***M.K. Gandhi, Attorney at Law:***

***The Man before the Mahatma***

**Charles R. DiSalvo**

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**COMPLETE ENDNOTES**

**Introduction**

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**as a pilgrim**

Martin Luther King, Jr., *The Papers of Martin Luther King, Jr.*, Volume V, Threshold of a New Decade (Berkeley: University of California Press, 2005), 126.

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**than being politically effective**

“Our goal, our purpose, our approach is not primarily to have an effect. It is first of all to be faithful. When you follow the gospel, it’s not in order to be a success. It’s an attempt to be faithful to God, to God’s will for today, to be the voice of conscience.” Resister Greg Boertje-Obed quoted in Nepstad, *Religion and War Resistance in the Plowshares Movement* (Cambridge: Cambridge University Press, 2008).

 This is not to say that an act undertaken solely for reasons of conscience cannot also influence society. Franz Jagerstatter, an Austrian resister to conscription under Hitler and now a candidate for sainthood in the Roman Catholic Church, is a prime example of this phenomenon. See Gordon Zahn, In *Solitary Witness: The Life and Death of Franz Jagerstatter* (Springfield, Illinois: Templegate Publishers, 1964).

**“to mount their protest”**

*Brown, et al., v. Louisiana*, 383 U.S. 131 (1965).

**as no other single act had done**

*See* DiSalvo, *The Fracture of Good Order: An Argument for Allowing Lawyers to Counsel the Civilly Disobedient*, 17 Georgia Law Review 109 (1982), and Stanton, Anthony and Gage (eds.), *The History of Woman Suffrage*, Volume 2, at 691 (New York: National American Woman Suffrage Association, 1881).

**to create change**

Stanley Wolpert elaborates on the role of suffering in Gandhi’s life in *Gandhi’s Passion* (New York: Oxford University Press, 2001).

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**discrimination in terminals**

Taylor Branch, *Parting the Waters: America in the King Years, 1954 - 1963* (New York: Simon and Schuster, 1988). Another paradigmatic example of this dynamic is offered by the women’s suffrage movement. *See* Charles R. DiSalvo, *The Fracture of Good Order: An Argument for Allowing Lawyers to Counsel the Civilly Disobedient*, 17 Georgia Law Review 109 (1982).

**cannot function properly**

“The social view of power sees rulers and other command systems, despite appearances, to be dependent on the population’s goodwill, decisions and support.....Power always depends for its strength and existence upon a replenishment of its sources by the cooperation of numerous institutions and people – cooperation that does not have to continue.” Gene Sharp, *Waging Nonviolent Struggle: 20th Century Practice and 21st Century Potential*, p. 28 (Boston: Porter Sargent, 2005) .

 “Civil disobedience withdraws support and obedience from a policy or regime in proportion to the numbers of citizens who disapprove of it and are willing to pay the price (usually imprisonment) for that withdrawal. If the quality of the action, including nonviolent discipline, can be maintained, the seriousness of the challenge of the civil disobedience to the Government is thus roughly in proportion to the numbers among the citizens who feel strongly enough about the issue to take part in it.” Gene Sharp, *Social Power and Political Freedom,* (Boston: Porter Sargent, 1980), p. 129.

 See also, Gene Sharp, *Civilian-Based Defense: A Post-Military Weapons System* (Princeton: Princeton University Press, 1990), especially Chapter Two, “Tapping the Sources of Power.” Sharp draws upon the work of Etienne de la Boetie who wrote *The Discourse of Voluntary Servitude* in the sixteenth century in which Boetie says:

Obviously there is no need of fighting to overcome...[a] tyrant, for he is automatically defeated if the country refuses consent to its own enslavement: it is not necessary to deprive him of anything, but simply to give him nothing; there is no need that the country make an effort to do anything for itself provided it does nothing against itself. It is therefore the inhabitants themselves who permit, or, rather, bring about, their own subjection, since by ceasing to submit they would put an end to their servitude.

....

He who...domineers over you has only two eyes, only two hands, only one body, no more than is possessed by the least man among the infinite numbers dwelling in your cities; he has indeed nothing more than the power that you confer upon him to destroy you.

...

Resolve to serve no more, and you are at once freed. I do not ask that you place hands upon the tyrant to topple him over, but simply that you support him no longer; then you will behold him, like a great Colossus whose pedestal has been pulled away, fall of his own weight and break into pieces....

Etienne de la Boetie (Harry Kurz., trans.), *The Politics of Obedience: The Discourse of Voluntary Servitude* (Auburn: Ludwig von Mises Institute, 2008).

**during World War II**

 Peter Ackerman and Jack Du Vall, *A Force More Powerful: A Century of Nonviolent Conflict* (New York: St. Martin’s Press, 2000). *See especially*, Chapter Five, “Denmark, the Netherlands, the Rosenstrasse: Resisting the Nazis.”

**consent to their rule**

 For a detailed account of how this phenomenon works, see Erica Chenoweth and Maria J. Stephan, *Why Civil Resistance Works* (New York: Columbia University Press, 2011).

**you have your rights**

“A Tunisian-Egyptian Link That Shook Arab History”, February 13, 2011, *The New York Times*.

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**all across India**

At the time of their creation, these universities did not actually operate in the way universities operate today. They offered no courses. Rather, they set the courses of study at affiliated institutions and examined their students.

**members of our rule**

Anil Seal, *The Emergence of Indian Nationalism: Competition and Collaboration in the Later Nineteenth Century* (London: Cambridge University Press, 1968), p. 148, quoted in Ian Copland, *India, 1885 – 1947: The Unmaking of an Empire* (Harlow: Longman, 2001).

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**passive resistance**

*Satyagraha*, 109.

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**manufacture of salt by Indians**

As Professor Thomas Weber has pointed out, the tax on salt had long concerned Gandhi and his mentor, Gopal Krishna Gokhale. Professor Weber’s *On the Salt March: The Historiography of Mahatma Gandhi’s March to Dandi* (New Delhi: Rupa & Co., 2009) is the definitive work on the Salt March.

**embarrass the raj**

*Gandhi and Civil Disobedience: The Mahatma in Indian Politics, 1928-1934* (Cambridge: Cambridge University Press, 1977), p. 94.

**some 220 miles away**

241 is often the number of miles the March is said to have covered. Professor Weber, who has traversed the route himself and a made of study of its length, puts the distance at 220 miles.

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**weaker than they imagined**

Weber, *On the Salt March*, 531.

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**disciplined and deployed**

Brown, Gandhi: Prisoner of Hope (New Haven: Yale University Press, 1989), 339.

**the law of gravitation**

King, *Papers*, 5:136.

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**And work well they have**

 The effectiveness of nonviolence is demonstrated in Erica Chenoweth and Maria Stephan, *Why Civil Resistance Works* (New York: Columbia University Press, 2011).

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**also relied on Sharp’s work**

David Kirkpatrick and David Sanger, “A Tunisian-Egyptian Link That Shook Arab History”, *New York Times*, February 13, 2011.

**Chapter One**

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***The Student’s Guide to the Bar (1879)***

 Ball, *The Student’s Guide to the Bar* (London: Macmillan, 1879), p. 7.

**Saturday night**

 *The Collected Works of Mahatma Gandhi* (New Delhi: Government of India) [hereinafter *CWMG*] 1, p. 15 (1969 edition).

**Britain**

 Professor James D. Hunt points out in *Gandhi in London* (New Delhi: Promilla & Co., 1978) at p.8 that most biographers of Gandhi mistakenly assign a date of October 27 to Gandhi’s arrival in England. Professor Hunt also states that the arrival point is often confused as well. Professor Hunt makes a compelling case, based upon shipping practices and records and upon clues from Gandhi’s writing, that September 29 is the correct date and Tilbury Station is the correct place.

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**arranged for him**

 Gandhi, *An Autobiography: My Experiments with Truth* (Boston: Beacon Press, 1957), pp. 8-11.

**Vankaner**

Gandhi, *An Autobiography: My Experiments with Truth* (Boston: Beacon Press, 1957), p. 3.

**age and accident**

Gandhi, *An Autobiography: My Experiments with Truth* (Boston: Beacon Press, 1957), p. 10.

**which to live**

 Gandhi, *An Autobiography: My Experiments with Truth* (Boston: Beacon Press, 1957), p. 4.

**Bhavnagar in 1887**

CWMG 1, p. 42; Gandhi, *An Autobiography*: *My Experiments with Truth* (Boston: Beacon, 1957), p. 35.

**his professor’s lectures**

Gandhi, *An Autobiography: My Experiments with Truth* (Boston: Beacon, 1957), p. 35.

**the hot climate**

*CWMG* 1, p. 42 (1969 edition).

**for the bar**

*CWMG* 1, p. 3 (1969 edition). *See also,* Gandhi, *An Autobiography: My Experiments with Truth* (Boston: Beacon, 1957), p. 35-37.

**ordinary college degree**

Gandhi, *An Autobiography: My Experiments with Truth* (Boston: Beacon, 1957), p. 36.

**altruistic concerns**

In this Gandhi's family was typical. In *The Legal Profession in Colonial South India* (Oxford University Press: Bombay, 1991), John J. Paul points out that "the decision...to choose a career in law was concomitant with fluctuations in the employment market during the second half of the nineteenth century....As a result, for a long time professionals lacked the notion of public service...." P. 2.

**‘ambition’**

Interview with *The Vegetarian*, June 13, 1891, *CWMG* 1, p. 42 (1969 edition). Gandhi does state that he held barristers in high regard. *CWMG* 1, p. 42 (1969 edition).

The view of barristers held by Gandhi and his family, whether accurate or not, was a common view of the time, with many believing the life of a barrister offered “lucrative income, independence, and prestige.” John J. Paul, *Vakils of Madras: The Rise of the Modern Legal Profession in South India* (PhD Thesis, University of Wisconsin-Madison, 1986), p. 209.

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**medicine**

Gandhi, *An Autobiography: My Experiments with Truth* (Boston: Beacon, 1957), p. 36. At another point, however, Gandhi indicates that, prior to given direction to study law, he “used to think a great deal” about barristers. *CWMG* 1, p. 42 (1969 edition).

**an adventure would**

*CWMG* 1, pp. 2-3 (1969 edition).

**caste**

See Hunt, *Gandhi in London* (New Delhi: Promilla & Co., 1978), p. 5.

**obtaining financing**

Gandhi, *An Autobiography: My Experiments with Truth,* p. 37.

**granting some aid**

An idea whose wisdom Gandhi later came to see. *CWMG* 1, p.43(1969 edition)*.*

**his financial support**

 Parmanandbhai conditioned his support on Gandhi's obtaining the approval of his uncle. For a description of the internal family politics on this issue, see *CWMG* 1, p. 6 (1969 edition).

**another cousin**

*CWMG* 1, p. 6 (1969 edition).

**any help**

*CWMG* 1, p. 7 (1969 edition).

**financial help**

*CWMG* 1, p. 7 (1969 edition).

**Karamchand**

*CWMG* 1, pp. 43-44 (1969 edition). "What little my father could leave for me was in the hands of my brother [Lakshmidas].....[T]hat was not enough, so I proposed that the whole capital should be devoted to my education." *CWMG* 1, p. 44 (1969 edition). What there was, was not much. Gandhi explains:

"Though my father was the Prime Minister of more than one native State, he never hoarded money. He spent all that he earned on charity and the education and marriages of his children, so we were practically left without much cash. He left some property, and that was all. When asked why he did not collect money and set it aside for his children, he used to say that his children represented his wealth, and if he hoarded much money he would spoil them." *CWMG* 1, p. 43 (1969 edition).

 Soon after Gandhi arrives in London, he realizes that he lacks sufficient funds. See *CWMG* 1, pp. 16-18 (1969 edition).

**Rajkot**

*CWMG* 1, p. 8 (1969 edition).

**to Bombay**

Even after leaving India and arriving in England, Gandhi kept pestering Lely and Watson. See his letters to them dated December, 1988 at *CWMG* 1, pp. 16-18 (1969 edition). We do not know the effect of these letters.

**Makanji of Porbandar**

Pyarelal, *Mahatma Gandhi*–*The Early Phase* (Ahmedabad: Navijivan Publishing House, 1965), p. 203.

**of the children**

Gandhi, *An Autobiography: My Experiments with Truth* (Boston: Beacon, 1957), p. 8, et seq.

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**the couple’s child**

An earlier pregnancy had ended with the death of the child just three or four days after its birth. D. G. Tendulkar, *Mahatma: Life of Mohandas Karamchand Gandhi* (New Delhi: Government of India, 1951) Vol. 1, p. 27.

**overcome mountains**

*CWMG* 1, p. 45 (1969 edition).

**devout Hindu**

Gandhi, *An Autobiography: My Experiments with Truth* (Boston: Beacon, 1957), p. 4-5.

**wine and meat**

Gandhi, *An Autobiography: My Experiments with Truth* (Boston: Beacon, 1957), p. 38-39.

**English climate**

Gandhi's friends told him that he "could not do without meat in the cold climate" and that he "would catch consumption.....Others said [he] might do without flesh but without wine [he] could not move. [He] would be numbed with cold." *CWMG* 1, p. 48 (1969 edition). *See, also,* the expressions of opinion of Gandhi's caste members that they were "positively informed that you will have to eat flesh and drink wine there." *CWMG* 1, p. 46 (1969 edition).

**his English sojourn**

*CWMG* 1, p. 44 (1969 edition).

**for good measure, women**

Gandhi, *An Autobiography: My Experiments with Truth* (Boston: Beacon, 1957), p. 39.

**granted her permission**

Gandhi, *An Autobiography: My Experiments with Truth* (Boston: Beacon, 1957), p. 39.

**in the fold**

While it is Gandhi's brother who, it would appear from Gandhi's recollections of these times in his interview with The Vegetarian (*CWMG* 1, p. 42*,* et seq., (1969 edition)) and from his own autobiography (Gandhi, *An Autobiography: My Experiments with Truth*), takes much of the lead in making the arrangements for Gandhi's trip, even Lakshmidas wavers back and forth. It is ironic that only Gandhi, upon whom this idea was thrust, seems fully dedicated to overcome all obstacles.

**his home town**

*CWMG* 1, p. 45 (1969 edition).

**for his intentions**

 Gandhi reports on these incidents:

 I could not go out without being pointed at and stared at by someone

 or other. At one time, while I was walking near the Town Hall, I was

 surrounded and hooted by them, and my poor brother had to look at

 the scene in silence.

 *CWMG* 1, p. 45 (1969 edition).

**meted out to you**

*CWMG* 1, p. 46 (1969 edition).

**he was going nonetheless**

"I thank you for your warnings", said Gandhi. "I am sorry I cannot alter my decision. What I have heard about England is quite different from what you say; one need not take meat and wine there. As for crossing the waters, if our brethren can go as far as Aden, why could not I go to England? I am deeply convinced that malice is at the root of all these objections." *CWMG* 1, p. 46 (1969 edition).

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**declared him an outcast**

*CWMG* 1, p. 46 (1969 edition).

**of his caste**

Gandhi, *An Autobiography: My Experiments with Truth* (Boston: Beacon, 1957), p. 41.

**London**

*CWMG* 1, p. 47 (1969 edition). This is not to say Gandhi's courage was without pathos. Gandhi describes his leave-taking from his family and friends:

 At last the day came. On the one hand, my mother was hiding her eyes, full of tears. in her hands, but the sobbing was clearly heard. On the other, I was placed among a circle of some fifty friends. "If I wept they would think me too weak; perhaps they would not allow me to go to England," soliloquized I; therefore I did not weep, even though my heart was breaking. Last, but not least, came the leave-taking with my wife. It would be contrary to custom for me to see or talk with her in the presence of friends. So I had to see her in a separate room. She, of course, had begun sobbing long before. I went to her and stood like a dumb statue for a moment. I kissed her, and she said "Don't go." What followed I need not describe."

*CWMG* 1, p. 45 (1969 edition).

**“Inns of Court”**

The history of the Inner Temple goes back at least as far as 1347. See W.S. Holdsworth, II *A History of the English Law* (London: Methuen & Co., Lim., 1923)*,* p. 502. *See also* Robert E. Pearce*, A History of the Inns of Court and Chancery* (London: Bentley,1848), pp. 1-2

**attendance at court….**

Pearce, *A History of the Inns of Court and Chancery* (London: Bentley,1848), p. 50.

**entry to the bar**

"...it was only the call to the bar of the Inn which could confer" the right "to plead in court...." W. S. Holdsworth, II *A History of the English Law* (London: Methuen & Co., Lim., 1923)*,* p. 506. The independence of the Inns and of the barristers whom they produced was not without its advantages:

 "...the barrister assumes his gown without the acquiescence or approbation of any authority save that of the Bench of the house to which he belongs; and to the peculiar institutions of the Inns of Court, and to the spirit of independence imparted by that constitution to the legal profession of this kingdom, may be ascribed to the fact that, in the worst of times of our history, advocates have been found ready to encounter the frowns of power, and to brave its bitterest hostility in behalf of the oppressed or the accused." Pearce, *A History of the Inns of Court and Chancery* (London: Bentley,1848), p. 52.

**provide young men**

The use of the masculine is deliberate. At the time of Gandhi's enrollment in the Inner Temple, women were excluded from the Bar. Hyacinthe Ringrose, *The Inns of Court* (London: Paul Musson, 1909), p. 142. The first woman barrister did not appear on the scene until long after Gandhi left England when Ivy Williams was called to the Bar and admitted to the Inner Temple in 1922. W.C. Richardson, *A History of the Inns of Court* (Baton Rouge: Claitor,1975) at 356. While Gandhi later became an advocate of women's rights, there is no evidence of his having complained about the exclusion of women during the time he was studying for the bar.

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**form their manners**

Quoted in Barton, Benham and Watt, *The Story of the Inns of Court* (Boston: Houghton Mifflin, 1924)*,* p. 58. Fortescue describes the attendees at the Inn as "filii nobilum" (born gentlemen). *See* T.B. Napier and R.M. Stephenson, *A Practical Guide to the Bar* (London: H. Cox, 1888), p. 13. W. S. Holdsworth claims that another principal purpose for enrolling in an Inn was to obtain the training necessary to protect one's property. Holdsworth, *II A History of English Law* (London: Methuen & Co., Lim., 1923)*,* p. 510. For a less cynical view of the purpose of study at the Inns, see W.C. Richardson, *A History of the Inns of Court* (Baton Rouge: Claitor,1975)*,* Chapter 3, "Law and Culture in the Inns of Court." J.H. Baker adds that the “vast majority [of graduates] returned to the country to follow their fathers as country gentlemen, making use of their brief acquaintance with legal scholarship when acting as justices of the peace or when discussing their own affairs with their counsel.” J.H. Baker, *The Legal Profession and the Common Law* (London: Hambledon Press,1986) at 8.

In addition to the examination, the applicant had to supply a "statement...describing his age, residence, and condition in life, and comprising a certificate of his respectability and fitness to be admitted, which must be signed by the party and a bencher of the society, or two barristers." Pearce, *A History of the Inns of Court and Chancery* (London: Bentley,1848), p. 384. For the admission form in use at Gandhi's time, *see* T.B. Napier and Stephenson, *A Practical Guide to the Bar* (London: H. Cox: 1888) at 22-23. The names of the barristers whom Gandhi procured to vouch for him on his admission application are unknown.

**social status**

"As time went on, in fact, the Inns of Court gradually changed their character, and became a kind of aristocratic University, where many of the leading men in politics and literature received a general training and education. And whilst Oxford and Cambridge, essentially more democratic, drew their students chiefly from the yeoman and artisan class, the Inns of Court became the fashionable colleges for young noblemen and gentlemen." Cecil Headlam and Gordon Home, *The Inns of Court* (London: A & C Black,1909) at 16.

**tradition**

Writing just two years after Gandhi ate his last meal at the Inner Temple, W.J. Loftie provides us with this description of the dinner ritual Gandhi experienced at the Inner Temple:

Old usages are strictly kept up in the Temple. As each afternoon wanes, the Porter goes through the Courts, winding his horn to tell of the approach of the dinner-hour....Six, sharp, is the usual hour. The gown is necessary. A minute before six the senior Panier – panier is the law term for waiter – beckons to the barristers, who then form in procession and advance up the hall. They seat themselves in the order of seniority, and once set must not change. Next, the benchers [distinguished members of the bar] issue from the Parliament Room, at the east side – the Treasurer and the rest of his fellow-benchers according to the date of their election. As they come in the two senior barristers rise in their places and shake hands with them. When all are seated on the dais, with the Treasurer in the chair, the pannier (sic) bangs a big book for grace; all stand up, there are two words of Latin, bang again goes the big book, and all sit down to trencher-work. There are rules for the eating and drinking very anciently established, as intricate and as much guided by precedent as an ecclesiastical suit, or a bill in the old Court of Chancery - with one difference: no change is ever made, and no diner ever desires reform. You pay for your dinner beforehand, and the *menu* of the day is put up outside the Hall; but you know that on every Thursday, whether it is June or December, there will be roast beef; and on every Friday there will be chicken and tongue.

The first of the immutable precedents is seniority, but the second, that the wine goes round with the sun, prevails over it. All are divided into messes of four. [Except for higher messes, all the messes] have but one bottle of port and two of claret. Besides these allowances there is excellent draught beer at discretion. Each member of a mess helps himself, and passes the dish on. There are various ceremonials connected with 'passing the bottle'.... [A]t seven grace is said as before, and the two senior barristers stand up and bow to each bencher as he passes out.

W.J. Loftie, *The Inns of Court and Chancery* (Seeley and Co. Limited: London, 1893) at page 31.

 Pearce quotes the Commissioners on the Courts of Common Law as saying that the benefits of keeping terms are "that of making known the person of the student, and exposing him, if his character be disreputable, to more easy detection by the society, before the period of his application to be called to the bar." Pearce, *A History of the Inns of Court and Chancery* (London: Bentley,1848), p. 393.

**of the bar**

Readers included such luminaries as Sir Francis Bacon and Sir Edward Coke. W.C. Richardson, *A History of the Inns of Court*  (Baton Rouge: Claitor,1975), Chapter Four, Legal Training: Readings.

 One cannot underestimate the role the Inns once played in a young student's life. W.C. Richardson writes: "As in medieval universities, communal living was considered indispensable to education, the mutual interchange of ideas through common association and study being accepted as a vital part of the learning process. Members of each Inn lived, argued, and debated together, and took their meals in a common dining hall where lectures, or "Readings," were regularly given....[T]he major portion of their legal training was received just after meals in the Hall, which also served as the recreation center for gaming, revels, drama, music, and other forms of social entertainment." W.C. Richardson, *A History of the Inns of Court* (Baton Rouge: Claitor,1975), pp. 24-25.

**the reader’s rebuttal**

Pearce,  *A History of the Inns of Court and Chancery* (London: Bentley,1848), pp. 69-70.

**“moots”**

“ 'Bolts' appear to have consisted of cases propounded for argument among the ... Barristers and to have been conducted by the ... Barristers, with or without the assistance of a Reader or Bencher. A Moot would begin, after supper in the Hall, with the putting of some doubtful case by [a] ... Barrister, which would be argued by one or two of the benchers. Then would follow kind of a mimic lawsuit, in which ... Barristers recited the pleadings in Law-French, ... Barristers argued for the Plaintiff and Defendant respectively, and opinions or judgments were delivered by the presiding Readers and Benchers.” D. Plunket Barton, Charles Benham, and Francis Watt, *The Story of the Inns of Court* (Boston: Houghton Mifflin, 1924)*,* p.14. At an earlier point in their history, the Inns also expected the students themselves to engage in some level of disputation and discussion. See W.C. Richardson, *A History of the Inns of Court* (Baton Rouge: Claitor,1975), pp. 133 and 196.

**practices had disappeared**

"Readings and Moots have long since disappeared from our legal system of education." D. Plunket Barton, Charles Benham, and Francis Watt, *The Story of the Inns of Court* (Boston: Houghton Mifflin, 1924)*,* p.14.

**social fraternities**

Approximately one-third of Gandhi's colleagues had "no serious intention of endeavoring to earn their living" by the practice of law. They sought the "designation of barrister for numerous and mixed motives." Some, for example, simply wished to enhance their status in their already-chosen professions. T.B. Napier and R.M. Stephenson, *A Practical Guide to the Bar* (London: H. Cox, 1888), p. 1-2.

 The shallow nature of British legal education at this time is reflected in a report issued by Lincoln's Inn in December, 1889:

"The conclusion we have come to is that the present system of Legal Education should be at once given up, and that the Benchers of Lincoln's Inn should take measures to obtain the assistance of the other Inns of Court to bring about a complete reform. We find that since the year 1873 the system of Education has been gradually undergoing alteration for the worse, until it has been brought into a condition which is deplorable, and we feel bound to add is unworthy of the Inns of court."

[December 10, 1889] *Report on the Legal Education of Students,* Black Books, V, 264, quoted in W.C. Richardson, *A History of the Inns of Court* (Baton Rouge: Claitor,1975), p. 343. Richardson states that "the conditions described were true not only of Lincoln's Inn, but also of the other three societies." Richards, *id*., at 343.

**were held**

Hilary Term, beginning January 11 and ending approximately January 31; Easter Term, usually commencing in mid-April to about mid-May; Trinity term, a term of about three weeks, from about the end of May to mid-June; and Michaelmas term, beginning November 2 and concluding November 25. Ball, *The Student's Guide to the Bar* (London: Macmillan, 1879), p. 21; T.B. Napier and R.M. Stephenson, *A Practical Guide to the Bar* (London: H. Cox, 1888) at 31.

**three years**

Ball, *A Student's Guide To the Bar* (London: Macmillan, 1879), p. 20.

**six times a term**

T.B. Napier and R.M. Stephenson, *A Practical Guide to the Bar* (London: H. Cox, 1888), p. 31-32.

**“benchers”**

Ball, *The Student's Guide to the Bar* (London: Macmillan, 1879), p. 11. Professor Lemming states that it was participation in moots and readings that “seems to have been the origin of the inns hierarchical structure” of students, men who had been called to the bar and “benchers.” Lemming, *Blackstone and Law Reform by Education: Preparation for the Bar and Lawyerly Culture in Eighteenth-Century England,* 16 Law and History Review 211 (Summer, 1998). Benchers not only decided who was called to the bar from their Inn but some of their number regulated the profession through membership on the Council of Legal Education, the body which set rules for all the Inns. See T.B. Napier and R.M. Stephenson, *A Practical Guide to the Bar* (London: H. Cox, 1888), p. 15-17.

**seated separately**

Ball, *A Student's Guide to the Bar* (London: Macmillan, 1879), p. 21.

**formal gowns**

T.B. Napier and R.M. Stephenson, *A Practical Guide to the Bar* (London: H. Cox, 1888*)*, p. 32. In addition to being charged for the dinner itself (in an amount ranging from 2s. to 3s.6d. per dinner) the students were charged for the gowns each time they dined–-another expense burdening the already impecunious Gandhi. The meals themselves are described as "plain, and usually wholesome." *Id.*, at 32-34. *See also,* Gandhi, *An Autobiography: My Experiments with Truth* (Boston: Beacon, 1957), p. 78.

**students and the benchers**

Gandhi, *An Autobiography: My Experiments with Truth* (Boston: Beacon, 1957), p. 79.

**before Gandhi arrived**

Ball, *The Student's Guide to the Bar* (London: Macmillan, 1879), p. 21.

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**after dinner**

Ball, *The Student's Guide to the Bar* (London: Macmillan, 1879), p. 21; Napier and Stephenson point out that while this is generally correct, at some Inns "it is usual to allow the students to leave an hour after the time fixed for the dinner." T.B. Napier and R.M. Stephenson, *A Practical Guide to the Bar* (London: H. Cox, 1888), p. 32.

**“etiquette of his profession”**

Alexander, *The Temple of the Nineties* (Hodge & Co.: London, 1938), p. 29. Gandhi himself seemed to recognize this when in his *Autobiography* he said, "The institution had gradually lost all its meaning, but conservative England retained it nonetheless." P 79.

**lecturers**

Lectures were offered during Gandhi's time but there was no requirement that anyone attend. Students who were trying for scholarships, a course Gandhi, lacking a University education, did not take, attended lectures. It appears the practice of attendance at lectures may have changed somewhat shortly after Gandhi's time. In his "Guide to London", he tells would-be barristers that "attending the lectures has now been made indirectly compulsory as the examinations are held on the subject of the lectures." *CWMG* 1, p. 106 (1969 edition). Nowhere does Gandhi report his own attendance at lectures.

**practitioners**

*See* text at fns. 92-95.

**comfortable libraries**

Alexander, *The Temple of the Nineties* (Hodge & Co.: London, 1938), p. 85-86.

 Writing in 1888, the year of Gandhi's arrival in London, T.B. Napier and R.M. Stephenson state that the library of the Inner Temple is "undoubtedly the most comfortable, and, as far as the building is concerned, is the newest." They refer to the Inner Temple library as "most luxurious" and "well furnished with historical and geographical works." T.B. Napier and R.M. Stephenson, *A Practical Guide to the Bar* (London: H. Cox, 1888)p. 19, 47. For a history of many of the buildings associated with the Inns, see T.C. Noble, *Memorials of the Temple Bar* (Diprose & Bateman: London, 1869).

**in English law**

 T.B. Napier and R.M. Stephenson, *A Practical Guide to the Bar* (London: H. Cox, 1888*)* at 34-35.

**first four terms**

T.B. Napier and R.M. Stephenson, *A Practical Guide to the Bar* (London: H. Cox, 1888) at 35. It focused on the Institutes of Justinian (representing about two-thirds of the exam) with Sandars' *Institutes of Justinian* the principal recommended text. Napier and Stephenson also recommend reading Hunter's *Introduction to Roman Law* (Maxwell and Son: London, 1880), advice Gandhi later echoes. T.B. Napier and R.M. Stephenson, *A Practical Guide to the Bar* (London: H. Cox, 1888) at 72; Gandhi, "Guide to London", *CWMG* 1, p*.* 104 (1969 edition).

**“slight”**

Ball, *The Student's Guide to the Bar* (London: Macmillan, 1879), p. 23. Napier and Stephenson agree, stating that the study necessary to be called to the bar is "not too laborious" and the "amount of law necessary to be known for call to the bar is not, it is true, considerable." T.B. Napier and R.M. Stephenson, *A Practical Guide to the Bar* (London: H. Cox, 1888*)* at 10. Yet, Napier and Stephenson warn students not to misjudge the difficulty of the process.  *See text infra.*

**would be sufficient**

Ball, *A Student's Guide to the Bar* (London: Macmillan, 1879), p. 24.

**abilities and education**

Ball, *A Student's Guide to the Bar* (London: Macmillan, 1879), p. 25. Indeed, in this time a student was required to achieve a grade of only about 35 to 40% on each of the examination's subjects in order to pass. Ball, *The Student's Guide to the Bar* (London: Macmillan, 1879), p. 25. Gandhi, working without a University education, intimates that more time be spent: "...both the [Roman and English] examinations are a year's work at the rate of 6 hours per day...." "Guide to London", *CWMG* 1, p. 105 (1969 edition).

**tolerably large**

T.B. Napier and R.M. Stephenson, *A Practical Guide to the Bar* (London: H. Cox, 1888*)*, p. 35.

**Roman law examination**

T.B. Napier and R.M. Stephenson, *A Practical Guide to the Bar* (London: H. Cox, 1888), p. 37. Gandhi comments in his "Guide to London" that the year interval between the arrival of the student in England and the taking of the Roman law exam is "much more than what is required to for the purposes passing the examination; hence the brilliant results of the examination." *CWMG* 1, p. 104 (1969 edition).

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**the most expensive**

Gandhi paid costs exceeding 40£ in November, 1888 to join the Inner Temple and to attend lectures. Serial Number 7910, Gandhi Smarak Sangrahalaya, Sabarmati Ashram, Ahmedabad. He paid an additional deposit of £100 to the Inner Temple in December, 1888. Serial Number 7908, Gandhi Smarak Sangrahalaya, Sabarmati Ashram, Ahmedabad.

**of a surprise**

In his "Guide to London", Gandhi advises other would-be barristers that dinners are less expensive at the Middle Temple where a savings of 1 and 1/2 shillings could be achieved at every dinner over the Inner Temple prices. *CWMG* 1, p. 104 (1969 edition).

**among its graduates**

 Pearce, *A History of the Inns of Court and Chancery* (London: Bentley,1848), p. 244.

**the largest membership**

 T.B. Napier and R.M. Stephenson, *A Practical Guide to the Bar* (London: H. Cox, 1888), p. 19.

**countrymen**

Gandhi would have been mistaken. Writing just 2 months before Gandhi's arrival in London, Napier and Stephenson say that the Middle Temple hosted the largest number of students from India. T.B. Napier and R.M. Stephenson, *A Practical Guide to the Bar* (London: H. Cox, 1888), p. 19.

**practice in India**

 See Hunt, *Gandhi in London* (New Delhi: Promilla & Co., 1978)*,* p. 16. Another theory for Gandhi's having chosen the Inner Temple has to do with Gandhi's age. When he arrived in London he was but 18 years old. Napier and Stephenson, writing in that same year in their small book "*A Practical Guide to the Bar"* state "there is at present no limit of age at the Inner Temple, which, in this respect, differs from all the other Inns." T.B. Napier and R.M. Stephenson, *A Practical Guide to the Bar* (London: H. Cox, 1888), p. 22. Do these authors mean to state there was no minimum age or no maximum age? If all the other Temples had minimum ages greater than 18 (which, admittedly, seems unlikely inasmuch no university degree was required by any Inn), this would offer an easy explanation for Gandhi's choice of the Inner Temple.

**a very low point**

 The readings had long ago transmogrified into purely social events. The traditional bolts and moots were things of memory. Pearce,  *A History of the Inns of Court and Chancery* (London: Bentley,1848) contains an excellent description of the Readings and the Moots in Chapter IV. It also contains a history of the Inner Temple at Chapter VIII.

**a bar examination**

 "...faced with mounting external criticism and call for fusion, the Inns agreed to institute a compulsory Bar examination in 1872." Richard Abel, *The Legal Profession in England and Wales* (Basil Blackwell: London, 1988), p. 42, citing Abel-Smith and Stevens, *Lawyers and the Courts: A Sociological Study of the English Legal System 1750-1965* (Harvard University Press: Cambridge, 1967), p. 74.

**a special entrance examination**

 Richard Abel, *The Legal Profession in England and Wales* (Basil Blackwell: London, 1988), p.41. To qualify for admission to any Inn one had to have a liberal education. One could demonstrate his education either by taking and passing a public examination at a university or by passing this special entrance examination for non-matriculates administered by the body regulating legal education in Britain. This latter examination focused on English, Latin, and English history. T.B. Napier and R.M. Stephenson, *A Practical Guide to the Bar* (London: H. Cox, 1888) at 70. *See also,* Ball, *A Student's Guide to the Bar* (London: Macmillan, 1879), p.13.

**non-matriculates were subject**

It appears that the Bombay matriculation examination which Gandhi took to enter Samaldas College was sufficient to satisfy the Inner Temple that Gandhi had the liberal education Inns required of those desirous of ascending to the status of barrister. Gandhi, *An Autobiography: My Experiments with Truth* (Boston: Beacon, 1957), p. 35. The general rule in 1888 was that to gain admission to an Inn the student must have passed either a preliminary entrance examination or a "public examination at any university within the British dominions...." T.B. Napier and R.M. Stephenson *A Practical Guide to the Bar* (London: H. Cox, 1888), p. 22.

**University graduates**

 Richard L. Abel reports that "in the second half of the nineteenth century, the proportion [of university graduates called to the Bar was as high as] four-fifths in the Inner Temple." Affirming the elitist nature of the barristers' training, Abel notes that 'the dominance of university graduates is even more striking when we realize that there were fewer than 10,000 university students in Britain until 1870 and that they constituted only 0.2 per cent of the population." Abel, *The Legal Profession in England and Wales* (Basil Blackwell: London, 1988), p. 47.

**the English language**

 "My weak English was a perpetual worry to me...." Gandhi, *An Autobiography: My Experiments with Truth* (Boston: Beacon, 1957), p. 53.

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**an English gentleman**

 Gandhi, *An Autobiography: My Experiments with Truth* (Boston: Beacon, 1957), pp. 49-50.

**was a pushover**

 T.B. Napier and R.M. Stephenson, *A Practical Guide to the Bar* (London: H. Cox, 1888), p. 71.

**English history**

 Most applicants to the Inns possessed their bachelor's degrees, thus excusing them from proving that they had the requisite liberal arts education that the Inns desired. Non-graduates were required to take a matriculation examination or another special examination to prove they possessed a liberal education. Ball*, A Student's Guide to the Bar* (London: Macmillan, 1879), p. 13. Gandhi did not complete his undergraduate education before departing for England; he left India after finishing but one year of studies at Samaldas College.

**suitably difficult challenge**

 "I knew that Bar examinations did not require much study, and I therefore did not feel pressed for time.... I should, I thought, not only be called to the Bar, but have some literary degree as well. I inquired about the Oxford and Cambridge University courses, consulted a few friends, and found that, if I elected to go to wither of these places, that would mean greater expense and a much longer stay in England than I was prepared for. A friend suggested that, if I really wanted to have the satisfaction of taking a difficult examination, I should pass the London matriculation examination. It meant a good deal of labour and much addition to my stock of general knowledge, without any extra expense worth the name. I welcomed the suggestion."

 Gandhi, *An Autobiography: My Experiments in Truth* (Boston: Beacon, 1957), p. 53.

**January 1890**

Hunt, *Gandhi in London* (New Delhi: Promilla & Co., 1978)*,* p. 14.

**on England’s shores**

Gandhi, *An Autobiography: My Experiments with Truth* (Boston: Beacon, 1957), p. 54.

**“ploughed in Latin”**

 Gandhi, *An Autobiography: My Experiments with Truth* (Boston: Beacon, 1957), p. 54.

**“acquired a taste”**

 Gandhi, *An Autobiography: My Experiments with Truth* (Boston: Beacon, 1957), p. 54.

**no bounds of joy**

Gandhi, *An Autobiography: My Experiments with Truth* (Boston: Beacon, 1957), p. 55.

**passed it**

 Gandhi, *An Autobiography: My Experiments with Truth* (Boston: Beacon, 1957), p. 55.

**three months earlier**

 Napier and Stephenson recommend that a "student of average abilities" take about three months of study, at four to six hours per day, to prepare for the Roman law examination. *A Practical Guide to the Bar* (London: H. Cox, 1888), p. 73. The period between Gandhi's London examination and his Roman law examination is approximately three months.

**law that followed**

 T.B. Napier and R.M. Stephenson, *A Practical Guide to the Bar* (London: H. Cox, 1888), p. 71.

**after four terms**

 T.B. Napier and R.M. Stephenson, *A Practical Guide to the Bar* (London: H. Cox, 1888), p.71.

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**Roman Law examination**

 Gandhi, *An Autobiography: My Experiments with Truth* (Boston: Beacon, 1957), p. 80. Professor Hunt takes a bit of the shine off Gandhi's accomplishment of mastering Latin; he points out that Thomas Collett Sandars' *The Institutes of Justinian* (1859), which Gandhi likely read (see T.B. Napier and R.M. Stephenson, *A Practical Guide to the Bar* (London: H. Cox, 1888), at 72.), came complete with an English translation. Napier and Stephenson recommended that the student also read Hunter, *Introduction to Roman Law* (1885, 3rd ed.).

**sat for it**

 Hunt, *Gandhi in London* (New Delhi: Promilla & Co., 1978), p. 18.

**the bar finals**

T.B. Napier and R.M. Stephenson,  *A Practical Guide to the Bar* (London: H. Cox, 1888), p. 35.

**after nine terms**

Ball, *The Student's Guide to the Bar* (London: Macmillan, 1879), p. 19.

**December 20, 1890**

 Hunt, *Gandhi in London* (New Delhi: Promilla & Co., 1978), p. 18.

**fairly hard labor**

 Gandhi, *An Autobiography: My Experiments with Truth* (Boston: Beacon, 1957), p. 80.

**recommended text-books instead**

 Gandhi, *An Autobiography: My Experiments with Truth* (Boston: Beacon, 1957), p. 79.

**would be a fraud**

 Gandhi, *An Autobiography: My Experiments with Truth* (Boston: Beacon, 1957), p. 80.

**money in them**

Gandhi, *An Autobiography: My Experiments with Truth* (Boston: Beacon, 1957), p. 80.

**treatises**

 In addition to Snell’s *Equity*, it was recommended that students read Broom's *Common Law*, Williams' *Real Property* and *Personal Property* and perhaps Stephens' *Criminal Law* as well as his *General View of the Criminal Laws of England*. Ball, *The Student's Guide to the Bar* (1879) at 24-25. In addition to these core readings, some recommended that the student also avail himself of works by Goodeve on property, Anson on contracts, Pollock's works on partnerships and contracts, White and Tudor's work on cases in equity, Benjamin on sales, Lindley on partnership, Underhill's works on trusts and torts, Stephens on evidence, Shirley's works on criminal law and the common law, Prideaux on conveyancing, Smith on equity, and, finally, Kerr on injunctions. Gandhi himself recommended Williams on *Real Property*, Williams on *Personal Property*, Goodeve's *Real Property*, Goodeve's *Personal Property*, Edward's *Compendium of the Law of Property in Land*, Broom's *Common Law*, Indermauer's *Common Law*, Snell on *Equity*, and White and Tudor's *Leading Cases in Equity*. "Guide to London", *I* *CWMG,* p*.* 105 (1969 edition).

 **Gandhi read were**

 I am indebted to Professor Hunt's book for the full titles of these works. See Hunt, *Gandhi in London* (New Delhi: Promilla & Co., 1978), p. 19.

**“like a novel”**

 Gandhi, *An Autobiography: My Experiments with Truth* (Boston: Beacon, 1957), p. 80. Was Gandhi being tongue in cheek? Napier and Stephenson have contempt for Williams' book: "In some cases no discretion whatever seems to have been exercised in the selection of modern statutes, but every Act of the Legislature which nearly or remotely affects the question under discussion has been pitchforked into the book without alteration or explanation."  *A Practical Guide to the Bar* (London: H. Cox, 1888) at 76-77. While Gandhi is to be given credit for hard study and for reading books while others used notes, it must be noted that he did not read all the texts recommended to law students, a feat undoubtedly accomplished by very few. *See text above* at fns. 85-87. He did read Broom's *Commentaries on the Common Law, Designed As Introductory to its Study* (1888, 5th ed.), which he described as "a big but interesting volume", White and Tudor's *Leading Cases in Equity* (1886, 6th ed.), which he also found "interesting," Goodeve's *The Modern Law of Personal Property* (1887), and Edwards' *A Compendium of the Law of Property in Land* (1888).

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**difficult than most thought**

 "The percentage of men who are ploughed for the Bar examinations is tolerably large, and certainly far bigger than the percentage who fail the at the pass or honour examinations at Oxford of Cambridge. Until quite recently the difficulty of the Bar examinations was greatly underrated by most students. It used to be assumed that a few months' reading was amply sufficient for both [the Roman and the English] examinations and great has been the annoyance of many men who had too late discerned their mistake." T.B. Napier and R.M. Stephenson, *A Practical Guide to the Bar* (London: H. Cox, 1888), p. 35.

 Gandhi's recollection of the difficulty of the Roman and English law examinations is, perhaps, that of a student who worked hard and was successful and then looks backwards through rose-colored glasses: "Question papers were easy and examiners were generous. The percentage of passes in the Roman law examination used to be 95 to 99 and of those in the final examination 75 or even more. They could not be felt as a difficulty." Gandhi*, An Autobiography: My Experiments with Truth* (Boston: Beacon, 1957), p. 79. The actual pass percentages for Gandhi's exams were lower: 86.9% passed the Roman Examination while only 70.6 passed the English examination.

**finishing 34th**

 Hunt, *Gandhi in London* (New Delhi: Promilla & Co., 1978), p. 20.

**dinner barristers**

 Gandhi, *An Autobiography: My Experiments with Truth* (Boston: Beacon, 1957), p. 79.

**the wine could be split**

In *The Temple of the Nineties,* Gilchrist Alexander reports: "The captain of the mess ordered the wine, generally after consultation with the other members; but one old gentleman was said to be in the habit of choosing as his messmates three Mohammedan gentlemen from India in the hope that, their religion deterring them from drinking wine, he would find himself the sole devotee of the bottle." Alexander, *The Temple of the Nineties* (Hodge & Co.: London, 1938), p. 31.

**a dinner companion**

 Gandhi, *An Autobiography: My Experiments with Truth* (Boston: Beacon, 1957), p. 79.

**While an apprenticeship**

Called "reading in counsel's chambers . See T.B. Napier and R.M. Stephenson, *A Practical Guide to the Bar* (London: H. Cox, 1888), Chapter VI.

**after the call**

 See T.B. Napier and R.M. Stephenson, *A Practical Guide to the Bar* (London: H. Cox, 1888), at 58-61.

**practicing barristers**

 In the chambers of a practitioner specializing in conveyancing, for example, a student could expect to become familiar not only with the drafting associated with title work, but also that associated with wills and marriage settlements. In the chambers of common law and equity barristers, a pupil would be likely to learn how barristers render opinions and draft pleadings for court. On occasion, the pupil would attend court with the master to observe how a case on which he had worked in chambers was resolved. See T.B. Napier and R.M. Stephenson, *A Practical Guide to the Bar* (London: H. Cox, 1888), Chapter VI, "Reading in Counsel's Chambers."

**comparatively worthless**

 T.B. Napier and R.M. Stephenson, *A Practical Guide to the Bar* (London: H. Cox, 1888), p. 51. These commentators were astonished that "attendance in chambers for defined periods is not insisted on...as one of the conditions of a call to the Bar." *Id.* at 53. Much the same surprise can be expressed at the failure of the American bar to require some degree of apprenticeship before admission to the bar.

**later gave others**

 ""When we go [to England] to be Barristers, we ought to do there everything that would make of us good Barristers and not indulge in luxuries or pleasures." "Guide to London", Chapter IV (A Guide for Would-Be Barristers), *CWMG* 1, p. 102 (1969 edition).

**apprenticing would have been a waste of time**

"[T]he knowledge and experience necessary to enable a Barrister to deal successfully with even the simplest class of cases likely to come before him cannot be acquired by private study....it is necessary to serve some sort of apprenticeship...*It is absolutely necessary to a Barrister's success*, and if any student cannot afford the expense necessary to spend at least one year there, the sooner that he gives up the idea of practising (sic) at the Bar the better for him." (Emphasis supplied.) Ball, *The Student's Guide to the Bar* (London: Macmillan, 1879), p. 40.

 In addition to reading in chambers, Ball recommended that the pupil develop the practice of reading current law reports, consider attending lectures, and join a debating society to develop the art of speaking. (Napier and Stephenson also recommend attending lectures. *A Practical Guide to the Bar* (London: H. Cox, 1888), p. 38. There is no evidence that Gandhi did so.) Ball, *The Student's Guide to the Bar* (London: Macmillan, 1879), pp. 54-55. Gandhi would later join the Johannesburg Parliamentary Debating Society.

**six months of pupilage**

 T.B. Napier and R.M. Stephenson, *A Practical Guide to the Bar* (London: H. Cox, 1888), p. 62.

**employment**

 Although some barristers accepted pupils for six months, others preferred to work with the pupil a year. "Till the student has had some training he is useless as an assistant, and if he remains only six months he is apt to be quite fifty guineas' worth of trouble to the barrister." T.B. Napier and R.M. Stephenson, *A Practical Guide to the Bar* (London: H. Cox, 1888), p. 62.

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**evening suits**

 Gandhi, *An Autobiography: My Experiments with Truth* (Boston: Beacon, 1957), p. 50. *See also,* Fischer*, The Life of Mahatma Gandhi* (New York: Harper and Row, 1983)p. 24, quoting correspondence with Dr. Sachchidananda Sinha, a contemporary of Gandhi during his student years in London. Citing Sinha, Fischer states that Gandhi's clothes "were regarded as the very acme of fashion for young men about town at that time, and were largely in vogue among the Indian youth prosecuting their studies in law..." This is confirmed by Gilchrist Alexander, who, in writing about his days in the Temple, says: "In those days everyone in the City or the Temple wore dark clothes, stiff white shirt with cuffs, and a tall silk hat." Gilchrist Alexander, *The Temple of the Nineties* (London: Hodge & Co., 1938), p. 3.

 Sinha also points out that Gandhi's inn, the Inner Temple, was thought by Indian students to be "the most aristocratic."

**a brief time**

 Gandhi, *An Autobiography: My Experiments with Truth* (Boston: Beacon, 1957), pp. 50-1.

**similarly explained**

A more immediate motivation should also be noted. After Gandhi embarrassed a friend by exhibiting his vegetarianism at a posh restaurant where meat was de rigueur, Gandhi resolved to "try to become polished" and become "an English gentleman." Gandhi, *An Autobiography: My Experiments with Truth* (Boston: Beacon, 1957), p. 50.

**to practice in India**

 Gandhi, *An Autobiography: My Experiments with Truth* (Boston: Beacon, 1957), p. 51.

**Helena Petrovna Blavatsky**

 J.N. Farquhar, *Modern Religious Movements in India* (Norwood, MA: J.S. Cushing Co., 1915), p. 211. While theosophy later became, to some degree, respectable, it was with no thanks to Blavatsky who was nothing less than a consummate fraud. See Charles Braden, *These Also Believe: A Study of Modern American Cults and Religious Movements* (New York: Macmillan, 1953), p. 222.

**Olcott**

 Olcott was a lawyer, among other occupations he held. Charles S. Braden*, These Also Believe* (New York: Macmillan, 1953), p. 223.

**philosophical ideas**

 Annie Besant, *The Ancient Wisdom* (London: Theosophical Publishing, 1897), p. 2. Besant was a leading figure in theosophical thought toward the end of the nineteenth century. Gandhi heard her speak in England and was deeply impressed by her. See *CWMG* 16, p. 201 (1969 edition)*.*

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**of the recipients**

 Annie Besant, *The Ancient Wisdom* (London: Theosophical Publishing, 1897), p. 3. Besant's idea seems related to the teaching of Blavatsky that there exist a group of "Masters", arranged in a hierarchy and dedicated to a variety of cosmic duties. They also "send out thought forms of high intellectual power, to be caught and assimilated and used by men of genius"; help "the so-called dead"–-"watch tendencies of events";..."correct and neutralize as far as the law permits, evil currents, balancing forces that work for and against evolution, strengthening good, weakening evil";...and "above all" form the Guardian Wall around humanity within which it can progress, "uncrushed by the tremendous forces that play around our planetary house." Josephine Ransom, *A Short History of the Theosophical Society* (1938) at 55-56, quoted in Braden, *These Also Believe: A Study of Modern American Cults and Minority Religious Movements* (New York: Macmillan, 1953), p. 232.

**and her followers**

 J. N. Farquhar, *Modern Religious Movements in India* (Norwood, MA: J.S. Cushing Co., 1967), p. 208. One of the myths perpetuated by Blavatsky was that she "was chosen by the Masters from amongst all modern men and women to receive the ancient wisdom in limitless measure from the highest sources." Farquhar at 260.

**Hindu ideas**

 In her book *The Inner Government of the World*, Annie Besant describes God in Hindu terms. Olcott was later to travel extensively in India where he lectured on the "common aims of Theosophy and Hinduism." Braden, *These Also Believe: A Study of Modern American Cults and Minority Religious Movements* (New York: Macmillan, 1953) at 236. It must be noted, however, that Blavatksy's first efforts included no mention of Hinduism or its beliefs. "Theosophical doctrine at a later date became a blend of Buddhism, Hinduism and various forms of occultism; but, when first launched, it was merely an addition of the magic and mysticism of Egypt and of mediaeval Judaism to spiritualism, with a view to stimulating the jaded appetite of the people of New York." Farquhar, *Modern Religious Movements in India* (Norwood, MA: J.S. Cushing Co., 1914),p. 220.

**understanding of God**

 Braden, *These Also Believe: A Study of Modern American Cults and Minority Religious Movements* (New York: Macmillan, 1953) at 243-4.

**of all people**

 Braden, *These Also Believe: A Study of Modern American Cults and Minority Religious Movements* (New York: Macmillan, 1953) at 243.

**human perfectibility**

 Braden, *These Also Believe: A Study of Modern American Cults and Minority Religious Movements* (New York: Macmillan, 1953) at 246.

**far from home**

 According to Pyarelal, Gandhi's secretary at one time, theosophy's appeal for universal brotherhood was that which attracted Gandhi to theosophy, whereas he had no use for the nonsense that theosophy promoted concerning communication with the spirits through mediums. *See* Pyarelal*, Mahatma Gandhi – The Early Years* (Ahmedabad: Navijivan Publishing House 1965), p. 259, quoting Gandhi in *Young India*, September 12, 1929, p. 302.

One of the leading early historians of the theosophy movement, J.N. Farquhar writes of theosophy:

 By the year 1884 the Theosophical Society had attained great proportions. There were over a hundred branches in India, and Hindus everywhere rejoiced in its work. Nor is their enthusiasm hard to understand. Theosophy provided a new defence of Hinduism for the thousands of educated men whose Western education had filled them with shivering doubts about their religion. It condemned Christian missionaries as impudent and ignorant intruders...."

J.N. Farquhar, *Modern Religious Movements in India* (Norwood, MA: J.S. Cushing Co., 1914), p. 233.

 It is also worth noting that one of theosophy's themes was to find expression in Gandhi's language many times over in the future. In her 1888 book, *The Secret Doctrine*, Blavatsky begins and ends with the declaration "There is no religion higher than truth." Gandhi later writes glowingly of Annie Besant's dedication to truth. *CWMG* 1, p. 202 (1969 edition).

**Bhagavad Gita**

 Gandhi, *An Autobiography: My Experiments with Truth* (Boston: Beacon, 1957), p. 67.

**of her time**

 J.N. Farquhar, *Modern Religious Movements in India* (Norwood, MA: J.S. Cushing Co., 1914) at 267. Besant published, among other titles, *The Ancient Wisdom* (1897), *Esoteric Christianity* (1901), *Theosophy* (1912), *The Inner Government of the World* (1922), and, with C.W. Leadbeater, *Man: Whence, How and Whither* (1913). Besant eventually served as president of the Theosophical Society. Farquhar at 237. She also served as president of the Indian National Congress in 1917.

**spiritual nature of people**

Charles Braden, *These Also Believe: A Study of Modern American Cults and Minority Religious Movements* (New York: Macmillan, 1953), p. 243.

**she died for truth**

 Gandhi, *CWMG* 16, p. 201 (1969 edition).

**“The Key to Theosophy”**

 Blavatsky, *The Key to Theosophy* (Theosophical Publishing: London, 1889).

**rife with superstition**

Gandhi, *An Autobiography: My Experiments with Truth* (Boston: Beacon, 1957), p. 68. Gandhi was not always enamored of Christian missionaries. In his autobiography, he accuses them of loitering near his high school for the purpose of "pouring abuse on Hindus and their Gods." Gandhi, *An Autobiography: My Experiments with Truth* (Boston: Beacon, 1957), p. 33. Of course, in later years he was to become a close friend and ally of the Reverend Charles Andrews.

 There is some evidence that Gandhi actually joined the Theosophical Society but it is not very persuasive. In Josephine Ransom's *A Short History of the Theosophical Society* (Theosophical Publishing: Adyar, 1938), an official publication of the Society, she writes that a "Mr M K Gandhi, then a member" was introduced to the co-founder of the society, Henry S. Olcott, at a meeting of the Blavatsky Lodge in London. Here is Pyarelal's explanation:

There is obviously a confusion of identities here. For the year of the supposed meeting is given as 1896, when Gandhiji was in South Africa. Col Alkide in his own biography refers to meeting a Mr. Gandhi, "a distinguished Jain". Josephine Ransom seems to have mixed up M.K. Gandhi with Virchand Gandhi, a Jaina friend of Gandhiji, who was studying for the Solicitor's examination when Gandhiji returned to India in 1891, and with whom Gandhiji shared room at Bombay."

Pyarelal, *The Early Years* (Ahmedabad: Navijivan Publishing House, 1965)*,* p*.* 259. Gandhi himself states that he refused at least one invitation to join the Society. Gandhi*, An Autobiography: My Experiments with Truth* (Boston: Beacon, 1957), p. 68*.*

**looming**

 Gandhi tells us he was introduced to theosophy "[t]owards the end of my second year in England...." Gandhi, *An Autobiography: My Experiments with Truth* (Boston: Beacon, 1957), p. 67. Does Gandhi mean at the end of 1889 or does he means at the end of twenty-four months in London? The answer, of course, depends on how is Gandhi is calculating years. Would he have said in January 1889 that he was in his second year in London (1888 being the first and 1889 the second)? Or would he have not said so until after the completion of twelve months of time in London, that is, after September 1889? One clue is that Gandhi calls 1890 his "last year...of my stay in England....", when we know that departed in 1891. Gandhi, *An Autobiography: My Experiments with Truth* (Boston: Beacon, 1957), p. 70. This would militate in favor of the theory that by his "second year" Gandhi meant the fall of 1890.

