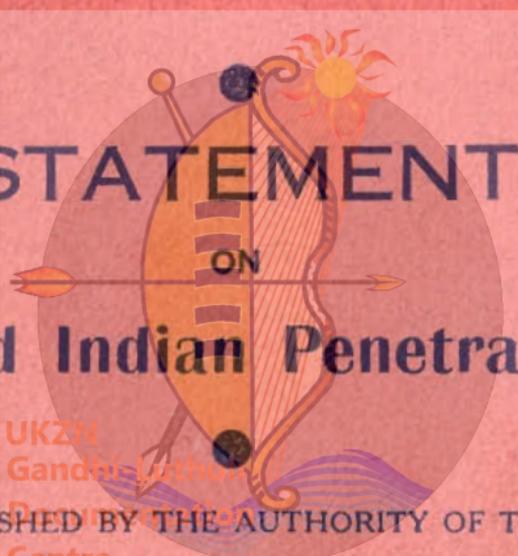


THE NATAL INDIAN ASSOCIATION

With which are amalgamated the NATAL INDIAN CONGRESS
and the COLONIAL BORN & SETTLERS' INDIAN ASSOCIATION)



STATEMENT

ON

Alleged Indian Penetration.

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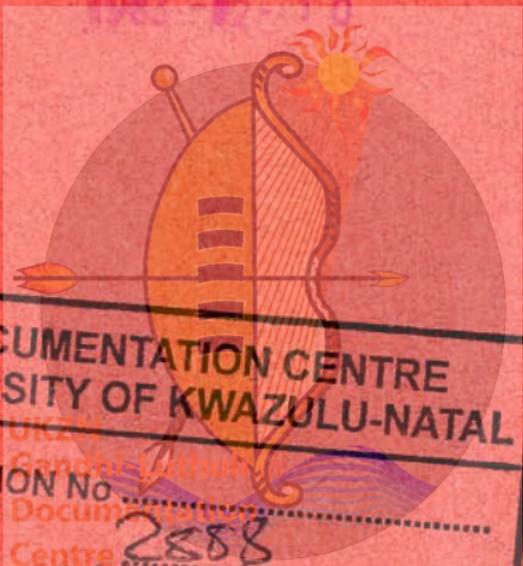
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STATEMENT

BY THE

Natal Indian Association.

A controversy has arisen in regard to the nature and the implications of the assurance given to the Minister of the Interior (the Honourable H. G. Lawrence) by the Natal Indian Association and also in regard to the earlier agreement (which has often been referred to as the "Gentlemen's Agreement") entered into by Mr. A. I. Kajee with the Natal Municipal Association in 1936-37. The circumstances under which Mr. Kajee's agreement was entered into are described in the speech delivered on May 4th, 1939, on the Transvaal Asiatics Land and Trading Bill by Mr. Hofmeyr, who as Minister of the Interior, had initiated the discussions which resulted in this agreement. The following is an extract from this speech :—

Gandhi Vadhuk
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MR. J. H. HOFMEYR.

"I can recall as Minister of the Interior having discussions in regard to complaints as to Asiatic penetration in Natal with the Natal Indian Congress.

"I believe that there is another and better way of dealing with the problem. I believe that is the way which the Hon. the Minister of Justice pointed out in 1917. It is the way of co-operation, of consultation and consent. I believe that the time is now ripe for such a solution. What after all is the aim of segregation? It means that the people of different races should live separately. Now, sir, if you are prepared to combine that ideal with the ideal that we accepted in 1927, that those Indians who are willing and able to conform to Western standards, will be enabled to do so, then we can all accept that ideal, and I believe that the Indian community in South Africa is fully prepared to accept that ideal. I do not speak

without the book. I have had some experience on which to base my remarks. I can recall as Minister of the Interior having discussions in regard to complaints as to Asiatic penetration in Natal with the Natal Indian Congress. That Congress was prepared to accept this principle, and as a result an arrangement was come to between that Natal Indian Congress and the Natal Municipal Association in terms of which that Congress agreed to stop such penetration proceeding where cases were brought to its notice. The Hon. the Minister of the Interior has assured me that that system has worked satisfactorily.

