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## A HUMAN DOCUMENT

It is not often that a Government Blue-book makes fascinating reading; but the Annual Report of the Department of Justice is an exception to the general rule of dryness. We give below a few extracts dealing with matters relating to Indians and coloured people, together with a few items of general human interest. It may be noted that the period under review is the calendar year 1911 and the Report is only just published.

At East London, says the report, there were 30 European schools. Efforts had been made by the Board to find accommodation for an Indian and non-European school, but considerable opposition had been raised by the towns-people to such a school being established in town, and the coloured people objected to its being established outside the town area. The same old tale! If coloured people will not be satisfied with dung-heaps and waste areas outside the town, there is "considerable opposition" on the part of Europeans who, seeing that they pride themselves on possessing superior qualities, ought to be above such meanness.

It is remarkable, says the Richmond Magistrate, that even among European farmers, the idea prevails that it is essential to the welfare of the pig that it should be allowed to wallow in filth. Is this another proof of the advanced ideas of "civilised" races?

One of the Field Cornets thought, and the Magistrate of Heidelberg agreed with him, that rural education should be of a more practical character; that agricultural subjects should be taught as early and as much as possible so that children might turn towards the farming life; it was a pity that so many of the coming generation should want to follow other pursuits or drift to them. A very great deal depended on the sort of schooling that was given in the formation of desires in children's minds. If it was desirable that people should go on the land, the inspiration should be given in the schools.

The principle in vogue of building sumptuous boarding schools in town to attract the children from the country, and making no provision for country schools, said the Magistrate of Sutherland (Cape), had not proved a success.

In Wellington, the coloured people had approached the School Board to have their schools established as undenominational schools, an indication that they were alive to the benefits within their reach.

In Aberdeen, a large number of the children of the poorer class of Europeans were growing up in absolute ignorance, and some of the better-off farmers seemed quite indifferent regarding their children's future.

At Richmond there was a Government-aided school for coloured children, which was attended by 25 Asiatic and coloured children, and the sole instructor was an educated native.

The Magistrate of Harding remarked upon the fact

that whilst immoral intercourse between a white woman and a black man was severely punished under law, between a white man and a black woman it was allowed to go unpunished. A law prohibiting such intercourse was absolutely essential to save the white race from effacement.

In Victoria West the census had shown a decrease of population. The Magistrate remarked that it had been the general opinion that the Europeans had gone back to the land, but an analysis of the rural population dissipated this altogether. It was quite clear that the European population which had disappeared from the town had not gone back to the land, but had migrated. The coloured population, on the contrary, had found work on the farms. The matter, in his opinion, called for further inquiry.

In Burghersdorp the increase in the number of civil cases was stated to be probably due to the addition of a new attorney, who started there during the year.

In Ficksburg the decrease in the number of civil cases was accounted for by the part that all the legal practitioners there were averse to bringing cases into Court if there was the slightest chance of arranging a settlement out of Court. This practice the Magistrate considers well worth copying in other parts of the country.

The Magistrate of Rhynsdorp remarks that the inhabitants of his district, with few exceptions, were born economists. It was surprising to see on how little they managed to exist. The year had been one of the worst experienced. The absence of rain and the high east winds were answerable for the failure of harvest and the loss of thousands of stock. There had also been a plague of caterpillars. Still the farmers, slow to learn, were also slow to be discouraged, and, after each misfortune, seemed to be imbued with fresh hope and determination.

In Richmond district free Indian farmers continued to play an important part in the agricultural development of the district. These Indians leased small holdings of from 5 to 100 acres, at an average rental of 10s. per acre. They had to sell all their products to the landlord at current market rates. It was somewhat surprising how they managed to work the land at a profit.

In the Verulam district of Natal there were ten sugar estates, three running stills for the manufacture of Natal rum, which was a spirit largely consumed by Indians and which paid a duty of £40 per cask. There were 36,000 gallons of rum produced in 1911.

For six miles from the sea the coast belt was one unbroken field of sugar-cane, and for an equal distance the rugged hills were largely covered with citrus, mango, pineapple and avocado pear orchards. This cultivation was undertaken entirely by Indians, and for over fully half the area on their own account.