 A different light is shed on this question by our knowledge that Annie Besant, whose speech so influenced Gandhi, did not give her first public talk in London until August, 1889. Hunt, *Gandhi in London* (New Delhi: Promilla & Co., 1978)*,* p. 32. This is consistent with "Gandhi's recollection, articulated in 1919, that "[i]t was in 1889 that I first paid my respects to Mrs. Besant.... I was privileged to do so by the courtesy of two English friends who were at the time ardent Theosophical students." *CWMG* 16, p. 201 (1969 edition). Moreover, in his autobiography Gandhi claims to have heard Mrs. Besant's speech when she "had just joined the Theosophical Society." Gandhi, *An Autobiography: My Experiments with Truth* (Boston: Beacon, 1957), p. 68. Professor Braden tells us that Mrs. Besant joined the Society in 1889. Braden, *These Also Believe: A Study of Modern American Cults and Minority Religious Movements* (New York: Macmillan, 1953) at 237.

 Also contributing to the theory that he became interested in theosophy in 1889 as opposed to 1890 is the notion that Gandhi could not possibly have performed all the reading he claims to have done–including the entire text of the Bible–between the fall of 1890 and the time when he says he had to put his religion books away in favor of studying for his examination in December 1890. Gandhi, *An Autobiography: My Experiments with Truth* (Boston: Beacon, 1957), p. 69.

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**without meat**

 Gandhi, *An Autobiography: My Experiments with Truth* (Boston: Beacon, 1957), p. 42.

**brought from home**

 Gandhi, *An Autobiography: My Experiments with Truth* (Boston: Beacon, 1957), pp. 42-43; Gandhi, "Guide to London", Appendix A, *CWMG* 1, p.117 (1969 edition).

**to eat for it**

 Gandhi, *An Autobiography: My Experiments with Truth* (Boston: Beacon, 1957), p. 44.

**“tasteless and insipid”**

Gandhi, *An Autobiography: My Experiments with Truth* (Boston: Beacon, 1957), p. 45.

**down his cheeks**

 Gandhi, *An Autobiography: My Experiments with Truth* (Boston: Beacon, 1957), pp. 44-45.

**English life and customs**

 Gandhi, *An Autobiography: My Experiments with Truth* (Boston: Beacon, 1957), p. 44.

**the conditions here**

 Gandhi, *An Autobiography: My Experiments with Truth* (Boston: Beacon, 1957), p. 46.

**“practically...starve”**

Gandhi, *An Autobiography: My Experiments with Truth* (Boston: Beacon, 1957), p. 47. Gandhi describes the food provided by this family as "third rate" but ascribes no blame to the family inasmuch as he "Was the first vegetarian boarder with them..." Gandhi, "Guide to London", *CWMG* 1, p. 118 (1969 edition).

**vegetarian restaurants in London**

 A ten to twelve mile trip on foot. Gandhi, *An Autobiography: My Experiments with Truth* (Boston: Beacon, 1957), p. 47.

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**filled him with joy**

 Gandhi, *An Autobiography: My Experiments with Truth* (Boston: Beacon, 1957), p. 48. Shortly afterwards Gandhi would begin eating his dinners at the Inner Temple. The Michaelmas term got underway in November. In this setting Gandhi learned to adapt and survive by making arrangements with the Inn for vegetarian meals, a practice he recommended to all Indians who would follow him. "Guide to London", *CWMG* 1, p. 104 (1969 edition).

**became my mission**

 Gandhi, *An Autobiography: My Experiments with Truth* (Boston: Beacon, 1957), p. 48.

**books available on vegetarianism**

 He read Williams' "The Ethics of Diet", Kingsford's "The Perfect Way in Diet", and the writings of Dr. Thomas Allinson, a London contemporary of Gandhi. Gandhi, *An Autobiography: My Experiments with Truth* (Boston: Beacon, 1957), p. 48.

**student days**

 Gandhi, *An Autobiography: My Experiments with Truth* (Boston: Beacon, 1957), p. 58.

**cooking for himself**

 Gandhi, *An Autobiography: My Experiments with Truth* (Boston: Beacon, 1957), pp. 54-55.

**the final examination**

 *CWMG* 1, p. 120 (1969 edition).

**role on the Committee**

 See Hunt, *Gandhi in London* (New Delhi: Promilla & Co., 1978), p. 27. A detailed account of Gandhi's vegetarianism is beyond the scope of this book. See Section D, "The Vegetarians" of Chapter I of Professor Hunt's excellent account of Gandhi's years in London.

**later become known**

 *The Collected Works of Mahatma Gandhi* stretches out to 100 volumes.

**vegetarianism in India**

 These pieces appeared in the issues of February 7, 14, 21, and 28 and March 7 and 14. *CWMG* 1, p. 19-29 (1969 edition).. Gandhi's articles were only loosely tied to the subject, digressing as they do to include within their ambit such things as bathing practices in India. *Id.,* at 27-28.

**festivals of India**

 The issues of March 28 and April 4 and 25 carried these items.

**“the Foods of India”**

 He spoke on May 6, 1891.

***The Vegetarian***

 The interview appeared on June 13, 1891 and June 20, 1891.

**politics of the LVS**

 Gandhi, *An Autobiography: My Experiments in Truth* (Boston: Beacon, 1957), pp. 59-60; *see also* Hunt, *Gandhi in London* (New Delhi: Promilla & Co., 1978), p. 28.

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**Josiah Oldfield**

 Gandhi, *An Autobiography: My Experiments with Truth* (Boston: Beacon, 1957), p. 58. Gandhi leaves the impression that the club was not very successful but that "this brief and modest experience gave me some little training in organizing and conducting institutions." *Id.*

**on behalf of vegetarianism**

 Hunt, *Gandhi in London* (New Delhi: Promilla & Co., 1978)*,* p.29.

**“organizing and conducting institutions”**

 Gandhi, *An Autobiography: My Experiments with Truth* (Boston: Beacon, 1957), p. 58.

**Chapter Two**

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**to engage me…..Gandhi**

Gandhi, *An Autobiography: My Experiments with Truth* (Boston: Beacon, 1957), p. 92.

**boat for India**

Gandhi, *An Autobiography: My Experiments with Truth* (Boston: Beacon, 1957), p. 80.

**return to India**

This expectation was actually ingrained in traditional Indian law: "...[T]he earnings of a professional man, educated at joint family expense, were joint family property." Alan Gledhill, *The Republic of India: The Development of its Law and Constitution* (Westport, CN: Stevens and Sons: 1964) p. 265.

**before Gandhi’s return**

Gandhi, *An Autobiography: My Experiments With Truth* (Boston: Beacon, 1957), p. 90. As Pyarelal puts it, Lakshmidas "must have thought that his brother would begin minting money immediately upon his return. " Pyarelal, *Mahatma Gandhi–The Early Phase* ((Ahmedabad: Navijivan Publishing House, 1965), p. 282.

**upon his arrival there**

Gandhi, *An Autobiography: My Experiments with Truth* (Boston: Beacon, 1957), p. 92.

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**knowledge of Indian law**

Gandhi, *An Autobiography: My Experiments with Truth* (Boston: Beacon, 1957), p. 81.

**“swinging practice”**

Gandhi, *An Autobiography: My Experiments with Truth* (Boston: Beacon, 1957), p. 90.

**draft a plaint….**

Gandhi, *An Autobiography: My Experiments with Truth* (Boston: Beacon, 1957), p. 81.

***shop in Bombay***

 Known as Mumbai today.

**qualified vakil**

A native practitioner with less training and less prestige than an English-schooled European barrister. *See* text accompanying footnotes 43, *et seq.*

**owed to the world**

Gandhi, *An Autobiography: My Experiments with Truth* (Boston: Beacon, 1957), p. 92.

**pick up a few cases**

 Gandhi, *An Autobiography: My Experiments with Truth* (Boston: Beacon, 1957), p. 92.

**“deep interest”**

Gandhi, *An Autobiography: My Experiments with Truth* (Boston: Beacon, 1957), p. 94.

**heart**

Gandhi, *An Autobiography: My Experiments with Truth* (Boston: Beacon, 1957), pp. 93-

94.

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**doze in the High Court**

Gandhi, *An Autobiography: My Experiments with Truth* (Boston: Beacon, 1957), p. 96.

**to represent her**

Gandhi, *An Autobiography: My Experiments with Truth* (Boston: Beacon, 1957), p. 94.

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**in some jurisdictions**

 Though Gandhi does not specify the court in which he appeared for Mamabai, it is likely that it was the Small Cause Court for Bombay established under the Presidency Small Cause Courts Act of 1882. The jurisdiction of the court, absent an agreement to the contrary by the parties, was limited to cases involving claims for amounts no greater than 2000 rupees. *See* M. Rama Jois, II *Legal and Constitutional History of India* (Bombay: Fred B. Rothman,1984), pp. 215-216.

**courtroom in disgrace**

Gandhi, *An Autobiography: My Experiments with Truth* (Boston: Beacon, 1957), p. 94.

**“his whole frame shook...”**

Gandhi, *An Autobiography: My Experiments with Truth* (Boston: Beacon, 1957), p. 39.

**rigors of childhood sports**

Gandhi, *An Autobiography: My Experiments with Truth* (Boston: Beacon, 1957), p. 15.

**of other children**

Gandhi, *An Autobiography: My Experiments with Truth* (Boston: Beacon, 1957), p. 6.

**a long tongue….**

Gandhi, *An Autobiography: My Experiments with Truth* (Boston: Beacon, 1957), p. 42.

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**put before [him]**

Gandhi, *An Autobiography: My Experiments with Truth* (Boston: Beacon, 1957), p. 47.

**courage to speak**

Gandhi, *An Autobiography: My Experiments with Truth* (Boston: Beacon, 1957), p. 60.

**his own position**

Allinson, however, lost the vote and Gandhi resigned from the Executive Committee – or so he believes. In his autobiography, Gandhi states that his recollection on this matter is faint. Gandhi, *An Autobiography: My Experiments with Truth* (Boston: Beacon, 1957), p. 60.

**for [his] incapacity**

Gandhi, *An Autobiography: My Experiments with Truth* (Boston: Beacon, 1957), p. 61.

**the first sentence**

Gandhi, *An Autobiography: My Experiments with Truth* (Boston: Beacon, 1957), p. 61.

**by himself**

Gandhi, *An Autobiography: My Experiments with Truth* (Boston: Beacon, 1957), p. 61.

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**speaking either**

Gandhi, *An Autobiography: My Experiments with Truth* (Boston: Beacon, 1957), p. 61.

**“constitutional shyness”**

Gandhi, *An Autobiography: My Experiments with Truth* (Boston: Beacon, 1957), p. 62.

**commerce with women**

According to Gandhi only his shyness prevented him "from going into deeper waters" with the women he met. Gandhi, *An Autobiography: My Experiments with Truth* (Boston: Beacon, 1957), p. 63. See also, *id*., at 65.

**Indian High Courts Act of 1861**

24 & 25 Vict. C. 104. *See* M. Rama Jois, II *Legal and Constitutional History of India* (Bombay: Fred B. Rothman,1984),p. 199 and Sanwat Raj Bhansai, II *Legal System in India* (Jaipur: University Book House, 1992), pp. 13-14.

**the British government**

Samuel Schmitthenner, *A Sketch of the Development of the Legal Profession in India*, 3 Law and Society Review 339 (1968-1969), p. 355. The Company first began to exercise judicial authority when James I provided the Company with a Charter in 1622 to regulate the behavior of English colonists in India. Nirmalendu Dutt-Majumdar, *Conduct of Advocates and Legal Profession: Short History* (Kolkata: Eastern Law House, 1974), p. 2, quoting Morley's Administration of Justice in British India (1885) at 5. For a history of the legal system in colonial India, *see* Sanwat Raj Bhansali,  *Legal System in India* (Jaipur: University Book House, 1992).

**organized and regulated**

Samuel Schmitthener, *A Sketch of the Development of the Legal Profession in India*, 3 Law and Society Review 337 (1968-1969) at 339, quoting C. Fawcett, *The First Century of British Justice in India* (1934) at 57.

**competing for business**

After the High Courts were founded in 1862, six types of practitioners could be found in India: advocates (European, English-trained barristers who were permitted to appear in virtually all courts of significance), attorneys (Europeans who were the equivalent of English-trained solicitors and who, while they had a limited right of practice before the High Courts, traditionally referred litigation to barristers), vakils of the high Court (native Indian attorneys whose practice was, during the first two-thirds of the nineteenth century, greatly restricted, but who eventually were permitted to practice before the High Courts of Bombay, Calcutta, and Madras), pleaders, mukhtars and revenue agents. These latter three categories consisted of individuals whose training was limited, whose practice was narrowly focussed, and who were limited to the lower courts. Samuel Schmitthenner, *A Sketch of the Development of the Legal Profession in India*, 3 Law and Society Review 339 (1968-1969) at 358 and 363. *See also* John J. Paul, *The Legal Profession in Colonial South India* (Bombay: Oxford University Press, 1991), p. 13.

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**almost exclusively English**

The first barrister in Bombay did not arrive until 1798–and he came as a judge. Samuel Schmitthenner, *A Sketch of the Development of the Legal Profession in India* 3 Law and Society Review 339 (1968-1969) at 343.

**enormous fees**

Fees commanded by barristers, at least in the period ending with the establishment of the presidency High Courts in 1862, were as much as 7 times those charged in England. Barristers' practices during this period and afterward were very lucrative. Samuel Schmitthener, *A Sketch of the Development of the Legal Profession in India*, 3 Law and Society Review 339 (1968-1969) at 345-346, 370.

**in inferior tribunals**

When the English government established a Supreme Court in Bengal by virtue of the Regulating Act of 1773 (13 Geo. III C. 63) only English barristers and solicitors were allowed to appear before it. The Supreme Court of Bombay followed suit. Nirmalendu Dutt-Majumdar, *Conduct of Advocates and Legal Profession: Short History* (Kolkata: Eastern Law House,1974), pp. 20-21.

**only thirteen by 1861**

Samuel Schmitthenner, *A Sketch of the Development of the Legal Profession in India*, 3 Law and Society Review 339 (1968-1969) at 343, 345.

**almost immediately**

Samuel Schmitthener, *A Sketch of the Development of the Legal Profession in India,* 3 Law and Society Review 339 1968-19969) at 345.

**“vakils”**

John J. Paul says this about the origin of the term "vakil":

 The term 'vakil' in Persian meant an 'agent', 'ambassador', 'representative', or 'counselor'. The office of vakil under the Mughals was one of much honour and exaltation. V.N. Srinivasa Rao has observed that 'The Vakil of the eighteenth century had been beyond the reach of the common man. When the helper of a litigant in court proudly called himself a Vakil, this imaginative step aided the dignified development of the mofussil Bar.' It is difficult to see why the terms 'pleader' and 'vakil' were used side-by-side....[W]hat factors distinguished one from the other are not clear. When advocates [meaning barristers] who appeared in the Supreme Court of Madras were finally permitted to plead in the company courts in 1846 and when attorneys [solicitors] were allowed to do the same in 1855, no such distinctions were maintained in the *Sadr Adalat* or Chief Court of Appeal. Everyone–whether advocate, pleader or attorney–was simply treated as 'pleader' or 'vakil'. this imprecise use of terminology led to much confusion later.

 The High Court, constituted in 1862..., permitted three separate groups of practitioners: advocates who barristers, vakils and attorneys [solicitors]. For many decades, both advocates and attorneys had their training outside of India, and almost all of them were Europeans. In contrast, vakils were the products of local institutions. The term 'vakil' acquired three distinct meanings during the High Court era. first, it referred to a type of practitioner who, by background and ethnicity, was a 'native.' Second, it distinguished a class or group of practitioners from barristers or attorneys, whenever authorities had to make decisions regarding promotion to higher ranks in the judicial service....Third, it represented an institution known as the 'vakil system' as distinct from the dual-system or double-agency. Whereas the former permitted all vakils to act, appear and plead in the High Court, the dual-system divided these functions between barrister and attorney.

 John J. Paul, *The Legal Profession in Colonial South India* (Bombay: Oxford University Press, 1991) p. 13.

**lower esteem**

John J. Paul, *The Legal Profession in Colonial South India* (Bombay: Oxford University Press, 1991), p. 6.

**lesser fees**

John J. Paul. *The Legal Profession in Colonial South India* (Bombay: Oxford University Press, 1991),p. 14.

**to certain courts**

John J. Paul, *The Legal Profession in Colonial South India* (Bombay: Oxford University Press, 1991), p. 7.

**Inns system**

Nirmalendu Dutt-Majumdar reports that in the period following the institution of the High Courts in 1862, the Bombay high Court permitted matriculates of Bombay University and practicing attorneys to practice before it upon the passage of a special examination. Persons with a Bachelor's or Master's degree in law were entitled to practice without having to take the examination. Nirmalendu Dutt-Majumdar, *Conduct of Advocates and Legal Profession: Short History* (Kolkata: Eastern Law House1974), p. 28.

**power of vakils**

Samuel Schmitthenner describes the evolution of the profession of "vakil" from its beginnings when the Urdu language defined an agent as a "vakil" to the time when vakils were university law graduates able to practice in any court. *See* Samuel Schmitthenner, *A Sketch of the Development of the Legal Profession in India*, 3 Law and Society Review 339 (1968-1969) at 350, n. 87. *See also* Nirmalendu Dutt-Majumdar, *Conduct of Advocates and Legal Profession: Short History* (Kolkata: Eastern Law House1974), p. 21.

**and vakils**

A goal not fully achieved until the passage of the Indian Bar Council's Act of 1926 and the Advocates Act of 1961. *See* John J. Paul, *The Legal Profession in Colonial South India* (Bombay: Oxford University Press, 1991)p. 14 and Nirmalendu Dutt-Majumdar, *Conduct of Advocates and Legal Profession: A Short History* (Kolkata: Eastern Law House1974), p. 45.

**the High Court there**

In Bombay [a] Matriculate of the Bombay University or an Attorney [the equivalent of a solicitor] could be admitted as a Vakil on passing an examination prescribed by the High Curt but a Bachelor or Master of Laws was eligible without further qualification." Nirmalendu Dutt-Majumdar, *Conduct of Advocates and Legal Profession: Short History* (Kolkata: Eastern Law House1974), p. 28.

**went without work**

"After 1890 the phrase "briefless barrister" described the grim reality experienced by young lawyers. As brilliant a lawyer as C.R. Das, who joined the bar at Calcutta in 1893, spent the first fifteen years of his career experiencing the "daily round of almost hopeless waiting at the Bar library in company of more than a hundred equally hopeless members of the learned brotherhood." " Samuel Schmitthenner, *A Sketch of the Development of the Legal Profession in India*, 3 Law and Society Review 339 (1968-1969) at 373, quoting P.C. Ray, *Life and Times of C.R. Das* (1927) at 24.

 Writing a year or so after leaving India for South Africa, Gandhi recognizes the reality he left:

 For the present Barristers are at a discount....When there was only one newspaper, it was prized by all; now when there are many only a few are held in estimation. A first matriculate was a sort of demi-god. Now when you stumble upon matriculates, they are sold at a nominal price. Again, where there was only one Barrister, he was incomparable, now there are many among whom to set up a comparison.

 Gandhi does offer some hope, however, that the glut would be remedied by the movement of lawyers into what Gandhi called the more "backward" states of India.

 *CWMG* 1, p. 101 ("A Guide to London", 1983-1894) at 101-2.

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**tied to the land**

D.A. Washbrook, *Law, State and Agrarian Society in Colonial India*, 15 Modern Asian Studies 649 (1981), 650 .

**not prepared to accept**

Professor Washbrook puts the situation this way:

 The raj found itself in a situation in which it would have liked to stop history somewhere around 1880. At that point, it possessed a near perfect equilibrium between the development of forces of production necessary to its economic needs and the solidity of the social and political structures necessary to its security....There appeared to be room for accommodation between metropolitan...capital and the existing agrarian structure in the buoyancy of the economy....the hope of this harmony, and balance, was fully expressed in the law. The apparent confusions and contradictions in its theories and procedures served to make it an instrument of compromise.

 D.A. Washbrook, *Law, State and Agrarian Society in Colonial India*, 15 Modern Asian Studies 649 (1981) at 692-693.

**commercial cases were**

Each presidency's High Court had two divisions, known as the "Original Side" and the "Appellate Side." The Original Side is where a lawyer would first file and try a law suit; it was, in other words, a trial division. The Appellate Side, as the name implies, heard appeals from decisions rendered on the Original Side.

**the English judges**

Samuel Schmitthenner, *A Sketch of the Development of the Legal Profession in India*, 3 Law and Society Review 339 (1968-1969) at 367-368.

 Professor Washbrook states that the "law functioned in the main to regulate the relations of urban commercial groups in the interests of colonial power." D. A. Washbrook, *Law, State and Agrarian Society in Colonial India*, 15 Modern Asian Studies 649 (1981) at 669. If this was the principal purpose of the law, then Gandhi, with no ties to the business community there, no real prospect of obtaining the work of commercial interests in Bombay.

 Schmitthenner quotes the historian P. B. Vaccha as saying that "throughout the 19th century the inhabitants of Bombay preferred to trust their legal business...to British solicitors...and English barristers...." Samuel Schmitthenner, *A Sketch of the Development of the Legal Profession in India*, 3 Law and Society Review 339 (1968-1969) at 368, quoting P.B. Vaccha, *Famous Judges, Lawyers and Cases of Bombay* (1962) at 14.

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**“briefless barrister”**

Gandhi refers to himself in this fashion in his autobiography. Gandhi, *An Autobiography: My Experiments with Truth* (Boston: Beacon, 1957), p. 89.

 On the important role family played in helping a barrister establish his practice, *see* Samuel Schmitthenner, *A Sketch of the Development of the Legal Profession in India,* 3 Law And Society Review 339 (1968-1969) at 375-376.

**than professional ethics**

Gandhi, *An Autobiography: My Experiments with Truth* (Boston: Beacon, 1957), p. 94.

**to pay the tout**

Gandhi, *An Autobiography: My Experiments with Truth* (Boston: Beacon, 1957), p. 94.

**the fall of 1892**

*CWMG* 1, p. 56 ("Letter to Ranchhodlal Patwari", September 5, 1892).

**never materialized**

"...it was no use spending any more time in Bombay." Gandhi, *An Autobiography: My Experiments with Truth* (Boston: Beacon, 1957), p. 95.

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**would not budge**

Gandhi, *An Autobiography: My Experiments with Truth* (Boston: Beacon, 1957), p. 95.

**his Rajkot home**

Gandhi, *An Autobiography: My Experiments with Truth* (Boston: Beacon, 1957), p. 95.

**applications and memorials**

Gandhi attempted to pass on to would-be barristers what his bitter experience in Bombay has taught him. Writing in his *Guide to London*, Gandhi states:

...there is no work awaiting you on your return. There may be empty honours and congratulations just to sting you. Even if there be work, perhaps, without a knowledge of practice you will not be able to accept it. Therefore, if you would take the advice of one who has undergone the bitter experience and would profit by it, if you have Rs. 10,000, only spend L420 worth and keep the rest to be spent in India and you would be happy and contented.

 Then, being a bit more optimistic than his own experience might warrant, Gandhi goes on to assure the would-be barrister that "in tow years or so...you would be able to establish yourself as a respectable barrister." *CWMG* 1, p.114 ("Guide to London", 1983-1894).

**barrister required**

Gandhi was not unaware of the mismatch between his personality, as it existed while he was a law student, and the profession which he was joining. While still a student in London, Gandhi wondered to himself whether he "should be able even to earn a living by the profession." Comparing himself to Sir Pherozeshah Mehta, "a lion in the law courts", he felt quite inadequate. Gandhi, *An Autobiography: My Experiments with Truth* (Boston: Beacon, 1957), p. 81.

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**smelled of corruption**

Indeed, touting was considered "underhanded and unprofessional" and in violation of the rules of the profession. John J. Paul, *Vakils of Madras: The Rise of the Modern Legal Profession in South India* (Thesis (Ph. D.), University of Wisconsin-Madison, 1986).pp. 147, 331.

**ethical standards**

Gandhi, *An Autobiography: My Experiments with Truth* (Boston: Beacon, 1957), pp. 96-97.

**throughout the region**

Gandhi, *An Autobiography: My Experiments with Truth* (Boston: Beacon, 1957), p. 100.

**of this trouble**

Pyarelal provides this explanation:

"...young Ran Bhavsingh, before he ascended the *gaddi*, had, it was alleged, removed some jewels from the State's treasury without authority. Someone has whispered in the Political Agent's ear that he had done it on the suggestion of...Lakshmidas, who was then secretary and advisor to the young prince; that in any case Lakshmidas knew of it, and since he did not report it, he was accessory after the fact, if not before."

 Pyarelal, *Mahatma Gandhi–The Early Phase* (Ahmedabad: Navijivan Publishing House, 1965), pp. 285-6.

**out of it**

Gandhi, *An Autobiography: My Experiments with Truth* (Boston: Beacon, 1957), pp. 97-98.

**the matter to rest**

Gandhi puts the matter too kindly by saying Lakshmidas wished his brother to "disabuse the Political Agent of the his prejudice" against Lakshmidas. Gandhi, *An Autobiography: My Experiments with Truth* (Boston: Beacon, 1957), p. 97.

**[his] self-respect**

Gandhi, *An Autobiography: My Experiments with Truth* (Boston: Beacon, 1957), p. 98.

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**the proper channel**

Gandhi, *An Autobiography: My Experiments with Truth* (Boston: Beacon, 1957), p. 98.

**yet to know life**

Gandhi, *An Autobiography: My Experiments with Truth* (Boston: Beacon, 1957), p. 99.

**“bitter as poison”**

Gandhi, *An Autobiography: My Experiments with Truth* (Boston: Beacon, 1957), p. 99.

**pledged to himself**

Gandhi, *An Autobiography: My Experiments with Truth* (Boston: Beacon, 1957), p. 99.

**of his appearances**

Gandhi, *An Autobiography: My Experiments with Truth* (Boston: Beacon, 1957), p. 100.

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**representing some clients**

Gandhi was then representing the Mers. Gandhi, *An Autobiography: My Experiments with Truth* (Boston: Beacon, 1957), p. 101. Pyarelal tells us that the Mers were "a kind of feudal militia enjoying a number of privileges and immunities in Porbandar State...." Pyarelal, *Mahatma Gandhi: The Early Phase* (Ahmedabad: Navijivan Publishing House, 1965 ), p.288.

**rule or regulation**

Gandhi, *An Autobiography: My Experiments with Truth* (Boston: Beacon, 1957), p. 101.

**making new acquaintances**

Gandhi, *An Autobiography: My Experiments with Truth* (Boston: Beacon, 1957), p. 101.

**less than a year**

Gandhi, *An Autobiography: My Experiments with Truth* (Boston: Beacon, 1957), pp. 101-102.

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**servant of the firm**

Gandhi, *An Autobiography: My Experiments with Truth* 1 (Boston: Beacon, 1957), p. 102.

**to his family**

Gandhi specifically mentions this as a motive for taking the job in South Africa. Gandhi, *An Autobiography: My Experiments with Truth* (Boston: Beacon, 1957), p. 102.

**with his wife**

Gandhi, *An Autobiography: My Experiments with Truth* (Boston: Beacon, 1957), p. 102.

**Chapter Three**

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**J.F. Hofmeyr**

Quoted in Edgar Brookes and Colin Webb, *A History of Natal* (Pietermaritzburg: University of Natal Press, 1965), p. 85.

**the year 1497**

Edgar H. Brookes and Colin Webb, *A History of Natal* (Pietermaritzburg: University of Natal Press, 1965), p. 3.

**there in 1815**

Alan F. Hattersley, *The British Settlement of Natal* (Cambridge: Cambridge University Press, 1950) at 24.

**secure way of life**

Alan F. Hattersley, *The British Settlement of Natal* (Cambridge: Cambridge University Press, 1950) at 58.

**Republic of Natalia in 1839**

“A certain vagueness–a blurring of the edges–is associated with the Republic of Natalia. Its beginning may well be dated before 1840.” Edgar H. Brookes and Colin Webb, *A History of Natal* (Pietermaritzburg: University of Natal Press, 1965) at pp. 35-36.

**administrative difficulties**

See, generally, Chapter 4, “The Republic of Natalia”, in Edgar Brookes and Colin Webb, *A History of Natal* (Pietermaritzburg: University of Natal Press, 1965) and Chapter II, “The Republic of Natal”, in Alan F. Hattersley, *The British Settlement of Natal* (Cambridge: Cambridge University Press, 1950).

**that lay there**

Alan F. Hattersley, *The British Settlement of Natal* (Cambridge: Cambridge University Press, 1950) at 224.

**town of Durban**

Alan F. Hattersley, *The British Settlement of Natal* (Cambridge: Cambridge University Press, 1950) at 244, et seq.

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**government had failed**

Edgar H. Brookes and Colin Webb, *A History of Natal* (Pietermaritzburg: University of Natal Press, 1965) at p. 40.

**from the Cape**

Mabel Palmer, *The History of the Indians in Natal* (Cape Town: Oxford University Press, 1957), Vol. 10, Natal Regional Survey, p. 9.

**responsible government in 1893**

Edgar Brookes and Colin Webb, *A History of Natal* (Pietermaritzburg: University of Natal Press, 1965) at 179. The responsible government model has the executive responsible to the parliament.

**coffee**

See Chapter IX, “The Economic Development of the Coastlands”, in Alan F. Hattersley, *The British Settlement of Natal* (Cambridge: Cambridge University Press, 1950).

**sugar**

Alan F. Hattersley, *The British Settlement of Natal* (Cambridge: Cambridge University Press, 1950) at 235. Tea was also grown; *see* “The Curse of Natal”, *Rand Daily Mail*, March 9, 1910.

**established in Natal**

Mabel Palmer, *The History of the Indians in Natal* (Cape Town: Oxford University Press, 1957), Vol. 10, Natal Regional Survey, p. 10.

**ended in failure**

A bold governmental official, Theophilus Shepstone, the Diplomatic Agent to the Native Tribes, helped protect the native blacks from exploitation. Mabel Palmer, *The History of the Indians in the Natal* (Cape Town: Oxford University Press, 1957), Vol. 10, Natal Regional Survey, p. 11. The plantation owners made other efforts to force the natives to work for them, but these efforts were rebuffed by the Natal government. G.H. Calpin, *Indians in South Africa* (Pietermaritzburg: Shuter and Shooter, 1949), p. 3. In 1849 the settlers imposed a tax on native huts in a futile effort to force natives to work for the cash they needed to pay the tax. Palmer, *The History of the Indians in Natal*, p. 11.

**from the Far East**

G.H. Calpin, *Indians in South Africa* (Pietermaritzburg: Shuter and Shooter, 1949), pp. 2-3; C.J. Ferguson-Davie, *The Early History of Indians in Natal* (Johannesburg: South African Institute of Race Relations, 1977), pp. 2 - 8.

**imperil the whole country**

*Natal Mercury*, June 6, 1855.

**housing and food**

Gandhi would later call indentured servitude “slavery-tainted labour.” “The Aga Khan and Passive Resistance”, February 5, 1910, X *CWMG* 145 at 146 (September, 1963 edition).

**back to India**

G.H. Calpin, *Indians in South Africa* (Pietermaritzburg: Shuter and Shooter, 1949), p. 6. Maureen Swan, in *Gandhi: The South African Experience* (Johannesburg: Ravan Press, 1985), p. 1, notes that the offer of land expired in 1890. By the time Gandhi set up his practice in Durban in 1894, the period of indenture had grown from three years to five years; after the indenture period was completed, “the Indian has to remain in the colony for a futher period of five years, when he is entitled to return to India, a free passage being provided for himself and his family....” “Report of the Natal Government Indian Commission”, *Natal Witness,* April 20, 1894.

**between 1860 and 1866**

T. J. D. Fair, *The Distribution of Population in Natal* (Cape Town: Oxford University Press for University of Natal, 1955 ) *(Natal Regional Survey, Vol. 3)* (1955), p. 11.

**of this arrangement**

G.H. Calpin, *Indians in South Africa* (Pietermaritzburg: Shuter and Shooter, 1949), p. 6.

**economic depression on Natal**

Mabel Palmer, *The History of the Indians in Natal* (Cape Town: Oxford University Press, 1957), Vol. 10, Natal Regional Survey, p. 20. Palmer makes a persuasive argument that the depression, not the objections of the Government of India, was the sole cause for the suspension of immigration.

**immigration in 1866**

Palmer, *History of the Indians in Natal*, 20.

**began to rise**

Mabel Palmer, *The History of the Indians in Natal* (Cape Town: Oxford University Press, 1957), Vol. 10, Natal Regional Survey, p. 24.

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**regular supply of labour**

Quoted in G.H. Calpin, *Indians in South Africa* (Pietermaritzburg: Shuter and Shooter, 1949), p. 7.

**immigrants be women**

By 1894, the year Gandhi established his practice in Natal, the conditions of indenture had changed very little. A report of a government commission described the terms of indenture as of April, 1894: “At present the Indian on arrival in Natal is indentured to an employer for five years. He is paid at the rate of ten shillings per month during the first year, eleven shillings the second, twelve the third, thirteen shillings the fourth and during the last year of the term fourteen shillings. In addition to wages the employer provides the Indian and his family...with rations, lodging, medical attendance, and medicines....On the expiration of the term of indenture the Indian has to remain in the Colony for a further period of five years, when he is entitled to return to India, a free passage being provided for himself and family....” Report of the Natal Indian Commission, “The Indian Commission”, *The Natal Witness*, April 20, 1894.

**the Natal economy**

Mabel Palmer, *The History of Indians* *in Natal* (Cape Town: Oxford University Press, 1957), Vol. 10, Natal Regional Survey, p. 27.

**presence might cause**

The future attorney general of Natal, Harry Escombe, had this to say: “...unless an arrestation was put upon the introduction of Indian emigrants, the whole of the social polity of this country would be disturbed....Having regard to the character of the people who were coming into the country...it was easy for the whole of the population of this country to be...submerged by the new arrivals, entailing a competition which was simply impossible as far as Europeans were concerned whether in trade or agriculture, on account of the different habits of life.” Quoted in G.H. Calpin, *Indians in South Africa* (Pietermaritzburg: Shuter and Shooter, 1949), p. 13.

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**much freer hand**

See, generally, Chapter XVII, “The Struggle for Responsible Government” in Edgar Brookes and Colin Webb, *A History of Natal* (Pietermaritzburg: University of Natal Press, 1965).

**no Indians in Natal**

Zbigniew A. Konczacki, *Public Finance and Economic Development of Natal, 1893-1910* (Duke University Press: Durham, 1967), p. 4, citing Natal Blue Books, Statistical Year Books, and Census Reports of 1891 and 1904.

**the Indians’ 12,823**

T.J.F. Fair, *The Distribution of Population in Natal* (Cape Town: Oxford University Press for University of Natal, 1955 )*(Natal Regional Survey, Vol. 3)* (1955), p.12.

**92,597 Europeans**

Zbigniew A. Konczacki, *Public Finance and Economic Development of Natal, 1893-1910* (Duke University Press: Durham, 1967), p. 4, citing Natal Blue Books, Statistical Year Books, and Census Reports of 1891 and 1904.

**lowly market-gardeners**

Many Indians found it easy to go into to market-gardening after their indentured servitude. T.J.D. Fair, *the Distribution of Population in Natal* (Cape Town: Oxford University Press for University of Natal, 1955), p.17.

**for business acumen**

“There is a considerable number of Arab traders in this Division, and there is a general complaint by European store-keepers that the Arabs are able to undersell them, seeing that they are able to live cheaper than Europeans.” Magisterial Reports, 1885, Klip River Division, p. B.54, cited in Mabel Palmer, *The History of the Indians in Natal* (Cape Town: Oxford University Press, 1957), Vol. 10, Natal Regional Survey, p. 43. “These people render it impossible for small European store-keepers to make a living, and all the Native Trade off the Colony is getting into the hands of the Free Indians.” Magisterial Reports, 1885, Lion’s River Division, p. B.61, quoted in Mabel Palmer, *The History of the Indians in Natal* (Cape Town: Oxford University Press, 1957), Vol. 10, Natal Regional Survey, p. 46.

**Porbandar**

Edgar Brookes and Colin Webb, *A History of Natal* (Pietermaritzburg: University of Natal Press, 1965) at 86; Maureen Swan, *Gandhi: The Indian Experience* (1985) at 3.

**arrived in South Africa**

Maureen Swan, *Gandhi: The South African Experience* (Johannesburg: Ravan Press, 1985), p. 2 et seq.

**£502,000**

Konczacki, *Public Finance and Economic Development of Natal, 1893-1910*, p. 198.

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**agricultural workers**

Maureen Swan, *Gandhi: The South African Experience* (Johannesburg: Ravan Press, 1985), p. 26, citations omitted.

**Chapter Four**

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**work for me…Gandhi**

M.K. Gandhi, *An Autobiography: My Experiments with Truth* (Boston: Beacon Press, 1957), p. 121.

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**to his employer**

M.K. Gandhi, *An Autobiography: My Experiments with Truth* (Boston: Beacon Press, 1957), pp. 105-106.

**his entrepreneurial work**

 M.K. Gandhi, *An Autobiography: My Experiments with Truth* (Boston: Beacon Press, 1957), p. 106.

**in South Africa**

 See, for example, Robert Payne, *The Life and Death of Mahatma Gandhi* (New York: E.P. Dutton & Co., 1969), pp. 91, et seq., and Judith M. Brown, *Gandhi: Prisoner of Hope* (New Haven and London: Yale University Press,1989), pp. 31 and 75.

**reserved for counsel**

*Natal Mercury*, May 26, 1893, p. 3; M.K. Gandhi, *An Autobiography: My Experiments with Truth* (Boston: Beacon Press, 1957), p. 106.

**to Natal’s courts**

Indians, for example, were prosecuted for breaking into not simply the homes of Europeans, but the homes of Indians, as well. *See, e..g.,* “Durban Circuit Court”, Natal Advertiser, June 6, 1893.

**fiction, not fact**

*Natal Mercury*, June 10, 1893, Supplement.

**preposterous stories**

*Natal Advertiser*, June 9, 1893.

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**Madras**

*Natal Advertiser*, June 9, 1893.

***“a la* English”**

 *Natal Mercury*, May 26, 1893, page 3.

**produced his credentials**

Gandhi, Letter to the Editor, *Natal Advertiser*, May 29, 1893.

**an English barrister**

*Natal Advertiser*, May 26, 1893.

**“misdirected zeal”**

*Natal Mercury,* May 27, 1893, p. 3.

**be his rudeness**

M.K. Gandhi, Letter to the Editor, *Natal Advertiser*, May 29, 1893.

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 **“white elephant”**

M.K. Gandhi, *An Autobiography: My Experiments in Truth* (Boston: Beacon Press, 1957), p. 105.

**legal fraternity**

*Natal Mercury*, May 30, 1893, p. 3.

**help work on it**

 Gandhi, *An Autobiography: My Experiments with Truth* (Boston: Beacon Press, 1957), p. 109.

**the law was capable**

Gandhi, *An Autobiography: My Experiments with Truth* (Boston: Beacon Press, 1957), p. 119.

**baffled him.**

Gandhi, *An Autobiography: My Experiments with Truth* (Boston: Beacon Press, 1957), p. 109.

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**stay in first-class**

Gandhi, *An Autobiography: My Experiments with Truth* (Boston: Beacon Press, 1957), pp. 111-117. For other recountings of the train incident by Gandhi, see “Discussion with John R. Mott”, on or before December 4, 1938, *CWMG* 68, p. 165 (January, 1977 edition) and Mohandas K. Gandhi, *Satyagraha in South Africa*,trans. V.G. Desai (Stanford: Academic Reprints, 1954), pp. 42 - 43.

**£4,000**

“An Indian Case”, *The Press*, June 9, 1894.

**£6,000**

“Alleged Perjury,” *The Press*, July 20, 1894.

**before the High Court**

“High Court Roll”, *The Press*, February 9, 1893.

**to two accountants**

 Thomas Hugo and George Bindon.

**of their findings**

“Dada Abdulla and Others vs. Tayob Khan and Co.”, *The Press,* February 13, 1893; “An Indian Case”, *The Press,* June 9, 1894; “Alleged Perjury”, *The Press*, July 20, 1894.

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**in Pretoria**

“High Court of Justice: Ex Parte Abdoola Hajee Adam”, *The Press*, April 27, 1894.

**practiced in Natal**

Baker had been admitted as an advocate of the Natal Supreme Court on March 15, 1883. He had been admitted as an attorney on January 8, 1880. *See* “Attorneys of the Supreme Court (Corrected to 31st December, 1895)”, *Natal Law Reports*, 1896 and “Advocates of the Supreme Court (Corrected to 31st December, 1895)”, *Natal Law Reports*, 1896.

**from him through you**

 M.K. Gandhi, *An Autobiography: My Experiments with Truth* (Boston: Beacon Press, 1957), p. 119.

**Mahomed**

Tayob Hajee Khan Mahomed. Given the modern ethical stricture against communicating with an opposing party represented by counsel, few lawyers today would feel comfortable with Gandhi’s seeking out of, and eventual collaboration with, Mahomed.

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**on his listeners**

 Gandhi, *An Autobiography: My Experiments with Truth* (Boston: Beacon Press, 1957), pp. 125-127.

**in the Transvaal**

 Gandhi, *An Autobiography: My Experiments with Truth* (Boston: Beacon Press, 1957), pp. 129-131.

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**church services in Pretoria**

Baker was conducting these services in the midst of his work in *Abdulla.* “Local and General: Cape General Mission”, *The Press*, May 7, 1894.

**multiple occasions**

A.W. Baker, *Grace Triumphant: The Life Story of a Carpenter, Lawyer and Missionary in South Africa from 1856 to 1939* (London: Pickering & Inglis Ltd., 1939), pp. 47, 80 and 84.

**three Pretoria detectives**

Their names were Uekerman, Fischer and Norman.

**and was released**

“A Little Sensation: The ‘Tecs and the Attorney”, *The Press*, April 26, 1894; “High Court of Justice: Ex Parte Abdoola Hajee Adam”, *The Press*, April 27, 1894.

**came before the court**

When the Baker case was called the day after the seizure, the court took no evidence inasmuch as the prosecutor asked for a continuance, “pending instructions from the State Attorney.” “The Baker Case”, *The Press*, April 27, 1894. On Thursday the 26th of April, the court did hold a preliminary hearing in regard to the lawfulness of the seizure as Mr. Wessels, Abdulla’s attorney in this matter, sought and obtained an order on the Public Prosecutor to show cause why he should not be directed to return the seized materials. “High Court of Justice”, *The Press*, April 27, 1893; “Ex Parte Abdoola Hajee Adam”, *The Press*, April 28, 1894. The rule was returned the next day. Mr. Jacobsz took the position for the Public Prosecutor that the hearing should be postponed in order to give him more time to prepare his case. Mr. Wessels for Abdulla stated that the affidavit upon which the warrant was based “contained nothing to justify an attachment of Abdulla’s books.” Mr. Coster, also for the Public Prosecutor, countered by saying that there was statutory authority to the effect “that where a contravention of the Customs Law is under inquiry, the revenue officer may without further authority seize books, papers, etc.

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**to be without justification**

“Mr. Attorney Baker’s Arrest”, *The Natal Advertiser,* June 11, 1894.

**for some years**

“A Big Arbitration Case”, *The Press*, May 16, 1894.

**the High Court of Justice**

“High Court of Justice: Ex Parte Dada Abdoola and Co.”, *The Press*, May 21, 1894.

 Some of the satellite litigation spun off by the case continued, however. Abdulla Hajee Adam, a managing partner in the Dada Abdulla firm, accused Ujamshi Mulji Sheth, the person whose affidavit the police had relied upon for their warrant, of perjuring himself on behalf of Mahomed’s cause. “An Indian Case”, *The Press*, June 9, 1894. While the unlicenced Gandhi did not play a formal role in this matter, he did render advice to Abdulla during the course of the proceedings. Supplementary *CWMG* 1, p. 10. The case came on for trial beginning on July 19, 1894 before H.W. Zeiler, the same judicial officer who had found Baker guilty. *See,* “Alleged Perjury”, *The Press*, July 20, 1894. After a series of on-again, off-again hearings in which a “voluminous” amount of evidence was taken, including the testimony of Baker, the State Attorney announced he would not continue the proceedings against the defendant. Ujamshi was free. *See*, “Local and General: Alleged Perjury”, *The Press*, September 18, 1894 and “A Thankoffering”, *The Press*, November 19, 1894.

 In the meantime, Mahomed found himself in court when one of his expert witnesses from the Dada Abdulla case, William Cooper, sued Mahomed for his fee. *See*, “Civil Term: W. Cooper vs. Tayob Hadjee Khan Mahomed”, *The Press*, August 13, 1894.

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**to our aid naturally**

M.K. Gandhi, *An Autobiography: My Experiments with Truth* (Boston: Beacon Press, 1957), pp. 132-133.

**and costs**

 Gandhi may be mistaken about this figure. A contemporaneous news account of the case indicates that while the purchase price of Abdulla & Co.’s Transvaal interests was near this figure (£40,000), the amount in dispute was £18,000. “Natal: A Pretoria Case”, *The Press*, January 9, 1894.

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**certainly not my soul**

 M.K. Gandhi, *An Autobiography: My Experiments with Truth* (Boston: Beacon Press, 1957), pp. 133-134.

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 **“highly romanticized”**

Maureen Swan, *Gandhi: The South African Experience* (1985), p. 48.

**and other subjects**

Maureen Swan, *Gandhi: The South African Experience* (1895), p. 41, quoting CO 179/183/16781, Dep. Gov. To Col. Sec. 25 July 1892, encl. Haji Mohamed Haji Dada and others to Sec. St., n.d.

**on the Indian franchise**

M.K. Gandhi, *An Autobiography: My Experiments with Truth* (Boston: Beacon Press, 1957), p. 140.

**Chapter Five**

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**September 5, 1894**

Editorial, *The Natal Witness*, September 5, 1894.

**the European colonists**

The *Natal Mercury* took pains to reprint an article from *The Times* in which it was reported that the Asiatic population numbered 41,000 while the European population stood at 45,000. “The Asiatic Franchise Question”, *Natal Mercury*, September 15, 1894. Shortly afterwards the Indian Immigration Trust Board of Natal reported an Indian population of 42,967. “Our Indian Population”, *The Natal Witness*, October 27, 1894.

**registering as voters**

Maureen Swan points out that with fewer than 300 Indian voters on the rolls at the time of the Franchise Amendment Bill, the “real significance of the franchise question lay in the fact that it reflected the hostility of the ruling white minority towards Indians.” Maureen Swan, *Gandhi: The South African Experience* (Johannesburg: Ravan Press,1985) at page 45.

**while in South Africa**

 “Petition to Natal Assembly”, June 28, 1894, *CWMG* 1, p*.* 92.

**complete self-assurance**

Many colonists who read the petition had, not unexpectedly, a different view. “The petition from Durban caused some amusement by reason of the stilted language used in two or three places, and the numerous quotations from the classics.” “Sammy in the Gallery”, *The Natal Advertiser*, June 29, 1894. *The Natal Witness* and *The Natal Mercury* took a more neutral view; *see* “Indian Franchise”, *The Natal Witness*, June 29, 1894, reprinting a story from *The Natal Mercury*.

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**Five questions**

“Questions for Legislators”, July 1, 1894, *CWMG* 1, p. 100.

**can handle the question**

 “Letter to Dadabhai Naoroji”, July 5, 1894, *CWMG* 1, p. 105.

**Ten thousand Natal Indians**

 Gandhi, *An Autobiography: My Experiments with Truth* (Boston: Beacon, 1957 ), p. 143. Citing Colonial Office records, Maureen Swan puts this figure at “some 9,000.” Maureen Swan, *Gandhi: The South African Experience* (Johannesburg: Ravan Press, 1895), page 61, fn.103.

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**franchise was very small**

 Mohandas K. Gandhi, *An Autobiography: My Experiments with Truth* (Boston: Beacon, 1957), pp. 142-143.

**would prove futile**

 After considerable hesitation associated in part with a change of leadership in the office of Secretary of the Colonial Office, the home government took the position that it would agree to a franchise bill only if it did not specifically mention Asiatics (as Indians were then called by the European colonists) and if the legislation did not disenfranchise the few current Indian voters. Finding these limitations acceptable, the Natal legislature passed a revised bill that accomplished the same end as the previous bill. The bill became law when the Colonial Office approved the bill in the summer of 1896. *See* Maureen Swan, *Gandhi: The South African Experience* (Johannesburg: Ravan Press, 1985) at page 67.

**and political interests**

 *See* Maureen Swan, *Gandhi: The South African Experience* (Johannesburg: Ravan Press, 1985) at pages 43-44 for the role economic factors played at this time in anti-Indian animus.

**to leave Natal**

Mohandas K. Gandhi, *An Autobiography: My Experiments with Truth* (Boston: Beacon, 1957), p. 143.

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**for its operations**

Mohandas K. Gandhi, *An Autobiography: My Experiments with Truth* (Boston: Beacon, 1957), p. 144.

**work without charge**

Mohandas K. Gandhi, *An Autobiography: My Experiments with Truth* (Boston: Beacon, 1957), p. 144.

**confessed to them**

Mohandas K. Gandhi, *An Autobiography:* *My Experiments with Truth* (Boston: Beacon, 1957), p. 145.

**of legal services**

Mohandas K. Gandhi, *An Autobiography:* *My Experiments with Truth* (Boston: Beacon, 1957), p. 145.

**on his departure**

 Mohandas K. Gandhi, *An Autobiography:* *My Experiments with Truth* (Boston: Beacon, 1957), pp. 143-145.

**establish his practice**

 Supplementary Volume, *CWMG* 1, p. 5.

**usual for barristers**

Mohandas K. Gandhi, *An Autobiography:* *My Experiments with Truth* (Boston: Beacon, 1957), p. 144. Elsewhere in his autobiography, Gandhi echoes this feeling: “...The expense [of the house] was solely for the sake of prestige. I thought it necessary to have a household in keeping with my position as an Indian barrister....” *Id*., at page 162.

**in the colony**

 Peter Spiller, *A History of the District and Supreme Courts of Natal (1846-1910)* (Durban: Butterworth, 1986), pp. 60-61.

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**Gandhi’s attention**

 I am indebted to Burnett Britton for Paul’s full name.

**Indian interests**

 See, for example, *In re: Intestate Estate of Hassan Dawjee,* 15 Natal Law Reports 211 (1894) and *Moosajee v. Randles Brother and Hudson*, 15 Natal Law Reports 223 (1894). Shortly after coming to agreement with Gandhi, Coakes was in court arguing on behalf of franchise rights of Indian voters; see “Indians and the Franchise”, *The Natal Mercury*, August 10, 1894. See also, “Insolvency Court”, *The Natal Mercury*, August 31, 1894. While Coakes advocated as an attorney for the Indian community, he was not yet prepared to be identified with the movement as a political matter. “Diary, 1894", August 22, 1894, Supplementary Vol. *CWMG* 1, p.11.

**to practice in Natal**

See “Advocates of the Supreme Court (Corrected to 31st December, 1894)” and “Attorneys of the Supreme Court (Corrected to 31st December, 1894)”, Natal Law Reports, 1894.

**among Durban attorneys**

 “Durban Circuit Court”, *The Natal Mercury*, October 11, 1894. Earlier in the same year *The Natal Advertiser* reported that the legal profession was “becoming overcrowded in Natal....” “A New Solicitor”, *The Natal Advertiser*, June 5, 1894.

**“show over-anxiety to Coakes.”**

*CWMG*, Supplementary Vol. I, p. 7.

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**Dada Abdulla**

 Gandhi, *An Autobiography: My Experiments with Truth* (Boston: Beacon, 1957), p. 145. Escombe was indebted to the Indian community. Prior to the introduction of the Franchise Bill Indian merchants had registered to vote in order to help their advocate, Escombe, win a hotly contested election. *Ibid*., at 139.

**advocate’s licence**

 On July 21, 1894. Supplementary Volume *CWMG* 1, p. 6. The clerk of the Durban Circuit Court also expressed his support. *See* “Diary, 1894", August 15, 1894, Supplementary Vol. *CWMG* 1, p. 10.

**would soon follow**

 Gandhi did so sometime between August 7 and August 17. See “An Indian Barrister”, *The Natal Mercury*, August 7, 1894 and “Indian Barrister”, *The Natal Mercury*, August 18, 1894. On August 16, 1894 William Broome, the master and registrar of the Supreme Court, posted this notice outside the Supreme Court: “Notice is hereby given that application will be made on behalf of Mohandas Karamchorra (sic) Gandhi, on the first day of September, 1894, for admission as an advote (sic) of the Supreme Court, and that all objections in respect thereof must be lodged with me before that date.” “A Novel Application”, *The Natal Witness*, August 17, 1894.

**European barristers**

 There was a fear not only of Gandhi himself but a fear that he was just the first of a “tide” of Indian barristers that would follow his admission. “Indians in Natal”, *The Natal Mercury*, September 26, 1894. Just one year later Gandhi would, in fact, call for the importation of additional Indian barristers. “The Natal Indian Congress”, *The Natal Advertiser*, October 2, 1895.

**verdict of the public**

 Editorial, *The Natal Witness*, September 5, 1894. *The Natal Mercury* had a different view: “...we question if the Natal Law Society would have troubled itself the same way if Mr. Ghandi (sic) had been a European.” “An Indian Barrister”, *The Natal Mercury*, September 6, 1894.

**base its opposition**

 Gandhi recognized the subterfuge. “One of their objections was that the original English certificate was not attached to my application. But the main objection was that, when the regulations regarding admission of advocates were made, the possibility of a coloured man applying could not have been contemplated.” Mohandas K. Gandhi, *An Autobiography:* *My Experiments with Truth* (Boston: Beacon, 1957), p. 146.

**“there was a joint bar”**

Mohandas K. Gandhi, *An Autobiography:* *My Experiments with Truth* (Boston: Beacon, 1957), p. 365.

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**at the time**

*General Rules for the Admission of Advocates or Attorneys and Candidate Attorneys to the Supreme Court of Natal* (1893).

**advocates as attorneys**

Rule 30, *General Rules for the Admission of Advocates or Attorneys and Candidate Attorneys to the Supreme Court of Natal* (1893).

**“dual practice”**

 Gilbert W.F. Dold and C.P. Joubert, *The Union of South Africa: The Development of its Laws and Constitution* (London: Stevens & Sons Ltd., 1955), p. 190.

**choosing to argue cases**

 “In the Roman law the division of legal practitioners into advocates and attorneys...was recognized from an early time, and this division persisted in the Roman-Dutch law.” Gilbert W.F. Dold and C.P. Joubert, *The Union of South Africa: The Development of its Laws and Constitution* (London: Stevens & Sons Ltd., 1955), p. 189.

**and evidence**

 Peter Spiller, *A History of the district and Supreme Courts of Natal (1846-1910)* (Durban: Butterworth, 1986), p. 55.

**barrister in England**

 Rule 27, *General Rules for the Admission of Advocates or Attorneys and Candidate Attorneys to the Supreme Court of Natal* (1893).

**King’s Counsel**

Peter Spiller, *A History of the District and Supreme Courts of Natal (1846-1910)* (Durban: Butterworth, 1986), p. 141.

**India in 1891-2**

 Gandhi, *An Autobiography: My Experiments with Truth* (Boston: Beacon, 1957), p. 146.

**August 20**

 “Diary, 1894", August 20, 1894, Supplementary Vol. *CWMG* 1, p. 11.

**fitness to practice law**

 Supplementary Vol. *CWMG* 1, pp. 10-11.

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**Haji Dada, as well**

Supplementary Vol. *CWMG* 1, pp. 10-11.

**Edward Mackenzie Greene**

 Gandhi, *An Autobiography: My Experiments with Truth* (Boston: Beacon, 1957), pp. 146-7; Supplementary Vol. *CWMG* 1, pp. 10-11; “An Indian Advocate”, *The Natal Advertiser*, September 4, 1894.

**the Natal bar**

“Attorneys of the Supreme Court (Corrected to 31st December, 1894)”, 15 Natal Law Reports (1894).

**Indian cause**

The day after the Gandhi admission hearing, the Law Society elected Labistour as its vice-president and Greene to what appears to have been its executive committee. “Natal Law Society”, *The Natal Mercury*, September 5, 1894 and “Natal Law Society”, *The Natal Mercury*, September 6, 1894.

