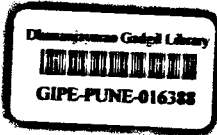


(SOUTH AFRICAN REPUBLIC.)

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P A P E R S

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RELATING TO THE

# GRIEVANCES OF HER MAJESTY'S INDIAN SUBJECTS

IN THE

1

## SOUTH AFRICAN REPUBLIC.

Presented to both Houses of Parliament by Command of Her Majesty.  
September 1895.



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SOUTH AFRICAN REPUBLIC.

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P A P E R S

RELATING TO THE

GRIEVANCES OF HER MAJESTY'S INDIAN SUBJECTS

IN THE

SOUTH AFRICAN REPUBLIC.

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Note.—The treatment of Her Majesty's Indian Subjects residing in the South African Republic having been for many years a subject of controversy between Her Majesty's Government and the Government of the South African Republic, and it having been found impossible by the two Governments to arrive at an understanding, it was agreed to refer the matters in reference to an Arbitrator—His Honour Melius de Villiers, Chief Justice of the Orange Free State. The first document is the text of the case laid before the Arbitrator by Counsel representing the British Government, and the papers following show the course of proceedings and the action taken by the various parties concerned.

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No. 1.

CASE to be submitted to the ARBITRATOR on behalf of HER MAJESTY'S GOVERNMENT.

1. Under Article 14 of the London Convention all persons, other than natives, conforming themselves to the laws of the South African Republic—

- (a) will have full liberty, with their families, to enter, travel, or reside, in any part of the South African Republic:
- (b) will be entitled to hire or possess houses, manufactories, warehouses, shops, and premises
- (c) may carry on their commerce, either in person or by any agents whom they may think fit to employ:
- (d) will not be subject in respect of their persons or property, or in respect of their commerce or industry, to any taxes, whether general or local, other than those which are or may be imposed upon citizens of the said Republic.

2. The word "natives" (inboorlingen) does not include Her Majesty's Asiatic Subjects resident in the South African Republic, consequently these Asiatics were entitled to full privileges of Europeans thereunder.

3. On the 28th of January 1885 in forwarding to the Secretary of State a despatch of the 14th of January 1885 from the South African Republic, in which that Government inquired what meaning should be attached to Article 14, seeing that it was desired to deal with Indian Coolies and other Asiatics, the High Commissioner (Sir Hercules Robinson) commended an amendment of Article 14 by inserting the words "African Natives or Indian or Chinese Coolie Immigrants." He added "the article as amended would still leave the few Arab traders at present in Pretoria entitled to the liberties secured under the existing article to all persons other than natives, and I can see no sufficient grounds for their being deprived of these rights." The Secretary of State (Lord Derby) replied on the 19th of March, that if Sir Hercules Robinson was of opinion that it would be preferable and more satisfactory to the Government of the South African Republic to proceed as he (Sir Hercules Robinson) proposed, Her Majesty's Government would be willing to amend the Convention as suggested; but that it seemed to deserve consideration whether it would not be more correct for the Volksraad to legislate in the proposed sense, having received an assurance that Her Majesty's Government would not insist upon any such construction of the terms of the Convention as would interfere with reasonable legislation in the desired direction. This despatch was communicated to the Government of the South African Republic, together with Sir Hercules Robinson's despatch to which it was a reply, and thereafter Ordinance No. 3 of 1885

was passed, which provided *inter alia* that Asiatics settling in the Republic should be registered, that those entering in future should pay for registration, and should not be allowed to hold landed property in the Republic, and that in no case should Asiatics be able to acquire the rights of citizenship, and that the Government should have the right to point out to them their proper streets, wards, and locations, where they should reside.

4. Complaints having been received by Sir Hercules Robinson as to this law, he wrote to the Government of the South African Republic on the 16th of October 1885, referring them to the last paragraph of his despatch to the Secretary of State of 28th January, and pointing out that the new law appeared to be a breach of the understanding upon which Her Majesty's Government waived their right to insist on a strict interpretation of the terms of the Convention of London. Sir Hercules Robinson informed the Government of the South African Republic that it was expressly understood by the Secretary of State that the proposed legislation was not to apply to Arab traders or merchants, but to Indian or Chinese coolie immigrants. It should here be stated that the word "coolie" as used officially in England is invariably limited to Asiatic labourers, and does not embrace persons of a superior class.

The Government of the South African Republic in a reply dated the 23rd of December 1885, referred to Lord Derby's assurance that "Her Majesty's Government will not desire to insist upon any such construction of the terms of the Convention as would interfere with reasonable legislation in the *desired direction*," and added that the law had received no wider construction than that represented in their letter of the 8th January 1885, in which their request was made known.

Sir Hercules Robinson, in forwarding to the Secretary of State, on the 20th January 1886, the further correspondence above mentioned, pointed out that the argument of the South African Republic was based on the assumption that the words "proposed sense" and "desired direction" in Lord Derby's despatch, did not refer to his (Sir Hercules Robinson's) proposal or recommendation as embodied in his despatch of the 28th January 1885, but to the request of the Government of the South African Republic, as represented in their letter of the 8th of January 1885. Sir Hercules Robinson expressed the opinion that that was not Lord Derby's meaning.

The Secretary of State (Lord Granville, who had succeeded Lord Derby) replied on the 24th of February 1886, that he could not accept the explanation offered by the South African Republic, and desired that the law in question might be revised, as it was in direct opposition to the views of Her Majesty's Government, and in its existing form a contravention of the Convention of London.

5. In consequence, amendments to the law were passed in 1886, and forwarded to Sir Hercules Robinson in a letter dated the 6th of September 1886, in which the Government of the South African Republic explained that the object of the law was a sanitary one, and stated that they had no disinclination to let that object appear more clearly. Accordingly, among other amendments, the words "for sanitary purposes" were introduced more than once.

Sir Hercules Robinson, in sending the amended law to the Secretary of State on the 29th of September 1886, recommended that, as Lord Derby had informed the South African Republic that Her Majesty's Government would not insist on such a construction of the Convention as would interfere with reasonable legislation, and as the Government of the South African Republic had asserted that the restrictions imposed by the law were necessary for the sake of the public health, the law should not be opposed. The Secretary of State (Mr. Stanhope) replied on the 4th of November 1886, that having regard to the amendments introduced into the law of 1885, Her Majesty's Government did any longer see occasion to object to the legislation.

6. The amendments bearing upon this question were that in clause 2 subsection (b), it was provided that the Asiatics could not own landed property, save only in the streets, wards, or locations which the Government shall, for sanitary purposes, point out for habitation, and that sub-section (d) was amended so as to give the Government the power, for sanitary purposes, of showing them (the Asiatics) fixed streets, wards, and locations, for habitation. There is nothing in this law which prevents Her Majesty's Asiatic subjects from carrying on their business or trade in any portion of a town.

7. The words "for sanitary purposes," and "for habitation" shall be construed as referring to the dwelling places of such traders and not to places of business.

8. The words "streets and wards" have reference to the special quarter of the town which may be assigned to such persons who may be residing in the town; the word "locations" has reference to a special place which may be assigned to such persons who may be residing not in towns but in country places.

9. Her Majesty's Government agreed to raise no objection to reasonable legislation in the *desired direction*, and claims to be entitled to interpret this assent as above set forth.

INDIA OFFICE to COLONIAL OFFICE

SIR, I AM directed by the Secretary of State for India Office, Whitehall, S.W., March 27, 1889, to acknowledge the receipt of your letter of the 27th ultimo transmitting, for the information of Lord Cross, the correspondence that has passed between the Colonial Office and Mr. H. Natal and Messrs. Loughborough and Gedge, as to certain complaints made by traders resident in the South African Republic.

In reply, I am desired to state that Lord Cross has also received the above correspondence from Messrs. Loughborough and Gedge, and I am to enclose a copy thereof to that firm.

At the same time, I am to say that Lord Cross is of opinion that some injustice has been done to the British Indian subjects, who relied upon the Convention of the 27th February 1884, and I am to recommend, for the consideration of Lord Cross, the advisability of making such further representation to the Government of the South African Republic as shall remove or mitigate the effect of the law in such particular cases of these petitioners.

I have, &c.

The Under Secretary of State,  
Colonial Office,

JOHN E. GORST.

INDIA OFFICE to MESSRS. LOUGHBOROUGH AND GEDGE.

GENTLEMEN, I AM directed by the Secretary of State for India in Council to acknowledge receipt of your letter of the 22nd ultimo, and, in reply, to inform you that it appears to Lord Cross that the matter to which you call attention can be effectually dealt with only by the Colonial Office.

I am, &c.

Messrs. Loughborough and Gedge,  
23, Austin Friars, E.C.

JOHN E. GORST.

No. 6 in Appendix B.

BRITISH AGENT, Pretoria, to the STATE SECRETARY.

British Agency, Pretoria, South African Republic,  
January 13, 1890.

SIR, I HAVE the honour to enclose, for the information of his Honour the State President, a copy of a despatch of Sir Henry Loch, covering a copy of Lord Knutsford's despatch having reference to Law No. 3 of 1885, and its bearing upon Her Majesty's British Indian subjects, who are included by your Government in the operation of that law.

I am directed to bring to his Honour's attention the several matters contained in Lord Knutsford's despatch, and especially that relating to residence, as defined in Article 14 of the Convention of London, and as restricted by the terms of Law 3 of 1885, and I am to point out that under clause (d) of the Law of 1885, provision is only made for *habitation*, and there does not appear to be any restriction as to *trading* in places other than locations.

I shall be obliged if, in view of the importance attached to this matter by the Indian Government, as well as by the Secretary of State, his Honour will give the question his early attention so as to alleviate the position of the British Indian traders.

I have further to draw your attention to the instructions issued to me to report generally on the administration of the law "in view of the complaints of hardships which continue to reach Her Majesty's Government, and which are probably founded on an interpretation of the law which was not intended, and was not contemplated by Her Majesty's Government when they assented to the deviation from the provisions of the Convention of London which it involved."

I invite from you an expression of the views of your Government in this matter  
for embodiment in my report.

I have, &c.

RALPH CH. WILLIAMS,  
Her Majesty's Agent.

Enclosure in No. 6 in Appendix B.

HIGH COMMISSIONER TO HER MAJESTY'S AGENT,

Government House, Cape Town,  
January 4, 1890.

SIR, WITH reference to the State Secretary's letter of the 13th August last, and to  
previous correspondence on the subject, I have the honour to enclose for your  
information a copy of a despatch which I have received from the Secretary of  
State, respecting the position of British Indian subjects in the South African  
Republic.  
I shall be glad if, in communicating this despatch to the Government of the South  
African Republic, you will draw special attention to the distinction drawn by the  
Secretary of State between "habitation" and "trading." I shall be glad, too, if you  
will furnish me with any information as to the way in which the law in respect to  
Asiatics is administered.

I have, &c.

HENRY B. LOCH,  
Governor and High Commissioner.

Sub-enclosure in No. 6 in Appendix B.

LORD KNUTSFORD to SIR HENRY LOCH.

SIR,

Downing Street, November 26, 1889.

I HAVE the honour to acknowledge the receipt of Lieutenant-General Smyth's  
despatches of the 13th August, and of the 20th of August last, enclosing copy of  
telegraphic correspondence which he had had with the Government of the South African  
Republic, respecting the position of Her Majesty's Asiatic subjects in that State.

Previous to the receipt of these despatches, I had received two further communica-  
tions on the subject from the Secretary of State for India, copy of which I enclose,  
and the letter in which General Smyth's despatches and their enclosures were com-  
municated to the India Office was crossed by another from that Department, of which  
also a copy is transmitted herewith.

You will perceive from these papers that complaints continue to be made concerning  
the treatment of British Indian subjects in the South African Republic, and you will  
learn from the letter of the 13th instant, of which a copy is enclosed, that the  
Secretary of State for India is, after perusal of General Smyth's despatches, still  
desirous that further inquiry should be made into the matter.

The right of residing, trading, &c. under the London Convention appears to be  
restricted, as regards Asiatics, by the law of 1885, amended in 1886, by requiring  
residence in certain localities selected for sanitary reasons and by registration, but not  
otherwise, and if trading licences are granted to other persons on application, Indian  
traders have clearly a right to obtain them. Moreover, the law only prescribes  
locations for "habitation," and there does not appear to be any prohibition as to  
"trading" in places other than locations.

I shall be glad if you will invite President Kruger's attention to these points, and  
instruct the British Agent to furnish you with information as to the way in which the  
law is administered, in view of the complaints of hardships which continue to reach  
Her Majesty's Government, and which are probably founded on an interpretation of  
the law which was not intended, and was not contemplated by her Majesty's Govern-  
ment when they assented to the deviation from the provisions of the Convention of  
London which it involved.

I have, &c.

KNUTSFORD.)

That all the places of business of these Indian and other Asiatic traders, being British subjects, should be closed, many of them having been established for years, and that the traders should be compelled to have their shops, as well as their residences, in assigned locations, is an unreasonable and incorrect construction of the Ordinances above set forth, and there exists no sanitary necessity for the adoption of any such course.

10. If the Ordinances bore this interpretation, they would be unreasonable legislation, and not such as it would have been in the contemplation of Her Majesty's Government to assent to.

Upon the above grounds Her Majesty's Government claims :—

- (a.) That the Indians and other Asiatic traders, being British subjects, be allowed to reside in the towns of the South African Republic, in some quarter (wards and streets) which, for sanitary reasons, may be assigned to them.
- (b.) That they be allowed to carry on their trade or business in shops or stores in any part of the town.

The Arbitrator shall be free to decide either in favour of the claims put forward by Her Majesty's Government or by the South African Republic, or to lay down such interpretation of the said Ordinances, read together with the despatches referring to the question, as shall appear to him to be correct.

Documents referred to in the foregoing case, copies of which should be supplied to the Government of the South African Republic, if desired, and which should be placed before the Arbitrator at the Arbitration :—

1. Convention of London, 1884. [See No. 1. in Appendix A.]
2. Despatch from Government of South African Republic of January 8th, 1885 (covering a despatch to Lord Derby). [See Enclosure in No. 2 in Appendix A.]
3. Despatch of Sir H. Robinson to Secretary of State, January 28th, 1885. [No. 2 in Appendix A.]
4. Despatch from Secretary of State (Lord Derby), No. 130, March 19th, 1885. [No. 3 in Appendix A.]
5. Ordinance No. 3 of 1885 of South African Republic. [Enclosure 4 in No. 4 in Appendix A.]
6. Letter from Sir H. Robinson to Government of South African Republic, October 16th, 1885. [Enclosure 1 in No. 4 in Appendix A.]
7. Letter from Government of South African Republic to Sir H. Robinson, December 23rd, 1885. [Enclosure 3 in No. 4 in Appendix A.]
8. Despatch from Sir H. Robinson to Secretary of State, January 20th, 1886 [No. 4 in Appendix A.]
9. Despatch from Secretary of State (Lord Granville) to Sir H. Robinson, February 24th, 1886. [No. 5 in Appendix A.]
10. Ordinance of 1886 (South African Republic), amending Ordinance No. 3 of 1885. [See Enclosure 2 in No. 6 in Appendix A.]
11. Letter from Government of South African Republic to Sir H. Robinson, September 6th, 1886. [Enclosure 1 in No. 6 in Appendix A.]
12. Despatch of Sir H. Robinson to Secretary of State, September 29th, 1886. [No. 6 in Appendix A.]
13. Despatch of Secretary of State (Mr. Stanhope) to Sir H. Robinson, November 4th, 1886. [No. 7 in Appendix A.]
14. Government Notice of South African Republic in "Staats Courant," September 27th, 1893. [No. 8 in Appendix A.]
15. Government Notice of South African Republic to Indians, December 29th [? 27th], 1893. [No. 9 in Appendix A.]

No. 2.

SIR H. B. LOCH to the MARQUESS OF RIPON.  
(Received January 26, 1895.)

My LORD MARQUESS,

Government House, Cape Town,  
January 8, 1895.

With reference to previous correspondence, I have the honour to enclose a translation of the South African Republic's case in the arbitration now pending relative to British Indian subjects in the South African Republic.

I have, &c.

HENRY B. LOCH,  
Governor and High Commissioner.



## Enclosure in No. 2.

## EXPLANATION of the so-called COOLIE QUESTION now pending between HER MAJESTY'S GOVERNMENT and the GOVERNMENT of the SOUTH AFRICAN REPUBLIC.

1. Article 14 of the London Convention of 1884 stipulates :—“ All persons, other than natives, conforming themselves to the laws of the South African Republic (a) will have full liberty, with their families, to enter, travel, or reside in any part of the South African Republic; (b) they will be entitled to hire or possess houses, manufactories, warehouses, shops, and premises; (c) they may carry on their commerce, either in person, or by any agents whom they may think fit to employ; (d) they will not be subject, in respect of their persons or property, or in respect of their commerce or industry, to any taxes, whether general or local, other than those which are or may be imposed upon citizens of the said Republic.”

2.—(a.) It was not the intention of the contracting parties to comprehend under the term “ all persons, &c.,” Coolies, Arabs, Malays, and Mahomedan subjects of the Turkish Empire, but only Europeans and their descendants.

(b.) The South African Republic is therefore not prevented by Article 14 of the London Convention from laying down such laws as may seem fit to them with respect to Coolies, Arabs, Malays, and Mahomedan subjects of the Turkish Empire.

3.—(a.) The Government of the South African Republic being of opinion that the letter of Article 14 of the Convention did not entirely agree with the intention of parties approached Lord Derby, then Secretary of State, by letter, dated 6th January 1885 (G.B. 1., No. 9), with the question “ whether, according to the opinion of Her Majesty's Government, this Government is at liberty under the Convention now in force to make such regulations with regard to said coloured persons (namely, Coolies, Arabs, and other Asiatics) as appear to it to be in the interests of the inhabitants of this Republic, and if not, whether Her Majesty's Government will by its concurrence empower this Government to wholly or partially meet the wishes of the memorialists of European descent, copies of whose memorials were sent to Her Majesty's Government.”

(b.) It is the contention of the Government of the South African Republic that the spirit of Lord Derby's reply, dated 19th March 1885 (G.B. 1., enclosure to No. 14), read in connexion with the letter from the High Commissioner, dated 28th January 1885 (G.B. 1. enclosure to No. 14) addressed to Lord Derby, copies of both of which letters were transmitted to the Government of the South African Republic by Her Majesty's Government, contain an acknowledgment of the fact that the letter of Article 14 of the Convention does not agree with the true intention of parties as explained in Article 2, and that Her Majesty's Government is therefore bound by such acknowledgment, and that the Government of the South African Republic is consequently at liberty to make such conditions with reference to the residence of Asiatics in the South African Republic as it thinks fit.

(c.) The Government of the South African Republic, trusting to the assurance of Lord Derby, as explained in his letter, dated 19th March 1885 (G.B. 1. enclosure to No. 14), that Her Majesty's Government would not oppose reasonable legislation in the direction desired by the South African Republic, presented to the Hon. Volksraad in 1885 a Bill respecting Coolies, Arabs, and other Asiatics, which Bill was converted into law by that body as Law No. 3, 1885.

4. After the passing of this law, Her Majesty's Government complained to the Government of the South African Republic that the stipulations appearing in said law respecting Arabs would be in conflict with Article 14 of the Convention, and not in accordance with the intention of Lord Derby's assurance, as mentioned in paragraph 3 c.

5.—(a.) Although the stipulations respecting Arabs in Law No. 3, 1885, were not in conflict with Article 14 of the Convention, and also entirely within the bounds as desired by Lord Derby; the Government of the South African Republic had no objection to propose to the Volksraad certain small amendments in Law No. 3, 1885, and in its letter, dated 5th September 1886 (G.B. 1., No. 32), addressed to the High Commissioner, it stated, after communication of the amendments to be proposed, *inter alia* : “ This Government is of opinion that, by the introduction of these amendments the objections will cease which may hitherto have existed with Her Majesty's Government and its views will have been met. This Government will be glad to learn from your Excellency a confirmation thereof.”

(b.) In reply to the letter mentioned in paragraph 5a, the High Commissioner, on the 2nd December 1886, sent a letter (G.B. I., No. 37) to the Government of the South African Republic, in which, *inter alia*, it was said that the writer had received the directions of Her Majesty's Government to inform the Government of the South African Republic, "That Her Majesty's Government do not see occasion any longer to object to the legislation of the South African Republic in regard to Asiatics, having regard to the amendments which the Volksraad has introduced into the law of 1885."

(c.) The amendments in Law No. 3 1885, as proposed by the Government of the South African Republic, and in which Her Majesty's Government had expressed its concurrence, were confirmed by the Hon. Volksraad as Law No. 1, 1887 (amending Law No. 3, 1885).

6. After the approval expressed by Her Majesty's Government, as mentioned in paragraph 5c, Her Majesty's Government can no longer take up the position that the actions of the Government of the South African Republic respecting Coolies, Arabs, and other Asiatics are not in accordance with the letter of Article 14 of the Convention, nor that they are in conflict with the intention of the assurance given by Lord Derby (as mentioned in paragraph 4c).

7.—(a.) The actions of the Government of the South African Republic about which Her Majesty's Government complains are in accordance with Law No. 3, 1885, approved by Her Majesty's Government as amended by Law No. 1, 1887.

(b.) The word "location," used in the amended Law No. 3, 1885, does not alone refer to pieces of ground reserved for coloured persons (Kleurlingen) outside the proclaimed villages, but also to pieces of ground intended for places of residence of coloured persons within the village lands.

(c.) The words "for habitation" (*ter bewoning*) used in article 2b and 2d of the amended law No. 3, 1885, apply to the places of business as well as the sleeping places of the coloured persons mentioned in the law, and the Government of the South African Republic has, therefore, the right to prevent them from carrying on business in villages or other places than those pointed out by it.

(d.) The word "Coolie" means, in the South African Republic, every person belonging to, or descended from, the native races of Asia.

8.—(a.) Her Majesty's Government must be considered, by its concurrence as indicated in paragraph 5b, to have acknowledged that, for the protection of the sanitary condition amongst the white population, separation of the coloured persons specified in the amended Law No. 3, 1885, was necessary, and that protection cannot be obtained if the coloured persons are allowed to be, during the whole day with the exception of the time meant for night's rest, in places of business in the midst of the white population.

(b.) The explanation of "for habitation" as given in paragraph 7c, for the reasons explained in paragraph 8a, is in accordance with the spirit of the law approved by Her Majesty's Government.

(c.) The High Court of the South African Republic, by judgment of 14th August 1888, in the matter of the application of Ismael Suliman and Co., also interpreted the words ("*ter bewoning*") for habitation as stated in paragraph 7c.

9.—(a.) Moreover, Her Majesty's Government was also of opinion that the interpretation given in paragraph 7c gave the intention of parties, and that, therefore, the Government of the South African Republic, under the Amended Law No. 3, 1885, was entitled to refuse to coloured persons mentioned in that law licences to do business at other places than pointed out by the Government of the South African Republic.

(b.) In the letter from the British Agent at Pretoria to the Government of the South African Republic, dated 14th December 1888 (G. B. 11, No. 8), and more especially in the enclosure to that letter, being a letter from the High Commissioner to the British Agent, the Government of the South African Republic is requested not to put into operation the Amended Law No. 3, 1885, before the Honourable Volksraad shall have further decided thereon, and to renew licences granted before the passing of Law No. 3, 1885.

(c.) Her Majesty's Government took up the same standpoint in its letter of 5th January 1889 (G. B. 2, No. 11), in its telegram of 8th August 1889 (G. B. 2, No. 19), and in its letter of 8th August 1889, with enclosures (G. B. 2, No. 20).

(d.) Her Majesty's Government has only since January 1890 assumed another position, the same as now explained in the memorial addressed by the Counsel in this

case to his Honour the Arbitrator, and in its letter dated 13th January 1890, with enclosures (G. B. 2, No. 27).

(e.) The Government of the South African Republic is of opinion, however, that Her Majesty's Government remains bound to the standpoint once taken up in paragraph 9a, b, and c.

10. On grounds of the above, the Government of the South African Republic alleges:—

(a.) That the South African Republic has full liberty to make such regulations as it may think fit respecting Coolies, Arabs, Malays, and Mahomedan subjects of the Turkish Empire.

(b.) That Her Majesty's Government has no ground for objection if the Government of the South African Republic forbids Coolies, Arabs, Malays, and Mahomedan subjects of the Turkish Empire to have places of business in villages or towns at places other than those pointed out by the Government.

11. It is the wish of the Government of the South African Republic that his Honour the Arbitrator, taking notice in this matter of the explanations of the case as given by Her Majesty's Government and by it, and of the correspondence referred to therein, may decide as may appear right and just to him the Arbitrator.

12. Copies of the documents referred to in this memorial will be placed in the hands of the Arbitrator, and will be sent to Her Majesty's Government if desired.

#### References.

1. Convention of London, 1884 [No. 1 in Appendix A.].
2. Letter from the Government of the South African Republic to Lord Derby, dated 6th January 1885 (G. B. 1, No. 9) [Enclosure in No. 2 in Appendix A.].
3. Reply from Lord Derby, dated 19th March 1885 [No. 3 in Appendix A.].
4. Letter from the High Commissioner, dated 28th January 1885 [No. 2 in Appendix A.].
5. Law No. 3, 1885 (S. A. R.) [Enclosure 4 in No. 4 in Appendix A.].
6. Letter from the Government of the South African Republic to the High Commissioner, dated 6th September 1886 [Enclosure 1 in No. 6 in Appendix A.].
7. Reply from the High Commissioner, dated 2nd December 1886 [No. 1 in Appendix B.].
8. Law No. 1, 1887 (S. A. R.), Amending Law No. 3, 1885 [see Enclosure 2 in No. 6 in Appendix A.].
9. Judgment of the High Court of the South African Republic in the case of the application of Ismael Suliman and Co., dated 14th August 1888 [Copies not received at Colonial Office].
10. Letter from the British Agent at Pretoria to the Government of the South African Republic, dated 14th December 1888, with annexure to that letter, being letter from the High Commissioner to the British Agent [No. 2 in Appendix B.].
11. Letter from Her Majesty's Government to the Government of the South African Republic, dated 5th January 1889 [No. 3 in Appendix B.].
12. Telegram from Her Majesty's Government to the Government of the South African Republic, dated 8th August 1889 [No. 4 in Appendix B.].
13. Letter from Her Majesty's Government to the Government of the South African Republic, dated 8th August 1889, with enclosure [No. 5 in Appendix B.].
14. Letter from Her Majesty's Government to the Government of the South African Republic, dated 13th January 1890, with enclosure [No. 6 in Appendix B.].

No. 3.

The MARQUESS OF RIPON to SIR H. B. LOCH.

[Answered by No. 9.]

SIR,

Downing Street, March 22, 1895.

I HAVE the honour to transmit to you a copy of a letter\* addressed to Mr. Buxton by Mr. Arnold Forster, M.P., respecting the alleged expulsion of Indian traders from Krugersdorp, and I request that you will call on the British Agent at Pretoria for a report on the subject.

I have, &c.

RIPON.

No. 4.

SIR H. B. LOCH to the MARQUESS OF RIPON.  
(Received April 16, 1895.)

Government House, Cape Town,  
March 26, 1895.

MY LORD MARQUESS,

WITH reference to previous correspondence respecting the arbitration as to the rights of British Indian subjects in the South African Republic, I have the honour to enclose, for your Lordship's consideration, a copy of a report by Mr. Searle, Q.C., the Counsel appointed to watch the case on behalf of Her Majesty's Government.

I have, &amp;c.

HENRY B. LOCH,

Governor and High Commissioner.

Enclosure in No. 4.

REPORT upon the PROCEEDINGS at the ARBITRATION held at BLOEMFONTEIN upon the  
INDIAN TRADERS' QUESTION.

SIR,

Cape Town, March 23, 1895.

I HAVE the honour to report that I left Cape Town on the evening of March 13 for the purpose of appearing on behalf of Her Majesty's Government at the Arbitration upon the Indian Traders' Question to be held at Bloemfontein on the 16th.

I arrived at Bloemfontein on March 15, and the following morning appeared on behalf of Her Majesty's Government with Mr. Curlewis, junior counsel, and Mr. Rooth (of Messrs. Rooth and Wessels), attorney, before His Honour Chief Justice M. de Villiers, the Arbitrator. Mr. Esselen, State attorney, with Messrs. Jeppe and Coster, as junior counsel, appeared for the Government of the South African Republic, which was also represented by Dr. Leyds, the State Secretary, who held a power of attorney from President Krüger, and by Messrs. Nell and Lorenz, attorneys.

It was arranged that nothing more than the preliminaries, matters of procedure, &c. should be settled at the meeting on Saturday.

The Arbitrator in opening the proceedings, expressed the hope that they would be conducted in a friendly spirit, and that his award would as far as possible give satisfaction to all parties concerned.

It was arranged the proceedings should be in private, and that either the English or the Dutch language should be used, as suited the speaker's convenience, that the Registrar of the High Court (in which building the arbitration was conducted) should be appointed to take notes of the proceedings, and to record all documents put in, and that the sheriff of the Court should also be in attendance. The Arbitrator raised the question of a deed of submission, and regretted that none had been drawn up between the two Governments. I explained that the Governments considered the letters which had passed between them relative to the submission of the question to his Honour, as sufficient, in place of a formal deed, and I offered, if thought necessary, to put in copies of certain of these letters, which, however, had not then reached me from Cape Town. Mr. Esselen concurred in my views. The letters, however, were not eventually put in. I put in a copy of the case drawn up on behalf of Her Majesty's Government, with copies of the documents in the Schedule annexed to the case.

Mr. Esselen put in a copy of the case for the Government of the South African Republic and handed in two "Green Books," the official books of the State, containing correspondence petitions, Volksraad Resolutions, opinions, &c. upon the question at issue.

I objected to the Green Books being put in in this manner and to any documents therein being used for the purposes of this case, save those scheduled to either statement of case.

Mr. Esselen contended that all the documents in the Green Books should be before the Arbitrator. The Arbitrator took time until Monday to consider the admissibility of the evidence.

In answer to his Honour who pointed out that the terms of submission in the case for the South African Republic were wider than those in the case for Her Majesty's Government, the latter apparently limiting him to "an interpretation of the Ordinances and Despatches referred to," I stated that Her Majesty's Government had raised no objection to the terms of the contention on behalf of the Government of the South African Republic, when the latter's statement of case was forwarded to it, and would

now leave the Arbitrator free to decide either in terms of the submission of Her Majesty's Government, or of the Government of the South African Republic. I then asked for information from Mr. Esselen as to whether oral evidence was to be adduced in support of the contention of his Government.

Mr. Esselen took up the position that the Arbitrator should first decide upon the legal points raised, and that in the event of his decision being unfavourable to the Government of the South African Republic, the latter Government should be entitled to call witnesses to prove the necessity, for sanitary purposes, of the course sought to be adopted, and that for this purpose a postponement might be granted. I objected to the above views and proposal, and contended that if the other side was desirous of calling witnesses, such should be called at this one sitting, and due intimation given at once in order that Her Majesty's Government might be prepared with rebutting evidence.

The Arbitrator stated that it did not seem to him that oral testimony was contemplated when the statements of case were prepared by either Government; that the mere opinions of different persons upon the sanitary necessity or otherwise for the removal of Indian shops would have little or no weight with him, and that under all the circumstances he would decide to exclude oral testimony.

An adjournment was then made until Monday 18th. At this sitting the Arbitrator expressed an opinion that all despatches and letters between the two Governments or their representatives, whether annexures or not to the statements of case, might be used as evidence, and that the Green Books might be put in subject to the understanding that the Arbitrator should not consider any documents therein, save such despatches and letters and their enclosures. He suggested to me that I should agree to this course, and withdraw my objection on this understanding, pointing out that the submission in the case for Her Majesty's Government appeared to contemplate that all despatches should be considered, if necessary. I agreed to the course proposed. The Arbitrator stated that the Government of the South African Republic should have had copies made of the documents upon which they relied, so as to have avoided the putting in of the Green Books in this manner.

A question having been raised as to my power to appear on behalf of Her Majesty's Government, I put in a telegram from Her Majesty's High Commissioner, and consented to commence the argument on behalf of Her Majesty's Government on condition of having a right of reply to Mr. Esselen.

Mr. Esselen expressed himself as entirely satisfied with my authority to represent Her Majesty's Government. I concluded my opening argument in the afternoon of Monday, whereupon Mr. Esselen commenced and continued during the morning of Tuesday March 19th and portion of the afternoon. I then replied and the proceedings closed between five and six o'clock on that day.

At the conclusion of the arguments the Arbitrator intimated that he would reserve his decision, and would in due time communicate the award, either written or printed, to each Government. He stated there were certain necessary costs—for example, fees to the Registrar and Sheriff, printing the award, &c., &c., and wished to know if there was any arrangement upon this head.

Upon the question of costs, I stated that it had been arranged between the two Governments that each side should bear the costs incurred by it, whatever the issue of the case, but that the general costs of the Arbitration—for example, any costs incurred by or on behalf of the Arbitrator, should be borne in equal shares by either Government.

Mr. Esselen corroborated this.

I may state that both Mr. Curlewis and Mr. Rooth rendered valuable assistance throughout the proceedings. The latter has represented the leading Indian and Asiatic Traders for many years past in the Transvaal in connexion with this question, and was therefore well acquainted with the history of the case. He had obtained the evidence of four witnesses, medical men and others, two from Johannesburg and two from Pretoria, as to the absence of any necessity for the removal of the Indian shops to locations, from a sanitary point of view. These witnesses were in readiness to start for Bloemfontein at short notice, if it had been decided that oral evidence was to be taken, and their statements were in readiness for use. Certain small fees for "qualifying" to give evidence will be payable to the medical witnesses.

Whilst satisfied that it would have been quite necessary to produce some oral evidence, if the Government of the South African Republic had called witnesses, Messrs. Curlewis, Rooth and myself all agreed that it would be better, if possible, in the interests of our case, to avoid the calling of witnesses, as it was felt that the weight of testimony would

probably be on the other side to the extent, at all events, that it would have been shown that it would be advantageous, for sanitary purposes, that many of the shops of the Asiatics should be removed from the European quarter. Mr. Leonard, who had been approached by the Indians with a view to his services being obtained at the Arbitration on their behalf, also, I am informed, concurred in this view.

Every arrangement conducing to the convenience and comfort of those appearing at the Arbitration was made by the Arbitrator and the officials of the Free State Government.

To the Imperial Secretary.

I have, &c.  
M. W. SEARLE.

No. 5.

LIEUTENANT-GENERAL GOODENOUGH to the MARQUESS OF RIPON.  
(Received April 29, 1895.)

Government House, Cape Town,  
April 9, 1895.

MY LORD MARQUESS,

I HAVE the honour to enclose for your Lordship's information a letter which I have received from the secretary to the Arbitration Court covering:

- (1.) The award in the recent arbitration case between Her Majesty's Government and the Government of the South African Republic.
- (2.) The reasons for the above.
- (3.) Memo. of expenses.\*

I enclose also a copy of the reply which I have caused to be addressed to the Secretary.

In communicating these papers to your Lordship I desire to place on record my high sense of the courtesy and patriotism of the Government of the Orange Free State, who, by placing at the disposal of the two parties to the arbitration the services of a gentleman of the eminence and high legal attainments of Chief Justice Melius de Villiers, have aided in the settlement of a long standing dispute.

I desire also to place on record my appreciation of the public spirit shown by the Chief Justice, who has, in the conduct of this case, given to the two litigants the advantage of his great legal experience as well as of a conscientious, painstaking, and laborious attention to the various arguments advanced in support of the conflicting claims.

I trust, therefore, that the thanks of Her Majesty's Government may be conveyed to the Government of the Orange Free State and to Chief Justice de Villiers.

I have, &c.

W. H. GOODENOUGH, Lieut.-General,  
Administrator and High Commissioner.

Enclosure 1 in No. 5.

Bloemfontein, Orange Free State,  
April 3, 1895.

SIR,

I AM directed by his Honour the Arbitrator to forward the following relative to the arbitration matter between Her Majesty's Government and the Government of the South African Republic.

1. His award.
2. Reasons for same.
3. Press copy of memorandum of expenses, which are to be equally borne by the respective Governments.

Kindly own receipt and oblige.

I have, &c.

CLEM. A. HANGER,  
Secretary to the Arbitrator.

The Imperial Secretary  
to His Excellency the High Commissioner,  
Cape Town.

\* Not printed.

AWARD of the ARBITRATOR with reference to the matters in controversy between the Government of Her Majesty the Queen of the United Kingdom of Great Britain and Ireland and the Government of the South African Republic, relative to Article 14 of the Convention of London of 1884, Law No. 3, of 1885, of the South African Republic, as amended in 1886, and certain correspondence between these two Governments.

Whereas certain questions have arisen between the Government of Her Majesty the Queen of the United Kingdom of Great Britain and Ireland and the Government of the South African Republic with reference to the 14th Article of a certain Convention entered into in London on the 27th day of February 1884 by the representatives of the said Governments, on behalf of the said Governments respectively, with reference to Law No. 3, of 1885, enacted, and in the year 1886 amended, by the Volksraad of the South African Republic, and with reference to certain despatches thereunto relating.

And whereas the said Governments have agreed to submit the said questions to arbitration, and have nominated me, the undersigned, Melius de Villiers, as arbitrator, to decide and determine the matters in controversy between the said Governments; and I, the arbitrator so nominated, have taken upon myself the burden of such arbitration.

And whereas it has been agreed, on behalf of the said Governments, that the arbitrator, taking into consideration the statements of the case put forward by the Government of Her Majesty and the Government of the South African Republic respectively, and of the correspondence therein cited, might decide as to him, the arbitrator, should appear to be equitable and just.

And whereas Her Majesty's Government, in their statement of the case, claim :—

“(a.) That the Indian and other Asiatic traders, being British subjects, be allowed to reside in the towns of the South African Republic in some quarters (wards and streets) which, for sanitary purposes, may be assigned to them.

“(b.) That they may be allowed to carry on their trade or business in shops or stores in any part of the town.”

And whereas the Government of the South African Republic, in their statement of the case, claim :—

“(a.) That the South African Republic is fully entitled to make such regulations concerning Coolies, Arabs, Malays, and Mahomedan subjects of the Turkish Empire as it may think fit.

“(b.) That Her Majesty's Government is not entitled to object when the Government of the South African Republic prohibit Coolies, Arabs, Malays, and Mahomedan subjects of the Turkish Empire from having business premises in villages and towns on other places than those assigned by the Government.”

And whereas I, the said arbitrator, have heard the counsel instructed on behalf of the said Governments respectively, and considered their arguments, and have carefully investigated the aforesaid questions and the documents relating thereto.

And whereas it was agreed and understood that I, the said arbitrator, should give my award on the aforesaid questions in writing, in duplicate, to be communicated to the Governments before-mentioned respectively.

Now, therefore I, the said arbitrator, do make this my award in writing, in manner following, that is to say :—

(a.) The claims of Her Majesty's Government and of the Government of the South African Republic respectively are disallowed, save and except to the extent and degree following, that is to say :

(b.) The South African Republic is bound and entitled in its treatment of Indian and other Asiatic traders, being British subjects, to give full force and effect to Law No. 3, of 1885, enacted, and in the year 1886 amended, by the Volksraad of the South African Republic, subject (in case of objections being raised by or on behalf of any such persons to any such treatment as not being in accordance with the provisions of the said law as amended) to sole and exclusive interpretation in the ordinary course by the tribunals of the country.

In witness whereof I, the said Melius de Villiers, have hereunto set my hand, this 2nd day of April 1895.

MELIUS DE VILLIERS.

REASONS of the Arbitrator for his Award with reference to the matters in controversy between the British Government and the Government of the South African Republic relative to Article 14 of the Convention of London, Law No. 3, of 1885, of the South African Republic, as amended in 1886, and certain correspondence between the two Governments.

Sec. 1. The questions in controversy between Her Majesty's Government and the Government of the South African Republic relate to the interpretation and effect of the 14th Article of the Convention of London, entered into by the two Governments; of the terms in which assent was given by the British Government to legislation on the part of the South African Republic on certain matters in connexion with that Article; of Law No. 3 of 1885, enacted by the Volksraad of the South African Republic, and subsequently amended by that legislative body; of the terms in which assent was given by the British Government to this enactment; and of the despatches which passed between the two Governments on the subjects to which the above-mentioned Article of the Convention and Law No. 3 of 1885, as subsequently amended, refer.

Sec. 2. Article 14 of the Convention of London is to the following effect:—

All persons, other than natives, conforming themselves to the laws of the South African Republic—

- (a) will have full liberty, with their families, to enter, travel, or reside in any part of the South African Republic;
- (b) will be entitled to hire or possess houses, manufactories, warehouses, shops, and premises;
- (c) may carry on their commerce either in person, or by any agents whom they may think fit to employ;
- (d) will not be subject in respect of their persons or property, or in respect of their commerce or industry, to any taxes, whether general or local, other than those which are or may be imposed upon citizens of the said Republic.

Sec. 3. In the same year that the Convention of London was signed an agitation was set on foot in the South African Republic against "the threatened invasion of Asiatics" such as already has commenced at Pretoria"; and memorials were sent in to the Volksraad strongly urging that the influx of such Asiatics should be restricted by law. In a petition (of this document and of some others that originally appeared in Dutch, the translation is my own), signed by T. W. Beckett and 86 others, the memorialists say, amongst other things,—

"We fear that if his Lordship (Lord Derby, then Secretary of State) should be of opinion that Asiatics should enjoy the same privileges as Europeans who come to settle in this State, this would be in conflict with our Constitution, which recognises only two races of men—white and coloured; and the clause in the Constitution relative to this matter remained unaltered during the time of the British Government."

"Our knowledge of South African affairs and of the use and meaning of the word 'native' creates the conviction that the representatives of the South African Republic, and of Great Britain, could only and exclusively have meant by the words:—

"I. 'All persons,' all Europeans and their descendants:

"II. 'Natives,' the aboriginal races of South Africa and their descendants:

"Indeed the meaning of the two expressions, used in the Conventions of Pretoria and of London, was quite limited in intention and application to the conditions of Southern Africa, and it would be equally incorrect to suppose that the aboriginal races of Asia, America, and Australia are included in the expression of the Convention, 'natives,' as to suppose that they would be included under the expression of the Convention, 'all persons'.

"The aborigines of Asia, America, and Australia, are out of the question and have nothing to do with our conditions."

After adducing a number of arguments against Asiatic races being allowed freely to settle in the territory of the South African Republic, the petition ends with the following words:—

"Lastly, and with further reference to the 14th Article of the Convention of London, we have the honour to observe that if the Right Honourable Lord Derby



“ should be of opinion that our reading . . . . is not the correct one, it  
 “ then becomes evident that the well-educated Christian natives of South Africa,  
 “ under the said London Convention and the Constitution of this Republic, are  
 “ held to occupy a lower and far less advantageous position in this State than  
 “ the common Hindoo coolie and the other aborigines of the other parts of the  
 “ world.

“ We hope and trust that the Right Honourable Lord Derby shall be willing to  
 “ devote such attention to this matter as its importance so urgently demands,  
 “ and that he shall be willing to elucidate and declare the substance of  
 “ Article 14 of the London Convention in such a manner that you will be  
 “ enabled to take such steps as may seem to you to be requisite to protect the  
 “ joint interests of the subjects of Her Majesty and of the citizens of this  
 “ State.”

Sec. 4. Another petition addressed to the Volksraad stated :—

“ That the population of the Arabians and coolies is much increasing in this town  
 and in this State.

“ That your memorialists, after extensive and careful investigation, founded on the  
 experience and acts of legislative bodies of other countries, are of opinion that  
 the present system by which Arabians and coolies are permitted to settle  
 in any part of the towns of this Republic, and more especially in the centres  
 and principal streets should be abolished in the interest of the inhabitants of  
 this State, and this for the following reasons :—

“ (a.) Your petitioners are in a position to prove that all sanitary measures  
 are neglected in the extreme in the dwelling houses of the  
 Arabians and coolies, and that their mode of living is loathsome.

“ (b.) Your petitioners further wish to bring to your notice that at a  
 meeting of the most influential inhabitants of the town held on  
 the . . . . it has been stated by the district surgeon,  
 that by allowing the Arabians and coolies to live amidst a white  
 population the development and spreading of epidemics, and of  
 the consequent deaths, are much accelerated. And it is apparent  
 that, if these Arabians and coolies are isolated within their own  
 locations, quite separated from the white population, such  
 epidemics can be counteracted sooner and with more effect, not  
 only for the welfare of the Arabians and coolies themselves, but  
 also in the interest and for the protection of the white  
 inhabitants.”

\* \* \* \* \*

Sec. 5. A counter petition was also presented to the Volksraad by certain Arab  
 merchants, in which they draw attention to the difference between themselves and  
 coolies, Chinese, &c. ; and contradict certain assertions made in the petitions presented  
 by the white inhabitants and pray that their demands might not be acceded to.

