the Jews, in the category of European languages.

When the speeches on the Bill were over, Mr Maydon presented the Indian petition.

Mr J. Baynes, thereupon, proposed that it be printed for the information of the Honourable members. Opposing it, Dan Taylor moved an amendment that "public money be not wasted in this direction."

The Speaker ruled the amendment out of order.

Mr Baynes' motion being then put to the vote was lost.

The second reading of the Bill was passed without a division.

Drawing attention to the report of the Immigration Restriction officer, Mr Harry Smith on July 25, 1903, Gandhiji reiterated that he had nothing to say against the introduction of the Bill in question excepting that the existing Act had not received a fair trial, and that so far as it had gone, it had not failed to satisfy the expectations that were raised when it was first introduced. [*Ibid,* p.348] He also pointed out that to deny the indentured people who, to quote the words of Harry Escombe, gave the best five years of their life for a paltry wage under conditions which perilously bordered on slavery, "the elementary rights of citizenship, after they have become free" was to say the least of it. "very unjust". [*Ibid,* p.349]

On July 9, 1903, Gandhiji once more appealed to the Government to consider the reasonable request of the Indian petitioners, and make the concessions prayed for. In the brilliant speech made by the Honourable Sir John Robinson, as Prime Minister of the Colony, at the time of the introduction of the Franchise Bill, he had said that the House, by disfranchising the Indians, took upon itself a grave responsibility. He had promised that the rights of the disfranchised would be "jealously guarded", as every member would consider himself "in a measure the guardian of the rights of the disfranchised", and see that no injustice was done to them. "We will anxiously await the result of the deliberations over the Immigration Bill. Will the House give effect to the words uttered by Sir John? Let us hope so." [C.W.M.G. Vol. III, pp.361-62; *Indian Opinion,* July 9, 1903]

On July 11, 1903. the Bill was moved in the Legislative Council.

A petition of even date signed by D. M. Matala and 29 others on behalf of the Indian community was presented to the Council [C.W.M.G. Vol.III, p.364] by Mr Jameson. But the Bill passed without an amendment. Noticing how the Bill was

handled, Gandhiji remarked that both Houses seemed to have prejudged the issue and made up their minds about the Bill. "We wonder that Sir John Robinson thinks of this latest instance of the local Parliament practically denying the right of the British Indians" The prayer of the petitioners was very reasonable. It was something to have their assent to the principle of the measure, and what they suggested was nothing but an experiment. "But our legislators thought otherwise. To them the pleasure of insulting their Indian fellow-subjects and their cultivated languages was of far greater value than the performance of a simple duty they owed to India and the Empire." They were satisfied that they could draw upon Indian labour, which was indispensable for the prosperity of the Colony. [*Ibid,* p.397; *Indian Opinion,* August 6, 1903] So long as they were sure of that nothing else mattered to them.

On August 24, 1903 the Indians petitioned to Chamberlain for "mercy and justice", but to no purpose. [C.W.M.G. Vol.III, p.420] A feeble attempt by the India Office to get the language requirement changed to "English or some European language" selected by himself (the immigrant) was cold-shouldered by the Colonial Office and nothing more was heard of it. [CO 179/230, India Office to Colonial Office, no date given, quoted by Huttenback, *Gandhi in South Africa,* p.229] In September 1903, the Bill got the Royal assent and was gazetted in the first week of October in Natal. [C.W.M.G. Vol.IV, p.1; *Indian Opinion,* October 8, 1903]

When the Bill was brought to the notice of the Government of India, its officials took the view that "nothing is disclosed in the present papers which need alter this decision. None of the changes objected to in the petition of Abdool Caadir and 146 others seriously increases the stringency of the original Act or affects its principle". [NAI Progs. 24(a), March, 1904] Besides, the Secretary of State for the Colonies had not waited for the Government of India's reaction. His majesty's

assent had already been given in September, 1903. The papers were sent for information only. The Government of India, therefore, decided not to take any action.

It was never doubted, commented Gandhiji, that the measure would receive sanction from Downing Street. "The Colonies have become very powerful, and are becoming more and more so day by day. The Indian subjects of the King Emperor, therefore, have to patiently and quietly submit to the restrictions that the Colonists may choose to impose upon them, hoping with Lord Milner that 'time and discussion' would enable the Colonists to see the error of their ways and recognise the obligations that they should discharge as component parts of the mighty Empire." [C.W.M.G. Vol.IV, p.1; *Indian Opinion,* October 8, 1903]

6

In the result, the restrictions on British Indians were made harsher in five essential respects by the law of the Colony in spite of the Indian protest. The report of the Immigration Restriction Officer for 1903 showed that, out of 6763 would-be immigrants who were shut out 3224 were British Indians. Indian immigrants admitted after examination numbered 1869. Of these only 158, or one tenth of the total admitted, passed the education test; the rest proved former domicile. The men who were shut out had undergone a long voyage, and had very likely invested all they had in taking out a passage for Natal, thinking they would not be prohibited from landing in a British Colony. For, as Gandhiji observed, in spite of the Act, which had hardly reached the ears of the millions in India's remote villages, the people there could hardly "assimilate the doctrine that there could be differences in the nature of their rights as citizens of the

Empire under the same flag in different parts of it" [*Ibid,* p.142: *Indian Opinion,* March 10, 1904]

Under the operation of the new Act even British Indians who entered the Colony after 1897 after having passed the examination under the Department were turned out of the Colony. It was hardly fair to hound out decent people, who were already established in the Colony as if they were criminals, especially as the very Department that was now driving them out had allowed them to enter the Colony after having them properly examined by its officers. Gandhiji, therefore, hoped that the Natal authorities would stay their hand.

The effects of the new Immigration Restriction Act could soon be seen, though in the following year plague was even more effective in halting Indian immigration into the Colony.

In the first week of May, 1904 rats were found to be dying at the Point in the block between McEwan's premises and the Union Castle offices. The authorities suspecting that they had died of plague *Ibid,* p.183: *Indian Opinion,* May 7, 1904] issued Plague regulations, putting further curbs on the travel facilities of the Indians. They were published in the Natal Government Gazette of May 10, 1904. [*Ibid,* p.191; *Indian Opinion,* May 21, 1904] The Indians from the Transvaal, thereafter, could not enter Natal unless they could obtain a travelling pass from the medical officer at Charlestown authorising them to proceed on their journey. [*Ibid*]

In June two cases of prosecution of considerable importance under the new Act were reported. One of them was against Om Dayal Ooka, a hawker. He had been in Durban for five years and nine months and in Maritzburg for three months. Espied by an Indian constable in a hotel, he was prosecuted on a charge of remaining in Natal contrary to the provisions of the Indian lmmigration Restriction Act. In the course of his evidence he stated that on his return from

India he had come to Natal by a German liner and that he had paid £8 to “somebody" on board before he could land. He then went to Maritzburg and lived there for three months. On being asked by G.S. Marshall, the Immigration Officer, he expressed his inability to write an application in any European language. He could also not produce a pass.

Though he paid the money he got no certificate except a small ticket which was in course of time lost. He pleaded not guilty.

Cross-examined by the prosecutor, he stated that he paid £8 to be allowed to land in Natal. He did not know to whom he paid the £8. He did not get any paper when he paid £8. He only got a small ticket. "I do not know what kind of clothes the man was wearing whom I paid £8. I ask forgiveness for having lost the pass; that is all I have to say.” [*Indian Opinion,* July 2, 1904]

Ghulam Mahommed, the Indian constable attached to the Court on whose information the prosecution had been started, testified that the accused had told him exactly what he had stated before the court.

Against this evidence nothing was produced by the prosecution. But disbelieving his testimony, Mr Bennett, Assistant Magistrate, sentenced him to imprisonment for two months. "unless 'the deportation of the accused could be arranged to take place before". The magistrate, however, allowed him to appcal to the Supreme Court and fixed the bail at £50.

Gandhiji appealed to the Government "to stay these prosecutions". For, if the decision of the Magistrate was upheld, it was clear that every Indian would be presumed to be a newcomer, unless he could prove, "not only on oath himself, but by some other testimony, that he had been in the Colony before the passing of the Act". The Government was within its rights to prevent the surreptitious

entry of prohibited immigrants but it seemed to him, urged Gandhiji, that it would be going "altogether too far" to molest the people who were already in the Colony, and who had landed in spite of the precautions taken by the officers appointed under the Immigration Restriction Act "even though they may labour under the restriction as to former domicile". [C.W.M.G. Vol.IV, p.219: *Indian Opinion,* July 2, 1904]

7

Foiled in its attempt to location the Indians in the manner of the Transvaal, Natal resumed its squeeze on the Indian traders by the use of the arbitrary powers under the Dealers' Licences Act, which had been kept in abeyance for the duration of the war and for some time after..Wrote Gandhiji in one of his letters to Dadabhai: "The struggle about licences in Natal has been revived as a direct result of Lord Milner's Notice. Natal has naturally grown bolder, and in view of the coming of the new year, the situation has become very acute." [C.W.M.G. Vol.III, p.436; *Indian Opinion,* September 7, 1903]

In 1898 it was the New Castle Town Council which had led the way when it refused in the first instance all the Indians' Licences. It led the way now also. In the first week of August 1903 Messrs Amod and Mahommed Company were refused licences by the New Castle Licensing authorities for premises on erf 42, Scott Street, when they applied for it through their solicitor Mr Hugh Anderson. On August 2, Mr Anderson personally met the Licensing Officer. The officer only said: "I regret I cannot grant a licence for these premises to your client," but gave no reasons. An appeal was lodged with the Town Council against the decision of the Licensing Officer.

Arguing for his client, Mr Anderson said that the applicants were rate-payers. They had complied perfectly with the law. It was known that the

demolition of the old premises was effected under the threat that if the old building was not pulled down, the licence would be refused. "When they pulled down the old building, were these people not justified in thinking that the licence would be granted? The Corporation passed the plan for the building. They knew from the plans that the building was erected for a store...the very word 'store' had been on the plans. They had watched the progress of the building daily. They had to acknowledge the owners and could not deny them a licence for adequate premises. The licence was refused without reason." He failed to see (any) insanitary ground...They did not say there was anything likely to lead to pestiferous disease.

What was the other reason which was not stated, the Counsel asked, and answered: "The other reason is that if the licence was granted it would be prejudicial to other store-keepers in the town." True, the law gave the Licensing Officer the power of discretion. But he was also told in what cases he was justified in refusing. The law contained nothing to warrant a licence being refused to an applicant on account of his being an Indian or having property in a particular street. The number of licences would not be increased by one if the one before them was granted.

By getting the old premises demolished, Mr Anderson went on, the applicant had removed an eye-sore to the town. Recalling the circumstances in which the Town Corporation had to buy the police barracks to do away with another eye-sore, he asked: Would they buy the premises of the applicant? The top storey had been leased to the Masonic Lodge, £37.10s. of the rates had been paid. Would the Corporation refund the amount? Would any of the Councillors remove any eye-sore with their own money?

When the Town Hall was built, the Council pointedly remarked, *there was not enough money in the town to put up a clock. "These very men came forward and contributed* £5 *each to allow you to see the time of the day,* and you have never gone to them for anything without getting what you wanted. They are the most law-abiding community of the Borough. They have been allowed to buy land and thereby increase the valuation."

Quoting figures, Mr Anderson showed that Indians paid rates on £26500 for seven erven. He would not give as much for the whole of Murchison Street. Had the Town Council the right to say "we won't give this licence because a few town councillors have stores in that vicinity?" What they had done was "disgraceful conduct for any Town Council from the legal, social, munictipal or another point of view. What they had done was bad, it was worse than bad, it was wicked." [*Indian Opinion,* September 3, 1903] Mr Anderson insisted on being given the reason for the refusal.

After some skirmishing the reason was given. Dated August 3, it read: "My reason for refusing the application of Mr Anderson on behalf of Messrs Amod and Mahommed for a retail store licence for the premises No.42, Scott Street apart from sanitary grounds is that the *granting of further licences to Indian traders in that portion of the Borough is prejudicial to the European property-holders in this vicinity.* [*Ibid*]

The Town Council upheld the decision of the Licensing Officer.

About the same time, Mr Jennings, the Licensing Officer of Durban also refused the applications of A. J. Patel, Ramprasad, J. B. Timol and M. E. Makadam for the transfer of their licences from one premises to another.

An appeal was made to the Durban Town Council by J. B. Timol against the decision of the Licensing Officer. A special meeting of the Town Council was held under the presidentship of Mr Ellis Brown, Mayor. Mr R. Robinson appeared for the appellant.

The main point upon which the appeal rested was whether the Licensing Officer had exercised his discretion rightly in refusing to grant permission to the applicant to transfer his licence from one premises to another. When he brought that application, the counsel argued, he was unaware there was any ground beyond that for the appeal. So far as the question of unsuitability of the premises was concerned that was a matter which should be referred back to the Licensing Officer, "and provided that the applicant satisfies the sanitary authorities, l take it, if my other point is upheld, there should be no objection". The applicant had held the wholesale licence for the past ten years and had never become insolvent. In fact, there was no objection to the applicant himself. The only objection raised by the Licensing Officer was that as the applicant, Timol, had moved from one premises to another he regarded the application as one for granting a new licence. "I understand, Mr Jennings had received instructions not to grant any new licences to Arab traders or Indians."

The Mayor: “I think that is wrong. I know of no such instructions."

Mr Robinson: "I also ascertained from the Licensing Officer that he would not grant any new applications and that he regarded this application in the light of a new application. If Mr Jennings' discretion is right and if the Council is going to support that discretion, it will work considerable hardship on Arab tenants.”

[N. M. quoted in *Indian Opinion,* September 10, 1903]

The decision of the Licensing Officer was upheld.

The refusal of the Licensing Officer to renew the licence of the remaining three applicants was also upheld.

8

On September 10, 1903 Gandhiji observed that they were witnessing a revival of the "root-and-branch" policy that had been adopted by the Town Councils throughout the Colony when they found themselves in possession of the extraordinary authority given them by the Dealers' Licensing Act (see *The Discovery,* p.157). The reason for the renewed activity was to be found in Mr Chamberlain, when he paid his memorable visit to South Africa, and also in Lord Milner. "Probably the Colonists had never expected that they would find him so yielding as he was found to be as to matters of fundamental principles of the British Constitution. Since his return to England also he has been himself unwilling to protest against the Colonial policy in South Africa, even when it has been a clear departure from British traditions. Lord Milner has strengthened the impression thus gained by the Colonists as to their powers by his Bazaar Notice, and they have really come to the conclusion that, if the principle of Locations and restrictions of licences to British lndian subjects can be sanctioned and approved of in a Crown Colony, much more so in a self-governing Colony like Natal." [C.W.M.G. Vol.III, p.437; *Indian Opinion,* September 10, 1903]

Gandhiji read in the decisions of the Town Councils of New Castle and Durban an indication of what was in store for the Indian traders in Natal in January next when licences would have to be renewed. What had happened was probably "only the beginning of another struggle for existence on the part of the British Indian in Natal" he warned. "And if we are justified in our forecast, then, we may truly say that British Indians, who expected bread out of Mr Chamberlain's visit to South Africa, have got stones instead." [*Ibid*]

Reverting to the topic in the following week, Gandhiji observed that the Indians had said times without number that the Town Councils could fairly be left

to regulate the issue of dealers' licences "in view of the popular prejudice", but it "certainly ought not to be done capriciously, nor should the objection be based on the sole ground of colour". If the stores were not in keeping with the surroundings, the Town Council could say so and insist on suitable premises being built. If there was anything wrong with the applicant himself, he might be called upon to remedy the defect. But it would be a very serious injustice if, after all the reasonable requirements had been fulfilled, any man was prevented from trading because he did not bear a white skin. And it would hardly be called fair and honourable treatment to deprive innocent traders of their living by a stroke of the pen.

> It is a matter for thankfulness that the highest Courts of Justice throughout the British Dominions are always pure, and the meanest of British subjects can rely upon getting fair decisions without favour or prejudice. These courts are the sheet-anchor of the liberties of the people, and until the legislature restores to our Supreme Court the power of reviewing the decisions of the Town Councils sitting in appeal over Licensing Officers on merits of each case, there will be no rest for the Indian traders. [C.W.M.G. Vol.III, p.444; *Indian Opinion,* September 17, 1903]

The remedy lay solely in giving the Supreme Court the jurisdiction which had been unconstitutionally taken away from it. The Act in its existing form was manifestly unjust.

> In taking away the jurisdiction of the ordinary Law Courts of the Colony, it strikes at the very foundation of the principles of the British Constitution. It gives extraordinary powers to men whose interests are in conflict with those of the applicants for licences who may appear before them, and it enables them to appoint an officer (the Licensing Officer) who

holds practically the livelihood of poor men in the palms of his hands, one who cannot give an unbiased, disinterested, and fearless judgement. [*Ibid,* p.449; *Indian Opinion,* September 24, 1903]

Unless prejudice had entirely blinded the sense of justice of the Colonists, he finally wrote on October 1, 1903, it was simple enough to recognise that the utmost uncertainty which hedged round every Indian licence owing to the existing Licensing Act should be removed, and the applicant ought to be allowed to feel certain of his position. "Until this elementary measure of fairness is meted out to the British Indians there can be no rest, and it is the clear duty of every Indian to persistently agitate for the desired amendment of the Act in question." [*Ibid,* p.458; *Indian Opinion,* October 1, 1903]

9

The echoes of the tocsin sounded by Gandhiji had not died away when the danger that he had pointed to began to take shape. Presiding over a meeting of the Ladysmith Chamber of Commerce held at the close of October 1903, Mr D. Sparks, the Mayor, stated that:

(1) The Arab traders paid their best men £4 only, whereas white storekeepers had to pay £20 and more.

(2) The Indian traders had licences to trade, but ignoring the usages of the European store-keepers kept their stores open at all hours from 5 a.m. to 9 p.m.

The question was coming home to them, the Mayor said, and the sooner they moved in the matter, the better it would be for Ladysmith, for the district and for their children. Otherwise Ladysmith would become an "Asiatic town". The meeting passed a resolution fixing the opening and the closing time. The Mayor

observed that any legislation on that question could not be dubbed class legislation. [*Indian Opinion,* October 29, 1903]

Gandhiji challenged Mr Sparks to provide figures in support of his statement, and maintained that even if it could be proved that some Indian clerks and employees did receive £4 a month a close scrutiny would show that when they did receive that amount they deserved probably no more. Their best men were paid not £4 but even as much as £25 and more, or an equivalent. He could mention half a dozen instances, "and if Mr Sparks would be good enough to bring out the names of the best men employed by Indian merchants receiving £4 a month, we would be pleased to give the names of those who have been in receipt of the wages mentioned by us". [*Ibid,* C.W.M.G. Vol.IV, p.23]

In the same way while he was prepared to admit that the Indians kept their shops open longer than many, though by no means all, European shops, it was not true, he contended, that they opened at five in the morning and closed at nine o'clock at night, as alleged. He sympathised with the point raised by Mr Sparks, but he wanted them to realise that *the Indian trade was not the same as the European. The former's customers required the keeping open of the shops for a longer time as their trading was largely done with the indentured labourers, who were free to do their shopping only at the close of their working day.* To the Indians, his advice was that a middle way must be possible and the demand of the European store-keepers ought to be treated in a reasonable manner. In matters affecting the community as a whole, they ought to be able without any pressure to respond to all sensible suggestions and advice. "It is quite possible that the law may step in and regulate hours of business, but it would be far more graceful and far more profitable if the Indian merchants took the initiative and brought about the necessary reform. We would then be able to show that

whenever a just cause for complaint is brought to our notice, we are ready to rectify the error and cooperate with the Europeans." [*Ibid,* p.25]

Mr G. W. Lines, the Licensing Officer, did not stop at that. ln a meeting convened by him in the Town Hall, he told the Indian store-keepers that they would not be allowed to keep their shops open for 15 hours, from the following January; they would have to keep the same hours as the European shopkeepers and observe even public holidays as the Europeans did.

The Times of Natal characterised the Licensing Officer's action as being “a very arbitrary exercise" of his powers. [*Ibid,* p.31; *Indian Opinion,* November 5, 1903] If his latest instance of officialdom were carried to its logical conclusion, it observed, "the autocrat of Ladysmith" and others similarly placed throughout the Colony, could "order any European to close his store at any hour" he pleased. The old maxim that ‘an Englishman's house is his castle' would have to be knocked on the head, before that 'ticklish question’ could be solved at Ladysmith.

While entirely agreeing with *The Times of Natal* that from a purely legal point of view Mr Lines's proposal was certainly arbitrary and high-handed", Gandhiji felt that it would nevertheless be in every way better for the British Indians in Ladysmith, notwithstanding the arbitrary procedure adopted by Mr Lines, to fall in with Mr Lines's suggestion, provided that it was workable. If they did so, they would have a very good weapon of defence, and it would disarm much of the opposition at Ladysmith. "So long as the Dealers' Licences Act remains on the Statute Book of the Colony in its present form, so long will it be necessary for the Indian community to be on its guard, and to be yielding wherever yielding is feasible, even at the risk of some preliminary loss, because they are (the traders) totally at the mercy of the Licensing officers and Town Councils and Local Boards." It might be possible in isolated instances to secure

relief from the Home authorities, he added, but they must recognise that it was "a very slow machinery to move." [*Indian Opinion,* November 5, 1903] The safest way was to recognise the position as it was, make all efforts to have the law removed, and in the meantime to act in such a manner as to show by their action how utterly undeserved were the disabilities that were imposed on them. [*Ibid*]

Dundee outdid Ladysmith. In Ladysmith it was the officials who had moved to have the Indian stores closed at the same time as the European. Here the European shopkeepers themselves petitioned to the Town Council, which was mainly composed of shopkeepers, to protest against "the exceptionally long hours during which the Indian shopkeepers keep their shops open...to the detriment of European traders", [*Ibid*] Observed Gandhiji, this was Caesar appealing to Caesar! That, however, did not affect the advice he had already tendered to the Ladysmith Indian traders. He reiterated his view that it was pre-eminently a matter in which there should be a compromise. They would then find that they had done wisely and well to reconcile the European sentiment even if early closing of the shops entailed some sacrifice. [*Ibid*]

10

The Town Council of the premier and modern borough of Durban did what Ladysmith had refrained from. With all his flamboyance the Licensing Officer of Ladysmith had not withheld the renewal of licences from the Indian traders. This the Licensing Officer of Durban now did in the case of Mr J. S. Wolfson. No reasons were given for withholding the licences. Wolfson procured the services of that God's good man, Mr O. J. Askew, who had come to Gandhiji's aid in effecting the rescue of Bala Sundaram, the indentured labourer, from his cruel European master's clutches, and appealed to the Town Council against the decision of the Licensing Officer. He had been trading in Durban for the last three

years. He did cash trade and his books were kept by a competent book-keeper. He had a lease of the premises. He was previously in business with his brother. Only since August last had he been in business on his own.

The Town Council called a special meeting to hear the appeal. The Mayor—Ellis Brown—held the chair. On Mr Askew asking for the reason of the refusal of the licence, the Mayor replied that the communication was "a private one for the Council".

Mr Askew: "I submit that in accordance with the decision of the Supreme Court in 1896, in the case of Somnath Maharaj (see *The Discovery,* p.142) it was held that applicant was entitled to know the objections."

But the Mayor only said they could not grant this licence. The only thing the Council could do would be to refer the matter back to the Licensing Officer, who had the right to act as he deemed fit.

Mr Askew said that such a law was an unfair measure; he depended on the ruling of the Supreme Court in the case of Somnath Maharaj where Judges Wragg, Finnemore, and Mason had held that the Council was obliged to provide him the reason of objections.

The Mayor contended that the report of the Licensing Officer was a privileged one.

Mr Askew said that if the contention of the Mayor was right he, as Counsel for the applicant, was simply wasting his time, no businessman in Durban, not even Councillor Champion, was safe, for the Licensing Officer could refuse him licence for the next year. He did not want to go back to the Licensing Officer; he came to the Council as a Court of appeal, and submitted that his view was right, and in accordance with the decision of the Supreme Court.

But the Mayor held that the document could not be divulged. This made Councillor Burne exclaim that

> he disagreed with the ruling of the Chair, and suggested the Town Solicitor should be called in. Section 6 and 7 of the law provided that the records should be read in public and if the ruling of the Mayor was right, he as a Councillor, was wasting his time and he would not sit in the future. [*Ibid,* March 3, 1904]

The Mayor still held to his contention. He was, however, willing to consider the matter in Committee.

Mr Askew said, with all deference; they were going back to the Middle Ages.

Mr Burne moved that the Council go into committee. This was agreed to.

On resuming, the Mayor said that the Court had decided that Clause 7 shall be read in its entirety and the record should be read.

The report of the Licensing Officer read as follows: "Books unsatisfactory; licence refused."

Cross-examined by Mr Askew, J. S. Wolfson said that his books were kept by Mr Schapiro, a competent book-keeper. The Licensing Officer did not carefully examine his books.

F. Coles, in the employ of A. A. Smith, said that the applicant traded with his firm. He paid his account regularly.

Mr Askew, arguing for his client, said that the applicant had commenced business on his own account and produced both his old and new books. The majority of the Indian shopkeepers in Durban could not keep their books, and

had to employ competent book-keepers. Section 7 of the law provided that the proprietor must be able to keep books in the English language. The majority of the Indian shopkeepers in the town could not keep their books in English. If that section were to be strictly enforced, half the shopkeepers in Durban would have to shut up. He did not want to discuss the question on matter of law, but would appeal as a matter of equity and as a matter of British fairplay. The Council was sitting as a jury and he appealed to them not to take the bread out of the man's mouth. The applicant had complied with the law; the Licensing Officer's decision should be set aside.

Councillor Acutt said he did not see why a fresh application should not be made to the Licensing Officer. The Officer was perfectly justified in refusing the application on the old books. He moved that the appeal be refused.

Mr Askew pointed out that the applicant could not apply again for six months.

Mr Acutt said he was not aware of the fact. He proposed the matter be referred to the Licensing Officer.

Councillor Ferguson was quite prepared to support the Licensing Officer but he did not wish to debar the man from earning a living. He moved that the matter be referred back to the Licensing Officer.

The Mayor said he believed that the Licensing Officer could grant the licence. He was satisfied that the applicant had to apply immediately.

The appeal was refused. [*Ibid*]

He was not surprised at the decision, Gandhiji observed. The fault lay with the legislation. It had given the most arbitrary powers to the Town Council, and even the Town Council of a well-regulated place like Durban could not resist the

temptation to abuse such powers when there were no salutary checks against its abuse. The members who sat in appeal were not trained in law. Some of them were rival traders, and it was not fair to expect them to give an impartial decision when their own interests were involved. “So long, therefore, as the Dealers' Licences Act is allowed to disfigure the Statute Book of the Colony", he concluded, "so long must the people of the Colony be prepared for a repetition of the discreditable proceedings to which it has been our painful duty to draw the attention of the public". [*Ibid;* C.W.M.G. Vol.IV, p.138]

At the year's end licences were also refused to seven Indian traders at Weenen, twenty miles north-east of Estcourt. One of them, Ismail Bhitta, had held a licence for eight years for his premises, the others were old storekeepers having held licences for several years.

All the store-keepers, except one who had to trust to his memory, used to keep notes and books of account in Arabic, from which books were made periodically in English. The traders interpreted the account in broken English or "Pidgin Kaffir" to the book-kecpers. Entries were then made in English in the book by book-keepers. The Licensing Officer was not satisfied with this. He, therefore, refused the licences.

An appeal was made on February 15, 1904 to the Town Board protesting against the decision of the Licensing Officer. The hearing occupied two days. In some cases, reported the Weenen correspondent of the *Natal Mercury,* evidence showed that it was possible to run a store and pay all expenses, on about what a European firm would pay to an office-boy, which might account for the disappearance of the European Kaffir store-keeper.

The Chairman, in delivering the decision said that the Board was not satisfied with the system of book-keeping. The Board, therefore, refused the applications and upheld the decision of the Licensing Officer in each case. [*Indian Opinion,* April 2, 1904]

A decision on these lines was very serious. If things continued to be managed in this fashion, Gandhiji apprehended, almost every Indian storekeeper would be swept away. If they were required to pay £6 or £7 a month or more to keep their books through competent book-keepers, then petty traders who hardly saved from £10 to £15 per month out of their business could not possibly indulge in a luxury of that kind. The result would be that petty traders would be before long exterminated from the Colony.

11

The persecution of the Indian traders under the Dealers' Licences Act could be attributed to the white traders' fear of unequal competition by the Indians—a euphemism for trade jealousy. This did not hold in respect of the Indian hawker who did not compete with the whites. On the contrary he helped reduce the cost of living and provided the colonists with several amenities which a larger section would have otherwise lacked. Nevertheless, he was maligned even in the official dispatches as being of no use whatever to the Colony. It was a case of a dog-in-the-manger attitude, pure and simple, on the part of the white colonist who, out of sheer spite, did not wish to see the Indian prosper, even when he did him no harm, and missed no opportunity to make it more difficult for him to eke out a living.

In Grey Street, the centre of Indian trade, there was a mosque built in 1903. The trustees of the mosque had set apart the open ground within the mosque

compound for the benefit of the vegetable hawkers. They had enjoyed this facility for the last 20 years. The community also shared the benefit.

The hawkers were mostly early risers and in some cases walked several miles at about 3 or 4 o'clock. Thousands of people congregated there. The whole work was over by half past seven or eight o'clock.

At first the businessmen had to pay no gratuity whatever, but when it was found that it involved some outlay on the part of the trustees to keep the ground in good order and to remove the refuse from day to day, it was suggested to the hawkers who availed themselves of the space that they might, if they chose, pay some gratuity in order to meet the expenses. The suggestion was accepted. Some four years ago, i.e. in 1899, the Town Councillors took into their head to suppress this market and an injunction was sprung upon the trustees calling upon them to show why the market should not be closed up. The trustees approached the Town Council which allowed the continuance of the market on a nominal payment of £10 per year to the Corporation. This was done, and it was thought that the matter would never be reopened. [*Ibid,* December 10, 1903]

But in December 1903 the Town Council, instead of dealing with a report framed by the Inspector of Nuisances on its merits and removing any defect that might be found to exist in the management of the market, reverted to its earlier attitude of suppressing the market altogether. Indian hawkers were not competing with the Europeans. Their activity could not be said to be a nuisance to the European community as in and about that neighbourhood there were no Europeans living or trading. There had been no protest on the part of the Indian community against the institution. As for the report of the Inspector of Nuisances, any reasonable complaim on the score of hygiene or sanitation could easily be removed by bringing it to the notice of the Trustees. In fact they had

offered to comply with any regulations that the Town Council might propose. The only explanation of the proposed suppression thus could be simple jealousy of the prosperity and popularity of the institution organised by the trustees. Gandhiji refused to believe that the Town Council would lay itself open to the charge.

To Gandhiji this was just another symptom of the spreading post-war racist malignancy of which the renewed anti-Indian drive under the Dealers' Licencing Act, the new Immigration Act and other discriminatory measures was an indication. He had already expressed his apprehension in regard to Indian traders' plight at the end of the year. [C.W.M.G, Vol.IV, p.63; *Indian Opinion,* November 26, 1903] He now wrote to the Secretary, Indian National Congress, that unless the Indian Government took a firm stand and that too immediately the New Year would ruin many an Indian in South Africa. "I hope your Committee will realise the seriousness of the position and exert (itself) in right earnest to secure early relief." [*Ibid,* p.65; *Indian Opinion,* December 1, 1903: S.N. 4106] Recalling the correspondence that had been exchanged berween the Natal Government and Chamberlain on the eve of the Boer War, Gandhiji urged on April 2, 1904 that unless some definite powers were included in the Dealers' Licencing Act enabling the aggrieved party to go to the Supreme Court or defining the reasons for which licences could be refused, the cases of the kind that they had witnessed were bound to occur from time to time. The matter was worthy of serious considerarion by the Government if the vested interests of people were to be respected. [*Ibid,* p.159; *Indian Opinion,* April 2, 1904]

12

What disturbed Gandhiji particularly was that the prevailing racial prejudice had of late begun to show through the actions and utterances of the

judiciary, the last stronghold of the common man's fundamemal rights under the British constitution. It had been reponed to Sir Muncherjee Bhownagree that a Mohammedan fruiterer had been murdered on February 6, 1903 and no serious action had been taken to find out the murderer. At Chamberlain's instance the Governor of Natal instituted an enquiry into the murder and Mr. James Stuart, Acting Assistant Magistrate of Durban, was appointed for the purpose. He found that no such murder had taken place but that a similar case was reported in the *Natal Mercury* which stated that a Mohammedan fruiterer of the name of Ibrahim Kajee was killed on August 12, 1901. Fakira, an employee of the deceased, and Asmal were arrested on suspicion. Mr Khan defended the accused. The Clerk of the Peace as well as the Attorney General found the evidence too weak for bringing the accused to trial. Mr Stuart thereupon released the men. At the same time the police were warned to keep watch and if further evidence could be got, "to revive the matter; and, if necessary, re-arrest the men or take others". [*Indian Opinion,* September 24, 1903]

Perhaps with the nature of the evidence before him the trying magistrate could do nothing else. But an innate anti-Indian prejudice showed through when he went on gratuitously to deliver himself as follows: "Though several responsible Indians knew of the murder they failed to report to the police until the afrernoon of the day in question. This negligence was backed up with what appeared to me and the police to be disinclination also, and solely on the part of Indians, to bring some hidden offender or offenders to justice. It is...a very difficult matter to investigate cases of this character unless the Indian community willingly and actively cooperare with the police." [*Ibid*]

Gandhiji claimed Mr Stuart as a personal friend. In the very issue of his weekly, the *Indian Opinion,* in which this report appeared, he had congratulated

the magistrate on "putting his foot firmly down on the serpent of immorality" [*Ibid;* C.W.M.G. Vol.III, p.453] It pained him, therefore, to find Mr Stuart occupying the role of "a spectal pleader and sensationalist", instead of the "cool, unbiased magistrate" that he generally was. "He has, in our opinion, unnecessarily given a political aspect to the simple case of murder which was referred to him for enquiry". [*Ibid,* p.454] Henceforth, according to Mr Stuart, observed Gandhiji, "if there is an Indian murder, and if the murderer is not traced, the 70,000 Indians in the Colony are to be blamed—it is their province and not of the police, to find out the murder[er]!" [*Ibid*]

Mr Stuart did not stop there. In the course of a tilt that he had with Mr Khan, the defendant's counsel, he allowed himself to make certain strictures on the Indian barrister for taking up the brief for the defendant. Gandhiji held very strict views on the ethics of the legal profession. But he felt equally strongly that Mr Stuart's strictures were hardly justified. Was it unethical for a counsel to take up the defence of a person accused of a heinous crime, he asked. Obviously, Mr Stuart thought that to do so was to betray sympathy with the alleged perpetrator of the crime and therefore came under the category of unprofessional conduct. Joining issue with him, Gandhiji observed: "So great an authority as Lord Brougham used to say that an advocate who, although he knew the guilt of his client, declined to take up his case, was unworthy of his profession and on the principle that every man in the eye of the law is innocent until he is found guilty by a duly constituted court, the doctrine is sound enough.'' Referring to a recent case of a wellknown member of the Cape Legislature who was found guilty of the very crime for which the Indian was tried, he asked: "Will Mr Stuart say that the learned counsel who defended him was not justified in taking up the brief? We all have our private opinion about that case. But shall we say that the leading

barrister who argued the appeal for the M.L.A. or the Chief Justice who upheld the appeal because there was an element of doubt as to the legal guilt, was to blame, one for championing the apparently guilty man, and the other for discharging him?"

Again, should an advocate, who found out in the middle of a case that his client was really guilty, throw up the brief? Gandhiji was emphatic that if he dared do anything of the kind his conduct would be regarded as "highly unprofessional". Not that such conduct would not be justified under any circumstances; Gandhiji himself had on more than one occasion returned his brief to his client and walked out of the court. But that was when he found that, contrary to their understanding, his client had lied as to the facts and deceived him. The matter bristled with difficulty. It was for every advocate, Gandhiji concluded, to determine for himself what course to follow, "not for the Magistrate to read a homily to the defending counsel whenever he thinks that the case is bad". [C.W.M.G. Vol. III, p.465; *Indian Opinion,* October 1, 1903]

13

At the time of the passing of the Immigration Restriction Act and the Dealers' Licensing Act, it was freely said that they would mark the limit of the curtailment of the rights of the British Indians in Natal. But the appetite of the white Colonists had evidently grown with what it had been fed upon. A report appeared in the Press that the Colonial Secretary had acceded to the request of the Grey Town Board to allow a clause to be inserted in the deeds of transfer for certain lands in the district which debarred Indians from holding property in the proposed suburb, and the members had "expressed their pleasure at the promise of exclusion of Asiatics". [*Indian Opinion,* November 5, 1903]

Having got an inch, the whites now asked for an ell. Taking advantage of the door to indirect legislation opened by Chamberlain, Natal had passed a bye-law restricting admission to the Civil Service Examination to such persons whose parents possessed parliamentary franchise. This practically barred the entry of the Indians in the Civil Service of Natal, except as interpreters. The most hardworked and most wretchedly paid officers of the Civil Service, the interpreters nevertheless constituted a vital link in the administrative set-up of Natal—so much so that, moved by the plight of the poor Indian clients and witnesses as a result of a paucity of competent translators in the Colony. Gandhiji had at one time himself applied for and become a "sworn Gujarati translator" in spite of the strong disapproval of the Chief Justice who dubbed it "a breach of professional etiquette". [Pyarelal, *Mahatma Gandhi—The Early Phase,* p. 470] The pay was only £5 to £15 per month, the average probably being not more than £10 per month. On this niggardly pittance, they were expected to live in the English style and in a manner appropriate to their responsible position. Most of them had to know four languages- Tamil. Telugu, Hindustani and English and had to do also other clerical work besides interpretation. They had given every satisfaction to their superiors, and there had not been any complaints against them as a class on the part of those most affected, namely, the Indians. Yet the whites grudged them even this paltry opportunity. Year after year the Natal Farmers' Association had protested against the employment of Indians as interpreters in the Colony and demanded their replacement by Europeans. In the first week of November, 1903, they again repeated their demand and, were it not that there were not competent Europeans ready to take up the office of interpretership, the Government would have done away with the few Indians who were in their employ, in spite of a record of long and brilliant service in their sphere which some of them possessed. But, though they thus survived the onslaught, the

service itself did not escape. The Government declined to recognise interpreters as Civil Servants, and they did not get their statutory increase. [*Indian Opinion,* November 5, 1903]

So pervasive had the virus of racialism become that not even an enlightened person like Mr (later Sir) Henry Bale could escape it. Erstwhile Attorney-Gcneral and Member of the Natal Legislative Assembly, for bringing his "conscience" into play too frequently on the floor of the Natal Assembly he was nick·named "Bale, the Conscientious". Though a political opponent, he had as a practising attorney in one case joined hands with Gandhiji. This had provoked the gibe in the Natal Press. Money recognises no colour or caste." Eight years earlier in the case of *Cassim Abdullah* vs. *Bennett,* as the senior counsel of his Indian client, he had been able to obtain from Sir Walter Wragg, the Chief Justice, a verdict on the vexed question of the removal of the head-dress and shoes, as a mark of respect to the Court to the complete satisfaction of the Indians. Strangely, that question was again raised when he occupied the Chair of Chief Justice of the Supreme Court of Natal. In October 1903, one Manorath, a British Indian who was a witness in a case pending before His Lordship, appeared without his head-dress. Sir Henry enquired of the interpreter (Mr Matthews) as to what the custom was in India regarding witnesses, and on the interpreter saying that it was an insult to the Judge if the witness wore boots. His Lordship intimated that he should write to the Chief Justice of Calcutta to ascertain the exact practice. He had noticed Indians in Court wearing both head-dress and boots. His Lordship remarked, humorously adding that, if they removed their boots, they were likely to disappear. [C.W.M.G. Vol.IV, p.25; *Indian Opinion,* October 29, 1903]

Pointing out that it was Sir Henry who on the earlier occasion, as Attorney, had secured a dictum from the Judges that the British Indians be not forced to

remove their head-dress or their boots and that it would be enough to *salaam* on entering the courts, Gandhiji remarked that his Lordship had made "much ado about nothing. This practice has been followed ever since and it will be a pity to reopen this question." [*Ibid,* p.26]

14

The other two South African colonies had few Indians, owing to policy as well as to chance, but they also hastened to follow the lead of the Transvaal.

In the Cape the growing animosity against the Indians had manifested itself as early as 1895 when the Cape Parliament passed an Act empowering the East London Municipality to frame bye-laws to restrict the Asiatics residentially to locations outside the town and impose a number of civic disabilities on them. The Indian population in East London was then very small and the measure passed unnoticed. In February 1903, however, by virtue of the power conferred by that Act, the Municipality and Borough of East London passed a bye-law prohibiting the Indians from walking on the foot-paths. Registered owners or occupiers of property in the Borough of the value of £75 and above were, as provided for in the original measure, exempted from the operation of this bye-law. As soon as the Indians came to know about the new bye-law they approached the Governor, who told them it was too late. [C.W.M.G. Vol.III, p.285; India Office: Judicial and Public Records: 402] Shortly afterwards a cleanly dressed lndian was fined £2 for walking on the foot-paths. A cablegram was sent to the British Committee of the Indian National Congress and Sir Muncherjee in London. But within three weeks, two well-dressed Indians were again fined £2 each, or in lieu to undergo fourteen days' or one month's hard labour respectively for the same offence. As a result even the most respectable Indians of East London had thereafter to keep themselves off the pavements for fear of being arrested.

Chamberlain during his visit to South Africa had advised the Colonists “to look beyond the parochial horizon" and to "realise their membership of the Empire". Was this then the result of his mission? Gandhiji appealed to the Colonists of East London to consider how they could reconcile their welcome to Chamberlain and endorsement of his policy "with the existence of the law that disfigures the statute book and wantonly insults a whole race". [C.W.M.G. Vol.III, p.374; *Indian Opinion,* July 23, 1903]

In December, 1902, shortly before Gandhiji's arrival, an immigration Bill based on the Natal Act (Assembly Bill No.571 was admitted in the Cape Parliament. The immediate cause of the Act was stated to be the alarm caused by the landing in East london of 300 Asiatics who had been refused premission to land in Natal as a result of the Natal Immigration Act (see *The Discovery,* p.413). As originally drafted, it included Indian languages in the education test for the immigrants. This was amended in Committee and the usual European language test was prescribed. [C.W.M.G. Vol.III. p.300; R. A. Huttenback, *Gandhi in South Africa,* p.210] It was undisguisedly a discriminatory measure aimed at excluding altogether Indians of the labouring and petty trading class. European illiterates were specifically exempted from the operation of the Act. [NAI (Rev. Agri & Emig.) Progs. No.l6, March, 1903. Section 2(a) read as follows: "Prohibited immigrant" shall mean and include the following persons: (a) Any person who, when asked to do so by any duly authorised officer, shall be unable through deficient education to himself write out and sign in the characters of any European language an application to the satisfaction of the Minister.”

Section 3(g) read as follows:

"This Act shall not apply to: (g) Illiterate European persons (unable to read and write, and without visible means of support), who are agricultural or domestic servants, skilled artisans, mechanics, workmen, or miners, and are able to produce a certificate signed by the Agent-General of the Colony in England or officer appointed by the Governor in England or elsewhere to grant certificates for the purpose of the Act certifying that the person named therein has been engaged to serve, immediately on arrival in the Colony, an employer therein of repute at an adequate remuneration and for a reasonable period of time.” Iqbal Narain, *op cit.*

p.230] The Indians had accepted the principle laid down by Chamberlain that self-governing colonies had a right of restricting immigratton. But Chamberlain had made this subject to two tests: colour must be no ground for restriction and a whole nation must not be debarred. The Cape Act negated both these tests. By excluding from the education test a knowledge of the Indian languages it in effect totally prohibited Indian immigration; by exempting European illiterates from the education test it imposed a restriction on Indians on the ground of colour alone. [C.W.M.G. Vol.III, p.317; *Indian Opinion,* June 4, 1903]

In the Despatch forwarding the Bill to the Colonial Office the Governor explained that the Bill had been admitted only "at the fag end of the session"- in fact only two days before the session expired. The discussion of the Bill had "in consequence been necessarily perfunctory and hurried, but the desire to exclude undesirable immigrants was so strong that it was allowed to pass." [NAI (Rev. Agri & Emig.) Progs. No.l6, March, 1903; Iqbal Narain, *op cit,* p.230] The Colonial Office threatened to disallow the measure—not because of the language test which was clearly meant to keep out the Indians but because of the explicit exemption for the European illiterates. [NAI (Rev. Agri & Emig.) Progs. Nos.19·20, March 1903; Iqbal Narain, *op cit.* p.230, Telegram from the Secretary of State to Governor, dated December 8, 1902] The Governor was allowed to give assent to the Bill only after his Ministers had given the required assurance to "introduce a Bill next session to amend the existing Bill by omitting the word 'European' from the clause". NAI (Rev. Agri & Emig.) Progs. 16, March 1903; Iqbal Narain, *op cit.* p.231; R. A. Huttenback, *op cit.* p.210. Telegram from the Secretary of State to Governor, December 8, 1902] The Bill became effective on January 30, 1903. [NAI (Rev. Agri & Emig.) Progs. No.l7, May 1903; R. A. Huttenback, *op cit.* p.210, C.O. 48/567; Iqbal Narain, *op cit.* p.231, Telegram from Governor to Secretary of State for Colonies, December 12, 1902]

In the original form the Bill was specifically aimed at the Indians and it was only as a result of pressure exerted by London that Sir Peter Faure, the Colonial

Secretary, was able to secure removal of a clause stipulating that any "Asiatic" who was not granted a special permit of immigration into the Colony by the Governor on the recommendation of the Minister would be a ''prohibited immigrant". During the debate J. W. Sauer, the Dutch representative, was quite outspoken. There were 240 millions in India, he said, besides the Chinese, who could swamp the whites by their unrestricted influx and it was "a matter of no importance whether a Chinaman was a British subject or not". The point was, he emphasized, that they did not want to see Asiatics come there, "introducing social, economic and political trouble" and this was bound to be the result whether they were British subjects or not. [Cape *Hansard,* November 12, 1902, R. A. Huttenback, *op cit,* p.211]

There was, however, this difference between the Cape and Natal. In the Cape the Indians had not been disfranchised; only their franchise was limited to voting for a European candidate. Sometimes afterwards therefore when Dr Abdul Rehman wanted to lake an Indian deputation to Sir Peter Faure, the Colonial Secretary, to oppose the Cape Municipality's proposal to location the Indians, they had no difficulty in getting Mr John Garlick, their member of Parliament, to introduce the deputation to Sir Peter, who advised them to ask their member to '"oppose the measure strongly in the Cape Parliament", and further assured them that representations had already been made from his office that the regulations about the use of foot-paths, permits etc. by Asiatics should not apply to the better class. [*Indian Opinion,* June 25, 1903]

Partly owing to the stand taken on this occasion by the Colonial Office and partly owing to the liberal Cape tradition, the Cape authorities implemented the Cape Immigration Act with consideration for the Indians. All persons domiciled, not only in Cape Colony but in other parts of South Africa also, on 30th January,

1903, were exempt from its operation; no domiciled Indians could be removed from the Colony or prohibited from returning; it was even provided that "wives may join their husbands domiciled there; so also minors may enter to join their parents"; and the word 'domiciled' was broadly interpreted, more or less "as if synonymous with resident". [R. A. Huttenback, *op cit.* p.210; Iqbal Narain, *op cit.* p.231] The only Indians affected were those desiring permanent residence and an Asian deemed a prohibited immigrant was not punished but only sent back to his port of origin at the Colony's expense with £5 in his pocket. [R. A. Huttenback, *op cit.* p.210]

On August 3, 1903, being reminded about his Minister's undertaking, the Governor wrote to the Secretary of State for the Colonies that he had received a confidential minute from the Prime Minister, saying that "at the time promise was given it was intended fully to carry it out", but since then Asiatic lmmigration had become a "burning question" and the Members of House of Legislature were unanimous in their opposition to it. "'Prime Minister, therefore, recommends that matter stand over for the present as next year agitation against this question then may have subsided." [C.O. 48/572, Telegram from Governor to Secretary of State for Colonies, August 3, 1903. R. A. Huttenback, *op cit.* p.212] Four months later, on December 9, 1903 Sir J. Gordon Sprigg minuted: "It will be the duty of the Government here to submit to the Legislature the measures which they consider necessary to prevent the entry of Asiatics from the neighbouring Colonies into the Cape Colony." [C.O. 48/573, Minute by Sprigg, December 9, 1903, R. A. Huttenback, *op cit,* p.213]

In the following year the Governor did not feel even the need to be apologetic. On being again questioned by the Colonial Office in regard to the promised amendment, on April 12, 1904 he wrote that "in view of the tone of the recent debates in the House of Assembly as well as in the Legislative Council" on the question of Asiatic immigration Ministers cannot admit that the condition

of things has in any way improved. Under the circumstances, therefore...they do not feel justified in recommending that steps be taken in the direction desired during the present session of Parliament and would accordingly ask that the matter be allowed to stand over for the present. [C.O. 48/576, Governor to Secretary of State for Colonies, April 12, 1904, R. A. Huttenback, *op cit.* p.214]

Thereafter the position of the Indians in the Cape Colony deteriorated rapidly as a result of the British Government's anxiety to come to terms with resurgent Afrikanerism. Reflecting the overall worsening situation, the Cape authorities adopted first a tone of aggrieved self-righteousness and then of downright arrogance and defiance when reminded of their commitment by the Imperial Government.