**applicants for admission**

 “The prevailing practice for a long time was that the leading barrister should present such applications without any fees, and Mr. Escombe advocated my cause accordingly.” Mohandas K. Gandhi, *Satyagraha in South Africa* (Academic Reprints: Standford, 1954), p. 45. Less than a month after Gandhi’s admission, Attorney General Escombe moved the admission of a Mauritius native, Eugene Renaud. “A Mauritian Advocate”, *The Natal Mercury*, October 1, 1894.

**September 3, 1894**

 Gandhi’s admission actually had been scheduled for the previous Saturday, September 1, 1894, but was put off, with the agreement of the Supreme Court, because of the absence of Escombe. “Supreme Court. — Saturday”, *The Natal Advertiser*, September 3, 1894; “New Advocates”, *The Natal Witness*, September 3, 1894. It was at this first hearing that Gandhi learned of the objections to his application. “An Indian Advocate”, *The Natal Advertiser,* September 4, 1894.

**as an advocate**

 “An Indian Advocate”, *The Natal Advertiser*, September 4, 1894.

**J.H. Farrell**

 “Indian Advocate of the Supreme Court”, *The Natal Mercury,* September 3, 1894, page 3.

**Stephenson**

 In re Stephenson, 12 N.L.R. 169.

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**an original certificate**

 Gandhi was familiar with the *Rules*, having received a copy of them from the Court’s Registrar on July 29, 1894, and read them on August 27, 1894. “Diary, 1894", July 29, 1894, Supplementary Vol. *CWMG* 1, p. 7 and August 27, 1894, Supplementary Vol. *CWMG* 1, p. 12.

**considering opposing Gandhi**

 “An Indian Barrister”, *The Natal Mercury*, August 7, 1894; “The Indian Barrister”, *The Natal Advertiser*, August 7, 1894. Escombe was closely associated with the advocate William E. Pitcher; it was Pitcher who moved the Supreme Court on Saturday, September 1, 1894 to defer Gandhi’s petition for admission until such time as Escombe could be present. The bar’s opposition to Gandhi’s admission was confirmed in a August 30,1894 letter to Coakes from Pitcher which Coakes shared with Gandhi. “Diary, 1894", August 30, 1894, Supplementary Vol. *CWMG* 1, p. 12.

**self-interest, or both**

Commenting on the admission argument before the Court, *The Natal Witness* stated that “the gentleman who represented the Law Society endeavoured to make it appear that it was the chance of informalities creeping in that raised the opposition, but the public is not to be taken in by such transparent pretences.” Editorial, *The Natal Witness*, September 5, 1894.

**Michael Gallwey**

Peter Spiller, *A History of the District and Supreme Courts of Natal (1846-1910)* (Durban: Butterworth, 1986), p. 21.

**tried for perjury**

 “An Indian Barrister”, *The Natal Mercury*, September 6, 1894.

**obstacle in his way**

 “An Indian Advocate”, *The Natal Advertiser*, September 4, 1894.

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**left the courtroom**

Mohandas K. Gandhi, *An Autobiography: My Experiments with Truth* (Boston: Beacon, 1957), pp. 147-8; “Indian Advocate of the Supreme Court”, *The Natal Mercury*, September 5, 1894 at page 3; In re Gandhi, 15 Natal Law Reports 263, September 3, 1894. Gandhi later wrote: “...I wanted to reserve my strength for fighting bigger battles. I should not exhaust all my skill as a fighter in insisting on retaining my turban. It was worthy of a better cause.” Mohandas K. Gandhi, *An Autobiography: My Experiments with Truth* (Boston: Beacon, 1957), p. 147.

 Conceding the legitimacy of Justice Wragg’s point, the Court constructed and published the following holding for the case: “Where a person applies for admission as an Advocate by virtue of his having been admitted as a Barrister in England, the Court will expect to be furnished with an original certificate, from the proper authority of one of the Inns of Court, in proof of the applicant having been called to the Bar.” *In re Gandhi*, 15 Natal Law Reports 263, September 3, 1894.

**prevalent in Holland**

 H.R. Hahlo and Ellison Kahn, *The South African Legal System and Its Background* (Cape Town: Juta & Co., 1968), p. 571.

**touch of Cape legislation**

S. N. Roberts, “Natal, 1830-1909", in H.F. Mellet, Susan Scott, and Paul van Warmelo (eds.), *Our Legal Heritage* (Durban: Butterworth, 1982), p. 79.

**their legal regimes**

 Gilbert W.F. Dold and C.P. Joubert, *The Union of South Africa: The Development of Its Laws and Constitution* (London: Stevens & Sons Ltd., 1955), p. 260.

**law…of Natal**

S. N. Roberts, “Natal, 1830-1909", in H.F. Mellet, Susan Scott, and Paul van Warmelo (eds.), *Our Legal Heritage* (Durban: Buttersworth, 1982), p. 79, quoting Bird, *Annals of Natal*, Vol. 2, page 470.

**the colonists themselves**

 S. N. Roberts, “Natal, 1830-1909", in H.F. Mellet, Susan Scott, and Paul van Warmelo (eds.), *Our Legal Heritage* ( (Durban: Buttersworth, 1982), p. 83, citing Act 39/1896, section 21.

**from German influences**

H.R. Hahlo and Ellison Kahn, *The Union of South Africa: The Development of its Laws and Constitution* (Stevens & Sons: London, 1960), p. 47. *See also,* Paul van Warmelo, “Roman-Dutch Law” in H.F. Mellet, Susan Scott, and Paul van Warmelo (eds.), *Our Legal Heritage* (Durban: Buttersworth, 1982).

 “Roman-Dutch law is the legal system which applied in Holland during the seventeenth and eighteenth centuries. It was the product of the fusion of two elements: medieval Dutch law, mainly of Germanic origin, and the Roman law of Justinian....” H.R. Hahlo and Ellison Kahn, *The South African Legal System and its Background* (Cape Town: Juta & Co., 1968), p. 329.

**weight to precedent**

H.R. Hahlo and Ellison Kahn, *The Union of South Africa: The Development of its Laws and Constitution* (London: Stevens & Sons Ltd., 1960), pp. 299-30. “In the classical Roman-Dutch law of the eighteenth century the principle was that a judge should follow a previous decision arrived at after due deliberation unless, after careful consideration, he concluded that there was a convincing reason that it was incorrect.” Ellison Kahn, “The Development of South African Substantive Law” in H.F. Mellet, Susan Scott, and Paul van Warmelo (eds.), *Our Legal Heritage* (Durban: Buttersworth, 1982), p. 124.

**nor was it codified**

 H.R. Hahlo and Ellison Kahn, *The Union of South Africa: The Development of its Laws and Constitution* (London: Stevens & Sons Ltd., 1960), p. 42.

**discarded in Holland**

H.R. Hahlo and Ellison Kahn, *The South African Legal System and Its Background* (Cape Town: Juta & Co., 1968), p. 330.

**the most recent authority**

 Hugo Grotius (1583-1645), Johannes Voet (1647-1713) and Simon van Leeuwen (1626-1682) were three of the most well-known of the Roman-Dutch writers. *See*, Paul van Warmelo, “Roman-Dutch Law” in H.F. Mellet, Susan Scott, and Paul van Warmelo (eds.), *Our Legal Heritage* (Durban: Buttersworth, 1982), pp. 24-29.

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**British influence**

Professor Ellison Kahn provides several reasons for the turn to British law, including the fact that “the expansion of economic activity in the late nineteenth and twentieth centuries could not be met by the Roman-Dutch system that had died long before in the land of its birth.” Ellison Kahn, “The Development of South African Substantive Law”, in H.F. Mellet, Susan Scott, and Paul van Warmelo (eds.), *Our Legal Heritage* (Durban: Buttersworth, 1982), p. 117.

 “A large portion of the civil cases that come before South Africa courts deal with mercantile or business matters, such as transactions in shares in joint stock companies. For such cases there is no provision in Roman-Dutch law, and the tendency has been in this and other points in which the latter is deficient to follow English and American precedents.” George T. Morice, *English and Roman-Dutch Law: Being a Statement of the Differences Between the Law of England and the Roman-Dutch Law as Prevailing in South Africa and Some Other of the British Colonies* (Grahamstown: The African Book Company, 1905), p. 2.

**prevailed in Natal**

Peter Spiller, *A History of the District and Supreme Courts of Natal* (1846-1910) (Durban: Butterworth, 1986), p. 56.

**Roman-Dutch principles**

 George T. Morice, *English and Roman-Dutch Law: Being a Statement of the Differences Between the Law of England and the Roman-Dutch Law as Prevailing in South Africa and Some Other of the British Colonies* (Grahamstown: The African Book Company, 1905), p. 2. Exemplifying this process was Natal’s adoption of English evidence law in 1859. Law No. 17 of 1859. *See* H.R. Hahlo and Ellison Kahn, *The Union of South Africa: The Development of Its Laws and Constitution* (London: Stevens & Sons Ltd., 1960), p. 261.

**evidence and civil procedure**

H.R. Hahlo and Ellison Kahn, *The Union of South Africa: The Development of Its Laws and Constitution* (London: Stevens & Sons Ltd., 1960), pp. 42 and 224.

**attorneys and advocates**

 Gilbert W.F. Dold and C.P. Joubert, *The Union of South Africa: The Development of its Laws and Constitution* (London: Stevens & Sons Ltd., 1955), p. 189. *See also* Russ VerSteeg, *The Essentials of Greek and Roman Law* (Durham: Carolina Academic Press, (2010) at page 104.

**in South Africa**

Peter Spiller, *A History of the District and Supreme Courts of Natal (1846-1910)* (Durban: Butterworth, 1986), p. 57.

**a mere subsistence**

Quoted in Peter Spiller, *A History of the District and Supreme Courts of Natal (1846-1910)* ( Butterworths: Durban, 1986), p. 57, citing 14 Natal Law Reports 20 (1893).

**admitted to the bar**

Women were not admitted to the bar at this time.

**the Inns of Court**

Peter Spiller, *A History of the District and Supreme Courts of Natal (1846-1910)* (Durban: Butterworth, 1986), pp. 53-56; H.R. Hahlo and Ellison Kahn, *The Union of South Africa: The Development of its Laws and Constitution* (London: Stevens & Sons Ltd., 1960), pp. 224-225.

 As late as 1895 *The Natal Advertiser* editorialized that “the calibre of the Natal lawyer is not as a rule very high.” *The Natal Advertiser*, March 30, 1895.

 The quality of the bench was no better than that of the bar. Natal’s judges during this period have been described as “mediocre” and as unable to “cope with problems of Roman-Dutch law.” Many of the appointments to the bench “were almost exclusively from the generally ill- or untrained local dual practitioners or civil servants.” H.R. Hahlo and Ellison Kahn, *The Union of South Africa: The Development of its Laws and Constitution* (London: Stevens & Sons Ltd., 1960), p. 222.

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**command admiration**

Editorial, *The Natal Witness*, September 5, 1894.

**acoustics were terrible**

“A Fault of the Court”, *The Natal Mercury*, October 20, 1894.

**it was decrepit**

“Court House Windows”, *The Natal Mercury*, November 8, 1894

**it was poorly maintained**

“Lumber-Ridden Court House”, *The Natal Mercury*, December 20, 1894.

**on a winter’s day….**

“An Unpleasant Atmosphere”, *The Natal Witness*, August 14, 1894.

**in the entire city**

“Durban Circuit Court”, *The Natal Advertiser*, October 13, 1894. Shortly after Gandhi’s admission, the Natal Law Society moved to correct this deficiency. See “Natal Law Society”, *The Natal Mercury*, September 5, 1894.

**criminal defense work**

“Criminal Court”, *The Natal Advertiser*, July 20, 1894.

**represented Indian merchants**

“An Arab Merchant in the Free State”, *The Natal Mercury*, September 22, 1894.

**in bankruptcy matters**

“Durban Circuit Court”, *The Natal Advertiser*, August 20, 1894.

**pursued collection actions**

“Durban Civil Court”, *The Natal Advertiser*, November 23, 1894; Coakes v. Ismail Dawjee, *15* Natal Law Reports 369 , December 11, 1894.

**it wasn’t repaid**

“Durban Civil Court”, *The Natal Advertiser”,* November 23, 1894; “Durban Civil Court”, *The Natal Advertiser*, December 14, 1894.

**eject non-paying tenants**

“Action for Ejectment”, *The Natal Advertiser*, September 25, 1894.

**tenants resisting payment**

“Durban Circuit Court”, *The Natal Advertiser,* November 8, 1894.

**and Indians alike**

“Durban Circuit Court”, *The Natal Advertiser*, August 8, 1894; “Durban Law Courts”, *The Natal Advertiser*, September 15, 1894.

**in commercial litigation**

“Civil Court”, *The Natal Advertiser*, September 12, 1894.

**rights of Indian voters**

“The Indian Franchise”, *The Natal Advertiser*, August 9, 1894.

**fees from his clients**

“Mr. Coakes’ Costs”, *The Natal Advertiser*, September 21, 1894.

**his clients**

“Bench and Bar”, *The Natal Advertiser*, September 29, 1894.

**gave no quarter**

“Lawyer’s Costs”, *The Natal Mercury*, December 14, 1894.

**mendacity as witnesses**

“Civil Court Witnesses”, *The Natal Advertiser*, June 9, 1893. *See also*, “The Indian in Natal”, *The Natal Witness*, December 29, 1894. Even the occasional European supporter of Indians held this view. *See, e.g.,* “Indians” (letter to the editor), *The Natal Mercury*, January 22, 1895.

**population than Europeans**

“Natal Police”, *The Natal Advertiser*, November 27, 1894.

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**defendant guilty**

“Assault at the Sewage Works”, *The Natal Advertiser,* November 28, 1894.

**rendering advice to Abdulla**

“Diary, 1894", August 19, 1894, Supplementary Vol. *CWMG* 1, p. 10.

**performing translation work**

“Diary, 1894", July 27 and August 19, 1894, Supplementary Vol. *CWMG* 1, p. 6-10.

**for his merchant clients**

These included K.S. Pillay, Abdulla, his brother, Moosa Haji Adam, and his clerk, Pragji Bhimbhai. “Diary, 1894", entries for June 26, July 23, 25, 28, August 5 and 24, Supplementary Vol. *CWMG* 1, p. 2-9.

**associated with his admission**

“Diary, 1894", July 17, 1894, August 4, 1894, August 10, 1894, Supplementary Vol. *CWMG* 1, p. 5-9.

**read a little law**

“Diary, 1894", August 12, 1894, Supplementary Vol. *CWMG* 1, p. 9.

**uit for court**

“Diary, 1894", August 25, 1894, Supplementary Vol. *CWMG* 1, p. 11.

**Beach Grove**

CWMG, Supplementary Vol. I, pp 5-9**.**

**£8**

“Diary, 1894", July 17, 1894, Supplementary Vol. *CWMG* 1, p. 5.

**£6, 10s**

 “Diary, 1894", July 31, 1894, Supplementary Vol. *CWMG* 1, p. 8.

**underwrite his practice**

 *See, e.g.,* “Diary, 1894", August 11, 1894 and August 16, 1894, Supplementary Vol. *CWMG* 1, p. 9-10.

**potential client here**

 “Diary, 1894", September 10, 1894, Supplementary Vol. *CWMG* 1, p. 13.

**a document there**

 “Diary, 1894", September 12, 1894, September 13, 1894, Supplementary Vol. *CWMG* 1, p. 13-14. It was also at this time that Gandhi received a request from an aspiring clerk from Mariztburg who offered to work for Gandhi at the outrageous sum of £200 per year. Gandhi rejected the offer outright. “Diary, 1894", September 11, 1894, Supplementary Vol. *CWMG* 1, p. 13.

**Maharaj**

 The case was first in Coakes’ hands before he passed it on to Gandhi. “Dairy, 1894", September 7, 1894, Supplementary Vol *CWMG* 1, p. 13. *See also* “Diary, 1894" September 11, 1894, Supplementary Vol *CWMG* 1, p. 13.

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**his very first trial**

 “The Indian Barrister”, *The Natal Advertiser*, September 14, 1894; “The Indian Barrister”, *The Natal Mercury*, September 15, 1894. Gandhi mistakenly records in his diary that he won the case on September 19, 1894. “Diary, 1894", September 19, 1894, Supplementary Vol. *CWMG* 1, p. 15.

**for which he sued**

 “A Lawyer’s First Case”, *The Natal Advertiser*, September 20, 1894.

**convicted and fined £2**

 “Alleged Theft By An Arab”, *The Natal Advertiser*, October 3, 1894; “Theft From A Native”, *The Natal Mercury*, October 4, 1894.

**five days in jail**

 “On Their Dignity”, *The Natal Advertiser*, October 26, 1894.

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**in the law courts**

 M.K. Gandhi, *An Autobiography: My Experiments with Truth* (Boston: Beacon, 1957), p. 81.

**were required**

 M.K. Gandhi, *An Autobiography: My Experiments with Truth* (Boston: Beacon, 1957), p. 82.

**less than two months before**

 “Durban Civil Court — Kathan v. Mootoosamy”, *The Natal Advertiser*, November 20, 1894; “Supreme Court — Friday— Admission”, *The Natal Witness*, September 29, 1894.

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**Oswald Askew**

 *CWMG*, 1, p. 249.

**the case was concluded**

 “The Grievances of the British Indians in South Africa: An Appeal to the Indian Public” (commonly known as the “Green Pamphlet” for the color of its cover), August 14, 1896, *CWMG* 2, p. 2. Gandhi intended the Green Pamphlet to raise awareness and sympathy for the cause of the Indian community in South Africa. As one example of the treatment received by Indians, Gandhi described Balasundaram’s case in a fair amount of detail. When Gandhi published his autobiography in 1925 — 31 years later — he described the incident again, but the facts were rendered somewhat differently. For example, in the original account, Balasundaram goes to the Protector first whereas in the autobiography he goes to Gandhi first. M.K. Gandhi, *An Autobiography: My Experiments with Truth* (Boston: Beacon, 1957), p. 153.

 In the Green Pamphlet Gandhi refers to the Balasundaram incident as occurring in 1894. In his autobiography, he states that the incident occurred “scarcely three of four months” after he began practice — which would put the incident sometime in December, 1894. On December 19, 1894 Gandhi circulated an “Open Letter” to the European community in Natal, in which he aired Indian grievances and pled for Indian-European understanding. While he used the Balasundaram incident in the Green Pamphlet as an example of the brutal treatment some Indians received from Europeans, in the Open Letter Gandhi states:

 “If I am to depend upon one-tenth of the reports that I have received with regard to the treatment of the indentured Indians on the various estates, it would form a terrible indictment against the humanity of the masters on the estates and the care taken by the Protector of Indian immigrants. This, however, is a subject which my extremely limited experience of it precludes me from making further remarks on.”

 From all this we may conclude that the Balasundaram incident either occurred shortly after December 19, 1894 or shortly before that date, but after the letter had been prepared. “Open Letter”, [Before December 19, 1894], *CWMG* 1, p. 170.

**their joys and sorrows**

 Mohandas K. Gandhi, *An Autobiography: My Experiments with Truth* (Boston: Beacon, 1957), pp. 153-4.

**to poor Indians**

 “More Recognition”, *The Natal Mercury*, June 5, 1896.

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**a businessman, however**

 Nor was he a stranger to trouble with the municipal authorities. See, for example, “Sleeping in a Bakehouse”, *The Natal Mercury*, August 21, 1894.

**from his business premises**

 “Durban Civil Court — Dada Abdoola & Co. v. Max Scheurmann”, *The Natal Advertiser*, December 4, 1894.

**and his wife**

 “Durban Circuit Court— Civil Session–Applications”, *The Natal Advertiser*, December 14, 1894. The Scheurmanns were represented by Ernest Farman.

**Chapter Six**

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**Superintendent of Police**

 Quoted in “The Indian Franchise” (December 16, 1895), *CWMG* 1, p. 266.

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**his practice of law**

 He wore other hats, such as that of the notary, as well. *See* Trust Transfer of 1895, Serial Number 709 (1895), Sabarmati Ashram, Gandhi Smarak Sangrahalaya,, Ahmedabad.

**in late 1894**

 “Death of Deacon Coakes”, *The Natal Mercury*, October 1, 1894. Coakes’ father died on Saturday, September 29, 1894. Coakes buried his father, a well-known figure in Natal, that same afternoon with hardly a word to anyone.

**his own financial interests**

 Hillary owned rental property in Durban which was administered by her trustee, Joseph Henry Russell. After an arrangement in which MacKenzie agreed to purchase the property from Hillary fell apart, MacKenzie failed to pay rent for the five months between the time of the agreement to sell and its demise. Hillary sued MacKenzie for £20 in back rent; MacKenzie counterclaimed for just over £40, making a claim for improvements he had performed on the property. At the same time that suit was filed by the plaintiff, Russell, apparently wary of MacKenzie’s *bona fides*, had an attachment placed on some of MacKenzie’s furniture. The case was then heard by Magistrate Dillon who rendered a decision Solomon-like in its balance — a £20 judgment for the plaintiff on her claim and an identical judgment for the defendant on his counterclaim. Three days after the judgment was rendered, Russell notified Coakes that the plaintiff was appealing and that Coakes should do nothing to “prejudice the petitioner in the recovery of Mrs. Hillary’s claim, should the appeal succeed.” On the same day, MacKenzie moved to a different location in the Durban area, suspiciously taking his furniture with him.

 The very next day, MacKenzie executed a bond to his sister-in-law as security for a loan that the sister-in-law, Ada Helen D’Aubrey, had supposedly made to him. This move was a transparent attempt to defeat Hillary’s interest in the furniture, for the bond was anchored to the same furniture upon which Russell would attempt to levy execution if the appeal proved successful. Coakes notarized the bond and may very well have devised the entire scheme. At the least, he knew of it and gave it his tacit approval. The bond was then registered on December 10, exactly one day before the hearing of the plaintiff’s appeal. At the appeal, the plaintiff convinced the court to overturn the award to the defendant on his counter-claim. Six days later, when a court employee appeared at the MacKenzie residence to levy execution on the furniture (“The normal mode of execution against a recalcitrant debtor was by attachment and judicial sale of their property.: Peter Spiller, A History of the District and Supreme Courts of Natal (1846-1910), p. 82), he was told that the bond precluded him from doing so and, knowing nothing better, he retreated. Russell then obtained an injunction (an “interdict” in 1895 terms) prohibiting “anyone from parting with, or dealing with, the furniture” on December 19. Perhaps believing that audacity would serve him well, the next day Coakes demanded, unsuccessfully, that the injunction be withdrawn. The following day, December 21, Coakes promised to the plaintiff’s lawyers that he would “do all he could to assist, so far as his duty to his client allowed, in seeing Russell’s claim and costs paid.” On the 22nd Coakes told Russell that the sister-in-law, D’Aubrey, would pay the claim. That same night MacKenzie fled Natal. This departure was a problem for Coakes in more than one respect. MacKenzie owed him his fee.

 A week later Coakes was visited by his former clerk, H.C. Nicholls, now a full time money-lender himself, and another Durban resident, Arthur Bodkin. Nicholls related that he had lent MacKenzie £350, using the furniture as collateral. Coakes pulled rank on Nicholls and told him and Bodkins that the proceeds of the sale of the furniture would be used to satisfy MacKenzie’s debt to him, Coakes. The three conspirators were having this discussion when Russell unexpectedly and inconveniently appeared at Coakes and Gandhi’s office, demanding to see Coakes. To evade their detection by Russell, Coakes slipped Bodkin and Nicholls out the back door. He then met with Russell and boldly feigned ignorance with respect to MacKenzie’s departure. Coakes once again assured Russell that nothing would be done to jeopardize his recovery from MacKenzie — this mere moments after he instructed his two confederates to move the furniture to a new and secret location and then sell it to benefit himself, Coakes. Coakes would later recover almost his entire fee owed him by MacKenzie when Coakes took the £82 in proceeds realized from the sale of the furniture on January 4th.

**Coakes’ conduct**

 “Alleged Misconduct”, *The Natal Witness*, January 31, 1895.

**the Law Society**

 “*In re* Russell v. Mackenzie”, 16 Natal Law Reports 45, January 30, 1895. *See also* “Alleged Misconduct”, *The Natal Witness*, January 31, 1895.

**law for six months**

 “*Ex parte* Russell, *In re* Coakes”, 16 Natal Law Reports 98, March 26, 1895. *See also* “Supreme Court — Tuesday, An Attorney Suspended”, *The Natal Witness*, March 27, 1895. Public response to the decision was favorable. A columnist for *The Natal Advertiser* editorialized, “[I]t is...essential that [the public] should have some guarantee that their affairs will be dealt with in a straightforward and honourable manner....For the lesson thus taught the public ought to feel grateful....” *The Natal Advertiser*, March 30, 1895.

 Coakes later petitioned the Supreme Court not to enforce its suspension order until he had an opportunity to prosecute an appeal to the Privy Council. The Court denied Coakes’ request. “*Ex parte* Coakes”, 16 Natal Law Reports 106, March 30, 1895. *See also* “Supreme Court — Saturday, The Case of Coakes”, *The Natal Witness*, April 1, 1895.

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**a money lender**

 The defendant had borrowed £10 in November from none other than Percy Coakes. Is this connection how Gandhi came to represent the defendant? “Alleged Theft”, *The Natal Mercury*, February 14, 1895.

**imprisonment of two years**

 “Alleged Theft”, *The Natal Advertiser*, February 13, 1895; “Alleged Theft”, *The Natal Mercury*, February 14, 1895.

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**Fredic Tatham**

Perhaps Tatham consulted Gandhi because of their common connection to Albert Baker for whim Tatham had clerked. Spiller, A History of the District and Supreme Courts of Natal, p. 127.

**to advise him**

 “Our City Notist”, *The Natal Advertiser*, March 23, 1895.

**master in the case**

 “Our City Notist”, *The Natal Advertiser*, March 23, 1895.

**for its approval**

 The case is reported as “*In re* Intestate Estate of Hassan Dawjee, 16 Natal Law Reports 95, March 21, 1895.

**Mohammedan law**

“One for Mr. Ghandhi” (sic), *The Natal Witness*, March 22, 1895.

**bar admission case**

 Wragg had a vindictive streak in him. On one occasion when a Supreme Court employee had accidentally spilled water from an upper floor window on Wragg and his silk hat below, Wragg imprisoned the employee in one of the court’s rooms for an afternoon. “The Judge and His Hat”, *The Natal Advertiser*, August 14, 1895.

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**followed over Gandhi’s**

 Whether there was an actual difference in the two recommendations is not clear.

**by Mahommedan usage**

 “Letter to *The Natal Witness*” [dated March 23, 1895], *CWMG* 1, p. 193.

**to his defense**

 *The Natal Advertiser*, April 10, 1895.

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**The plaintiff refused**

 “Claim Against the Market Constable”, *The Natal Mercury*, March 29, 1895.

**and his hat**

 The auctioneer would later testify that the clothing was taken to serve as security for the debt. “Sequel to A Market Dispute”, *The Natal Advertiser*, March 28, 1895.

**an opprobrious epithet**

 “Action Against Constable Tuohy”, *The Natal Mercury*, March 27, 1895.

**his religious tenets….**

 “Action Against Constable Tuohy”, *The Natal Mercury*, March 27, 1895. Ismail’s story was corroborated by three other Indian witnesses who testified, although not perfectly consistently, that Ismail had been abused by the constable.

**had used no force**

 “Sequel To A Market Dispute”, *The Natal Advertiser*, March 28, 189; “Claim Against the Market Constable”, *The Natal Mercury*, March 29, 1895.

**when the parties settled**

 “Action Against the Market Constable”, *The Natal Mercury*, April 6, 1895. A columnist in *The Natal Advertiser* later editorialized on a similar case brought by Gandhi in July, 1895, revealing the popular anti-Indian sentiment in such cases and bearing out Gandhi’s judgment in settling the Tuohy case: “It is to be hoped that the experience of the plaintiff...will put a stop to the assumptions of some of these Indians. No one would injure their religious feelings even in such a matter as ceremonial (sic), but if only one were to recover damages the time of the court in Natal would be occupied with nothing else.” “City Notes”, *The Natal Advertiser*, July 24, 1895.

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**Johannesberg**

 Gandhi wrote three petitions and two memorials in these matters, two of them very lengthy, in the fall and winter of 1895. *See* *CWMG* 1, pp. 199-222 and 229-244.

**against small debtors**

 “Durban Civil Court”, *The Natal Advertiser*, April 9, 1895; “Durban Civil Court”, *The Natal Advertiser*, April 16, 1895; “Durban Civil Court”, *The Natal Advertiser*, May 16, 1895.

**with their drums**

 Gandhi’s argument was that no Europeans lived in the area, the Indians who did live there enjoyed the sound of the drums and, in any event, no one complained. “The Indian Drum”, *The Natal Mercury*, July 26, 1895.

**prepare some paperwork**

 “Insolvency Court”, *The Natal Mercury*, August 2, 1895.

**point of divorce law**

 Gandhi had wanted to obtain a divorce for his client on the ground of desertion. In order to receive an order of divorce on this basis the parties were required to have first lived apart for 12 consecutive months. When the Magistrate pointed this out to Gandhi, he was forced to withdraw the petition inasmuch as his client and the defendant had, as the Magistrate also had to point out to him, not yet been married even a year. “Application For Divorce”. *The Natal Mercury*, September 14, 1895.

**infrequent**

 Maureen Swan, *Gandhi: the South African Experience* (Johannesburg: Ravan Press, 1985)*,* p.27.

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**to their posts**

 “Coolies On Strike”, *The Natal Advertiser*, May 21, 1895.

**workers’ advocate**

 “Extracts From Letter to ‘The Natal Advertiser’ “, *CWMG* 1, pp. 228-229; a more complete, but less legible, version found of the letter can be found in the *Advertiser*. *See* “The Railway Indians”, *The Natal Indians*, May 22, 1895.

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**to work that day**

 “Another Strike Of Railway Indians”, *The Natal Mercury*, June 26, 1895.

**his customary turban**

 Abdulla was in court because he was charged with cruelty to animals.

**Natal Indian Congress**

 It is believed that the Congress took a leading role in this case inasmuch as it claimed the litigation as one of its significant activities during 1895. “Report of the Natal Indian Congress” (August, 1895), *CWMG* 1, pp*.*  245, 249. The Congress, the purpose of which was to work for Indian rights, was founded in August of 1894. Gandhi, almost assuredly, was instrumental in its founding. Maureen Swan, *Gandhi: The South African Experience* (Johannesburg: Ravan Press, 1985), p. 49.

**was the secretary and a leading figure**

 Maureen Swan, *Gandhi: The South African Experience* (Johannesburg: Ravan Press, 1985), p. 51.

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**an advocate since 1881**

 The Congress original consulted William Boase Morcom, Q.C., one of the leading members of the Natal bar. Morcom recommended against suing Bennett for reasons which are not known. “Report of the Natal Indian Congress”, *CWMG* 1, p. 249.

***In Re Regina v. Camroodeen***

 *In re* *Regina v. Camroodeen*, 15 Natal Law Reports 335-336, November 8, 1894.

**just the previous year**

 A fact that did not pass unnoticed by the press. *See* “City Notes”, *The Natal Advertiser*, July 24, 1895.

**to mind and body**

 Cases of this nature could be brought in the Supreme Court. Professor Peter Spiller explains that cases in which the amount owing the plaintiff is unclear or contested could be brought either before “the full Bench in Pietermaritzburg or a single judge on circuit” without a jury. If the litigants wanted a jury trial, special application would have to be made. Without a jury, “the Court had to combine the functions of trying facts and expounding law.” Peter Spiller, *A History of the District and Supreme Courts of Natal (1846-1910)* (Durban: Buttersworth, 1986), p. 78.

 Bennett’s defense was two-fold. First, he denied the plaintiff’s facts. He claimed that the defendant did not bow nor did he salaam or show any other sign of respect whatsoever upon entering the courtroom. When Abdulla kept his turban on his head, Bennett claimed to have taken this behavior as a sign of contempt of the court and, accordingly, ordered the plaintiff out of his courtroom. Bennett also claimed, in his formal answer to Abdulla’s complaint, that when he said “The man is in contempt, remove him, I will not deal with the matter now” he did so simply to provide himself with the opportunity to “peruse the decisions of the Judges bearing upon the question of such contempt before dealing therewith” — a reference to *Camroodeen*. The Magistrate claimed he never ordered the turban removed nor did he ever instruct his bailiff, Sergeant West, to use force. Indeed, he claimed to have called the next case. When Abdulla returned with his turban off his head, the magistrate “considered thereby he intended to adopt the custom of Europeans, and proceeded no farther in the matter.”

 Bennett’s second line of defense rested on the law. He erected a defense of immunity, claiming that a Magistrate was not vulnerable to a damages suit for acts performed in his judicial capacity.

 Bale and Gandhi’s response to the defendant’s immunity argument was that the Magistrate’s jurisdiction to act against a person appearing before him on contempt grounds only arose when the person misbehaved. Here there was no misbehavior and thus no contempt. With no contempt, there was no jurisdiction. With no jurisdiction, the magistrate was not acting in his judicial capacity and therefore did not have the protection of the immunity doctrine.

 Little documentation exists to tell us what happened when the case was tried before the full bench of the Supreme Court. We do know that the plaintiff re-affirmed the facts he alleged in his complaint, stated that he was a Mohammedan and admitted that he did, in fact, refuse to remove his turban. Gandhi’s nemesis, Justice Wragg, pressed Abdulla, forcing him to admit that he had not removed his sandals on entering the Magistrate’s courtroom. Wragg must have considered this statement damaging to Abdulla’s case because Wragg knew that the other members of the court were aware that it was the custom of Mohammedans elsewhere to remove their sandals outside of courts and houses of worship. Wragg was acting most disingenuously, however, by apparently banking on his brethren on the court not recalling that they had previously decided a case in which it was stated that removal of one’s foot covering was decidedly not the custom in Natal, where the cooler climate justified the retention of one’s shoes.

 Bale and Gandhi called several other witnesses to corroborate the plaintiff’s testimony. No records remain of the defendant’s case.

 *Cassim Abdulla v. Bennett*, 16 Natal Law Reports 159, July 16, 1895; ‘ “Injury of Body and Mind” ‘, *The Natal Witness*, July 17, 1895.

**out of the dock**

 *Cassim Abdulla v. Bennett*, 16 Natal Law Reports 159, July 16, 1895.

**by the decision**

 “”That we should not get judgment against the magistrate was a foregone conclusion.” “Report of the Natal Indian Congress”, August, 1895, *CWMG* 1, pp. 245, 249.

**into the witness-box**

 *In re* *Regina v. Camroodeen*, 15 Natal Law Reports 335-336, November 8, 1894.

**on the facts**

 There is no explanation from the court as to why it found it necessary to reach a decision on both grounds when a decision on either ground would have made it unnecessary to deal with the other.

**in the future**

 “Report of the Natal Indian Congress”, August, 1895, *CWMG* 1, pp. 245, 249.

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**from the start**

 Because of the prevailing view of Europeans that Indians were untruthful on the stand, it was difficult for Indians to prevail in fact-based disputes with Europeans.

**press attention as well**

 All the Natal newspapers covered the case, with *The Natal Advertiser* offering the most extensive coverage. *See* it issues of September 16, 19-21, 25-26, and October 2-3 and 5.

 **“two or three strangers”**

 “Letter to Colonial Secretary”, October 21, 1895, *CWMG* 1, p. 262.

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**from its inception….**

 “Rungasamy Padiachy v. The Clerk of the Peace, Durban”, *Natal Reports*, November 25, 1895, page 244.

**to do with the matter**

 “Letter to Colonial Secretary”, October 21, 1895, *CWMG* 1, p. 261. Like *Padiachy*, Lucas’ decision in *Poonsamy* was also overturned by the Natal Supreme Court.

 Gandhi’s letter to Robinson reveals Gandhi’s careful legal mind. Gandhi made a distinction between the individuals who summoned Asgara to the meeting, of whom about half were Congress members, and the official actions of the Congress. Moreover, argued Gandhi, there were printed circulars advertising Congress meetings – none of which was scheduled for the week of the alleged intimidation. Indeed, argued Gandhi, there was no action by the Congress as such to intimidate Asgara:

“...the Congress meetings were not held in [the] office [where Asgara was questioned], ...there was no circular inviting him to the meeting..., he did not attend the meetings convened in terms of circulars, ...the Congress meetings are held in the Congress Hall, ...the circulars had nothing to do with the case, and ... [Asgara] was not present at the actual Congress meetings.”

 Gandhi tied off this argument by stating:

“No individual member or members can do anything on behalf of, or in the name of, the Congress without the sanction of the majority of the members of the Congress assembled in accordance with the rules of the Congress, which can only meet on a written notification from the Honorary Secretary.”

 Standing alone, this is a distinction without much power. Neither the public nor the government was likely to care whether the Congress was acting officially or whether some of its principal members were acting without formal authorization. Gandhi may have attacked Lucas because he understood the necessity of joining his legal argument to a political one.

**and did neither**

 A detailed description of the witness intimidation case, and Gandhi’s limited role in it, can be found in Burnett Britton, *Gandhi Arrives in South Africa* (Greenleaf Books: Canton, 1999).

***The Natal Advertiser***

 *The Natal Advertiser,* October 1, 1895. The same item appeared in the October 3, 1895 issue of *The Natal Mercury*.

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**a year earlier**

 “Attorneys of the Supreme Court (Corrected to 31st December, 1895)", 1895 Natal Law Reports.

**attended Congress meetings**

 “Report of the Natal Indian Congress”, *CWMG* 1, p*.*  245, August, 1895.

**Indians in court**

 *See* “Application for Review”, *The Natal Advertiser*, February 21, 1895 and “Durban Circuit Court”, *The Natal Advertiser*, February 25, 1896.

**Ghujerate (sic) language**

 “S.M.Bedat v. S.M. Akoom”, *The Natal Advertiser*, December 11, 1895.

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**no one else could test**

“S.M.Bedat v. S.M. Akoom: A Difficulty”, *The Natal Mercury*, December 12, 1895.

**free from the case**

 “S.M.Bedat v. S.M. Akoom: A Difficulty”, *The Natal Mercury*, December 12, 1895.

**low-level work**

 “S.M. Bedat v. S.M. Akoom”, *The Natal Advertiser*, December 11, 1895; “S.M.Bedat v. S.M. Akoom: A Difficulty”, *The Natal Mercury*, December 12, 1895.

**Justice Mason**

 Mason had been elevated to the bench just days before Gandhi’s application for the translator’s licence was heard. Peter Spiller, *A History of the District and Supreme Court s of Natal (1846-1910)* (Durban: Buttersworth, 1986), p. 49.

**he is a translator**

“Mr. Ghandhi (sic) as Translator”, *The Natal Witness*, January 24, 1896.

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**on race relations**

 Between this case and his appearance in the Supreme Court in the translator cae, Gandhi resumed his practice in Durban’s lower level courts, appearing before Magistrate Waller on behalf of Abdulla Karim of Dada Abdulla and Company on a charge that Abdulla had made alterations to the business’ building at 97 Grey Street without first getting the requisite permission of City Council. Gandhi admitted the accuracy of the charge, but explained that the task of obtaining approval was left to a third party who had failed to carry it out in timely fashion. The Magistrate imposed a “nominal fine of £1...” “Building By-Laws”, *The Natal Mercury,* January 30, 1896.

**may be arrested**

 ‘Letter to “The Natal Mercury” ‘, March 2, 1896, *CWMG* 1, p. at page 297, footnote 2. *See also* “Indians and Passes”, *The Natal Mercury*, February 29, 1896.

**the constable arrested them**

 They were taken to the police station and booked. When they offered to post bail, their request was refused and they spent the night in jail. When the next morning dawned, they renewed their request. The constable permitted Richards bail and denied bail to Roberts. Later a police inspector found the difference in treatment inexplicable and released the second defendant, pending trial.

**a dhoby**

 A washerman.

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**No**

“Indians and Passes”, *The Natal Mercury*, February 29, 1896.

**“eloquent:”**

 “Indians and the Curfew”, *The Natal Witness*, February 22, 1896.

**not been arrested**

“Out After Hours”, *The Natal Mercury*, February 21, 1896.

**towards the Indian community….**

 “Out After Hours”, *The Natal Mercury*, February 21, 1896.

**clear, lawyerly style**

 Gandhi took on Alexander point-by-point:

 That both defendants were sons of indentured servants should not be held against them; “in an English community,...a man’s worth, not his birth, is [what should be] taken into account in judging him.”

 The name change issue is a red herring; the nationality of the defendants was given away by their faces.

 In any event, “[t]here can be nothing wrong with changing one’s name unless it is wrong to change one’s religion.” Gandhi then cites the cases of a number of Europeans who changed their names upon adopting the Mohammedan religion.

 Indians ought to receive “the benefit of the ordinary presumption” that they are out and about for legitimate purposes, just as the presumption “is given to other classes.”

 Alternatives to the rough treatment given the two young men were available to the police.

 The Superintendent was incorrect to state that the defendants refused to make bail. “The reverse is the truth.”

 The Superintendent was also wrong when he argued that Roberts disobeyed the law by not obtaining an exemption pass from the Mayor. Such a pass was not necessary. When the defendant applied for a pass, despite the non-necessity of doing so, he was refused.

 If the Superintendent himself had encountered the young men, he would not have arrested them, so respectable were they.

‘Letter to “The Natal Mercury”, March 2, 1896, *CWMG* 1, p*.*297-300.

**Chapter Seven**

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**field of life….Gandhi**

 Mohandas K. Gandhi, *An Autobiography: My Experiments with Truth* (Boston: Beacon, 1957 ), p. 504.

**in the effort**

 “The Natal Indian Congress”, *The Natal Advertiser*, October 2, 1895.

**and settle out….**

Mohandas K. Gandhi, *An Autobiography: My Experiments with Truth*  (Boston: Beacon, 1957 ), p. 165.

**Her Majesty’s Government**

 “The Second Report of the Natal Indian Congress”, post-October 11, 1899, *CWMG* 3, p. 101 (1960 edition).

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**a subordinate occupation**

 Mohandas K. Gandhi, *An Autobiography: My Experiments with Truth* (Boston: Beacon, 1957 ), p. 148.

**On the return trip**

 The ship left for Bombay on November 20, 1895, and made intermediate stops at Delagoa Bay, Mozambique and Mauritius.

**faith in Adams**

 The Company was upset with Adams for mishandling correspondence he was to have delivered in Mozambique and for failing to adequately deal with a consignment of salt. A Company employee, one Bissessur, reported that the Captain got himself drunk at Delagoa Bay. And finally the Company believed Adams boarded unticketed passengers and moved second-class passengers into first-class without justification and without charging them.

**counter-claim for £453**

 “A Skipper and His Masters”, *The Natal Mercury*, April 2, 1896; “The Courland Shipping Case”, *The Natal Advertiser*, May 15, 1896.

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**second bill**

 The most likely explanation for Adams’ refusal to settle in Bombay is that between the time he submitted his bill in Bombay and the time he refused payment there, he realized he could do better submitting the bill in pounds in Durban.

**case-in-chief**

 At trial the plaintiff put on his proof, including his own testimony that he “was not able to obtain a settlement of accounts with the defendants after his first voyage and when he arrived at Bombay on the second voyage he was dismissed by the defendants without being able to come to terms with them.” He was later recalled by Farman to explain away the accusation made by the Company that he was derelict in his duty to the Company when he failed to unload a quantity of salt during his stop at Delagoa Bay. Adams claimed that unloading the salt would have caused the ship to be out of balance and to capsize. Moreover, he claimed to have made money for the Company by selling the salt for a higher price in Mauritius and taking on sugar there which was sold for a handsome price later in India.

**outside the colony**

 Inferior courts were not empowered to grant such commissions. “Evidence By Commission”, *The Natal Advertiser*, April 15, 1896.

**Durban Circuit Court**

 “The Courland Shipping Case”, *The Natal Advertiser*, April 16, 1896.

**in another case**

 *Castle Co. v. Beningfield.*

**the application hearing**

 “Durban Circuit Court: Application Refused”, April 15, 1896, *The Natal Mercury*; “Evidence By Commission”, April 15, 1896, *The Natal Advertiser*.

**Supreme Court bench**

 Gandhi had gone to Frederick Laughton, an experienced Natal lawyer friendly to the Indian community and an expert in procedure, to obtain Laughton’s advice as to whether a successful appeal could be made of Gallwey’s decision. Laughton opined that not only were there adequate grounds for the Supreme Court to take the appeal, but that the Court had the power to grant Gandhi’s application, as well. Opinion Letter from F. A. Laughton to M.K. Gandhi, Serial Number 870 (April 15, 1896), Sabarmati Ashram, Gandhi Smarak Sangrahalaya,, Ahmedabad.

 Later, in 1897, Laughton would play a pivotal role in Gandhi’s return to South Africa from a trip to India. *See* Chapter Seven, *A Public Man*. His expertise in procedure is explained in Chapter Nine, *Moth and Flame.*

**his children to ruin**

 He railed against the Company for abusing Adams, recounting how the Company, after firing Adams in Bombay, forced Adams to choose between, on the one hand, being thrown off the ship with his family with no place to go, or, on the other hand, signing what amounted to a promissory note to pay the Company for his and his family’s transportation back to Natal. What particularly disturbed Waller was Adams’ testimony that he was given this choice fifteen minutes before the ship was due to cast off from Bombay. It was under these circumstances that Adams did sign.

 The waiver read as follows: “I promise to pay Mr. Abdoolla Hajee Adam fare from Natal and back for my wife and three children, and my fare from Bombay to Natal, which I promise to pay in Natal to the firm of Dada Abdoolla & Co., and I promise to settle my account during the voyage with Capt. Milne, or in Durban with Dada Abdoolla & Co.” ‘The “Courland” Shipping Case’, *The Natal Mercury*, May 16, 1896.

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**passengers to England**

 “The Courland Shipping Case”, *The Natal Advertiser*, April 16, 1896.

**adjournment yet again**

 “The Courland Shipping Case”, *The Natal Advertiser*, April 16, 1896.

**out of the Colony**

 “The Courland Shipping Case”, *The Natal Advertiser*, April 16, 1896. A counter-claim was known at the time as a “claim in reconvention.”

**on my own decision**

 “The Courland Shipping Case”, *The Natal Advertiser*, April 16, 1896.

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**pay for it**

 “The Courland Shipping Case”, *The Natal Advertiser*, April 16, 1896.

**Durban and India**

 These two witnesses were Moosee Hajee Cassim, a Durban ship owner, and Said Mahomed, a Durban merchant. Gandhi’s choice of Moosee was not a wise one. As a wealthy and privileged Indian, he would be vulnerable to Farman’s attacks on his status on cross-examination. In fact, Farman had no trouble pulling back the cover on Moosee’s ego. He induced the witness to brag of his high position in Indian society – and then to say that his modesty forbad him to talk about it, thus evoking a round of laughter in the courtroom. Farman then took him through his own fastidious ritual upon traveling by boat. Moosee took his own servant. His servant prepared Moosee’s food especially for him. Moosee sat alone at a table set only for him. By the time Farman was done with him, the witness had thoroughly discredited himself.

**of Adams’ misdeeds**

 The clerk, Bissessur, had boarded the *Courland* with instructions from his employers to keep an eye on Adams. Now, on the stand, he testified about what he saw. Adams had asked for permission to take his family on board with him. When he was refused permission, not only did he do so nonetheless, but he lodged them in first class accommodations, said Bissessur. When the ship arrived at Mozambique, Bissessur asked Adams if there were any letters for him. He learned that not only were there no letters, but the box carrying letters, which was to have been on board, “had not been delivered because Capt. Adams had sailed before time.” Eventually, Bissessur wired back to his employer that Adams’ performance was unsatisfactory.

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**the S.S. Courland**

 “The Courland Shipping Case”, *The Natal Advertiser*, April 20, 1896.

**with regard to victualing**

 ‘The “Courland” Shipping Case’, *The Natal Mercury*, April 23, 1896.

**its office in Bombay**

 Gandhi informed the court that “the letter...referred to a cablegram sent by them in reply to one sent by their clerk Bissessur, who had gone on the voyage with Adams for the purpose of overseeing him, and who had wired to them that Adams was unsatisfactory.” ‘The “Courland” Shipping Case’, *The Natal Mercury*, April 23, 1896.

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**Gandhi rested his case**

 Prior to Gandhi resting, Farman crossed-examined Abdulla. We do not know the substance of Farman’s cross-examination, but its length may have signaled to the Magistrate to what degree Farman believed Abdulla’s testimony had hurt him. The cross-examination lasted ten minutes.

**he rested his case**

 Mrs. Adams testified that the company had promised her that she and the children could ride on the steamship without charge. Her brother-in-law corroborated her evidence.

**on the company**

 He attacked the defendants for treating Adams like a criminal, saying that the company went so far as to place a spy on board the ship. Farman’s manner of dealing with the charge that Adams had put second-class passengers in first-class accommodations was also to attack the defendants. “This was done to meet the convenience of the passengers. The Court...heard that, for the 92 souls on board the ship, there were only 24 mattresses, and two dozen blankets were all that were provided for all those wretched beings to cover themselves.”

 Then Farman began to dish out wholly irrelevant and inflammatory arguments. Farman noted that whereas the *Courland* had once been owned by European interests now a flag bearing the crescent and stars was flying over it. A better emblem would be a dagger and a poison bowl, considering how poorly the company had treated Adams. The ship, claimed Farman, was no better than a “dog-kennel.” The record does not indicate whether Gandhi objected and, if so, what Waller’s response was.

 Farman went on “to claim, on behalf of Captain Adams and on behalf of every captain in the British merchant service, the discretion to arrange his passengers as he considered best for their general comfort.”

**out against him**

 “The Courland Shipping Case”, *The Natal Mercury*, April 24, 1896.

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**to dismiss Adams**

 In a move not calculated to endear his client to the court or the public, Gandhi defiantly stated that, as for the accommodations the company furnished its passengers, it should not be the business of the plaintiff or the court “whether the *Courland* was a floating palace or a pig stye. The defendants wished to carry on business in their own way.” Gandhi was correct in his position that the condition of the ship was irrelevant to the merits of Adams’ claim, but the time for making that point was when it was first raised by Farman. Gandhi’s reference to it now only served to remind Waller of the terrible conditions under which the defendant operated its business. “The Courland Shipping Case”, *The Natal Advertiser*, April 24, 1896.

 The dereliction of duty with regard to the correspondence Adams was to have carried, the boarding of unticketed passengers and the unjustified moving of second-class passengers into first, were grounds enough to justify Adams’ discharge, claimed Gandhi. Turning to damages, the gratuities to pilots for which Adams claimed reimbursement were illegal under the regulations of the Harbour Department and consequently, Gandhi argued, the plaintiff’s claim for these was not cognizable in a court of law. Gandhi admitted that these payments were routinely reimbursed, despite their illegality. Inasmuch as Adams had sued his employer and the parties were now in a “fighting mood”, Gandhi saw no reason not to contest the payments.

**of other issues**

 Gandhi rejected Farman’s point that it was in the best interests of the second-class passengers to be upgraded to first-class. The company gave Adams specific instructions not to make the transfer. He did so anyway and did so out of nothing but favoritism to these passengers.

 Gandhi also reviewed the evidence that Adams had carried unticketed passengers from Durban and Mauritius as well as the evidence that he disrupted the letter-carrying system of the company at Delagoa Bay.

 Here the Magistrate interrupted with an argument for the plaintiff: “You would have sung a very different tune if the captain had delayed the ship for the [letter] box and a storm had subsequently arisen and wrecked the vessel.”

 Gandhi rejected the argument: “But that is a matter of speculation.”

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**improperly dismissed**

 Without once articulating a standard for determining when an employee had been wrongfully discharged, Waller concluded that the defendant had intended to fire Adams from a point early in the relationship. If the plaintiff had some right to his job – a right that might have been guaranteed, for example, in the agreement the parties entered into when Adams was hired – this might be a significant point. Otherwise, if Adams were but an at-will employee who served at the pleasure of the company, the point would be wholly insignificant. As an at-will employee, it would not matter if the reasons the company discharged Adams were good or not. The company would have had an unconditional right to fire him. Without knowing what the agreement called for, we cannot determine whether the agreement gave Adams any enforceable rights to the job. In this light, Waller’s failure to refer to the agreement or to any other prevailing standard for deciding whether the firing was justified cannot be fully explained on the current record.

 Passing over this point, Waller found that Adams had not been drunk at Delagoa Bay, that he had not mishandled the company’s correspondence, that the captain had used good judgment in deciding not to wait for the salt consignment in Mozambique, and that Adams should never have given up command of the ship when instructed to do so in Bombay.

**issue in the case**

 Gandhi was not as successful with his counter-claim. In it he had asked for damages on eight grounds. One of the largest, a plea for £90, stemmed from Adams’ having moved second-class passengers into first class. There wasn’t much doubt that Waller would rule against the company on this issue, given the discretion vested in a captain on such matters. What must have disappointed Gandhi, his client and the Indian community about the loss on this issue was the underlying reason Adams had for moving the passengers. He had moved Europeans into first to separate them from Indians in second. (‘The “Courland” Shipping Case’, *The Natal Mercury*, May 16, 1896.) Waller was not about to find Adams liable on that ground.

 Gandhi lost on several other counter-claim issues that he had no hope of winning from the beginning. The magistrate found that there was no evidence to support the allegation that Adams had boarded unticketed passengers; Gandhi’s claim for £170 on that score was denied. The weight of the evidence favored Adams on the question of whether his family was to have paid for its tickets; Gandhi lost that element of his counter-claim. Gandhi had lodged a claim against Adams for the cost of bringing him back to Natal after the company fired him in Bombay; the Magistrate found against Gandhi on this element of the counter-claim, one that Gandhi probably would have been better off not raising inasmuch as it showed a lack of sensitivity on the part of the company to its former employee. Waller gave the promissory note, in which Adams was forced to promise to pay the company for the cost of transporting his family and him back to Natal, no effect whatsoever, finding that it had been signed under duress. Waller then went on to find for the company on some minor matters of damages, totaling a little over £21. Considering that at one point in the case Gandhi had offered to drop his counter-claim entirely, Waller’s ruling on the counter-claim was not a bad result.

 Costs, however, were assessed against Dada Abdulla and Company.

 Detailed accounts of Waller’s ruling can be found in the Natal papers: “The Courland Shipping Case”, *The Natal Advertiser*, May 15, 1896, and ‘The “Courland” Shipping Case’, *The Natal Mercury*, May 16, 1896.

**on the counter-claim**

 £21.

**circumstances of the case**

 There was some post-trial skirmishing. Waller’s decision was rendered on Friday, May 15, 1896. On the following Thursday, May 21, Farman sent a letter to Gandhi demanding payment of the damages that very day. Gandhi did not immediately respond to Farman’s demand. Farman, quick on the trigger, issued a writ of execution that he might collect on the judgment. Gandhi responded by applying to the Magistrate for an order quashing the writ; Gandhi also wanted the Magistrate to review the bill of costs that were being taxed to his client.

 At the hearing on these applications on May 28, 1896, Gandhi protested the hurried manner in which Farman was executing the judgment. “The manner in which the writ has been treated amounts to persecution. After all,” said Gandhi, “the defendants are not selling and leaving town.”

 The Magistrate upbraided Gandhi for introducing the concept of “persecution.” He shared his sentiments with Gandhi: “After the treatment the plaintiff has been subjected to by your clients, you need not have made that remark.”

 Sensing what he thought was an opening, Farman rose to his feet to request costs for the hearing on Gandhi’s application to quash which, it was apparent, was in the process of being denied.

 “Oh, so now you want to persecute?”, asked Waller. Waller at first hesitated and then denied Farman’s request, ordering, in a small victory for Gandhi, that each side bear its own costs.

 Gandhi then asked the court to throw out 12 items on the bill handed his client for costs, totaling some £30. This was the start of a three-hour debate as to the propriety of the costs, at the conclusion of which Waller upheld the taxation of all the costs (but one minor one) initially levied against the defendants. One of these costs that was upheld by Waller was the cost to have Farman attend the hearing at which Waller read his judgment. Gandhi had protested this cost, amounting to £1, 11s. 6d., arguing that an “attorney’s clerk could attend and hear judgment, and the charge would have been 3s. 4d.”

 Waller: “That would be a degradation of the profession. I will not allow a clerk to appear to hear judgment. In the case of *Scanlan v. McWilliams* judgment, when Mr. Burne was unable to attend, Mr. Beningfield appeared in his place.”

 Gandhi: “I am learning a lesson and will not repeat such a statement.”

 “The Courland Shipping Case”, *The Natal Advertiser*, May 29, 1896.