Sec. 6. A letter dated 6th January 1885 (*G.B.*, 1 No. 9 p. 21), was thereafter sent  
 by the Government of the South African Republic to Lord Derby, on the subject of  
 the petitions which were enclosed therewith. In this letter the writer referred amongst  
 other things to the fact that a few years since Orientals had emigrated from Asia or  
 Northern Africa, nearly all of them being storekeepers and had settled in the Republic,  
 and that gradually an agitation had been begun against these persons, which had found  
 expression in the newspapers, in a certain pamphlet, and in numerous signed petitions  
 to the Volksraad, which went mainly to show their unsuitability as residents in the  
 country and the detrimental effect that would follow their being allowed to trade in  
 competition with whites, and he continued by stating that the Volksraad was not  
 unwilling to meet the wishes of the white petitioners, entirely or partly; for example,  
 by assigning to the Orientals thus immigrated locations or wards within certain  
 prescribed limits. The letter here referred to ended thus :—

“ The view taken in this last petition (that set out in part in paragraph 3 above), is  
 to the effect that the London Convention does not relate to the persons against  
 whom the petitioners raise their complaints.

“ I beg to request that your Lordship will be so good as to acquaint this Government  
 as to the views of Her Majesty's Government on the subject—that is, whether,  
 in the opinion of Her Majesty's Government, this Government is at liberty  
 under the Convention now in force, to frame such regulations relative to the  
 coloured persons referred to as may appear to it to be in the interests of the

inhabitants of this Republic, and if not, whether Her Majesty's Government by its assent will empower this Government to meet either entirely or partly the wishes of the petitioners of European descent."

Sec. 7. His Excellency the High Commissioner, Sir Hercules Robinson, in forwarding this letter to the Secretary of State in an accompanying despatch, dated 28th January 1885 (*G.B.L.*, p. 27), wrote as follows:—

"1. I have the honour to enclose a letter from the State Secretary of the South African Republic which has been forwarded to me for transmission to your Lordship.

"2. "Mr. Bok encloses petitions and other documents relating to the position of Asiatics in the South African Republic, and in connexion with the question raised, asks what meaning is attached by Her Majesty's Government to Article 14 of the London Convention.

"3. \* \* \* \* \*  
 "The point raised is whether Arabs, Indian Coolies, Malays, Chinese, and other Asiatics are to be considered "Natives," or whether they are included amongst the persons other than natives to whom certain specified rights are secured.

"4. Article 14 of the London Convention (with the exception of the substitution of the words 'South African Republic' for 'Transvaal State') is the same as Article 26 of the Convention of Pretoria. The latter Article, as originally drafted by the Royal Commission and agreed to by the representatives of the Boers, ran as follows:—"The subjects of Her Majesty conforming themselves to the laws, &c., &c." When this Article was telegraphed to Lord Kimberley, he in his message of the 27th July 1881, instructed me to omit 'the subjects of Her Majesty' and insert 'all persons other than natives,' which was done.

"7. As it was doubtless not the intention of Lord Kimberley to prohibit the Transvaal Government from adopting, if necessary, special legislation for the regulation of Indian or Chinese coolie immigrants, I should be disposed to recommend that the Government of the South African Republic be informed that Her Majesty's Government will be willing to amend Article 14 of the Convention by inserting the words 'African natives or Indian or Chinese coolie immigrants.' The Article would then run as follows:—"All persons, 'other than African natives or Indian or Chinese coolie immigrants, conforming themselves to the laws of the South African Republic will have full liberty 'with their families to enter, travel or reside, &c., &c.'

"8. The Article as amended would still leave the few Arab traders at present in Pretoria entitled to the liberties secured under the existing Article to 'all 'persons other than natives,' and I can see no sufficient grounds for their being deprived of their rights."

Sec. 8. It may be conveniently noticed here, in the first place, that the point raised was not quite that which it was understood by Sir Hercules Robinson to be; the contention was rather that there had not been any intention on the part of the parties to the Convention to include Asiatics amongst either "other persons than natives," or amongst "natives."

This was also, later, the contention of counsel for the South African Republic before the arbitrator.

This contention amounted in fact to this: that the representatives of Her Majesty's Government had solely in view the interests of European or white settlers in the South African Republic; and that at the time the Convention of London was signed, and still more so at the time the Convention of Pretoria (Article 26 of which, slightly modified, as stated by his Excellency in his despatch last referred to, became Article 14 of the later Convention) was signed, there was as yet no such general influx of foreign coloured natives that the exclusion of any but the natives of South Africa from the privileges granted in that article should have been thought of as necessary.

In the second place, it may be remarked that the reference in the concluding passage of Sir Hercules Robinson's despatch to "the few Arab traders at present in Pretoria," left it not quite clear whether his Excellency wished only to safeguard the "rights" of those few Arab traders whom he stated to be then at Pretoria; and what in prospect of "the threatened invasion of Asiatics, such as had already commenced at Pretoria," as alleged in the petitions above referred to, his views were as to Arabs who might subsequently settle in that country.

Sec. 9. The Secretary of State, Lord Derby, replied on the 19th March 1885 in a despatch to the High Commissioner (*G.B.I.*, p. 29) in the following terms:—

“ I have carefully considered your suggestion as to the amendment of the Convention, and if you are of opinion that it would be preferable, and more satisfactory to the Government of the South African Republic, to proceed as you propose, Her Majesty's Government will be willing to amend the Convention as suggested. It seems to deserve consideration, however, whether it would not be more correct for the Volksraad to legislate in the proposed sense, having received an assurance that Her Majesty's Government will not desire to insist upon any such construction of the terms of the Convention as would interfere with reasonable legislation in the desired direction.”

This despatch was communicated to the Government of the South African Republic, together with the despatch of the High Commissioner to which it was a reply.

Sec. 10. It will be seen hereafter that the construction subsequently placed by the Government of the South African Republic upon the concluding words of this despatch differed from that placed upon them by Her Majesty's Government. The former held that the words “ legislation in the desired direction ” should be read in connexion with the letter forwarded by that Government to Lord Derby on 6th January 1885 (sec. 6 above), and were intended to mean legislation in the direction in which the Volksraad had expressed a desire to legislate; the latter held that these words should be explained as referring to the High Commissioner's despatch of 28th January 1885 (sec. 7 above), and meant the same as “ legislation in the proposed sense ”; that is to say, “ special legislation for the regulation of Indian or Chinese Coolie immigrants.”

Sec. 11. Acting, however, it seems, upon what they conceived to be the purport of Lord Derby's despatch above referred to, and having before them the correspondence which had passed between the two Governments on the subject, the Government of the South African Republic prepared and laid before the Volksraad a draft law, which, with some slight modifications, was adopted by the Volksraad as Law No. 3 of 1885. This enactment was to the following effect:—

“ 1. This law applies to persons belonging to any of the aboriginal races of Asia, including thereunder the so-called Coolies, Arabs, Malays, and Mahomedan subjects of the Turkish Empire.

“ 2. With respect to the persons referred to in sec. 1, the following provisions shall be in force:—

“ (a.) They shall not acquire citizenship in the South African Republic;

“ (b.) They shall not be owners of landed property in the Republic. This provision has no retroactive effect;

“ (c.) Those who settle in the Republic with the object of trading, &c. shall have to be inscribed in a register, to be specially kept for that purpose by the Landdrosts of the respective districts, according to a model to be prescribed by the Government.

“ With this registration, which shall have to be effected within eight days after arrival, the sum of 25*l.* (twenty-five pounds) sterling shall be payable. Contravention of the provisions contained in *c* shall be punishable by a fine of from 10*l.* (ten) to 100*l.* (one hundred pounds) sterling, which shall be substituted in default of payment, imprisonment for not less than fourteen days and not more than half a year.

“ The registration above referred to shall be effected without payment in the case of those who have settled in the Republic before the date upon which this law shall come into operation; provided that they shall have announced themselves to the Landdrosts in the case of Pretoria within eight days, and in the case of other districts within thirty days after such date.

“ (d.) The Government shall have the right to assign to them special streets, wards, and locations for habitation.

“ This provision shall not apply to those who reside with the masters in whose service they are.”

Sec. 12. On 9th October 1885, Mr. Michell, joint general manager of the Standard Bank of South Africa, sent a communication to his Excellency the High Commissioner, Sir Hercules Robinson (*G.B.I.*, p. 36) in which he complained of the operation of the Law No. 3 of 1885, passed in respect of Coolies, Arabs, and Asiatics generally. On the 16th of that month the Imperial Secretary in Cape Town wrote a letter to the State

Secretary of the South African Republic, in which (*G.B.I., No. 22, p. 36*), after referring to the complaints thus made, he says:—

“ His Excellency desires me to refer you to the last paragraph of his despatch to the Secretary of State, a copy of which was forwarded to you in my letter, and to point out that the new law relating to Asiatics, if Mr. Michell has correctly apprehended its effect, is a breach of the understanding upon which Her Majesty's Government waived their right to insist upon the strict interpretation of the terms of the Convention of London.

“ It was expressly understood by the Secretary of State that the proposed legislation was not to apply to Arab traders or merchants, but to Indian or Chinese Coolie immigrants.

“ His Excellency trusts, therefore, that the Government of the South African Republic will be able to assure him that merchants or traders of the class mentioned in Mr. Michell's letter, and especially such as are British subjects, will enjoy the same privileges as are secured by the Convention of London to ‘ all persons other than natives.’ ”

Sec. 13. With reference to the last preceding letter, it was pointed out to the arbitrator by counsel for the South African Republic, that the Secretary of State had, as a matter of fact, not given any express intimation that the proposed legislation should not apply to Arab traders or merchants. The Imperial Secretary's reference, however, undoubtedly is to the general assent given by the Secretary of State on 19th March 1885 (*vide sec. 9 above*) to the suggestions of Sir Hercules Robinson contained in his despatch of 28th January 1885 (*vide sec. 7 above*) which, as before stated, he concluded by saying that Article 14 of the Convention, if amended as proposed by his Excellency, would not apply to the few Arab traders at Pretoria at the time when his Excellency wrote.

Sec. 14. Again, on 24th October 1885, the Imperial Secretary to the High Commissioner, Sir Hercules Robinson, wrote a letter (*G.B.I., No. 23, p. 38*) to the State Secretary of the South African Republic, in which, referring to certain disabilities complained of by a certain Mr. Cronwright as having been imposed upon Arab merchants, he expressed his Excellency's view that such disabilities constituted a breach of the understanding on which Her Majesty's Government waived their right to insist on a strict interpretation of the terms of the Convention of London, and intimated that his Excellency would be glad to receive an early assurance that merchants of that class had been relieved from those disabilities.

Sec. 15. Amongst other further correspondence the Government of the South African Republic, in a letter of 23rd December 1885, signed by the State Secretary (*G.B.I., No. 26, p. 41*) defended its action with respect to Law No. 3 of 1885, and submitted that the law passed had no wider application than that proposed in the despatch from that Government of 6th January 1885 (*vide par. 6 above*), and stated that the law had been passed only after the Government had gratefully received the assurance of Her Majesty's Government contained in Lord Derby's despatch of 19th March 1885 (*vide sec. 9 above*).

Sec. 16. On 20th January 1886 the High Commissioner forwarded a despatch to the British Government asking for instructions upon this subject. No copy of this despatch was served upon the Government of the South African Republic, and it is, therefore not necessary to recite any part of it.

Sec. 17. On 24th February 1886 the Secretary of State (Lord Granville, who had succeeded Lord Derby) wrote to the High Commissioner, requesting the latter to inform the Government of the South African Republic that he was unable to accept the explanation offered in the State Secretary's letter of 23rd December 1885 (*vide sec. 15 above*), and that he must desire that the law in question may be revised, “ as it is in direct opposition to the views of Her Majesty's Government, and in its present form “ is a contravention of the Convention of London.” (*G.B.I., p. 43.*)

Sec. 18. In a letter of 6th September, 1886 (*G.B.I., No. 32, p. 45*) to the High Commissioner, the State Secretary on behalf of the Government of the South African Republic expressed its regret that the provisions of the Law No. 3 of 1885 were not quite in accordance with the views of Her Majesty's Government, and that there had been an apparent misconception as to the understanding upon which the British Government had waived its right to insist upon the strict interpretation of the Convention of London:—

“ It appears (it is remarked) that there likewise exists a misconception in respect of the object with which the law referred to was made. It was for the sake of the

general sanitary conditions, with a view to the experience gained in other countries and colonies, and also already in this country, very desirable and necessary to take measures of a sanitary nature in respect of those foreign Orientals who have settled themselves here in increasing numbers, and that first *after* the Pretoria Convention was signed, and selected their residences everywhere in the midst of the white population. It was to meet this necessity and the wishes in accordance therewith expressed by the memorialists (most of them British subjects) and already brought to the notice of Her Majesty's Government, that the law referred to was passed.

"This Government is not disinclined to let that object appear more clearly and to meet the views of Her Majesty's Government. It has, therefore, asked and obtained from the Volksraad authorisation to amend Law No. 3 of 1885, on the following basis"—

"1st. That after the first division of *section 2b* of Law No. 3 of 1885 shall be added these words:—'excepting in those streets, wards, and locations which the Government shall assign to them for sanitary reasons.'

"2nd. That the sum of 25*l.* mentioned in the second division of *section 2c* of the said law shall be brought down to 3*l.*

"3rd. That *section 2d* of the said law shall read as follows:—The Government shall have the right for sanitary reasons to assign to them definite streets, wards, and locations for habitation. This provision does not apply to those who live with their masters.

"According to these amendments the Orientals mentioned in the law shall not be prevented from acquiring landed property in the Republic.

"This Government conceives that when these amendments have been effected, those objections will fall away which may have existed with Her Majesty's Government, and that its views shall be met thereby.

"It will be a pleasure to this Government to be informed of the confirmation thereof from your Excellency."

Sec. 19. On 24th September 1886 a letter was sent to the Government of the South African Republic by Sir Hercules Robinson (*G.B.I.*, No. 33, p. 46) acknowledging receipt of the letter notifying the changes which the Volksraad had authorised the Government to make in the law, and ending with these words:—

"Although the amended law is still a contravention of the 14th article of the Convention of London, I shall not advise Her Majesty's Government to offer further opposition to it in view of your Honour's opinion that it is necessary for the protection of the public health."

Receipt of this letter was duly acknowledged on 29th October 1886 (*G.B.I.*, No. 34, p. 47).

Sec. 20. Thereafter, on the 4th November, the Secretary of State (then Mr. Stanhope) withdrew his objections to the law which had been under discussion, in a despatch to the Acting High Commissioner (*G.B.I.*, p. 48), in the following terms:—

"I have the honour to inform you that Her Majesty's Government do not see occasion any longer to object to the legislation of the South African Republic in regard to Asiatic traders, having regard to the amendments which the Volksraad has introduced into the law of 1885. I have to request that a communication in this sense may be addressed to the Government of the Republic."

This despatch was duly communicated to the Government of the South African Republic.

Sec. 21. On the 26th January 1887 the law, as amended, was promulgated in the "Gouvernements Courant" of that date. Article 2*b* of Law No. 3 of 1885 was now made to read as follows:—

"They shall not be owners of landed property in the Republic, except in those streets, wards, and locations that the Government shall for sanitary purposes assign (aamrijzen) to them."

Article 2*d* was altered thus:—

"The Government shall have the right for sanitary purposes to assign (aamrijzen) to them special (bepaalde) streets, wards, and locations for habitation."

Therewith it was supposed by the legislature of the South African Republic that the matter was finally settled (*G.B.I.*, p. 51).

Sec. 22. Thereafter, however, fresh difficulties arose out of the action of the Government of the South African Republic. It appears, in short, that in cases where locations had been assigned to the Asiatic natives, the authorities in that Republic, acting, it is alleged, under the provisions of Law No. 3 of 1885, as amended, required certain Indian merchants, claiming to be British subjects, to conduct their trade within such locations, and refused them licences to do so elsewhere.

Sec. 23. In August 1888 the firm of Ismael Sulieman & Co. (Arab merchants) applied to the High Court for an order to compel the Landdrost to issue to them a licence for trading purposes in the town of Middelburg. The court refused to grant this order, in a judgment given on the 18th of the month. To this judgment it will be necessary to refer again.

Sec. 24. Complaints having been made to the British Government on behalf of Indian merchants in the Republic, correspondence ensued between the two Governments with reference to the position of these persons. The South African Republic in the statement of its case (Sec. 9*b* & *c*) places much reliance upon a certain letter from the British Agent at Pretoria of 14th December 1888 (*G.B. 2*, No. 8, p. 5) and annexure thereto, a letter of 5th January 1889 (*G.B. 2*, No. 11, p. 7), a telegram of 8th August 1889 (*G.B. 2*, No. 19, p. 12) and a letter of even date with annexures (*G.B. 2*, No. 20, p. 13) as shewing that up to towards the end of the year 1889, the British Government and its representatives virtually admitted the right of the Government of the South African Republic to act as it had done by urging on the latter to defer any action in respect to the Indian traders till the meeting of the Volksraad, and that licences prior to the law of 1885 should be renewed, and "to postpone putting the law into effect" until sufficient time has elapsed for a reconsideration of the question by the Raad." In the last-named letter Sir Hercules Robinson writes:—

"Whilst fully appreciating the difficulties of your Honour's Government in this matter, I trust that you will be able to meet in some respect the wishes of the Indian traders. It appears to me that the traders may reasonably claim that the law should respect vested interests, and should not apply to persons who acquired rights previous to the enactment of the law, on the faith of the protection accorded by the conventions of Pretoria and London."

Also in the annexure, being a despatch from Lord Knutsford to Sir Hercules Robinson of 1st April 1889, this passage occurs:—

"Her Majesty's Government fully appreciate the difficulty which the President may feel in interfering with the execution of the law, but they trust that it may yet be found possible in some way to meet, to a greater extent than at present, the wishes of the Indian traders, and not to press the law in its full strictness against any reasonable objections which they may make."

(I have underlined the passages specially relied upon.)

Sec. 25. It was urged before the arbitrator on behalf of the Government of the South African Republic that Her Majesty's Government was bound to the standpoint alleged to have been once assumed by them and could not be heard to allege that the law did not apply where they had once virtually made an admission that the law did apply and only asked that action upon it might be stayed till the next session of the Volksraad; and that the Government and Volksraad of the South African Republic were justified in acting upon such admission. On the other side it was contended that Her Majesty's Government were merely at the time not inclined to press for the full effect of the law, properly construed, but that this was at a time when it was thought that the Volksraad was going to sit, and that the matter would then be conveniently settled.

Sec. 26. On 14th January 1890, a letter dated the 13th was received by the Government at Pretoria from the British Agent there (*G.B. 2*, No. 27, p. 22), with an enclosed despatch from Lord Knutsford to Sir Henry Loch, who had then been appointed High Commissioner, which relates to further complaints continuing to be made by Indian traders, and contains the following passage:—

"The right of residing, trading, &c., under the London Convention appears to be restricted, as regards Asiatics by the law of 1885, amended in 1886, by requiring residence in certain localities selected for sanitary reasons and by registration but not otherwise; and if trading licences are granted to other persons on application, Indian traders have clearly a right to obtain them."

“Moreover the law only prescribes locations for “habitation,” and there does not appear to be any prohibition as to trading in places other than locations.”

Sec. 27. After some further correspondence a lengthy communication dated 18th February 1890 was despatched by the State Secretary of the South African Republic to the High Commissioner (*G.B. 2, No. 38, p. 30*).

It is unnecessary to cite this communication in full. In view, however, of the fact that the Government of the South African Republic appeals to the judgment given by the High Court of that country in the matter of the application of Ismael Sulieman & Co., which has already been referred to, as one of the grounds for its claims as set forth in the statement of its case, and in view of the remarks it will be incumbent upon me hereafter to make with reference to this point, it is necessary to cite that portion of this communication that refers to this judgment, and also to cite further correspondence relative to it.

Sec. 28. The writer in the communication of 18th February 1890, just referred to, says:—

“ . . . I have the honour to refer to a certain judgment of the High Court of this State, given towards the end of the year 1888.

“ This judgment was the result of an action to order the Landdrost of Middelburg to issue a licence to Ismael Sulieman & Co. to carry on business on a certain premises, No. 148, situate within the town just mentioned.

“ The applicants had, in order to obtain this licence, tendered 7*l.* 10*s.* to the Landdrost.

“ He refused to issue it, but pointed out a place for which the licence could be obtained.

“ After the arguments had been heard, the Chief Justice said that the application could not be granted. As the Chief Justice remarked, Law No. 3, 1885, made provision that the Government had the right for sanitary purposes to assign locations where coolies could live, and the question was whether this signified that they could only live there or also carry on business.

“ An Arab, the Chief Justice remarked, could live at several places, for he has in many cases more than one wife.

“ The Chief Justice felt no difficulty about the expression “for habitation,” and can therefore make no distinction between places where persons carried on business and those where they lived.

“ The Government is bound to respect this judgment (heeft dze intspraats te eerbiedigen), and has also no reasons for not agreeing therewith, especially with a view to the requirements demanded from it in respect of the promotion of sanitary conditions.”

Sec. 29. In a reply to the above letter, addressed to the State President and dated 3rd March 1890 (*G.B. 2, No. 39, p. 33*), the High Commissioner wrote as follows:—

“ I observe that you quote the judgment of the Chief Justice of the High Court who stated that he had no difficulty as to the expression for residence and could make no distinction between places of ‘trade’ and ‘residence,’ but it is clear from the context that the Chief Justice intended to speak of places of trade which were inhabited by a portion of the family of the trader. For he explains that an Arab has in many instances more than one family and could therefore reside in several places. The judgment quoted therefore does not apply to the contention urged in the Secretary of State’s Despatch, that an Indian trader may inhabit (or, as I would interpret the expression, sleep), in a location, and yet be lawfully entitled to trade in the town.

“ But whatever may be the true interpretation of the judgment of the High Court, and Her Majesty’s Government would, in this as in all matters, desire to give weight to the opinions of the High Court of the Republic, it must be borne in mind that Her Majesty’s Government are entitled to define the interpretation of the law which was intended and contemplated when they assented to the deviation from the provisions of the Convention.

Sec. 30. An answer to the foregoing was sent on the 30th April 1890 (*G.B. 2, No. 42, p. 35*), in which the State Secretary of the South African Republic wrote:—

“ The Government regrets that it finds it impossible to adopt your reading of this judgment . . . . . The Chief Justice . . . . .

declared that, basing his view on the existing law, he could make no distinction between places where persons carried on business and those where they lived, and did not grant the application.

“ This Government is grateful to your Excellency for the declaration, of which, indeed, they never had any doubt, that Her Majesty’s Government would desire in this, as in all matters, to give weight to the opinions of the High Court of this Republic. It naturally is open for the Indian traders, just as to any other persons, to continue applying to that Court when they consider themselves aggrieved, and it would undoubtedly put an end to the existence of a twofold interpretation of the judgment which has been given if parties in similar circumstances again betook themselves to the High Court.

“ The Government feels quite assured that then also it would appear that its interpretation of the judgment is the correct one.

“ Your Excellency’s second remark relates to the right of Her Majesty’s Government to define the interpretation of the law which was intended and contemplated when Her Majesty’s Government assented to the deviation from the provisions of the Convention setting aside the principle which, in the opinion of this Government, is a correct one, that the lawgiver, when any doubt arises as to the interpretation of existing laws, is the person indicated to give such interpretation ; this Government must, with reference to this contention, again refer to what it tried to make evident in its letter of February last, &c.”

Sec. 31. In the “ Staats Courant,” of the South African Republic, of 27th September 1893, appeared a Resolution of the Volksraad, of 8th September (*G.B. No. 2, 105, p. 79.*), to the effect that Law No. 3, of 1885, should be strictly applied in such manner that all Asiatics and persons falling under the law should have to confine themselves, in respect both of habitation and of trade, to the locations assigned to them, with the exception of those whose leases (entered into before the locations had been assigned) had as yet not expired. A Government Circular, embodying this Resolution, was subsequently published (*G.B. 2, No. 113, p. 85.*)

Other correspondence besides that to which reference has already been made also took place (more particularly between the British Resident at Pretoria and the Government of the South African Republic), but as it is not relied upon by either of the Governments concerned, it need not be further noticed.

Sec. 32. No satisfactory settlement of the questions at issue between the two Governments having been arrived at, it was agreed to submit them to arbitration.

Sec. 33. In the Statement of the Case drawn up on behalf of Her Majesty’s Government, the claims put forward were :—

- (a.) That the Indian and other Asiatic traders, being British subjects, be allowed to reside in the towns of the South African Republic, in some quarter (“ wards and streets ”) which for sanitary reasons may be assigned to them ; and
- (b.) That they be allowed to carry on their trade or business in shops or stores in any part of the town.

Sec. 34. In the Statement of the Case drawn up on behalf of the Government of the South African Republic, the claims put forward on behalf of that Government, were :—

- (a.) That the South African Republic has full liberty to make such regulations in respect of coolies, Arabs, Malays, and Mohammedan subjects of the Turkish Empire, as it may think fit ; and
- (b.) That Her Majesty’s Government have no ground of objection should the Government of the South African Republic prohibit coolies, Arabs, Malays, and Mohammedan subjects of the Turkish Empire from having business premises upon any places in towns or villages other than those assigned to them by Government.

Sec. 35. It was agreed on 16th March 1895, on behalf of the two Governments, in terms of paragraph 11 of the Statement of Claim of the South African Republic, “ that the Arbitrator, taking into consideration the Statements of the Case put forward by Her Majesty’s Government and the Government of the South African Republic, respectively, and of the correspondence therein cited, might decide as to him, the Arbitrator, should appear to be equitable and just.”

Sec. 36. The facts of the case being thus far stated, I propose now to deal with the arguments advanced on both sides, so far as they appear to me to be of material importance to the case, and to state the grounds for the conclusions at which I have arrived. The arguments thus advanced relate to the interpretation and effect of



Article 14 of the Convention of London, and the position of the two Governments with reference thereto; to the terms in which Her Majesty's Government expressed their willingness to waive any such interpretation of the Convention as would interfere with reasonable legislation and the effect of such waiver; to the terms in which Her Majesty's Government withdrew their objections to Law No. 3 of 1885 as amended in 1886 and the effect of such withdrawal; and to the construction and effect of the amended Law No. 3 of 1885 itself.

Sec. 37. It was contended, in the first place, on behalf of the South African Republic, that it was not the intention of the parties to the Convention of London to include in the words "all persons other than natives," Coolies, Arabs, Malays, and Mohammedan subjects of the Turkish Empire; and that the Convention should be interpreted accordingly.

Sec. 38. In support of this contention, it was argued that if the literal interpretation of Article 14, as claimed by the British Government, were adopted, it would lead to certain unreasonable consequences, which could never have been in the contemplation of the contracting parties.

Sec. 39. The arguments favourable to this contention may be summarised as follows:—

- (1.) That inasmuch as the constitution of the South African Republic, the terms of which could not have been unknown to the British Government, lays down that no equality between the white and coloured races shall be tolerated, it cannot be supposed that there was any intention on the part of the delegates of the South African Republic to assent to, or on the part of the British Government to insist upon, any such breach of the Constitution as would be involved (with a literal reading of the Convention) in placing upon a footing of equality Europeans and foreign coloured races.
- (2.) That it cannot be presumed that it was the purpose of the contracting parties to place Christianised, civilised, and educated natives of the country in a far worse position than foreign heathen coloured races, such as Polynesians, Papuans, and Hindoos, as would actually be the case if a literal interpretation were adopted.
- (3.) That every European nation or nation of European origin has an absolute and indefeasible right to exclude alien elements which it considers to be dangerous to its development and existence, and more especially Asiatic elements, from settling within its territory; and that there is a strong presumption against any intention on the part of the delegates of the South African Republic to surrender this right, or on the part of Great Britain to insist upon a surrender of this right, more especially in favour of foreign coloured races who are not presumed to be the subjects of international rights (since international law is not supposed to exist otherwise than between civilised European races) and in some of whom (such as Polynesians, Papuans, &c.) Great Britain has absolutely no concern.

Sec. 40. In favour of a restrictive interpretation of the Convention, moreover, it was argued that, with the possible exception of a few Arab settlers who came into the country after the Convention of Pretoria, the influx of Arabs after the Convention of London was a newly emergent circumstance which the parties to the Convention never had in contemplation, and to which their attention could never have been directed; that the *ratio legis* for the exclusion of natives of South Africa applied with as much, if not greater, force to Asiatic natives; and that this *ratio legis* must be taken into consideration in the interpretation of Article 14 of the Convention.

Sec. 41. It is possible and, indeed, seems probable, from the terms of his Excellency the High Commissioner's letter of 28th January 1885 (*vide sec. 7 above*) that in making use of the expression "persons other than natives," the representatives of Her Majesty's Government had, as a matter of fact, in view solely the interests of white or European persons settling in the South African Republic, and that other coloured races than those native to South Africa were not thought of; and that in a country where a sharp line of demarcation is drawn between white and coloured races generally (as is apparent from the constitution of the South African Republic) apparently no efforts should have been made by its representatives to have the terms of exclusion made of wider application than to merely natives of South Africa, seems also to lend some support to such a supposition. Moreover it does not seem probable on the one hand that the South African Republic would willingly have agreed, without remonstrance, to surrender in

favour of foreign coloured races one of the most precious privileges of a young community—that of deciding for itself of what materials the future nation shall be built up; nor, on the other hand, that the British Government would deliberately have placed educated, Christianized, and civilised natives of South Africa in a worse position than foreign heathen coloured races.

Nevertheless, when Her Majesty's Government insisted upon a literal interpretation of Article 14 of the Convention, I am bound to hold that they were within their rights. For it is impossible to surmise what the Governments concerned would have done or would not have done had the subject of foreign coloured races expressly been brought to their notice. They might have made no stipulations in favour of Papuans and Polynesians, who now enjoy certain privileges, if included under the term "all persons other than natives" according to a strict interpretation of the Convention; on the other hand, the British Government might have insisted upon protecting the Indian and other Asiatic traders, whom alone in the present instance the British Government claim to protect. Accordingly, I do not feel at liberty to apply the alleged *ratio legis* for the exclusion of African natives to the case of foreign coloured races, and feel bound, therefore, to decide, as I do, against the general contention of the South African Republic that Article 14 of the Convention of London does not stand in the way of its making such legislative provisions as it may think fit, in respect of coolies, Arabs, Malays, and Mohammedan subjects of the Turkish Empire. And I do not consider that under the Convention the South African Republic is entitled to enact exceptional legislation in restriction of the liberty of Indian and Arab traders to have or to hire shops wherever they may like.

Sec. 42. It was argued on behalf of the South African Republic that even if Law No. 3 of 1885 had been in conflict with the provisions of Article 14 of the Convention, yet the South African Republic would have been justified in passing that law, inasmuch as by international law a treaty becomes voidable so soon as it is absolutely dangerous to the welfare of the State in a manner that had not been intended, and that this was the case here. I cannot admit the force of this contention in the present instance, supposing the principle of international law to be such as here laid down.

Sec. 43. It was further argued on behalf of the South African Republic that the Despatch of Lord Derby, of 19th March 1885 (*vide* sec. 9 above) read together with the letter of the High Commissioner of 28th January 1885 (*vide* sec. 7 above) constituted an admission that the literal interpretation of the Convention of London was not in accordance with the intention of the parties thereto; and that the British Government cannot withdraw from this admission after the South African Republic had acted upon it by adopting legislation to meet a case which, it followed from such admission, was really not provided for in the Convention.

Sec. 44. To me there does not seem to be any such admission, at all events not any admission that would justify the position taken up on behalf of the South African Republic. In the passage from the High Commissioner's letter, "it was doubtless not the intention of Lord Kimberley to prohibit the Transvaal Government from adopting, if necessary, special legislation for the regulation of Indian or Chinese coolie immigrants;" the words "to prohibit" may mean no more than "to refuse to allow." If this passage meant that the South African Republic should be entitled under the Convention, without reference to the British Government, to place Indian and Chinese coolie immigrants under the same disabilities as natives of South Africa, it would not have been necessary to amend Article 14 of the Convention in the manner suggested by his Excellency. With this view of mine on the contention just referred to it is not necessary for me to express any opinion as to what would have been the effect of any such admission as alleged on the part of the High Commissioner, or to dwell longer on this point.

Sec. 45. As to the contention of the South African Republic that Law No. 3 of 1885 was passed only after the assent of the British Government had been given to reasonable legislation in the direction desired by itself (*vide* sec. 10 above), I am of opinion that the British Government merely assented to reasonable legislation, such as had been suggested by the High Commissioner, namely, "special legislation for the regulation of Indian or Chinese coolie immigrants." In view, however, of the assent later given by Her Majesty's Government to the legislation actually affected, any expression of opinion on this point can be of but little importance.

Sec. 46. As regards the terms upon which Her Majesty's Government gave their assent to Law No. 3 of 1885 (as subsequently amended), after that law had been passed it was contended on behalf of the South African Republic that after such assent had been given in the manner in which it was given, Her Majesty's Government could no longer raise the objection that that law was not in conformity with the 14th article of the Convention of London. I concur with this view entirely.

Sec. 47. The contention was advanced on behalf of Her Majesty's Government that in the execution of Law No. 3 of 1885 it must be considered that there are imported into the law the conditions under which the assent of that Government was given to that law. These conditions, I understood it to be asserted, were such that (1) any action taken under the law must not be unreasonable; and (2) any action taken under the law must be necessary for the protection of the public health. This leaves the question open; who in every individual case is entitled to decide whether any act is reasonable or unreasonable, or absolutely necessary for the protection of the public health or not necessary, but this is a question which it does not appear to me to be necessary now to discuss.

Sec. 48. As regards the alleged requirement of reasonableness, I do not consider that it was imported into the law in any special degree by virtue of the assent given, in the manner given, to the law by the British Government. That Government having at first intimated that they would not oppose reasonable legislation in a certain direction had the opportunity of satisfying themselves when the enactment came before them as to whether its provisions were reasonable or not. They might have refused to give assent to it if they considered that it was not such legislation as they had declared they would not oppose, but having subsequently assented, no investigation can be further made as to whether it is unreasonable or not. If any act that was done in strict accordance with the law is impeached it is a sufficient answer to say that it was so done in strict accordance with the law, and there may be no after-inquiry at the instance of the British Government as to whether the act is reasonable or otherwise.

Sec. 49. It does not seem to me, either, to be a very practical proposal to read this requirement in a special degree into the law passed by the Volksraad of the South African Republic, inasmuch as "reasonableness" in itself is such an abstract and relative term that it would be difficult to lay down in any particular case what is reasonable or otherwise. In the present instance, of course, this requirement would have relation to the circumstances of the South African Republic, and would have to be judged of in the light of those circumstances; and it has been argued that, since the Legislature of that country were in a far better position to form a correct judgment as to what was reasonable or unreasonable with reference to local circumstances than a foreign Government could be, the endorsement by the Volksraad of the proceedings of the Government goes far to show the reasonable nature of such proceedings. It was also remarked that since, by the terms of the Convention, the South African Republic had the right to exclude entirely from its territory native races, a right of exclusion which Sir Hercules Robinson was willing to extend also to Indian and Chinese coolie immigrants, it could not be so unreasonable in the case of other coloured immigrants to exercise the smaller right of controlling their methods of trade.

It is alleged that the methods of trade of the Asiatic races generally are such that it is most desirable for sanitary reasons that they should be entirely isolated. Of this I have no means of judging. Independently, however, of sanitary reasons, I must confess that I would not wish to undertake to say that there is anything unreasonable in itself in restrictions being imposed upon Asiatic trading in competition with that of white persons, supposing the allegations set forth in the various petitions to the Volksraad to be correct. The question as to whether anything is reasonable or unreasonable in any case entirely depends upon the circumstances of that case, to those accustomed to the habits of thought prevalent in countries where a certain state of things does not present itself as a pressing danger that may appear unreasonable which in another country, where this state of things threatens the welfare of the community may appear to be an absolutely necessary act of national self-preservation. Things, too, may appear in a very different light to the doctrinal theorist and the man of practical experience.

I need hardly point out the numerous instances where principles theoretically unreasonable have been adopted as the bases of practical legislation; as where, in some of the States of the American Union, intermarriage between whites and blacks, and education in common schools of white and black children are prohibited by the constitution; or where laws for the exclusion of Chinese have been passed in Australia and

Canada. In these cases it cannot be supposed that the legislation was, under the special circumstances of each particular case, unreasonable. And in connexion with this point, I may here cite the remarks of a recent writer who shows a wide knowledge of the subject with which he deals, in preference to putting forward any opinion of my own with regard to the United States Chinese Exclusion Act. He writes as follows:—

“The justice of Chinese exclusion is clear when we once apprehend that it is a matter of life and death to the European race to keep to itself those temperate regions, such as the United States and Australia, in which alone they can live in health . . . . That the industrial extermination of the white labourer is the inevitable result of unrestricted Chinese immigration has been proved beyond question in America and Australia. It is understating the case to say that the standard of existence of the white labourer is lowered by Chinese competition. The white labourer cannot subsist on the wages of the Chinese, whose wants are fewer, as a result chiefly of his lower stage of civilization and partly of the fact that, unlike the white man, he has no family to support. The white labourer is simply starved out of existence, or driven out of the country. In a word, justice to Europeans demands Chinese exclusion.” (*Law Quarterly Review*, Vol. X., p. 269. *Recent Questions of International Law*.)

Very similar arguments are used by the memorialists in the petitions to which I have already referred with regard to Indian and Arab competition in business, and they are possibly not quite unfounded.

Sec. 50. With regard to the alleged requirement of reasons of public health for any act done under Law No. 3 of 1885, I hold that no such requirement is imported into Law No. 3 of 1885 through the terms of the assent of the British Government; but that sanitary reasons are required only so far as that law itself in express terms requires them. If the law was not explicit enough the British Government could have withheld their assent thereto; having given their assent, they cannot object to proceedings, supposing these to be in strict accordance with the law, because unforeseen consequences have ensued.

Sec. 51. With respect to the assent given by Her Majesty's Government to Law No. 3 of 1885, it is clear that it was given without reserve, condition, or qualification. Two letters relate to it. In the first, Sir Hercules Robinson says that, in view of the opinion of the State President of the South African Republic that the law was necessary for the protection of the public health, he would not advise Her Majesty's Government to offer further opposition to it. Supposing that, notwithstanding the later communication made on behalf of Her Majesty's Government to the Government of the South African Republic, this letter must be regarded as affecting the position of the latter Government, I fail to see that his Excellency reserves any right to object to any act purporting to be done under the provisions of Law No. 3 of 1885, and actually so done, on the ground that in the opinion of himself or of Her Majesty's Government it is not necessary for the public health. His Excellency's motives in recommending the concession cannot affect the fact that the concession was actually made. If it were requisite in the execution of the law to have a regard to what was in the mind of the British Government or their representatives on the one side, it might be as necessary also to discover from the correspondence what was in the mind of the State President of the South African Republic on the other side, when he suggested that the proposed legislation was necessary for the sake of the public health; and it is not impossible that it might then be argued that he had in view that complete “isolation” of Arabs and Coolies that was sought by some of the memorialists whose petitions had been forwarded by the Government of the South African Republic to Her Majesty's Government, and were referred to in the State Secretary's letter of 6th January 1885 (*vide* sec. 6 above).

Sec. 53. Be this, however, as it may, it is clear that in the second letter referring to this subject the assent given by the British Government to the enactment as amended was unqualified. It may be that Her Majesty's Government, in assenting, attached the same value to his Honour the State President's opinion as his Excellency the High Commissioner did; it may also be that they acted on their own judgment as to the merits of the law after it had been amended. It may be that they adopted his Excellency's motives, it may be that they acted upon distinctly different motives. In any case a simple intimation was made “That Her Majesty's Government do not see occasion any longer to object to the legislation of the South African Republic in regard to Asiatic traders, having regard to the amendments which the Volksraad has introduced into the Law of 1885.”

It is obvious, then, that in so far as Law No. 3 of 1885 (as amended) derogated from the provisions of Article 14 of the Convention of London, such derogation was effected with the full approval of Her Majesty's Government.

Sec. 54. Law No. 3 of 1885 was purely a municipal law of the South African Republic, and nothing that had occurred between the Government of that State and Her Majesty's Government could in any way affect its character as a purely municipal law. It is clear that being such, all the ordinary incidents of a municipal law (in so far as such incidents are not expressly or by necessary implication excluded) must attach to Law No. 3 of 1885.

Sec. 55. I hold that when the British Government assented to the legislation effected by the Volksraad of the South African Republic, they were bound by the indisputable principle that the legislative enactments of a country are subject to the exclusive interpretation of the tribunals of that country; and they must be held to have acquiesced in that principle.

I do not here refer to the so-called "authentic" interpretation by the legislative body itself, for though no doubt a legislative body, constituted of the same members as when it passed a law, would best know what it meant when it passed such law, yet such "authentic interpretation" must be considered as more in the nature of fresh legislation than of explanation of previous legislation.

Sec. 56. It would be impossible for me anyway to assent to the contention put forward in the letter of his Excellency Sir Henry Loch, in his letter of 3rd March 1890 (*vide* sec. 29 above), to the effect that "Her Majesty's Government are entitled to define the interpretation of the law which was intended and contemplated when they assented to the deviation from the provisions of the Convention." Nor, in fact, do I understand that this contention is now insisted upon on the part of Her Majesty's Government.

Sec. 57. It is perfectly clear that persons who settle in a foreign country are not only subject to its laws, but also to the interpretation of those laws by the legally appointed tribunals. When access to such tribunals is refused to them, or justice is in any other way denied to them, they may have a right to carry their complaints to the Government of the country of which they are subjects, and their Government may have a right to remonstrate; this also may be the case were the tribunals of the country incompetent to declare the law as over against the Government of the country, or were the Government to act in opposition to the decisions of its highest tribunals; but nothing of the kind is here asserted; in fact, the Government of the South African Republic in these despatches themselves suggest that the persons concerned should have recourse to the courts of the country; they rely upon a judgment of the High Court in defence of the position taken up by themselves, and declare themselves bound to respect that judgment. It would be a calamitous and intolerable position that aliens in any country should be allowed to complain to their own governments that the local tribunals have erred in the interpretation of the law of the country. The judgments of such tribunals over matters within their jurisdiction are final and of conclusive force everywhere; there can be no concurrent jurisdiction in any extraneous body to interpret the law; nor can any appeal lie from such tribunals to any foreign body or government. Nor can it be supposed that the Volksraad, in acquiescing in the assent given by Her Majesty's Government, and in enacting the law, or in any subsequent proceeding, contemplated the possibility of the law by itself being subject to interpretation by any tribunal but those lawfully appointed in accordance with the constitution of the South African Republic.

Sec. 58. Her Majesty's Government cannot reasonably insist upon greater rights and privileges on behalf of Her Majesty's subjects than those subjects themselves are entitled to claim. I hold, therefore, that on questions that have arisen, and on the various questions which possibly may still arise in the application of Law No. 3 of 1885, as amended in 1886, with reference to the interpretation and effect of that law, the decisions of the competent tribunals of the South African Republic must be considered as decisive both in respect of the individuals affected thereby and of Her Majesty's Government.

Sec. 59. The further questions raised relate to the interpretation of Law No. 3 of 1885, as subsequently amended. These I need merely mention as having been mooted (with a few remarks that it seems to me not improper to make), as I hold it to be incompetent for me to give any decision thereon.

Sec. 60. On the side of the Government of the South African Republic it was maintained—

That the proceedings of that Government in regard to Asiatics resident in that country, which proceedings Her Majesty's Government complain of, were in

conformity with the law passed in 1885, amended in 1886, and agreed to by the British Government;

That the words "for habitation" used in sections 2*b* and 2*d* of the amended law have reference as well to places of business as to places for sleeping, and that therefore the Government of the South African Republic has the right to prohibit the coloured persons mentioned in the law to carry on business in towns in other places than those assigned to them for that purpose;

That the word "location" used in the law referred to has reference not only to pieces of ground reserved for coloured races outside of proclaimed towns, but also to pieces of ground reserved for places of abode for such coloured persons on town lands; and

That the word "Coolie" means in South Africa any person belonging to or descended from the native races of Asia.

Section 61. On behalf of Her Majesty's Government, on the other hand, it was maintained—

That there is nothing in the law of 1885 which prevents Her Majesty's Asiatic subjects from carrying on their business or trade in any portion of a town;

That the words "for sanitary purposes" and "for habitation" should be construed as referring to the dwelling-places of such traders, and not to places of business;

That the words "streets and wards" have reference to the special quarter of the town which may be assigned to such persons who may be residing in the town;

The word "locations" has reference to a special place which may be assigned to such persons who may be residing, not in towns, but in country places.

Section 62. With reference to the contention put forward on behalf of Her Majesty's Government that the word "locations" has reference to special places which may be assigned to such persons who may be residing, not in towns, but in country places, I am not aware that this is any longer insisted upon; should it in any specific case be insisted upon, the matter may have to be decided by the courts of law of the South African Republic.

Section 63. As regards the question whether the words "for habitation" and for "sanitary purposes" have reference only to dwelling places, and not to business premises, I would feel myself bound by any decision the High Court of the South African Republic may have given on the subject, were it necessary for me to give a decision thereon. It is indeed said that no actual decision on that point was given by the High Court. It is not for me to give an interpretation of the decision of the High Court, but if it be so that no such decision has actually been given, the point is one that may at any time arise, and then it will be with the tribunals of the South African Republic to give the necessary decision thereon.

Section 64. As regards the contentions of the South African Republic that its proceedings in regard to the Asiatics were in conformity with the law, it is clear that if the High Court of the South African Republic has decided that they were in conformity with the law, they must be deemed to be such. In every specific case, where proceedings alleged to have been undertaken in execution of the law are impeached, it will be for the tribunals of the South African Republic to declare in how far such proceedings shall have been lawful or not.

