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[Despatch Abstract.]

MEMORIAL.

Recording copy of memorial addressed to the Secretary of State for Colonies, London, by Abdul Karim Haji Adam and others of Natal regarding the Franchise Law Amendment Bill introduced into the Natal Legislative Assembly.

No.	Department.	Date.	G.O.

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6. No. 1955 of 1906			

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மு. ப. எ. உதவியாளர்
கையொப்பம் கையொப்பம்

To the Right Honourable Joseph Chamberlain, Her Majesty's Principal Secretary of State for the Colonies, London.

The Memorial of the undersigned Indian British Subjects residing in the Colony of Natal

HUMBLY SHEWETH

That your Memorialists hereby respectfully beg to lay before your Honour the following for your consideration with regard to the Franchise Law Amendment Bill introduced by the Natal Government in the Natal Legislative Assembly, which was read a third time on the 13th day of May, 1896, with certain amendments.

The following is the text of the Bill as it appeared in the *Natal Government Gazette* dated the 3rd March, 1896:—

"To amend the Law relating to the Franchise." Whereas it is expedient to amend the Law relating to the Franchise.

Be it therefore enacted by the Queen's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and Legislative Assembly of Natal, as follows:—

1. Act No. 25, 1894, shall be and the same is hereby repealed.

2. Save those who come under the operation of Section 3 of this Act, no persons shall be qualified to have their names inserted in any list of Electors or in any Voters' Roll, or to vote as Electors within the meaning of Section 22 of the Constitution Act of 1893, or of any Law relating to the election of members of the Legislative Assembly, who (not being of European origin) are Natives or descendants in the male line of Natives of countries which have not hitherto possessed *elective representative institutions*, unless they shall first obtain an order from the Governor in Council exempting them from the operation of this Act."

3. The provisions of Section 2 of this Act shall not apply to persons of the class mentioned in that Section whose names are rightly contained in any Voters' Roll in force at the date of the promulgation of this Act, and who are otherwise competent and qualified as electors."

The Act repealed by Section 1 of the above Bill is as follows:—"Whereas it is expedient to amend the Law relating to the Franchise and to except therefrom persons belonging to Asiatic races not accustomed to the exercise of franchise rights under parliamentary institutions.

Be it therefore enacted by the Queen's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and Legislative Assembly of Natal, as follows:—

1. Save as in Section 2 of this Act excepted, persons of Asiatic extraction shall not be qualified to have their names inserted in any list of Electors or in any Voters' Roll, or to vote as Electors within the meaning of Section 22 of the Constitution Act of 1893, or of any Law relating to the election of members of the Legislative Assembly.

2. The provisions of Section 1 of this Act shall not apply to persons of the class mentioned in that Section whose names are rightly contained in any Voters' Roll in force at the date of the promulgation of this Act, and who are otherwise competent and qualified as electors.

3. This Act shall not come into operation unless and until the Governor notifies by Proclamation in the *Natal Government Gazette* that it is Her Majesty's pleasure not to disallow the same, and thereafter it shall come into operation upon such day as the Governor shall notify by the same or any other Proclamation."

A Memorial setting forth the views of the Indian community in reference to the Bill under discussion was presented to the Legislative Assembly on the 28th day of April, 1896. A copy thereof is hereto annexed marked A.

On the 6th day of May, 1896, the Bill was read a second time. During the course of his speech the Prime Minister, the Honourable Sir John Robinson, said that the Ministers had taken steps to ascertain whether you would be agreeable to an insertion in the aforesaid Bill of the words "founded on the franchise" after "elective representative institutions," and that you were so agreeable.

Thereupon on the 7th day of May, 1896, your Memorialists sent to your Honour a cablegram to the following effect:—

"The Indian community earnestly request you not to accept Natal Franchise Bill or Ministerial alteration thereof proposed last night; memorial preparing."

In Committee, however, the Honourable Sir John Robinson announced on the 11th day of May, 1896, that your Honour had agreed to a further addition, viz., 'parliamentary' between 'the' and 'franchise.'

The Bill therefore as to representative institutions would now read "Elective representative institutions *founded on the parliamentary franchise*."

Your Memorialists humbly venture to think that the present Bill, so far as the Indian community, and, indeed, all the communities are concerned, is worse than the Act it repeals.

Your Memorialists, therefore, feel aggrieved that you have been pleased to approve of the Bill, but they trust that the facts and arguments placed before you herein below are such as would induce you to reconsider your views.

Your Memorialists have all along contended that the Indians did enjoy "elective representative institutions" in India. But the papers published in connection with the Franchise Question seem to show that you do not think that the Indians possess such institutions. With the greatest deference to Your Honour's view, your Memorialists crave leave to draw your attention to the extracts quoted in the annexure A upholding the opposite view.

Your approval of the present Bill, coupled with the view held by Your Honour regarding "Elective representative institutions" in India, places the Indian community in Natal in a very painful and awkward position.

Your Memorialists venture to submit:—

1. That no legislation restrictive of the Indian Franchise in Natal is necessary.
2. That if there be any doubt with regard to this point an enquiry should be first instituted as to whether such a necessity does exist.
3. That assuming that the necessity exists, the present Bill is not calculated to meet the difficulty in a straightforward and open manner.
4. That if Her Majesty's Government are absolutely satisfied that the necessity exists and that no Bill could be conceived that would solve the difficulty without a resort to class legislation, it is better that in any Franchise Bill the Indians should be specially named.
5. That the present Bill is likely to give rise to endless litigation owing to its ambiguity and vagueness.
6. That it would involve the Indian community in expenses almost beyond their control.
7. That assuming the Bill affects the Indian community, the method provided in the Bill whereby any member thereof may be exempted from its operation is, your Memorialists respectfully submit, arbitrary, unfair, and likely to create dissensions among the members of the Indian community.

8. That the Bill, like the Act repealed, makes an invidious distinction between Europeans and others.

Your Memorialists humbly submit that the present condition of the voters' list in Natal renders it absolutely unnecessary to embark on any legislation to restrict the Indian Franchise. There seems to be needless hurry about passing a measure that affects a large portion of Her Majesty's subjects. It is admitted that as against 9,309 European voters there are only 251 Indian voters; 201 are either traders or clerks, assistants, schoolmasters, &c., and 50 are gardeners and others, and that most of these voters are settlers of long standing. These figures your Memorialists submit do not warrant any restrictive legislation. The Bill under discussion is intended to deal with a remote and probable and possible danger. A danger is really assumed which does not exist. His Honour, Sir John Robinson, in moving the second reading of the Bill, based his fears about the danger of the European vote being swamped by the Indian vote on three grounds, viz.:—

1. The fact that the Petition to Her Majesty's Government in connection with the Franchise Act, repealed by the present Bill, was signed by nearly 9,000 Indians.
2. The approaching general election in the Colony.
3. The existence of the Natal Indian Congress.

As to the first ground, even in the correspondence on the subject, the Natal Government have argued that the 9,000 signatories wanted to be placed on the voters' roll. The first paragraph of that Petition is a sufficient answer to the argument. The Petitioners your memorialists humbly submit never contended for any such thing. They certainly protested against the wholesale disfranchisement of the Indians. Your Memorialists humbly venture to think that every Indian, whether he had the property qualifications or not, was very materially affected by that Bill. Your Memorialists admit that the fact shows a degree of organising power, among the Indians, alluded to by the Hon. Mover, but your Memorialists respectfully contend that no matter how powerful the organising power might be, it cannot overcome the natural barriers. Out of the 9,000 signatories not a hundred besides those who were already on the Voters' Roll possessed the legal property qualification.

With regard to the second ground the Hon. mover said:—

"He might remind members that before long there must be a general election, and they would have to consider upon what register that general election was to take place. It was not for him to say how many Indian electors might or might not be on the ensuing electoral roll, but the Government thought it was high time that no further delay should take place in seizing this question by the throat and settling it once for all without further delay."

Your Memorialists submit, with all due respect to the Hon. mover, that all these fears have no foundation in fact. According to the report of the Protector of Immigrants for 1895, out of 46,343 Indians in the Colony only 30,303 are free Indians. To that may be added the trading Indian population of say 5,000. Thus there are only 35,000 Indians as against over 45,000 Europeans, who can at all compete with the latter. The 16,000 indentured Indians, it is easy to see, never can, while they are under indenture. But a large majority of the 30,303 are only a stage higher than the indentured Indians. And your Memorialists venture to say from personal experience that there are in this Colony thousands of Indians who do not pay £10 per year in rents. In fact there are thousands who have to drag on their existence on that amount. Where then your Memorialists ask is the fear of the Indians swamping the Voters' list next year?

The disfranchisement has been threatened for the last two years. The Electoral roll has twice undergone revision since. The Indians had every incentive to add to the Indian vote lest

many may be shut out. And yet there has been not a single addition to the Voters' list from the Indian community.

But the Hon. mover went on to say:—

"Members might not be aware that there was in this country a body, a very powerful body in its way, a very united body, though practically a secret body—he meant the Indian Congress. That was a body which possessed large funds. It was a body presided over by very active and very able men, and it was a body the avowed object of which was to exercise strong political power in the affairs of the Colony."

Your Memorialists venture to say that this estimate of the Congress is not justified by facts. The charge of secrecy, as would appear from the correspondence between the Honourable the Prime Minister of Natal and the Honorary Secretary of the Congress, was made under an erroneous impression (Appendices B, C, D). A statement with regard to the matter also was made by him in the Legislative Assembly on the 20th instant.