15

In the Orange River Colony, the entry of Indians was prohibited under the old laws of the Republic. On receiving Sir Arthur Godley's letter to the Colonial Office forwarding Lord Curton's despatch No.36 of July 12, 1900, [Transvaal Archives, Dep. Admin. Orange River Colony to High Commissioner, May 30, 1901; R. A. Huttenback, *op cit.* p.154] (see *The Discovery,* p.346) Chamberlain had asked Milner whether the Orange Free State Law No.29 of 1890, by which "Arabs" were absolutely excluded from the Orange River Colony, was considered to be still in force. [NAI, Progs. B. No.1, September 1902, Chamberlain to High Commissioner, dated March 16, 1901] Up to this time, it seems, Milner had not altogether abandoned his earlier stand on the question of the Indians' and the coloured people's rights, which he had taken at the Bloemfontein Conference on the eve of the Boer War. It was quite evident, he wrote to the Deputy Administrator of the Orange River Colony, Sir Hamilton John Goold-Adams, that the existing laws would have to be modified. The administration should therefore get busy with the preparation of a suitable draft Ordinance,

keeping in mind that "it would be impossible for us to prohibit British Indian subjects as such from farming or carrying on trade in the Orange River Colony". [Transvaal Archives; High Commissioner, to Dept. Admin. Orange River Colony, April 25, 1901. R. A. Huttenback, *op cit.* p.154] Goold-Adams recognised in principle the necessity for so amending the existing law as to allow British Indian subjects "free access to this country, and full liberty to pursue whatever trade or calling they may elect, and to grant them the same privileges as are extended to British subjects throughout the Empire", but objected that the time was inopportune for a "wholesale relaxation of the law as it...stands". [Transvaal Archives; Dept. Admin. Orange River Colony to High Commissioner, May 30, 1901, R. A. Huttenback, *op cit.* p.154] Considering the "unsettled" condition of the country, "which will not improbably continue for some months", he thought it would "unquestionably...be most impolitic at present to remove the whole of the restrictions on Asiatic immigration which are enforced by existing law". [*Ibid*] After conjuring up the bogey of the inrush of "impecunious" persons "as so many of the present...Indian residents of South Africa are" and the need to restrict immigration only to such Asians "as would not be a burden to the community" and as were "likely to make good citizens", he let the cat out of the bag by adding that any potential "good citizen" had to be "thoroughly familiar with English, both spoken and written". He ended up by advising that no Indian should under any future legislation be allowed to "acquire land in leasehold, freehold, or otherwise", even if the Indian himself was permitted to reside in the Orange River Colony. [*Ibid*]

No reply having been received to their earlier Despatch for nearly a year, on August 8, 1901 Sir Arthur Godley addressed a reminder to the Colonial Office. [NAI Progs.-A. No. 7, October 1901, (Notes, p.41), Under Secretary of State for India to Under Secretary of State for Colonies] On August 30, [*Ibid*] the Colonial Office informed the India Office that the matters referred to in their two letters [*Ibid,* September 20, 1901 were

engaging Chanaberlain's and Milner's attention, and the India Office relayed to the Government of India the advice that Milner had received from the Deputy Administrator of the Orange River Colony, that nothing further could be done in that regard till the return of better times. [*Ibid,* (Notes, p.37)]

Thereafter, notwithstanding continued pressure from all quarters, no reply could be elicited from the Secretary of State for Colonies beyond a reiteration of his previous statement that the existing laws would continue *till* they were repealed.

The existing law, inherited from the late Republic, prevented any '"Asiatic' from remaining in the state for more than two months without permission from the President, owning landed property, and trading or farming. [C.W.M.G. Vol. III, p.274; Colonial Office Records, Petitions and Memorials, 1903. C.O. 529, Vol.1] Chapter X of Act 29 of 1890 levied a poll-tax of ten shillings per annum when permission had been granted subject to the aforementioned restrictions. This meant that an "Asiatic'" could remain in the state practically as a labourer pure and simple, and that, too, with the permission of the State President. Should he be found without this permission he could be fined £25, or sent to prison for three months with or without hard labour, not to mention a poll-tax of ten shillings from which the Malayans and Cape Coloureds were exempted.

It was hoped at the time of the war, and the British declarations since had further led the Indians to hope, that the anti-Asiatic laws of the old Republic would be repealed. Time and again had the Secretary of State for Colonies emphasised the temporary nature of the existing anti-Indian legislation. Yet even two years after the British occupation they stood unrepealed. What the Indian community found extremely puzzling was that even when Milner was supposed to be considering in what way and to what extent anti-Indian legislation of the

old Republic was to be modified, further disabilities were being laid on them as on the coloured persons with whom they were bracketed. The Government *Gazette Extraordinary* of May 19, 1903 published a draft ordinance to provide for an increased *poll-lax on coloured persons* outside the public diggings. The excuse was that as there was no Indian population worth the name in the Orange River Colony this legislation would make no practical difference. Did it mean then, Gandhiji asked, that the door of the Colony was to remain closed against the British Indians for ever? [C.W.M.G. Vol.III, p.342; *Indian Opinion,* June 18, 1903]

Before the annexations the British Government had said that it was helpless to provide relief as it had no jurisdiction over the Boer Republics. After the ex-Republics had passed under British sovereignty, the question naturally arose whether the British Government had now any jurisdiction. Out of the many Indian traders who had settled in the Orange Free State, three had struggled for existence up to the last moment. They were expelled by the late Republic without any compensation at a loss to them of over nine thousand pounds. [C.W.M.G. Vol.III, p.274] Two of them raised this issue and were given a negative reply. The Colonial Government said that under the existing law it could not grant the permission to resume trade, and had no knowledge when the law would be modified.

lt was clear that the British Government had either no jurisdiction or it had no will to rescind or alter the law. It had changed many laws in the Colony but not this. In the early days of British occupation it was said that the law could not be modified until civil government was established. When civil authority did take the place of the military, Chamberlain's visit was to be awaited. And now Chamberlain had come and gone, and yet nothing was done. Loyal as the Indians were, urged Gandhiji, they had a perfect right to ask that the law should be brought into harmony with the British sense of right and justice.

> Every Indian child is taught to sing before he reaches Standard IV of his vernacular school in India that under the British rule there is no inequality—the lion cannot hurt the lamb—all are free and well protected. Having been nurtured in such sentiments, we find it hard to understand the practical working of that mighty Government in this subcontinent. The European lion bids fair to swallow up the Indian lamb in British South Africa, while the arbiter at Downing Street is looking on! [C.W.M.G. Vol.III, p.339; *Indian Opinion,* June 18, 1903]

Not satisfied with the anti-Indian laws of the old Republic, the administration of Orange River Colony now began to resort more and more to the device of Municipal legislation to curtail the rights of coloured people even beyond what they were empowered under the Letters Patent which required them to obtain royal assent for any racial measures before they could be put into operation. To instance, a series of regulations for the "Natives" of Pietersburg, framed by the Pietersburg Municipality and sanctioned by the Lieutenant-Governor and the Executive Council, were published in the Government Gazette of the Orange River Colony of July 3, 1903. Under these regulations (1) all "coloured people" were to be confined within certain locations; (2) the Municipality had to keep a "list of all coloured inhabitants, with the names, means of livelihood, the number of stock they possessed and the names of their masters; (3) all coloured people were required to take out passes from the Town Clerk for which a yearly payment of one shilling had to be made; (4) all coloured persons coming from elsewhere had to register themselves within fortyeight hours of their arrival; (5) they were not to remain out of doors after 9 p.m.; (6) the Municipality was given the power to allow or not to allow a coloured person to own stock, and any coloured person who owned stock without permission was liable to a penalty of ten shillings for every head of large and six pence for every

head of small stock; (7) the arrival of a guest had to be reported to the Town Clerk immediately; (8) they could not keep dogs; and (9) no schools, public meetings, etc..could be held without the permission of the Municipality in the Location. [*Ibid,* p.364; *Indian Opinion,* July 16, 1903]

Another Ordinance regulating the Municipal Corporation and Government of Bloemfontein was published in the Government Gazette a few weeks later. [C.W.M.G. Vol. III, p.399; *Indian Opinion,* August 6, 1903; Government Gazatte dated July 24, 1903] These regulations empowered the Bloemfontein Municipal Corporation not only to confine all "Natives" and "Coloured" persons into Locations but to remove them, as if they were “criminals or cattle", from place to place at its sweet will. [C.W.M.G. Vol. III, p.399; *Indian Opinion,* August 6, 1903] And as "Indians" and "coloured people" were convertible terms tor the purpose of these ordinances, these regulations were applicable to the Indians also. It had been argued in defence of these regulations that there were no Indians worth naming in the Orange River Colony. This made their inclusion among "coloured" persons even more unjustifiable, unless the object was to humiliate and degrade them. Gandhiji appealed to Chamberlain, who had come to South Africa as a “peacemaker", and has assured every Indian deputation that met him that the British Indians were entitled to fair and honourable treatment; to Lord George Hamilton, who had on more than one occasion, expressed himself in sympathy with the Indians; and to Milner, on whom rested the duty to look after the policy of the Empire at large in South Africa, to vindicate that policy. He wondered whether the Empire at large would not have paid "too dearly for owning the Transvaal and the Orange River Colony" if these possesstons were to be allowed to trample under foot “the principles of British policy which have been cherished for hundreds of years". He even felt that if that policy were to give way "to one of caste and colour distinctions and prejudices", the "boundless treasures" and "torrents of blood" that had been

poured on the South African soil during the war would have been poured in vain. [*Ibid,* p.365; *Indian Opinion,* July 16, 1903]

But the Indians also had their part to play. If the British Government's oft-repeated declarations had not lost all meaning, he went on to say, they could in reason expect that at no distant date the Colony would open its doors at least to "a respectable Indian immigration, no matter on howsoever small a scale". If they did not wake up, the existence of these regulations would stare them in the face with the same deadly effect as the regulations of the East London Municipality did in the case of the Fast London Indians. [*Ibid*] They must, therefore, be on the alert.

> In the British Empire any subject who is not ever on the look-out as to his interests is likely to be pressed out....It is, therefore,...necessary for British Indians to remain on the alert, and, at any rate, to send in a respectful protest to the powers, that be, whenever an attempt is made to curtail their rights. [*Ibid,* p.366]

By this time Milner had completely resiled from his original position and succumbed to the temptation of wooing European opinion by pandering to the racist sentiment. On July 24, 1903, he informed the Colonial Office that "pending any general decision as to the policies to be adopted in connection with the immigration of British Indians into South Africa" the Government of Orange River Colony had "closely adhered" to the law of the late Orange Free State, which embodied the views ordinarily held on the question by the white population of the Colony.

16

This was a period of rapid inner growth in Gandhiji. It gave to his public utterances and writings a richness and depth which is rare in political polemics.

Illustrative of it was a skirmish in the Press that he had with H. J. Goold-Adams, the Deputy Administrator of the Orange River Colony, at this time. A hand-picked man of Milner's choice, he was reputed for his sympathy with the Boers and their way of life. Unfortunately, it seems his identification with their way of life extended also to their faith in the god of the elect, who had irrevocably decreed the role of Caliban for coloured folk. In the last quarter of 1903 he signed a proclamation appointing Sunday, October 10, as a day of prayer and of thanks so that "the country may be freed from the scourge of the drought and blessed with plentious refreshing rains". In case it pleased the Almighty to send the blessings of rain before the aforementioned date the day was to be observed as a "Day of Thanksgiving". [C.W.M.G. Vol.IV, p.3; *Indian Opinion,* October 8, 1903]

This proclamation was immediately followed by another, making it compulsory for "coloured people" to be vaccinated on pain of being fined five pounds, or in default imprisonment with hard labour for fourteen days. A stickler for the due observance of the laws of sanitation, Gandhiji conceded that the safeguard against smallpox was necessary, and by itself there could be no complaint against a coloured person being subjected to compulsory vaccination like any other citizen, but failed to see any justification whatever for subjecting "coloured people" specially to penalties for non-compliance with the sanitary regulations. It was typical of the "most hostile policy" against Coloured people, which had been handed down to it by the old Government, but comported ill with the spirit of the British constitution. Similarly, a profound believer in the efficacy of supplication and prayer, he saw little evidence of the spirit of either, and therefore little to commend itself, in the proclamation for the observance of a day of prayer and thanks issued by the Administrator of Orange River Colony. "In days of yore, when men humbled themselves, they sacrificed something...

instituted a searching self-examination, repented of their sins and turned over, as it were, a new leaf." [*Ibid,* p.4] Did it ever occur to H. F. Wilson, the Colonial Secretary, who drew up the proclamation, or the Lieutenant Governor who signed it that there was no repentance intended, and that in the opinion of the Government, whom they represented, there could be no turning away from its policy, "sinful or otherwise", he asked. "We venture to think that the Colony's blind hatred and unreasonable prejudice against colour and its deliberate closing of the Colony's gates against the people of British India, or whose assistance it gladly availed (itself) in its hour of need, is a national sin before God, and that so long as the policy is continued, so long will it be impossible for it to practise real humiliation that would be acceptable in the sight of God Almighty, Who will judge, not according to a man's colour, but according to his merits". [*Ibid*] They had the authority of the Asiatic Prophet, Jesus Christ, —"a coloured man by the way"— for saying that "a mere lip prayer does not induce entrance into heaven and that the prayer unaccompanied by deed is a vain repetition". The Earth is the Lord's, said the Bible. The Colonists had revised that saying. By arrogantly claiming that the Earth was theirs exclusively, they had made a mockery of the Holy Writ. "The appointment...of a day of humiliation is a mere hollow pretension, so long as God's Commands are trampled under foot."

And yet, added Gandhiji, with unquenchable faith which sees even in man's erring ways a blind groping for Him, the proclamation was not a "deliberate mockery" of the Godhead. "It is the yearning of the heart after our Maker in the hour of need and trial. But it is also a fine illustration of the weakness of our natures. We measure God by our measure, forgetting that our ways are not His ways. Were it otherwise, we would very soon be without many things in spite of what we may, in our vanity, mis-term humiliation and prayer. The All-wise makes His sun shine alike on the good and the wicked." [*Ibid*]

Maintaining that the proclamation was not the sign or a godly heart, Gandhiji appealed to His Excellency and his Government to pause and ask themselves, whether it was consistent with godliness to condemn a whole race

of men related to one by ties of allegiance to a common Sovereign, because they happened to wear a skin different from one's own? Had the British Indians committed any wrong to merit the degradation they were being subjected to? "But if the crusade against men of colour must be persisted in, why offend God and humanity by appointment of days of humiliation falsely so called", he concluded. [*Ibid*]

CHAPTER XVI : A MOTH IN THE FLAME

1

The judgment in the Test Case, *Habib Motan* Vs. *the Transvaal Govemment,* in favour of the Indian contention drove the white Colonists of the Transvaal into a convulsion of vindictive fury against the Asiatics, and this in its turn aggravated the situation in Natal which had adopted the Transvaal as its model and Milner as its exemplar. The *Times* and some other newspapers in London had anticipated this. The effect of harsh treatment in the Transvaal, they apprehended, would be very bad on the Indian mind; it was bound soon or late to be copied by Natal and this would put a great strain on Indian loyalty. "This shows, “wrote Gandhiji to Gokhale on October 3, 1904 that "there ought to be in India articulate and persistent agitation in favour of justice being done to the British Indians in South Africa. The Congress...should...pay much more attention to the matter than had been paid hitherto, and public meetings, too, should be held all over India protesting against a continuance of the ill-treatment." [C.W.M.G. Vol.IV, p.273]

Gandhiji's letter to Gokhale also contained the following: "In Natal the Dealers’ Licensing Act, which gives arbitrary powers to the local authorities without the right of appeal to the Supreme Court, is causing a great deal of hardship". [*Ibid*]

Like the Damocles’ sword the Dealers' Licensing Act had kept hanging over the heads of the Indian storekeepers in Natal. "So long as this un-British law disfigures the Statute-book of the Colony,” observed Gandhiji in his weekly on October 8, 1904, "so long will the Indian stores be without any value as a

mercantile asset." [*Ibid,* p.276; *Indian Opinion,* October 8, 1904] The latest illustration of it was provided by Sheth Hoondamal's case.

A Sindhi merchant, Hoondamal, had opened his shop in West Street, one of the principal thoroughfares of Durban. [C.W.M.G. Vol.IV, p.357] He had a fancy-ware business and dealt in silk and art-ware. His trade was almost entirely European. His shop was in a scrupulously clean condition. [*Indian Opinion,* October 15, 1904] In 1895 he transferred his business to Johannesburg. He returned to Durban at the beginning of 1900 and carried on business in West Street on premises let by Mr McWilliam to D. Mahomed & Co., and sublet to Hoondamal. [*Ibid*]

The landlord of his shop wanted to get the building repaired and had the shop vacated. Hoondamal was not able to get a place to his liking in West Street. So he secured a good shop in nearby Grey Street and started his business there. Some months later, on being required to vacate the premises, he rented from an Indian landlord a better and a larger shop in West Street which had been recently vacated by an Indian merchant and began to trade there. Simultaneously he applied to the Licensing Officer, Mr Molyneaux, for registration of his new address. Not only did the officer reject his application but he also charged him with trading without a licence. Hoondamal lodged a notice of appeal to the Town Council against the Licensing Officer's decision.

Before his appeal could be heard legal proceedings were instituted against him in the Magistrate's Court. [C.W.M.G. Vol.IV, p.358; *Indian Opinion,* February 18, 1903] Hoondamal applied for an adjournment pending the decision of the Town Council on his case but, in spite of the fact that such notice in a court of law would leave things in *status quo,* Mr james Stuart, the Magistrate, heard the case and was "satisfied" that the defendant was carrying on retail trade without any licence. He laid down the dictum that the Licensing Officer could not be compelled to go

into the reasons influencing his decision. The law gave the Licensing Officer certain discretionary powers, and with these the Court neither could nor would interfere. Regarding it as "an especially bad case of absolute defiance of the Court's officers", he “as a warning to others and as a deterrent to the defendant" convicted Hoondamal imposing upon him the maximum penalty of a £20 fine. This happened twice or thrice and each time the Magistrate found him guilty of "trading without a licence" and imposed upon him the penalty of a fine.

If the decision was sound, remarked Gandhiji on October 8, 1904, no subject of the King could with impunity act upon his interpretation of the laws of the country. "We commend this case to the attention of the Government as showing that, until the law is altered, there can be no rest for the poor Indian merchants of Natal”. [*Ibid.* p.277; *Indian Opinion,* October 8, 1904]

Mr Airth, Hoondamal's Counsel, gave notice of appeal from the decision of the Court. [*Indian Opinion,* October 8, 1904]

A special meeting of the Town Council was held to consider the appeal. The Mayor presided. Mr Binns (of Messrs Shepstone, Wylie and Binns) appearing for applicant, produced certificates from a number of highly reputable European firms to the effect that the appellant's business relations with them had been of a satisfactory nature and that he was in their opinion a fit and proper person to hold a licence. One of the European firms testified that they had held frequent sales of the appellant's goods. Europeans being the principal customers. Mr Binns also produced European testimonials to prove that the appellants were very desirable applicants for a licence.

For his refusal Mr Molyneaux, the Licensing Officer, gave two reasons, namely that the applicant already held five licences and that it was not desirable

to add to the number of Asiatic merchants in West Street. Under examination by Mr Burne, the only lawyer Councillor of the Council, however, he was forced to admit that the five licences were not shop licences but hawkers' licences. Asked the reason why he did not mention the fact in his statement of reasons, he said that he did not consider it necessary. Commenting on the *suppressio veri* to which the officer in his zeal to serve his masters had thought fit to resort. Mr Burne thereupon remarked that the omission to mention such material fact "savoured very much of an attempt to mislead the Council and public". The other reason given by the officer was no less discreditable for West Street had only eight Indian stores as against 100 European stores. [*Ibid,* October 15, 1904; C.W.M.G. Volume IV, p.278]

Addressing the Council, Mr Binns said that the position, when the Act of 1897 was passed, was that by Section 71 of the Municipal Corporation law of 1872, the Town Council had the power to issue certain licences within the limits of any borough. Under that law, there was no power vested in the licensing authority to restrict the operation of a licence within the limits of a borough and Act 18 of 1897 did not take away the rights the licence-holders had under the Act of 1871. The Act of 1897 gave the Licensing Officer power to issue or refuse licences, other than liquor licences. [*Ibid*] In the case before them the Licensing Officer had issued to Hoondamal a licence authorising him to carry on a certain business but restricting him to certain premises in Grey Street. It was a question whether the officer had not acted *ultra vires* in granting him a licence and then restricting him to certain premises. It was further a question whether the Licensing Officer had power in law to refuse to allow the existing licence to be transferred. The Act of 1897 created two offences—that of trading without a licence and of trading in premises unfit to be licensed. Hoondamal was entitled under the licence he held to shift into the premises in West Street, but if he went

into premises not fit to be licensed, he could be punished under the law. It was not disputed that the premises in West Street were suitable or that the applicant was well qualified to carry on business there. The two principal causes for which the law was passed were not in issue at all. That law was devised to give the Council authority to prevent the issue of licences to those who were not qualified or for premises unfit to be licensed. He had looked in vain to find in the law power to restrict the number of licences, if the applicant was prepared to pay for them. The Council had before them two issues only.

He marvelled, Mr Binns continued, when he saw the reasons that had been put down by the Licensing Officer, namely, that the appellant held the unusual number of five licences for the borough, and that more licences should not be granted to the Asiatic traders in West Street. As for the first, on his own admission, the officer had suppressed the fact that five licences he had referred to were hawkers' licences, not retail or wholesale licences. As to the second, Mr Binns wondered what the people who had introduced the legislation would think of the reason that it was not desirable to have any more Asiatic traders in that part of West Street. If there was one feature in the Act of 1897, it was that it should be fair to all. The Legislature would not draw the distinction between black and white, because they could not exercise class legislation. If the Council were going to uphold the decision of the Licensing Officer because of the reason that there were enough Asiatic traders in West Street then the Council would be recognising what the Legislature refused to recognise. [*Ibid*]

Mr Binns' was adjudged to be a great speech but the trial was a farce. The Council upheld the decision of the Licensing Officer, refusing permission for the transfer of Hoondamal's licence for Grey Street to West Street.

Mr Binns, wrote Gandhiji on October 15, 1904, had conclusively shown before the Council how cruel was the injustice done in the case. The appellant had been in trade in Durban off and on since 1895. Over a dozen European firms had testified to his being in every way a desirable and fit person to receive permission to trade in the premises in question. Over forty European householders had strongly supported the application. He had already carried on his business in Grey Street which he was obliged to leave because his lease had expired and because his landlord wanted the premises. The only ground, therefore, for depriving the man of earning a decent livelihood was that of the colour of his skin. Mr Binns had indignantly protested that what would be treated as laudable in a European had been a cause of unfitness in this case.

The taunt had often been flung against the Indian, continued Gandhiji, that he did not keep pace with the times and built only shanties. Here was an Indian landlord, who had gone to the expense of several thousand pounds in building stores which would compete with the best of the kind in West Street even in ornamental design. And the reward of his pluck was a prospect of ruin, and for the applicant, who had been endeavouring to live up to the best Western standard, a prospect of insolvency.

Concluding Gandhiji observed, "This...is one of those cases which the late Mr Escombe thought could never be touched by the Licensing Act." [*Ibid;* C.W.M.G. Vol.IV, p.278]

2

The licence that he held enabled Hoondamal to trade till the end of the year. Acting on the advice of his attorney, he, therefore, kept his shop at West Street open pending the settlement of his case in the Supreme Court. On the morning of October 21, Mr Molyneaux, the Licensing Officer, had him prosecuted

for trading without a licence. Airth, Hoondamal's Counsel, asked for an adjournment until the hearing of the appeal in connection with the first conviction. Inspector W. Alexander, who prosecuted, opposed an adjournment,

remarking that the least the defendant could have done was to have closed down his business till the matter had been settled at Maritzburg. Hoondamal's action in defiance of His Worship's ruling, practically amounted to a contempt of court.

The Magistrate, however, thought that this was more the repetition of an offence. The Court adjourned the case till the 28th of October, and ordered that the business be closed down until the appeal had been concluded, or otherwise until the defendant had obtained the permission to continue trading. If the business after that order was carried on, the police would be given instructions to seize the whole of goods and bring them to some specified building, or leave them in the shop under charge of the police, as the case might be. The order would come into effect as from two o'clock that altcrnoon. [*Indian Opinion,* October 29, 1904]

Unlike the Bench of Natal, which was deservedly held in high respect, the Natal Magistracy had made itself a byword for slovenliness and incompetence. It had led Sir Walter Wragg, Judge of Natal, once to deplore as a "terrible thing" that "the...Magistrates...in dealing with cases....would not look at their law books". [Pyarelal, *Mahatma Gandhi—The Early Phase,* p.526] On another occasion Chief Justice of the Supreme Court of Natal had remarked that cases had been coming to him which showed that the Magistrates had not "the slightest knowledge of the most elementary pnnciples of law". [*Indian Opinion,* October 29, 1904] James Stuart, A.R.M., was a most amiable gentleman personally and a good friend of Gandhiji. But Gandhiji was constrained to note that he had more than once let his zeal as a

Magistrate outstrip his knowledge of law. In passing that order he had evidently exceeded his authonty. [*Ibid,* February 18, 1905; C.W.M.G. Vol.IV, p.358]

Hoondamal's attorney, Mr Binns, was away at Pietersburg at the time. In his absence, Mr J. B. Wylie (of Messrs Shepstone, Wylie and Binns), acting on his behalf, addressed a strongly worded note to the Magistrate and the police, saying that if the order was implemented, the executing officials would be held personally responsible for the consequences.

> We have to give you notice that the order issued by you on the adjournment of the case today is in our opinion absolutely illegal and *ultra vires*...If at your order or on your authority, or under your instructions, the police or any other persons interfere with the premises, goods or business of Hoondamal situated at West Street, you will be held personally liable for the wrong done…You know, that there is a legal remedy open to complainant to attain the same object as that summarily ordered by you, if the complainant can show that he is entitled to take advantage of that course. [*Indian Opinion,* October 29, 1904, Mr J. S. Wylie to James Stuart, Assistant Resident Magistrate, dated October 21, 1904]

The Magistrate was furious, but felt helpless, the order that he had passed not being lawful.

When the court opened on the 22nd Mr Stuart said that "personal attack" had been resorted to by the Counsel for the appellant and that such conduct on his part was both "irregular and improper". A lawyer of Mr Wylie's standing should have known that the right way of preventing the carrying out of an order was by notifying an appeal against it. The order in question might have been *ultra vires*, but such fact, as far as he could see, was no excuse why a King's counsel

should set the example of interfering with and threatening an Assistant Magistrate to turn him from a course which he believed to be right and just.

An unrepentant Mr Binns appearing a few minutes later, said that Mr Wylie had taken the course which he (Binns) would himself have taken. The course was adopted out of no disrespect for the Court. Everyone was aware how high Mr Stuart stood in the legal profession. But holding as they did, that the Magistrate in making the order complained of had done so illegally, it became necessary for his firm to protest strongly against that order being carried out by taking steps to prevent its execution, which execution was bound to be attended with loss to Hoondamal, and probably with damage to other people. They had to make at once, before that order was put into execution, their strong protest against any attempt being made to carry it into effect. That was the object of their letters. [*Ibid*]

The Magistrate said he was glad to hear the "qualified" remark that Mr Binns had made, but maintained that the proper course to have been followed for the purpose of preventing any order of the court being carried out was by the ordinary notification to the Magistrate that the firm desired to appeal against the order made in the open Court and the case would then have been hung up until the Supreme Court had an opportunity of reviewing the Magistrate's decision. Mr Binns closed the incident by saying that the course taken by his firm was a correct one in view of the gravity of the results which might follow from the Magistrate's order being carried out. [*Ibid*]

The appeal against Mr Stuart's ruling in which he had convicted Hoondamal and imposed upon him the maximum penalty of £20 fine on a charge of trading in West Street without a licence, came up for hearing before Sir Henry Bale, the

Chief Justice, when the Circuit Court sat in Durban on November 16, 1904. Mr Binns represented the appellant.

In delivering his judgment, His Lordship said the question before him was a simple one. Hoondamal was charged with carrying on a business without a licence; he was not charged with carrying on business on unlicensed premises. He declined to decide upon the issue as to whether it was competent to find a person guilty who was the holder of a licence but who was carrying on business in premises other than those on which the licence was granted. He likewise declined to go into the question as to whether the Licensing Officer had the right to restrict the licence. The point he decided upon was that the applicant was found guilty of trading without a licence when as a matter of fact he had one; he should, therefore, have not been found guilty. The applicant had been wrongly summoned. He was not charged with carrying on a business in unlicensed premises. The conviction must, therefore, be set aside. [*Ibid,* November 19, 1904]

In spite of the victory Hoondamal came out second best. He was put to enormous expense. It was admitted that the prosecution was wrongly brought. Still he had to pay the price for it. The judgment being based on a side issue, it left the crucial question untouched. The Indian community approached the new year in fear and trembling. [*Ibid,* November 26, 1904; C.W.M.G. Vol.IV, p.301]

Another summons was issued agilinst Hoondamal. The defect in the original charge was rectified. This time he was found guilty.

Hoondamal lodged an appeal with the Supreme Court. Hearing was fixed for February 6, 1905.

3

Adversity makes strange bed-fellows. Messrs Ellis Brown and Aucktill had both been Gandhiji's personal friends. In 1901 they had paid him a glowing

tribute at the time of his departure for home from South Africa. In the Durban Council, however, they were ranged against the Indian traders. In the court of Mr Stuart, on the other hand, it was Mr Wylie of "lynching" fame ("Sink the ships", "Coolies were as plentiful in India as ticks in this Colony" see *The Discovery,* Chapter III, p.52) who defended Hoondamal and stood between him and the irate Magistrate. Mr W. B. Morcom, K. C. had supported Gandhiji's petition for permission to be enrolled as an advocate in the Supreme Court which the Natal Law Society had opposed. [Pyarelal, *Mahatma Gandhi—The Early Phase,* p.442] Before that he had successfully fought against the decision of the Resident Magistrate of the Klip River Division refusing permission to twentynine Indians for getting their names placed on the voters' register. [*Ibid,* p.397] He was now arrayed against Sheth Hoondamal, while Mr Tatham, who had in the past missed no opportunity of harassing the Indian traders and swearing at them, argued the brief for the Indian Sheth in the Supreme Court.

Opening the proceedings, Mr Tatham said that the Magistrate's judgement had in effect laid down that the Corporation had the power under the Dealers' Licensing Act of 1897 to restrict the licences to particular premises. Hoondamal had been summoned under a summons which declared him guilty of contravening Section 9 of Law 19 of 1897 in that he had carried on wholesale and retail trade without the licences required by the law. The issue in fact was as to the power of the Licensing Officer to restrict a licence to a particular premises. The Durban Corporation had imported into the wording of their licences the words "and not elsewhere". The Corporation had no right, under law 18 of 1897, to make such provision.

Law 18 of 1897 provided in Section 5 that the Licensing Officer should have discretion in the granting of licences, and there was no right of appeal from his

decision except to the Town Council sitting as a Court of appeal. According to the same law, however, a summons could be issued against a man for trading without a licence. Hoondamal had a licence. A licence could be refused to an applicant whose system of book-keeping was faulty, and whose premises, in respect of which a licence was applied for, were insanitary or in any way unfit for the business for which a licence was applied for. Under neither of these provisions was Hoondamal summoned. He had a licence and his premises were suitable.

The Town Council had made it an offence to carry on business on other premises than those mentioned in the licence. The action of the Town Council was *ultra vires.*

Mr Justice Dove-Wilson : "It seems to me that it is rather a question as to whether it is the premises or the applicant...that is actually licensed". [*Indian Opinion,* February 2, 1905]

Mr Tatham said that the Act inferred that it was the person, not the premises that was licensed. There were two previous laws that must be taken into consideration in judging this case. They were the Law 3 of 1850 and Section 17 of the Law 19 of 1872. The Law of 1897 had been held not to supplant the law of 1850. The Law of 1850 had required that, provided the fees were paid for a licence to trade, such a licence must be granted. The law of 1872 had provided for the transference of the licence revenue from the Government to the Municipalities. The law of 1897 clearly required that the Corporation should not issue a licence for a person to carry on business on other premises, but did not make it an offence for a person to carry on business on other premises than those mentioned in the licence.

Mr Justice Beaumont: “I understand, then, that it is your contention that, before the law of 1897 nothing was said about the non-transfer of licences and that the law of 1897 said nothing further about this?" [*Ibid*]

Mr Tatham replied that that was so.

Continuing his argument, Mr Tatham said that there was nothing in the Statute that must be construed restrictively. The Court had no power to add words to the law which were not there. It was surely no offence so far as the wording of the law was concerned, for a man to carry on business at premises "A" instead of premises "B". It might be that it was the intention to make such a provision, but that had not been done and it was not for the Court to alter the law but to judge the matter in the light of the law as it stood. The licensing officers had no greater powers than those given to them by the law of 1872. Nowhere was restriction mentioned as to particular premises. The Court could not infer anything, nor could they supply words to the law. The acts of contravention were distinctly set forth in Section 9. They were (a) trading without a licence and (b) keeping premises or business in a condition disentitling to a licence.

Appellant had a licence and was not charged under (b).

The form of the licence was neither set forth in the Act nor in the rules. The rules made certain provisions, but could not alter the law.

Appellant had apparently aroused the ire of some competitor who had taken measures to relieve himself of the undesired competition. This was a case in which the Court should be slow to add to the Statute so as to take away natural rights. The Corporation had an undoubted right to refuse a licence, but he denied their right to restrict a licence to particular premises. [*Ibid,* February 11, 1905]

Mr Morcom then rose to address the Court, but the Chief Justice intervening gave his opinion that section 8 which gave the Licensing officer the power to issue or withhold a licence for a particular premises, and section 9 which

prescribed the penalty for the contravention of the licensing law must be read together. [28 C.W.M.G. Vol.II, pp.344-45. Act No.18 of 1897 provided:

5. A Licensing Officer shall have a discretion to issue or refuse a wholesale or retail Licence not being a licence under Act No.38, 1896, and a decision come to by a Licensing Officer as to the issue or refusal of a Licence shall not be liable to review, reversal, or alteration, by any Court of Law or otherwise than is in the next section provided. 8. No Licence shall be issued in respect of Premises which are unfit for the intended trade, or un-provided with proper and sufficient sanitary arrangements, or not affording sufficient and suitable accommodation for salesmen, clerks, and servants, apart from the stores or rooms in which goods and wares may be kept in cases where premises are used for both purposes. 9 Any person who shall carry on any wholesale or retail trade or business without a Licence, or who shall allow Licensed premises to be in a condition which would disentitle him to a License, shall be deemed to have contravened this Act, and shall be liable to a penalty not exceeding Twenty pounds Sterling for each offence, to be recovered in the Court of the Magistrate by the Clerk of the Peace, or if the contravention is within a Borough or Township, by an officer appointed by the Town Council or Town Board.] He was satisfied that a licence had been granted to appellant for particular premises. In his opinion the Corporation were entitled to hold that not only should licence be issued to a particular person, but it must also be taken that particular premises were intended to be licensed.

Mr Justice Beaumont concurred.

Mr Justice Dove-Wilson said that Mr Tatham's contention might be correct, and the law of 1897 might be a disabling law and that rights ought not to be taken away by implication. But he could not admit that the Legislation had authorised something that interfered with the continuity of previous legislation. He thought that it had been shown that the Legislation had authorised these things to be done irrespective of rights. He, therefore, thought that the Magistrate's ruling was right.

Mr Tatham then asked what the decision was as to the penalty and costs.

Chief Justice: "I understand this is a test case?"

Tatham: "That is so." Hoondamal had acted on the advice of lawyers. The penalty seemed vindictive.

The Chief Justice thought the fine excessive, and reduced it to £3, each party to pay its costs in the appeal. [*Indian Opinion,* February 11, 1905]

The effect of this judgment was that a person was licensed to carry on business in particular premises only; in other words, the licences were not transferrable. [*Ibid*]

4

Whilst the drama of the Supreme Court was moving to its climax a side issue was being considered within the Town Council chamber. That side issue was the appeal of Hoondamal to the Town Council against the Licensing Officer's decision to refuse a licence in respect of the premises in West Street. His old trading licence having expired early in January, 1905. Hoondamal had applied for fresh licence for the premises No.476, West Street. The Licensing Officer, Mr Molyneaux, refused permission. A special meeting of the Town Council was held on February 2 to hear the appeal. Arguing for Hoondamal Mr Nicholson stated that within five minutes of making the second application for a licence, it was refused. His client had already received a licence for West Street. He was a British Indian and a man of exemplary character. Act 18 of 1897 was absolutely silent on the question or classes, no distinction being made between them and there was not a word about Asiatics. The Act was aimed at undesirable characters of all classes, who were insanitary or who did not keep proper books. [*Ibid,* February 4, 1905]

Stating the reasons for not granting the licence, the Licensing Officer had said that it was not desirable to issue more licences to Asiatics in West Street. When this reason for refusal was brought to the knowledge of the Town Council

by Hoondamal's Counsel, the Councillors fell abashed, for the Licensing Officer had also said that such was the desire of the Councillors as well.

Up rose Councillor Burne, who was also a renowned lawyer. He protested that the Licensing Officer had no warrant to attribute such a desire to the Town Council. At this the Officer got up and answered that he had rejected applications on that ground in the past, and that his decision had always been endorsed by the Council; his claim could not be proved incorrect. To prevent the dispute from developing further, a Councillor moved that the appeal be dismissed. Another member seconded the resolution introducing while doing so a further legalistic argument, that under the law the discretion to grant or refuse a licence was vested in the Licensing Officer. The appellant's counsel urged that discretion could only be used within the obvious meaning of the Act; and that it was no discretion which violated the law and transgressed it. Thereupon the Mayor laid down the extraordinary dictum that the Licensing Officer's discretion was arbitrary and need not necessarily be used within the four corners of the law.

Mr Nicholson showed how it had frequently been ruled that discretion could only be used in a limited degree, and that reasons must be given for the refusal of a licence. He quoted Supreme Court decisions in support.

The Councillors did not relish the argument, but in spite of the protest of Councillor Burne they upheld the Licensing Officer's decision to refuse the licence and the Town Council, although it dissociated itself from the reasons given by the Licensing Officer, and did not substitute a reason of its own for the one repudiated.

His original licence for Grey Street having expired, Hoondamal had to close down his shop. [*Ibid*, February 11, 1905 and February 18, 1905; C.W.M.G. Vol.IV, pp.349 and 359]

5

With these two judgments the Hoondamal case entered upon the last stage or, as Gandhiji put it, the first stage of a new phase. "Hoondamal the individual disappears from view...the Indian community replaces him", he declared. The struggle promised to be a titanic one. The Supreme Court had said the last word and the Durban Town Council had won a momentary victory. It was a triumph of sheer prejudice and injustice. Every means had been taken by it to bring about his ruin because in the words of the Licensing Officer—which had been officially disapproved of but which everybody believed were privately endorsed by the members of the Town Council—further Asiatic licences should not be granted in West Street:

> There are times when what is nearest the heart is nearest the lips, and we fear that, notwithstanding the official disclaimer of the Town Council, the Licensing Officer's opinion is emphatically held by his employers, and the cat has, perhaps unwittingly, been let out of the bag.
>
> [C.W.M.G. Vol.IV, p.348; *Indian Opinion,* February 11, 1905]

As a result of the Supreme Court's decision, West Street would thereafter be a close preserve for white traders, Gandhiji went on, and no Indians need apply for licences to trade in that select thoroughfare. But the matter could not be ailowed to rest there. "The fortress has, seemingly, fallen, but the defender has not been disgraced, for from the ashes of his defence will arise a yet mightier champion, who will wrench justice from reluctant hands, and compel circumstances to his needs". The matter was of sufficient importance to warrant being taken to a higher tribunal. " It may well be that other arguments can be produced that will entail some modification of the present conditions". [*Ibid*]

The hour of decision had arrived; the whole of Indian trading community was threatened with extinction, Gandhiji warned. What had happened to Hoondamal could happen to every single Indian trader, "so long as the newly-laid-down interpretation of the law holds good, no Indian's business is worth a day's takings." [*Ibid,* p.349] He then explained to them how their ruin would be brought about. The white population was determined to stamp out the Indian traders piecemeal. It had been ruled that licences were granted for particular premises only and were not transferable. In consequence

> a landlord may...rackrent a tenant trader to the top of his bent, and the trader is abjectly helpless. He must either be ruined by the landlord or he must seek new premises. If he chooses the latter alternative, his licence becomes invalid, and his trading privileges null and void. He cannot obtain what will then be considered a new licence, for just as it may be (unofficially) judged to be unnecessary to issue new licences for Asiatics to trade in West Street, so *every other trading locality within the town limits may be debarred to him, and he will be extinguished as absolutely as a moth in a candle flame.* [*Ibid.* (Italics by the author)]

They must, therefore, brace themselves for action. Unless they took up the challenge in all earnestness they were doomed. The slightest indifference would prove disastrous. He then outlined to them his strategy of action. Perfectly reliable information should be gathered from every place as to whether or not Indians secured regular licences at the beginning of the year, and this information should be made as widely known as possible. All facts should be communicated to those working on their behalf in India and Great Britain “so that as our local effort progresses, parallel attempts to strengthen our cause might also be made there". It was as a result of similar efforts that in 1898 the Colonial Secretary,

acting on Chamberlain's strong despatch, had given the warning to all municipalities that if the traders were harassed the law would be altered and "the right of appeal to the Supreme Court conceded". [C.W.M.G. Vol.IV, pp.367-68; *Indian Opinion,* March 4, 1905] Now that the mischief had been started again, they must make all possible effort to get the disgraceful law blotted out of the Statute Book and not rest till the goal was achieved.

Under Gandhiji's advice the Natal Congress decided to make Hoondamal's case a public issue and to extend to it its financial backing as a token of their identification with it. In his weekly Gandhiji wrote: "The battleground has been temporarily removed from the Transvaal to NataL What applies to Durban applies to the whole Colony, and what now applies to Natal may not improbably apply to South Africa as a whole. Evil example is quickly followed". [*Ibid,* p.349; *Indian Opinion,* February 11, 1905]

CHAPTER XVII : THE PRETENCE OF PROTECTION

1

Indentured labour was the mainstay of Natal's three principal industries—sugar, tea and mining. Nearly fifty per cent of the indentured labour was employed on the sugar plantations or in the tea gardens. In 1902, the Natal Government had sought permission of the Government of India for the recruitment of indentured labour for work on its collieries. The permission was granted after some hesitation. If the white Colonists had shown even half the enthusiasm in welcoming the Indian immigrant that they did in exploiting his labour, the system, obnoxious though it was intrinsically, might still have worked. As it was, they preferred the fruit of the coolie's industry to the coolie's company. The coolie was "expendable". He was to be used for the benefit of the Colony and then discarded and consigned to the rubbish heap.

The coal mines of Northern districts of Natal were one of the largest employers of the Immigrant Indentured labour. In 1902 there were 2000 men employed on the mines. The Protector found it difficult to cope with such a large number. A Deputy Protector with headquarters at Estcourt was consequently appointed as from December 1902 to investigate and report on the working conditions of the indentured labourers on the mines. In 1903 alone he had to visit 300-odd places and travel over 8,000 miles. [Pachai, p.88; No.29; *Natal Blue Book* (N.B.B.), Report of the Protector, 1903, Vol.87, p.13] Naturaly, he could not visit the Mines and the labourers working on them frequently enough or pay sufficient attention to their difficulties and complaints.

As compared with the Indian labourers in other occupations, the Indians working on the mines received somewhat higher wages but this advantage was

more than set off by the high incidence of miner's phthisis. To reduce the incidence of phthisis, in 1903, a decision was taken by the Protector not to allow Indians to be allotted to the mines during the winter months—from 15th April to 15th August. This reduced the death rate due to phthisis somewhat but [*Ibid*] as late as 1907 we find the Protector reporting that it was not uncommon for partially cured phthisis cases to be placed indiscriminately among healthy labourers. Further allotment was then made conditional on the mine-owners agreeing to keep the affected cases apart from the rest. [*Ibid,* 1907, Vol.92, p.13; Pachai, p.88]

New regulations framed under the Mines Act in 1902 required the miners to be provided with "comfortable lodging". [Pachai, p.88] Satisfactory enforcement of the provision was left to the judgment of the medical officers of whom there were 13, one for each of 13 medical circles though there was only one for the mining districts of northern Natal. These officers were in charge of the supervision of the health and the working conditions of indentured labourers. Their usefulness, however, was to a large extent nullified by the system of their employment. Being under the Indian Immigration Trust Board, which in turn was controlled by the employers of Indentured labourers, they could scarcely carry out their duties satisfactorily and without prejudice, [*Ibid,* p.84] and their reports were necessarily biased. The report.of the Protector for 1907 had this to say in respect of these medical officers: "To carry out their duties satisfactorily, the medical officers should be absolutely independent of the employer. In view, therefore, of this unsatisfactory state of things, l have asked for no reports from the medical officers for the year. " [N.B.B., Report of the Protector 1907, Vol.92, p.14; Pachai, p.85]

The principal law governing the lot of indentured labourers in Natal was Act 25 of 1891. Its various provisions were characterised by the *Natal Advertiser*

as "inequitable and disproportionate in their incidence on the employer and the employed", weighing heavily against the latter. [Pachai, pp.15,85] For instance, Sections 24 and 25 provided that every indentured was bound to work for nine hours a day, except on Sundays and holidays. Section 26 provided that an employer found contravening these sections was liable to a fine not exceeding £2 but an employee found contravening the same sections was liable to a penalty not exceeding £10. Other sections provided for the deduction of wages of sick immigrants and for meeting the cost of their removal to hospital. Desertions owing to harsh treatment on the estates were numerous. Their number for the period October 1899 to 1901 was given as 1395 by Mr Baynes (M.L.A.) to the Colonial Secretary. [Taken from Pyarelal's Notes; source not traceable] On one estate there was a police force kept by the estate to prevent labourers from leaving the estate to lay a complaint before the magistrate. On the same estate there were five suicide cases on a single day. [Pachai, pp.14-15]

An important section of Act 25 of 1891 was section 30 which protected individual immigrants found without a pass beyond a radius of one mile from their employers' premises, if they were on their way to lodge a complaint before a Divisional Magistrate or Protector. But this provision was rendered nugatory by Section 31, which required a labourer who was away from his place of employment to be in possession of a certificate of discharge (if free) or a written leave of absence from his employer (if indentured). Failure to produce a "pass" made him liable to prosecution on a charge of desertion. [Act 25 of 1891, Natal Laws, 1890-1894, Pachai, p. 88 & 15] Severe penalties were prescribed for harbouring or providing food or shelter to a deserter (see *The Early Phase,* p.500). If on enquiry the Magistrate found that the complaint lodged was "frivolous", he punished the complainant with fine and imprisonment with or without hard labour. *So*

desperate was the condition of the labourers, however, that they preferred to go to prison again and again rather than go back to face the fury of their irate masters (see *The Early Phase,* p.503). To overcome their reluctance the Act 25 of 1891 was amended by Act 1 of 1900. The amended Act made it lawful for the Protector to cause an Indian immigrant, as soon as he made his complaint, to be sent to his employer under police escort, the employer being allowed ultimately to deduct from the labourer's wage the cost of transport in such a case, and to get him prosecuted for illegal absence, if the Protector found that the complaint lodged was "frivolous". [Pyarelal, *Mahatma Gandhi—The Discovery of Satyagraha—On the Threshold,* p.342]

Even this failed to prevent the complaints being lodged. When complaints of ill treatment by the employers became too frequent to be convenient, the Government issued additional regulations under Section 3 of the amended Act, making it unlawful for an indentured labourer to go to complain to the Protector, without first obtaining a pass from the Magistrate of the Division. If he failed to satisfy the magistrate or to make good his complaint he was deemed guilty of "absence without leave" for which, of course, penalties were provided.

It was contended on behalf of the employers that more complaints were made by employers against the immigrant labourers than by the latter against their employers. [Pachai, p.85] If this was taken to mean that the employers had more cause for complaint against the labourers than the latter had against the employers, then the question at once arises, how is it that such a vicious lot were tolerated for so long and requisitioned for so zealously. Reported the Protector in his Report for 1900: "During the whole of my experience...now close upon 38 years, I have never known the demand for indentured Indian labour to have been so great as it has been during the year under report." [*Ibid,* p.17; N.B.B., Report or the

Protector for 1900, Vol.84] In the following year the Protector wrote: "Native labour for farming, or, in fact, for any other industry, must...be looked upon as a thing of the past...Employers have now realised the fact that without Indians they can do absolutely nothing...There is no getting away from the fact that if for any reason Indians are unhappily withdrawn from the Colony…the whole of the country would at once be simply paralysed." [*Ibid,* 1901, Vol.85]

The new rules and regulations made it ever so much more difficult for the labourers far removed from the nearest magistrate to lodge their complaints. In the case or Ramsay Collieries in Wesselsnek a labourer would have to walk 25 miles to reach the nearest magistrate, in Ladysmith. Many cases or brutal ill-treatment of the labourers consequently failed to come to the notice of the authorities. The growing desperation of their condition was reflected in the alarming rise in the suicide rate among the indentured labourers. [Protector to Colonial Secretary, October 8, 1906. *Indian Immigration Records.* 3491/06 with C.S.O. 6709/06; Pachai. pp.85 and 98]

2

The machinery set up by the Immigration Trust Board to ensure fair treatment of its charges was not effective and the Protector, too, found his duties too onerous. A shocking case of the death of an employee at the hand of his European employer was reported from Ladysmith on March 7, 1903. An Indian fireman, employed by Mr Angus Fraser of Ladysmith, assumed his night duties, allegedly in an intoxicated condition. His duties consisted of firing the boiler of the electric plant. The electrician in charge was one Thomas Kennedy who advised Ayasamy to go home as he was “too drunk to work”. Ayasamy, it was stated, did not leave the boiler room as directed but remained therein, making "objectionable remarks and interfering with the progress of the work". This

exasperated Kennedy, who thereupon pushed him out of the door in the presence of several workers. Ayasamy was afterwards found seriously injured and died before the arrival of the district surgeon. It appears that an iron wheel barrow was standing close by. The sharp point of one of the handles—the wooden part being off—evidently penetrated the chest of the unfortunate man.