Section 65. With regard to the meaning of the word "coolies," counsel for Her Majesty's Government fully admitted that in popular parlance no fine or very accurate discrimination is made between the different classes of Indian races, and that it is generally also applied to Arabs.

This, however, is a matter on which I need give no decision.

Section 66. It may be proper here to remark that it was observed by counsel for Her Majesty's Government that in the present arbitration Her Majesty's Government insisted upon what they considered to be the true effect of the law taken into consideration with the despatches relating thereto, only so far as it affected British subjects, without prejudice to their right to object to this law (which related generally to the native races of Asia, including thereunder the so-called Coolies, Arabs, Malays, and other Mohammedan subjects of the Turkish Empire) in respect of the manner in which it affected other than British subjects.

Section 67. After consideration of the whole matter, I come to the conclusion (and upon this conclusion my award is based) that the claims of neither of the two Governments concerned can be fully sustained, and that, in fact, they must be disallowed, in so far as they are not in accordance with the following principle, which, under the

circumstances, I hold to be equitable and just; that is to say:—That the South African Republic is bound and entitled in its treatment of Indians and other Asiatic traders, being British subjects, to give full force and effect to the provisions of Law No. 3 of 1885 enacted, and in the year 1886 amended, by the Volksraad of the South African Republic, subject (in case of objections being raised by or on behalf of any such persons to any such treatment as not being in accordance with the provisions of the said law as amended) to sole and exclusive interpretation in ordinary course by the tribunals of the South African Republic.

Section 68. It remains only for me to remark, with regard to the resolution of the Volksraad of the South African Republic of 8th September, 1893, marked Art. 1,353 (*G.B.* 2, No. 105, p. 79), that in terms of my award, Her Majesty's Government may rightly object to that resolution, and to any similar amplification by the Legislature of the South African Republic of Law No. 3 of 1885, as also to the circular of December, 1893, embodying that resolution. That resolution does not merely convey instructions to its own functionaries as to the execution of the above-mentioned law; it virtually also has the effect of establishing a legislative interpretation of that law which may or may not be in accordance with judicial decision, but which at all events the tribunals of the country will, no doubt, consider themselves bound in future to adopt and to recognise as having force of law, so long as it remains in existence.

MELIUS DE VILLIERS.

Bloemfontein, April 2, 1895.

Enclosure 2 in No. 5.

FROM IMPERIAL SECRETARY, Cape Town, to C. HANGER, Esquire, Secretary to Arbitration Court, Bloemfontein.

SIR,

Government House, Cape Town, April 9, 1895.

I AM directed by his Excellency the High Commissioner to acknowledge the receipt of your letter of the 3rd instant, communicating the following documents:—

- (1.) The Award in the recent Arbitration case between Her Majesty's Government and the Government of the South African Republic.
- (2.) The reasons for the same.
- (3.) Memorandum of expenses.

I am directed to enclose a cheque for 16*l.* 17*s.* 3*d.*, being the half-share of the expenses which is payable by Her Majesty's Government, and I will be glad if you will sign and return the enclosed vouchers.

His Excellency will not fail to communicate to Her Majesty's Government his high sense of the courtesy displayed by the Government of the Orange Free State, and by his Honour the Chief Justice, in granting their valuable assistance for the settlement of a long standing controversy, but he desires to at once avail himself of this opportunity for tendering his sincere thanks to his Honour for his valuable, conscientious, and painstaking labours.

I am directed also to express thanks to the officers of the court for the assistance rendered by them.

G. Hanger, Esq.,  
Secretary to Arbitration Court,  
Bloemfontein.

I have, &c.

GRAHAM BOWER,  
Imperial Secretary.

No. 6.

LIEUT.-GENERAL GOODENOUGH to the MARQUESS OF RIPON.  
(Received May 11, 1895.)

Government House, Cape Town,  
April 20, 1895.

MY LORD MARQUESS,

WITH reference to my Despatch of the 9th instant,\* I have the honour to enclose, for your Lordship's information, a copy of a despatch which I have received from Her Majesty's Agent at Pretoria relative to the position of Indian traders in the South African Republic.

\* No. 5.

I apprehend that the questions decided at the recent arbitration are no longer open to discussion, and that Her Majesty's Government are bound loyally to abide by the award of the arbitrator.

I have, &c.

W. H. GOODENOUGH, Lieut.-General,  
Administrator and High Commissioner.

Enclosure in No. 6.

FROM HER BRITANNIC MAJESTY'S AGENT, Pretoria, to His Excellency the HIGH COMMISSIONER, Cape Town.

EXTRACT.

Pretoria, April 12, 1895.

I HAVE the honour to enclose, for your Excellency's information, a letter I received from the Indian traders at Johannesburg in reference to the recent award on the Asiatic question. Several deputations of Indians have also waited upon me for advice on the same subject. It is reported and expected that the Government of the South African Republic will soon take steps to close the Indian houses in towns and remove the traders to locations outside. This will inevitably result in the ruin of a large number of these people, who opened business under licences originally granted and subsequently refused. I am not acquainted with the views of Her Majesty's Government upon the subject, and consequently unable to give the Indians any answer. I shall therefore be glad to receive your Excellency's instructions how to act in the matter.

HONOURABLE SIR, Johannesburg, April 10, 1895.

We, the undersigned British Indians, residing in Johannesburg and neighbourhood, desire to bring to your notice that the result of the recent arbitration *re* our status in this Republic, held at Bloemfontein, in the Orange Free State, places us in a false position.

We have always relied upon the 14th clause of the "London Convention," which entitled us to live, trade, travel, &c. in any part of this Republic.

On the strength thereof we have established ourselves in business, and many, if not most of us, have large stocks of merchandise.

By the said arbitration it appears to us that we are, pure and simple, thrown upon the mercy of the law courts of this country, and if their power be supreme we may at any time be compelled to break up our respective businesses, and remove to locations which would mean absolute ruin to us.

We have always observed the laws of this country as being the land we live in, and would therefore beg of you to protect our interests as you have always done, and for which we heartily thank you, so that we may not be driven to despair, and so commit any act that we might afterwards regret.

Thanking your Honour in anticipation,

We have, &c.

P. LEATHAPADIYACHY.

AROOMOOGARN.

R. COOPORSAMY NACKER.

KISTNEISEMY.

For the British Indian Community,  
Johannesburg and Suburbs.

To the Honourable Sir Jacobus de Wet,  
Her Majesty's British Resident,  
Pretoria.



No. 7.

LIEUT.-GENERAL GOODENOUGH to the MARQUESS OF RIPON.  
(Received May 20, 1895.)

Government House, Cape Town,  
April 29, 1895.  
MY LORD MARQUESS,  
I HAVE the honour to enclose for your Lordship's information a copy of a despatch which I have received from Her Majesty's Agent at Pretoria covering a petition from the Pretoria and Johannesburg Indian traders relative to the recent arbitration. It appears to me that the award of the arbitrator is binding on Her Majesty's Government, and that there is no course open but to abide by it.  
I have, &c.  
W. H. GOODENOUGH, Lieut.-General,  
Administrator and High Commissioner.

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Enclosure in No. 7.

FROM HER BRITANNIC MAJESTY'S AGENT, Pretoria, to His Excellency the  
HIGH COMMISSIONER, Cape Town.

Government House, Cape Town,  
April 24, 1895.  
SIR,  
I HAVE the honour to transmit for your Excellency's information and instructions a petition received from the Pretoria and Johannesburg Indian traders, having reference to the arbitration on the Indian question at Bloemfontein in March last.  
I have, &c.  
J. A. DE WET,  
Her Britannic Majesty's Agent.  
His Excellency the High Commissioner,  
Cape Town.

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To His Honour Sir JACOBUS DE WET, K.C.M.G., Her Majesty's Agent, Pretoria.

THE memorial of Tayob Khan and Abdol Guny, of Pretoria, and Hajee Habeb, Hajee Dada, of Johannesburg, who act as a committee on behalf of the British Indian merchants in this Republic.

We respectfully request your Honour to place yourself in communication with his Excellency the High Commissioner in order to ascertain whether Her Majesty's Government will be satisfied with the award given by the arbitrator in the recent arbitration held at Bloemfontein, in the Orange Free State, between Her Majesty's Government and the Government of the South African Republic on the Indian question. As your Honour is aware, the arbitrator has decided that Law 3 of 1885 as amended by Volksraad's Besluit of 1886, must be enforced by this Government, and that in the event of any dispute or difference as to the interpretation of that law, the High Court of this Republic must decide such difference.

In one of the Green Books, No. 2, 1894, pp. 31 and 35, put in at the above-mentioned arbitration by the Government of this Republic statements are made to the effect that his Honour the Chief Justice, in giving judgment in certain application made before the High Court by Ismail Suliman and Co., held that no difference could be made between places where business is carried on or where Indians reside. In view of these facts, we respectfully submit, without in any way impugning the High Court, that it would be a foregone conclusion if the statements referred to above as to the judgment of the Chief Justice be correct, that the judgment of the Court in any case submitted to it under the above quoted law would be against the Indian subjects of Her Majesty in this Republic. As, therefore, the arbitrator did not decide the question submitted to him in terms of the deed of submission, but practically left it to the decision of the High Court of this Republic, we would respectfully submit that the arbitrator did not decide the question in terms of the reference to him. We therefore respectfully request your Honour to communicate with Her Majesty's Government and ascertain whether they will be satisfied with the above award and acquiesce therein.

Dated at Pretoria, this 16th day of April 1895.

TAYOB HAYEE KHAN MOHAREND.  
ABDOOL GANL  
HOJEE HABIB, HOJEE DADA.

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No. 8.

LIEUT.-GENERAL GOODENOUGH to the MARQUESS OF RIPON.  
(Received May 27, 1895.)

Government House, Cape Town,  
May 6, 1895.

MY LORD MARQUESS,

WITH reference to your Lordship's Despatch of the 22nd March,\* I have the honour to enclose a copy of a despatch from Sir J. A. de Wet, transmitting an affidavit by Ibrahim Mahomed Patel, the person who was prevented from opening a store at Krugersdorp.

I have forwarded Sir Jacobus de Wet a copy of Mr. Justice Melius de Villiers' award.

I have, &amp;c.

W. H. GOODENOUGH, Lieut.-General,  
Administrator and High Commissioner.

Enclosure in No. 8.

FROM HER BRITANNIC MAJESTY'S AGENT, Pretoria, to His Excellency the  
HIGH COMMISSIONER, Cape Town.

SIR,

Pretoria, April 27, 1895.

I HAVE the honour to acknowledge the receipt of your Excellency's despatch of the 18th instant, with enclosures, and in compliance with instructions beg to transmit an affidavit by Ibrahim Mahomed Patel, the person who was prevented from opening a store at Krugersdorp. I presume this is the case referred to by Mr. Arnold Forster in his letter to Mr. Buxton. On the general question of the Indian traders I have so often reported that I could not say anything new. I presume the Bloemfontein arbitration will give a different aspect to the matter, if the newspaper reports of the award are correct, which is the only information I have on the subject.

I have, &amp;c.

J. A. DE WET,

His Excellency the High Commissioner,  
Cape Town.

Her Britannic Majesty's Agent.

## AFFIDAVIT.

I, Ibrahim Mahomed Patel, of Johannesburg, do make oath and say that:—

I am a commission agent at Johannesburg. In the January of this year I opened a store in Krugersdorp. This store is situated on the Market Square.

The licence was taken out in the name of Mr. E. Houne, of Messrs. Gordon, Mitchell & Co. I paid 7*l.* 10*s.* for the licence.

As soon as I took the store I had goods worth 600*l.* sent from Johannesburg. The way-bills were made up in the name of "Ibrahim Mahomed and Co."

After the goods were passed by the Field Cornet and the way-bills were stamped, I unpacked some of my goods. Three hours later on the same day the Field-Cornet came up and asked to be shown the way-bills and the licence. He then took away from me both the way-bill and the licence, and took me to the magistrate of the place.

The magistrate ordered me to remove the goods to Johannesburg because I was an Indian. I drew the attention of the magistrate to the fact that the licence was taken out in the name of a European; that I also held a power of attorney from that European.

On the magistrate still persisting in his order and ordering instant removal, I went to a lawyer, and through him succeeded in getting three days during which to remove the goods.

During the interval I engaged a Johannesburg attorney to fight the case, but did not succeed. I therefore removed the goods to Johannesburg.

I had a lease of the above store for one year. The whole matter has cost me 75*l.* Had it not been for the kindness of the Johannesburg merchants who took back the goods from me my loss would have been far more serious.

I know from experience that there is no regularity about such proceedings. There are places in the Republic where we can trade with impunity while at other places it is absolutely impossible to trade, no matter in what part of the town the licence is asked for.

IBRAHIM MAHOMED.

Sworn before me at Pretoria, this the 26th day of April 1895.

EDWARD COHEN,

J.P. for the South African Republic.

No. 9.

The MARQUESS OF RIPON to SIR HERCULES ROBINSON.  
(Sent June 22, 1895.)

TELEGRAPHIC.

INFORM President of South African Republic that Her Majesty's Government are prepared to accept award of arbitrator in relation to British Indians if course suggested by him at end of his reasons is adopted, viz., that Volksraad of South African Republic should repeal resolution of 8th September 1893, and Government of South African Republic should withdraw Circular of December 1893, so as to allow courts of justice to give an unfettered interpretation of Law of 1885 as amended.

I have received telegrams from Indians stating that they have received notice to remove, and praying that action may be stayed. Should you not urge Government of South African Republic to do so until Resolution, &c. of 1893 are cancelled, and a test case can be tried?

No. 10.

SIR HERCULES ROBINSON to the MARQUESS OF RIPON.  
(Received June 24, 1895.)

Government House, Cape Town,

June 4, 1895.

MY LORD MARQUESS,

I HAVE the honour to enclose a copy of a despatch from Sir J. A. de Wet, covering petitions addressed to your Lordship and to the Viceroy of India, from Indians resident at Pretoria and Johannesburg, relative to the award recently given by his Honour the Chief Justice of the Orange Free State upon the status of British Indians in the South African Republic.

The very long and able argument contained in the petition to your Lordship does not call for any comment from me. It is idle to discuss whether the treatment accorded to Her Majesty's Indian subjects is just or fair. The points are whether the treatment is legal, and whether Her Majesty's Government would in any way better the position of the Indians by seeking to go behind the decision of the arbitrator.

I do not think that it would be right or proper to seek to set aside an award to which Her Majesty's Government have submitted in advance, and I am satisfied that even if Her Majesty's Government were to adopt such a course the position of the Indians would be in no way improved.

I have, &c.

HERCULES ROBINSON,

Governor and High Commissioner.

Enclosure in No. 10.

FROM HER BRITANNIC MAJESTY'S AGENT, Pretoria, to His Excellency the HIGH COMMISSIONER, Cape Town.

SIR,

Pretoria, May 30, 1895.

I HAVE the honour to transmit two petitions handed to me by the Indians of Pretoria and Johannesburg, one addressed to the Marquess of Ripon and the other to the Viceroy of India.

I have, &c.

J. A. DE WET,

Her Britannic Majesty's Agent.

His Excellency  
the Governor and High Commissioner,  
Cape Town.

To His Excellency the Right Honourable the MARQUESS OF RIPON, Her Majesty's  
Principal Secretary of State for the Colonies, London.

The Petition of the British Indians residing in the South African Republic

Humbly sheweth,

That your petitioners respectfully venture to approach your Excellency in connexion with their position in the South African Republic, especially as affected by the award lately given by the Chief Justice of the Orange Free State in the Indian Arbitration Case.

2. Your petitioners, whether as traders, shopkeepers' assistants, hawkers, cooks, waiters, or labourers, are scattered over the whole of the Transvaal, though the greatest number is settled in Johannesburg and Pretoria. Of traders there are nearly 200 whose liquidated assets would amount to nearly 100,000*l*. Of these about three firms import goods directly from England, Durban, Port Elizabeth, India, and other places, and have thus branches in other parts of the world whose existence mainly depends upon their Transvaal businesses. The rest are small vendors having stores in different places. There are nearly 2,000 hawkers in the Republic who buy goods and hawk them about, while those of your petitioners who are labourers are employed as general servants in European houses or hotels. They number about 1,500 men, of whom about 1,000 live at Johannesburg.

3. Your Excellency's petitioners, before entering into a discussion of their precarious position in the State, would, with the greatest deference, venture to point out that your petitioners, whose interests were at stake, were never once consulted as to the arbitration, that the moment the question of arbitration was broached your petitioners protested both against the principle of arbitration as against the choice of the arbitrator. Your petitioners conveyed the protest verbally to his Honour the British Agent at Pretoria, who, your petitioners here take the opportunity to say, has always been most courteous and attentive to those of your petitioners who had occasion to wait upon him from time to time in connexion with the grievances of the Indians in the Transvaal. Your petitioners would also draw your Excellency's attention to the fact that even a written protest was sent to Her Majesty's High Commissioner at Capetown. However, your petitioners, by dwelling upon the matter, do not at all wish to cast the slightest reflection on the highmindedness or probity of the learned Chief Justice of the Orange Free State or to question the wisdom of Her Majesty's officers. Having known the bias of the learned Chief Justice against the Indians, your petitioners thought, and still humbly venture to think, that he could not, in spite of his most strenuous efforts to do otherwise, bring to bear upon the question an equi-balanced judgment which is so necessary to a right and proper perception of the facts of a case. Judges having a previous knowledge of cases have been known to refrain from deciding them lest they should unconsciously be led away by preconceived notions or prejudices.

4. The reference to the learned arbitrator in the case submitted on behalf of Her Majesty's Government runs thus :—

"The arbitrator shall be free to decide either in favour of the claims put forward by Her Majesty's Government or by the South African Republic, or to lay down such interpretation of the said ordinances, read together with the despatches referring to the question, as shall appear to him to be correct."

5. The award, as published in the papers, is as follows :—

- (a.) The claims of Her Majesty's Government and of the Government of the South African Republic respectively are disallowed, save and except to the extent and degree following, that is to say :—
- (b.) The South African Republic is bound and entitled in its treatment of Indian and other Asiatic traders, being British subjects, to give full force and effect to Law No. 3, of 1885, enacted, and in the year 1886 amended, by the Volksraad of the South African Republic, subject (in case of objections being raised by or on behalf of any such persons to any such treatment as not being in accordance with the provisions of the said law as amended) to sole and exclusive interpretation in the ordinary course by the tribunals of the country.

6. Now, your petitioners humbly submit that the above award not being in terms of the reference is void, and that Her Majesty's Government is not, therefore, bound by it. The very object with which the arbitration was decided upon is, it is respectfully pointed out, frustrated. The reference leaves it to the arbitrator *either* to allow the claims of one of the two governments *or* to lay down such interpretation of the ordinances as may appear to him to be correct, regard being had to the despatches referring to the question. Instead of interpreting, the learned arbitrator has delegated

the interpretation, and in delegating has, moreover, limited the delegation to such persons as by the very nature of their position cannot possibly avail themselves of the procedure and evidence that could be availed of, nay, that was expressly stipulated to be availed of, by the arbitrator, and that would tend to enable them to lay down such an interpretation as would be just and equitable, though, perhaps, not strictly legal.

7. The award, your petitioners submit, is invalid on two grounds. First, because the arbitrator has delegated his function, which no arbitrator in the world can do. Secondly, the arbitrator has failed to keep to the reference, inasmuch as he has left undecided the question that he was expressly called upon to decide.

8. The object, it would seem, was *not* to have the question of interpretation decided in a law court, but to terminate the question once for all. Had not such been the case, Her Majesty's Government never would have entered into the voluminous correspondence with regard to the question of interpretation as found in the Transvaal Green Books, Nos. 1 and 2, 1894. The question that was to be, and your petitioners submit can only be, decided diplomatically and politically has been left, if the award is to be valid, to be decided judicially only. And if it is true that the Chief Justice of the Transvaal has already expressed his opinion in the case of Ismail Suliman, as is specially alleged in the case presented on behalf of the Transvaal Government, the decision of the question is almost a foregone conclusion. To prove that this is so, your petitioners refer your Excellency to newspapers of current dates, especially the "Johannesburg Times" of 27th April 1895 (weekly edition).

9. But your petitioners' appeal to your Excellency is on higher and broader grounds; your petitioners have every confidence that the question that affects thousands of Her Majesty's subjects, on a proper solution of which depend the bread and butter of hundreds of British subjects and a technical solution of which may bring ruin to hundreds of homes and may leave them penniless, will not be left to be decided merely in a court of law, where everybody's hands are tied down, and where such considerations find no place. So far as the traders are concerned, if the contention of the Transvaal Government is ultimately upheld, it means absolute ruin to them, and not only to them personally, but to their families and relations and servants, both in India and the Transvaal, who are dependant upon them. It is impossible for some of your petitioners who have been trading for a long time in the Transvaal to seek "pastures new" and manage to keep body and soul together, if they are driven out of their present position through no fault of their own, but merely, as will be seen presently, because of the misrepresentations of a few interested persons.

10. The gravity of the question and immense interests that are at stake, are your petitioner's excuse for the following somewhat lengthy *resumé* of their position, and for humbly soliciting your Excellency's undivided attention to it.

11. The unfortunate departure from the 14th clause of the Convention of 1881, which protects *equally* the interests of *all* persons *other than natives* has originated and been countenanced in and by the assumption that the Indian settlers in the Transvaal do not observe proper sanitation, and is based on the misrepresentations of certain interested persons. It has been emphatically laid down by Her Majesty's Government throughout the correspondence about the Law 3 of 1885 that separate streets might be set apart for the Indians in the interests of the public health, but that they cannot be compelled to trade in certain fixed parts only of the towns. After the Law 3 of 1885 was strenuously opposed for some time, the then High Commissioner, Sir H. Robinson, in withdrawing opposition to the amended Law of 1886, says in his letter, 26th September 1886, page 46, Green Book, No. 1, 1894, "Although the amended law is still a contravention of the 14th article of the convention of London, I shall not advise Her Majesty's Government to offer further opposition to it in view of your Honour's opinion that it is necessary for the *protection of the public health.*" Even the reference to the arbitrator and the Law 3 of 1885 shows clearly that the departure from the Convention was to be assented to only for sanitary reasons.

12. Your petitioners hereby enter their most respectful but emphatic protest against the assumption that there exist sanitary reasons for such a departure; your petitioners hope to be able to show that no such reasons exist.

13. Your petitioners append hereto three certificates from doctors which would speak for themselves, and which show that their dwellings are in no way inferior to those of the Europeans from a sanitary point of view. (App. A., B., C.) Your petitioners challenge comparison of their own dwellings with those of the Europeans who have theirs in their immediate neighbourhood. For it so happens in Pretoria that side by side with some of your Petitioners' houses and stores are situated also the houses and stores of Europeans.

14. The following unsolicited testimonial will speak for itself. On the 16th October 1885, Mr. Mitchell, the then Joint General Manager of the Standard Bank, writes thus to the High Commissioner, Sir H. Robinson:—

“It may not be deemed out of place if I add that they (the Indian traders) are within my knowledge in all respects orderly, industrious, and respectable people, and some among them are merchants of wealth and position, having establishments on a large scale in Mauritius, Bombay, and elsewhere.” (Green Book 1, p. 37.)

15. About 35 European firms of repute “distinctly declare that the aforementioned Indian merchants, the majority of whom come from Bombay, keep their business places as well as their residences in a clean and proper sanitary state, in fact, just as good as the Europeans.” App. D.

16. It is true, however, that this does not appear in the newspapers. The public press think that your petitioners are a “filthy vermin.” The representations to the Volksraad say the same thing. The reasons are obvious. Your petitioners, not knowing the English language so well as to be able to take part in such discussions, or even to keep themselves informed of all the misrepresentations about them, are not always in a position to refute such statements. It was only when they became aware that their very existence was at stake that they went to the European firms and doctors to give their opinion about their sanitary habits.

17. But your petitioners claim also a right to speak for themselves, and they have no hesitation in stating deliberately that collectively, though their dwellings may appear uncouth, and are certainly without much adornment, they are in no way inferior to the European dwellings from a sanitary point of view; and, as to their personal habits, they confidently assert that they use more water and bathe much oftener than the Europeans residing in the Transvaal whom they come in frequent connection with. Nothing can be further from your petitioners' wish than to set up comparisons, or to try to show themselves superior to their European brethren. Force of circumstances only has driven them to such a course.

18. The two elegant petitions at pp. 19–21 of the Green Book No. 2, which pray for an exclusion of all Asiatics, and contain wholesale denunciation of all the Asiatics, Chinamen, &c., render it absolutely necessary to state what has been stated above. The first petition enumerates terrible vices peculiar, as alleged therein, to Chinamen, and the second, referring to the first, includes in the denunciation all the Asiatics. Speaking of specifically Chinese, Coolies, and other Asiatics, the second petition refers to “the dangers to which the whole community is exposed by the spread of leprosy, syphilis, and the like loathsome diseases engendered by the filthy habits and immoral practices of these people.”

19. Without entering into further comparison, and without entering into the question as affecting the Chinamen, your petitioners most emphatically state that the above charges are entirely without ground, so far as your petitioners are concerned.

20. To show how far the interested agitators have gone, your petitioners quote below an excerpt from a memorial presented to the Volksraad of the Orange Free State, a copy of which was sent with approval by the Pretoria Chamber of Commerce to the Transvaal Government.

“As these men enter the State without wives or female relatives the result is obvious. Their religion teaches them to consider all women as soulless and Christians as natural prey.” (Green Book No. 1, 1894, p. 30.)

21. Your petitioners ask, Can there be a grosser libel on the great faiths prevailing in India, or a greater insult to the Indian nation?

22. Such are the statements which, it will be noticed from the Green Books referred to, have been used to make out a case against the Indians.

23. The real and the only reason has all along been suppressed. The only reason for compelling your petitioners or putting every obstacle in the way of your petitioners earning a decent livelihood is the trade jealousy. Your petitioners, i.e., those who are traders, and the whole crusade is practically against them, have by their competition and owing to their temperate and thrifty habits, been able to reduce the prices of the necessaries of life. This does not suit the European traders who would make very large profits. It is a notorious fact that your petitioners who are traders are, almost without exception, teetotalers. Their habits are simple, and thus are content to make small profits. This, and this only, is the reason of the opposition against them, and this is well known to everybody in South Africa; that this is so can be gathered from the public press of South Africa which sometimes becomes frank and shows the hatred in its true light. Thus dealing with the “coolie question,” as it is contemptuously called, after

showing that the real "coolie" is indispensable to South Africa, the "Natal Advertiser," of the 15th September 1893, thus delivers itself:—

"The sooner the steps are taken to suppress, and, if possible, to compel, the Indian trader the better. These latter are the real canker that is eating into the very vitals of the community."

24. Again, the "Press," the Government organ in the Transvaal, dealing with this question, says:—

"If the Asiatic invasion is not stopped in time, European shopkeepers must be driven to the wall as they have been in Natal, and in many parts of the Cape Colony." The whole of the above article is interesting reading, and is a fair sample of the feeling of the Europeans towards colour in South Africa. Although the whole tenour of it betrays fear on the ground of competition, there occurs this characteristic passage:—

"If we are to be swamped by these people, trade by Europeans will be impossible, and we shall one and all become subjected to the horrible danger inseparable from close contact with a large body of uncleanly citizens, with whom syphilis and leprosy are common diseases, and hideous immorality a matter of course."

25. And yet Dr. Veal, in the certificate attached hereto, gives it as his deliberate opinion that "the lowest class Indians live better and in better habitations, and with more regard to sanitary measures than the lowest class whites." (App. A.)

26. Furthermore, the doctor puts on record that while "every nationality had one or more of its members at some time in the lazaretto there was not a single Indian attached." Added to this is the testimony of the two doctors from Johannesburg, to the effect "that the Indians are in no way inferior to the Europeans of the same standing." (App. B. and C.)

27. In further proof of your petitioner's contention, your petitioners would take the liberty to quote from a leading article from the "Cape Times," of 13th April, 1889, which states the case for the Indians as fairly as could be wished:—

"The outcry which was raised in the capital of the Transvaal against the 'Coolie trader' some little time ago, is brought to the mind by occasional paragraphs in the morning papers, regarding the doings of the Indian and the Arab traders."

After quoting a flattering description of the Indian enterprise from another newspaper, the article goes on to say. "In face of such reminders as these, one may reasonably expect to be pardoned for referring for a few moments to a body of respectable hard-working men whose position is so misunderstood that their very nationality is overlooked and a name labelled to them, which tends to place them in an exceedingly low level in the estimation of their fellow creatures. In the face, too, of financial operations the success of which many of their detractors would envy, one fails to understand the agitation which would place the operators in the same category as the half heathen Native and confine him to locations, and subject him to the harsher laws by which the Transvaal Kafir is governed. The impression which is but too prevalent both in the Transvaal and in this colony, that the quiet and inoffensive Arab shopkeeper, and the equally harmless Indian who carries his pack of dainty wares from house to house is a coolie is due largely to an insolent ignorance as to the race whence they sprung. When one reflects that the conception of Brahminism with its poetic and mysterious mythology took its rise in the land of the 'coolie trader,' that in that land 24 centuries ago, the almost divine Buddha taught and practised the glorious doctrine of self-sacrifice, and that it was from the plains and mountains of that weird old country that we have derived the fundamental truths of the very language we speak, one cannot but help regretting that the children of such a race should be treated as the equals of the children of blank heathendom and outer darkness. Those who for a few moments have stayed to converse with the Indian trader have been, perhaps, surprised to find they are speaking to a scholar and a gentleman. . . . And it is the sons of this land of light who are despised as coolies, and treated as kafirs."

"It is about time that those who cry out against the Indian merchant should have pointed out to them, who and what he is. Many of his worst detractors are British subjects enjoying all the privileges and rights of membership in a glorious community. To them the hatred of injustice, and the love of fair-play is inherent, and when it affects themselves, they have a method of insisting upon their rights and liberties, whether under a foreign government or under their own. Possibly it has never struck them that the Indian merchant is also a British subject, and claims the same liberties and rights with equal justice. To say the very least of it, if we may be permitted to employ a phrase of Palmerston's days, it is very un-English to claim rights one would not allow to others. The right of trade as an equal privilege, has, since the abolition of the

Elizabethan monopolies, become almost a part of the English constitution, and were anyone to interfere with that right, the privilege of British citizenship would suddenly come to the front. Because the Indian is more successful in competition and lives on less than the English merchant, is the unfairest and weakest of arguments. The very foundation of English commerce lies in the fact of our being able to compete more successfully with other nations. Surely it is protection running to madness when English traders wish the State to intervene to protect them against the more successful operations of their rivals. The injustice to the Indians is so glaring that one is almost ashamed of one's countrymen in wishing to have these men treated as Natives, simply because of their success in trade. The very reason that they have been so successful against the dominant race is sufficient to raise them above that degrading level. Enough has been said to show that the Indian merchant is something more than the 'coolie' of the newspaper, the Dutchman, and the disappointed shopkeeper."

28. It will also be seen from the above quotation, that the European feeling, when not blinded by selfishness, is not against the Indians. But since it has been insisted throughout the Green Books before alluded to, that both the burghers of the State and the European residents objected to the Indians, your petitioners are sending two petitions to His Honour, the State President of the South African Republic, one showing that a very large number of the burghers are not only not against the Indians freely residing and trading in the Transvaal, but they would also deem it a hardship, should the harassing measures ultimately result in their withdrawal (App. E.) and the other signed by the European residents, showing that in the opinion of the signatories, their sanitary habits are in no way inferior to those of the Europeans, and that the agitation against the Indians, is due to the trade jealousy (App. F.). But were it otherwise—were every European and every burgher of the State dead against the Indian, even that, your Petitioners submit, cannot affect the main issue, unless the causes which render such a state of things possible, were such as would discredit a community against whom such a feeling exists. At the time of going to press (14/5/95) the Dutch petition was already signed by 484 burghers and the European by 1,340 Europeans.

29. That the award of the Chief Justice of the O.F.S. does not at all simplify the question, and bring its solution a step nearer, will appear from the following:—

The active exercise of Her Majesty's Government protection will be just as necessary as if the award had never been given. For assuming for arguments sake, and that only, that the award is proper and final, and that the Chief Justice of the Transvaal has decided that the Indians must trade and reside in the places fixed by the Government, the question at once arises where will they be put? May they be put in gullies—in places where sanitation is impossible, and which are so far away from towns as to render it absolutely impossible for the Indians to trade or live decently? That this is quite likely would appear from the following strong protest addressed by His Honour the British Agent against the Transvaal Government assigning an uninhabitable place to the Malays in 1893 at p. 72, Green Book No. II.:—"To be forced into a small location  
" on a spot used as a place to deposit the refuse of the town, without any water except the  
" polluted soakage in the gully between the location and the town, must inevitably result in  
" malignant fevers and other diseases breaking out amongst them, whereby their lives  
" and the health of the community in town will be endangered. But apart from these  
" serious objections, some of these people have not the means of erecting dwellings for  
" themselves on the land pointed out (or anywhere else) such as they have been accus-  
" tomed to live in; the consequence of forcing them out of their present habitations will  
" therefore result in all of them leaving Pretoria to the great inconvenience and loss  
" of the white people who employ their labour, not even to speak of the hardship to  
" themselves."

30. At the last page of the same book, in his Despatch dated the 21st March, 1894, the High Commissioner says as follows:—

" Her Majesty's Government assume that the arbitration will apply to any Aboriginal of Asia who may be a British subject."

31. If in terms of that Despatch the arbitration is to apply to the Aborigines of Asia, the question is, are there any Asiatic Aborigines at all in the Transvaal, unless all the Asiatics are to be treated as such *ipso facto*, a contention your petitioners are confident will not be held out for one moment. Your petitioners, therefore, will not certainly rank as Aborigines.

32. If the whole objection to the Indian proceeds from sanitary grounds, the following restrictions are entirely unintelligible:—

1. The Indians, like the Kaffirs, cannot become owners of fixed property.
2. The Indians must be registered, the fee being 3l. 10s.



3. In passing through the Republic, like the Natives, they must be able to produce passes unless they have the registration ticket.

4. They cannot travel first or second class on the railways. They are huddled together in the same compartment with the Natives.

33. The sting of all these insults and indignities becomes more galling when it is borne in mind that many of your petitioners are large holders of property in Delagoa Bay. There they are so much respected that they cannot take out a third-class railway ticket. They are gladly received by the Europeans there. They are not required to have passes. Why, your petitioners humbly ask, should they be differently treated in the Transvaal? Do their sanitary habits become filthy as soon as they enter the Transvaal territory? It often happens that the same Indian is differently treated by the same European in Delagoa Bay and the Transvaal.

34. To show how harassing the pass law is, your petitioners have appended hereto an affidavit from Mr. Haji Mahomed Haji Dada, which will speak for itself. (App. G. Who Mr. Haji Mahomed is will be gathered from the copy of a letter attached to the affidavit. (App. H.) He is one of the foremost Indians in South Africa. Your petitioners have attached the affidavit by way of illustration only, and to show how hard must be the lot of the other Indians when a foremost Indian cannot travel without suffering indignity and actual hardships. If it were necessary, hundreds of such cases of ill-treatment could be proved to the hilt.

35. It has been also mentioned that the Indians live as parasites, and spend nothing. So far as the Indian labourers and their children are concerned, the objection will not hold water at all, and they are not supposed to be parasites, even by the most prejudiced Europeans. Your petitioners may be allowed to mention, from personal experience, that so far as a majority of the labourers are concerned, they live above their means and have settled with their families. As to the trading Indians, who are the butt of all the prejudice, a little explanation may be necessary. Your petitioners who are traders, do not deny, they take pride in acknowledging, that they send remittances to India for those who are dependent upon them, but the remittances are entirely out of proportion to their expenditure. The only reason why they are successful competitors is because they spend less in luxuries than the European traders. But all the same, they have to pay rents to the European landlords, wages to the native servants, and to pay Dutch farmers for the animals for meat. The other provisions such as tea, coffee, &c., are bought in the country.

36. The question, then, really is not whether the Indian is to live in this street or that, but what *status* he is to occupy throughout South Africa. For what is done in the Transvaal will also affect the action of the two colonies. There seems to be a general consensus of opinion that the question will have to be settled on a common basis, modified by local conditions.

37. So far as the feeling has been *expressed*, it is to degrade the Indian to the position of the Kaffir. But the general feeling, not so strongly expressed, but here and there voiced in the newspapers, of the respectable portion of the European community, is quite the reverse.

38. The Colony of Natal has been inviting the other South African States to a "Coolie" Conference. The word "Coolie" has thus been used officially, and it shows how high the expressed feeling runs against the Indians and what the Conference would do if it could, with regard to the question. In the case put by the Transvaal Government before the arbitrator, it is stated that the word "Coolie" applies to *any* person coming from Asia.

39. When the feeling runs so high in South Africa against the Indian, when such a feeling owes its origin to interested agitation (as it is hoped has been sufficiently shown above) when it is known that that feeling is by no means shared by all the Europeans, when there is a general scramble for wealth in South Africa, when the state of morality of the people is not particularly high, when there are gross misrepresentations about the habits of the Indians, which have given rise to special legislation, it is not too much, your petitioners submit, to request your Excellency to receive with the utmost caution the statements received against your petitioners, and the proffered solutions of the Indian question.

40. Your petitioners would also urge upon your Excellency's consideration, that not only does the proclamation of 1858 entitle your petitioners to the same privileges and rights as enjoyed by Her Majesty's other subjects, but your petitioners have been specially assured of such a treatment by your Excellency's despatch, which says:—

"It is the desire of Her Majesty's Government, that the Queen's Indian subjects should be treated upon a footing of equality, with all Her Majesty's other subjects."

41. Nor is this a local question, but your petitioners submit it is pre-eminently an Imperial question. The decision of the question cannot but affect and guide the policy of the other colonies and countries where by treaty Her Majesty's subjects enjoy freedom of commerce, &c., and where Her Majesty's Indian subjects also may emigrate. Again, the question affects a very large Indian population in South Africa. With those who have settled in South Africa, it is almost a question of life and death. By persistent ill-treatment, they cannot but degenerate, so much so, that from their civilized habits, they would be degraded to the habits of the aboriginal Natives, and a generation hence between the progeny of the Indians, thus in course of degeneration, and the Natives, there will be very little difference in habits, and customs, and thought. The very object of immigration will be frustrated, and a large portion of Her Majesty's subjects, instead of being raised in the scale of civilization, will be actually lowered. The results of such a state of things cannot but be disastrous. No self-respecting Indian can dare even visit South Africa. All Indian enterprise will be stifled. Your petitioners have no doubt that your Excellency will never allow such a sad event to happen in a place where Her Majesty enjoys suzerain power, or where the Union Jack flies.

42. Your petitioners beg respectfully to point out that, under the present state of feeling against the Indians in South Africa, for Her Majesty's Government to yield to the interested clamour against your petitioners would be an act of grave injustice to your petitioners.

43. If it is true that your petitioner's sanitary habits are not such as to endanger the health of the European community, and if it is true, also, that the agitation against them is due to trade jealousy, your petitioners submit that the award of the Chief Justice of the Orange Free State cannot be binding, even though it be in strict accordance with the terms of the reference. For the very reason which induced Her Majesty's Government to assent to a departure from the Convention does not then exist.

44. If, however, your Excellency is disposed to doubt the statements made herein, as regards your petitioners' sanitary habits, your petitioners humbly urge that, in view of the fact that very large interests are at stake, and that there are conflicting statements with regard to your petitioners' sanitary habits, and that the feeling is very high against the Indians in South Africa, before any departure from the Convention is finally assented to, some impartial inquiry should be made as to the truth of the conflicting statements, and that the whole question of the *status* of the Indian in South Africa should be shifted.\*

In conclusion, your petitioners leave their case in your Excellency's hands, earnestly praying and fully hoping that your petitioners will not be allowed to become a prey to the colour prejudice, and that Her Majesty's Government will not consent to a treatment of the Indians in the South African Republic which would place them in a degraded and unnatural position, and deprive them of the means of earning an honest livelihood.

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

Pretoria, South African Republic.

#### APPENDIX A.

I hereby certify that I have practised as a general medical practitioner in the town of Pretoria for the last five years.

During that period I have had a considerable practice amongst the Indians, especially about three years ago, when they were more numerous than at present.

I have generally found them cleanly in their persons, and free from the personal diseases due to dirt or careless habits. Their dwellings are generally clean, and sanitation is willingly attended to by them. Class considered, I should be of opinion that the lowest class Indian compares most favourably with the lowest class white, *i.e.*, the lowest class Indian lives better and in better habitation, and with more regard to sanitary measures, than the lowest class white.

I have, further, found that during the period that small-pox was epidemic in the town and district, and is still epidemic in the district, that although every nation nearly had one or more of its members at some time in the lazaretto there was not a single Indian attached.

Generally, in my opinion, it is impossible to object to the Indian on sanitary grounds, provided always the inspection of the sanitary authorities is made as strictly and regularly for the Indian as for the white.

H. PRIOR VEALE, B.A., M.B., B.C., Cantab.

27th April, 1895, Pretoria,  
South African Republic.

\* *Sic* in original.

## APPENDIX B.

Johannesburg, 1895.

This is to certify that I have examined the residences of the bearers of this note, and that they are in a sanitary and hygienic condition, and in fact, such as any European might inhabit. I have resided in India. I can certify that their habitations here in the South African Republic are far superior to those of their native country.

C. P. SPINK, M.R.C.S. and L.R.C.A. (London).

## APPENDIX C.

Johannesburg, March 14, 1895.

Having frequently occasion to visit the better class of the Indian population of Johannesburg (merchants, &c., coming from Bombay) in my professional quality, I give as my opinion that they are as clean in their habits and domestic life as white people of the same standing.

DR. NAHMMACHER, M.D., &amp;c.

## APPENDIX D.

Johannesburg, March 14, 1895.

The undersigned having been informed that the Arbitration Commission in connexion with the question regarding the Indian merchants in the South African Republic is now holding its meetings at Bloemfontein, and, also, having been made aware of the accusations against the said Indian merchants, to the effect that on account of their dirty habits they are a danger to reside amongst the European population, hereby wish to distinctly declare:—

- 1st. That the aforementioned Indian merchants, the majority of which come from Bombay, keep their business places, as well as their residences, in a clean and proper sanitary state—in fact, just as good as the Europeans.
- 2nd. That it is a distinct error in calling them “coolies,” or inhabitants of British India of a “lower caste,” as they decidedly belong to the better and higher castes of India.

HEYMANN GORDON & Co.  
 BRANDE AND MEIRKS.  
 LINDSAY AND INNES.  
 GUSTAV SCHNEIDER.  
 C. LIEBE.  
 CHRISTOPHER P. SPINK.  
 A. WENTWORTH BALL.  
*p.p.*, J. GARLICK,  
 H. WOODCROFT.  
*p.p.*, GORDON MITCHELL & Co.,  
 Johannesburg, S.A.R.  
 R. COURTER.  
 P. BARNETT & Co.  
*p.p.*, ISRAEL BROTHERS,  
 H. CLAPHAM.  
*p.p.*, PAYNE BROS.  
 H. F. BEART.  
 JOSEPH LAZARUS & Co.  
 GEO. JAS. KETTLE & Co.  
 BORTEN'S BROS.  
*p.p.*, J. W. JAGGER & Co.  
 T. CHARLE.  
 R. G. KRAMER & Co.  
*p.p.*, HOLT AND HOLT.  
 B. EMANUEL.

ADAM ALEXANDER.  
 B. ALEXANDER.  
 A. BEHRENS.  
 S. COLEMAN  
 ALEXANDER P. KAY,  
*p.p.*, G. KOENIGSBERG.  
 J. H. HOPKINS.  
*p.p.*, LIEBERMANN, BELLSTEDT & Co.  
 J. H. HOPKINS.  
 J. H. HOPKINS.  
 SHLOM AND ARMSBERG.  
*p.p.*, HUGO BINGEN.  
 JAS. W. C.  
*p.p.*, H. BERNBERG & Co.,  
 General Merchants and  
 Importers, Johannesburg.  
 E. NERLL.  
 J. KUSTING.  
 N. W. LEWIS.  
 SPENCE AND HURRY.  
 FREISMAN AND SHAPISO.  
 J. FOGELMAN.  
 T. RATES & Co.  
*p.p.*, B. GUNDELFINGER.  
 J. GUNDELFINGER.

APPENDIX E.  
(True translation.)

To His Honour the STATE PRESIDENT of the South African Republic, Pretoria.

May it please your Honour,

In view of the gross misrepresentations by certain interested Europeans residing in the Republic, to the effect that the burghers of this State are opposed to the Indians residing or trading in the State, and their agitation against these people, we, the undersigned burghers, beg respectfully to state that so far from the burghers being opposed to these people stopping and trading in the state, they recognise in them a peaceful and law-abiding, and therefore desirable class of people. To the poor they are a veritable blessing inasmuch as by their keen competition they keep down the prices of necessaries of life, which they can do owing to their thrifty and temperate habits.

We venture to submit that their withdrawal from the State will be a dire calamity to us, especially those of us who, living far away from centres of business depend upon the Indians for the supply of our daily wants, and that, therefore, any measures restrictive of their freedom, and having for their object their ultimate removal, and especially that of those Indians who are traders and hawkers, will necessarily interfere with our enjoyment and comforts. We, therefore, humbly pray that the Government will not take any steps that may scare away the Indians from the Transvaal.