Nor has the Congress in any shape or form intended or attempted to "exercise strong political power." The following are the objects of the Congress, which were published in almost every paper in South Africa last year:—

1. "To bring about a better understanding and promote friendliness between the Europeans and the Indians residing in the Colony.
2. To spread information about India and the Indians by writing to Newspapers, publishing pamphlets, lecturing, &c.
3. To educate the Indians, especially (those) born in the Colony, about Indian History, and induce them to study Indian subjects.
4. To ascertain the various grievances the Indians are labouring under and to agitate by resorting to all constitutional methods for removing them.
5. To enquire into the condition of the indentured Indians and to help them out of special hardships.
6. To help the poor and the needy in all reasonable ways.
7. And generally to do everything that would tend to put the Indians on a better footing morally, socially, intellectually, and politically."

It would thus appear that the object of the Congress is to resist degradation, not to gain political power. As to funds the Congress has a property worth £1,080 and a balance of £148 7s. 8d. in the Bank at the time of writing this. These funds have to be used in charity, printing memorials, and working expenses. In your Memorialists humble opinion they are hardly sufficient to fulfil the objects of the Congress. The educational work is greatly hampered owing to want of funds. Your Memorialists, therefore, venture to submit that the danger which the present Bill is intended to guard against does not exist at all.

Your Memorialists, however, do not request Her Majesty's Government to accept the above facts as correct on their *ipse dixit*. If there is any doubt about any of them—and the most important fact is that there are thousands who do not possess the necessary property qualifications for becoming voters—then the proper course your Memorialists submit is to enquire about them, particularly to enquire how many Indians there are in the Colony who possess immoveable property of the value of £50 or who pay a yearly rent of £10. To prepare such a return would neither cost much time nor much money, and would be a very material help towards a satisfactory solution of the Franchise question. The hot haste to pass *some* measure is in your Memorialists humble opinion detrimental to the best interests of the Colony as a whole. Your Memorialists, so far as they, as representatives of the Indian community, are

concerned and speaking authoritatively for the organisation of which they have the honour to be members, hereby beg to assure Her Majesty's Government that they have no intention to endeavour to place a single Indian voter on the Voters' list for the general election next year.

The Government organ, dealing with the present Bill in a presumably inspired article, supports the view that the danger is "a chimerical one." It says:—

"Moreover we feel sure that should the Asiatic vote ever endanger the stability of European rule in this Colony the Imperial Government will find ways and means out of such a difficulty. The new Bill imposes certain limitations on the acquirement of the franchise by all who are not of European origin, and as now even with the franchise open to British subjects of all races and classes, except the natives under native law, there are only some 250 Indians on the Voters' Roll out of a total of 9,569 registered voters, or in the proportion of one Indian voter to every 38 Europeans in possession of the Franchise, we think the new Bill will fully meet the requirements of the case for very many long years at all events, if not for all time. In South Carolina, for instance, the negroes over 21 years old number 132,949, while the whites over 21 only number 102,567, yet the whites have retained the dominant power, although in the minority. The fact of the matter is that apart from numbers altogether the superior race will always hold the reins of Government. We are inclined to the belief therefore, that the danger of the Indian vote swamping the European is a chimerical one. From what we know of the matter we are inclined to think that it will be held that India is a country possessing "elective representative institutions." In fact, the argument so often advanced that the Indian is unacquainted with their nature and responsibilities is really wide of the mark, as in India there are some 750 municipalities in which British and native voters have equal rights, and in 1891 there were 9,790 native municipal commissioners as against 839 Europeans. . . . Even assuming, however, that natives of India will be held as coming from a country possessing "elective representative institutions," we do not consider that the danger of being swamped is at all a likely one, as past experience has proved that the class of Indians coming here, as a rule, do not concern themselves about the franchise, and, further, that the majority of them do not even possess the small property qualification required. In addition to all this the obligations of the Empire, of which we form a part, do not permit of Indians as Indians being excluded from the exercise of such a privilege as the franchise. So far as we are concerned, therefore such an attitude is a *non possumus* and may therefore be dropped. Should the restrictions of the new Law not prevent the introduction of an undesirable element on to the Voters' roll, there is nothing at all to prevent us raising the franchise qualification. At present it is very low. The property qualification could therefore be easily increased, even doubled, and an educational test imposed which, while it would not remove a single European from the Voters' roll, would have a sweeping effect on Indian voters. The number of the latter possessing immoveable property of the value of, say, £100 or paying a rent of £20 per annum and able to read and write English must be exceedingly small, and should this fail there would be nothing to hinder us from adopting the Mississippi plan, or a modification of it to suit the circumstances."—(5th March, 1896.)

It is clear, therefore, that according to the Government organ the present property qualifications are sufficiently high to prevent any undue influx of Indian voters on the roll, and that the only object of the present Bill is to harass the Indian community—to land them in expensive litigation.

According to the Mauritius Almanac for 1895 the population of that Island in 1894 was 259,224 Indians as against 106,995 persons under the heading 'general population.' The franchise qualification there is as follows:—"Every male person shall be entitled to be registered in any year as a voter for any electoral district, and when registered, to vote at the election of a member of the Council for such district who is qualified as follows, that is to say:—

1. That he has attained the age of twenty one years.
2. Is under no legal incapacity.
3. Is a British subject by birth or naturalisation.
4. Has resided in the Colony for three years at least previous to the date of registration and possesses some one of the following qualifications :—
 - (a) Is on the 1st day of January in each year and has during the preceding six calendar months been the owner of immoveable property within such district of the annual value of Rs. 300 or the monthly value of Rs. 25 above all charges and encumbrances affecting the same
 - (b) Is at the date of registration paying, and has for the six calendar months previous to the 1st day of January in such year paid, rent in respect of immoveable property situate within such district, at the rate of at least Rs. 25 per month.
 - (c) Has for three calendar months previous to the 1st of January in such year resided, or had his principal place of business or employment within such district, and is the owner of moveable property within the Colony of the value of at least Rs. 3,000.
 - (d) Is the husband of a wife, or the eldest son of a widow, possessing any one of the above qualifications.
 - (e) Has for three calendar months previous to the 1st day of January in such year resided, or had his principal place of business or employment within such district, and is in receipt of a yearly salary of at least Rs. 600, or a monthly salary of at least Rs. 50.
 - (f) Has for three calendar months previous to the 1st of January in such year resided, or has his principal place of business or employment within such district, and pays license duty to the amount of at least Rs. 50 per annum.

Provided—

1. That no person shall be registered as a voter, or be entitled to vote for the election of a member of the Council who has been convicted of perjury in any Court in Our Dominions or who has been sentenced by any such Court to death, or penal servitude, or imprisonment with hard labour, or for a term exceeding twelve months, and has not either suffered the punishment to which he was sentenced or such other punishment as by competent authority may have been substituted for the same or received a free pardon from Us.
2. That no person shall be registered as a voter in any year who has within twelve calendar months, immediately preceding the first day of January in that year, received any relief from public or parochial funds.
3. That no person shall be registered as a voter in any year unless he shall, in the presence of the registering officer, or of a magistrate, with his own hand subscribe his name to his claim to be registered and write thereon the date of such subscription and the qualification in respect of which he claims to be registered.
4. That no person claiming to be registered in the district in which he resides in respect of either of the qualification (c) (d) (e) (f), shall be registered in respect of the same qualification in the district in which he has his principal place of business or employment or vice versa."

With these qualifications there is evidently no trouble in Mauritius, although the Indian population is twice as large as the general population, and the Indians in Mauritius belong to the same class as the Indians in Natal. Only there they are far more prosperous than their Natal brethren.

Assuming, however, that the necessity to deal with the Indian Franchise does exist, your Memorialists respectfully beg to say that the present Bill is not calculated to meet it in a straightforward and open manner. The Hon. and learned Attorney-General of Natal, referring to a suggestion to slightly alter the existing law in course of the debate on the second reading, is reported to have said :—

"The reason why he refused to do this was because it was apparently doing it by a side wind and quietly, and the Government intended to do it in the full light of day."

It is difficult to conceive a better mode of doing a thing by a "side wind and quietly" than that of passing the present Bill, which leaves everybody in the dark. The Natal Advertiser of the 8th May, 1896, says :—

"What is the present Bill if not a sidewind? Its whole object is to endeavour quietly and by a sidewind to effect that which the measure of last session failed to accomplish. Mr. Escombe admitted that that measure was brutally blunt and to this he rightly ascribed its failure to obtain acceptance by the Imperial Government. He further admitted that the present Bill has precisely the same object in view as the "brutal" Bill, only it does not state its object honestly and straightforwardly; in other words it seeks quietly and by a side wind to reach the goal apparently unattainable by plain sailing."

If Her Majesty's Government are convinced that a real necessity exists for legislation restricting the Indian Franchise in Natal, and if Her Majesty's Government are satisfied that the question cannot be dealt with but by class legislation, and if Her Majesty's Government further accept the Colonial view that Indian British subjects, in spite of the Gracious Proclamation of 1858, may be treated on a different footing from that on which the European British subjects are treated, then your memorialists submit that it would be infinitely better and more satisfactory to exclude the Indians by name from any rights and privileges that they, in the opinion of Her Majesty's Government, should not be allowed to enjoy, than that by ambiguous legislation the door should be left open for litigation and trouble.

That the Bill, if assented to, would give rise to endless litigation owing to its ambiguity is an admitted fact. It is admittedly also of the first importance that the question of the Indian Franchise should be "settled once for all" to quote the words of the Honourable the Prime Minister of Natal. And yet in the opinion of the majority of the leaders of opinion in Natal the Bill will not settle the question once for all.

