

permanent alliance? --- Yes, into an alliance.

What was the principal method used by the Indian Congress to pursue its aims? --- The Indian Congress used the method of non-violence and satyagraha in order to pursue its aims. 5

Is this method also known as passive resistance? --- Yes.

Who was the originator of this method? --- The originator of this method was Mahatma Gandhi.

Did Tolstoy have anything to do with the development of the idea of passive resistance? --- Tolstoy was a great pacifist? 10
was a great passive resister and a Christian and when Mahatma Gandhi conducted passive resistance struggle in the Transvaal, he approved of it.

Where was Gandhi when he originated the passive resistance as a method of struggle? --- He was here in South Africa. 15

During what period was this? --- The active form of passive resistance which he embarked upon started in 1906-1914. 20

Is the adoption of passive resistance as a method of struggle influenced by the passive resistance movement in South Africa in the early years? Is the adoption of passive resistance - the adoption of the method of passive resistance by the South African Indian Congress, would you say that it is influenced in any way by the passive resistance movement of Mahatma Gandhi? --- Yes, not only that, but it is a continuation of that struggle. 25

I understand that it is an historical fact that Mahatma Gandhi came to South Africa in 1893? --- That is so. 30

Did he have anything to do with the founding of the Natal Indian Congress? --- Yes, originally he came to South Africa for one year to advise some of his clients on a law suit, and after the year expired, when he saw things here, the Indian community asked him to stay 5 for the difficulties they were facing at the time, he decided that they must form an organisation, and through the medium of that organisation the Indian community should work, and he is the founder of the Natal Indian Congress in 1894 and he formed this Congress really on the 10 basis of the Indian National Congress which existed in India at the time.

In the early period, was he responsible for making representations to the authorities on various matters effecting the Indian community? 15

BY MR. JUSTICE RUMPF :

Is that relevant? We have got that he is the founder of the Natal Indian Congress. Are we interested in what he did further, and more particularly...

BY ACCUSED KATHRADA : 20

My Lord, I am trying to show that the methods used by Gandhi at the time are still...

BY MR. JUSTICE RUMPF :

That is what he said. He said it is a continuation. Unless that is challenged in cross- 25 examination, I don't think you need go into full particulars about what Gandhi did.

BY ACCUSED KATHRADA :

As a result of the numerous discriminatory laws which you spoke about, did Gandhi develop this new 30 form of struggle at about the beginning of the century? --- Yes, that is so.

As a result - no, did Gandhi form a political organisation in the Transvaal? --- Yes, in 1902 or 1903 he formed the Transvaal British Indian Association.

I understand that in 1906 the Transvaal government passed an ordinance providing for the compulsory registration of Asiatics and their identification by means of fingerprints? --- Yes, that is so.

What did the Transvaal British Indian Association do about it? --- At the time the Transvaal was a Crown Colony, and they made a protest and eventually a deputation consisting of Gandhi and other members of the Indian community went over to England to interview the British Government there, and as well to educate the British Public opinion to see that this measure is not passed. He also informed the Colonial Secretary at that time that if this measure will be passed, then we will rather disobey the law and go to prison. As a result of this representation, the bill was disallowed, the Act was disallowed by the British Government.

Was the same measure re-enacted at a later stage? --- Yes, in 1907 when the Transvaal got responsible government, the same measure was re-enacted as Act 2 of 1907.

Now you have already told the Court that in the year 1907, an Act restricting Indian immigration was passed? - Yes, that is so.

As a result of this measure, what steps did the Indian community take? --- When this Act was passed the Transvaal British Indian Association held a public meeting in which they decided not to obey the

provisions of the Act and instead rather go to gaol, and defy the law. In that meeting, pledges were also taken from the people and to that effect a resolution was passed. Later on those who were prepared to defy pledged the same pledge in writing, which was taken and signed by 5 the people who were volunteers like, and they did defy the law thereafter. The way of defiance was at the time against this law was that they would not as the law required them to go and register at a certain date, they decided not to go and register themselves. 10

This was the first passive resistance?

--- This was the first resistance ever started.

Was it also directed against the requirement that fingerprints should be given as a means of identification? --- Yes. 15

Was the Transvaal British Indian Association alone in this particular campaign, or did it work with other groups? --- This law applied to the Chinese community as well. Therefore the Indian Association together with the Chinese - formed an alliance with the 20 Chinese association at the time, and both communities took the action jointly.

How many people were imprisoned in this campaign?

BY MR. JUSTICE RUMPF : 25

Does it matter? We have got the principle. It is unnecessary to go into full details of that particular campaign, as long as we have the principle.

BY THE ACCUSED KATHRADA :

Now, apart from actually defying this 30 law, did the campaign take any other form? --- Yes, the volunteer corps was established, and the volunteers were

- one of their duties were to work at pickets, at the immigration and other registration offices where they were established. Also people trading with licences, so that they could be arrested. Also, people crossed the borders from Natal to the Transvaal, in defiance of the Act. 5

Was it only Indians who went to gaol in this campaign? --- Apart from the Indians and the Chinese some Europeans also went to gaol, like Mr. Kallenburg and so on. 10

Do you know if the Europeans set themselves up into any organisation to help the passive resistance movement? --- Yes, there was a European Committee who sympathised with the movement, set up a committee under the leadership of the late Mr. William Hoskins. 15

As a result of this campaign, did the authorities take any steps to negotiate with Gandhi? --- Yes, when Mahatma Gandhi was arrested and was confined in gaol in Johannesburg, General Smuts sent an emissary, I think it was Mr. Albert Cartwright... 20

BY MR. JUSTICE RUMPF :

Need we go into details? If the answer is yes, that is enough. Isn't it enough for your purposes, there were negotiations?

BY ACCUSED KATHRADA : 25

I would have liked the emissary to explain - the witness to explain a bit further, but if it is enough for Your Lordships' purposes, I won't take it any further.

BY MR. JUSTICE RUMPF : 30

As long as you establish the principles, it seems to me enough.

BY THE ACCUSED KATHRADA :

Was any agreement arrived at, as a result of these negotiations? --- Yes, General Smuts put forward some suggestions that if the Indian community immediately register themselves according to the Act, then 5 at a later stage General Smuts would alter the various provisions which are objected to by the Indian community.