(To be continued)

## The Indian in Fiji

In a recent review by *The Times* of a book on the Malay Peninsula it was observed (says *India*) that the historian of the British Empire is usually concerned to expatiate upon the striking results of British rule, while it rather escapes notice that one greater outcome of British rule in tropical lands is "coloured colonisation." In regard to not a few of the tropical lands which are within the British Empire—Ceylon, the Malay Peninsula, and those colonies where the coolie immigration has been at work, such as Mauritius, British Guiana, Trinidad, and Fiji—India is playing in some sort the part of a mother-country, just as Great Britain has sent her own stock to people North America, Australasia, and South Africa. In the Malay Peninsula, for example, the figures show that between 1901 and 1911 the East Indians in the Malay Peninsula, who have of late years been mostly Tamils, have increased by nearly 200 per cent. as the result of the demand for labour on the rubber plantations. They are not as numerous as the Chinese, who outnumber the Malays in Perak and form half the population in Selangor and more than two-thirds of it in Singapore; but they are, none the less assisting to alter the entire character of the country.

If we turn to Fiji we shall find an even more remarkable state of affairs. In an introduction to Mr. J. W. Burton's "Fiji of To-day" (Charles H. Kelly, 26, Paternoster Row), the Rev. A. J. Small, chairman of the Methodist Missions in the islands, observes, firstly, that the Fijian race is dying out, and, secondly, that its place is being taken by Indian immigrants. Fifty years ago the native inhabitants numbered 200,000; in 1910 the total had shrunk to 86,000. Per contra, there are now over forty thousand Indians in the group. Some 3,000 are needed annually, says Mr. Burton, "to carry on the business of the colony," but additions are made at the rate of about 4,000 a year: for not only do the immigrant ships pour forth their contribution, but the birth-rate makes a large and increasing presentation. "Thus the face of Fiji is surely changing in feature, if not in colour; and with a constantly diminishing native population and a rapidly growing Indian element, it cannot be many years before the proportions are completely reversed, and the colony become, to all intents and purposes, an Indian colony."

### The Evils of Indentured Labour

It is frankly acknowledged in Mr. Burton's book that the Indian has come to Fiji because he is wanted there. "He came at our solicitation, and we are under some sort of compliment to him for coming to us in our extremity, though we would rather die than admit it to him." In heathen days the Fijian was a worker; conversion to Christianity seems, according to this missionary commentator, to have cured him completely of that failing. "The Pharaohs of capital cannot hope to press him into bondage," and so they import Indian labourers under indenture. Thirty years have elapsed since the arrival of the first instalment, and fully one-third of Mr. Burton's pages are filled with a most damaging and shocking description of the abuses which exist under this system of legalised slavery. The "net cost of these human agricultural implements"—the words are Mr. Burton's—amounts to about £16 per statute adult, inclusive of transit. In return for this payment the master obtains the services of a coolie for five years. At the end of that period, if the coolie has "satisfactorily fulfilled his obligations" and has not "suffered jail," he becomes "free," and for five more years is expected to settle in the colony. When the second term has been completed a free passage back to India is given, but the majority avail themselves of the option to remain in Fiji as permanent residents.

We will now let Mr. Burton give his own account of work on an estate served by indentured labour:—

"The system of tasks prevails on the estates. So many chains of sugar-cane weeding or planting are counted, for example, as a task. For the satisfactory performance of this amount of work the coolie receives one shilling. He is expected to accomplish it in one day and the basis is that of an average man's ability. The women are placed on the same footing; but their tasks are lighter and the payment proportionately less. If a man fails to perform the task set to him within the day, he is liable to be summoned to the court and may be fined or imprisoned for his slothfulness. . . . When the coolie judges that the task is too hard, he has the right of appeal to the coolie inspector (a government official): but as that gentleman is not seen oftener than once or twice a year, it is a somewhat limited privilege. Of course there is the magistrate to whom complaint can be made: but the court-house may be twenty or thirty miles away, and that is practically an impossible distance. It is not surprising, therefore, that under such conditions it frequently happens that the coolie takes the law into his own hands and tries the edge of his cane-knife upon the skull of the English overseer."