Mr. Binns, the leader of the Opposition in the Natal Assembly, after quoting chapter and verse to show that the Indians in India did possess elective representative institutions, founded on the Parliamentary Franchise is reported to have said this :—

"He hoped he had shown clearly that on that ground this Bill was wrong. There were representative institutions and the elective principle was acknowledged in India. They had a parliamentary franchise and there was an enormous municipal franchise which affected local government, and if this was the case, what was the use of them passing this Bill! The facts he had stated to the Assembly were taken from the best authorities he could find and they proved most conclusively that these institutions did exist. There was no doubt on one point, that if a Bill of this kind passed into law it would lead them into endless litigation, difficulties, and trouble. The Bill was not sufficiently clear or definite. They wanted something more clear and definite. He wanted to

see this question settled and he would do all he could to assist at a settlement. But he thought *this Bill was framed on wrong lines*, contained a fact that was not correct, and it would lead them into endless litigation, difficulty, and trouble. It would be impossible for him to vote for the second reading of this Bill."

Mr. Bale, a leading member of the Assembly and a leading lawyer in Natal, agreeing with Mr. Binns' views, opposed as he is to the Indians retaining the franchise right under the general law of the Colony thus feelingly appealed to the House, as well on behalf of the Indians as for the Colony generally, not to pass the Bill.

"It would give rise to litigation and produce a feeling of hostility and create a ferment amongst the Indians themselves. It would also have the further effect of inducing appeals to the Privy Council and would prejudice the election of members to this House. Having regard to the great issues involved in this measure he hoped the second reading of this Bill would not be carried."

"The *Natal Witness*" of the 8th May thus sums up the situation.

"Our warning that if the Bill passes into law as it stands, the Colony will be involved in serious litigation had the support of Mr. Binns and Mr. Bale, and Mr. Smythe's half loaf, which is better than nothing, would be dearly purchased at that price. What leads us to think that the Bill has not been considered by the legal advisers of the Crown are the exceedingly delicate questions which it raises and which will undoubtedly be fought out unless the wording be altered so as not to leave the possibility of a resort to law. Amongst these questions are the following:—Can a Colony make laws which contravene the Naturalisation Law of England? Are British Indians British subjects or not? In other words *the Bill raises the whole question of the position of British India in the Empire*. Can special laws be passed in Natal since the issue of the proclamation of 1858 take (sic) away any part of the privileges conferred by that document?"

After deploring the ambiguity and vagueness of the Bill, the *Natal Advertiser* in its leader of the 8th May, says:—

"The truth of the position is each line of the present Bill is an ambush of disputes, which will all come out in the open some day to perpetuate for years, and probably with increased bitterness, the struggle between the Indians and the Europeans in this Colony with regard to the vote."

Your Memorialists appeal to Her Majesty's Government to save the Indian community, if not the whole Colony from such a dismal outlook—from perpetual agitation—and all this to avoid a danger that does not exist.

That the expenses of such a struggle to the Indian community must be beyond their control needs no argument to prove. The whole struggle is unequal.

Now, assuming further, that the highest legal tribunal has recorded its opinion that the Indians do not possess "elective representative institutions founded on the parliamentary franchise," the method provided in the Bill whereby the Indians may be placed on the voters' roll is, in your Memorialists humble opinion, in every way unsatisfactory.

The disapproval of that portion of the Bill which confers the power on the Governor is very emphatic on the part of the Europeans also. The *Natal Witness* in dealing with that branch of the subject says:—

"It attacks great constitutional principles, and further introduces into the working of representative institutions in Natal what may be termed an unknown quantity—that is to say, the effect which the third clause providing for an electorate of

six to choose fit and proper Asiatics for the Voters' Rolls will have upon them. . . . The Ministry appeared to have caught on to the idea (i.e., of indirect election), but in making themselves and the Governor an indirect electorate they are not only doing what is decidedly preposterous but highly improper."

Reverting to the same question, again it says:—

"The Assembly has not gained in public estimation by passing a Bill which most of the leading members are distrustful of, which they can see is a compromise and a compromise which may prove quite ineffectual and which, as we pointed when it was first published is a most dangerous invasion of the privileges of the Assembly as well as an attack upon constitutional principles which it might have been assumed that every member would have held himself to be under a solemn obligation to maintain unimpaired. There was no need to remind some of the members of the last objection. Mr. Bale said that the Franchise ought not to be vested in the Governor and Ministry being a power which ought to be vested in the people and in the people alone, to be exercised of course by their representatives. . . . But what the Press is concerned about is not the present Parliament but all future ones. . . . When a great constitutional principle is once broken through, however slightly it may be, there is the imminent risk of the breach being widened by a government greedy of power."

That is the objection from the European point of view. Your Memorialists while agreeing with that view have a yet more formidable objection to the principle of the Clause. It is not so much the number of Indian votes that the Indian community wish to see on the Voters' Roll as the vindication of their rights and privileges as British subjects and the equal status with European British subjects that is assured to the British Indians by Her Most Gracious Majesty the Queen Empress on more occasions than one, and that has been specially assured to the Indian community in Natal by Her Majesty's Government in a special despatch by the Right Honourable the late Principal Secretary of State for the Colonies. If other British subjects having certain qualifications can claim the franchise as of right, why, your Memorialists humbly ask, should not the Indian British subjects?

The method is cumbrous and will tend to keep up the franchise agitation for ever. It would moreover transfer the agitation from the Europeans to the Indians. The speeches in the Assembly on the second reading show that the power will be exercised very sparingly, if at all, by the Governor in Council.

It is calculated to create dissensions among the Indian community, for the applicant who is rejected may resent the favour granted to a brother applicant if the one considers himself as good as the other.

Education, intelligence, and stake, are mentioned in Your Honour's despatch relating to the franchise question as entitling the Indians to the franchise. Your Memorialists submit that if a certain amount of education, intelligence, or stake, is to be sufficient to qualify an Indian to become a voter in the Colony, then such a test could be introduced instead of leaving the power in the hands of the Governor in Council. Hereon your Memorialists beg to draw your attention to a portion of the leading article in the *Natal Mercury* hereinbefore quoted. If the necessary qualifications for those coming under the operation of that Bill were stated it would do away with the contentious character of that part of the Bill and those coming under its operation will then know exactly what qualifications would entitle them to a vote. The position is well summed up in the *Natal Advertiser* of the 8th May:—

"A still further proof of the duplicity of the present Bill lies in its provision that the Governor-in-Council shall have the power to place certain Indians on the Voters' Roll. This Clause is obviously inserted with the idea of leading the Imperial Government to

suppose that this power of exemption would occasionally be used—sparingly perhaps, but still used. Yet the Attorney-General declared that the power for inclusion given in such circumstances under the present Bill would not, however, be wished to point out, be attained, except through the Governor-in-Council. Every section of the community had begun to realise what the true meaning was of the responsibility of Ministers and knew quite well that no Ministers could hold office fourteen days if they took upon themselves the responsibility of watering the constituencies by the introduction of Indian electors." Further on he said "there would be no other voice throughout South Africa than that the electoral rolls of the country should be absolutely confined to persons of the European race." That was the starting point from which they began and the goal they had in view all along." If these ministerial declarations mean anything, it is that this Government have no intention to exercise their right of exemption. Then why is it placed on the Bill? Is there not at least an appearance of dissembling, or utilising a side wind, if the phrase is more expressive, in inserting a provision in a measure which its framers declare in submitting it for adoption they mean to treat as a dead letter?"

It would be hardly pleasant for a wealthy Indian merchant to have to apply for a permit to be exempted from the operation of the Bill and also to risk the rejection of his application. It is difficult to understand why Europeans not coming from countries which have not hitherto possessed elective representative institutions founded on the parliamentary franchise should exercise the right of voting, while the non-Europeans similarly placed cannot under the general law of the Colony.

The present Bill, according to the view of the Government, is an experimental measure. "If," said the Hon. and learned Attorney-General on the second reading, "contrary to their belief and their firm belief, the Bill should fall short of what was intended, then there never would be rest in the Colony." &c. The Bill therefore is not finite. Under such circumstances your Memorialists submit that unless all the resources, without resort to class legislation, are tried and have failed, i.e. assuming that there is a danger of the Indian vote swamping the European, a Bill like the present one should not be passed. Your Memorialists venture to submit that this is not a question that affects a mere handful of Her Majesty's subjects, but it affects 300,000,000 of Her Majesty's loyal subjects. The question is not how many or what Indians shall have the vote, but the question your Memorialists humbly submit is what status the British Indians shall occupy outside India and in the Colonies and allied States. May a respectable Indian venture out of India in pursuit of trade or other enterprise and hope to have any status? The Indian community do not want to shape the political destiny of South Africa, but they may be allowed to carry on their peaceful avocations quietly without any degrading conditions being imposed upon them. Your Memorialists therefore submit that if there is the slightest danger of the Indian vote preponderating, a simple educational test may be imposed on all alike, either with or without an increase in property qualifications. That would, in the opinion of the Government organ also, effectually remove all fear. And if such a test failed, a more severe test may be imposed, which would tell against the Indians without materially affecting the European vote. If nothing short of a total exclusion of the Indians from the franchise would be acceptable to the Natal Government, and if Her Majesty's Government are inclined to favour such a demand, then your Memorialists submit that nothing short of specific exclusion of the Indians by name would satisfactorily meet the difficulty.