APPENDIX F.

PETITION.

To His Honour the STATE PRESIDENT of the South African Republic, Pretoria.

MAY IT PLEASE YOUR HONOUR :

We the undersigned Europeans residing in this Republic, beg to protest against the agitation set up against the Indians residing or trading freely in the country, by certain interested persons.

So far as our experience is concerned, we believe their sanitary habits to be in no way inferior to those of the Europeans, and the statements made about prevalence of infectious diseases among them are certainly without ground, especially as regards the Indian traders.

We firmly believe that the agitation owes its origin not to their habits as regards sanitation, but to trade jealousy, because, owing to their frugal and temperate habits, they have been able to keep down the prices of necessaries of life, and have therefore been an inestimable boon to the poor classes of the society in the State.

We do not believe any good cause exists for compelling them to reside or trade in separate quarters.

We would therefore humbly request your Honour not to adopt or countenance any measures that would tend to restrict their freedom and ultimately result in their withdrawal from the Republic, a result that cannot but strike at the very means of their livelihood, and cannot, therefore, we humbly submit, be contemplated with complacency in a Christian country.

APPENDIX G.

I, Haji Mahomed Haji Dada, managing and senior partner of Haji Mahomed Haji Dada & Co., of Durban, Pretoria, Delagoa Bay and elsewhere, merchants, do make oath and say that :—

1. Sometime in the year 1894, I was travelling from Johannesburg to Charlestown, by coach.
2. As I reached the Transvaal border, a European, with a uniform, and another, came up and asked me for a pass. I said I had no pass and was never before required to produce any pass.
3. The man thereupon roughly said to me, that I would have to get one.
4. I asked him to get one, and offered to pay.
5. He then very roughly asked me to go down with him to the pass officer, and threatened to pull me out if I did not do so.
6. In order to avoid further trouble I got down. I was made to walk about 2 miles the man riding on a horse.

7. On my reaching the office I was required to take no pass, but was only asked where I was going to. I was then asked to go away.

8. The man who was on horseback, and who went with me, also left me, and I had to walk back two miles, to find the coach gone.

9. I was therefore obliged, although I had paid my fare as far as Charlestown, to walk there, a distance of over two miles.

10. I know from personal knowledge that many other Indians similarly placed have undergone such troubles and indignity.

11. About a few days ago, I had to travel to Pretoria from Delagoa Bay, in the company of two friends.

12. We were all required to arm ourselves with passes, just as the natives of South Africa are required to do, in order to be able to travel in the Transvaal.

Sworn before me at Pretoria, this, the 24th day of April, 1895.

ENVARALOHERY.

V. RRASAK.

HAJEE MOHAMED HAJEE DADA.

#### APPENDIX H.

The African Boating Company, Limited.

Telegraphic and cable address "Boating."

Mr. HAJI MOHAMED HAJI DADA (Messrs. HAJI MOHAMED HAJI DADA & Co.)

DEAR SIR,

Point, Port Natal, March 2, 1895.

SEEING you are about to pay a visit to India, we take this opportunity of placing on record our very high appreciation of your various business qualifications which we have proved during our business relations with you for the last 15 years, and it gives us very great pleasure in stating that your integrity in business matters has never been questioned by any of the commercial community during your residence here, and we trust you will see your way to return to Natal, and we then hope that we shall renew our business relations with you once again. Hoping you will have a very pleasant voyage.

We are, &c.

For the African Boating Company.

CHARLES T. HUTCHINS.

To His Excellency the Right Honourable the EARL of ELGIN, P.C., G.M.S.I., G.M.I.E., &c., &c., Viceroy and Governor-General of India, Calcutta.

The Petition of the undersigned Indians residing in the South African Republic Humbly sheweth,

That your petitioners representing the Indian community in the South African Republic venture hereby to approach your Excellency with regard to Her Majesty's Indian British subjects in the South African Republic.

Your petitioners instead of reiterating the facts and arguments embodied in a similar petition, signed by over 1,000 British Indians, and sent to the Right Honourable the Secretary of State for the Colonies, beg to append hereto a copy of the petition with its annexures, and commend it to your Excellency's perusal.

Your petitioners, after mature deliberation, have come to the conclusion that unless they sought the direct protection of your Excellency as Her Majesty's representative and virtual Ruler of all India, and unless that protection was graciously accorded, the position of the Indians in the South African Republic, and, indeed, throughout the whole of South Africa, would be utterly helpless, and the enterprising Indians in South Africa would be forcibly degraded to the position of the natives of South Africa, and this through no fault of their own.

If an intelligent stranger were to visit the South African Republic, and were told that there was a class of people in South Africa who could not hold fixed property, who could not move about the State without passes, who alone had to pay a special registration fee of 3*l.* 10*s.* as soon as they entered the country for purposes of trade, who could not get licences to trade, and who would shortly be ordered to remove to places far away from towns, where only they could reside and trade, and who could not stir out of their houses after 9 o'clock, and that stranger were asked to guess the

reasons for such special disabilities, would he not conclude that these people must be veritable ruffians, anarchists, a political danger to the State and society? And yet your petitioners beg to assure your Excellency that the Indians who are labouring under all the above disabilities are neither ruffians nor anarchists, but one of the most peaceful and law-abiding communities in South Africa, and especially in the South African Republic.

For in Johannesburg, while there are people belonging to European nationalities who are a source of real danger to the State, and who have necessitated only lately an increase of the police force, and have thrown too much work on the detective department, the Indian community have not given the State any cause for anxiety on that score.

In support of the above, your petitioners respectfully refer your Excellency to the newspapers throughout South Africa.

Even the active agitation that has brought about the present state of things with regard to the Indian community, has not dared to bring any such charges against the Indians.

The only charge brought forward is that the Indians do not observe proper sanitation. Your petitioners trust that the charge has been conclusively shown to be groundless in the representation to his Excellency the Right Honourable the Marquess of Ripon. But, assuming that the charge has some ground, it is clear that that could not be a reason for preventing the Indians from holding fixed property, or moving about the country freely, and without restraint on their liberty. That could not be a reason for making the Indians liable for a special payment of 3*l.* 10*s.*

It might be said that the Government of the South African Republic has already passed certain laws, and that the Chief Justice of the Orange Free State has already given his award, which is binding on Her Majesty's Government.

These objections your Petitioners humbly believe have been answered in the accompanying. The London Convention specially protects the rights of all Her Majesty's British subjects. This is a recognized fact. Her Majesty's Government assented to a departure from the convention and also to arbitration on *sanitary grounds*. And such assent to a departure from the convention, your petitioners are informed, was given without consulting your Excellency's predecessor in office. Thus, so far as the Indian Government is concerned, your petitioners venture to urge that the assent is not binding. That the Indian Government should have been consulted is self-evident. And even if your Excellency were ill-disposed to intervene on your petitioners' behalf at this stage and on this ground alone, the fact that the reasons which induced the above assent did not and do not exist, that, in fact, Her Majesty's Government has been misled by misrepresentations, is, your petitioners submit, sufficient to justify them in praying for your Excellency's intervention, and your Excellency in granting the prayer.

And the issues involved are so tremendously important and imperial, that in view of your petitioners' emphatic but respectful protest against the allegation about sanitation, your petitioners humbly urge that the question cannot be settled without a thorough inquiry, without injustice being done to Her Majesty's Indian British subjects in the South African Republic.

Without further encroaching upon your Excellency's valuable time, your petitioners would again request your Excellency's undivided attention to the annexure, and in conclusion, earnestly hope that your Excellency's protection will be liberally granted to the Indian British subjects residing in South Africa.

And for this act of justice and mercy, your petitioners shall for ever pray, &c.

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No. 11.

MR. CHAMBERLAIN to SIR HERCULES ROBINSON.

(Sent July 10, 1895.)

TELEGRAPHIC.

Convey thanks to Orange Free State President and Chief Justice of Orange Free State in suitable terms, as proposed by Officer Administering the Government's despatch of 9th April.\*

No. 12.

SIR HERCULES ROBINSON to the MARQUESS OF RIPON.  
(Received July 15, 1895.)

MY LORD MARQUESS,

Government House, Cape Town,  
June 25, 1895.

I HAVE the honour to enclose, for your Lordship's information, with reference to your cable of the 22nd instant,\* a copy of a telegram to the State President, South African Republic, on the subject of the award in the Indian Traders' arbitration question.

I have, &amp;c.

HERCULES ROBINSON,  
Governor and High Commissioner.

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Enclosure in No. 12.

From His Excellency the HIGH COMMISSIONER, Cape Town, to His Honour  
the STATE PRESIDENT, Pretoria.

TELEGRAM.

June 24.—I am directed by the Secretary of State to inform your Honour that Her Majesty's Government are prepared to accept the award of the arbitrator in respect to Indian Traders. They understand, however, that it is a condition of the award that the course suggested by the arbitrator at the end of his reasons be adopted, namely, that the Volksraad of the South African Republic should repeal the resolution of the 8th September 1893, and the Government of the South African Republic should withdraw the Circular of December 1893, so as to allow the courts of justice to give an unfettered interpretation of the Law of 1885 as amended. The Secretary of State has received a telegram from the Indians stating that they have received notice to remove, and praying that action may be stayed. I therefore urge your Honour's Government to stay action until the Resolution and Circular of 1893 have been cancelled, and the law brought in harmony with the award, when a test case can be tried in the courts of the South African Republic.

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No. 13.

SIR HERCULES ROBINSON to MR. CHAMBERLAIN.  
(Received August 19, 1895.)

SIR,

Government House, Cape Town,  
July 30, 1895.

WITH reference to my Despatch of the 25th June,† I have the honour to enclose, for your information, a copy of a correspondence with Sir J. A. De Wet, relative to the acceptance of the award in the British Indian arbitration case.

I take the opportunity of transmitting a copy of a despatch which, in accordance with your telegram of 10th instant,‡ I addressed to the Acting State President of the Orange Free State, conveying the thanks of Her Majesty's Government for the services rendered by Chief Justice Melius De Villiers.

I have, &amp;c.

HERCULES ROBINSON,  
Governor and High Commissioner.

\* No. 9.

† No. 12.

‡ No. 11.

## Enclosure 1 in No. 13.

From His Excellency the HIGH COMMISSIONER, Cape Town, to His Honour  
HER MAJESTY'S AGENT, Pretoria.

Government House, Cape Town,

July 18, 1895.

SIR,

I HAVE the honour to enclose a copy of a telegram, which I addressed to the State President on the 24th ultimo, relative to the award in the British Indian arbitration case.

I shall be glad if you will ask Dr. Leyds when I may expect to receive an acknowledgement of the receipt of my telegram.

I have, &c.

His Honour Sir J. A. De Wet, K.C.M.G.,

HERCULES ROBINSON,

&c. &c. &c.]

Governor and High Commissioner.

Pretoria.

## Enclosure 2 in No. 13.

His Honour HER MAJESTY'S AGENT, Pretoria, to His Excellency the  
HIGH COMMISSIONER, Cape Town.

SIR,

Pretoria, July 26, 1895.

WITH reference to your Excellency's Despatch of the 18th instant, desiring me to ask the State Secretary when your Excellency may expect an answer to your telegram, of the 24th June last, to His Honour the President, I have the honour to enclose translation of the reply I received from Dr. Leyds to a friendly note I wrote to him on the subject.

I have, &c.

His Excellency the Governor and High  
Commissioner, Cape Town.

J. A. DE WET,  
Her Britannic Majesty's Agent.

Translation.

Department of Foreign Affairs,  
Government Office, Pretoria,

July 22, 1895.

SIR,

IN answer to your letter of this day's date, in which you request that his Excellency the High Commissioner may receive an answer to his telegram dated 24th June last, I have the honour to inform you that the matter is receiving the consideration of this Government, and an answer will be sent to his Excellency as soon as possible.

Remaining with feelings of particular regards,

Your obedient servant,

For State Secretary,

His Honour Sir Jacobus De Wet, K.C.M.G.,

F. J. KROGH,

&c. &c. &c.,  
Pretoria.

Acting Under State Secretary,  
Foreign Affairs.

## Enclosure 3 in No. 13.

FROM GOVERNOR AND HIGH COMMISSIONER, Cape Town, to His Honour the  
ACTING STATE PRESIDENT, Bloemfontein.

Government House, Cape Town,

July 18, 1895.

SIR,

I HAVE the honour, by direction of the Secretary of State, to convey to your Honour's Government the thanks of Her Majesty's Government for their courtesy in placing at the disposal of the parties to the recent arbitration respecting the status of British Asiatic subjects in the South African Republic the services of a gentleman of the experience and high legal attainments of Chief Justice Melius de Villiers.



I have also to request that your Honour will convey to the Chief Justice the thanks of Her Majesty's Government for his painstaking and laborious attention to the various arguments advanced in support of the conflicting claims, and for his award, which will materially aid in the settlement of a long-standing dispute.

I have, &c.

HERCULES ROBINSON,  
Governor and High Commissioner.

No. 14.

MR. CHAMBERLAIN to SIR HERCULES ROBINSON.

SIR,

Downing Street, September 4, 1895.

I HAVE had under my consideration your Despatch of the 4th of June,\* enclosing a petition addressed to my predecessor, and also one addressed to the Viceroy of India, by Indians resident in the South African Republic, relative to the award made by the Chief Justice of the Orange Free State in regard to their status within the Republic.

I find that this matter is one which has been already practically disposed of by my predecessors, and I do not feel justified, under these circumstances, in taking the action desired by the petitioners.

The Conventions of Pretoria and London were so worded as to leave Asiatics living within the Republic free from disabilities in respect of their places of residence, movements, or mode of trading; but for reasons which seemed good to them, and which I do not wish to be understood as questioning, two of my predecessors agreed to entertain the question of modifying the operation of the Convention by local legislation, and such legislation, embodied in the Law of 1885 (as modified by that of 1886), is now part and parcel of the law of the South African Republic, is binding on the British Indians who live there, and is not open to objection on the part of any minister holding my office. In fact, by an interchange of despatches, an arrangement was made which is as much binding on me as if it had been embodied in a Convention.

After 1886, as time went on, the manner in which this law was interpreted and was being worked, or was proposed to be worked, gave rise to complaints on the part of the British Government, and, as it seemed impossible to come to an agreement by means of correspondence, the Marquess of Ripon took what is the approved course in such cases, of proposing to the South African Republic that the dispute should be referred to arbitration. This was agreed to, the arbitrator chosen being a distinguished judge, who, I am safe in saying, commands general esteem throughout South Africa. The arbitrator in due course made his award, and on the 22nd of June last, the then Secretary of State telegraphed to you saying that Her Majesty's Government were prepared to accept the award, if the course suggested by the arbitrator were adopted—that is to say, if a certain Volksraad resolution and a certain Government circular, which were calculated to hamper the interpretation of the law by the courts of the Republic, were repealed. Whether that course will be taken I have not yet heard, and my own acceptance of the arbitration is, like that of my predecessor, conditional on the action of the Republic; but, as I have already intimated, I will not go back on the action of either Mr. Stanhope or of Lord Ripon.

I notice that in the petition (paragraphs 4, 5, and 6), it is argued that as the award is not in the terms of the reference it is void, but as to that, I have to observe that in this particular arbitration there was no "reference" in the technical sense in which the word is here obviously used. No common statement of facts was put before the arbitrator, nor were definite questions agreed on as those which he was to answer. The British side stated its case and gave its view of the matter on which the arbitrator had to decide. The South African Republic followed with a statement of its case, and gave its own view of the arbitrator's duty. The arbitrator himself, at the opening of the proceedings, expressed regret that there was no "deed of submission," and pointed out that the terms of submission in the case of the South African Republic were wider than those in the case of Her Majesty's Government, the latter apparently limiting him to an interpretation of the ordinances and despatches referred to. To this the leading

counsel on the British side answered that Her Majesty's Government had raised, no objection to the terms of the contention on behalf of the Government of the South African Republic when the latter's statement of case was forwarded to it, and would now leave the arbitrator free to decide either in terms of the submission of Her Majesty's Government or of the Government of the South African Republic. Thus the matter was, by consent, left to the arbitrator "at large," and in the result he disallowed the claims of both sides, giving instead what was his own view of the truth and justice of the matter, as, I apprehend, he was entitled to do. The words quoted in the fourth paragraph of the memorial as constituting the "reference," are simply those employed in the British case, and, in view of Mr. Searle's waiver, were not binding either on the South African Republic or the arbitrator.

I regret extremely that I cannot return a more encouraging answer to the memorial before me, for the petitioners have my sympathy. I believe them to be a peaceable, law-abiding, and meritorious body of persons, and I can only hope that, even as matters stand, their undoubted industry and intelligence, and their indomitable perseverance, will suffice to overcome any obstacles which may now face them in the pursuit of their avocations.

In conclusion, I would say, that, whilst desirous loyally to abide by the award and to allow it to close the legal and international questions in dispute between the two Governments, I reserve to myself the liberty, later on, to make friendly representations to the South African Republic as to these traders, and possibly to invite that Government to consider whether, when once its legal position has been made good, it would not be wise to review the situation from a new point of view, and decide whether it would not be better in the interests of its own burghers to treat the Indians more generously, and to free itself from even the appearance of countenancing a trade jealousy, which I have some reasons to believe does not emanate from the governing class in the Republic.

I have, &c.

J. CHAMBERLAIN.

## (APPENDIX A.

CONTAINING THE DOCUMENTS REFERRED TO IN THE  
BRITISH CASE, on page 5.

No. 1 in Appendix A.

## ARTICLE XIV. OF THE CONVENTION OF LONDON, 1884.

All persons, other than natives, conforming themselves to the laws of the South African Republic (a) will have full liberty, with their families, to enter, travel, or reside in any part of the South African Republic; (b) they will be entitled to hire or possess houses, manufactories, warehouses, shops, and premises; (c) they may carry on their commerce either in person or by any agents whom they may think fit to employ; (d) they will not be subject, in respect of their persons or property, or in respect of their commerce or industry, to any taxes, whether general or local, other than those which are or may be imposed upon citizens of the said Republic.

No. 2 in Appendix A.

SIR HERCULES ROBINSON, to the EARL OF DERBY.  
(Received February 17, 1885.)

Government House, Cape Town,  
January 28, 1885.

MY LORD,

I HAVE the honour to enclose a letter from the State Secretary of the South African Republic, which has been forwarded to me for transmission to your Lordship.

2. Mr. Bok encloses petitions and other documents relating to the position of Asiatics in the South African Republic, and in connection with the question raised asks what meaning is attached by Her Majesty's Government to Article 14 of the London Convention.

3. That article prescribes that "all persons, other than natives, conforming themselves to the laws of the South African Republic, (a) will have full liberty, with their families, to enter, travel, or reside in any part of the South African Republic; (b) they will be entitled \* \* \*." The point raised is whether Arabs, Indian Coolies, Malays, Chinese, and other Asiatics are to be considered "natives," or whether they are included amongst the "persons other than natives" to whom certain specified rights are secured.

4. Article 14 of the London Convention (with the exception of the substitution of the words South African Republic for Transvaal State) is the same as Article 26 of the Convention of Pretoria. The latter article as originally drafted by the Royal Commission, and agreed to by the representatives of the Boers, ran as follows:—"The subjects of Her Majesty conforming themselves to the laws, &c., &c., &c." When this article was telegraphed to Lord Kimberley, he, in his message of the 27th July 1881, instructed me to "omit 'the subjects of Her Majesty' and insert 'all persons other than natives,'" which was done.

5. I have consulted the Chief Justice, Sir Henry de Villiers, who was one of my colleagues on the Royal Commission, as to the question now raised by the Transvaal Government, and he considers that there can be no doubt whatever as to what was understood by all parties to the Pretoria Convention as the true meaning of the word "natives." The Dutch equivalent, which was then used by the Transvaal representatives, and which is adopted in the authorized Dutch version of the London Convention, is "inboorlingen." That word is always understood to mean the coloured aborigines of the country, and Sir Henry de Villiers is clearly of opinion that Arabs, Indians, Chinese, and other Asiatics are not to be viewed as "natives," but as "persons other than natives," under Article 14.

6. If this view be correct, the effect of the article as it stands is not merely to protect, as was originally intended, British subjects, but to extend the same protection to persons of every nationality throughout the world who may hereafter settle in the Transvaal, with the exception only of the coloured population of South Africa.

7. As it was doubtless not the intention of Lord Kimberley to prohibit the Transvaal Government from adopting, if necessary, special legislation for the regulation of Indian

in their letter to I  
or Chinese Coolie immigrants, I should be disposed to mean. I Government will be  
of the South African Republic be informed that the abolition of the 14th African natives  
willing to amend Article 14 of the Convention by Arab traders, it as follows:—  
or Indian or Chinese Coolie immigrants." The article Arab traders, it as follows:—  
"All persons other than African natives or Indian men, many of who immigrants  
conforming themselves to the laws of the South Africa ever heard is will have full  
liberty with their families to enter, travel, or reside, &c., &c."  
8. The article as amended would still leave the few Arab traders at present in  
Pretoria entitled to the liberties secured under the existing article to "all persons  
other than natives," and I can see no sufficient grounds for their being deprived of  
these rights.

I have, &c.

HERCULES ROBINSON,  
High Commissioner.

Enclosure in No. 2 in Appendix A.

STATE SECRETARY TO LORD DERBY.

SIR,

Government Office, Pretoria, January 6, 1885.

I AM directed to call your Lordship's attention to the following matter, which is of very great importance to this Government, and in regard to which they would be glad to learn the views of Her Majesty's Government.

A few years since Orientals emigrated from Asia or Northern Africa, nearly all of them being storekeepers, and settled in this Republic.

Gradually an agitation was begun against these persons, which found expression in the newspapers in a pamphlet printed at Pretoria, entitled "De Aziatische en Koelie " Kwestie heden en voor de Toekomst," a copy of which I beg to forward herein as Enclosure A\* and lastly in numerous signed petitions addressed to the Honourable the Volksraad, the contents of which all correspond with Enclosure B.\*

The subject matter of these petitions will furnish your Lordship with further particulars relative to the [nature] of the request of the petitioners.

On the 25th August 1884, a contra memorial was submitted by the Oriental storekeepers, a copy of which is attached as Enclosure C.\*

When the question was dealt with by the Volksraad, it appeared that generally the members were not unwilling to meet the wishes of the White petitioners, either entirely or partly, for instance, by pointing out the Orientals thus immigrated locations or wards within certain prescribed limits; but the Volksraad, in concurrence with the Government, desired to postpone the final decision of the matter until the Government should have entered into correspondence with your Lordship on the meaning of Article XIV. of the London Convention. A resolution in that spirit was passed by the Volksraad.

A further petition in Dutch and English was thereafter sent in by the merchants of European descent, the English copy of which is forwarded herewith as Enclosure D,\* as well as Enclosure F,\* being a list of enactments regulating immigration of Hindos, Coolies, and other Asiatics into British Colonies, which list was forwarded to this Government by the same petitioners.

The view taken in this last petition is to the effect that the London Convention does not relate to the persons against whom the petitioners raise their complaints.

I beg to request that your Lordship will be so good as to acquaint this Government as to the views of Her Majesty's Government on the subject, that is, whether, according to the opinion of Her Majesty's Government, this Government is at liberty, under the Convention now in force, to frame such regulations relative to the coloured persons referred to as may appear to them to be in the interests of the inhabitants of this Republic, and if not, whether Her Majesty's Government by its consent will empower this Government to meet either entirely or partly the wishes of the petitioners of European descent.

I have, &c.

W. EDUARD BOK,  
State Secretary.

\* Not printed.

Appendix A.

to SIR HERCULES ROBINSON.

SIR, I HAVE TH acknowledge the receipt of your despatch of the 28th of January, a letter from the State Secretary of the South African Republic respecting the position of Asiatics and others under Article 14 of the London Convention.

Downing Street, March 19, 1885.

I have carefully considered your suggestion as to the amendment of the Convention, and, if you are of opinion that it would be preferable and more satisfactory to the Government of the South African Republic to proceed as you propose, Her Majesty's Government will be willing to amend the Convention as suggested. It seems to deserve consideration, however, whether it would not be more correct for the Volksraad to legislate in the proposed sense, having received an assurance that Her Majesty's Government will not desire to insist upon any such construction of the terms of the Convention as would interfere with reasonable legislation in the desired direction.

I have, &c.  
DERBY.

No. 4 in Appendix A.

SIR HERCULES ROBINSON to COLONEL STANLEY.

(Received February 11, 1886.)

Government House, Cape Town,  
January 20, 1886.

SIR,

In my despatch of the 28th January last,\* I forwarded to the Earl of Derby a letter addressed to his Lordship by the Government of the South African Republic, dated 6th January 1885, asking what meaning was attached by Her Majesty's Government to Article 14 of the London Convention. I recommended that the Transvaal Government should be informed that Her Majesty's Government would be willing to amend Article 14 of the Convention by inserting in place of the word "natives" the words "African natives or Indian or Chinese Coolie immigrants." The effect of this amendment, I pointed out, would extend the disabilities confined by the 14th Article to natives of South Africa, to Indian or Chinese Coolies; but would leave to the Arab traders then living in Pretoria the liberties and privileges secured to them by the 14th Article, and I added that I could see no sufficient grounds for these persons being deprived of their rights.

2. Lord Derby, in his reply of the 19th March,† observed that Her Majesty's Government would be willing to amend the Convention as suggested by me, but he thought it would be more correct for the Volksraad "to legislate in the proposed sense, having received an assurance that Her Majesty's Government would not desire to insist upon any such construction of the terms of the Convention as would interfere with reasonable legislation in the desired direction."

3. In a letter dated the 17th April last, I forwarded, for the information of the Transvaal Government, and in reply to their inquiry of the 8th January, a copy of Lord Derby's letter of 19th March, as well as a copy of mine of the 28th January, to which it was a reply.

4. I have now the honour to forward copy of a correspondence which I have since had with the Government of the South African Republic with respect to complaints made to me that certain disabilities, had by recent legislation of the Volksraad, been imposed on Arab merchants, mostly British subjects, residing in the Transvaal, in contravention of the 14th Article of the Convention of London.

5. It will be seen that the Transvaal Government seek to justify the recent legislation of the Volksraad prohibiting Arab merchants in the Transvaal from holding fixed property, and imposing on them a special tax of 25*l.*, upon the ground that such legislation was in accordance with the authority conveyed to the Transvaal Government in Lord Derby's despatch of the 19th March last. This conclusion is based on the assumption that the words "proposed sense" and "desired direction" in Lord Derby's despatch did not refer to my proposal, or my recommendation, as embodied in my despatch of the 28th January 1885, but to the request of the Government of

\* No. 2 in Appendix A.

† No. 3 in Appendix A.

the South African Republic as represented in the Convention of London, and that, in its application to the Transvaal law, a copy of which is enclosed, is an injustice upon an intelligent, well-conducted race of subjects, and against whom the only complaint is that, in industry and frugality, they are able to undersell the local industry.

6. I do not think that this was Lord Dufferin's intention. I have, &c.

HERCULES ROBINSON,  
High Commissioner.

Enclosure 1 in No. 4 in Appendix A.

IMPERIAL SECRETARY to STATE SECRETARY, Pretoria.

Government House, Cape Town,  
October 16, 1885.

SIR,

WITH reference to my letter of the 17th April last, I am directed by his Excellency the High Commissioner to inclose, for the information of the Government of the South African Republic, a copy of a letter\* which he has received from the manager of the Standard Bank, reporting the disabilities placed upon Arab merchants in the Transvaal.

His Excellency desires me to refer you to the last paragraph of his despatch to the Secretary of State, a copy of which was forwarded to you in my letter, and to point out that the new law relating to Asiatics, if Mr. Michell has correctly apprehended its effect, is a breach of the understanding upon which Her Majesty's Government waived their right to insist upon the strict interpretation of the terms of the Convention of London.

It was expressly understood by the Secretary of State that the proposed legislation was not to apply to Arab traders, or merchants, but to Indian or Chinese Coolie immigrants. His Excellency trusts, therefore, that the Government of the South African Republic will be able to assure him that merchants or traders of the class mentioned in Mr. Michell's letter, and especially such as are British subjects, will enjoy the same privileges as are secured by the Convention of London to "all persons other than natives."

I am, &c.

GRAHAM BOWER,  
Imperial Secretary.

Enclosure 2 in No. 4 in Appendix A.

IMPERIAL SECRETARY to STATE SECRETARY, Pretoria.

Government House, Cape Town,  
October 24, 1885.

SIR,

I AM directed by his Excellency the High Commissioner to inclose, for the information of the Government of the South African Republic, a copy of a petition\* received from Mr. Cronwright, the assignee in the estate of Hollins and Holder, complaining of a loss sustained by the estate through a breach of the London Convention.

His Excellency considers that the disabilities imposed on the Arab merchants mentioned in Mr. Cronwright's letter constitute a breach of the understanding on which Her Majesty's Government waived their right to insist on a strict interpretation of the terms of the Convention of London, and he will be glad to receive an early assurance that merchants of the class mentioned have been relieved from the disabilities referred to by Mr. Cronwright.

I have, &c.

GRAHAM BOWER,  
Imperial Secretary.

\* Not printed.

## Appendix A.

TI

to SIR HERCULES ROBINSON.

SIR, I HAVE THE HONOUR TO acknowledge the receipt of your despatch of the 28th of January 1885, a letter from the State Secretary of the South African Republic respecting the position of Asiatics and others under Article 14 of the London Convention.

I have carefully considered your suggestion as to the amendment of the Convention, and, if you are of opinion that it would be preferable and more satisfactory to the Government of the South African Republic to proceed as you propose, Her Majesty's Government will be willing to amend the Convention as suggested. It seems to deserve consideration, however, whether it would not be more correct for the Volksraad to legislate in the proposed sense, having received an assurance that Her Majesty's Government will not desire to insist upon any such construction of the terms of the Convention as would interfere with reasonable legislation in the desired direction.

I have, &c.  
DERBY.

No. 4 in Appendix A.

SIR HERCULES ROBINSON to COLONEL STANLEY.

(Received February 11, 1886.)

Government House, Cape Town,

January 20, 1886.

SIR,

In my despatch of the 28th January last,\* I forwarded to the Earl of Derby a letter addressed to his Lordship by the Government of the South African Republic, dated 6th January 1885, asking what meaning was attached by Her Majesty's Government to Article 14 of the London Convention. I recommended that the Transvaal Government should be informed that Her Majesty's Government would be willing to amend Article 14 of the Convention by inserting in place of the word "natives" the words "African natives or Indian or Chinese Coolie immigrants." The effect of this amendment, I pointed out, would extend the disabilities confined by the 14th Article to natives of South Africa to Indian or Chinese Coolies; but would leave to the Arab traders then living in Pretoria the liberties and privileges secured to them by the 14th Article, and I added that I could see no sufficient grounds for these persons being deprived of their rights.

2. Lord Derby, in his reply of the 19th March,† observed that Her Majesty's Government would be willing to amend the Convention as suggested by me, but he thought it would be more correct for the Volksraad "to legislate in the proposed sense, having received an assurance that Her Majesty's Government would not desire to insist upon any such construction of the terms of the Convention as would interfere with reasonable legislation in the desired direction."

3. In a letter dated the 17th April last, I forwarded, for the information of the Transvaal Government, and in reply to their inquiry of the 8th January, a copy of Lord Derby's letter of 19th March, as well as a copy of mine of the 28th January, to which it was a reply.

4. I have now the honour to forward copy of a correspondence which I have since had with the Government of the South African Republic with respect to complaints made to me that certain disabilities, had by recent legislation of the Volksraad, been imposed on Arab merchants, mostly British subjects, residing in the Transvaal, in contravention of the 14th Article of the Convention of London.

5. It will be seen that the Transvaal Government seek to justify the recent legislation of the Volksraad prohibiting Arab merchants in the Transvaal from holding fixed property, and imposing on them a special tax of 25*l.*, upon the ground that such legislation was in accordance with the authority conveyed to the Transvaal Government in Lord Derby's despatch of the 19th March last. This conclusion is based on the assumption that the words "proposed sense" and "desired direction" in Lord Derby's despatch did not refer to my proposal, or my recommendation, as embodied in my despatch of the 28th January 1885, but to the request of the Government of

\* No. 2 in Appendix A.

† No. 3 in Appendix A.

D. The Government shall have the right to point out to them their proper streets, wards, and locations, where they shall reside.

This provision shall not be applicable to those who reside with the masters in whose service they are.

Clause 3.—This law comes into operation immediately after publication in the "Staats Courant" in accordance with Art. 12 of the "Grondwet."

Government Office, Pretoria,  
10th June 1885.

S. J. P. KRUGER,  
State President.  
W. EDUARD BOK,  
State Secretary.

---

No. 5 in Appendix A.

EARL GRANVILLE to SIR HERCULES ROBINSON.

SIR, Downing Street, February 24, 1886.  
I HAVE received your Despatch of the 20th ultimo,\* addressed to my predecessor, enclosing copy of a correspondence with the Government of the South African Republic respecting the disabilities placed upon Arab traders in the Transvaal by recent legislation of the Volksraad.

2. I request that you will inform the Government of the South African Republic that I cannot accept the explanation offered in the State Secretary's letter of the 23rd December, and must desire that the law in question may be revised, as it is in direct opposition to the views of Her Majesty's Government, and in its present form is a contravention of the Convention of London.

I have, &c.  
GRANVILLE.

---

No. 6 in Appendix A.

SIR HERCULES ROBINSON to MR. STANHOPE.  
(Received October 21, 1886.)

SIR, Government House, Cape Town,  
September 29, 1886.  
HAVING communicated to the Government of the South African Republic a copy of Lord Granville's Despatch of the 24th February last,† expressing the disapproval of Her Majesty's Government of the disabilities imposed upon Arab traders in the Transvaal by the Act of the Volksraad, No. 3 of 1885, I have now the honour to forward a copy of a letter which I have received from the State President in reply, specifying the amendments in the Act which the Volksraad have sanctioned, with a view of explaining more clearly the object of that enactment, and of meeting the wishes of Her Majesty's Government.

2. By the Act as amended, Coolies, Arabs, and other Asiatics are still required to be registered, but the fee for registration has been reduced from 25*l.* to 3*l.* The Government also has the power, for sanitary purposes, of showing Asiatics fixed streets, wards, and locations for habitation; but the general prohibition against their being owners of landed property in the Republic is modified by their being allowed to acquire fixed property within the areas which the Government may for sanitary purposes point out for their residence. I enclose a copy of Act 3 of 1885, with the amendments now made inserted in red ink.

3. It is clear that the Act, even as amended, is still a contravention of the 14th Article of the Convention of London. But, as Lord Derby informed the Government of the South African Republic that Her Majesty's Government would not insist upon any such

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\* No. 4 in Appendix A.

† No. 5 in Appendix A.



construction of the terms of the Convention as would interfere with reasonable legislation, and as the Transvaal Government assert that the restrictions imposed upon persons of Eastern race by this law are necessary for the sake of the public health, I am not prepared to advise Her Majesty's Government to offer further opposition to them.

I have, &c.

HERCULES ROBINSON,  
High Commissioner.

---

Enclosure 1 in No. 6 in Appendix A.

STATE SECRETARY, Pretoria, to HIGH COMMISSIONER, Cape Town.

(Translation.)  
YOUR EXCELLENCY,

Government Office, Pretoria,  
September 6, 1886.

I HAVE the honour to inform you that I have been instructed to acknowledge the receipt of your despatches, dated respectively 25th March and 28th July, dealing with the law relating to Coolies and Arabs, passed by the Volksraad of this Republic in the year 1885.

This Government has learnt therefrom with regret that the above-mentioned law embraced measures not entirely in accordance with the views of Her Majesty's Government, and that a misunderstanding seems to have taken place regarding the information under which Her Majesty's Government desisted from pressing for a strict interpretation of the Convention of London.

It appears to this Government that a misunderstanding also exists regarding the intention with which the projected law was framed.

It was for the sake of public health, having in view the experience acquired in other countries and colonies, and here also already, very desirable and necessary, to take sanitary measures regarding those Eastern strangers who established themselves here in increasing numbers after the conclusion of the Pretoria Convention, and chose their dwelling-places everywhere in the midst of the white population. It was to meet this necessity, and with the therewith coinciding wishes of the signators to the memorials already made known to Her Majesty's Government (the majority English subjects) that the projected law was passed.

This Government is not disinclined to let that object appear more clearly and to meet the wishes of Her Majesty's Government. They have therefore applied to the Volksraad, and have obtained the power to amend the Act, No. 3 of 1885, in the following respects:—

1st. That after the first part of Article 2 of Law No. 3, 1885, the following shall be added, "save only in the streets, wards, and locations which the Government shall for sanitary purposes point out for habitation."

2nd. That the sum of 25*l.* named in the second part of Article 2c of the law quoted shall be reduced to 3*l.*

3rd. That Article 2b of the law quoted shall read as follows: "The Government shall have the power, for sanitary purposes, of showing them fixed streets, wards, and locations for habitation. This decree is not applicable to those who reside with their employers."

In accordance with these alterations, the Easterns mentioned in the law will not be prevented from acquiring fixed property in this Republic.

This Government intends that, with the introduction of these alterations, the difficulties will be removed which might hitherto have existed with Her Majesty's Government, and that their views may have been met.

It will be pleasing to this Government to receive a confirmation of this from your Excellency.

I have, &c.

W. EDUARD BOK,  
State Secretary.

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## Enclosure 2 in No. 6 in Appendix A.\*

(Translation.)  
(No. 3, 1885.)

## LAW respecting COOLIES, ARABS, and other ASIATICS.

(Sanctioned and enacted by resolution of the Honourable Volksraad, Article 255,  
dated the 1st June 1885.)

Clause 1. This law is applicable to the persons belonging to one of the aboriginal races of Asia, among whom are comprehended the so-called Coolies, Arabs, Malays, and Mahometan subjects of the Turkish Empire.

Clause 2. With respect to the persons intended in Clause 1 the following provisions shall be of force :—

- A. They cannot acquire the rights of citizenship of the South African Republic ;
- B. They cannot be owners of landed property in the Republic, *save only in the streets, wards, and locations which the Government shall for sanitary purposes point out for habitation.*

This provision has no retrospective effect.

- C. Those who settle in the Republic for the purposes of trade or otherwise shall have to be enrolled in a register to be specially kept for the purpose by the landdrosts of the respective districts, in accordance with a model to be prescribed by the Government ;

At this registration, which shall have to take place within eight days after arrival, there shall have to be paid the sum of *25l.* (~~twenty-five pounds sterling~~) *3l.*

A breach of the provisions of Section C. shall be punishable with a fine of from 10 (ten) to 100 (one hundred) pounds sterling, for which shall be substituted, in case of non-payment, imprisonment for a term of from 14 days to six months.

This registration above referred to shall take place free of charge with respect to those who have settled in the Republic before the coming into operation of this law, provided that they report themselves to the landdrost, as regards Pretoria within eight days, and in other districts within 30 days after the coming into operation of this law.

- D. The Government shall have the ~~right to point out to them their proper streets, wards, and locations where they shall reside,~~ *power for sanitary purposes of shewing them fixed streets, wards, and locations for habitation.*

This provision shall not be applicable to those who reside with their employers.

Clause 3. This law comes into operation immediately after publication in the "Staats Courant," in accordance with Article 12 of the "Grondwet."

S. J. P. KRUGER,  
State President.  
W. EDUARD BOK,  
State Secretary.

Government Office, Pretoria,  
June 10, 1885.

## No. 7 in Appendix A.

MR. STANHOPE to SIR H. D'O. TORRENS.

SIR,

Downing Street, November 4, 1886.

I HAVE the honour to acknowledge the receipt of Sir H. Robinson's Despatch of the 29th of September,† and to inform you that Her Majesty's Government do not see occasion any longer to object to the legislation of the South African Republic in regard to Asiatic traders, having regard to the amendments which the Volksraad has introduced into the Law of 1885. I have to request that a communication in this sense may be addressed to the Government of the Republic.

I have, &c.

EDWARD STANHOPE.

\* Note.—The amendments in the Law No. 3 of 1885 effected by the Law of 1886 are shown by *italics*, signifying additions, and obliterated type, signifying omissions.

† No. 6 in Appendix A.

No. 8 in Appendix A.

GOVERNMENT NOTICE of the SOUTH AFRICAN REPUBLIC published in the "STAATS COURANT" of September 27, 1893.

No. 324, R. 11,576/93.

GOVERNMENT NOTICE.

(Translation.)

It is hereby published for general information that, in consequence of certain memorials respecting the Coolies, Asiatics, and Chinese in the South African Republic, the following resolution is adopted by the Worshipful First Volksraad, under Art. 1353 of its notes, dated 8th September 1893:

Art. 1353. "The First Volksraad, having in view the memorials, together with the two reports of the Commission now under consideration, resolves—

"1. That Law No. 3, 1885, as afterwards modified be rigidly applied in such a manner that all Asiatics and other persons coming under the said law shall have to limit themselves, both in respect to residence as well as to trade, to the localities appointed; with the exception of those whose hire-contracts, concluded before the appointment of those localities, have not yet expired, and that the further aforesaid resolution of the First Volksraad shall likewise be rigidly carried out.

"2. That every Chinaman shall be obliged to provide himself with a special pass upon which a stamp of 25*l.* shall be placed, and which must be signed and issued by the proper landdrost or mine commissioner, and must be renewed yearly.

"3. That every Chinaman who shall fail to exhibit his pass when required to do so by a magistrate, officer of justice, or policeman, shall be arrested and punished by a fine not exceeding 25*l.*, and in default of payment, by imprisonment for a period not exceeding one month, with or without hard labour, and, on repeating the offence, by expulsion from the Republic.

"The regulations respecting Chinamen shall come into force on and after the 1st of January 1894.

"The memorialists are to take note of this resolution."

C. VAN BOESCHOTEN,

Acting Secretary of State.

Government Office, Pretoria,  
25th September 1893.

No. 9 in Appendix A.

CIRCULAR.

From the ATTORNEY-GENERAL to PUBLIC PROSECUTORS,  
LANDDROSTS, &c.

(Translation.)

SIR,

Pretoria, December 27, 1893.

WITH reference to the instructions previously given hereupon, I have now the honour to inform you that the Government has sent me a copy of the Resolution of the Volksraad, Art. 1353, dated 8th September 1893, with the order to put same into execution.

The said Resolution of the Volksraad runs as follows:—

"The First Volksraad, having regard to the memorials, together with the two reports of the Committee, now under consideration—

"Resolves:—1. That the Law, No. 3, 1885, as subsequently modified, shall be strictly enforced, that is to say, that all Asiatics and other persons coming within the provisions of the above-mentioned law, shall be bound to confine themselves, both as regards habitation and trade, to the locations assigned to them, with the exception of those whose leases were entered into before the assigning of such localities and have not yet expired, and that further the above-mentioned decree of the First Volksraad shall in other respects also be rigidly enforced.

"2. That every Chinaman shall provide himself with a special pass, which must be stamped with a 25*l.* stamp, which said pass shall be signed and delivered over by the Landdrost or Mining Commissioner in question, and must be renewed annually.

"3. That every Chinaman failing to produce his pass on being required to do so by the justice of the peace, official of the courts, or police officer in question, shall be arrested and punished with a minimum fine of 25*l.* or, on failing to pay same, with imprisonment with or without hard labour, not to exceed one month, and on repetition of the offence with banishment from the Republic.

"The regulations concerning Chinamen shall come into effect from and after 1st January 1894."

You are aware that already during the first half of this year, instructions were given to the effect that coolies and other Asiatics should be allowed the opportunity for the space of three further months to carry on a free trade in the villages in order to be enabled to dispose of their goods, or remove the same in order to save themselves from eventual loss.

Since that time the above-mentioned Resolution of the Volksraad has been passed, and you are now charged to see that all Asiatics, as soon as possible, and at the very latest within a month after written notice thereof to that effect, are removed to the localities in question, with the exception of those whose leases had not expired before the assigning of such localities was made, and such written notice is to be given by you punctually on the receipt of this circular, and with special reference therein to the above-mentioned previously given instruction.

With regard to the special pass of 25*l.* to be taken out by Chinamen, I have to inform you that the rules and regulations relating thereto have not yet been quite completed. They shall be sent to you as soon as possible. Till such time, however, the special passes shall not be issued by you, and the 25*l.* not demanded.

Moreover, I beg to inform you that all Asiatics, including Chinamen also, are subject to the registration fee of 3*l.* in accordance with Law No. 3, 1885.

I have, &c.

DR. A. E. J. KRAUSE,  
Attorney-General.

## APPENDIX B.

CONTAINING SUCH DOCUMENTS REFERRED TO IN THE SOUTH AFRICAN REPUBLIC CASE (on page 8)\* AS ARE NOT PRINTED IN APPENDIX A.

### No. 1 in Appendix B.

The Acting HIGH COMMISSIONER to the STATE PRESIDENT, Pretoria.

Government House, Cape Town,  
December 2, 1886.

SIR,

With reference to the State Secretary's letter of the 6th September last, I have the honour to enclose, for your Honour's information, a copy of a despatch which I have received from the Secretary of State, directing me to acquaint you that Her Majesty's Government do not see occasion any longer to object to the legislation of the South African Republic in regard to Asiatics, having regard to the amendments which the Volksraad has introduced into the law of 1885.