(To be continued)

## English Press Opinion

If there are difficulties in India itself in securing unanimity of policy, (says the *Yorkshire Daily Observer*) that ought to help the leaders of Indian opinion to appreciate the obstacles with which the Imperial Government have to contend in reconciling conflicting views as between India and other component parts of the Empire. The attitude of South Africa to Indian immigration supplies a case in point. . . . But it is evident from the claims put forward at the Indian National Congress that the full satisfaction of Indian opinion is by no means within sight. Large concessions are demanded for Indians already resident in South Africa, nothing short, in fact, of equal conditions of life with Europeans. To South Africans the question presents itself not merely as a racial problem, but as an economic problem, too, and while English sympathies are largely on the side of Indian claims, it is quite out of the question that the Imperial Government should attempt to override local feeling. Suasion of course can be exercised, but not coercion. There are many matters in which the self-governing dominions take their own course, with as little regard to British interests as to Indian interests. We need only mention the imposition of protective duties on the products of British manufacturers. It seems to us that in this general recognition of local rights of self-government is to be found our best hope of reconciling India to the disabilities which she meets with as a dependency of the British Crown. She suffers in exceptional ways, but the principle which inflicts the suffering is of general application. The right of each unit to make the laws which it considers best suited to its own interests involves the obligation upon all to accept the consequences. But it is evident that if India is to accept this plea she must herself enjoy equal freedom with the other units of the Empire to decide her own policy as she thinks best. The fact that India has not yet attained to full Parliamentary liberties is not inconsistent with the application of this principle to her relations with the Empire at large. The Indian Government can still make India's interests the motive of its policy.

In the meantime, (says the *Westminster Gazette*), there are practical grievances to be remedied without any serious political change, such as the admission of Indians to the higher branch of the Civil Service, and, above all, the status of the Indian in British Colonies and Dominions. We hope Mr. Gokhale will receive respectful attention on the latter subject, now that he has returned from his visit to South Africa. He has

firmly and courteously received by the South Africans, when it comes to practical measures, we hope they remember that in this respect they have it in their power to do a real service to the Empire.

## From the Editor's Chair

### THE LESSON LEARNT

NOTHING, we are sure, could have been more flattering to the Transvaal passive resisters, and nothing could have more amply justified their attitude, than the whole-hearted manner in which General Smuts, on behalf of the Union Government, accepted Mr. Theo. Schreiner's amendment to the Arms and Ammunition Bill, removing therefrom the racial bar, and substituting for it administrative discrimination applying to all classes alike. It is a complete surrender by General Smuts of the untenable position taken up by the Government in the past, and they are to be warmly congratulated upon the recognition of the intrinsic merits of the principle for which the passive resisters fought with such splendid determination and self-sacrifice for so long. We always said that that principle was much farther-reaching than its mere application to the Transvaal Indian problem would have led the public to suppose, and we added that it would not be long before it was discovered that the passive resisters had taught a valuable lesson in Imperial statesmanship to the people of South Africa. Seldom, in history, have the lessons of great self-sacrifice for an even greater principle been so effectually emphasised and so speedily accepted as those taught by the valiant sufferers in the Transvaal, and if the spirits of those steadfast passive resisters who have become martyrs to the cause of Truth can witness the swift and extensive results of their humble but heroic efforts, they will rejoice yet more that they have had the privilege of yielding up their lives that their brethren might have abundant life. The day when the provisional settlement was reached struck the death-knell of racial legislation in South Africa, and the people of this country may learn that the greatest and most permanent victories are those won on bloodless battle-fields.

### THE IMMIGRATION MUDDLE

THE *Natal Mercury*, with its customary fairness, has given due prominence to Mr. Polak's letter regarding the high-handed action of the Immigration Officer in dealing with Indian cases. The explanation published by the *Mercury* at the foot of Mr. Polak's letter is evidently from the Immigration Officer and is naturally not accepted by our contemporary. Indeed, the explanation makes Mr. Polak's condemnation all the more severe. That Officer had no right to judge the cases himself. He might have allowed the boy Kotwal to land on a temporary permit, in order to enable him to prove his case. In the other case it was simply a usurpation of authority. Why the Natal Officer should have wired to the Officer at the Cape we do not know. It could have done his Department no harm not to have interfered with the claimant's proceeding to the Cape. The fact that the Cape Officer altered his opinion shows that the action of the Natal Officer was an impertinent interference with the liberty of the subject. But we do not blame Mr. Colborne-Smith. He used to be much more amenable to reason and humane under a less tyrannical Government. The Union Government have laid down a merciless policy for its Immigration Officers. And Mr. Colborne-Smith is merely a tool in their hands. He carries out "instructions." It is evidently the duty of the Hon. Gokhale Reception Committee to see that the promises made to the Hon gentleman are not broken. Some people imagine that the Committee should dissolve now that