Your Memorialists, however, beg to draw your attention to the fact that the European Colonists as a body make no such demand. They seem to be absolutely indifferent. The *Natal Advertiser* thus rebukes the indifference:—

"Perhaps the manner in which this all important subject has been treated by

Parliament also brings out a fourth point—the indifference of the Colony to its own politics. It would be highly interesting to discover, if such could be done, how many of the Colonists have taken the trouble even to read the Bill in question. Perhaps the proportion who have not read it would be a striking one. The general unconcern of the Colonists in this matter is demonstrated by the fact that meetings have not been held in every centre—not to say every nook and corner—of the Colony for its ventilation, and to formulate a demand that Parliament should only pass such a Bill as would render abortive all further controversy over the subject. Had the Colony been fully alive to the real gravity of the issue, the columns of the newspapers would also have teemed with a serious and intelligent correspondence on the question. Neither of these things, however, has happened. As a consequence the Government have been able to get through a measure supposed to effectually deal with the matter, but which in reality puts it in a far worse and dangerous position than ever it was before."

It would appear from the extracts quoted above that the present Bill satisfies neither party. With the utmost deference to the Natal Ministry and to both the Legislative bodies here your Memorialists submit that the fact that the Bill has been accepted by them does not signify much. The very members who refrained from any active opposition to the measure are, as the *Natal Witness* puts it, distrustful of it.

Your Memorialists hope that they have shown to your satisfaction that the danger referred to above is imaginery and that the present Bill is unsatisfactory from the point of view of those who wish to see the Indians disenfranchised as also from that of the Indians themselves. In any case, however, your Memorialists claim that sufficient facts and arguments have been brought out to show that the question should not be hastily disposed of, and that there is no necessity for so doing. The *Natal Witness* thinks that "no explanation, at least no satisfactory one, has been given for the anxiety to rush the Bill through." The *Natal Advertiser* opines that "this Indian franchise question is a most vital one and there should be no haste in settling it for ever. Indeed the best course would be to postpone the proposed Bill and have the whole matter for the consideration of the constituencies when they have accurate information before them." (28/3/96).

The feelings of the Indian community may be well expressed in the words of the *London Times*. The *Times* (weekly edition, 20th March, 1896), says:—

"If the Indians are allowed to carry with them their status as British subjects to foreign countries and British Colonies whither they go in quest of work, the opening up of Africa holds out new possibilities to Indian labour. The Indian Government and the Indians themselves believe that it is in South Africa that this question of their status must be determined. If they secure the position of British subjects in South Africa, it will be almost impossible to deny it to them elsewhere. If they fail to secure that position in South Africa it will be extremely difficult for them to attain it elsewhere. They readily acknowledge that Indian labourers who accept a contract of service for a period of years, as the price of aided immigration, must fulfil the conditions of their contract, however it may curtail their rights. But they hold that after the period of contracted labour has expired they are entitled to the status of British subjects in whatever colony or country they have fixed their abodes. . . . The Indian Government may reasonably ask that after Indian labourers have given their best years to South Africa they should not be forced back upon India by denying to them the status of British subjects in their adopted homes. Whatever the decision may be it will seriously affect the future development of emigration in India."

Dealing particularly with this question of franchise and the figures compiled from the *Natal Government Gazette* and now accepted as correct, the same paper says under date 31st January, 1896 (weekly edition).

"According to this return, there are in the Colony 9,309 European registered voters against 257 registered voters of British Indian origin. Nor if Mr. Gandhi's statements are correct, does it seem possible that the Indian vote can swamp the European at any period within the range of practical politics. Not only are all Indian immigrants under labour contracts excluded but also all British Indians whatsoever, except an extremely small class, who, by intelligence and industry, have raised themselves to the position of well-to-do citizens.

The returns show that even under the existing law it takes a long time for a British Indian to attain the franchise in Natal. With the exception of 63 British Indians, many of whom started with capital, and whose residence in the Colony is under ten years; the rest of the 251 voters seem to have resided during more than 10 years and the majority over 14. An analysis of the British Indian voters' list according to occupation yields equally encouraging results to those who wish to see this question settled.

It is precisely this class of men who form the most valued element in the municipal and other electorates in India. The argument that the Indian in Natal cannot claim higher privileges than he enjoys in India and that he has no franchise whatever in India is inconsistent with the facts. So far as government by voting exists in India Englishmen and Indians stand on the same footing, and alike in the Municipal, the Provincial, and the Supreme Councils the native interests are powerfully represented. Nor does the plea that the British Indian is unacquainted with the nature and responsibilities of representative government bear inspection. There is probably no other country in the world in which representative institutions have penetrated so deeply into the life of the people.

The question now before Mr. Chamberlain is not an academic one. It is not a question of argument but of race feeling. The Queen's Proclamation of 1858 gave the full rights of British subjects to the Indians, and they vote in England and sit in the British Parliament on the same terms as Englishmen. But these questions are inevitable in a vast Empire made up of many peoples, and as the steamship brings the component populations of Greater Britain into closer contact they will present themselves in more acute forms. Two things are clear. Such questions will not settle themselves by being ignored, and a strong government at home affords the best Court of Appeal to adjudicate upon them. We cannot afford a war of races among our own subjects. It would be as wrong for the Government of India to suddenly arrest the development of Natal by shutting off the supply of immigrants as it would be for Natal to deny the rights of citizenship to British Indian subjects, who by years of thrift and good work in the Colony have raised themselves to the actual status of citizens."

The italics throughout are your Memorialists.

Your Memorialists now leave their case in your hands, and in so doing earnestly pray, and confidently hope, that the royal assent to the Bill hereinbefore referred to will be withheld, and if there be any fear as to the European vote being swamped by the Indian an enquiry be ordered to ascertain whether there actually exists any such danger under the existing law, or such other relief will be granted as may meet the ends of justice.

And for this act of justice and mercy your Memorialists, as in duty bound, shall for ever pray, &c., &c.

(Sd). Abdue Karim Haja Adam
& others.

DURBAN, 22nd May, 1896.

APPENDIX A.

To the Honourable the Speaker and Members of the Honourable the Legislative Assembly of Natal in Parliament assembled, Pietermaritzburg.

The Memorial of the undersigned Indians residing in this Colony

HUMBLY SHEWETH

That your Memorialists as representing and on behalf of the Indian Community in Natal respectfully approach this Honorable House with regard to the Franchise Law Amendment Bill now before you for consideration.

Your Memorialists assume that the Bill is meant chiefly if not solely to affect the Indian Community in that it repeals and replaces the Act 25 of 1894 which was intended to disfranchise the Indians in the Colony.

In the Memorial that was presented to this Honorable House on behalf of the Indian Community on the same subject when the Act 25 of 1894 was under consideration, it was contended that the Indians did possess elective Representative Institutions in India.

The present Bill disfranchises natives of Countries not being of European origin which have not possessed elective representative institutions in their own native land.

The position of your Memorialists therefore is painfully awkward in opposing the present Bill.

Yet seeing that the Bill tacitly proposes to deal with the Indian Franchise your Memorialists consider it to be their duty respectfully to express their views about the Bill and also to show further on what grounds they believe that the Indians possess elective representative institutions in India.

In moving the second reading of the "India Councils Act (1861) Amendment Bill" in the House of Commons on the 28th day of March, 1892, the then Under-Secretary of State for India, said "The object of the Bill which it is my duty to expound to the House is to widen the basis and extend the function of the Government of India, to give further opportunity than at present exists to the Non-official and the Native element in Indian Society to take part in the work of Government, and in this way to lend official recognition to that remarkable development both in political industry and in political capacity which has been visible among the higher classes of Indian Society since the Government of India was taken over by the Crown in 1858. This Bill is one to amend the India Councils' Act of 1861. Legislative powers of some sort or other, but powers of a somewhat confused character and conflicting validity have existed in India for a very long time. They existed with the rule of the old East India Company dating from the date of the Charters of the Tudor and Stuart sovereigns, but the modern legislative system under which India at present exists owes its origin to the Vice-royalty of Lord Canning and to the Secretaryship of State of Sir C. Wood who was afterwards elevated to the peerage. Sir C. Wood, in 1861, carried through the House the India Councils' Act of that year. The Act of 1861 constituted three Legislative Councils in India—the Supreme Council of the Viceroy and the Provincial Councils of Madras and Bombay. The Supreme Legislative Council of the Viceroy only consists of the Governor-General and his Executive Council and is recruited by a minimum of six and a maximum of twelve additional members who are nominated by the Governor-General of whom at least half must be non-official whether they are drawn from the European or the native element. The Legislative Councils of Madras and Bombay are also recruited by a minimum of four and a maximum of eight additional members of whom at least half must be non-official. Since the passing of that Act Legislative Councils have also been called into existence in Bengal and the North West Provinces. In the case of Bengal the Council consists of the Lieutenant-Governor and twelve nominated Councillors,

and, in the case of the North West Provinces, of the Lieutenant Governor and nine nominated Councillors, of whom one third in each case must be non-official. . . . A number of native gentlemen of intelligence and capacity and public spirit have been persuaded to come forward and to lend their services to the function of Government and undoubtedly the standard of merit of these "Legislative Councils has stood high."

The Amending Act besides increasing the number of nominated members in each Council gives the power of discussing the financial statement every year and the power of "interpellation." It embodies the elective principles. The Legislative Councils have from their inception enjoyed the representative character. The Honorable Mover of the second reading with reference to the increase of nominated members said "The object of this addition is very easily stated and will I think be very easily understood by the House. It is simply by expanding the area of selection in which case you are adding to the strength of the representative character of the Councils."