Thomas Kennedy was arrested and lodged in gaol, bail being refused. A preliminary examination was instituted in the following week on a charge of "culpable homicide". On June 2, the Governor of Natal transmitted to the Colonial Secretary a copy of a report by Mr R.A.l. Brandon, A.A.M. of Klip River which ran: "After an exhaustive examination of all the witnesses I discharged the accused as there was no evidence to show that he was directly or indirectly responsible for the man's death." [*Indian Opinion,* September 24, 1903]

A parallel case of the acquittal of a white colonist charged with the murder of an Indian was reported from Howick. On January 2, 1903, one Michael Kennedy, an Australian of 21 employed by the military authorities, killed an Indian hawker, Esop Ismail Raya by name, by striking him several times on the head with the station bell. He then trampled on him.

Put in the witness box, Kennedy stated that he had been drinking heavily shortly before the event. Dr Hardwick, Medical Superintendent for the Lion's River Division, certified that accused was a "dangerous lunatic".

Dr Hyslop, Medical Superintendent of the Maritzburg Asylum, testified that he found that the prisoner was insane "with all the symptoms of religious and other forms of mania", as a result of which he wanted to "reform the earth and kill off the black people".

The jury, after hearing the case, found the accused “not guilty" on the ground that he was insane at the time of the crime. Michael Kennedy was acquitted on the ground of insanity. [*Ibid,* September 17, 1903] In one case the drunkenness of the victim was made the ground of the acquittal of the white man for the murder of an Indian, in the other the white assailant who had murdered an Indian was acquitted on the ground that he was drunk when he committed the murder. In both cases it was the coloured man who paid the price for the colour of his skin.

These two incidents came to light because they reached the ears of the court, but there were many more that failed to reach the public. One such was witnessed at Pine Town, noted for the Trappist Monastery, by a Nataliim, who reported it to the *Natal Mercury:*

> One of our old residents was seen a few weeks ago riding home, leading a coolie by a rope tied round his neck. I expect the owner missed sammy in the morning, and found him trying to make good his escape. It is believed our police would not have been so expeditious. [*India,* September 25, 1903]

3

It had been argued in justification of compulsory repatriation of the time-expired Indian indentured labourers that there was no hardship or injustice involved in this as the "coolie”, on his return to India, could very well live on the savings from his earnings in the Garden Colony or earn a decent living otherwise. But according to the Report of the Protector of the Indian Immigrants for the year 1903 the savings of the 2029 Indians who returned to India in the year under survey amounted, in cash and jewellery, to £34600, or little over £17 per head which could hardly support a man even in poverty stricken India.

The Report further showed that the demand for Indian labour was increasing at an enormous rate. There were at the end of the year 1903, 15,033 applications for "coolies" undealt with, and the agent in India was utterly unable to cope with this extraordinary demand. [C.W.M.G. Vol.IV, p.204; *Indian Opinion,* June 4, 1904] The Report of the Protector for the following year was even more revealing. It showed that the Protector had been unable to supply the full number applied for even in 1902 i.e. 19,000. The demand for such labour was so great, the Report stated, that it had become necessary to refuse fresh applications altogether. [C.W.M.G. Vol.V, p.31; *Indian Opinion,* August 5, 1905] This made nonsense of the cry raised by a section of the white colonists that the Colony had been "ruined" by indentured Indian labour.

One of the charges that was frequently laid against the indentured Indian was that upon the completion of his indenture, he turned to commerce, and as a petty trader added to the competition which the European store-keeper was already finding difficult to fight. Significantly, the Protector's Report made no mention of this. In his origin, as everybody knew, the average indentured Indian was a peasant with no aptitude for trade or industry. When he was free to make his choice of occupation, he turned to cultivation. As a peasant-cultivator he added to the wealth of the country in which he lived and kept Natal from starving. But for him, the Garden Colony would have been a wilderness. The trading community derived no sizeable increase from the ex-indentured man. Whatever increase there was—and it was but trifling—was due almost entirely to free men, who paid their own passage and lived simple inoffensive lives in a land which throve upon the sweat and blood of their no less deserving, if less fortunate, brethren. [*Indian Opinion,* September 15, 1906]

In his very much delayed Report for the year ending December 31, 1905, the Protector again eulogised the “excellent” treatment of indentured labourers by their employers. If that was indeed so, Gandhiji asked, then how was it to be reconciled with the vast number of cases before the courts dealt with under Section 31 of Law 25 of 1891, and Section 37 of Law I of 1900. “The Protector says very little of this, but all the same there are some 600 cases dealt with by the Durban Magistrates last year under the above sections—and those were the people who escaped the vigilance of the border-guards, too! What about the cases before the country magistrates? Can all these be legitimately set down to the innate viciousness of the indentured Indians? “Are we not justified," concluded Gandhiji. "in our scepticism concerning these estate paradises, and our demand that an enquiry should be made into the treatment of indentured Indians on the estates." [*Ibid*]

4

Another fact that emerged from the Protector's annual Reports was the staggering suicide rate among the indentured Indian labourers as compared with the suicide rate in India and among the free Indian population of Natal. The Protector's Report for the year 1903 showed that out of the free Indian population of 51,259, there were 8 suicides. Out of 30,130 Indentured Indians there were 23. "Why this great disproportion?", Gandhiji asked. "Now, the highest rate is to be found in Paris—namely, 422 per million—and Paris is considered to be most notorious in this respect. But the rate among the Indians comes out to 741 per million. These figures are sufficient to give cause for very serious reflection.” He urged that there should be a statement showing which estate showed the highest number, and that there should be a summary at least as to the nature of the evidence given at the Magisterial enquiries. "We do not

wish to draw any conclusions against the employers from these staggering figures," Gandhiji added, "but we do plead for a thorough enquiry, alike in the interests of Indians as of the employers." An ideal commission, he suggested, ought to include a medical gentleman of good standing, a nominee of the Immigration Board, the Protector, "and if it is not sacrilege to make the suggestion, an Indian of standing in the Colony". [C.W.M.G. Vol.IV, p.205; *Indian Opinion,* June 4, 1904]

In the House of Commons Sir Muncherjee Bhownagree referring to what had appeared in *Indian Opinion* asked the Colonial Secretary whether his attention had been drawn to the statement in the Annual Report for 1903 of the Protector of Indian Immigrants in Natal which showed that the indentured labourers committed suicide in an overwhelmingly large proportion and whether the local authorities had been able to trace the cause to which this voluntary destruction of life was due.

Replying, Lyttelton repeated what the Protector had said in his Annual Report: A Magisterial enquiry was made into the circumstances attending each case of suicide and whenever the evidence tended to show that the fatality in any way resulted from ill treatment received from an employer or employee, the Protector made a personal visit to the estate and enquired into the circumstances. "In one insrance, and one only, did the evidence tend in this direction. Generally speaking, the witnesses stated they could give no reason for the suicide, and if those who were supposed to know declined to give any information, it was impossible in many cases to arrive at even a probable cause." [C.W.M.G. Vol.IV, p.230; *Indian Opinion,* July 30, 1904]

Commenting on this Gandhiji pointed out that according to the Colonial Secretary's ratio the figure for suicide among Indentured Indians was 766 per

million as against 157 among free Indians. That in the face of these appalling figures Lyttelton should have declared himself satisfied with "the meagre reference" to the matter in the Protector's report was surprising indeed. "In so doing, he has in our humble opinion missed the very point we have raised. We do not yet ascribe the suicides to the ill-treatment received from the employers, as Mr Lyttelton has evidently assumed, but we do say that the condition which causes such a death-rate from self-destruction is such as to call for an enquiry in the interests of both the employers and the employed." [*Ibid*]

He trusted the matter would not be allowed to rest. Pressing his demand for "a full and impartial enquiry", he proceeded: "It may be that it is the situation under which the indentured men are placed which is to blame rather than any actual ill-treatment by the employers. lt may be that the men themselves who are called upon to do the work find it too trying for them, or that there are climatic conditions which predispose them to such acts or that it is simply homesickness on their part. Be the cause whatever it may, it is essential that the public should know exactly what it is and that the Indian mind...also should be satisfied on the point." He hoped that the Indian M.P. would make it clear to the Colonial Office that *the suggested inquiry did not presuppose ill-treatment by the employers and that it was not intended to cast the slightest reflection on them.* All that was needed was investigations into truth and no more. [*Ibid,* p.231]

For the three succeeding years for which the figures were available. i.e. 1904 to 1906, the suicide rate among indentured Indians was never less than 14 times what it was for the whole of lndia in any one year, while normally it was twice as high as amongst the free Indians in the Colony. Again, comparative figures showed that the places from where most of the Indentured Indians come, viz. Madras and Bengal, had a suicide rate of 45 and 58 per million for three years

1904-06. The corresponding average for the indentured labour in Natal was 585. The figures for the indentured labourers in Natal were thus 13 times the suicide rate in Madras. [27 Pachai, p.99; *Indian Opinion,* May 23, 1908.

Year	Total Indian suicide per million in India	Free population per million in Natal	Ditto: Indentured in Natal
1904	33.5	89	469
1905	40.0	249	582
1906	39.0	213	661
1907	Not available	244	628
1908	-do-	234	414

Figures quoted to show that Indians are amongst the least prone to take their lives.

Suicide rate:

All India	Average 1904·6	37 per million
Madras	-do –	45 -do-
Bengal	-do –	58 -do-
England & Wales	-do –	104 –do-
Johannesburg-Europeans	1905	370 –do-
Paris	1908	400 –do-

Taking the official to task for touching upon the matter lightly, Gandhiji repeated his demand, which he had first made when *Indian Opinion* made its advent in 1903, that each suicide case should be thoroughly probed, and a

classified list or the cases in place of the meaningless figures be given each year by the Protector. [*Indian Opinion,* August 18, 1906; Pachai, p.98]

The sharp criticism of *Indian Opinion* drew the attention of the Colonial Secretary, who asked the Protector whether the increase in the number of suicide cases in 1905, as compared to those of 1904, warranted investigation. [Pachai, p.98; Indian Immigration Records 3491/06 with C.S.O.6709/06, Principal Under Secretary to Protector, September 19, 1906 and October 1, 1906]

Replying, the Protector agreed that suicide cases were excessive and that they should be investigated by the Protector or by the Deputy Protector. At least in three cases, he further admitted, the treatment by the employer was a contributory factor, but pleaded that these officials were prevented from assisting in the enquiries by reason of a decision in 1904 of the Attorney General who reserved such investigations for the police in the interest of uniformity in investigation, as the police were responsible for such investigations among the free Indian population. [*Ibid,* October 8, 1906] He concluded his apologia with the following: “More supervision than I can possibly give would probably lead to lessen the suicides among indentured Indians in this Colony.” [*Ibid*]

This was tamamount to an admission by the Protector that there was an abnormality in the large numher of suidde cases and that he was unable to maintain effective control over the situation. Yet no official enquiry was instituted.

5

Gandhiji followed each and every case of ill-treatment and oppression of the "coolie" with the utmost vigilance and gave them full publicity in his weekly. In this he was able to inspan the support of a considerable section of the white Press also, particularly the *Natal Witness* and the *Natal Mercury.* On November

24, 1904, the *Natal Witness* published the story of "a half-starved Indian" who was found wandering about the vicinity of Colenso in consequence of ill-treatment. The frequency with which these cases came before the Court, observed the *Witness* had caused comment. Not only had desertions taken place and complaints been made of "shameful treatment", but a case of attempted suicide owing, it was alleged to such treatment, was not so long ago disposed of.

On the same day on which this comment appeared, also appeared in the Press the report of two Indians wandering about without passes. Brought up before Mr Hugo, the Magistrate, they complained not only of food and treatment but also stated that wages were withheld.

The sight day after day of poor half-starved devils of indentured "coolies" being hauled up before the court charged with "desertion" sickened Sergeant Lempriere, the Prosecutor. In open Court he said, addressing the Magistrate: "Your Worship, I feel ashamed to stand here and prosecute these men; it is impossible to believe that these men leave for no reason whatever, there's something radically wrong, which should be looked into."

In questioning the two accused, Mr Hugo, the Magistrate, elicited the information that they had been working for the collieries for ten months, that the visits of Mr Dunning, the Deputy Protector were scarce, and further that they dared not complain to him for fear of the wrath they would draw upon themselves from their masters. When the Deputy Protector visited them, all was "in apple-pie order". One of them complained that his wages were held back.

The law being what it was, the Magistrate felt helpless. Through an interpreter he informed the Indians that they would be sent back, and that if they

wished to complain, they should first obtain a pass to come into town, failing the obtainment of which they could come without. [*Indian Opinion,* December 3, 1904]

How unavailing was the course suggested by Mr Hugo to these unfortunate men was shown soon afterwards when another case came up again from the Ramsay Collieries. The accused in this case had worked for the company for one year and nine months as a fireman on a wage of £3. A widower with three children, he had taken to wife an indentured Indian woman named Madaye, then in the service of the colliery, and paid £10 for her, receiving a receipt for that amount from Llewelyn Davies, the Secretary of the company. On October 19, 1904, his wife brought him food while he was working underground, when the underground manager, Mr Rhys Thomas, assaulted him by striking him in the face and kicking him repeatedly which gave him a bloody nose and a blackened eye. His wife remonstrated and the manager struck her also several times, breaking her earrings,and told her to go to work and to take another man as her husband. She refused saying that she had been paid for by the complainant and could not desert him. On the advice of his counsel, Mr Willis, the poor man wrote to the Mines to try and get a settlement, but, as the manager refused, he laid his complaint before the authorities. He had several times given notice to leave. As he was not allowed to go, he left the colliery with his wife on October 22.

At Wessels Nek station, he applied for rail tickets to Ladysmith. Before doing so, he asked the mine clerk for a pass to get tickets. This clerk went to the night clerk at the station and told him not to issue tickets to the "coolie". As he could not get the tickets he came with his wife and children, went to Ladysmith during the night by the road to lay his complaint. The manager refused to let him take his belongings, or give up his certificate of discharge. He was owed six days'

and his son 24 days' wages. The manager refused to pay the wages either. [*Ibid,* December 17, 1904]

The underground manager of the Ramsay Collieries at the trial pleaded guilty to assaulting the man, but absolutely denied on oath having assaulted the woman. He was fined ten shillings on the former charge, but was acquitted on the latter as the only evidence led for the defence was that of the Indians, no European being forthcoming.

The sequel was enacted sometimes afterwards. While he was in Ladysmith, the Indian was charged by the Collieries manager with desertion. At the trial he pleaded not-guilty, stating that he had left to complain of ill-treatment to himself and his wife. He had asked for a pass before leaving, but no pass was given him. The wife stated that she remembered her husband giving notice two or three times. The first two occasions were before the assault. Her husband had told her about giving notice.

William Good, the Secretary of the Ramsay Collieries, stated that the accused had deserted on October 22 without giving notice. In answer to Mr Willis, he said that the defendant had paid £ 10 for his wife as a guarantee that he would not desert her.

Mr Bennett, the counsel for the Mines, objected to these questions. Mr Willis maintained that they were necessary for the defence of his client. The Magistrare, however, upheld the objection.

Arthur Baldwin, clerk at the Wessels Nek station, said that the defendant had come and asked for a ticket to proceed to Ladysmith. He did not advance him any. Instead he sent for Mr Good who spoke to the "coolie".

On the previous occasion the underground manager was acquitted on the charge of assaulting the wife of the labourer as the witnesses were all Indians and no European witnesses had come forth to testify. Now two European witnesses came forward to testify. Mr Featherstone, late of the Ramsay Colliery, stated that he was near the blacksmith's shop, and the manager and underground manager were near the lamp room. He saw both the defendant and his wife assaulted. Another witness, Mr Wallace, said that he also saw the underground manager assault the defendant and his wife. But the evidence was objected to in both the cases and the Magistrate sustained the objection on the ground that all that was irrelevant to the case before them which was one of desertion. "The other matter has been settled and cannot be reopened. The witness should have been called when the assault case was tried."

Another Indian gave evidence to the effect that he heard the defendant give notice to leave. But Mr Bennett argued that the defendant had deserted from the mines, and, as an excuse, he had come to complain of ill-treatment. He had deserted on October 22 and only came to the Court on November 15.

Mr Willis felt he was not receiving sympathy from the Bench: "On one side was a poor Indian and on the other a powerful company." The case could not be adjudicated, unless the woman's contract was produced and, he was of firm belief that it had been destroyed. No evidence had been led to prove that the Protector had allowed the woman to be sold. The man had come into Ladysmith for protection, and he was now charged with desertion.

In summing up, Mr Hugo said that from the prisoner’s own admission he was guilty. He had tried to think the prisoner "not guilty", but had to decide whether the Ordinance had been contravened or not. That the contravention had taken place was evident, but "in order not to be hard on him" he would fine him

£3. He felt that the Court's time had been taken with unnecessary evidence to prove that the accused's wife had been assaulted as that matter was settled some time ago.

Expressing its dissatisfaction with the explanations put forward in respect of "these oft-repeated complaints" the *Natal Witness* urged once more the need for a strict enquiry about the condition of the Indians on the mines and reiterated that such an enquiry should be held "without delay". In respect of one of the colliers some sort of investigation had been made, the paper said and added:

> We were requested to publish the letter of the Protector of the Indians covering his report to the mines, in which he exonerated the officials. The report, however, was never published; and, if the miners themselves are satisfied with this sort ot exoneration, we assure them we are not, and that the public views them with suspicion. What is required is a public enquiry, at which representalives of the Press shall be present.

It seemed a great hardship, concluded the *Natal Witness,* that an Indian after being thrashed and ill-treated should be fined for desertion “because he leaves his employment to lay a complaint with the authorities against his masters". [*Ibid,* January 21, 1905]

Gandhiji warmly commended the *Natal Witness’s* exertions to defend the defenceless Indians on the mines. However, although the defendant had a good defence in law unfortunately he was hardly prompt in bringing his complaint, and this was undoubtedly a flaw. In the circumstances the Magistrate, Gandhiji felt, was legally right in finding him guilty, but it would be "trifling" with the case if the matter rested there. The moot question was whether there had been any sale of the woman. “It was almost admitted by Mr Good of the Collieries, when further

questions were stopped. Why did the man desert at all? He knew the consequences; he knew he would have to forfeit his wages during desertion and make good the time. We cannot therefore think that the man would leave for mere whim."

Strongly supporting the *Natal Witness's* demand for a searching enquiry, Gandhiji continued: "The whole matter... undoubtedly suggested ill-treatment, though yet there may have been none". The public, however, could not be allowed to remain in an attitude of suspense in an affair of this kirnd. lt was, therefore, absolutely necessary that there should be, if only "for the sake of the fair name of the mine-owners", an enquiry "in the full sense of the terms without any delay" as demanded by the journal. [*Ibid,* January 28, 1905]

Shortly after this Sergeant Lempriere was transferred to Bengville. Paying the departing Prosecutor a glowing tribute for "the fair and impartial manner" in which he had carried out his duties, the *Natal Witness* complimented him on his "courteous manner towards those who have come into contact with him, in his official capacity" which had gained for him "well deserved respect". His going was regretted not only by the court officials but also those outside the court, the Indians not the least. [*Ibid,* December 17, 1904]

6

Under the pressure of publicity given by the *Natal Witness* and *Indian Opinion* the Protector felt constrained to call for a report by his Deputy Protector, and that worthy, without conducting a special inquiry, non-chalantly dismissed the whole matter in the following words: "With reference to the subject of newspaper correspondence, I think that, if the Indians on the mines were badly treated, I would have been aware of it...I have made no special enquiries. [Pachai,

p.89: *Indian Immigration Records* 161/05; and C.S.O. 606/05, Deputy to Protector, February 6, 1905] What is still more surprising, the Protector passed on to the Colonial Secretary what the Deputy Protector had reported. [*Ibid,* February 8, 1905] The *Natal Witness,* however, was not satisfied that all was well on the mines. It continued to press for a thorough enquiry into the condition of the indentured labourers working on the mines which ''appears to be highly discreditable to all concerned", [Pachai, p.89; *Indian Opinion,* April 15, 1905] and to focus attention on the many prosecutions of mine labourers in the Ladysmith Magistrate's court for leaving their mines without passes to complain.

In the second week of April 1905, three Indians, but newly landed, were charged with being absent from work. Difficulty was experienced in obtaining an interpreter as these men were from some remote agricultural district where the language differed. Reponed the correspondent of the *Witness:* "In appearance these men were about the most unsuitable specimens of humanity that ever perhaps stood in the dock. Huddled together like sheep, they vacantly gazed about them and answered in monosyllables to the questions put, which, by the way, no doubt suffered change, as the Magisterial words had to be interpreted through the Indian interpreter to the man who had a smattering of the language of the defendants, and by him put to them." [*Indian Opinion,* April 15, 1905] After much questioning it was learnt that the *Sirdars* and *indunas* ill-treated them and beat them for nothing, to which the mine manager, Mr David Thomas, said, that no complaints were received by him. "Of course not", observed the *Natal Witness* reporter, "if they dared to say a word they were misused all the more, and also the man who ill-treated them did not speak their tongue." Their *sirdar* just gave them their work of a morning and left, and nothing more was seen of him till the next morning or perhaps in the evening, when an order or two were given.

Mr Thomas said that he did not know of this state of affairs.

Mr Hugo, the Magistrate, remarked that the Court had to go "right away round" to find a man who could understand their language. How did they manage on the mines? he asked.

Asked if the sirdar spoke their language, the answer was an emphatic "No".

Mr Thomas promised to look into the matter.

Reported the *Natal Witness:* "From birth these low caste Indians are subjected to tyranny; they endure it so long as they can; when it exceeds even their patience, for even a worm will turn, they desert or put an end to a miserable existence—that is by no means unknown in the Colony; the bolder turn tyrannicides", in which case "they bear the punishment meted out with Eastern stoicism...it cannot be helped—it was ordained—Kismet".

In the other case one Gowrie Shankar Singh was charged by the mines with assaulting Mr Rhys Thomas, brother of the mines manager, who was the underground manager. According to his employers, he was the ring leader in an attempt made in the collieries to assault the manager.

Brought into the dock, the prisoner stated that he had gone to Ladysmith to complain of being assaulted by Mr Rhys Thomas. On returning to the mine he was arrested and brought in.

Mr David Thomas, thereupon, pressed the Court to prosecute the prisoner "then and there" as the Indian had run away and "told the story first", before the mines had an opportunity of getting "first" hearing.

The Court, however, decided that the charges that the Indian had made in his deposition would be dealt with first.

Mr Hugo then read Gowrie Shanker's deposition. Accused had been in the service of the Ramsay's Collieries Company as an indentured labourer for three years. His work was that of an underground pickwork labourer. On the day of the assault at about 7 a.m., he was lying ill in his hut in bed and was unable to go to work. The head manager (Mr W. L. Thomas) came in, locked the room, pulled off the blankets and beat the man with a stick for a quarter of an hour on his back and shoulder and turned him out to work. "I was suffering from diarrhoea and stomach pain and am still so suffering."

At 4.30 in the afternoon on the same day he was still at work underground when the underground manager went there.

> He found fault with several of the Indians for not having finished their work, and struck several of them. Five of them, belonging to my gang, ran away. I was left alone on my side. Two natives, an *induna, a*nd labourer, caught hold of both my hands and held me while the underground manager struck and knocked me down and punched my head and face with his fist, and cut me severely...Then he turned me out...put handcuffs on my wrists and fastened them behind my back and took me to the office, in company with the native *induna.*

He was left sitting on the ground till 6.30 p.m. when the head manager told him to go home.

> My face and clothes were covered with blood. The head manager gave me water and a cloth to wash the blood off, and...some medicine. I asked for a pass to go to Ladysmith and the head-manager said he would not give me one, and if I left the mine or came to Court to complain he would put me in prison. I went to my hut and stopped there until 10 p.m.

> on Friday night, when I left and walked to Elandslaagte. There I took train to Ladysmith... I charge the underground manager and the native *induna* No.4, neither of whose names are known to me, with assault, and the head manager, whose name I do not know, I charge with refusing to give me a pass to come to Court to complain of the assault and with threatening to put me in prison if I left the mine without a pass. [*Ibid*]

At the hearing before Mr De Villiers, A.R.M. on May 11, 1905 Dr H. T. Platt, district surgeon, deposed that, on examining the complaint on March 27, he found him suffering from "several contusions" on the face and head and also the back of the leg. The injuries had recently been inflicted. The blood on the leg he put down to "injuries received from a stick or by a fall"

Under cross-examination by Mr Bennett, the counsel for the defence, Dr Platt stated that the marks he found were the marks of "quite ordinary blows".

Palliah, an Indian woman employed at the Ramsay Collieries, gave evidence that as she passed the complainant's room in the morning on which the alleged incident took place, she "heard sounds in the room". When she saw complainant later on the day "his face was swollen and bandaged up".

The Magistrate, after reviewing the case, found the accused "not guilty", and acquitted all three. [*Times of Natal* quoted in *Indian Opinion,* May 22, 1905]

Gowrie Shankar was found guilty of "desertion" having left the mines without a written leave of absence, although he had come to complain. [Pachai, p.90]

The recrudescence of complaints in spite of all efforts on behalf of the mine owners to smother them and the accounts that continued to appear in the *Natal Witness* and the *Indian Opinion* of the deplorable state of affairs at the Ramsay

Collieries, at last forced the Government to act. It called for an opinion by the Acting Magistrate of the Klip River Division as to the conditions on the mines and on the advisability of instituting an enquiry. The *Natal Witness* observed: "A new feature is...that the real tyrants are the native employers, who are placed in a position of authority over the Indian miners....It is shown also that the Indians experience the greatest difficulty in bringing their complaints to the (notice) of the authorities....Even the sirdars cannot speak the language of some of the employees, so that complaints go unredressed, and the Indians are compelled to suffer in silence. When, we ask, will the authorities find time to thoroughly investigate the conditions of the Indian employees, and rectify a state of things which on the face of it appears to be highly discreditable to all concerned?" [*Indian Opinion,* April 15, 1905]

The treatment of Indian labourers on the Ramsay Collieries also attracted attention in the House of Commons. In answer to a question by Sir Muncherjee Bhownagree the Secretary of State for the Colonies, Lyttelton, stated that he was not aware that anything on the mines warranted an enquiry and that the Protector of the Indian Immigrants was in a position to attend to the situation. This drew from the *Natal Witness* the retort: "We know there is such an official (the Protector) but the mine employees contend that they are prevented from approaching him, and that in itself is an assertion that needs looking into." [Pachai, p.90; *Indian Opinion,* April 22, 1905; C.W.M.G. Vol.IV, p.415]

The Ramsay Collieries continued to seethe with discontent.

The condition of the remaining fifty per cent of the indentured labourers who worked on the tea and sugar estates was no better than that of those who were employed in the collieries of Northern Natal. Though the wages offered on the estates were lower than those offered on the mines, the other regulations were the same as for any other occupations. The living conditions were, however,

very unsatisfactory. Most of the "coolies" barracks were erected on unhealthy low-lying areas, where they were exposed to the danger of devastation by storms and floods.

As a result, further, of the barracks being built on low-lying swampy grounds, the incidence of malaria and other diseases among the immigrant labourers was high. In their reports for 1903 the Indian Medical Officers of the Durban and Stanger medical circles, touching upon the housing conditions of the indentured labourers, pointed out that of 1097 patients admitted or treated 98 died and "as in the past years, many of the houses supplied for the Indians are sadly deficient in ventilation and are very ill-fitted for human habitation". But concluded the report. "...No complaints from the Indians either about the condition of their dwellings, or as to the quantity or the quality of rations supplied", [Pachai, p.93; N.B.B. 1903, Vol.87, Annexure B, p.19] which showed to what depth of apathy and despair they had been reduced. The Stanger Officer confirmed that sanitary conditions and house accommodation were unsatisfactory. The Protector expressed his dissatisfaction with the part played by the Indian Medical Officer, called their reports “formal and lean” [Pachai, p.93 quoted by *Indian Opinion,* September 15,1906] and told them—with what effect nobody knows—to remember the trust invested in them.

7

A gale of unprecedented violence swept over Natal on the night of June 7, 1905. Throughout the night it blew with unabated fury, spreading death and destruction, and the accompanying downpour of rain converted every stream and river into a raging torrent. In the Umbilo valley a few miles from Durban, the Umbilo and Umhlatuzan Rivers burst their banks. While the doomed people were sleeping or trying to shelter themselves from the violence of the storm, the flood

struck the valley like an avalanche and carried everything before it. It was a night of terror to many thousand people in Natal, but the horrors suffered by the Indians were indescribable. Many were drowned in their huts or were swept along with their rickety huts into the bay and out into the sea. Others were washed into the tops of trees where they clung until morning, or else dropped exhausted into raging waters. The day broke on a ghastly scene of death and desolation. What was a charming valley dotted all over with the Indians' dwellings and cultivated fields but on the day before was turned into a sea of ooze and muddy water. Scarcely a dwelling was left. [*Indian Opinion,* June 10, 1905] On the South Coast, at Umhloti, three barracks accommodating hundreds of immigrants were six feet under water. [Pachai, p.92; quoting Report of Mr Warner, Magistrate; *Indian Opinion,* July 22, 1905] The light of the morning also revealed that a staggering proportion of those who perished in the floods consisted of Indians. From all parts began to pour in sad tales or loss of life and property and in almost every case the victims were Indians. Many washaways had occurred and railway and telegraph services were paralysed.

When the extent of the calamity became known, the Europeans and other residents in the vicinity rendered all the help possible, in rescuing and succouring the survivors. Besides the assistance rendered by Europeans, all the neighbouring Indians did what was possible in the way of providing food, shelter and clothing.

Among others was one Ramdhane, who helped scores of the unfortunate people. The leading Indian merchants of Durban visited the scene and personally assisted the survivors by distributing food and clothing. They also opened a relief fund for the benefit of the survivors and contributed liberally themselves. Many European houses and others contributed handsomely to the general relief fund. £200 were collected within a couple of days. [*Indian Opinion,* June 10, 1905]

The exact number of lives lost could never be ascertained. In all 137 dead bodies of the flood victims were recovered, out of them 113 being those of Indians.

At Bellair, owing to a landslide, the wood and iron dwelling of Mr Woolridge, erected on iron posts on a steep slope, turned completely over and rolled down the slope carrying him and his wife and children towards the river. He managed to save his wife but the two children were lost. [*Ibid*] Mr and Mrs Woolridge were rescued and nursed by a number of Indian store-keepers.

The Editor of the *Indian Opinion* wrote to the Protector to draw his attention to the indentured and other Indians who had lost their passes owing to the storm. The Protector wrote back that he had already favourably entertained the applications of some Indians for free passes and would be ready to do the same in all cases where it could be shown that the loss of passes was caused by the storm.

Two days after the storm bodies were still being found in different and unlooked·for-places. Hollows were filled up never again to be disturbed and gorges were formed where there was level ground before. At other places mud mounds and sand heaps were spewed up.

Nature's law of compensation was seen at work even in the midst of this scene of death and disaster. The best traits of the communities inhabiting the Garden Colony manifested themselves. Prejudices were for the time allowed to slumber. A brave European, under the most trying circumstances, carried on his shoulders a Kaffir dying from the effects of the storm. Forgetful of himself his one thought was to save his fellow. An Indian store-keeper at Umbilo, himself a practised swimmer, helped save six Indians from drowning. A week after the disaster, they were still being fed by him.

Messrs Pragji Bhimbhai, K. N. Desai and D. Kalgani, Indian merchants of Durban, who had rescued and rendered such valuable and timely service to Mrs and Mr Woolridge, received from the Hon. Mr Jameson, Chairman of the Woolridge Relief Committee, a letter conveying to them "their hearty appreciation of the generous and very substantial aid you rendered to Mrs Woolridge...which assisted in preserving their lives when (they were) exhausted by their struggles and perishing from cold. You may feel assured that your goodness is equally appreciated by all European community here. Later when convalescent, Mr Woolridge will call upon you and express his thanks personally."

To this Pragji and his fellow helpers replied:

> ...what little help we were able to render to Mr & Mrs Woolridge ...was an act of common humanity and therefore of duty...When we picked them up during the storm, we did not know who they were who were clinging to the trees. Our pleasure in nursing them was heightened when, after the mud that covered their bodies was removed, we discovered that we were endeavouring to alleviate the pain suffered by Mr and Mrs Woolridge, whom we have the pleasure of knowing well. [*Ibid,* June 17, 1905]

After the tragedy Gandhiji strenuously took up with the authorities the question of providing barracks for the Indian Indentured labourers on higher ground. [Pachai, p.92; *Indian Opinion,* July 29, 1905]

In the wake of the floods came a sudden rise in the incidence of Malaria with disastrous consequences to the health of the Indentured labourers and to the economic prospects of the owners of the sugar and tea estates. With only rudimentary knowledge of the etiology and the mode of propagation of the

epidemic and little experience of its "Public health" aspect, the medical officer of the Yerulam Hospital, Dr J. F. Elliott, could only have recourse to a blind surmise as to its precise cause. The real culprit was the Railway whose track cutting across had interrupted the natural drainage system of the land. As in the case of the East India Railway embankment in Bengal, this had created stagnant swamps on either side of the railway tract which became the breeding ground for the anopheles. Not realising this, the medical officer had this to say:

> The disease spread quickly south, following the course of the Railway...This fact led me to the belief that the Railway was the source of infection...and whether it be the adult mosquito travelling down on the carriages, or the larvae in the engine tanks, the fact is undeniable, that the disease spread along the track of the Northern Coast Line...

He then went on to say:

> I am inclined to think, although at this juncture it seem heresy to express the opinion, that the mosquito is not altogether responsible for the spread of the disease. The old theory of its sporadic origin should not altogether be forgotten.

He had found malaria, he added, where there were no mosquitoes, and mosquitoes where there was no malaria. And no wonder. Since the mosquito is only the carrier; not the progenitor of the malarial parasite. Where there are no malaria-infected patients, the mosquito cannot propagate the disease, and the arrival of infected patients in a new locality cannot breed mosquitoes if they are not already there.

Worried over the spread of acute anaemia among the "indentured labourers" which sapped their vitality and touched the pocket of their employers,

the medical officer recommended the inclusion in the dietary of indentured Indians of "mealie meal, oat meal, and other lime-supplying foods". To enrich their dietary further he suggested that *"scrap iron* and bags of lime" should be "thrown imo the drifts where the barracks got their water supply"—an ideal solution indeed, from the planters' point of view, of clearing the city dumps and providing vital elements to the "coolie's dietary without any cost to his employers." [*Indian Opinion,* September 15, 1906]

8

Reference has already been made in our earlier volume to the most extraordinary of all sections. Section 101, of the Indenture Law 25 of 1891 (see *The Early Phase,* p.501), which provided that if all or any number of Indian immigrants employed upon an estate absented themselves from their employment without leave for making a complaint against their employer, they would be liable to be brought before any court, and on conviction, to be punished *"whether such complaint shall or shall not be adjudged groundless or frivolous, and notwithstanding that such complaint shall be successful".* This meant that if labourers left their employer singly or in a body to seek redress from the Protector without first obtaining leave from the very person they were to complain against, the Protector would have them hauled up before a Magistrate who, before he could even give them a hearing, would be bound to commit them to gaol with hard labour for "desertion". It had made at least one Magistrate object to sitting in a Criminal Court and seeing these poor devils committed to prison and hard labour for no other offence than seeking redress from oppression when it became past bearing. Illustrative of it is a story that appeared in *Indian Opinion.*

On May 24, 1906, 150 indentured labourers, unable to endure their hardships any longer, left the Ramsay Colliery in the stillness of the night and walked twentyfour miles from Wesselsnek to Ladysmith – men, women and children—reaching there at 1 o'clock shivering with cold. They marched down the street in a solid body till they arrived at the Magistrate's Court. Being without passes they had some rough time with the Kaffir police. As the Magistrate's Court was closed for the day, the whole crowd persisted in remaining in the compound. Mr Dunning, the Deputy Protector, then came upon the scene. On the men telling him that they were there because they could not obtain justice from him, he ordered sixteen of them to be arrested. The rest passed the night under the trees surrounding the Court House. [*Ladysmith Gazette* quoted by *Indian Opinion,* June 9, 1906] Their story was that the management wanted them to eat mealie meal, instead of their usual ration of rice, dholl, etc. On their refusing to do this about fourteen of them were arrested and lodged in gaol. Thereupon the remainder of the employees had struck work and marched to the town. Brought before the Magistrate, they stated their grievances which were as follows:

1. We are called upon to go to work at 3 o'clock in the morning. We are released in the evening. Sometimes we are not given even sufficient time to cook our meals.

2. We are obliged to use for drinking and cooking water that is dirty. We are asked to cut and fetch our own fuel. If we use the clean water that is brought for the machinery, or a piece of coal, we are fined.

3. If at the time of working we damage a pick-axe blade, we are fined.

4. Mealie meal is often mixed with our rice. As we are not used to this food, we have to suffer from illness. When we are sick, little attention is given to us.

5. We are often put off for our wages.

6. Women that are with child are also made to work.

7. We are not given a pass when we wish to lodge a complaint. [*Indian Opinion,* June 9 1906]

The Magistrate, however, instead of going into their complaints, put the finishing touch by acting as the "peacemaker", and after soothing them with soft words, sent them away. [*Ibid*]

Reporting to the Protector, the Deputy Protector denied that there was any substance in the allegations made by the labourers, [Pachai, p.91, quoting *Indian Immigration Records* 1656/106 with C.S.O. 4616/06, Deputy Protector to Protector, June 18, 1906] and the Protector relayed to the Colonial Secretary what his Deputy had purveyed and further suggested that an official denial should be sent to the editor of *Indian Opinion*. [*Ibid,* Protector to Colonial Secretary, June 19, 1906] The question of a denial to *Indian Opinion* had been first mooted by the manager of Ramsay Collieries in a letter to the Deputy Protector on June 24, 1906. The manager, however, felt that a denial from the Immigration Department would be more effective than one from him. [Pachai, p.91, Manager Ramsay Collieries to Deputy Protector, June 14, 1906] In the end no contradiction was issued of the story published by *Indian Opinion* nor was any official reason given for it. An examination of the official record reveals a strange state of affairs. On June 11, 1906 the Deputy Protector wrote to the Protector that

> after visiting the Ramsay Collieries for five days I can confidently state that, in my opinion, there was nothing in the treatment of the Indians on the mines that justified their leaving in a body ... from all the evidence (of the Indians) and others that can be obtained in Ladysmith I have no hesitation in saying that Gaya (a sirdar) and three or four of his adherents have brought the trouble about. [Pachai, p.91; *Indian Immigration Records* 1530/06 with C.S.O. 4617/06, Deputy Protector to Protector, June 11, 1906]

The Magistrate of the Klip River District, however, had a different story to tell. His letter dated May 25, 1906 read:

> About 150 Indians, men and women indentured to the Ramsay Collieries, came to me this morning with a long string of complaints against the management. I hear that they also interviewed Mr Dunning (Deputy Protector) yesterday and that some of them gave him to understand that they had previously laid their complaints before him and that no notice had been taken thereof. *Some of the complaints are of so serious a nature that I think the matter should be investigated by you personally.* Some of the women, for instance, complained that when they were 'unwell' they were told by the underground manager to strip so that he could see for himself. [*Ibid,* Magistrate to Protector, May 25, 1906]

The Protector resented the suggestion made by the Klip River Division Magistrate, as a "distinct reflection" on the Deputy Protector, [*Ibid,* Protector to Colonial Secretary, June 19, 1906] and found fault with the judicial officer for suggesting that the complaints of the Indians should be thoroughly looked into by the Protector. To the Colonial Secretary he wrote: "The Magistrate...thinks that I should personally investigate the complaints....I see no reason whatever for personally visiting the mine." Instead, he thought more of the loss suffered by

the mines. His letter to the Colonial Secretary continued: "The result of the whole affairs is that the mine lost an output of 700 tons of coal and the Deputy Protector attributes the increased insubordination of the Indians to the action of the Magistrate." [*Ibid*]

The Magistrate on his part found the Indians guilty of contravening Section 101 of Act 25/1891, [Pachai, p.91] in spite of his view that their grievances needed to be “thoroughly looked into".

On July 11, 1906, an indentured Indian Ragavalu, No.105396, was charged before Mr Bernard Hodson, the Acting Second Criminal Magistrate, Durban, with attempting to commit suicide outside the Court house on July 4. The Public Prosecutor stated that on the last occasion when the accused had appeared before the Magistrate the Magistrate had ordered him to be medically examined as to his state of mind. The man had said that he would sooner commit suicide, than return to his master. T. B. Robinson of the Cato Manor. The District Surgeon reported that the boy had lost the use of his left hand from an accident 12 months ago. In other respects he was well. "I am of opinion he is of sound mind." Apparently he had been ordered to return to Robinson. Hence the attempt to commit suicide.

Severely rebuking the Indian, the Magistrate delivered himself as follows: "You know it is a very serious crime to attempt to commit suicide. You have been in jail for some time now. If you had any complaint you should have come to the Court and made it. I sentence you to 14 days' hard labour."

To Mr Manad, the interpreter, he said: "Tell him that when he comes out of jail he must come to me as I intend to go into his complaint." Before the accused was removed to gaol, he further directed that his deposition should be

taken down. The following dialogue took place between the complainant and the Magistrate:

Accused: I have been seven times to the Protector of Immigrants. Each time he has sent me to the Court.

Magistrate: What Court?

Accused: When I go to the Protector he sends me here.

Magistrate: Yes, but you live in Umlaz Division, and if you had any complaint to make you should have gone to the Magistrate of the Umlaz Court.

Accused: Why did not the Protector tell me that?

The poor man had gone seven times to the Protector and each time the Protector had sent him back to the Magistrate under section 31 of Act 25 of 1891, for refusal to return to his employer. The Protector had made no investigations into the man's complaints that he was unable to work on account of the injury to his hand and that he had in consequence on a previous occasion attempted to commit suicide. So the man made two attempts on his life and threatened another if he was taken back to his master.

How the Magistrate of the Court dealt with complaints we shall presently See. [*Indian Opinion,* July 14, 1906]

On July 16, 1906 an indentured woman No.99721, Dhundhir Kulsum, charged with assault Mrs Robinson, wife of Mr T. B. Robinson of the Cato Manor Estate, who had himself been brought before a court of law under similar circumstances. [Pachai, p.91] The incident had occurred on May 26. Mr W. C. Miller, Assistant Clerk of the Peace, prosecuted. The complainant stated that she had complained to the Protector earlier of ill-usage on the part of her employer, and

was dealt with under Section 31 of Act 25 of 1891. On the last occasion she was brutally assaulted by Mrs Robinson when Charlie, a native messenger, took her to Mrs Robinson's house. Mrs Robinson had struck her repeatedly on the face with her fists and knocked her down and then kicked her down and then kicked her.

Mrs Robinson intimated that she had no question to ask. When asked whether she desired to give evidence on her behalf, being warned that she made herself liable thereby to cross examination, she declined to do so and did not wish to call any evidence.

Mr Miller, the Counsel for the complainant: "This is a *prima facie* case, your worship, the facts are not rebutted."

The Magistrate found the accused guilty. The charge was not denied he said, and fined Mrs Robinson £I.

Henry Polak was present in the Court on the occasion. Later he recorded that the whole demeanour of the accused and her husband was one of "callous indifference". Neither the accused, nor her husband (who was charged with assault upon a second woman) [*Indian Opinion,* May 21, 1906] was arraigned in the dock, but both were accommodated with seats at the table used by practitioners facing the magistrate. The latter made no remark on the case, and inflicted on Mrs Robinson a fine of £1. No alternative of imprisonment was imposed. [H. S. L. Polak, *Indians in South Africa,* p.32]

It was while investigating this case that *Indian Opinion* came across a curious printed form to which reference has already been made in the earlier part of our story (see *The Discovery,* p.507). In it the Protector not only informed the employer that the latter's servant was not justified in leaving his employment

to make complaint but took upon himself the role of legal adviser to the employer, offering him free legal advice by telling him that he was "at liberty to take him (the "coolie") before the Magistrate and charge him...and to deduct the cost of returning him from any wages now due, or which may fall due". [*Indian Opinion* July 21, 1906] Commented *Indian Opinion:* "What shall we say when...we find that the "Protector" actually arrogates to himself the right to advise the employer—who is well able to look after his own interests—to take legal proceedings against his servant! Should not the title of 'Protector of Immigrants', we ask, be forthwith changed to that of 'Director of Prosecutions'? ...This is not protection. It is a very pretence of protection....Is not the Indian community justified in asserting that the Protector of Immigrants should be an independent official, preferably an Indian, appointed by and directly responsible to the Governor-General of India"? [*Ibid*]

The comment of the *Indian Opinion* attracted the attention of the Colonial Secretary who brought it to the notice of the Natal Government. The Protector, in submitting the facts of the case, admitted that Kulsum had come to see him once in the presence of her employer, Robinson. On that occasion the woman had withdrawn her charge; thereafter she was transferred. He also enclosed the two forms which he used in his dealings with indentured immigrants, and complained that while *Indian Opinion* had criticised the first, it made no mention of the second. The matter was also noticed by the Attorney General, who enquired from the Colonial Secretary whether any further notice should be taken of the article in *Indian Opinion.* The Colonial Secretary replied in the negative. [Quoted by Pachai, p.94; *Indian Immigration records* 2054/06 with C.S.O. 5419/16, Protector to Colonial Secretary, July 25, 1906; *Indian Immigration Records* 2054/06 with C.S.O. 5419/06, Attorney General to Colonial Secretary, August 4, 1906 and *vice versa* August 6, 1906]

On August 2, 1906, eight indentured Indians were charged in Durban before Mrs Hodson with deserting in a body, by their master, B. J. W. Pearce, of Mid-Illovo. Sergeant Mallison, who appeared for the Crown, after having read the charge informed the Magistrate that the Protector of Indian Immigrants by whom the accused had been charged had sent him a note, asking him to withdraw the charge as he was enquiring into a charge of assault against the employer of the accused. The charge was accordingly withdrawn. The Indians all bore marks of severe *jamboking which they said was inflicted upon them by their master.* [*Indian Opinion,* August 11, 1906]

A few weeks after this, Mr S. Altsch, a manager for J. W. Henwood, was charged before Mr Hodson with assault on an Indian named Ginganna. In his evidence complainant stated that because he had not got the feed for the cows ready, the accused struck him, threw him on the ground and then set on him his dog which severely bit him on the arms and back. He showed marks of severe handling.

Accused pleaded "not guilty". He did not see his dog bite the complainant, he said. But the evidence called by him in his defence did not support his statement. The Magistrate found him guilty of the assault, saying that he was satisfied from the evidence of witnesses both for the prosecution and defence, that the accused was present when the dog bit complainant. In fining the accused 30 shillings, the Magistrate said that "these Indians were constantly coming to the court as complainants in assault cases against their employers, or as deserters, on account of alleged cruelty and ill-treatment by their masters. This sort of thing must be stopped." The paltry fine, however, was a very poor indication of his earnestness to stop "this sort of thing" [*Ibid,* September 15, 1906]

CHAPTER XVIII : THE PHOENIX SETTLEMENT

1

A number of trading posts had sprung up along the north coast of Natal in the townships of Tongaat, Stanger and Verulam. All around were scattered the huts of the natives from the reserves who provided the bulk of the custom. The trade was mainly in the hands of Indians—mostly Gujaratis. Several members of the Gandhi family had established themselves at these centres as store-keepers. Among them was Abhaychand, Gandhiji's nephew, the grandson of Gandhiji's uncle, Tulsidas. In 1896, the 24, he had accompanied Gandhiji to South Africa. During the Boer War he had served under Gandhiji in the Indian Stretcher-bearer Ambulance Corps. Four or five years ago he had opened a store some thirty miles north of Durban in the tiny village of Tongaat. With him were his young brother Kalidas, Parmanand, grandson of Ratanji, third son of Ota Bapa, and two other friends from Kathiawad, Revashankar and Mavji, as his partners. Maganlal had accompanied Gandhiji to South Africa in January 1903 (see *The Discovery,* p.408) but Gandhiji had to proceed to the Transvaal soon after his arrival to lead the Transvaal Indians' deputation to Chamberlain. Maganlal had to be left behind, owing to the difficulty of obtaining a permit and Gandhiji's extreme reluctance to ask a favour for his personal convenience. At his instance, Maganlal, then 20 years old, joined Abhaychand as an additional partner in the business at Tongaat. He had to work hard to make good, but by dint of his intelligence, industry and perseverance, he mastered his business within a short time. Abhaychand posted him in a village beyond Tongaat where they had a branch store and after some time put him in charge of another store in the dense forest near Stanger.

Maganlal found his new assignment trying at first. A stranger to the Zulu tongue, when steel-muscled natives with gigantesque shining torsos, gesticulating animatedly to the accompaniment of their gutteral clucks and cloks, invaded his little store crowding him out almost, he felt his heart quake. But soon he got used to their ways, learnt their tongue and established cordial relations with them. They on their part took to him readily. Occasionally they would drop in for a friendly chat, buy their packets of sugar and soap and salt and "Kaffir blankets" and pieces of regulation cloth, drop at the counter their guineas and, simple-minded folk that they were, then walk out with their purchases, sometimes even without asking for the balance of the change. The young Maganlal would then have to shout for them and run after them to hand them back the balance.