Mr. Gokhale is no longer in South Africa. We conceive that the Committee, which is so thoroughly representative, would do permanent work and do greater honour to Mr. Gokhale by continuing its existence and securing a lasting value for Mr. Gokhale's work. We are sure that nothing would pain Mr. Gokhale more than to know that the Union Government are belying, by their action, almost every one of their assurances. For we have yet to see the last of the inhuman annual poll-tax on ex-indentured Indians, and Mr. Smuts' unsatisfactory reply to Sir David Hunter's inquiry on the subject does not encourage us to hope too greatly that even this pledge, easy of redemption as it is, will be redeemed at an early date.

### MR. GOKHALE'S INDIAN SPEECHES

THE return of Mr. Gokhale to India after his triumphant tour in South Africa has brought the Indian question of South Africa to the front as perhaps it has not been before except during Mr. Polak's stay in India. But the public in India, during Mr. Polak's stay there, was invariably sympathetic and uncritical. This in a way was a drawback. Mr. Gokhale's landing in Bombay led, on the one hand, to the unique demonstration there as described by the *Times* correspondent, and to criticism of Mr. Gokhale's work, on the other. The criticism, in our humble opinion, was hasty and ill-conceived. What Mr. Gokhale never did was imputed to him, and the very compromise, which was universally approved two years ago, was now condemned, because Mr. Gokhale had, on local examination, confirmed his original attitude towards it. Mr. Gokhale, therefore, immediately upon landing, had to enter into a defence of his own action and the part Mr. Gandhi had played in the compromise. Mr. Gokhale's defence was, as was only to be expected, convincing. He returned to the subject at Poona, where, too, a great demonstration of welcome was held. But the most crushing reply to his critics was made by Mr. Gokhale at Bankipore, where he held the Congress audience spell-bound for more than an hour. The result of the discussion is that the very papers that either themselves adversely criticised Mr. Gokhale's South African achievement, or allowed their regular correspondents to offer irresponsible and ill-informed criticism, have veered round, acknowledged their mistake, and admitted that Mr. Gokhale was right, that he had not surrendered a single principle, and that he had dealt with the problem in a calm, statesmanlike, and patriotic spirit, as he alone could do. He said or did nothing new, but he did the same thing that was done by the local Indians in his own original manner, and threw the weight of his great influence and prestige in our favour. He did not speak or act for India, because he was not its accredited agent, and yet he spoke unofficially both for India and, indeed, the Empire. For Mr. Gokhale, in spite of his critics, remains the idol of his people, and commands the respect of the Empire as no other living Indian does. We hope to be able shortly to reproduce Mr. Gokhale's speech at the Congress, and an epitome of the criticism, adverse and otherwise. The ferment created by Mr. Gokhale's visit to South Africa and his return has done good in that the re-acceptance of the compromise by the majority of his critics will, being now informed, add greater weight to any further agitation that may go on in India in our favour. And, Heaven knows, we want all the assistance still from the Motherland that she can give us! We are but at the fringe of our troubles.

Councillor Oldacre, of Dundee, at a recent meeting of the Town Council, referred to the prosecution of natives for walking on the footpaths. He mentioned one particular instance where a native had been arrested for being on the footpath, and thought such proceedings amounted to persecution, and he regretted that he had ever voted for the inclusion of such a by-law.

## The Immigration Scandals

Mr. Polak writes to the *Natal Mercury*, giving the full details of the two cases, reported in our last issue, of Indians being restricted from landing at Durban, or going to the Cape. Mr. Polak goes on to say:—