Did the Indian community carry out its part of the bargain? --- Yes. Gandhi informed the Indian community of this negotiation. 10

Did the authorities carry out their part of the bargain? --- No.

And what did the Indian people then do? --- When as a result of that another meeting was called where all these registration certificates were collected 15 in advance about 2,000 were collected in advance and others were brought to the meeting, and they were all burnt.

Did this phase of the campaign take any other form besides the burning of passes - I mean the 20 burning of the certificates? --- Yes, as I mentioned, ..

I think you have answered this question, the crossing of borders and so on. Were large numbers of people again arrested? --- Yes.

And was another settlement arrived at? 25 --- That is right. Eventually this matter was settled and the Act of 1907 was repealed.

Was the passive resistance movement then called off? --- Yes, it was suspended.

Did the government make any other promises 30 at the time? About the rights of the Indian community? --- Yes, they would also administer the laws effecting the

Indians in a just manner and sympathetically.

How did Mahatma Gandhi and his followers regard the passing the Immigrants' ? Act of 1913?
 ---They thought at the time that this was not in conformity with the promise made. 5

I want to refer you to a telegram sent on behalf of the British Indian Association which is contained in the Report of the Indian Enquiry Commission of 1914. The telegram was sent by your father : "View passage immigration bill parliament my association would respectfully draw Your Excellency's attention to following objection bill from ten point Indian community. Bill fails to carry out provisions of settlement in that contrary to that settlement it takes away existing rights. It restricts right appeal Supreme Court presently existing.15 It deprives Indians resident Natal of facility presently enjoyed re-enter that province after absence on strength of three years previous residence while indented Indians paid £3 tax may not under Bill be allowed claim rights residence that province. It takes away rights South 20 African born Indians enter Cape under existing statute. Free State difficulty remains as before in that declaration required from educated Indian immigrants which would not be required from any other immigrant as immigrant." As a result of what the Indian community regarded as a 25 breach of faith, was another passive resistance movement started? --- Yes.

When? --- When this Act was introduced, objection and protest - objections were taken against the bill and protests were made and also informed the 30 government at the time that if this bill becomes an Act as it is, then they will renew the passive resistance

movement.

What were the main issues in the campaign?

--- The main issues related to the abolition of the £3 tax, and...

BY MR. JUSTICE RUMPF :

5

Does it matter what the precise details were at the time? You read the telegram, we know what the objections are. We are not interested in the details of the campaign, we are interested in the principle that there was another campaign.

10

BY ACCUSED KATHRADA :

My Lord, I thought the details would be important insofar as the campaigns conducted thereafter were of a similar nature in detail.

BY MR. JUSTICE RUMPF :

We are only interested in detail in regard to what the Crown alleges happened in the period that is covered by the charge.

BY ACCUSED KATHRADA :

My Lord, I thought the Crown alleges more than what is actually contained in the details as far as we are concerned.

BY MR. JUSTICE RUMPF :

Not that I know of. You are perfectly entitled to lay the foundation in regard to the South African Indian Congress and its struggles, and you are perfectly entitled to lead the witness on the complaints by the Indians at this time and the fact that there was another passive resistance movement, and you can ask him what they did. But we are not interested in much more particularity about that.

BY ACCUSED KATHRADA :

Excepting My Lord I thought that the forms of struggle that we have adopted during the period of the Inlictment, I was trying to show Your Lordship that those were forms of struggle that have been carried out before 5 by the Indians.

BY MR. JUSTICE RUMPFER :

Yes, I am telling you that you are entitled to lead evidence to show that, and you are entitled to ask the witness what was the resistance, how was it effected, did they again go to gaol, that sort of thing you can ask him. But all the particular complaints at that time are not of great importance for our purposes at this stage of the case. You can ask him what the passive resistance movement amounted to, what they did.

BY ACCUSED KATHRADA :

Can I ask him the method, My Lord?

BY MR. JUSTICE RUMPFER :

Yes, certainly, yes.

BY ACCUSED KATHRADA :

Did the Indian people refuse to pay the tax? --- Yes.

Were there strikes amongst the indented labourers? As part of the campaign? --- Yes, there were strikes in the gold fields of Natal, also in the sugar plantations and other industries.

Was there any form of breach of the provincial barriers? --- Yes, as part of the struggle Mahatma Gandhi led over two thousand - marched to the Transvaal with over two thousand people in breach of the provincial barriers Act, and entered into the Transvaal.

What happened to the marchers? ---

Mahatma Gandhi with other leaders like Mr. Kallenbach and Mr. Polak were arrested, the marchers continued their march up to Balfour. From there they were sent back, to Natal. 5

Did any violence occur? --- Not with the marchers, but during the strikes, in the strikes, yes, some people were killed there, four or five people.

BY MR. JUSTICE RUMPF :

How did that happen? --- Shooting by the police. 10

BY ACCUSED KATHRADA :

Does the fact that violence occurred in this particular campaign make it fall outside Gandhi's principles? --- No, not at all. 15

BY MR. JUSTICE RUMPF :

Why were these people shot by the police? --- Because they striked, and there was compulsion in so many cases, there were demonstrations while the strike was on, and as a result the police fired shots. 20

Why did the police have to fire? --- Because there were demonstrations, by the strikers.

To your knowledge, what happened? Why did the police shoot? --- Because of the demonstrations, they were gathered, people in big numbers and so on and so forth. 25

But in other demonstrations there was no shooting? --- In the factories, yes.

Do you know why the police had to shoot or actually did shoot? --- Because they demonstrated at the time. You see, they gathered in big numbers and they held meetings. 30

Yes, I know? --- But there was no violence on their part. They did not obey the orders to disperse.

Why were they then shot by the police?

--- Because they did not disperse at the time. 5

Is that as far as you know? --- Yes.

Is that what you read up about it? ---

Yes.

Because they did not disperse? --- Yes.