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**wild cheering erupted**

 “Mr. Gandhi’s Departure”, *The Natal Advertiser*, June 5, 1896. According to Gandhi’s autobiography, he sailed home on the S.S. Pongola, bound for Calcutta. Writing some 30 years after the ship set sail, Gandhi’s memory lapse is understandable. Mohandas K. Gandhi, *An Autobiography: My Experiments with Truth*  (Boston: Beacon, 1957 ), p. 165.

**than that of the sun**

 Mohandas K. Gandhi, *An Autobiography: My Experiments with Truth* (Boston: Beacon, 1957 ), pp. 503-4.

**Chapter Eight**

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**even if he will….*Gandhi***

 Mohandas K. Gandhi, *Satyagraha in South Africa* (Stanford: Academic Reprints, 1928), p. 58.

**to South Africa**

 “Speech at the Natal Indian Congress”, October 1, 1895, *CWMG* 1, p. 258 (1976 edition); “Mr. Gandhi Ashore: Mobbed. — Stoned and Kicked”, *The Natal Advertiser*, January 14, 1897; M.K. Gandhi, *An Autobiography: The Story of My Experiments with Truth* (Boston: Beacon, 1957), pp. 165, 176-177.

**King of the Presidency**

 Gandhi also met Judges Mahadave Govind Ranade and Badruddin Tyabji of the Bombay High Court. M.K. Gandhi, *An Autobiography: The Story of My Experiments with Truth* (Boston: Beacon, 1957 ), p. 173; B.Pillay, *British Indians in the Transvaal: Trade, Politics and Imperial Relations, 1885-1906* (London: Longman, 1976) p. 131, fns. 19, 20.

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**Dinshaw Edulji Wacha**

 Wacha would later preside over the Indian National Congress in 1901. *CWMG* 2, p. 109 (1976 edition).

 **“Shame!”**

 M.K. Gandhi, *An Autobiography: The Story of My Experiments with Truth* (Boston: Beacon, 1957 ), pp. 175-176.

**speaker was not**

 An approximation of the text of the speech can be found at *CWMG* 2, p. 50 (1976 edition). Gandhi fails to give a completely forthright account of the proceedings when, in his Second Report of the Natal Indian Congress, he claims to have “read his Address.” *See* CWMG 2, p. 102 (1976 edition).

**very high quality**

 *CWMG* 2, p. 103 (1976 edition).

**the Indian stage**

 Gandhi gave other speeches in India during this time, including one at Madras that Gandhi was apparently able to read by himself. Mohandas K. Gandhi, *An Autobiography: My Experiments with Truth* (Boston: Beacon, 1957 ), p. 179.

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**lay bitter hostility**

 *See, e.g.,* “The Asiatic Invasion: Last Night’s Meeting — Town Hall Packed”, *The Natal Advertiser,* January 5, 1897. (If Indians “were going to associate themselves with such men as Gandhi, and abuse their hospitality, and act in the way he had done, they might expect the same kind of treatment that was to be meted out to him. (Applause.)” )

**South Africa’s Indians**

 “Mr. Gandhi Ashore: Mobbed. — Stoned and Kicked”, *The Natal Advertiser*, January 14, 1897. In his autobiography, written more than twenty-five years later, Gandhi recalled, in an apparent mistake, that he had taken a month to write the pamphlet in India. M.K. Gandhi, *An Autobiography: The Story of My Experiments with Truth* (Boston: Beacon, 1957 ), p. 169.

**of its cover**

 The pamphlet is reproduced at *CWMG* 2, p. 2 (1976 edition).

**The Green Pamphlet**

 “Mr. Gandhi Ashore: Mobbed. — Stoned and Kicked”, *The Natal Advertiser*, January 14, 1897.

**newspaper in Allahabad**

 Mohandas K. Gandhi, *An Autobiography: My Experiments in Truth* (Boston: Beacon, 1957 ), pp. 168-169.

**he had not**

 According to the Reuters report, Gandhi had claimed that “the Indians in Natal are robbed and assaulted and treated like beasts....” *CWMG* 2, p. 142 (1976 edition).

**openly in Durban**

 Even the European press conceded that “the cable gave an exaggerated impression regarding the contents of the pamphlet” and that the “pamphlet...contains practically nothing that Mr. Gandhi did not publish previously in Natal, and nothing that is not generally known.” Editorial, *The Natal Mercury*, January 18, 1897.

**take away their jobs**

 The Tongaat Sugar Company had applied to the Immigration Trust Board for permission to bring in indentured Indian artisans. The Company later withdrew its request. *CWMG* 2, pp. 129, 141 (1976 edition). Although not the direct target of the 1897 protests, there was also resentment against the growing economic influence of the large Indian merchants. *See, e.g.,* “The Asiatic Question”, *The Natal Witness*, January 7, 1897.

**depress wages**

 “Indians in South Africa”, *The Natal Mercury*, April 13, 1897.

**European common folk**

 *See, e..g., “*Asiatic Meeting: Last Night’s Mass Meeting”, *The Natal Mercury*, January 5, 1897; “The Asiatic Invasion: Another Mass Meeting”, *The Natal Mercury*, January 8, 1897; and “The Asiatic Invasion: Excitement in Town”, *The Natal Mercury*, January 9, 1897.

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**via Indian immigrants**

 *See, e.g.,* “The Bubonic Plague”, *The Natal Witness*, January 1, 1897.

**at the same time**

 While the *Naderi* was actually owned by the Persian Steam Navigation Company of Bombay, it was being operated by Dada Abdulla and Company. *CWMG* 2, p.146 (1976 edition).

**617 Indian passengers**

 “The Numbers of Passengers”, *The Natal Mercury*, January 14. 1897.

**bound for Natal**

 “Passengers Interviewed: How Mr. Gandhi Views the Agitation”, *The Natal Mercury*, January 12, 1897; “The Asiatic Invasion: Events of Yesterday — Return of the Deputation”, *The Natal Advertiser*, January 12, 1897. Gandhi estimated that of the total number of passengers, 100 — 60 men, 40 women — were newcomers to Natal. “Mr. Gandhi Ashore: Mobbed. — Stoned and Kicked”, *The Natal Advertiser*, January 14, 1897. The Europeans were short on fact and long on rumor. At one point, they believed that Gandhi had “on board with him a complete printing plant and staff of Indian compositors and printers with the intention of starting an Indian newspaper in two dialects in Durban.” “The Asiatic Invasion – Gandhi’s Newspaper”, *The Natal Witness*, January 9, 1897. Another report falsely indicated that Gandhi and the other Indian passengers desired to return to India. “Asiatic Invasion – Gandhi Alarmed”, *The Natal Witness*, January 12, 1897.

**attempted to land**

 *See, e.g.,* “The Asiatic Invasion”, *The Natal Witness,* January 9, 1897.

**oppose their landing**

 *CWMG* 2, p.199 (1976 edition).

**present in India**

 While the ships were in quarantine, a case arose in the Durban court requiring the services of an Indian translator. When it was pointed out to the court that the only certified translator, Gandhi, was expected to be quarantined for a long time, “there were signs of approval in court.” Apparently there was no love lost on Gandhi at least among some of his European colleagues at the bar. “The Only Interpreter”, *The Natal Mercury*, January 7, 1897.

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**two ships to land**

 “The Asiatic Invasion”, *The Natal Mercury*, January 8, 1897.

**loud cheers and laughter**

 “The Asiatic Invasion”, *The Natal Mercury*, January 8, 1897. *See also*, “The Asiatic Invasion – A Significant Decision in Reference to Gandhi”, *The Natal Witness*, January 9, 1897. The *Natal Witness*, reporting on a January 4, 1897 mass meeting of “anti-Asiatics” that one speaker roused the crowd by saying that the men of Durban “would teach Mr. Gandhi that they read from his actions that he was not satisfied with what they had given him, and wanted something more. (Laughter.)...They would show Mr. Gandhi very shortly how they resented” his intentions to secure the right to vote for Indians. “The Asiatic Invasion”, *The Natal Witness*, January 6, 1897. *The Natal Advertiser* described one anti-Indian leader’s “dark hints regarding the treatment of Mr. Gandhi” as being “extremely incautious.” *The Natal Advertiser*, January 9, 1897. Some advised against violence against Gandhi on the grounds that violence would make a martyr of him. “The Asiatic Invasion”, *The Natal Witness*, January 11, 1897.

**to go home**

 “The Asiatic Question”, *The Natal Witness*, March 26, 1897.

**3,500 to 5,000 protestors**

 The *Natal Advertiser* put the number at about 3,500 while Gandhi’s estimate was about 5,000. *CWMG* 2, pp. 159, 129 (1976 edition).

**remained peaceful**

 “Close of the Demonstration”, *The Natal Mercury*, January 14, 1897.

**careful in disembarking**

 *CWMG* 2, p. 126 (1976 edition).

**violence against him**

 *CWMG* 2, p. 161 (1976 edition).

 Another voice calling out a warning to Gandhi belonged to Oswald Askew, the Durban advocate with whom Gandhi shared an office after Coakes fell into trouble. On January 8th, Askew sent a courier to Gandhi’s boat, bearing a letter from Askew to Gandhi. Askew advised Gandhi that “public opinion is at present so strong against you personally, that I doubt if your safety would be assured....” Askew’s letter also had another, more mercenary purpose. Askew had been working for Gandhi’s clients in Gandhi’s absence on the understanding that Askew would bill Gandhi rather than Gandhi’s clients. With Gandhi’s future in doubt, Askew wanted Gandhi to pay him immediately. He went so far as to send a blank check with his letter that he asked Gandhi to send back with the courier. Letter of Oswald Askew to M.K. Gandhi, Serial Number 3638 (January 8, 1897), Sabarmati Ashram, Gandhi Smarak Sangrahalaya, Ahmedabad.

**leading Natal law firm**

 Peter Spiller, *A History of the District and Supreme Courts of Natal, 1846-1910* (Durban: Buttersworth, 1986), pp. 60 and 122-3. Laughton was a member of Goodricke, Laughton and Cooke, a firm with which Gandhi had earlier come into professional contact. Serial Number 2091-0016 (June 6, 1896), Sabarmati Ashram, Gandhi Smarak Sangrahalaya, Ahmedabad. During the quarantine crisis, the firm sought audiences with, and relief from, various government officials. *CWMG* 2, pp. 146-150, 156 (1976 edition).

 It was Laughton whom Gandhi had consulted about the proper procedure to adopt in appealing Chief Justice Gallwey’s adverse ruling in the Adams case. Opinion Letter from Frederick A. Laughton to Mohandas K. Gandhi, Serial Number 870 (April 15, 1896), Sabarmati Ashram, Gandhi Smarak Sangrahalaya,, Ahmedabad. *See* Chapter Six, *Waller’s Question*.

**had quieted down**

 *CWMG* 2, p. 236 (1976 edition).

**“powerfully built”**

 Mohandas K. Gandhi, *Satyagraha in South Africa* (Stanford: Academic Reprints, 1928), p. 57. Of Laughton, Gandhi writes that he was “an old and well-known advocate of Durban. I had come in intimate contact with him before I returned to India. I used to consult with him in difficult cases and often to engage him as my senior. He was a brave...man.” *Ibid.* One example of a case in which Gandhi engaged Laughton as his senior was Moosa Hajee Adam v. Hassim Juma (Durban Circuit Court); *see* Pleadings of June 17, 1898, Serial Numbers 2755 and 2757, Sabarmati Ashram, Gandhi Smarak Sangrahalaya, Ahmedabad.

**a political leader….**

 Blunt language of this sort was typical of Laughton. *See, for example,* Letter of F.A. Laughton to Gandhi, Serial Number 2764 (June 24, 1898), Sabarmati Ashram, Gandhi Smarak Sangrahalaya, Ahmedabad.

**save him from insult**

 “In Support of Mr. Gandhi”, *The Natal Mercury,* January 16, 1897.

**looming European demonstration**

 *CWMG* 2, pp*.* 219, et seq. (1976 edition).

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**not telling the truth**

 *CWMG* 2, pp. 221-2 (1976 edition).

**with the Indians**

 Gandhi was not unaccustomed to relying on Laughton’s opinion. *See, for example,* Opinion Letter from F.A. Laughton to M.K. Gandhi, Serial Number 870 (April 15, 1896), Sabarmati Ashram, Gandhi Smarak Sangrahalaya,, Ahmedabad. Gandhi’s reliance on Laughton for his opinions continued throughout the years Gandhi practiced in Durban. *See, for example,* Opinion Letters from F.A. Laughton to M.K. Gandhi, Serial Numbers 3757 (January 18, 1901) and 3759 (January 21, 1901), Sabarmati Ashram, Gandhi Smarak Sangrahalaya,, Ahmedabad.

**informing the police**

 *CWMG* 2, p*.* 127 (1976 edition).

**January 13**

 “Mr. Gandhi Comes Ashore”, *The Natal Mercury*, January 14, 1897. Gandhi reports the time as “about half past four in the evening....” Mohandas K. Gandhi, *Satyagraha in South Africa* (Stanford: Academic Reprints, 1928), p. 57.

**saved his life**

 “Mr. Gandhi and the Lady”, *The Natal Mercury*, January 18, 1897; “Mr. Gandhi Ashore: Mobbed. — Stoned and Kicked”, *The Natal Advertiser*, January 14, 1897. Mohandas K. Gandhi, *Satyagraha in South Africa* (Stanford: Academic Reprints, 1928), p. 58. At least one person who claimed to be an eyewitness to the assault questioned its severity as reported by the press. “The Attack on Mr. Gandhi”, Letter to the Editor, *The Natal Advertiser*, January 15, 1897. Gandhi, however, would write in the months following the attack that “he very nearly lost his life.” *CWMG* 2, p.164 (1976 edition).

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**came to an end**

 Mohandas K. Gandhi, *An Autobiography: My Experiments with Truth*, (Boston: Beacon, 1957 ), pp. 191-194; “Mr. Gandhi Comes Ashore”, *The Natal Mercury*, January 14, 1897; “Asiatic Invasion – How Gandhi Got Away”, *The Natal Witness,* January 16, 1897. Gandhi reports that the crowd actually numbered in the thousands and that those milling outside the house threatened to burn it if he did not appear. Mohandas K. Gandhi, *Satyagraha in South Africa* (Stanford: Academic Reprints, 1928), p. 59. While his numbers appear inconsistent with the press accounts at the time, they do support his claim that the crowd threatened to burn the building. *See* “Asiatic Invasion – How Gandhi Got Away”, *The Natal Witness,* January 16, 1897.

 The Indian community would later demonstrate its appreciation to the Alexanders by presenting each with a gold watch. II *CWMG* 2, pp. 29-30 (1976 edition). For Jane Alexander’s response, *see* Letter to Indian Merchants, March 30, 1897, Serial Number 2182-0001, Sabarmati Ashram, Gandhi Smarak Sangrahalaya, Ahmedabad. For Superintendent Alexander’s response, *see* Letter to Abdoolla Carim (sic), March 30, 1897, Serial Number 3662, Sabarmati Ashram, Gandhi Smarak Sangrahalaya, Ahmedabad. Dada Abdoolla also bestowed a gift of £10 on those members of the police force who helped rescue Gandhi. Letter to Abdoolla Carim (sic), March 30, 1897, Serial Number 3661, Sabarmati Ashram, Gandhi Smarak Sangrahalaya, Ahmedabad.

**convalescing Gandhi**

 Some reports have Gandhi convalescing at home, while others place him in the police station in Durban. See “Mr. Gandhi”, *The Natal Witness*, January 18, 1897 and “Asiatic Invasion – Gandhi’s Retreat from the Madding Crowd”, *The Natal Witness*, January 19, 1897.

**to save Gandhi’s life**

 Interestingly, both the Alexanders urged Gandhi to forgive his attackers and to “forget the past....” Letter from R. Alexander to M.K. Gandhi (January 22,1897), Serial Number 1938, Sabarmati Ashram, Gandhi Smarak Sangrahalaya,, Ahmedabad. Letter from J. Alexander to M.K. Gandhi (January 22,1897), Serial Number 1939, Sabarmati Ashram, Gandhi Smarak Sangrahalaya,, Ahmedabad. This is the course Gandhi adopted.

**of more violence**

 Gandhi also knew that he would have to put up with a certain amount of ridicule, as well. An advertisement appearing in *The Natal Mercury* is illustrative: “Photographs of the means of getting rid of the undesirable coolie, i.e., yesterday’s Demonstration, at a cheaper rate than Gandhi would charge for professional advice on the subject – 2s. 6d. Each from J.E. Middlebrook, the Premier Studio, West Street.” *The Natal Mercury*, January 18, 1897.

**accompany me**

*CWMG* 2:231.

**his return from India….**

 *The Natal Advertiser* reported that Gandhi was in the Supreme Court in Maritzburg on the 19th of January not as a representative of a party but as a “visitor.” “Pars About People”, The *Natal Advertiser,* January 20, 1897.

**Gandhi’s assailants prosecuted**

 Earlier, on the morning after the attack, four natives were charged with creating a disturbance as a result of their participation in the demonstration that followed the attack on Gandhi. “Mr. Gandhi Ashore: Mobbed. — Stoned and Kicked”, *The Natal Advertiser*, January 14, 1897. There is no evidence that any European faced charges.

**anyone harassing Gandhi**

 “Mr. Gandhi”, *The Natal Witness*, January 18, 1897.

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**had been subjected**

 *See, e.g,* “Asiatic Question: Last Night’s Public Meeting”, *The Natal Mercury*, February 18, 1897.

**escaped being lynched**

 *CWMG* 2, p. 132 (1976 edition).

**a humble interpreter**

 *The Natal Advertiser*, January 14, 1897.

 Dada Abdulla and Company, however, took a different view. The Company filed a statement of losses with the Government, inquiring as to whether intended to compensate the Company for its losses. The Government declined. “Letter from C. Bird to Dada Abdoola and Company” (January 25,1897), Serial Number 1958, Sabarmati Ashram, Gandhi Smarak Sangrahalaya,, Ahmedabad. With an opinion letter from a leading Durban attorney in hand, concluding that the Indians no right of action for damages, Dada Abdulla refrained from litigation. “Opinion Letter of William Morcom” (February 19, 1897), Serial Number 2054, Sabarmati Ashram, Gandhi Smarak Sangrahalaya,, Ahmedabad.

**for their conduct**

 Mohandas K. Gandhi, *An Autobiography: My Experiments with Truth* (Boston: Beacon, 1957 ), p. 195. On January 20, 1897, Gandhi would intimate in a letter to Escombe that he was partly at fault for the attack, having ignored Escombe’s advice. “Indian Immigration: Copies of Correspondence”, *The Natal Mercury*, March 26, 1897. In March, however, Gandhi claimed that “the advice upon which I acted was excellent....” “Mr. Gandhi and the Government”, *The Natal Mercury*, April 8, 1897, also found in *CWMG* 2, pp. 35-6 (1976 edition).

**a religious discipline**

 Mohandas K. Gandhi, *Satyagraha in South Africa* (Stanford: Academic Reprints, 1928), p. 64.

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**reconciliation between them**

 “...I have denied and again deny most emphatically that I incited a single passenger to bring an action for damages against the Government.” Mohandas K. Gandhi, “Letter to the Natal Mercury”, *The Natal Mercury*, April 16, 1897; also found in *CWMG* 2, p. 246.

**my professional practice**

 Mohandas K. Gandhi, *An Autobiography: My Experiments with Truth* (Boston: Beacon, 1957), p. 196.

**the trying ordeal**

 “Mr. Gandhi Comes Ashore”, *The Natal Mercury*, January 14, 1897.

**the police escorted him**

 “Mr. Gandhi Ashore: Mobbed. — Stoned and Kicked”, *The Natal Advertiser*, January 14, 1897.

**would not quail**

 “In Support of Mr. Gandhi”, *The Natal Mercury,* January 16, 1897.

**Chapter Nine**

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**The Natal Witness**

 Untitled news item, March 8, 1897, *The Natal Witness.*

**in the land…Gandhi**

 “Indian Traders in Natal”, November 18, 1899, *CWMG* (April, 1960edition), 3, p. 121.

**concerns through legislation**

 “Mr. Escombe...addressed the men who had assembled..., promising an early session of Parliament to deal with the question and requesting them to disburse. Speeches were also made by some members of the [Demonstration] Committee, and the crowd ultimately melted away.” *CWMG,* 2 (1976 edition), p. 161. An early indication of the possibility of this resolution appears in a telegram from the government to Harry Sparks, leader of the Demonstration Committee. *CWMG,* 2 (1976 edition), p.152.

**earlier than normal**

 “Petition to Chamberlain”, Appendix D, *CWMG,* 3 (1960 edition), p.44.

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**Dealers’ Licences Act**

 The Covenanted Indians Act did not actually arise out of the European protests against Indian immigration but had its “origin in a certain correspondence that passed between the Government and some Indians.” “Petition to Secretary of State for the Colonies”, *CWMG,* 2 (1976 edition), p.260 at 271.

 The anti-Indian demonstrators had been pressing for legislation even before the landing of the Indians. *See* “Memorial to Secretary of State for the Colonies”, *CWMG,* 2 (1976 edition), p. 140 at 143.

**not be approved**

 Mohandas K. Gandhi, *An Autobiography: My Experiments with Truth* (Boston: Beacon Press, 1957), p. 197.

**exclusively against Indians**

 Referring to the Immigration Restriction Bill, *The Natal Advertiser* editorialized that it “professes to be a measure to restrict immigration generally, when everyone knows that in reality it is intended to stop Asiatic immigration.” *The Natal Advertiser*, February 26, 1897, cited by Gandhi at *CWMG,* 2(1976 edition), p. 267. *The Star* wrote, “While its terms are of universal applicability, the Government openly admitted in the Legislature that it would only be applied to certain classes.” *The Star*, May 10, 1897, cited by Gandhi at *CWMG,* 2 (1976 edition), pp. 267-8.

**or other disease**

 Moreover, it would prohibit the landing of any person who had come from such an infected place even though the person had boarded elsewhere and even though the ship itself had never been to the infected place. “Petition to Secretary of State for the Colonies”, Appendix A, Act to Amend the Laws Relating to Quarantine, *CWMG* 2 (1976 edition), pp. 272-3.

**an anti-immigration bill**

 “Petition to Secretary of State for the Colonies”, *CWMG,* 2 (1976 edition), p. 260 at 262.

**making their arrests**

 “Petition to Secretary of State for the Colonies”, *CWMG,* 2 (1976 edition), p. 260 at 262.

**their status**

 “Petition to Secretary of State for the Colonies”, Appendix D, Act to Protect Uncovenanted Indians from Arrest in Mistake for Absconding Indentured Indian Servants, *CWMG,* 2 (1976 edition), p. 260 at 279.

**in a pass system**

 “Petition to Natal Legislative Assembly”, *CWMG,* 2 (1976 edition), p. 230 at 234.

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**any Indian they choose**

 “Petition to Secretary of State for the Colonies”, *CWMG,* 2(1976 edition), p. 260 at 272.

**Dealers’ Licences Act**

 The official title of the Act uses the spelling “licences.” The English-language South African newspapers of the era use both this spelling and the alternate form, “licenses.”

**saw free Indians**

 When an indentured servant’s term of indenture had been served, he or she was free to stay in the colony. In order to discourage Indians from staying, the colony imposed a £3 tax on each such person. The tax was largely ineffective.

**in the colony**

 “Memorial to Secretary of State for the Colonies”, *CWMG,* 2(1976 edition), p. 140 at 144.

**chose to remain**

 For a history of the £3 tax, *see* Maureen Swan, *Gandhi: The South African Experience* (Johannesburg: Ravan Press, 1985), pp. 45-46. Proposals to have a servant’s indenture end in India were also entertained. “Memorial to Secretary of State for the Colonies”, *CWMG,* 2 (1976 edition), p. 140 at 144.

**any language of Europe**

 “Petition to Secretary of State for the Colonies”, Appendix B, Act to Place Certain Restrictions on Immigration, *CWMG,* 2 (1976 edition), p. 260 at 274.

**may be kept**

 “Petition to Secretary of State for the Colonies”, Appendix C, Act to Amend the Law Relating to Licences to Wholesale and Retail Dealers, *CWMG,* 2 (1976 edition), p. 260 at 277-278.

**or retail Licence….**

 “Petition to Secretary of State for the Colonies”, Appendix C, Act to Amend the Law Relating to Licences to Wholesale and Retail Dealers, *CWMG,* 2 (1976 edition), p. 260 at 277.

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**the licencing officer**

 “Petition to Secretary of State for the Colonies”, Appendix C, Act to Amend the Law Relating to Licences to Wholesale and Retail Dealers, *CWMG,* 2 (1976 edition), p. 260 at 277-8 . Prior to this time appeals to the courts were permitted from adverse licensing decisions by municipalities. *See*, *e.g.,* *Robinson & Son v. Durban Corporation*, XV Natal Law Reports 360 (1894).

**voiced public opinion**

 “Restrictions on Immigration”, *The Natal Witness*, April 1, 1897.

**would be devastated**

 Maureen Swan writes: “The big merchants...were affected by the Act both directly and indirectly. They were unable to expand by opening a new branch, to break a partnership into its component elements, or to pass on a business to an heir. They were not generally affected by the most usual reasons for the refusal to renew an existing licence – inability to keep books in English, or allegations of maintaining insanitary premises. But those with property holdings were indirectly affected by the Act if persons leasing business premises from them were refused renewal of licence, and those with debtors among the petty traders stood to lose if their debtors were forced to shut up shop.” Maureen Swan, *Gandhi: The South African Experience* (Johannesburg: Ravan Press, 1985), pp. 68-9.

**faith in reason**

 In 1897 Gandhi’s faith in reason is almost naive. Referring to the Immigration Restriction Act, Gandhi would write in late 1897 that “[i]f the Act is to be ever removed, it can only be done by persuasion....” Letter to the Editor*, The Natal Mercury*, November 13, 1897.

**British fair play**

 “Mr. Gandhi’s Good-bye”, *The Natal Mercury*, October 21, 1901.

**the situation corrected**

 For example, in petitioning against the Immigration Act, Gandhi wrote that the Act restricted the immigration of Indians while never mentioning them. “[S]uch a mode of procedure”, argued Gandhi, is un-British, and, therefore, it should not receive countenance in a Colony which is supposed to be the most British in South Africa.” “The Asiatic Question: Indians Petition Against the Bills”, *The Natal Mercury*, March 30, 1897.

**of this tactic**

 A critic would later write of Gandhi: “...he sits secure in his chambers, issuing pamphlets and memorials as if practical Englishmen would be converted to his theory of politics.” “Letter to the Editor from ‘An Indian’ ”, *The Natal Mercury*, September 28, 1898.

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**Joseph Chamberlain**

 “Memorial to the Secretary of State for the Colonies”, *CWMG,* 2 (1976 edition), p. 140.

**Lord Ripon**

 Maureen Swan, *Gandhi: The South African Experience* (Johannesburg: Ravan Press, 1985), pp. 66-7.

**at least six weeks**

 “Letter to Sir William W. Hunter, *CWMG,* 2 (1976 edition), p. 129 at 133.

**two dozen documents**

 “Memorial to Secretary of State for the Colonies”, *CWMG,* 2 (1976 edition), pp. 140-229.

**done so openly**

 “Memorial to the Secretary of State for the Colonies”, *CWMG,* 2 (1976 edition), p. 140 at 192.

**this statement**

 “Memorial to the Secretary of State for the Colonies”, *CWMG,* 2 (1976 edition), p. 140 at 193.

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**ownership by Indians**

 “Memorial to the Secretary of State for the Colonies”, *CWMG,* 2 (1976 edition), p. 140 at 193-4.

**be treated equally**

 “Memorial to the Secretary of State for the Colonies”, *CWMG,* 2 (1976 edition), p. 140 at 194.

**petition accompanying it**

 “Circular Letter”, *CWMG,* 2 (1976 edition), p. 237.

**key figures in India**

 “Circular Letter”, *CWMG,* 2 (1976 edition), p. 242.

**confederate in London**

 “Letter to F.S. Taleyarkhan of March 27, 1897", *CWMG,* 2(1976 edition), p. 241 ; “Letter to F.S. Taleyarkhan on or after April 2, 1897", *CWMG,* 2 (1976 edition), p. 243.

**“or it will be never”**

 “Letter to F.S. Taleyarkhan on or after April 2,1897", *CWMG,* 2 (1976 edition), p. 243. [Emphasis in the original.]

**to the Council**

“Petition to Natal Legislative Council”, *CWMG,* 2 (1976 edition), p. 236-7.

**absolute impartiality**

 “Petition to Natal Legislative Assembly”, *CWMG,* 2(1976 edition), p. 231 at 233.

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**the balance of the petition**

 The petition also restates the rather odd argument Gandhi made in the Chamberlain petition that if legislation was intended to be used exclusively against Indians, such legislation ought to say so in its text. “Petition to Natal Legislative Assembly”, *CWMG,* 2 (1976 edition), p. 231. Why would Gandhi make such an argument? He surely did not think that the legislation would be withdrawn for its failure to be indiscrete. He did know that London would not approve legislation that was explicitly directed to a particular racial group. Did he naively hope that he could convince the legislature to fall into a trap of articulating legislation that would later be disapproved? That is possible but unlikely in light of Gandhi’s later putting the same argument to Chamberlain after the bills had been passed by the Natal Parliament. (“Petition to Secretary of State for the Colonies”, *CWMG,* 2(1976 edition), p. 260 at 265.) Or was he simply calling for honesty? There simply is no clear explanation available.

**to the colony**

 “Petition to Natal Legislative Assembly”, *CWMG,* 2 (1976 edition), p. 231 at 232.

**from their actions**

 In his “Petition to Secretary of State for the Colonies” Gandhi notes that the “petitioners ventured to approach both the Houses of the local Parliament with reference to these Bills, without avail.” *CWMG,* 2 (1976 edition), p. 260 at 261.

***The Natal Mercury***

 Mohandas K. Gandhi, “Letter to the Natal Mercury”, *The Natal Mercury*, April 16, 1897; also found in *CWMG,* 2 (1976 edition), p. 246.

**of the world**

 Mohandas K. Gandhi, “Letter to the Natal Mercury”, *The Natal Mercury*, April 16, 1897; also found in *CWMG,* 2(1976 edition), p. 246.

**bills were passed**

 Few changes were made. The most significant change was to the Immigration Restriction Act. The requirement that immigrants be possessed of £25 was dropped in favor of a ban on any persons who were paupers or likely to become public charges.

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**of their petition**

 “Letter to Natal Colonial Secretary”, *CWMG,* 2(1976 edition), p. 256-7.

**their case again**

 “Cable to Chamberlain, Hunter and Others”, *CWMG,* 2 (1976 edition), p. 257.

**elemental due process**

 “Petition to Secretary of State for the Colonies”, *CWMG,* 2 (1976 edition), p. 260.

**would be introduced**

 “Petition to Secretary of State for the Colonies”, *CWMG*, 2 (1976 edition), p. 260 at 261.

**of the petition**

 “Petition to Secretary of State for the Colonies”, *CWMG,* 2 (1976 edition), p. 260 at 272.

**to get justice**

 “Circular Letter”, *CWMG,* 2(1976 edition), p. 281 at 282.

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**four anti-Indian Acts**

Indeed, Chamberlain praised Natal’s legislative work for cannily omitting an explicit reference to the Indians while still achieving the underlying purpose of protecting themselves against an Asian “invasion”. “Alien Immigration,” *The Natal Witness*, September 15, 1897.

**clients transfer property**

 Mohandas K. Gandhi, *An Autobiography: My Experiments with Truth* (Boston: Beacon Press, 1957), p. 202. Later he would help the Indian Congress transfer property. See Correspondence from William Edward Pitcher to M.K. Gandhi (November 30, 1897 and December 1, 1897), Serial Numbers 2609 and 2612, Sabarmati Ashram, Gandhi Smarak Sangrahalaya, Ahmedabad.

**of his practice**

 During the Parliament’s debates over the anti-Indian legislation, the attorney F.S. Tatham, a virulently anti-Indian member, predicted Gandhi’s turn to the courts. Tatham was arguing for the same point as Gandhi, but from quite a different point of view – Tatham wanted to explicitly specify Indians as the object of the Immigration Restriction Act. Here is his argument for specificity:

“It was idle...to say that the Government would not enforce the provisions with regard to European immigrants. The Government had nothing to do with the administration of the law. They only made the laws, but the administration of them rested with the judicial authorities.....What would happen? The first time the Scot arrived at the outer anchorage Mr. Gandhi would take a trip to Maritzburg with a petition to the Supreme Court, calling attention to the fact that the officer specially appointed under the law was not carrying out his duty, in so far as he had enforced it against the black man (the Indian), but not against the white. The Act was there and would have to be obeyed. The Supreme Court would be absolutely bound to say, “Public Officer, go and do your duty, irrespective of race, colour or creed.”.....[T]he Bill would be a Bill for the restriction of European immigration, while it was also a Bill for the encouragement of Indian immigrants.” “Restrictions on Immigration”, *The Natal Witness*, April 1, 1897.

 While Tatham proved to be off the mark in terms of the success Gandhi and his colleagues would enjoy before the Natal Supreme Court, he was right on the mark in terms in predicting their presence in the courts.

**September, 1897**

 On August 27, 1897, Gandhi met with a committee concerned with the Indians’ use of a mosque area for the wholesaling of fruits and vegetables; “The Indian Market”, *The Natal Advertiser* , August 27, 1897.

**Albert Smith**

 *See* “Undesirables at Dundee”, *The Natal Mercury*, September 21, 1897 and Peter Spiller, *A History of the District and Supreme Courts of Natal, 1846-1910* (Durban: Butterworths,1986).

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**the Immigration Officer**

 ”Undesirables at Dundee”, *The Natal Mercury*, September 21, 1897.

**convince the magistrate**

 “Letter to *The Natal Mercury*”, November 13, 1897, *CWMG,* 2, p. 290 at 291-2 (1976 edition). Some of those lacking the proper documentation of their citizenship in Natal were later sent back to the Transvaal. “Natal Parliament – Undesirables”, *The Natal Advertiser*, December 3, 1897.

**(Mr. Gandhi)**

 ”Undesirables at Dundee”, *The Natal Mercury*, September 21, 1897.

**lawyers had failed**

In the wake of the mass arrests, talk in Durban turned to what the European community thought was an organized effort by the Indians to evade the Immigration Restriction Act. Gandhi responded by stating that there was –

– no wholesale attempt to defy the law. There is no organization, no advice to set the law at defiance...[W]hile [Indian shipowners] disapproved of the Act they would loyally abide by it and aid the Government, so far as it lay in their power, as long as the Act remained on the statute-book....[T]he leaders of the Indian community have endeavoured to impress upon the Indians the necessity of not evading the Act....The policy of evasion is on the face of it suicidal.

“Letter to *The Natal Mercury*”, November 13, 1897, *CWMG,* 2(1976 edition), p. 291 at 293.

 These sentiments stand in stark contrast with Gandhi’s turn to civil disobedience a few years later.

**proponents had hoped**

 *See, e.g.,* “The Immigration Act in Practice”, *The Natal Advertiser*, October 21, 1897; Editorial, *The Natal Witness*, November 9, 1897 (declaring the Act “a signal failure”).

**on no reason**

 Not all licencing officers took full advantage of the law. At least one acted with more decency and restraint. The Maritzburg officer limited his denials to situations mentioned in the Act – a lack of sanitation and a failure to keep books in English. In speaking of his duties under the Act, he said, ”I am not going to take upon myself the responsibility of refusing Indian applications wholesale. If the Town Council desire that the whole lot of Indian licences should be done away with they have only to say so. ...[I]t is a cowardly Act, for it thrusts responsibility upon an executive officer, which really should be borne by the governing body. “Maritzburg and the Licences Act”, *The Natal Witness*, February 6, 1899.

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**the European population**

 “The New Licensing Act”, *The Natal Advertiser*, October 28, 1897.

**the licence denial**

 “The New Licensing Act”, *The Natal Advertiser*, October 28, 1897. About a month later the Council heard a fresh round of appeals from licence denials. Four appellants presented their cases – two Indians, a Chinese applicant and a Jew. All were turned away. “Licensing Appeals”, *The Natal Advertiser*, November 30, 1897.

**of Indian applications**

 “Indian Trading Licences”, *The Natal Advertiser*, January 12, 1898.

**Chinese and Jewish**

 “Licensing Appeals”, *The Natal Advertiser*, November 30, 1897.

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**violating Dealers Licences’ Act**

 *Musa v. Dyer*, XIX Natal Law Reports 26 (1898).

**December 9, 1897**

 “News of the Day: An Indian without a Licence”, *The Natal Advertiser*, December 9, 1897.

**notoriously poorly written**

 Professor Spiller observes that “the drafting of legislation in Natal was often of a low standard.” Peter Spiller, *A History of the District and Supreme Courts of Natal, 1846-1910* (Durban: Butterworths,1986), p. 94.

**with the Ordinance**

 There is some evidence that the argument was not original to Gandhi. More than 11 months earlier, Gandhi’s former partner, Coakes, presented much the same argument. Coakes won the case at the Magistrate level; there was no appeal to the Supreme Court. “Are They Retail Shops?”, *The Natal Mercury*, February 26, 1897; “Not a Retail Shop”. *The Natal Mercury*, February 27, 1897.

**of the defendant**

 “Selling in Passages”, *The Natal Mercury*, December 10, 1897.

**of five shillings**

 “Selling in Passages”, *The Natal Mercury*, December 10, 1897.

**by the court**

 For an example of such criticism, *see* “Topics of the Town”, *The Natal Witness*, March 3, 1898.

**the Natal bench**

 Peter Spiller, *A History of the District and Supreme Courts of Natal, 1846-1910* (Durban: Butterworths,1986), p. 122.

**Ordinance 3, of 1850**

 *Musa v. Dyer*, XIX Natal Law Reports 26-27 (1898).

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**without a licence**

 *Musa v. Dyer*, XIX Natal Law Reports 26, at 28. (1898).

**the Magistrate’s judgment**

 *Musa v. Dyer*, XIX Natal Law Reports 26 (1898).

**an anti-Indian mob**

 Letter to M.K. Gandhi, Serial Number 2893 (Dec. 26, 1898), Sabarmati Ashram, Gandhi Smarak Sangrahalaya, Ahmedabad.

**easily distinguished him**

 A memorandum Laughton wrote in 1895, analyzing the merits of Gandhi’s exceptions to the complaint in *Meter v. Meter* (*see* fn. 38, Chapter 6), serves as an excellent example of Laughton’s clear and compelling thinking. Serial Number 560 (October 12, 1895), Sabarmati Ashram, Gandhi Smarak Sangrahalaya, Ahmedabad.

**carefully and closely**

 The difference between Laughton, the veteran, and Gandhi, the novice, on this score is illustrated by a pair of cases that came before Magistrate Saunders in March of 1898. Gandhi and Laughton each had clients charged with operating their businesses without licences. Gandhi instructed his client to plead guilty. Laughton, in contrast, made a sophisticated legal argument that his client had been charged under the wrong section of the Dealers’ Licences Act. The Magistrate dismissed the charges against Laughton’s client. “Retail Licences”, *The Natal Mercury*, March 11, 1898.

**to the courts**

Laughton’s argument got strong support from the text of the Act. Section 5 read:

...a decision come to by a Licencing 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.

 The next section of the Act stated:

There shall be a right of appeal by the applicant, or any other person having an interest in the question, from the decision of the Licencing Officer to the Town Council....The Town Council...may direct that the Licence, the subject of appeal, shall be issued or cancelled.

“Petition to Secretary of State for the Colonies”, Appendix C, Act to Amend the Law Relating to Licences to Wholesale and Retail Dealers, *CWMG,* 2 (October, 1976 edition), p. 260 at 277.

**Justice or tribunals**

 Law 39 of 1896, Section 8.

**sustaining it**

“The Dealers’ Licences Act,” *N.A*., January 31, 1898.

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**contemplated by Laughton**

 *Vanda v. Newcastle*, XIX Natal Law Reports 28 (1898).

**such an appeal**

 It appears that Laughton and Gandhi brought in Kenneth Hathorn to coordinate the appeal for the Indian side. *See*, “Supreme Court – Tuesday”, *The Natal Witness*, March 3, 1898. The Indians were represented before the Privy Council by English counsel.

**issue its decisions**

 It typically took the Privy Council a year-and-a-half, and sometimes more, to decide cases. Peter Spiller, *A History of the District and Supreme Courts of Natal, 1846-1910* (Durban: Butterworths,1986), p. 9. Laughton would be particularly familiar with the Privy Council. He was the appellant himself in a Privy Council appeal; *see* *Laughton v. Griffin & Others*, XV Natal Law Reports 369 (1894).

**be very different….**

 *Vanda v. Newcastle*, XIX Natal Law Reports 28 at 34 (1898).

**rent from the Congress**

 “Traders’ Licences”, *The Natal Advertiser*, March 3, 1898.

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**became a phantom**

 “Traders’ Licences”, *The Natal Advertiser*, March 3, 1898.

**argue his case**

 “Traders’ Licences”, *The Natal Advertiser*, March 3, 1898.

**the British Constitution**

 “Traders’ Licences”, *The Natal Advertiser*, March 3, 1898.

**Dyer, the licencing officer**

 Two of the nine Council members refused to meet in private. “Traders’ Licences”, *The Natal Advertiser*, March 3, 1898.

**of the record**

 “Traders’ Licences”, *The Natal Advertiser*, March 3, 1898.

**for several years**

 *The Natal Mercury* reports this as six years. “The Subsequent Appeal”, *The Natal Mercury*, March 3, 1898 in “The Somnath Maharaj Case”, *CWMG,* 2, p*.* 2 at 5 (1960 edition).

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**was against him**

 “Traders’ Licences”, *The Natal Advertiser*, March 3, 1898.

**figures in Natal**

 Taylor was an active member of the Demonstration Committee and an officer of the organization that emerged from it. “The Demonstration Party”, *The Natal Advertiser*, December 22, 1897.

**vote in dissent**

 “Traders’ Licences”, *The Natal Advertiser*, March 3, 1898.

**carry out a duty**

 *Vanda v. Newcastle* would not permit a conventional appeal to the Supreme Court of a Town Council decision. Laughton and Gandhi postured the case as one for a writ of mandamus to avoid this problem. A petition for such a writ often seeks intermediate relief on a point of procedure.

***The Natal Advertiser***

 “Nobody will think the worse of Mr. Gandhi for the stand he made at the meeting of the Town Council....[W]hat is the use of allowing an appeal to the Town Council, and then declining to grant the applicant a copy of the record on which the refusal of the licence is based? Surely this reduces the right of appeal to an absolute nullity....If appeal is to be allowed it ought to be accompanied by the usual privileges....” “Licensing Appeals”, *The Natal Advertiser*, March 3, 1898.

***The Natal Witness***

 “Dealers’ Licences Act – A Durban Indian’s Case – Mr. Gandhi Eloquently Appeals”, *The Natal Witness*, March 3, 1898.

 A columnist for *The Natal Witness* also referred to Gandhi’s “eloquent appeal” but then went on to opine that it was not “improbable that had the Indian seeker after a licence taken the precaution to have himself represented by someone other than Mr. Gandhi, the Council might not have been quite so unanimous in upholding the Licensing Officer’s decision.” “Talk of the Town”, *The Natal Witness*, March 5, 1898. This same columnist would later join in the criticism of the Durban Town Council. “Topics of the Town”, *The Natal Witness*, April 2, 1898.

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**Durban town solicitor**

 Peter Spiller, *A History of the District and Supreme Courts of Natal, 1846-1910* (Durban: Butterworths, 1986), p. 121. The rules in Natal at the time permitted all levels of legal professionals to conduct all functions of solicitors, attorneys and advocates.

**the court would rule**

 *Solnath v. Durban Corporation*, XIX Natal Law Reports 70 at 72 (1898).

**took place an appeal**

 *Solnath v. Durban Corporation*, XIX Natal Law Reports 70 at 72 (1898).

**set aside the proceedings**

 *Solnath v. Durban Corporation*, XIX Natal Law Reports 70 at 73 (1898).

**the Town Council**

 *Solnath v. Durban Corporation*, XIX Natal Law Reports 70 (1898). Costs were assessed against the city of Durban. “Supreme Court – Wednesday”, *The Natal Witness*, March 31, 1898.

**for the denial**

 In a case litigated by Laughton apparently without Gandhi’s involvement, *Mahomed Amod Kajee v. Mapumulo Licensing Board*, XXII Natal Law Reports 92 (March 30, 1901), the court effectively stood by its earlier ruling in *Solnath*.

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**the town and borough**

 “Licensing Appeals”, *The Natal Advertiser*, June 7, 1898.

**change his skin**

 “Licensing Appeals”, *The Natal Advertiser*, June 7, 1898. *The Natal Mercury* stated in its editorial the next day that Gandhi had “demolished” the Licensing Officer’s reason. “The Licence Appeals”, *The Natal Mercury*, June 8, 1898.

**the English language**

 “Licensing Appeals”, *The Natal Advertiser*, June 7, 1898.

**English would do**

 Section 7 of the Act read in relevant part: “No Licence shall be issued to any person who...fails to show...that he is able to fulfill the conditions of the Insolvency Law... as regards to keeping of such books of account in the English language....” “Petition to Secretary of State for the Colonies”, Appendix C, Act to Amend the Law Relating to Licences to Wholesale and Retail Dealers, *CWMG,* 2, p. 260 at 277 (1976 edition).

**“by means of an accountant”**

 “Retail Licensing Appeals”, June 7, 1898, *The Natal Mercury.*

**Majam & Co. down, too**

 “Licensing Appeals, *The Natal Advertiser*, June 7, 1898. At the same hearing, the Council turned down the appeal of yet a third Gandhi client who, it was revealed at the hearing, also did not know English. “Retail Licensing Appeals”, *The Natal Mercury*, June 7, 1898.

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**Congress**

 *See* Maureen Swan, *Gandhi: The South African Experience* (Johannesburg: Ravan Press, 1985).

 Dada Osman already had stores in Umsinga and Vryheid. The reason he gave for wishing to establish a business in Durban was that he wanted to move his family to Durban, society in Umsinga and Vryheid being unsuitable for his wife. “Licensing Appeal”, *The Natal Advertiser*, September 15, 1898.

**Collins’ motion carried**

 “A Question of Notice”, *The Natal Advertiser*, September 1, 1898.

**refuse the license**

 “Dada Osman’s Case”, *CWMG* 3 (1960 edition), p. 17 at 18, citing *The Natal Mercury,* September 15, 1898.

**not an issue**

 The Licencing Officer had conceded that the premises, previously licenced to another entity, were suitable. “Licensing Appeal – Anti-Asiatic Feeling – Attitude of the Town Council”, *The Natal Advertiser*, September 15, 1898.

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**holding a licence**

 “Licensing Appeal – Anti-Asiatic Feeling – Attitude of the Town Council”, *The Natal Advertiser*, September 15, 1898.

**Congress**

 *See* Maureen Swan, *Gandhi: The South African Experience* (Johannesburg: Ravan Press: 1985).

**that particular store**

 “Dada Osman’s Case”, *CWMG* 3 (1960 edition), p. 17 at 18, citing *The Natal Mercury,* September 15, 1898.

 Gandhi called on a second Indian merchant to speak on Dada Osman’s behalf, but the press accounts provide neither the merchant’s name nor a description of the merchant’s statement, except that he “gave further corroborative evidence as to the respectability of the applicant.” “Licensing Appeal – Anti-Asiatic Feeling – Attitude of the Town Council”, *The Natal Advertiser*, September 15, 1898.

**approved his bookkeeping**

 “Dada Osman’s Case” *The Natal Mercury*, September 15, 1898 in *CWMG* 3 (1960 edition), p. 17 at p. 18.

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**of those orders**

 “Licensing Appeal – Anti-Asiatic Feeling – Attitude of the Town Council”, *The Natal Advertiser*, September 15, 1898.

**was an Indian**

 “Licensing Appeal – Anti-Asiatic Feeling – Attitude of the Town Council”, *The Natal Advertiser*, September 15, 1898.

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**should be granted**

 “Licensing Appeal – Anti-Asiatic Feeling – Attitude of the Town Council”, *The Natal Advertiser*, September 15, 1898. Labistour would later write to Gandhi and make the observation that the DLA was “only intended to apply to Indians and Chinese....” Letter from C. A. De R. Labistour to M.K. Gandhi, January 4, 1899. Serial Number 2901, Sabarmati Ashram, Gandhi Smarak Sangrahalaya, Ahmedabad (January 4, 1899).

**application for a license….**

 “Licences to Asiatics”, *The Natal Advertiser*, September 15, 1898. *The Natal Mercury* conceded that “there was positively no other objection to the granting of the licence than that the applicant was an Indian.” “Town Council and Indian Licences”, *The Natal Mercury*, September 16, 1898.

**due process to applicants**

 It should be noted that the Supreme Court denied a request by an Indian litigant to treat violations under the Dealers’ Licences Act as civil rather than criminal. Neither Laughton nor Gandhi, however, were counsel in that case. *See* *Ebrahim v. Jennings*, XIX Natal Law Reports 93 (1898).

**the applicant was Indian**

 On December 22, 1898 Gandhi drafted a brief in which he sought a legal opinion regarding this very question:

 “Could the Supreme Court be moved to tell the [Licensing] Officer that the fact of a person being an Indian is no reason for a refusal....?” *CWMG,* 3 (1960 edition), p. 24. William Morcom was reluctant to provide an opinion until the *Vanda* case had been decided by the Privy Council. Letter from William Morcom to M. K. Gandhi, December 23, 1898, Serial Number 2891, Sabarmati Ashram, Gandhi Smarak Sangrahalaya, Ahmedabad.

 In its December 31, 1898 response to Gandhi, the firm of Renaud and Robinson opined that the lack of an appeal from the Town Council was the “principal defect” of the DLA. The firm, however, flatly refused to answer the race question, stating that it preferred “to say nothing on the political aspect of the question.” Serial Number 2900, Sabarmati Ashram, Gandhi Smarak Sangrahalaya, Ahmedabad (December 31, 1898).

 By contrast, Gustave A. de Roquefeuil Labistour believed that the exclusion of all Indians was an arbitrary, and therefore unlawful, exercise of discretion. Preliminary Opinion re Indian Licences, March 12, 1899, Serial Number 3114, Sabarmati Ashram, Gandhi Smarak Sangrahalaya, Ahmedabad.

 Laughton himself was pessimistic about the chances of overturning the Act in the Courts on that basis. He rejected Labistour’s opinion and held the view that as long as the Licensing Officer’s decision did not stem from “corrupt motives”, the Officer could exercise his discretion in any fashion he wished. “The Act”, Laughton held, “was the injustice[,] not refusing licenses to Indians under it.” Opinion of F. A. Laughton, March 14, 1899, Serial Number 3134, Sabarmati Ashram, Gandhi Smarak Sangrahalaya, Ahmedabad. Labistour, in an apparent reference to Laughton, retorted that the attack on the DLA “had so far been fairly bungled....” Letter to M.K. Gandhi, March 31, 1899, Serial Number 3165, Sabarmati Ashram, Gandhi Smarak Sangrahalaya, Ahmedabad.

**Chapter Ten**

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**money-making….Gandhi**

Mohandas K. Gandhi, *An Autobiography: The Story of My Experiments with Truth* (Boston: Beacon Press, 1957), p. 219.

***Vanda v. Newcastle***

*Vauda* (sic) *v. Mayor and Councillors of New Castle* (December 10, 1898) Judicial Committee of the Privy Council, 1899 Law Reports, House of Lords, Judicial Committee of the Privy Council, and Peerage Cases 246, XIX Natal Law Reports 1 (December 10, 1898); “Indian Appeal Case”, *The Natal Advertiser,* December 12, 1898. (The Natal Law Reports incorrectly spells the plaintiff’s name “Vanda”; XIX NLR 28 (1898). Original records from the case itself show the plaintiff’s name as “Vauda”. *See, e.g.,* Costs, Charges and Expenses relating to the Appeal of Suliman Ebrohim Vauda, Serial Number 2879 (undated), Sabarmati Ashram, Gandhi Smarak Sangrahalaya, Ahmedabad.) Despite the clear pro-Indian motivation of the appeal (the appeal was funded by the Natal Indian Congress — *see* “Indian Appeal Case”, *The Natal Witness*, December 12, 1898), there actually was dissatisfaction from some establishment quarters with the decision. *The Natal Advertiser* editorialized that the denial of appeal rights to the Indians was in aid of a good cause, but that the ruling was “a double-edged knife, which some day European traders may find is cutting their own fingers.” “Echoes of the Week”, *The Natal Advertiser*, December 17, 1898.

**ruling as well**

Gandhi considered the decision “a calamity.” Untitled document, Serial Number 4036 (undated), Sabarmati Ashram, Gandhi Smarak Sangrahalaya, Ahmedabad.

**also greatly hurt**

Maureen Swan, *Gandhi: The South African Experience* (Ravan Press, Johannesburg, 1985), p. 68; “To Press and Public Men in India”, January 21, 1899, *CWMG* 3, p. 51 (1960 edition); “Indian Traders in Natal”, November 19, 1899, *CWMG 3, p.*  121 at 122, 125 (1960 edition); *Moosa Hoosen v. Clerk of the Peace*, XX Natal Law Reports 212 (November 14, 1899).

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**prescribed for them**

Mohandas K. Gandhi, *An Autobiography: My Experiments with Truth* (Boston: Beacon Press, 1957), pp. 202-203.

**as easily enjoyed**

Gandhi put his considerable fund-raising skills to work for the Indian hospital. *See* Serial Number 3750C (undated), Sabarmati Ashram, Gandhi Smarak Sangrahalaya, Ahmedabad.

**conveyancing and arbitration**

Mohandas K. Gandhi, *An Autobiography: My Experiments with Truth* (Boston: Beacon Press, 1957), p. 202.

**surrounded such transactions**

*See, for example,* Letter to Gandhi from O.J. Askew, Serial Number 3919 (January 24, 1896), and Letter to W. Lehman from M.K. Gandhi, Serial Number 3812 (April 17, 1901), Sabarmati Ashram, Gandhi Smarak Sangrahalaya,, Ahmedabad . For a less typical example, because it deals with a less typical client – the Natal Indian Congress, *see* Letter to Gandhi from William Edward Pitcher, Serial Number 2605-2 (November 22,1897), Sabarmati Ashram, Gandhi Smarak Sangrahalaya,, Ahmedabad.

**his Indian clients**

*See, for example,* Letter to Gandhi from William Morcom, Serial Number 2891 (December 23,1898); Letter to Gandhi from Gustave Labistour, Serial Number 3114 (March 12, 1899); Letter to Gandhi from F.A. Laughton, Serial Number 3413 (March 22, 1900); Letter to M.K. Gandhi from William Morcom, Serial Number 3915 (October 3, 1901). Sabarmati Ashram, Gandhi Smarak Sangrahalaya,, Ahmedabad.

Gandhi had no reluctance to consult other attorneys for opinions in their areas of expertise. He states:

During my professional work it was also my habit never to conceal my ignorance from my clients or my colleagues. Wherever I felt myself at sea, I would advise my client to consult some other counsel, or if he preferred to stick to me, I would ask him to let me seek the assistance of senior counsel. This frankness earned me the unbounded affection and trust of my clients. They were always willing to pay the fee whenever consultation with senior counsel was necessary. This affection and trust served me in good stead in my public work.

Mohandas K. Gandhi, *An Autobiography: My Experiments with Truth* (Boston: Beacon Press, 1957) at p. 366.

**of his practice**

*See, for example,* Statement of Bennett Expenses due to Hawthorn and Mason, Serial Number 2969 (July 30, 1895); Letter of F.A. Laughton to Gandhi, Serial Number 3263 (Aug. 4, 1899); and Fee Statement from E. Howard Langston to Gandhi, Serial Number 3855 (June 26, 1901). Sabarmati Ashram, Gandhi Smarak Sangrahalaya, Ahmedabad.

**clients owed them**

*See, for example,* Letter to Gandhi from G.B. Cooke, Serial Number 405 (July 22, 1895) and Letter to Gandhi from F.A. Laughton, Serial Number 3262 (August 4, 1899). Sabarmati Ashram, Gandhi Smarak Sangrahalaya,, Ahmedabad.

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**mortgage bonds**

“Claim on a Mortgage Bond”, *The Natal Mercury*, December 17, 1898; “Durban District Court”, *The Natal Mercury*, December 20, 1898; and “Durban District Court”, *The Natal Mercury*, December 21, 1898.

**promissory notes**

“A Promissory Note”, *The Natal Mercury*, March 15, 1899.

**personal injury**

“Sequel to a Trap Accident”, *The Natal Mercury*, January 27, 1899.

**and more**

*See, e.g., Randles Bros. & Hudson v. M.S. Coovadia,* XXI Natal Law Reports 31 (March 20, 1900).

**into criminal law**

Undetermined title, *The Natal Mercury*, October 19, 1900.