But now these Councils your Memorialists venture to submit enjoy the representative character "founded on the franchise."

Speaking to an Amendment by Mr. Schwann, M.P., to the Bill to the effect that "no reform of Councils that does not embody the elective principle will be satisfactory."

Mr. Curzon said, "I should like to point out to him that our Bill does not necessarily exclude some such principle as the method of selection, election or delegation with the permission of the House I will read the words of the sub-section of Clause I. It runs as follows: "The Governor-General in Council may from time to time on the approval of the Secretary of State in Council make regulations as to the conditions under which such nominations or any of them shall be made by the Governor-General, Governors and Lieutenant-Governors respectively and prescribe the manner in which such regulations shall be carried into effect."

Lord Kimberley has expressed himself about that clause. He said, "I am bound to say that I express my whole satisfaction with regard to this elective principle." The opinions expressed by Lord Kimberley are shared by the Secretary of State under this Act. It would be in the power of the Viceroy to invite representative bodies in India to elect or select or delegate representatives of those bodies of their opinion to be nominated to these Councils and by elective measures."

The Right Honorable Mr. Gladstone speaking on the same subject after explaining the speeches of the Honorable Movers of the second reading of the Bill and its amendment said: "I think I may fairly say that the speech of the Under-Secretary appears to me to embody the elective principle in the only sense in which we should expect it to be embodied. . . . It is evident that the great question—and it is one of great and profound interest—before the House is that of the introduction of the elective element into the Government of India. What I wish is that their first steps shall be of a genuine nature and that whatever scope they give to the elective principle shall be real, there is no difference of principle. I think that the acceptance of the elective principle by the honorable gentleman (Mr. Curzon) though guarded was not otherwise than a frank acceptance."

Turning to the Regulations made and published in accordance with the above Act your Memorialists submit that the remarks hereinbefore quoted are fully borne out. To take the Bombay Legislative Council for instance out of the eighteen nominated members eight are elected by, or as it is put in the Regulations "nominated on the recommendation" of the various representative bodies which are enfranchised for the purpose of Legislative Councils. The Corporation of Bombay (itself an elective body) Municipal Corporations other than the Bombay Corporation in the Bombay Presidency prescribed by the Governor in Council, District Local Boards prescribed as above, the Sardars of Deccan of or other class of large land holders prescribed as above, Associations of merchants, tradesmen, etc., prescribed as above, and the Senate of the University of Bombay recommend or elect these eight members by a majority of votes or in the case of Associations not established by law in the manner laid down in their rules for carrying resolutions or recording decisions upon questions of business brought before such Associations.

In the Sardars of the Deccan this Honorable House will notice there are even direct voters for the election of members of the Council.

The regulations for the other Councils are much the same.

Such is the character of the Legislative Councils in India and the political franchise. The difference therefore your Memorialists beg respectfully to point out is not one of kind but of degree only. The reason is not because the Indians do not know or understand the representative principle. Your Memorialists cannot do better than quote again from the speech of the Right Honorable Mr. Gladstone partly quoted above; he thus explained the reasons for the restrictive character of the elective principle.

"Her Majesty's Government ought to understand that it will be regarded as a most grave disappointment if after all the assurances we have received that an attempt will be made to bring into operation this powerful engine of Government (i.e. the elective principle) there should not be some result such as we anticipate from their action. I do not speak of its amount, I speak more of its quality. In an Asiatic Country like India with its ancient civilization with its institutions so peculiar, with such a diversity of races, religions and pursuits, with such an enormous extent of country, and such a multitude of human beings as probably except in China were never before under a single Government; I can understand that there should be difficulties in carrying what we desire to see accomplished. But great as the difficulties are the task is a noble one, and will require the utmost prudence and care in conducting it to a successful consummation. All these things induce us to look forward cheerfully to a great future for India, and to expect that a real success will attend the genuine application even though it may be a limited one of the elective principle of the Government of that vast and almost immeasurable country."

The opinion of those who are qualified to speak on Indian subjects seems to be unanimous as to the representative character of the Indian Councils.

Sir William Wilson Hunter, the greatest living authority on Indian subjects, says: "The representative principle is now being cautiously extended under Lord Cross' Act of 1892, to the Legislative Councils both of the Supreme and the Provincial Governments."

The *Times* dealing with the Indian Franchise in Natal, says:—

"The argument that the Indian in Natal cannot claim higher privileges that he enjoys in India, and that he has no franchise whatever in India is inconsistent with the facts. The Indian has precisely the same franchise in India which the Englishman enjoys. (After dealing with the Municipal Franchise the article goes on to say) A similar principle applies with the modifications incident to our system of Government in India to what may be called the Higher Electorate. The elected members of the Supreme and the Legislative Councils which deal with 221 millions of British subjects are mainly elected by Native bodies. Apart from the official representatives of Government in the Supreme and Provincial Legislatures about one-half the members are Natives. It would be wrong to push this analogy too far. But it answers the argument against allowing British India subjects a vote in British Colonies on the ground that they have no vote in India. So far as Government by voting exists in India, Englishmen and Indians stand on the same footing, and alike in the Municipal the Provincial and the Supreme Councils the Native interests are powerfully represented."

The Municipal Franchise is very broad in India, and almost the whole of British India is studied by Municipal Corporations and Local Boards.

Speaking of the class of Indians already on the Vote s' Rolls in Natal, the *Times* article referred to above, says, "It is precisely this class of men who form the most valued element in the municipal and other electorates in India. Throughout the 750 municipalities of India the British and the Native voters have equal rights, and 6790 Municipal Commissioners in 1891 were Natives as against 839 Europeans. The European vote on the Indian Municipal Boards was therefore only one to 8 Indian votes, while in the Natal Elect rate there are 37 European votes to one British Indian. . . . It must be remembered that Indian Municipalities administer a population of 15 millions and an expenditure of 50 million Rupees."

As to the acquaintance of the Indian with the nature and responsibilities of representative institutions the same article says:—

"There is probably no other country in the world in which representative institutions have penetrated so deeply into the life of the people. Every caste, every trade, every village in India had for ages its council of five which practically legislated for and conducted the administrations of the little community, which it represented until the introduction of the Parish Councils' Act. last year there was no such rural system of self-administration even in England."

Mr. Schwann, M.P. on the same subject says, "Do not suppose that the question of election is a new one in India. . . . There is no question which is more specially Indian than the question of election. Most of our civilization has come from India. And there is not the slightest doubt that we ourselves are practising a development of the Eastern principle of election."

Under such circumstances the Indian community whom the Bill is intended affect find it most difficult to understand it.

Your memorialists submit that the vagueness and ambiguity of the Bill are very undesirable and fair neither to the European community nor the Indian. They leave both in a state of suspense which is painful to the latter.

Your memorialists respectfully draw the attention of this Honorable House to the fact that according to the present Voters' Roll, there is one Indian to every 38 Europeans, and that the Indian voters belong to the most respectable element in that community and are residents of long standing with large stakes in the Colony.

It is said however that the present list is no guide to what proportions the Indian vote may assume in future. But the fact that during the two years that the disfranchisement of the Indian community has been threatened, no more Indians have had their names placed on the Voters' Roll, in your memorialists humble opinion, sufficiently disposes of the argument.

The truth is, and your memorialists venture to speak from personal experience, there are not very many Indians in the Colony who have got the legal property qualification, low as it is.

Your memorialists respectfully submit that the Bill under discussion is open to more objections than one. In your memorialists' humble opinion it introduces the colour distinction in a most invidious manner. For while natives of other countries not enjoying elective representative institution may not become voters, natives of the states of Europe even though they may not enjoy such institutions in the countries they come from, may become voters under the General Franchise Law of the Colony.

It would make the sons of non-European women of questionable reputation eligible as voters so long as the father is a European, while it would prevent the son of a European lady of noble birth, should she choose to marry a nobleman belonging to a non-European race from becoming a voter under the General Franchise Law of the Colony.

Assuming that the Indians come under the scope of the Bill, the method by which they may get themselves placed on the Voters' Roll will be a source of constant irritation to the Indian community, and may give rise to a system of favouritism and cause serious dissensions among the members of the Indian community.

The Bill is moreover calculated to involve the Indian community in endless litigation in order to enable them to vindicate their rights, which your memorialists think are capable of definition without any recourse to the law courts of the Colony.

Above all it will transfer the agitation from the hands of the Europeans, who now wish to see the Indians disfranchised into those of the Indian community. And the agitation your memorialists fear has to be perpetual.

It is most humbly submitted that such a state of things is very undesirable in the interests of all the communities inhabiting this Colony.

Your memorialists after a careful investigation for over a year have ventured to come to the conclusion, that the fear about the Indian vote swamping the European is absolutely imaginary.

And therefore fervently pray and venture to hope that this Honorable House before assenting to any Bill, specially restrictive of the Indian vote, or directly or indirectly introducing any colour distinction would institute an inquiry into the real state of affairs which would show how many resident Indians there are in this Colony who possess the legal property qualifications necessary for being placed on the Voters' Roll.

And for this act of justice and mercy your memorialists as in duty bound shall for ever pray, &c., &c., &c.

Sd. ABDUL CAREEM HAJEE ADAM,

and others.

Durban,
27/4/96.

[COPY.]

DURBAN, 14th May, 1896.