"I believe it will still be possible for the Minister to find that solution on the basis of consent and co-operation. I ask him, once he has put this Bill on the Statute Book to make some sort of gesture in this Bill to the European community, and it is in that hope, and with the intention that the Minister should have the necessary time to find a solution in that way, that I am prepared to support this Bill."

When Mr. Kajee ceased to be the Secretary of the late Natal Indian Congress in August, 1939, he did not hand over to his successors in office the correspondence relating to this Gentlemen's Agreement, and also important Records and Minutes of the Congress, excepting some old files of papers, which he handed over only on repeated pressure brought upon him and against written indemnity given him by the Officials. He still has in his possession the Records, etc., of the late Natal Indian Congress, which he unlawfully withholds.

The documentary and other evidence in regard to the nature and terms of this agreement is, however, conclusive. We proceed to summarise this evidence:—

SIR SAYED RAZA ALI.

(a) The following is an extract from paragraph 64 of the published official report submitted by Sir Syed Raza Ali for the years 1936-37 relating to the agreement:—

"The agreement was arrived at between the Municipal Association and the Congress whereby the Association undertook to bring to the notice of the Congress any case in which an Indian endeavoured to purchase property in a European residential area and the European community opposed it and the Congress on their part undertook to endeavour to persuade the person concerned from effecting the purchase."

(b) It would appear that Mr. Kajee had no authority from the Executive Committee of either the late Natal Indian Congress or of the South African Indian Congress at the time of negotiation of this agreement. The Congress, however, owing to circumstances into which we need not go here, was then functioning under abnormal conditions and Mr. Kajee's action in regard to this and other matters was formally ratified by resolution passed at a Meeting of the late Natal Indian Congress held in May, 1938, and at a Conference of the same Congress held in December, 1938, the following resolution was passed :—

“This Conference observes with regret the recrudescence of the cry of penetration of European areas by Indians. This Conference records its most emphatic opinion that the Indian community has not been guilty of penetration of European areas.

“There has taken place a gradual expansion of Indian areas necessitated by the increase in the Indian population. But Congress has arrived at a working agreement with the Natal Municipal Association whereby individual Indians are deterred from purchasing residential sites in European areas, and this Conference has pleasure in recording that this agreement has worked most satisfactorily.”

Mr. Kajee was Secretary of the Congress when this resolution was passed.

(c) In June, 1938, Mr. H. H. Kemp, a member of the Durban City Council, proposed that legislation be introduced to deal with the problem of alleged Asiatic encroachment in European residential areas. In regard to this “Gentlemen's Agreement,” Mr. Kemp stated as follows :—

“I understood that in 1936 an arrangement has been arrived at between representatives of the Natal Municipal Association and Indian leaders whereby these Indian leaders were to take what steps they could to discourage Asiatics from purchasing land in European residential areas.”

In replying to these allegations, Mr. Kajee stated as follows :—

“The policy of the Natal Indian Congress was to respect the prejudices of other communities by advising members of

the Indian community not to cause irritation by acquiring property in areas which were essentially European.

(“Natal Daily News,” June 24th, 1938).

(d) The Union Government was also officially informed by the Natal Municipal Association that the agreement was to prevent the **purchase of property** by Asiatics in European areas.

DOCUMENTARY EVIDENCE.

There is further documentary evidence to support the statement that the so-called “Gentlemen’s Agreement” related not merely to occupation, but also to purchase of land, but the resolution passed by the Natal Indian Congress in 1938 and Mr. Kajee’s own statement to the “Natal Daily News” are **conclusive**. Indeed, the case that provoked the most violent agitation in Pietermaritzburg, was that of a purchase of a house by an Indian, who had not been in occupation of the house but had let it to a European tenant.

Assurance given by the Natal Indian Association to the Hon. the Minister in December, 1939.

“This Association records its appreciation of the interest shown in the Indian Community by the Hon. the Minister of the Interior so soon after the assumption of office, and to afford it the opportunity to meet him, inter alia, on the question of the alleged penetration into predominantly European residential areas by Indians in Durban.