I have, &c.

H. TORRENS, Lieut.-General,  
Acting High Commissioner.

Enclosure in No. 1 in Appendix B., see No. 7 in Appendix A.

\* Note.—These documents are reprinted from the Green Books of the South African Republic, Nos. I. and II., 1894, copies of which will be placed in the libraries of the House of Lords and House of Commons for reference.

## No. 2 in Appendix B.

The BRITISH AGENT, Pretoria, to the STATE SECRETARY.

SIR,

December 14, 1888.

I HAVE the honour to enclose, for the information of his Honour the State President, a copy of a despatch which I have received from his Excellency the High Commissioner, covering a copy of a telegram from the Secretary of State, relating to the position of the Indian traders in the South African Republic.

In view of the importance of the question, I shall be obliged if you will cause this communication to be forwarded to the State President as soon as possible. Awaiting his Honour's reply,

I have, &amp;c.

RALPH CH. WILLIAMS,  
Her Majesty's Agent.

## Enclosure in No. 2 in Appendix B.

HIGH COMMISSIONER to HER MAJESTY'S AGENT.

SIR,

Government House, Cape Town,  
December 8, 1888.

WITH reference to your despatch of the 22nd October last, I have the honour to enclose, for your information, a copy of a telegram which I have received from the Secretary of State, directing me to urge on the President of the South African Republic that action in respect to the Indian traders should be deferred till the meeting of the Volksraad, and that licences held prior to the law of 1885 should be renewed. I shall be glad if you will communicate with the Government of the South African Republic in the sense desired by the Secretary of State.

I have, &amp;c.

HERCULES ROBINSON,  
High Commissioner.

## TELEGRAM.

FROM SECRETARY OF STATE, London, to GOVERNOR, Cape Town.

6th.—Referring to your despatch of 7th November, urge on President of South African Republic that action in respect to Indian traders should be deferred till meeting of Volksraad, and that licences held prior to law of 1885 should be renewed.

## No. 3 in Appendix B.

BRITISH AGENT, Pretoria, to the STATE SECRETARY.

SIR,

January 5, 1889.

I HAVE the honour to acknowledge the receipt of your letter of the 2nd of January (in reply to mine of the 14th of December) covering a copy of Lord Knutsford's cablegram relating to the law bearing on the British Indian traders in this State. I have caused a copy of your communication to be forwarded to His Excellency the High Commissioner, for the information of Lord Knutsford.

I have read with attention the copy of Article 41 of the proceedings of the Volksraad of the 19th of April which you were good enough to send me, and I venture to suggest that the action of the Raad leaves the matter open for the consideration of your Government, after communication with Her Majesty's Government, not pressing immediate action.

In view of the very moderate rendering of Article 41, and of the wide interests concerned, I would still request his Honour the State President to postpone putting the

law into effect until sufficient time has elapsed for a re-consideration of the question by the Raad.

May I ask you at the same time to inform me whether licences have been renewed or refused since the 1st of January, or whether the law has been actually put in force?

I have, &c.

RALPH CH. WILLIAMS,  
Her Majesty's Agent.

---

No. 4 in Appendix B.

ACTING HIGH COMMISSIONER to His Honour the STATE PRESIDENT,  
Pretoria.

TELEGRAM.

Cape Town, August 8, 1889.

Your Honour's telegram of yesterday. Sir Hercules Robinson's Despatch covered one from the Secretary of State, stating that renewed complaints had been made as to the inconvenience and even hardship caused to some of Her Majesty's Indian subjects by the operation of Law No. 3 of 1885.

Sir Hercules Robinson, in forwarding the despatch, said that, whilst fully appreciating the difficulties of your Honour's Government in this matter, he trusted you would be enabled to meet in some respects the wishes of the Indian traders. It appeared to him that the traders might reasonably claim that the law should respect vested interests, and should not apply to persons who acquired rights previous to the enactment of the laws on the faith of the protection accorded by the Conventions of Pretoria and London. A copy of Sir Hercules Robinson's despatch will be sent to your Honour by to-day's mail.

---

No. 5 in Appendix B.

ACTING HIGH COMMISSIONER to the STATE PRESIDENT, Pretoria.

Government House, Cape Town,

August 8, 1889.

SIR,

I HAVE the honour to enclose for your Honour's information (with reference to my telegram of to-day's date) the document specified in the annexed schedule.

I have, &c.

H. A. SMYTH, Lieut.-General,  
Acting High Commissioner.

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Enclosure in No. 5 in Appendix B.

*Description of Document.*

Copy of despatch from Sir Hercules Robinson to His Honour the State President, re operation of Act No. 3 of 1885, on Her Majesty's Indian subjects.

Sir HERCULES ROBINSON to the STATE PRESIDENT, Pretoria.

Government House, Cape Town,

April 30, 1889.

SIR,

WITH reference to Mr. Bok's letter of the 2nd January last, and to previous correspondence respecting the position of Indian traders in the South African Republic, I have the honour to enclose, for your information a copy of a despatch which I have received from the Secretary of State on the subject.

Whilst fully appreciating the difficulties of your Honour's Government in this matter, I trust that you will be enabled to meet in some respect the wishes of the Indian traders. It appears to me that the traders may reasonably claim that the law should respect vested interests and should not apply to persons who acquired rights previous to the enactment of the law on the faith of the protection accorded by the Conventions of Pretoria and London.

I have, &c.

HERCULES ROBINSON,  
High Commissioner.

Sub-Enclosure in No. 5 in Appendix B.

Lord KNUTSFORD to Sir HERCULES ROBINSON.

SIR, Downing Street, April 1, 1889.  
WITH reference to the correspondence noted in the margin, relating to the complaints of Indian traders of the operation of one of the laws of the South African Republic, I have the honour to transmit to you copies of correspondence with the India Office on the subject.

Sir H. Robinson, to Colonial Office, 16th Jan. 1889.  
Colonial Office to Sir H. Robinson, 9th Feb. 1889.  
Sir H. Robinson, to Colonial Office, 4th Feb. 1889.

I request that you will take an early favourable opportunity of informing the President of the South African Republic that renewed complaints have been made as to the inconvenience and even hardship caused to some of Her Majesty's Indian subjects by the operation of the Law No. 3 of 1885 of the Republic.

Her Majesty's Government fully appreciate the difficulty which the President may feel in interfering with the execution of the law, but they trust that it may yet be found possible, in some way, to meet to a greater extent than at present the wishes of the Indian traders, and not to press the law in its full strictness against any reasonable objections which they may make.

I have, &c.

KNUTSFORD.

COLONIAL OFFICE to INDIA OFFICE.

SIR, Downing Street, February 27, 1889.  
I AM directed by Lord Knutsford to transmit to you, for the information of Viscount Cross, copies of correspondence with Mr. H. Escombe, M.L.C., Natal, and Messrs. Loughborough and Gedge, his representatives here, as to certain complaints made by Indian traders resident in the South African Republic.

It will be seen that it is urged that Law No. 3 of 1885 of that Republic is in violation of the Convention with this country which was concluded in 1884, and which will be found printed in Parliamentary Papers, C: 3914.

A translation of the law in question is enclosed, and I am to explain that, although the question of its compliance with the Convention was not free from doubt, Her Majesty's Government decided in 1886 not to object to its provisions, which had already been amended at their instance.

I am, &c.

JOHN BRAMSTON.

~~5238~~ DISTRESSED COLONIAL AND INDIAN SUBJECTS. 32

52188

COMMITTEE ON DISTRESSED COLONIAL  
AND INDIAN SUBJECTS.

MINUTES OF EVIDENCE

AND

APPENDICES. (2)

(The Report is printed separately as [Cd. 5133].)

Presented to both Houses of Parliament by Command of His Majesty.

April 1910.



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# MINUTES OF EVIDENCE

TAKEN BEFORE THE

## COMMITTEE ON DISTRESSED COLONIAL AND INDIAN SUBJECTS,

WITH

### APPENDICES.

#### MINUTES OF EVIDENCE.

##### FIRST DAY.

Friday, 16th July 1909.

PRESENT:

MR. OWEN PHILLIPPS, M.P. (*Chairman*).

Sir FRANCIS FLEMING, K.C.M.G.  
Mr. G. S. FRY.  
Mr. HOWEL THOMAS.

Admiral W. F. S. MANN.  
Major-General F. E. A. CHAMBER, O.B., C.I.E.  
Mr. THEODORE MORISON.

Mr. EDWARD J. HARDING (*Secretary*).

Mr. R. E. STUBBS called in and examined.

1. (*Chairman*.) You are acting head of the Eastern Department of the Colonial Office?—Yes.

2. You have submitted a short statement of your views, if I may briefly take you through them?—Yes. It was not meant to be a formal document; it was merely a few suggestions that occurred to me. I thought you might like to have them personally.

3. You have divided them into destitutes other than sailors and sailors, and you mention that some time ago there was a very considerable number of destitute people from Ceylon?—Yes, more especially from Ceylon. They were nearly all what is known as "devil dancers." They were brought over in troupes to juggle and dance and do that sort of thing at exhibitions like Earl's Court. They were nearly all recruited by one particular man well known to us and the India Office. He used to take them for a tour on the Continent, and when he had a certain amount in hand he used to disappear, leaving the troupe stranded. They used to get West, being sent over by the Consuls.

4. To meet this position Ceylon passed a law?—Yes, requiring security for return passage money to be given when anybody is engaged for service out of the colony.

5. Since this law came into force has it practically met all this class of cases?—Yes. The cases have practically died out altogether now; there have been a few cases, but we have simply sent them back and left the Ceylon Government to take action under the law to recover the money from the guarantors.

6. Have the Straits Settlements since passed a similar law?—They passed a similar law about the same time. It was not quite so stringent, but I forget the exact difference. It was rather academic, because

in my recollection there were only two such people from the Straits Settlements.

7. Then you had public notices also sent out some five years ago?—Yes; that was to deal more especially with the case of people who came over here on the chance of getting employment. Every now and then an intelligent Ceylonese used to come over, thinking he would get employment at a higher rate of wages in this country. In about three weeks he used to be on the rocks and used to come to us for assistance.

8. Since you have had a notice published have those cases also diminished?—I have not heard of many cases recently, but the line that we take is that the Ceylon Government has publicly warned these people that they cannot expect any assistance, and therefore we will not give it. If they choose to come in defiance of that warning, they must take whatever consequences there may be. We have had one or two cases of people who are obviously respectable, and have merely had bad luck, and we have sent them back. For instance, if I am not wasting the Committee's time, there was a man two years ago who was a chemist, and who had invented a new explosive, which was taken up by a German firm. Then they found that it cost them too much to manufacture, or I think one of their own chemists invented an improvement in the same explosive, so they simply got rid of the Ceylonese at once, and after he had pawned all his property he came to us. I made such inquiries as I could, and found he was probably genuine; his name was that of a family of chemists there, and we sent him back, leaving him to repay us if he could. He undertook to do so, but I do not know if he ever did.

16 July 1909.]

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[Continued.]

9. As far as these particular colonies are concerned—the eastern colonies—you think nothing further is required?—No, I do not think anything further is required. As long as we have discretion to deal with deserving cases I do not think any new rule is required, and Ceylon is very reasonable, and would not raise any objection to our using our discretion.

10. Now with reference to seamen. You say that in nearly every case they claim to be natives of Ceylon or Mauritius?—Yes, either Ceylon or Mauritius. There are very few cases from anywhere else. There are occasionally cases from the Straits, but not many.

11. Are you averse to the introduction of any general rule?—Yes, certainly. I think a certain number of cases could be remedied if the masters of ships were required to engage their men only for the round voyage, so as to return them to the colony from which they started, but it seems to me it is rather using heavy machinery for nothing in particular. I do not think those cases are very numerous. In my own experience in nine cases out of ten these men have no papers and are probably deserters. They say they never had any papers, or have lost them or had them stolen, or their knowledge of the English language suddenly fails when you ask them for their papers. That is quite common.

12. In your opinion, is repatriation very effective?—No. I have cases within my recollection when we have repatriated a man and he has turned up again within a year or two in much the same circumstances. Personally it seems to me that repatriation once is quite as much as anyone can expect. If he does not learn from experience he probably does not deserve much further consideration.

13. In your opinion it is very difficult to decide where a native actually belongs to?—It is very difficult indeed. If it is once known generally that a particular colony is willing to repatriate its natives the number of alleged natives of that colony appearing at this office would go up by leaps and bounds. For instance, I remember a particular case where a man came to me—he was not a seaman and did not speak English—and explained that he was a Mauritian and had been expelled from France. He spoke very good French. I am not sure whether he was coloured or not, because he was so dirty that you could not really tell. I asked him questions, and I asked him why he had been expelled from France. To begin with he would not tell me at all, but at last I got out that he had been working in France for 30 years and had become distressed and applied to the authorities for assistance, saying that he was a French subject. They considered his case, and then they asked him where he did his military service. Then, seeing that he was in a dilemma, he at once claimed to be a British subject. They said, "If you are a British subject you shall go to Dover," and they sent him to Dover. I do not know that he was born in Mauritius. He professed that he left it about 30 years ago at an early age. He did not want to be sent back to Mauritius but only to be given help in money. It is quite possible he was a Frenchman who had evaded his military service; it is quite possible he was born in Réunion. I do not think anybody on earth can tell the difference between a man born in Mauritius or Réunion. I have had men from Pondicherry who claimed to be Mauritians.

14. On the question of repatriating at the expense of the colony, what is your view upon that?—The colonies' view will be that they will not have it at any price, because they are always having to repatriate pauper lunatics and beachcombers, the white men who have got in distress in Singapore and Colombo. They will argue that Great Britain cannot have it both ways. If they repatriate white people at the expense of the colony, anybody repatriated to the colony should be repatriated at somebody else's cost. The unofficial Members of Council will certainly take that point, and it seems to me to be a very good one.

15. Your suggestion, Mr. Stubbs, is that if they are to be repatriated they should be repatriated at the expense of the local authorities, seeing that the colonies repatriate Englishmen at the expense of the colonies. Is that your suggestion?—Yes, but I am

sure that the colonies would not be very anxious to have them repatriated at anybody's expense, because most of these people belong to the criminal classes, and they have quite enough of those in the colonies to go on with. Besides, I am not absolutely sure that it would be easy to get shipowners to take them, because in the eastern colonies they have fairly stringent laws against the introduction of destitute aliens, and, as I say, it is extremely difficult to prove if these men were born in the colony where they claim to have been born.

16. If you were satisfied, the colonial officials would not be satisfied?—No. We generally have to take somebody's word for it. We cannot investigate the claims, and the Colonial Government would be able to prove in many cases that the man was not born in the colony, and then the shipowner would possibly suffer, because he might have to send the man somewhere else at his own expense.

17. With reference to the advisability of setting aside a fixed sum for repatriation every year, what is your view?—Of course, if the proposal that the colony should not be charged is accepted, that does not come in at all. If the colonies are willing to pay for their repatriation I am strongly of opinion that it is much better to leave the thing to us and allow us to use our discretion; because if you have a fixed sum there is a danger, in some cases, that you will not be able to repatriate deserving cases, because there is no money for the purpose. If the colony provides a fixed sum it will object very strongly if that fixed sum is exceeded, whereas if all the cases are deserving they would not make a fuss probably if the sum in one year was considerably higher than in another. Also I think there is a danger, if there is money in hand, of sending home cases which do not really deserve repatriation. It is the obvious thing to do. You want to get rid of these men, and you send them to the Shipwrecked Mariners' Society or the Charity Organisation Society, or the Strangers' Home, and you do not know what to do with them next.

18. Generally your opinion is that no action is necessary?—Yes. I think I should go further, and say that no action is desirable. I think the present arrangements work quite reasonably, and, as a matter of fact, the number of cases turning up now is nothing like so great as it used to be. It is rather sporadic. Sometimes when there is difficulty in getting ships we have a considerable number of men. Those are the times when we get deserving cases, but there is a sort of floating population of wasters who turn up at intervals of six months. You generally recognise the man, if you do not recognise his name. The name varies considerably. Some years ago we started making notes of the men who presented themselves, and one or two turned up at least half-a-dozen times.

19. (Mr. Fry.) I did not quite understand when you mentioned that you have repatriated these men on several occasions. At whose expense was this repatriation?—The expense of the colony.

20. Always?—Always.

21. You never repatriated out of Colonial Office funds?—We have not got any.

22. (Admiral Mann.) In your recollection are there many cases you have sent to the Shipwrecked Mariners' Society? I am Chairman of it.—Not very many. We have occasionally done so. I remember one case of a man who told me a pitiful and touching story of a shipwreck on the coast of Chili: the name of the vessel and the company, and the date and everything was stated. I sent him to the Secretary of the Shipwrecked Mariners' Society with a note containing a brief account of the story he had given me. Unfortunately, the Secretary replied that he had told him a story which differed in every possible particular. The name of the ship and the company, the locality of the shipwreck, and the date had all changed. After that I thought I would not send any more people for some time. I did not see the use of sending wasters to the Society.

(Admiral Mann.) That is our experience too.

23. (Mr. Morison.) Do you have any number at all of native servants stranded in this country who come

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[Continued.]

over with passengers?—I can remember three or four, but that is dealt with now by the Ceylon law. The Ceylon law has now been extended to cover all cases of contract of service.\* If any man takes out a servant he has to provide for his repatriation.

24. Even if the servant does not keep his contract?—I cannot answer that off hand, but I think that is so.

25. The difficult cases I remember with regard to Indian servants were where the servant had broken the contract and therefore the employer would not be bound—ayaha.—I am inclined to say the Ceylon law takes no notice of that. As a matter of fact we do not want to encourage people to bring native servants here, and I do not think the Ceylon Government does either.†

26. (Major-General Chamier.) Do you recollect when I was Secretary of the Strangers' Home the Ceylon Government objected to our sending out a man because he was not Ceylonese?—Yes.

27. We asked, "How on earth could we know?" His name was that of a man of Ceylon; but they said they did not want him, and we had sent him out, and they had to pay the bill?—Yes. Perhaps you will remember another case of a man who came to us professing to be a native of either Singapore or Colombo, I have forgotten which. We sent him to you, and the next we heard of it was that he had been to the India Office on the ground that he was born in Bombay. He told you subsequently he was a native of Goa.

28. (Sir Francis Fleming.) Are the regulations that you have referred to under which destitute persons are sent back embodied in laws or simply executive regulations?—You mean in the cases where we have repatriated because we thought a man deserved it?

29. Yes.—They are executive Acts.

30. They are not Acts of the Legislature?—There are no written regulations on the subject at all.

31. Simply arrangements with the Governments of the different colonies?—Yes.

32. Supposing you did not think it desirable to repatriate a man, what becomes of him?—If he cannot find anything to do he goes to the workhouse.

33. And thereby becomes chargeable to this country?—Yes. What happens to a native of France or Germany who becomes destitute in this country? He also drifts into the workhouse and becomes chargeable.

34. He does. That is rather the objection?—You should not have a preference against the colonies. Why should not they receive the same measure as is received by a Frenchman or a German?

35. If any arrangement can be come to under which we can get rid of these individuals who do not belong to this country but belong to the colonies it would be desirable to have such an arrangement?—Cannot the local authorities ship them back at their own expense? They will probably find it cheaper than maintaining them for their natural lives, especially as these men are more comfortable in the workhouse than they are anywhere else.

36. Very likely, but when they are in the workhouse they are chargeable to the English Government?—Very likely that is so, but will not you effect a saving by sending them back at the expense of the local authorities?

37. I think it would be cheaper to send them back than it would be to keep them here. I know one or two cases in which this kind of people have been sent to a lunatic asylum, and they may be there for several years?—Why not send them back? If the local

\* *Witness's note.*—This was incorrect. The law does not apply to domestic servants, unless more than two are taken. I do not, however, remember a case of a destitute domestic servant.

† *Witness's note.*—It should have been mentioned that the emigrant is also required to execute a bond covering the cost of repatriation.

authorities send them back at their own expense the colony cannot object.

38. (Mr. Fry.) The colony will not send for them back, but would not object to the local authority sending them. Is it not hard that we should bear the expense of sending them back?—Why should the colony pay for the repatriation of their own natives and for the repatriation of Englishmen who become destitute? I know dozens of cases in which our pauper lunatics have been sent back from Singapore at the expense of the local government, and let me say this, that not only do we send these people back, but the local authorities are always trying to induce us to pay for their maintenance when they are back. We always decline to do so. Our practice is to send them to the nearest port and give them in charge of the relieving officer.

39. (Mr. Howel Thomas.) Are you referring to lunatics now?—I am referring to lunatics when I speak of giving them in charge of the relieving officer. There have been cases of destitute beachcombers who have been left to do what they like.

40. But the law as regards detention of lunatics in this country would be more strict. You have to get proper certificates before you could send them back at all. They are in custody?—In this country?

41. Yes.—Yes.

42. You could not easily repatriate lunatics?—You can repatriate a lunatic from the colony. You can put him in charge of a warder or a police officer and send him back.

43. I cannot at the moment say what the *modus operandi* would be, whether you would have to get the assent of the Lunacy Commissioners, but would he not in any case have to be sent out with an attendant at much expense?—That could be got over all right. There are always police officers or warders in this country who would be happy to take charge of a man on their way back from leave for a small payment, and if I am not mistaken a captain cannot refuse to take a lunatic put under his charge by the proper authorities.

44. (Admiral Mann.) If he is cared for?—Yes. If you gave a gratuity of 5*l.* to a police constable or a prison warder he would be happy to take care of any number of lunatics on the way out. They are only too glad to get the job of bringing men home.

45. (Mr. Howel Thomas.) How about the question of retaliation if the system grew up of sending distressed people from this country? The colonies might retaliate by sending distressed people here?—They do it. It is not desirable in the interests of the British Government to have distressed white men on the beach in these colonies. It brings the white race into discredit.

46. Then the colonies pay their way back?—Yes.

47. And of course, once they get home they would come on the rates?—Yes.

48. (Chairman.) In other words, really your position is that if they behave well to the people who are out there possibly by repatriating them to the mother-country, that the mother-country should do the same?—Yes, that is my position. Of course, you may say that they act from selfish motives because they do not want these men. That is what you are proposing to do here. The colonies do not want these men back. If they are sent back it is to oblige the local authorities here. Here the natives are on the rates. In the colony the white man is in gaol. It is about as broad as it is long.

49. (Mr. Howel Thomas.) May I take it the people who create any difficulty are—I will not say criminals but—chiefly undesirables?—Yes. In every deserving case where we can verify the man's statement we have always been ready to repatriate, but in most cases of seamen they are not deserving. I hold that any man who cannot bring evidence of what has happened to his papers is not deserving.

*The witness withdrew.*

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SIR FREDERICK M. HODGSON, K.C.M.G.

[Continued.]

SIR FREDERICK M. HODGSON, K.C.M.G., called in and examined.

50. (*Chairman.*) You are Governor of British Guiana?—Yes, I am.

51. In your view your colony would not contribute towards the cost of repatriating those who are destitute in this country?—No; I am sure it would not do so. I think if there was some convention which would make a mutual matter of it, that possibly it would become a signatory to the convention.

52. If it were made general, applying to all the Crown Colonies?—Yes; we have at times destitute Englishmen in the colonies, and I do not know of any fund out of which the cost of their repatriation could be paid. Of course with regard to seamen it is a different thing. They can be returned in the ordinary way. I am referring to people who come out other than seamen.

53. You say only in certain circumstances will the colony be willing to facilitate the re-entry of natives who would at once become a charge on the revenue?—Yes; I mean, make it mutual. I use the word "re-entry" as something different from repatriation. I look upon repatriation as including the cost of sending the person in question to the colony, whereas re-entry does not do that. Re-entry means that when the man is knocking at the door of the colony we might or might not let him in quite apart from the cost of bringing him to the colony. We do not want destitutes. I must say that the people of British Guiana, and I think also the people of Barbados, where I was for several years, know that if they leave the colony they leave it on their own responsibility, and that if they become destitute there are no funds at the disposal of their respective Governments out of which their repatriation could be paid. They know that if they leave the colony and become destitute they cannot get back at Government expense. I know of a case also where a person wanted to go, I think, to Grenada, on the ground that work could be obtained there. A short time afterwards it was reported that the person in question was destitute, and repatriation took place in that case. Within a year afterwards the same person asked for the cost of a passage ticket to the same place, and then we discovered that it was for the purpose of obtaining a holiday at the expense of the respective Governments. Such cases will arise, and I am not at all sure that when they come to England there is not sometimes a similar idea running through their minds, that they will see the country, and that if they are destitute they will be sent back at the expense of somebody.

54. If it were made easy or made more certain that they would be sent back, do you think that the number of cases would increase?—Yes, I think so. I am perfectly certain that the Legislature of British Guiana would never vote money to repatriate persons who, on arrival in the colony, would at once become chargeable to the public revenues as being destitute. You see, in British Guiana we want all our labour, and we discourage people leaving the colony in search of work, because we have the work there to give them. Nevertheless they do go, more especially to French and Dutch Guiana, the adjacent colonies, as rubber bleeders and timber cutters. They get an offer perhaps of better wages, and that attracts them, and they go, but there are very few who go to England; there are some who go to the neighbouring colonies of Grenada, St. Vincent, and Barbados, and we have a large number of Barbadians in our colony. We have also some destitute Barbadians whom the Barbadian Government will not take back. I discovered this because, finding that the cost of maintaining paupers in British Guiana was somewhat heavy, I inquired whether we were maintaining other people than British Guianians, and I found that we were maintaining paupers who were natives of other colonies. I suggested to the Government of Barbados that they should repatriate their paupers, and they at once passed a law preventing the re-introduction of destitute persons who had been absent from the colony for more than, I think I am right in saying, five years. That law exists, and it shuts out the return of these paupers that I refer to. I thought it would not be quite fair to the Barbadian Government to put the paupers on board

ship and dump them down, so I gave due notice, with the result that the law in question was passed. I mention this to show that we have paupers other than our own natives that we have to maintain in British Guiana.

55. Put in a nutshell your point is that your colony is supporting on an average as many people belonging to other?—Excuse me. I do not put it quite in that way. I put it in this way: that each place should maintain the paupers it happens to have. If there is a convention which means that there will be a mutual exchange of paupers, that is another matter. I think the colony of British Guiana, and I think also the colony of Barbados would be prepared to sign a convention of that character, but not otherwise. We do not want destitute people; they are of no use to us.

56. (*Admiral Mann.*) Have you the power to deny re-entry?—Yes, in certain circumstances.

57. You can enforce it?—Certainly.

58. What happens to the man?—He goes away again. The steamship company cannot land him.

59. The master of the ship would be bound to take him away again?—Yes.

60. That is the law?—Yes. We have a law in British Guiana under which, if some person will become surety for the individual concerned, he is allowed to land under that surety, and if he becomes chargeable to the revenue—I will not say the rates, because paupers are dealt with by the Government, and not by the town concerned—within a certain time, then the sureties have to pay the amount of the surety.

61. Is the denying of re-entry the same in the other countries—Barbados and so on?—So far as my knowledge goes they have similar laws. They are not all identical. I think they should be, if possible.

62. Approximately it is so?—Approximately it is so.

63. Therefore the master of the steamship is bound to take the man away?—If he cannot land him he has to do so.

64. Unless they can show means of subsistence?—Yes.

65. (*Mr. Morison.*) This rule you contemplated would be abolished if there was any system of exchanging paupers?—I think so. I think the West Indian Governments if it were put to them in that way, would in all probability look at it from a broad-minded point of view, and would come into some convention of that character.

66. They would take all their own and send the others away?—Yes. I was looking through the record books in front of you and I do not recognise more than two of those recorded as natives of British Guiana as being British Guiana people. They say they come from British Guiana, but they furnish no proof, and had they been sent to British Guiana it would very probably have turned out that they were natives of Trinidad or elsewhere. In the record books there is, I see, the case of an East Indian who is an indentured immigrant, and absconded from the estate for the purpose of taking a holiday and going to India. He got stranded on the way. He had had money which he expended on himself, I suppose, and then found himself stranded. There has been a lot of correspondence about him. He ought never to have left the colony. On his return he was prosecuted for absconding from the estate. The prosecution was withdrawn because the colonies always deal very lightly with indentured East Indians, and it only meant putting him in prison.

67. (*Sir Francis Fleming.*) Is there any law, similar to the one you allude to, in America under which an apparently destitute person is obliged to show he is worth 5*l.* or any particular sum of money?—In British Guiana there is a different system. It is a system of finding sureties. If any local person will become surety for somebody who wants to land we should let him land if he is able bodied. If he is not able bodied he will not be permitted. We do not allow any man to enter the colony unless he is able to work.

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Sir FREDERICK M. HONGSON, K.C.M.G.

[Continued.]

68. When the ship arrives how do you carry out the law against re-entry?—The police are on board specially charged with the duty of examining all the deck passengers.

69. (Chairman.) Does this apply to natives of British Guiana?—Yes, in certain circumstances.

70. If they have left and come back and are not able to work they would not be allowed to land?—Not in certain circumstances. I am not talking of people who leave the colony indentured to particular individuals. For instance, people come there and say they want a dozen labourers to go to some particular place. In such cases the arrangement is made with the knowledge and consent of the Government, and the indentures are signed by a magistrate, and we can come down on the individual who required them for any expense that may be incurred in consequence of their subsequent destitution.

71. (Sir Francis Fleming.) England is more kind to distress of this sort than Guiana itself?—I should not like to say that. I have never heard of the English Government putting their hands in their pocket to repatriate English destitutes.

72. I am talking of the natives of Demerara, or rather British Guiana. He comes over here and is allowed to land without anything to show?—Is that so? I thought there was an Aliens Act.

73. I do not refer to a foreigner, but to a native of British Guiana?—You mean a member of the Empire?

74. Yes. Is there anything to prevent his landing in England?—I should think probably not. It is part I suppose of a free trade policy.

75. That free trade policy does not extend to British Guiana?—No, not in certain circumstances. We are not altogether free trade in matters of that kind.

76. (Mr. Howel Thomas.) I should like to be clear about the denial of re-entry in America. If an American subject is going to friends, say nephews and nieces going to uncles, or perhaps a widow going over to her brother, if it is proved that they were born in the States, can the States refuse to let them land? In cases within my official experience the American officials do not ask them to produce a certain sum of money when they get there, if they have a home to go to?—No, not if they have a guarantee from someone.

77. I do not think there is any formal guarantee. It is simply if they have a home to go to, and the relative is there waiting to receive them on leaving the ship?—You are referring to *bona fide* Americans—men of American birth?

78. Yes. They must be able-bodied, I should think. They would not take any people who have not the use of their limbs, or who are lunatic. I should doubt very much whether the Americans would take in a blind man or a cripple, or anybody who is not able-bodied, even if he is an American, unless he is going to relatives who have shown their ability to maintain him. He left his country of his own accord and own free will and for his own purposes.

79. I am not quite clear about that. I know they allow undesirables to come here without any reference to their being able-bodied?—Yes, in England, because not to do so would savour of protection.

80. Supposing that we have a case here of a man in an English workhouse, and he had a letter from a brother or a father or an uncle over in British Guiana saying that if he would come back he would find a home for him?—That is a different matter. That is more or less a guarantee. We take each individual case on its merits. A case of that sort would be let in if on inquiry we found that the person named had the means of supporting his relative. We should allow the relative to come in. We do not want to shut out our natives because they are destitute.

81. Would you inquire into the character of the person over here?—I do not think so. I do not think

we should go as far as to inquire into his character if we had a sufficient guarantee that there would be no expense to the Government.

82. (Admiral Mann.) Practical legislation?—Quite so—practical legislation.

83. (Mr. Howel Thomas.) Suppose the board of guardians were willing to pay the costs of sending a West Indian out under those circumstances?—The West Indian Government would not receive a pauper from an almshouse here in England without the guarantee referred to.

84. I mean under what you deem more or less a guarantee. Even in those circumstances the guardians would have to get the consent of the Local Government Board for any expenditure they might incur, and before giving their consent in the case of the Crown Colonies the Board would require the consent of the Colonial Office?—That means re-entry and not repatriation. I mean that repatriation includes the cost of sending the person across the sea, and the Government concerned would never incur that expense.

85. You have no agent here?—No. We discourage the re-entry of paupers and destitute persons into the colony. We do not want them. It only means we have to keep them.

86. (Chairman.) The Committee has had a letter from Sir John Rodger, Governor of the Gold Coast, in which he says, as far as the Gold Coast is concerned, it would be willing to assent to any reciprocal agreement that might be arrived at. That is practically your view?—Yes, quite so. The constitution of British Guiana is a peculiar one. The Government have not got the supreme vote, but I think, if there were some mutual arrangement, British Guiana would come into it, because they would look at it from a broad-minded point of view. I do not know, of course, whether the convention would include the cost of repatriation. I think under any arrangement it would only be one of re-entry. I do not know whether I have made the difference between repatriation and re-entry clear.

(Chairman.) Yes, quite.

87. (Sir Francis Fleming.) It is a question of money really?—It is a question of money. We are not so wealthy as the Imperial Government, and we think we should not be put to the cost of re-introducing people we do not want.

88. (Mr. Howel Thomas.) Would such a convention rely upon your bearing the cost of sending distressed Englishmen home?—I suppose it would.

89. Is there any means of knowing the actual expense?—As matters stand at present I have sometimes to put my hand in my pocket to subscribe to sending a destitute person back to England.

90. (Mr. Fry.) Do you send many destitute Englishmen?—No, very few. There were more on the Gold Coast when I was there than in the West Indies. We have such people in British Guiana at times, men come out to work in the goldfields and in the diamond fields, and have been discharged through some fault of their own. There has been difficulty in getting them out of the country.

91. What happens to your natives who go to work in French and Dutch Guiana who may become destitute?—That is a very short distance.

92. You take them back?—Yes, certainly.

93. You cannot stop them?—As a matter of fact, they are not destitute.

94. Would not that happen here if the English Government sent them back?—I should not think so. In the one case the man comes back voluntarily at his own expense, and in the other he is destitute and undesirable, and is sent back.

95. But still you do receive him when he comes from Dutch or French Guiana?—He comes back, as I say, at his own expense. He is not destitute, and has a free right of entry.

The witness withdrew.

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Sir H. HESKETH BELL, K.C.M.G.

[Continued.]

Sir H. HESKETH BELL, K.C.M.G., called in and examined.

97. (*Chairman*.) You are Governor of Uganda?—Yes.

98. Uganda is very far from the sea?—Yes, and it is very unlikely that any of our natives will engage themselves as seamen on the coast.

99. At present you have no local law as Ceylon has about people having to become responsible for the return passage?—If servants are taken away by them?

100. Yes; the law requiring security to be given for the return passage money?—No, I do not think so. I do not know of any.

101. You suggest in the case of natives having to be returned that they might work off their passage on their returning home in the shape of labour which they are in a position to perform for the Government?—Yes, if they are unable to repay the amount through their friends locally or from property they may have which they cannot realise when over here. It seems to me they might be made to refund the expenditure which has been laid out on them in the shape of labour which they are able to perform. They might give an undertaking to that effect.

102. You were formerly Administrator of Dominica?—Yes.

103. Could you give the Committee any case from there?—I do not remember any case in the six years I was there where there was any demand or correspondence over the repatriation of a native Dominican from England.

104. You say: "I understand that in British East Africa British subjects who desire to be repatriated at the cost of the Government are lodged in prison and made to work according to their capacity"?—Yes. We have recently passed an almost similar law in Uganda, but instead of making them work their passages out in the Uganda gaol we propose to send them to the East African gaol at Mombasa, which is near the port, and where they have better accommodation for Europeans than we can supply in Uganda. It is rather a drastic method, but it seems to work very satisfactorily, inasmuch as there are fewer applications for repatriation than there otherwise would be if the people had not to submit to that hardship.

105. You mean taking such drastic measures has limited the number of cases?—Yes. I think there are a great many people in East Africa now who would be very glad to be repatriated if they had not to go to gaol. It works unjustly and harshly in the case of people who have fallen into such a position through no fault of their own. I remember two or three years ago when I first went to Uganda I was visiting the gaol at Mombasa, and I noticed three or four white men in the prison who seemed to be of a stamp that you would not expect to find in a prison, and I was told that they were working out their passages at the rate of 2s. a day. They were being given very easy work to do, but the hardship seemed to me to lie in the fact that any person visiting that gaol and not taking the trouble to inquire into the circumstances under which those men found themselves there might remember the face of a man that he had seen in that gaol, and years afterwards if that man was trying to get work he might be told: "I remember seeing you in gaol in Mombasa," a circumstance which probably would be a very great hardship to the man concerned.

106. (*Admiral Mann*.) He might be mistaken for a criminal when he was simply working out his passage?—Yes. A man might remember his face and nothing more.

107. (*Sir Francis Fleming*.) When these men work in order to get their passage home paid, are they placed on a similar footing to all the other prisoners?—They are not put into a gang. They work inside the prison. They do odd jobs inside the prison. I do not think there is much attempt made to get value out of them. It is more the unpleasantness to them that is aimed at.

108. When a native of Uganda goes back destitute, is there anything under the Uganda laws to prevent his being returned to his country?—A native of Uganda?

109. Yes.—No. When I left we were considering the provisions of a law to prevent the introduction of persons, not natives of course, who could not show visible means of existence, but I do not think it was ever intended to apply such regulations to natives of the country—certainly not.

110. Do you think if an agreement were come to in regard to repatriation between the mother country and the colonies, Uganda would have any objection to enter into a reasonable agreement?—No, I think not. I do not see why there should be any objection provided there is a reasonable probability that the calls will not be too great and that reasonable efforts should be made to recover the amount spent from the persons for whom it was paid. As regards natives of Uganda, they are still, and will be, I hope, for a considerable period, under pretty close control on the part of their chiefs. No native of Uganda can come into the country without being recognised by somebody as belonging to a certain tribe. So that we can always in those cases, through the agency of the chiefs, go a considerable distance towards getting back any money that has been advanced. I think there would be no difficulty in Uganda in getting such a person to work on roads or on public buildings and gradually to pay off a reasonable amount, at all events.

111. I was not referring so much to your dealing with the person when the person got back, but as to whether Uganda would be willing to consent to an agreement that might be made for repatriation?—I do not think we would be prepared to give an undertaking to the extent that all expenses incurred for the repatriation of natives of Uganda would be defrayed, unless we had some guarantee that efforts would be made to secure the repayment of the money—otherwise it would be a great encouragement to natives, not only of Uganda, but of every tropical colony, to go to England as servants or seamen. If such persons knew that their passages back to their countries would be paid for them, they would probably often desert the persons who had originally brought them over to England.

112. You think that this law which you say is now in contemplation would not prevent natives of Uganda returning to their own country in a distressed state subject to certain conditions?—I do not think this law is aimed at natives of the country at all, because Uganda being the hinterland of British East Africa there are a considerable number of natives who go to work on the railway. A good number of those people find that the employment in East Africa is not to their taste and they get in distress. They scrape together the few rupees necessary to pay their railway fare and they land in Uganda on the shores of the lake without a sou, but that does not matter. There is no such thing as destitution in Uganda. The moment a man is there he can always get plenty to eat.

113. Now you are referring to natives?—Yes, quite so.

114. Supposing a native of Uganda came to England, and spent some time in England, and was sent back in a perfectly destitute condition, would he be allowed to land?—Yes; he would be allowed to land in Uganda, but whether he would be allowed to land in British East Africa I cannot tell you.

115. (*Chairman*.) Do you take any special steps in connection with the return of natives who come over here in connection with exhibitions?—No.

116. Have you had any trouble in those cases?—No, we have never had any cases. I think there are three or four now here in connection with the Missionary Exhibition, but I am sure the missionaries will take reasonable care that they will go back to their own country.

117. (*Major-General Chamier*.) You say it seems rather harsh that an innocent European should be seen in gaol, perhaps amongst criminals?—Yes.

118. Is not the harshness outweighed by the certainty of his getting back to the country by doing very slight work? It seems to me an excellent arrangement. It is a certainty with him, by doing very

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Sir H. HESKETH BELL, K.C.M.G.

[Continued.]

slight work, of getting back to this country?—There are a good many men who would almost rather starve than go to gaol, especially if they feared that some acquaintance, or somebody they might meet afterwards, would see them there.

119. But still there is great advantage to the man in getting back with very slight work?—Yes. Most of the white men, I believe, who are sent out of the country in that way from British East Africa are sent to Bombay, where apparently, there is nothing done with regard to their exclusion. I am under the impression that they are not obliged to show that they have viable means of subsistence. The passage to Bombay is naturally very much cheaper than it would be to England.

120. Europeans you mean?—Yes, Europeans.

121. (Mr. Morison.) With regard to this system, it only refers to British subjects. Do you have any difficulty about repatriating other people? You must have a good many Indians, I suppose?—In Uganda, yes, but we have never had any application from any Indian that I am aware of for the cost of his repatriation. They hang together very much, and appear to help each other when necessary.

122. This system is useful but it does not pay you. They cost you more than 2s.?—Yes, much more. They have to be fed at a rate much in excess of 2s. The 2s. is merely a nominal amount. The system is followed mainly in order to make the process of repatriation an unpleasant one.

The witness withdrew.

(The Committee adjourned till Friday, the 23rd inst., at 2 p.m.)

## SECOND DAY.

Friday, 23rd July 1909.

### MEMBERS PRESENT:

Mr. OWEN PHILIPPS, M.P. (*Chairman*).

Sir FRANCIS FLEMING, K.C.M.G.  
Mr. G. S. FRY.  
Mr. HOWEL THOMAS.

Admiral W. F. S. MANN.  
Major-General F. E. A. CHAMBER, O.B., C.I.E.  
Mr. THEODORE MORISON.

Mr. EDWARD J. HARDING (*Secretary*).

Mr. E. GEIKIE called in and examined.

123. (*Chairman*.) You are of the West African Department of the Colonial Office?—Yes, the Niger half of it.

124. You have submitted a short memorandum?—Yes.

125. Which we may take as your evidence?—Yes. Generally speaking my views are these: the various West African Colonies have laws strictly regulating the recruiting of natives of the Colony for service outside the Colony, and I do not know of any case of a destitute West African in this country which has arisen in this connection, though we have had correspondence about West Africans engaged for service in other West African Colonies than British and left destitute there. I believe I am correct in stating that some years back one of the London Exhibitions wanted to get over some British West African natives, but we refused to allow this and they had to get French subjects from Dahomey. The class of cases—fortunately they have not been numerous hitherto—with which the Gold Coast and Niger Departments have had to deal are the cases of individual West Africans who have come to Europe with a little money in their pockets to try their fortune (especially as servants or waiters) have failed and got stranded, or men who have worked as seamen to and from Europe and West Africa and have got temporarily stranded here. In two recent cases the destitute man said that he would be all right if he could get to Antwerp or Hamburg for he could pick up a job there. We gave them assistance (from West African funds) to get to these places and have not heard of them since. Speaking generally, when a destitute West African native turns up at the Colonial Office we send him either (1) to the Charity Organisation Society, or (2) to the Strangers' Home for Asiatics, Africans, &c., at the West India Dock. It not unfrequently happens that the individual is a waster and has exhausted the patience of both places. One such specimen turned up here not long ago. He resisted all the suggestions of our messengers that he should depart for some three or four hours. I finally had to go over to Scotland Yard who sent a policeman who removed him and took him

to the workhouse of the union in which the Colonial Office is situated at Princes Row, Buckingham Palace Road. I went to the workhouse with him. They took him in there, but explained to me that they had no power to keep him if he did not want to stay, so that he would very probably be out again in a day or two endeavouring to sponge on whom he could as before, so that our only course at the Colonial Office if we did not want a repetition of that afternoon's occupation was to refuse him admittance. The workhouse authorities told me that if he had been an alien or even a lunatic British subject the law would have provided for his compulsory deportation; but that as things were, there was no legal authority for his compulsory deportation. That seems to be the want, and then the question would arise who should pay for this deportation. Cases of destitute West Africans at the Colonial Office have not hitherto been sufficiently frequent for any specific provision out of West African funds for dealing with them. But the half dozen or so cases which have occurred in the last two years or so have set us thinking seriously whether each of the West African Colonies should not be instructed to include a small sum annually in their estimates to provide for the cost of repatriation, if in any case we should be driven to that course. I believe that I am correct in saying that Sir Alfred Jones, of the firm of Elder, Dempster & Co., does a good deal in the way of giving free passages back to West Africa for deserving persons who have come to the end of their resources; but, of course, that is a way out of the difficulty which the Colonial Office could only resort to sparingly and occasionally.

126. You most frequently have cases of simply individual natives?—Yes. We have only had about half a dozen or a dozen cases in the last year or so, which I have had to deal with so that one's experience is not widespread, but nearly every one of them has given a great deal of trouble, and that is why they have loomed rather larger than their actual importance warrants. They have given me, personally, a great deal of trouble, and that is why I feel strongly on the subject. As I have indicated in my memorandum



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Mr. R. GEIKIE.

[Continued.]

possibly the only real want we may have felt in the West African Department is the want of some compulsory power to repatriate a person, and that we have not actually wanted, because in each case we have dealt with it in some way or another without it. When I went round to the workhouse people before they did suggest there was a difficulty, because there was no compulsory power of repatriating a subject of a British Colony unless he was a lunatic. If he is a lunatic or an alien, you can repatriate him, apparently.