Besides attending to the store, Maganlal took up part-time jobs with a number of Indian store-keepers. In the morning and at evening in his spare time he helped such of them as needed his services with their business correspondence and the posting of their books of account for a fee. In this way he was able to earn about £9 a month.

Abhaychand was well-pleased with Maganlal's work, but Maganlal felt anything but happy. Brought up in the orthodox Vaishnavite religious tradition of Kathiawar, he was haunted by the fear lest in his new surroundings he should be torn off the moorings of his traditional faith and be lost. With his outlook of conservative religious formalism, he clung to the strict observance of the prescribed Vaishnavite ritual of purification, prayer, worship and caste rules as the only thing that stood between him and perdition and any lapse in that regard made him feel miserable. A letter to Nathuram Sharma, his "guru", dated June 26, 1903, describes vividly his inner conflict and the fears that assailed him.

Maganlal Gandhi to Nathuram Sharma *Tongaat,* 26.6.1903.

I am writing this to relieve my soul of the anguish caused by my inability to observe the rules of the caste or even to perform the daily morning ritual or purification, prayer and worship. Instead of having the twice-daily bath, often I bathe only twice a week. Sometimes I cannot even rinse my mouth or cleanse my teeth on getting up in the morning ...All I can do, whenever possible, is to close my eyes morning and evening, concentrate on the image of Shiva and after repeating the sacred five-lettered prayer prostrate myself mentally before you, my revered guru, and before my father and my brother.

Nathuram Sharma held the position of a religious preceptor to the Gandhi family in Rajkot (see *The Discovery,* p.398). Maganlal, Chhaganlal and several others in the Gandhi family had their sacred thread investiture performed by him. It was he who introduced into the Gandhi family the daily religious routine of prayer and worship. Later Gandhiji was very impressed by his translation of the *Gita.*

The letter next described how, while in India, the young Maganlal "thanks to the influence of your holy association...and the nectar of your purifying discourses" had hardly ever failed in his daily religious observances. Maganlal wrote:

Then came this uprooting, the fruit of some evil deed in a past birth ...I am...caught in the coils of perplexity...(the heart within me burns) and I do not know where and to whom to look for refuge...I am in an evil place ...reeking of violence and sinful ways. The very idea of being sucked into

> the whirlpool of sin takes the life out of me...On the ocean of the world my frail bark is tossed by the stormy gusts of desire. There are dangerous reefs and rocks ahead, and...all around...and the inexperienced pilot of my discrimination within is scarcely able to hold the helm to its course...I am seized by an unnamed fear and with trembling limbs approach you for succour, my guru.

The fortune of this branch of the Gandhi family was at this time at a low ebb. Owing to the expenses incurred on Maganlal's marriage, his father had to mortgage his house for about one thousand rupees. To redeem the mortgage, he decided to sell the jewels of his wife and of his daughter-in-law. Chhaganlal's

wife, Kashiben. Maganlal received the news with a mixed feeling of sorrow and gratitude—sorrow over the sacrifice that his father had to make and gratitude for the generosity of his elder brother and the elder brother's wife with whose willing consent the ornaments were sold. It made him all the more determined to make good in his vocation so as to be able to replace the family jewels at the earliest. But destiny had something else in store for him. He chose the path of renunciation and lived to be mourned on his death, by a sorrowing Gandhiji as "my best companion", nearly a quarter of a century later.

2

Gandhiji had kept a watchful eye on his young charge, whom Khushalbhai had so generously entrusted to his care. He continued to direct him from Johannesburg, asked him to improve his English and also to write to him occasionally in that tongue so that he could judge the progress made.

The nephew, on his part, followed with starry-eyed admiration the burgeoning career of his great uncle and kept sending glowing accounts of it in

almost every letter he wrote home. One of his letters to his father ran: "Verily, (as you have said) uncle Mohandas is the light of the family. I have put myself wholly under his guidance...I am to write to him at least once a week even if there is nothing from him. In one of his letters uncle writes: 'I do not have a moment's respite from 8 a.m. to 9 p.m. I have rented an apartment to live in at a monthly rent of seven pounds'". [Quoted in Maganlal to Khushalchand, July 8, 1903] Another letter, addressed to Chhaganlal in India, reads: "Employed in his (uncle Mohandas's) office are six clerks—Kalyandas, Umiyashankar and others—and one typist. A separate residence has been rented and a cook has been engaged for them....Please let me know whether you will come if uncle sends for you and whether he has asked you to come." [Maganlal to Chhaganlal, October 24, 1903]

Kalyandas was the son of a friend of Gandhiji in Bombay, Jagmohandas Kapol, who was introduced to him by Haridas Vora. Kalyandas's name was included in the "heroes of the plague" in April 1904. He remained with Gandhiji as long as he maintained his office in Johannesburg, but returned to India in 1910. Umiyashankar was the son of Revashankar Jagjivan's brother.

Gradually, Maganlal got used to his new environment. As he became more and more immersed in his business and realised the significance of the struggle which Gandhiji was conducting, his drooping spirits began to revive. On September 20, 1903, he was able to write to Gandhiji: "I am glad to say that I have got a good opportunity to increase my knowledge of English and to gain some more experience. I am busy all day...and am no longer haunted by...idle thoughts which often agitated my mind before..."

In the following month "uncle Mohandas" had to go to Durban on an important visit. Both Abhaychand and Maganlal, when they came to know of it, entreated him to visit them at Tongaat. "We pressed him very much but it was

utterly impossible for him to get away from there. So he sent for us and asked us to meet him at Durban. Looking at his radiant face we were overjoyed like children on meeting an elder after a long separation. Uncle is ranked here as an extra-ordinarily powerful figure and is held in high esteem even by veteran statesmen. He is so burdened with work these days that he has to employ seven Indian and two European clerks in his office, besides a lady typist. As the monthly salary of each of the Indian clerks cannot be below ten pounds, this should give you an idea of his monthly expense." [*Ibid,* October 31, 1903]

The echoes of the Indian "Test Case" some time afterwards stirred young Maganlal to his depths. On February 2, 1904, he wrote to his father: "As a part of the fight for the removal of Indian grievances in the Transvaal, uncle Mohandas is going to bring up a 'test-case'. If the Transvaal Supreme Court fails to give redress, it is intended to take the matter to the Privy Council and even to the British Parliament. An adequate fund for it had already been raised. The white sentiment in the Colony is dead against the Indians." [Maganlal to Khushalbhai. February 2, 1904]

3

At the time of his departure from India, Gandhiji had put Chhaganlal, who was 21 years old, in charge of his household on a modest monthly pittance. He was to look after the children and their mother. Harilal had been sent to the boarding school at Gondal for his education. The other two children—Ramdas and Devdas—were as yet too small, but Manilal was ripe for tuition. Chhaganlal was entrusted with it.

Gandhiji had then thought that his sojourn in South Africa would be a brief one. After he had been there for about four months, however, he realised that he would not be able to return home that early. He, therefore, instructed

Chhaganlal to close the office at Bombay. Chhaganlal did as directed, but continued with his duties in respect of Kasturbai and Manilal till December 1903. He then began to feel that, with no office to attend to, he must not continue to draw the allowance that Gandhiji had fixed for him. His family was passing through a financial crisis and he thought it was his duty to make an adequate contribution to the family till. He, therefore, took employment in a solicitor's office in Bombay. He had heard from Maganlal that there was a prospect of improving the fortunes of their family if he came over to South Africa. The idea gripped him and he wrote back that he might act on Maganlal's suggestion.

So heavily preoccupied was Gandhiji at this time with his public activity that he did not have time to write even his personal and domestic mail himself. His letters to his wife had consequently to be dictated to his steno in English. It fell to Chhaganlal to read them out and explain them to her in the Gujarati tongue. One of these letters arrived when Chhaganlal was turning over in his mind the idea mooted by Maganlal. In it Gandhiji, who had come to know what Chhaganlal contemplated, had suggested that in case Kasturbai decided to come to South Africa, Chhaganlal might accompany her.

Kasturbai's departure was, however, delayed from time to time, for one reason or another. In the meantime Chhaganlal left with a partner in the shop at Tongaat who was going to South Africa. Sailing by the S. S. *NADERI,* he landed in Durban on April 28, 1904. With him as fellow passengers were Revashankar, Chhabildas and Mohanlal Khanderia with their families and Purshottamdas Desai and his wife—Ani ben, daughter of Abhaychand.

Gandhiji had decided to absorb Chhaganlal in his establishment at Johannesburg. He was to arrange for his permit, but it was no easy job. In the meantime Chhaganlal stayed at Durban where he came in contact with Madanjit.

Madanjit offered to employ him for summarising news for *Indian Opinion.* Chhaganlal showed an aptitude for this work which he liked, and soon Madanjit learnt to leave the office to his care whenever he himself had to be away. In due course Chhaganlal became the editor of the Gujarati section of *Indian Opinion* on £8 a month.

4

Sometime after this in September 1904, Gandhiji had to go to Durban on business. A number of people had got together at the residence of a Gujarati friend, where he was to have dinner, to discuss Natal affairs. Among them was Chhaganlal. In the course of conversation Gandhiji said to him "I have arranged for a permit for you; you should be getting it in a day or two." Madanjit who happened to be present there, cut in: "Why need he go to the Transvaal? He is already making himself useful in *Indian Opinion.* And I want to return to India. I have no mind to stay on here."

Gandhiji: "What happens to the printing press in that event?"

Madanjit: "Chhaganlal and West will take care of it. I shall hand over the whole establishment to you in repayment of the loans that I have taken from you."

Gandhiji had come to Durban on quite a different purpose. With no inkling of Madanjit's intention to return to India, he had planned to return to Johannesburg after visiting Tongaat on the following day. Taken aback, he set about to tackle the new situation that had arisen. The confabulations extended far into the night. In the end it was decided that Chhaganlal and West should take over formal charge of the printing establishment from Madanjit and jointly

shoulder the responsibility for the management of the press. Madanjit departed for India on October 16. [C.W.M.G. Vol.IV, p.279]

Indian Opinion was then printed and published at the International Printing Press in Grey Street. General job printing was also done, including the monthly magazine of the Theosophical Society and small books, such as Mrs Besant's translation of the *Bhagvad Gita.* The foreman was Mr Oliver, a Mauritian, and there was a full staff of compositors and machinemen. Mr Oliver and Mr Orchard were in the jobbing section, and the English compositors were a French-speaking Mauritian, A St. Helenan, and a Cape coloured young man named Mannering. Kababhai and Virji Damodar composed Gujarati, and Virji did Hindi also. Moothoo, a colonial-born Tamilian, did all the Tamil work. Raju Govindaswamy, known as "Mr Sam", was in charge of the machine and binding sections. There were several young Indian printers' assistants. West took over the proof-reading and office work, and did reporting and sub-editing. Mr Nazar was the responsible editor but preferred to leave important matters to Gandhiji.

Since West's arrival in April the newspaper and the job printing establishment had been maintained only by means of heavy financial subsidies from Gandhiji in Johannesburg. Now he had assumed the proprietorship directly, and the financial burden it put upon him exercised him deeply. With that worry on his mind, he went next day to Tongaat on his long-deferred visit to Abhaychand. Tree-planting and tending the plants had been his favourite hobby since his early childhood. An acre of land at the back of his cousin's store, which had been turned into a fruit orchard, arrested his attention. The fruit trees were weighed down under the profusion of ripening fruit with just a bare excuse of personal attention by the storekeepers. If, instead of wearing their life out to eke out a bare pittance by storekeeping, they had leased ample ground for a fruit

garden and put their heart and soul into it, he thought, it would have released them from the dull suffocation of a cribbed existence behind the counter, and filled their life with the joy of natural living, besides improving their economic condition.

With the two problems of cutting down the continuing loss incurred by the press which was draining his resources and persuading the members of Gandhi family resident at Tongaat to take to the soil to earn their livelihood instead of petty shopkeeping, simmering in his mind, Gandhiji returned to Johannesburg. After a week he again left for Durban to complete the arrangements for the management of the press.

5

Time and again, in Gandhiji's stormy career, it had happened that a purely fortuitous circumstance, combining with what had been brewing in his mind for long, had led him to take a crucial decision which gave to his life an altogether new and unexpected turn. This happened in the present case also. On the night of his departure Polak saw him off at the railway station. Before the train started he handed him a small book to read. It was *Unto This Last* by John Ruskin.

Earlier that evening Gandhiji had been treated to a sumptuous dinner by an Indian friend. A hearty eater always, he had, as was not infrequent with him those days, dined rather well than wisely. Feeling discomfort he could get no sleep.

From Johannesburg to Durban is a night's journey by train. All by himself, in a first-class compartment reserved for "Coloured" people only, lay the "Coolie barrister" tossing restlessly on his berth—his inside in full revolt. Wearily he took out the book that Polak had given him to read. Its message of the simple life and

healthy, health-giving manual work on the soil in open air, gripped him. He simply could not lay it aside before he had finished it. By the time he reached Durban, his mind was made up. He had found the answer to the two problems he had been mulling over.

At Durban, Gandhiji outlined to Chhaganlal and Mr West and other relations resident at Tongaat the plan that reading Ruskin's book had inspired him with and invited them to join him in the venture that had begun to take shape in his mind. He had not yet worked out the details, but in its essence it consisted of them all settling in an Utopian colony far away from the city, turn themselves into manual workers, remove the printing press from Durban and eke out their living by working on the soil supplemented with the minimum wage that *Indian Opinion* might provide.

Gandhiji's invitation to join the Phoenix Settlement scheme presented Chhaganlal a hard choice. On the one side the alluring prospect of settling in the Transvaal and earning a decent living beckoned him; on the other, had opened up the rare opportunity to sit at the feet of his uncle, whom he revered, and together with his brother and relations join him in the exciting adventure of a new way of life and service, in accordance with Ruskin's teachings. Eagerness to improve his fortune and to help his parents financially still tugged at his heart-strings. But with a determined effort he put it behind him and expressed his readiness to join Gandhiji in his venture. West had already agreed and Maganlal was more than willing. After much hestitation and heart-searching he decided to take the plunge.

West recalled, "This scheme was idealistic, if not very practical. The idea appealed to me because I was accustomed to a country life. I loved to be on the farms when I was a lad, although I did not become a farm worker myself. So I did

not have to wake up to the importance and value of manual work or come to realize that a lawyer's work was only as valuable as the barber's. I was convinced already of this truth. The scheme was attractive because, if it proved successful, we should be able to gain our subsistence from the soil and have no need to expect much from the newspaper. It would be spare-time work. A monthly allowance per head of £3 was laid down. In this way it was hoped to run the paper without loss. To say that I approved of the proposal suggests a certain amount of wishful thinking. I was certainly in love with the idea, and my love for Gandhi was sufficient to make me want to succeed in this venture. Had we stopped to consider such matters as trade union rules, minimum wages and so forth, we might never have started the scheme. But we were blind to possible difficulties and went ahead." [Albert West, *In the Early Days with Gandhi,* p.10]

6

Advertising for a piece of land situated near a railway station in the vicinity of Durban, Gandhiji soon heard of a plot of twenty acres for sale near Phoenix Station in Victoria County, about fourteen miles north of Durban. Soon the pair of enthusiasts, Gandhiji and West, set off one morning by train to Phoenix Station with lunch in their pockets. Not knowing the short way by footpath, they travelled two and a half miles by rough road, and were glad to sit on some rocks alongside a stream running through the property and eat their lunch. They were impressed by the palms and trees and flowers. On the hillside above them was an old orange grove and a dilapidated cottage. The place seemed right for the great experiment. Within a week Gandhiji had purchased the twenty acres and soon thereafter an adjoining eighty acres on which stood the cottage.

The land was located on a low hill in the valley of the Umhlanga or Ottowa River. A sugar farm in the region had been established in the last century by

Thomas Watkins, and had been totally destroyed by fire. The new farm, replanted in the ashes of the old, he renamed Phoenix, the fire-born bird of Greek mythology. At the station, the land is only 154 feet above sea level; the hill Gandhiji purchased reaches 405 feet. Some of the land was rocky; in other places there was rich black soil. With the exception of a few old mango, guava, and mulberry trees, and the orange grove, the vegetation was mostly grass. Around the spring were trees, and also snakes. Few buildings were to be seen in the vicinity except a few small Zulu farm-huts and the farm of Mr Hodsdon and his family. But the place was hardly a wilderness. About two miles away stood the buildings of the Zulu College of Ohlange Institute, where John L. Dube, the founder of the Natal Native Congress and like Gandhiji an admirer of the Black American teacher, Booker T. Washington, published his paper, *Ilanga Lase Natal,* beginning in 1904. Somewhat closer was the village of the Zulu prophet Isaiah Shembe, who taught a new interpretation of Christianity adapted to African traditions. His followers used to come down to the river near the Settlement for baptism. Gandhiji himself was not unfamiliar with the region; up the hill on the far side of the station stood the Phoenix Mission station of the South African General Mission, which Gandhiji and Parsi Rustomji had assisted in 1897 (see *The Discovery,* p.140).

By October 29, an advertisement in *Indian Opinion* declared, "Wanted: Oil Engine, 3-4 H.P.", and plans were under way for moving the printing establishment to the countryside. Parsi Rustomji provided second-hand corrugated iron sheets from a big godown and other building materials. Indian Carpenters and masons who had worked with Gandhiji in the Boer war helped with the construction, and the building was ready in less than a month. It was a simple structure, 75 feet long and about 50 feet broad, with a pitched roof, large

enough to hold the press cases for English, Hindi, Tamil and Gujarati types and stools for nearly a dozen compositors, and an office for Gandhiji. The oil engine, which West purchased from a farmer in lnchanga, was to provide not onty power for the press but electricity as well.

The task of moving the heavy printing equipment from Durban to Phoenix was no light one, Mr West recalled. "An engineer, Mr Booth, was engaged to take down the machines in Durban and re-erect them at Phoenix. The day came when four wagons, with a span of sixteen oxen each, were lined up early in Grey Street and the work of removal began. By early afternoon the cavalcade moved off, and before nightfall had reached its destination, having forded three rivers where there were no bridges, finishing up where there wasn't even a road. Such an encampment, surrounding the half-finished press building, had never been seen there before in living memory. Sixtyfour bullocks and their drivers was something for the Natives and Indians of the river valley and the surrounding hills to talk over.'' [*Ibid,* p.11] The printing workers immediately began erecting composing frames and paper racks, and soon the type cases were in position and the paper was being set up in the four languages. Not a single issue of the weekly was to be missed. As the engineers were not able to erect the press and the engine in so short a time, the type forms were sent by train to Durban, where the *Natal Mercury* presses were used to run them off. The last issue printed in Durban was dated December 17th, 1904.

The next issue was to have a new format, reduced from 20'' X 15'' to a sixteen-page paper with pages 13” X 8'' bound in book form. Not only was this a more convenient size to handle; it would permit the use of the small press on occasions when the big press or the engine gave trouble. In fact the printing of the very first issue from Phoenix proved a challenging task. Had not Gandhiji

taken two precautions, the first issue would have had to be delayed. The idea of having an engine to work the press had not appealed to Gandhiji. He had thought that hand-power would be more in keeping with an atmosphere where agricultural work was also to be done by hand. But as the idea had not appeared feasible, an oil-engine had been installed. He had, however, suggested to West to have something handy to fall back upon, in case the engine failed. He had therefore arranged a wheel, which could be worked by hand.

The ordeal undergone by Gandhiji and his co-workers in bringing out the first issue may best be described in his own words. He writes: [M K. Gandhi, *The Story of My Experiment with Truth.* pp.302-3]

> In the initial stage, we all had to keep late hours before the day of publication. Everyone, young and old, had to help in folding the sheets. We usually finished our work betwen ten o'clock and midnight. But the first night was unforgettable. The pages were locked, but the engine refused to work. We had got out an engineer from Durban to put up the engine and set it going. He and West tried their hardest, but in vain. Everyone was anxious. West in despair, at last came to me, with tears in his eyes, and said, 'The engine will not work. I am afraid we cannot issue the paper in time'.
>
> 'If that is the case we cannot help it. No use shedding tears. Let us do whatever else is humanly possible. What about the hand-wheel?' I said, comforting him. 'Where have we the men to work?' he replied, 'We are not enough to cope with the job. It requires relays of four men each and our own men are all tired.'
>
> Building work had not yet been finished, so the carpenters were still with us. They were sleeping on the press floor. I said pointing to them, 'But

can't we make use of these carpenters? And we may have a whole night to work. I think this device is still open to us.'

'I dare not wake up the carpenters. And our men are really too tired,' said West.

'Well, that is for me to negotiate', said I.

'Then it is possible that we may get through the work' West replied.

I woke up the carpenters and requested their cooperation. They needed no pressure. They said. 'If we cannot be called upon in an emergency, what use are we? You rest yourselves and we will work the wheel. For us it is easy work'. Our own men were of course ready.

West was greatly delighted and started singing a hymn as we set to work. I partnered the carpenters, all the rest joined turn by turn, and thus we went on until 7 a.m. There was still a good deal to do. I therefore suggested to West that the engineer might now be asked to get up and try again to start the engine, so that if we succeeded, we might finish in time.

West woke him up, and he immediately went into the engine room. And lo and behold! the engine worked almost as soon as he touched it. The whole press rang with peals of joy.

Thus the December 24, 1904 issue was despatched in time.

7

For the first few nights, the little community slept on the floor of the press building or in tents put up in the grass. Because of the mosquitoes and snakes, many preferred the press building. When it was completed, the carpenters were free to put houses of wood and iron. A row of rooms and kitchens for the single

workers, a food storage house, and houses for the settlers who were given individual plots of land. There was much good humoured discussion of the kind of houses to be built. To live the simple life in complete simplicity, the ideal thing would be just four poles and a thatched roof, but then it would be necessary to add walls to keep out the wind and the rain. At length they chose houses with flat iron roofs so that those who were fond of fresh air could sleep on top when the weather was fine. Then it was found that a flat roof would flood during a heavy rain, and felt had to be applied for waterproofing. Later builders used corrugated iron roofs, which were very hot and not beautiful, but effective in keeping out the rain. When John Cordes joined the community in 1907, he built a round African-style hut with a thatched roof.

First in line on the hillside above the press was the house of Herbert Kitchin, who had joined as English editor. An electrical engineer by profession, he required a large room for his experiments with X·rays and radio, and he had a large library. After he left Phoenix, the house was used by Gandhiji and his family. Next came the houses built by Chhaganlal and Maganlal for their families, and a small house for West, who was then a bachelor and lived in one room. Lower down the slope Anandlal built a house with a sloping roof for his family, and further away Mr Sam built his. Another house was built for Orchard, who was not one of the “Settlers". He remained only a short time. [None of these original buildings now stand at Phoenix. The present press building—no longer used as such—was erected in 1943. Manilal’s House in 1944, and “Sarvodaya”, the reproduction in brick of Gandhiji’s cottage, in 1950. The most prominent building is now the school, built in the same era. A museum building and a clinic which provides medical service to the nearby Zulu villages were erected about 1970]

As soon as the houses were erected, work in the gardens began. Part of the hill had a deep black soil which had never been cultivated. There was no dearth of rain; for half the year there was hardly a dry week, and the dry period

was only about three months. Each day there was work in the vegetable gardens, and various kinds of fruit trees were planted. Mistakes taught valuable lessons in agricultural practice. When rows of potatoes were planted on a hillside, they were quickly washed out by the rain because the gardeners did not realize the rows must run across the slope. The neighbouring Zulus could be trusted to respect the crops, but not so their mules and donkeys, which often found nourishing meals in the unfenced gardens. Soon the little colony acquired the look of a settled and cultivated village in the countryside.

8

In the first issue of *Indian Opinion* printed entirely at Phoenix, Gandhiji explained to the public the commitments which underlay this "novel and revolutionary project". [Quotations from *"Ourselves"*, *Indian Opinion,* December 24, 1904; C.W.M.G. Vol.IV, p.319] The paper was published for "an Imperial and pure ideal", for which any one could work unselfishly, and some of the workers, dedicated to this ideal, were willing to look to the survival of the paper rather than to their own pockets first. The object of *Indian Opinion,* he said, "was to bring the Europeans and the Indian subjects of King Edward closer together. It was to educate public opinion, to remove causes for misunderstanding; to put before the Indians their own blemishes; and to show them the path of duty while they insisted on securing their rights." To further this object, a piece of land sufficiently large to house the plant and machinery, and provide land on which the workers could live and grow their food must be found. If it were far away from the hustle of the town, they could live under sanitary and healthy conditions, without heavy expenses.

Each worker was to have his own plot of land, and would receive a monthly allowance for expenses only, with the profits to be divided only at the end of the year. In this way the management would be saved the necessity of having to find

large sums of money each week. The workers would also have an option of buying their plots at cost price. They could then choose their own manner of living: either "live a more simple and natural life", combining the ideas of Ruskin and Tolstoy with strict business principles, or they could choose to reproduce the artificiality of town life.

The advantages of the scheme would bring about a closer brotherly combination between the Indian and English workers, who had much to teach each other: "The English workers could belie the taunt that the Englishman in South Africa would not cultivate the soil and work with his own hands. The Indian worker could copy his European brother, and learn the dignity and utility of healthy recreation as distinguished from constant, slaving toil for miserable gains." Thus there would be many incentives for the participants: an ideal to work for, healthy surroundings in which to live, an immediate prospect of owning a piece of land on the most advantageous terms, and a direct tangible interest and participation in the scheme. It was a bold experiment: "We know of no non-religious organisation that is or has been managed on the principles above laid down." he declared.

Writing to G. K. Gokhale a couple ol weeks later, he explained the scheme, pointing out that the workers would receive only £3 per month, and he remarked, "although it does not show the same measure of self-sacrifice as shown by the founders of the Fergusson College in Poona, I venture to think that it is not a bad copy." [C.W.M.G. Vol.IV, p.332, Gandhiji to G K. Gokhale, January 13. 1904] The faculty of Fergusson College, including Professor Gokhak, had initially worked without salary. Gandhiji explained his funher plans for the settlement: there would be a residential boarding school for Indian children which would be second to none in South Africa, for which he asked Gokhale to help recruit suitable teachers from

India. After the school was in working order, Gandhiji intended to establish a sanatorium with open-air treatment on hygienic lines.

9

In a letter to potential subscribers to the journal sent out in mid-January, Gandhiji announced that "four independent Englishmen...and an equal number of Indians" were the eight founders of the settlement. [C.W.M.G. Vol.IV, p.340, Letter to J. Stuart, January 19, 190] This group, known as the Settlers or "Schemers" because they had signed an agreement setting forth the scheme, were to receive land, £3 per month, and a share in the profits. The others were to continue to receive salaries in the usual manner. The four Fnglishmen were West, Kitchin, Bean, and Polak. The Indians were Chhaganlal, Maganlal and Anandlal Gandhi, and Sam Govindaswamy. Of these Gandhiji placed the greatest reliance on West and Chhaganlal, as those who best understood the scheme.

Herbert Kitchin, the electrician and theosophist, was the English editor and took over the chief editorship after Nazar's death early in 1906. He was a versatile genius who set up electric lights all over the settlement and even rigged up a telephone. Yet his irascible temper, made worse by his weakness for alcohol, made working with him often difficult. In the evenings he would set up tin cans in the field and practise shooting. He was given some special facilities, including a larger house than the other schemers. Later he left the "scheme" and went on salary, which was more than what the others received. Eventually he resigned the editorship in disagreement over Gandhiji's adoption of passive resistance, and after business reverses shot himself in 1915. A. J. Bean stayed about a year but, Gandhiji felt, did not understand the scheme "because he lacks in real simplicity". [C. W.M.G. Vol. V. p.196, Letter to Chhaganlal, February 18, 1906] Polak, on hearing of the arrangements when Gandhiji returned to Johannesburg in January, was

delighted over the whole thing, gave a month's notice to the editor of *The Critic,* and went to Phoenix as assistant to Kitchin in editing the English columns. He and West lived together, a pair of happy bachelors, cooking their own food and living the simple life. He was called back to Johannesburg in May, and did not rejoin Phoenix until Gandhiji moved his entire household there a year later. In 1907 John Cordes also joined the scheme.

The brothers, Chhaganlal and Maganlal Gandhi, were orthodox Vaishnavas; being members of a multi-religious community posed serious problems of faith for them. Their wives would purify brass utensils used by Gandhiji's Muslim friends by putting them in fire. Eating with Muslims was a problem for them also, but having surrendered themselves to Gandhiji they did their best to follow his ideas without protest. [Prabhudas Gandhi, *My Childhood with Gandhi,* p.59] They became the staunchest members of the community and worked for the remainder of their lives with him. Chhaganlal kept the accounts and supervised the Gujarati section of the paper. Every third or fourth day he would go to Durban to collect subscriptions and advertisements and do the shopping for the community. Maganlal did composing and also aided the carpenters and took a keen interest in gardening. About Anandlal Gandhi, a Gujarati compositor, not much has been recorded. Govindaswamy, or "Mr Sam", was a colonial-born Christian whose parents had been identured labourers from South India. He was the engineer, printer, and book-binder. When asked to join the scheme, he required financial assurance regarding some land he had purchased in Natal for his family's needs. This being given by Gandhiji, he joined wholeheartedly and remained the whole time the paper was published at Phoenix; after Gandhiji and the others had returned to India, he and West carried on for three years before changing conditions forced them to move to Durban. He and his family were not

vegetarian in diet, and he used to shoot game. On occasions Sam also killed poisonous snakes when they got into the houses. Once Gandhiji bought him a new gun, which was much superior to the old one. This caused West to reflect, "Such was the complex nature of Gandhi, who could be so severe and uncompromising regarding his own conduct, yet so generous and broad-minded to one for whom he had a genuine affection." [Albert West, *op cit,* p.22]

In addition to the eight settlers, there were in the early days about thirteen other workers, including English, Gujarati, Hindi and Tamil compositors,

printers' assistants, and Natives, who were paid monthly wages as they did not want to join the scheme. Only two were taken on at full salary when the plant was shifted to Phoenix.

Gandhiji remained at Phoenix for about a month, returning to Johannesburg in January 1905. Around May 1906, when the Natal Government accepted his offer to form a medical corps in the Zulu rebellion, he broke up his

Johannesburg household and transferred his family and the Polaks to Phoenix. Except for his service with the military, he remained at Phoenix until the beginning of August when a new crisis called him back to Johannesburg. Kasturbai and his children remained at the settlement, living in the cottage built for Kitchin. He was not able to return as a resident to Phoenix until Tolstoy Farm was closed early in 1913 and the whole community shifted to Phoenix.

10

The Phoenix settlement and the *Indian Opinion* were Gandhiji's personal property, having been established entirely out of his own income. In 1911, Gandhiji decided to renounce all his ownership rights in them and to put them under a trust. At that time, the entire property was evaluated at £5130-4sh.-5d.

It was put under a Committee of five trustees. The following constituted the trustees:

1. Omar Hajee Amod Johari (Merchant), Durban

2. Sheth Rustomji Jeevanji Ghorcoodoo. (Parsee Merchant), Durban.

3. Herman Kallenbach (Architect and Farmer), Johannesburg.

4. Lewis Walter Ritch, (Barrister), Johannesburg

5. Pranjivandas Jugjivan Mehta (Barrister), Rangoon.

The terms of the trust deed were in substance as follows:

(1) Gandhiji made over all his property to the trustees. (2) Like all settlers he kept only a two-bigha piece of garden land and a hut for his own use. (3) He could draw by way of remuneration for work in the press a monthly allowance of up to £5 only. (4) In the event of his death, his monthly allowance would be available to Kasturbai and their two sons, Ramdas and Devdas till the latter attained the age of 21. (5) The trustees were to serve only as holding trustees. Management and business of the settlement would be conducted by the settlers themselves in accordance with the objects of the trust.

Subsequently some changes seem to have been made in the trust deed and some further decisions taken. In September 1912 the deed was finalized. The evaluation of the property was reduced by £ 1323-4sh.-4d., as a result of which it was now valued at £3807-0sh.-1d.

The following signed the deed as founder settlers:

1. H. S. L. Polak

2. A. H. West

3. Chhaganlal Khushalchand Gandhi

4. Maganlal Khushalchand Gandhi

5. Raju Govindu.

Thus signed and sealed, the trust deed was registered in Durbun on the 9th June, 1913. [In D. G. Tendulkar's *Mahatma,* Part 1, p.156, it is stated that the trust deed was executed in September 1912, and the evaluation of the property was set down at £5130-4-5. But in S. Ganesan's *Gandhi Diamond Jubilee Number,* pp.5-7, (English Section) the full text of the trust deed is given in an appendix. In it, the evaluation of the property is set down as £3807-0-1, and the date of registration as 9th June 1913]

After the execution of the trust deed, *Indian Opinion* issued a statement on the objectives and purposes of the members of the Phoenix Settlement in its issue of 14th September, 1912. It ran: [Taken from Pyarelal's Notes. Source not traceable]

> (1) So far as possible to order their lives so as to be able ultimately to earn their living by handicraft or agriculture carried on without the aid, as far as possible, of machinery; (2) to work publicly so as to promote a better understanding between the Europeans and British Indians established in South Africa, and to voice and work to remove the grievances of the latter; (3) to follow and promote the ideals set forth by Tolstoy and Ruskin in their lives and works; (4) to promote purity of private life in individuals by living pure lives themselves; (5) to establish a school for the education principally of Indian children mainly through their own vernaculars; (6) to establish a sanatorium and hygienic institute with a view to the prevention of disease by methods generally known as "nature treatment"; (7) to train themselves generally for the service of humanity; and (8) to conduct the said *Indian Opinion* for the advancement of the ideals mentioned in the foregoing.

CHAPTER XIX : THE REWARD OF GENTLENESS

1

At the beginning of the year 1906 there was an air of expectancy as important changes were in the offing for the government of the Transvaal Colony. Lord Selborne was just settling into his role as Milner's successor when the long expected change of Government occurred in London. The Liberals came to power at the end of 1905 after ten years of Conservative rule and achieved an overwhelming victory at the polls in January 1906. The Liberals had been acrimoniously divided over the South African war, but had united in criticism of Milner, and "Chinese slavery" in the Transvaal was one of their electoral slogans. Prime Minister Sir Henry Campbell-Bannerman was resolved to settle the South African question with a generous peace, convinced in part by conversations with the former Attorney-General of Kruger's government, Jan C. Smuts, who assured him that with self-government the Boers would become reconciled to their status as British subjects. Accordingly he scrapped the Lyttelton Constitution of 1905, which would retain governing authority for the Transvaal in the hands of the British bureaucracy. Believing that "a good government is no substitute for self-government", he set in motion the development of a new constitution for "responsible government", with a Westminster type of parliament of elected representatives. It was part of a plan to create a new South Africa, which would take its place in an Empire of white settler communities enjoying self-government.

A constitutional commission chaired by Sir Joseph West-Ridgeway took testimony in the Transvaal in April and May 1906. The British Indian Association

appeared before the Commission, but the principal constitutional matter affecting the Indian community was. not the franchise, and it was a settled matter that this was to be limited to whites only. However there was considerable interest in the Transvaal concerning which group of whites would predominate. There was fear among the English settlers that the new government would fall into the hands of the Boers, which in fact happened in the first elections in 1907, when the party of Botha and Smuts swept the field. The tide of white agitation which marked 1905 subsided somewhat with the assurance of white control, but the prospect of Boer predominance produced an understandable anxiety among the English officials and government employees.

2

Beset by administrative regulations and laws which were of dubious validity, the Indians, led by Gandhiji, sought redress through the judicial system. Several important cases in the first half of 1906 showed the weaknesses of the Government's position, and brought additional pressures on them from the Colonial Office in London.

Aboobaker Amod was one of the pioneer Indian merchants in Pretoria. He was a landowner to Natal, and in 1885 purchased property to Church Street, Pretoria. The land was purchased a few days before the passage of Law 3 of 1885, which forbade any future land purchases by Asiatics, but the transfer was registered with the approval of the State Secretary a few days after the promulgation of the Law. The property passed to his heirs: Omar Hajee Amod Johari and Ismail Aboobaker, the brother and son of the purchaser. For fifteen years they leased it to white tenants and derived rents from it. In 1905 it was leased for a term of 21 years to the architectural firm of Kallenbach and Reynolds. In order for the lease to be registered, it was necessary to complete the transfer

of the property to the heirs, which had not been done in 1890. The Registrar refused, and his refusal was upheld by a judge. Taking the case to the Supreme Court in March 1906, the heirs asked the court to put a human interpretation on the law. The Chief Justice, while sympathizing with the heirs, considered himself bound by the law and denied the appeal. Mr Justice Mason concurred, adding that Law 3 of 1885 was harsh and the case very hard, but that it was not a function of the judges to change the law. It was for the Legislature to alter it. [Transvaal Law Reports, 1906: Amod Executors *vs.* Registrar of Deeds and *ex pate* Amod's Executors, March 12, 1906]

"It has now become possible to rob the heirs of what has been left to them by a testator." Gandhiji commented. "It is hardly possible to get a purer or more independent bench of judges than the people of the Transvaal have in their Supreme Court," he declared, and despite the presentation by Mr Leonard, the ablest lawyer in South Africa, the court was not able to go beyond Law 3, which despite Indian protestations to Lord Milner remained in force in the Transvaal "as a mark of indelible disgrace for the British administration." He asked if the new Liberal Government was going to perpetuate this wrong under which the Bnush Indians laboured. [C.W.M.G. Vol.V, p.232; *Indian Opinion,* March 17, 1906, *Legalised Robbery*] Though the heirs lost in the courts, the injustice of the case was so evident that the Government was forced to redress the situation by legislation, while continuing to refuse any alteration in the discriminatory law. The heirs, in the meantime, could only have the land transferred to some white person who would be willing to act as a trustee. Mr Polak agreed to do this, but the heirs' possession of their property was dependent on the good will of the trustee and not on law.

Other important legal cases were brought concerning the permit system of immigration control in the Transvaal, showing once more that while official pressure was being exerted on the Indians, the law was often in their favour.

Adam Ebrahim, a boy under the age of 12, at which age permits were required, entered the country to join his father at Johannesburg. He entered on the strength of a Letter of Notification, but once in the city he was charged with failure to take out a £3 permit. The prosecution was unusual; normally he might have been stopped under the Peace Preservation Ordinance. Escape from that Ordinance would have been difficult, but the penalty was merely deportation. Instead he was charged under the permit clause of Law 3 of 1885, under which the penalties could be as high as a fine of £100 or six months with hard labour. Perhaps the Asiatic Affairs Office was seeking a way of imposing greater penalties. If so, the attempt failed. When the case was heard before Mr Cross on May 25, 1906 Gandhiji pleaded that it was not necessary for children to take out a register for themselves, nor was it necessary for persons not carrying on a trade. The Magistrate admitted the plea and dismissed the case.

Gandhiji regarded the case as important, for although it did not establish a ruling about permits, it implied that there should be no difficulty for boys already in the Transvaal remaining there without a permit or a register. Still, the principle would not be firmly established without a test case. "The more galling the shackles imposed by the Government upon the Indians, the heavier, it would appear, is the liberating blow delivered by the judicial hammer. The Judiciary protects what the Executive would gladly destroy," he affirmed, and asked if Lord Selborne would still say that the administration of the law, which had once more been demonstrated to be illegal, was reasonable and being carried on with due consideration for those affected by it. [C.W.M.G. Vol.V, p.345; *Indian Opinion,* June 2, 1906]

The case was appealed to the Supreme Court, which upheld the decision and further established that the Peace Preservation Ordinance, which had

consistently been applied only to Asiatics, did not apply to children. [CO 291/104: Selborne to Elgin, October 16, 1906, as cited in Pillay's *British Indians,* p.223]

In June Mr Ebrahim Bhayat, an old resident of the Transvaal who had paid the £3 fee to the Dutch government, was denied a temporary permit to enter the Transvaal. Despite influential European support, his application was denied on the ground that he, having left the Transvaal sometime before the War, was not a refugee. The British Indian Association appealed to Lord Selborne, but he declined to bring relief. Accordingly, the case was argued before Mr Benson, the Magistrate at Volksrust, who decided that such persons needed no permits to enter the country. He acted on the premise that persons who paid £3 to the old Government were free to enter without permits, on proof of such payment.

This was only a Magistrate's ruling, and did not compel other magistrates. Gandhiji warned that many eminent barristers were of the opposite opinion. The Attorney-General appealed to the Supreme Court which however declined to hear the case. The result was that while the magistrate at Volksrust was bound by his own decision, magistrates at other places were not, and it might be safer to enter *via* Volksrust for the time being, Gandhiji advised. Instead of reasonable law there was only uncertainty. In the next few months three or four other Indians were able to enter relying on Bhayat's case. [C.W.M.G. Vol.V, pp.360 and 364; *Indian Opinion,* 23-6-1906]

By June 1906, Gandhiji, in view of the defects in the Government's legal position and confident in the integrity of the courts, and tired of permit problems created by the misuse of the law, wrote to the government saying that, if the difficulties thus created were not ended, the British Indian Association would challenge through the courts the present administration of the permit system. His quarrel was not with the principle of immigration control, but with its

arbitrary and extra-legal administration. If this did not cease, his Association would file cases to test the following principles:

1. Those who can prove having made a payment of £3 to the Boer Government should be allowed to enter without permits.
2. Children under sixteen of parents who are themselves entitled to enter should be allowed in, and that without a permit.
3. Wives of those who are entitled to enter should be allowed in without a permit, and
4. Instead of the current practice of arbitrarily issuing permits to whomsoever the Government wishes, there should be clear and definite regulations to determine those eligible for permits. [C.W.M.G. Vol.V, p.351; *Indian Opinion,* June 9, 1906]

Before the case could be instituted, other events occurred to shake Gandhiji's confidence, not in the integrity of the judiciary, but in the effectiveness of even Supreme Court decisions in altering the course of the Government.

3

South Africa being a large country, rail transportation was essential for the conduct of any business. Here also the Indians encountered discrimination, as did all persons who were not of the white race. It was the custom for passengers who were not white to be placed in separate compartments or, where practicable, in separate cars. Whites frequently objected to their presence, no matter how clean, educated, or European in style they might be. The rougher class of white passengers, especially on Saturdays and holidays, would assault coloured passengers and put them out. Sometimes the coloureds could only take passage by riding in the guard van. Gandhiji's first experience of South African

discrimination had been a railway incident at Maritzburg, and when in 1905 testimony was taken from station-masters concerning the situation of coloured passengers, the master at Park Station, Johannesburg, reported that some fourteen months before (i.e., June 1904), Gandhiji had sent a white clerk to book his seat to Durban and he was thus unwittingly placed in the compartment with a Major Karri-Davies. The Major objected and accommodation was found for him in a compartment with three other gentlemen, for which he telegraphed thanks to the traffic manager from Heidelberg. Gandhiji had the compartment to himself all the way to Durban. Shortly after, Gandhiji booked another compartment seat on a day when there was only room for three more passengers on the whole train. To honour the booking, an extra car had to be attached and hauled all the way to Durban, over 400 miles, for the benefit of a coloured passenger. [NAI (Rev. Agri & Emigr.) Progs.-A, August 1906, Evidence given before Mr. Loveday and the General Manager... on August 16, 190

The enquiry had been set in motion by representations to the railway authorities and Governor Selborne by the Rev. Charles Phillips, the white pastor of the Ebenezer Congregational Church in Johannesburg, which served a large Cape coloured congregation and had many mission stations throughout the Rand. Coloured ministers were not receiving bookings to which they were entitled. As a result of this, a circular was issued on September 29, 1905 establishing the policy that "coloured persons, whether South African or Asiatic" were ordinarily only to be allowed to travel in third class or native carriages or compartments. Certain coloured persons "of the better class" would be permitted to purchase first or second class bookings for compartments marked "For Coloured Persons". Should the number of coloured first or second class passengers exceed the seats available, every endeavour must be made to provide

additional carriages of the class required. In addition, certain trains were to be reserved entirely for white passengers. [*Ibid*]

These regulations were not made public, and the British Indians came to know of them only as they ran up against them in practice. This occurred to M. M. Moosajee, who was denied a ticket on the 8.30 train from Johannesburg to Pretoria, one of the trains reserved for whites. After failing to secure satisfaction through correspondence, he brought the matter to the British Indian Association, which on February 14, 1906 addressed a letter to the Acting Chief Traffic Manager at Johannesburg, pointing out that this prohibition would seriously interfere with the movements of the Indian business community, and asked under which law or regulation this prohibition had been imposed. “Incidentally, I may be allowed to remark that the manner in which such prohibitive rules are, from time to time, made without warning or notice to the portion of the community concerned is extremely irritating and inconvenient,” wrote Abdul Gani, the Chairman. "My Association thinks that British Indians are at least entitled to know beforehand regulations that may be framed with reference to them.” [C.W.M.G. Vol.V, p.190; *Indian Opinion,* February 24, 1906]

On March 26, Sir Henry Cotton, M.P., put to the Home Government in Parliament a question concerning the exclusion of British Indians from certain train services in the Transvaal, and the answer was given by the new Liberal Under-Secretary for the Colonies. Winston Churchill, who was then occupying his first Cabinet post. Acknowledging the existence of the prohibitions, he assured Sir Henry that the Indians had "the cordial sympathy of His Majesty's Government, who will make every endeavour to obtain their redress", but reminded him that the Liberals' policy of granting responsible government to these colonies presented difficulties in dealing with such questions. [NAI, *Ibid*]

In April 1906, a deputation of the British Indian Association met the General Manager of Railways in connection with the prohibition of passengers on the 8.30 trains between Johannesburg and Pretoria. The Manager suggested that the Indians would do well not to press the point as the train was reserved for whites only, but upon questioning by Gandhiji he was not able legally to justify his policy. A second meeting was held early in May. Mr Price, the General Manager, argued that since feeling among the whites ran rather high it would not be desirable for the Indians to press the point further. At length he conceded that if an Indian had to travel by any of the reserved trains for an urgent piece of work, "the station master would, on request, arrange for him to travel with the guard." In explaining this to the readers of *Indian Opinion,* Gandhiji reminded them of the helplessness of the officials "as long as the whites continue to behave excitedly over this question", and he quoted a letter from the *Transvaal Leader:*

> Some time ago, I was travelling from Potchefstroom to Park. There were also two "coolies" in the train. It is true that they were in another compartment; but that does not lessen the evil. For a white will have to sit in that compartment after they leave. Moreover, the two "coolies" wiped their hands on the towels kept there. The same would have to be used by the white also. And I am sure no decent white would want to use the cup or the towel used by a "coolie". Surely, it behoves the Railway authorities to show some consideration for the public.

Gandhiji observed, "One comes across such correspondence in many papers. The only thing Indians could do on such occasions is to be patient." [C.W.M.G. Vol.V, p.305; *Indian Opinion,* May 12, 1906, the quotation has been re-translated from Gujarati]

A few days after the meeting, the General Manager, instead of providing more service to the Indians, announced that neither Indians nor coloureds should

attempt to travel by the train leaving Pretoria at five o'clock in the afternoon. There being no legal basis for this restriction, Gandhiji announced, "The Association has expressed its inability to agree to the imposition of this handicap, for, as the five o'clock train is convenient to them, Indians will not give up their right to use it." [C.W.M.G. Vol.V, p.315; *Indian Opinion,* May 19, 1906] And so the struggle continued without a satisfactory solution.

4

When electric tramcars were introduced in Johannesburg and Pretoria, replacing the horse cars, restriction, prohibition, and segregation were immediately imposed on the Indians and other non-Europeans who needed this service. In June, 1905 Gandhiji wrote to the Town Clerk of Johannesburg on behalf of a client who had applied for a monthly pass, and on July 13 met the clerk to discuss the matter. The next day he wrote again to the Clerk to say that if a definite assurance could be given to the effect that facilities were to be provided for the Indians travelling on the new tramcars, his client would refrain from testing his right in a law court. Gandhiji was convinced the courts would not uphold such class legislation. He once more asserted his faith in the rule of law, adding, "My personal experience has been that, where an absence of certain rights has been assumed without reason, rearrangement has, as a rule, proceeded upon such assumption, and what was once an open question has upon rearrangement been definitely decided against the granting of such right or rights." [C.W.M.G. Vol.V, p.14, Letter to Town Clerk, July 14, 1905] In pursuit of the right of Indians to use the tramcars, he was to be vindicated by the courts, but only to have the victory snatched from him by another branch of the government.