“Subject to confirmation by a General Meeting, this Association resolves, that while the Indian community is opposed to segregation or separation of races, it is however, prepared, with a view to the establishment of more cordial relations between the two communities to do everything in its power to prevent the purchase of any property by an Indian in a predominantly European residential area.

“The Association readily accepts the suggestion of the Hon. the Minister, that it should appoint a sub-committee to work in close co-operation with the Housing Committee of the Durban City Council. This Association firmly believes that this step will enable the City Council to obtain a closer insight into the housing needs and difficulties of the Indian community and the lack of Municipal amenities in Indian localities, and based on mutual goodwill and understanding it will ultimately result in a satisfactory solution of the alleged

problem of Indian penetration in predominantly European areas. If the Hon. Minister's proposal is accepted by the City Council a sub-committee of the Association will be appointed immediately with powers to collaborate with the Housing Committee of the City Council."

This resolution was confirmed at a mass meeting held on the 11th February, 1940, in Durban. The resolution passed at the mass meeting is as follows:—

"This mass meeting of Natal Indians, convened under the auspices of the Natal Indian Association (with which are amalgamated the Natal Indian Congress and the Colonial Born and Settlers' Indian Association) and held at the City Hall, Durban, confirms and approves the terms of assurance given to the Honourable the Minister of the Interior by the Association."

Since it has been suggested that a resolution of such vital importance to the Indian community should more appropriately have been endorsed at a General Meeting of the Association, we may draw attention to Article 16 of the Constitution and Rules of the Natal Indian Association which is as follows:—

"On vital matters affecting the Indian community, mass meetings shall be held to ascertain the views and wishes of the Indian community."

The holding of a mass meeting is obligatory under the Constitution and this provision was made because the Association is essentially our people's organisation.

The assurance referred to above was given by the Natal Indian Association after the interview which a deputation of the Association had with the Hon. the Minister of the Interior in Durban on October 24th, 1939. At this interview, the Minister informed the deputation that it was his intention to appoint a Commission or Committee of Enquiry which would examine the facts. We made it very clear at the time that there was no penetration by Indians into predominantly residential areas, that the few cases in which Indians had purchased property in predominantly European residential areas were largely due to the fact that the Municipal Council had grossly neglected the provision of ordinary municipal amenities in Indian

areas. It is, however, to be noted that in the sales of these few properties, European Owners and Estate Agents and Brokers were just as much to be blamed for offering inducements to Indians. The circumstances under which we decided to give the assurance are explained in the following extract from the speech of the Hon. the Minister of the Interior on the 30th January, 1940, in reply to Dr. Mañan's resolution about segregation.

“We are now going to appoint a commission which will examine the facts, and, while that commission is investigating, I hope that an experiment which I have just inaugurated will meet with a large measure of success. The Natal Indian Association, at my request, has agreed to appoint a committee to co-operate with an ad hoc committee of the City Council of Durban, which Council has approved of this proposed collaboration. These Committees will meet jointly from time to time and when any question arises of an Indian proposing to purchase property in what is said to be a predominantly European area, these Committees will thrash the matter out. If they jointly agree that it is a European area, the Indian community has given the assurance that it will do its best to see that no purchase is made. My Hon. Friend is suspicious. My impression, when I recently went to Durban to investigate the position was that both sides were mutually suspicious. The Indian community did not seem to trust the City Council, and the City Council put little faith in the Indian community. They were at arm's length. But I hope that these two bodies will get together in a bona fide effort to solve their mutual difficulties and that their discussions will not be confined to purchases in the European areas but will be extended to housing, the provision of civic amenities and matters of that sort. I hope that by getting together, by consulting and by keeping proper records, a spirit of real co-operation will be achieved as a result of which we may find that we shall be able to go a long way towards a solution of this matter along non-statutory lines.

“The Indian community has an opportunity during the period of investigation to show its own bona fides, and I hope to be able to extend this experiment to Pietermaritzburg. Meanwhile the Commission will be functioning: its terms of reference will relate to the whole of Natal and the Transvaal.”