127. With regard to a subject of a British Colony who gets stranded in England, is there any compulsory power of getting rid of him?—These people are generally wasters who come round to see us; they are probably people who would not stay in the workhouse, but simply go out into the streets to sponge upon anybody they can, so that we have reached the rather ridiculous position of telling the messengers here to refuse them admittance. It has occurred to me that it might be a useful thing to have some compulsory power of repatriating people like that. With regard to the position in the West African Colonies there is an official majority—

128. You mean they are all Crown Colonies?—They are all Crown Colonies with official majorities of the Legislative Council, and we have no difficulty about providing funds. We always feel in West Africa that if we have any particular case which for any reason we want to repatriate, we can do it out of the funds of the West African Colony. That is always something you can fall back on. As I have indicated also in my memorandum, these last few cases which we have had made us think whether it would not be a satisfactory thing to have a small sum provided annually in the Estimates of all these Colonies for dealing with any emergencies that might arise here.

129. To keep the matter more in order?—Yes, simply to provide for small sums being added to the expenses of the Colonies that are not actually provided for beforehand at present, that is really what it is.

130. In other words does it resolve itself into this: that the present arrangement is workable if small sums were provided in the Estimates for this purpose?—I think that would meet it. I might sum it up rather better in this way: there is the waster and the deserving person. We have had the type of wasters pretty well, and it seems to me it is not unreasonable that we should adopt towards wasters the attitude we adopted to the individual I sent to the workhouse, and tell the messengers here not to admit them. We may have a deserving case at any moment, and then we have either to come on the private generosity of Sir Alfred Jones, which one cannot do to an unlimited degree, or we have to repatriate him at the expense of the Colony. That is really the position. I think you could not unfairly sum it up so far as the West African Colonies are concerned in that way. As I also indicated in my memorandum when we get a West African round here the first thing that crosses our mind is the Charity Organisation Society and the Strangers' Home for Asiatics. We have plagued them both pretty freely, and from the small amount of correspondence I have had with the Strangers' Home I think they treat them well. There is one case where they provided a man with work at 30s. a week, or something like that. If there are men who will do that sort of thing, I think most of them must be wasters when they come round here to the Colonial Office. If a man is a waster I do not feel very much sympathy with him, or that we are called upon to bother ourselves much about him; but there is always a possibility of a deserving case. Then, again, of course these people lie so that it is hard to know what to do with them.

131. Do you mean that it is difficult sometimes to know which are the deserving cases and which are not?—Exactly.

132. Up to the present you have referred the matter either to the Charity Organisation Society or to the Strangers' Home?—Yes, though, as I say, in the last two or three cases, the individuals have come back with or without some written note from the two

bodies that they would have nothing more to do with them, which I think is pretty fair evidence that they are wasters. They have far greater experience in judging of how much value you can attach to the utterances of these people.

133. (Sir Francis Fleming.) Do you contemplate any difficulty in regard to passing a law such as you suggest in the West African Colonies?—No, I do not think there would be any difficulty now because the thing is still in such small dimensions; I mean we have so few cases. If it came to be widely known in West Africa that you only had to come to the Colonial Office and report yourself as destitute in order to be shipped back at the expense of the Colony, then, I think, there would be trouble.

134. If such a law as you suggest were passed it would do away with the difficulty of your advancing money, as it were, on the part of the Colony without the Colony's consent. I suppose that is the difficulty that you feel; you have to pay in the first place and ask the Colony to refund afterwards?—It is more the irregularity of it. If the worst comes to the worst you can always make them refund it. It is really more to regularise it than anything.

135. I should think your suggestion is a very good one.—What one feels is that it would be rather hard, supposing that we had a great number of cases to provide for, that the workhouse that happens to have the Colonial Office in its Union should have expense thrown on it; once you try to put the expense on somebody in England I think you are met by the difficulty that the people come to the Colonial Office, and are sent on to the workhouse which has the bad luck to have the Colonial Office in its Union. I suppose that difficulty has already occurred very much more often at the Strangers' Home. Do you come from the Strangers' Home, Sir?

136. No.—I believe there is some representative of the Strangers' Home here. I suppose you have relations with the Union.

137. (Major-General Chamier.) Yes, and they strongly object to us. Some of these people we cannot get rid of we have to send over to the Union and they object strongly, and we refer them to the Colonial Office, or the India Office, after we have done what we can for them?—May I ask will the Union repatriate them at the expense of the Union if the worst comes to the worst?

138. I never heard of such a case.—That is what I am left wondering in this particular case.

139. I have never heard of their repatriating any seaman or adventurer?—I suppose they must all manage to get back to their countries by hook or by crook.

(Major-General Chamier.) They either make their own arrangements or die here; they gradually get shrivelled up and die.

140. (Mr. Morison.) It has been suggested with regard to another Colony that there would be great danger in having a sum set apart for repatriation, partly no doubt because from that place adventurers are rather more frequent than they are from West Africa, but also it was suggested, I think by a representative of the Colonial Office, that if there were a certain sum set apart that would at once become an easy way to deal with the question—to send them off because there was a fund. Do you see any danger in that?—It is only in this way: supposing you have a man stranded and starving in this country on whom does the ultimate liability rest? It is an unsatisfactory state of things that he should be here permanently, and you might think the right thing to do would be to get him back to his people on whom he can exist somehow. Does the responsibility rest on the Colony to which he belongs, or here?

141. I think it was argued that if each case had to be treated as a special case there would be greater hesitation in repatriating, otherwise it would at once be treated as the simplest thing to do because there is a fund already in existence. With regard to some Colonies, as you yourself intimated, it was argued it would be rather an incentive for him to come home?—That is the difficulty. I do not think it is a course which ought to be taken until everything else has

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failed. We have not, within my knowledge, repatriated a single person. We have given one man *l*. One man said he had been a waiter in Antwerp for a man who had gone off temporarily to West Africa, and that this man was coming back in six weeks. He had his things in pawn, and he said if he could get back to Antwerp he would be all right. We gave him half a crown to get his things out of pawn and have not heard any more about him.

142. You think that is genuine?—This man did say he had a ticket from London to Antwerp; he showed me an envelope—I did not open it—which purported to contain a ticket from London to Antwerp. Two men told me if they could get to Antwerp or Hamburg they would be all right. We gave one man half a crown and the other *l*., and we have not heard anything of them since. When I see a black man brought to the office it always occurs to me that the ultimate probability is that he would have to be repatriated. On whom does that fall? That is the crux of the question—on some authority at home here or on the Colony? I do not pretend to say which is the right thing.

143. (Mr. Howel Thomas.) You were talking about these wasters among the Africans?—Yes.

144. How do they come here first; I mean what is it that draws people from that part of the world here? Are they seamen?—I do not really know. Some of them are seamen; some have come by working their passage; some have come, I think, to try to study in this country. We have had people trying to study law, who have got on their beam ends here. They come from a variety of causes.

145. They do not come with responsible people—employers, or persons of that sort?—I should think they might come as servants and then get stranded—with people more or less responsible, that is to say, people who are capable of bringing a man over to this country and leaving him stranded. I do not know of any particular case, but I think it is quite possible there are some of that type. I have really had so few cases that it is rather a presumption dogmatizing on them. I can only say what particular cases have come in my way.

146. You have had no cases of Englishmen sent home from Nigeria?—Do you mean white men?

147. Yes, distressed people over there—would that come under your notice at all?—I should think it would if a white man was sent home destitute. I do not know that it would unless he happened to be an official, and then he would not be destitute because he would be receiving his salary. I cannot say I remember any case of that kind.

148. It does not follow that an official might not be destitute, I think. I remember going privately, for Lord Kimberley, when he was at the Colonial Office, to one of the workhouses to ascertain the facts concerning some Colonial official who had got into the workhouse. However, that may be an exceptional case?—He might have become destitute very shortly after reaching here.

149. I think this man only applied for poor relief out of spite to annoy his relatives. Do I understand that you have no means of testing these cases that come to you? The Guardians would put the Relieving Officer on them and he would make enquiries and find out all about them. When you give them a trifle to take them, say, to Antwerp, or anywhere else, does any one look after them to see that they carry out their promise?—No, if you put it at its worst it is merely a way of getting rid

of them; that is our difficulty. We could not have here any expert means of testing. Our expert advisers, as far as we have any, are the Charity Organisation Society, and, still more, the Strangers' Home. I fancy the Charity Organisation Society take the line that their efforts are directed to white people in this country, and not to black people; they generally pass them on to you, do not they, General Chamier?

(Major General Chamier.) Yes.

150. (Mr. Howel Thomas.) When you took the man to the St. George's workhouse, at Buckingham Palace Road, what precisely did they say; what objections did they raise?—They raised none.

151. Are they bound to take them in?—Yes, they made no sort of objection about that. They said: "We will take him in, but he probably will not stay here; we cannot force him to stay against his will; he will be out on the street again and will probably come round and bother you again. If you take our advice you will refuse to admit him," and we have given instructions to that effect here. It seems rather a lame proceeding.

152. They did not raise the question at all of sending the man home?—No. I simply told them, when I got there: "I am sure much the best thing for this man will be to get him home to his country by hook or by crook," and they said at present there is no legal authority that could do so compulsorily. If he had been an alien, under the Aliens' Act—I do not know who the magistrate is that does it—he could have been deported, or if he had been a British subject and a lunatic, he could have been deported, but not being a lunatic, but still a British subject, there was no compulsory power. That was the difficulty.

153. Does compulsory power mean without the volition of the subject himself—mean forcible deportation against the man's own wish?—That opens up really a further question, *i.e.*, there is deportation against his wish and with his wish. Even supposing he wished it there is no authority which has the funds to do it. There is no authority in either case.

154. I should not like to say that there was not authority?—I wish I knew of it, because it would be a great convenience to fall back upon.

155. I do not think you would be very likely to get a Board of guardians to take an interest in a man who had only just come to their doors, but if a man had been in the workhouse and made himself a thorough nuisance for some years, and they wished to get rid of him at all costs, they might be willing to assist in sending him away?—Yes—use their funds to get him away.

156. They would have to go to the Local Government Board for authority for the expenditure?—It would be rather unfair supposing there were many cases of that kind in this Union in which the Colonial Office happens to be, or in the Union in which the Strangers' Home happens to be. All the expense would come upon that Union.

157. The Local Government Board would not give authority without first of all ascertaining from either the Colonial Office or the Agent of the particular Colony, whether he would be allowed to land there; this would take some time and of course it would be a voluntary act on the part of the guardians whether they passed a resolution to bear the cost of sending a person home or not, and if they had any suspicion that their so doing would encourage other men, they would no doubt put up with the first evil rather than incur more?—Yes, just so.

*The witness withdrew.*

Lord BASIL BLACKWOOD called in and examined.

158. (Chairman.) You are Colonial Secretary of Barbados?—Yes.

159. You have submitted a statement to the Committee?—Yes; my views are embodied in that memorandum. I there pointed out that though natives of Barbados occasionally arrive in Great Britain and become stranded, I do not think that the tendency in this direction is likely to increase. Natives of

Barbados readily find employment and command high wages in the more congenial climates of the South American States and on the Isthmus of Panama, while a considerable number find their way to Canada and the United States, where they do remarkably well. If, however, it is thought desirable that permanent provision should be made for the relief or repatriation of Barbadians who may become destitute in the United

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Kingdom, it would be necessary to place a sum for the purpose on the annual estimates of the Colony. Such an item would have to be approved, in the first instance, by the Executive Committee—a body consisting of the Governor, Colonial Secretary, Attorney General, and five unofficial members of the House of Assembly and Legislative Council. This body can be relied upon to send down an item of this sort to the House of Assembly, though the unofficial members might reserve the right of voting against it when it comes under discussion. It remains to be considered whether the House of Assembly would be likely to agree to the allocation of any sum to this particular purpose. Within my personal experience there has been no case where assistance has been asked in respect of a Barbadian stranded in the United Kingdom, but there have been cases where assistance has been given to Barbadians in distress in foreign countries, and these cases form an analogy upon which one may venture to form an opinion. The tendency has certainly been to repudiate any principle implying the liability of the Colonial Government to repatriate its own people stranded abroad. It must be remembered that the position of Barbados as a distributing centre for the trade of the West Indies and the local headquarters of numerous lines of steamships causes it to become the base of a miscellaneous variety of adventurers and seamen, either resting from past labours, or engaged in a half-hearted search for employment. This class are very troublesome. While their means last they are often disorderly and demoralising, and when their means are exhausted they go about asking for alms or, in the last resort, fall upon the rates. In the case of English seamen the shipping master endeavours to find them berths on passing ships, but the class to which I refer are in many cases unwilling to ship on any vessel bound for northern ports during the winter months, preferring to lead a hand-to-mouth existence in a climate which offers no particular hardships. This state of affairs would, in my opinion, influence the legislature in refusing to make provision for the repatriation of distressed Barbadians unless reciprocal advantages were offered. In any case I believe that the legislature would greatly prefer to discuss each case on its merits rather than to vote a lump sum to be at the disposal of the executive, and although the disposition of the local legislature towards the Imperial Government is most friendly and conciliatory, I do not think that the House would willingly vote an annual sum for the purpose under consideration.

160. Although there are a certain number of natives who have become stranded in England, is it your opinion that that number will increase or decrease?—As a matter of fact I was surprised to learn that there had been any cases, because none have come to my knowledge in my official capacity, but I have since learned there have been a few cases and I have been shown the records. I do not think that there are ever likely to be many, for the reason that there are very good markets for labour close to Barbados, and it is characteristic of the emigrant Barbadian that he generally means to return ultimately to his own Colony.

161. And his Colony is a very favoured one?—Yes. He goes to America, or to South America, where he gets very good wages, where his labour is much sought after and where he finds many compatriots already settled, and where he is always in close touch with Barbados; so I think there will only be isolated cases in which a Barbadian is stranded in England.

162. Are there many of the reverse cases of English people being stranded there?—Yes, there are a great number of people, I do not say only English people, who become stranded in Barbados. A number of sailors desert their ships at Barbados; I think particularly sailors from ships trading in the North Atlantic. They are very apt to desert in the winter months and they hang on in Barbados—it is a very pleasant climate; they sell their boots and go about barefooted, and they live a more or less hand-to-mouth existence on charity, and they are a great nuisance to the community. The port of Bridgetown is full of sailors who are really making no effort to obtain work, and a certain proportion of them are British seamen. They nearly all

come, at one time or another, to my office and I always communicate with the Harbour Master and ask him whether he can get a passage for them, but he generally tells me that the men are useless, that no captain will take them, and that they do not seriously want work until the summer months come; then, in the summer, of course they are ready to ship themselves away; in the interval they are a great nuisance to the community.

163. Is it your opinion that in any question of dealing with Barbadians who are stranded in England the Colony would naturally take up the position that there was a corresponding question in Barbados?—Yes, I think they are sure to; they say the obligation is mutual and that if we relieve our destitute people you must relieve yours, and, of course, the balance of gain would be to the Colony and not to the United Kingdom.

164. In your opinion would the Legislature of Barbados prefer to discuss each case?—Yes, that is the tendency, but of course it is quite impossible to say. The Legislature is always most sympathetic to any suggestion coming from the Colonial Office. There is no sort of friction or hostility, and they are very sympathetic to any suggestion, and if it were strongly urged upon them that it was desirable to fall into line with other Colonies, I think that very likely they would agree, but, on the merits of the question, I think they would say: "No, it is not fair that we should do it unless you act reciprocally."

165. There is a great deal to be said for that?—I also think that the Legislature of Barbados would prefer to keep things in its own hands, and to deal with each case on its own merits. They might under pressure adopt the principle that their own people should receive assistance in some way, but they might say: "We prefer to discuss each case on its own merits."

166. We even come across that sometimes at Westminster. In your view there would be a way of dealing with cases quickly if there were some fund?—You mean dealing with the cases in the United Kingdom?

167. Yes.—Yes, it would be a way of dealing with them quickly, but I think the tendency is to repudiate any responsibility.

168. For the reasons you have already given?—For the two reasons that we are overwhelmed with destitute aliens and British subjects, and, also, that they wish to test each case on its own merits.

169. (*Sir Francis Fleming*.) When a Barbadian leaves Barbados he always has it in his mind to go back, has he not?—Always, I think.

170. They are very fond of their own country?—Yes.

171. You make two suggestions in your memorandum: one is that a sum should be provided for such cases as we are considering; the other is that each case should be decided on its own merits. Would not the former course prevent delay?—Yes, there would be less delay if the executive had at its disposal a sum of money from which it could relieve such cases.

172. Do you think if that was pointed out to the Colonial Legislature it would influence them in providing a certain sum?—I do not think the saving of time would be very great, because the Legislature of Barbados is practically in permanent session; it sits once a fortnight, and so any case referred to the Legislature as a case deserving of assistance would be considered a fortnight after the attention of the Legislature had been drawn to it.

173. Quite so, but in the meantime the Colonial Office would not be in a position to advance the money?—No. The only way in which the Colonial Office would be in a position to advance the money would be if they knew there was a sum allocated for the particular purpose.

174. Quite so. What you mention with regard to reciprocity is very natural on the part of Barbados?—Yes.

(*Sir Francis Fleming*.) I can quite understand that,

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[Continued.]

175. (*Mr. Morison*.) You have no objection in Barbados to bringing back your own wasters?—Only a financial objection; no sentimental objection.

176. We understood that some Colonies would refuse to have them if they quitted the Colony for more than five years?—That was the case in Barbados, but a change in the law was contemplated at the time I left, and I understand it has taken effect since; the law has now been amended.

177. They will have them back now?—Yes.

178. (*Admiral Mann*.) You said there was a large number; can you give us any idea of the numbers, roughly?—No, I could not do that; I know that a certain number come to my office and one sees them in the streets—rows of wasters—there is no escaping them, loafing about on the quay.

179. 200 or 300?—No.

180. Not so many as that?—No. There might be as many as 20 at a time, but I am sure that the number of Englishmen in any given year stranded in Barbados would far exceed the number of Barbadians stranded in England during the same period. Often they create a scandal; they get drunk; they ask alms; they come into my office and it is very difficult to get rid of them.

181. They are a nuisance, in fact?—Yes.

182. Have you any law to prevent that sort of man being dumped down?—No, not Europeans.

183. They can be landed quite freely; there is a sort of free trade in that way?—No, a passenger has to show a certain amount of money before he can land, but the people I am talking of are mostly sailors, I think the majority of them desert their ships.

184. And you have no means of keeping them out?—It is very difficult. A ship is admitted into the harbour and the sailors land; but a passenger you do have some control over, and they have to produce so much.

185. Most of those men desert?—Yes, or are discharged in the harbour.

186. Do you think there would be any danger if it were known that a certain sum was set aside for repatriating men; suppose a Barbadian wanted to go over to England on a trip and when he got there he knew he would be sent back, would there be a danger of that sum being looked upon as money to be spent?—I do not think so. I think any Barbadians who come to England arrive accidentally. That is the impression I got from looking at the book I was shown this morning; that is, the past cases of Barbadians. In more than one case they are sailors who have shipped to some other port, in one case to Calcutta, and from Calcutta have shipped to England and were stranded here. I do not think the United Kingdom was their goal.

187. You do not think they came to work their passage back?—No.

188. (*Chairman*.) Were they sent home by some British Consul?—No, they took a passage on a ship from Calcutta to London and then were left.

189. (*Mr. Howel Thomas*.) If there were some sort of convention, a general agreement between the Colonies to provide a fund for the Colonial Office to use, it would of course include dealing with the subjects of other British Colonies near you, other British subjects?—Yes.

190. Have you considered it from that point of view? have you much trouble in that way?—We get a certain number of applications from the people of other Colonies to be sent back to their Colony.

191. Would their Colony pay, then?—No, they do not show any strong desire to have their own people back. They are mostly people without resources, but if they can raise the passage money, as far as I know, any native can land in his own island as long as he can pay his fare there; they are not asked to produce money as they are in the case of a stranger. If a Barbadian wanted to go to Jamaica he would have to produce £1, but a Jamaican who had been living in Barbados could get back to Jamaica, I think, if he were able to pay his passage money.

192. I have some correspondence here about a case; I am sorry they are only referred to as "West Indian Negroes," so I am not sure whether they are Barbadians. It was in 1904; they were a number of seamen. It

says they "shipped on board American whaling vessels as ordinary hands; and after cruising about for some four or five months clandestinely left the vessels on their arrival at Fayal, the Azores, where call was made for the purpose of recharging oil. After keeping in hiding until the vessels had sailed, they applied to the Consul, and were by him sent on to Lisbon, and from Lisbon they were forwarded by the British Consul there to Liverpool by the Pacific Line Steamer 'Oropessa,' where they were landed in a destitute condition on the 21st ultimo, and brought at once to the workhouse of which they are still inmates." Do you remember that case at all?—No, I was not in Barbados in that year.

193. That difficulty had to be met by the Guardians providing a sum of money to send them home. Would it be possible to get statistics showing the number of distressed Britishers over in Barbados that you have to deal with?—Yes, it would be quite possible to get the figures which would be approximate; they would not be absolutely accurate.

194. I mean in order that one might see the extent?—Yes.

195. If you disturbed the present system, would it be a loss or gain to this country?—I do not think there is any large number on hand, at any one time, but there are always some on hand, always a few cases.

196. Are they all Britishers, or are some Americans?—A large number of them are Britishers, quite a large number.

197. You have no law which enables you to put them back on board ship?—They do not generally disclose themselves until their own ship has gone, otherwise one could.

198. (*Mr. Fry*.) Do these destitute British seamen wish to come back, because there is the Board of Trade machinery for sending them?—Yes. Of course, really that branch of the subject does not come into my office. I refer them to the Harbour Master who is the shipping master also; he is an official of the Board of Trade.

199. He can forward them if they wish to go?—I believe he can forward them.

200. I suppose they do not wish to go?—No, that is really the reason; they do not wish to go until the summer comes.

201. And then they take a berth on board a ship?—Yes; he tells me they would have no difficulty in finding employment if they really wished it. I have seen a man come to my office without boots; I have thought it rather demoralising that a white man should be going about in this condition, and I have spoken to the Harbour Master on the subject, and he has told me the man has been to him several times, but is not seriously trying to get work, that he will loaf about there until the winter is over, and then will find a ship quickly enough.

202. If he is absolutely destitute and wishes to be repatriated, the Harbour Master has power, under the Board of Trade Regulations, to send him?—Yes.

203. So that we must assume the man does not wish to go back?—I do not know what the Board of Trade would say if he gave every man who applied to him a free passage home; he is bound to consider the interests of his employers. I suppose he does not wish to expend all the funds at his disposal in sending men who are not really deserving of assistance.

204. He is not limited in his funds; any destitute case he has power to deal with?—Ought he not to be guided by what he considers a deserving case?

(*Mr. Fry*.) I do not think so.

205. (*Sir Francis Fleming*.) You are referring to seamen?—Yes, from a British ship.

206. (*Mr. Fry*.) Any seaman who is destitute. All I want to make clear is that there is the machinery if a man wishes to go.—Would the Harbour Master be justified in paying the passage back to England of any deserter from an American ship or from an English ship, who chose to desert in Bridgetown?

207. Oh, yes, if he is destitute.—That is rather putting a premium on desertion.

(*Mr. Fry*.) We cannot help that; that is the law and we do it daily; if he is without means of subsist-

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once and the Shipping Master is not able to get him another berth, he can be sent home.

(*Mr. Howel Thomas.*) If he could subsist on bananas and cheap fruit he would not be quite destitute.

208. (*Mr. Fry.*) Then he does not come to the Shipping Master?—These men when they come to me are always sent to the Shipping Master and they do go to him, but he very frequently telephones to me that the men have been there already and tells me the circumstances under which they desert their ships, and tells me they are not deserving of assistance.

209. He exercises a certain amount of discretion, I suppose?—Yes.

210. (*Mr. Howel Thomas.*) What becomes of them?—They loaf about there; they manage to live and find the wherewithal to get drunk; I suppose the community is charitable. They get along all right and look very cheerful. They are always loafing about the pier and harbour and eventually they disappear.

211. (*Admiral Mann.*) They are, really, what we call in the Navy ullage—they are of no use to anybody?—Yes.

*The witness withdrew.*

Mr. S. W. KNAGGS, C.M.G., called in and examined.

214. (*Chairman.*) You are Colonial Secretary of Trinidad?—Yes.

215. You have sent a memorandum to the Committee?—Yes. What I desire first to say is that I am not authorised to speak in this matter for the Government of Trinidad. If the Trinidad Government has sent any one to the United Kingdom, say, on a scholarship allowance, and the student becomes destitute, I think that it would be only equitable that the Government should bear the expense of his return to the Colony. I think also that if, as appears sometimes to have been the case, a native of Trinidad becomes destitute in a foreign country and is passed on by the consular authority to the United Kingdom, the Colony should bear the cost of his repatriation from England. In cases where a seaman is landed destitute from a vessel it seems to me that the company should be required to repatriate him at their own cost. This would be the case in Trinidad, which would be dealt with under the Infirm Paupers Ordinances Nos. 5-1882; 11-1895; 10-1897. The cases in which natives of Trinidad become destitute in the United Kingdom are not numerous, and it might perhaps be possible to come to some reciprocal arrangement under which the Colony would be responsible for the expense of repatriating its own people, and the United Kingdom agree to adopt the same course. Any two Colonies might also agree to a similar procedure between themselves.

216. Have you come across many cases of natives of Trinidad being stranded; I mean, have cases come before your notice of natives of Trinidad being stranded in England?—In England very few. Any case of that kind has been brought to the notice of the Colonial Government by the Colonial Office, and I do not think there have been half a dozen in as many years.

217. Are there many of the corresponding cases of Englishmen stranded in Trinidad?—Practically very few. The cases principally that have come under my notice have been of seamen who desert from their ships, and after the ship has gone they turn up and ask for Government relief. They are invariably referred to the harbour master, who is also the shipping master, with the request that at the first opportunity he will find some suitable means of shipping them away on board some vessel that requires their service. In the meantime, I believe, he assists them from the Board of Trade funds which are placed at his disposal for the purpose.

218. You think that in the case of any one sent to the United Kingdom on a scholarship allowance if he becomes destitute the Colony should bear the expense of repatriating him?—It seems to be only fair; they have sent him away for a special purpose which has failed. I refer to that because there has been one

(*Admiral Mann.*) I am surprised to find we have machinery for bringing back to our country the very parties we do not want.

(*Mr. Fry.*) Yes, and they need not be English so long as they have served on an English ship—they may be Germans or Scandinavians.

(*Witness.*) Perhaps the Shipping Master takes his responsibility too seriously; I suppose his object is to save the Imperial Government from spending money over what he considers worthless cases.

212. (*Admiral Mann.*) A fellow that cannot steer, for instance, and is not fit to work a ship home?—Yes.

213. In your opinion, if a general convention were arranged with the Colonies to provide reciprocally for English people being sent home, excluding sailors, because they are already provided for, and the natives of these Colonies being sent back from here, do you think your Government, the Barbadian Legislature, would come into that?—It is impossible for me to say, but I think they would be sure to, if the arrangement were reciprocal, because, as I have said, I think the balance of gain would be to the Colony.

recent case of that description in which a scholar sent away on his scholarship has got into difficulties, and has failed to complete his term, and has been left stranded; his case has been taken up.

219. In the event of a general convention on a reciprocal basis being proposed, is it in your opinion likely that the Government of Trinidad would join such a convention?—I think so. Of course I only speak for myself; it is entirely my own opinion.

220. I quite appreciate that you are not authorised to commit the Government.—No, not in any way, but it seems to me it would be a very fair arrangement, and I am certain the Trinidad Government would give it every consideration.

221. (*Sir Francis Fleming.*) Presuming such an arrangement were entered into, do you think, financially speaking, the Colony would gain or lose?—I fancy the Colony would be the loser because, as I say, all the cases that occur in Trinidad of distressed Europeans are dealt with without cost.

222. In fact you think that we should send more back to Trinidad than Trinidad would send to England?—I think so; it would be very few in either case, but I fancy the numbers repatriated from the United Kingdom to the Colony would certainly be in excess of those that would have to be dealt with in the Colony.

223. Do you think that the Government of Trinidad would be more disposed to pass a general law with regard to a reciprocal agreement than to decide each case on its merits?—I think they would prefer to come to some general arrangement.

224. (*Mr. Morrison.*) I want to ask one question with regard to the scholarship you have just mentioned. Is there no arrangement by which the holder of the scholarship gets a passage back?—No; the scholarship is granted in a lump sum payable over a certain number of years—four years—and it is paid out by the Crown Agents in quarterly allowances on the certificate of the authorities of the institution to which the scholar is attached. There have been cases where the scholar has not been able to pay his passage, and to enter on his term, or his people have not been able to, and he has had an advance out of the scholarship for the purpose, but I have never known a case of a scholar having his passage paid back.

225. The grant of a scholarship does not include the passage money?—No, but the scholarship is sufficiently liberal to allow a young man to save enough to pay his return passage if he is careful.

226. May I ask about how much it is; the Indian one is 200*l.* a year?—It is 600*l.*, which may be spread over three, four, or five years.

227. (*Admiral Mann.*) What is the number of people stranded and knocking about; is it appreciable;

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has it become a nuisance, has it been talked about?—No.

228. If you had not heard of this Committee of Enquiry you would not have thought it necessary?—Not as regards Trinidad, but possibly as regards other places.

229. I was asking because we have seen Lord Basil Blackwood with regard to Barbados, and there it is more apparent?—Barbados is a large shipping centre, which we are not.

230. Therefore it would hardly be a nuisance?—No.

231. (Mr. Howel Thomas.) Have you ever known any people from Trinidad falling destitute here and going into the workhouses?—Once; such a case has occurred. A case occurred last year in which some man, I think he shipped as a seaman, came home, married an English wife, and the two of them became destitute and fell on one of the parochial authorities, I fancy it was Hull—I am talking from recollection—and the parochial authorities applied to the Colonial Office in the matter. His father was in the employment of the Government of Trinidad as a foreman fitter, or something of that kind; some artisan on the Trinidad Government Railway. We caused the father to be approached to see whether he would assist his son, and he offered to pay 10% to get his son back to the Colony. I think ultimately the son refused to return; I suppose he found some other employment, being an able-bodied man.

232. (Admiral Mann.) The cases are so few?—So very few.

233. The mere fact of your remembering that one shows that it is so?—Yes.

234. (Chairman.) Are there any statistics kept in the Colony of cases of this kind; I mean if the Colonial Office asked for statistics, say, for last year, 1908, of the

number of British subjects who have become stranded in Trinidad could they get them?—The Shipping Master would very easily be able to furnish returns of those.

235. Would he be able to give a return beyond sailors?—The seamen are the only cases that come under my notice, practically there are none others.

236. (Mr. Howel Thomas.) Not even belonging to other Colonies?—Yes, there are a great number of those; when I say a great number I would like to correct that—there are a fair number of those. The Government in each case then causes very careful police inquiry to be made. When the Government considers that the applicant is likely to become a burden on the rates of the Colony his passage is then paid back to his original home; that is always done.

237. Would they be received?—In every case, except recently Barbados, and in that case we cannot repatriate the Barbadian if he has acquired a domicile in Trinidad, that is, if he has been five years away from Barbados and three years resident in Trinidad.

238. Is it not the fact that that particular law has just been revoked within the last few weeks?—I was informed yesterday by Mr. Harding that that law had been revoked, and I am very glad to hear it. I am simply saying that in the last four or five years we have been unable to do anything in the case of Barbadians if they have acquired a domicile in Trinidad. Then they are either sent to one of the institutions, if they are destitute, or told they must look for work, of which there is a great deal to do. No able-bodied person need want work.

239. (Admiral Mann.) In Trinidad?—In Trinidad.

240. (Chairman.) If any other Colony wishes to send back a native of Trinidad, is there any law to prevent it?—No, there is no bar to that. We do not keep out any of the natives of the place at all. The Infirmary Paupers Ordinances to which I refer in my memorandum apply only to immigrants other than natives.

*The witness withdrew.*

Major CHESNEY called in and examined.

241. (Chairman.) You are secretary of the Strangers' Home for Asiatics?—Yes.

242. You have put in a very interesting *précis* of your evidence?—I will read it to the Committee, if you do not object, as it will cover Mr. Morris' evidence also, who I understand is to come next week. (1) "Nature and Extent of the Cases of Distress.—All Indian and Colonial subjects who come to the Strangers' Home destitute are certainly in distress, and the Home is usually all there is between them and the workhouse. The average numbers (taken for the last five years) of those admitted totally destitute to the Home are: From India, 88; from Ceylon, 39; from Japan, 22; from Mauritius, 14; from Africa, 18; from others, 25; total, 200. This does not give the whole account of destitution, as many come in with a little money, which is expended before they have found employment, and these are not entered as destitute on the books. The destitute cases that pass through our hands may be divided into three classes: (A) Fully qualified seafaring men, who are out of a job and have spent their money; (B) Adventurers who are not qualified seafaring men but who are willing to work in any capacity in order to return to their homes; (C) Loafers who are no good at anything, but who think they can pick and choose, and who expect that remunerative work shall be found or them afloat or on shore. Class A can always be provided for, though, at times of depression in the shipping trade like the present, they may be on our hands for a long time. Class B can usually be found work at low wages, though they may have to ship as coal trimmers. Class C are very hard to deal with. Ships' captains will sometimes take them as a favour, but if they repeatedly refuse to ship as trimmers, we have to turn them out of the Home, and it is hard to say what becomes of them eventually. As it is certain that a considerable number become charges on the rates, it would be probably cheaper in the end to repatriate them. It is surprising what a large number of this class there are! They are usually from Ceylon and Mauritius, or nondescript

Arabs posing as natives of India or Ceylon. Why they come to England is a mystery. England is, of course, the only country but their own that will receive them. (2) Causes which give rise to this Distress—(a) *Incapacity.* Many of the destitute are nearly useless on board ship; for one thing, they cannot steer. Captains make up their crew at small ports with anything they can get, but in England they can replace these with good sailors. These undesirables never seem to object to being left in England; in fact, a large number of them wilfully desert in British ports. They seem to think that all their troubles are over as soon as they reach England. (b) *Wilful desertion* is one of the most frequent causes that gives rise to distress. (c) *Uncertificated Cooks.*—A large number of these are always stranded in the British Isles, and they are very hard to deal with. According to the Merchant Shipping Act, 1906, section 27, ships over a thousand tons, sailing from the British Isles and ports between the Elbe and Brest must carry certificated cooks; but uncertificated cooks are being discharged in England every day, and these men are debarred from signing as cooks without passing an examination. They can sign as second cooks; but few ships carry them, so the demand by no means equals the supply. (3) The Methods at present adopted for Dealing with the Cases which occur.—As far as the Home is concerned, each case is dealt with on its merits. Men are kept until an opportunity occurs for shipping them, and they are never turned out, except in cases of misconduct, until they have had work offered them. It is, of course, only through the generosity of our subscribers that we are able to do this. (4) Proposal for Effective Treatment.—More stringent regulations are required at our Colonial ports to prevent undesirables from shipping in capacities they are incapable of filling. The captains signing them on should be made to guarantee their repatriation. The Shipping Act should be so amended that Indians and Colonials could not be discharged

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unconditionally in this country. The provisions of the Merchant Shipping Act, 1894, section 184, should be strictly enforced. Uncertificated cooks should not be discharged in the British Isles or between the Elbe and Brest. Appended are the histories of a few recent cases—cases that have recently occurred. J— Punjab, was admitted May 25th. He had deserted from some steamer, but we have not succeeded in finding out her name, &c. He had been to the India Office and brought a letter from there. U— U— Punjab, admitted destitute; says he walked from Liverpool. Could not ascertain the name of the vessel he came in. Without doubt both these men wilfully deserted. F. B—, Ceylon, was admitted, paying 10s. in advance for his board, May 29th. On July 13th the owner of the s.s. *Visigoth* as the result of telephone communication, called at the Home and engaged the above three men, the two former as trimmers and the latter as deck hand; they were to get rupees 17 per month (the wages paid to other trimmers being only 13 rupees per month). The steamer was bound to an American port and thence to Calcutta, where the crew was to be discharged. The men agreed to all. Their train was paid to Newcastle-on-Tyne, but on being taken to the shipping office they refused to sign, demanding 30s. per month. This was eventually agreed to; then they wanted a cash advance of 30s. This the captain would not concede, and consequently the ship left shorthanded, and the men are walking about Newcastle, or more probably being entertained by one of the numerous missions to seamen. Wilful desertion and refusal to accept employment is often the cause of apparent distress among this class of men. Promiscuous charity also encourages these men to abstain from work. June 9th.—A— A—, who stated he was an Aden man, speaks not a single word of English, was admitted destitute from the St. George's in the East workhouse. Found that he had deserted some steamer at Rotterdam, and had been sent to London by H.M. Consul at that port. He had no clothes or discharge papers or anything to show he was a fireman or otherwise. On July 13th he was offered a fireman's berth at 20 rupees per month; he would not accept; said he must have 4l. He was told he must either accept the offer or leave the Home. He elected to do the latter and started out to walk to Cardiff. He had been kept 34 days in the Home. Many people will say he is in distress, whereas he is simply a workshy. June 11th.—Employment was found for three natives of India as trimmers on the s.s. *Glencunly* bound for India with a native crew. They signed the native articles, and were put on board in the evening. Two of them deserted the following morning after breakfast. They made their way to the British Seamen's Institute, and after two steamers had sailed, a representative of that concern called at the Home and asked us to take them in again. He was told that the Home had done all it could for the men; as they would not work they must shift for themselves. In the same vessel we endeavoured to place A— K—, 524, trimmer, native of India. He was so ugly that the captain and the engineer refused to take him at the shipping office. We eventually got him off in the s.s. *Flintshire*, June 24th. The Serang (who was no beauty himself) had the selection, and took quite a fancy to K—. They went away well pleased with one another."

243. Two hundred cases a year come before you?—That is the average for the last five years.

244. I mean on an average.—Yes, but you will notice those are not all British subjects.

245. The very large majority of them are?—Yes, a large majority.

246. As far as the fully qualified seafaring men out of a job are concerned, are they practically already provided for?—There is very little difficulty in providing for them.

247. You mean you can always get them employment?—We can always get them employment, practically, I mean, if they have good certificates.

248. And also class B. Adventurers who are not qualified seafaring men who are willing to work in any capacity in order to get home, are you successful in

those cases?—We are successful in the long run. At present we have to keep them a long time because the shipping trade is very slack, and it is some time before an opportunity occurs. If a man will go as a coal trimmer—that is about the lowest form of employment which requires no skill whatever—we can nearly always get him off eventually.

249. Class C are loafers who are always hard to deal with?—I fancy they would be in much the same state in their own country.

250. Could you inform the Committee about what proportion of the 200 per annum on an average that go through your Home are under the third class?—I could not say really off hand; I should say probably about 20 per cent.

251. (*Admiral Mann.*) 20 per cent. of the total?—Yes.

252. They would be useless?—Yes, this loafer class.

253. (*Chairman.*) And they mostly come from Ceylon and Mauritius?—Yes, they are the hardest to deal with, I find; captains do not like them much.

254. You think wilful desertion is one of the most frequent causes giving rise to distress?—Yes, there is a great deal of it.

255. You also refer to uncertificated cooks; and the effect of the new Merchant Shipping Act?—It is the effect of the new rule. They can get into England very easily, but it is very hard for them to get out.

256. With regard to the proposals for the more effective treatment of these cases, do you think more stringent regulations are required at some of the Colonial ports?—I am inclined to think that the Merchant Shipping Act would about meet the case, but it is so very seldom enforced apparently.

257. So as to prevent them being discharged in this country?—Yes, making the captains absolutely responsible for their repatriation if they become chargeable on the rates within six months; I think that is the effect of the section, but it is so very seldom enforced apparently.

258. (*Mr. Morrison.*) There is a latitude as to whether it is enforced in part or whole?—I have never yet heard of a case coming before a magistrate. If it did come before a magistrate, the magistrate is entitled to inflict a fairly heavy fine, which could be utilised for repatriating the man; but I have never heard of such a case occurring.

259. (*Chairman.*) You refer to the Merchant Shipping Act, 1894. I see the Act says, "If any person " being a native of any country in Asia or Africa, or " of any island in the South Sea or the Pacific Ocean, " or of any other country not having a consular officer " in the United Kingdom, is brought to the United " Kingdom in a ship, British or foreign, as a seaman, " and is left in the United Kingdom and within six " months of his being so left becomes chargeable upon " the poor rate, or commits any act by reason whereof " he is liable to be convicted as an idle and disorderly " person, or any other act of vagrancy, the master or " owner of the ship, or in case of a foreign ship the " person who is consignee of the ship at the time of " the seaman being so left as aforesaid, shall be liable " to a fine not exceeding 30l., unless he can show that " the person left as aforesaid quitted the ship without " the consent of the master, or that the master, owner, " or consignee, had offered him due means of returning " to his native country, or to the country in which he " was shipped." Is the reason that this is not often applied that the master, owner, or consignee can nearly always show that the man quitted the ship without the consent of the master?—Of course, most cases of desertion would be met by that; but still there are a considerable number of cases where men are discharged irregularly, to my mind. I have a case here that would exactly show the sort of thing that occurs.

260. What are the particulars of that case?—It was a case of five Goanese; it occurred last year. It was on the 27th May last year that these men were sent over by the Consul at Rotterdam. They had been discharged from the steamship *B—*. Their agreement was that they should be taken back to Rangoon, Calcutta, or

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[Continued.]

Bombay, but they were discharged at Rotterdam. The men's story was that they did not want to be discharged at all; however, both the Consul and the captain of the ship said they were quite willing to be discharged. They were sent over to England. One of them had just over 11, the remaining four had 17s. each—17s. 4d. I think it was—and that was all they possessed in the world. They said they were quite willing to go back and join the ship, but their story did not tally with the story of the captain and the Consul at all; so we had, of course, to accept the Consul's statement. It appears to me they ought never to have been discharged at all. That is just a typical case. We kept them for a long time, and finally found them employment. As they were natives of Goa, the India Office, of course, would have nothing to do with the matter. I have all the papers here, and I could leave them here if you would like to have them.

261. (Sir Francis Fleming.) In section 4 of your *précis* you say:—"More stringent regulations are required at our Colonial ports to prevent undesirable from shipping in capacities they are incapable of filling." Do you refer to any particular Colonies there?—I think it applies to all Colonies, and not only Colonies, but places like Port Said or anywhere like that. Captains want a man, and they pick up a man there who is really not a sailor at all; he is better than nothing, I suppose, and he is brought to England and discharged in England, and it is extremely hard to get him out of England again.

262. If more stringent laws existed, do you think it would do away with a great deal of that unsatisfactory state of affairs?—Certainly, these men would not be allowed to get to England. They would not be allowed to ship in the first instance.

263. (Major-General Chamier.) Is it not the case that many of our destitute seamen come from Antwerp and Rotterdam, discharged by the Consuls?—Yes, very frequently.

264. They have no business to discharge them?—I do not think so.

265. Like the case you have there. I had a case in my time like that. The answer was: they both agreed; when they came to our Home they said nothing of the kind?—That is just the case here exactly.

(Mr. Morison.) That particular case is outside our reference, because that is Goa.

266. (Major-General Chamier.) But my case was a native of India?—I could not find that case I am sorry to say.

267. It was a whole crew discharged, natives of India under Indian Articles; that is the point. If they come under European Articles it is a different thing, but if they come under Indian Articles they are bound to be returned, and these men were sent to the Home. The India Office generally helps us to get rid of destitute non-seafaring men?—Natives of India?

268. Yes.—Yes.

269. But sometimes the India Office objects on the ground that they will not charge the revenues of India with the repatriation of a man who has come home to this country to make money?—Yes, an absolute adventurer.

270. Yes. They have always objected to do that. The contributions from Ceylon and Mauritius do not generally cover the expenses of the year, I think?—No, they certainly do not.

271. (Mr. Morison.) When you say among your suggestions, in the second one, that the captain signing him on should be made to guarantee his repatriation, do you mean by that a change in the Merchant Shipping Act which the Chairman has just read?—It appears to me that section 184 would meet the case if it were enforced.

272. That is what I wanted to know. If your fourth suggestion were adopted, then you would not press the second. You have said, "The provisions of the Merchant Shipping Act, 1894 section 184, should be rigidly enforced." If that were done you mean you would not press the second suggestion that the captains signing them on should be made to

guarantee their repatriation?—No, I think section 184 would meet that.

273. You do not want a change in the law, but only in the way of enforcing it?—Yes.

274. May I ask, with regard to the classes into which the people are divided, as to Class B, can these men be sent back at the expense of the Secretary of State or India as lascars?—No.

275. You can send back Class A, if you fail to find a passage for them (the Secretary of State could be compelled to send them back?—Unless the man had something wrong with his health, or there was some reason why he could not work his way back, that would never occur, I think.

(Chairman.) This is the section of the Merchant Shipping Act: "It shall be the duty of the Secretary of State in Council of India to take charge of and send home or otherwise provide for all lascars or other natives of India who are found destitute in the United Kingdom."

276. (Mr. Morison.) I wanted to know, out of Classes A, B, and C, how many of these came under that section. I presume, with regard to A, if you could not find a ship they would be sent home under that section?—I have never quoted the section to the Secretary of State; the India Office are very liberal in the way of repatriating men.