BY ACCUSED KATHRADA : 10

Is it always possible in your view, as happened in this case, as a result of the action of the authorities, that a purely peaceful demonstration can turn into violence? In your view, does the possibility always exist that as a result of the action of the police 15 authorities, a peaceful demonstration can turn into violence or can turn into a bloodbath? --- If these are organised by these - if the demonstrations are organised by the organisation which is leading the movement, their volunteers or their followers will not indulge in violence, 20 but there is always a possibility that something might go wrong, police might shoot, or some other elements would come and do things. There is always a possibility of violence.

What would the duties of the passive 25 resisters be under these circumstances? --- Even if they are attacked or even if violence occurred from any other side, their duty will be not to fight back, and not to take part in the violence.

What happened as a result of the 1913 30 passive resistance campaign? --- The result was that as a result of these struggles here, the government of

India asked the government of South Africa to appoint a commission of Enquiry and to bring about some sort of settlement. As a result of that a Commission was appointed in 1914, and it made certain recommendations which became the basis of the settlement of the question 5 at the time.

Do you know what sort of concessions were made? --- The £3 tax was abolished, and an Act called the Indian Relief Act was passed, whereby the Indian marriages were regularised, and the domicile 10 question of the Indian people in South Africa was settled.

Also as a result of this passive resistance, did there come into being an agreement between Gandhi and General Smuts? --- Yes, this was the agreement. 15 This agreement came about by negotiation between Mahatma Gandhi and General Smuts. It is generally known amongst our people as the Smuts-Gandhi agreement.

Does the South African Indian Congress regard this agreement as an important landmark in the 20 history of the community? --- Yes.

Is it correct that the Smuts-Gandhi agreement was actually contained in certain correspondence that passed between the two? --- Yes, after consultation, discussion, and when the talk was final, it was reduced 25 to writing by exchanging letters.

In the report of the Asiatic Enquiry Commission of 1921, there is contained some of this correspondence, I would just like to read it.

BY MR. JUSTICE RUMPF : 30

Why do we want to know that?

BY ACCUSED KATHRADA :

Because I consider My Lords, that the contents of the agreement are important.

BY MR. JUSTICE RUMPF :

It is not important for the purposes of 5
this case at all.

BY ACCUSED KATHRADA :

But it does explain the background of the policy of the South African Indian Congress.

BY MR. JUSTICE RUMPF :

10

We have got that already. I don't think it is necessary to hear the correspondence of that agreement.

BY ACCUSED KATHRADA :

The correspondence actually amounts to 15
the Smuts-Gandhi agreement itself.

BY MR. JUSTICE BEKKER :

In what way does it explain the background of the South African Indian Congress policy?

BY ACCUSED KATHRADA :

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The fact that these negotiations took place between the authorities and the Indian Congress at that time.

BY MR. JUSTICE RUMPF :

That we know. As a result of these 25
negotiations an agreement took place. We are not interested for the purposes of this case at this stage in any event in the particulars of that agreement. You see, the date is 1921.

BY ACCUSED KATHRADA :

30

Just for the record then, My Lord, it is contained in pages 18 and 19 of the Asiatic Enquiry

Commission Report.

Will it be correct to say that the salient features of the agreement were (a) the concessions that were made; (b) the government promise to leave the rights of the Indians intact; and (c) the Indians called off the passive resistance campaign whilst reserving the right to continue to agitate for full civic rights for all? --- That is so. 5

Is it true that during and after these struggles, Gandhi coined the term Satyagraha and began to expound the theory that lay behind it? --- Yes, that is correct. 10

I would like to read an article by Mahatma Gandhi which is contained in the souvenirs of the passive resistance movement in South Africa, 1906-1914. 15
BY MR. JUSTICE RUMPF :

Why do you want the whole article in?
 For what purpose?

BY ACCUSED KATHRADA :

My Lords, it contains an article by Mahatma Gandhi which clarifies the meaning of Satyagraha, and the method of struggle. We want to show to the Court that - at a later stage that it is a method that has been consistently used by the South African Indian Congress in later years. 20 25

BY MR. JUSTICE RUMPF :

You can sum up that.

BY ACCUSED KATHRADA :

My Lords, it is very difficult for me to sum up this article. "The Theory and Practice of Passive Resistance, by M. K. Gandhi. I shall be at least far away from cynics (?) if not actually in the Phoenix(?) 30

motherland..." I'll carry on further : "Without passive resistance there would have been no richly illustrated and important special issue of Indian Opinion, which has for the last eleven years in an unpretentious and humble manner, endeavoured to serve my countrymen and South Africa. A period covering the most critical stage that they will perhaps ever have to pass through. It marks the rise and growth of passive resistance which has attracted world wide attention. The term does not fit the activity of the Indian community during the past eight years. Its equivalent in the vernacular rendered into English means 'truth force'. I think Tolstoy called it also 'soul (?) force', or 'love force', and so it is. Carried out to its utmost limit, this force is independent of pecuniary or other material assistance. Even in its elementary form of physical force or violence. Indeed, violence is the negation of this great spiritual force which can only be cultivated or wielded by those who will entirely eschew violence. It is a force that may be used by individual as well as by communities. It may be used as well in political as in domestic affairs. Its universal applicability is a demonstration of its permanence and invincibility. It can be used alike by men, women and children. It is totally untrue to say that it is a force to be used only by the weak, so long as they are not capable of meeting violence by violence. This superstition arises from the incompleteness of the English expression. It is impossible for those who consider themselves to be weak to apply this force. Only those who realise that there is something in man which is superior to the brute nature in him and that the latter always yields to it, can effectively be passive

resisters. This force is to violence and therefore to all tyranny, all injustice what light is to darkness. In politics its use is based upon the immutable maxim that government of the people is possibly only as long as they consent either consciously or unconsciously to be governed. We did not want to be governed by the Asiatic Act of 1907 of the Transvaal, and it had to go before this mighty force. Two courses were open to us, to use violence when we were called upon to submit to the Act, or to suffer the penalties prescribed under the Act. and thus, to draw out and exhibit the force of the soul within us for a period long enough to appeal to the sympathetic cord in the governors or the lawmakers. We have taken long to achieve what we set about striving for. That was because our passive resistance was not of the most complete type. All passive resisters do not understand the full value of the force, nor have we men who always from conviction refrain from violence. The use of this force requires the adoption of poverty in the sense that we must be indifferent whether we have the wherewith- all to feed or clothe ourselves. During the past struggle all passive resisters, if any at all, were not prepared to go to that length. Some again were only passive resisters, so-called. They came without any conviction, often with mixed motives, less often with impure motives. Some even, whilst engaged in the struggle would gladly have resorted to violence, but for most vigilant supervision. Thus it was that the struggle became prolonged, for the exercise of the purest soul-force in its perfect form brings about instantaneous relief. For this exercise prolonged training of the individual soul is an absolute necessity. So that a perfect passive resister has to be