TO THE HONOURABLE THE PRIME MINISTER,
PIETERMARITZBURG.

SIR,—You are reported to have said the following with reference to the Natal Indian Congress on the Second Reading of the Franchise Bill:—

"Members might not be aware that there was in this country a body, a very powerful body in its way, a very united body, though practically a secret body, he meant the "Indian Congress."

May I venture to enquire if that portion of your speech is correctly reported, and if so, whether there are any grounds for the belief that the Congress is "practically a secret body?" I may be permitted to draw your attention to the fact that when the intention of forming such a body was made it was announced in the papers, that when it was actually formed its formation was noticed by the *Witness* that the annual report and list of members and rules have been supplied to and commented upon by the Press, and that these papers have also been supplied to the Government by me in my capacity as Honourary Secretary to the Congress.

I have the honour to remain,

Sir,

Your obedient Servant,

(Sd.) M. K. GANDHI,

Honourary Secretary of the Natal Indian Congress.

C.

[COPY.]

Colonial Secretary's Office, Natal.

Pietermaritzburg,
16th May, 1896.

2,837/96.

SIR,

In answer to your letter to the Prime Minister of the 14th instant, respecting certain words reported as having been made use of by him, on the Second Reading of the Franchise Bill, with reference to the Natal Indian Congress, I am desired by Sir John Robinson to state that, in speaking of that Congress as practically a secret body, he did so under the belief that meetings of the Congress are not open to the public and the Press.

If the Prime Minister has been misinformed on this point, I am to state that he will be glad to be corrected on the subject.

I have the honour to be,

Sir,

Your obedient Servant,

(sd.) C. BIRD,

Principal Under Secretary.

Mr. M. K. GANDHI,
Durban.

[COPY.]

DURBAN, 18th May, 1896.

C. BIRD, Esq.,
Principal Under Secretary,
Colonial Office,
Pietermaritzburg.

SIR,—I beg to acknowledge the receipt of your letter 2837/96, dated the 14th instant, in reply to my letter to the Honourable the Prime Minister with reference to the Natal Indian Congress.

I beg to state with regard to the matter that the Congress meetings are held always with open doors, and they are open to the Press and Public. Certain European gentlemen, who the Congress members thought might be interested in the meetings were specially invited. One gentleman did accept the invitation and attend a Congress meeting. Uninvited European visitors also have attended the Congress meetings once or twice.

One of the Congress rules provides that Europeans may be invited to become Vice-Presidents. According thereto two gentlemen were asked if they would accept the honour, but they were not disposed to do so. Minutes of the Congress proceedings are regularly kept.

I beg to remain,

Sir,

Your obedient Servant,

(Sd.) M. K. GANDHI,

Honourary Secretary Natal Indian Congress.

CURRENT No. 2101

Pub. No. 503 D1-5-96 ms
849 D11-10-95 ms

Public Dept.

From Abdul Karim Hajee
Adam & others.
Natal.

C.S.
ms

Order No. 707. D 4 July 1896.

Recorded in contra
of G.O. No. 503, Pub, dated
1st May 1896.

Dated 22-5-96

Recd 20 }
Regd 20 } June 96

C.S.
2.7.96

17/96.

Subject.

Submitting copy of
a memorial, ^{addressed} to the Secretary
of State for the Colonies,
re the Franchise Law Amend-
ment Bill introduced in the
Natal Legislative Assembly.

WITH ORDER

suppose that this power of exemption would occasionally be used—sparingly perhaps, but still used. Yet the Attorney-General declared that “the power for inclusion given in such circumstances under the present Bill would not, however, he wished to point out, be attained, except through the Governor-in-Council. Every section of the community had begun to realise what the true meaning was of the responsibility of Ministers and knew quite well that no Ministers could hold office fourteen days if they took upon themselves the responsibility of watering the constituencies by the introduction of Indian electors.” Further on he said “there would be no other voice throughout South Africa than that the electoral rolls of the country should be absolutely confined to persons of the European race.” That was the starting point from which they began and the goal they had in view all along.” If these ministerial declarations mean anything, it is that this Government have no intention to exercise their right of exemption. Then why is it placed on the Bill? Is there not at least an appearance of dissembling, or utilising a side wind, if the phrase is more expressive, in inserting a provision in a measure which its framers declare in submitting it for adoption they mean to treat as a dead letter?”

It would be hardly pleasant for a wealthy Indian merchant to have to apply for a permit to be exempted from the operation of the Bill and also to risk the rejection of his application. It is difficult to understand why Europeans not coming from countries which have not hitherto possessed elective representative institutions founded on the parliamentary franchise should exercise the right of voting, while the non-Europeans similarly placed cannot under the general law of the Colony.

The present Bill, according to the view of the Government, is an experimental measure. “If,” said the Hon. and learned Attorney-General on the second reading, “contrary to their belief and their firm belief, the Bill should fall short of what was intended, then there never would be rest in the Colony,” &c. The Bill therefore is not finite. Under such circumstances your Memorialists submit that unless all the resources, without resort to class legislation, are tried and have failed (*i.e.* assuming that there is a danger of the Indian vote swamping the European), a Bill like the present one should not be passed. Your Memorialists venture to submit that this is not a question that affects a mere handful of Her Majesty’s subjects, but it affects 300,000,000 of Her Majesty’s loyal subjects. The question is not how many or what Indians shall have the vote, but the question your Memorialists humbly submit is what *status* the British Indians shall occupy outside India and in the Colonies and allied States. May a respectable Indian venture out of India in pursuit of trade or other enterprise and hope to have any *status*? The Indian community do not want to shape the political destiny of South Africa, but they may be allowed to carry on their peaceful avocations quietly without any degrading conditions being imposed upon them. Your Memorialists therefore submit that if there is the slightest danger of the Indian vote preponderating, a simple educational test may be imposed on all alike, either with or without an increase in property qualifications. That would, in the opinion of the Government organ also, effectually remove all fear. And if such a test failed, a more severe test may be imposed, which would tell against the Indians without materially affecting the European vote. If nothing short of a total exclusion of the Indians from the franchise would be acceptable to the Natal Government, and if Her Majesty’s Government are inclined to favour such a demand, then your Memorialists submit that nothing short of specific exclusion of the Indians by name would satisfactorily meet the difficulty.

Your Memorialists, however, beg to draw your attention to the fact that the European Colonists as a body make no such demand. They seem to be absolutely indifferent. The *Natal Advertiser* thus rebukes the indifference:—

“Perhaps the manner in which this all important subject has been treated by

Parliament also brings out a fourth point—the indifference of the Colony to its own politics. It would be highly interesting to discover, if such could be done, how many of the Colonists have taken the trouble even to read the Bill in question. Perhaps the proportion who have not read it would be a striking one. The general unconcern of the Colonists in this matter is demonstrated by the fact that meetings have not been held in every centre—not to say every nook and corner—of the Colony for its ventilation, and to formulate a demand that Parliament should only pass such a Bill as would render abortive all further controversy over the subject. Had the Colony been fully alive to the real gravity of the issue, the columns of the newspapers would also have teemed with a serious and intelligent correspondence on the question. Neither of these things, however, has happened. As a consequence the Government have been able to get through a measure supposed to effectually deal with the matter, but which in reality puts it in a far worse and dangerous position than ever it was before.”

It would appear from the extracts quoted above that the present Bill satisfies neither party. With the utmost deference to the Natal Ministry and to both the Legislative bodies here your Memorialists submit that the fact that the Bill has been accepted by them does not signify much. The very members who refrained from any active opposition to the measure are, as the *Natal Witness* puts it, distrustful of it.

Your Memorialists hope that they have shown to your satisfaction that the danger referred to above is imaginary and that the present Bill is unsatisfactory from the point of view of those who wish to see the Indians disenfranchised as also from that of the Indians themselves. In any case, however, your Memorialists claim that sufficient facts and arguments have been brought out to show that the question should not be hastily disposed of, and that there is no necessity for so doing. The *Natal Witness* thinks that “no explanation, at least no satisfactory one, has been given for the anxiety to rush the Bill through.” The *Natal Advertiser* opines that “this Indian franchise question is a most vital one and there should be no haste in settling it for ever. Indeed the best course would be to postpone the proposed Bill and have the whole matter for the consideration of the constituencies when they have accurate information before them.” (28/3/96).

The feelings of the Indian community may be well expressed in the words of the *London Times*. The *Times* (weekly edition, 20th March, 1896), says:—

“If the Indians are allowed to carry with them their *status* as British subjects to foreign countries and British Colonies whither they go in quest of work, the opening up of Africa holds out new possibilities to Indian labour. The Indian Government and the Indians themselves believe that it is in South Africa that this question of their *status* must be determined. If they secure the position of British subjects in South Africa, it will be almost impossible to deny it to them elsewhere. If they fail to secure that position in South Africa it will be extremely difficult for them to attain it elsewhere. They readily acknowledge that Indian labourers who accept a contract of service for a period of years, as the price of aided immigration, must fulfil the conditions of their contract, however it may curtail their rights. But they hold that after the period of contracted labour has expired they are entitled to the *status* of British subjects in whatever colony or country they have fixed their abodes. . . . The Indian Government may reasonably ask that after Indian labourers have given their best years to South Africa they should not be forced back upon India by denying to them the *status* of British subjects in their adopted homes. Whatever the decision may be it will seriously affect the future development of emigration in India.”

Dealing particularly with this question of franchise and the figures compiled from the *Natal Government Gazette* and now accepted as correct, the same paper says under date 31st January, 1896 (weekly edition).