(Mr. Morison.) Because of the fear of that section. What the India Office says, I understand, in the cases I have seen is, that we are bound to repatriate lascars because of that section, but other people we are not bound to and we do not accept any responsibility for them so they shall not be charged to the Indian revenues. I wanted to know which of these qualifications would be brought under that section.

(Chairman.) Another clause of the same section of the Merchant Shipping Act from which I have just quoted provides that "This section shall apply only to such lascars or other natives of India as have been brought to the United Kingdom either as seamen or for employment as seamen, or for employment by the owner of the ship bringing them." That limits them.

(Mr. Morison.) Is that a limit? I do not understand the interpretation of these things—could not coal trimmers be re-exported under that?

(Major-General Chamier.) Yes, because they are seamen.

(The Witness.) The man who signed on as a coal trimmer would be considered as a seaman if he had already done a voyage as a coal trimmer.

(Chairman.) Section 743 of the Merchant Shipping Act, 1894, says: "'Seaman' includes every person (except masters, pilots, and apprentices duly indentured and registered) employed or engaged in any capacity on board any ship,"—so that it includes all natives of India who serve as stewards, &c.

(Mr. Morison.) And uncertificated cooks. The uncertificated cooks would come in under section 185.

277. (Chairman.) Do you mean that the uncertificated cook would come in under the section, Major Chesney?—I do not suppose he would be regarded as a cook.

278. (Mr. Fry.) He would be on the ship's articles—on the articles of the ship that brought him over?—He could not be taken on at any port in the British Isles or from the Elbe to Brest.

(Mr. Fry.) Could he not be sent back by the Secretary of State for India under that section?

(Mr. Morison.) That is what I was working upon. I thought you could have sent A., B., and C. so long as they had been on board a ship. I thought they would all have come under that.

279. (Mr. Fry.) They come into England in some capacity on board a ship?—Not by any means all of them. Some of them are stowaways; some of them have paid their passage—a great many of them have paid their passage.

280. (Mr. Morison.) And some are servants as well?—Yes.

(Mr. Morison.) I only referred to the difficulty that you mentioned in classification C. because it included uncertificated cooks, and also classification B. because



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[Continued.]

B., I suppose, would be mostly people who had been on a ship.

281. (*Mr. Howel Thomas.*) How long do you keep them in the Home; is there any limit of time?—There is a nominal limit, but there is great latitude. Nominally we keep a seafaring man 30 days; if he is a native of India we keep him longer, because the India Office pay for him after that. The nominal limit is that a seafaring man is kept 30 days, and another man 14, but practically we never turn a man out if there is a chance of getting him work, and if he is willing.

282. Do you get a subsidy from Japan?—No, they gave us a present last year of 100*l.*, but we get nothing from Japan.

283. (*Admiral Mann.*) You very rarely have a Japanese, do you?—We have a great many.

284. (*Mr. Howel Thomas.*) Do you not report the Japanese to the Consul?—To the Japanese Consul?

285. Yes.—Yes, always. Any case that there is any question about is referred to him at once.

286. I suppose they prefer to come to you on account of special diet and things of that sort?—There is no special diet. It is all the same.

287. (*Major-General Chamier.*) The Japanese Consul is constantly sending men to us?—Yes, we have a great many.

288. Seamen and others. They say: Cannot we find them employment?—We do a lot for the Japanese.

289. (*Mr. Howel Thomas.*) When they are unwell do they go to the Poor Law Infirmary?—We send them to the Seaman's Hospital if it is a bad case, but we have our own surgeon and doctor if they are required.

290. The Seaman's Hospital is at Greenwich?—Yes, they will always take a bad case in.

(*Major-General Chamier.*) They will always take seaman from the Strangers' Home if he is sick.

(*Mr. Howel Thomas.*) But not a non-seaman?

(*Major-General Chamier.*) No.

(*Mr. Howel Thomas.*) I think it is a fact that some Boards of Guardians subscribe to the Seaman's Hospital in order to meet these cases.

291. (*Chairman.*) At present I understand that the India Office pay after the first 14 days?—No, after 30 days for a sailor, and in certain other cases they pay for a man who is not a sailor.

292. Do you consider that the Colonial Governments in many of the Crown Colonies should pay after 30 days, too?—They do not. I think they might do rather more for us than they do. Considering the fact that nearly all our private subscribers are from India, it ought to be understood that most of the money ought to go to natives of India in that way, and I think really the Colonies should support their own destitute cases, but they do not.

293. (*Sir Francis Fleming.*) You mentioned two Colonies that pay something: Ceylon and Mauritius?—There are others that pay. I mention those as being cases where the subscriptions by no means meet the expenditure.

294. There are other Colonies that also pay?—Yes, Zanzibar gives us 10 guineas; Hong Kong gives us 10 guineas, and so on.

295. The majority of the Colonies contribute?—Yes.

296. Do they contribute sufficient to cover the expenditure you are put to?—With the exception of Ceylon and Mauritius, I should say they do.

(*Chairman.*) We have had the list of subscriptions already before us.

*The witness withdrew.*

(Adjourned till Thursday, the 29th instant, at 3 o'clock.)

### THIRD DAY.

Thursday, 29th July, 1909.

#### MEMBERS PRESENT:

Mr. OWEN PHILIPPS, M.P. (*Chairman*).

Sir FRANCIS FLEMING, K.C.M.G.

Mr. G. S. FRY.

Admiral W. F. S. MANN.

Major-General F. E. A. CHAMIER, C.B., C.I.E.

Mr. THEODORE MORISON.

Mr. EDWARD J. HARDING (*Secretary*).

Mr. J. R. WALKER, called in and examined.

297. (*Chairman.*) You are Chief Clerk of the Shipwrecked Mariners' Society?—Yes.

298. You have put in a *précis* of the evidence you propose to give?—Yes. That embodies the views which I wish to lay before the Committee. I have been in the service of the Shipwrecked Mariners' Society since 1883, and always in the relief department, of which I have had charge for some years, but I fear that it is impossible for me to give any very definite answer as to the points on which information is asked for, the relief given by the Society to distressed colonial seamen, &c., forming but an infinitesimal portion of our work generally, whilst we have but scanty documentary records here of what has been done. The following, however, is a summary of such facts as I can supply: (1) Indian subjects have hitherto been sent to the Asiatics Home to be dealt with, and in a few instances the Society has paid for their board there for a week or two. As to Colonial natives, various men drift to the Society from time to time when unable to obtain another ship, and others through illness and

accident. In 1897 a number of men (West Indians) nominally deserted from an American whaler, the "Pearl Nelson," at Fayal, Azores, and considerable difficulty was experienced in disposing of them.\* (2) The causes of distress are: (a) Accidents; (b) That men are paid off at foreign ports; (c) Desertions. (3) Several cases of afflicted men, unsuited for a sea-faring life, were sent home (principally to the West Indies) by the Society paying *l.* 10*s.* or 2*l.* for their passage, but, owing to the shipowners now requiring the men to produce official proof of nationality, none have recently been disposed of in that way by the Society, although the Board of Trade and Colonial Office have, since then, been able to obtain a free passage for some men from the Royal Mail S.S. Co. (4) I would suggest that all shipwrecked colonial seamen, who are not able to obtain another ship in the United Kingdom, should be sent home by the Board of Trade, and the Society would give temporary help (board and clothing where

\* See passage marked I. in Appendix II. (1).

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[Continued.]

necessary) as usual in shipwrecked cases. Destitute men do not properly come within the Society's scope, although they have been assisted from time to time in special cases as above mentioned. In 1879 there was correspondence between the Shipwrecked Mariners' Society, the Colonial Office and the Board of Trade as to the best means of repatriating colonial seamen (by which I mean seamen who last served in a colonial registered ship) who became distressed in the United Kingdom. The result was a circular sent out by the Secretary of State for the Colonies in which it was suggested to the Colonies that as sailors belonging to the United Kingdom are repatriated at the expense of the Imperial Government when they become distressed in the Colonies, so the Colonies should pay for their own seamen when they become distressed in the United Kingdom. In this circular the term colonial seamen meant only seamen who last served in a colonial registered ship. To this suggestion practically all the Colonies agreed, and passed laws accordingly. I have tabulated these laws in a separate statement.\* I believe that when this circular was sent out there were many more colonial registered ships than there are now. Anyhow the Shipwrecked Mariners' Society have had very few cases to deal with under this circular; in fact, no cases of shipwrecked sailors so far as the Crown Colonies are concerned. Such cases as the Society has had I have tabulated separately.† There have been some other cases which did not fall on any construction within the circular; where the Shipwrecked Mariners' Society has paid itself.

299. You have had a long experience then?—Yes, I have been in the Society since 1883.

300. What in your opinion are the most common causes of people being destitute in this country?—The odd cases are men who have been sick, and we have to deal with them. You have a few specimen cases in the statement I have given, but the others are where they have been left behind principally in Continental ports. In one or two cases—I can only give one instance now—they were on an American whaler, and were practically put ashore—told they could desert, and did do so, and of course they were sent home to England as distressed British seamen after that.

301. Are there many shipwrecked colonial seamen who come to you?—Not according to the terms of the agreements. We have no genuine shipwrecked colonial seamen; not shipped in colonial ships. They have principally come from foreign ships.

302. So that practically your suggestion that in the case of shipwrecked colonial seamen they should be sent home by the Board of Trade does not amount to much?—No; that applies more to the odd cases that come along, distressed men; not shipwrecked men. All the cases we have are merely distressed men; not shipwrecked men.

303. The agreements limit you then simply to seamen in a Colonial ship?—To seamen in a Colonial ship if shipwrecked. The agreements merely stipulate that we are to send home shipwrecked men, shipwrecked in a Colonial ship.

304. They do not deal with the broader question of shipwrecked Colonial natives, natives from the Colonies who are not in a Colonial ship?—No, they do not. There is always a proviso that they must be Colonial seamen shipwrecked on a Colonial registered ship.

305. (Mr. Fry.) Do you relieve many Colonial seamen who were not in Colonial ships?—Yes. What we call destitute men. There would be perhaps 50 in a year, or more than that. As we do not take the place of birth of the men, we are unable to identify them. They are just entered by their name and the ship they were on, and then it is done with.

306. (Chairman.) But as far as the seaman in a Colonial ship is concerned the question has been satisfactorily dealt with?—Oh, yes; the agreements of 1879, of course, deal with that, but we have never had a case.

307. Do you know of any case or many cases where

distressed Colonials have become chargeable to the poor rates in this country?—We have sent some men to the St. George's-in-the-East Workhouse. We had them down at the Sailors' Home at our relief office there, and of course they came in that parish.

308. Do you know whether in those cases the Board of Guardians have claimed and received payment for the expenses they have incurred?—I could not say. When they have left the office and gone down there we have heard nothing more of them.

309. When the agreements were made in 1879 were there more Colonial ships than there are at the present time?—Yes. There were several English-owned ships registered in the Colonies. We searched up 127 shipwrecked men that had been relieved in two years prior to 1879. There are not so many, I understand, now.

310. Can you tell the Committee the reason for that?—I have only heard it casually. It is generally considered the income tax. A Colonial registered ship at that time did not come in for the income tax.

311. You have put in a very interesting list of the agreements or ordinances of the Crown Colonies?—Yes.

312. (Sir Francis Fleming.) You refer simply to Colonial distressed seamen; not to those who are not seamen?—We only deal with seamen.

313. In your opinion, instead of these different arrangements that are made between these different Colonies mentioned in the memorandum, would it be more desirable that a general agreement should be come to with regard to repatriation?—That is such a wide question. A lot of these men are quite capable of work, but they cannot get a ship. That is where the trouble comes in. It really wants somebody like the Superintendent of the Mercantile Marine. If he could put the men in the way of getting a ship they would be all right.

314. I understand that there have been certain agreements made by certain Colonies to pay the necessary expenses, as it were, or a certain portion of the expenses to which you are put?—Of shipwrecked men.

315. Yes. Instead of the different agreements which are made between the Colonies which you have mentioned, do you think it would be more desirable if a general agreement were come to between the different Colonies to the same effect?—To take in all destitute men?

316. To take in such destitute men as are referred to by you—shipwrecked men?—Of course a lot of the men we relieve and give temporary help to are quite capable of working, and quite willing to work. The only thing is they cannot get a ship. For instance, we had a case the other day. A man belonged to Antigua. He had been at St. John's, in Government House, employed there. Then he thought he would like to come to Europe, and he got a Nova Scotian vessel and was paid off at Gibraltar. Then he managed to get on to one of the Eastern Telegraph Company's ships, and was paid off last April in Plymouth. He was quite willing to work, and he told me he had been tramping the country ever since, and had not been able to get anybody to take him on.

317. Was he a shipwrecked man?—No, he was merely what we term a D.B.S.; just an ordinary distressed seaman.

318. (Mr. Fry.) A black man?

319. (Sir Francis Fleming.) He wanted to get back to Antigua?—No; he wanted to get a fresh ship. He was quite willing to work.

320. What I wanted rather to know was this: You mention different arrangements here that have been come to by certain Colonies?—Yes.

321. Are the same arrangements come to by all the Colonies, or do they differ?—With the exception of the provisos that I have mentioned the wording is practically the same in the other cases.

322. The arrangements there, so far as they go, are uniform arrangements?—Yes.

323. (Mr. Morrison.) You say: "I would suggest that all shipwrecked Colonial seamen, who are not able to obtain another ship in the United Kingdom, should be sent home by the Board of Trade." In

\* See passage marked II. in Appendix II. (1).

† See passage marked III. in Appendix II. (1).

‡ See passage marked IV. in Appendix II. (1).

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[Continued.]

which sense do you mean Colonial seamen: Colonial seamen or persons who have last shipped in a Colonial registered ship?—Both.

324. You mean in that case both?—Yes.

325. All classes?—All classes.

326. With regard to Colonials of all classes, however they have come here?—Yes.

327. (*Major-General Chamier.*) You say destitute men do not properly come within the Society's scope. Do you mean seamen and non-seamen—both?—No; only seamen. Of course we do help a tremendous number of other seamen, but they are outside our scope. It is from a charitable point of view.

328. (*Chairman.*) In the case of Newfoundland, did not the Colony agree to pay the expense of repatriation of all distressed seamen?—Yes, the same as in the other Colonies.

329. Not only those who had served last in a Colonial vessel?—That proviso would probably be in. I have not the paper with me. That proviso is, you might say, general, although in one or two cases it has not been specified.

330. Is it your view that this example of Newfoundland should be extended to all the other Colonies in the same way?—Yes, but we have always had to pay for crews going back; wherever we have sent men we have always had to pay a passage with the exception of three instances which we have got free. The Board of Trade can obtain a free passage, I understand, in many cases, and of course that is an advantage. The Board of Trade have obtained a free passage back for men.

331. For distressed British seamen?—No, for shipwrecked men as well. Newfoundland is the only Colony from which we get shipwrecked men belonging to the Colony in a Colonial registered ship.

332. Is it the case that the Colony of Newfoundland repatriates these men if they are stranded in England,

whether they have served in a Newfoundland registered vessel or any other vessel?—No, only in their own vessels, but the further order of 1902 is to repatriate *bonâ fide* distressed Colonial seamen at the expense of the Colony, so they go further than shipwrecked in that case.

333. (*Mr. Fry.*) But they must have served in a vessel registered in Newfoundland?—Yes, a Colonial vessel.

334. There is no provision whatever for sending over Newfoundlanders stranded here who have served in English or foreign ships?—No, not that I am aware of.

335. They will not repay you if you send them?—No.

336. (*Chairman.*) Are you quite certain as to what is the position at the present moment with reference to Newfoundland?—I have not the agreement with me, but I have here the letter of the Secretary of State of March the 27th, 1902.

337. This is a letter from the Colonial Office of March 27th, 1902, which states "that a despatch has been received from the Governor of Newfoundland conveying to the Board of Trade the general authority of the Colonial Government to repatriate *bonâ fide* distressed Newfoundland seamen at the expense of the Colony"?—Yes. That took it out of our hands. It took shipwrecked men as well, and since then the Board of Trade have always sent them home.

338. That does not limit it to Newfoundland seamen in Newfoundland vessels?—No, that document does not, but the agreement of 1879 would. I have not brought it with me.

339. You mean that the despatch does not contain the limitations that are actually in practice?—I think it does contain the limitations—Colonial vessels and Colonial seamen.

*The witness withdrew.*

Mr. J. A. MORRIS called in and examined.

340. (*Chairman.*) You are assistant superintendent of the Strangers' Home for Asiatics?—Yes.

341. Will you read to us the very interesting *précis* of your evidence which you have prepared?—Yes. It expresses generally my views on the question, and is as follows—*Causes that give rise to distress:* (1) Excessive employment of other than British subjects in the Mercantile Marine. Though not applying directly to the subject in hand, it would be very useful for statistical purposes if, when a foreigner was signing in a British vessel, he had to answer the following questions:—Have you served in the Navy of your own Government, or in the navy of any other country? If so, for how long and in what position? Are you still a reservist? Are you likely to be called to your flag in the event of war? What would you do in that case? This information could be obtained without any expense and very little trouble; and having it, the Board of Trade would always be in a position to inform the Government as to what proportion of the naval reservists of foreign powers we were fostering in our Merchant Navy to the detriment of British seamen. (2) Repugnance of Masters and Engineers to mix coloured seamen and firemen with white. Mixing the races is often the cause of trouble on board ship, and with the exception of, say, the British Channel ports, where the coloured seamen, Arabs, Somalis, West Coast Africans and West Indians foregather, it is rarely possible to obtain a complete coloured crew. This is one reason that when a coloured man is discharged in London or other ports he finds it almost impossible to reshuffle and soon exhausts what little money he was paid off with, pawns his clothes, &c., and becomes destitute. (3) Incompetency. Whereas the firemen and trimmers brought to this country are fairly competent, the deck hands are rarely so; and though perhaps having an A.B.'s discharge, seldom have sufficient service to show that they are entitled to it. It is frequently the case that when these men are shipped as seamen, when the ship gets to sea, half of them cannot steer. Heaving the lead is out of the question. Masters are

chary about shipping such men, and so they get left. A recent case was the s.s. "Overdale." The captain shipped a boatswain and six A.B.'s. All had good A.B. discharges. Going from Newport to Middlesborough he found only three could steer. The whole seven were Mauritius and Seychelles islands men, and quite black. The position was awkward, and he only got out of it by shipping one more that could steer, making four, and discharging the other three to ordinary seamen. (4) Distress among Indian seamen should be non-existent. They are protected by the Merchant Shipping Act, and should never be adrift in this country. Desertion is practically the only cause, except in the case of Eurasians, who are allowed to sign the European articles to be discharged in this country. Also some natives of India who declare they are of other than Indian birth, and so are allowed to sign the European agreements, and are discharged in England or on the Continent. They soon become destitute, and to save themselves from the workhouse declare their nationality, and seek the aid of the India Office. Many are brought to the Continent by foreign vessels, and their passage paid to the United Kingdom, a cheap way of disposing of them, and equally pleasing to the Indian seamen. The ships that carry the coolies from India to the West Indian Colonies, are responsible for a large number of useless incompetent Eurasians being landed in the United Kingdom in a state bordering on destitution. (5) West Indian and African seamen have rightfully or wrongfully acquired the reputation of being disorderly and exceedingly troublesome, so much so, that no shipmaster will carry them twice, except those who are trading in the centres where these men are usually employed. (6) Singapore and Hong Kong, British Chinese, require no comment. They are seldom in distress. *Proposals for more effective treatment:* Sections 221, 222, 223, 224 of the Merchant Shipping Act, 1894, to be extended to deal with Asiatic seamen signing in India, when away from that country. As the Act stands at present, there is no punishment for desertion except when such desertions take place abroad,

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[Continued.]

as in India, which is the home of the Lascar, and where such desertions are immaterial and, as a matter of fact, not punished. Under the Act as it now stands, a Lascar can desert with impunity. The sole punishment a deserter gets if he is taken before a magistrate is, "forfeit all or any part of the effects he leaves on board, and of the wages he has then earned." No conviction or imprisonment. This is no punishment; as the deserter has invariably no effects other than those he stands in, and he is usually in debt to the ship. Lascars get one month's advance of wages when joining, and usually arrive in the United Kingdom before the month has expired. The new sub-section proposed should read "if the desertion takes place in any port away from India, to forfeit all or any part of the wages he may earn in any other ship in which he may be employed until his next return to India, &c., &c., and also, except in India, he shall be liable to imprisonment for any period not exceeding 12 weeks with or without hard labour." The provisions applying to European seamen when abroad who have signed in the United Kingdom, should apply to Lascar seamen signing in India when in the United Kingdom, or any place abroad from India. It is a matter of considerable regret with masters and shipowners, that a Lascar can desert with impunity in the United Kingdom, and they, knowing there is no punishment for that offence, seldom will take the trouble to have a deserter arrested and taken before a magistrate. Were this matter put right it would be a most wholesome deterrent to Lascars deserting, and would probably stop it altogether. A copy of the section should be printed in the vernacular and placed in a conspicuous place in the quarters of the Lascars. Leave of absence from vessels in ports other than in India: Masters of vessels should be requested to issue orders that no Lascar be allowed to be absent from the ship upon the day of sailing. The usual excuse a deserter offers is "that he went ashore to buy something, lost his way, and the ship had left when he returned." A recent case of desertion: A Lascar Bhandari of the s.s. "Clan McKinnon," deserted on a Thursday, or rather he told the usual story of going ashore to buy something and got left behind. The owners put him on board the s.s. "Clan McFadgen" on the Saturday and he promptly deserted. The following week they put him on the s.s. "Clan Lamont" when he deserted again. Finally they got him put on the "Clan Mathieson" on Thursday last. Then the officer in charge put him into a room with materials to scrub it out and looked the door so that no one should interfere with him until the steamer left (about an hour afterwards) and so got him to sea. The steamer is bound to Glasgow to complete loading where doubtless he will desert again. There is at present no punishment for such conduct. Section 185 of the Merchant Shipping Act, 1894, to be extended to apply to all seamen signing the Asiatic Articles in India. Many Lascar crews include natives of Ceylon, Portuguese Indians from Goa, natives of Mauritius and the Seychelles Islands who are of Indian extraction, Zanzibar and Malays of Indian extraction. The Secretary of State for India looks after the natives of British India, and on their behalf operates Section 185. Should not some authority be appointed to operate this section in favour of native seamen other than those of British India, who form part of the Lascar crew and sign the same agreement? The superintendents for the transfer of Lascars at the various ports, are a safeguard against any man on Asiatic articles being discharged away from India, but there is no authority that will operate the section for the seamen who are not natives of British India in the same way as the Secretary of State for India operates it for natives of British India. The responsibility of the master for returning a Lascar crew to the port they signed in, is the same whether such crew be all natives of British India or otherwise. The Secretary of State for India sees that the obligation is fulfilled as regards natives of British India. This Commission should decide who should see that it is carried out as regards other members of the crew who are not natives of British India. It frequently occurs that seamen and other natives of Indian type are engaged at Indian and Ceylon ports and sign

the European agreement. These men seldom understand the nature of the agreement they sign, although they say they do. In every case, when a native is signing an European agreement the official before whom he signs should see that the master obligates himself to return the native to that or other port in India, as may be arranged, and endorses the articles to that effect. Also, upon arriving in the United Kingdom or on the Continent the native's discharge should not be sanctioned either by a Consular Officer or Board of Trade Superintendent, even if mutually agreed to by the native and the master of the ship, unless the master enters into a bond to be responsible for the man's maintenance and repatriation in the event of his becoming destitute within six months or other fixed period. This should be imperative, especially when the native is to receive only the Lascar rate of wages, as in the case quoted below. The case of the s.s. *Groense* (s.s. "Kanza"), May 1908, a synopsis of which is before the Commission, is an excellent illustration of the above. Natives must be protected against themselves. All natives are under the impression that they can better their condition in England and there is no difficulty in persuading them to take their discharge. They should not be competent to release the ship from the obligation to maintain or repatriate them. As regards Section 184 of the Merchant Shipping Act, 1894, the conditions of this section should be pointed out to the master when engaging a native at Indian or Colonial ports, and if the engagement then takes place, the articles should be endorsed that such engagement was made under Section 184. It would only be then for the Superintendent of the Board of Trade in the United Kingdom, or Consular Officer on the Continent, to see that the conditions were fulfilled. These matters are better governed by prevention than cure, even, as the language test would be far less troublesome if it stipulated that no seaman could be discharged in this country who did not possess the requisite knowledge of English to enable him to ship again, instead of dumping him in the country with the inability to get out of it. The great increase of Chinese in British ships making their home port in the United Kingdom is solely attributable to the absence of a section in the Merchant Shipping Act such as I propose. Chinese engaged at Hong Kong and Singapore and ports in China have deserted in hundreds in the United Kingdom with the object of getting more than double the pay they receive on Asiatic agreements. Shipmasters and owners have not been able to obtain any redress. Proposed section to be styled 221 (a) Merchant Shipping Act, 1894: To apply only to natives of India and others signing the Asiatic agreements sanctioned and made pursuant to Acts passed by the Governor General of India in Council and numbered No. 1 of 1859, and the Indian Merchant Shipping Act 5 of 1883, and the agreements sanctioned by Governors in Council of Crown Colonies such as Hong Kong and the Straits Settlements; in place of paragraph (a) Section 221, Merchant Shipping Act, 1894. If a seaman lawfully engaged commits any of the following offences he shall be liable to be punished summarily as follows:—If he deserts from the ship he shall be guilty of the offence of desertion and be liable to forfeit all or any part of the effects he leaves on board and of the wages he has earned, and also if the desertion takes place in any port away from India or from the Colony in which the agreement was made of the wages he may earn in any other ship in which he may be employed until his next return to India or the Colony in which he signed the agreement which he has broken by deserting, and to satisfy any excess of wages paid by the master or owner of the ship to any substitute engaged in his place at a higher rate of wages than the rate stipulated to be paid to him; and also, except in India or the Colony where he signed the agreement broken, he shall be liable to imprisonment for any period not exceeding twelve weeks with or without hard labour. Section 221, paragraph (b), would be in order by substituting for the words "United Kingdom" "India or the Colony where the agreement was made and signed." Sections 222, 223, and 224 should be treated as above to apply to natives of India and those

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Colonies where Asiatic agreements emanate. The sections to remain as they are, sub-sections to be added to apply to Asiatic seamen. At present they apply only to seamen signing in the United Kingdom and restricted parts of the Continent of Europe.

342. With reference to the first case you mention which gives rise to distress, namely, excessive employment of other than British subjects in the Mercantile Marine, I am afraid that is rather outside the scope of this Committee?—Yes; you can pass that over, I think. It was quite an aside, but I thought it might be interesting.

343. It is very interesting, but it is outside the scope of this Committee.—Yes, quite so.

344. Do you find much practical difficulty in obtaining employment for coloured seamen who are stranded in England?—Yes, there is a great difficulty at all times. You see there is a general prejudice against them for one thing. Of course the majority of crews sailing out of London—and I am speaking, in my evidence more in connection with the Port of London—are, with the exception of Lascar crews, white crews, and there is a general repugnance on the part of engineers more especially to put one black man in among a matter of a dozen whites or so. When seeking employment themselves, the men will go round the docks, and the fact of seeing a white quartermaster at the gangway as a rule frightens them away. They do not like to apply for employment unless they see a similar face on board to their own, which gives them a little courage.

345. Are you of opinion that many of the seamen who get stranded here are also incompetent?—Well, that is the class of men that I have passing through my hands, more especially the deck hands. It is not so much the firemen or it is not so noticeable anyhow. You see, leaving out the mail steamers and the passenger steamers and taking the tramp steamers, say, every man must be able to do his work, that is to say, if they carry six or seven or eight sailors every man must be able to steer. I do not think there are 20 per cent. of these coloured seamen that come here who can steer. Of course there are a great many English and European seamen for that matter who cannot steer. There are a number of ships where they carry quartermasters. A man goes to sea and generally gets his rating up to able seaman, and perhaps he has never been at the wheel in his life. In the olden days it was different. You had to qualify for able seaman by proving that you could steer and heave the lead, and go aloft and handle sails, and that sort of thing. Things have changed nowadays, and there are few sails to be handled, and quartermasters do all the heaving the lead except in tramp steamers where, when they want a man to heave the lead, they very often find out there is not a man competent in the ship, and an officer has to perform that duty.

346. As far as Indian seamen are concerned, practically there is no difficulty. They are provided for by the Merchant Shipping Act?—They should be. I think if you refer to my *précis* you will see I say the distress among Indian seamen should be really non-existent. They break their agreements and desert. No man signs an agreement in India which renders it possible for him to be discharged in this country unless through sickness or inability, or something of that kind, and then the owners, as a rule, provide for his maintenance and repatriation.

347. (*Mr. Morrison.*) No genuine native of India?—I am speaking of the proper natives of India—the pukka natives.

348. (*Chairman.*) You said that "The ships that carry the coolies from India to the West Indian Colonies are responsible for a large number of useless, incompetent Eurasians being landed in the United Kingdom in a state bordering on destitution"?—Yes. There are many cases that have come under my notice in that respect. You see these ships leave Indian ports with, I suppose, Government emigrants for British Colonies, are carried under Government licence; anyhow, to carry them they have to increase their crews to satisfy Government requirements. Instead of increasing their crews with what we may say are competent, qualified, able seamen, they get a lot of whatever they

can pick up round the streets, boys just left school, apprentices out of engine shops, and lads that you may say have never seen a ship before. These boys, because they have European parents, or say they have European parents—I suppose they are anxious to get to sea and see the world—if they have a little education and can write their own names are allowed to sign the European agreement. They arrive in this country having had a month's advance on joining the ship on the other side. I am speaking more of sailing ships. They take two or three months to get to this country, and by the time they have got round to British Guiana—they have no sea outfit when they start—they have to borrow of the captain at different ports in order to get some clothes, or perhaps the ship might have a slop chest. When they get to this country they have perhaps 1*l.* or 1*l.* 10*s.*, if they are fortunate, and they are discharged. The European agreement comes to an end when the ship arrives at a port in the United Kingdom, and they are discharged with the rest of the crew. If they were competent sailors, or competent at anything at all to get their own living, it would not matter so much, but they are discharged as sailors when they are not sailors at all. Perhaps a lad is a ship's boy, or some rating of that description. He is the class of man who is not carried in the ordinary tramp steamer. They put their crews down to the finest, and every man must be able to do his work. These boys cannot steer and have not had an opportunity of learning. They have not the rating of able seamen, because by the time they come to this country they have only been to sea a matter of three months.

349. What is your suggestion for dealing with them?—Simply for the Secretary of State for India to treat them as Lascars, and when they get destitute in this country either pay for their maintenance or repatriate them in the way they would an ordinary Lascar, and then recover from the people who have made use of these lads for their own purposes. This has been done by the Secretary of State, I may tell you, on some occasions, but on others he has taken a different view of the matter.

350. Under the ordinary Lascar agreement the master or owner agrees to provide for each of the Lascars or other natives whose names are subscribed, and who may be discharged at certain ports, fit employment or passage free of charge?—That is on the native agreement, but these lads come to England on the European agreement. The ship goes out there with an European agreement, but ships carrying these Government passengers have to carry a crew to the Indian Government's requirements, and it is generally necessary to ship extra men, so that they either cannot get competent white men out there out of the Sailors' Home, or perhaps it is cheaper, and pays them better, to take these lads. A considerable number do come that way.

351. Is your suggestion that the Merchant Shipping Act, sections 221 and 224, should be extended to deal with those Asiatic seamen signing on in India?—Yes. The section should be extended to stop desertion. That is what I am trying to get at.

352. Sections 221 to 224 you refer to?—You are referring to 221 now, are you not?

353. Yes.—If you have there that section of the Merchant Shipping Act of 1894, you will find that if a seaman deserts and does all these dreadful things in this country he is only liable to forfeit any effects he may have or may have left on board, and the wages he has earned up to that time, but if he deserts in any port or place abroad from the United Kingdom he is liable to all sorts of penalties, imprisonment, and also to forfeit any wages he may earn on a ship coming back to the United Kingdom. That is as the Act is at present.

354. (*Mr. Morrison.*) That section clearly contemplated a British seaman?—Absolutely.

355. Is it applied to Lascars?—Yes, but as it would be applied to European, it is interpreted in the case of Lascars by police magistrates as written there. We have had cases before us.

356. This is applied to Lascars?—Just so, but it does not govern the case; there is no special section that applies to Lascars deserting.

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357. But at the police courts they apply this section?—Absolutely; they have nothing else to go by, and consequently the man gets off free.

358. (*Admiral Mann.*) They treat the Lascar there as they would a white man?—Quite so. So that according to that section, if a Lascar were to desert five minutes after he signed articles in Calcutta, when it did not matter twopence whether he or a whole crowd went, because they could get others, he would be liable to imprisonment for 12 weeks, but if he deserts where he puts the ship master to great inconvenience the only punishment is, if he is taken before a magistrate, that he has to forfeit any effects he may have or have left on board the steamer and the wages he has earned up to that time. The ships nowadays that come to the United Kingdom very seldom take 30 days. These men have a month's advance, and they are usually in debt to the ship when she arrives at the United Kingdom, so that there is nothing to forfeit in the way of wages due to them.

359. You are speaking of steamers?—Yes. As to the effects, the class of man who deserts very seldom has any effects. He carries them all on his back or under his hat if he has a hat. It is very very little; in fact, with regard to the men that have come before me in the last five or six years, it is generally desirable when they do turn up that their effects should be burnt, and we try to rig them up in something that somebody has been good enough to send us. They are usually in a filthy state. There is no punishment whatever for a Lascar, and this is very well known amongst shipowners that carry Lascars. They will seldom take the trouble to hunt them up.

360. (*Chairman.*) Is your suggestion that the Merchant Shipping Act should be extended?—Yes. In my *précis* you will find I have written out what, I should say, with a little revision, would, perhaps, be a proper section to add to section 221. I think you will find it on the last page: Proposed section 221 (a).

361. You think if that suggested alteration in the law were made it would meet a great many of these cases?—It would be a very wholesome deterrent certainly, especially, as I have noted before, if a copy of the section, if it did come into force, were printed in the vernacular in very large characters, and put in the men's quarters so that nobody could plead guilty of not knowing, and so on. Of course, if a Lascar knew that he was going to be imprisoned for deserting or breaking his agreement he would consider twice before he ran away. Then, on the other hand, the thing which would affect them more than anything else would be the fact that if he were shipped in this country on larger wages he would be liable to forfeit the whole of the money he earns on his way back to India, so the man would have no object in deserting. The principal object these men have is to get off the 15 or 18 rupees a month and get on to the 3*l.* or 4*l.* a month.

362. While that is their object the effect is that very often they become destitute?—Yes, they are destitute as a matter of fact when they desert, but there are so many people in this country who have always a helping hand for the poor black man that they do not do so badly. The distress nowadays is really not so real as people would imagine.

363. (*Major-General Chemier.*) Because they have always the Strangers' Home to come to?—I leave that for you to say, General. I should be very pleased to say something on behalf of the Strangers' Home.

364. (*Sir Francis Fleming.*) What you are referring to now are Indians who join ships in India?—Yes.

365. And whom you consider practically incompetent to perform any duty connected with the ship, such as steering, and things of that sort?—No. I am not applying that to the Lascar who deserts, because as a matter of fact there are very few Lascars who are what you might call qualified able seamen from the English point of view. The ships that carry Lascars usually have quartermasters. Some have native quartermasters whom they call *Seacunnies*. There are only four required for each ship, and no ship ever carries more than four, and unless a man goes to sea with a view of becoming a *Seacunny* he is an ordinary deck hand.

366. Those are the ones that desert the ships in the United Kingdom?—Yes, usually.

367. As I understand the European agreement is entered into in India?—Yes. That is a separate thing. It is quite apart from the Lascar agreement. With regard to the European agreement, as soon as a ship touches a final port in the United Kingdom, it is no longer an agreement; it automatically terminates itself.

368. I did not quite understand the difference between the Lascar agreement and the agreement made with the others that you mentioned.—One agreement is made in this country, and it provides for all the abilities and disabilities of, we will say, Britishers, whereas a Lascar agreement is made in India and provides in the same way for Lascars, in which it is compulsory on the part of the master or owner engaging a crew in India to return them to the port at which they are engaged within a certain period. In the same manner, in an European agreement which emanates in the United Kingdom the master is bound to bring the man back to the United Kingdom within a certain fixed period. They are quite distinct. An Asiatic agreement and an European agreement are quite distinct.

369. With regard to the Indians who join these coolie ships that take emigrants, say, to Mauritius and the West Indies, for example, do they come under the Lascar agreement?—No; they have the European agreement. The ship originally leaves England and goes out to whatever port in India it is with cargo, of whatever it may happen to be. Then she enters into a contract under Government supervision to take a certain number of coolies to a certain place; the Government insists upon having, in addition to what is considered a sufficient crew for an ordinary ship, so many more men, sometimes nearly double the number that originally left England, and so they have to engage these men at Calcutta, or whatever port they are in; usually Calcutta.

370. Those are the men that desert the ships in the United Kingdom?—No, those men are properly discharged before the Superintendent of the Board of Trade in England. Those men do not desert, because they sign the European agreement, which, as soon as the ship arrives in England, terminates; they are paid off with the rest of the crew who have signed the original agreement. They sign the same agreement as the man who signed in England originally.

371. Who are the men who desert in England?—The men who desert are men on the Asiatic agreement. An agreement made in Asia stipulates that every member of the crew must remain on that agreement for a fixed time until the ship returns to the port whence it emanated. So, of course, if they leave the ship in this country they must desert, because there is no power at present that will permit the Superintendent of the Board of Trade or any other official to release a man from his agreement; unless under an arrangement for the man's re-employment, maintenance, or repatriation it is not competent for the men to release themselves, even by mutual consent. The agreement may not be broken.

372. (*Chairman.*) Briefly, are your two proposals, first, that Eurasians should be required to sign a Lascar agreement that would result in their being returned to India?—No. My proposal is that in the event of bringing Eurasians to this country, whether on an European or an Asiatic agreement, the master of the ship should be responsible for their repatriation. Say there is a ship with an European crew; she has two men short, and they pick up two Eurasians; they do not make out Asiatic articles for these two men; they sign the same agreement as is existing on board the ship. The men should then be shipped if they are not pure natives of India under section 184, which should be fully explained to the master of the ship when the men were signing, and the articles should be endorsed to that effect, so that the master could not plead ignorance, and so that when the ship came to the United Kingdom, and the European crew were paid off, it should still remain compulsory that the master of the ship should either provide for these two

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Eurasians, or natives of India, as the case may be, or else send them back to India—just as it applies to Europeans. If you take a couple of Europeans to India, or any other place, they will not allow you to discharge them; you must send them back to the United Kingdom. You cannot take Britishers out to Calcutta and discharge them.

373. I understand that is your first suggestion. Is it your second suggestion that the *Lascars* under a *Lascar* agreement should have heavier penalties provided for their desertion similar to those laid down in sections 221 and 224 of the Merchant Shipping Act?—Yes. My suggestion is that the same penalties should apply to them deserting in what is to them a foreign country, that is in England, or on the Continent, as apply to Europeans deserting in India or abroad.

374. (Mr. Morrison.) Do I understand from you that there is a distinct premium put upon a ship's captain engaging a man under an European agreement—I mean on the emigrant ships—because he knows he will be discharged when he comes to England and he will be done with, and will have no more responsibility for him?—Quite so.

375. So there is a very good reason why he should engage that man under the European agreement if he can?—Undoubtedly.

376. That is so, you say?—Yes, there is a peculiar advantage in doing it.

377. You say, "It frequently occurs that Goanese and other natives of Indian type are engaged at Indian and Ceylon ports and sign the European agreement"?—Yes.

378. There is nothing to prevent that as it stands?—As it stands now there is not. There is with pure natives of India.

379. A Goanese, for instance?—He is a Portuguese subject.

380. He is an Indian with a Portuguese name?—Quite so.

381. He is a foreigner because he comes from Portuguese India?—Quite so.

382. He is an Indian?—He is a foreigner as far as section 185 of the Merchant Shipping Act is concerned. The Secretary of State for India is not his father and mother.

383. That is what I wanted to get at. Therefore the man, although he may be a pure Indian, but does not come from British India, ships under a British agreement?—Yes. He is also allowed to sign the *Lascar* agreement, but he is not protected in the same manner as a native of British India is.

384. There is a distinct advantage to a captain in letting these men, Goanese, Eurasians generally, sign under the European agreement—almost anybody who would like to sign under the European agreement—rather than as a *Lascar*, because he would not have to take him home?—Quite so. It is an advantage to the master of a ship, who has an European agreement existing, to take these men on.

385. In the cases you contemplate the round journey finishes in England?—Yes, quite so; and there is nobody to worry the master of the ship the same as there would be if he were a native of British India. There is nobody to take up the cudgels for the Goanese. Very often there are Mauritius men of Indian extraction whom you will find on these articles, and sometimes Malays from the Straits Settlements.

386. Do they all sign on the European agreement?—No, they sign on the *Lascar* agreement, and occasionally the European.

387. But they are not protected by section 185?—That is so.

388. (Major-General Chamier.) One of our difficulties has been about the word "abroad" in section 221?—Yes.

389. That has been our great difficulty. Does "abroad" refer to England or not?—"Abroad," as the Act stands now, means away from England, and the magistrates of the police courts interpret it as it is written. Therefore, when a man who has signed an agreement in India deserts in this country, he is tried under the same section that would apply to an Euro-

pean who deserted five minutes after he signed articles, which, of course, is quite immaterial.

390. I always understood the magistrates did not read "abroad" to refer to England. "Abroad" refers to Germany, or Hamburg, or Rotterdam, or any of these places?—That is so.

391. That has been against us. The magistrates do not read "abroad" as referring to England?—That is what we are trying to get at, to revise the section so as to read in this way. If you have the two sections before you, and read this one I have written here with the other one at the same time, it is practically only changing the words "United Kingdom" for "India and abroad." If a man commences his voyage in India, naturally he must be going abroad when he comes to the home country.

392. I quite agree with you. The ship owners have declined to prosecute these men; they get no redress at all?—No. You remember a particular case in point in the *Bucknall* line in which, at our request, they prosecuted the man.

393. Yes. The magistrates will not help at all owing to this section.—No.

394. (Admiral Mann.) Have you any means of testing them as to their being able to steer or heave the lead when they come to your hands, or do you know it by repute?—I could very soon tell whether a man could steer or heave the lead, or anything else, although I had not an opportunity of testing it practically. It is not our business to do that.

395. You are able to say you know whether a man is a longshore seaman or not?—Yes. For instance, I have had a case here where I have managed to get a captain of a steamer to take some Mauritius men we had because they were sufficient to make up the crew. He had to call at two or three ports in the United Kingdom before he left, and he said he was in a great fix because out of the seven he took only three could steer.

396. What is roughly speaking the number of cases in a year that you take in? Is it a great number?—I think you have that, General Chamier.

(Major-General Chamier.) 800 to 1,000 or 1,200, 1,472 has been our limit.

(Witness.) You might say an average of 800 to 1,000.

397. (Admiral Mann.) They are not all seamen?—Mostly. You might say 5 per cent. at the outside are nonseafaring men.

398. (Mr. Morrison.) You have wasters as well; people who are not genuine seamen; taken on as cooks, for instance?—Yes.

399. (Admiral Mann.) When they come before Mr. Morris they cannot pass as seaman for very long. You very soon find them out, Mr. Morris?—Yes. I have something to tell you gentlemen in addition to what I have already said. I have a case which occurred to-day. Before I go into that may I say this? A man has shipped, we will say, abroad somewhere, and he comes to this country, as these Mauritius men did, and gets an able seaman's discharge. The chances are these men have never been in what you might call a ship. They might have been in some little training sloop round Mauritius. They come with a book and present it to the captain as A.B., and you turn over and you see: "Character: for Ability: Very good, for Conduct: Very good," and so on. The captain at once thinks: "This man is a competent man," and engages him. The captain has no means of testing the man in his office or wherever he meets him. I think we are not quite careful enough in discharging a man as an able seaman. The Act says a man should serve or show three years' sea service before he can be rated as an able seaman. It would not be a bad suggestion that before a man gets an able seaman's discharge he should be bound to show he is entitled to it. It is something like the language test. Anybody can be discharged who cannot pass a language test to sign again, and is dumped here, and let into the country without the ability of getting out of it. The case I wish to show to you is a case which occurred this morning, and it applies to the subject this Committee

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is appointed to deal with. I will hand it to the Chairman.

400. (Chairman.) "The s.s. 'Evandale,' of Shields. Off. No. 104,595, engaged at Karachi and had signed on the European articles four Zanzibaris and five natives of Muscat on June 10th, 1909, and discharged them before the Superintendent of Board of Trade at Cardiff, July 17th, 1909. Each had received about 2*l.* 7*s.* Four of them understand a little English, the other five none whatever. They were allowed to remain on the ship until July 26th, when they were told to clear out. They took the train to London and were admitted this morning, July 29th. They had among them about 7*l.* Their combined outfits would not fetch 10*s.* They are men that "must become distressed." Your point is it is not moral to bring these men to England without some provision being made to prevent their becoming destitute?—That is right.