The General Manager of the Johannesburg tramway system recommended to the Town Council some regulations for the segregation of the

trams. "Coloured people" were to be allowed on the same cars as whites, only as domestic servants in the company of a master or mistress; and then they were to sit on the upper level or in the four seats near the staircases. Special care for coloured people may be offered on the Fordsburg and Newtown lines, with Asiatics on the inside and Kaffirs on the outside, or *vice versa* and if this was not profitable they would be assigned to trailer cars coupled on to ordinary cars, which could also be used for parcels. Gandhiji again addressed the Town Clerk on February 10 1906, pointing out that under such regulations the Indians would be allowed only on certain lines, unless as domestic servants. He submitted that the British Indians were entitled to the same service as any other community in Johannesburg, and declared once more, to place it on record, that, as the position then stood, coloured people were by law free to use the municipal tramcars. In view of the prevailing prejudice among whites, however, he offered a suggestion. The inner portions of the cars might be reserved for whites only, leaving the roofs free for all. On some cars, compartments might be made in the inner portions. While denying the legal authority for such segregation, Gandhiji was prepared to compwmise with the practice, provided that all persons had equal use of the municipal facilities. [C.W.M.G. Vol.V, p.l86; *Indian Opinion,* February 17, 1906]

The Town Council met on February 14, the day the electric cars first ran, to consider the manager's recommendations. Councillor A. Mackie Niven moved an amendment stating that in all cars the front ten rows of seats only should be reserved for whites. He pointed out that in Durban, Cape Town, East London, and Port Elizabeth the difficulty had been gotten over without any offence to any portion of the community. Mr Coutter agreed, saying there had been no difficulty in Durban, and the ladies there were quite as sensitive as the ladies of Johannesburg. Were it an offence for a coloured person to sit next to a white, to

be consistent they must not countenance native coachmen who were to be seen every day driving with ladies sitting next to them. Dr Krause declared that if they had the right to exclude any coloured person from the cars he would be the first to exercise that right, but he doubted that they had such a right. He reminded the Councillors that the conductor still had power to refuse passage to any person who was objectionable to the other passengers, and they could relegate them to certain portions of cars. Therefore he supported Mr Niven's amendment. The majority of the Councillors took the opposite position. Mr Graumann, who thought the coloured people had been dealt with in an almost generous fashion, did not believe it was the duty of the Councillors to give them the same privileges here as in the other parts of the country. Mr McLea said that if Durban and Cape town had got themselves into difficulties Johannesburg was going to start by avoiding those difficulties. Mr Whiteside said Mr Niven was going to give away to the coloured people the most popular part of the new cars, the roof. Mr Ware said if coloured people were allowed to take their seats indiscriminately it would give great offence to the working man. Dr Napier said he was against the recommendation allowing coloured servants to ride on the cars. Mr Jeppe said that when it came to the question as to whether the white or the coloured people should suffer, as far as he was concerned it was going to be the coloured. The amendment being put to the question, it lost by 16 votes to 6. [*The Star,* February 16, 1906]

Gandhiji found these speeches painful reading. On a matter of simple convenience for travelling, the whole question of the equality of the races was raised by several speakers. Any time a coloured man attempted to get justice, the cry was raised that he wanted to claim equality with the white man. Gandhiji found the position ludicrous. "Here is a vigorous community in Johannesburg. It is full of enterprise, pluck, and resource. When it comes to the question of colour,

it loses all sense of proportion," he observed. [C.W.M.G. Vol.V, p.202; *Indian Opinion,* February 24, 1906]

Rev. Charles Phillips immediately wrote to Selborne, pointing out that the Town Council had previously been advised by legal counsel that it had no power to legislate on colour or racial lines without a special act of the Legislative Council enabling it to do so. He urged that the action be vetoed by the Lt.-Governor as being *ultra vires,* and warned that the coloured people were prepared to make a test case of it and carry it to the High Court and if necessary to the Privy Council in London, and added that he did not believe that in the Cape a single passenger had ever refused to go by the trams because they took coloured persons. [Transvaal Archives, Charles Philip to Governor Selborne, February 1906] The Governor, on the 19th addressed to the Acting Lt.-Governor, Sir Richard Solomon, a letter, enclosing that of Phillips and another from Abdul Gani, seeking his advice, since he thought the Town Council's policy unjust. He was to speak to the Mayor the next day, but no change came of it. [*Ibid,* Governor to Lt.-Governor, February 19, 1906]

Before the week was out, Gandhiji and the British Indian Association initiated preparations for filing a test case. Mr Ebrahim Saleji Coovadia, the Treasurer of the British Indian Association, accompanied by Gandhiji's Law clerk, Mr MacIntyre, boarded a tramcar which was not labelled as being for coloured people. He was allowed to travel without question. Therefore he boarded another, whereupon the conductor informed him that he could have a seat only if he was a servant of Mr MacIntyre, but that he would not be allowed to do so as a private gentleman. A complaint was then filed. Mr Coovadia's act may have been the first deliberate act of civil disobedience sanctioned by Gandhiji. It was not yet satyagraha with its voluntary acceptance of suffering, but it was more than the mere assertion of a right. It was the breaking of a law known to be both

immoral and without justification, and it forecast the direction in which Gandhiji was moving. [C.W.M.G. Vol.V, p.206; *Indian Opinion,* March 3, 1906]

The case was heard on March 7 before Magistrate Kar. Mr Coovadia was represented by Gandhiji. The conductor was represented by Mr Hile, and Mr Blaine appeared on behalf of the Government, and his conduct indicated that Selborne had acted on the suggestion of Rev. Phillips. The facts of the case were agreed to by all parties, so it turned on a discussion of the law. Mr Blaine pointed out that according to the bye-laws of the Johannesburg Tramway, Indians were entitled to travel by any tram car and the defendant was therefore guilty despite the orders he had received from the Town Council. Mr Hile claimed that an unrepealed regulation from the Boer days allowed the refusal of seats to Asiatics, but Mr Blaine replied that the said regulation was no longer applicable. The decision was given in favour of Gandhiji, and the Town Council gave notice of the appeal. Later the appeal was dropped, but the Council took no action and Indians were still refused passage on the trams. [*Ibid,* p.230; *Indian Opinion,* March 17, 1906] Meanwhile, Gandhiji noted with fine irony that despite all the cry about whites' aversion to riding with others, every day many of them used the coloured cars with perfect ease.

For the second time, Mr Coovadia boarded a tram for whites early in April and was again refused a place. Once more he made an affidavit. The hearing was set, and then postponed because of the stakes at issue. The Town Council engaged a Barrister even for a Magistrate's court, and Sir Richard Solomon and Lord Selborne were known to take a keen interest in the case. At length it was heard before Magistrate Cross on Friday, May 18. Barrister Feetham represented the Municipality and Mr Blaine, assisted by Gandhiji. appeared for Mr Coovadia. As before, the facts were not in dispute. Mr. Feetham argued that a regulation of

1897, issued at the time of an outbreak of small-pox, forbade coloured travel on tramcars except as servants. The Magistrate did not admit the argument and sentenced the conductor to pay a fine of 5 shillings or imprisonment of one day. He paid the fine. Mr Feetham had also argued that, while taking out a licence, the Town Council had stated that the trams were for the exclusive use of the whites. Flushed with triumph, he produced the licence in court. But, as the Gujarati proverb goes, Gandhiji observed, "He who digs a pit for others falls into it himself." It was found on inspection to have been issued four days after the date Mr Coovadia attempted to board the tram. [*Ibid,* p.323; *Indian Opinion,* June 25, 1906]

The success of the Indians was complete. It was clear that the regulations had no foundation in law. But the joy at the court decision on Friday was marred by an announcement in the *Government Gazette* on Saturday. It stated that the regulations framed by the Municipality in the matter of the tramway had been repealed. The repeal had been accomplished surreptitiously nine days before tlie trial. Notice of the item had been advertised in a misleading manner as coming from the Works Committee rather than the Tramways and Lighting Committee, and it was placed at the end of the agenda. The resolution gave as the reason for repeal that the bye-law had been intended for private tram cars, and were no longer needed now that the system had been taken over by the Municipality. No mention was made of Asiatics or coloured persons, and the item passed without discussion. Neither the Indians nor the press were aware of its import until it was published in the *Gazette.* Gandhiji called this "a method which is the reverse of honourable". [*Ibid,* p.325] Far from granting the Indians access to the trams, the effect of the repeal was to give new life to the old Boer regulation due to the small-pox scare. Indians were still forbidden to ride any trams except the coloured ones. “This is a clear case of betrayal," Gandhiji declared. "It means that

they must put up a fresh struggle beginning all over again. This would be very troublesome and costly, but it would have to be undertaken if the Indian community did not want to submit to this defeat." [*Ibid*]

On Wednesday May 30, Mr Abdul Gani, Chairman of the British Indian Association, accompanied by Mr Polak, got into a tram. The conductor refused to allow him to sit. He said that he would not get off the tram unless forced to do so, whereupon the conductor called in the police, who received the same reply. At length the Tram Inspector arrived and spoke politely to Mr Gani. As a result of the talk, it was decided that Mr Gani would be prosecuted on a charge of having obstructed the tram car. Mr Abdul Gani and Mr Polak agreed to this and got down. Moving a step beyond the actions of Mr Coovadia, in which the complaint was drawn against the conductor, Mr Gani accepted the responsibility of incurring criminal charges. A new form of resistance had made its appearance. [C.W.M.G. Vol.V, p.350; *Indian Opinion,* June 9, 1906]

Mr Gani was not prosecuted on this occasion. When the action was reported to the Town Council by the Tram Inspector, the Town Clerk wrote a note to Gani and Polak asking them to see him. He told them that the Indians had done enough, and that they should not further harass the Council. Regulations in this matter would be published in a few days, he said, and the Indians could then challenge them if they did not approve. The regulations, however, were not finally passed and published until nearly a year had passed, and then the Indians received only minor gains. [C.W.M.G. Vol.VI, p.499; *Indian Opinion,* May 25, 1907]

5

On the first of January, 1906, the issue of Asiatic permits was transferred from Captain Hamilton Fowle's jurisdiction to that of the Asiatic Affairs Office, headed by Mountford Chamney, under the oversight of the Assistant Colonial

Secretary, Lionel Curtis. A different set of officers was now to issue the permits, and these were located in Pretoria rather than Johannesburg. All Indians now had to travel to Pretoria. Although Chamney was at the time on furlough in England, and the office was in charge of Mr Burgess and a clerk, James Cody, the new administration immediately initiated a series of innovations, suggesting the active interest of Lionel Curtis. The innovations were made without warning or publicity. By the beginning of February Gandhiji addressed to the Colonial Secretary, Mr Duncan, a protest against the lack of public notification. The British Indian Association had learnt from various sources that, after the change of the Permit Office to the Colonial Secretary's jurisdiction, three changes calculated to do serious harm to the Indian community had been made. The age at which a child entering the country required a permit had been reduced from sixteen to twelve. Affidavits of guardians of such children were no longer acceptable; only children whose parents were residents of the Transvaal might come, thus excluding orphans being cared for in the joint family system. Finally, witnesses for refugees outside Pretoria were now being examined by the Resident Magistrates in the districts. resulting in delays. [C.W.M.G. Vol.V, p.184; *Indian Opinion,* February 17, 1906]

After Chamney's return from furlough, Curtis agreed to meet a deputation from the British Indian Association consisting of Gandhiji, Abdul Gani, and Hajee Habib on March 10, Chamney was present, and so was Burgess. The grievances submitted by the deputation were mainly concerned with the difficulties suffered by Indians, due to the faulty working of the Permit system. It was mentioned that the applications forwarded to the magistrates for investigation lay long unattended to, causing inordinate delay and great hardship to the applicants in obtaining permits. It was, therefore, suggested by the deputation that instead of several, only one official should visit the different places to make the

investigation, so that it was done uniformly and the matter disposed of quickly. The local people might, if they wanted, raise objections, but the decisions should be available without delay. Further, those who were in possession of old registration certificates should not be required to produce witnesses and permits should be issued to them, as soon as they had given explanations about their registration certificates.

The deputation urged that no permits should be required for women, as they did not in any way compete with the whites. It was very insulting to subject women to scrutiny. The number of Indian women in the Transvaal being very small and in view of the fact that they were all living with their menfolk, there was no reason to doubt their *bonafides.*

It was also outrageous to demand, at the border, both the permit and the registration certificate. On the other hand, permit-holders should be immediately allowed to pass, as also those who produced only the registration certificate. The practice of taking thumb-impressions of permit-holders at the border was similarly humiliating.

The regulation that boys under twelve years of age could enter, only if their parents were in the Transvaal, was oppressive. Earlier, all boys under sixteen had been entering the Transvaal and they should, therefore, be allowed even now. Even if changes were required in the regulation, those boys who had already come in should be granted permits without fuss. Adequate notice should also be given of the new regulation. As for children who had lost their parents, their relations should be regarded as their guardians.

Those who had lost their permits should be granted either certificates or some other proof, so that they did not experience any difficulty in coming back

to the Transvaal, after a visit to India. If the Government had any doubts about their *bonafides,* the certificates might be delivered to them at the harbour. If a person lost his permit in the Transvaal, he had to suffer much inconvenience in obtaining licences etc.

Temporary permits should be issued for the asking and people should have full freedom to come and go for business purposes. As most people had no need to go to Pretoria except for the sake of a permit, an officer might, on the contrary, visit Johannesburg once a week and issue permits, so that the people are put to the minimum of inconvenience.

At the conclusion of the meeting, Curtis promised to place all the facts before the Secretary. He assured the deputation that it was not the intention to put the Indians to hardship, and all possible redress would be granted. Very likely magistrates would be asked to complete their scrutiny of refugee applications within a fortnight. However he gave as his opinion that women ought to pay the £3 fee, and that all the ten finger-prints should be given on the permit. At about this time he also stopped the issue of temporary permits, again without public notice. [*Ibid.* p.236; *Indian Opinion,* March 17, 1906]

The refusal of temporary permits led to many hardships, and two well-publicized cases. Before the transfer of the Office, a Mr Nomura, a Japanese subject, applied for a temporary permit in order to dispose of his wares in the Transvaal, but the Chief Secretary of Permits declined to grant it. The officer evidently reasoned to himself that Mr Nomura, being an Asiatic, could not be granted facilities similar to those given to Europeans. The case immediately came to be discussed so much that the *Transvaal Leader* thought fit to offer a public apology to Mr Nomura. The High Commissioner too immediately ordered the

Chief Secretary for Permits to issue a permit to Mr Nomura and it was delivered to him personally at his residence in Durban. [*Ibid,* pp.278-79; *Indian Opinion,* April 14, 1906]

On March 9, Gandhiji requested of the Protector of Asiatics a week's pass for Suliman Manga, a young Indian on a visit to Durban, who wished to travel through the Transvaal on his way to Delagoa Bay (now named Maputo). The request was denied, no reason being given, and Gandhiji was unable to obtain a statement of reasons. After a lengthy correspondence, Curtis informed him that the matter was entirely within the discretion of the Government. Manga, who was a student for the bar at the Middle Temple in London, was young and enthusiastic and would not brook rejection. He sailed for Delagoa Bay and again applied, meeting once more with refusal. Then recalling that he had been born in Portuguese India and was in fact a Portuguese subject, he was able to enlist the aid of that Government, on the strength of which the British Consul issued him a permit. On April 7 he walked boldly into Chamney's office and delivered a letter from Gandhiji. [Transvaal Archives, Curtis to Duncan, April 11, 1906 with enclosures]

Commenting on this, Gandhiji remarked: "Mr Manga, a Portuguese subject has won. Mr Manga, a British subject, has been disgraced." [C.W.M.G. Vol.V, p.262; *Indian Opinion,* April 14, 1906] "It comes, therefore, to this that a British Indian, no matter what his status may be, cannot even pass through the Transvaal and have safe conduct, but if an Indian belongs to a foreign power, he gets a permit for the asking." [C.W.M.G. Vol.V, p.274] "Yet we have Lord Selborne's assurance that it is not his desire that Indians should be treated in a harsh manner, or that regulations under the Peace Preservation Ordinance should in any way be unreasonable. The community has every right, therefore, to appeal to Lord Selborne for some measure of justice being meted out to it." [*Ibid,* p.279; *Indian Opinion,* April 14, 1906]

Calling it "Official Ineptitude," the *Rand Daily Mail* wrote in its columns:

> "The refusal was simply an instance of that gratuitous stupidity which has more than once affected Transvaal officials when dealing with Asiatics. Lord Milner was in a prophetic mood when, addressing the first Municipal Congress three years ago, he said, 'The greatest danger of every sound policy is its exaggeration and its travesty.' Lord Selborne has more than once expressed regret that it should be necessary to curtail the movements of British Indian subjects in a British Colony. That the necessity does arise, and must be provided for, we agree....But in the name of common sense, do not let us make the Transvaal a laughing-stock of the world by comic opera methods, such as have been displayed by the Permit Office in the case of Mr Manga." [*Indian Opinion,* April 21, 1906]

Writing again on April 19 under the heading "The Pin-Prick Policy", the same paper said:

> "The office forms part of the Colonial Secretary's Department, and Mr Chamney's immediate chief is, we believe, Mr Lionel Curtis, whilst the head of the department is Mr Patrick Duncan. In the case of Mr Manga, we understand that Mr Chamney acted, as he was entitled to do, upon his own responsibility. His was the power to say yea or nay, and he acted upon it. There is no complaint to be made about the system. The grievance of the British Indian community is against the unsympathetic and narrow-minded tone of the "Protector's" office, in which it is complained that the ordinary principles of common-sense and justice seem to be absent. Judging by the decision arrived at in the case of Mr Manga, this allegation appears to have some foundation." [*Ibid,* April 28, 1906]

Not only were the laws and regulations a continuing thorn in the side for the Indians, they also encountered offensive and high-handed treatment from the officials. In the course of his correspondence concerning the Manga case, Gandhiji addressed Chamney on the conduct of his clerk, James Cody. Cody's father was an English soldier and his mother Indian. He had come with the troops during the war, as an orderly, and was employed as a clerk with the Permit Office in Pretoria. Later he went into private employment for attorney Mathey in Johannesburg to attend to Indian permit work. At that time he would often sit in Gandhiji's office declaiming against the injustice of the Permit Office and the extraordinarily strict examination that was being carried on and the great delays that would result. When the Office was transferred, Gandhiji was one of the first to suggest to Cody that he apply for employment there. However, Gandhiji told Chamney, "If one-tenth of the accounts that have reached me be correct, he has been reproducing all he opposed, now that he occupies a different role." He had even been asked to draw up a petition against him. [Gandhiji to Chamney, March 19 and April 5, 1906] Even his former employer, Mr Mathey, wrote that Cody's questioning of witnesses proved to be "more in the nature of an inquisition than an examination", adding that he found that Cody spoke only indifferent Hindustani. "To my mind the question of granting and refusing permits is of such great importance that it should not be left in the hands of a clerk who holds a sort of private court, and can understand only one Indian dialect." [Letter in Edward Nundy, *The Transvaal Asiatic Ordinance,* 1907: *An Exposure,* Johannesburg, 1907, p.12] Chamney stated in reply that Gandhiji had been misinformed in the matter, and Cody was continued in his post, later befng joined by his younger brother also.

In May 1906, the title of Chamney's office was changed from Protector of Asiatics to Registrar of Asiatics. Acknowledging the difficulties of his task, and at

the same time recognising Chamney's courtesy and sympathy, *Indian Opinion* observed that since the transfer of the permits to his authority in January his actions had not inspired the community with confidence in it, but suggested that perhaps the fault was not Chamney's. "Consequently," the leader concluded, "Indians have a right to expect of him ordinary courtesy, a sweet reasonableness about enforcing the Ordinance, and, above all, promptness in dealing with cases and frankness about his decisions." [*Indian Opinion,* May 5, 1906] But much was happening behind the scenes that was the opposite of all this.

6

On April 11, in a confidential memorandum to Duncan, Curtis mentioned that Chamney was under instructions to prepare "an exhaustive Report, upon which it will be possible for yourself and the Executive Council to arrive at a definite decision as to what is to be done on the multitudinous points of principle and administration, which have never so far been dealt with." [Chamney to Colonial Secretary, April 11, 1906] The forecast was accurate; far-reaching decisions were made on the strength of it, creating a crisis and a challenge to the British Indians. Hitherto the Asiatic Office under Chamney had been concerned primarily with the issue of trading licences, while the vital matter of permits to enter the country had been administered by Captain Fowle. Now both functions had been gathered under Curtis's jurisdiction, and he was determined to demonstrate that he could resolve a problem where others had failed. From the moment of the transfer new policies were introduced on certain questions, and as soon as Chamney returned from his holiday Curtis called for a complete review of the situation.

Mr Chamney's report was entitled, "Report on the Position of Asiatics in the Transvaal (irrespective of Chinese Indentured Labour) in relation especially to their Admission and Registration," and was 31 pages long. Despite the title, there

was nothing in the report on the "position" of the Indians with respect to the chief issues which concerned Gandhiji—nothing about economic restrictions, their difficulties in dealing with arrogant and hostile officials, their harassment by new and arbitrary restrictions, their objections to locations, restrictions on their use of public transportation etc. Chamney's attitude was simply that of the policeman. He was concerned with the difficulties of law enforcement. His purpose was to point out weaknesses in the law and its administration, and to call for tighter laws and more stringent enforcement. The report was almost entirely on the problems involved in trying to identify Asiatic permit-holders. A subsidiary issue was race classification, that is, which persons should come under the definition of "Asiatic".

The need for new laws and procedures was predicated on two arguments the existence of large-scale illicit immigration, and widespread fraud. These were described with highly charged phrases. Chamney cited a report of "droves" of illegals entraining "every morning" from Lourenco Marques (now named Maputo), and while admitting this might contain "somewhat of exaggeration," he concluded "I am afraid there are at present in the Colony a large number of Asiatics without proper authorisation, some of whom have no Permits, while others—who represent the great majority of such cases—are in possession of permits illicitly obtained." [*Ibid*] Chamney did not offer statistics or estimates of numbers to indicate the size of the prohlem

The size and character of the Indian immigration was hotly debated in the Transvaal. Anti-Asiatics such as R. K. Loveday spoke of a flood of Asiatics entering, while Captain Hamilton Fowle's report, confirmed by the census figures of 1904, showed that the numbers present were similar to those before the War. An Indian observer, Dr Edward Nundy, suggested that both sides might be right:

there was no appreciable difference in the numbers, but many of those in the country at the time were not true refugees. [Edward Nundy, *op cit,* p.17] This view, of course, acknowledged Chamney's contention of widespread fraud. It may also be pointed out that since raking over the permit duty from Fowle, Chamney had an interest in showing that the former had been less than effective. But the "flood" theory was widely accepted, and Chamney made use of it.

To reinforce the picture of an Indian flood and its threat to the Colony, Chamney followed the prevalent style among British administrators pointing to adjoining areas where Indians were in considerable numbers. "If this is not done," he warned, "I have not the least doubt that the Transvaal will follow in the footsteps of Mauritius and Natal and become Indianised in conflict with the wishes of the white colonists." [Chamney to Colonial Secretary, April 11, 1906, p.23] Like others who employed this comparison, he showed no recognition that the type of Indians coming into the Transvaal and the processes by which they were introduced were completely different from those of Mauritius and Natal, where large numbers of labourers were brought under semi-slave conditions by white planters and white governments. It is only by confusing these very different situations—the 11,321 Asiatics of the Transvaal living among 2,97,277 whites, and the 100,918 Asiatics of Natal living with 97,109 whites—that a trickle of illicit Indians could be transformed into a flood which threatened white dominance and Western civilization.

The principal reason for this flood, Chamney indicated, was what he called "the enormous mass of fraud practised on the Permit Office by unscrupulous persons." [*Ibid*] Fraudulent information on the applications, and impersonating the holder of a real certificate were common, and made easy by the inadequacies of the registration process. The application form did not require all the essential

information concerning the previous history of the individual, of the names and particulars of his wife and children, and the permit when granted did not provide for the positive identification of its holder, for example. Consequently there had sprung up a systematic traffic in illicit authorizations. Unscrupulous persons, both coloured and white, found it a very lucrative trade, charging seldom less then £10 and as much as £ 30 for the service.

Among these unscrupulous persons, Chamney clearly meant to include Gandhiji, as when he wrote of the "Indian agitators, who are the most interested parties and very often do not represent faithfully the true positions of honest Asiatics". [*Ibid*] He reported to Curtis in a letter of April 9th, that the recent changes in the administration of the Permit Office caused "an immense monetary loss to certain agents in Johannesburg who have been accustomed to practise the lucrative business of procuring permits for Asiatic clients. One of the agents most affected is Mr Gandhi himself, who has, I am informed, been accustomed to pledge himself to clients that after they have paid him his fee he would guarantee the issue of permits in their favour." [Curtis to Chamney, April 9, 1906] In making this statement. Chamney was contravening what Gandhiji himself had told him in a letter in March:

> I am writing this time about matters in which ostensibly I am pecuniarily interested. I may therefore state that while I receive £2/2 for each permit work that I do, from those who choose to leave the work in my hands, I should like you to helieve that in writing this letter I am not actuated by any pecuniary motives. It is a most thankless task and seeing that it is impossible for me to carry on my office if I did not make any charge at all, after much consideration, I decided to charge £2/2/- for every permit application up to the end of it. [Transvaal Archives, Gandhiji to Chamney, March 19, 1906]

It seems unlikely that Gandhiji would “guarantee” a permit to any client in view of the uncertainties created by the Asiatic Office, but in view of his standing principle of not taking a case unless he was certain his client was telling the truth, he might have in each case given an assurance that the person had a right to the permit. To Chamney, with his unrelieved portrait of Indians as devious and unscrupulous, the statement could only mean that Gandhiji was willing to employ any means, however improper, to obtain a permit, no matter how false the application.

Chamney also maintained that most Indians did not support the “pretensions” of leaders such as Gandhiji. He reported that while in London on furlough in December, he met both the Indian former Members of Parliament, Sir Mancherjee Bhownaggree (Cons.) and Dadabhai Naoroji (Lib.). Sir Mancherjee, who was reported to be "sorry to see that Gandhi was inclining more and more towards the principles of the Indian National Congress", declared that "even the extreme party at home would not accept the principles

of social equality between the class of Indians who came to the Transvaal and the white community there", for they were "generally speaking a low class and he did not see that they were entitled to any better treatment when they emigrated than the treatment they were accustomed to in their native land." He added that he was advising Indians to leave the country if they found conditions degrading. Dadabhai, he reported, "dismissed the subject in a few words. He said the subject after all was a small one, and that the real question for Indians was India.” [Chamney to Colonial Secretary, April 11, 1906, p.24] These reported opinions hardly match the performance of these allies of Gandhiji. No doubt Chamney accurately caught the tone of Sir Mancherjee's Conservative politics in his disparagement of the

Congress, but the conversation completely evaded the real issues in the Transvaal, which he had so eloquently and fully stated in his influential letter to Lyttelton. The members of the administration in Pretoria must have relished this bit of gossip, but they were sure also to see Chamney's political message. He was indicating that if more severe restrictions were imposed, the Indians would not receive much support from London.

In his recommendations, Chamney laid out a programme which was followed almost to the letter by the Administration. He asked for new legislation which would legalise temporary permits, provide machinery for the expulsion of Indians without valid permits, allow the recall of previously issued certificates and the issue of new ones with ten finger impressions for positive identification. He also asked for legislation to provide that persons under contract, who had been inadvertently excluded by the wording of the Chinese labour act, be admitted, that all Asiatics born in the Transvaal be admitted to registration upon payment of the £3 fee, and for proper penalties to be authorised. He also asked for a clarification of the legal definition of "Asiatic", but the Government apparently had no stomach for opening up that thorny question, and it was not done.

Chamney also recommended some alterations in departmental procedures, including the addition of a travelling inspector to approve applications at points of entry, and a new and more complete application form. These were done. He also advocated stricter controls on women and minors, but these after an initial effort, were not included in the eventual legislation. Finally, he proposed a substantial increase in the budget and staff of the Asiatic Affairs Office. In a time when retrenchment was in the air in view of the transition from Crown government to responsible government, Chamney's proposals were

intended to ensure the expansion of his office and the continuation of his £1000 per year and £200 for allowances.

7

On receiving Chamney's report, Curtis discussed it with the author, Captain Fuge of the police, and a Mr Meston who happened to be in the country, and two weeks later, on May 1, issued his own 30-page report, "Position of Asiatics in the Transvaal", which he submitted with Chamney's report to the Colonial Secretary.

Stylistically distinguished, Chamney's writing was built around great generalizations, and artfully embodied a coherent argument. He lifted the question up from the realm of practicality and made it appear to be the crux of a great issue, the fulcrum on which the future of a great enterprise would turn. How apt seems Leonard Thompson's capsule portrait: "Curtis was probably not the wisest member of the Kindergarten, but he had the sort of mind which produced powerful propoganda once it is convinced that a cause is important because it becomes obsessed by it." [Thompson, *The Unification of South Africa,* p.63]

Curtis added to the drama of his presentation by repeatedly stating his distaste for the harsh measures he proposed. This served to emphasize the importance of the "tremendous reasons" which lay behind his proposals:

> "I must say without hesitation that the exclusion of Asiatics is the most odious duty which I have ever been asked to carry out. I would go even further than this and say that the duty of excluding British subjects with a certain number of favoured exception, from the British country, is the most odious duty to which a British Government could legitimately undertake. It can only be done by methods which have much more in common with Russian than with British ideas. There must be tremendous reasons to

justify in any part of the Empire such a system directed to the attainment of such objects." [Curtis, pp.2-3]

Curtis then faced the two contending parties with which all members of the administration had seen themselves contending: the Indians and the white trading class. Milner had described the government as being in "the cross-fire, to which we are exposed on this beastly subject." [Letter to Lawley, January 21, 1904] Curtis deftly disposed of both contenders and placed the subject on the high level of Milner's design for an empire of self-governing white colonies. The Indians claimed that the system of controls was motivated only by "jealousy on the part of a certain class of traders," while the opponents of the Asiatics based their objections to the Asiatics on sanitary grounds. "If these reasons were the true reasons, I contend that either or both together would be utterly inadequate as a justification for this system." [Curtis, p.3] His higher grounds were to be found in "Sir Arthur Lawley's well-known minute"; [Cd 2239, April 13, 1904] it was a matter of preserving white civilization.

In setting forth this contention, Curtis immediately depicted the Indians in two contradictory ways. First, he pointed out that the Indians, unlike the "lower races" are capable of competing with the whites in the "higher branches of work" ("trades requiring skill, wholesale and retail commerce, professional work of all kinds"). Consequently opportunities for expanding the European population would diminish, as they would be confined to "the higher duties of all those connected with the ultimate control of the Government, industries and commerce of the country." [Curtis, p.4] On the next page, however, he described the Indians differently, saying that "an additional fact which was not emphasised at the time by Sir Arthur, has also to be taken into account. I am assured by Mr Meston as well as Mr Chamney that, with very few exceptions, only the lowest

class of Indians come to South Africa, and they are a most unwarlike class." Curtis used the "unwarlike" character of the Indians to claim that "the Native population must, in the centuries to come, always be controlled by armies imported from Europe as they are in India." [*Ibid,* p.5] Here he raised the spectre of an enormous financial burden for "centuries to come". Because the Indians are of a higher class, they are a threat to white dominance, and because they are of a low class they will be a financial burden.

Untroubled by the contradiction, Curtis then raised the awful example of Mauritius "to show that the dangers foreshadowed in Sir Arthur Lawley's minute are no idle dream". [*Ibid*] Having only "under two and a half per cent" of Europeans in its population, poor Mauritius "never can be anything else than a mere dependency of some great maritime power." [*Ibid,* p.6] Further, "Natal is hastening fast on the same road...now that she has thrown the door open to permanent Asiatic settlement in her haste to grow rich..."(a fine comment from a representative of the Transvaal administration which was importing Chinese slaves to work its gold mines!)

Then follows his eloquent peroration:

> "My reason for reminding you of these facts is to enforce a contention which I would press most earnestly upon you. Do not let us encourage the continuance of a system so hateful and so arbitrary unless we make up our minds to ensure that the system will be effective. The real object we have in front of us is not to exclude Asiatics who fall below a certain low standard of morality and education but is to shut the gate against the influx of an Asiatic population altogether on the ground that if any door is left open, a stream will enter through that door which sooner or later in the indefinite

period before this country, will swamp and slowly but surely drown out the greater part of its white population." [*Ibid*, p.7]

Never was the hydraulic image of the Asiatic flood more vividly put; and it is in a context which appeals to the image of the manly administrator, defending higher civilization by means which though "hateful and...arbitrary" must be carried through resolutely and perfectly to attain the great end in view. How effectively he appealed to the pride of the administrative class!

Because of these "tremendous reasons", Curtis then recommended practically the same legislation and departmental changes that were in Chamney's report. His listing of the recommendations was dotted with reference to the undemonstrated assumptions of (a) the flood, and (b) widespread fraud. "There can be no doubt that Asiatics have swarmed across the frontier"; [*Ibid,* p.13] "The aptitude of the low class of Asiatics with whom we have to deal for trickery and fraud is such that a single loophole upsets the whole system:;" [*Ibid,* p.15] "We are dealing wtth a race to whom bribery is second nature;" [*Ibid*, p.17] "I have no doubt whatever that the Asiatic population has greatly increased in the last three years and that a large number of Asiatics in the country have fraudulently evaded the provisions of the Peace Preservation Ordinance;" [*Ibid,* p.18] "ln fraudulent cases, and they are the vast majority, these permits are made out by agents who drive a lucrative trade in the Transvaal." [*Ibid*, p.21]

Unlike Chamney, Curtis affirmed that there would be many advantages to the Indians deriving from his proposals. In the absence of positive identification in the registration, "the measures which will have to be used to guard against the fraudulent Asiatic will occasion the maximum of hardship to the Asiatic who really has a right to be in the country". [*Ibid,* p.14] Also the Chinese Labour Importation Ordinance, in its provisions against indentured labour, "unwillingly deprived

certain Indians of the statutory rights conferred on them by the Peace Preservation Ordinance". [*Ibid,* p.15] "I would submit that this poll-tax of £3 per head on a certain class of immigrants, most of whom are British subjects is a most vexatious and indefensible exaction and ought to be abolished forthwith," [*Ibid,* p.16] he declared. "We must do everything in your power to mitigate the inconvenience to which Asiatics who are entitled by law to live in the country are at present subjected, [*Ibid,* p.17] he declared, adding that "if everything is in order the annoyance will be reduced to a minimum. Thus if an Indian has the right to live in the country and keeps his permit he will merely have to show it and put his thumbmark in the policeman's book once a year. This will be the only administrative inconvenience to which he will be subjected." [*Ibid,* p.20] It would make it easier to travel out of the country and to replace lost permits. [*Ibid,* p.21] By locating an immigration officer at the coast, it would be easier for an old resident to return to the Transvaal. [*Ibid,* p.24] By taking an Indian's word as to the number, names and sexes and ages of family members he has left in India, "we must be prepared in fact to admit a certain number of children on false pretence," he admitted, but added, "this is the only means by which we can restrict it without causing cruel hardship in genuine cases." [*Ibid,* p.26] Temporary permits (with sanctions against overstaying the time) ought to be granted, and "I must urge most strongly that for the sake of the Asiatics this state of affairs must be put to an end to as quickly as possible." [*Ibid,* p.27] Asiatics admitted by the Government but actually in violation of the Labour Importation Ordinance, "exposing themselves, their employers, and also the Permit Officers who granted them the permits, to heavy penalties" [*Ibid,* p.21] ought to have their status legalised. Thus he summed up.

"To the Secretary of State and to the Asiatics, the government could say that the present law inflicts intolerable hardship and a most unjust tax on a large section of British subjects resident or entitled to reside in the country." [*Ibid,* p.26]

Asserting that "these changes...do not touch a single question of policy", and "are merely required to give effect to the policy prescribed at present and to give effect to it without imposing undue hardship on the Asiatics who have acquired a legal right to live and trade in this country," [*Ibid,* p.28] he minimised the element of newness in his proposals, at the same time cloaking them in a mantle of solicitude for the Asiatic. In an acme of hypocrisy, he began his final paragraph with the declaration, "I greatly regret that I must recommend such legislation.... " [*Ibid,* p.30]

After reviewing the reports, Lord Selborne returned them on May 12 to Sir Richard Solomon, with the comment that, "Curtis' paper is as usual admirable", but stating that he proposed to let the matter stand over until responsible government was eslablished. He would propose no new legislation to the next session of the Legislative Council. However, the previous day Lord Elgin, the Colonial Secretary, had sent a telegram inquiring about the effects of the Aboobaker Amod decision, of which he had read in *Indian Opinion.* Would the governor consider legislation to amend the law to permit Indians to acquire business property, provided they were entitled to reside outside locations? [Cd. 3308, No.1, Secretary of State to Governor, May 11, 1906] Ten days later the Governor responded that while white sentiment would regard a general revision of land tenure restrictions on Asiatics as "a breach of faith", the disability on Amod's heirs and successors was not intended "and should be rectified at once by legislation which would also correct several other defects in the law, mostly unintentional," which bore hardly on the Asiatics and prevented the Government from keeping its

pledges. [Cd. 3308, No.2, Governor to Secretary of State, May 21, 1906. With his letter of the same date he enclosed two draft ordinances which embodied the proposals of Curtis and Chamney. See Appendix A]

CHAPTER XX : THE ZULU REBELLION

1

While Gandhiji was occupied with the struggle in the Transvaal, events in Natal which at first seemed to have no connection with the Indians suddenly drew him in, to alter his life and set it moving in unanticipated directions.

Natal, with a population of 97,109 Europeans, 100,918 Indians, and 6,686 Coloured, had also 904,041 Africans, chiefly of the Zulu people. The Zulus were the most formidable nation among the Africans, and had fiercely contested the European conquest, inflicting severe defeats on the Dutch in 1838 and on the English in 1879. Part of their land was taken to form Natal but the larger part remained after 1886 as the Crown Colony of Zululand. When new townships were established in the Crown Colony, Indians were among the first settlers and land purchasers, but soon they were subjected to restrictions even more severe than in Natal. The Natal Indian Congress raised the issue in London and obtained relief (see *The Early Phase,* pages 539-542). In 1897 Zululand was incorporated into Natal, through fraud, though there remained many differences between the new land and Natal proper.

Gandhiji saw the Zulus as "the tallest and most handsome" of the Africans. "The Creator did not spare Himself in fashioning the Zulu to perfection," he wrote. "Men and women are both tall and broad-chested in proportion to their height. Their muscles are strong and well set. The calves of the legs and the arms are muscular and always well rounded. You will rarely find a man or woman walking with a stoop or with a hunch back....If we ask a Zulu to which of the various races inhabiting South Africa he will award the palm of beauty, he will

unhesitatingly decide in favour of his own people, and in this I would not see any want of judgment on his part." [M. K. Gandhi, *Satyagraha in South Africa,* p.8]

The Native policy of Natal was the creation of Sir Theophilus Shepstone, who as "Diplomatic Agent to the Native Tribes" kept them under native law in so far as it was not repugnant to the dictates of humanity—a law administered by their own chiefs assisted by European "Native Magistrates", with an appeal to the "Great Chief", *viz.,* the Lieutenant-Governor and his Executive Council. The administration of native law by Europeans marked a revolution in South African native policy, and the combination of judicial and executive functions in the hands of the Diplomatic Agent led the natives, more than ever, to look to Shepstone as the eyes and ears and mouth of the Great Chief. [Walker, *op cit.* p.274] Later on, an agitation against this scheme was made by those interested in land and labour. Shepstone's system nevertheless remained, but "Native Magistrates" were changed into "Assistant Magistrates" and the "Diplomatic Agent" into the "Secretary for Natives". [*Ibid,* p.275]

The Native policy in Natal, to begin with, was tolerably benevolent and efficient. Enough land had been set aside for the exclusive use of the Africans to enable them to continue to practise their traditional economy, and with it, to preserve many of the essentials of their tribal culture. Shepstone had taken pains to gain and deepen the confidence of the Chiefs, on whose cooperation the system depended for its success. After his retirement from the Secretaryship for Native Affairs in 1876, and more particularly after Natal acquired responsible government in 1893, the system degenerated into a despotism that was neither benevolent nor efficient. Increase in the African population led to an acute shortage of land and the officials lost contact with the chiefs. The Africans therefore experienced real hardships and had no constitutional means of redress.

Over half of those south of the Tugela lived not in the reserves but on land they leased from white owners; their rents were high in relation to the wages which they could earn, so that many of them fell into debt to white money-lenders. The rate of interest they were charged on such loans was normally about 60 per cent. per annum and often higher. [Thompson, pp.43-44]

While the natives were thus actually undergoing hardships, most of the Natal witnesses who appeared before the South African Native Affairs Commission of 1903-05 had no compunction in contending that their system of native administration was by far the best in South Africa. [Walker, *op cit.* p.507] "We rather congratulate ourselves", said F. R. Moor, the Secretary of Native Affairs, "'that our Natives are the best mannered and the best-behaved and the most law-abiding people that we have got in South Africa."

As the post-war depression deepened, however, a clamour arose for an increase in the direct African contribution to the revenue, and in 1905 Parliament imposed a poll-tax, at the rate of £1 a head, on every man in the colony except indentured Indians, and the married Africans who already paid a hut-tax. In the brief debates on the Poll-Tax Bill, nobody ventured to suggest that it would lead to trouble. [Thompson, p.42] In fact the tax, considering the economic condition of the natives owing to their debt etc., came as the last straw to many of the Africans, in much the same way as the poll tax levied by the English Parliament over 500 years earlier had been regarded by English peasants, who were experiencing the strain of the transition to a money economy. One of the Chiefs, Bambata for example, was a tenant who was in debt and harassed by his creditors. How could he hope to re-establish himself if his young men—his natural wage-earners—were to pay an extra tax?" £1 was no small tax for Africans; it was estimated that an African working full time for a European might

earn £18 in a year, and that excluding migrant workers the average per capita income of Natal Africans was under £4. [Shula Marks, *Reluctant Rebellion: The 1906-8 Disturbance in Natal,* Oxford, 1970, p. 137]

The Africans of Zulu land were not so hard-pressed, because nearly all of them still lived on their own land, but they had also been alarmed by a recent decision of the Government to open up a part of their country to white settlement. Among the Africans within Natal proper there was a widespread feeling of dissatisfaction bordering on despair, and one of them was speaking for many when he told the Commission, "If we Natives could only have feathers, we would put on our wings and fly to another country." [Thompson, p.44]

Taxation of the Africans had purposes more far-reaching than revenue alone. It was also, as everyone recognized, imposed to change their way of life or, in the language of the day, to "civilise them by forcing them to enter the labour market to obtain the requisite cash to meet the tax bill. Gandhiji saw the process clearly:

> In order to increase the Negro's wants or to teach him the value of labour, a poll-tax and a hut tax have been imposed on him. If these imposts were not levied, this race of agriculturists living on their farms would not enter mines hundreds of feet deep in order to extract gold or diamonds, and if their labour were not available for the mines, gold as well as diamonds would remain in the bowels of the earth. Likewise, the Europeans would find it difficult to get any servants, if no such tax was imposed. [M. K. Gandhi, *Satyagraha in South Africa,* p.12]

Early in 1906, when the Magistrates began to collect the tax from the Africans, they met with a hostile reception. On February 7, the Umgeni Magistrate was defied and the next day a small force of mounted police which

had been sent to support him was attacked about 20 miles South West of Pietermaritzburg and two of the police were killed. Complacency then gave way to something approaching panic. [Thompson, p.43]

Natal still looked to Great Britain as the final guarantee of her internal security, and though under the Natal constitution and his royal instructions the Governor was entitled to act independently of his ministers in the field of native affairs, Sir Henry McCallum did nothing of the sort. [*Ibid,* p.45] So when Natal authorities called for force to repress the uprising, he concurred. Martial Law was proclaimed, the militia was mobilized and sweeps were made through the Southern districts to overawe the tribes. Colonel Duncan McKenzie, a Natal farmer with forceful views on governing the natives through fear, was put in charge of the operations. As one who had long predicted an African uprising, he now welcomed it as an opportunity to inflict drastic punishment on natives who failed to show proper respect for the white man. [Shula Marks, *op cit.* p.189] His troops, accompanied by African constabulary, soon captured 26 Africans who were believed to have taken part in the killings on February 8. Two were given a field court martial and immediately shot, and the rest tried by a regular court martial in March, which sentenced twelve of them to death. [Thompson, p.46] McKenzie then made his way from chief to chief, demanding the surrender of weapons and of their "rebellious" subjects, and enforcing compliance with the tax. His demands were enforced with the confiscation of cattle and the burning of crops and homes. [Shula Marks, *op cit.* p.193] Meanwhile militia units were operating in the same fashion in other parts of the Colony, especially in the heavily populated Mapumulo district, on the north coast adjoining the Tugela River.

News of the harsh repression by the militia reached the shores of Great Britain. British Liberals, who had denounced the excesses committed under

martial law by the Imperial forces during the Boer War, were not disposed to ignore the reports about the Natal militia committing similar excesses against the Africans. Moreover, Natal was receiving a very bad press in Britain. All these resulted in the British Government clashing with the Natal Government. [Thompson, p.46]

By the time the Secretary of State for the Colonies received information about the shooting from Natal, a question had been raised in the House of Commons. Lord Elgin ordered the Governor to suspend the executions until he had received further information, but Smythe, the Prime Minister of Natal, refused. Governor McCallum, then fell back on his prerogative powers and himself ordered the suspension, whereupon all the Natal ministers tendered their resignations on the ground that the Secretary of State had interfered with the decision of the Executive Council of a self-governing colony. They, however, consented to remain in office until a further communication was received from Whitehall. Elgin gave way before this threat and assured Natal that he had no intention of interfering with the action of its responsible Government. The ministers then withdrew their resignations and the executions were carried out on April 2, 1906. [*Ibid*] Natal thus won the round.

By the end of March all seemed quiet, but a few days later, still more startling events occurred further north. Bambata, a minor Chief of the Greytown district, had been deposed and another installed in his place. Seizing the opportunity, Bambata kidnapped the chief who had taken his place, ambushed a police force and withdrew across the Tugela River into Zululand, where he hid in the rugged Nkandhla Forest. Several thousand Africans rallied to his side. The police party on his trail included some who had shot the twelve. Bambata and his men encircled them on April 4 and killed four. The dead included those who had

been the executioners, and Gandhiji commenred, "Such is the law of God. The executioners met their death within two days". [*Indian Opinion,* April 14, 1906; C.W.M.G. Vol.V, p.281]

The killing of more whites, followed by Bambata's retreat into Zululand, aroused great excitement in Natal. It was feared that the Zulu fighters he assembled would attack white settlements, and that his actions were being directed by Dinuzulu, the son of the last Zulu king; neither of these assumptions were true. As the month progressed, European volunteers from all over South Africa flocked to Natal. On April 24 a great public rally to aid in the suppression of the revolt was called by Mayor Quinn in Johannesburg, and the Transvaal Mounted Rifles were sent in aid.

During May the augmented Natal forces closed a ring around Bambata, and on June 10 he was killed along with hundreds of his followers in battle. Once more the rebellion seemed over, but on the north coast, in the Mapumulo district, a store at Thring's Post was attacked on June 18; three whites were killed and a troop of militia was attacked. All available troops were then concentrated in that region. Col. McKenzie was put in charge and established his headquarters at Thring's Post. The aroused Africans were in three separate groups, and in a series of swift actions in July McKenzie destroyed or scattered them all, killing or capturing their chiefs, and causing heavy casualties. The major fighting was done by July 12; all troops were demobilized by the 30th, and martial law was lifted on September 2.

Twenty four European soldiers or police had been killed (six of these not by enemy action), and half a dozen civilians, along with six of the African levies. Among the rebels, some three to four thousand were killed and over 7,000 jailed. About 4,700 sentences inflicting lashes were carried out. [Shula Marks, *op cit.*p.237] Thus

concluded the last armed struggle of the Zulu people in the era of conquest over them.

2

In the early stages of the uprising, Gandhiji instructed Chhaganlal to study the subject well, and write on it when necessary for *Indian Opinion.* "I do not pay any attention to it," he wrote from Johannesburg, where he was in the midst of his struggles over licences, permits, locations, and transportation. Chhaganlal, living among the Zulus at Phoenix, was clearly very much concerned about the matter, and in March Gandhiji had to advise him not to give the rebellion article prominence on the front page, but to place it back in the news section. [Gandhiji to Chhaganlal, March 4, 1906; C.W.M.G. Vol.V, p.214]

Long before the Zulu crisis developed, Gandhiji had advocated military service by Indians as a part of their responsibilities of citizenship in the colony. In November 1905 a Mr Thorold, speaking at a political meeting in New Castle, complained that it would be unfair "to allow the Arabs to sit in their stores and to do business while the Europeans were fighting at the front.'' [C.W.M.G. Vol.V, p.134] Gandhiji agreeing with this view, pointed out in *Indian Opinion* that the laws of the Colony already provided for the arming of Indian troops, and he said, "We believe a very fine volunteer corps could be formed from Colonial-born Indians that would be second to none in Natal for smartness and efficiency, not only in peace but in actual service also." [*Indian Opinion,* November 18, 1905; C.W.M.G. Vol.V. p.134] His article being taken up by the *Natal Witness,* a lively correspondence ensued. After the outbreak of the rebellion, the ruling white minority of Natal turned anxiously to the question of military security, and the question of using Indians in the militia was again raised. Many Europeans opposed it, including the Minister of Defence, Mr Watt, who declared, "I am pleased to say that the militia is composed entirely

of Europeans. I should be very sorry indeed if I should have to depend for the defence of myself and my family on Arabs". [C.W.M.G. Vol.V, p.251]

The *Natal Advertiser,* which took active interest in the Indian community during the Boer War, supported the idea of enlisting the Indians for service in the militia. It said, "Whilst every male European above 18 years of age is being summoned to parade, the adult males of the Indian population, which is some 70,000 over and above that of the Europeans, have not yet been recognised as possible defenders of their adopted home...The free Indian should certainly share the white man's burden and responsibility in this important matter of internal protection, having special regard to the fact that the taxation which defence entails falls more heavily upon the paramount races. That the Indians themselves share this view...is clear from the letters we have received from several of them, whilst their organ, the *Indian Opinion,* is very emphatic that the Natal Government ought to call upon them to take part in the defence of Natal to the best of their ability, and in whatever department they are best suited to aid". [*Indian Opinion,* March 31, 1906] The paper referred to the discussion of the matter in the Assembly and the passing of the Militia Act which gave necessary powers to the Governor to enrol loyal natives and coloured people including Indians for service in times of stress such as war, invasion, insurrection, etc.