almost if not entirely a perfect man. We cannot suddenly - we cannot all suddenly become such men, but if my proposition is correct, as I know it to be correct, the greater the spirit of passive resistance in us, the better men we will become. Its use therefore I think 5 indisputable, and it is a force which if it became universal would revolutionise social ideals and do away with despotism and the ever growing militarism under which the nations of the West are groaning (?) and are being almost crushed to death, and which fairly (?) 10 promises to overwhelm even the nations of the East. If the past struggle has produced even a few Indians who would dedicate themselves to the task of becoming passive resisters, as nearly perfect as possible, they would not only have served themselves in the truest sense 15 of the term, they would also have served humanity at large. Thus viewed, passive resistance is the noblest and the best education. It should come not after the ordinary education in letters of children, but it should precede it. It will not be denied that a child, before 20 it begins to write its alphabet, and to gain worldly knowledge, should know what the soul is, what truth is, what love is, what powers are latent in the soul. It should be an essential of real education that a child should learn that the struggle of life, it can 25 easily conquer hate by love, untruth by truth, violence by self suffering. It was because I felt the forces of this truth that during the latter part of the struggle I endeavoured as much as I could to train the children at Tolstoy Farm and then at Phoenix (?) along these 30 lines, and one of the reasons for my departure to India is still further to realise, as I already do in part,

my own imperfection as a passive resister, and then to try to protect - perfect myself, for I believe that it is in India that the nearest approach to perfection is most possible." Do you know of that article? --- Yes, I have read it.

5

My Lords, it will be necessary forme to read another extract from Gandhi in order to lead on to some questions that I propose asking. It appears in a book, Satyagraha in South Africa, by Gandhi. I read from Satyagraha in South Africa, by M. K. Gandhi, published 10 by the Publishing House, Armadabad (?). The first edition was published in 1928, My Lord, and this is the revis d second edition. I am reading from page 109 : "None of us knew what name to give to our movement. I then used the term passive resistance in describing it. 15 I did not quite understand the implications of passive resistance as I called it. I only knew that some new principle had come into being. As the struggle advanced, the phrase passive resistance gave rise to confusion, and it appeared shameful to permit this great struggle to be known only by an English name. Again that foreign 20 phrase could hardly pass as current coin among the community. A small prize was therefore announced in Indian Opinion to be awarded to the reader who invented the best designation for our struggle." I skip a few lines. "Shri Maginlal (?) Gandhi who was one of the 25 competitors, and he suggested the word 'kadagraha (?)' meaning 'firmness in a good cause'. I liked the word. But it did not fully represent the whole idea I wished it to connote. I therefore corrected it to satyagraha, truth 'satya' implies love, and firmness 'agraha' 30 engenders and therefore serves as a synonymn for force.

I thus became to - began to call the Indian movement 'satyagraha', that is to say the force which is born of truth and love, or non-violence, and gave up the use of the phrase passive resistance in connection with it, so much so that even in English writing we often avoided it and used instead the word satyagraha itself, or some other equivalent English phrase. This then was the genesis of the movement which came to be known as satyagraha, and of the word used as a designation for it. Before we proceed any further with our history, we shall do well to grasp the differences between passive resistance and satyagraha which is the subject of our next chapter. Chapter Eight. Satyagraha versus Passive Resistance. As the movement advanced, Englishmen too began to watch it with interest, although the English newspapers in the Transvaal generally wrote in support of the European and of the Black Act, they willingly published contributions from wellknown Indians. They also published Indian representation to the government in full, or at least a summary of it. Sometimes they sent their reporters to important meetings of Indians, and when such was not the case, made room for the brief report we sent them. These amenities were of course very useful to the community, but by and by some leading Europeans came to take interest in the movement as it progressed. One of these was Mr. Hodgkins (?), one of the magnates of Johannesburg. He had always been free from colour prejudice, but his interest in the Indian question deepened after the starting of satyagraha. The Europeans of Germiston... I skip a few sentences, and then : "A meeting was held and introducing me and the movement I stood for to the audience, Mr. Hodgkins observed: 'The Transvaal Indians

have had recourse to passive resistance when all other means of securing redress proved to be of no avail. They do not enjoy the franchise.' "

BY MR. JUSTICE RUMPF :

Is this from a speech by Mr. Hoskins? How are we interested in a speech made by Mr. Hoskins at that time?

BY ACCUSED KATHRADA :

Mahatma Gandhi then comments on the speech and points out the errors. "'Numerically they are only a few. They are weak and have no arms. Therefore they have taken to passive resistance which is a weapon of the weak'. This observations took me by surprise and the speech which I was going to make took an altogether different complexion in consequence. In contradicting Mr. Hoskins I defined our passive resistance as soul-force. I saw at this meeting that a use of the phrase 'passive resistance' was apt to give rise to terrible misunderstanding. I tried to distinguish between passive resistance and soul-force, by amplifying the argument which I made before that meeting, so as to make things clearer. I have no idea when the phrase passive resistance was first used in English and by whom. But, among the English people, whenever a small minority did not approve of some obnoxious piece of legislation, instead of rising in rebellion, they took the passive or milder step of not submitting to the law, and inviting the penalties of such non-submission upon their heads. When the British parliament passed the Education Act some years ago, the non-conformists offered passive resistance under the leadership of Dr. Clifford. The great movement of the English women for the vote was also known as