I remember, at the banquet given a short while ago, to the Hon. Mr. Gokhale, in the Drill Hall, those present agreed cordially with his impassioned plea for a humaner administration of the immigration laws, and during his interview with the Ministers at Pretoria a definite assurance of such humaner administration was given to him by them. When the report of these cases is carried to India, as very certainly it will be, what must be the thoughts of the Indian people as to the sincerity of the European Colonists of South Africa and of the honesty of official undertakings in this country? At the Imperial Conference of 1911 a memorandum was circulated by the India Office, in which the following extract appears:—"It is hoped that when the Union has satisfied itself that safeguards against unlimited Asiatic immigration have been provided, it will be possible to treat the resident Indians fairly. Any such system of generous treatment must be held to involve . . . a determination not to utilise immigration laws to banish lawful residents by means of legal quibbles, or to break up domiciled families. . . ." One would hardly imagine that such an appeal for elementary justice could have been thought necessary in a civilised community under the British flag, and it makes one hang one's head with shame and humiliation to find that it has so far gone entirely unheeded. By no stretch of imagination can it be pretended that there is to-day any possibility of unlimited Asiatic immigration. Indeed, as your readers will have observed, even domiciled Indians are prevented from returning to this country as the law provides. Scarcely a ship arrives from India without some heart-breaking case occurring, such as those recorded above. In many of them the victim is too poor to be able to fight his legal claim, and he is either turned away himself, or he sees his wife or child forcibly separated from him without knowing what will stand between them and starvation; save by the unexpected intervention of Providence. Would not the people of Natal rise in revolt were men, women, and children of European origin treated with the same scandalous harshness and inhumanity as are these unrepresented and disfranchised Indians?

The *Mercury* adds a footnote as follows:—

From inquiries we have made we learn that in the first case the boy Kotwal was restricted in terms of Section 3, Act 3, 1906, which provides that a child of persons who are not prohibited immigrants becomes a prohibited immigrant if he should seek to enter Natal at times when his parents are not resident in the Colony. It was true that the boy possessed a certificate of domicile, but that was obtained on the occasion of a previous visit, when he had only been in Natal a fortnight; he left Natal almost immediately afterwards and had only returned during last week. Apart from the fact that the law quoted above makes him a prohibited immigrant the immigration officer has also the right to inquire into the right of a person presenting a domicile certificate to be in possession of the same, and in view of the circumstances of the case he was not satisfied that he was entitled to hold the certificate. With regard to the second case—that of the boy Sadak—we are informed that he was totally unprovided with papers to prove identity, and on his arrival here a telegraphic communication was sent to Capetown, who replied that there would be considerable difficulties in the way of his admission if he possessed no papers, which only bore out the opinion of the officers here. Subsequently a telegram was received from Capetown that they had no objection to his coming on to Capetown, subject to certain guarantees for his return to Durban if he

were restricted there, but with their knowledge of facts of the case, the absence of papers which they considered fatal, the local officers of the department declined to allow him to proceed further than Durban and restricted him here.

In its leading columns, our contemporary thus refers to the matter under discussion:—

We append to the letter a statement of the facts as ascertained by us through inquiries that were instituted on receipt of Mr. Polak's communication. Putting the two versions of the matter in juxtaposition, we think the conclusion at which most unprejudiced people will arrive is that there is something amiss in the machinery of the law when deportation is the remedy summarily applied to doubtful cases of this kind. The immigration officer at Durban appears to have been "not satisfied" that the boy Kotwal was entitled to hold the certificate in his possession. In the case of the boy Sadak, he was intercepted at Durban, although the immigration officer at Capetown had, on second thoughts, agreed that he might proceed to Capetown. Incidents of this nature are the more deplorable because of the state of the Indian question at the present moment. Mr. Gokhale has been led to believe, and has given the assurance to his people, as the outcome of his conferences with Union Ministers, that the Immigration Law is to be administered so as to prevent unnecessary hardship. The Indian people have listened with considerable reluctance to his exhortations to exercise patience and moderation, because a more sympathetic temper would be exhibited in the spirit of officialdom towards those who can lay claim to the right of entry or re-entry at our ports. Here we have instances of hardship which cannot be reconciled with the Ministerial undertakings, understood to have been given to Mr. Gokhale, nor with the anticipations of fair treatment encouraged by the Imperial Government, nor with the elementary principles of British justice. Had the hardships alleged been inflicted on the subjects of a foreign Power an awkward diplomatic question would have arisen. What are the people of India to think when their loyalty is rewarded with treatment which our officials would not lightly dream of meting out to persons enjoying the protection of an alien flag?