**Rahim Karim Khan**

Khan arrived in 1899, but the arrangements for his joining Gandhi in Natal were made in mid-1898 while Khan was still in London. Letter to Gandhi from Khan, Serial Number 2758 (June, 1898), Sabarmati Ashram, Gandhi Smarak Sangrahalaya,, Ahmedabad.

**in 1898**

Peter Spiller, *A History of the District and Supreme Court of Natal (1846-1910)* (Durban: Buttersworth, 1986), p. 123.

**as a novice**

The previous year Gandhi had tried to induce another Indian lawyer, F. S. Taleyarkhan of Bombay, to join him as his partner in Durban. Gandhi had known Taleyarkhan since the time they were called to the bar together in London. “Letter to F. S. Taleyarkhan”, October 18, 1896, *CWMG* 2, p. 67 (1976 edition ). Gandhi was unsuccessful in recruiting Taleyarkhan and other Indian lawyers to South Africa. “Interview to *The Natal Advertiser”*, January 13, 1897, *CWMG* 2, p. 118 at 124 (1976 edition).

**by the bar**

But his racial features were noted by the press, with *The Natal Witness* commenting that “Khan proved somewhat fair for an Indian, his complexion being that of many Italians and Spaniards.” “Supreme Court – Tuesday: An Indian Advocate”, *The Natal Witness*, July 12, 1899.

**July 1899**

“Another Indian Advocate”, *The Natal Mercury*, July 12, 1899.

**of Indian traders**

*The Natal Witness*, July 19, 1899 and July 21, 1899.

**rural locations**

“Indians in Locations”, *The Natal Mercury*, July 27, 1899.

**the public prosecutor**

“Personalities”, *The Natal Mercury*, July 21, 1899.

**the state secretary**

“Indians in Locations”, *The Natal Mercury*, July 25, 1899; “Indians and Locations: Mr. Gandhi’s Mission”, *The Natal Witness*, July 26, 1899.

**for his advocacy**

“Personalities”, *The Natal Mercury*, July 27, 1899.

**dismissed the charges**

“A Building or a Carriage?”, *The Natal Mercury*, June 29, 1899; “Shop on Wheels”, *The Natal Advertiser*, August 10, 1899; “Is a Van a Building?”, *The Natal Mercury,* August 10, 1899.

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**in South Africa**

“Indian Position in the New Colonies”, March 16, 1903, *CWMG* 3, p. 283 at 284 (1960 edition).

**real estate in Natal**

Maureen Swan, *Gandhi: The South African Experience* (Ravan Press, Johannesburg, 1985), p. 7.

**dissolve the partnership**

In Re: M.C. Camrooden & Co., XX Natal Law Reports 171 at 172-173 (September 1, 1899).

**controlled**

In Re: M.C. Camrooden & Co., XX Natal Law Reports 171 at 172-173 (September 1, 1899).

**“all disputes and differences”**

In Re: M.C. Camrooden & Co., XX Natal Law Reports 171 (September 1, 1899); “The Supreme Court – In Re M. C. Camrooden & Co.”, September 2, 1899, *The Natal Mercury*; “A Big Security”, *The Natal Mercury*, September 4, 1899. The Court required security from the firm in the amount of £10,000 sterling. Gandhi would later succeed in reducing this amount to £5,000. “City Day by Day”, *The Natal Mercury*, September 27, 1901; “Supreme Court – M.C. Camrooden and Company”, *The Natal Mercury*, September 28, 1901.

**not conclude quickly**

There is evidence of it continuing at least until 1905. *See* “Letter to Abdul Kadir”, August 10, 1905, *CWMG* 5, p. 37 (1961 edition).

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**severely tested**

For an excellent summary of the causes of the war, the conduct of the war and post-war developments, *see* Leonard Thompson, *A History of South Africa* (New Haven and London: Yale University Press, 1990). *See also*, Frank Welsh, *A History of South Africa* (HarperCollins, London: 2000) and T.R.H. Davenport and Christopher Saunders, *South Africa: A Modern History* (New York: St. Martin’s Press, 2000).

**oppressive British boot**

Mohandas K. Gandhi, *Satyagraha in South Africa* (Stanford: Academic Reprints, 1954), p. 71.

**were British subjects**

Gandhi “thought it was a time when they should sink all differences, and as they insisted upon rights and privileges as subjects of the Queen, do something to prove their loyalty.” “Indian Ambulance Leaders”, *The Natal Witness*, December 15, 1899. *See also* Mohandas K. Gandhi, *Satyagraha in South Africa* (Stanford: Academic Reprints, 1954), p. 72 and Mohandas K. Gandhi, *An Autobiography: My Experiments with Truth* (Boston: Beacon Press, 1957), p. 214.

**the British war effort**

Mohandas K. Gandhi, *Satyagraha in South Africa* (Stanford: Academic Reprints, 1954), p. 71.

**“Indian loyalty”**

“The Indian Offer”, October 19, 1899, *CWMG* 3, p. 113-114 (1960 edition).

**after the war**

Gandhi’s optimism was unlimited. In September of 1900, he writes: “”...it may be confidently predicted that none of the grievances which...the Colonial Office declared itself powerless to redress however much it sympathised (sic) with the Indians, will be allowed to exist in the slightest degree under the new regime where there would not have to be considered even the sentiments of a self-governing Colony as in the case of Natal.” “Notes on the Present Position of the British Indians in South Africa”, post-September 3, 1900, *CWMG 3, p.* 159 at 162 (1960 edition). This optimism was based in part on reassurances given Gandhi by the British Agent in Pretoria that “if the Transvaal became a British Colony, all the grievances under which the Indians laboured would be instantly redressed.” Mohandas K. Gandhi, *Satyagraha in South Africa* (Stanford: Academic Reprints, 1954), p. 81.

**Escombe and Laughton**

Mohandas K. Gandhi, *An Autobiography: My Experiments with Truth* (Boston: Beacon Press, 1957), p. 215.

**corps of Khan**

“All Quiet at Spearman’s Camp”, *The Natal Mercury*, January 30, 1900; “Speech at Calcutta Meeting”, January 27, 1902, *CWMG* 3, p. 219 at 220 (1960 edition).

**the merchant class**

Mohandas K. Gandhi, *Satyagraha in South Africa* (Stanford: Academic Reprints, 1954), pp. 75-6; Mohandas K. Gandhi, *An Autobiography: My Experiments with Truth* (Boston: Beacon Press, 1957), p. 215. *“*The Indian merchants, who could not leave their businesses to join the Corps, collected a fund for the support of the dependants of those volunteer leaders who needed it and also supplied uniforms for them.” “Speech at Calcutta Meeting”, January 27, 1902, *CWMG* 3, p. 219 at 222 (1960 edition).

**distinction and bravery**

For a description of the work of the Indian Ambulance Corps, *see* Mohandas K. Gandhi, *Satyagraha in South Africa* (Stanford: Academic Reprints, 1954), pp. 76-78.

The Corps earned the praise of the British authorities and the press. At a celebration of war victories in March, 1900, shortly after the ambulance corps was disbanded, Sir John Robinson, the colony’s Prime Minister, was effusive in his praise of Gandhi: “I cannot too warmly compliment your able countryman, Mr. Gandhi, upon his timely, unselfish, and most useful action in voluntarily organising a corps of bearers for ambulance work at the front at a moment when their labours were sorely needed in discharging arduous duties which experience showed to be by no means devoid of peril. All engaged in that service deserve the grateful recognition of the community.” “Imperial Indians”, *The Natal Mercury*, March 15, 1900; *see also* “Enthusiastic Meeting of Durban Indians”, *The Natal Advertiser*, March 15, 1900; Indian Ambulance Bearers”, *The Natal Mercury*, February 15, 1900; “Indian Ambulance Corps”, *The Natal Witness*, February 15, 1900.

**during the war**

“The Indian Offer”, *CWMG* 3, October 19, 1899, p. 113-114 footnote 1 (1960 edition).

**of Indian rights**

“Notes on the Present Position of the British Indians in South Africa”, post-September 3, 1900, *CWMG* 3, p. 160 (1960 edition). *The Natal Witness* editorialized that “the loyalty displayed should be accepted as proof of the Indian’s sense of the treatment he has invariably received in the Colony. He is quite sufficiently contented with his lot....” “The Indians”, *The Natal Witness*, June 28, 1900.

**new Transvaal government**

“The whole of the anti-Indian legislation in the Transvaal is being enforced with a rigour unknown before....Every anti-Indian ordinance of the late Government is being unearthed, and, with strict British regularity, applied to the victims.”“A Circular Letter, *CWMG* 3, p. 183 (April 20, 1901) (1960 edition). *See also*, “Indian Permits”, *CWMG* 3, p. 186 at 187 (April 27, 1901) (1960 edition); “Joint Action for Permits”, June 1, 1901, *CWMG* 3, p. 195 (1960 edition).

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**his business clients**

In his autobiography Gandhi states, “I got in closer touch with the indentured Indians.” Mohandas K. Gandhi, *An Autobiography: The Story of My Experiments with Truth* (Boston: Beacon Press, 1957), p. 216.

**to wealthy merchants**

In a well-reasoned letter to the Colonial Secretary opposing the enactment of an amendment to the Immigration Act that would disadvantage indentured servants who complained in Magistrate Court against their employers, Gandhi states that he has “some little experience of the working of the present law.” “Letter to Colonial Secretary”, May 18, 1899, *CWMG* 3, p. 72 at 73 (1960 edition). Whatever experience it is to which Gandhi refers, it does not appear to have been experience of representing indentured servants in court on a significant number of occasions. The reader will recall Gandhi’s work with Balasundaram, described earlier. Gandhi also appears to have represented one other indentured servant, Subrahmanyam, sometime during 1896 or earlier. *See* Mohandas K. Gandhi, *Satyagraha in South Africa* (Stanford: Academic Reprints, 1954), p. 53.

**the Indian community**

“Status of Indians in Natal”, *The Natal Mercury*, September 28, 1898.

**by their masters**

“Absent from Roll Call”, *The Natal Advertiser*, August 16, 1900; “Durban District Circuit Court: Civil Business – Monkeys and the Roll Call,” *The Natal Mercury*, August 17, 1900; “Durban Circuit Court: Another Roll Call Episode”, *The Natal Advertiser*, August 17, 1900; “A Review”, *The Natal Mercury*, December 14, 1900; and “Indians and Witnesses”, *The Natal Mercury*, December 14, 1900. Gandhi also appealed a criminal conviction for forgery from magistrate court for a young Indian boy. Because Gandhi had engaged in virtually no criminal defense work in his South African career up to this point, it is easy to suppose that he took this case on, too, as a result of his contacts with the wider, non-merchant Indian population. Credit is due Gandhi on this score inasmuch as lawyers who represented Indian criminal defendants did not enjoy good reputations with the public. *See, e.g.,* “Inadequate Sentences”, *The Natal Mercury*, June 21, 1899 and “Inadequate Sentences”, *The Natal Mercury*, June 29, 1899.

**full-throated defenses**

* In the case of Gidhari, an indentured servant appealing his conviction for failing to appear for roll-call on a Sunday, Gandhi argued that because servants were free by law from work on Sundays it was unlawful for employers to require them to be present for roll-call on Sundays. It is only on Sundays that indentured servants are free from work, Gandhi pled, and their free time should not be stolen from them by the necessity of attending roll-call. Unable to openly accept Gandhi’s politically charged argument on its own terms, but sensing that “14 days’ hard labour” was unjustified “just because [Gidhari] happened to be absent the moment his name was called”, the court reversed the conviction which, it declared, “was altogether wrong..”
* The next day Gandhi brought an appeal for Girdari’s spouse who was convicted of refusal of duty and of being abusive in the same incident that led to her husband’s conviction. Gandhi was successful in getting the conviction reversed on the basis of irregularities in the trial proceedings.
* In the case of Saria, an indentured servant accused of destroying some corn while hoeing the master’s field, Gandhi argued that the conviction was fatally flawed by the magistrate’s refusal to permit Saria to call witnesses. The reviewing court agreed and reversed the conviction.
* The best example of Gandhi’s tenacious representation of his indentured servant clients is found in the case of Chellagadu, a servant accused of neglect of duty. Gandhi argued before the Durban District Circuit Court, sitting as an appellate court, that Chellagadu had been transferred to the master who charged him with neglect without the requisite permission of the Protector of Immigrants. Without this permission the transfer was invalid and the servant could not possibly have neglected his duty — there simply was no duty to neglect. The court rejected the argument and went so far as to call Gandhi’s appeal “frivolous.” With his head unbowed in the face of this insult, Gandhi appealed again, this time to the Supreme Court. The justices, however, refused to hear the case on the grounds that the Supreme Court had no jurisdiction over an appeal from the decision of a Circuit Court in a criminal matter. Still undeterred, Gandhi took the matter to the Protector of Immigrants, who had earlier lent Gandhi a sympathetic ear. Gandhi now asked him to seek a remission of the sentence from the Governor. While the record discloses neither the Protector’s reaction to Gandhi’s request nor Chellagadu’s ultimate fate, it does show the lengths to which Gandhi would go, quite likely without a fee, on behalf of those to whom he felt so much loyalty. (The court refers to Gandhi as working “from philanthropic motives.”)

“Absent from Roll Call”, *The Natal Advertiser*, August 16, 1900. “Durban District Circuit Court: Civil Business – Monkeys and the Roll Call,” *The Natal Mercury*, August 17, 1900; “Durban Circuit Court: Another Roll Call Episode”, *The Natal Advertiser*, August 17, 1900; “Indians and Witnesses”, *The Natal Mercury*, December 14, 1900; “Transfer of Indians”, *The Natal Advertiser*, December 14, 1900; “A Review”, *The Natal Mercury*, December 14, 1900; *Chelligadu v. G. Wilkinson*, XXI Natal Law Reports 24 (January 15, 1900); “Letter to Protector of Immigrants”, January 16, 1901, *CWMG* 3, p. 173 (1960 edition).

**against his opponents**

It was Laughton whom Gandhi consulted on procedural questions in the Adams case. Opinion Letter from Frederick A. Laughton to Mohandas K. Gandhi, Serial Number 870 (April 15, 1896), Sabarmati Ashram, Gandhi Smarak Sangrahalaya,, Ahmedabad. *See* Chapter Six, *Waller’s Question*.

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**his merchant clients**

“Magistrate’s Decision Reversed”, *The Natal Mercury*, June 11, 1900.

**a property dispute**

“Durban District Circuit Court: An Appeal”, *The Natal Mercury*, August 14, 1900.

**a security case**

“Durban Circuit Court: An Indian Deal”, *The Natal Advertiser*, August 20, 1900.

**string of successes**

*Randles Bros. & Hudson v. M.S. Coovadia*, XXI Natal Law Reports 31 (March 20, 1900), an original application for the compulsory application of a debtor’s estate, was another Gandhi victory, but not an appeal. Morcom and Gandhi successfully resisted the application for the debtor before the Natal Supreme Court.

**openness to compromise**

“Letter to the Natal Advertiser”, January 16, 1997*, CWMG* 2, p*.* 225 at 226 (1976 edition).

**mediator**

“Echoes of the Week”, *The Natal Advertiser*, October 19, 1901.

**out of court**

Mohandas K. Gandhi, *An Autobiography: My Experiments with Truth* (Boston: Beacon Press, 1957), p. 134.

**back to life**

“Durban District Court: Extension of Time”, *The Natal Mercury*, June 11, 1900.

**his mentor, Laughton**

“Supreme Court”, *The Natal Mercury*, November 29, 1900; “Supreme Court”, *The Natal Advertiser*, November 29, 1900.

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**eventually take place**

“Supreme Court: Re Camrooden and Co.”, *The* *Natal Advertiser*, November 29, 1900.

**significant cash flow**

In 1898 Gandhi floated a £300 loan to the Indian National Congress. “A Statement of Account”, March 25, 1898*, CWMG* 3, p. 5, (April 1962 edition). By comparison, the salary for Natal’s Attorney General was £800 for an entire year. “The Boer Republics: Their Financial Resources”, *The Natal Mercury*, January 26, 1900 (citing Natal salaries).

**financial assistance**

Gandhi spearheaded an effort to relieve famine in India, donating generously to the cause himself. “Indian Famine Relief Fund”, *The Natal Mercury,* August 23, 1900. See also the extensive collection of bank deposit receipts and other famine relief records housed in the archives of the Sabaramati Ashram. Serial Numbers 2091-0001, et seq., Sabarmati Ashram, Gandhi Smarak Sangrahalaya,, Ahmedabad.

 Gandhi also appeared to be supporting his extended family in India; *see* “Letter to D.B. Shukla”, January 17, 1899, *CWMG* 3, p. 50 (1960 edition).

**the Durban courts**

Filings in the Durban Magistrate Court increased from 3,026 in 1899 to 4,676 in 1900, an increase of over 50%. “Durban Civil Court”, *The Natal Advertiser*, January 4, 1901.

**a very high order**

“Interview to *The Englishman*”, on or before November 13, 1896, *CWMG* 2, p. 100 at 103 (1976 edition).

**great amounts of money**

While it is not possible to say what Gandhi’s income was at this time, a sense of its magnitude can be gained from a partnership proposal he made two years earlier to F. S. Taleyarkhan, an Indian lawyer. Gandhi estimated that, working together, they could earn as much as £150 per month. “Letter to F.S. Taleyarkhan”, October 18, 1896, *CWMG* 2, p. 67 (1976 edition).

**early British victories**

“Imperial Indians – Signal Tokens of Loyalty: Interesting Gathering”, *The Natal Mercury*, March 15, 1900.

**a football banquet**

“Indian Association”, *The Natal Mercury*, September 10, 1900.

**school events**

“Indian Higher Grade School”, *The Natal Mercury,* June 26, 1900; “N.G.R. Indian School”, *The Natal Advertiser*, December 22, 1900; “Speech at Indian School”, prior to June 28, 1901, *CWMG* 3, p. 198 (1960 edition); “Higher Grade Indian School: Presentations to a Headmaster”, *The Natal Mercury*, October 3, 1901.

**the Boer War**

“A Ladysmith Indian Hero”, *The Natal Advertiser*, October 3, 1900; “An Indian’s Bravery”, *The Natal Mercury,* October 4, 1900.

**British forces**

“Indians Enthusiastic”, *The Natal Advertiser*, December 6, 1900; “The Indian Address”, *The Natal Mercury*, December 6, 1900.

**the late queen**

“An Indian Tribute”, *The Natal Mercury*, February 4, 1901.

**“deep impression”**

“Indian Famine Fund: Meeting of Indians”, *The Natal Witness*, August 9, 1900.

**five thousand**

“The Indian Community”, *The Natal Advertiser*, February 4, 1901.

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**owned by others**

Mohandas K. Gandhi, *Satyagraha in South Africa* (Stanford: Academic Reprints, 1954), p. 58.

**“leading Indians”**

“The Second Report of the Natal Indian Congress”, post-October 11, 189,  *CWMG* 3, p. 108 (1960 edition).

**of Gandhi’s protest**

“The Second Report of the Natal Indian Congress”, post-October 11, 1899, *CWMG*3, p**.**108 (1960 edition).

**the Indians also**

“Letter to Town Clerk”, September 24, 1900*, CWMG* 3, pp.165-6(April, 1960 edition).

**at the start**

“Letter to Town Clerk”, September 24, 1900*, CWMG* 3, pp.165-6(April, 1960 edition).

**“dirty” Indians**

Untitled, *The Natal Mercury*, July 12, 1900.

**nonetheless, was denied**

“Petition to Natal Governor”, prior to December 24, 1900, *CWMG* 3, p*.* 171 at 172 (April, 1960 edition).

**“cancelled or amended”**

“Petition to Natal Governor”, prior to December 24, 1900, *CWMG* 3, p*.* 171 at 172 (April, 1960 edition).

**no action**

“Indians’ Ricksha Complaint”, *The Natal Advertiser*, January 8, 1901; “Miscellaneous”, *The Natal Mercury*, January 8, 1901.

**to enforce it**

“Sentences in Court”, *The Natal Mercury*, March 6, 1901.

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**to be invalid**

“Letter to Town Clerk”, September 24, 1900, *CWMG* 3, p.165-6 (April, 1960 edition); “Petition to Natal Governor”, prior to December 24, 1900, *CWMG* 3, p.171, at page 172 (April, 1960 edition).

**within the Colony**

Law No. 19, 1872.

**Laws of the Colony**

“Petition to Natal Governor”, prior to December 24, 1900, *CWMG* 3, p. 171, at page 172 (April, 1960 edition).

**a big stick**

Theodore Roosevelt, Speech at Minnesota State Fair, September 2, 1901, in Bartlett, *Familiar Quotations,* 575:16 (J. Kaplan ed.) (Little Brown: Boston, 1992).

**loses both times**

*P. D. Desai v. Alum*, XXI Natal Law Reports 278 (November 28, 1900) (it appears that “P.D.” is a typographical error); *P.B. Desai v. Alum*, XXII Natal Law Reports 3 (January 8, 1901).

**partnership dissolution matter**

“Durban Partnership Dispute”, *The Natal Mercury*, April 4, 1901; “Supreme Court – Friday”, *The Natal Witness*, July 22, 1901; “City Day by Day”, *The Natal Mercury*, September 27, 1901.

**some bankruptcy work**

“Indian Assignment”, *The Natal Mercury*, January 15, 1901.

**his lower-level work**

“Durban Civil Court: Judgment by Consent”, *The Natal Advertiser*, May 8, 1901; “Durban Civil Court: Another Irregularity”, *The Natal Advertiser*, August 19, 1901.

**errors each time**

“The Missing Letter”, *The Natal Advertiser,* May 7, 1901; “An Agent’s Responsibility”, *The Natal Advertiser,* May 10, 1901.

**the local press**

“Bench and Bar: Complimentary Dinner to the Chief Justice”, *The Natal Advertiser*, September 21, 1901.

**failed in the end**

In 1901, shortly after returning to India, Gandhi refers to the fight against the DLA and the other discriminatory legislation in Natal as “ a sealed book.” “Speech at Calcutta Congress”, December 27, 1901, *CWMG* 3, p. 213 (1960 edition). Later he states that “In Natal, relief for the present is unobtainable.” “Letter to W.S. Caine”, March 26, 1902, *CWMG* 3, p. 230 at 231 (1960 edition).

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**in South Africa**

“Letter to F.S. Taleyarkhan”, October 18, 1896, *CWMG* 2, p. 67 at 68 (1976 edition ).

**“ease and comfort”**

Mohandas K. Gandhi, *An Autobiography: The Story of My Experiments with Truth* (Boston: Beacon Press, 1957), p. 212.

**bar colleagues**

Mohandas K. Gandhi, *An Autobiography: The Story of My Experiments with Truth* (1957) (Boston: Beacon Press, 1957), pp. 212 - 214.

**“impervious to ridicule”**

Mohandas K. Gandhi, *An Autobiography: The Story of My Experiments with Truth* (1957) (Boston: Beacon Press, 1957), p. 212.

**return to India**

In his autobiography, published 26 years after he left Natal, Gandhi states that after his ambulance corps service he felt that his “work was no longer in South Africa but in India.” Mohandas K. Gandhi,  *An Autobiography: The Story of My Experiments with Truth* (Boston: Beacon Press, 1957), p. 219. The corps was disbanded in February, 1900. Gandhi left Natal in October of 1901. Either Gandhi’s intention was quite slow to mature or his recollection was affected by the passage of time.

**R.K. Kahn**

Referring to 1900, Gandhi later wrote that “[s]ome Indian youths born and bred in South Africa had returned from England as barristers.” Mohandas K. Gandhi, *Satyagraha in South Africa* (Stanford: Academic Reprints, 1954), p. 80. Their identities are not clear.

**Mansukhlal Nazar**

Mohandas K. Gandhi, *An Autobiography: The Story of My Experiments with Truth* (Boston: Beacon Press, 1957), p. 212. Khan appeared to be fulfilling both functions when, in April of the following year he succeeded in convincing the Supreme Court to overturn the conviction of an indentured servant who initially had been found guilty of desertion. Duyall v. G.A. Riches, XXIII Natal Law Reports 94 (April 15, 1902). With Gandhi’s help, Nazar, who would later edit *Indian Opinion*, succeeded Gandhi in his role as Gujarati translator for the court system, *In re* M.H. Nazar, XXII Natal Law Reports 369 (November 19, 1901), and, like Gandhi, won the confidence of the Supreme Court, *In re* K.B. Ratanji, XXIII Natal Law Reports 41 (January 28, 1902).

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**Natal Supreme Court**

Gandhi started a trust with the gifts he received. In his autobiography he indicates it was a trust for the benefit of the community. Mohandas K. Gandhi, *An Autobiography: My Experiments in Truth* (Boston: Beacon Press, 1957), p. 221. The trust instrument, however, dedicates the use of the trust to the Natal Indian Congress. “Letter to Parsee Rustomjee”, October 18, 1901, *CWMG* 3, p. 208 (1960 edition). The list of items Gandhi turns over to the trust (*see* “Letter to Parsee Rustomjee”) differs somewhat from the gifts the Natal Advertiser describes Gandhi as receiving. “Mr. Gandhi’s Departure: Last Night’s Farewell”, *The Natal Advertiser*, October 16, 1901. Parsee Rustomjee was not pleased with Gandhi’s decision to return the gifts. Letter from Parsee Rustomjee to M.K. Gandhi, October 19, 1901, Serial Number 32371, Sabarmati Ashram, Gandhi Smarak Sangrahalaya, Ahmedabad.

**Chapter Eleven**

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**to South Africa**

Mohandas K. Gandhi, *An Autobiography: My Experiments with Truth* (Boston: Beacon Press, 1957), pp. 250-251.

**practicing in Bombay**

K.M. Munshi, *Bombay High Court: Half a Century of Reminiscences* (Bombay: Bharatiya Vidya Bhavan, 1963).

**Indian advocate**

Maureen Swan, *Gandhi: The South African Experience* (Johannesburg: Ravan Press, 1985), p. 90.

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**two or three months**

Mahatma Gandhi, *CWMG* 3, p. 227 (1960 edition). Some believe that Gandhi only became ill after arriving in India. It is clear that this is not the case and that his condition existed in Natal. *See* Mahatma Gandhi, *CWMG* 3, p. 259 (1960 edition). *See also* Mohandas K. Gandhi, *An Autobiography: My Experiments with Truth* (Boston: Beacon Press, 1957), p. 269; Gandhi states that in Durban he suffered from some unspecified “debility” and from “rheumatic inflammation.” In this same section of the *Autobiography* Gandhi seems to contradict his contemporaneous statements when he says that he got well after being treated by Dr. Mehta in Durban and that he did not become ill again before leaving Natal for India.

**in the Colonies**

Mohandas K. Gandhi, *An Autobiography: My Experiments with Truth* (Boston: Beacon Press, 1957), pp. 222-223.

**for the moment**

Mohandas K. Gandhi, *An Autobiography: My Experiments with Truth* (Boston: Beacon Press, 1957), p. 228.

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**took his seat**

Mohandas K. Gandhi, *An Autobiography: My Experiments with Truth* (Boston: Beacon Press, 1957), p. 228.

**belonged to scavengers**

Mohandas K. Gandhi, *An Autobiography: My Experiments with Truth* (Boston: Beacon Press, 1957), pp. 222-224.

**without complaint**

Mohandas K. Gandhi, *An Autobiography: My Experiments with Truth* (Boston: Beacon Press, 1957), pp. 225-227.

**hatred by love**

Mohandas K. Gandhi, “Speech at Calcutta Meeting”, January 19, 1902, *CWMG* 3, p. 216 (1960 edition).

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**for the public good**

Mohandas K. Gandhi, *An Autobiography: My Experiments with Truth* (Boston: Beacon Press, 1957), p. 231.

**the nationalist cause**

Mohandas K. Gandhi, *An Autobiography: My Experiments with Truth* (Boston: Beacon Press, 1957), p. 232.

**living with Gokhale**

Mohandas K. Gandhi, *An Autobiography: My Experiments with Truth* (Boston: Beacon Press, 1957), p. 231.

**in early 1902**

Mohandas K. Gandhi, *An Autobiography: My Experiments with Truth* (Boston: Beacon Press, 1957), pp. 237-243.

**legal studies in London**

Mohandas K. Gandhi, “Letter to Lakshmidas Gandhi”, about April 20, 1907, 6 *CWMG*, p. 430 (1961 edition).

**a decent typewriter**

“Letter to G. K. Gokhale”, March 4, 1902*, CWMG* 3, p. 228 (1960 edition).

**state of Gujarat**

Mohandas K. Gandhi, *An Autobiography: My Experiments with Truth* (Boston: Beacon Press, 1957), p. 243.

**Camrooden and Company**

Maureen Swan, *Gandhi: The South African Experience* (Johannesburg: Ravan Press, 1985), p. 80.

**which I need badly**

At the time Gandhi wrote, Abdul Kadir was also the president of the Natal Indian Congress. “Letter to Abdulkadar”, May 7, 1902, *CWMG* 3, p. 246 (1960 edition).

**so bad as it is**

“Letter to Nazar and Khan”, June 3, 1902*, CWMG* 3, p. 255 (1960 edition).

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**had improved sufficiently**

“Letter to Mehta”, prior to June 30, 1902*, CWMG* 3, p. 259 (1960 edition).

**there to assist you**

Mohandas K, Gandhi, *An Autobiography: My Experiments with Truth* (Boston: Beacon Press, 1957), p. 243.

**“gained some confidence”**

Mohandas K, Gandhi, *An Autobiography: My Experiments with Truth* (Boston: Beacon Press, 1957), pp. 243-244.

**settle in Bombay**

Mohandas K, Gandhi, *An Autobiography: My Experiments with Truth* (Boston: Beacon Press, 1957), p. 245.

**buried in Kathiawad**

Mohandas K, Gandhi, *An Autobiography: My Experiments with Truth* (Boston: Beacon Press, 1957), p. 245.

**shop in Bombay**

Mohandas K, Gandhi, *An Autobiography: My Experiments with Truth* (Boston: Beacon Press, 1957), p. 245. This was a concern about moving to Bombay that Gandhi had also expressed earlier in the year. Mohandas K, Gandhi, “Letter to Parsee Rustomjee”, March 1, 1902, *CWMG* 3, p. 226 at page 227.

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**excess of 3000 rupees**

Mohandas K. Gandhi, “Letter to G.K. Gokhale”, August 1, 1902, *CWMG* 3, p. 260 (1960 edition).

**“a year’s trial”**

Mohandas K. Gandhi, “Letter to G.K. Gokhale”, August 1, 1902, *CWMG* 3, p. 260 (1960 edition).

**in High Court**

The British had established High Courts in Mumbai, Kolkata, and Madras in 1862. J.S. Gandhi, *Lawyers and Touts: A Study in the Sociology of the Legal Profession* (Hindustan Publishing Corp.: Delhi, 1982), p. 30. According to J.S. Gandhi, the “unification of the legal system”, of which the establishment of the High Courts was a part, “triggered the onset of the wide-spread professional ethos and legal culture throughout the legal community. Indian lawyers could then practise (sic) side by side with their British counterparts and imbibe from them such norms of professional conduct and practice as the latter brought with themselves from the British legal system.” J. S. Gandhi, id., at 30.

**straight from the sea**

“I observed that I was not the only one to enjoy this pleasure. It seemed to be the fashion and therefore nothing to be ashamed of.” Mohandas K, Gandhi, *An Autobiography: My Experiments with Truth* (Boston: Beacon Press, 1957), p. 249.

**send him clients**

Mohandas K. Gandhi, “Letter to Devchand Parekh”, August 6, 1902, *CWMG* 3, p. 261 (1960 edition).

**case before the High Court**

Mohandas K, Gandhi, *An Autobiography: My Experiments with Truth* (Boston: Beacon Press, 1957), p. 249.

**appear before the High Court**

Mohandas K, Gandhi, *An Autobiography: My Experiments with Truth* (Boston: Beacon Press, 1957), p. 249.

**cases from them**

“Letter to Devchand Parekh”, August 6, 1902, *CWMG* 3, p. 261 (1960 edition). “The solicitors who were preponderantly British at that time preferred to take business to their countrymen rather than to the Indian barristers.” J.S. Gandhi, *Lawyers and Touts: The Sociology of Legal Profession* (Hindustan Publishing Corp.: Delhi, 1982), p. 31.

**impose[d] on him**

“Letter to Devchand Parekh”, August 6, 1902, *CWMG* 3, p. 261 (1960 edition).

**work his way**

Mohandas K, Gandhi, *An Autobiography: My Experiments with Truth* (Boston: Beacon Press, 1957), p. 249.

**barrister friend**

Gandhi had a professional and a personal relationship with Shukla, whom, on more than one occasion, he asked to look in on his family. *See, e.g.,* “Letter to D.B. Shukla”, January 17, 1899, *CWMG* 3, p. 50 (1960 edition); “Letter to D.B. Shukla”, January 25, 1902, *CWMG* 3, p. 218 (1960 edition). He also called upon Shukla for legal advice. Letter to D.B. Shuka, Serial Number 23944 (undated). Sabarmati Ashram, Gandhi Smarak Sangrahalaya,, Ahmedabad.

**meet his expenses**

Mohandas K. Gandhi, “Letter to D.B. Shukla”, November 3, 1902, *CWMG* 3, p. 262 (1960 edition).

**about the future**

Mohandas K. Gandhi, “Letter to D.B. Shukla,” August 1, 1902, *CWMG* 3, p. 262 (1960 edition).

**grow and prosper**

Mohandas K, Gandhi, *An Autobiography: My Experiments with Truth* (Boston: Beacon Press, 1957), p. 249.

**should need [him]**

Mohandas K, Gandhi, *An Autobiography: My Experiments with Truth* (Boston: Beacon Press, 1957), p. 219.

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**to the promise**

Mohandas K. Gandhi, “Letter to Khan and Nazar”, March 31, 1902, *CWMG* 3, p. 236 (1960 edition).

**the near future**

Mohandas K. Gandhi, “Letter to Khan and Nazar”, March 31, 1902, *CWMG* 3, p. 236 (1960 edition).

**finally settling down**

Mohandas K, Gandhi, *An Autobiography: My Experiments with Truth* (Boston: Beacon Press, 1957), p. 250.

**South Africa would require**

Mohandas K. Gandhi, “Letter to D.B. Shukla”, November 3, 1902, *CWMG* 3, p. 262 (1960 edition).

**South Africa was imminent**

Maureen Swan explains that Gandhi saw this as an opportunity to redeem his failure to prevent the Natal anti-Indian legislation. If Britain could be convinced to discard the Boer anti-Indian legislation in the Transvaal, then the anti-Indian legislation in Natal simply could not stand. Maureen Swan, *Gandhi: The South African Experience* (Johannesburg: Ravan Press, 1985), pp. 92-93.

**in the pressure here**

Mohandas K. Gandhi, “Letter to D.B. Shukla”, November 8, 1902, *CWMG* 3, p. 263 (1960 edition).

**would stay behind**

Mohandas K. Gandhi, *An Autobiography: My Experiments with Truth* (Boston: Beacon Press, 1957), p. 250.

**looking after them**

Mohandas K. Gandhi, “Letter to D.B. Shukla”, November 8, 1902, *CWMG* 3, p. 263 (1960 edition).

**a year or so**

Mohandas K. Gandhi, *An Autobiography: My Experiments with Truth* (Boston: Beacon Press, 1957), p. 250.

**Chapter Twelve**

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**April 5, 1895**

As quoted in Bala Pillay, *British Indians in the Transvaal: Trade, Politics and Imperial Relations, 1885-1906* (London: Longman, 1976) at pages 46-47.

**May 18, 1895**

“A Band of Vegetarian Missionaries”, May 18, 1895, CWMG I, p. 222 (1969 edition).

**sometimes also known**

“In the 18th century, the Afrikaans word, *Boers* (farmers), referred to white farmers, but in the 19th century it came to be used for Afrikaners in general, for the white inhabitants of the Voortrekker Republics, or for those who fought on the republican side in the South African War.”

 “The term came to have derogatory connotations when used by non-Afrikaners. When used by English-speakers it suggested backwardness and lack of culture, and many blacks. used it for any white person associated with racism and apartheid.” Saunders, et al., *Historical Dictionary of South Africa* (Lanham and London: Scarecrow Press, 2000), p. 39.

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**began to mature**

“During the nineteenth and twentieth centuries South Africa became a primary focus of British imperialists because of its extraordinary mineral deposits. Gold, diamonds, platinum and coal are its four most important mineral deposits. The Witwatersrand gold deposits are the richest in the world.” Roger Beck, *The History of South Africa* (Westport and London: Greenwood Press, 2000), p. 5.

**to buy farms**

Frank Welsh, *A History of South Africa* (London: Harper Collins, 2000), pp. 344-345.

**work were complete**

Chinese laborers were employed on the basis of three-year contracts. Until the practice of renewal was halted in November of 1906, these contracts were renewable for an additional three years. The number of Chinese laborers in the Transvaal peaked in January, 1907 at 53, 828. Peter Richardson, *Chinese Mine Labour in the Transvaal* (London: Macmillan, 1982), p. 166.

**search of profit**

“Indian traders had heard that they could trade with the Boers....Several Indian traders therefore proceeded to the Transvaal...and opened shops there.....[T]hey earned large profits. The expectations of the Indian traders were fulfilled and they carried on considerable trade with the Boers and Negroes as customers.” M.K. Gandhi, *Satyagraha in South Africa* (Stanford: Academic Reprints, 1954), p. 25.

**in the Transvaal**

Bala Pillay, *British Indians in the Transvaal: Trade, Politics and Imperial Relations, 1885-1906* (London: Longman, 1976), p. 1.

**the Indian community**

Maureen Swan, *Gandhi: The South African Experience* (Johannesburg: Ravan Press,1985), p. 83.

**uitlanders**

Uitlanders were English-speaking whites who had populated the Witwatersrand when gold was discovered there. Christopher Saunders and Nicholas Southey, *Historical Dictionary of South Africa* (Scarecrow Press: Lanham and London, 2000), p. 264.

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**disintegrate from within**

Roger Beck, *The History of South Africa* (Westport and London: Greenwood Press, 2000), p. 91.

**Republic in 1898**

Rodney Davenport and Christopher Saunders, *South Africa: A Modern History* (New York: St. Martin’s Press, 2000), p. 95.

**the political system**

Leonard Thompson, *A History of South Africa* (New Haven and London: Yale University Press, 1990), p. 145.

**the republic offered**

Roger Beck, *The History of South Africa* (Westport and London: Greenwood Press, 2000), p. 91.

**legislation after 1902**

Rodney Davenport and Christopher Saunders, *South Africa: A Modern History* (New York: St. Martin’s Press, 2000), p. 234.

**South African Republic Law 3 of 1885**

“Law respecting Coolies, Arabs, and other Asiatics (No. 3, 1885)”, Appendix A, British Sessional Papers, *Papers Relating to the Grievances of Her Majesty’s Indian Subjects in the South African Republic*, C-7911, page 438 (1895).

**involvement with it**

An excellent, and fuller, history of the Act can be found in Chapter One, “Law 3 of 1885", in Bala Pillay, *British Indians in the Transvaal: Trade, Politics and Imperial Relations, 1885-1906* (London: Longman, 1976).

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**other than natives….**

“Article XIV of the Convention of London, 1884", Appendix A, British Sessional Papers, *Papers Relating to the Grievances of Her Majesty’s Indian Subjects in the South African Republic*, C-7911, page 434 (1895).

**Indians citizenship rights**

“Letter of State Secretary to Lord Derby”, Enclosure in No 2 in Appendix A, British Sessional Papers, *Papers Relating to the Grievances of Her Majesty’s Indian Subjects in the South African Republic*, C-7911, page 435 (1895).

**Indian merchants**

January 28, 1885 letter from the British High Commissioner for South Africa, Sir Hercules Robinson, to the Secretary of State, quoted in British Sessional Papers, *Papers Relating to the Grievances of Her Majesty’s Indian Subjects in the South African Republic*, C-7911 (1895), page 389.

**“a superior class”**

“Case to be submitted to the Arbitrator on behalf of Her Majesty’s Government”, British Sessional Papers, *Papers Relating to the Grievances of Her Majesty’s Indian Subjects in the South African Republic*, C-7911, page 389 (1895).

**of white merchants**

“Reasons of the Arbitrator for his Award”, British Sessional Papers, *Papers Relating to the Grievances of Her Majesty’s Indian Subjects in the South African Republic*, C-7911, page 400 (1895).

**wards and Locations**

“Law respecting Coolies, Arabs, and other Asiatics (No. 3, 1885)”, as amended, *Staats Courant,* No. 621, November 23, 1898. Emphasis supplied.

**original Middelburg location**

Bala Pillay, *British Indians in the Transvaal: Trade, Politics and Imperial Relations, 1885-1906* (London: Longman, 1976), p. 25.

**“*habitation”***

“Law respecting Coolies, Arabs, and other Asiatics (No. 3, 1885)”, as amended, Appendix A, British Sessional Papers, *Papers Relating to the Grievances of Her Majesty’s Indian Subjects in the South African Republic*, C-7911, page 440 (1895). Emphasis supplied.

**which was not**

*Ismail Sulieman & Co. vs. Landdrost of Middelburg*, II Reports of Cases Decided in the Supreme Court of the South African Republic (Transvaal) 244 (August 14, 1888) at 245-246.

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**an uninhabited locality…..**

*Ismail Sulieman & Co. vs. Landdrost of Middelburg*, II Reports of Cases Decided in the Supreme Court of the South African Republic (Transvaal) 244 (August 14, 1888) at 246.

**in their favour**

*Ismail Sulieman & Co. vs. Landdrost of Middelburg*, II Reports of Cases Decided in the Supreme Court of the South African Republic (Transvaal) 244 (August 14, 1888) at 246.

**much attention**

Bala Pillay, *British Indians in the Transvaal: Trade, Politics and Imperial Rule, 1885-1906* (London: Longman, 1976), p. 25.

**to binding arbitration**

Arbitration is a process whereby the parties voluntarily submit themselves to the authority of a neutral third party who decides the case. Arbitration is binding when the parties agree that the arbitrator’s decision is final and cannot be appealed.

**Europeans for impartiality**

“Letter of Secretary of State Chamberlain to High Commissioner Robinson”, September 4, 1895, *Papers Relating to the Grievances of Her Majesty’s Indian Subjects in the South African Republic*, C-7911, page 432 (1895).

**British High Commissioner**

“Petition to Lord Ripon”, before May 5, 1895, *CWMG* 1, p. 210 at 202 (1969,edition). After the decision, Gandhi described de Villiers as having “a great bias against the Indians.” “Indians in the Transvaal”, *CWMG* 3, p. 68 at 70 (1960 edition).

**Malcolm W. Searle**

John S. Curlewis served as Searle’s junior. They were assisted by attorney Edward Rooth of the Pretoria firm of Rooth and Wessels.

**Johannesburg advocate**

Bala Pillay, *British Indians in the Transvaal: Trade, Politics and Imperial Relations, 1885-1906* (London: Longman, 1976), p. 36.

**Charles Leonard**

By virtue of his involvement with the National Union, Leonard was identified with the non-Afrikaner white uitlander community in the Transvaal. D.W. Kruger and C.J. Beyers (eds.), *Dictionary of South African Biography* (Tafelberg-Uitgewers, Ltd.: Cape Town, 1977), Volume III at page 507-508. “Report upon the Proceedings at the Arbitration held at Bloemfontein upon the Indian Traders’ Question”, “Enclosure in no. 4", March 23, 1895, *Papers Relating to the Grievances of Her Majesty’s Indian Subjects in the South African Republic*, C-7911, page 395 (1895).

**the state attorney**

He was assisted by his juniors, Jeppe and Coster. The SAR was also represented by Dr. Willem J. Leyds, the State Secretary, who was assisted by attorneys Nell and Lorenz. “Report upon the Proceedings at the Arbitration held at Bloemfontein upon the Indian Traders’ Question”, “Enclosure in no. 4", March 23, 1895, *Papers Relating to the Grievances of Her Majesty’s Indian Subjects in the South African Republic*, C-7911, page 395 (1895).

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**by the government**

“Explanation of the so-called Coolie Question now pending between Her Majesty’s Government and the Government of the South African Republic”, *Papers Relating to the Grievances of Her Majesty’s Indian Subjects in the South African Republic*, C-7911, page 393 (1895).

**the term “persons”**

“Explanation of the so-called Coolie Question now pending between Her Majesty’s Government and the Government of the South African Republic”, *Papers Relating to the Grievances of Her Majesty’s Indian Subjects in the South African Republic*, C-7911, page 392 (1895).

**out of business**

*See* Affidavit of Ibrahim Mahomed Patel, *Papers Relating to the Grievances of Her Majesty’s Indian Subjects in the South African Republic*, C-7911, page 417-8 (1895).

**the London Convention**

“Case to be submitted to the Arbitrator on behalf of Her Majesty’s Government”, British Sessional Papers, *Papers Relating to the Grievances of Her Majesty’s Indian Subjects in the South African Republic*, C-7911, page 391 (1895). The Indians themselves were keenly aware that their rights under the Convention were being violated. *See* “Petition to Indian National Congress”, August 22, 1898, *CWMG* 3, p. 14 (1960 edition).

**places of business**

“Case to be submitted to the Arbitrator on behalf of Her Majesty’s Government”, British Sessional Papers, *Papers Relating to the Grievances of Her Majesty’s Indian Subjects in the South African Republic*, C-7911, page 390 (1895).

**and 19**

“Report upon the Proceedings at the Arbitration held at Bloemfontein upon the Indian Traders Question”, British Sessional Papers, *Papers Relating to the Grievances of Her Majesty’s Indian Subjects in the South African Republic*, C-7911, page 395 (1895).

**April 2**

“Bloemfontein Award”, British Sessional Papers, *Papers Relating to the Grievances of Her Majesty’s Indian Subjects in the South African Republic*, C-7911, page 398 (1895). De Villers’ decision came in two parts: a rather short “award” in which he announced his conclusions and a lengthy statement of reasons supporting the “award.”

**interpretation of Article 14….**

”Reasons of the Arbitrator for his Award”, British Sessional Papers, *Papers Relating to the Grievances of Her Majesty’s Indian Subjects in the South African Republic*, C-7911, page 409 (1895).

**legally appointed tribunals**

“Bloemfontein Award”, British Sessional Papers, *Papers Relating to the Grievances of Her Majesty’s Indian Subjects in the South African Republic*, C-7911, page 412 (1895).

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**necessary decision thereon**

“Bloemfontein Award”, British Sessional Papers, *Papers Relating to the Grievances of Her Majesty’s Indian Subjects in the South African Republic*, C-7911, page 413 (1895).

**where they were**

“Indians in the Transvaal”, *CWMG* 3, p. 68 at 70 (1960 edition).

**brief petition**

Gandhi refers to it as a “memorial.” “Memorial to Agent, Pretoria”, April 16, 1895, *CWMG* 1, pp. 197-8 (1969 edition). Abdul Gani was a managing partner of MC Camroodeen and Company; Hajee Habib Hajee Dada appears to have been a managing partner in a firm owned by his brother, Hajee Mohamed Hajee Dada; and Tayob Haji Khan Mohamed managed a Transvaal branch of a firm owned by Abubakr Amod. (*See* Maureen Swan, *Gandhi: The South African Experience* (Johannesburg: Ravan Press,1985), p. 82. (*The Collected Works* uses Aboobaker; Maureen Swan uses Abubakr.) Tayob Haji Khan Mohamed would later serve as the plaintiff in a pivotal 1898 case testing the meaning of Law 3.

**reject the decision**

“Memorial to Agent, Pretoria,” April 16, 1895, *CWMG* 1, p. 197 at 198 (1969 edition).

**the British Government**

“Memorial to Agent, Pretoria,” April 16, 1895, *CWMG* 1, p. 197, fn. 1 (1969 edition).

**the Indians**

Maureen Swan, *Gandhi: The South African Experience* (Johannesburg: Ravan Press,1985), p. 66.

**to do so**

“Petition to Lord Ripon”, before May 5, 1895, *CWMG* 1, p. 201 at 202-3 (1969 edition).

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**“trade jealousy”**

“Petition to Lord Ripon”, before May 5, 1895, *CWMG* 1, p. 201 at 207 (1969 edition).

**is governed**

“Petition to Lord Ripon”, before May 5, 1895, *CWMG* 1, p. 201 at 208 (1969 edition).

**of the Kaffir**

“Petition to Lord Ripon”, before May 5, 1895, *CWMG* 1, p. 201 at 212 (1969 edition). “Kaffir” is a pejorative term for a native black person. Gandhi later repeats the odious comparison of Indians to native blacks in a petition to Lord Elgin, Viceroy and Governor-General of India; *see* “Petition to Lord Elgin”, *CWMG* 1, p. 219 at 220 (1969 edition).

**to the Kaffirs**

This sentiment is found in an 1899 petition from a European businessman to Secretary of State for the Colonies Joseph Chamberlain and is ascribed to Gandhi by the editors of the *Collected Works.* “Petition to Chamberlain”, prior to May 27, 1899, *CWMG* 3, p. 76 (1960 edition).

**the raw Zulus**

“Indians in the Transvaal”, May 17, 1899, *CWMG* 3, p. 68 at 69 (1960 edition). During his travels in India in the second half of 1896, Gandhi gave a speech in Madras in which he used much the same adjectival language, referring to the Natal government’s “policy of degrading the Indian to the level of a raw Kaffir....” “Speech at Meeting, Madras”, October 26, 1896, *CWMG* 2,p. 69 at 74 (1976 edition).

**indolence and nakedness**

“Speech at Public Meeting, Bombay”, September 26, 1896, *CWMG* 2,p. 50 at53 (1976 edition).

**Psge 154**

**from natives**

Maureen Swan, *Gandhi: The South African Experience* (Johannesburg: Ravan Press,1985), p. 83.

**“untouchables”**

*See* Judith M. Brown, *Gandhi, Prisoner of Hope* (New Haven and London: Yale University Press,1989), pp. 205, et seq., and Mohandas K. Gandhi, *An Autobiography: My Experiments with Truth* (Boston: Beacon Press, 1957), pp. 397, et seq.

**African-American civil rights**

Of nonviolence, King said "...Christ furnished the spirit and motivation, while Gandhi furnished the method." "An Experiment in Love", in James M. Washington (ed.), A Testament of Hope: The Essential Writings of Martin Luther King, Jr., (Harper & Row: San Francisco, 1986), p. 17.

**the decision was void**

“Letter from High Commissioner to Marquess of Ripon”, June 4, 1895, British Sessional Papers, *Papers Relating to the Grievances of Her Majesty’s Indian Subjects in the South African Republic*, C-7911, page 418 (1895); “Letter from High Commissioner to State President”, June 24, 1895, British Sessional Papers, *Papers Relating to the Grievances of Her Majesty’s Indian Subjects in the South African Republic*, C-7911, page 430 (1895).

**transportation by Indians**

Bala Pillay, *British Indians in the Transvaal: Trade, Politics and Imperial Relations, 1885-1906* (London: Longman, 1976), pp. 59, et seq.

**targeted Indians**

Law 30 of 1896. *See* J.S. Marais, *The Fall of Kruger’s Republic* (Oxford at the Clarendon Press: London, pp. 127-9.

**the British government**

“Letter to the British Agent”, May 18, 1897, *CWMG* 1, p. 254 (1969 edition).

**Pretoria**

“Letter to the British Agent”, May 18, 1897, *CWMG* 2,p. 254 (1976 edition).

**assets totaling £375,000**

“Letter to the British Agent”, July 21, 1899, *CWMG* 3, p. 86 (1960 edition). This figure does not include the £400,000 worth of assets held by the Transvaal’s Indian hawkers.

 Gandhi had earlier claimed that the assets of the Transvaal Indian traders amounted to £100,000. “Letter to *The Englishman*”, November 30, 1896, *CWMG* 2,p. 116 at 117 (1976 edition).

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**paramountcy in South Africa**

Bala Pillay, *British Indians in the Transvaal: Trade, Politics and imperial Relations, 1885-1906* (London: Longman, 1976), pp. 63-64.

**on their own**

“Letter to the British Agent”, February 28, 1898, *CWMG* 3, p. 1 (1960 edition).

**a number of delays**

Maureen Swan attributes the delays to a variety of factors, including Gandhi’s journey to India, “the Transvaal government’s slowness to implement Law 3 [,] as well as the [Indian National] Congress’s preoccupation with events in Natal....The Transvaal State Attorney’s office was slow to make its side of the preliminary arrangements for the case and the question dragged on into 1898. The Congress does not appear to have pressed the State Attorney to hurry....” Maureen Swan, *Gandhi: The South African Experience* (Johannesburg: Ravan Press,1985), p. 88.

**in the Republic**

“Notes on the Test Case”, *CWMG* 3, p. 10 (1960 edition).

**Transvaal assets**

*See* Chapter Four.

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**James Weston Leonard**

He was assisted by advocates John S. Curlewis and H.B. Sauer, and attorney Edward Rooth. *Tayob Hajee Khan Mohamed v. The Government of the South African Republic (F. W. Reitz, N.O.)*, V Reports of Cases Decided in the High Court of the South African Republic 168 (1898). Leonard would again represent Indian interests in the Aboobaker heirs case in 1906. *See* “Legalized Robbery”, *CWMG* 5, p. 231 (1961 edition). Curlewis had represented the British position (along with Malcom Searle) in the arbitration proceedings on the interpretation of Law 3. Rooth had assisted them as an attorney.

 The Government was represented by advocates Wessels, Esselen, Coster and Hummel and attorney Uekermann.

**the Turkish Empire**

“Law respecting Coolies, Arabs and other Asiatics”, Enclosure 2 in No. 6 in Appendix A”, British Sessional Papers, *Papers Relating to the Grievances of Her Majesty’s Indian Subjects in the South African Republic*, C-7911, page 441 (1895).

**in the law itself**

“Notes on the Test Case”, [before] April 4, 1898, *CWMG* 3, p. 8 (1960 edition).

**defined by scholars**

“Notes on the Test Case”, [before] April 4, 1898, *CWMG* 3, p. 8 (1960 edition); “Notes on the Test Case”, April 4, 1898, *CWMG* 3, p. 10 (1960 edition).

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**a greatly weakened position**

For many years the Volksraad, the Republic’s legislature, had passed legislation (“*besluiten”)* in an informal manner in violation of the procedures set out in the Republic’s constitution, (Martin Chanock, *The Making of South African Legal Culture, 1902-1936: Fear, Favour and Prejudice* (Cambridge: Cambridge University Press, 2001), p. 37) the constitution being considered merely a law of no special significance by the legislature. So highly esteemed was the legislature, relative to the constitution, that the President of the Republic, Paul Kruger, “was convinced that in the seed-time of the Republic no one had even contemplated giving the court the “testing right” over legislation.” H. R. Hahlo and Ellison Kahn, *The Union of South Africa: The Development of its Laws and Constitution* (Stevens & Sons, Ltd.: London,1960), p. 107. To make this clear Kruger successfully encouraged his legislature to enact Law 4 of 1890 “raising the legal force of a besluit published by the President in the Staatscourant above dispute.” H.R. Hahlo and Ellison Kahn, *The Union of South Africa*: *The Development of its Laws and Constitution* (Stevens & Sons, Ltd.: London,1960), p. 108.

 In 1897, in the case of in *Brown v. Leyds N.O* (IV Official Reports of the High Court of the South African Republic 17 (1897)), the High Court took up the issue of whether it could claim for itself the right to test the constitutionality of legislative acts and thus to declare besluiten unconstitutional. In his opinion, the Chief Justice, John Gilbert Kotze, examined the nature of constitutions in general and found that Alexander Hamilton’s view that a “Constitution is, in fact, and must be regarded by the Judges, as a fundamental law” was inescapably correct. IV Official Reports of the High Court of the South African Republic 29 (1897). An examination of the text of the Republic’s Constitution showed that it permitted the legislature to act by means of laws only and not by means of mere resolutions. IV Official Reports of the High Court of the South African Republic 32-33 (1897). Accordingly, Kotze declared that the “position that a Volksraad resolution has the force of law...is untenable.” (IV Official Reports of the High Court of the South African Republic 34 (1897). Kotze was joined in his view that the Court could exercise the testing right by Justice H.A. Ameshoff. The third justice, George Morice, evaded the question.)

 The result in *Brown*, say Professors Hahlo and Kahn, was the then controversial holding that

[t]he sovereign power was vested in the people, not in the Volksraad, and the [constitution] made fundamental law against which the judiciary could test legislation – both as to form and content. *Besluiten* were invalid as to form, and Law No. 4 of 1890 to the extent to which it stated contrariwise was itself unconstitutional and invalid. (H.R. Hahlo and Ellison Kahn, *The Union of South Africa*: *The Development of its Laws and Constitution* (Stevens & Sons, Ltd.: London,1960), p. 108. The *Brown* case is more particularly described and analyzed in J.S. Marais, *The Fall of Kruger’s Republic* (Oxford at the Clarendon Press: London), pp. 141-143.)