It is clear from this extract that it is the policy of the present Union Government to make an effort to find a solution of the problem along non-statutory lines. The Minister also made it clear that the object of the Constitution of a Joint Committee of the Durban City

Council and the Natal Indian Association was not merely to prevent purchase of property in predominantly European areas, but also to provide a machinery for mutual consultation and collaboration in regard to housing, to the provision of civic amenities and other relevant matters.

Why was it necessary for the Natal Indian Association to re-affirm the assurance given by the late Natal Indian Congress in 1936-7.

This was necessitated by the fact that the late Natal Indian Congress which had originally given the assurance had amalgamated with the Colonial Born and Settlers' Indian Association in October, 1939. It was therefore clearly necessary that the new body, one section of which had not been a party to the agreement, should consider the question of honouring the undertaking given on behalf of the late Natal Indian Congress. A furious agitation had developed in Durban in September and October in regard to the question of penetration and a demand had been made for legislative action on the ground that the Gentlemen's Agreement had proved to be inadequate. Mr. Nel, in his speech in the Assembly on 4th May, 1939, had gone further and made serious allegations against the Indian community. He stated as follows:—

“I hope that the Hon. Member realises how difficult it is to enter into a Gentlemen's Agreement with Asiatics and expect that agreement to be faithfully carried out by the Asiatics. On every occasion such agreements have been evaded.”

The agreement had been in force for over three years and the late Natal Indian Congress had throughout contended that it had worked satisfactorily.

We have evidence to establish the fact that Mr. Kajee in pursuance of the agreement he reached with the Natal Municipal Association did prevent Indians from purchasing properties in European residential areas. Upon a complaint received by him from Mr. F. J. Lewis, the former Mayor of Pietermaritzburg, he went up to the City and personally interviewed

him for the purpose of preventing an Indian from purchasing a property.

It is obvious that any attempt by the late Natal Indian Association to repudiate the agreement at this stage would have given a stimulus to the agitation for legislation in Natal. In fact we consider that the attempts recently made by Mr. Kajee and his supporters to give that agreement an interpretation which, according to documentary and other incontestable evidence, could not have been intended at the time will undoubtedly cast a serious reflection on the good faith of the community and will present the anti-Asiatics with another argument for their demand for a legislative solution. We strongly feel that these gentlemen are doing the greatest disservice to the community.

THE ASSURANCE.

The assurance given by the Natal Indian Association does not go beyond the agreement previously entered into by Mr. Kajee on behalf of the Congress but on the contrary it is a distinct improvement on that agreement. We wish to emphasise the following points.

(a) We have given no assurance that we propose to interfere in any way in regard to property that had already been purchased by Indians in European residential areas. It is absolutely untrue that the Executive of the Association at any stage contemplated giving an assurance that they would induce such purchasers to re-sell their property.

(b) The assurance refers only to predominantly European residential areas and NOT to trading areas.

(c) We have made it perfectly clear that we do not accept the principle of segregation or of separation of races. It is our firm opinion that if a few Indians who desire to purchase property in predominantly European residential areas refrain from doing so with a view to the establishment of more cordial relations between the European and Indian Communities it does NOT follow that they accept the principle of segregation or of separation

of residential areas. As the Minister of the Interior has explained he has inaugurated this experiment during the period of the investigation by the Judicial Commission. The whole question will come up for re-consideration after the Commission has reported.

(d) The assurance substitutes the expression "predominantly residential areas," for the expression "residential areas" in the agreement entered into by Mr. Kajee.

(e) It substitutes a sub-committee of the Durban City Council for the Natal Municipal Association, through which an attempt will be made to carry out the terms of the assurance. This plan has manifest advantages, for it will enable the City Council to obtain a closer insight into the housing needs and difficulties of the Indian Community and to realise the necessity for the provision of municipal amenities in Indian areas. As we stated at length when the Minister saw us in deputation on October 24th, 1939, it is the failure of the City Council to provide civic amenities in Indian areas that is largely responsible for the few cases of purchases of property by Indians in European areas.

This scheme will enable each body to understand the difficulties of the other and the healthy co-operation that will result will, it is hoped, lead to a solution on non-controversial lines.

SWAMI BHAWANI DAYAL'S VOLTE FACE.