Gandhiji welcomed the attitude of the *Natal Advertiser,* and added. "We despair of having either common sense or justice at the hands of a Minister, who so far forgets himself as to offer an unwarranted insult to a whole class of inoffensive people.'' [C.W.M.G. Vol.V, p.252]

As the month of March passed, the pages of *Indian Opinion* began to reveal that the Indians too were enmeshed in the situation. Writing to advise them of a new schedule of fees for passes and certificates in Natal, Gandhiji observed that

the impoverished Colony was making desperate efforts to collect money from all possible sources, imposing new taxes on Indians and Africans alike. "The Natal Government has no right at all to levy such a tax," he declared. [*Indian Opinion,* March 10, 1906; C.W.M.G. Vol.V, p.229] He urged the Congress to take up the matter, noting that a similar proposal made by the late Harry Escombe had been withdrawn as the result of a strong Congress representation (see *The Early Phase,* p.514)

The following week, Gandhiji made his first direct appeal for Indian service in the rebellion. "The Natal Native trouble is dragging on a slow existence," he observed, and identified the causes as he saw them. "There can be no doubt that the imposition of the poll-tax is itself the immediate cause, though probably the trouble has been brewing for a long time." [*Indian Opinion,* March 17, 1906; C.W.M.G. Vol.V, p.233] Urging the Government to utilize the services of Indians he said, "There is...work in the field which does not require the bearing of arms, but which is just as useful and quite as honourable as the shouldering of a rifle. If the Government, instead of neglecting Indians, were to employ them for volunteering work, they would add appreciably to the utility of the militia." [C.W.M.G. Vol.V, p.252]

April opened with fresh bloodshed. The twelve Africans were executed on the 2nd, and the four executioners were killed by Bambata on the 4th. Gandhiji, writing before Bambata's retaliation, observed that the victory of the Natal Government over the Colonial Office would strengthen the position of the Colony. "The cause of self-government has triumphed; but the British Empire has received a set-back," he observed. [*Indian Opinion,* April 7, 1906; C.W.M.G. Vol.V, p.266] This could have serious repercussions for the Indians, since the Empire was ever their hope of defence against the excesses of the white settler colonies. He saw that increased power for the self-governing colonies could present hard choices for the Indians, and he advised his readers.

> What is the outcome of all this? That some Kaffirs were killed will soon be forgotten. We cannot say for certain whether or not they have received justice. But wherever self-government has been granted, a people become over-weening. They will take undue liberties, and the Imperial Government will hesitate to intervene. It will seldom do so, for, as the saying goes, a man once bitten by a serpent dreads even a length of rope. It is only the Coloured people who stand to lose by this. They have no vote. Where they have it, they cannot use it effectively, so that the Colonial authority will place further restrictions on them, and they alone will get justice who ingratiate themselves with it. Great changes are likely to take place in South Africa during the coming years. The Indians and other Coloured people have much to ponder and they must act with circumspection. [*Indian Opinion,* April 7, 1906. It is interesting that in this Gujarati account of the executions, he used the Indian expression "blown up at the mouth of a cannon", recalling the executions of the Indian Mutiny in 1857. C.W.M.G. Vol.V, p.267]

The following week he observed, "though twelve Kaffirs were put to death, the rebellion, instead of being quelled, has gathered strength." [*Indian Opinion,* April 14, 1906; C.W.M.G. Vol.V, p.281]. Asking the question, "What is our duty during these calamitous times in the colony?" Gandhiji himself answered. "It is not for us to say whether the revolt of the Kaffirs is justified or not. We are in Natal by virtue of British power. Our very existence depends upon it. It is therefore our duty to render whatever help we can." [*Ibid,* p.282]

A practical man as he was, Gandhiji pointed out to the Indian community that it was not possible for the Home Government to help them redress their grievances. For the case of the twelve Kaffirs showed them that "whatever justice we may seek is to be had ultimately from the local Government. The first step in trying to get it is to do our own duty. The common people in this country keep

themselves in readiness for war. We too should contribute our share." [*Ibid*] The implication of the argument was too clear.

The situation having taken a serious turn, a meeting of British Indians in Durban was held at a few hours' notice on 24th April 1906, at the Congress Hall in Grey Street, under the auspices of the Natal Indian Congress, in order to consider the advisability of making an offer of help to the Government in connection with the revolt of Bambata. The Congress Hall was packed and many who could not gain admittance had to stand in the balcony of the hall. There were nearly 250 Indians present.

Mr Dawad Mahomed, who occupied the chair, opened the proceedings precisely at 8.45 P.M. Mr M. C. Anglia explained the object of the meeting and Mr Omar Haji Amod Johari read the minutes of the previous meeting. Mr Adamji Mian Khan briefly narrated the genesis of the movement.

Gandhiji then referred to the part the Indians had played during the Boer War. He satd that the meeting was not concerned with the general question of Indian volunteering. He thought that the Government were neglecting a plain duty to the Colony in not utilising the defensive force they had at their disposal in the Indian community. [*Indian Opinion,* April 28, 1906; C.W.M.G. Vol.V, p.291] After criticising Mr Watt's statement, he concluded that the Indians had to consider whether they should, at that moment of crisis, offer to the Government their assistance, however humble it might be. It was true they were labouring under disabilities and were irritated. Opinions too might differ as to the cause of the native revolt. But it was their duty not to be prejudiced by any such thoughts. If they claimed rights of citizenship, they were bound to take their natural share in the responsibilities that such rights carried wirh them. It was therefore their duty to assist in averting the danger that threatened the Colony, he argued.

The following resolution moved by Advocate Gabriel, seconded by Mr Ismail Gora and supported by Mr Abdulla Haji Adam, was unanimously passed:

> This meeting of British Indians, assembled under the auspices of the Natal Indian Congress, hereby authorises the chairman to send an offer to the Government in connection wirh the native rising, of the same nature as during the Boer War. [*Ibid*]

Dawad Mahomed sent the resolution to the Government, [*Ibid,* p.292] and Gandhiji wrote, " It was right and proper of the Indian community to have gone to the help of the Government at such a time. Had they not made the offer, a slur would have been put on our good name for ever". [*Ibid,* p.297]

Within a few days, a rumour of a revolt in Swaziland was afoot; so the Government of Natal ordered huge quantities of ammunition. This meant that the rebellion might last for many more days. All the colonies and even England were reported to have come forward to help the Natal Government. Gandhiji once more urged the Indian community not to lag behind others in rendering their help to the Government.

On June 2, Gandhiji also appealed to the Indian community to collect money and send it to the Government or to some fund that might be started to provide the men at the front with the requisite amenities. [*Indian Opinion,* May 12, 1906; C.W.M.G. Vol.V, p.347]

Of the many slanderous statements made against the Indian community in this connection, there was one by a correspondent saying that the offer had been made to the Government to gain something which was not made apparent at the time of meeting of the Congress. Gandhiji gave a filling reply to this and said, "If it is intended to convey the impression that Indians by serving during war-time,

hope to obtain a redress of their wrongs, the statement is true, and no Indian should be ashamed of such a motive. What can be better and more praiseworthy than that Indians, by standing shoulder to shoulder with their fellow-colonists in the present trouble, should show that they are not unworthy of the ordinary rights of citizenship, which they have been claiming all these years? But it is equally true also that the offer has been made unconditionally as a matter of simple duty, and irrespective of whether there is any redress of the grievances granted or not. We therefore consider it to be the special aim of every colonist to support the Indian community in the offer it had made, and thereby to show prudence and foresight, for it cannot be seriously argued that there is any wisdom or statesmanship in blindly refusing to make use of, for purposes of war, one hundred thousand Indians who are perfectly loyal and who are capable of good training." [*Ibid,* pp.311-12]

3

The Government of Natal decided to requisition the services of the Indians who had offered themselves to serve in the militia. A letter was accordingly sent by Mr H. A. Hime, Assistant Under-Secretary on May 31 to the Joint Honorary Secretaries of the Natal Indian Congress appreciating the Indian offer and stating that the Government proposed to authorise the enrolling of twenty men, to begin with, as Indian stretcher-bearers on a pay of 1s 6d a day with rations, equipment and uniforms free of charge. The letter added that if the experiment worked satisfactorily, the strength of the Corps would in all possibility be increased to about two hundred. [*Indian Opinion,* June 9, 1906] The Joint Secretaries were directed to communicate with the Principal Medical Officer, Natal Militia, for further necessary arrangements.

Gandhiji, somewhat surprised by the prompt acceptance, immediately closed up his Johannesburg house and he moved his family and the Polaks to Phoenix. [M. K. Gandhi, *The Story of My Experiments with Truth,* p.313]

The Joint Secretaries replied that they would raise and despatch the twenty men required and the Indian community would pay them a salary of £1 per week per head, as it would not be possible to raise the Corps for anything less than that amount. [C.W.M.G. Vol.V, p.349] The Principal Medical Officer, acknowledging the letter, reiterated that the expenses of the Government, so far as pay was concerned, would be limited to 1s 6d per diem. [*Indian Opinion,* June 9, 1906] Later it was agreed that the Government would provide uniforms and rations, while the Congress would provide the salaries. [C.W.M.G. Vol.V, p.368]

This acceptance by the Government synchronised with the amendment of the Fire-arms Act which provided for the supply of arms to Indians and a statement to the effect that the Government intended to give Indians an opportunity of taking their share in the defence of the Colony. [*Ibid,* p.353] This made Gandhiji jubilant and he wrote "Indians have now a splendid opportunity for showing that they are capable of appreciating the duties of citizenship." [*Ibid*] A very favourable impression was also created in the minds of prominent white people, some of whom felt that the Indians have real, innate ability for such work and advised the Indian leaders to ask for a permanent place for their community in the volunteer corps. [*Ibid,* p.362]

In addition to taking up the responsibilities of citizens, Gandhiji saw many benefits in military service (see *The Discovery,* pp.295-298). He advised his readers that since wars in South Africa were infrequent there would be little danger, and the training would be healthy. The training encampment "can be looked upon as a kind of annual picnic," he said. "The person joining it gets

enough exercise and thus keeps his body in good trim and improves his health. One who enlists as a volunteer is much respected. People love him and praise him calling him a civilian soldier." [*Ibid*] Further, he argued that military training teaches men how to take care of themselves and lead regular lives:

> A man going to the battle front has to train himself to endure severe hardships. He is obliged to cultivate the habit of living in comradeship with large numbers of men. He easily learns to make do with simple food. He is required to keep regular hours. He forms the habit of obeying his superior's orders promptly and without argument. He also learns to discipline the movement of his limbs. And he has also to learn how to live in limited space according to the maxims of health. Instances are known of unruly and wayward men who went to the front and returned reformed and able fully to control both their body and mind. [*Ibid,* p.366]

Addressing himself to the merchants, Gandhiji pointed out that the volunteer corps should not be filled, as had been the ambulance services on both occasions, with poor labourers. "It is the duty of the trading community to take part in the movement themselves," he declared. [*Indian Opinion,* June 23, 1906; C.W.M.G. Vol.V, p.362]

For the moment, however, his eyes were fixed on the acceptance of the Indian offer by the Government. Lest somebody should be over-jubilant at this opportunity, Gandhiji warned, "The fact of the Corps being raised is nothing to be unduly proud of. Twenty Indians, or even two hundred, going to the front is a flea-bite. The Indian sacrifice will rightly be considered infinitesimal. But it is the principle involved which marks the importance of the event. The Government have, by accepting the offer, shown their good will. And if Indians come successfully through the ordeal, the possibilities for the future are very great.

Should they be assigned a permanent part in the militia, there will remain no ground for the European complaint that Europeans alone have to bear the brunt of colonial defence, and Indians will cease to feel that in not being allowed to participate in it, they are slighted." [C.W.M.G. Vol.V, p.353. Not all the friends of India agreed with Gandhiji's assessment of the Indians' duty. Radical nationalists elsewhere rebuked him. In New York, the *Gaelic American* called his volunteering "contemptible beyond expression", and in London the *Indian Sociologist* found it "disgusting" See *The Indian Sociologist,* July 1906]

4

> We the undersigned solemnly and sincerely declare that we will be faithful and bear true allegiance to His Majesty, King Edward the Seventh. His heirs and successors, and that we will faithfully serve in the supernumerary list of the Active Militia Force of the Colony of Nata! as Stretcher-bearers, until we shall lawfully cease to be members thereof, and the terms of the service are that we should each receive ration, uniform, equipment and 1s 6d per day. [*Indian Opinion,* June 16, 1906]

With this oath of allegiance the twenty members of the Indian Stretcher-Bearer Corps commenced their service under the command of Sergeant-Major M. K. Gandhi. He was assisted by Sergeants Umiashankar N. Shelat, Harishankar I. Joshi, and Surendra B. Medh, and by Corporal Prabhu Hari. The corps included 14 Hindus and 6 Muslims; 12 from the Madras Presidency, 5 from Gujarat, 2 from the Panjab and 1 from Calcutta. Three were clerks, two engine-drivers, one barrister, one goldsmith, and the rest were former indentured labourers.

The Corps began drilling about the middle of June under Captain Dray, leader of the Patrol of Ward IV in Durban. Messrs Mian Khan and Co. had placed their large hall in Pine Street at their disposal. Mrs Nanji, assisted by Bernard Gabriel, provided the Corps with Red-Cross arm badges.

When violence broke out in the Mapumulo district on June 19, it signalled the opening of the third and most bloody phase of the uprising. The Government quickly sent all possible forces to the region. Among these were the Indian Corps.

On June 20 their uniforms arrived, and on the 21st they received orders to move the following day. That same day the Indian merchants and other prominent Indian leaders met at Mr Omar Haji Amod Johari's house and then and there opened a fund. Mr Dawad Mahomcd presiding. About £20 besides a bag of flour and 20 plates were collected. From the fund men were provided with over-coats, socks, night-caps, plates, spoons, knives and jugs. Indian fruiterers undertook to send fruits free of cost and Mr Odhav Kanji gave the first supply. Messrs S. P. Mahomed & Co. provided the men with tobacco and cigarettes.

On Friday, June 22, the Corps left Durban by train for Stanger, 45 miles north. On arrival they were greeted by Mr M. B. Sidat. Mr Gokalbhai, Mr Mani, and other local businessmen, who treated them to a lunch of *doodhpak-puri.* They reported to Lt.-Col. W. Arnott, commanding the squadrons of the Border Mounted Rifles, who were proceeding up-country to Otimati the next day. One matter that required immediate settlement was the policy on rations. Apparently the Indians had been allocated a smaller ration than the Europeans, but when Gandhiji raised the objection that the men were volunteers and mostly unable to use the meat ration for religious reasons, they were given the full ration plus rice and dal. There being no medical officer attached to the column, the Corps was authorized to issue a small quantity of medical supplies for immediate use by the troopers, some of whom were suffering from slight injuries or malaria. Thus their medical service began at once.

The first night out was spent in laager, the South African type of defensive camp, which Gandhiji described: "They arrange themselves in strategic positions

to defend themselves. On one side, they arrange carts. Then they have cavalry on the one hand and artillery on the other. At the centre are the tents of the officers. Unarmed personnel also steep in that portion. This being the arrangement, the Indian Corps found a place to sleep in the middle of the laager."

[Chhaganlal Gandhi's *Story of the Indian Stretcher-Bearer Corps.in the Zulu Rebellion, 1906,* page 1. This Gujarati manuscript is written in the first person, and in many parts is identical to the English report in *Indian Opinion.* See C.W.M.G. Vol. V, 368ff. Since Chhaganlal did not accompany the Corps, it is probably derived chiefly from Gandhiji's letters]

June being the first month of winter in South Africa, the nights were chilly, and for some of the corps it was the first experience of sleeping in the open air. The single blanket issued by the Government was not enough protection from the cold, so the overcoats provided by the comforts fund established by the Indian community were very welcome. From this laager, Gandhiji wrote to his friend G. K. Gokhale, then in London, to report his military service and urge him to visit South Africa on his return voyage to India. [Gandhiji to Gokhale, June 22, 1906; C.W.M.G. Vol.V, p.360]

Saturday morning the column began its march into the hills. Each Corpsman carried his own kit, including a water-can. a flask, a satchel and his bedding. The stretchers were loaded on the wagons. It was a heavy load for new troops. After about eight miles and a climb of 1000 feet they reached Kearsney, where Sir James Hulett's orange groves were thrown open to the troops. The corpsmen stuffed as many as they could in their pockets, and camped soon after. Normally three kitchens were set up. Eight Hindu Madrassis cooked rice and *dal* in one. Madrassi Muslims had a second kitchen where they cooked rice and *dal* in their own way. The third kitchen was shared by the Punjabi Muslims and Gujarati Hindus, who prepared *rotis* and cooked *dal* and vegetables. In the morning they all shared a common meal of mealie-meal (corn meal) with butter

and sugar. Lunch was prepared in the three kitchens, and the evening meal generally was *roti,* paneer (cheese) and coffee. The dried fruits sent by the Indian merchants supplemented the diet. At Kearsney they also met Mr Narayan Desai, who had a store in the area and looked after their needs.

Sunday morning the march resumed. The corpsmen were now allowed to put their kit into the wagons, to their great relief. Late in the morning they reached Thring's Post, where the store had been looted by rebels. Chhaganlal Gandhi reported, "The whites as well as our own men looted the place again. As the store was unattended the whites picked up whatever they wanted. Some of us also followed suit and picked up handkerchiefs, cigarettes, caps, etc." [Chhaganlal Gandhi's *Story, op cit.* p.4] In the afternoon they reached the Otimati River crossing, where Col. Arnott established a fortified laager, strengthened with barbed-wire entanglements, as he was now only a few miles from the rebel chiefs. [J. Stuart. *A History of the Zulu Rebellion,* London, 1913, p.354] Gandhiji described the place as "a hill in a beautiful valley." [C.W.M.G. Vol.V, p.369] The stream sparkled, but in the distance could be seen the native huts, many of them burned.

At mid-day on Monday, as the Corpsmen were cooking their meal, orders came to leave immediately with a column proceeding further up in the hills to Mapumulo. They had to throw their food away and be ready to march in about a quarter of an hour. After a strenuous march up and down hills, they reached the camp in the late afternoon, where they were assigned to Captain Howden, a physician from Durban who was in charge of the dispensary. He warmly greeteu the Corps, and since the nights were cold he arranged for them to sleep in tents. However some white troops had been using the Medical tent and refused to vacate it for the Indians. The Indians had a friend in Corporal Little, Captain Howden's assistant, and at last he succeeded in evicting the soldiers. Thereafter,

as long as they were in Mapumulo, they slept under shelter, with the exception of Gandhiji, who chose to sleep out in the open whenever there was no rain. [Chhaganlal Gandhi's *Story, op cit.* p.6]

The commander of the camp at Mapumulo was Colonel Harry Sparks, a Durban butcher who had been a leader of the demonstration against Gandhiji in Durban in January 1897, in which he had nearly been killed (see *The Discovery,* p.23 ff.). Now he said he bore no grudge against Gandhiji, gave him a warm welcome, and expressed his opinion that the Indians had done a good thing by forming the Corps. [*Ibid,* p.5]

Beginning Tuesday, the 26th of June, the Indian Corps was assigned a variety of duties in and around the Mapumulo camp. Some filled the water wagon, others sprayed disinfectant throughout the camp, and others prepared the patients' charts for the doctor. Dr Savage, the District Surgeon, asked them to give treatment to captured rebels who had been punished by flogging, since he was unable to induce Europeans to nurse them. Some of the wounds had not been attended to for as many as five or six days and were stinking. The Indians cleansed the wounds and applied bandages. "The Zulus could not talk to us, but from their gestures and the expression of their eyes they seemed to feel as if God had sent us for their succour," Gandhiji said. [M. K. Gandhi, *Satyagraha in South Africa,* p.98] Yet as they worked the Indians were harassed: "The white soldiers used to peep through the railings that separated us from them and tried to dissuade us from attending to the wounds. And as we would not heed them, they became enraged and poured unspeakable abuse on the Zulus." [M. K. Gandhi. *The Story of My Experiments with Truth,* p.314] On two or three occasions, calls came from Otimati or Thring's Post for stretcher-bearers to carry injured soldiers.

The work at Mapumulo continued for about a week, as troops from all over the Colony assembled to deliver a crushing blow to the rebels in the district. The Zulu chiefs, too, were gathering their forces; during the final week in June there was a mass exodus of Zulu workers from Durban. More than a thousand dockers, about 500 domestic workers, as well as rickshaw pullers and about 40% of the African Borough Police left their jobs in response to the call. [Shula Marks, *op cit.* p.230] At Thring's Post, Col. McKenzie gathered about 2,500 troops and developed a plan for striking at the three major bodies of rebels. Chief Meseni was south on the Umvoti River with the largest force, while Chief Matshwili was north-east in the lsinzimba valley, and Chief Ndlovu was north in the lmati valley. McKenzie decided to send out converging columns against each of these in turn. [*Ibid,* p.231] As the tension rose, Col. Harry Sparks wrote to the Government asking for revolvers to be issued to the Indians for protection, but the action came before there could be an answer. [Chhaganlal Gandhi's *Story, op cit.* p.7]

On Tuesday, July 3, a force moved out of the Mapumulo camp at 2.30 a.m., headed for the Unwoti valley to attack Chief Meseni's Kraal. The Indian Corps, carrying five stretchers and food for two days, followed the mounted troops, who quickly outdistanced them. Soon they were alone and unarmed in the darkness, in the country of the rebels. At about 7 o'clock they came upon an armed Zulu in hiding, but they were unharmed and soon joined up with the troops, who were firing into the bush. The day's march was strenuous, covering about 25 miles, with several crossings of the Umvoti, each one requiring the removal of heavy boots and puttees. Soldiers marching with the Indians laughed at them and asked, half in pity and half in ridicule, what they would do if they actually had to carry some wounded. The Indians replied that God would give them the strength

to carry out their duty. Finally the army camped for the night, having killed about 400 rebels and scattering the remainder.

Wednesday morning the force was divided to work up the river valley in search of more rebels, and on Thursday returned to Mapumulo, many of the Indians with blisters and swollen legs, and all hungry because they had carried food for only two days.

Expecting a rest, the Corps was ordered to shift the next day to Thring's Post. Gandhiji appealed to Captain Howden and Colonel Sparks on behalf of the nine Indians unable to walk, and they were provided with wagon transport. After a day's work at Thring's Post they were ordered to join a column leaving camp at 3 a.m. on Sunday, July 8, as McKenzie moved against Chief Matshwili's kraal at Isinzimba. It was a mild morning and the moon was brilliant, and the march seemed pleasant compared with the struggle through the Umvoti valley. About five hundred fifty Africans, including the Chief, were killed in the surprise attack at dawn, but the Indian Corps had a relatively easy day, marching about eight miles out and back. The troops rested the following day.

On Tuesday, July 10, the troops left camp at 2. a.m. to attack Chief Ndlovu and Chief Meseni in the Imati valley. The Indian Corps accompanied a column that went down the Otimati River Gorge, where they had to descend steep precipices. On the way a friendly Zulu guide was shot and wounded by a trooper who mistrusted him, and the Corps was instructed to carry him back to Mapumulo. Four Africans were assigned to assist, but three of them immediately deserted and the fourth refused to go without an armed escort. The Corps then rejoined the troops and camped with them for the night. The next day, with about twenty Africans under the supervision of Dr Savage, they again started back with the wounded man. The Africans were "most unreliable and obstinate", [C.W.M.G.

Vol.V, p.372] and all too ready to abandon their wounded companion. Then the stretchers broke under the weight of the heavy victim and had to be repaired. Despite all, they brought their charge safely into camp. In this they were more successful that day than the troops, who failed to encounter the enemy since they had scattered.

This was the last major action of the rebellion. The fleeing Chiefs were soon surrendered to the authorities, and the troops were demobilized. The Indian Corps was discharged on Thursday, July 19, and headed for Durban. At Kearsney they again were welcomed by Mr Narayan Desai, having walked 17 miles from Mapumulo in five hours, a feat they would have been unable to accomplish a month previously. The next day they hiked to Stanger, where Mr Sidat and the merchants again feasted them. They took the 1.41 train, passing through Tongaat where the Indian community came out to salute them, and at Durban they were feasted at the home of Mr Omar Hajee Amod Johari.

At 8 P.M. on that day, a special meeting of the Natal lndian Congress was held to welcome the members of the Corps and a hearty vote of thanks was accorded them by the Congress on behalf of the British Indian community of Natal. Dawad Mahomed presided. Mr Polak attended among others. Eulogistic speeches were made, warmly commending the work done by Gandhiji in organising the Corps and leading it to the front and many expressions of praise were lavished upon the men. [*Indian Opinion,* July 28, 1906 (in Gujarati)]

While thanking the Congress on behalf of the Corps, Gandhiji said that what the Corps had done was only its duty. He suggested that the Indian community should try through the Government to have a permanent corps set up and should also exert themselves to improve their physique in order to qualify for admission. From experience gained during the fighting, he told them that the

whites treated the Indians very cordially, and distinctions based on colour had ceased to exist. If a larger Indian corps was formed on a permanent footing, such fellow-feeling would increase, and it was likely that in the process white prejudice against Indians might altogether disappear. [C.W.M.G. Vol.V, p.373]

By a resolution, the Natal Indian Congress decided to present to the members of the Corps a special silver medal each in commemoration of the manner in which they had sustained the honour and dignity of the Indian community, whose grievances had been ignored for the moment, at a time nf national danger. [*Ibid,* p.374]

On 23rd July, the men of the Indian Stretcher Bearer Corps were banqueted by Mr Peerum Mahomed. Mr Cassim Dowad presented each with a silk scarf whilst Dada Osman donated to each a packet of tobacco and smoker's requisites. [Taken from Pyarelal's Notes: source not traceable] On behalf of the guests, Gandhiji offered thanks to the host and dwelt lengthily upon the work to be done by the Congress.

Later, a special meeting of the Congress was held in the Congress Hall under the chairmanship of Dawad Mahomed, when public votes of thanks were offered to the various persons who had aided the community in its recent task. Thanks were also given to Mrs Nanji and Mr Bernard Gabriel for providing Red Cross badges and to everyone else who had rendered help or hospitality to the corps in one way or the other.

On July 31, Gandhiji addressed a letter to Colonel Hyslop, Principal Medical Officer, Natal Militia, urging the nccessity of forming a permanent Indian Ambulance Corps. The Indians would thereby, he stated, be able to show that they recognised their responsibilities as settlers in Natal. [C.W.M.G. Vol.V, p.377] After

a short while, Colonel Hyslop replied stating that "If I can be of any assistance in arranging for the employment of Indians in Militia hospitals and sanitary work, my services will always be at your disposal".

On August 7, Gandhiji received a letter from the Governor of Natal in the following words:

> I cannot allow demobilization to take place without placing on record on behalf of the Government my appreciation or the patriotic movement made by the Indian community of Natal in providing a Bearer Company for service in the field during the rebellion...
>
> Mention has been made to me of the good services rendered by those who volunteered for this service and of the steadiness displayed by them. I should feel obliged if you would be good enough to convey to all the ranks who served under your command my best thanks for the assistance which they have given. [Taken from Pyarelal's Notes: Source not traceable]

5

The harsh suppression of native unrest in Natal, which left thousands killed, still more flogged and imprisoned, and vast economic damage in cattle confiscated and huts burnt, brought a storm of criticism on the Colony, not only in England but even in South Africa. J. C. Smuts, for example, described the campaign as "simply a record of loot and rapine." [Thompson, p.48]

The settlers at Phoenix felt the wave of fear and panic which gripped the Colony. In the initial phases, there was unrest only thirty miles away, and there were rumours everywhere. Though in the end no Indians were harmed, nor a single white woman or child, stories of the old Zulu wars were told and retold. Prabhudas Gandhi, Chhaganlal's son, was only five years old, but years later he

vividly recalled the anxiety of Kasturba and the atmosphere of fear which surrounded the little community. "When I read about the Zulu people's rebellion," he wrote, "the anxious face of Kasturba comes before my eyes." [Prabhudas Gandhi, *My Childhood with Gandhi.* p.42] Millie Polak, newly arrived not only from Johannesburg but also from England, suffered greatly. "Here I tried to make a little home, the first of my married life," she wrote. "But the impossibility of getting suitable food, the knowledge and fear of the snakes, spiders and other poisonous creatures, the disappointment to me, a town-bred girl, of the whole place, and, lastly, the rebellion, proved too much for me." [M. G. Polak, *Mr. Gandhi—The Man,* p.52] Unable to sleep, she talked the matter over with Gandhiji, who advised her to move into Durban for a while. On the train she sat next to a man in uniform who claimed he had the head of Bambata in a sack beside him, and she believed it.

The members of the Indian Stretcher-Bearer Corps witnessed the ferocity of the repression directly, first in the form of the unattended suppurating sores on the backs of Zulu prisoners and patients, and in the continual shooting and burning around the camps. Gandhiji concluded, "I saw that there was nothing there to justify the name of 'rebellion'. There was no resistance that one could see." [M. K. Gandhi, *The Story of My Experiments with Truth,* p.314] He added, "The Boer War had not brought home to me the horrors of war with anything like the vividness that the 'rebellion' did. This was no war but a man-hunt, not only in my opinion but also in that of many Englishmen with whom I had occasion to talk." [*Ibid,* p.315]

The Corps had accompanied the troops on two of the most deadly actions, against Chief Meseni and Chief Matshwili, the latter being a surprise attack at sunrise. Gandhiji recalled, "To hear every morning reports of the soldiers' rifles

exploding like crackers in innocent hamlets, and to live in the midst of them was a trial." [*Ibid*]

For Gandhiji, taken momentarily from his strenuous round of political and legal work and thrust into a situation of violence and primitive fear, military service was a time for thinking. In the long hours of marching through the hills around Mapumulo, he often fell into deep thought about the struggle. Ideas that he had long valued now came to assume a new form:

> While I was working with the Corps, two ideas that had long been floating in my mind became firmly fixed. First, an aspirant after a life exclusively devoted to service must lead a life of celibacy. Secondly, he must accept poverty as a constant companion. [M. K. Gandhi, *Satyagraha in South Africa,* p.98]

The question of fitness for service was the main thing, and Gandhiji now found a way toward this state through moving to a higher stage of life. "During the difficult marches," he wrote, "the idea flashed upon me that, if I wanted to devote myself to the service of the community in this manner I must relinquish the desire for children and wealth and live the life of a *vanaprastha*—of one retired from household cares." [M. K. Gandhi, *The Story of My Experiment with Truth,* p.206] The model was an old one, but he infused it with new meaning and moral purpose.

The idea of poverty had long gripped him, as he had explained to his brother Lakshmidas a year previously (see Chapter 14, Section 7). He had already committed his earning to the Indian struggle, chiefly through subsidizing Phoenix and *Indian Opinion.* Now he resolved to give up the middle-class household of the style he had fell compelled to maintain in Durban and Johannesburg. Having broken up the household to move to Phoenix just before being called to service, he never resumed it.

Brahmacharya or celibacy was a more encompassing ideal. "It was borne in upon me that I should have more and more occasions for service of the kind I was rendering, and I should find myself unequal to my task if I were engaged in the pleasures of family life and in the propagation and the rearing of children," he concluded. [*Ibid*, p.316] As he had to explain to his disappointed brother Lakshmidas, family obligations were a duty he accepted, but they could not be the sole and final duty. Gandhiji had chosen a wider field of service, and he should not increase his family responsibilities. "On the present occasion, for instance," he wrote, "I should not have been able to throw myself into the fray,

had my wife been expecting a baby." [*Ibid*] *Brahmacharya* provided a way through which service to the community and service to the family could be reconciled. "It became my conviction that procreation and the consequent care of children were inconsistent with public service," he concluded. [*Ibid,* p.206] Poverty in the form of the Phoenix community as a way of life, provided the means of meeting the obligations of child rearing and education, while celibacy would forestall the further growth of private obligations. A way was opening for wider vistas of service.

More important for Gandhiji was the inner meaning of celibacy as a self-discipline. It is a means of self-purification, of releasing one's energy from self-concern and redirecting it toward higher goals. It is a mode of liberating one's energies for service to the wider community, requiring the most demanding control not only of the body but also of the thoughts. It was for Gandhiji a lifelong struggle, but one which he believed to be the source of his strength (see *The Last Phase,* Vol.I, Book 2, Chapter XI "Brahmacharya", pp.209-244). "I must confess," he wrote in his Autobiography, "that I had not then fully realized the magnitude and immensity of the task I undertook." [*Ibid,* p.317]

None of these ideas were new, but in the long hours of marching through the bloody hills in the midst of ruthless violence, Gandhiji brought them together with a new force. "This brief period proved to be a very important epoch in my life. The importance of vows grew upon me more clearly than ever before. I realized that a vow, far from closing the door to real freedom, opened it," he declared. [*Ibid,* pp.206-7] Previously his efforts to redirect and discipline his life had been incomplete and unsuccessful. He realized the necessity of a solemn and unalterable decision, and immediately he discovered a liberation of his spirit: “The prospect of a vow brought a certain kind of exultation." [*Ibid,* p.316] Vows he had known from childhood, from his mother’s devotion and his own experience as a student in London. Yet now he began to realize the full meaning of the act. A quarter of a century later he characterized it in this manner:

> Taking vows is not a sign of weakness, but of strength. To do at any cost something that one ought to do constitutes a vow. It becomes a bulwark of strength. A man who says that he will do something “as far as possible" betrays either his pride or his weakness. I have noticed in my own case, as well as in the case of others, that the limitation “as far as poosible" provides a fatal loophole. To do something “as far as possible” is to succumb to the very first temptation. There is no sense in saying, that we will observe truth "as far as possible”. Even as no businessman will look at a note in which a man promises to pay a certain amount on a certain date “as far as possible”, so will God refuse to accept a promissory note drawn by a man, who will observe truth as far as possible.
>
> God is the very image of the vow. God would cease to be God if He swerved from His own laws even by a hair’s breadth. The Sun is a great keeper of observances; hence the possibility of measuring time and publishing

> almanacs. All business depends upon men fulfilling their promises. Are such promises less necessary in character building or self- realization? We should therefore never doubt the necessity of vows for the purpose of self-purification and self-realization. [M. K. Gandhi, *From Yeravda Mandir,* Ahmedabad, 1957, p.51]

Gandhiji discussed his plan with his co-workers in the Corps, and when he arrived at Phoenix he broached the subject of *brahmacharya* with Chhaganlal, Maganlal, West, and others. Their agreement supported his resolve, even as they presented the difficulties of the task. Some of them also undertook to follow the same course. He consulted Kasturba; she made no objection. Before he left Phoenix, in the last week of July, 1906, Gandhiji took the plunge. He vowed to observe *brahmacharya* for life. The first change he made in his mode of living was to stop sharing his bed with Kasturba or seeking privacy with her. When he returned to Johannesburg that same week he left his wife and children at Phoenix. They would not be gathered in a single-family household again, and it was not until Tolstoy Farm was established four years later that they would reside together in one place.

Though it was not evident at the time, Gandhiji was being prepared for a still greater commitment, as though following a road one step at a time toward a distant goal which could not be seen. In little more than a month the vow of *brahmacharya* would be followed by the vow of a refusal to register, which soon flowered into *Satyagraha.* "*Satyagraha* had not been a preconceived plan," he recalled. "It came on spontaneously, without my having willed it. But I could see all my previous steps had led me up to that goal. I had cut down my heavy expenses at Johannesburg and gone to Phoenix to take, as it were, the *brahmacharya* vow." [M. K. Gandhi, *The Story of' My Experiments with Truth*, p.208] Having set

his own life in order, he was ready when the crisis came, much sooner than anyone could have expected.

CHAPTER XXI : WITH GOD AS WITNESS

1

After the disbanding of the Stretcher-Bearer Corps on July 19, 1906 Gandhiji visited Phoenix briefly and then returned to Johannesburg to look after pressing affairs, leaving his family in the healthy rural setting. He was satisfied that the work of the volunteers in the Corps, together with the contribution of the merchants in financing and equipping them, would demonstrate to the Colonists their patriotic attitude and their willingness to take up the responsibilities of citizenship. He returned to the familiar issues of the Transvaal, expecting to continue the effective use of the judicial system, through which not only could Indians obtain redress for individual grievances, they could also on appeal win rulings which would prohibit actions which had no foundation in law. British justice could be employed to overcome British injustice. He had already notified the government of his intention to bring further test cases on the application of the permit system. Test cases would in some instances be initiated by the recently-adopted technique of intentional and public violation of a law or regulation, as had been done in the tram-car cases. In addition, there had been discussion for some months already of sending a deputation to London, to present the British Indian case either to the Committee on the new Transvaal constitution, or to the British public at large, to bring to the Home Government a greater understanding of the policies of the Crown in the Transvaal. A meeting on July 27 reaffirmed the necessity of sending a deputation including Gandhiji and a representative of the trading class in the Transvaal. The Selborne government was not expected to introduce any legislation on the Asiatic question, but to leave the matter to the responsible government, which might be

in office within a year. Perhaps a deputation might persuade the Home Government to act in the interval to redeem the war-time British pledges.

On the occasion of adjourning a session of the Legislative Council on August 4, the Colonial Secretary, Mr Duncan, announced that when the Council next met the Government proposed to introduce legislation in regard to the registration of Asiatics. This legislation, he said, would have as its object providing fair and just treatment for the Asiatics who were settled in the country, and would not touch on the important matter of immigration policy, leaving that to be dealt with by the responsible government. All that was contemplated at this time was to improve the registration law, the provisions of which were very vague and uncertain, and which had been subject to frequent litigation. It was proposed "to require fresh registration of all Asiatics resident in the country, and to make such restriction applicable to all such Asiatics". This was necessary to prevent the immigration into the Colony, of a large number of Asiatics who had no right to be there, until such time as the new government could decide "under what conditions, if at all, Asiatic immigration into this Colony is to be allowed." [*Indian Opinion,* August 11, 1906]

Duncan repeated his statement that the purpose of the legislation was to secure "fair and just treatment" for the Asiatics, and stated that the new registration certificate would provide them with protection against any attempt to impugn their settlement in the country. In addition, certain disabilities on the Asiatics would be removed. The special tax of £3 which was levied on the registration of each Asiatic would be abolished. It was proposed to amend the law so as to enable Asiatic religious communities to hold the land on which their places of worship were built. Asiatics who held land before the passing of Law 3 of 1885 would be permitted to transmit to their heirs. Finally, "certain

modifications in the existing law" would be made to enable Asiatics to visit the country temporarily.

The Colonial Secretary expressed some doubts as to the wisdom of making a statement at this time, but he had been pressed by Lionel Curtis, the principal author of the bill, to set forth the reasons for the action. Curtis had prepared a draft statement of the issues at stake, which Duncan declined to use, although taking from it the two themes of holding off the Asiatic flood until the new government could act, and of relieving resident Asiatics of certain disabilities. [Transvaal Archives: Curtis to Attorney General's Secretary, August 3, 1906, with enclosures] The theme of relieving the Indians of hardships had been stressed by Lord Selborne in his correspondence with Lord Elgin concerning the proposed legislation. It will be recalled that two bills had been drafted upon receipt of Elgin's inquiry about the effects of the Aboobaker land case. Selborne, in his letter of May 21 to the Colonial Secretary, said that he proposed to relieve the heirs of Aboobaker of this disability and in addition to redress certain other unnecessary hardships. Even the new registration was for the benefit of the Indians themselves. It would reduce the opportunities for corruption and "reduce to insignificance any inconvenience which may be occasioned to Asiatics who are lawfully resident in the country." [Cd. 3308, No.3, Governor to Secretary of State, May 21, 1906, p.8] The argument that the bill was chiefly for the benefit of the Indians would be repeated throughout the history of this legislation.

Gandhiji, on learning of Duncan's statement, could see immediately that the supposed benefits were illusory or at best trivial, while the principal force of the bill would be to strengthen the hands of the Anti-Asiatics of Loveday's stripe, whose views were so strongly represented in the Asiatic Office. He understood immediately that unless the Indians adopted a decisive attitude of protest, this

would be followed by other measures calculated to reduce or utterly eliminate the Asiatic residents of the colony. He wrote to warn Dadabhai of the impending legislation, adding "I very much fear that the real situation is not understood by the Imperial Government, and that the local Government has evidently convinced the Imperial Government that, by passing legislation in the direction sketched by Mr Duncan, they would really be granting concessions." [C.W.M.G. Vol.V, p.386, Letter to Dadabhai, August 6, 1906]

In a letter ro the *Rand Daily Mail,* Gandhiji pointed out that Duncan in his remarks thrice told his hearers it was the desire to accord the members of the Asiatic population "'just and fair treatment," and that the *Daily Mail* also in its leading article considered that the Ordinance would mean generous treatment of the resident Asiatic population. Yet he found no generosity in it, and declared it would fall far short of even "just and fair treatment". Re-registration was hardly just or fair; most Indians resident in the Colony had already been registered twice, the second time voluntarily, at the request of Lord Milner. A third registration would not remedy the evil of an alleged fraudulent entrance of Asiatics into the Colony; it was necessary only to examine the present registration certificates, and to prosecute those who were without them. There would always be a few people who were prepared to break laws, but it was hardly just or fair to brand a whole community as criminals.

As to the four benefits which Mr Duncan offered these should be closely examined. The abolition of the *£3* tax was a mere blind. It was not an annual tax, but a fee paid once and for all at the time of registration. All those now resident in the Transvaal had already paid it, so it was no longer a burden to them. Permission to the Asiatics to hold land for religious purposes was already legitimate; the Superior Courts had decided that coloured persons could, acting

as a corporate body, hold land for such purposes. Permission for Asiatics who purchased land before the passing of Law 3 of 1885 to transmit the same to their heirs would have been a concession had it applied to any large number of Asiatics, but Mr Duncan knew full well there was only one such piece of land, two-fifths of an erf in Pretoria purchased by Aboobaker Amod, which was the subject of a celebrated case. This action therefore would not be a concession to the community but the performance of a simple duty to one individual. Authority to issue temporary permits to Asiatic Visitors the administration had already; what was wanting was merely the inclination to use it, thus creating the difficulties in the Nomura and Manga cases.

Mr Duncan's statement, Gandhiji said, bore no trace of the fulfilment of the promises made before the war and even afterwards by Lord Milner and other representatives of the Crown. Finally he reminded the editors of the true benefits desired by the British Indians:

> ... They accept the doctrine of the Transvaal having the right to regulate immigration, and they—although such was not the case during the Dutch Government—are quite willing that restrictions after the Cape or the Australian Immigration Law applying to British subjects may be imposed on them; but as against that, they claim that those British Indians, who have settled in the country, ought to have full civil liberty, namely, the right to move about freely, the right to own land subject to such general restrictions as may be imposed to provide against speculative acquisition and the right to trade subject again to such municipal restriction as may be deemed advisable in the interests of sanitation and of fair trade. It will be only when this elementary right of the British Indian is recognised, and not

till then, that it will be possible for any representative of the Crown to say that British Indians are receiving 'just and fair treatment'.

Remember, there is no attempt in the above statement to claim any political rights. British Indians only ask for what can be easily given even by those who believe in the gospel of a white South Africa, if that is to say, South Africa, to paraphrase Lord Selborne's words, is to be white not only in the exterior but also in the interior. [*Ibid*]

In reporting the situation to *Indian Opinion* readers, Gandhiji recalled that the policy of Lord Milner and of Secretary Lyttelton also was that, even before the advent of responsible government, "Asiatic legislation should be brought into line with British traditions, and Indians, who were either qualified by education and other attainments, should be placed on an equality with the other subjects of the Crown in the Transvaal." [C.W.M.G. Vol.V, p.392; *Indian Opinion,* August 11, 1906] Mr Duncan's policy therefore marked "a distinct retrogression." *Indian Opinion* stood alone in its criticism of the proposal. The Transvaal press entirely missed the point in its analysis of the legislative programme. They neither recognised the present state of the law nor how trivial were the benefits offered, nor did they consult the views of the Indians. They were entirely taken in by Duncan's euphemistic language.

2

The Draft of the Transvaal Asiatic Law Amendment Bill was released on August 22, 1906. The two draft bills sent up by Selborne to Lord Elgin in May had now been conjoined into one, and fresh provisions had been added. It included all that Duncan had stated, and more. Practically the whole text was given over to the registration procedures and penalties for non-compliance. The four

supposed benefits were also there, plus one more: Asiatics travelling on temporary permits may, on the discretion of the Lt.-Governor be exempted from the provisions applying to coloured persons under the Liquor Licensing law. Other features of the new law became clear upon reading the draft:

1. The legal definition of an Asiatic in Law 3 of 1885 was continued: "persons belonging to any of the native races of Asia, including the so-called Coolies, Arabs, Malays, and Mohammedan subjects of the Turkish dominion." [Pillay, *British Indians,* p.235]

Chamney and Curtis, in the interest of order and bureaucratic efficiency, had argued strongly for a new and more precise definition, but the Government, to avoid a thorny and controversial subject, retained the old form.

2. Whereas under Law 3, and as reaffirmed in recent Supreme Court decisions, only male adults who intended to settle in the country must register, women were now required to register.

3. Every male and female above the age of eight, whether or not intending to settle, must register.

4. Only permits issued under the Peace Preservation Ordinance of 1902 would be honoured; previously the possession of old Dutch registration certificates was honoured at least by some magistrates.

5. Certificates were to be produced upon demand made by a police officer or any other person authorised thereto by the Colonial Secretary.

6. Stiff penalties were given for non-compliance, including fines, prison, and removal from the country. lt was the clear authority to

> expel offenders, rather than authority to issue temporary permits, that the government had previously lacked.

Upon receiving a copy of the Gazette Extraordinary for August 22, Gandhiji went up a hill near his house in the company of a friend to translate the draft ordinance into Gujarati for *Indian Opinion.* He recalled the experience vividly:

> I shuddered as I read the sections of the Ordinance one after another. I saw nothing in it except hatred of Indians. It seemed to me that if the Ordinance was passed and the Indians meekly accepted it, that would spell absolute ruin for the Indians in South Africa. I clearly saw that this was a question of life and death for them. I further suw that even in the case of memorials and representations proving fruitless, the community must not sit with folded hands. Better die than submit to such a law. But how were we to die? What should we dare and do so that there would be nothing before us except a choice of victory or death? An impenetrable wall was before me, as it were, and I could not see my way through it. [*Satyagraha in South Africa,* p.99; for the text of the draft ordinance, see Appendix B]

Immediately he addressed a protest to Duncan, telling him, "in the humble opinion of my Association, the Draft Ordinance in question is calculated to provoke the bitterest irritation among the Indian community and to wound susceptibilities to an extent which it is difficult to measure." [C.W.M G. Vol.V, p.401; *Indian Opinion,* September 1, 1906] It was, he said, a complete reversal of the promises made repeatedly by British administrators. It gave the British Indians absolutely nothing, and took away from them much. If the object of the Ordinance were to remove from the Colony British Indians not residing there by lawful authority, that end could be accomplished without the offense and the heavy expense proposed, merely by inspecting the documents at present possessed by them. He

then listed the chief objections to the draft ordinance, beginning with the continuance of the use of the offensive term "coolie", and noting in passing that the ordinance would for the first time require Malays to register. The status of pre-war residents of the Transvaal was left indefinite as before, by the continuation of the Peace Preservation Ordinance. The ordinance took no note of the elaborate registration carried out by Captain Hamilton Fowle, nor did it recognize the voluntary compliance of the Indian community with that registration. The nullification of the old Dutch registration certificates would further narrow the advantages enjoyed by the Indian community. Some of his strongest words were reserved for the requirement for women to register, stating that it would "needlessly violate female modesty, as it is understood by millions of British Indians, and would ride roughshod over sentiments cherished dearly for ages." [C.W.M.G. Vol.V, p.402] In effect, the law of registration would mean that His Majesty's government condemned every Indian as a criminal. Such a law, he added, was unknown within British Dominions so far as the free Indian population was concerned.

This strongly-worded letter was matched by the leading article in *Indian Opinion,* headed "ABOMINABLE!", which declared that "the worst fears of the Indian community of the Transvaal have been realized by the Bill under consideration." The Ordinance went much further than had been anticipated from Duncan's statement, and unsettled the Indian mind as no other measure in South Africa had done before. "The most pitiful part of it", he wrote, "consists in the fact that what the Boer Government did in ignorance of facts and without meaning to do much harm and in respect of persons not its own subjects, the British Government is doing with the fullest knowledge of facts with the deliberate intention of injuring the Indian community and in respect of British

subjects," and he asked, “Will the Home Government silently allow the proposed injustice to be perpetrated even while the Transvaal is a Crown Colony?" [*Ibid,* p.404; *Indian Opinion,* September 1, 1906]

3

The Executive Committee of the British Indian Association met on August 24, to consider the draft Ordinance. The members of the new Hamidia Islamic Society were also present. Gandhiji explained the Ordinance word by word. One of the leading members in the audience said in a fit of passion, “If anyone came forward to demand a certificate from my wife, I would shoot him on the spot and take the consequences." Gandhiji calmed him and addressing the meeting, said:

> This is a very serious crisis. If the Ordinance were passed and if we acquiesced in it, it would be imitated all over South Africa. As it seems to me, it is designed to strike at the very root of our existence in South Africa. It is not the last step, but the first step with a view to hound us out of the country. We are therefore responsible for the safety, not only of the ten or fifteen thousand Indians in the Transvaal but of the entire Indian community in South Africa. Again if we fully understand all the implications of this legislation, we shall find that India's honour is in our keeping. For the Ordinance seeks to humiliate not only ourselves but also the motherland. The humiliation consists in the degradation of innocent men. No one will take it upon himself to say that we have done anything to deserve such legislation. We are innocent, and insult offered to a single innocent member of a nation is tantamount to insulting the nation as a whole. It will not, therefore, do to be hasty, impatient or angry. That cannot save us from this onslaught. But God will come to our help, if we calmly think out and carry out in time measures of resistance presenting a

united front and bearing the hardship, which such resistance brings in its train. [M. K. Gandhi, *Satyagraha in South Africa*, p.101. According to the Gujarati Report on September 1, 1906, the meeting was held on August 24, 1906, although in *Satyagraha in South Africa* it is mentioned that it was held the 'next day' after the date of publication of the Ordinance, that is on August 23]

Everyone at the meeting resolved to fight the Bill by petitioning to the Government, and the Legislative Council and sending cables to influential persons in London. They also decided to hold a public meeting hiring a Jewish theatre for the purpose.