 The President reacted by having the Volksraad enact legislation “requiring the courts to respect *besluiten”* and declaring that the Court

had not and never had had the testing right; that in future a judge before taking office would have to swear not to assume this power, and that the President could require the present judges to state that they would not arrogate to themselves such power and dismiss one giving a negative or insufficient answer....

H.R. Hahlo and Ellison Kahn, *The Union of South Africa*: *The Development of its Laws and Constitution* (Stevens & Sons, Ltd.: London, 1960), p. 109.

 Professor Martin Chanock explains that the motivation for depriving the Court of the power to declare acts of the other branches unconstitutional was racial in origin. The Republic’s European politicians held the view that

Africans only understood the implacable authority of chiefs, and that more democratic forms of government were inappropriate...It was important to close down the discursive sites within which dissent about law could take place, because this was inherently linked to dissent about the legitimacy of authority.

Martin Chanock, *The Making of South African Legal Culture, 1902-1936: Fear, Favour and Prejudice* (Cambridge: Cambridge University Press, 2001), pp. 37-38. Professor Chanock also says at page 38:

The belief in speaking with one voice and the anxiety about what subjects might make of public judicial dissent can also be found on the imperial level. In 1901 there were discussions as to whether the practice of allowing dissenting judgments on the Privy Council should be altered. The Lord Chancellor, Lord Selbourne, feared that dissents might tend to create ‘great discontents in India and the Colonies’. He was ‘activated by the difficulty of satisfying public opinion in India rather than in this country...the dissentient judge’s opinion might be made the subject of great discussion in India’. This might be permissible in England, but not among ‘comparatively half-educated Hindoo lawyers’.

**American constitutional experience**

IV Official Reports of the High Court of the South African Republic 29 et seq. (1897).

**rule legislation unconstitutional**

*Marbury v. Madison*, 1 Cranch 137, 2 L. Ed. 60 (1803).

**February 16, 1898**

H.R. Hahlo and Ellison Kahn, *The Union of South Africa*: *The Development of its Laws and Constitution* (Stevens & Sons, Ltd.: London,1960), p. 109.

**rejected Gandhi’s advice**

“Notes on the Test Case”, prior to April 4, 1898, *CWMG* 3, p. 8 (1960 edition); “Notes on the Test Case”, April 4, 1898, *CWMG* 3, p. 10 (1960 edition).

**but was unavailing**

Leonard pointed to two resolutions of the Volksraad that had been enacted subsequent to Law 3 and which themselves drew a clear distinction between places of residence and places of business. If Leonard could show that *the legislature*, by its own actions, drew this distinction, then the Court could rule for the plaintiff without contradicting the Volksraad. John Wessels, the counsel for the government, made a weak argument that one of the resolutions, rather than making the distinction, actually collapsed it. This was all Justice Johannes Esser needed; in voting for the defendant he openly bowed to a “legislative interpretation of [the] law....” (*Tayob Hajee Khan Mohamed v. The Government of* *the South African Republic (F. W. Reitz, N.O.),* V Reports of the Cases Decided in the High Court of the South African Republic 168 (1898) at 176.)

 Justice George T. Morice, who also voted in favor of the defendant, did so in blatantly dishonest and unethical fashion. The text of Law 3 specifically stated that the Government may point out locations for *habitation*. When Morice set forth the text of Law 3 in his opinion, he simply – and conveniently – deleted this section. Morice thus unashamedly relieved himself of the necessity of deciding the central issue in the case. The only issue for Morice was whether the 1888 *Sulieman* decision was binding. Morice found that it was. Morice had a peculiar familiarity with the *Suleiman* decision, inasmuch as he had represented the Indian position in that very case. While Morice admitted in his opinion that he had represented the Indian side in *Suleiman,* (*Tayob Hajee Khan Mohamed v. The Government of* *the South African Republic (F. W. Reitz, N.O.),* V Reports of the Cases Decided in the High Court of the South African Republic 168 (1898) at 171), he apparently saw no conflict that would necessitate his recusing himself from the proceedings.

 The third and final vote belonged to Justice Eduard Jorissen. He accepted Leonard’s argument and voted for the plaintiff, but, with the two-man majority against him, it was to no avail.

**in October, 1899**

Bala Pillay, *British Indians in the Transvaal: Trade, Politics and Imperial Relations, 1885-1906* (London: Longman, 1976), p. 77. For example, the Government issued a notice in November of 1898 ordering the Indians into locations as of July 1, 1899. The Government itself, however, was unable to complete site preparation by this date. *See* “Interview to *The Star*”, prior to July 27, 1899, *CWMG* 3, p. 90 (1960 edition).

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**person of colour…..**

*Tayob Hajee Khan Mohamed v. The Government of* *the South African Republic (F. W. Reitz, N.O.),* V Reports of the Cases Decided in the High Court of the South African Republic 168 (1898) at 178.

**Chapter Thirteen**

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**Transvaal Legislative Council**

“Transvaal Legislative Council: Asiatic Bazaar Question”, *Indian Opinion*, December 31, 1903.

**statute…Mohandas K. Gandhi**

“Dada Osman’s Appeal”, November 4, 1905, *CWMG* 4, p. 123 (1960 edition).

**no clear lines**

Of this time period, Donald Denoon has written that there is “an unusually great temptation to interpret Transvaal affairs in terms of personalities.” David Denoon, *The Grand Illusion* (London: Longman, 1973), p. xiii.

**by the government**

Gandhi’s replacement was another Indian barrister, George Godfrey. *Mohandas K. Gandhi, An Autobiography: My Experiments with Truth* (Boston: Beacon Press, 1957), p. 260. Little is known about Godfrey.

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**post-war administration**

“Address to Chamberlain”, January 7, 1903, *CWMG,* 3,p*.* 271 (1960 edition).

**even the Afrikaners**

“Address to Chamberlain”, January 7, 1903, *CWMG 3, p.* 271 (1960 edition). Enforcement of anti-Indian legislation by the South African Republic was oftentimes lax. “These special laws were not, however, enforced in their full strictness by the Executive Government of the Republic.” Assistant Colonial Secretary W.H. Moor, quoted in “Asiatics in the Transvaal”, August 13, 1903, *Indian Opinion*.

**would be solved**

Locations were generally “as far away from business centres of the towns as they could possibly be.” “Notes”, November 16, 1903, *CWMG* 4, p*.* 48 (1960 edition).

**Law 3**

“Law Respecting Coolies, Arabs, and Other Asiatics (No. 3, 1884)”, as amended, *Staats Courant*, No. 621, November 23, 1898.

**South African Republic’s High Court**

*Tayob Hajee Khan Mohamed v. The Government of the South African Republic (F.W. Reitz, N.O.),* V Reports of Cases Decided in the High Court of the South African Republic 168 (1898).

**enforcement of the law**

“During the fifteen year period from 1884 - 1899 the Republic had a number of plans for the Indians, but it did not succeed in executing much of the legislation, partly because of Britain’s interest in events. Some of the Republic’s officials were not as determined as members of the Volksraad would have liked them to be. Inefficiency and inaction also accounted for delay; and in some instances the British ministers found it very difficult to resist the force of the British Agent’s arguments. As a legacy for the future, however, Britain’s attitude on the Indian question before the Anglo-Boer War raised hopes of better days to come under Imperial rule.” B. Pillay, *British Indians in the Transvaal* (London: Longman, 1976), p. 77.

**“unrepealed”**

“Address to Chamberlain”, January 7, 1903, *CWMG 3,* p. 271 (1960 edition).

**“the Bazaar Notice”**

“Government Notice: No, 356 of 1903", April 8, 1903, *CWMG 3,* p. 292 (1960 edition). Bala Pillay points out that the “Transvaal was not ready to introduce legislation to set its bazaar plan in motion so it chose the unusual course of serving notice of its intention to take steps to set up bazaars.” Bala Pillay, *British Indians in the Transvaal*, (London: Longman, 1976), p. 142.

**government-created ghettoes**

Even before the issuance of the bazaar notice, the British position was clear, with the acting burgomaster of Johannesburg announcing to the Indian community in November of 1900 that the Republic’s laws would be enforced. B. Pillay, *British Indians in the Transvaal* (London: Longman, 1976), p. 89. The formulation in the immediate post-war period of the new government’s policies, with a strong anti-Indian flavor, provides another example. Pillay, *id.*, 91, et seq.

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**lost in Natal**

*See* Maureen Swan, *Gandhi: The South African Experience* (Johannesburg: Ravan Press, 1985).

**more definite news**

“Letter to Chhanganlal Gandhi”, February 5, 1903, *CWMG 3*, p. 278 (1960 edition).

**longer than March**

“Letter to G.K. Gokhale”, *CWMG 3,* p. 282 (1960 edition).

**expected to lead**

Mohandas K. Gandhi, *An Autobiography: The Story of My Experiments with Truth* (Boston: Beacon Press, 1957), p. 261.

**he originally expected**

“Letter to Gokhale”, February 23, 1903, *CWMG* 4, p. 282 (1960 edition).

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**in the Transvaal**

G.W.F. Dold and C.P. Joubert, *The Union of South Africa: The Development of its Laws and Constitution* (Stevens & Sons, Ltd.: London,1955), p. 191.

**within the profession**

*See*, M. Chanock, *The Making of South African Legal Culture, 1902 - 1936: Fear, Favour and Prejudice* (Cambridge: Cambridge University Press, 2001), pp. 222 -224. Advocates were perceived as belonging to “the higher branch of the profession.” “A Law Reformer”, July 1, 1907, *The Transvaal Leader*.

**or as attorneys**

Section 14, Transvaal Proclamation No. 14 of 1902.

**have briefed me**

Mohandas K. Gandhi, *An Autobiography: The Story of My Experiments with Truth* (Boston: Beacon Press, 1957), p. 365.

**In a petition**

“The Petition of Mohandas Karamchand Gandhi of Johannesburg in this Colony[,] Barrister at Law”, on file with the Incorporated Law Society of the Transvaal.

**admit him to practice**

Mohandas K. Gandhi, *An Autobiography: The Story of My Experiments with Truth* (Boston: Beacon Press, 1957), p. 261.

**as an attorney**

Order of Court, Supreme Court of the Transvaal, *Ex Parte Gandhi*, April 14, 1903; on file with the Incorporated Law Society of the Transvaal.

**of the Transvaal bar**

The Incorporated Law Society was the successor of the Order of Attorneys and was given the power to police the profession by the new government. *See* H.R. Hahlo and E. Kahn, *The Union of South Africa: The Development of its Laws and Constitution* (Stevens & Sons, Ltd.: London,1960), p. 240.

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**done in the matter**

Council of the Incorporated Law Society of the Transvaal, minutes of the meeting of April 14, 1903.

 The Law Society would later actively oppose the admission of blacks. *See* *Mangena v. Law Society*, 1910 TPD 649 and M. Chanock, *The Making of South African Legal Culture, 1902 - 1936: Fear, Favour and Prejudice* (Cambridge: Cambridge University Press, 2001), pp. 226 - 227. Professor Chanock notes that Z.K. Matthews, a black holding an LL.B. degree in 1930 declined to pursue a barrister’s occupation for fear that there were insufficient black attorneys to brief him, a fear not unlike Gandhi’s. Chanock at 227.

 **protesting the tax**

“Meeting of Legal Practitioners: This Afternoon, A Strong Protest Against the Annual Tax”, *The Johannesburg Star*, April 29, 1903.

**for this purpose**

“Society of Law Students: Meeting on Saturday”, *The Johannesburg Star*, August 10, 1903.

**issues of the day**

“The Banns”, *The Transvaal Leader*, September 5, 1906.

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**in the end, passed**

“Debating Society: An Indian Gentleman Admitted”, *The Rand Daily Mail*, July 7, 1903. Little is known about the Society. *See*, “Potchefstroom Notes – Debating Society”, *The Transvaal Leader*, July 26, 2004.

**Johannesburg’s theosophist circles**

Mohandas K. Gandhi, *An Autobiography: The Story of My Experiments with Truth* (Boston: Beacon Press, 1957), p. 261.

**25-26 Court Chambers**

*See* “Letter to Dadabhai Naoroji”, *CWMG* 3, p. 311 (1960 edition).

**near the courts**

Eric Itzkin, *Gandhi’s Johannesburg* (Witwatersrand University Press: Johannesburg, 2000), p. 13.

**the town’s legal center**

Mohandas K. Gandhi, *An Autobiography: The Story of My Experiments with Truth* (Boston: Beacon Press, 1957), p. 261.

**to white discrimination**

Even at this early date – the year before Gandhi’s mention of civil disobedience in Indian Opinion and three years before the discussion of civil disobedience at the Empire Theatre meeting – the conventional and the political aspects of Gandhi’s practice were not always neatly separable. This was so, in large part, because discrimination against Indians was omnipresent, even in Gandhi’s property practice. *See, for example,* Opinion Letter from Gregorowski to Gandhi, Serial Number 4069 (July 24, 1903); Letter from Dumat and Davis to Gandhi, Serial Number 4079 (September 2, 1903); and Letter from Dumat and Davis to Gandhi, Serial Number 4082 (September 5, 1903). Sabarmati Ashram, Gandhi Smarak Sangrahalaya,, Ahmedabad.

**bureaucratic red tape**

“Petition to Transvaal Governor”, June 8, 1903, *CWMG* 3, p. 322 (1960 edition).

**of their duties**

“Last Year’s Stock-Taking”, January 7, 1904, *CWMG* 4, p. 96 (1960 edition).

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**the tune of thousands**

Mohandas K. Gandhi, *An Autobiography: The Story of My Experiments with Truth* (Boston: Beacon Press, 1957), p. 256.

 **“new engines of torture”**

“Indian Position in the New Colonies”, March 16, 1903, *CWMG* 3, p. 283 (1960 edition). “...a gang of permit agents grew up, and the cost of obtaining permission to re-enter the Transvaal increased from £3, which the Boer Government had charged, to sums ranging from £15 to £30, besides which delays of two, three, and six months or even a year often occurred.” “British Indians: Deputation to Lord Selborne”, November 30, 1905, *Rand Daily Mail.*

**an honest public servant**

Mohandas K. Gandhi, *An Autobiography: The Story of My Experiments with Truth* (Boston: Beacon Press, 1957), pp. 274-5.

**of taking bribes**

Jackson was arrested in September of 1903; Walton was arrested at about the same time but had to be extradited from Beira. *See* “Asiatic Permits”, *The Johannesburg Star*, September 22, 1903. It was the function of the Asiatic Department “to say who shall receive the permits to enter the colony.” “Address to Chamberlain”, January 7, 1903, *CWMG* 3, p. 272 (1960 edition).

**to the Transvaal**

“Asiatic Permits”, *Johannesburg Star,* September 22, 1903; Mohandas K. Gandhi, *An Autobiography: The Story of My Experiments with Truth* (Boston: Beacon Press, 1957), pp. 274-5.

**issuance of permits**

“Asiatic Permits Case”, *The Johannesburg Star*, November 19, 1903.

**permit applicants**

One of the defendants testified that he had sold a horse to an Indian permit applicant. It just so happened that the amounts of the payments made by the Indian permit applicant coincided with the amounts the same applicant said he was required to pay the defendant in bribes. “Asiatic Permit Case”, *The Johannesburg Star*, November 25, 1903.

**transferred to others**

“Permits for Asiatics”, *Johannesburg Star*, September 26, 1903; “A Cause for Thankfulness”, October 1, 1903, *CWMG* 3, p. 464 (1960 edition); “Representation to Lord Elgin: Under the British Regime”, October 31, 1906, *CWMG,* p. 45 (December, 1961 edition).

**from their employment**

Mohandas K. Gandhi, *An Autobiography: The Story of My Experiments with Truth* (Boston: Beacon Press, 1957), pp. 274-5. Gandhi later wrote: The defendants “were discharged by an indulgent jury but the Government was so satisfied of their guilt, that both these officials were discharged..” Mohandas K. Gandhi, “Letter to Dadabhai Naoroji”, August 6, 1906, *CWMG* 5, p. 383 (June, 1961 edition).

**became comparatively clean….**

Mohandas K. Gandhi, *An Autobiography: The Story of My Experiments with Truth* (Boston: Beacon Press, 1957), pp. 274-5.

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**the Indian purchasers**

For example, in the Edendale Estate case in which neither the sellers nor the Indian buyers knew that Law 3 would be enforced, he asked, “Whether the Purchasers can compel the Sellers to put up again at auction the property in question and receive the benefit of any enhancement in price that might be offered at the sale”? “Brief for Counsel’s Opinion”, July 21, 1903, *CWMG* 3, p. 372 (1960 edition). Reinhold Gregorowski’s answer was a clear “No.” “Letter from Gregorowski to Gandhi”, July 24, 1903, Serial Number 4069, Sabarmati Ashram, Gandhi Smarak Sangrahalaya,, Ahmedabad.

**the Johannesburg Bar**

Seward Brice had been, like Gandhi, a member of the Inner Temple and held the lofty status of King’s Counsel before moving to South Africa. While he had earlier distinguished himself by his scholarship, his practical legal abilities were not held in high regard by all his South African contemporaries. Writing in his autobiography, *Not Heaven Itself,* Manfred Nathan observes that Brice was “not suited to the rough and tumble of ordinary Bar work.” Cited in R L Selvan, *Early Days at the Johannesburg Bar*, http://www.johannesburgbar.co.za/earlydays.html.

 **“tested by litigation”**

Opinion of Seward Brice, October 9, 1902, Serial Number 3784, Sabarmati Ashram, Gandhi Smarak Sangrahalaya,, Ahmedabad.

**act upon it**

Brice’s opinion appears to have been found in Gandhi’s files. Opinion of Seward Brice, October 9, 1902, Serial Number 3784, Sabarmati Ashram, Gandhi Smarak Sangrahalaya,, Ahmedabad.

**outcome is unknown**

There was at least one other case in which Gandhi was involved that raised the same question. In this case the sellers refused to pay interest on the money the Indians had paid toward the purchase of the property. *See* “Letter of Dumat & Davis to Gandhi”, September 2, 1903, Serial Number 4079, Sabarmati Ashram, Gandhi Smarak Sangrahalaya,, Ahmedabad, “Letter of Dumat & Davis to Gandhi”, September 3, 1903, Serial Number 4081, Sabarmati Ashram, Gandhi Smarak Sangrahalaya,, Ahmedabad and “Letter of Dumat & Davis to Gandhi”, September 5, 1903, Serial Number 4082, Sabarmati Ashram, Gandhi Smarak Sangrahalaya,, Ahmedabad. Gandhi settled for a refund of the money put down on the purchase price. “Letter of Gandhi to Dumat and Davis”, September 19, 1903, Serial Number 4087, Sabarmati Ashram, Gandhi Smarak Sangrahalaya,, Ahmedabad.

**in his autobiography**

Mohandas K. Gandhi, *An Autobiography: The Story of My Experiments with Truth* (Boston: Beacon Press, 1957), pp. 132-133.

***Lucas’ Trustee* *v. Ismail and Amod***

1905 Transvaal Law Reports 239, May 8, 1905.

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**Chief Justice Innes**

Innes, formerly the Attorney General of the Transvaal, would serve as Chief Justice from 1902 until 1910 at which time he became part of the Union’s judiciary, eventually serving as Chief Justice of the Union of South Africa. *See* Bala Pillay, *British Indians in the Transvaal*, (London: Longman, 1976), p. 191, fn. 35.

**commit an illegality**

1905 Transvaal Law Reports 239, May 8, 1905, at 245.

**assert this claim**

*See* “Letter to J. De Villiers”, July 12, 1905, *CWMG* 5, p. 11 (1960 edition).

**used against them**

“In the Nature of a Test Case”, *Indian Opinion*, May 27, 1905 found at *CWMG* 4, p. 450 (1960 edition).

**triumphed over realism**

Gandhi later sought an opinion on the Indian position in wake of the *Lucas* decision from Reinhold Gregorowski. Gregorowski issued an ambiguous and inconsistent opinion letter. Opinion Letter of R. Gregorowski, (August 5, 1905), Serial Number 4247, Sabarmati Ashram, Gandhi Smarak Sangrahalaya,, Ahmedabad.

**contained exceptions**

*See, e.g.,* “The Asiatic Proclamation”, April 16, 1903, *The Johannesburg Star*.

**all over the colony**

*See, for example,* “The Potchefstrom Meeting”, *Indian Opinion*, August 6, 1904 and “Pietersburg: Anti-Asiatic Meeting”, *Indian Opinion*, August 13, 1904.

**enforcement of the notice**

*See, e.g.,* “Indian Traders”, *The Transvaal Leader*, December 22, 1903.

**explicit governmental approval**

“Asiatic Traders”, *The Transvaal Leader*, December 22, 1903.

**Indian traders**

“Transvaal Legislative Council: Asiatic Bazaar Question”, *Indian Opinion*, December 31, 1903. This image appeared again in the wake of the *Motan* decision. *The Pretoria News* editorialized that the colony was “threatened with invasion by a horde of Asiatics....” (Editorial reprinted in *Indian Opinion*, June 4, 1904).

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**respect to such trade….**

“Asiatic Traders”, *The Transvaal Leader*, December 22, 1903.

**“compromise”**

“Last Year’s Stock-Taking”, *CWMG* 4, p. 95 at 96 (1960 edition).

**the commission’s charge**

One member thought the purpose of the Commission was to “go thoroughly into the question, and gather information as to whether there were the dangers as alleged to this country by Indian traders.” Another saw the Commission’s purpose as determining “who were trading there before the war.” The Attorney-General weighed in with a fuller and somewhat different understanding of the Commission. He believed its purpose was to –

enable the people of this country to arrive at a decision as to how many of these men there were, and as to what was the nature of their rights, and that it would in itself tend to enable the people of this country to arrive at a clear decision as what were the best lines to pursue. Whether the ultimate decision would be to allow these men to trade or compensate them for their rights he could not now discuss; the Commission would enable them to come to some decision.

“Transvaal Legislative Council: Asiatic Bazaar Question”, *Indian Opinion*, December 31, 1903.

**the outbreak of hostilities….**

“The Asiatic Traders Commission”, March 10, 1904, CWMG 4, p. 143 (1960 edition).

**at the present moment**

“The Capital: Pretoria Day By Day – Asiatic Traders’ Commission”, March 15, 1904, *The Transvaal Leader.* Gandhi used the word “or” while the notice used the word “and.”

**outbreak of hostilities**

“Asiatic Traders: Why was the Commission Appointed? Most of the Claims Withdrawn”, *The Rand Daily Mail*, March 18, 1904.

**the late regime**

“Asiatic Traders: Why was the Commission Appointed? Most of the Claims Withdrawn”, *The Rand Daily Mail*, March 18, 1904.

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**the current government**

This was not the only time when the purpose of the Commission was unclear. At a later hearing, a lawyer for some Chinese claimants asked the Commission what its purpose was. The Chair, astonishingly, responded that it was not for the Commission to say what its purpose was and that he “really could not say anything beyond what was contained in the notice appointing the Commission.” “Asiatic Traders”, *The Transvaal Leader*, March 25, 1904.

**to make a claim**

“The Asiatic Traders Commission”, *CWMG* 4, p. 143-144 (1960 edition). *See also* “British Indians in the Transvaal”, *CWMG* 4, p. 197 (1960 edition).

**as meaning “or”**

Before the Commission began its work, Gandhi told his *Indian Opinion* readers that he welcomed “the appointment of the Commission, for we have always felt that there is very great misunderstanding as to the number of existing Indian licenses and that the members of the White League and other bodies have exaggerated the effect of Indian trade.” “British Indians in the Transvaal”, *Indian Opinion*, December 31, 1903.

**leaves no loop-hole**

“The Asiatic Traders’ Commission in the Transvaal”, *CWMG* 4, p.157 (1960 edition).

**twenty of his clients**

Gandhi formally withdrew all his claims in a subsequent letter to the Commission. *See* “Asiatic Traders”, *The Transvaal Leader*, March 25, 1904.

**test case**

Gandhi’s hope was to delay the Commission’s proceedings until the test case was decided. A favorable result in it would spare his clients the expense and trouble of pursuing claims before the Commission. “The Asiatic Traders Commission”, *CWMG* 4, pp. 143-144 (1960 edition); “The Asiatic Traders’ Commission, *CWMG* 4, pp. 195-196 (1960 edition). *See also* “Asiatic Traders’ Commission”, March 18, 1904, *The Transvaal Leader*.

**March 29**

In the meantime, the Commission heard Chinese claims on the 24th.

**whom Gandhi respected**

“British Indian Traders in the Transvaal”, February 4, 1904, *CWMG* 4, p.124 (1960 edition).

**that such was possible**

“Asiatic Traders: Why was the Commission Appointed? Most of the Claims Withdrawn”, *The Rand Daily Mail*, March 18, 1904.

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**course to adopt**

“A New Year’s Gift”, *Indian Opinion*, January 14, 1904.

***Mahomed v. Government***

*Tayon Hajee Khan Mahomed v. The Government of the South African Republic (F. W. Retiz, N.O.)*, V Reports of the Cases Decided in the High Court of the South African Republic 168 (1898). Ten years earlier the court had decided a case which raised the same question, but which had not been viewed as a test case. The result was the same as in *Mahomed. See Ismail Sulieman & Co. vs. Landrost of Middelburg*, II Reports of Cases Decided in the Supreme Court of the South African Republic (Transvaal) 244 (August 14, 1888).

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**effecting a compromise**

“A Well-Deserved Victory”, *Indian Opinion*, May 14, 1904.

**justice in the Colony**

“A New Year’s Gift”, *Indian Opinion,* January 14, 1904. While Gandhi was in India, the his colleagues in South Africa had secured an optimistic opinion from a Johannesburg attorney that discriminatory legislation left over from the South African Republic was unconstitutional and could be successfully attacked in the courts. This letter can be found among Gandhi’s papers, making it almost a certainty that he was aware of it. Opinion Letter of Soward Brice (October 9, 1902), Serial Number 3984, Sabarmati Ashram, Gandhi Smarak Sangrahalaya,, Ahmedabad.

**of the… Court**

“An Unequal Contest”, *CWMG* 4, p.117 (1960 edition). *See also* “A Well-Deserved Victory”, *CWMG* 4, p.183 (1960 edition).

**the law of compromise….**

“The Lord Bishop of Bombay and India”, December 3, 1903, *CWMG* 4, p.67 (1960 edition).

***Mohamed v. Government***

V Reports of the Cases Decided in the High Court of the South African Republic 168 (1898).

 **“best legal advice”**

“The Licensing Case in the Transvaal”, July 5, 1904, *CWMG* 4, p.182 (1960 edition).

Leonard was joined by two other distinguished members of the Transvaal bar, Ewald A. Esselen and Reinhold Gregorowski. *Habib Motan v. Transvaal Government*, 1904 Transvaal Law Reports 404 (May 4, 1904). Gregorowski had recently given his opinion to Gandhi on the question. Letter from R. Gregorowski to M.K. Gandhi, December 18, 1903, Serial Number 4110, Sabarmati Ashram, Gandhi Smarak Sangrahalaya,, Ahmedabad.

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***Motan v. Government***

*Habib Motan v. Transvaal Government*, 1904 Transvaal Law Reports 404 (May 4, 1904).

**person of colour….**

*Tayon Hajee Khan Mahomed v. The Government of the South African Republic (F. W. Retiz, N.O.)*, V Reports of the Cases Decided in the High Court of the South African Republic 168 (1898) at 178.

**those affected by it**

*Habib Motan v. Transvaal Government*, 1904 Transvaal Law Reports 404 (May 4, 1904).

**have been inserted**

*Habib Motan v. Transvaal Government*, 1904 Transvaal Law Reports 404 (May 4, 1904) at 410.

Chief Justice James Rose-Innes also rested his opinion on these bases:

Nothing in the text of Law 3 purported ‘to curtail the trading rights of Asiatics.’

Nothing in the history of the statute supported the Government’s position.

The decisions of the High court of the South Africa Republic in Mohamed and Suleiman were not binding on the Court.

*Habib Motan v. Transvaal Government*, 1904 Transvaal Law Reports 404 (May 4, 1904) at 411 -3. Chief Justice Innes opinion was supplemented by the opinions of the other two members of the court, Justices Solomon and Curlewis. Their opinions merely echoed Innes.’

**DLA**

Gandhi was aware in 1904 that the Dealers’ Licences Act was still being used quite harshly against Indians in Natal. *See* “The Dealers Licences Act: Licensing Appeal”, *Indian Opinion*, March 3, 1904.

**the right of trading**

“The Test Case”, May 21, 1904, *CWMG* 4, p.190 (1960 edition).

**dealing further blows**

“The Test Case”, May 21, 1904, *CWMG* 4, p.190, (1960 edition).

**to be large numbers**

“Asiatic Trading”, *Rand Daily Mail*, June 8, 1904.

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**“the Asiatic peril ha[d] materialized”**

“Asiatic Trading”, *Rand Daily Mail*, June 8, 1904.

**the court’s decision**

“Asiatic Trading: Petition of Protest from Ermelo”, *Rand Daily Mail,* June 28, 1904; “Asiatic Trading: Meeting at Potchesfstroom”, *Transvaal Leader*, May 17, 1904; “The Asiatic Question”, *Transvaal Leader*, June 2, 1904.

**solution to the matter**

“Influx of Asiatics”, *Transvaal Leader*, July 16, 1904.

**for their independence**

“Self-Sacrifice”, *Indian Opinion*, January 21, 1904.

**patience and self-control**

“Self-Sacrifice”, *Indian Opinion*, January 21, 1904.

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**pick and choose**

“Letter to H.V. Vora, June 30, 1903, *CWMG* 3, p. 352 (1960 edition).

**lease of property**

See Sabarmati Ashram letters for the period April, 1903 - June 1903.

**at this time**

Gandhi had his client’s permission to make the loan. Mohandas K. Gandhi, *An Autobiography: My Experiments with Truth* (Boston: Beacon Press, 1957), pp. 267-8. (Budree is known as “Badri” in the *Autobiography*.) Gandhi drew up a bond, securing a loan of £386 from Budree to Ada Mary Bissicks, the restaurant owner, in March, 1905. Notarial Bond, Serial Number 4225, Sabarmati Ashram, Gandhi Smarak Sangrahalaya,, Ahmedabad. Ms. Bissicks’ restaurant failed just a few months later. *See*, “Letter to Miss Bissicks”, August 5, 1905, *CWMG* 5, p. 33.

**his office practice**

Gandhi’s work for Budree, who appears to have had little or no command of English, is illustrative. Over the years, he performed a wide range of work for him, much of which appears to have centered on Budree’s interests in real property. *See*, *for example*, the following items from the Sabarmati Ashram, Gandhi Smarak Sangrahalaya,, Ahmedabad: Letter of Budree to M.K. Gandhi, January 24, 1905, Serial Number 4318a; Letter of Goordeen Ahir to M.K. Gandhi, February 22, 1906, Serial Number 4318b; Letter of M.K. Gandhi to Goordeen Ahir, March 6, 1906, Serial Number 4318c; Memorandum of Agreement among Sheik Ameer, Budrea and others, March, 1906, Serial Number 4323; Letter of M.K. Gandhi to Hillier & Co., April 22, 1906, unknown Serial Number; Letter of R.K. Khan to M. K. Gandhi, June 4, 1908, Serial Number 4320; Letter of Reuben Beningfield & Son to M.K. Gandhi, August 12th 1909, Serial Number 4712a; Letter of George Goodricke to M.K. Gandhi, April 10, 1906, Serial Number 4354a. *See also*, Letter to Maganlal Gandhi, October 6, 1907, *CWMG* 7, p. 272; Letter to Maganlal Gandhi, October 14, 1907, *CWMG* 7, p. 290; Letter to F.H. Tatham, March 14, 1908, *CWMG* 8, p. 144; Letter to Maganlal Gandhi, March 26, 1908, *CWMG* 8, p. 156; Letter to C.A. De R. Labistour, March 26, 1908, *CWMG* 8, p. 167; Letter to Maganlal Gandhi, March 28, 1908, *CWMG* 8, p. 168; Letter to Maganlal Gandhi, October 18, 1909, *CWMG* 9, p. 485; and Letter to Budrea, October 18, 1909, *CWMG* 9, p. 485.

**concerning promissory notes**

“In the Civil Courts”, *Rand Daily Mail*, November 25, 1903; “Jaggemath v. E. Mahomed”, *Rand Daily Mail*, September 22, 1904.

**rent due**

“Civil Judgments”, *The Star*, November 28, 1903; “In the Civil Courts”, *Rand Daily Mail*, December 1, 1903; “E.M.Patel v. Essop Mahomed”, *Rand Daily Mail*, March 15, 1904; “B. Bhika v. B. Friedman”, *Rand Daily Mail*, November 1, 1904; “Camrooden v. Dawson”, *Rand Daily Mail*, June 9, 1905.

**goods sold**

“In the Court of the Second Civil Magistrate”, *The Star*, November 3, 1903; “In the Civil Courts”, *Rand Daily Mail*, December 1, 1903; “G. Dhana v. Mrs. Hinney”, *Rand Daily Mail*, December 23, 1903; “G. Bhugan v. Hill”, *Rand Daily Mail*, January 20, 1904; “A.M.H. Bhana v. S.K. Lorgat”, *Rand Daily Mail*, August 12, 1904; “Civil Judgments: In Johannesburg”, *The Transvaal Leader*, September 16, 1904; “Estep v. Sali”, *Rand Daily Mail*, February 4, 1905; “Metropolitan Butchery Co. V. Rosenthal”, *Rand Daily Mail*, July 11, 1905.

**wages owed**

“C. Ebrahis v. D. Levitt”, *Rand Daily Mail*, January 20, 1904.

**cash lent**

“Civil Judgments: In Johannesburg”, *The Transvaal Leader*, September 16, 1904.

**and services rendered**

“Dr. W. Godfrey v. Hanikon” and “W. Godfrey v. Vorster”, *The Transvaal Leader*, December 6, 1904.

**action for ejectment**

“M.F. Takolia v. J. McKenzie”, *Rand Daily Mail*, January 20, 1904.

**issued a bad check**

“Civil Cases: In the R.M. Courts”, *The Transvaal Leader*, September 15, 1904.

**dealing with wages owed**

“Peter Cassim v. M. Hanson”, *The Transvaal Leader*, September 27, 1904; “In the Civil Courts”, *Rand Daily Mail*, January 24, 1905.

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**aspirations might be**

“An Appeal to Indians in South Africa”, “February 25, 1905, *CWMG* 4, p. 363 (1960 edition).

**very long hours**

With respect to the burden of his public work and his private practice, Gandhi wrote to a fellow lawyer that “...at present, I have to work from nearly a quarter of nine in the morning to ten o’clock at night, with intervals for meals and a short walk.” “Letter to H.V. Vora”, June 30, 1903, *CWMG* 4, p. 352 (1960 edition).

**for his fees**

“Letter to Fulabhai”, June 7, 1905, *CWMG* 4, p. 463 (1960 edition); “Letter to Haji Habib”, June 30, 1905, *CWMG* 4, p. 486 (1960 edition).

**defending his bills**

“Letter to E. Ebrahim and Co.”, June 30, 1905, *CWMG* 4, p. 485 (1960 edition).

**others’ bills**

Letter of G.B. Cooke, Solicitor, to M.K. Gandhi, July 22, 1895. Serial Number 405-0001, Sabarmati Ashram, Gandhi Smarak Sangrahalaya,, Ahmedabad.

**to lower his rent**

“Letter to M.H. Thurston,” June 5, 1905, *CWMG* 4, p. 462 (1960 edition).

**were cheating him**

“Letter to H.J. Hofmeyr”, June 2, 1905, *CWMG* 4, p.456 (1960 edition).

**friends and acquaintances**

“Letter to Dadabhai Naoroji”, March 25, 1905, *CWMG* 4, p. 388 (1960 edition); “Letter to Haji Dada Haji Habib”, May 23, 1905, *CWMG* 4, p.444 (1960 edition).

**grow more and more**

“The First Colonial-Born Indian Barrister”, September 23, 1905, *CWMG* 5, p. 75 (1960 edition).

**the Indian cause**

“Letter to G.K. Gokhale”, January 13, 1905, *CWMG* 4, p.332 (1960 edition). In his autobiography Gandhi states that at one point he was contributing £75 a month, “practically sinking all [his] savings in it.” Mohandas K. Gandhi, *An Autobiography: The Story of My Experiments with Truth* (Boston: Beacon Press, 1957), p. 286.

**in the paper**

Enclosure with “Letter to Private Secretary to Lord Elgin”, November 20, 1906, *CWMG* 6, p. 196 at 198.

**were eventually moved**

“Letter to Omar Haji Amod Zaveri”, May 11, 1905, *CWMG* 4, p.426 (1960 edition); “Letter to Haji Habib”, June 30, 1905, *CWMG* 4, p. 486 (1960 edition).

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**the proper permits**

“Letter to Colonial Secretary”, April 25, 1903, *CWMG* 3, p. 293 (1960 edition).

**immediately concerned**

“Notes on the Position”, May 9, 1903, *CWMG* 3, p. 298 (1960 edition).

**of love and charity**

“The Uses of Adversity”, August 20, 1903, *CWMG* 3, p. 411 (1960 edition).

**Gandhi’s approach failed**

“Notes on the Position”, May 9, 1903, *CWMG* 3, p. 298 (1960 edition).

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**the entire world**

Mohandas K. Gandhi, *An Autobiography: The Story of My Experiments with Truth* (Boston: Beacon Press, 1957), pp. 275-276.

**Lord Brougham**

A lawyer, politician and reformer in 19th-century Britain.

**to determine for himself….**

“An Opportunity for the Indians”, October 2, 1903, *Indian Opinion.*

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**members of the profession**

Mohandas K. Gandhi, *An Autobiography: The Story of My Experiments with Truth* (Boston: Beacon Press, 1957), pp. 365-366.

**civil cases like Gandhi’s**

The representation of a defendant whom the lawyer believes to be factually guilty is justified with the argument that forcing the prosecution to prove its case preserves and strengthens the rights of all. This rationale does not exist in civil cases.

**in the previous decade**

“The Hoondamal Case Again”, September 23, 1905, *CWMG* 5, p. 72 (1960 edition).

**of manual labor**

Mohandas K. Gandhi, *An Autobiography: The Story of My Experiments with Truth* (Boston: Beacon Press, 1957), p. 304.

**the legal profession**

Mohandas K. Gandhi, *An Autobiography: The Story of My Experiments with Truth* (Boston: Beacon Press, 1957), pp. 275.

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**as his own**

Mohandas K. Gandhi, *An Autobiography: The Story of My Experiments with Truth* (Boston: Beacon Press, 1957), p. 265. Gandhi refers here to *Snell’s Principles of Equity Intended for the Use of Students and Practitioners*. Snell states that the general idea of a trust is “that one person in whom property is vested is compelled in equity to hold the property for the benefit of another or for some purpose other than his own.” H. Gibson Rivington, *Snell’s Principles of Equity Intended for the Use of Students and Practitioners* (Sweet and Maxwell, Limited: London, 1939) p. 68.

**as it was last year**

“A Retrospect”, *CWMG* 5, p. 167 (1960 edition).

**Chapter Fourteen**

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**Transvaal Leader**

“The Colour Question”, *The Transvaal Leader*, February 16, 1906.

**by the Indian population**

Trams resemble trolleys. They run on fixed tracks and can be powered by horses or electricity.

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**electrical tram cars**

Tony Spit and Brian Patton, *Johannesburg Tramways: A History of the Tramways of the City of Johannesburg*, (London: The Light Railway Transport League, 1976), pages 15 - 17.

**begin to disappear**

“The Tramway System”,*Johannesburg Star***,** July 17, 1906**;** Tony Spit and Brian Patton, *Johannesburg Tramways: A History of the Tramways of the City of Johannesburg*, (London: The Light Railway Transport League, 1976), page34.

**February 14, 1906**

Martin Pabst, *Tram and Trolley in Africa* (Rohr Verlag, 1989), page 96.

**cannot be exaggerated**

Over 300,000 passenger trips per week were taking place by September, 1906. “Tram Returns”, *The Rand Daily Mail*, September 13, 1906.

**the system’s operations**

Oddly enough, when the first horse-drawn system opened in 1891, the government had not enacted any regulations to govern its operation. Tony Spit and Brian Patton, *Johannesburg Tramways: A History of the Tramways of the City of Johannesburg*, (London: The Light Railway Transport League, 1976), page 11.

**attached to European cars**

 “Town Council”, *The Transvaal Leader*, February 15, 1906. The system did deploy a few special trailer cars. Five small tram cars, converted from their previous use as horse-drawn cars, were in service between 1906 and 1910. By contrast, there were over 100 tram cars for whites in operation by 1911. Martin Pabst, *Tram and Trolley in Africa* (Rohr Verlag, 1989), page 97.

**“absurd”**

“The Colour Question”, *The Transvaal Leader*, February 16, 1906.

**given the roofs**

“Letter to Town Clerk”, February 10, 1906, *CWMG,* 5*,* p.186 (1961 edition). The Indians’ criticism came before the Committee’s formal report; the Indians became aware of the Committee’s recommendations in advance through the tram’s manager.

**to carry the day**

An amendment to expand Indian ridership rights failed on a 15 to 6 vote. An amendment to establish a blanket prohibition on Indian use also failed on a lopsided vote, 18 to 5.

**committee’s recommendation unchanged**

“Town Council”, *The Rand Daily Mail*, February 15, 1906.

**from using the trams**

“British Indians in the Transvaal”, February 22, 1906, *CWMG,* 5, p. 198 (1961 edition).

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**on European cars**

 “A Reply to ‘The Leader’”, February 16, 1906, *CWMG*, 5, p. 191 (1961 edition).

**more fully operational**

“Johannesburg Trams and Indians”, February 17, 1906, *CWMG,* 5, p.194 (1961 edition); *see also* “Notes & Comments: The Electric Trams”, *The Johannesburg Star*, February 2, 1906.

 **“coloureds”**

“Johannesburg Letter”,February 26, 1906, *CWMG,* 5, p. 206 (1961 edition).

**Ebrahim Saleji Coovadia**

 Maureen Swan, *Gandhi: The South African Experience* (Johannesburg: Ravan Press, 1985), page 7.

**William J. MacIntyre**

“Johannesburg Letter”,February 26, 1906, *CWMG,* 5, p. 206 (1961 edition). MacIntyre, a native of Scotland, was a theosophist whom Gandhi had earlier taken into his office. Mohandas K. Gandhi, *An Autobiography: My Experiments with Truth* (Boston: Beacon Press, 1957), page 306; “Letter to W.J. Macintyre”, November 2, 1906, *CWMG* 6, p. 67 (December, 1961 edition). MacIntyre also identified himself as a book-keeper in Gandhi’s office. “Trial of Daya Lala”, July 27-29, 1908, *CWMG*, 8, p. 416 (December, 1962 edition). Coovadia was, notably, also the treasurer of the British Indian Association at this time. “Traffic By-Laws”*, The Transvaal Leader* , May 19, 1906.

**European accompanying him**

“Johannesburg Letter”,February 26, 1906, *CWMG,* 5, p. 206 (1961 edition).

**filed by Coovadia**

“Johannesburg Letter”, March 3, 1906, *CWMG,* 5, p. 212 (1961 edition).

**the traffic bye-laws**

*See* “Indians on Trams”, *The Rand Daily Mail*, May 19, 1906*.*

**and the Coloured**

“Johannesburg Letter”,March 10, 1906, *CWMG,* 5, p. 230 (1961 edition).

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**reversed that decision**

“Johannesburg Letter”,March 31,1906, *CWMG,* 5, p. 258 (1961 edition).

**April 7**

“Johannesburg Letter”,April 7, 1906, *CWMG,* 5, p. 269 (1961 edition); “Johannesburg Letter”,after May 18, 1906, *CWMG,* 5, p. 322 (1961 edition).

**the Crown prosecutor**

“Johannesburg Letter”,May 5, 1906, *CWMG,* 5, p. 305 (1961 edition).

**May 18**

“Johannesburg Letter”,after May 18, 1906, *CWMG,* 5, p. 322 (1961 edition).

**in South Africa**

Naomi Musiker and Reuben Musiker, *Historical Dictionary of Greater Johannesburg* (Lanham and Oxford: Scarecrow Press, 1999), page 130.

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**paid a small fine**

“Traffic By-laws”*, The Transvaal Leader* , May 19, 1906; “Indians on Trams”, *The Rand Daily Mail* , May 19, 1906*;* “Johannesburg Letter”, after May 18, 1906, *CWMG* 5, p. 322 (1961 edition).

**were to be integrated**

 “Unless the large cars are kept exclusively for white people the electric system will be boycotted by them and be a colossal failure.” “Indians on Tram Cars”, *The Transvaal Leader* , May 19, 1906.

**the tramcar**

Welch was charged with “contravening Article No. 5, page 23, of the Traffic By-Laws of Johannesburg Municipality, made under Proclamation 16, 1901.” *See* “A Tram Car Case”, *Johannesburg Star*, May 18, 1906.

**without exception**

“A Tram Car Case”, *Johannesburg Star*, May 18, 1906.

**reserved for Europeans**

The regulation stated “[N]o coloured person shall be allowed to be conveyed in any hired vehicle designated for white persons, and the conveyance of coloured passengers shall be allowed only in trams and omnibuses specially and exclusively licensed therefor.” *See* “A Tram Car Case”, *Johannesburg Star*, May 18, 1906.

**traffic bye-laws**

Graham Cross, the Magistrate in the second case, appears to have rested his decision not only on the notion that the Boer rule had been displaced by the current traffic bye-laws, but also on the notion that Coovadia was not the type of “coloured” person contemplated by the Boer rule. *See* “Indians on Trams”, *The Rand Daily Mail* , May 19, 1906*.*

**repealed the bylaws**

“Addendum to Statement Presented to Constitution Committee”,June 2, 1906, *CWMG*, 5, p. 335 at 340-341 (1961 edition).

**by force of law**

“Johannesburg Letter”, after May 18, 1906, *CWMG,* 5, p. 322 (1961 edition).

**submit to this defeat**

“Johannesburg Letter”, after May 18, 1906, *CWMG,* 5, p. 322 at 323 (1961 edition).

**whites in this country**

 Cited in “Johannesburg Trams and Coloured People”, *Indian Opinion* , February 24, 1906.

**H.S.L. Polak**

 Polak had also recently passed his law certificate examination and was an associate of Gandhi in his law office. *See*  “Facts and Comments”, *Indian Opinion* , February 3, 1906*.* Polak would later serve as acting secretary of the British Indian Association while Gandhi was in London lobbying against the Asiatic Law Amendment Ordinance. “A Noteworthy Appointment”, *Indian Opinion* , October 6, 1906.

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**if they wished**

“Johannesburg Letter”, after June 6, 1906, *CWMG,* 5, p. 350 (1961 edition).

**first half of 1906**

This approach was contemplated by Gandhi in the matter of the railway workers’ strike. See Chapter Six.

**ended in complete failure**

As of October of 1906, the situation had not changed. Indians were still prohibited from riding in normal tram cars in Johannesburg. “Interview to ‘The Morning Leader’, October 20, 1906, *CWMG,* 6, p. 2 (December, 1961edition). Later that year, while Gandhi was representing the Indian cause in England, the British Indian Association petitioned the Transvaal Supreme Court, seeking a judgment declaring the city’s segregated tram system to be unlawful. The Court, however, found that the Association lacked standing to be before the court and dismissed the case. *African Political Organisation and The British Indian Association v. Johannesburg City Council*, 1906 Transvaal Reports 962 (December 13, 1906). *See also*, “African Political Organisation and The British Indian Association v. Johannesburg Municipality”, *The Johannesburg Star*, Dec 17, 1906 and “British Indians and Coloured People vs. The Johannesburg Municipality”, *Indian Opinion* , December 22, 1906*.* The Indians had allied themselves with the African Political Organisation (“APO”) for purposes of this case. (The APO represented native Africans who were also barred from use of the trams. *See* “A Tram Case”, *The Rand Daily Mail*, November 22, 1906. Advocate Gregorowski and Attorney Lichtenstein, each of whom had been unafraid to represent Indian interests in the past, represented the two organizations.) Finally, in May of 1907, the Government published tram regulations that firmly established a segregated system. *See* “Johannesburg Letter”, May 25, 1907, *CWMG,* 6, p. 495 at 499 (December, 1961 edition). These regulations received the approval of the Governor soon afterwards. *See* “Johannesburg Tramway Bye-Laws”, *Indian Opinion*, June 1, 1907. The new order would maintain the segregated system with all regular tram cars reserved for Europeans and with Indians and others restricted to separate cars that ran on a less-frequent schedule. *See* “A Reply”, *Indian Opinion*, July 6, 1907. General Jan Smuts, the Colonial Secretary, would later defend this policy of segregation as “absolutely necessary.” “Letter Addressed to the Secretary of the South Africa British Indians Committee by the Colonial Secretary” [dated June 27, 1907], *The Johannesburg Star* , August 14, 1907. Perhaps reacting to Smuts’ comment, a Labour member of the British Parliament questioned whether Johannesburg had the power to discriminate against Indians. His inquiry was met by the Under-Secretary of State for the Colonies, Winston Churchill, who defended the decision. “Imperial Parliament”, *The Transvaal Leader*, August 9, 1907.

**would be welcome**

“Those Tramway Bye-Laws”, *Indian Opinion*, May 25, 1907.

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**undersold Europeans**

A white businessman at a Chamber of Commerce meeting explained what he meant when he charged the Indians with engaging in “unfair competition.” “...[I]t was unreasonable to expect a white man, with his various requirements, to compete with an Asiatic, whose requirements were infinitely fewer.” “Monthly Meeting of the Johannesburg Chamber of Commerce”, *The Transvaal Leader*, September 21, 1906.

**for white enterprise**

 “Asiatic Policy”, *The Rand Daily Mail* , September 11, 1906.

**Asiatic Law Amendment Ordinance**

 *Transvaal Government Gazette*, August 22, 1906.

**in the country**

“Johannesburg Letter: Sir Richard Solomon’s Speech”, February 2, 1907, *CWMG,* 6, p. 309 (December, 1961 edition); “Johannesburg Letter”, July 6, 1907,  *CWMG,* 7, p. 83 (July, 1962 edition). *See also*, “Legislation for Asiatics”, *The Rand Daily Mail* , August 6, 1906.

**all ten digits**

 *See* “Legislative Council: Further Rebukes To Mr Hull: Asiatic Ordinance Passed”, *The Johannesburg Star,*  March 22, 1906.

 “No regulations were issued under the Ordinance of 1906, but the Transvaal Government had announced their intention of adopting finger-print impressions as regards means of identification.” “Reply given in the House of Commons by the Under Secretary of State to Sir William Ball’s question inquiring in what respects the regulations published in the Transvaal “Gazette” of the 28th June, 1907, differed from those appended to the Asiatic Law Amendment Ordinance, 1907", *The Johannesburg Star* , August 14, 1907*.*

**Peace Preservation Ordinance of 1903**

Law 38 of 1902. The Peace Preservation Ordinance prevented certain persons from entering or residing in the Transvaal without a permit.

**class of common criminals**

“Letter to Prime Minister’s Secretary”, September 21, 1907, *CWMG,* 7, p. 248 (July. 1962 edition).

**only from criminals**

Mohandas K. Gandhi, *Satyagraha in South Africa,* trans.V.G. Desai (Stanford: Academic Reprints, 1954), page 101. Colonial Secretary Jan Smuts did not read the Henry text in the same way Gandhi did. “Letter addressed to the Secretary of the South Africa British Indian Committee by the Colonial Secretary”, *The Johannesburg Star* , August 14, 1907*.* Gandhi took the position later that it was not so much the fingerprints themselves that the Indians resented but the very idea of forced registration. *See* “Smuts’ Speech”, October 12, 1907, *CWMG,* 7, p. 279.

**a large protest meeting**

 Mohandas K. Gandhi, *Satyagraha in South Africa* *,* trans.V.G. Desai (Stanford: Academic Reprints, 1954), page 101.

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**do our true duty**

“Russia and India”, September 8, 1906, *CWMG,* 5, p. 414 (1961 edition).

**free of charge**

“Speech at Hamidiya Islamic Society”, September 9, 1906, *CWMG,* 5, p. 418 (1961 edition).

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**and attend it**

“Speech at Hamidiya Islamic Society”, September 9, 1906, *CWMG,* 5, p. 418 (1961 edition).

**two hundred Indian leaders**

“British Indians: Mass Meeting Yesterday”, *The Rand Daily Mail* , September 12, 1906*.*

**that decorated it**

“Some Notes on the Meeting”, *Indian Opinion* , September 22, 1906*.*

**Pretoria lawyer**

The opinion was rendered by Reinhold Gregorowski who had first come to the public’s attention as a special judge sitting on the cases that stemmed from the Jameson Raid. He would also serve as a judge of the Transvaal Supreme Court and as Attorney General of the Transvaal. At the time of the Empire Theatre meeting he had a practice in Pretoria. de Kock and Kruger (eds.), *Dictionary of South African Biography* (Cape Town and Johannesburg: Human Sciences Research Council, 1972), Vol. II, page 274.

**“more intolerable than before”**

 “British Indians: A Mass Meeting”, *The Johannesburg Star* , September 11, 1906.

**would be called men**

“British Indian Protest”, *The Rand Daily Mail* , September 12, 1906*.*

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**for the meeting**

Maureen Swan, *Gandhi: The South African Experience* (Johannesburg: Ravan Press, 1985), page 120.

**new permit**

“British Indians”, Transvaal Leader, September 12, 1906.

**those in attendance**

 Mohandas K. Gandhi, *Satyagraha in South Africa,* trans.V.G. Desai (Stanford: Academic Reprints, 1954), page 102.

**sinner**

Mohandas K. Gandhi, *Satyagraha in South Africa,* trans.V.G. Desai (Stanford: Academic Reprints, 1954), page 103.

**carefully-chosen language**

“Some Notes on the Meeting”, *Indian Opinion* , September 22, 1906*.*

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**submit to the law**

Mohandas K. Gandhi, *Satyagraha in South Africa,* trans.V.G. Desai (Stanford: Academic Reprints, 1954), pages 104 - 107.

**while Gandhi spoke**

Gandhi was described as speaking in “clear, low tones.” “Some Notes on the Meeting”, *Indian Opinion* , September 22, 1906*.*

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**Ramsundar Pundit**

In *Indian Opinion* his name is variously given as Ramsundar Pandit (“Mass Meeting of Transvaal Indians”, *Indian Opinion,* April 6, 1907) and Ram Sundar Pundit (“Ram Sundar Pundit Interviewed”, *Indian Opinion,* November 16, 1907). In *Satyagraha in South Africa,* it is given as Pandit Rama Sundara. Mohandas K. Gandhi, *Satyagraha in South Africa,* trans.V.G. Desai (Stanford: Academic Reprints, 1954), page 137. When he himself writes to the *Rand Daily Mail*, his name appears as Ramsundar Pundit. “Asiatic Registration”, *Rand Daily Mail*, October 3, 1907. The English word “pundit” is derived from the Hindu word for learned person, “pandit.”

**in the Transvaal**

 Germiston was a Johannesburg suburb.

**picket registration officials**

“Ram Sundar Pandit”, *Indian Opinion,* November 16, 1907; Mohandas K. Gandhi, *Satyagraha in South Africa,* trans.V.G. Desai (Stanford: Academic Reprints, 1954), page 137; “Passive Resistance”, *Indian Opinion* , July 20, 1907*.*

**refused to do so again**

 “Indian Deportation”, *The Transvaal Leader,* October 11, 1907.

**depart the Transvaal**

“...I feel that I have to perform a duty higher than that of obeying the order issued by you.” “Indians and Registration”, *The Johannesburg Star,* October 11, 1907*.*

**without a permit**

“Asiatic Registration: Well-Known Indian Arrested”, *Rand Daily Mail,* November 9, 1907.

**refused offers of bail**

“Trial of Ram Sundar Pundit”, *Indian Opinion* , November 16, 1907*.*

**Mohandas K. Gandhi**

 “Asiatic Question: The Germiston Test Case”, *The Johannesburg Star*, November11, 1907. Gandhi appeared for Ram Sundar “on behalf of the [British Indian] Association.” “Ram Sundar Pandit”, *Indian Opinion,* November 16, 1907.

**the morning’s proceedings**

“Asiatic Ordinance: Hindu Priest in Court”, *The Transvaal Leader*, November 12, 1907.