passive resistance. It was in view of these two cases that Mr. Hoskins described passive resistance as a weapon of the weak or the voteless. Dr. Clifford and his friends had the vote, but as they were in the minority in the parliament, they could not prevent the passage of the Education Act. That is to say, they were weak in numbers. Not that they were averse to the use of arms for the attainment of their aims, but they had no hope of succeeding by force of arms. And in a well regulated state, recourse to arms every now and then in order to secure popular rights would defeat its own purpose. Again the non-conformists would generally object to taking up arms even if it was a practical proposition. The suffragettes had no franchise rights. They were weak in numbers as well as in physical force. Thus their case lent colour to Mr. Hoskins' observation. The suffragettes movement did not eschew the use of physical force. Some suffragettes fired buildings and even assaulted men. I do not think they ever intended to kill anyone, but they did intend to thrash (?) people when an opportunity occurred, and even thus to make things hot for them. But, brute force had absolutely no place in the Indian movement in any circumstance, and the reader will see as we proceed that no matter how badly they suffered, the satyagraha-ists never used force, and that too, although there were occasions when they were in a position to use it effectively. Again, although the Indians had no franchise and were weak, these considerations had nothing to do with the organisation of satyagraha. This is not to say that the Indians would have taken to satyagraha even if they had possessed arms or the franchise. Probably there would not have been any scope for

satyagraha if they had the franchise. If they had arms, the opposite party would have thought twice before antagonising them. One can therefore understand that people who possessed arms would have fewer occasions for offering satyagraha. My point is that I can definitely assert that in planning the Indian movement, there never was the slightest thought given to the possibility or otherwise of offering armed resistance. Satyagraha is soul-force pure and simple, and whenever and to what extent there is room for the use of arms of physical force, or brute force, there and to that extent is there so much less possibility for soul-force. These are purely antagonistic forces in my view, and I had full realisation of this antagonism even at the time of the advent of satyagraha. We will not stop here to consider whether these views are right or wrong. We are only concerned to note the distinction between passive resistance and satyagraha, and we have seen that there is a great and fundamental difference between the two. If without understanding this those who call themselves either passive resisters or satyagrahi, believe both to be one and the same thing, there would be injustice to both leading to untoward consequences. The result of our using the phrase passive resistance in South Africa was not that people admired us by ascribing to us the bravery and self-sacrifice of the suffragettes, but we were mistaken to be a danger to person and property, which the suffragettes were, and even a generous friend like Mr. Hoskins imagined us to be weak. The power of suggestion is such that a man at last becomes what he believes himself to be. If we continue to believe ourselves and let others believe that we are weak and helpless

and therefore offer passive resistance, our resistance would never make us strong, and at the earliest opportunity we would give up passive resistance as a weapon of the weak. On the other hand, if we are satyagrahi and offer satyagraha believing ourselves to be strong, two clear consequences result from it. Firstly - fostering the idea of strength, we grow stronger and stronger every day. With the increase in our strength, our satyagraha^{too} becomes more effective, and we would never be casting about for an opportunity to give it up. Again, while there is no scope for love in passive resistance, on the other hand not only has hatred no place in satyagraha, but is a positive breach of the ruling principle. While in passive resistance there is a scope for the use of arms, when a suitable occasion arises, in satyagraha physical force is forbidden, even in the most favourable circumstances. Passive Resistance is often looked upon as a preparation for the use of force, while satyagraha can never be utilised as such. Passive resistance may be offered side by side with the use of arms. Satyagraha and brute force being anegation - being each a negation of the other, can never go together. Satyagraha may be offered to one's nearest and dearest. Passive resistance can never be offered to them, unless of course they have ceased to be dear and become an object of hatred to us. In passive resistance there is always present an idea of harassing the other party and there is a simultaneous readiness to undergo any hardships entailed upon us by such activity, while in satyagraha there is not the remotest idea of injuring the opponent. Satyagraha postulates the conquest of the adversary by suffering in one's own person (?). These are the distinctions

between them. But I do not suggest that the merits or if you like the defects of passive resistance thus enumerated are to be seen in every movement which passes by that name. But it can be shown that these defects have been noticed in many cases of passive resistance. Jesus Christ indeed has been acclaimed as the Prince of passive resistance, but I submit in that case passive resistance must mean satyagraha and satyagraha alone. There are not many cases in history of passive resistance in that act (?). One of these is that of the of Russia, cited by Tolstoy. The phrase passive resistance was not employed to denote the patient suffering of oppression by thousands of devout Christians in the early days of Christianity. I would therefore class them as satyagrahi. And if their conduct be described as passive resistance, passive resistance becomes synonymous with satyagraha. It has been my object in the present chapter to show that satyagraha is essentially different from what people generally mean in English by the phrase passive resistance. While enumerating the characteristics of passive resistance I have to sound a note of warning in order to avoid injustice being done to those who had recourse to it. It is also necessary to point out that I do not claim for people calling themselves satyagrahi all the merits which I have described as being characteristic of satyagraha. I am not unaware of the fact that many a satyagrahi so-called, is an utter stranger to them. Many suppose satyagraha to be a weapon of the weak. Others have said that it is a preparation for armed resistance. But I must repeat once more that it has not been my object to describe satyagrahi as they are, but to set forth the implications

of satyagraha and the characteristics of satyagrahi as they ought to be. In a word, we had to invent a new term clearly to denote the movement of the Indians in the Transvaal and to prevent it being confused with passive resistance generally so-called. I have tried to show in the present chapter the various principles which were then held to be a part and parcel of the connotation of that term." That ends the chapter. Does the South African Indian Congress accept this as a method of struggle up to this date? --- Yes, accept this as a method of struggle.

Does the S.A.I.C. accept passive resistance as a method of struggle up to this day? Satyagraha? --- Yes.

Could you explain to the Court the difference between satyagraha as a creed to be applied to all problems of human life, and simply as a method of dealing with one particular problem? --- My Lord, Mahatma Gandhi practiced satyagraha as a creed, and in that he observed this form of life in all aspects of his life. While the struggle which we are conducting in fact now and as it was conducted during the time of Mahatma Gandhi here in this country, as well as the struggle which was conducted under the leadership of Mahatma Gandhi in India was accepted by the organisation, that means the Indian Congresses here and the Indian National Congress in India as a method to achieve their aim through this non-violent form of struggle only. Apart from the struggle for the independence of India which Mahatma Gandhi carried on in India, he also practiced his passive resistance movement through the various ashrams (?) ?? which established throughout the country, there he wanted

to bring about a change in outlook in the life of the people and lay a foundation for a life, thereby he would create a society - he would create a classless society. Now this, however, was not accepted by the organisation for achieving its aims. For the purpose of illustration 5 we take in India the Indian National Congress, while striving for the liberation and freedom and for the independence of the country, the majority of the foremost and important leaders only accepted satyagraha or passive resistance for the achieving of those purposes. Similarly, 10 we here too adopted this method of struggle in our organisation to achieve our aims through non-violence.