"According to this return, there are in the Colony 9,309 European registered voters against 257 registered voters of British Indian origin. . . . Nor if Mr. Gandhi's statements are correct, does it seem possible that the Indian vote can swamp the European at any period within the range of practical politics. . . . Not only are all Indian immigrants under labour contracts excluded but also all British Indians whatsoever, except an extremely small class, who, by intelligence and industry, have raised themselves to the position of well-to-do citizens.

The returns show that even under the existing law it takes a long time for a British Indian to attain the franchise in Natal. With the exception of 63 British Indians, many of whom started with capital, and whose residence in the Colony is under ten years; the rest of the 251 voters seem to have resided during more than 10 years and the majority over 14. An analysis of the British Indian voters' list according to occupation yields equally encouraging results to those who wish to see this question settled.

It is precisely this class of men who form the most valued element in the municipal and other electorates in India. The argument that the Indian in Natal cannot claim higher privileges than he enjoys in India and that he has no franchise whatever in India is inconsistent with the facts. . . . So far as government by voting exists in India Englishmen and Indians stand on the same footing, and alike in the Municipal, the Provincial, and the Supreme Councils the native interests are powerfully represented. Nor does the plea that the British Indian is unacquainted with the nature and responsibilities of representative government bear inspection. There is probably no other country in the world in which representative institutions have penetrated so deeply into the life of the people.

The question now before Mr. Chamberlain is not an academic one. *It is not a question of argument but of race feeling. The Queen's Proclamation of 1858 gave the full rights of British subjects to the Indians, and they vote in England and sit in the British Parliament on the same terms as Englishmen.* But these questions are inevitable in a vast Empire made up of many peoples, and as the steamship brings the component populations of Greater Britain into closer contact they will present themselves in more acute forms. Two things are clear. Such questions will not settle themselves by being ignored, and a strong government at home affords the best Court of Appeal to adjudicate upon them. *We cannot afford a war of races among our own subjects.* It would be as wrong for the Government of India to suddenly arrest the development of Natal by shutting off the supply of immigrants as it would be for Natal to deny the rights of citizenship to British Indian subjects, who by years of thrift and good work in the Colony have raised themselves to the actual status of citizens."

The italics throughout are your Memorialists.

Your Memorialists now leave their case in your hands, and in so doing earnestly pray, and confidently hope, that the royal assent to the Bill hereinbefore referred to will be withheld, and if there be any fear as to the European vote being swamped by the Indian an enquiry be ordered to ascertain whether there actually exists any such danger under the existing law, or such other relief will be granted as may meet the ends of justice.

And for this act of justice and mercy your Memorialists, as in duty bound, shall for ever pray, &c., &c.

DURBAN, 22nd May, 1896.

(Sd.) *Abdus Karim Haja Adam*
& others.

APPENDIX A.

To the Honourable the Speaker and Members of the
Honourable the Legislative Assembly of Natal in
Parliament assembled, Pietermaritzburg.

The Memorial of the undersigned Indians residing in this Colony

HUMBLY SHEWETH

That your Memorialists as representing and on behalf of the Indian Community in Natal respectfully approach this Honorable House with regard to the Franchise Law Amendment Bill now before you for consideration.

Your Memorialists assume that the Bill is meant chiefly if not solely to affect the Indian Community in that it repeals and replaces the Act 25 of 1894 which was intended to disfranchise the Indians in the Colony.

In the Memorial that was presented to this Honorable House on behalf of the Indian Community on the same subject when the Act 25 of 1894 was under consideration, it was contended that the Indians did possess elective Representative Institutions in India.

The present Bill disfranchises natives of Countries not being of European origin which have not possessed elective representative institutions in their own native land.

The position of your Memorialists therefore is painfully awkward in opposing the present Bill.

Yet seeing that the Bill tacitly proposes to deal with the Indian Franchise your Memorialists consider it to be their duty respectfully to express their views about the Bill and also to show further on what grounds they believe that the Indians possess elective representative institutions in India.

In moving the second reading of the "India Councils Act (1861) Amendment Bill" in the House of Commons on the 28th day of March, 1892, the then Under-Secretary of State for India, said "The object of the Bill which it is my duty to expound to the House is to widen the basis and extend the function of the Government of India, to give further opportunity than at present exists to the Non-official and the Native element in Indian Society to take part in the work of Government, and in this way to lend official recognition to that remarkable development both in political industry and in political capacity which has been visible among the higher classes of Indian Society since the Government of India was taken over by the Crown in 1858. This Bill is one to amend the India Councils' Act of 1861. Legislative powers of some sort or other, but powers of a somewhat confused character and conflicting validity have existed in India for a very long time. They existed with the rule of the old East India Company dating from the date of the Charters of the Tudor and Stuart sovereigns, but the modern legislative system under which India at present exists owes its origin to the Vice-royalty of Lord Canning and to the Secretaryship of State of Sir C. Wood who was afterwards elevated to the peerage. Sir C. Wood, in 1861, carried through the House the India Councils' Act of that year. . . . The Act of 1861 constituted three Legislative Councils in India—the Supreme Council of the Viceroy and the Provincial Councils of Madras and Bombay. The Supreme Legislative Council of the Viceroy only consists of the Governor-General and his Executive Council and is recruited by a minimum of six and a maximum of twelve additional members who are nominated by the Governor-General of whom at least half must be non-official whether they are drawn from the European or the native element. The Legislative Councils of Madras and Bombay are also recruited by a minimum of four and a maximum of eight additional members of whom at least half must be non-official. Since the passing of that Act Legislative Councils have also been called into existence in Bengal and the North West Provinces. In the case of Bengal the Council consists of the Lieutenant-Governor and twelve nominated Councillors,

and, in the case of the North West Provinces, of the Lieutenant Governor and nine nominated Councillors, of whom one third in each case must be non-official. . . . A number of native gentlemen of intelligence and capacity and public spirit have been persuaded to come forward and to lend their services to the function of Government and undoubtedly the standard of merit of these "Legislative Councils has stood high."

The Amending Act besides increasing the number of nominated members in each Council gives the power of discussing the financial statement every year and the power of "interpellation." *It embodies the elective principle.* The Legislative Councils have from their inception enjoyed the representative character. The Honorable Mover of the second reading with reference to the increase of nominated members said "The object of this addition is very easily stated and will I think be very easily understood by the House. It is simply by expanding the area of selection in which case you are adding to the strength of the representative character of the Councils."

But now these Councils your Memorialists venture to submit enjoy the representative character founded on the franchise."

Speaking to an Amendment by Mr. Schwann, M.P., to the Bill to the effect that "no reform of Councils that does not embody the elective principle will be satisfactory."

Mr. Curzon said, "I should like to point out to him that our Bill does not necessarily exclude some such principle as the method of selection, election or delegation with the permission of the House I will read the words of the sub-section of Clause I. It runs as follows: "The Governor-General in Council may from time to time on the approval of the Secretary of State in Council make regulations as to the conditions under which such nominations or any of them shall be made by the Governor-General, Governors and Lieutenant-Governors respectively and prescribe the manner in which such regulations shall be carried into effect."

Lord Kimberley has expressed himself about that clause. He said, "I am bound to say that I express my whole satisfaction with regard to this elective principle." The opinions expressed by Lord Kimberley are shared by the Secretary of State under this Act. It would be in the power of the Viceroy to invite representative bodies in India to elect or select or delegate representatives of those bodies of their opinion to be nominated to these Councils and by elective measures."

The Right Honorable Mr. Gladstone speaking on the same subject after explaining the speeches of the Honorable Movers of the second reading of the Bill and its amendment said: "I think I may fairly say that the speech of the Under-Secretary appears to me to embody the elective principle in the only sense in which we should expect it to be embodied. . . . It is evident that the great question—and it is one of great and profound interest—before the House is that of the introduction of the elective element into the Government of India. What I wish is that their first steps shall be of a genuine nature and that whatever scope they give to the elective principle shall be real, there is no difference of principle. I think that the acceptance of the elective principle by the honorable gentleman (Mr. Curzon) though guarded was not otherwise than a frank acceptance."

Turning to the Regulations made and published in accordance with the above Act your Memorialists submit that the remarks hereinbefore quoted are fully borne out. To take the Bombay Legislative Council for instance out of the eighteen nominated members eight are elected by, or as it is put in the Regulations "nominated on the recommendation" of the various representative bodies which are enfranchised for the purpose of Legislative Councils. The Corporation of Bombay (itself an elective body) Municipal Corporations other than the Bombay Corporation in the Bombay Presidency prescribed by the Governor in Council, District Local Boards prescribed as above, the Sardars of Deccan of or other class of large land holders prescribed as above, Associations of merchants, tradesmen, etc., prescribed as above, and the Senate of the University of Bombay recommend or elect these eight members by a majority of votes or in the case of Associations not established by law in the manner laid down in their rules for carrying resolutions or recording decisions upon questions of business brought before such Associations.

In the Sardars of the Deccan this Honorable House will notice there are even direct voters for the election of members of the Council.

The regulations for the other Councils are much the same.

Such is the character of the Legislative Councils in India and the political franchise. The difference therefore your Memorialists beg respectfully to point out is not one of kind but of degree only. The reason is not because the Indians do not know or understand the representative principle. Your Memorialists cannot do better than quote again from the speech of the Right Honorable Mr. Gladstone partly quoted above; he thus explained the reasons for the restrictive character of the elective principle.