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**on his behalf**

“Asiatic Law: The Germiston Case – Hindu Priest in Court”, *The Transvaal Leader*, November 15, 1907; “Ram Sundar Pundit”, *Indian Opinion*, November 23, 1907. The *Leader’s* crowd estimate was 300, while *Indian Opinion* estimated it at 500.

**no one to replace him**

“Asiatic Law: The Germiston Case – Hindu Priest in Court”, *The Transvaal Leader*, November 15, 1907; “Ram Sundar Pundit”, *Indian Opinion*, November 23, 1907.

**made him an undesirable**

“Asiatic Law: The Germiston Case – Hindu Priest in Court”, *The Transvaal Leader*, November 15, 1907; “Ram Sundar Pundit”, *Indian Opinion*, November 23, 1907.

**He would not**

“Asiatic Law: The Germiston Case – Hindu Priest in Court”, *The Transvaal Leader*, November 15, 1907; “Ram Sundar Pundit”, *Indian Opinion*, November 23, 1907.

**accorded him**

“Indians Protest: Stores To Be Closed Today”, *The Rand Daily Mail*, November 15, 1907.

**as he found it**

“Indians Protest: Stores To Be Closed Today”, *The Rand Daily Mail*, November 15, 1907.

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**to the Act**

“Asiatic Law: The Germiston Case – Hindu Priest in Court”, *The Transvaal Leader*, November 15, 1907; “Ram Sundar Pundit”, *Indian Opinion*, November 23, 1907.

**for his religion**

 “Asiatic Law: The Germiston Case – Hindu Priest in Court”, *The Transvaal Leader*, November 15, 1907; “Ram Sundar Pundit”, *Indian Opinion*, November 23, 1907.

**source of this prohibition**

“Asiatic Law: The Germiston Case – Hindu Priest in Court”, *The Transvaal Leader*, November 15, 1907; “Ram Sundar Pundit”, *Indian Opinion*, November 23, 1907.

**religious objection,**

 Here is how Gandhi explained the religious basis for opposition to registration to an interviewer from *The Transvaal Leader*:

 ...it took away the personal liberty of every Asiatic coming within the

meaning of the Act, the result being that, instead of his being the creature of God only, he became the creature of any official appointed under the Act, and a man believing in God would never even dream of submitting to an Act which really enslaved him.

 The interviewer then quoted Gandhi as saying that “religion comes more into play because all Indians are bound by a solemn oath not to accept the Registration Act, as it is opposed to their religion....”

 *Leader* interview as reprinted in “Ram Sundar Pandit Interviewed”, November 16, 1907, *Indian Opinion.* Later, the Rev. Joseph Doke, a minister who befriended Gandhi, made his own attempt at explaining the religious basis of the resistance, citing the distinction the law drew between Moslems and Christians, the requirement that registrants provide the names of their wives and mothers, the implication of criminality that accompanied the giving of fingerprints and the consequent degradation of manhood. “Letters on the Question”, *The Transvaal Leader* , January 7, 1908.

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**inoffensive British subjects**

 “Asiatic Registration: Ram Sundar Pundit’s Trial”, *The Johannesburg Star* , November 16, 1907*.*

**with the evidence**

“Asiatic Law: The Germiston Case – Hindu Priest in Court”, *The Transvaal Leader*, November 15, 1907; “Ram Sundar Pundit”, *Indian Opinion*, November 23, 1907.

**without hard labor**

“Asiatic Law: The Germiston Case – Hindu Priest in Court”, *The Transvaal Leader*, November 15, 1907; “Ram Sundar Pundit”, *Indian Opinion*, November 23, 1907.

**gathered at Market House**

“Ram Sundar Pandit”, *Indian Opinion*, November 16, 1907*.*

**opened**

“Asiatic Registration”, *The Transvaal Leader*, November 16, 1907.

**ready do likewise**

 “Asiatic Law: The Germiston Case – Hindu Priest in Court”, *The Transvaal Leader*, November 15, 1907; “Ram Sundar Pundit”, *Indian Opinion*, November 23, 1907; “Indians Protest: Stores To Be Closed Today”, *The Rand Daily Mail*, November 15, 1907.

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**be submitted to…..**

“The Asiatic Law”, *The Transvaal Leader*, November 28, 1907*.*

**struggle against the law**

“Ram Sundar Pundit”, *Indian Opinion* [from the Gujarati], December 7, 1907.

**only when that happens**

“Johannesburg Letter: Message from Ram Sundar Pundit”, *Indian Opinion*, December 7, 1907*.*

**with British flags**

“The Asiatics”, *The Transvaal Leader* , December 14, 1907; “Release of Indian Priest”, *The Rand Daily Mail* , December 14, 1907*.* “[R]epresentatives of the Chinese community” also joined in the rally. “Asiatic Registration”, *The Johannesburg Star* , December 13, 1907*.*

**the new Registration law**

“The Asiatics”, *The Transvaal Leader* , December 14, 1907. See also, “Release of Indian Priest”, *The Rand Daily Mail* , December 14, 1907; “Ram Sundar Pundit Released”, *Indian Opinion* , December 14, 1907; “Ram Sundar Pundit’s Release”, *Indian Opinion* , December 21, 1907. In a letter to the Colonial Secretary, Ramsundar states “I beg now to inform you that it is not my intention to leave the Colony.” “Asiatic Registration”, *The Johannesburg Star* , December 16, 1907.

**Chapter Fifteen**

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**Jan Smuts**

Jan Smuts, Colonial Secretary, quoted in “Johannesburg Letter: Smuts’ Speech”, sometime before October 12, 1907, *CWMG* 7, p. 285 (1962 edition).

**were a palace…. Gandhi**

 “Indians in the Transvaal”, February 2, 1907, *CWMG* 7, p. 306 (1961 edition).

**Natal in 1906**

Davenport and Saunders, *South Africa: A Modern History* (New York: St. Martin’s Press, 2000), pp. 241-242; “Indians and Native Unrest”, June 9, 1906, *Indian Opinion*.

**the corps disbanded**

In Gandhi’s memory, the draft of the Ordinance in the August 22, 1906 extraordinary issue of the Transvaal Government Gazette appears to be one of the first things he read upon returning home. Mohandas K. Gandhi, *Satyagraha in South Africa* (Stanford: Academic Reprints, 1954), pp. 98-99. The Indian ambulance corps was disbanded in July. “Indian Bearer Corps”, July 28, 1906, *The Johannesburg Star.* Gandhi appeared in court in Johannesburg on July 26, 1906. “Civil Judgments in the Court of the 1st Civil Magistrate”, July 30, 1906, *The Johannesburg Star*.

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**H.O. Ally**

Ally was a 53-year old Mauritian-born businessman and activist. At the time the delegation was sent to London, he was president of the Hamidia Islamic Society. “The Personnel of the Delegation”, October 6, 1906, *Indian Opinion.*

**which it disapproved**

With a grant of responsible government status, a colony enjoyed a relationship with the home government that offered almost total freedom of action. *See, e.g.,* “Our Asiatics”*,* August 31, 1907*, The Transvaal Leader.* For Gandhi’s description of the differences among the three types of British territories – “self-governing colonies, Crown colonies and dependencies” – *see* “Johannesburg Letter”, January 26, 1907, *CWMG* 6, p. 296 (1961 edition).

**all before him….**

 Cited in “Letter from Gandhi and Ally to London Press”, December 29, 1906, *Indian Opinion.* Earlier the *Mail* had stated that “Mr. Gandhi’s marshalling (sic) of the facts and his submission of them in printed form betrayed a skilled as well as a determined hand.” Cited in “The Deputation Again”, December 8, 1906, *Indian Opinion.*

**responsible government status**

Robert Payne, *The Life and Death of Mahatma Gandhi* (New York: E.P. Dutton & Co., 1969), p. 168*.*  *See also,* Mohandas K. Gandhi, *Satyagraha in South Africa* (Stanford: Academic Reprints, 1954), p. 124.

**March 1907**

The *Transvaal Government Gazette* of March 20, 1907 carried the draft of the new Ordinance; it was virtually identical to the one that the home government had rejected. A bill enacting the Ordinance was passed by the Transvaal Parliament almost immediately upon its introduction and sent to the Legislative Council which acted on it just as quickly.

See also “The Indian Peril”, April 29, 1907, *The Johannesburg Star.* The first bill passed was the Transvaal budget. Mohandas K. Gandhi, *Satyagraha in South Africa* (Stanford: Academic Reprints, 1954), p. 126.

**to the Asiatics**

“The Asiatic Act”, May 4, 1907, *The Johannesburg Star*.

**June, 1907**

“News of the Day”, June 8, 1907, *The Transvaal Leader.*

**July 1, 1907**

 *Transvaal Government Gazette*, June 28, 1907.

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**the Act’s passage**

“Asiatic Bill”, March 26, 1907, *The Rand Daily Mail*.

Gandhi’s reaction to the Act was pronounced:

…if British Indians choose to submit to the serfdom which the legislation seeks to impose on them, I can only say that we deserved the Registration Act. We are undoubtedly put upon our mettle, and it remains to be seen whether, as a body, we shall rise to the occasion…[I]t will be churlish and sinful for myself and my fellow-workers to turn aside from a course which has been dictated by a conscientious purpose.

“Passive Resistance”, May 13, 1907, *The Johannesburg Star.*

**submit to this law**

Mohandas K. Gandhi, *Satyagraha in South Africa* (Stanford: Academic Reprints, 1954), p. 99.

**cat and mouse game**

An excellent summary of the long relationship Gandhi had with Smuts (including their negotiations over the Ordinance) is given in W.K. Hancock, *Smuts: The Sanguine Years, 1870-1919* (Cambridge: Cambridge University Press, 1962).

**the registration period**

*See for example*, “Effective Passive Resistance”, August 12,1 907, *The Johannesburg Star*; “The Asiatic Law”, October 1, 1907, *The Johannesburg Star*; “Asiatic Registration”, November 1, 1907, *The Johannesburg Star*; “Asiatic Registration”, November 2, 1907, *The Transvaal Leader.*

**compromise efforts**

“The Indian Peril”, April 30, 1907, *The Johannesburg Star;* “Letter addressed to the Secretary of the South Africa British Committee by the Colonial Secretary”, August 14, 1907, *The Johannesburg Star*.

**to the extreme**

“Asiatic Registration”, August 12, 1907, *The Johannesburg Star.*

**a glutton for work**

 During the previous year, when he was in the midst of the Ramsundar Pundit case, he complained to his brother that “I am so hard pressed for time that I scarcely know what to do.” Mohandas K. Gandhi, “Letter to Lakshmidas Gandhi”, May 27, 1906, *CWMG* 5, p.334 (1961 edition). In early 1907 he confided in Chhaganlal Gandhi that he did not get “a moment’s respite.” “Letter to Chhaganlal Gandhi”, January 29, 1907, *CWMG* 6, p. 303 (1961 edition).

**private interests in court**

 His appearances in court during the period that is the subject of this chapter were as numerous as ever. *See, for example,* “Civil Magistrate”, February 3, 1906, *The Johannesburg Star*; “Civil Judgments”, March 8, 1906, *The Rand Daily Mail;* “Civil Judgments”, April 12, 1906, *The Rand Daily Mail*; “Civil Judgments”, May 4, 1906, *The Rand Daily Mail*; “Civil Judgments”, June 2, 1906, *The Rand Daily Mail*; “Civil Judgments”, July14, 1906; *The Rand Daily Mail*; “Civil Judgments”, August 21, 1906, *The Rand Daily Mail*; “Civil Judgments”, September 4, 1906, *The Rand Daily Mail*; “Civil Judgments”, October 27, 1906; *The Rand Daily Mail*; “Civil Judgments”, January 8, 1907, *The Rand Daily Mail*; “Civil Judgments”, February 2, 1907, *The Rand Daily Mail*; “Civil Judgments”, March 8, 1907, *The Rand Daily Mail*; “Civil Judgments”, April 19, 1907, *The Rand Daily Mail*; “Civil Judgments”, May 3, 1907; *The Rand Daily Mail*; “Civil Judgments”, June 25, 1907, *The Rand Daily Mail*; “Civil Judgments”, August 10, 1907, *The Rand Daily Mail*; “Civil Judgments”, August 14, 1907, *The Johannesburg Star;*  “Civil Judgments”, September 12, 1907, *The Rand Daily Mail*; “Civil Judgments”, October 11, 1907, *The Rand Daily Mail;* “Civil Judgments”, December 28, 1907, *The Johannesburg Star*; and *Rama and Another v. Rex*, 1907 Transvaal Supreme Court 949 (October 21, 1907). He even instructed a criminal defense advocate. “Illicit Liquor Traffic”, August 15, 1907, *The Transvaal Leader*.

 He also made time to visit and work at Phoenix, a large rural outpost some 14 miles from Durban which he had purchased in 1904 and where he had gathered a number of devotees to publish *Indian Opinion*. “My original idea had been gradually to retire from practice, go and live in the Settlement, earn my livelihood by manual work there, and find the joy of service in the fulfillment of Phoenix. But it was not to be.” Mohandas K. Gandhi, *An Autobiography: My Experiments with Truth* (Boston: Beacon Press, 1957), p. 304.

**March of 1907**

“British Indians in Natal”, March 16, 1907, *Indian Opinion.*

**January of 1907**

 “More Feting of the Transvaal Delegates”, January 12, 1907, *Indian Opinion.*

**to do in England**

“Durban Notes”, January 12, 1907, *Indian Opinion.*

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**certain dietary restrictions**

Mohandas K. Gandhi, *An Autobiography: My Experiments with Truth* (Boston: Beacon Press, 1957), Part IV.

**were a palace**

“Indians in the Transvaal”, February 2, 1907, *CWMG 7, p.*  306 (1961 edition). *See also,* “Russia and India”, September 8, 1906, *CWMG* 5, p.412; “Johannesburg Letter”, September 16, 1907, *CWMG* 6, p. 332 (1961 edition); “Asiatic Law Amendment Ordinance”, March 23, 1907, *CWMG* 6, p. 378 (1961 edition); “Transvaal Asiatic Ordinance”, March 30, 1907, *CWMG* 6, p. 383 (1961 edition); “Transvaal Mass Meeting” April 6, 1907, *CWMG* 6, p. 393 (1961 edition); “Duty of Transvaal Indians”, April 20, 1907, *CWMG* 6, p. 420 (1961 edition); “Johannesburg Letter”, May 11, 1907, *CWMG* 6, p. 468 (1961 edition); “Will Indians Be Slaves?”, May 11, 1907, *CWMG* 6, p. 456 (1961 edition); “British Indian Association”, May 14, 1907, *The Transvaal Leader*; “Struggle in Transvaal”, August 3, 1907, *CWMG* 7, p. 142 (1961 edition); and “Speech at Pretoria”, August 10, 1907, *CWMG* 7, p. 139 (1961 edition).

**my pledge shall stand….**

“Mr. Gandhi’s Pledge”, May 4, 1907, *CWMG* 6, p. 448 (1961 edition).

**do so for free**

“Speech at Hamidia Islamic Society”, September 9, 1906, *CWMG* 5, p.418 (1961 edition).

**November, 1907**

As indicated earlier, Gandhi first made the pledge in a speech before the Hamidia Islamic Society. “Speech at Hamidia Islamic Society”, September 9, 1906, *CWMG* 5, p.418 (1961 edition). He repeated it in the columns of *Indian Opinion* on several occasions. *See, for example*, “Johannesburg Letter”, April 27, 1907, *CWMG* 5, p.440 (1961 edition); “Johannesburg Letter”, July 27, 1907, *CWMG* 7, p.129 (1961 edition); and “Johannesburg Letter”, November 30, 1907, *CWMG* 7, p.387 (1961 edition).

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**a prospect Gandhi recognized**

“Johannesburg Letter”, July 27, 1907, *CWMG* 7, p.129 (1962 edition).

**the resister’s discharge**

“Some Questions”, October 20, 1906, *CWMG* 5, p.473 (1961 edition).

**the previous registration schemes**

“Johannesburg Letter”, April 27, 1907, *CWMG* 6, p. 440 (1961 edition).

**not desire a gaol sentence**

“Johannesburg Letter”, May 25, 1907, *CWMG* 6, p. 495 (1961 edition). These conditions attached to Gandhi’s offer to represent those charged with failing to register. Gandhi also offered to represent Indians who were arrested while picketing, but only if they behaved themselves and remained nonviolent. “Johannesburg Letter”, October 10, 1907, *CWMG* 7, p*..* 283 (1962 edition).

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**of the accused**

“Johannesburg Letter”, June 1, 1907, *CWMG* 7, p*.* 9 (1962 edition).

**nor anyone else can help**

“Johannesburg Letter”, July 13, 1907, *CWMG* 7, p.89 (1962 edition).

**may be let off**

“Johannesburg Letter”, July 27, 1907, *CWMG* 7, p*.* 129 (1962 edition).

**resisting the government**

See Appendix A for a description of these cases.

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**only themselves to blame**

 “Asiatic Law: Mr. Gandhi’s Proposals”, August 19, 1907, *The Johannesburg Star.*

**reference to the Act**

“Asiatic Law: Mr. Gandhi’s Proposals”, August 19, 1907, *The Johannesburg Star.*

**nothing definite had eventuated**

“Passive Resisters”, December 3, 1907, *The Transvaal Leader.* Speculation as to when arrests would occur arose on more than one occasion throughout year as the government’s registration effort stopped and re-started. *See, e.g.,* “What Next?”, August 10, 1907, *CWMG* 7, p*.*  153 (1962 edition).

**Volksrust**

See Appendix (also online) for details of the Volksrust prosecution.

**another resister**

See Appendix A for details of the Essak prosecution.

**December 21**

“Letter to General Manager”, December 20, 1907, *CWMG* 7, p*.* 441 (1962 edition) and “Letter to General Manager”, December 21, 1907, *CWMG* 7, p*.* 447 (1962 edition). *See also* “Indians in the C.S.A.R.”, December 20, 1907, *The Rand Daily Mail*; “Dismissed Indians”, December 21, 1907, *The Rand Daily Mail*; “Forty Indians Discharged”, December 21, 1907, *Indian Opinion*; “CSAR Indians”, December 24, 1907, *The Rand Daily Mail*; “CSAR Indians not Evicted”, December 15, 1907, *The Rand Daily Mail*; and “CSAR Indians”, December 28, 1907, *The Rand Daily Mail*.

**private law practice**

*See, for example*, “Civil Judgments”, December 28, 1907, *The Johannesburg Star*, reporting Gandhi’s appearance in court on Saturday, December 21, 1907.

**who had not registered**

 Gandhi had secured a different opinion from the eminent South African lawyer, J.W. Leonard, who believed that no colony possessed any power to act beyond its own borders. Opinion of J.W. Leonard and Arthur Hume, December 30, 1907, Serial Number 4780, Sabarmati Ashram, Gandhi Smarak Sangrahalaya,, Ahmedabad; “Asiatic Crisis: The Legal Position – What Counsel Advise”, December 31, 1907, *The Transvaal Leader*; “Meeting of Chinese: Mr. Gandhi’s Exhortation”, December 31, 1907, *The Johannesburg Star*.

**consolation and advice**

“The Asiatics”, December 27, 1907, *The Rand Daily Mail;* “Asiatic Question”, December 27, 1907, *The Johannesburg Star*.

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**December 28**

 “Speech at Hamidia Islamic Society”, December 27, 1907, *CWMG* 7, p*.* 449 (1962 edition) at fn. 1.

**anxious Indians**

“Bitter-Enders: Mass Meeting of Indians”, December 28, 1907, *The Rand Daily Mail.* *Indian Opinion* estimated there were “at least 1,000 people present.” “A Meeting at Vreedorp”, January 4, 1908, *Indian Opinion.*

**the last 15 months**

 “Speech at Hamidia Islamic Society”, December 27, 1907, *CWMG* 7, p*.* 449 (1962 edition). *See also* “A Johannesburg Demonstration”, December 28, 1907, *The Transvaal Leader*.

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**bold headlines are made**

*The Johannesburg Star’s* headline that afternoon was “Asiatic Question: Ringleaders in Court – 48 Hours Notice to Leave – New Phase of the Struggle.”

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**against his religion**

Martin Easton and John Forteen (both Chinese defendants), as well as Leung Wuinn (president of the Chinese Association), testified, too. The cases of the remaining two Indian defendants, Nawab Khan and Sumander Khan, were continued until January 3 in order to arrange for the presence of translators; neither defendant spoke English.

**finger-print system**

“The Registration Law: Simultaneous Arrests in Johannesburg Pretoria and Pietersburg – Mr. Gandhi Ordered to Leave the Transvaal – Within 48 Hours”, January 4, 1908, *Indian Opinion.*

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**shown throughout the trials**

“Asiatic Question: Ringleaders in Court – 48 Hours Notice to Leave – New Phase of the Struggle”, December 28, 1907, *The Johannesburg Star;* “The Asiatic Question: Leaders Before the Court – Ordered to Leave Colony”, December 30, 1907, *The Transvaal Leader*; “The Asiatics: Law Enforced – Leaders in Court – Ordered to Leave the Colony”, December 30, 1907, *The Rand Daily Mail*; “The Registration Law: Simultaneous Arrests in Johannesburg Pretoria and Pietersburg – Mr. Gandhi Ordered to Leave the Transvaal – Within 48 Hours”, January 4, 1908, *Indian Opinion.*

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**being rearrested…..**

 “Meeting on the Square: Ringleaders Refuse to Leave”, December 28, 1907, *The Johannesburg Star*.

**to the bitter end**

 “Speech in Government Square”, January 1, 1908, *Indian Opinion*.

**the Indians’ side**

“Pretoria Indians: Sunday’s Mass Meeting – Appeal for Unity – Determination to Struggle”, December 30, 1907, *The Johannesburg Star*; “Mass Meeting at Pretoria: Mr. Gandhi’s Farewell”, December 30, 1907, *The Transvaal Leader*.

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**the swiftest arrow**

 “Method of Deportation”, December 30, 1907, *The Johannesburg Star*.

**could stop them**

 “...every religion taught that if a man did anything that degraded his manhood, there was no religion in him.” “Speech at Chinese Association”, December 30, 1907, *CWMG* 7, p*.* 471 (1962 edition).

**deportation powers**

 “Speech at Chinese Association”, December 30, 1907, *CWMG* 7, p*.* 471 (1962 edition); “Meeting of Chinese: Mr. Gandhi’s Exhortation”, December 31, 1907, *The Johannesburg Star*; “Asiatic Question: The Chinese”, December 31, 1907, *The Transvaal Leader*.

**Imperial Conference for resolution**

“Interview to Reuter”, December 30, 1907, *CWMG* 7, p*.* 472 (1962 edition).

**would now flinch**

 “Strong Speaking”, December 31, 1907, *The Rand Daily Mail*. *See also* “At the Mosque”, December 31, 1907, *The Johannesburg Star* and “At the Mosque: Shaking Empire’s Foundations”, December 31, 1907, *The Transvaal Leader*.

**an elated Indian crowd**

 “The Passive Resisters: To-Days’s Developments”, December 31, 1907, *The Johannesburg Star*.

**in a strong protest**

“Meeting This Morning: The Police Intervene”, December 31, 1907, *The Johannesburg Star;* Untitled entry, January 4, 1908, *Indian Opinion*. *Indian Opinion* estimated the crowd to number “at least 1,000 Asiatics, with a fair sprinkling of Europeans....”

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**coverage of the rally**

“The Passive Resisters: No Action So Far”, January 2, 1908, *The Johannesburg Star.*

**carry his message**

 “The Asiatics: Cases in the Courts”, January 4, 1908, *The Transvaal Leader*; “Passive Resisters: The Ex-Soldiers’ Case”, January 3, 1908, *The Johannesburg Star;* “The Unregistered Asiatics”, January 4, 1908, *The Rand Daily Mail;* “Trial of Ex-Soldiers”, January 3, 1908, *CWMG* 8, p. 1 (1962 edition).

**General Smuts**

 Gandhi’s press campaign might be said to have actually begun with his letter to the editor of *The Johannesburg Star* that appeared on Saturday, January 4. “The Religious Aspect: A Reply from Mr. Gandhi”, January 4, 1908, *The Johannesburg Star*. In the letter Gandhi makes the case for the religious basis of the resistance. His argument, however, is wholly unpersuasive. One comes away with the distinct feeling that Gandhi painted himself in a corner on this issue and never managed to find a way out.

**whom they had trusted…one more chance to register**

“Asiatic Question: General Smuts’ Attitude – Patience of the Government – No Mercy to the Leaders”, January 6, 1908, *The Johannesburg Star*; “General Smuts: An Important Address – The Asiatic Problem”, January 6, 1908, *The Transvaal Leader*.

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**misled the Indian community**

“Mr. Gandhi Interview: Reply to General Smuts – The Situation Reviewed”, January 6, 1908, *The Johannesburg Star.*

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**resolve the crisis**

“Mr. Gandhi Interviewed: Reply to General Smuts”, January 7, 1908, *The Transvaal Leader*.

**compulsion**

He also repeated his suggestion of a judicial inquiry. “Interview to Reuter”, January 8, 1908, *CWMG* 8, p. 19 (December, 1962 edition).

**a pro-Indian activist**

 “Johannesburg Letter”, before January 10, 1908, *CWMG* 8, p. 22 (December, 1962 edition). For more on Schlesin, *see* Thomas Weber, *Going Native: Gandhi’s Relationship with Western Women* (Lotus: New Delhi, 2011).

**Hindu-Moslem unity**

“Last Message to South African Indians”, January 10, 1908, *CWMG* 8, p.31 (December, 1962 edition).

**from the country**

“Speech at Newtown Mosque”, January 10, 1908, *CWMG* 8, p. 33 (December, 1962 edition).

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**countrymen**

“Asiatic Question: Ringleaders, Sentenced – Mr. Gandhi’s Valediction, Appeal to His Followers,” *JS*, January 10, 1908.

**in his own hearing**

There was nothing in that day’s first edition about the Pretoria sentences; the details would appear in the 4:45 pm edition. What Gandhi did read in the first edition, however, was an exchange of correspondence between himself and the government, as well as letters to the editor from the editor of *Indian Opinion,* Henry Polak, and from Essop Mia, chair of the British Indian Association. *See* “General Smuts’ Speech”, “Trade Licences and Renewals”, and “The Root Objection”, January 10, 1908, *The Johannesburg Star.*

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**hard labour**

“Asiatic Question: Ringleaders, Sentenced – Mr. Gandhi’s Valediction, Appeal to His Followers,” *JS*, January 10, 1908.

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**of the mosque**

“Trial at Johannesburg”, January 10, 1908, *CWMG* 8, p*.* 36 (December, 1962 edition); “At the Court: Mr. Gandhi’s Request – Exciting Scenes”, January 11, 1908, *The Rand Daily Mail*; “Asiatic Question: Ringleaders Sentenced”, January 10, 1908, *The Johannesburg Star*; “Ringleaders Sentenced: Heavy Terms of Imprisonment”, January 11, 1908, *The Transvaal Leader*; “The Asiatics: The Court Proceedings”, January 11, 1908, *The Transvaal Leader*; “Street Procession”, January 11, 1908, *The Transvaal Leader*.

**The thought shook him**

Mohandas K. Gandhi, *Satyagraha in South Africa* (Stanford: Academic Reprints, 1954), p. 149.

**Chapter Sixteen**

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**integrity….Gandhi**

“Speech at Mass Meeting”, June 24, 1908, CWMG 8, p. 319 at 320 (December, 1962 edition).

**the Johannesburg jail**

Because the jail grounds also hosted military fortifications, the jail was known as “the Fort.” Eric Itzkin, *Gandhi’s Johannesburg* (Johannesburg: Witwatersrand University Press, 2000), pages 30 -33.

 Joseph Doke, who would later take an injured Gandhi into his home in Johannesburg, described the Fort as it existed on the day of Gandhi’s imprisonment there: “The Fort, used as the prison, with its great mounds of earth, originally piled up by the Dutch after the Jameson raid, and garrisoned to overawe the city, crowns the hill above.” Joseph J. Doke, *M.K. Gandhi: An Indian Patriot in South Africa* (Faridabad, Government of India Press, 1967 (reprint; original publication date 1909), p. 6.

**fifty-four years later**

Nelson Mandela, “Gandhi, the Prisoner: A Comparison”, in B.R. Nanda, ed., *Mahatma Gandhi: 125 Years* (New Delhi: Indian Council for Cultural Relations, 1995) at page 10.

**civil and moral counsel**

“My Experience in Jail: Reading”, March 28, 1908, *CWMG* 8, p. 159.

**good for him**

It was not a complete vacation from lawyering. Polak visited him and they addressed office work. “My Experiences in Jail”, March 28, 1908, *CWMG* 8, p. 158 (December, 1962 edition).

**not go to jail again**

“Further Considerations”, February 29, 1908, *CWMG* 8, p. 113 (December, 1962 edition).

**struggle for 16 months**

“Further Considerations”, February 29, 1908, *CWMG* 8, p. 113 (December, 1962 edition).

**with the government**

“Further Considerations”, February 29, 1908, *CWMG* 8, p. 113 (December, 1962 edition); Mohandas K. Gandhi, *Satyagraha in South Africa* (Stanford: Academic Reprints, 1954), p. 156.

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**considered a friend**

Mohandas K. Gandhi, *Satyagraha in South Africa* (Stanford: Academic Reprints, 1954), p. 154.

**was ready to listen**

Reports of an upcoming visit of an intermediary had circulated in Johannesburg in the days before Cartwright called on Gandhi. “Compromise Rumours”, January 18, 1908, *The Johnannesburg Star*.

**resisters to the government**

In February, 1908, Gandhi states that the letter was drafted by “Mr. Cartwright himself...” “Further Considerations”, February 29, 1908, *CWMG* 8, p. 113 (December, 1962 edition). He takes the same position in March of 1908; see “Interview with D.A. Rees” , before March 26, 1908, CWMG Supplementary Volume I (1894 - 1928), p.67 (April, 1989). Writing in 1928, Gandhi states that the letter was “drafted or approved of by General Smuts.” M. K. Gandhi, *Satyagraha in South Africa* (Stanford: Academic Reprints, 1954), p. 154.

**and signed it**

Gandhi would later claim that his amendment of the draft made it clear “beyond all doubt” that repeal was intended. Mohandas K. Gandhi, *Satyagraha in South Africa* (Stanford: Academic Reprints, 1954), p. 155. An examination of the document simply does not support this characterization. Indeed, this was not Gandhi’s position in February, 1908 when he wrote that the letters between himself and Smuts “do not say categorically that the new law would be repealed....” “Johannesburg Letter”, February 8, 1908, *Indian Opinion*.

**not what the letter *said***

The letter was a poorly drafted document. It was, at best, confusing and ambiguous. With respect to one of the two central issues – repeal – it simply failed to unequivocally make repeal a condition of the settlement.

 Early in the letter, the letter seems to refer to, but not require, an exchange of voluntary registration for repeal:

...we have repeatedly offered to undergo voluntary registration if the Act were repealed. And even now at this late hour we would urge on the Government the adoption as far as possible of the course more than once proposed by us.

 Immediately after this passage, however, the letter continues with this language:

We recognize that it is not possible during the Parliamentary recess to repeal the Act, and we have noted your repeated public declarations that there is no likelihood of the Act being repealed.

 This passage would appear to move in the opposite direction – the Indians seem to be surrendering their demand for repeal. This impression is reinforced by a later passage that treats the Act as an irrelevancy:

We would however point out that the periods fixed for registration under the Act by the various Government Notices have expired and that therefore any registration at present would necessarily have to be of that voluntary nature which we originally prayed the Government to concede.

The letter then goes on to discuss the details of voluntary registration, after which the letter states:

Should the Government agree to these suggestions and accept registration on these terms, we assume that all further prosecutions or punishments under the Act will be suspended during the period set aside for registration.

**“accepted the letter”**

The editors of *Indian Opinion* render this phrase this way: Cartwright “rang up to say that General Smuts had accepted [the terms of] the letter.” “Johannesburg Letter,” January 30, 1908, *CWMG* 8, p 65 at 66 (December, 1962 edition).

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**lead their communities**

“Smuts, Jan Christiaan (Christian)”, W.J. de Kock (ed.), *Dictionary of South African Biography*, Vol I., p. 737 (Pretoria: National Council for Social Research. 1968). See also, W.K. Hancock, *Smuts: The Sanguine Years, 1870 - 1919* (Cambridge: Cambridge University Press) (1962) and *Smuts as a Lawyer: An Intimate Study, By One of His Pupils* (1950), 67 South African Law Journal 339.

**over the Transvaal**

Declaring that the Indians had given in, Smuts allowed as how the “country would now remain a white man’s country.” “Rustenberg Farmers: Address by Mr. Smuts”, February 1, 1908, *The Johannesburg Star*.

 The Indians were not the only concern of Smuts and the Colony’s whites. They were also concerned with the demonstration effect of the Indians’ resistance on the native population. “The Asiatic Deadlock”, January 27, 1908, *The Johannesburg Star*.

**represent the Asiatics**

Letter of Lord Selborne to J.C. Smuts, dated November 30, 1907. Quoted in W.K. Hancock, *Smuts: The Sanguine Years, 1870 - 1919* (Cambridge: Cambridge University Press, (1962).

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**within the letter**

“Johannesburg Letter”, February 8, 1908, *Indian Opinion*.

**repeal the Act**

Gandhi would later claim that Smuts pledged to repeal the Act at this meeting, as well as a subsequent meeting. “Asiatic Question”, June 26, 1908, *The Johannesburg Star*.

**supplementary action by Parliament**

The letter read as follows:

 GENTLEMEN,

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

 *I have the honour to be, Gentlemen,*

 *Your obedient servant,*

E. M. GORGES,

 ACTING ASSISTANT

 COLONIAL SECRETARY

 “Johannesburg Letter”, January 30, 1908, *CWMG* 8, p. 65 (December, 1962 edition).

**any such thing at all….**

“Letter to General Smuts” [dated February 1, 1908], February 4, 1908, CWMG, 8, p. 49 (December, 1962 edition). On January 31, the Johannesburg Star ran an interview with General Smuts in which he stated that the idea the Act would be repealed was “a preposterous proposal, and now the Indians have dropped it.” “Mr. Smuts Interviewed”, January 31, 1908, *The Johannesburg Star*. Either Gandhi did not read this interview – an unlikely occurrence – or he decided to ignore Smuts’ comments.

**to shock the whites**

“Johannesburg Letter,” February 8, 1908, *CWMG* 8, p 65 at 71 (December, 1962 edition).

**implied in the letters**

“Johannesburg Letter”, June 8, 1908, *CWMG* 8, p. 283 (December, 1962 edition). Smuts, of course, takes the opposite position. “Asiatic Question”, June 22, 1908, *The Johannesburg Star*.

**February 3**

“Johannesburg Letter”, June 8, 1908, *CWMG* 8, p. 283 (December, 1962 edition).

**register voluntarily**

“Johannesburg Letter,” February 8, 1908, *CWMG* 8, p 65 at 71-72 (December, 1962 edition).

**who owned property**

“Speech at Meeting of the British Indian Association”, January 31, 1908, *CWMG* 8, p. 45 at p. 46 (December, 1962 edition).

**complete**

“A Dialogue on the Compromise”, February 15, 1908, *Indian Opinion*.

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**associated with fingerprints**

See, e.g., “A Fresh Development”, January 29, 1908, *The Transvaal Leader*.

**of fingerprints themselves**

“The main distinction between the Act and the identification under the offer will consist in the sting of compulsion being removed.” “Interview to the Transvaal Leader”, *CWMG* 8, p. 44 (December, 1962 edition). See also “Humility”, February 8, 1908, *CWMG* 8, p. 58 (December, 1962 edition) and “Triumph of Truth”, February 8, 1908, *CWMG* 8, p. 60. (December, 1962 edition);

**betrayed them**

M. K. Gandhi, *Satyagraha in South Africa* (Stanford: Academic Reprints, 1954), p. 162; “The Asiatics”, February 12, 1908, *The Transvaal Leader*.

**February 10, 1908**

“Asiatic Question: Mr. Gandhi Injured”, February 10, 1908, *The Johannesburg Star*.

 Gandhi’s Pathan one-time supporters were not done with him. When he visited Durban to participate in a mass meeting of Indians, some Pathans started a disturbance in protest of Gandhi. A shot was fired in the air, missing Gandhi. “Indians at Durban”, March 6, 1908, *The Johannesburg Star*.

**he lost consciousness**

M. K. Gandhi, *Satyagraha in South Africa* (Stanford: Academic Reprints, 1954), pp. 167-8.

**to take his finger prints**

M. K. Gandhi, *Satyagraha in South Africa* (Stanford: Academic Reprints, 1954), pp. 167-173; H.S.L. Polak, H.N. Brailsford, Lord Pethwick-Lawrence, *Mahatma Gandhi* (London: Odhams Press Limited, 1948), p. 65.

**softened by events**

M. K. Gandhi, *Satyagraha in South Africa* (Stanford: Academic Reprints, 1954), pp. 170.

**in Durban**

Speaking of those who beat him, Gandhi states “I ...request that no action be taken against them.” “Letter to Friends”, February 10, 1908, *CWMG* 8, p. 75 (December, 1962 edition), reprinted in *The Johannesburg Star* of February 11, 1908. Gandhi also wrote to the Attorney General, indicating that he did not want his assailants prosecuted. M. K. Gandhi, *Satyagraha in South Africa* (Stanford: Academic Reprints, 1954), p. 168. Two of those who assaulted Gandhi were nonetheless prosecuted. “Assault on Mr. Gandhi”, February 20, 1908, *The Johannesburg Star*.

As Maureen Swan points out, Gandhi, with a change of conditions, changed his views by May when he urged Smuts to deport “the most violent member of the Pathan community...who ha[d] been an active agent” in having the assaults against Gandhi and others committed. “Letter to General Smuts”, May 21, 1908, *CWMG* 8, p. 253.

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**several months**

 Gandhi was back in court within a week after being released from jail. “In Second Civil Magistrate’s Court”, February 6, 1908, *The Johannesburg Star*. Throughout March, April, and May he provided routine representation to his business clients.“Civil Judgments”, March 20, 1908, *The Johannesburg Star*; “Civil Judgments”, April 14, 1908, *The Johannesburg Star*; “Civil Court”, May 13, 1908, *The Rand Daily Mail*;“Civil Judgments”, May 23, 1908, *The Johannesburg Star*.

 In June of 1908, Gandhi actually brings suit against one of his former clients for the rather substantial amount of £625, representing money Gandhi had lent to the client to pay for costs incurred in the loss of the client’s original case – the *Lucas* test case involving property ownership by Indians. “In the Nature of a Test Case”, May 27, 1905, *CWMG* 4, p. 451. “Mr. Gandhi Sued”, June 5, 1908, *The Transvaal Leader*. (The title of the article has got it backwards; Gandhi was the plaintiff, not the defendant.)

 In addition, a fair amount of his time was occupied in advising his long-time client, Budrea, who seemed to have a never-ending series of legal needs associatd with his property dealings in Natal**.** “Letter to F.H. Tatham”, March 14, 1908, *CWMG* 8 at p. 144 (December, 1962 edition); “Letter to C.A. De R. Labistour”, March 18, 1908, *CWMG* 8 at p. 144 (December, 1962 edition); “Letter to Magnlal Gandhi”, March 26, 1908, *CWMG* 8 at p. 156 (December, 1962 edition); “Letter to C.A. De R. Labistour”, March 28, 1908, *CWMG* 8, at p. 158 (December, 1962 edition); “Letter to Maganlal Gandhi, *CWMG* 8, at p. 168 (December, 1962 edition). Gandhi dealt with Budrea’s property problems even while he was in jail. “My Experience in Jail [-IV], March 28, 1908, *CWMG* 8, at p. 158 (December, 1962 edition).

**April 6, 1908**

“Johannesburg Letter”, April 11, 1908, *CWMG* 8, p. 182 at 184 (December, 1962 edition). According to *The Transvaal Leader* of April 10, 1908, Polak was admitted to the bar on April 6 and took the requisite oaths on April 8.

**not meet by himself**

Gandhi had found himself overwhelmed with the work his practice generated and persuaded Polak join him in his office where Gandhi would train him to become a lawyer. Mohandas K. Gandhi, *An Autobiography: My Experiments with Truth* (Boston: Beacon Press, 1957), p. 305.

**movement for Indian rights**

In 1908 Polak would put his own distinct impression on representing civil disobedients by defending their actions in court on the basis of their “conscientious objection” to the law. *See, for example*, “The Florida Case”, July 31, 1908, *The Transvaal Leader* and “Hawkers Sentenced”, August 1, 1908, *The Transvaal Leader*. Gandhi was quick to pick this theme up. *See*, “Letters to the Editor”, August 10, 1908, *The Transvaal Leader*.

**repeal the Act**

“Johannesburg Letter”, May 23, 1908, *CWMG* 8, p. 247 (December, 1962 edition).

**made at Richmond**

“Mr. Smuts at Richmond”, February 6, 1908, *The Johannesburg Star*; “Asiatic Agitation”, July 8, 1908, *The Johannesburg Star*.

**of the negotiations**

“The Asiatic Situation”, June 25, 1908, *The Rand Daily Mail*; “Asiatic Agitation”, July 8, 1908, *The Johannesburg Star*.

**Gandhi-Smuts correspondence**

“Johannesburg Letter”, June 8, 1908, *CWMG* 8, p. 283 (December, 1962 edition).

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**to repeal the Act**

“Asiatic Question”, May 29, 1908, *The Johannesburg Star*.

 Gandhi takes up the question of whether the settlement was in writing in the June 8, 1908 issue of *Indian Opinion*. He does not answer the question squarely or forcefully. After reviewing his correspondence and meetings with Smuts, he states, “There is no doubt therefore that there exists a written commitment about the repeal of the Act.” “Johannesburg Letter”, June 8, 1908, CWMG 8, p. 283 (December, 1962 edition).

**to keep his word**

In a speech to a large gathering of Indians in Johannesburg, Gandhi states that he “had too great faith in the statesmanship of General Smuts, in his honesty, and in his integrity.” “Speech at Mass Meeting”, June 24, 1908, *CWMG* 8, p. 319. In his describing his January 30, 1908, meeting with Smuts, Gandhi recalled that Smuts told him, “You know I too am a barrister.” M. K. Gandhi, *Satyagraha in South Africa* (Stanford: Academic Reprints, 1954), p. 156.

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**should be repealed**

“Letter to E.F.C. Lane”, May 14, 1908, *CWMG* 8, p. 231 (December, 1962 edition).

**by refusing to register**

Gandhi’s legal theory was that because no law existed requiring the Indians to have made application for voluntary registration, the Government had no right to the possession of the paperwork. Moreover, the Government had breached the agreement under which voluntary registration had been made, thus forfeiting whatever claim the Government might have had to the submissions.

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**return of the documents**

“Letter to General Smuts”, June 6, 1908, *CWMG* 8, p. 277 (December, 1962 edition).

**into the case**

“K.C.” stood for King’s Counsel, a distinction bestowed on a select portion of the bar.

 “[Ward] had a thorough knowledge of English case law, which he had thoroughly read and digested.” Manfred Nathan, *Not Heaven Itself: An Autobiography* (Durban: Knox, 1944), page 218 -219, quoted in Ellison Kahn, *Law, Life and Laughter: Legal Anecdotes and Portraits* (Cape Town: Juta and Company, 1991) at page 335.

 Gandhi had attempted to retain J.W. Leonard to represent the Indians before the Supreme Court. Leonard, a highly-regarded barrister, had previously represented the Indian cause on multiple occasions. At the time Gandhi approached him, however, he was occupied with other important work and unavailable. Ward, Gandhi’s second choice, was described by Gandhi as a “very able barrister, though not of the same calibre as Mr. Leonard.” “Johannesburg Letter”, June 14, 1908, *CWMG* 8, p.297 (December, 1962 edition).

**for use in the case**

The affidavits were from Ebrahim Ismail Aswat, Essop Mia, and Gandhi himself. “Johannesburg Letter”, June 14, 1908, *CWMG* 8, p. 297 (December, 1962 edition).

**written the same day**

“Letter to General Smuts”, June 13, 1908, *CWMG* 8, p 290 (December, 1962 edition).

**harsh and unacceptable**

“Extract From Letter to S.A.B.I. Committee”, June 22, 1908, *CWMG* 8, p. 308 (December, 1962).

**without much ado**

“Letter to the Press”, June 22, 1908, *CWMG* 8, p. 306 (December, 1962 edition).

**immediately go to court**

“Asiatic Question”, June 22, 1908, *The Johannesburg Star*.

**BIA officer**

“Petition to Transvaal Supreme Court”, June 23, 1908, *CWMG* 8, p. 311 (December, 1962 edition).

**voluntary application papers**

“Johannesburg Letter”, June 23, 1908, *CWMG* 8, p. 316 (December, 1962 edition).

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**the application paperwork**

It is likely that Gandhi, rather than Ward, wrote this unclear petition “after consulting Barrister Ward.” “Petition to Transvaal Supreme Court”, June 23, 1908, *CWMG* 8, p. 311 (December, 1962 Edition), fn. 2.

 The petition summarizes the compromise agreement the Indians thought they had reached with Smuts. It states that Aswat and most other Indians complied with the agreement by voluntarily registering. It also states that because the Government would not repeal the Act, Aswat “does not wish to accept a certificate of voluntary registration....” The petition indicates that Aswat had asked for his application and supporting papers back and that his request was refused. It points out that Aswat did not apply for registration under the Act but “of his own free will.” And finally, it asks that the court order Chamney to return the application.

 Two affidavits, also likely drafted by Gandhi, were filed in support of the petition – one from Essop Mia and one from Gandhi himself. (“Affidavit”, June 23, 1908, *CWMG* 8, p. 314 (December, 1962 edition).) The purpose of Mia’s affidavit appears to be to call attention to the physical injury he suffered (along with Gandhi) when he attempted to voluntarily register in May. Thus, Mia’s affidavit added nothing to the substantive argument; it was principally an emotional appeal. Gandhi’s affidavit makes his legal theory somewhat clearer. It reviews the negotiations with Smuts and states that Smuts “definitely” promised to repeal the Act. Gandhi attached to his affidavit the correspondence he had with Smuts, “confirming” in Gandhi’s view “the question of repeal.” Gandhi’s affidavit appears to be designed to provide proof of the registration-for-repeal agreement.

 The Government, for its part, submitted affidavits in which the Colonial Secretary and the Registrar of Asiatics denied there was any agreement to repeal the Act. (“Asiatic Question”, June 26, 1908, *The Johannesburg Star*.) The Government appears from these submissions to accept Gandhi’s hazy legal framework for the case.

**July 2**

The matter first came before Justice Smith on the morning of June 26, 1908, with A.D. Home arguing for the Indians and Lichtenstein instructing him. Home stated that he wanted more time to respond to the affidavits of Smuts and Chamney. DeWaal, for the Government, opposed him on this. The Court granted Home’s request and set July 2 as the date for argument in the case.

**he himself had raised**

Solomon had interrupted Ward to ask hime whether Aswat had a property interest in the documents. This was a new slant on the case that neither the Indians nor the Government had addressed in their submissions to the Court.

 In response, Ward likened the application first to a photo provided to the government on a temporary basis and then to an ancient art object for sale, “with a document containing its history; if the sale [of the art object] did not go through, surely he was entitled to reclaim the document.” Ward’s reply also went to Aswat’s intent: he had no intent to transfer ownership of the documents to the Government in the absence of the Government’s compliance with the agreement. Hence, in light of the Government breach of the agreement, they remained Aswat’s.

**was the Government’s**

Solomon reasoned that the application was like “a letter written by one person to another.” When one sends a letter, one relinquishes ownership over it and ownership passes to the recipient. When Aswat submitted his application to the Government, it was not with the intent that he should reclaim it later. Like a letter that is sent, the application became the property of the recipient. Aswat v. Registrar of Asiatics, 1908 Transvaal Supreme Court Reports 568 (July 2, 1908).

**entitled to their applications back**

The Court did agree that Aswat was entitled to the return of his Peace Preservation Ordinance papers and his Law 3 of 1885 papers that he had submitted along with his application. Aswat v. Registrar of Asiatics, 1908 Transvaal Supreme Court Reports 568 (July 2, 1908). The possession of these papers, however, was not seriously in dispute and of little concern to either party to the case.

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**highly technical point of law….**

“Letter from Mr. Gandhi”, July 3, 1908, *Rand Daily Mail*. Interestingly, Gandhi downplayed the significance of the Court’s decision even before it was rendered. “Johannesburg Letter”, before July 2, 1908, *CWMG* 8, p. 329. For his part, Smuts crowed: “The Asiatics took the matter to the [Supreme] Court, and Sir William Solomon took the view that the interpretation of the agreement was entirely different from the construction which the Asiatics placed upon it.”

“Gen Smuts’ Speech in Legislative Assembly”, August 21, 1908, *CWMG* 8, p. 507.

**Chapter Seventeen**

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**I can….Gandhi**

“Speech at Meeting of British Indian Association”, February 2, 1908, *CWMG* 8, at p. 55 (December, 1962 edition).

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**not hold them all**

“Mr. Smuts at Richmond”, February 6, 1908, *The Johannesburg Star*.

 “...[W]e had made a law that could only be carried out with the assistance of the coolie, and the coolie would not assist us.” “Mr. Smuts at Blaauwbank”, February 11, 1908, *The Johannesburg Star*.

**March, 1930**

Thomas Weber, *On the Salt March: The Historiography of Gandhi's March to Dandi* (New Delhi: Rupa, 2009); Judith M. Brown, *Gandhi and Civil Disobedience: The Mahatma in Indian Politics, 1928-1934* (Cambridge: Cambridge University Press, 1977).

 The Gandhi-led 1913 South African workers’ strike and march provide other, but somewhat less clear, examples. *See* Maureen Swan, *Gandhi: The South African Experience* (Johannesburg: Ravan Press, 1985), pp. 245 - 256.

**in this Colony think**

“Letter to the Editor”, December 31, 1907, *The Johannesburg Star***.**

**in that fashion**

“Meeting of Chinese: Mr. Gandhi’s Exhortation”, December 31, 1907, *The Johannesburg Star.*

Within just a few weeks of his loss in the Supreme Court, Gandhi repeats the theme when he tells an audience:

He had no doubt that the Colonists themselves, when they saw that the British Indians would suffer…would ask General Smuts to stay his hand and keep his promises, and to repeal the Act on the conditions he had agreed upon. “Speech at Mass Meeting”, August 10, 1908, *CWMG* 8, p. 436 (December, 1962 edition).

**minds of the Colonists**

“Letter to J.J. Doke”, July 25, 1908, *CWMG* 8, page 399 (December, 1962 edition).

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**in the courts**

“When I talk of equality of treatment in the eye of the law the idea is jeered at.....To my mind, it is the only thing that binds the Empire together.” “Interview to the Star”, September 9, 1908, *CWMG* 9, p. 30 (April, 1963 edition).

**burning the registers**

“Johannesburg Letter:, July 7, 1908, *CWMG* 8, p. 347.

**on trade without one**

“Johannesburg Letter”, before July 2, 1908, *CWMG* 8, p. 329.

**to go to jail**

“Johannesburg Letter”, before July 2, 1908, *CWMG* 8, p. 329.

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**intended to introduce**

“The Asiatics: Mr. Gandhi on the Position – Determined to Hold Out”, July 24, 1908, *The Transvaal Leader*.

**into the Transvaal**

“Asiatic Question”, June 22, 1908, *The Johannesburg Star*.

**the law presently allowed**

“The Asiatic Question”, July 17, 1908, *The Johannesburg Star*; “Mr. Gandhi Again Explains”, August 13, 1908, *The Johannesburg Star*. Gandhi and the Indians also wanted the Government to honor the right to return of Indians who had formerly lawfully lived in the Transvaal.

**August 13**

“The Asiatics: Text of the New Bill”, August 13, 1908, *The Transvaal Leader*.

**the Validation Bill**

They argued that because the bill failed to repeal the Act that it should be rejected by Parliament. “The Asiatic Problem”, August 14, 1908, *The Johannesburg Star*.

**burn their certificates**

“Letter to General Smuts”, August 14, 1908, *CWMG* 8, p. 451 (December, 1962 edition).

**five hundred trading licences**

In addition to the 1,300 certificates that the leadership had in hand, 200 additional certificates were surrendered during the event. “The Asiatic Question: Prominent Indians Charged”, August 18, 1908, *The Transvaal Leader*.

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**the BIA chairman spoke**

Sounding Gandhian themes, Essop Mia proclaimed that the intent of the Indians was not to defy the Government but simply to suffer for the Indian cause. In the aftermath of the Supreme Court decision, he believed that there was but one thing left to do: “divest ourselves of the certificates we have been misled into taking.” Mia’s conclusion stirred the crowd into loud applause, as he declared that the Indians’ cause was one of life or death.

**to that legislation**

“Speech at Mass Meeting”, August 16, 1908, *CWMG* 8, p, 456 (December, 1962 edition). The paragraphing here has been slightly changed from the original for clarity.

This moving section of Gandhi’s talk was followed by a blistering *ad hominem* attack on Montford Chamney, the Registrar of Asiatics, whom Gandhi called hopelessly incompetent and ignorant. Chamney had been present for the Gandhi-Smuts conversation in which Gandhi claimed Smuts promised to repeal the Act. Chamney then spoke with Gandhi and personally confirmed this promise to him – before filing his affidavit in the Supreme Court case denying the existence of that very promise. Gandhi ended his talk by accusing Chamney of lying and by predicting that there would be no peace in the Colony while Chamney was in office. The crowd applauded again.

The Rand Daily Mail, in reporting on the rally, stated that Gandhi “seemed to be suffering from mental stress....” “Gaol Before Indignity: Asiatics Burn Certificates”, August 17, 1908, *The Rand Daily Mail*.

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**could not be heard**

“The Asiatics: Burning of the Certificates”, August 17, 1908, *The Transvaal Leader*; “Defiance of Defense”, August 17, 1908, *The Johannesburg Star*; “The Asiatic Position”, August 17, 1908, *The Johannesburg Star*; “Gaol Before Indignity: Asiatics Burn Certificates”, August 17, 1908, *The Rand Daily Mail*.

**be completely halted**

“Letter to the Press”, June 22, 1908, *CWMG* 8, p. 306 (December, 1962 edition).

**of educated immigrants**

“We contend that the Immigrants Restriction Law, as it stands, does not debar educated Indians from entering the country....” “Educated Indians”, August 14, 1908, *The Transvaal Leader*.

**under the current law**

“Extract from Letter to S.A.B.I. Committee”, June 22, 1908, *CWMG* 8, p. 308 (December, 1962 edition).

**officer may require**

Immigrants’ Restriction Act, Act No. 15 of 1907, Appendix I, p. 487, *CWMG* 8 (December, 1962 edition).

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**manager and bookkeeper**

“The Indian Case”, July 9, 1908, *The Johannesburg Star*.

**Smuts’ contention**

“Letter of July 6, 1908 from Essop Mia to Colonial Secretary", July 8, 1908, *The Johannesburg Star.*

**Sorabji’s intentions**

“Johannesburg Letter”, June 24, 1908, *CWMG* 8, page 318 (December, 1962 edition).

**requisite English skills**

“*Trial of Sorabji Shapurji - I*”, July 8, 1908, CWMG 8, p. 345 (December, 1962 edition).

**the forum he wanted**

“Johannesburg Letter”, June 24, 1908, *CWMG* 8, page 318 (December, 1962 edition).

**watched by the police**

“Johannesburg Letter”, June 24, 1908, *CWMG* 8, page 318 (December, 1962 edition).

**July 4**

“The Asiatic Cases: An Educated Indian Without a Permit”, July 8, 1908, *The Johannesburg Star*.

**failing to register**

“The Asiatic Cases: An Educated Indian Without a Permit”, July 8, 1908, *The Johannesburg Star*.

**July 8**

It was often true in the Transvaal courts in 1908 that there was very little time between arrest and trial.

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**to enter the colony**

“The Asiatic Cases: An Educated Indian Without a Permit”, July 8, 1908, *The Johannesburg Star*; “Rand Police Courts: Asiatic Test Case – Mr. Gandhi’s Puzzles”, July 9, 1908, *The Rand Daily Mail*; “Law and Police: Law and Asiatics – The Registration Problem – Test Case from Charlestown”, July 9, 1908, *The Transvaal Leader*; “Trial of Sorabji Shapurji-I”, July 8, 1908, *CWMG* 8, page 345 (December, 1962 edition).

**That’s the point**

“Law and Police: Law and Asiatics – The Registration Problem – Test Case From Charlestown”, July 9, 1908, *The Johannesburg Star*.

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**register under the Act**

“Asiatic Registration Case: Mr. Gandhi’s Objection Upheld”, July 10, 1908, *The Transvaal Leader*.

**and go to gaol**

“Letter to A. Cartwright”, July 9, 1908, *CWMG* 8, page 352 (December, 1962 edition).