When you talk of India, did you say that the Indian National Congress did not accept it as a creed? --- No. 15

Do you also say that the South African Indian Congress - what do you say about the South African Indian Congress? --- I say that the South African Indian Congress has accepted this method for the attainment of its objectives as a political weapon. But the Congress 20 has not accepted that as a creed as Mahatma Gandhi has accepted it.

BY MR. JUSTICE RUMPF :

Does that mean that ⁱⁿ the South African Indian Congress, there may be people who refuse to use 25 violence because they are against violence on principle, and there may also be people who refuse to use violence because the conditions are not suitable? --- No, My Lord, there are people who amongst the Indians who also believe in this as a creed, but the principle we have accepted in 30 the Indian Congress is not to use violence at all in any form to achieve our aims, as they did in India.

Yes, I know. Is it possible that members of the South African Indian Congress have accepted this as a method of struggle? --- Yes, My Lord.

Because they approach the matter in the same way as Gandhi has explained the people approach it 5
- may approach it in England under the term passive resistance? --- No. We will use the method as satyagraha as long as we strive for our rights, we will never use the violence in our struggle. But apart from that in our practice generally it does not apply to us as it applied 10
to Gandhi.

BY ACCUSED KATHRADA :

There has been some suggestion that where a disenfranchised people struggle in an extra-parliamentary and unlawful manner, it shows an intention to overthrow 15
the government by violence.

BY MR. JUSTICE RUMPF :

I don't think that that is the suggestion by the Crown, that merely by extra-parliamentary struggle..

BY ACCUSED K. THRADA : 20

I did not say merely, My Lord.

BY MR. JUSTICE RUMPF :

That is what is implied in your question. That that shows an intention to overthrow the government by force and violence. Nobody suggests that. 25

BY ACCUSED KATHRADA :

My impression was that the Crown does suggest that when the Congresses have used extra-parliamentary and unlawful methods, they were in a campaign to overthrow the government by force and violence. 30

BY MR. JUSTICE RUMPF :

No, you are mixing up two things. The

use of extra-parliamentary methods may be for some purpose. It may be to increase wages, or it may be to achieve a new state, in which case, depending on the circumstances, it might be argued that the use of extra-parliamentary methods, if those methods are intended to be used with violence and for the purpose of overthrowing the state, then those methods are said to be used to overthrow the state. But it has not been suggested that the use of unconstitutional, illegal, extra-parliamentary methods indicates the intention to overthrow the state. It depends on the purpose for what those methods are used.

BY ACCUSED KATHRADA :

I'll carry on, My Lord. How does the South African Indian Congress visualise the changes will be brought about through its struggle? --- By the struggle which was conducted in the past, and as it has been conducted by the Congresses, we believe that by suffering and by sacrifices as one undergoes, we will be able to convince the authorities, the electorate to negotiate with us.

Is this hope of the South African Indian Congress based on any historical fact? --- Yes, that is based on the fact that when this sort of struggle was conducted in this country, acts were repealed, statutes were changed, new ones were put on the record, for the benefit of the people.

Can you think of any example? --- The Act 2 of 1907 was changed.

Could you give us some recent examples? When you were answering my last questions, were you referring to the evidence that you have already given where certain improvements were brought about as a result

of the passive resistance struggle in the early days? ---
Yes, the independence of India was gained through that
method, Very recently here for instance the bus boycott
which was conducted in Johannesburg, and the people
walked from Alexandra Township eleven miles and back 5
every day gained the support of the people and eventually
negotiations came about and agreement was reached.

It has been suggested that when you get
masses of people into action, other than voting at the
ballot box, then you must expect that it is highly pos- 10
sible that violence will result. What, in the view of
the S.A.I.C. is the likelihood of violence resulting from
such action, passive resistance action? --- As far as
the people who are engaging in the struggle and people
who follow the struggle, will never use violence, and will 15
never approve any violence whatsoever. But, there may be
other elements outside the movement, and they may create
some sort of violence which we may not be responsible
for. Then again, for some reason or other, even the
authorities may have to take action and - where violence 20
may be meted out, or even shooting takes place and blood
may flow. But we would never use any violence against
anyone.

Were there any instances of violence in
India during the struggles conducted under the leadership 25
of Mahatma Gandhi? --- Yes, practically every time when
there was action taken in the form of defiance, for instance,
there was violence practically at many places and at
many stages, where the resisters in some cases were
beating - were beaten, there were shootings which took 30
place in many instances, and a lot of violence occurred
and a lot of blood was shed. Even the different sections

amongst the Indian people itself, for some reason or other fought amongst themselves violently. But as far as the Congress movement is concerned, that always remains non-violence.

In the event that violence arises, during a struggle, would the S.A.I.C. abandon its policy? --- No, not necessarily. We won't be responsible - it won't be our responsibility and we would never abandon the struggle. 5

What in the view of the South African Indian Congress would be the result of a policy of not using extra-parliamentary and sometimes unlawful forms of struggle? --- The result would be to abandon our organisation, and accept the position as such. 10

What would happen to your grievances then? --- Either it would go by default or some other sort of thing would be created by someone, but as far as we are concerned, the Congress will have to abandon, and we will be doing nothing. 15

In the view of the South African Indian Congress is there no middle road between the ballot box and the violent overthrow of the government? --- We have no right to vote, and on the other hand we don't believe in violence at all in achieving our aims, and therefore there is a middle road, and that is the middle road on which we are treading at present. 20 25

Did the South African Indian Congress regard the late General Smuts as an easy or a difficult man to deal with? --- He was very hard and perhaps difficult in a way to deal with. 30

I want to refer to a copy of a letter said to be sent by General Smuts to Mahatma Gandhi on

Mahatma Gandhi's seventieth birthday. I want to quote
 from a book, Tyranny of Colour, on page 75. It is a book
 about the history of the Indian people in South Africa,
 written by P. F. Gouchi (?). Do you know this book? ---
 Yes.