## The Dayal Brothers' Case

In reply to the British Indian Association's letter, published in our issue of the 11th ultimo, the Under Secretary for the Interior writes, under date the 27th ultimo, as follows:—

"Referring to your letter, dated 6th instant, addressed to the Private Secretary to the Minister of the Interior, and previous correspondence, relative to the applications of Messrs. Bhawani Dayal and Devi Dayal for registration under Act No. 36 of 1908 (Transvaal), I have to inform you that the representations of your Association have received consideration, and that the Government have no wish unnecessarily to place difficulties in the way of the reception of applications from Indians claiming to be entitled to register in the Transvaal, but that the procedure at present in practice in dealing with such cases cannot be disturbed.

"As regards the cases of Bhawani and Devi Dayal, under notice, I have to inform you that, although the applications which were made on the 6th instant were investigated as expeditiously as possible, the Police Report did not reach the office of the Registrar of Asiatics until the 18th idem, which was due to the fact that exhaustive enquiries had to be made.

"I have to add that as the Police Report and the supporting affidavits are entirely favourable, the necessary instructions have been issued for the prosecution to be withdrawn and for the registration of Bhawani and Devi Dayal to be forthwith effected."

The Chairman of the British Indian Association again wrote, on the 1st instant, as follows:—

"I have the honour to acknowledge the receipt of your letter of the 27th ultimo regarding the cases of Messrs. Bhawani Dayal and Devi Dayal.

"My Association fears that the essence of its complaint has been missed by the Honourable the Minister. My Association has not submitted that the procedure adopted in dealing with such cases be altered at the present time, but it has submitted that the difficulties placed in the way of applicants conforming with the legal formalities are totally unnecessary.

"As applicants have to apply for registration from a place outside the Transvaal but within South Africa, Messrs. Bhawani Dayal and Devi Dayal should have been granted Visiting Passes, under proper security. They ought not to have been obliged to go to the great expense of obtaining a Supreme Court interdict, for the purpose of securing a landing in Natal; nor should they have been prosecuted, upon entering the Transvaal when they failed to get an extension of their Visiting Passes, whilst their claims were being investigated. My Association considers that the procedure adopted by the Immigration Officer in Natal was wantonly cruel, high-handed and unjustified.

"It is, therefore, respectfully requested that instructions may be issued to the Immigration Officer at the coast, that Indians coming from India and claiming rights of residence in the Transvaal be granted Visiting Passes, upon the deposit of the necessary security for their return in the event of their failure to prove their claims before a Court of Law."

## £100 Forfeited

Mr. Justice Broome gave judgment on the 4th instant in the case of *Kharwa v. the Minister of the Interior*, an immigration restriction case heard by him at Durban Circuit Court, and reserved on the 20th ult.

Mr. Cecil Cowley and Mr. Dymes were for the plaintiff; and Mr. D. Calder and Mr. J. R. Brokensha for the defendant.

In May 1912, his Lordship said, an Indian lad, said to be then just under 16 years of age, and the son of an Indian domiciled in Natal, arrived at Durban from India. Application was made to the Restriction Officer for permission for the boy to land, but this was refused by the officer, on the ground that it appeared to him that the boy was over the age of 16 and a prohibited immigrant. A request was then made for the boy to be allowed to land, and permission was given, subject to a deposit of £100, which the plaintiff paid. Plaintiff said that the condition on which this money was deposited was that it should be given as bail for the safe custody of the boy pending an appeal from the decision of the Restriction Officer to the Magistrate of Durban. The Magistrate took evidence, and satisfying himself that the Restriction Officer had made inquiry, held that he had no power to interfere with that officer's decision. The plaintiff said that, although no appeal to the Magistrate was competent, he was induced to believe that in the event of the appeal being successful, or the boy leaving Natal, he would obtain a refund of the money deposited. Soon after this the boy returned to India, and the plaintiff asked for a refund, but the money had been treated as forfeited, and had not been returned.

The defence was that the £100 was not paid as bail money pending an appeal, but was a voluntary deposit, and that it was lawfully declared to be forfeited upon the failure of the boy to obtain a certificate.

What was the purpose for which the money was paid? Having regard to the terms of the receipt given, he had come to the conclusion that the deposit, to the knowledge of all the parties present,

was given and received, in terms of Section 10 of the Act, in order to enable the boy to land. A second question was: If it were a deposit under Section 10, (a) had the Government the right to retain it without any further proceedings, as forfeited under Section 10 (c)? Sub-section "c" provided that if a person appearing to be a prohibited immigrant, should fail to obtain the certificate provided for in sub-Section "b," the deposit of £100 "may be forfeited." The law was stringent, but it was left in the hands of the Administrator to investigate its severity, and one must suppose that in cases in which the immigrant, had not acted perversely, or with an evident design to evade the statute, it would hardly insist on an absolute forfeiture of £100—a sum equal to the maximum penalty for any contravention of the Act.