In a recent statement to the Press by Swami Bhawani Dayal, an ex-President of the late Natal Indian Congress, speaking as the mouthpiece of what is now called "the revived Congress," whatever this may mean, he asserts that the Assurance given by the Natal Indian Association in its essence virtually amounts to the acceptance of voluntary segregation. While the assurance given is sufficiently clear in itself to repudiate this suggestion, we would venture to ask him in what light does he regard the resolution on penetration passed by the Conference of Natal Indian Congress in

December, 1938, under his presidentship? Was it not the aim of the agreement with the Natal Municipal Association to prevent Indians from purchasing residential sites in European areas? To those who today are distorting facts and repudiating the assurance given by the Natal Indian Association no stronger condemnation or censure can be expressed than that expressed in a recent statement from the Minister of the Interior (the Hon. H. G. Lawrence).

"I regret my inability to attend the inaugural Joint Meeting of representatives of the Natal Indian Association and the City Council of Durban, and wish to express the hope that the joint deliberations will prove fruitful and helpful.

The assurance given by the Natal Indian Association is substantially and effectively similar to that given by the Natal Indian Congress to the Natal Municipal Association.

"I trust that the machinery now set up will enable these assurances to be translated into action when the need arises.

"I have heard with great concern that attempts are being made by outside parties to repudiate the assurances of the Natal Indian Association and I can only view attempts as being in reckless disregard of the true interests and welfare of the Indian community."

NO PRESSURE.

We wish to make it perfectly clear that we did not give the assurance under pressure of any sort from the Minister or from any other authority. We gave the assurance voluntarily, because we were convinced that it was in the best interests of the Community to do so. When the Union Government had agreed to a Judicial Commission which had been demanded not only by Indian leaders in this country but also in India and when they had definitely announced their intention to seek a solution of the problem on non-statutory lines based on goodwill and mutual understanding, we felt that we should make a friendly gesture with a view to the establishment of more cordial relations between the two communities. The importance of this will be recognised, especially when the Union Government and the rest of the British Commonwealth are engaged in a major war and the Commonwealth is passing through one of the worst crises in its history.

POINTS OF CONTACT.

We admit that some of the members of our Association under different circumstances were opposed to assurances of this sort, but a new situation has arisen which demands a fresh outlook. All over the world different communities are attempting to find points of agreement with a view to the establishment of racial harmony after the war. We entertain the hope that on the termination of this war, the world will emerge into a new atmosphere, in which racial and other problems will be considered from a totally different point of view.

All communities have a tendency to live more or less among themselves. We have no desire to give offence to the other communities provided those communities are also prepared to respect the susceptibilities of the Indian community and to refrain from inflicting by legislation or otherwise a stigma of inferiority on them. As Mr. Stuttaford stated last year, 99% of the Indian community have no desire to encroach on predominantly European areas, the so-called "penetration" has really been the expansion of the Indian communities into adjoining areas owing to the increase of population and other natural causes. It is our belief that if suitable residential sites and other amenities are provided for all Indians by means of friendly consultation and collaboration between the two communities this alleged problem will be solved without racial irritation or recourse to legislation. It is in that hope that we have given the Minister the assurance referred to above, and we have expressed our determination to make the experiment which he has inaugurated a success, so far as it lies in our power. We are confident that the overwhelming majority of the Indian population is with us in this matter.

We believe we have placed the whole position

relating to the assurance as succinctly as possible, and we have no doubt that even a casual reading of these pages will convince anyone that what the Association has done is nothing more nor less than what would have been done by a body of responsible persons in the circumstances.

We have only to appeal to the good sense of our compatriots to stand by the assurance given by the Natal Indian Association, for in it we visualise a better order of arrangement, and a better understanding of each other's difficulties, which, we hope, will result in racial harmony.



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Albion Chairman of Committee.

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P.
Joint Hon. Treasurers.

P. S. P. P. P. P.
Members of the Executive Committee.

NATAL INDIAN ASSOCIATION
(with which are amalgamated the Natal Indian Congress and the Colonial Born and Settlers' Indian Association).

NATAL INDIAN ASSOCIATION.

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