Gandhiji, as Secretary of the British Indian Association, wrote to all Indian organisations about the decisions of the meeting, requesting them to raise funds for the purpose.

At Middleburg, the Indian community met at the Musa Patel Hall on August 24, under the presidentship of Mr A. H. Bhaba. The letter of the Secretary, British Indian Association, was considered and it was resolved to collect funds as desired by the Association. [*Indian Opinion,* September 8, 1906, (Gujarati Section)] On August 26, the Hamidia Islamic Society also decided to collect funds. [*Ibid*]

On August 28, the following cable was sent to the *India* in London:

> The draft Asiatic Ordinance which has been published contravenes all past promises, and is worse than the existing law, which was taken from the Boer regime. It shocks Indian sentiment by requiring women, and children over eight years, to register. Indians, who have already been twice required by law to register, registered the last time voluntarily to please Lord Milner. This third registration is both unnecessary and oppressive. Indians prefer a continuance of the old law to submitting to the wanton indignity which the proposed ordinance contemplates. The charge of

unlawful entry is denied and a commission of enquiry is requested. [C.W.M.G. Vol.V, p.407]

A meeting of the Indian community was held at Pretoria on 28th August 1906 at the residence of Mr Haji Habib. Indians representing about fifty families attended the meeting which lasted from 8.30 PM. to 10.40 P.M. Sheth Haji Habib mentioned that they had received a letter from the Secretary, British Indian Association requesting them to raise funds to agitate against the draft Ordinance. Before the Pretoria Indians could agree to work together for the common good they made a show of their habitual disunity.

Mr Desai said that they were determined to fight to the last and if necessary to go even to jail, but he complained that while the poor had to pay £4 to an agent for procuring a permit, the rich could get it easily. He further asserted that formerly Gandhiji used to charge two guineas as his fee, but now the advocate charged from five guineas to ten. Mr Nur Mohammed went a little further. He accused the leaders of Johannesburg of keeping them in the dark. This created trouble and other Indians had to face the consequences, he added. Further there were *Khutputs* (bickerings) among them. Indians must be united and for this a general meeting should be organized preferably on September 9. Mr Nur Mohammed also suggested that a permanent European advocate should be engaged to look after Indian affairs; for, if Gandhiji, despite his knowledge, committed any mistake, the whole community had to suffer.

At length, when they recognized the danger in which they all stood, Haji Habib sanctioned £25 towards the expenses at Johannesburg. [*Indian Opinion,* September 8, 1906 (Gujarati version)]

4

The Colonial Secretary agreed to meet an Indian deputation and discuss the question on September 1. The Executive Committee of the Association,

therefore, met in Johannesburg on August 31, with about thirty persons attending the meeting, which also decided to send a cable of congratulations to Dadabhai Naoroji in London on his 82nd birthday on September 4.

On September 1, an Indian deputation, consisting of Messrs Abdul Gani, Essop Mian, Haji Ojer Ally, Peter Moonlight and Gandhiji, who had been deputed by the Committee of the Association, went to Pretoria to meet the Colonial Secretary. They were joined by Mr Haji Habib on behalf of the Pretoria Committee.

The troubles of the deputation had begun even as they got into the morning train that left Johannesburg at 8.30. Mr Chamney, who had agreed to make all the arrangements at the station, had no doubt done his part, but neither the station master nor the conductor knew anything about them. The latter became obstructive, arguing that the party had come without previous notice. Finally, however, the members were accommodated in a second-class compartment up to Germiston, whence they were able to have a first-class carriage.

At Pretoria, the deputation had a long discussion with Mr Duncan. They told him that the Asiatic Act would be unacceptable to the Indian community under any circumstances and, showing a new determination, declared that re-registration would simply not take place. It was tyrannical that in response to the community's plea for relief, the Government should attempt to enforce a harsher law. It was further unthinkable that women and children should be registered, which was not necessary during the Dutch regime and did not besides obtain elsewhere in the British territory.

While presenting a detailed account of the permit problems, Messrs Haji Ojer Ally and Haji Habib spoke in a somewhat impassioned tone. Mr Duncan told

them that the Government would consider all the points and send a reply. In answer to the question about the Malays, he said that the Act of 1885 had at no time applied to them, and the Government would therefore consider whether to extend the new Act to them or not, although, strictly speaking, it should. [C.W.M.G. Vol.V, p.410]

Following the meeting, Gandhiji addressed a letter to Chhaganlal about affairs in Phoenix and *Indian Opinion,* and for the first time advised him that he might have to carry on alone. "The political movements going on make my position very uncertain," he wrote, "I might have to go to England or I might have to go to gaol. I have informed Mr Duncan, whom I met today, that, in the event of the legislation going through, I would be the first one to go to gaol rather than be registered or pay the fine. I believe the people here, too, are determined, but I should naturally take the lead in a matter of this kind. If that happens, it means incarceration perhaps for three months. You must, therefore, make your preparations to carry on the work efficiently without relying on me." [*Ibid,* p.408, Letter to Chhaganlal, September 1, 1906] A new Gandhiji was being born in the midst of the struggle, toughened by the vows of simplicity and celibacy taken during the Zulu rebellion. The heat of his determination would set the whole Indian community ablaze.

5

On September 4, the Asiatic Amendment Bill was introduced into the Legislative Council and passed its first two readings. Duncan, in his address, announced that due to the keen scruples felt by several important sections of the Asiatics in regard to their women being required to give certain particulars which were regarded as a violation of their choicest sentiments, the Government had decided that the law should not apply to women.

Reinhold Gregorowski, an attorney in Pretoria who respected Gandhiji, upon request provided the British Indian Association a legal opinion on the draft ordinance. He found it a very drastic measure, without any amelioration whatsoever to the Indian position, rendering their condition more intolerable than before. It gave new powers to the Registrar, and deprived of their right to reside in the country, those Indians who had paid for it under Law 3 of 1885. Regulations would be promulgated providing for means of identification "which l presume will be such as adopted in prisons and applied to criminals. Any Indian not carrying his pass can be summarily arrested." "Every Asiatic entering the Transvaal must within 8 days apply for registration, and whether he gets a permit or not, is left to the sweet discretion of the Registrar. No directives are given to him as to the way in which he shall use his discretion. There are no rules."

"While natives can hold landed property all over the country, the British Indians are debarred from holding landed property although many of them are wealthy and cultivated. Educated natives can obtain exemption from the restriction of the pass law, but no similar benefit is thought advisable for the educated Indian."

Mr Gregorowski then offered Gandhiji his best professional advice on how to proceed against the ordinance. "I do not think any good can be done by 'passive resistance' and refusing to register," he wrote. "The penalties are imprisonment with hard labour and a severe fine for a second offense. This would mean ruin. l think if the law is passed, it would be necessary to obey it, and make the best of it." He recommended sending a deputation to England to bring pressure on the Liberal Government through members of Parliament and other influential persons, and suggested sending a cable asking the Colonial Secretary to receive a deputation and meanwhile to stay the passing of the law until the

deputation has had the opportunity of laying their case before the Imperial Government. "Any other form of resistance than by constitutional means is, I think, to be deprecated," he advised. "It would be an offense to invite persons to disobey the law and not to re-register. I think such agitation is also bound to fail as not a great number of people are made of the stuff that seeks martyrdom and Asiatics are no exception to the rule. The same result could, I think, be attained by constitutional agitation." Finally, he warned that the law could not be attacked in the courts on constitutional grounds, as once it had been passed and sanctioned by the Crown, there existed no higher authority to overrule it. [S.N. 849-52; Opinion by R. Gregorowski, September 6, 1906]

Gandhiji had invited Gregorowski to prepare this opinion so as to have the judgment of an experienced lawyer and a wise friend. In this he was not disappointed, for the opinion not only confirmed Gandhiji's reading of the draft ordinance and its effects, but also provided an examination of the possible consequence of the course of passive resistance which was being contemplated. Speaking as a lawyer, Gregorowski could only advise a barrister of the Inner Temple to stay within the law, even while his analysis demonstrated how small were the possibilities of success by that route. The clear knowledge of the dangers seemed only to strengthen Gandhiji’s determination to follow the new path. Once committed to the idea, he moved energetically to arouse the Indian community to their duty.

The leading article in the *Indian Opinion* for Saturday, September 8 was entitled, "CRIMINAL". In it Gandhiji reviewed the indignities which the Ordinance would impose on Indian women and children, and on all who were lawfully registered. "Indians of the Transvaal know what this means," he wrote, "They will be subjected to all kinds of unnecessary and often insulting questions, and they

will have to undergo a very strict examination before they receive a third certificate." [C.W.M.G. Vol.V, p.411; *Indian Opinion,* September 8, 1906] The reason for the law, he declared, lay not in the Indian community, except for the action of a few. Its only apparent reason was "to cover hopeless incompetence in the administration of the present laws." The present laws, if wisely employed, would soon show how far the claims of the Anti-Asiatic agitators could be borne out, but instead the Government preferred to devise degrading legislation for the purpose. Its ultimate object was not justice but to eliminate the Indian population of the country. He wrote in conclusion:

> A correspondent of nineteen years' standing in the Transvaal has asked a pertinent question in the Gujarati columns, which we translate in another place in this issue, asking what is the difference between Russian rule and British rule *a la* Transvaal. The difference, in our opinion, lies in the fact that, whereas in Russia, when it suits the authorities, they do not hesitate to murder people openly and directly, in the Transvaal, because the authorities wish to do away with Indians, but cannot do so openly and honestly, instead of resorting to the direct method of murdering them or banishing them from the Colony, they intend to kill them by inches. They would devise means which exasperate even the mild Indian into leaving the country of his own accord or adopting means which serve the same purpose. And so the authorities are able unctuously to declare, 'we are not guilty of the civil murder of these men—they left of their own accord.' We present this thought to the Government for its earnest consideration, and ask it now, whilst there is yet time, to withdraw from an utterly false position. [*Ibid,* p.412]

On the same day, the British Indian Association sent cables to the Secretary of State for the Colonies and the Secretary of State for India, which read as follows:

> British Indians alarmed at haste with which Asiatic Ordinance is being rushed through Legislative Council. Ordinance reduces Indians to status lower than Kaffirs and much lower than that occupied under Dutch regime. British Indian Association request Imperial sanction be stayed pending deputation proceeding directly. Association requests reassuring reply.
>
> BIAS [C.W.M.G. Vol.V, p.416]

Another cable, sent to the Viceroy of India, said:

> British Indians alarmed at Asiatic Ordinance passing through Legislative Council. Transvaal Ordinance degrading, insulting reduces Indians to a worse status than that of *Parjahs.* British Indian Association request the Viceroy's active intervention. His Excelleney being directly responsible for their welfare.
>
> BIAS [C.W.M.G. Vol.V, p. 416]

On Sunday September 9, a huge meeting of the Hamidia lsmalia Society was held at 3 P.M. at Street No. 17, Malay Location, Johannesburg. Besides the members of the Society, about 800 prominent Mohammedans attended. It was disclosed that Mr Essop Mian and the Chairman had discussed the Ordinance for fifteen minutes with the Colonial Secretary.

Asked by the Chairman, Gandhiji told the meeting in Gujarati:

> We have received a reply to our cable to the Colonial Secretary. I have also cabled to London according to instructions. There is now no

alternative to sending a deputation, because an intolerable and wicked law is being forced upon us; and we must not put up with it. As it is, our plight in the Transvaal is very bad, and now comes this vicious Draft Ordinance. My advice, therefore, is that we should not seek fresh registration.

Let the accusation of breaking the law fall on us. Let us cheerfully suffer imprisonment. There is nothing wrong in that. The distinctive virtue of the British is bravery. If therefore we also unite and offer resistance with courage and firmness, I am sure there is nothing that the Government can do. Even the half-castes and Kaffirs, who are less advanced than we, have resisted the Government. The pass law applies to them as well, but they do not take out passes.

I do not want to say more. I would only advise you not to register yourselves again. If the Government sends us to gaol, I shall be the first to court imprisonment. And if any Indian is put to trouble because of his refusal to register afresh in accordance with the Draft Ordinance, I will appear in his case free of charge.

On Tuesday next, we are holding a mass meeting. I expect you all to close your business on that day and attend it.

Having explained all this at length, Gandhiji advised them to prepare for the struggle by collecting funds quickly, appointing a new Committee to look after the funds and publishing the accounts every month. [*Ibid,* p.418]

The Committee to collect funds consisted of the following persons:

1. Abdul Gani.
2. Ali Bhai Apuji.

3. Mohammed Pirbhai Fancy.
4. Ebrahim Coovadia.
5. Essop Mian.
6. Mohammed Essop Gatu.
7. Ghulam Saheb.
8. Musa Hapeji Balbolia.
9. Gandhiji.
10. Bhikubhai Dahyaji.
11. Ambaidu Parag.
12. Dahya Ram.
13. Lalaji P. V. Patel.
14. Makkan Master.

Mr Abdul Gani said that he fell satisfied with the Committee and exhorted all present not to apply for registration but rather go to gaol. In order to impress everyone with the seriousness of the situation created by the Ordinance, he said that Gandhiji, who had heen living calmly ever since he came to South Africa, was himself badly disturbed, which meant that the Ordinance was very bad. "We must work unitedly and patiently, otherwise we will face danger", he added and appealed for an adequate fund, requesting all to pay at least £1 per head.

The Chairman concluded the meeting after saying that everyone should be ready to go to gaol and no one should apply for registration or pray for bail, if arrested. The meeting was dissolved at 8 P.M. [*Indian Opinion,* September 22, 1906 (Gujarati Section)]

The next day the Legislative Council went into Committee to consider amendments to the Draft Ordinance. The Government moved to limit the application of the act to males only. After satisfying Mr Loveday that there would be no danger that the country would be flooded with Asiatic women, the Colonial Secretary obtained approval of this amendment. [*Indian Opinion,* September 22, 1906]

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The mass meeting decided upon by the Executive Committee of the British Indian Association to protest against the draft Asiatic Ordinance was held at 3 P.M. on Tuesday, the 11th September 1906, at the Old Empire Theatre in Johannesburg. The meeting proved to be a memorable and historic occasion not only in the annals of South African Indians, but of the people of the Indian sub-continent and indeed of all the subject races living under Colonial yoke, in that it gave birth to *Satyagraha* or "passive resistance" as it was then called and heralded the dawn of a new era of independence to them through a weapon hitherto unknown to the world.

The full significance of the event could, however, not have been realized by any one at that time. Even then, the enthusiasm of the people of Johannesburg was so great that all Indian store-keepers had closed their shops and the hawkers had ceased their daily rounds long before the time of the meeting on that day [*Ibid*] and each wended his way to the venue of the meeting to express his solidarity with and support to the struggle ahead. By 12 noon, the crowd around the theatre had become so overwhelming that its gates had to be opened two hours earlier than the scheduled time. By 1.30 P.M. the spacious hall of the theatre and all other places were filled to overflowing and there was no room for anyone even to enter the building. The gathering was estimated 3000 strong, comprising about 25 per cent. of the Indian population in the entire Colony.

Delegates from all parts of the Transvaal had also gathered for the meeting on invitation. Among the other invitees were Mr Chamney, Registrar of Asiatics, specially representing the Colontal Office, representatives of the bar and of several local European firms, and the press. [*Ibid,* September 15, 1906]

Mr Abdul Gani, Chairman of the British Indian Association, presided over the meeting. Opening the proceedings exactly at the appointed time, although the electric light was not available until 4.30, he addressed the audience in Urdu, and his speech was then read out in English by Dr William Godfrey. “We are met this afternoon at a most critical stage of our existence as a community in the Transvaal,” he began. The Ordinance went ever so much further than the Dutch law it sought to amend. He then read Mr Gregorowski’s legal opinion, detailing the effects of the ordinance. The remedy, he said, was suggested in the resolutions to be presented to the meeting, and he wished to refer only to one of them, the one “whereby we solemnly declare to the Government that, if our prayer is left unanswered, rather than submit to the indignity contemplated in the Ordinance, we shall go to gaol". When he spoke of gaol-going, the crowd shouted in one voice, "We shall go to gaol; but will not register ourselves again". This had been one of the most approved methods adopted by British subjects, Abdul Gani continued, whenever they had disapproved, with very considerable reason and as a matter of principle, of any legislation. Finally, he declared:

> There are moments in the life of a community when resistance especially of the above nature becomes a vital necessity and a sacred duty, and I think that such a moment is now at hand for us, if we would be called men. I have no doubt that if you pass the resolution that will be submitted to you and carry it out, the Ordinance will be a blessing in disguise, for, has not Lord Selborne told us that oppression brings out the best, very often, in the oppressed? May God do so in us. [*Ibid*]

After the President's speech, the following five resolutions [*Ibid;* C.W.M.G. Vol.V, pp.422-3] which Gandhiji had greatly helped to frame, were moved one after the other:

Resolution I

This mass meeting of British Indians here assembled, respectfully urges the Honourable the President and Members of the Legislative Council of the Transvaal not to pass the Draft Asiatic Ordinance to amend Law No.3 of 1885, now before that Honourable House, in view of the facts that:

(1) It is, so far as the Indian community of the Transvaal is concerned, a highly contentious measure.

(2) It subjects the British Indian community of the Transvaal to degradation and insult totally undeserved by its past history.

(3) The present machinery is sufficient for checking the alleged influx of Asiatics.

(4) The statements as to the alleged influx are denied by the British Indian community.

(5) If the Honourable House is not satisfied with the denial, this meeting invites (an) open, judicial, and British enquiry into the question of the alleged influx.

Resolution II

This mass meeting of British Indians here assembled respectfully protests against the Draft Asiatic Law Amendment Ordinance now being considered by the Legislative Council of the Transvaal, and humbly

requests the local Government and the Imperial Authorities to withdraw the Draft Ordinance, for the reasons that:

(1) It is manifestly in conflict with the past declarations of His Majesty's representatives.

(2) It recognises no distinction between British and alien Asiatics.

(3) It reduces British Indians to a status lower than that of the aboriginal races of South Africa and the Coloured people.

(4) It renders the position of British Indians in the Transvaal much worse than under Law 3 of 1885 and, therefore, than under the Boer regime.

(5) It sets up a system of passes and espionage unknown in any other British territory.

(6) It brands the communities to which it is applied as criminals or suspects.

(7) The alleged influx of unauthorised British Indians into the Transvaal is denied.

(8) If such denial is not accepted, a judicial, open and British enquiry should be instituted before such drastic and uncalled for legislation is enforced.

(9) The measure is otherwise un-British and unduly restricts the liberty of inoffensive British subjects and constitutes a compulsory invitation to British Indians in the Transvaal to leave the country.

(10) This meeting further and especially requests the Rigth Honourable the Secretary of State for the Colonies and the Right Honourable the Secretary of State for India to suspend the Royal sanction and to receive a deputation on behalf of the British Indian community of the Transvaal in connection with this Draft Ordinance.

Resolution III

This meeting hereby appoints a delegation with power from the Committee of the British Indian Association to add to its membership or to change its personnel, to proceed to England and to lay before the Imperial Authorities the complaint of the British Indian community of the Transvaal regarding the Draft Asiatic Law Amendment Ordinance.

Resolution IV

In the event of the Legislative Council, the local Government, and the Imperial Authorities, rejecting the humble prayer of the British Indian community of the Transvaal in connection with the Draft Asiatic Law Amendment Ordinance, this mass meeting of British Indians here assembled solemnly and regretfully resolves that, rather than submit to the galling, tyrannous and un-British requirements laid down in the above Draft Ordinance, even British Indian in the transvaal shall submit himself to imprisonment and shall continue so to do until it shall please His Most Gracious Majesty the King Emperor to grant relief.

Resolution V

This meeting desires the Chairman to forward copy of the first resolution to the Honourable the President and Members of the Legislative Council, and copies of all the resolutions to the honourable the Colonial

Secretary, to His Excellency the Acting Lieutenant-Governor, and to His Excellency the High Commissioner, and to request His Excellency the High Commissioner to cable the text of resolutions Nos.2, 3 and 4 of the Imperial Authorities.

Proposing the first resolution, Mr N. V. Shah of Johannesburg said that there was no justification for the introduction of the Ordinance, which was "a stigma and a disgrace to the whole community." Producing his own register and slamming it on the table, he continued. “This register contains my name, my wife's name, my caste, my profession, my height, my age. It bears even thumb impression. Is all this not enough? How can anyone else use this register? Does the Government want now to brand us on our foreheads? I will never return my register. Neither will I be registered again. I prefer going to gaol and I will go there." [C.W.M.G. Vol.V, p.440] He sat down to loud applause.

Mr C. K. T. Naidoo seconded the resolution and spoke in Tamil, whereafter it was passed unanimously.

Mr Abdul Rahman of Potchefstroom, proposing the second resolution, quoted Sir Henry Cotton, an Englishman, who some two years before, at a meeting of the Indian National Congress at Bombay, had said, "Where the Boers chastised the British Indians with whips, the British Government is now trying to chastise them with scorpions." The Government were now trying to treat them as criminals and they were, therefore, determined not to submit to "such indignities and shame." [*Indian Opinion,* September 22, 1906]

Dr William Godfrey, while seconding the resolution, regretted that the Transvaal Government had thrown to the winds the solemn assurances given by Her late Majesty, Queen Victoria in her proclamation of 1858 to "the natives of our Indian territories." Apparently, he said, those who wore coloured skins needed a passport of identification, whilst those, whose skins were white,

needed only the passport of those skins! In the Transvaal there was no liberty, no freedom and no justice for British Indians, merely because they had a dark skin. Dr Godfrey concluded. "We are not going to submit to such oppression. We shall go to gaol rather than do so. Let no one imagine that we shall run away in fear. If the Bill is passed, we will storm the courts and say 'Arrest us'." [*Ibid,* C.W.M.G. Vol.V, p.440]

Thereafter the resolution was carried unanimously.

Moving the third resolution, Mr Essop Mian said that since the actions of the Transvaal Government for the past three years had been worse than Russian rule, it was "necessary to appeal to the Imperial Government, and if they too refused to listen, they must go to gaol, rather than submit to wanton insult." [*Indian Opinion,* September 22, 1906]

After Mr Coovadia had seconded the resolution and a few others had also spoken, it was carried "enthusiastically".

The fourth resolution, which was described as the "Gaol Resolution", was proposed by Mr Hajee Habib. Even as he rose to speak, the audience greeted him with cheers. He spoke in Gujarati in such a caustic and impassioned manner that even those who did not know the language said that they could follow its purport. "His speech was full of vivacity, sparkling with wit, and his telling satire went home, the audience repeatedly cheering him to the echo. Now and again, so as to increase the effect of his words, he broke into English and the reporters were not allowed to forget the vital difference between the heavenly origin of the whites and the infernal derivation of the British Indians." [*Ibid*] He said that the fourth Resolution was the most important of all. It required them to solemnly declare their intention to go to gaol rather than suffer degradation. There was no disgrace in going to gaol over a matter like the one before the meeting. They

should all feel proud to do so. They had Mr Tilak's example. Only a few people knew of Mr Tilak before he went to gaol; today the whole world knew him. They were not to expect justice at the hands of the Transvaal Government. They must pass this resolution with God as witness and must never yield a cowardly submission to such a degrading legislation.

Declaring solemnly in the name of God that he would never submit to that law, Mr Hajee Habib continued, "This Bill is most objectionable. If it is passed, I solemnly declare that I will never get myself registered again and will be the first to go to gaol. I recommend the same course to you all. Are you all prepared to take the oath?"

When Mr Hajee Habib put this question to the audience, the assembly stood up to a man and responded. "Yes, we will go to gaol!" Gandhiji was deeply moved.

The speaker then concluded, "Only by so doing, shall we succeed. We tried this method in the days of the Boer Government also....Now that a British Government is in power, the time has come for us to go to gaol and go we will."

As he repeated the last phrase thrice, the meeting greeted his resolve with applause. [*Ibid;* C.W.M.G. Vol.V, pp.441-2]

When Mr Haji Ojer Ally stood up to second the Resolution, the whole theatre resounded with prolonged cheers which took some time to subside. Speaking in a thundering voice, Mr Ally said that the passage of the Draft Ordinance meant degradation, indignities and curtailment of their liberties. Their cause was right and just and they need not fear anything. He stood on his rights as a British subject in this matter. Under the protection of the flag they had been taught to love and revere, and in the name of the Union Jack, they would stand

shoulder to shoulder and resist evil. Here he produced a Union Jack which he placed around his shoulders as he continued to speak. As the flag stood for equal rights, and as that flag now flew in the Transvaal, so would they stand up for equal treatment.

He continued, "Like Mr Haji Habib, I too shall refuse to register myself and prefer to go to gaol and deem it an honour. The Government have betrayed us... Nowhere except here in the Transvaal have I seen such oppression of our people."

Appealing to all fair-minded men in the name of Christianity, civilization and humanity, he said that on the day the Ordinance was passed, he would present himself at the police station and tell the sergeant to arrest him, declining to register himself. "And", he concluded, "I hope you will all go too." [*Ibid,* p.442]

After Dr Godfrey, Mr Nawab Khan and a few others had also spoken, Gandhiji arose to speak on the fourth Resolution. A storm was raging in his mind when Sheth Haji Habib spoke and asked the audience to take a solemn oath in the name of God. Reminiscing over this event, he wrote in his *Satyagraha in South Africa:* [M. K. Gandhi, *Satyagraha in South Africa,* pp.103-7]

> When in the course of his speech Sheth Haji Habib came to the solemn declaration, I was at once startled and put on my guard. Only then did I fully realize my own responsibility and the responsibility of the community. The community had passed many a resolution before and amended such resolutions in the light of further reflection or fresh experience. There were cases in which resolutions passed had not been observed by all concerned. Amendments in resolutions and failure to observe resolutions on the part of persons agreeing thereto are ordinary experiences of public life all the

world over. But no one ever imports the name of God into such resolutions. In the abstract there should not be any distinction between a resolution and an oath taken in the name of God. When an intelligent man makes a resolution deliberately he never swerves from it by a hair's breadth. With him his resolution carries as much weight as a declaration made with God as witness does. But the world takes no note of abstract principles and imagines an ordinary resolution and an oath in the name of God to be poles asunder. A man who makes an ordinary resolution is not ashamed of himself when he deviates from it, but a man who violates an oath administered to him is not only ashamed of himself, but is also looked upon by society as a sinner. This imaginary distinction has struck such a deep root in the human mind that a person making a statement on oath before a judge is held to have committed an offence in law if the statement is proved to be false and receives drastic punishment.

Full of these thoughts as I was, possessing as I did much experience of solemn pledges, having profited by them, I was taken aback by Sheth Haji Habib's suggestion of an oath. I thought out the possible consequences of it in a moment. My perplexity gave place to enthusiasm. And although I had no intention of taking an oath or inviting others to do so when I went to the meeting. l warmly approved of the Sheth's suggestion. But at the same time it seemed to me that the people should be told of all the consequences and should have explained to them clearly the meaning of a pledge. And if even then they were prepared to pledge themselves, they should be encouraged to do so: otherwise I must understand that they were not still ready to stand the final test. I therefore asked the President for permission to explain to the meeting the implications of Sheth Haji

Habib's suggestion. The President readily granted it and I rose to address the meeting.

Gandhiji brought the meeting to a climax, speaking in his clear, low tones. His language was earnest, serious, and his words carefully chosen. His remarks, as he recalled them, were as follows:

> I wish to explain to this meeting that there is a vast difference between this resolution and every other resolution we have passed up to date and that there is a wide divergence also in the manner of making it. It is a very grave resolution we are making, as our existence in South Africa depends upon our fully observing it. The manner of making the resolution suggested by our friend is as much of a novelty as of a solemnity. I did not come to the meeting with a view to getting the resolution passed in that manner, which redounds to the credit of Sheth Haji Habib as well as it lays a burden of responsibility upon him. I tender my congratulations to him. I deeply appreciate his suggestion, but if you adopt it, you too will share his responsibility. You must understand what is this responsibility, and as an adviser and servant of the community, it is my duty fully to explain it to you.
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> We all believe in one and the same God, the differences of nomenclature in Hinduism and Islam notwithstanding. To pledge ourselves or to take an oath in the name of that God or with Him as witness is not something to be trifled with. If having taken such an oath we violate our pledge we are guilty before God and man. Personally I hold that a man, who deliberately and intelligently takes a pledge and then breaks it, forfeits his manhood. And just as a copper coin treated with mercury not only becomes valueless when detected but also makes its owner liable to punishment, in the same

way a man who lightly pledges his word and then breaks it becomes a man of straw and fits himself for punishment here as well as hereafter. Sheth Haji Habib is proposing to administer an oath of a very serious character. There is no one in this meeting who can be classed as an infant or as wanting in understanding. You are all well advanced in age and have seen the world; many of you are delegates and have discharged responsibilities in a greater or lesser measure. No one present, therefore, can ever hope to excuse himself by saying that he did not know what he was about when he took the oath.

I know that pledges and vows are, and should be, taken on rare occasions. A man who takes a vow every now and then is sure to stumble. But if I can imagine a crisis in the history of the Indian community of South Africa when it would be in the fitness of things to take pledges that crisis is surely now. There is wisdom in taking serious steps with great caution and hesitation. But caution and hesitation have their limits, and we have now passed them. The Government has taken leave of all sense of decency. We would only be betraying our unworthiness and cowardice, if we cannot stake our all in the face of the conflagration which envelops us and sit watching it with folded hands. There is no doubt, therefore, that the present is a proper occasion for taking pledges. But every one of us must think out for himself if he has the will and the ability to pledge himself. Resolutions of this nature cannot be passed by a majority vote. Only those who take a pledge can be bound by it. This pledge must not be taken with a view to produce an effect on outsiders. No one should trouble to consider what impression it might have upon the local Government, the Imperial Government, or the Government of India. Every one must only search his

own heart, and if the inner voice assures him that he has the requisite strength to carry him through, then only should he pledge himself and then only will his pledge bear fruit.

A few words now as to the consequences. Hoping for the best, we may say that if a majority of the Indians pledge themselves to resistance and if all who take the pledge prove true to themselves, the Ordinance may not be passed and if passed, may be soon repealed. It may be that we may not be called upon to suffer at all. But if on the one hand a man who takes a pledge must be a robust optimist, on the other hand he must be prepared for the worst. Therefore I want to give you an idea of the worst that might happen to us in the present struggle. Imagine that all of us present here numbering 3,000 at the most pledge ourselves. Imagine again that the remaining 10000 Indians take no such pledge. We will only provoke ridicule in the beginning. Again it is quite possible that in spite of the present warning some or many of those who pledge themselves may weaken at the very first trial. We may have to go to gaol, where we may be insulted. We may have to go hungry and suffer extreme heat or cold. Hard labour may be imposed upon us. We may be flogged by rude warders. We may be fined heavily and our property may be attached and held up to auction if there are only a few resisters left. Opulent today we may be reduced to abject poverty tomorrow. We may be deported. Suffering from starvation and similar hardships in jail, some of us may fall ill and even die. In short, therefore, it is not at all impossible that we may have to endure every hardship that we can imagine, and wisdom lies in pledging ourselves on the understanding that we shall have to suffer all that and worse. If some one asks me when and how the struggle may end, I may say that if the

entire community manfully stands the test, the end will be near. If many of us fall back under storm and stress, the struggle will be prolonged. But I can boldly declare, and with certainty, that so long as there is even a handful of men true to their pledge, there can only be one end to the struggle, and that is victory.

A word about my personal responsibility. If I am warning you of the risks attendant upon the pledge, I am at the same time inviting you to pledge yourselves, and I am fully conscious of my responsibility in the matter. It is possible that a majority of those present here may take the pledge in a fit of enthusiasm or indignation but may weaken under the ordeal, and only a handful may be left to face the final test. Even then there is only one course open to some one like me, to die but not to submit to the law. It is quite unlikely but even if every one else flinched leaving me alone to face the music, I am confident that I would never violate my pledge. Please do not misunderstand me. I am not saying this out of vanity, but I wish to put you, especially the leaders upon the platform, on your guard. I wish respectfully to suggest it to you that if you have not the will or the ability to stand firm even when you are perfectly isolated, you must not only not take the pledge yourselves but you must declare your opposition before the resolution is put to the meeting and before its members begin to take pledges and you must not make yourselves parties to the resolution. Although we are going to take the pledge in a body, no one should imagine that default on the part of one or many can absolve the rest from their obligation. Every one should fully realize his responsibility, then only pledge himself independently of others and understand that he himself must be true to his pledge even unto death, no matter what others do.

Gandhiji spoke to this effect and resumed his seat. The audience heard him word by word in perfect quiet. The resolution was then put, as a solemn oath with God as witness, and carried by acclamation, the whole audience rising as one man and cheering wildly.

"I can never forget the scene, which is present before my mind's eye, as I write. The community's enthusiasm knew no bounds" says Gandhiji in his *Satyagraha in South Africa.* [*Ibid,* p.107]

After the fifth and last resolution had also been moved and carried unanimously, Mr Abdul Gani formally concluded the business of the meeting, praying that the Almighty might give wisdom to their rulers "to do what was right and just." [*Indian Opinion,* September 22, 1906]

The following day, the amended bill, having been read for the third time, was passed by the Legislative Council without a dissenting vote. Inasmuch as the ordinance affected a coloured race, it did not become immediately effective. Its operation was suspended "until signification of His Majesty's pleasure thereupon," as determined by the Prime Minister and his Cabinet.

7

Neither the enemies nor the friends of the British Indians could comprehend the true significance of the events at the Empire Theatre. The course taken under Gandhiji's leadership seemed unwise and certain only to bring on the heads of the Indians much unnecessary and fruitless suffering. Even the *Pretoria News,* whose editor, V. P. Stent, battled the anti-Asiatic sentiment of the capital, wrote, "We should have thought that this very registration would have been welcomed by the Indians, since it confirms them completely in the rights which they at present enjoy." The article further cautioned them, "Ill-

considered agitation may result in the Indian jumping from the frying-pan of a moderate policy, to the fire of a National Convention." [*Ibid,* October 29, 1906] The *Star,* which closely represented the views of the Government, warned, "If yesterday's demonstration is to be the beginning of a regular campaign, and heroics about 'oppression, degradation, and insult', are followed by the creation of a class of passive resisters, then we can only foresee one solution of the British Indian question, and it will not by any means suit the wishes of Mr Abdul Gani and his Association." The meaning of this became clear in the form of a threat: “The passive resistance of a handful of British Indians in the Transvaal, aimed at a measure which merely confirmed their existing conditions, and lacking even the sympathetic neutrality which was the attitude of a large minority of the English electorate, would simply provoke a movement for their wholesale expulsion as an expensive nuisance.” [*Ibid,* September 22, 1906] The *Daily Mail* found the protest "somewhat ill balanced," and ridiculed it. "It bore a remarkable family resemblance to those excited gatherings in Bengal,” it wrote, "when hosts of excellent young men worked themselves into a passion because a Viceroy considered that the ruling of eighty millions of people was too heavy a task for one man." 'The speeches and resolutions "will no doubt prove invaluable to Sir Henry Cotton," the paper observed, in a belittling reference to the former President of the Indian National Congress who was considered an eccentric by most administrators for his defence of Indian rights. "Threats were only to be expected and so was ridicule," Gandhiji observed. "We shall no doubt have much more of both before the struggle is ended." [*Ibid;* C.W.M.G. Vol.V, p.437]

The third resolution authorised a delegation to England to lay before the Imperial authorities the complaint of the Indian community, in the hope of preventing His Majesty's acceptance of the Ordinance. Gandhiji immediately set

to work preparing for the deputation. Having warned Chhaganlal that he would have to manage *Indian Opinion* for a per iod of time, he prepared for the continuation of that organ of communication. He had also to arrange for the continuation of the work of the British Indian Association in his absence. For the deputation itself, a final decision on its membership had to be reached, and funds raised for the expensive voyage, for in those days Gandhiji, despite his austere personal life, believed that it was necessary to use first class accommodation when representing the Indian community.

He had initiated the raising of adequate funds even before the protest meeting, with the Hamidia Islamic Society taking the lead, but the results of the campaign were not matching its promise. Even the declarations at the Empire theatre did not prove effective. Toward the end of September he had to report that Gulam Mohammed, the Treasurer, had not received even a thousand pounds toward the cost of sending the deputation and fighting the Ordinance, when six to seven thousand pounds had been expected. Many men still did not recognize the urgency of the need. Some who had collected money would not part with it on the pretext that others had not done so. A telegram from one place said that the collection had yet to be made; another reported that remittances would be made only after a certain Sheth had made his contribution. A message from a third town said that they did not mean to send anything because a certain community was not contributing. "What could be more shameful in these circumstances than to be unable to raise the necessary funds?" Gandhiji asked. "This is a testing time for every Indian; and if we are found wanting, we shall suffer a heavy penalty. Not only shall we be reduced to a sorry plight, but even our heirs shall taste the fruit of our sin." [*Ibid,* p.454]

In response to the transmission to Lord Elgin of the second, third, and fourth resolutions, together with Governor Selborne's remark that "Statements in the Resolutions with regard to the draft Ordinance are greatly exaggerated," [Cd. 3308, Governor to Secretary of State, Telegram, September 13, 1906] the Colonial Secretary had cabled back on September 21 the message that the legislation in question "had been approved by me", and that while delegates from the Transvaal, if sent, would be given the opportunity of stating their views, he did not consider that any useful purpose was likely to be served by sending a deputation. [Cd. 3308, Secretary of State to Governor, Telegram, September 21, 1906] This response was transmitted to Gandhiji by the Governor's secretary on Monday, September 24, causing delay and a crisis within the British Indian Association. It was assumed from Lord Elgin's statement that the legislation had been approved, that the Government had already accepted it and it had therefore already become law, and would come into operation as of 1st January, whereas it signified only that he had agreed in advance to legislation, though he had not yet seen the actual Ordinance. The deputation had planned to leave on Monday, October 1. In consequence of the news of Elgin's response, it was decided that the deputation should not sail.

Gandhiji took Lord Elgin's message as a challenge. It reflected no credit on the Liberal party, nor on a Colonial Secretary who had once been the Viceroy of India. By approving the legislation, "His Excellency has clothed with life the historic fourth resolution of the great meeting," Gandhiji declared. He had accepted the challenge thrown by the Indian community. "On the one side has now to be ranged brute force; on the other, simple passive resistance." He welcomed the struggle, and warned that it was now time, not for argument but for action:

> The first of January will be, for millions of His Majesty's subjects, a day of gladsome prospect. To British Indians it will be a similar day, though not in the same sense. They must marshal their forces and conserve their energy. They will need to be ready to face the inevitable on that eventful day. The community is now on its trial. Let us hope it will emerge scatheless. By its action will be judged Indian character, if not throughout the world, certainly in South Africa. In having passed the historic resolution, the meeting has undertaken a trust which British Indians in the Transvaal must discharge, come what may. [C.W.M.G. Vol. V, p.450: *Indian Opinion,* September 29, 1906]

At the same time he sought clarification of Lord Elgin's approval, and on Tuesday afternoon received a telephone call from the Governor's office explaining that this had not signified that the Act had received the Royal assent. Once again it was clear that there was need for sending a deputation. This led to a new course of action. That same evening, a group of Indians met together, called on Mr Haji Ojer Ally, the Chairman of the Hamidia Islamic Society and a veteran of many years in the Cape and the Transvaal Colonies, and obtained his consent to recommend that the Indian community send him alone as a one-man deputation. On Wednesday the idea was put into execution. The Indian community in Pretoria strongly were of the opinion that Gandhiji must remain in the Transvaal, lest in his absence people should waver through fear or temptation and take out new registration certificates. Telegrams from Natal, strongly worded, stated that it was necessary to send the deputation as decided on earlier. The attorneys Gregorowski, who had prepared the opinion on the Ordinance, and Lichtenstein, who attended the Empire Theatre meeting, agreed that the deputation should be sent, but were emphatic in their view that Gandhiji should be included. A meeting was therefore held on Friday, September 28, in

which it was unanimously decided that both Mr Ally and Gandhiji should go to London. There was a consensus of opinion that Abdul Gani should also go, but the idea had to be reluctantly given up because of pressing private business. [*Ibid,* p.446; *Indian Opinion,* October 6, 1906] Before agreeing to go, Gandhiji got the leading men to give a written undertaking that, notwithstanding difficulties that might arise, they would adhere to the Fourth Resolution. A statemem was issued by them which said,

> We, the undersigned agree that in the deputation to England, Abdul Gani, Essop Mian, Ahmad Coovadia, or Haji Ojer Ally, and Mr Gandhi, are going. And we all agree that we shall do our best to stop people from taking new registers. And we ourselves vow that we shall not take new registers even though we may have to face whatever difficulties. And we shall send a deputation on condition that the deputation or Mr Gandhi shall return to the Transvaal before the first of January. [S.N. 4376]

The Committee sanctioned the expenditure of £900 toward the expenses of the deputation, of which £300 was for Mr Ally's domestic and other expenses, and £600 for the costs of the voyage and its work in England. A booking for London on the S. S. Armadale Castle, sailing from Cape Town on October 3rd, was then made.

At every possible opportunity, Gandhiji explained the meaning of passive resistance and gave examples of its use in different circumstances. Haji Habib had cited Tilak's imprisonment in his speech introducing the Fourth Resolution. *Indian Opinion* and the *Star* both made reference to the recent passive resistance movement of British Non-conformist churchmen against the 1902 Education Act, in which hundreds of clergy and sometimes eminent laymen suffered property distraint or gaol; it was for this reason that the phrase "passive resistance" was

widely known at the time. Gandhiji used stories from English history, especially Tyler, Hampden, and Bunyan. Wat Tyler had refused to pay an unjust tax on farmers in the fourteenth century, and though he was killed the tax was removed, and his revolt gave the people an awareness of their strength. John Hampden, a rich gentleman, refused King Charles' demand for Ship Money in the seventeenth century; though Hampden and others were gaoled, the King could not face the prospect of a general refusal, and he had Hampden set free. John Bunyan, dissenting from the authority of the Bishops, hearkened only to the call of God and was imprisoned at Bedford for twelve years. There he wrote *Pilgrim's Progress,* the most beautiful book in the English language, and today, his place of imprisonment has become a place of pilgrimage. It is because of persons like Bunyan that the English today enjoy freedom in matters of religion. [C.W.M.G. Vol.V, p.476; *Indian Opinion,* October 20, 1906] Tolstoy—perhaps the saintliest man living—was also mentioned as teaching passive resistance.

Gandhiji also found an example in the Indian *hartal,* which is considered a duty when grievances need to be redressed. Further examples could be found in South Africa. When President Kruger had proposed to move the Johannesburg Indians to Tobianski's Farm (later named Sophiatown), the British Agent had advised them to remain firm, and despite provocations they had remained peaceful and firm and they had won. When there were difficulties about licences, the Indians carried on their business fearlessly without them, and did not bow to the Boer Government. When Lord Milner brandished the sword of the Bazaar Notice against the Indians, the people though scared decided not to go to the Locations. When Moor demanded photographs on their passes, the Indians refused and the regulations had to be withdrawn. Among the African Natives also, instances of passive resistance could be seen. The Hottentots were subject

to the Pass Law, but they opposed it and did not take out passes, and the Government was powerless to do anything. In Natal, some of the Zulu tribes did not pay the house tax, and it was an open secret that the Government did not collect it from them. [*Ibid,* p.461; *Indian Opinion,* October 6, 1906] "All these instances show that there is no cause for us to be afraid at all," he advised them, and concluded his essay with passage [James D. Hunt, *Gandhi in London,* p.64] which burns with the fire of dedication:

> The Transvaal Indians are determined to go to gaol rather than take out a new Register. Two other alternatives are open to them—either to pay the fine or to leave the Colony. After giving serious thought to both, the Indian community has discarded them. And herein lie its uniqueness, its beauty and its strength. If we pay the fine, it will be just the thing the Government wants. If we leave the Colony, the whites will rejoice, clap their hands and wave their flags. We will do neither of these things, for it would be ignominious and cowardly to do either. Going to gaol is a unique step, a sacred act, and only by doing so, can the Indian community maintain its honour. What does it matter if, in doing so, we lose our trade? If a fire destroys their houses and goods, traders accept it calmly and, being courageous, start their business afresh and earn their livelihood. No one who has hands and feet and possesses ability and intelligence has need, at any rate in this country, to starve. What if a hundred or more lose their all and become paupers in serving the community or the country? The English honour only those who make such sacrifice. Their shining glory has spread just because great heroes have been and are still born among them. Such were Wat Tyler, John Hampden, John Bunyan and others. They laid the foundations of England's political supremacy. Who they were and what

> they did we shall tell some other time. But we shall continue to be in our present abject condition till we follow their example. The Indian community has a good opportunity today of proving its mettle. We hope that it will not let it slip, but will rush to the field, plunge in whole-heartedly and fight to the last. There was a time in India when the mother refused to look at the face of a son who returned vanquished from the battle-field. We pray to God that every Indian in the Transvaal will remember that time.

To further assure the community who had embarked on a perilous course, he offered detailed instructions on preparing for prison and legal defence, answering the practical questions that were being put to him, and again using the opportunity to explain the significance of the course on which they had embarked. In a Gujarati essay entitled "Some Questions" he summarized the chief questions to which he had been subjected by those who were facing the challenge of offering passive resistance. Since all had vowed not to obey the law, many asked in what manner it was to be broken. Gandhiji explained that it was not correct that all Indians would have to appear on January 1 at a Court or the gate of a gaol and say, "We do not want to take out a Register. Arrest us." Even if they did so, the Government would not arrest them. The Government will decide when and how to make arrests. He emphasized that the Government depended on the cooperation of the Indians for the successful enforcement of the law. "They definitely want and expect most of the people to take out new Registers before January 1. The Government will be in a fix what to do if no Indian has, by that date, taken out a Register." He speculated that the Government might then seek the opinion of the Indian leaders, who in any event would inform the Government that no one from the community would register and that, should

they proceed against the offenders, it would be proper to proceed first against the leaders. [C.W.M.G. Vol.V, p.474; *Indian Opinion,* October 20, 1906]

Turning to the matter of legal defence, Gandhiji stated that when men were arrested for not registering, he was bound to defend them as he had promised. He intended to narrate the history of the matter and plead that the real culprit was not the individual who refused to register, but the Association or Gandhiji himself who was guilty, for it was on their advice that people had refrained from registering. There would be no other legal defence, although if the prosecutor committed a mistake in law, advantage might be taken of it. If convicted, the persons might be fined or sentenced to short terms of imprisonment. In no case was the fine to be paid. The only course would be to go to gaol. For the same reason, there was no question of release on bail. Gandhiji assured the Transvaal Indians that the Government had no authority to turn them out of the Colony; only fines and gaol sentences were prescribed in the law. Reports of arrests and convictions in these cases would be cabled to the whole world.

It was not likely that all traders would have to go to gaol, he assured them, but when traders were arrested, the shops should be closed or entrusted to a reliable white. Traders were warned that under the Ordinance, those who did not register would not be entitled to trading licences. If a licence was refused, he advised, the trader should tender the appropriate fee and continue his business. If prosecuted for trading without a license, he should not pay the fine, but serve the gaol sentence.

To those who asked what was to be done if nothing was gained even by going to gaol, he responded, "Such a question cannot arise. When going to gaol is in itself a gain, further questioning is useless. What could be worse than giving

one's finger-prints and disgracing oneself? How can we do that which we consider disgraceful?" Those who registered would lose their good name and earn the contempt of the Indian community. For those who could not stand a gaol sentence, he advised that a better course would be to leave the Transvaal. "It is, of course, cowardly to leave the land, but it is even more cowardly to take out a new Register," he concluded. [C.W.M.G. Vol.V, p.475]

The resolve to resist the Ordinance, he said, could give strength; it could also take it away. "If the Indian community firmly adheres to the Resolution, not only will it rise in the esteem of the people in the Transvaal and put an end to its many troubles, but the beneficent effect will be seen all over South Africa, and hundreds of men in the land of our birth will gain from it. If, on the other hand, the Resolution were not acted upon, those who took the pledge would lose face; the whole community would be disgraced; our petitions would in future carry no weight and our plight would become worse than at present. The Whites would moreover laugh at us. They would spit on us, spurn us and call us cowards. Never shall we be regarded as a united people." [55 *Ibid,* p.457; *Indian Opinion,* September 29, 1906]

On Sunday, September 30, Abdul Gani chaired a meeting of the British Indian Association at the Hamidia Islamic Society hall in the Malay Location. He stated that the people were assembled to bid farewell to the delegates on their departure for England. He welcomed Gandhiji and Ally, who responded suitably. Gandhiji pointed out that he was going only in view of the solemn promises of the leaders and their followers under no circumstances to comply with the requirements of the new Ordinance. Mr Ally called upon all to unite and forget they were Hindus or Mohammedans, and that they should pull together. Mr Habib, in an eloquent speech asked the audience to remember that now they were Indians only—they should have no sectarian dtfferences. Mr B.D. Maliha

said that if nothing else had been done, they had the satisfaction of knowing that they had all been brought together and united. Messrs N. V. Shah, Morarji, Gabru, Arabie, Abdul Samad, E.S. Coovadia, Omarji Sale, and Imam Abdul Cadir Bawazeer spoke in the same strain. Inasmuch as Gandhiji's position as Honorary Secretary of the Association would fall vacant for the time being, and it was necessary that an appointment should be made to carry on the official work of the Association, Mr Mohammed Shahbooden nominated Mr H. S. L. Polak to act as Honorary Secretary in Gandhiji's absence, and this was unanimously approved. [*Indian Opinion,* October 6, 1906] The Chinese association, also dissatisfied with the Asiatic Ordinance, despatched a delegate, Mr James, to bestir the Chinese ambassador at London, and he was accompanied on the voyage by the Chinese Consul-General.