5

"It was my fate to be the antagonist of
 a man for whom even then I had the highest respect. His
 activities at that time were very trying to me. His
 method was deliberately to break the law, and to organise
 his followers into a mass movement of passive resistance
 in this disobedience to the law objected to. In both
 provinces a wild and disconcerting commotion was created.
 Large numbers of Indians had to be imprisoned for lawless
 behaviour. Gandhi himself received what no doubt he
 desired, a short period of rest and quiet in gaol. For
 him, everything went according to plan. For me, the
 defender of law and order, there was the usual trying
 situation, the odium of carrying out a law which had not
 strong public support and finally the discomfiture when
 the law had to be repealed. For him it was a successful
 coup. Nor was the personal touch wanting. In gaol he
 had prepared for me a very useful pair of sandals (?),
 which he presented to me when he was set free. I have
 worn these sandals for many a summer since then, even
 though I may feel that I am not worthy to stand in the
 shoes of so great a man." Does this sort of reaction
 in what you would call the heart of the oppressor
 strengthen you in your hope that by this process your
 aims will be realised? --- Yes.

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When did Gandhi leave the Union? --- In
 about 1914.

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When was the S.A.I.C. formed? --- In 1921.

What provincial bodies constitute the South African Indian Congress? --- The Transvaal British Indian Association, the Natal Indian Congress, and the Cape Indian Congress.

Was there any special reason why the South African Indian Congress should form in the year in which it was formed? --- Yes, there was - after the war agitation again started against the Indians, and as a result of that the Indians of different provinces came together and formed this organisation. Also there was a commission appointed, an Enquiry Commission, to make representations to that Commission as well, and practically for other purposes they thought fit that a central body should be formed now, and this organisation was formed.

Was any new legislation relating to compulsory segregation of Indians introduced in the early 'twenties? --- Yes, in 1924 Class Areas (?) Bill was introduced, and if this became a law, then there would be passive resistance against it - it would be conducted, but this Bill did not become law for the reason that the Smuts government fell and this Bill was dropped. But again in 1926 the government of General Hertzog introduced a bill called Areas Reservation Bill, and at this stage too the international Indian Congress sent a deputation under the leadership of Dr. Abdurahman to India and as a result of that deputation, the deputation for representation to the government of India, a delegation from the government of India was able to come to this country, and the government of the Indian delegation and the government of South Africa entered into an agreement called the Cape Town Agreement of 1927.

I want you to look at these pages from

a book called Indians Abroad (?) Directory, and tell me whether this is the agreement described by you as the Cape Town Agreement? My Lords, I want to try to avoid reading that document, it is very lengthy. I was wondering whether the witness couldn't glance through it quickly? --- Yes, this is the Cape Town Agreement. 5

In terms of this agreement, what happened to the Areas Reservation Bill which was then before parliament? --- The government dropped the Bill in terms of this Agreement. 10

Was agreement reached in connection with the assisted emigration of Indians from South Africa? --- Yes. Under the Clause 3 of this Agreement.

Could you enlarge on that? --- The one clause in this agreement, which deals with the emigration of Indians who desire to leave this country would be assisted financially to a certain extent by this government, and on reaching India, India undertook to see their welfare on their part when they reached India. That was one of the points of the Agreement. 15 20

Was it also in terms of this Agreement that the South African Government undertook to take all possible steps for the uplifting of every section of their permanent population to the full extent of their capacities and opportunities? --- Yes, that is generally known as the Upliftment of Indian Community, and a provision was made to that effect in this that the Indians, those who remained in this country, were accepted as permanent population and the Union government declared its firm belief to the principle that it was the duty of this government to devise ways and means to take all possible steps for the uplifting of all sections 25 30

of their permanent population to the full extent of their capacity and opportunity.

Is it also true that as a result of this agreement the government of India appointed an agent to South Africa? --- Yes, that is so. 5

Did the South African-Indian Congress attach any importance to this Cape Town Agreement? --- They attached very great importance to this agreement, all along and even now.

Do you remember if during the 'thirties 10 any negotiations took place between the Indian community and the government? --- In 1930 again a Bill was introduced in the House of Parliament and as a result of that representations were made and in terms of this agreement, the Cape Town Agreement, it said there that the government 15 will revise from time to time this agreement, and as a result of that another delegation came to this country when this Bill was before the parliament, and eventually it was altered to some extent and then the Bill was passed as an Act in 1932, known as the Asiatic Land Tenure 20 Act. An undertaking was also given at the time that in terms of the Bill which was supposed to be passed, a Commission will be appointed, which was of course appointed, known as the Freedom Commission, and after long investigation, eventually in 1941, and in terms of 25 that recommendation of that Commission, certain areas were released in proclaimed land for the occupation of Indians.

Now coming to the interim act of 1939 to which you have already referred, when this Act was 30 passed, were there new proposals for passive resistance? --- Yes.

What steps were taken in this direction?

--- The Indian community decided to launch out a passive resistance movement in 1939, the meeting was held in July sometime, and the date was the 15th August, to launch out a passive resistance movement against the Act. 5

Did the authorities do anything to prevent the Indian community from proceeding with the passive resistance campaign? --- General Smuts got in touch with the British Government and the Government of India to ask Mahatma Gandhi to intervene in the matter, and the government of India sent a special representative to see Mahatma Gandhi who was at Ahmedabad in those days, that is in the Northern part of India, and from there he asked the Indian community here to postpone the passive resistance struggle for a brief period. 15

I want to refer again to a statement which is contained in the Tyranny of Colour, page 260. The statement is said to have been made by Dr. Dadoo. Did he have anything to do with the proposed passive resistance at that time? --- He was the leader appointed by the Indian community in the struggle. 20

"In a statement to the press...."