There must be judgment for the defendant, with costs.

## Action for Damages Fails

Judgment by Mr. Justice Broome in *Mahomed Ismail Shaikh Hamja Haspatel v. the Minister of the Interior*, an Indian immigration restriction case, heard at the last sitting of Durban Circuit Court, was read by Mr. W. H. D. Goss, registrar, at Durban, on the 4th instant.

Mr. Goulding represented the plaintiff at the hearing, and the Government was defended by Mr. D. Calder.

Reviewing the case, which was reserved on the 20th ult., his Lordship said that the plaintiff, a free Indian, domiciled in Natal, who sued in his personal capacity, and also as guardian of his minor son, Shaikh Mahomed Ismail, claimed damages from the Government in respect of certain alleged unlawful and malicious acts on the part of the Immigration Restriction Officer. He also asked for an order calling upon the defendant to produce the boy, in order that he might stand his trial on a charge preferred under the Immigration Restriction Act. The Immigration Restriction Officer had declared the boy to be a prohibited immigrant, on the ground that there was not sufficient proof that the boy was, in fact, the son of the plaintiff, in whose company he came to Natal. Holding this opinion, he now denied the plaintiff's capacity to sue, and he was asked to grant absolution from the instance upon this ground. For the purpose of this action, however, he held that the plaintiff had established his right to one, but of course, this had no effect on the finding of the Immigration Restriction Officer as to the boy's parentage. That was a matter within the officer's discretion, and he had a right to require the highest and most unimpeachable character of proof. His decision in this respect was not called in question in the present action.

The following facts were admitted:—On or about April 18, 1912, the plaintiff and the boy arrived at Durban from Bombay, and applied for leave to land. The Immigration Restriction Officer allowed the plaintiff to land, but refused permission in the case of the boy, on the ground that the proof of his identity was insufficient. Thereupon, on April 19, plaintiff obtained an interdict restraining deportation of the boy for two months, in order to give the plaintiff time to produce further evidence from India. The order was made, subject to the deposit of £15. No question, however, arose now as regards repayment of this money, or of the £10 bail. The plaintiff obtained further evidence from India, which seemed to have been considered by the then Immigration Restriction Officer, Mr. Cousins, some time about August last, but the evidence was still regarded as insufficient.

The interdict having expired in June, at the end of August the boy was arrested at the instance of the Immigration Officer, and brought before a magistrate, when, as a prohibited immigrant, he was charged with being found in Natal, in disregard of the provisions of the Act. A remand was granted in order that a summons might be issued, but the proceedings were abandoned without issue of any summons, and on Oct. 5—the

Immigration Restriction Officer caused the boy to be deported.

The only question was: Does the arrest and deportation of the boy, in the circumstances, give rise to an action for damages?

His Lordship quoted the law and decisions in other cases of deportation, and decided that in the circumstances of the case he could not find that in deporting the boy, whom he had found to be a prohibited immigrant, the Immigration Restriction Officer had acted unlawfully and maliciously, and without reasonable and proper cause. It was unnecessary to discuss the question of damages, especially claimed by the plaintiff, for the loss of the society and companionship of his son. There would be judgment for the defendant, with costs.—*Natal Mercury*.

## Union Parliament

HOUSE OF ASSEMBLY

7th February.

### Arms and Ammunition Bill

Mr. SCHREINER (Tembuland) moved for the omission of the sub-section reading "A licence to possess a rifle may not be issued to any coloured person without the sanction of the Minister." In substitution thereof he moved the insertion of the following: "The Minister may instruct the magistrates and licence officers to refer to him for consideration any or all applications for licences to possess rifles, and may instruct the magistrates or licence officers to refuse any or all applications so referred." In doing so the member for Tembuland argued that there should be no stigma on account of colour. As far as possible they should avoid inflicting any disability simply because of colour. Let them take the long view of this question and not insert a word which might do incalculable harm.