On Monday, October 1, the deputation, surrounded by a large company of well-wishers, boarded the Cape Mail at Park Station at 6.15 in the evening. Before that could happen, they received another token of the Government's attitude to the Indians. The station-master sent a message that they could not travel by that train, but they were free to do so by the 9 p.m. train if they wished. No reason was given. This meant that the delegation would miss the sailing of the S. S. *Armadale Castle* and hence be delayed by a week. Gandhiji immediately spoke to the General Manager who, after an hour, reported that the Station master had made a mistake and there would be no difficulty in the deputation travelling by the Cape Mail.

Gandhiji passed his thirty-seventh birthday on the train, and nursed his companion, who was troubled with rheumatism. At two o'clock on Wednesday they reached Cape Town and after a meal at the home of Mr Yusuf Gool boarded the *Armadale Castle.* They occupied a first class cabin in the third section.

Some years later Gandhiji reflecting on the events of that tumultuous month, revealed what reactions prompted him to take a decision in favour of

disobeying the law and going to gaol in 1906, when he said: [Speech in Birmingham, England, October 18, 1931; *Young India,* November 5, 1931; C.W.M.G. Vol. XLVIII, p.188]

> Up to the year 1906 I simply relied on appeal to reason. I was a very industrious reformer. I was a good draftsman, as I always had a close grip of facts which in its turn was the necessary result of my meticulous regard for truth. But I found that reason failed to produce an impression when the critical moment arrived in South Africa. My people were excited— even a worm will and does sometimes turn—and there was talk of wreaking vengeance. I had then to choose between allying myself to violence or finding out some other method of meeting the crisis and stopping the rot, and it came to me that we should refuse to obey legislation that was degrading and let them put us in jail if they liked. Thus came into being the moral equivalent of war.

APPENDICES

APPENDIX A

LETTER FROM

THE GOVERNOR TO THE SECRETARY OF STATE

MY LORD Governor's Office, Johannesburg, May 21, 1906.

I have the honour to confirm my telegram. No.1, of the 21st May, copy of which is attached to this despatch, in answer to Your Lordship's telegram, No.2, of the 11th May, relative to the case of the heirs of Aboo Baker Amod. I propose to take this opportunity, in replying to Your Lordship at length, of placing on record my views with regard to certain aspects of the Asiatic question in this Colony. In doing so it is necessary to note the circumstances which occasion the special difficulties with which a British Government is faced when dealing with this particular problem.

2. After the retrocession of the Transvaal to the Boers in 1881, Asiatics, many of whom were British Indians, attempted to enter the country to reside in it, to trade, and to acquire property. Their liberty to do so was questioned less at the instance of the Boers themselves than of the European traders who were in great part British subjects or of British origin. The British Government enforced the claims of the Asiatics by all the diplomatic means in its power, and the restrictions to which they were subjected were among the subjects of disagreement which led to the outbreak of war. In spite, however, of the protests of the British Government, the South African Republic was able to pass and to maintain certain restrictive laws. Now that the country is in the hands of the Imperial Government, the Asiatics who are British subjects naturally claim that the same privileges should be accorded to them as were demanded on their behalf from the Republican Government.

3. The European inhabitants of the country, however, and more especially the trading section of the population, assert that if Asiatics are freely admitted to this country, and if their disabilities are removed, they will in time displace all but a small minority of the white population. They draw attention to the fact that although Asiatics have been freely admitted to Natal for a comparatively few years they already exceed the white population, which is scarcely sufficient to maintain its supremacy over a large semi-civilised native population. In this task the Asiatic population, drawn almost exclusively from the lowest and most unwarlike races of India, take no share as combatants. They point to Mauritius, parts of which are more temperate and healthy than the lower portions of Natal, an island which was uninhabited when it was first discovered some 400 years ago, which has since that time been open of access to all races without distinction or restraint, and which now supports a large population, of whom no more that 2 ½ per cent. are Europeans, while upwards of 70 per cent. are pure Asiatics. Owing to the presence of the native population there is in practice no room in this country for unskilled labourers of European race, and it is contended that the removal of restrictions placed on the ingress of Asiatics and their residence in this country will mean that certain large and important branches of the mechanical trades, of agriculture, of commerce, and even of the professions, which now support the white inhabitants, will be invaded and were long monopolised by Asiatics of the lower caste. They argue, and I must admit the force of their argument, that the white population of the country will not increase as it ought to in proportion to that of non-European origin, and that in less than a century, perhaps, the proportion which the white population bears to the coloured will approach the proportions which now exist in Mauritius. Under these conditions, South Africa will, for all time, require to be occupied by troops imported from Europe, not only for its protection against foreign invasion but even for the

enforcement of order among its native population. Turning to America they contend that there is hardly any mistake which a young State may commit which cannot afterwards be amended and undone except a mistake in the elements of population. While admitting the grave difficulties in which this Government is placed by reason of its attitude on this question before the war, they ask that, where the future of this country as a home for Europeans is at stake, the Imperial Government should be prepared to reconsider a position adopted under circumstances very different from those with which they are now faced.

4. In considering these two positions a distinction must be drawn, so far as the Asiatics are concerned, between those who have acquired rights of domicile in the Transvaal as distinguished from those who have not, and who now claim to enter it. I am confident that a responsible Ministry, supported by the belief that the Imperial Government appreciates to the full the gravity of the question from the point of view of the white Colonists, can be trusted to listen to the just claims of British subjects of Asiatic nationality resident in the Transvaal, which will be pressed upon them by that Government, and to effect the settlement of this part of the question on just and moderate lines. The claims of the Asiatics who wish to acquire the right to enter the country, and the claims of the Europeans (more especially the British population) who demand the right to maintain the country they have settled and civilised as a European, and not as an Asiatic, community seem to me to be in antagonism towards one another which cannot be reconciled. Whatever the settlement may be on paper, in the course of time one of the two parties will, in fact, be ousted from their position, and South Africa will either remain a "white man's" country, so far as it is possible for any country based on a negro proletariat to claim thai title, or it will become a country

peopled by aboriginal natives and Asiatics, under the control and management of Europeans, who form an insignificant proportion of the indigenous population.

5. From the outset I have recognised that the issues involved are so far reaching, that the settlement must await the establishment of representative institutions. An attempt to decide now any one of the main issues at stake would aggravate the difficulties of the question because an elective legislature would in all probability re-open it. All that can be effected now is to keep these issues open, and, in the meantime, to induce by every possible means a reasonable and moderate temper in both the parties concerned. The necessity of this course was so apparent from the outset that I have not hesitated to give to the European population pledges of the most specific nature that the question would be reserved to be dealt with by their representative Government. For Your Lordship's information, I enclose a passage from my speech, delivered at Potchefstroom on October 7th last, dealing with this subject (Annexure "A").

6. Unhappily this is a question which cannot be kept open by merely abstaining from action, and herein lies the peculiar difficulty for an intermediate and provisional Government. Where the Mineral Laws of the country are concerned or questions relating to native franchise, it is quite open for the present Government to postpone all decision pending the establishment of responsible institutions and to remain passive in the meantime. On this question, however, the mere inaction of the Government would do more to predetermine the issues in question than any positive steps which they might adopt. It is obvious that unless the present Government had enforced deliberate measures for the exclusion of Asiatics they would have flocked into this country in anticipation of the establishment of Responsible Government. It is, in practice, impossible to remove a population which has once established itself, and the first

Legislature elected to represent the whole European population of the Colony, would have found themselves deeply committed on a fundamental question of population before they had had an oprportunity of expressing their views to His Majesty's Government. These obvious considerations are necessary to explain the extreme difficulties which have had to be faced by a British Government assuming responsibility for the administration of this Colony. Before the war the Transvaal was a foreign country, and the British Government was bound to maintain the rights of all British subjects as secured by conventions made with the Government of the Republic, to enter the country and to reside and trade there. When, however, the country was annexed to His Majesty's dominions the conventions lapsed, and though the moral responsibility of the British Government towards His Majesty's Indian subjects remained unaltered, the British Government were faced with an entirely new set of conflicting responsibilities which they had assumed towards the inhabitants of the Transvaal, many of whom now became British subjects for the firsr time. The British Government after the war necessarily undertook the administration of the country until such time as its inhabitants were in a position to administer it themselves, but they did so subject to a pledge, in some cases explicit, but in all implied, that the solution of the fundamental and permanent questions of the country should, so far as was possible, be left over until the time when, through the medium of their own responsible government, they could discuss these questions face to face with the Imperial Authorities. The British Government were, therefore, in honour bound while maintaining their own attitude on the subject so far as the Asiatics were concerned, to hold the question open in fact as well as in law, pending the establishment of responsible institutions, and had the British Government granted free admission to the Asiatics and repealed the restrictive laws imposed by the late Republic in which they or their predecessors

had acquiesced so as to carry out, in the letter as well as in the spirit, the pledges given to Asiatics, they would have been untrue to a trust, in no degree less sacred, towards the European population which had been assumed through circumstances which were utterly unforeseen. For these reasons there was, in my opinion, no course honourably open to the Government of the Transvaal other than to maintain the fundamental laws relating to Asiatics for the time being, so far as was possible, unchanged, and as interpreted from time to time by the Courts, and also to prevent the further influx of Asiatics, however distasteful that task might be.

7. This latter object has been effected by means of the Peace Preservation Ordinance, which was not passed specifically to secure this object, but was intended to enable the Government to deal with the position which arose from the circumstances of the war. That Ordinance as amended by Ordinance No.5 of 1903 conferred on all persons in the country at the time of the declaration of peace (31st May, 1902) the right to remain there. All Asiatics, therefore, who were actually in the country at that time have a statutory right to remain. As a matter of equity this privilege was extended to refugees who had left the country in consequence of the outbreak of war. Your Lordship will note that in my speech at Potchefstroom I expressed my belief that the Ordinance was effectively used to prevent the further influx of Asiatics for the time being. From the reports then before me I could arrive at no other conclusion, but the information which I have since received has led me to revise that opinion, and I am no longer able to assert with confidence, either that Asiatics are not entering in considerable numbers, or, that the law provides a machinery which enables them to be excluded or to be detected when they enter unlawfully. The Government of the Transvaal is pledged, however, to the European inhabitants to restrict the Asiatic population

entitled to reside in this Colony within the limits specified above, so far as it is possible for them to do so.

8. On the other hand, I hold that the Government is bound in honour to spare no effort to mitigate the undoubted hardships involved by the position which I have described, on the Asiatics whose right to reside in this country they have recognised. When I say that they are bound to maintain the existing position so far as is possible, unchanged. I mean that in my opinion they should do so in the spirit rather than in the letter. Where it appears that laws passed by the late Republic, or laws passed by this Government operate harshly on the Asiatic in ways which were not foreseen, and which were not intended, or where they necessitate administrative methods which are harassing to Asiatics who have entered the country legitimately then, in my opinion, it is the duty of the present Government to modify those laws. It is, however, their duty no less to secure that the other side of the bargain shall be kept in the spirit as well as in the letter, and unless the Government are able to assure the Legislature that effective steps are being taken to check a general influx of Asiatics they will be placed in a false position as regards the European inhabitants.

9. Your Lordship's telegram. No.2, of the 11th May, referring to the case of the heirs of Aboo Baker Amod, offers one of the instances in which I consider this Government should intervene in order to preserve the intention of the law, which its actual terms have failed to express. Article 2 of Law 3 of 1885 provides that Asiatics shall not be capable of being owners of fixed property in the Republic, subject to the provision that this restriction shall not be retrospective. The obvious intention of this law, as I read it, was that Asiatics, who held property previous to the date of its enactment, should retain undiminished the rights they had acquired, and, from an equitable point of view, a necessary part of these

rights was the power to transmit that property to their heirs. Of this right, however, they have been deprived by the technical wording of the law, and I am in accord with your Lordship in thinking that it is the duty of the Government to ask the Legislature to redress this hardship, and I have very little doubt that they would consent to do so. I am unable, however, to recommend that any attempt should be made pending the constitutional changes now impending, to repeal the provisions of Law No.3 of 1885, which relate to the holding of property by Asiatics, because these provisions are regarded as an element in the fundamental position which should remain unaltered until it can be dealt with by an elective legislature. The feeling, in fact, on this subject is so strong that the Government could only carry an amending Ordinance by a vigorous use of the official majority, a step which, at this stage, I am confident would not commend itself to your Lordship's judgment. At the same time, the opportunity might well be taken to rectify a number of other hardships involved by the present form of the law, the removal of which would not in any way prejudice the ultimate settlement of the question as between a Responsible Government and the Imperial Government.

10. Among the various steps which I have taken to modify the administration on lines compatible with the establishment of responsible institutions, has been the transfer of the control of Asiatic permits from my own Office to the Office of the Colonial Secretary. These duties have now been placed under the immediate charge of the official previously known as the Protector of Asiatics, whose title has now been changed to Registrar of Asiatics, in order that he may carry out the duties imposed on the Government by Law 3 of 1885. At the same time, the various enactments affecting the position of Asiatics in this country have been made tbe subject of careful examination by the Law Officers of the Crown, with the result that they are found, in their present form, to impose

many hardships on Asiatics entitled to enter or reside in the country, which have no justification in themselves, and which would not, I believe, if understood, receive the approval of public opinion in this country.

11. Your Lordship will note that sub-section 3 of Article 2 of Law 3 of 1885, as modified by the Proclamation of January 24th, 1887, imposes a poll tax of £3 on the registration of every Asiatic entitled to reside in the country. In theory, of course, there should be very few Asiatics in the country from whom this tax has still to be collected, but, even so, I should recommend its abolition on principle. The tax is not sufficient to deter any Asiatic from entering the country, who wishes, and is able to do so on other grounds. On the other hand, most of them are British subjects, and I cannot conceive any possible justification for imposing on one special class of British subjects permitted to reside in this country a separate poll tax, seeing that the Asiatics follow much the same occupations as Europeans, and, therefore, unlike the native, contribute in the same way as Europeans, to the ordinary taxation.

12. The practice of allowing Asiatics, not entitled to reside in the country, to visit it for a limited period for business purposes and other special reasons, has long been admitted, and, in my opinion, it is a very proper practice, and one of which European opinion in the Transvaal approves. These facilities have gone a very long way towards mitigating the hardships imposed upon Asiatics by the present system of exclusion. It was found, however, that numbers of Asiatics who received temporary permits to visit the country, failed to leave it when those permits expired.

13. The Law Officers of the Crown have now pointed out that the Peace Preservation Ordinance does not contemplate temporary permits, and that if permission is given to an Asiatic to enter the country for a time only, the law

contains no machinery which makes it possible to enforce their departure at the expiration of the time specified. In effect, therefore, a temporary permit confers on the holder the same right to reside permanently in the country as an ordinary permit. As Asiatics have availed themselves of this technical defect, the Government have been obliged to stop the issue of temporary permits, except in cases of most exceptional urgency. This restriction imposes a very serious hardship on Asiatics who wish to enter the country for genuine reasons and honestly intend to quit within the time specified. As the matter now stands, the continued issue of temporary permits under the existing state of the law is inconsistent with the pledges which have been given to the European population. In the interests of all parties therefore I am strongly in favour of amending the law at once in such a way as will enable the Government to grant relief to Asiatics in this much appreciated manner.

14. It appears, however, that a hardship of an even more serious nature has been inflicted unwittingly by the provisions of the Labour Importation Ordinance. The Law Officers of the Crown have pointed out that any Asiatic who seeks to enter under a contract of service cannot be introduced into the Transvaal otherwise than subject to the provisions and limitations of that Ordinance. In some cases Asiatics have applied on the ordinary grounds for permits to enter the Transvaal and the justice of their claim has been proved: at the same time they have admitted that the immediate reason for their desire to return to the Transvaal has been a contract of service with some person in the Colony. Such contracts are, of course, ordinary contracts, not contracts of indenture. Under these circumstances, it is impossible for the Registrar of Asiatics to issue a permit without exposing himself and other parties concerned to the heavy penalties imposed by Section 6 of the Ordinance. Thus, by an unforeseen

accident of legislation, Asiatics, whose right to reside in the Colony is admitted, have been deprived of that right, and an injustice has unintentionally been done which ought to be rectified as soon as possible.

15. I must now turn to the actual administration of the permit system. In view of the pledges given by me at Potchefstroom, I have directed that while every possible courtesy and consideration is to be used towards Asiatics residing in the country, the Peace Preservation Ordinance should be administered on the lines set forth in my speech. A more exact application of the law has now shown that the methods necessitated by its terms are at once harassing to the Asiatics and ineffective in securing the purpose for which they are designed. The Government has undertaken, for the time being, to limit the classes of Asiatics who reside permanently in the country to refugees who left on account of the war and those who acquired a statutory right under the Peace Preservation Ordinance. In order to enjoy these rights, any Asiatic who is entitled to them must of course substantiate his claim to do so, and it is obvious that a very large number who desire to enter the Transvaal will demand privileges to which in fact they are not entitled. Under the present system an Asiatic who wishes to enter the Transvaal applies by post to the Registrar of Asiatics to do so. If there appears to be *prima facie* evidence that the grounds for his claim are genuine, he is accorded provisional permission to enter the Transvaal and to present himself for examination at the office of the Registrar of Asiatics. In very many cases this examination proves conclusively that the man has never been in the Transvaal before, and has no right, under the existing system, to a permit. He is there however, located in the Transvaal, and the onus of expelling him from the country then devolves upon the Government. At the same time, the Asiatic has been put to the expense or a journey from the coast to Pretoria and back. Frequently,

however, he is not actually compelled to disburse the cost of his return to the coast, because he disappears before the necessary summons can be served upon him. He has, however, little difficulty in escaping detection and reappears a year later disguised under another name and fully posted in all topographical details, and applies once more as an old resident of the country who has lost his registration certificate. In most cases it is impossible to obtain such information or evidence as will afford any possibility of success in seeking from the Courts an order for his eviction from the Colony. Another objectionable feature of this system lies in the fact that it has called into existence a whole class of "Permit Agents" in the Transvaal, who, in many cases, are nothing more or less than experts in the an of evading the permit restrictions and in obtaining the affidavits necessary to support applications. In one case an Asiatic was arrested with a manual in his possession designed to enable him to emerge successfully from an examination in topographical details. I contend that this system is very harassing for Asiatics who have a genuine right to enter the Transvaal and whose comfort we are concerned to protect in every possible way. To meet the convenience of this class I propose, in future, to station officers at the coast to whom Asiatics can apply direct, without previous reference to Pretoria. These officers, by examination, will be able to ascertain whether the applicant has previously resided in the Transvaal or not. Under the present system of correspondence great delay is necessarily entailed. When, however, the applications are dealt with by officers at the coast, such applications can be disposed of at once, and, If an application is not granted, the Transvaal Government will not be placed under the odious necessity of putting the law in force nor will the unsuccessful applicant have the opportunities, which he at present enjoys, of evading the law.

16. These measures, however, will not prevent the illicit influx of Asiatics, who are fast discovering that if they can enter the country and remain there for

some time unobserved, the Government is in many cases powerless to secure their expulsion. For this reason I fear such influx is likely to increase in the future, unless effective steps are taken to check it. When experience has shown how great is the difficulty of preventing the egress of Chinese from the Witwatersrand merely by the watchfulness of the police, it need scarcely be argued that any attempt to prevent the ingress of Asiatics across the Transvaal frontiers, which measure some 2,000 miles, is certain to fail. The only feasible means of securing immunity for the country, for the time being, from a steady and rapid increase of the Asiatic population permanently residing here, is to insist, as the Government of the Transvaal is at present professing to insist (except in the case of Asiatics born in the Transvaal) that every Asiatic who remains in the Colony should be furnished with documents substantiating his claim to reside there. This is far from being the case at present. It is most unfortunate that nearly all the Registers of Asiatics kept in accordance with Law 3 of 1885 were destroyed in the course of the war. The registration certificates issued to the Asiatics under this law were nothing more than receipts for the £3 registration fee. They contain on their face no such information as now makes it possible to connect them with the original Asiatic to whom they were issued. In many cases the Indian names are entered carelessly, and without knowledge, and sometimes amount to no more than the name of a caste, which is equally applicable to several hundred other Indians in the country. In very many cases these permits, owing to their unsubstantial nature, have been lost or destroyed. An attempt has been made by the British administration to substitute for these registration certificates, held by Asiatics living in the country, permits, issued under the Peace Preservation Ordinance, which bear the thumb mark of the holder and such other particulars as make it possible to ascertain whether the holder at any particular time is in fact the person in respect of whom the permit was issued; but the Government had no

power to require the substitution of these new permits for the old registration certificates. The result is that Asiatics enter the country illicitly with old registration certificates which were issued in respect of Indians who are dead or who have left the country. The Asiatic assumes the name on the certificate and then applies on the strength of it for a permit under the Peace Preservation Ordinance. In most cases, however, the old registration certificates are no longer obtainable even at a high price, but there is nothing to prevent an Asiatic who holds no papers at all from pleading that he was in the country before the war and has been there ever since, and if he has been sufficiently long to acquaint himself with the local topography, he can answer satisfactorily all questions put to him and, in many cases, it is impossible to obtain such evidence as will enable proceedings in a Court to be instituted with any chance of success.

17. The present condition of affairs has many evil results. In the first place it is the occasion of an amount of fraud and perjury which is almost inconceivable to any one not accustomed to dealing with the lower classes of Asiatics. In the second place, where, as not infrequently happens, an Asiatic, who is entitled to reside in the country has lost his papers, he has to be subjected to a searching and harassing enquiry. Even so, his papers cannot be renewed, because such renewal would encourage the sale of these documents, which, in some cases, are known to have realised upwards of £30. In the third place, the Government of the Transvaal is no longer in a position to profess that it is carrying out the policy to which it has again and again been pledged, of preventing the promiscuous immigration of Asiatics pending the establishment of responsible institutions. Lastly, and this is perhaps the gravest objection of all, the present unmethodical system is such as to offer Asiatics every inducement to corrupt the police and the officers of the Government responsible for administering the permits. Everyone

who is accustomed to deal with Oriental races is aware that to obtain their object by means of bribery is not contrary to their code of morals and any attempt to carry out the systematic verification of permits under the present system would, in my opinion, place temptations in the way of police officers and other officials on low salaries to which they should never be exposed.

18. With a view to the amendment of these defects in the present system I propose to remodel it on lines which will leave the smallest possible opening for corruption in the future and which will reduce to insignificance any inconvenience which may be occasioned to Asiatics who are lawfully resident in the country. With this object in view I would propose to pass legislation enabling Asiatics, within a specified date to place their names on a new register and to receive the new certificate of re-registration. It is already a practice in India, owing to the difficulty which exists when dealing with Asiatics of preventing personation, to attach the finger print as well as the signature to legal documents. Following this precedent the register, as well as the certificate, would record the name as well as the finger print of the holder. The new certificate should constitute for the holder final and indefeasible title of his right to reside in this country, and the means of identification afforded by the finger prints would enable the police, without further enquiry, to connect the certificate with its lawful holder. The certificate should be checked once a year, but not more, and the Registrar of Asiatics would be able to ascertain, by a comparison of his registers with the inspection reports, whether the checking had been carried out, and would thus reduce to a minimum the possibilities of corruption.

19. It should also be provided in the law that, after the lapse of the time during which it would be open for Asiatics to apply for new certificates, it would still be open for Asiatics who did not hold them to apply, but that the onus of

proving his right to reside in the Transvaal would rest with the Asiatic and that it would not be incumbent on the Government to disprove his right before refusing to grant him one of the new certificates. The situation would then be that the holders of certificates would in future be free to come and go on the strength of their papers, the necessity of any supplementary enquiry as to their right to these papers would no longer exist and an end would be put to all the delays and inconveniences which such enquiries impose on the Asiatics. Even if the holder lost his certificate, by giving his name and finger prints a new certificate could at once be issued to him on comparison of these data in the records of the Registrar. On the other hand, if an Asiatic, after the time specified, were to be found without a new certificate, the burden of proving his right to such documents would rest with him and not with the Government and the present system of detective enquiries would be rendered unnecessary.

20. For your Lordship's information I attach to this report two draft Ordinances, (Annexures "B" and "C") which would be necessary to carry out the recommendations I have made, and which, with your approval, I propose to ask the Government of the Transvaal to submit to the Legislative Council in the session about to take place. I am advised that it would be possible to obtain the consent of the Legislature to the Ordinances now submitted to your Lordship, which will remove many of the most substantial grievances of the Asiatics and will prevent the permit system from imposing hardships upon Asiatics genuinely entitled to live in the country by making it possible to distinguish them without enquiry from those who have entered it in contravention of the law. Unless something of the kind is done the European population will feel that the pledges given to them have not been maintained with an even hand, and they will not listen to any proposals for removing the hardships which the Ordinance now put

forward is designed to relieve. The question will then be dealt with at the forthcoming elections in a spirit of aggravation which will tend to prejudice its chance of final settlement on reasonable lines, when a Responsible Government is established here and is in a position to address the Imperial Government on the subject.

21. I anticipate that the Legislative Council will be sitting when this despatch reaches London and that the session is likely to be a short one. I have the honour to request, therefore, that your Lordship's conclusions may be communicated by telegraph, so that, if the views expressed in this despatch are adopted, the draft Ordinances may be submitted as soon as possible to the Legislative Council.

I have, &c.,

SELBORNE,

Governor

Annexure "A" in No.3.

Extract from a Speech delivered by His Excellency the High Commissioner.

...You will say to me how can we be sure that a further large number of Indians will not be permitted into this country and swamp the white trader? On that subject you may be perfectly assured. No Indians who were not here before the war will be admitted into the country till you have your own Parliament and by your own representatives you can express your own opinions. (Hear, hear). I give you that assurance as your Governor and High Commissioner, and, therefore, the future is in your own hands when you are in the position, the natural position, of freemen to manage your own affairs by your own representatives. Remember what I have said at the beginning: remember the

distinction between the men who are now in the country and the men you don't want to come here. Remember that honour is as dear to His Majesty's Government and as dear to the King as it is to every individual citizen in the Transvaal, and that, in the case of the men who were in the country before the war, it is impossible for that aspect or the case to be left out of sight. Draw the clearest distinction, is my advice to you when you come to manage your own affairs, between the men who were in the country before the war and the men whom you don't want to come into the country at all. If, as I am confident you will, you, as fair men, regard the case of these men sympathetically and treat them according to the rights which the Courts have decreed to be theirs, you will find no difficulty with His Majesty's Government in safeguarding your future.

Annexure "B" in No.3.

Draft Ordinance to Amend the Peace Preservation Ordinance, 1903.

Be it enacted by the Governor of the Transvaal with the advice and consent of the Legislative Council thereof as follows: -

1. Permits to enter the Colony may be issued in the form prescribed by regulations made by the Lieutenant-Governor to enter and remain in the Colony for any period which may be named on such permit.

2. Upon the expiry of the period named on any permit issued under the last preceding section, the person to whom such permit was issued shall be deemed to be not duly authorised to be in the Colony and within the meaning of Section 6 of the Peace Preservation Ordinance, 1903, or any amendment thereof, and thereupon the provisions of sections 6, 7, and 8 of the said Ordinance shall apply to such person.

3. The provisions of Section 9 of the said Peace Preservation Ordinance, 1903, shall apply to permits issued under Section 1 of this Ordinance.

4. This Ordinance may be cited for all purposes as the Peace Preservation Amendment Ordinance, 1906.

Annexure "C" in No.3.

Draft Ordinance to Amend Law No. 3 of 1885.

Whereas the registers required to be kept under paragraph *(c)* of Article 2 of Law No. 3 of 1885 by the Landdrosts of the various districts of the Colony have been lost or destroyed during the course of the late hostilities:

And whereas in divers cases the receipts for registration fees paid in accordance with the provisions of the said article have been lost by the holders thereof and thereby great inconvenience is caused to such holders:

Be it enacted by the Lieutenant-Governor of the Transvaal, with the advice of the Legislative Council thereof, as follows:-

1. (i) Every person of the races mentioned in Article I of Law No.3 of 1885, who is lawfully entitled to reside in this Colony may apply to such officer as the Lieutenant-Governor may appoint, to be placed on a new register to be kept in accordance with the said Law No. 3 of 1885 or any amendment thereof, and to receive, without payment, a certificate of registration, provided that such application be made within a time to be prescribed by the Lieutenant-Governor and notified in the Gazette.

(ii) The officer aforesaid may make it a condition of the grant of such certificate that the applicant shall supply him with such particulars and furnish

him with such means of identification as may be prescribed by regulations to be made by the Lieutenant-Governor. If at any time such certificate be lost or destroyed, the applicant may apply to have the same renewed, and it shall be the duty of the officer appointed for that purpose by the Lieutenant-Governor to renew such certificate on the conditions aforesaid and on payment of a fee of five shillings.

2. Any such person as is described aforesaid entering or residing in this Colony may be called upon by any member of any police force lawfully established in this Colony or by any other person authorised thereto by the Colonial Secretary, to produce the authority given to him under this or any other law for his being lawfully within the Colony and to supply him with such particulars and furnish him with such means of verifying the same as may be prescribed by such regulations aforesaid.

3. Every such certificate shall be accepted as conclusive evidence in all places that the lawful holder thereof is entitled to reside in this Colony, provided always that the provisions of this section shall not apply to persons who have under Section 10 of the Peace Preservation Ordinance, 1903, been ordered to leave the Colony.

4. After the expiry of the time prescribed by the Lieutenant-Governor as provided by sub-section (i) of Section I of this Ordinance, if any such person therein described shall not have applied for registration as therein provided, the burden of proving that he has complied with the provisions of Law No. 3 of 1885 and that he is lawfully residing in this Colony shall in any Court of Law be upon such person.

5. The registration fee of three pounds imposed by Law No. 3 of 1885, as amended by Volksraad resolution, Article 1419, of the 12th August, 1886, is hereby abolished, and all registrations under such law or under this Ordinance shall, save as provided in sub-section (ii) of Section I be effected without payment of any fee.

6. Notwithstanding anything in sub-section *(b)* of Anicle 2 of Law No.3 of 1885, any fixed property in this Colony registered before the taking effect of such law in the name of a person to whom such law applies, may be transferred by sale, gift, exchange or otherwise, or transmitted by inheritance, and every registration officer may do all acts necessary to give effect to such transfer or transmission.

7. Nothing in the Labour Importation Ordinance, 1904, contained shall be deemed to prevent the issue of permits to enter this Colony under the Peace Preservation Ordinance, 1903, or any amendments thereof to persons registered under Law No.3 of 1885.

8. This Ordinance may be cited for all purposes as the Asiatic Law Amendment Ordinance, 1906.

APPENDIX B

PROPOSED ASIATIC LAW IN THE TRANSVAAL

The following is the full text of the Asiatic Ordinance foreshadowed by Mr. Duncan:

Draft Ordinance To Amend Law No. 3 of 1885

Be it enacted by the Lieutenant-Governor of the Transvaal with the advice and consent of the Legislative Council thereof as follows:

1. Sub-section *(c)* of article *two* of Law No. 3 of 1885 as amended by Volksraad Resolutions Article 1419 of the twelfth day of August 1886 and Article 128 of the sixteenth day of May 1980 shall be and is hereby repealed.

2. In this Ordinance unless inconsistent with the context:

   “Asiatic” shall mean any such person as is described in article *one* of Law No. 3 of 1885 not being a labourer introduced into the Colony under the Labour Importation Ordinance 1904;

   “register of Asiatics” shall mean the register to be kept under this Ordinance as prescribed by Regulation;

   "Registrar" shall mean the officer appointed by the Lieutenant-Governor to keep the register of Asiatics and any person lawfully acting in such capacity;

   "Resident Magistrate” shall include an Assistant Resident Magistrate;

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

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

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

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

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

"lawful holder" as used in relation to certificate of registration shall mean the person whose registration is thereby certified.

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

(2) The following shall be deemed for the purposes of this Ordinance to be an Asiatic lawfully resident in this Colony:-

(i) Any Asiatic duly authorised to enter and reside in this Colony by a permit issued under the Indemnity and Peace Preservation

Ordinance 1902 or any amendment thereof or issued between the first day of September 1900 and the date of the passing of the said Ordinance; provided that any permit expressed to authorise any Asiatic to remain in this Colony for a limited time only shall not be deemed to be a permit within the meaning of this sub-section.

(ii) Any Asiatic resident and actually in this Colony or the Orange River Colony on the 31st day of May 1902.

(iii) Any Asiatic born in this Colony since the day of thirty-first day of May 1902.

4. (1) Every Asiatic resident in this Colony at the date of this Ordinance shall before the first day of January 1907 or such later date as in special cases the Lieutenant-Governor may appoint make application for registration to such person and at such place as the Colonial Secretary may prescribe by notice in the *Gazette;*

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

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

(b) in the case of any Asiatic child who at the expiration of such time is eight years of age but under sixteen years of age such application

shall be made on such child's behalf by his guardian and if not so made shall be made by such child within one month after attaining the age of sixteen years.

5. (1) The Registrar shall consider every application for registration made under the last preceding section and register every applicant who is lawfully resident in this Colony or whose application is approved by him

and shall cause to be issued to such applicant or the guardian who made the application on his behalf a certificate of registration.

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

and *eight* of the said Ordinance shall apply accordingly; provided further that if the Resident Magistrate shall be satisfied that the applicant is lawfully resident within this Colony such Magistrate shall make an order upon the Registrar requiring him to register such applicant and to issue to him a certificate of registration.

(3) Nothing in this section contained shall be deemed to be exempt any applicant whose application for registration has been refused from being arrested under section *five* of the Peace Preservation Ordinance 1903 and dealt with as provided in section *six* of the said Ordinance.

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

(2) the guardian of every Asiatic child born in this Colony after the date of this Ordinance shall within one year after such child attains the age of eight years make application for registration on such child's behalf at the office of Resident Magistrate of the District in which he himself resides;

provided that

(a) where any guardian fails to make application for registration on behalf of any Asiatic child whose guardian he is within the time

hereby prescribed for making the same such guardian shall on being thereto required by the Registrar or any Resident Magistrate make such application at any later date;

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

The Resident Magistrate at whose office any application is made under this section shall cause the record of such application and all documents relating thereto to be forwarded to the Registrar who shall if satisfied that the same is in order register the applicant and cause to be issued to him or his guardian a certificate of registration.

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

8. (1) Any person who shall fail to make application for registration as required by this Ordinance either on his own behalf or as guardian on behalf of an Asiatic child shall be liable on conviction to a fine not exceeding one hundred pounds and in default of payment to imprisonment with or without hard labour for a period not exceeding three months.

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

(3) If an Asiatic who has failed to make application for registration within the time prescribed by this Ordinance shall satisfy the Magistrate before whom he is brought that such failure was due to some good and sufficient cause the Magistrate may instead of making such order as aforesaid direct such Asiatic forthwith to make application for registration and if such Asiatic shall comply with such direction his application shall be dealt with in all respects as if it had been made within the time within

which it was required to be made by this Ordinance and all the provisions of this Ordinance which would have applied if the application had been so made shall apply accordingly but if he shall fail to comply with such direction the Magistrate shall make such order for removal as aforesaid in respect of such Asiatic.

9. Every Asiatic at the age of 16 years and upwards entering or residing in this Colony shall upon demand made upon him by any member of a police force lawfully established in this Colony or any other person authorized thereto by the Colonial Secretary produce the certificate of registration of which he is the lawful holder and shall also on like demand supply such particulars and furnish such means of identification as may be prescribed by Regulation.

Every guardian of an Asiatic child under the age of sixteen years shall produce on such demand as aforesaid any certificate of registration of which such child is the lawful holder and supply any particulars and furnish any means of identification required by this Ordinance or any Regulation in respect of such child.

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

11. Any person into whose hands shall come any certificate of registration of which he is not the lawful holder shall deliver or transmit the same by post as soon as may be to the Registrar of Asiatics Pretoria.

Any person who fails to comply with the requirements of this section shall be liable on conviction to a fine not exceeding fifty pounds or in default of payment to imprisonment with or without hard labour to a period not exceeding one month.

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

13. After such date as the Lieutenant-Governor may fix by Proclamation in the *Gazette* being a date not less than six months after the first day of January 1907 no Asiatic shall obtain any trading licence issued under the Revenue Licences Ordinance 1905 or any amendment thereof or any bye-law in force in a municipality unless he shall produce to the person appointed to issue such licence a certificate of registration of which he is the lawful holder and supply such particulars and furnish such means of identification as may be prescribed by the regulation.

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

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

16. Any person who;

(i) for the purpose of or in connection with an application for registration or for the purpose of obtaining a certificate of registration commits any fraudulent act or makes any false statement or false pretence or incites any person to or aids or abets any person in such act statement or pretence;

(ii) forges any certificate of registration;

(iii) uses or attempts to use as his certificate any certificate of registration of which he is not the lawful holder or any forged certificate of registration;

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

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

17. (1) Notwithstanding anything in the Peace Preservation Ordinance 1903 contained a permit to enter this Colony may be issued in the form prescribed by Regulation authorizing an Asiatic to enter and remain in this Colony for any period named in such permit and after the expiry of such

period the person authorized by such permit to enter this Colony shall be deemed to be a person not duly authorized to be in this Colony and if found may be arrested without warrant and the provisions of sections *seven* and *eight* of the said Ordinance shall apply to such person as if he were a person who at the date of such expiry had been ordered to leave this Colony under section *six* of the said Ordinance and had failed to comply with such order.

(2)The provision of section *nine* of the said Ordinance shall in all cases apply to permits issued under this section.

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

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

18. The Lieutenant-Governor may from time io time make alter and repeal regulations for any ol the tollowing purposes:

(1) prescribing the form of the register to be kept under this Ordinance;

(2) prescribing the manner and form in which application shall be made for registration the particulars to be supplied and the means of

identification to be furnished by any applicant for the purpose of or in connection with such application;

(3) prescribing the form of certificates of registration;

(4) prescribing the particulars to be supplied and the means of identification to be furnished;

(a) by the guardian of any Asiatic child under the age of eight years

under section *six* of this Ordinance;

(b) by any Asiatic upon such demand as is in section *nine* of this Ordinance mentioned;

(c) by any Asiatic applying for the renewal of any certificate of registration which has been lost or destroyed;

(h) by any Asiatic applying for a trading licence;

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

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

20. Notwithstanding anything contained in the Labour Importation Ordinance 1904 no Asiatic who is the lawful holder of a ccrtificate of registration and no Asiatic who was lawfully resident in this Colony before the date of the said Ordinance shall be prohibited from entering or residing or being introduced in this Colony by reason of the fact that he is under a

contract of service and has not entered into the contract referred to in *section eight* of the said Ordinance.

21. Notwithstanding anything contained in sub-section *(b)* of article *two* of law No. 3 of 1885 as amended by Volksraad Resolution Article 1419 of the twelfth day of August 1886;

(i) any fixed property in this Colony acquired by an Asiatic before the taking effect of such law and registered in the name of such Asiatic whether before or after the taking effect such law may be transmitted by such Asiatic to another Asiatic by testamentary or other inheritance;

(ii) fixed property on which is erected or is intended to be erected a place of worship may be acquired by or registered in the name of any religious community of Asiatics in such cases and subject to such conditions as the Lieutenant-Governor may approve; provided that fixed property so acquired or registered sha!l not be used for any trade or business or for the residence of any person other than a priest or caretaker of such place of worship.

22. This Ordinance may be cited for all purposes as the Asiatic Law Amendment Ordinance 1906.

APPENDIX C

274. THE PHOENIX TRUST DEED

[The Trust Deed is mentioned for the first time in "Letter to A. E. Chotabhai", p.61. Gandhiji had discussed it with Harilal Gandhi in May. 1911, before he left his father's home in South Africa. After that date the Deed is periodically mentioned in letters to Maganlal and Chhaganlal Gandhi (pp.128 & 133, for instance) who had asked for reimbursement on account of improvements effected by them on their shares of the land. A draft Deed was already in limited circulation among the "settlers". On August 1, 1911, he admits to Chhaganlal Gandhi (p.133) that the "Phoenix constitution" may have to be changed. The typewritten draft found among Gandhiji's files (Sabarmati Papers: S.N. 5584 & 5592) is witnessed by John H. Cordes, Mark Henry Hawthorn and Jagannath Narayan Dandekar. Cordes signed it at Adyar in Madras on November 12, 1911 and probably returned it with a covering letter; *vide* Appendix X. Variations of a substantial nature between the draft and the version printed above have been noticed in footnotes]

THIS INDENTURE MADE BY AND BETWEEN

Mohandas Karamchand Gandhi of Phoenix, in the Province of Natal, South Africa, of the one part, and Omar Hajee Amod Johari [Omar Hajee Amod Zaveri; prominent Durban businessman, who contributed much money for financing public activities of Indians and many books to Durban Library; a founder of the Memon Committee; became honorary Secretary of the Durban Anjuman-e-Islam, 1897; Joint Secretary, Natal Indian Congress, 1907, resigned from that office to go abroad and qualify as a barrister *vide* also Vol. VI, pp.460-1 & 462-7] of Durban, Merchant, Parsee Rustomjee Jeewanjee Ghorcoodoo, of Durban, Merchant, Hermann Kallenbach, of Johannesburg, Architect and Farmer, Lewis Walter Ritch, of Johannesburg, Barrister-at-Law, and Pranjivandas Jugjivan Mehta, of Rangoon, Barrister-at-Law, all of the other part,

WITNESSETH

1. Whereas the said party of the one part is the owner of a certain piece of land situate in Phoenix aforesaid and comprising one hundred acres in extent and containing thereon certain buildings and machinery particulars of which are more fully set out in the Schedule hereunto annexed and marked A,

2. And whereas the said party of the one part is also the sole proprietor of the weekly newspaper called *Indian Opinion* which said newspaper is printed and published at Phoenix aforesaid, [The rest of this clause is not found in the earlier draft] and of the International Printing Press situated thereat,

3. And whereas the said party of the one part did in the year 1904 establish a settlement at Phoenix aforesaid for the accomplishment of the objects hereinafter mentioned.

4. And whereas certain persons are at the date of the signing of these Presents living at or connected with [The words "connected with" and "in connection with" have been added in this version evidently to cover the executors and trustees none of whom was living at the Phoenix settlement at that time] the settlement at Phoenix aforesaid and are employed in various capacities at or in connection with [The words "connected with" and "in connection with" have been added in this version evidently to cover the executors and trustees none of whom was living at the Phoenix settlement at that time] the Printing Works of the said newspaper *Indian Opinion,* (which said persons and any others who hereafter may join the said settlement, and sign the Schedule B hereto ["and sign the Schedule B hereto" not found in the earlier draft. Schedule B is not available] are hereinafter styled "the settlers"),

5. And whereas the majority of the settlers at present established on the said settlement joined the said settlement for the following objects and purposes and under the following conditions, namely,

(1) So far as possible to order their lives [The earlier version has "to so order their lives" instead] so as to be able ultimately to earn their living by handicraft ["handicraft" added later] or agriculture carried on without the aid so far as possible of machinery;

(2) To work publicly so as to promote a better understanding between the Europeans and British Indians established in South Africa, [The rest of the sub-clause is not found in the earlier version] and to voice and work to remove the grievances of the latter;

(3) To follow and promote [The draft has "advertise" instead of "promote"] the ideals set forth by Tolstoy and Ruskin [The rest of this sub-clause was added in this version] in their lives and works;

(4) To promote purity of private life in individuals by living pure lives themselves;

(5) To establish [The draft here has "at Phoenix" in parenthesis] a school for the education principally of Indian children mainly through their own vernaculars;

(6) To establish a sanatorium and hygienic institute, with a view to the prevention of disease [The rest of this sub-clause was added later in this version] by methods generally known as "nature treatment";

(7) To train themselves generally for the service of humanity;

(8) To conduct the said *Indian Opinion* for the advancement of the ideals mentioned in the foregoing paragraphs;

6. And whereas the said party of the one part now desires to assign, transfer and make over the said land, buildings, machinery, newspaper and all other the [sic] appurtenances, stock-in-trade, book-debts ["book-debts" added later], fixtures, fittings and other things connected therewith and with the said settlement, Including the business of the International Printing Press, ["including the business of the International Printing Press" added later] unto and in favour of the said parties of the other part together with himself the said party of the one part IN TRUST for the use of the said settlement and for the fuller carrying out of the objects and purposes set forth in paragraph 5 thereof,

7. And whereas the said parties of the other part have each and all of them agreed to the assignment to them and to the party of the one part of the said land, buildings, etcetera, hereinbefore mentioned and together with the said

party of the one part to accept the said trust on the terms and conditions hereinbefore and hereinafter mentioned,

NOW THEREFORE THESE PRESENTS WITNESS

8. That the said party of the one part does hereby transfer, assign and make over unto the said parties of the other part and to himself as Trustees, all his right, title and interest in and to the said land at Phoenix, Natal, and to the said buildings, machinery, newspaper, fittings. fixtures, stock-in-trade, book-debts ["book-debts" added later] and appurtenances, etcetera, aforesaid, to hold the same for themselves and their successors in trust and to the uses hereinbefore enumerated as being the objects, purposes and conditions of the said settlement, and subject to the following further conditions, namely,

(a) The said Mohandas Karamchand Gandhi shall be Manager of the Trust during his lifetime, subject to the control of the said Trustees for the due fulfilment of the objects of the Trust;

(b) In the absence from South Africa or at the death of [The words "from South Africa or at the death of" are not found in the draft] the said Mohandas Karamchand Gandhi, the Trustees may appoint from among themselves a Manager for the time being [The rest of this sub-clause was a later addition] or permanently, as the case may be;

(c) The said Mohandas Karamchand Gandhi or any other Manager shall be responsible to the remaining Trustees for due and proper management of the said Trust;

(d) A majority of the said Trustees shall bind the minority in all matters falling within their authority in virtue hereof, [The rest of this sub-clause has been added in this version] and, in the event of the Trustees being equally divided, they shall be bound by a majority vote of the settlers;

(e) An account to be known as the Phoenix Trust Account shall be opened at a Bank and shall be operated upon by the Manager of the Trust or his substitute or substitutes to be by him appointed; [This sub-clause read as follows in the earlier version: "The account at present conducted at the Natal Bank Ltd., Durban, shall be altered to the Phoenix Trust Account and shall be operated upon by the Manager or the Trust."]

(f) In the event of the death or resignation of any of the Trustees, the remaining Trustees shall be competent to carry out the Trust. The settlers may, however, nominate, by a decision of the majority of them at the time residing in South Africa, ["at the time residing in South Africa" added later] Trustees to fill vacancies, which nomination shall be accepted by the remaining Trustees;

(g) The Trustees, with the consent of the settlers, shall have the power to add to their numbers; [This entire sub-clause was added later in this version]

(h) In their deliberations the Trustees shall be guided by and accept [The words "and accept" not found in the draft] the decision of the settlers; but the settlers shall not be competent to impose upon the Trustees any change of policy or ideals;

(i) The Trustees may, subject to the consent of the settlers, but not otherwise, expand the objects of the Trust;

(j) The Trustees may, subject to the consent of the settlers, introduce new settlers or temporary workers, and, subject to such consent, dismiss any settlers or temporary workers. No settler may, however, be dismissed except for dishonesty, gross misconduct or gross neglect of duty assigned to him;

(k) The Trustees shall respect and ratify all existing arrangements or contracts;

(l) The said Mohandas Karamchand Gandhi reserves to himself the use of [The words "the use of" were added later] the two acres of land and buildings at present used by him and his family on the same terms as the other settlers, and the right to draw

sustenance money from the income of the Press or other undertakings, not exceeding five pounds (£5) per month;

(m) On the death of the said Mohandas Karamchand Gandhi, his wife, should she survive him, shall draw from the income of the settlement not more than five pounds (£5) per month for herself and the two minor sons, Ramdas and Devdas, during her lifetime [The rest of this sub-clause read as follows in the draft "or until the reaching of the age of majority by Devdas, whichever event happens last"] and the same amount shall be paid to the guardian of the minor sons or son after her death until the younger or the survivor of them attains the age of twenty-one years; the use of the said two acres of land and buildings thereon to be similarly reserved to the wife and minor children of the said Mohandas Karamchand Gandhi;

(n) The Trustees may part with the ownership of *Indian Opinion* in favour of the settlers or any number of them [The rest of this sub-clause was a later addition] and may lease to them the printing-press, type, and other necessary appurtenances;

(o) The Trustees shall have the right to amend or alter the terms of the Trust from time to time, subject always to the consent of the settlers;

(p) The Trustees shall have the right, subject to the consent of the settlers, to sell or mortgage the assets described in the said Schedule A and any assets hereafter acquired, and to purchase more land, build more buildings and buy more machinery or stock;

(q) The term "settlers" shall mean and include all those at present residing at or connected with the said settlement, and who have signed the schedule attached hereto, marked B [Not available] or who hereafter may be residing at or connected with the said settlement and who shall subscribe to the objects and conditions herein set forth and sign Schedule B. [The earlier version makes no reference to Schedule B]

9. Notwithstanding anything to the contrary herein, this Indenture shall come into force as and from the date of registration hereof, and shall be registrable without the signature of the said Pranjivandas Jugjivan Mehta, whose signature shall be incorporated so soon as it is received from India. [Clause 9 and Schedule A were added later]

In witness whereof the respective parties have hereunto set their hands in the presence of the subscribing witnesses.

Schedule A

[Clause 9 and Schedule A were added later]

	£	s.	d.
Land	1,087	10	03
Buildings	1,535	14	01
Plant and Machinery	1,548	01	00
Stock	307	07	10
Book Debts	600	18	03
Library and School Books	50	13	00
	£5,130	04	05

Indian Opinion, 14-9-1912

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