**deadlines for registration**

Gandhi’s first move that day was to argue that the case should be dismissed because the defendant had previously been acquitted of the charge. (Gandhi had pled *autre fois acquit*. Under American law, this plea would be comparable to a defense of double jeopardy – an argument that a person cannot be tried twice for the same alleged crime.) The Magistrate responded to Gandhi’s assertion of this defense by pointing out that the offense was a continuous one, thus permitting the re-arrest. Gandhi was prepared for this response. He argued that under the Act a person was allowed eight days to register after entering the country. Not only had the eight days not passed, but the defendant had been re-arrested just moments after his discharge; had he a desire to register, he was permitted no time to do so. This appeared to be a strong argument, but the Magistrate overruled the plea without explaining his decision.

**dismissal request down**

Gandhi moved for another discharge of the defendant on grounds similar to those he cited in Sorabji’s first trial. Gandhi argued that the Government was obligated to tender to the court the notices from the Government *Gazette* that indicated that “persons found within the Colony after a certain date would be called upon to produce registration certificates.” Gandhi pointed out that the Government had only submitted the *Gazette* notices of the expiration of the registration period. Gandhi then unknowingly made a serious mistake by producing and reading the additional *Gazette* notices he argued the prosecution was obligated to enter into evidence. He had simply wanted to call these notices to the attention of the court, but his actions permitted the prosecution to argue that Gandhi had done its work for it. Gandhi replied that he had not put the *Gazette* notices into evidence and that he had just read from the *Gazette* as he would from a law book.

 Gandhi was clearly correct about this point, but the Magistrate again ruled against him and again failed to explain his ruling.

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**within seven days**

“Law and Police: Parsee and Permit – Shapurjee Again Charged – Ordered to Leave This Time”, July 11 1908, *The Transvaal Leader*; “Rand Police Courts: Ordered to Leave – Indian Immigration Case – Government Defied”, July 11, 1908, *The Rand Daily Mail*; “Trial of Sorabji Shapurji - II”, July 10, 1908, *CWMG* 8, page 357 (December, 1962 edition).

**the IRA was correct**

In an editorial in The Transvaal Leader, its editors wrote that either the Government “failed in its duty in knowingly allowing a prohibited immigrant to enter unmolested, or that the Government had not much faith in its own interpretation of its own Immigrants’ Restriction Act. Under which thimble is the pea?” “A Dilemma”, July 18, 1908, *The Transvaal Leader*.

**and thus to advance the debate**

In a letter to the editor of *The* *Rand Daily Mail*, Gandhi argued that the fact that Sorabji was being prosecuted under the Act was proof that “educated Asiatics were free to enter under the Immigration Restriction Act.” “A Test Case”, July 6, 1908, *The Rand Daily Mail*. *See also*, “The Sorabji Case” (letter to the editor from Gandhi’s colleague, H.S. L. Polak), July 15, 1908, *The Johannesburg Star*; “The Asiatic Question” (letter to the editor from the chairman of the British Indian Association, Essop Mia), July 17, 1908, *The Johannesburg Star*.

**jailed again and again**

“The Asiatics”, September 16, 1908, *The Transvaal Leader*; “Asiatics”, December 3, 1908, *The Transvaal Leader*; “Letter to Private Secretary to Lord Crewe”, October 22, 1909, *CWMG* 9, p. 493 (April, 1963 edition).

**of *Indian Opinion***

“Johannesburg Letter”, July 18, 1908, *CWMG* 8, page 367 (December, 1962 edition); “Johannesburg Letter”, July 21, 1908, *CWMG* 8, page 387 (December, 1962 edition); “Sorabji Shapurji of Adajan”, July 25, 1908, *CWMG* 8, page 398 (December, 1962 edition).

 Sorabji went on to train for the bar in England and returned to South Africa to practice in Johannesburg. Shortly afterward he contracted an illness (tuberculosis perhaps) and died. M.K. Gandhi, *Satyagraha in South Africa*, p. 212 - 3 (Stanford: Academic Reprints, 1954).

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**returned to the authorities**

“The Asiatics: Collision with the Police – Hard Labour Sentence Resented”, July 21, 1908, *The Transvaal Leader*.

**the economic scale**

“Johannesburg Letter”, September 26, 1908, *CWMG* 9, p. 63 (April, 1963 edition).

**fighting for principle**

“Speech in Johannesburg”, July 20, 1908, *CWMG* 8, page 378 (December, 1962 edition).

**change through self-suffering**

This front actually opened five days before Gandhi’s speech, when Essop Mia, chair of the British Indian Association, wrote to the press that he and other members of the leadership would temporarily abandon their normal work and take up hawking – without licences. “The Asiatic Question” (Letter to the Editor from Essop Mia, Chair, British Indian Association), July 17, 1908, *The Johannesburg Star*.

**unlicenced hawkers were arrested**

“Asiatic Question: The Position of the Hawkers”, July 21, 1908, *The Johannesburg Star*.

**in the coming months**

By August 15, 1908, approximately 100 Indians had gone to jail. “The Asiatics”, August 15, 1908, *The Transvaal Leader*. Some of these individuals were established figures who had been not only the core of Gandhi’s political support but often his clients as well. “The Indian Revolt: Prominent Men Arrested”, July 21, 1908, *The Johannesburg Star*. As Maureen Swan explains, however, many others were petty hawkers to whom Gandhi turned for support when merchant dedication to the cause declined. Maureen Swan, *Gandhi: The South African Experience* (Johannesburg: Ravan Press, 1985) at page 167.

**to plead not guilty**

“Trial of Ebrahim Ismail and Suliman Bagas”, *CWMG* 8, July 20, 1908, at page 379 (December, 1962 edition); “Trial of Ismail Akooje and Others”, *CWMG* 8, July 21, 1908, at page 382 (December, 1962 edition);“Yesterday’s Prosecutions”, August 12, 1908, *The Transvaal Leader*; “Pretoria Licences: Claim of ‘Ultra Vires’ ”, September 16, 1908, *Rand Daily Mail*.

**plead them guilty**

“Germiston: Asiatic Ordinance – Hawkers in Trouble”, August 8, 1908, *The Transvaal Leader*; “Prosecuting Hawkers”, August 14, 1908, *The Transvaal Leader*; “Further Prosecutions”, July 28, 1908, *The Johannesburg Star*; “Stubborn Asiatics”, July 31, 1908, *The Rand Daily Mail*.

**and others were not**

The one guilty plea that can be explained occurred in *Rex v. Mariji*, which will be discussed below.

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**had no licences**

*See, for example,* *Rex v. Bagas*, “The Asiatic Question: The Position of the Hawkers”, July 21, 1908, *The Johannesburg Star*.

**usually with hard labor**

Some differences in whether the courts gave hard labor sentences existed (*see*, “The Asiatics: Government and the Hawkers”, July 31, 1908, *The Transvaal Leader*), but these differences are explained by geography. Johannesburg judges “invariably” imposed hard labor while judges in the outlying areas were more apt to be forgiving.

**advance the public debate**

Gandhi was not ignorant of the debate-advancing function of civil disobedience. He would later write that“...the self-suffering which the community has undergone, and which has been expressed by the term “passive resistance” has been undertaken after the methods of petitioning, etc., had been exhausted and in order to draw public attention to a grievance that was keenly felt and resented by the community.” “Indian Passive Resisters”, August 6, 1910, *The Rand Daily Mail*.

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**four days with hard labor**

“Smuts v. Gandhi: The Fight Over the Act – Prominent Indians Sentenced – Hawking as a Protest – Fourteen Exemptions”, July 22, 1908, *The Johannesburg Star*; “Trial of Bawazeer, Naidoo and Others”, July 22, 1908, *CWMG* 8, page 385 (December, 1962 edition); “Asiatic Passive Resisters”, July 23, 1908, *The Rand Daily Mail*; “Law and Police: Asiatics Sentenced –Leaders in the Dock – A New Feature”, July 23, 1908, *The Transvaal Leader*.

***Rex v. Ramaswamy and Others***

“Hawkers Go to Gaol: Mr. Gandhi and Exemptions”, July 28, 1908, *The Transvaal Leader*; “Hawkers Fined”, July 28, 1908, *The Rand Daily Mail*.

**L.H. Jefferson on the stand under cross-examination**

Identified elsewhere as T.H. Jefferson and Thomas H. Jefferson. *See, for example*, “Law and Police: Asiatics Sentenced –Leaders in the Dock – A New Feature”, July 23, 1908, *The Transvaal Leader*; “Hawkers Fined”, July 28, 1908, *The Rand Daily Mail*.

**will not allow this**

“Hawkers Go to Gaol: Mr. Gandhi and Exemptions”, July 28, 1908, *The Transvaal Leader*.

**should produce the document**

“Hawkers Go to Gaol: Mr. Gandhi and Exemptions”, July 28, 1908, *The Transvaal Leader*.

**with hard labor**

“Hawkers Go to Gaol: Mr. Gandhi and Exemptions”, July 28, 1908, *The Transvaal Leader*.

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**into civil disobedience**

Gandhi also raised a procedural defense in *Rex v. V.M. Bagas and Others* when he used the defect in the summons served on the defendants for the basis of his application for a discharge. In *Bagas*, the defendants were arrested for trading without having their grocers’ licences. Gandhi “took exception to the summons before pleading, that it disclosed no offence under Ordinance 58 of 1903, and the Ordinance did not provide for the framing of a bye-law in regard to a general grocer’s licence.” The Magistrate overruled Gandhi on this point, after which Gandhi refrained from calling any witnesses or producing any other evidence. The defendants received fines of 5 shillings or three days imprisonment with hard labor.

 Gandhi was acting as co-counsel in this case with Lichtenstein.

 “Trial of V.M. Bagas and Others”, September 15, 1908, *Indian Opinion*.

**about one of these**

*Rex v. Ghila, Deva, and Bhachar*, a prosecution for hawking without licences. The defendants pleaded guilty, Gandhi indicated that the defendants would not call witnesses or put on any other evidence, and the magistrate promptly handed down a sentence of £1 or seven days imprisonment with hard labor. “Stubborn Asiatics”, July 31, 1908, *The Rand Daily Mail*.

**“with deliberation”**

“The Asiatics: “Hawkers” Go To Prison – Young Gandhi Sentenced – Naidoo’s Third Conviction”, July 29, 1908, *The Transvaal Leader*.

**his previous convictions**

“Hawking Without Licences: A Plea for Heavier Sentences”, July 29, 1908, *The Rand Daily Mail*.

**defending Indian satyagrahis**

A satyagrahi was one who was engaged in satyagraha, Gandhi’s new name for passive resistance. Gandhi explains the origin of the term and its meaning (“the Force which is born of Truth and Love or non-violence”) in *Satyagraha in South Africa* (Stanford: Academic Reprints, 1954).

**whatever sentence is passed**

“Letter to Indian Opinion”, August 8, 1908, *CWMG* 8, page 432 (December, 1962 edition).

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**arrested for unlicenced hawking**

The twenty-year old Harilal had committed himself to civil disobedience on behalf of the cause when he crossed the Natal/Transvaal border at Volksrust a few days earlier with the intention of refusing to register under the Act. When he arrived in Johannesburg and before he was apprehended for violating the Act, he did not rest. He had taken up hawking fruit – without a licence – and had soon been arrested for that act. “The Asiatics: Harilal Gandhi Arrested”, July 28, 1908, *The Transvaal Leader*.

**the most self-sacrificial suffering**

“Satyagraha always calls for sacrifice of self.” “Self-Sacrifice”, July 4, 1908, *CWMG* 8, p. 335 (December, 1962 edition). “Those who wish to serve India must give up all thought of serving their own interests.” “Duty of the Educated”, August 8, 1908, *CWMG* 8, p. 429 (December, 1962 edition).

**“enrolled as an attorney”**

“Letter to Indian Opinion”, August 8, 1908, *CWMG* 8, page 432 (December, 1962 edition).

**self-sacrificial suffering**

“I have advised every Indian to take up hawking. I am afraid I cannot join myself since I am enrolled as an attorney. I therefore thought it right to advise my son to make his rounds as a hawker. I hesitate to ask others to do things which I cannot do myself. I think whatever my son does at my instance can be taken to have been done by me.

 It will be a part of Harilal’s education to go to gaol for the sake of the country.”

“Letter to Indian Opinion”, August 8, 1908, CWMG 8, page 432 (December, 1962 edition).

**they did not get it**

“Letter to Indian Opinion”, August 8, 1908, *CWMG* 8, page 432 (December, 1962 edition).

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**“fill the jails”**

“Speech at Mass Meeting”, July 20, 1908, *CWMG* 8, page 380-381 (December, 1962 edition).

**capitulation**

“Johannesburg Letter”, August 31, 1908, *CWMG* 8, page 1(April, 1963 edition).

 Indian resisters would provoke the government into arresting for failing to register by presenting themselves at the Volksrust border crossing without their registration papers. They would then be tried and ordered to leave the Colony, an order they would refuse to obey. They would then be deported. Once deported, they re-entered the Colony to start the process anew. As many as 120 resisters were engaged in this practice at the start of October. “A Heavy Sentence”, October 13, 1908, *The Johannesburg Star*.

**on behalf of the Indians**

“Indian Problem”, September 9, 1908, *The Johannesburg Star*.

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**of Harilal’s defiance**

“The Indian Agitation”, August 10, 1908, *The Johannesburg Star*.

**seven days to leave**

“The Indian Agitation”, August 10, 1908, *The Johannesburg Star*.

**cheerful in the dock….**

“The Indian Struggle in the Transvaal: Harilal Gandhi Gets a Month”, August 22, 1908, *Indian Opinion*.

**negotiating with Smuts**

“The Asiatic Revolt: Mr. Gandhi at Pretoria”, August 18, 1908, *The Johannesburg Star*.

**volunteered to represent Harilal**

Of Godfrey, Gandhi wrote in *Indian Opinion*: “Mr. George Godfrey, who has only recently opened his practice, has announced that he will not charge any fees for appearing in any case which serves the community as a whole. This offer deserves commendation and Mr. Godfrey must be given credit for putting his education to the best use.” “Johannesburg Letter”, August 10, 1908, *Indian Opinion*.

**with hard labor**

“The Indian Struggle in the Transvaal: Harilal Gandhi Gets a Month”, August 22, 1908, *Indian Opinion*.

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**without a registration certificate**

“Another Arrest Under the Act”, August 8, 1908, *Indian Opinion*.

**evidence in extenuation**

Gandhi cross-examined Superintendent Vernon. In response to Gandhi’s questioning, Vernon stated that the Government had instructed him to arrest the defendant. Gandhi, undoubtedly aware that the Government had not chosen to embark on a campaign of mass arrests, was curious. When he probed Vernon as to why Patel was singled out for arrest, Vernon sarcastically indicated that he had been instructed to arrest all the others and that he would “get them all directly.”

 On Gandhi’s advice, Patel pleaded guilty. Gandhi produced the usual evidence in extenuation – that the defendant refused to abide by the registration requirements because the Government had broken its agreement with the Indians. The Magistrate ordered Patel out of the colony within seven days. Gandhi announced that this ‘sort of thing would go on until the struggle was over.” “The Asiatic Agitation”, August 4, 1908, *The Johannesburg Star*; “Trial of Muljibhai G. Patel”, August 4, 1908, *CWMG* 8, p. 421 (December, 1962 edition); “Asiatics Again”, August 5, 1908, *The Rand Daily Mail*; “Indian Question”, August 5, 1908, *The Transvaal Leader*.

 Like Harilal, Patel refused to depart as ordered. When he was brought back before the Magistrate and charged with disobeying the Court’s order, Gandhi once again instructed him to plead guilty and once again had the opportunity to question Vernon. (The practice in the Transvaal was to require the government to present its case, even in the face of a guilty plea by the defendant.) Gandhi, through his cross-examination of the witness, argued that Patel had a right to stay in the Transvaal by virtue of his permit under the Peace Preservation Ordinance (“PPO”). When the witness argued that the PPO permit was worthless, Gandhi volunteered to the witness that he was “afraid that the Court will not hold with your contention.” “The Asiatic Problem”, August 12, 1908, *The Johannesburg Star*; “Indian Leader Imprisoned”, August 13, 1908, *The Transvaal Leader*; “Early Morning Arrest”, August 15, 1908, *Indian Opinion*. It was Gandhi’s contention, however, with which the Court did not hold – and Patel went to jail for a month of hard labor.

**pled his client not guilty**

“Johannesburg Letter”, before August 4, 1906, *CWMG* 5, page 377 (June, 1961 edition).

**dismissal of the charges**

Gandhi demonstrated that Maliha was a long-time resident of the Transvaal and possessed permits under Act 3 of 1885 and the Peace Preservation Ordinance. (While Mahila had not drawn the notice of the authorities by crossing the border, he may have drawn their interest as a newcomer to Johannesburg, having just recently arrived from Ermelo, a town east of Johannesburg. “The Asiatic Problem: Another Phase”, August 26, 1908, *The Johannesburg Star*.) Gandhi’s defense was that the Validation Bill was just about to become law and under it the defendant’s status would be entirely lawful. He sought the assistance of the prosecutor in dismissing the charges on this basis. Cramer, the prosecutor, indicated, however, that he had phoned the Colonial Secretary’s office and “had received instructions to proceed with the case.” Maliha was ordered out of the colony. “Trial of Bhikhabhai D. Maliha”, August 26, 1908, *CWMG* 8, page 479 (December, 1962 edition); “The Asiatic Problem: Another Phase”, August 26, 1908, *The Johannesburg Star*. Unfortunately, the record does not disclose the course of legal proceedings after the issuance of this order.

**the Peace Preservation Ordinance**

*See, for example*, “The Asiatic Question: Volksrust Trials”, August 19, 1908, *The Transvaal Leader*.

**H.S.L. Polak**

In some other instance, Indians were represented by the Indian lawyer, George V. Godfrey. *See*, *for example*, “Heavy Sentences”, October 13, 1908, *The Johannesburg Star*.

**in the face of prosecution**

“The Asiatic Question: Volksrust Trials – A Parsee’s Plea; Defence Case Closed; More Convictions”, August 20, 1908, *The Transvaal Leader*.

**prosecution**

Rather, Polak aggressively raised all manner of substantive and procedural defenses for the disobedients.See, for example, Polak’s tactics in his representation of Javerbhai Randeri for failing to register. “Asiatic Problem”, October 7, 1908, *The Johanneburg Star*.

**on this issue**

“Indian Problem: Volksrust Sentences”, September 9, 1908, *The Johannesburg Star*. *The Times* of London did give some attention to Indian disobedience. *See*, *for example*, “Indians in the Transvaal: Active Resistance to the Law”, September 11, 1908, *The Times;* “Indians in the Transvaal”, October 5, 1908, *The Times*; and “Indians in the Transvaal”, October 15, 1908, *The Times*.

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**eventually result in change**

Professor Thomas Weber addresses the Gandhian approach to conflict resolution (including its emphasis on self-suffering) and its relationship to modern conflict resolution theories in *Gandhian Philosophy, Conflict Resolution Theory and Practical Approaches to Negotiation*, Journal of Peace Research, Vol. 38, No. 4 (July, 2001), pp. 493 - 513. Professor Weber correctly points out that there is some debate as to whether the dynamic that I have described here is universally applicable. The understanding I offer here of the relationship between civil disobedience, self-suffering, and change is, in fact, not the only understanding of the dynamic. For an exploration of the relationship, including alternative views, *see* Leroy H. Pelton, *The Psychology of Nonviolence* (Elmsford, NY: Pergamon Press, 1974).

**aware of that hardship**

At his trial, Parsee Rustomjee testified that he “was prepared to suffer and knew that he was liable for punishment under the Act.” “The Asiatics: Volksrust Trials – Indians in the Dock; “Prepared to Suffer” ”, August 19, 1908, *The Transvaal Leader*.

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**exactly what he wanted**

“Mr. Smuts at Richmond”, February 6, 1908, *The Johannesburg Star*.

**harass poor Indians**

“Summary of Letter to General Smuts”, July 21, 1908, *CWMG* 8, page 384 (December, 1962 edition). Privately, Gandhi had reservations about being arrested. He confided in Cartwright: “While I take pride in the fact of so many of my countrymen going to jail, and suffering even unnecessary hardships, I cannot help feeling the situation most keenly, especially when I, who am chiefly responsible for all these things, have to remain unhurt.” Gandhi does not explain why he must “remain unhurt. “Letter to A. Cartwright”, August 5, 1908, *CWMG* 8, page 429 (December, 1962 edition).

**reaction from Smuts**

Saul Alinsky, the father of community organizing in America, once famously wrote that “the action is in the reaction.” Saul Alinsky, *Rules for Radicals* (New York: Random House, 1971).

**to some Indians there**

“Not Allowed to Land – Transvaal Indians Detained at Durban”, October 10, 1908, *Indian Opinion*.

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**number of his companions**

“Indian Problem: Arrests at Volksrust – Mr. Gandhi Included”, October 7, 1908, *The Johannesburg Star*.

**thumb impression for identification**

“A Heavy Sentence”, October 13, 1908, *The Johannesburg Star*.

**quietly accept the punishment**

Dawjee Amod had entered the Colony without having registered under the Act. Gandhi instructed Amod to plead not guilty to a charge of being a prohibited immigrant, argued that the defendant was not in violation of the Immigration Act, and cross-examined the government’s witness in aid of this argument. Amod was found guilty.

 Next, a group of nine Indians came before the court; they, too, were accused of the same crime as Amod. It appears Gandhi instructed them all to plead not guilty. He again argued that they were not in the Colony unlawfully and conducted a second, identical cross-examination of the government’s witness. He added, perhaps by way of extenuation, that the accused had all been advised by him to enter the Colony. All nine were found guilty.

 Four Indians – Ratanji Sodha, Mawji Karsonji, Ravikrishna Talwantsingh, and Ratanji Rugnath – were then brought forward to also face charges of being prohibited immigrants. Gandhi instructed them, too, to plead not guilty and argued that the first three qualified to enter as educated immigrants while the first two and Ratanji Rugnath had a right to enter as pre-war residents of the Colony. Gandhi himself then took the stand to testify that he had advised these defendants to enter the Transvaal and assisted them in doing so. All four were found guilty.

 “Cost of Defying the Law”, October 15, 1908, *The Rand Daily Mail*; “Indian Problem”, October 14, 1908, *The Johannesburg Star*; and “Trial of Dawjee Amod and Others”, October 17, 1908, *Indian Opinion*.

**Solicitor Gandhi**

Gandhi was admitted to practice as a Barrister and was known as such during his brief practice periods in India. In Natal, his formal title was Advocate and in the Transvaal, Solicitor.

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**suffering for his country**

“Indian Problem – Field Day at Volksrust – A Series of Cases – Mr. G Sentenced – Address in Court – His Advice to Accused”, October 14, 1908, *The Johannesburg Star*; “Cost of Defying the Law: Gandhi Severely Punished”, October 15, 1908, *Rand Daily Mail*; “Volksrust Again: Mr. Gandhi Sentenced”, October 17, 1908, *Indian Opinion*.

**Chapter Eighteen**

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**our country…Gandhi**

“Letter to Manilal Gandhi”, November 24,1909, *CWMG* 10, p. 70, (September,1963, edition).

**the Indian movement’s operations**

“Letter to G.K. Gokhale”, April 25, 1910, *CWMG* 10, p. 229 (September, 1963 edition).

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**will fall away**

“Speech at Johannesburg Reception”, December 12, 1908, *CWMG* 9, p. 107 (April, 1963 edition).

**ability to create change**

Gandhi makes the case for suffering repeatedly. For example, in July, 1909, he argues that he “can think of no course so wonderfully effective as voluntary suffering. Even the most powerful orators cannot protest as effectively as [such] suffering can. Suffering is bound to bring redress. Those who are prepared to suffer need not advertise their suffering. I believe, It will speak for itself. Accordingly, I advise every Indian to have suffering as his companion. Everything else is mere bubbles in water.” “Deputation Notes, July 24, 1909, *CWMG* 9, p. 312 (April, 1963, edition). Later than same month, he states: “Every white who hears of our gaol-going is struck with admiration. Voluntary submission to suffering cannot but have a powerful effect. This has been my experience again and again.” “Deputation Notes, July 26, 1909, *CWMG* 9, p. 317 (April, 1963, edition).

**would make no contribution**

 Gandhi echoes this argument a short time later:

 “...[S]atyagrahis...must appeal to God alone. The courts of the world cannot help them. How can they? The courts of a blind king must also be blind....[A] satyagrahi’s appeal lies to his own strength, to his faith in God and his God-given strength. These will never fail him.”

 “Randeri Appeal”, February 13, 1909, *CWMG* 9, p. 188 (April, 1963, edition).

**for the Indian cause**

At about this same time, Gandhi was advising people to consult lawyers to vindicate their rights. “High-Grade School”, January 9, 1909, *CWMG* 9, p. 139 (April, 1963, edition).

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**their registration applications**

“Rand Police Courts”, December 10, 1908, *The Rand Daily Mail*.

**convicted the defendants**

“Indian Pickets Arrested”, December 19, 1908, *The Rand Daily Mail;* “Rand Police Courts”, December 31, 1908, *The Rand Daily Mail*.

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**his store on credit**

“The Asiatic Side: Mr. Gandhi Interviewed”, January 22, 1909, *The Rand Daily Mail*. Gandhi less than convincingly denied any attempt at coercion. See “Letter from Mr. Gandhi”, January 23, 1909, *The Rand Daily Mail*.

**against such a move**

 “No Gandhi Rule”, January 23, 1909, *The Rand Daily Mail*.

**the Asiatic cause**

 “Passive Resistance?”, January 22, 1909, *The Rand Daily Mail*.

**“deluded faddists”**

 “The Asiatic Question”, January 23, 1909, *The Johannesburg Star*.

**demanded a cash payment**

 “Merchants Demand Cash”, January 23, 1909, *The Rand Daily Mail*.

**to stop the process**

 “Indians and Their Licenses”, January 26, 1909, *The Johannesburg Star*; “Law Reports”, January 27, 1909, *The Rand Daily Mail*.

**followed Cachalia’s example**

 One other merchant, E. M. Aswat, proclaimed that he intended to follow Cachalia’s example (*see* “Indian Agitation”, January 23, 1909, *The Johannesburg Star,* “Letter to Creditors”, January 23, 1909, *CWMG* 9, p. 166 (April, 1963 edition), and “Cachalia’s Self-Sacrifice”, January 30, 1909, *CWMG* 9, p. 176 (April, 1963 edition) ) and there was unsubstantiated talk of others following (see “Indian Merchants: Forty to Surrender Their Estates”, January 26, 1909, *The Rand Daily Mail*). There is no clear evidence, however, that Aswat or anyone else actually did follow Cachalia’s example. (Gandhi later refers in Indian Opinion to “Mr. Rustomjee and Mr. Cachalia” as having “lost their all.” “Johannesburg, March 5, 1910, *CWMG* 10, p. 175 at 176 (September, 1963 edition). It appears, however, that Rustomjee sacrificed his assets in a different form of resistance.)

**as a lawful immigrant**

 “Asiatic Appeal Case: Supreme Court Hearing”, December 24, 1908, *The Johannesburg Star*.

**for failure to register**

 “The Asiatic Question: Naidoo Appeal Fails”, January 23, 1909, *The Johannesburg Star*; *Naidoo and Others v. Rex*, 1909 Transvaal Supreme Court Reports 43 (January 22, 1909).

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**“prohibited immigrant”**

 “Asiatic Appeal: The Randeria Case”, February 5, 1909, *The Johannesburg Star*; Randeria v. Rex, 1909 Transvaal Supreme Court Reports 65 (February 4 and 5, 1909).

**were in jail**

 Maureen Swan, *Gandhi: The South African Experience* (Johannesburg: Ravan Press, 1985) at p. 174.

**have given in**

 “Message to Indians in South Africa”, February 25, 1909, *CWMG* 9, p. 198 (April, 1963 edition).

**are prepared to follow**

 “The Resisters Fail”, February 4, 1909, *The Rand Daily Mail*.

**released on bail**

 “Mr. Gandhi Arrested: To and Fro the Border”, January 16, 1909, *The Johannesburg Star*.

**the highest penalty**

 “Trial at Volksrust”, February 25, 1909, *CWMG* 9, p. 197 (April 1963 edition).

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**to his leadership**

 H.O. Ally and Haji Habib led a short-lived effort to establish a more moderate group, independent of Gandhi, that would both negotiate a settlement with the Transvaal government and send a deputation to London. This attempt collapsed when some key Ally-Habib supporters, faced with the prospect of having to oppose Gandhi’s desire that the deputation to London consist solely of resisters, withdrew their support from Ally and Habib. S*ee* Maureen Swan, *Gandhi: The South African Experience* (Johannesburg: Ravan Press, 1985), pp. 175-6. *See also*, James Hunt, *Gandhi in London* (New Delhi: Promilla & Co., 1978).

**of any deputation**

 “The Deputation”, June 26, 1909, *Indian Opinion*.

**if there were one**

 Maureen Swan, *Gandhi: The South African Experience* (Johannesburg: Ravan Press, 1985), p. 176.

**four months in London**

 For an excellent description and analysis of this period, *see* James Hunt, *Gandhi in London* (New Delhi: Promilla & Co., 1978).

**as a philosophy**

 Nageshwar Prasad (ed.), *Hind Swaraj: A Fresh Look* (New Delhi: Gandhi Peace Foundation, 1985) at page 15.

**the sublimity of Satyagraha**

 M.K. Gandhi, *Satyagraha in South Africa* (Stanford: Academic Reprints, 1954) at pages 231-2.

***The SS Kildonan Castle***

A picture pf the ship can be found at: http://www.simplonpc.co.uk/UnionCastle2.html#anchor546575.

**of ship stationery**

 Plus a five -page introduction. Suresh Sharma and Tridip Suhrud report these figures in Suresh Sharma and Tridip Suhrud (eds.), *MK Gandhi’s Hind Swaraj: A Critical Edition* (New Delhi: Orient BlackSwan, 2010), page xi.

**November 13-22, 1909**

 Professor Anthony Parel puts Gandhi’s writing of *Hind Swaraj* in context:

...it was on those visits [to London in 1906 and 1909] that he came into contact with a very important segment of the newly emerging Indian middle class, the expatriate Indians living abroad. These were the new converts to modern civilisation, and it is their uncritical acceptance of their newly found secular faith that really bothered Gandhi.....A significant number of them were drawn together by their nationalist fervour and by their disenchantment with the Indian National Congress. They were attracted to various European revolutionary movements and ideas [and were not opposed to violence].....Gandhi had this group very much in mind when he wrote *Hind Swaraj*.

*Hind Swaraj and Other Writings*, ed. Anthony J. Parel (Cambridge: Cambridge University Press, 1997), at xxiv-xxv. I am greatly indebted to Professor Parel, Professor Emeritus of the University of Calgary, for much of what follows in this chapter with respect to *Hind Swaraj*.

**poverty and slowness**

 “The Unbridgeable Gulf”, October 14, 1939, *CWMG* 76*,* p. 395.

**December**

 The original Gujarati is reproduced in Suresh Sharma and Tridip Suhrud (eds.)*, MK Gandhi’s Hind Swaraj: A Critical Edition* (New Delhi: Orient BlackSwan, 2010).

**March, 1910**

 *Hind Swaraj and Other Writings*, ed. Anthony J. Parel (Cambridge: Cambridge University Press, 1997), at page lxiii.

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**the meaning of swaraj**

 “*Swa* refers to ‘self’ as an individual and as a collective; ‘raj’ refers to rule or control.” Suresh Sharma and Tridip Suhrud (eds.)*, MK Gandhi’s Hind Swaraj: A Critical Edition* (New Delhi: Orient BlackSwan, 2010), p. xxiv.

**of Western civilization**

 “We saw in *Hind Swaraj* that it is not so much from British rule that we have to save ourselves as from Western civilization.” “Shortcomings of Western Civilization”, January 22, 1910, *CWMG* 10, p. 134 (September, 1963 edition).

 Professor Anthony Parel points out that Gandhi’s position on Western civilization is not absolute:

A glimpse into Gandhi’s Western intellectual sources should go a long way towards correcting the view held by some that the Mahatma was opposed to Western civilisation as such. Such a view is so simple as to be false. As Sir Ernest Barker puts it, he was a ‘bridge and a reconciler.’ The breadth and depth of his knowledge of Western intellectual sources suggest that his attack was limited to certain unhealthy tendencies of in modern Western civilisation....On the contrary, in *Hind Swaraj* he joins forces with many concerned Western thinkers in defence of true civilisation values everywhere, East and West.

*Hind Swaraj and Other Writings*, ed. Anthony J. Parel (Cambridge: Cambridge University Press, 1997), at page xlvii.

**modern life is *not* right**

“Letter to A.H. West”, January 12, 1910, *CWMG* 10, p. 127 (September, 1963 edition).

**not in serving others**

A few months after the publication of *Hind Swaraj*, Gandhi writes: “If a lawyer would boast of his altruism or spirituality, let him earn his livelihood through physical labour and carry on his legal practice without charging anything for it.” “Letter to Maganlal Gandhi”, April 4, 1910, *CWMG* 10, p. 203 (September, 1963, edition).

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**Men who use the courts become “unmanly and cowardly.”**

The use of the male gender is in the original.

**dispute by themselves**

 Gandhi later elaborated on this argument:

 ...[T]hose who would fight, must fight it out to the last, be the end death or victory. To start a fight and then go to a court of law is cowardice twice over. To use violence against anyone is cowardly enough, but going to a court is much worse. If a man, after having fought, goes to a court, he will prove himself fit for nothing.

 Duelling survives to this day in all parts of Europe, except England. The idea behind it is that two persons actually fight with each other in order to prove himself in the right and the one who is defeated is considered to have lost his point. It is not open to these persons to go to a court of law [subsequently]. I must admit that, from the point of view of those who approve of violence, this is an excellent practice.

 “Johannesburg”, April 11, 1910, *CWMG* 10, p. 213 (September, 1963, edition).

**a notable part**

*See generally* Maureen Swan, *Gandhi: The South African Experience* (Johannesburg: Ravan Press, 1985).

**to just stop quarreling**

 With respect to the question of what Gandhi meant when he accused the profession of teaching immorality, Professor Parel notes that in South Africa Gandhi discovered that:

“...when we go to courts of law, some of us are only concerned how to win the case at any cost, and not how truth may prevail. In any case it never does, so we think, in courts of law. But there are some in the Indian community who just do a little play acting and make the courts swallow any story that they choose. There is no doubt that this happens. It would be a great boon to the community if this habit disappeared.” (*CW* 10: 147-8.)

**the initial Sorbaji case**

 Gandhi’s defense was built on considerations that had no connection whatsoever to Sorbaji’s motivation in refusing to register. Gandhi, it will be recalled, argued that his client was not guilty because the Government had failed to introduce into evidence relevant notices of the registration requirements from the *Government Gazette* – a purely technical defense having nothing to do with the merits of the case and an argument that plainly had not been in Sorabji’s head when he disobeyed the registration law.

 Another egregious example of a defense uniquely created by lawyers was Polak’s argument that because the Government had not properly appointed a Registrar of Asiatics to take the registrations resisters could not be convicted of the failure to register– a purely technical argument Gandhi borrowed from Polak in the Indian pickets case. Surely no resister’s refusal to register had been motivated by the Government’s failure to properly appoint the Registrar of Asiatics. This was a clever but purely utilitarian argument devised after the fact by Polak and adopted by Gandhi.

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**of modern life**

Professors Lloyd Rudolph and Susanne Hoeber Rudolph locate *Hind Swaraj* against modernity in Chapter One of their volume, *Postmodern Gandhi and Other Essays* (Chicago: University of Chicago Press, 2006).

**and Hindu scripture**

While Buddhism and Jainism had a mild influence on him, Christianity’s influence on him was strong. *Hind Swaraj and Other Writings*, ed. Anthony J. Parel (Cambridge: Cambridge University Press, 1997), at page 10, fn. 8.

Gandhi paid attention to a fair number of theorists. The influence of many of these on Gandhi and on his subsequent writing of *Hind Swaraj* is lucidly explained and discussed by Professor Anthony Parel. See Anthony J. Parel (ed.), *‘Hind Swaraj’ and Other Writings* (New York: Cambridge University Press, 1997). *See also* James Hunt, *Gandhi in London* (New Delhi: Promilla & Company, 1978). Some of the specific theorists who influenced Gandhi include:

Helena Blavatsky, *The Key to Theosophy* (London: Theosophical Publishing Society. 1893).

Godfrey Blount, *A New Crusade* (London : A.C. Fifield, 1903).

Edward Carpenter, *Civilisation: Its Cause and Cure* (London: Swan Sonnenshein & Co, 1895).

Sir Henry Sumner Maine, *Village-Communities in the East and West* (London: John Murry, 1872).

Leo Tolstoy, *The Kingdom of God Is Within You* (Walter Scott: London, 1894).

Max Nordau, *The Conventional Lies of Our Civilization* (Chicago: L. Schick, 1884), at page 217. In *Hind Swaraj* Gandhi mistakenly calls Nordau’s book *Paradoxes of Civilization*. *Hind Swaraj and Other Writings*, ed. Anthony J. Parel (Cambridge: Cambridge University Press, 1997), page xliv. Nordau states that the wealth accumulated by lawyers “has something of a parasitic character....”

Thomas F. Taylor, *The Fallacy of Speed* (London : A.C. Fifield, 1909).

Robert H. Sherard, *The White Slaves of England*: *Being True Pictures of Certain Social Conditions in the Kingdom of England in the Year 1897* (London: James Bowden, 1898).

 Gandhi was also influenced by the work of G.K. Chesterton. James Hunt, *Gandhi in London* (New Delhi: Promilla & Co., 1978), pages 150-1.

**urban middle class**

*Hind Swaraj and Other Writings*, ed. Anthony J. Parel (Cambridge: Cambridge University Press, 1997), page xlii. Professor James Hunt sees Gandhi putting a different gloss on the point Maine makes: “The argument [in *Hind* *Swaraj*] for rejection of Western accomplishments was in each case a moral one. Though he utilized the arguments of many writers, both European and Indian, he based his conclusions on different grounds. He bypassed their political, economic, and pragmatic arguments and made his case almost exclusively on the moral effects. Thus...he passed over Sir Henry Maine’s criticism of lawyers, that they broke down traditional community by stressing individual rights, and instead based his case against lawyers on their profiting by the promotion of quarrels.” James Hunt, *Gandhi in London* (New Delhi: Promilla & Co., 1978) at page 161.

**it has been experience**

 Oliver Wendell Holmes, *The Common Law* (Boston: Little, Brown, and Company, 1881), page 1.

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**giving true happiness**

 “Letter to H.S.L. Polak”, October 14, 1909, *CWMG* 9, p. 477 (April, 1963 edition).

 There is a school of thought that holds that the “main thrust of Hind Swaraj lies in discouraging the enlargement of the base of professional and middle classes and curbing the craze after machinery.” Nageshwar Prasad (ed.), *Hind Swaraj: A Fresh Look* (Gandhi Peace Foundation: New Delhi, 1985) at page 11.

**on both charges**

“Asiatic Registration”, December 29, 1909, *The Rand Daily Mail*; “West Rand”, December 31, 1909, *The Rand Daily Mail*; “Johannesburg”, December 29, 1909, *CWMG* 10*,* p*.* 108 (September, 1963, edition). Gandhi opened for the defense on December 28 and his associate, W.J. McIntyre, closed for the defense on December 30.

**for defendants named Gandhi**

Erik H. Erikson claims that Gandhi defined his identity by categorizing himself as the “only one” capable of particular important missions. Erik H. Erikson, *Gandhi’s Truth* (New York: W.W. Norton & Company, 1969), pages 170 and 393.

**in the Krugersdorp location**

The reader will recall that governments in the Transvaal sometimes set aside areas – called “locations” – in which Indians were required to trade.

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**not the municipality’s ultimate concern**

“Transvaal Notes”, January 15, 1910, *Indian Opinion*; “Johannesburg”, February 9, 1910, *CWMG* 10, p. 151 (September, 1963, edition); “Evidence Before Inquiry Committee”, February 17, 1910, *CWMG,* Supplementary Vol. 1, p. 79 (April, 1989); “Cross-Examination Before Enquiry Committee”, *CWMG,* Supplementary Vol. 1, p. 81 (April, 1989); “Indians at Krugersdorp”, February 18, 1910, The *Rand Daily Mail*.

**a new location**

“Asiatic Report”, August 12, 1910, *The Rand Daily Mail*.

**controlled by his opponents**

Shortly after the Committee hearing, Gandhi wrote: “We shall obtain no justice by going to courts of law. We must fight on, relying on our own strength.” “Deportation - Its Meaning”, March 26, 1910, *CWMG* 10, p. 196 (September, 1963, edition).

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**A. E. Chotabhai**

 Chotabhai himself was also not a resister.

 *The Collected Works of Mahatma Gandhi* uses the spelling “Chhotabhai.” Gandhi’s *Indian Opinion*, however, uses the spelling “Chotabhai” in both news articles and in advertisements. The merchant himself used the spelling “Chotabhai.” *See* the *Indian Opinion* issues of March 11, 1911 and April 22, 1911.

**their parents’ certificates**

“Another Breach of Faith!”, July 30, 1910, *CWMG* 10, p. 298 (September, 1963, edition).

**rather than its spirit**

 A.E. Chotabhai’s situation was described by *Indian Opinion* in terms that reflected *Hind* *Swaraj*’s view of lawyers. Chotabhai –

– began to look about himself and found that other parents were in the same predicament...[and] began to envy passive resisters their freedom. Was he to become a passive resister and tear his own certificate to pieces? His wealth, his age, his position, however, proved too strong for him and he began to seek the advice of lawyers.

 “Transvaal Notes”, August 27, 1910, *Indian Opinion*.

 Gandhi himself reflects something of this attraction to a court solution:

“It may not be proper for satyagrahis to take the matter to a court of law. But this being a serious issue, some Indians are determined to test their rights in court. The result is bound to be favourable.”

 “Johannesburg”, July 25, 1910, *CWMG* 10, p. 295 (September, 1963, edition).

**the certainty of passive resistance**

 “Another Breach of Faith”, July 30, 1910, *CWMG* 10, p. 298 (September, 1963, edition).

**in Chotabhai’s favor**

The courts did prove uncertain. After the Registrar of Asiatics denied Chotabhai’s request that he register his son, Chotabhai appealed to Civil Court. Magistrate H.H. Jordan ruled against him. At the next level of appeal (to a single member of the Supreme Court), Justice John Wessels called the Government’s decision “a monstrous and cruel injustice” and predicted “there would be a howl against it throughout the civilised world.” Untitled item, September 17, 1910, *Indian Opinion*. Justice Wessels nonetheless ruled against Chotabhai, saying that he was required to do so by the relevant statutory language. “Transvaal Indian Minors: Supreme Court Judgment”, September 24, 1910, *Indian Opinion*. Gandhi reacted by saying Wessels’ decision–

– shows up the degrading position of present-day courts. They may dispense injustice instead of justice. It is considered justice on the part of a court if its judgment follows the letter of the law, when this is in conflict with the spirit of justice....We cannot submit to such justice or injustice.

 “Judgment in Boy’s Case”, September 24, 1910, *CWMG* 10, p. 325 (September, 1963, edition).

 The case was appealed to the full Transvaal Provincial Division of the Supreme Court which heard the case on September 27, 1910. “Law Reports: Supreme Court”, September 29, 1910, *The Rand Daily Mail*; “Transvaal Asiatic Minors: Appeal to the Supreme Court”, October 5, 1910, *Indian Opinion*. Gandhi, whose disdain for courts was now on record in *Hind Swaraj* and elsewhere, nonetheless couldn’t help but take pleasure from what appeared to be the positive reception the Indians’ representative, Gregorowski, received from the bench:

Mr. Gregorowski argued hard, and the exchange of arguments between him and the judges showed that the latter’s sympathy was on the side of [Chotabhai].....Mr. Justice Mason went so far as to observe that the law could not indirectly deprive the boy of the rights which he enjoyed prior to 1907.

 The Indians lost in the Provincial Division, with the Court splitting 2-1 in favor of the Government. *Chotabhai v. Minister of Justice and Another*, 1910 South African Law Reports (Transvaal Provincial Division) 1151. That left one final level of appeal – to the Appellate Division of the Supreme Court of the new Union of South Africa. For the readers of *Indian Opinion*, an optimistic Gandhi showed interest in the outcome of the case:

Perhaps [Chotabhai] will win the appeal. The divergence of views among the judges [at the Provincial level] leads one to believe that the higher court may decide in favour of [Chotabhai].

 “Johannesburg”, before November 17, 1910, *CWMG* 10*,* p.357 (September, 1963, edition).

 Writing at the same time to a different audience, he both downplayed the importance of the Court’s decision and conceded, in contradiction to his earlier statement, that the Court was bound by the law’s letter:

A matter so important as this cannot, in my opinion, be left to be decided by even the highest tribunal of justice, which according to our Constitution, must be entirely unmoved by considerations, however important in themselves, that may have led to the passing of certain laws, and which is obliged to give effect to them, no matter how harshly or morally indefensible these laws may be.

 “Letter to Members of Asiatic Conference”, before November 18, 1910, *CWMG* 10*,* p. 360 (September, 1963, edition).

 It was Gandhi’s optimism, not his realism, that was ultimately justified in Chotabhai’s case. The Appellate Division of the Supreme Court of the Union of South Africa ruled in Chotabhai’s favor, saying that “If the Legislature desires to place restrictions upon the liberty of subjects, it should do so in language that admits of no doubt as to its intention. Otherwise, we will refuse to give effect to the law.” *Chotabhai vs. Union Government (Minister of Justice) and Registrar of Asiatics*, 1911 South African Law Reports (Appellate Division) 13.

 “Chhotabhai Case”, February 4, 1911, *CWMG* 10*,* p. 404 (September, 1963, edition).

**the Court’s judgment**

“Chhotabhai Case”, February 4, 1911, *CWMG* 10*,* p. 404 (September, 1963, edition).

Gandhi donated the handsome fee he received from Chotabhai to the resistance movement. “Letter to A. E. Chhotabhai”, May 4, 1911, *CWMG* 11, p. 61 (September, 1963, edition); “Letter to Dr. Panjivan Mehta”, May 8, 1911, , CWMG 11, p. 64 (September, 1963, edition).

**pass without trouble**

“Letter to the Press”, November 14, 1910, *CWMG* 10*,* p. 351 (September, 1963, edition).

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**a one-month prison term**

“Trial of Rambhabai R. Sodha”, December 30, 1910, *CWMG* 10*,* p. 392 (September, 1963, edition). It was rare for a Magistrate to order a defendant to both pay a fine and serve a jail sentence. He was apparently determined to make an example of Rambhabai Sodha, the first Indian woman to be arrested during the resistance. Perhaps the Magistrate was aware that Gandhi was attempting to turn her prosecution into a propaganda event. *See* “Rambhabai’s Case”, November 19, 1910, *CWMG* 10*,* p. 366 (September, 1963, edition).

**and a jail term**

 “Rambhabai Sodha”, March 4, 1911, *CWMG* 10*,* p*.* 423 (September, 1963, edition).

**appealed once more**

 “Telegram to Johannesburg Office”, March 31, 1911, *CWMG* 10*,* p*.* 501(September, 1963, edition).

**and lost**

 “Letter to R.W. Ritch”, April 17, 1911, *CWMG* 11, p. 28 (September, 1963, edition) at fn. 2.

**sent to prison**

Undoubtedly remembering that Smuts had denied key understandings Gandhi thought they had reached in their negotiations over the Act, Gandhi went straight to his desk and wrote out an extremely detailed, moment-by-moment account of the his meeting with his fellow lawyer. “Abstract of Interview with General Smuts”, April 19, 1911, *CWMG* 11, p. 31 (September, 1963, edition). *See also* “”Telegram to Johannesburg Office”, April 19, 1911, *CWMG 11,* p*.* 29 (September, 1963, edition).

**its redeeming qualities**

 Gandhi would later confess that he did not intend for *Hind Swaraj* to articulate a practical blueprint for abolishing the practice of law:

“Let me say what I mean....[U]nder swaraj nobody ever dreams, certainly I do not dream, of no railways, no hospitals, no machinery, no army and navy, no laws and no law courts. On the contrary...[t]here will be law and law-courts also under swaraj, but they will be custodians of the people’s liberty, notas they now areinstruments in the hands of a bureaucracy which has emasculated and is intent upon further emasculating a whole nation....It is not right...to tear some ideas expressed in *Indian Home Rule* from their proper setting, caricature them and put them before the people as if I was preaching these ideas for anybody’s acceptance.”

 “Notes”, March 9, 1922, *CWMG* 26, p. 297.

 Suresh Sharma and Tridip Suhrud write:

Condemnation of modern civilisation and colonial law, both in relation to its institutional structures and discourse, is categorical and unqualified. But lawyers are human beings and as human beings they retain in some measure the capacity and inclination for doing good. And this capacity and inclination to do good holds true in some measure not only in the personal realm, but also in the institutional-professional context. It signifies the ineradicable presence in human life of a certain irreducible autonomous space given to all humans.

Suresh Sharma and Tridip Suhrud (eds.), *MK Gandhi’s Hind Swaraj: A Critical Edition* (New Delhi: Orient BlackSwan, 2010), p. xxiii.

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**“misunderstood” the Court’s order**

“The Passive Resisters: A Temporary Victory”, October 15, 1910, *The Rand Daily Mail*; “Passive Resisters: Court’s Interdict Ignored”, October 18, 1910, *The Rand Daily Mail*; “Passive Resisters: Landing at Delogoa”, October 21, 1910, *The Rand Daily Mail*; “A Pioneer Vessel: The Indians Back Again at Durban”, October 25, 1910, *The Rand Daily Mail*.

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**robbed of them**

 “Extract from Letter to S.A.B.I. Committee”, after October 15, 1910, *CWMG* 10*,* p. 334 (September, 1963, edition).

**Narayansamy is no more**

 “Letter to the Press”, October 17, 1910, *CWMG* 10*,* p*.* 324 (September, 1963, edition).

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**throughout the new country**

*See* Maureen Swan, *Gandhi: The South African Experience* (Johannesburg: Ravan Press, 1985), Chapter Six.

**not reached until 1914**

For a description of the settlement and the events leading up to it, *see* Chapter Six of Maureen Swan, *Gandhi: The South African Experience* (Johannesburg: Ravan Press, 1985).

**an end to the struggle**

“Tata and Satyagrahis”, December 17, 1910, *CWMG* 10*,* p.385 (September, 1963, edition).

**Tolstoy Farm**

 Gandhi commuted from the farm to Johannesburg two or three times a week. At first he would allow himself to go into Johannesburg only twice a week. “Johannesburg”, June 13, 1910, *CWMG* 10, p. 272 (September, 1963, edition). Later he increased this to three times a week. “Letter to Olive Doke”, December 15, 1910, *CWMG* 10, p. 384 (September, 1963, edition).

**on manual labor**

 Gandhi had been thinking about manual labor and rural life for some time. From his reading of John Ruskin’s *Unto This Last* – a controversial collection of four essays on political economy given to him by his law-office colleague and political protégée, Henry Polak – he had learned three lessons, as he would later note in his autobiography:

* That the good of the individual is contained in the good of all.
* That a lawyer's work has the same value as the barber's inasmuch as all have the same right of earning their livelihood from their work.
* That a life of labour, *i.e*., the life of the tiller of the soil and the handicraftsman is the life worth living.

Mohandas K. Gandhi, *An Autobiography: The Story of My Experiments with Truth* (Boston: Beacon Press, 1957), p. 299.

 Inspired by Ruskin, Gandhi immediately set out to establish the Phoenix Settlement in 1904, a land-based communal effort in rural Natal intended by Gandhi to not only improve the lives of its residents, but to also provide a home for the presses and workers that together produced *Indian Opinion*. He states:

My original idea had been gradually to retire from practice, go and live in the Settlement, earn my livelihood by manual work there, and find the joy of service in the fulfillment of Phoenix. But it was not to be.

Mohandas K. Gandhi, *An Autobiography: The Story of My Experiments with Truth* (Boston: Beacon Press, 1957), p. 304.

 That dream remained deferred until 1910. While he did not immediately give up all time and work in Johannesburg, he began living at Tolstoy Farm in June, 1910.

**to deal with Ritch**

“British Indian Association’s Action”, March 18, 1911, *Indian Opinion*. The basis for Smuts’ rejection of Ritch is not known.

**the profession was clear**

It is not entirely clear when this arrangement was made. Because Ritch leaves Britain with the notion of attending to his “private claims” already fixed in his mind, it appears likely that he and Gandhi came to some agreement on Ritch taking over Gandhi’s practice during Ritch’s previous and recent visit to South Africa. *See* “Presentation to Mr. Ritch”, March 25, 1911, *Indian Opinion*.

**Rissik Street, Johannesburg**

“Mr. L.W. Ritch, who arrived in Johannesburg on the 5th inst., has commenced practice as a solicitor at Nos. 21-24, Court Chambers, Rissik Street, Johannesburg.” “Transvaal Notes”, April 15, 1911, *Indian Opinion.* The *Johannesburg Star* reported that Gandhi “has already arranged for his legal practice to be taken over by Mr. Ritch....” *Johannesburg Star*, April 28, 1911.

**to encourage him**

“Ritch in Johannesburg”, April 15, 1911, *CWMG* 11, p. 25 (September, 1963, edition). Earlier he had alerted the community to Ritch’s coming: “He [Ritch] will start practice shortly. If the community helps him, he will earn enough for a living. Everybody should remember that Mr. Ritch is a poor man.” “Ritch’s Arrival”, March 11, 1911, *CWMG* 10*,* p. 453 (September, 1963, edition).

**in his office**

 Ritch was not the only Gandhi associate whom he encouraged to take up the practice of law. The first of these was his secretary, Sonja Schlesin. In the same year that he attacked the profession in *Hind Swaraj*, he was content for her to become an articled clerk in his office. Her attempt to be admitted to the profession, however, encountered immediate and fatal difficulties. When Gandhi’s office attempted to register Schlesin’s articles with the Law Society, the Society refused. (Gandhi, who was in jail at this time, was concerned and urged his son, Manilal, to give him news of her situation. “Letter to Manilal Gandhi”, March 25, 1909, *CWMG* 10*,* p. 205 (April, 1963, edition).) Schlesin asked the Supreme Court to intervene by ordering the Law Society to accept her articles. The Court declined on the same ground on which the Law Society had refused: Sonja Schlesin was a woman – and women were not then allowed to be lawyers in South Africa. “Ladies As Attorneys”, April 23, 1909, *The Johannesburg Star*; *Schlesin v. Incorporated Law Society*, 1909 Transvaal Supreme Court Reports 363 (April 23, 1909). *See generally*, George Paxton, *Sonja Schlesin: Gandhi’s South African Secretary* (Glasgow: Pax Books, 2006). It could not have been too surprising to Gandhi to learn that in 1909 women had no more hope of equal treatment before South Africa’s courts than did Indians.

 In 1909, Gandhi suggested that his nephew who had joined him in South Africa, Chhaganlal Gandhi, should go to London, enroll in an Inn of Court, and study law. Gandhi was ambivalent about whether he should actually practice. “Letter to H.S.L. Polak”, September 29, 1909, *CWMG* 9, p. 438 (April, 1963, edition).

 Gandhi also encouraged Sorabji Shapurji, one of the movement’s most dedicated resisters, to practice law. During a pause in the resistance movement, Dr. Pranjivan Mehta, a doctor, lawyer, and reliable benefactor, offered at his expense to send one resister of Gandhi’s choosing to London to study law. From the available candidates, Gandhi selected Sorabji. Sorabji passed his examinations, was called to the bar in England, and returned to Johannesburg where he set up a practice that was a mix of private and public interest work – a practice not unlike that which Gandhi had in his late Durban and early Johannesburg days and a practice that Gandhi approvingly indicates brought praise for Sorabji from the Indian community. “Letter to L.W. Ritch”, April 5, 1911, *CWMG* 11, p. 5, at fn. 1 (September, 1963, edition): M.K. Gandhi, *Satyagraha in South Africa* (Stanford: Academic Reprints, 1954), pages 212-213.

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**anything to do with that**

On May 8, 1911, Gandhi wrote to Dr. Pranjivan Mehta: “I see that I can make at least £200 if I forget all else and only practise. But I am resolved not to have anything to do with that. Most of the work will go to Ritch. I have given him a seat in my own office and he has already started work. He is anxious to earn money for the sake of his family. His desire will be satisfied by this arrangement and the community will save £25 which it gives as a monthly allowance for his family.” “Letter to Dr. Pranjivan Mehta”, May 8, 1911, *CWMG* 11, p*.* 64 (September, 1963, edition).