BY MR. TRENGOVE :

My Lord, this statement by Dr. Dadoo I don't quite see on what basis that is being put to the witness. As far as I know Dr. Dadoo is still alive, he is still a politician in this country. He can be called. It is not stated whether Dr. Dadoo made that statement on behalf of the South African Indian Congress, and there - it doesn't seem as if there has been any foundation laid for putting it to the witness. 25 30

BY ACCUSED KATHRADA :

My Lord, the witness has said that he served on a Passive Resistance Council that was said - that was set up at that time. I wanted to ask him whether he has personal knowledge of this statement that was made on behalf of the Passive Resistance Council. 5

BY MR. JUSTICE BEKKER :

Was that statement issued on behalf of the Council?

BY ACCUSED KATHRADA :

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I'll put it to the witness after I read the statement.

BY MR. JUSTICE BEKKER :

No, you have got to put it to him before you read the statement. 15

BY ACCUSED KATHRADA :

Are you aware of a statement issued by Dr. Dadoo as a result of a message to Mahatma Gandhi? --- Yes.

Was the statement issued by Dr. Dadoo on behalf of the Passive Resistance Council at the time? --- Yes, I did serve on that Council at the time. 20

BY MR. JUSTICE BEKKER :

And will you be able to identify that statement as the statement made by Dr. Dadoo at the time? --- Yes. 25

BY ACCUSED KATHRADA :

In a statement to the press suspending the passive resistance movement, Dr. Dadoo declared : "Mahatma Gandhi has been our guide and mentor in all that the Passive Resistance Council has been doing in this matter. And we shall wholeheartedly await his advice. 30

For we realise that his interest in the cause of the Indians in South Africa has not abated one whit., even though many years have elapsed since he left South Africa. I desire however to stress the fact that the Asiatic Land Tenure and Trading Act of 1939 aimed at the virtual economic extinction of the Indian community of the Transvaal, and casts a slur of inferiority on the whole Indian nation. The Passive Resistance Council sincerely hopes that the negotiations that are now proceeding will result in an honourable settlement." Was that the statement issued by Dr. Dadoo? --- Yes.

Did the outbreak of the last war in any way interfere with the plans for a large scale passive resistance movement? --- Yes, in September the war broke out and as a result of that the passive resistance was suspended and it was not embarked upon because of that.

In 1941, when the interim Act was renewed for a further two years, did any resistance take place? --- Yes.

What was the nature of it? --- Then it was a passive resistance, but in view of the fact that the war was on, a very limited form of resistance took place. The form was that a few stalls (?) were set up in Johannesburg. The volunteers in - were very limited in number of course, there were ten or twelve, and who in turn sold goods without licences, and this sort of protest was carried on for about ten months, and then it was suspended.

You have already, earlier in your evidence referred to the Asiatic Land Tenure Act of 1946. Did this act give rise to widespread discontent amongst the Indian Community? --- Yes, very wide.

Were the grievances of the South African Indian community discussed at a conference of the South African Indian Congress? --- Yes, the South African Indian Congress held in Cape Town in 1946.

Were you present at the Conference? --- 5

Yes, I was present.

BY MR. JUSTICE BEKKER :

Mr. Kathrada, there is something I would like you to consider. I come back to the admissions made by Mr. Maisels on behalf of the defence, right at the outset, that the organisations mentioned by him, worked together to overthrow the government or to change the government, - well, to work together to get a new government, I'll put it that way. Now the question between the defence and the Crown is whether that was 15 with or without violence, and/or whether the state was being aimed at. To what extent does - and bearing in mind the cross-examination of Mr. Maisels conducted against Professor Murray, I would like you to consider the question to what extent it is relevant in view of the 20 admissions, and in view of the issue between the Crown and the Defence, to trace in this close detail the history of the Asiatic bills in South Africa, and the various forms of passive resistance. I don't know whether I have made myself clear, but I would like you 25 to consider that. If you think it is relevant, then you must carry on, but the issue really between you and the Crown is violence. Now Mr. Maisels dealt in his cross-examination of Professor Murray, he devoted some considerable time tracing the history of Union legisla- 30 tion and how it effected the various people. I would like you just to consider whether it is necessary for you

to go into this close detail. You can take your time about it, but just think about it.

BY ACCUSED KATHRADA :

I would like to think about it, My Lord.
Did the Conference appoint a deputation to see the Prime Minister? --- Yes. 5

Were you a member of that deputation? ---
Yes.

Why did the deputation interview the Prime Minister? --- We requested the Prime Minister not to proceed with the Bill which was before the parliament at the time, and call a round table conference between the government of India and South Africa. 10

What was the outcome of the deputation?
--- General Smuts refused - he said that the Bill will become an Act, and neither is he prepared to consult the Indian government at that stage. 15

After consideration of the report of that deputation, did the South African Indian Congress Conference thereafter pass a resolution? --- The outcome of this interview was reported to the Conference, and as a result of that a resolution was taken by the South African Indian Congress. 20

I want to read from the Agenda Book of the First Biennial Conference of the Natal Indian Congress held in Durban on the 31st May and the 1st June 1947. Annexure B to the Secretarial Report reads as follows. 25

BY MR. JUSTICE RUMPFER :

What is that?

BY ACCUSED KATHRADA :

That is the resolution adopted at the

South African Indian Congress Conference. The resolution contained a certain decision that the South African Indian Congress and its constituent bodies were called upon to carry out.

BY MR. JUSTICE RUMPF : 5

What did they decide to do?

BY ACCUSED KATHRADA :

My Lord, there were various decisions taken...

BY MR. JUSTICE RUMPF : 10

Well, you can put it to the witness, what did they decide to do?

BY ACCUSED KATHRADA :

My Lord, I do feel that it is important for me to read this resolution, because it does refer to negotiations and... 15

BY MR. JUSTICE RUMPF :

We know that there were negotiations. But how does the view of the Conference in 1947 effect this case, except if it decided to do something like passive resistance or so. 20

BY MR. KATHRADA :

That was one of the decisions, My Lord.

BY MR. JUSTICE RUMPF :

Well, put it to him then. We are not interested in the terms of the resolution at all. 25

BY ACCUSED KATHRADA :

My Lord, I was going to ask the witness at a later stage if there was any change in the general policy of the organisation. 30

BY MR. JUSTICE RUMPF :

You had better look at that during the adjournment and see what is that you want from him out

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