"Her Majesty's Government ought to understand that it will be regarded as a most grave disappointment if after all the assurances we have received that an attempt will be made to bring into operation this powerful engine of Government (*i.e.* the elective principle) there should not be some result such as we anticipate from their action. I do not speak of its amount, I speak more of its quality. In an Asiatic Country like India with its ancient civilization with its institutions so peculiar, with such a diversity of races, religions and pursuits, with such an enormous extent of country, and such a multitude of human beings as probably except in China were never before under a single Government; I can understand that there should be difficulties in carrying what we desire to see accomplished. But great as the difficulties are the task is a noble one, and will require the utmost prudence and care in conducting it to a successful consummation. All these things induce us to look forward cheerfully to a great future for India, and to expect that a real success will attend the genuine application even though it may be a limited one of the elective principle of the Government of that vast and almost immeasurable country."

The opinion of those who are qualified to speak on Indian subjects seems to be unanimous as to the representative character of the Indian Councils.

Sir William Wilson Hunter, the greatest living authority on Indian subjects, says: "The representative principle is now being cautiously extended under Lord Cross' Act of 1892, to the Legislative Councils both of the Supreme and the Provincial Governments."

The *Times* dealing with the Indian Franchise in Natal, says:—

"The argument that the Indian in Natal cannot claim higher privileges that he enjoys in India, and that he has no franchise whatever in India is inconsistent with the facts. The Indian has precisely the same franchise in India which the Englishman enjoys. (After dealing with the Municipal Franchise the article goes on to say) A similar principle applies with the modifications incident to our system of Government in India to what may be called the Higher Electorate. The elected members of the Supreme and the Legislative Councils which deal with 221 millions of British subjects are mainly elected by Native bodies. Apart from the official representatives of Government in the Supreme and Provincial Legislatures about one-half the members are Natives. It would be wrong to push this analogy too far. But it answers the argument against allowing British India subjects a vote in British Colonies on the ground that they have no vote in India. So far as Government by voting exists in India, Englishmen and Indians stand on the same footing, and alike in the Municipal the Provincial and the Supreme Councils the Native interests are powerfully represented.

The Municipal Franchise is very broad in India, and almost the whole of British India is studded by Municipal Corporations and Local Boards.

Speaking of the class of Indians already on the Vote.s' Rolls in Natal, the *Times* article referred to above, says, "It is precisely this class of men who form the most valued element in the municipal and other electorates in India. Throughout the 750 municipalities of India the British and the Native voters have equal rights, and 6790 Municipal Commissioners in 1891 were Natives as against 839 Europeans. The European vote on the Indian Municipal Boards was therefore only one to 8 Indian votes, while in the Natal Electorate there are 37 European votes to one British Indian. . . . It must be remembered that Indian Municipalities administer a population of 15 millions and an expenditure of 50 million Rupees."

As to the acquaintance of the Indian with the nature and responsibilities of representative institutions the same article says:—

"There is probably no other country in the world in which representative institutions have penetrated so deeply into the life of the people. Every caste, every trade, every village in India had for ages its council of five which practically legislated for and conducted the administrations of the little community, which it represented until the introduction of the Parish Councils' Act. last year there was no such rural system of self-administration even in England."

Mr. Schwann, M.P. on the same subject says, "Do not suppose that the question of election is a new one in India. . . . There is no question which is more specially Indian than the question of election. Most of our civilization has come from India. And there is not the slightest doubt that we ourselves are practising a development of the Eastern principle of election."

Under such circumstances the Indian community whom the Bill is intended affect find it most difficult to understand it.

Your memorialists submit that the vagueness and ambiguity of the Bill are very undesirable and fair neither to the European community nor the Indian. They leave both in a state of suspense which is painful to the latter.

Your memorialists respectfully draw the attention of this Honorable House to the fact that according to the present Voters' Roll, there is one Indian to every 38 Europeans, and that the Indian voters belong to the most respectable element in that community and are residents of long standing with large stakes in the Colony.

It is said however that the present list is no guide to what proportions the Indian vote may assume in future. But the fact that during the two years that the disfranchisement of the Indian community has been threatened, no more Indians have had their names placed on the Voters' Roll, in your memorialists humble opinion, sufficiently disposes of the argument.

The truth is, and your memorialists venture to speak from personal experience, there are not very many Indians in the Colony who have got the legal property qualification, low as it is.

Your memorialists respectfully submit that the Bill under discussion is open to more objections than one. In your memorialists' humble opinion it introduces the colour distinction in a most invidious manner. For while natives of other countries not enjoying elective representative institution may not become voters, natives of the states of Europe even though they may not enjoy such institutions in the countries they come from, may become voters under the General Franchise Law of the Colony.

It would make the sons of non-European women of questionable reputation eligible as voters so long as the father is a European, while it would prevent the son of a European lady of noble birth, should she choose to marry a nobleman belonging to a non-European race from becoming a voter under the General Franchise Law of the Colony.

Assuming that the Indians come under the scope of the Bill, the method by which they may get themselves placed on the Voters' Roll will be a source of constant irritation to the Indian community, and may give rise to a system of favouritism and cause serious dissensions among the members of the Indian community.

The Bill is moreover calculated to involve the Indian community in endless litigation in order to enable them to vindicate their rights, which your memorialists think are capable of definition without any recourse to the law courts of the Colony.

Above all it will transfer the agitation from the hands of the Europeans, who now wish to see the Indians disfranchised into those of the Indian community. And the agitation your memorialists fear has to be perpetual.

It is most humbly submitted that such a state of things is very undesirable in the interests of all the communities inhabiting this Colony.

Your memorialists after a careful investigation for over a year have ventured to come to the conclusion, that the fear about the Indian vote swamping the European is absolutely imaginary.

And therefore fervently pray and venture to hope that this Honorable House before assenting to any Bill, specially restrictive of the Indian vote, or directly or indirectly introducing any colour distinction would institute an inquiry into the real state of affairs which would show how many resident Indians there are in this Colony who possess the legal property qualifications necessary for being placed on the Voters' Roll.

And for this act of justice and mercy your memorialists as in duty bound shall for ever pray, &c., &c., &c.

Sd. ABDUL CAREEM HAJEE ADAM,

Durban,

27/4/96.

and others.

[COPY.]

DURBAN, 14th May, 1896.

TO THE HONOURABLE THE PRIME MINISTER,
PIETERMARITZBURG.

SIR,—You are reported to have said the following with reference to the Natal Indian Congress on the Second Reading of the Franchise Bill:—

"Members might not be aware that there was in this country a body, a very powerful body in its way, a very united body, though practically a secret body, he meant the 'Indian Congress.'"

May I venture to enquire if that portion of your speech is correctly reported, and if so, whether there are any grounds for the belief that the Congress is "practically a secret body?" I may be permitted to draw your attention to the fact that when the intention of forming such a body was made it was announced in the papers, that when it was actually formed its formation was noticed by the *Witness* that the annual report and list of members and rules have been supplied to and commented upon by the Press, and that these papers have also been supplied to the Government by me in my capacity as Honourary Secretary to the Congress.

I have the honour to remain,

Sir,

Your obedient Servant,

(Sd.) M. K. GANDHI,

Honourary Secretary of the Natal Indian Congress.

C.

[COPY.]

Colonial Secretary's Office, Natal.

Pietermaritzburg,

16th May, 1896.

SIR,

In answer to your letter to the Prime Minister of the 14th instant, respecting certain words reported as having been made use of by him, on the Second Reading of the Franchise Bill, with reference to the Natal Indian Congress, I am desired by Sir John Robinson to state that, in speaking of that Congress as practically a secret body, he did so under the belief that meetings of the Congress are not open to the public and the Press.

If the Prime Minister has been misinformed on this point, I am to state that he will be glad to be corrected on the subject.

I have the honour to be,

Sir,

Your obedient Servant,

(sd.) C. BIRD,

Principal Under Secretary.

Mr. M. K. GANDHI,
Durban.

[COPY.]

DURBAN, 18th May, 1896.

C. BIRD, Esq.,
Principal Under Secretary,
Colonial Office,
Pietermaritzburg.

SIR,—I beg to acknowledge the receipt of your letter 2837/96, dated the 14th instant, in reply to my letter to the Honourable the Prime Minister with reference to the Natal Indian Congress.

I beg to state with regard to the matter that the Congress meetings are held always with open doors, and they are open to the Press and Public. Certain European gentlemen, who the Congress members thought might be interested in the meetings were specially invited. One gentleman did accept the invitation and attend a Congress meeting. Uninvited European visitors also have attended the Congress meetings once or twice.

One of the Congress rules provides that Europeans may be invited to become Vice-Presidents. According thereto two gentlemen were asked if they would accept the honour, but they were not disposed to do so. Minutes of the Congress proceedings are regularly kept.

I beg to remain,

Sir,

Your obedient Servant,

(Sd.) M. K. GANDHI,

Honourary Secretary Natal Indian Congress.

CURRENT No. 2101

Public Dept.

Pub. No. 503 21-5-96
849 21-10-95

From Abdul Karim Hajee
Adam & others.
Natal.

C.S.
mis

Order No. 707. 24 July 1896.

Recorded in cont.
of G.O. No. 503, Pub. dated
1st May 1896.

Dated 22-5-96

Recd 20

Regd 20

} June 96

C.S.
2.7.96

21/7/96.

Subject.

Submitting copy of
a memorial, addressed
to the Secretary
of State for the Colonies,
re the Franchise Law Amend-
ment Bill introduced in the
Natal Legislative Assembly.

WITH ORDER