Mr. SMUTS congratulated the last speaker on the moderation of his speech, and agreed that the proposition which he laid down as a principle would be accepted by every member of that House. Wherever it was possible to avoid drawing the colour line he thought it should be done. Whether the original sub-section was accepted or the one moved by the member for Tembuland, power would still be reserved to the Minister to issue licences to coloured persons in his discretion. He accepted the amendment.

Mr. VOSLOO (Somerset) moved the deletion of Sub-Section 4 providing that "a rifle may not be issued to any coloured person without the sanction of the Minister." He pointed to the difficulty of defining a coloured person.

Mr. MERRIMAN (Victoria West) said he certainly would not vote for anything having for its object the arming of natives. (Hear, hear.) They wanted to keep arms as far as possible out of the hands of these people, but to say that no kafir under any circumstances should have a gun was impossible. It was like saying, as they did in the Transvaal, that no native under any circumstances should have a drink. Did they keep drink from them? (Voice: "No!") At the same time he did not like the idea of rubbing any particular arbitrary provision into any man whether black or white. Let them put it into the hands of the Government, this issue of permits. Let them be restricted as far as possible, but what they were trying to aim at in that Bill was to get some sort of control in the hands of the Government of the sale of arms to anybody. There were many white men in this country to whom it was just as dangerous to sell a gun, because they were going to trade it away. And then they were surprised when war came that kafirs were armed with breech-loading rifles. Let them control the whole disposition of these guns, but the protection given under this law was sufficient without rubbing in the fact that God Almighty made one man white and the other black.

The Committee then divided upon Sub-Section 4 which, by 55 votes to 24, it was agreed to delete.

Mr. Schreiner's amendment, abolishing the colour bar, which had already been accepted by the Minister was then put and carried, the word "rifles" in his amendment being changed to "arms."—Reuter.

11th February.

### The £3 Tax

Sir DAVID HUNTER (Durban, Central) asked the Minister of Finance whether it was the intention of the Government to introduce legislation during the present session repealing the £3 tax on Indians, with a remission of arrears upon ex-indentured Indians in the Province of Natal.

The MINISTER, replying, said that this was one of those matters that had formed the subject of representations to the Government by the Indian community, and was still receiving consideration.

12th February

### Coloured People and the Land

Senator BEUKES gave notice to move to-morrow: "That the time has arrived when definite steps should be taken whereby coloured people could be prevented from buying land within certain areas of the Union, which are suitable for European occupation."—Reuter.

## News in Brief

Mr. Dawad Mahomed's family have received a cable stating that he is leaving for South Africa, from Calcutta, by the s.s. *Salamis*, which is due to sail almost immediately.

Mr. M. A. Goga of Ladysmith, who won his licensing appeal the other day in the Supreme Court, has now re-applied for his licence. The daily Press reports that the Chamber of Commerce, against which costs were given and which figured prominently last time, is not now represented against Mr. Goga.

Mr. Bhawanl Dayal, Box 374, Germiston, writes to us thanking Mr. Polak and others who assisted him and his brother in substantiating their claim to reside in the Transvaal.

We regret to announce that Mr. S. B. Modh has received news from home that his sister, twenty one years of age, has become a widow. Mr. Modh's brother-in-law was Private Secretary to H. H. the Gaekwar of Baroda. We extend our sympathy to Mr. Modh and his family in their loss, the measure of which is enhanced by the knowledge that the widow cannot re-marry.

The dropping of the Financial Relations and the University Bills, (says the Parliamentary representative of the *Natal Mercury*) has become exceedingly probable, though this course has not yet been actually decided on in the party caucus. But the Immigration Bill seems doomed, as well as the other two I have mentioned.

The Parliamentary representative of the *Natal Mercury*, writing about Mr. T. Schreiner's speech on the colour bar in the Arms and Ammunition Bill, says that Mr. Schreiner borrowed his proposed method from that which, on the agitation of the British Indians, has been adopted in the modelling of the Immigrants Restriction Bill. Asiatics do not object that their immigration shall be regulated, but they do protest against their being barred out of the country "qua colour." "So," said Mr. Schreiner, "control the issue of firearms to the coloured people by all means, but don't prohibit licences qua colour."

A photograph of the Committee of the Shri Hindi Jigyasa Sabha, the Society for the propagation of the Hindi language and the Devanagiri script, appears in the *Pictorial* of the 9th ultimo.