401. Therefore your suggestion is as regards section 184 of the Merchant Shipping Act in respect of destitute seamen to try and get that to cover these cases?—Yes, and to get it done at the beginning; that is to say, at the port where the agreement is made. It would be so much easier to handle these things if, when the man was being engaged, those stipulations were put in the agreement instead of letting the man sign articles out in Colombo and then come over here. These are three of the discharges that those men had (producing them).

402. What I wish to point out to you is that sections 221 to 224, which you refer to in your evidence, relate to fines on seamen who desert, whilst section 184, which you have also referred to, refers to owners and

masters of ships who bring them?—It is more with regard to the responsibility of the ships bringing the men to this country to see that they do not become destitute and are returned to their own countries afterwards. Section 184 provides that you should bring no so-called strangers to this country. It is rather that they should be responsible for them for six months after the time of their discharge from the ship. As a matter of fact, section 184 is practically a dead letter now all over the United Kingdom. A ship master can bring men to this country, and if they are on the European agreement he can just put them off, and that is the last he sees or hears of them. They have no responsibility whatever for the men. All they have to do is to take them to the shipping office, let them sign their release from the ship, pay them whatever money is due to them, and they are left to shift for themselves, whereas section 184 was made to protect these men or to protect the country from having to support these men.

403. You recommend that that particular section should be strengthened?—That it should be put in force again, and put in force at the commencement of an agreement, not waiting till the man gets to this country. You should let the master of the ship know what he is letting himself in for when he brings a man of that description, we will say from Mauritius or the Seychelles, or Jamaica, or any place of that description. They bring these men here for their own convenience. The master could be informed: "You are taking this man to a foreign country"—which it is to him if he is going to the United Kingdom—"and you must guarantee he does not become destitute there or to repatriate him."

*The witness withdrew.*

(Adjourned till Friday, the 8th October, at 2 o'clock.)

## FOURTH DAY.

Friday, 8th October 1909.

PRESENT:

MR. OWEN PHILIPPS, M.P. (Chairman).

Sir FRANCIS FLEMING, K.C.M.G.  
Mr. HOWEL THOMAS.  
Admiral W. F. S. MANN.

Major-General F. E. A. CHAMBER, C.B., C.I.E.  
Mr. THEODORE MORISON.  
Mr. EDWARD J. HARDING (Secretary).

Mr. C. H. KISCH called in and examined.

404. (Chairman.) You represent the Revenue Department of the India Office?—Yes.

405. You have put in a *présis* of the evidence you propose to give?—Yes. May I read it to the Committee? *Character of cases:* The Revenue Department of the India Office deals with cases of destitute Indian seamen. (A distinction in the treatment of destitution among different classes of seamen, termed "Indian" in the popular sense, is set forth below under paragraph 6.) *Number of cases:* The number of cases of Indian seamen who became destitute in 1908 and who were relieved through the agency of the India Office was 23. The number of such cases up to date in the current year is 11. *Notice of cases:* Notice of destitution among Indian seamen reaches the India Office in two ways, either (1) by being reported through the authorities of institutions where the destitute person has applied for relief, or (2) by personal appeal to the Office for relief on the part of the destitute person. In this case efforts are made to secure the admission of the destitute person into a

suitable institution, unless some special reason exists to the contrary. The bulk of the cases of destitute Indian seamen are relieved at the Strangers' Home for Asiatics. A regular form of procedure has been adopted for dealing with these cases. *Legal provision for relief of destitution:* The obligation of the Secretary of State for India in Council to interest himself in the cases of destitute Indian seamen is imposed by the Merchant Shipping Act, 1894, paragraph 185 (1). *Legal provisions intended to prevent occurrence of destitution:* (a) Though the charge of maintaining or repatriating such destitute persons is thrown primarily on the Secretary of State for India, he is empowered under paragraph 185 (3) of the Merchant Shipping Act to recover expenses so paid by him from the Shipping Company which brought the seamen to the United Kingdom; (b) the form of lascar agreement under which all pure-blooded Indians (as distinguished from East Indians and Eurasians) are obliged to ship provides either for the ultimate discharge of the lascar at an Indian port, or for his repatriation to India by

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Mr. C. H. KISCH.

[Continued.]

the Shipping Company which has employed him if he is discharged at a port outside British India. *Application of provisions of relief to actual cases of destitution:* It has been the practice of the India Office, unless special reason exists to the contrary, to afford relief to destitution occurring among (a) pure-blooded natives of India brought to the United Kingdom on native articles of agreement, (b) pure-blooded natives of India brought to the United Kingdom on European articles of agreement, (c) East Indians or Eurasians brought to the United Kingdom on native articles of agreement, (d) East Indians or Eurasians brought to the United Kingdom on European articles of agreement, but the recovery of expenses so incurred by the Secretary of State is only sought under paragraph 185 (3) of the Merchant Shipping Act, in cases falling under (a), (b), and (c), and is foregone in cases falling under (d). *Amendment of the law:* The law is comprehensive, and its provisions, so far as they relate to the occurrence or prevention of destitution among lascars of Indian extraction in the United Kingdom, are satisfactory.

406. With reference to the number of cases of Indian seamen destitute, does this include Eurasians?—Yes, the number is comprehensive.

407. This includes the Eurasians against whom a claim has been made on the Shipping Companies?—In many cases no claim is made on the Shipping Companies.

408. Does the Revenue Department of the India Office deal with seamen in distress only?—The Revenue Department of the India Office would deal with all cases into which marine matters enter, but this is only one of the many questions that would come into the sphere of that department.

409. You do not confine yourself exclusively to seamen?—No, that is only one among many other matters.

410. (Mr. Morrison.) We have received another paper,\* which shows that there are other kinds of Indians, not seamen, who ask for relief, is not that so, Mr. Kisch?—Yes.

411. (Chairman.) You have said that a rule of procedure has been adopted for dealing with these cases. Would you describe the procedure?—The case is brought to our notice usually in one of two ways; either by a destitute seaman presenting himself at the Office, or by his finding his way, somehow or other, to an institution of the class of the Strangers' Home for Asiatics. If he comes to the India Office we elicit as much as we can from him as to his antecedents, and if there is nothing against him we give him a letter to the authorities of the Strangers' Home, and have him conducted there by one of our messengers, asking them if they will admit him, and unless they have any ground for refusing him admittance they usually do admit him. We have had, I think, a case in which a man who had been previously ejected from the Home for misconduct there applied for relief. In such a case as that the Home would, and I think did, inform us that they were unable to admit him, and we, so far as I recollect the particular case, heard no more of the matter. In cases where the destitute person finds his way to the Home without coming to the India Office, the Home keeps him for a period, and at the end of 30 days the authorities inform us that they have the man on their premises, and inquire whether the Secretary of State wishes him to be kept there until employment is found for him. In those cases the authorities of the Strangers' Home are informed that the Secretary of State will be obliged if they will keep the man there until they find employment for him, and then according to the man's antecedents we consider the question of whether we should try to recover any expenses that may be incurred from the Shipping Company responsible for the presence of the destitute person in the United Kingdom.

412. So as soon as any man who goes direct to the Home has been there 30 days, you are officially advised of it, and decide on the merits of the case?—Yes. As a matter of actual practice you may be interested

to know that we regularly authorise the Home to keep the man until they find him work.

413. With reference to the obligation of the Secretary of State for India, does it apply to all lascars in distress, from whatever cause, and is the Shipping Company who has brought them responsible, even if they have deserted or otherwise misconducted themselves?—Yes, I think that is so. In the case of desertion, if we know that the man has been brought to this country by a Shipping Company employing lascars, and has deserted in this country, we would make an appeal to the company for a refund. The section of the Act does not exclude an appeal being made in those cases.

414. It allows it even where they have misconducted themselves?—There is nothing said in the Act to the contrary in the section under which we make the appeal. It merely says if he is destitute, and is relieved, then he becomes a charge on the Secretary of State, and any money so paid by the Secretary of State may be recovered from the shipping company. That is section 185 (3).

415. (Mr. Howel Thomas.) What is the meaning of the word "relieved"?—Maintenance by a Poor Law authority would be an example. But we have made claims in cases where a man has been maintained by a private charity.

416. It does not always mean poor relief?—No, for instance, relief at the Strangers' Home would not be a case of that kind.

417. (Chairman.) With reference to the form of lascar agreement, does the necessity for repatriation apply even if the lascars are discharged at a foreign port?—Under the lascar agreement a seaman must not be discharged at a foreign port.

418. So the question does not arise?—No, the question does not arise.

419. With reference to different classes of destitute Indians, could you tell the Committee why it is that the recovery of expenses is foregone in respect of East Indians or Eurasians brought to the United Kingdom on European articles of agreement?—The enactments that refer to agreements with native seamen do not appear to give a definition of the words "native of India." The question therefore arose at one time as to whether a Shipping Company would be liable in the case of Eurasians who were brought over to this country, and also whether Eurasians should be permitted to enter into the ordinary European form of agreement as against the lascar agreement. The Government of India were consulted on this point, and they were of opinion that it was undesirable to restrict the engagement of Eurasian seamen to the form of lascar agreement on the ground that the Eurasians varied greatly in character; in some cases they bordered on Europeans, and in other cases they verged on pure natives, and they considered that if in all cases Eurasians were compelled to sign on the lascar agreement, it would cut off an avenue of employment from a large number of them, because they would not serve on that form of agreement. On the other hand, it was also suggested that Shipping Companies might be unwilling to employ them if they found themselves obliged to pay for their repatriation. As a result of this discussion it was decided to allow Eurasians to sign on either form of agreement in India. In order that the question of restricting Eurasians to the native agreement might not be pressed we do not in practice claim a refund of expenses from Shipping Companies in the case of Eurasians on European articles who become destitute in this country.

420. You mean for fear that you would have pressure put upon you to bring them under the lascar agreement, which was from a broader point of view undesirable?—What one felt was that if the term "native seamen" in the British Merchant Shipping Act was interpreted to include Eurasians, there would be difficulty in avoiding putting a similar interpretation on the Indian Act and so compelling Eurasians to sign the native agreement. There was a feeling that whatever was the interpretation in the one Act would probably have to be the interpretation in the other Act.

\* *Witness's Note.*—Return submitted by the Judicial and Public Department of the India Office.

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[Continued.]

421. (*Admiral Mann.*) I do not quite understand the pure-blooded native you speak of here; is that the lascar?—Yes. I meant as distinguished from a person with some European blood in him.

422. You use the word "lascar," I notice. I am not sure whether shipping companies would not regard an Eurasian on a native agreement as a lascar?—That is a point on which I am not prepared to give an opinion.

423. Under (c) and (d) it is East Indians or Eurasians. Eurasians I know about, but what is the East Indian if he is not the pure-blooded native? When you speak of the East Indian, what do you mean?

(*Mr. Morison.*) An East Indian is a domiciled European.

(*Admiral Mann.*) Any Eurasian is a mixture between European and a pure-blooded native.

(*Mr. Morison.*) A Creole.

424. (*Admiral Mann.*) You use the word in your précis "pure-blooded," and then you speak of lascars. I want to get at the difference?—The word "lascar" has been used to cover those engaged on the native articles of agreement.

425. Real native Indians?—They would be included.

426. (*Chairman.*) If it is impossible to recover from the shipowner, under section 185 (3) of the Merchant Shipping Act, by reason of the lascar changing his name, I understand the Secretary of State for India cannot claim repayment of expenses?—If he is not able to identify the man, or know his previous history, he cannot recover from the company.

427. Can you say in what proportion of cases no recovery of expenses takes place?—We recover in a very small proportion of cases.

428. (*Mr. Morison.*) Under all four heads?—Yes; the question of recovery only arises under the first three heads.

429. (*Mr. Hovell Thomas.*) Do you take any proceedings for recovery, or is it simply by correspondence?—I have never yet known of anything further than correspondence being required.

430. (*Chairman.*) Can you tell the Committee how much a year the India Office spends on repatriation and maintenance, apart from its contribution to the Strangers' Home?—I am afraid I cannot give an absolutely exact figure, but I can give you an approximate figure. In 1908 we paid, I think, to the Strangers' Home on behalf of destitute seamen a sum, roughly speaking, of 70l. In addition to that there were probably one or two other cases where the Secretary of State paid for the maintenance of a destitute seaman, but the total amount paid in such cases would be small. This year we seem to have paid to the Strangers' Home for Asiatics the sum of 30l. roughly, in addition to our subscription; the expenses paid to other authorities are very small.

431. Have you any idea of the amount recovered from shipowners; is that very small?—The number of cases in which we recover is very small. I cannot state, I am afraid, the amount that was recovered in those cases last year.

432. With regard to the 200l. a year which the Strangers' Home receives from the Government of India, is that devoted to any special thing, is it specially ear-marked?—Not so far as I am aware.

433. Is it a contribution without any condition?—I am inclined to think so.

(*Major-General Chamier.*) Yes, that is so.

434. (*Chairman.*) Is there any contribution made by the India Office to the similar Home started by Mr. Chowdry?—Not so far as I am aware.

435. Under the Merchant Shipping Act, under the sections where money is recoverable from Shipping Companies, it may have been expended by boards of guardians, &c., or otherwise paid; in the case of a man sent to the Strangers' Home and kept there for, say, two months before a ship was found for him, can all the expenses be recovered from the shipowner?—Yes, we recognise no limit.

436. There is no limit of time beyond which you could not recover from the shipowner?—No; if we settled not to do so it would be an act of grace on our part. We have got a case of that sort which may be

of interest to the Committee in which a seaman was brought here and then became ill. The disease, though not fatal, was of a chronic character, and I think in that case—it took place some years ago—the Secretary of State agreed to waive his right against the Shipping Company; otherwise they would be paying for the man at the present time.

437. (*Admiral Mann.*) A permanent invalid, I suppose?—Yes, I think so.

438. (*Chairman.*) The Committee have been informed by the Secretary of the Strangers' Home that the India Office pays for lascars after 30 days. That is what you have told us?—Yes.

439. After 30 days the Secretary of State pays and recovers from the shipowner, but only after 30 days?—Only the amount the Secretary of State pays.

440. The superintendent of the Strangers' Home, Mr. Morris, suggested that sections 221 and 224 of the Merchant Shipping Act should be extended so that the penalties now enforceable on British sailors outside the United Kingdom should be extended to sailors on lascar agreements who come to the United Kingdom. If this were done it would involve forfeiture of wages earned by the lascar until his next return to India, also liability to imprisonment. Could you tell the Committee whether in your view such a provision would be effectual in preventing desertion. It is a suggestion that has been made to the Committee?—On the legal question as to whether those sections are now applicable to Indian seamen who desert, I am not prepared to express any opinion, but the cases of desertion that we seem to come across, or rather, the cases that we suspect are cases of desertion, would, I think, be extremely difficult to prove to the satisfaction of a court. We hear, for instance, that a man gets left behind at some port; it is shrewdly suspected that he has deserted, but I doubt whether in many cases it would be possible to prove the fact to the satisfaction of a court. The Indian Act contains various disciplinary provisions, which are to be enforced in the case of desertion on the part of seamen. There does not, however, seem any occasion for the India Office to apply similar provisions in the United Kingdom, because in the circumstances the Shipping Company does not succeed in shuffling off its liability if the man becomes destitute, say, at a future date; for instance, if he served a term of imprisonment and then became destitute, we should still have a claim against the Company which brought him to England in the first instance.

441. Can you tell the Committee whether the provisions of section 184 of the Merchant Shipping Act which provides for a fine to be paid by the master or owner except in certain circumstances are ever used by the India Office?—I have no knowledge of any such case—we always proceed under the following section.

442. Under section 185?—Yes.

443. For the reasons you have already explained there are never any cases of lascars being discharged, say, at Hamburg, and drifting across to England?—Yes, we do get such cases.

444. But not out of English ships?—That I am not prepared to say at the present time. We do get cases where a man for some reason or other (we cannot say positively what the reason is) does miss his ship at a foreign port, and sometimes he gets sent over here by a Consul as a passenger.

445. Do the expenses of his repatriation ever fall upon the ship that brings him across from the continent instead of upon the ship which brought the man from his own country?—I am not aware of any such claim having been made. If he comes as a passenger it is doubtful how far we should have a claim against the Company under this Act, which refers "only to such lascars or other natives of India as have been brought to the United Kingdom either as seamen or for employment as seamen, or for employment by the owner of the ship bringing them." If they come as passengers they would not have been brought to the United Kingdom as seamen, so that we should be precluded from trying to recover from the Shipping Company on that ground.

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Mr. C. H. KISCH.

[Continued.]

446. (*Sir Francis Fleming.*) Supposing a distressed Indian applies to the India Office, who is not a distressed seaman or a distressed marine, what is done with him?—He is dealt with in a different department from that in which I am, and an officer will be deputed from that department to give evidence to this Committee on that subject.

447. As I understand, the steps that are taken are taken under the Merchant Shipping Act?—Yes.

448. (*Mr. Morison.*) You mentioned that pure-blooded natives of India are brought to the United Kingdom on European articles of agreement; have you any idea at all what sort of proportion they bear; are there a good many natives of India who serve under European articles?—There is a considerable number.

449. It was suggested to us by a former witness that there was rather an advantage to some companies in putting natives of India upon the European articles because then they do not have to repatriate them. I have forgotten quite the case, but I think it is in the case where they have to ship emigrants; they have to increase their staff, and then when they are in India they have to look about for additional seamen, and there is a temptation for them to ship natives on the European articles of agreement, because then they will not have to see them back again to India?—If they are not Eurasians, if they are pure-blooded natives, we should make a claim on the Shipping Company although they were on European articles of agreement.

450. That is exactly the answer; you can get at them if they try that sort of thing?—Yes.

451. (*Chairman.*) Unless they are Eurasians?—If I may turn to this memorandum, Eurasians on European articles are included in (d), the class under which no claim is made.

452. (*Major-General Chamier.*) Is it not the case that in comparison with former years very few attempts are made to recover from the owners the costs incurred by the Secretary of State—I mean that in comparison with former years it is very seldom attempted to recover the money?—We do our best to recover in all cases when we have information on which we can act.

453. In former years they used to recover largely, but now very seldom attempts are made to recover from the owners?—I am not sure whether in all cases the authorities of the Strangers' Home would be apprised. Sometimes we wait to receive the account, and we then tell the Shipping Company we have paid it, and they refund to us direct.

454. I have often recovered money without telling the Secretary of State; I have written to the owners and they have paid the money, but nowadays they will not do it?—Whenever we have a case where we can identify the Shipping Company we try to get it back.

455. There is no difference then?—There is no difference in the practice; it often happens that we have not the necessary information to identify the Company.

456. (*Admiral Mann.*) You said just now, with reference to the Home, that you authorise the Home to keep the men; it seemed to me there was some connection between you and the authorities of the Home—official connection; is that so?—I am afraid I have not quite grasped your meaning.

457. You spoke of authorising the Home to keep them?—Authorising them to keep them at the cost of the Secretary of State.

(*Admiral Mann.*) I thought there seemed to be some connection between the two.

(*Major-General Chamier.*) We should certainly almost always receive the man; unless there was anything against him we should receive a man bringing a letter from the India Office.

458. (*Admiral Mann.*) You used the term "authorising the Home to keep him"?—When I used that term I meant at the cost of the Secretary of State.

459. (*Mr. Howel Thomas.*) When these natives of India make a personal call at the office, do you find that they have had recourse to the poor law before they come to you?—We have had cases in which men have had recourse to the poor law before coming, but in the majority of the cases they have not; they have been found loafing in the streets, and have been brought to the India Office sometimes by a charitable individual.

460. I suppose they will go and ask advice from a policeman; would the policeman know that the India Office was the proper place to send these people to?—I am not sure that all policemen would.

461. But is there that impression—is it pretty general among this class of seamen?—I could not say, but men do find themselves directed to the India Office in a good many cases by outside agencies and people.

462. Do you get claims from boards of guardians for recouping relief which they have granted?—I think we have had such claims, but they are not frequent.

463. (*Admiral Mann.*) Would you pay them if you did?—I think we should pay them under the Act.

464. (*Chairman.*) The ships that carry coolies from India to the West Indies we have been told are responsible for a large number of incompetent Eurasians being landed in the United Kingdom in a state bordering on destitution; a previous witness gave that evidence to the Committee.—That there were a considerable number of cases of Eurasians in England on the verge of destitution?

465. No, we were told that the ships that carry the coolies from India to the West Indies, Demerara, for instance, are responsible for a large number of useless and incompetent Eurasians being landed in the United Kingdom in a state bordering on destitution?—I am afraid I have no knowledge of those circumstances.

466. If a case like that was brought before the India Office you would not make any claim on the ship originally taking them from India to the West Indian Colonies; do I correctly understand that that is what you mean?—I am afraid I have not quite mastered the circumstances under which they come here. May I ask if in this case they come here as seamen from the West Indian Colonies?

(*Chairman.*) The evidence before the Committee I do not think actually states that.

467. (*Major-General Chamier.*) In Mr. Nourse's case he used to take coolies from Calcutta to the West Indies and land them at an outlying port in England. The Government refused to have anything to say to recovering any money from Mr. Nourse. Those were Eurasians chiefly.—On European articles?

468. Yes, but they are landed here destitute, and they call themselves natives of India in order to get the Secretary of State to help them, but they are more European than natives. Mr. Nourse was the very man, and the Secretary of State declined to prosecute Mr. Nourse, or to attempt to recover the money. Do you recollect the case; there were four Europeans?—Was it a ship called the "Emma"?

469. That was one; I think that had a larger crew, but perhaps that is the very ship. There were four of them and one was quite a European, but they all went to the India Office and the India Office declined to recover the money from Mr. Nourse. I think he is dead now; it was called Nourse, Limited?—I recollect we had a difficulty in those cases, but I think those cases formed the subject of correspondence with the Government of India. That was the time when the treatment of Eurasians was debated. In the case of Eurasians on European articles we would not make a claim on the Shipping Company when they become destitute.

470. The India Office had helped them, but would not claim in such a case?—I think that is so.

*The witness withdrew.*

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Mr. A. E. LODGE.

[Continued.]

Mr. A. E. LODGE called in and examined.

471. (Chairman.) You are the secretary and general manager of the Sailors' Home, Well Street?—Yes.

472. You have submitted a *precis* of your evidence?—Yes. The information I am desirous of placing before the Committee is contained generally in that *precis*. *The nature and extent of the cases of distress amongst Indian and Colonial natives, whether seamen or not, which come before me.* Very few Asiatics come to this Sailors' Home except Japanese. Sometimes an Arab from Aden or Alexandria appeals for help, but these cases are very rare. But natives of other Colonies who have shipped in any capacity frequently come to the Home. Large numbers of Colonials come to this Home. During the last two years the following have resided in the institution:—940 Australians and New Zealanders; 93 Canadians, 68 West Indians, 10 from India, 43 from other Colonies. 148 of these cases were in the most abject destitution. Since receiving notice to attend the Committee I have noted several cases as examples of what I have continually before me: 24th July 1908, J. W., of Melbourne, service on Australian coast for some time, shipped in a German ship, was landed at Bremen, spent what money he had; he was sent home by the Consul and advised to go to the Sailors' Home. 13th July 1909: Three boys on *Sobraon* arrived destitute, communicated with Captain Carson and Agent-General for New South Wales; these were sent to Hull and shipped. 21st July 1909: H. W., discharged in Sunderland, came to King's Cross and was robbed in a boarding house; came to the Sailors' Home destitute. 24th July 1909: Two Colonials at Gravesend had lived in a boarding house nine weeks; when money finished they had to leave; then they came to the Home for help. Admitted to Destitute Sailors' Rest and one shipped; the other still there. *The causes that give rise to this distress.* I will mention first of all the lads and young men whom I find stranded in London. During the early part of the year I had 16 lads from Australia destitute here at one time. Most of these lads were from the training ship *Sobraon*, of New South Wales. As far as I can gather, the main object of the agent of this ship was to get the finished lad a ship, no matter where that ship was bound, her nationality, where she paid off, or the duration of the voyage, the consequence being that these lads were discharged from ships, both on the Continent and ports of the United Kingdom. Some of them had comparatively large sums to draw, others having very little. Those who had money, being without directions and sound advice, soon got rid of their small means and eventually found themselves on the streets. Then I come to the case of mechanics, clerks, and farm labourers. Men with no previous sea experience ship to the United Kingdom as coal trimmers, others as mess-room stewards, some as "seamen" not A.B., and they are paid off with not more than about 30s., and after a week they are destitute. These men and boys appear to have no idea of the difficulties attached to re-shipping in London. They have no proper advice or guidance; those who have money do not husband their resources, and frequent boarding houses which they have to leave when their money is gone. The cause of the difficulty is the fact that officers trading from London to the Colonies will not take a Colonial unless he has several discharges from ships "out and home," knowing full well that as soon as he gets to the Colonies he will in all probability leave the ship, and then the officer has more trouble to find a substitute; and if he is able to get a decent sailor he will have to pay the coast wages, which is a higher rate than that ruling in London. Also, officers of ships going a voyage of two months or longer can always get a supply of men and boys possessing discharge books showing V.G. discharges from several ships. These destitute Colonial invariably lacks, therefore there is not much chance of his obtaining a passage home that way. Also the new Act of June 1907, which made it compulsory for seamen to show three years' actual sea service before they could engage as A.B., threw a large number of young men back to the O.S.

and seamen rank which the Colonial used to fill. A few years back it was comparatively easy for men, and boys too, to find a ship. The introduction of the continuous discharge book has also caused a great decrease in desertion and failure to join. Thus there are few men required as substitutes or pier-head jumpers, *i.e.*, men who get engaged at the pier-head whilst the ship is going out of the dock. During the last two years numbers of ships have been laid up, throwing men out of employment. Steam ships are now of much larger tonnage, replacing two or more sailing ships, yet not taking as many hands as the two ships combined. All this tends to decrease the chance of employment as seafarers, and, as there is no other opening, to increase destitution. Most of the Colonial boys are too small for the Navy, although I have been successful in inducing some to join; some of the better classes being too old for boy rating in the Navy join the Army. *Methods at present adopted for dealing with the cases which occur.* Measures have been adopted recently by the New South Wales Government to assist *Sobraon* boys back to their homes. About 20 during the last few months have been sent back working their passage at 1s. per month. Men who are seamen and have papers to show from previous ships are sent to the Destitute Seamen's Rest at Gravesend, which is maintained by voluntary contributions. Both our shipping agents there and at Well Street do their utmost to get employment for the Colonials. Also we often send these cases with a letter of introduction to shore superintendents. There are two or three companies in London who will take these boys to work their passages back to the Colonies, notably the Houlder and the Blue Anchor lines. They are also helped with food and shelter at the London Sailors' Home. A grant of 15*l.* was made by the Commonwealth of Australia to the Sailors' Home to help with this work, and cases which apply at the offices are drafted to the Home, to be assisted as far as possible. *Any proposals which experience would suggest for more effective treatment.* I would suggest that no lads be permitted to ship from the Colonies on ships which discharge on the Continent. In training ships before boys ship they should be informed of the existence of *bona fide* sailors' homes, where they may expect sound advice, and where they can put their money in safe keeping until they require it. *Agents of their respective Colonies.* Also, that these Colonials should be advised to get in touch with their respective agents, and such authorities should become interested in sailors' homes. Make it a punishable offence for men to be put on board a ship under the influence of drink and then signed on without having the option of going ashore again. This is called being "Shanghai'd" by the seafaring fraternity, and is a common occurrence, notably on the West Coast of America. That no boarding-house keeper be permitted to draw more than a month's advance of the seamen's money. That some arrangement be entered into with the shipping companies to repatriate a Colonial, and if a native is sent back more than once to charge the expense to his parish; he will then have the stigma of a pauper, which may prevent him from repeating the offence. A bureau might be established at which all destitute Colonials could apply for assistance and advice. The officer in charge should be in touch with the shipping companies trading to the Colonies and Settlements. A memorandum might be sent to the shipowners soliciting their help and interest. The Sailors' Home has, during the last two years, as shown above, lost 84*l.* 3*s.* 7*d.* helping the Colonials. Some of them come to the Home and pay their board for a week or two, and every effort is made to get them a ship, but sometimes without success. The time arrives when their term has expired, and they have no more money. They cannot be turned on the streets, but are kept on for a few days or a week to give them more chance of shipping, and, finally, when they leave they are unable to pay. Some return at the end of the voyage, but others are not seen again.

473. I notice that most of your cases refer to seamen from the Dominions. It is not yet settled

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[Continued.]

whether the Committee will deal with cases from the Dominions, but if it does we will recall you and go into those questions. At present we do not desire to go into the cases in connection with the Dominions?—We have very few West Indians or Asiatics at the Sailors' Home in the London Docks. I see during two years we have only had 68 West Indians.

474. Do you have Chinese at all who come from Hong Kong or the Straits Settlements?—We have a good number coming in now attending the School of Nautical Cookery. They do not live at the Sailors' Home; they live principally, I think, at the Asiatic Home, and other boarding houses down in the West India Docks.

475. You have had some from Hong Kong and the Straits?—Yes, we have.

476. Has the case come before you of finding any difficulty in getting them to prove their British nationality so as to escape the language test under the Merchant Shipping Act of 1906?—Usually we find that these men have some papers, especially if they have already been to sea. They usually have a discharge of sorts. I have had some conversation with the Superintendent of the Board of Trade next door, and he has found quite a number that could not pass the test. They eventually find a difficulty, of course, in shipping, and get on the streets and become distressed seamen.

477. I understand the Board of Trade have made arrangements in future for special certificates to be issued at Hong Kong and Singapore to enable them to prove their nationality?—Yes, I believe that to be the case.

478. At present there has been difficulty so far even when they have come from these British Colonies?—There has been some difficulty. Those certificates you have just mentioned have only recently been established, and are hardly in working order.

479. Could you tell the Committee anything as to the 68 West Indians?—They came some little time ago, principally last year. We used to send them up to the shipping firm of Messrs. Scrutton's, of 9, Gracechurch Street, and they used to assist them back to the West Indies. In the last case we had, the Shipwrecked Fishermen's and Mariners' Society sent him back. I believe they paid something towards his fare, but we used to give them a special note up to some of the people at Scrutton's, and they used to give them a passage, allow them to work their passage, and discharge them on the other side.

480. Can you tell the Committee anything about the 10 Indians and 43 from other Colonies who came to the Sailors' Home?—I think they were principally Cingalese, and had been cooks on ships. They were eventually found berths in ships going east.

481. Have any of these cooks been debarred from obtaining employment under the Merchant Shipping Act owing to their not having certificates?—They are barred now. I was speaking of what happened previous to the 1906 Act.

482. Since the 1906 Act?—Now they are not allowed to ship except as second cooks or something in the galley—a vegetable steward, or something of that sort.

483. They do not go as cooks; they go as assistant cooks?—As assistant cooks or cooks' mates. I had a case only two days ago of Maltese. I do not know whether you are considering those?

484. Yes.—They were sent to us by one of the lines here from London. Apparently they had got on board an Austrian ship in Malta, thinking that the ship was going to Port Said, instead of which it went to Rotterdam. They were discharged there by the captain, and eventually they came to the Consul, who sent them across to the Sailors' Home. That was the day before yesterday, and I sent them on to the Colonial Office, and since then I have not heard anything more of them. I usually find that these people have been discharged sick somewhere on the Continent, and left in hospital.

485. You say in your *précis* that men without previous sea experience ship to the United Kingdom in different capacities, and that they are paid off with not more than about 30s., and after a week become

destitute. So far as natives are concerned, section 184 of the Merchant Shipping Act was apparently intended to prevent this. Do you know if this section is ever enforced?—I think not. I have known of cases of men from Aden and Alexandria being brought across to London as coal trimmers, and there discharged. They have come to us for assistance. Of course we have only been able to give them temporary assistance, and not to ship them in any way. We usually give them a note to the Asiatic Home down in the West India Docks.

486. You suggest in your evidence "that no boarding house keeper be permitted to draw more than a month's advance of the seamen's money." Would you say how this prohibition would relieve distress?—I am sure the boarding house masters—this principally applies in the Colonies—induce these men to go to their boarding houses promising to get them a ship, the idea being, of course, that immediately these men are shipped they can draw a month's advance. As you know, every sailor is allowed a month's advance. Probably the man has only been there a few days, and of course the boarding house master takes, perhaps, 3l. 10s. to 4l.; it all depends on the wages of the port.

487. You suggest that this should be limited to one month?—It used to be two months, and I think it is now in some ports. It used to be two months in Sydney.

488. (*Major-General Chamier.*) But not here?—Not in London. Oh, no; I am only speaking of the Colonies. It does not apply in England at all.

489. (*Chairman.*) You are speaking of advances abroad?—Yes, not in England. This does not apply to England. I think the whole of this *précis* deals chiefly with the Colonies, Australia and New Zealand.

490. The Committee has been informed by a previous witness that there is a difficulty in providing for natives caused by a reluctance amongst ship masters to ship men of different colour in the same ship. Can you endorse that?—Yes. There are some British sailors who will not sign on with a black crew or if there are black members of the crew. At one time I used to get quite a number of natives, especially West Indian natives, three or four among a crew of 10, but now we seldom get a negro, a West Indian. I have known here in the docks men going on to sign on a ship, when they have found there were two or three negroes amongst the crew they have refused to go in the ship—refused to sign on.

491. You suggest an arrangement with the shipping companies to repatriate Colonials, and that the parish should pay the second time. May I ask you how you suggest that the expense of the first time should be borne?—I have not thought that out. That applies in Russia in some parts. I believe there is a case now of six Asiatics, Indians, who were discharged in Rotterdam, and they have been sent home, suffering from various diseases, to this country, and I think the Board of Trade office is now dealing with them. One is living at the Asiatic Home at present. He only came there last week.

492. (*Sir Francis Fleming.*) When the destitute West Indians are sent home, as you say, by Scrutton's, do Scrutton's pay the expense of taking them back?—Apparently they allow them to work their passage, and I suppose the work they do pays for their food. It is an act of grace.

493. Have you ever heard of a case in which any of these Colonies have refused to allow them to land after getting out there?—If they belong to Jamaica they are allowed to land at Jamaica, but nowhere else than at the island.

494. What does Scrutton's steamer do with them?—They usually ascertain if they belong to the port they want to go to.

495. Before they start?—Before they start, or else they have means of sending them direct to their place when they get there.

496. You do not remember any case in which they have come back to you because they were not allowed to land in any particular colony?—No.

*The witness withdrew.*

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Mr. G. E. A. GRINDLE.

[Continued.]

Mr. G. E. A. GRINDLE called in and examined.

497. (Chairman.) You represent the West Indian Department of the Colonial Office?—Yes.

498. We may take this *precis* of your evidence as being put in?—Yes. It represents my views on the matters the Committee are considering. When a distressed West Indian calls at the Colonial Office and asks for assistance, the usual course is to refer him to the Charity Organisation Society. The Society investigates his story, and if, as is often the case, he is a seaman or willing to work his passage, tries to find a ship for him. The regular steamship lines running to the West Indies are very good in providing passages free or for a nominal sum in cases of real distress. They are, however, put in a position of some difficulty by the existence of laws in the West Indian Colonies against the landing of destitute persons not natives of the Colony, and they usually ask for an assurance that the distressed persons will be allowed to land. This obviously cannot be given without reference to the Colony and inquiry there, a process taking from four weeks to two or three months. Whether inquiry is made or not, there will naturally be a period of waiting in this country, and it is usual to advise applicants to have recourse to the poor law in the interval. The Secretary of State has no funds at his disposal from which to relieve distress or assist repatriation. Any help given to distressed West Indians must come from private charity. Generally speaking, the West Indian Colonies are not willing to defray the cost of repatriation of their distressed nationals. The expense involved in any general system of repatriation would probably be large, as there would seem to be no logical reason for confining it to repatriation from the United Kingdom. In any case the Colonies could not possibly be asked to authorise repatriation without local verification of the distressed person's story and consequent delay. In this connection I would call particular attention to the case of one K. who called at the Colonial Office some months ago with a companion. Both said they were natives of British Guiana and told a plausible story of having been to Canada to look for work, having shipped thence to the United Kingdom, and being unable to get work or a passage back. The Royal Mail Steam Packet Company, at the request of the Colonial Office and the Charity Organisation Society, promised these men a passage on a cargo boat to Georgetown. The correspondence was sent to the Governor in order to prevent difficulties being raised as to their landing. The British Guiana police made inquiries and found out that K.'s companion was a native of Georgetown, where he had relatives, but that K. himself was a Barbadian, who had served one term in British Guiana for theft and had left hurriedly for Canada on learning that he was suspected of a second offence. The Governor reported he would not be allowed to land. Meanwhile K. had sailed on the cargo boat. We do not know what became of him. His case is a warning against any scheme of repatriation without full inquiry by mail. As in any scheme for relief of distress or repatriation there must be an interval for inquiry, it follows that recourse to the poor law in the United Kingdom must always be contemplated in the last resort. Theoretically there is nothing to prevent a distressed West Indian remaining a charge on the English rates for the rest of his life, though he was anxious to return to his home, and although the cost of sending him there might be less than the cost of his keep in this country for a few weeks. I understand the guardians have no power to pay the cost of a man's passage in such a case. It would, however, seem to be to the advantage of the ratepayers as well as the man himself that boards of guardians should be given power to spend money out of the rates for the purpose. In the interests of the West Indies some provision ought to be made for inquiry through the Colonial Office as to whether the destitute person's alleged home is willing to have him back. This could perhaps be secured if such expenditure was permitted only with the sanction of the Local Government Board. It has been suggested that the West Indian Colonies might be induced to pay for repatriation if the scheme

were made reciprocal. Personally I doubt it. The bargain would be a bad one for them. As a purely personal suggestion I think it would be better to suggest that they should be invited to consider recouping the guardians part of the cost of repatriation in particular cases. If for instance a man had relatives in the Colony who would be willing to pay by instalments, the Colony might agree to repay the guardians and recover from the relatives or the man himself. In certain cases the Colonies might be willing to pay part from Colonial funds. There are, however, some West Indian Colonies which could not afford to assume any liability. It would be better to let the question of reimbursement be raised in each case. This is the only suggestion I have to make. My main object in offering to give evidence was to represent to the Committee the importance of providing in any scheme they may recommend for reference to the Government of the Colony concerned. I annex notes\* to show the form in which the problem presents itself in practice. The last case on the list, that of J. J. or R. D., of Jamaica, is a typical one.

499. With reference to the difficulty of identification of West Indians, can you suggest any method whereby this difficulty would be decreased? For instance, would it be decreased if it were made compulsory for seamen engaging in the West Indies to receive on engagement some sort of certificate which could be produced, something of the same sort as the Board of Trade instituted at Hong Kong and Singapore?—Well, I do not know what that was. I have had nothing to do with the East, but it would be something in the nature, I suppose, of a soldier's identification papers.

500. I have not actually seen the form, but it was brought in to enable them to prove that they are British subjects from the Far East, although Chinese?—I think that would help a good deal. There would be difficulties, of course, but there are difficulties about anything you can suggest. One obvious one is that a man occasionally gets his papers stolen from him. That is a point with regard to a soldier's identification papers. Another possible difficulty would be, I think, this. I do not know whether adding an extra formality to the engagement of seamen would tend to discourage shipowners from engaging West Indians—possibly not. I think the main trouble would come in this way. It would be quite easy to issue a certificate in Barbados, for instance, to all Barbadians who are engaging on a certain ship, but then very likely among the men who are being engaged would be natives of other islands, and no Barbadian official, for instance, could certify that so-and-so was a Jamaican. That would be the difficulty.

501. Has your attention been called to section 184 of the Merchant Shipping Act, which may possibly apply to the West Indies?—Yes.

502. And is intended to render the shipowner liable for the expenses of repatriation?—Yes. Of course this is, properly speaking, a question for the Board of Trade, but as far as I can see, section 184 does not apply to a Colony at all. If the West Indies come in it would be as "any other country not having a consular officer," and I conclude that when the Act speaks of a country not having a consular officer it means a country which might conceivably have one.

503. And not one that could not?—Not one that could not.

504. So that you do not think that section as at present drawn would apply?—No, I am afraid not, if that is so. I do not know what view the Board of Trade take of that section.

505. As far as lascar seamen are concerned a special agreement is provided by the Indian law which renders it necessary for a shipowner to promise a return passage to the men engaged. Do you think it would be desirable that a similar law should be applied to West Indian seamen, and, if so, do you think that the several Colonies would agree to such legislation or to

\* Printed separately as Appendix II. (8).

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[Continued.]

issue the necessary instructions under their present laws?—I cannot say. The question has never come up, so that one has no idea of what view the Colonies would take. But there is one general difficulty of principle, I think, which arises, and it is this. In making a special agreement for lascars I presume the Government goes on the principle that these lascars are men of one of the lower races, and are not able to compete on equal terms with white men, and therefore want special protection. I think the West Indian, of whatever shade of colour he was, would object very much to having that theory applied to himself. You could not, for instance, confine it simply to negro West Indians. There is not the same justification for interference in free contract with the West Indian that there is perhaps with the Asiatic.

506. Any local law would have to be made in your opinion of general effect?—Yes, to apply to all.

507. To get over the difficulty you have mentioned? Yes, that is so.

508. Many of the cases, probably most of the cases, of distress among West Indians are due to desertion. To prevent this in the case of lascars it has been suggested to the Committee that sections 221 and 224 of the Merchant Shipping Act should be extended so that the penalties of loss of wages and imprisonment to which British seamen are liable if they desert out of the United Kingdom should be extended to Colonial seamen in the United Kingdom. Do you think this extension would be of advantage in the case of the West Indians?—I should think it would be a desirable thing in itself, because it is always desirable to prevent desertion, but I do not quite see how fining a deserting seaman or imprisoning him is going to help with the problem of repatriation.

509. The idea being that under that section he would forfeit his wages till he gets back, and therefore it would discourage him from deserting?—Yes, to the extent to which it discourages desertion it would be good. I mean that except so far as it discourages desertion it would not help us.

510. At present, whilst the Colonial Office is communicating with the Colonies to find out whether they would allow the man to land if he was sent back, the West Indian is sent to the workhouse. Is that the usual course?—Yes, that is the usual course; if he has nowhere else to go he is referred to the workhouse.

511. At present the Strangers' Home takes nearly all the destitute people from other places except the West Indies?—Yes. They say, I think, that they are for Asiatics only.

(Major-General Chamier.) We are not allowed to take West Indians. We are not allowed by the constitution.

512. (Chairman.) Do you think it would be well to invite contributions from the West Indian Colonies for the establishment of a similar home for West Indians or for the formation, say, of a West Indian branch of the Strangers' Home?—I think the latter course would be much preferable. There probably would not be a sufficient number for a separate Home.

513. You state that, in your opinion, a reciprocal scheme of repatriation would be a bad one for the West Indies. We have had evidence from Lord Basil Blackwood, who suggested that if such a scheme were adopted, it would lead to considerable expense in repatriating beach-combers, and that it might fall on the Imperial Government. You think one would not set off against the other?—Well, one is speaking entirely *à priori*, but I should have thought it would not. I should have thought that there must be far more distressed West Indians in British ports than there are distressed Europeans in West Indian ports. One does not hear much of what they call in South Africa poor whites.

514. Could you say whether there are many cases of destitute West Indians come before the Colonial Office who are not seamen?—Taking the last four or five years, so far as our notes go, the numbers are about equal of seamen and non-seamen, but that is probably due, I think, to the fact of the seamen not being noted as such in a good many cases. Probably

the greater number are seamen, but all sorts occur. There is a phrenologist and a shoemaker, and one or two nurses and a valet, so there is every kind.

515. The Committee has had evidence that in certain Colonies it is forbidden to engage natives for service outside the Colony, e.g., domestic servants, unless the employer enters into a bond to refund the cost of repatriation. Could you say whether this system exists in any of the West Indian Colonies, and if it does not, would you recommend it?—I am sorry to say I cannot say. I could find out for the Committee whether there is such a system anywhere. There is legislation about contracts in the Bahamas. There I think the arrangement is that the contract is deemed to contain a clause providing for repatriation unless there is express provision to the contrary. That is the only one I can think of at a moment's notice, but if you would wish to have that point definitely ascertained, I will look it up.

516. We are much obliged to you. What is your authority for the opinion that guardians have no power to pay the cost of the passage to his Colony of a West Indian who is receiving relief from the poor rates?—I understand that is so. One is surprised that they do not more readily and more often do it if they have the power.

517. I understand that the guardians with the consent of the Local Government Board can pay the expenses connected with emigration to a British Colony of persons chargeable to the union funds. This is of course optional with guardians. Their powers seem to be undoubted, but their willingness to exercise them is another matter, so emigration to a British Colony looks as if it would cover that?—With submission I rather thought it would not. I should think that repatriating a person who was a resident of the Colony would not be emigration. Emigration means going abroad. Sending a man home is not sending him abroad.

518. (Mr. Howel Thomas.) To emigrate is to send out?—To send out in a special fashion; to send out abroad, is it not?

(Mr. Howel Thomas.) The Local Government Board always favour emigration, and therefore they would not put too strict an interpretation upon the words.

(Sir Francis Fleming.) What the guardians do is this: Where such a case arises they at once communicate with the Local Government Board; they would not attempt to send a man out at the expense of the parish without the consent of the Local Government Board. They would communicate with the Local Government Board, and if the Local Government Board said it was all right the guardians would not object at all, but they would not take it upon themselves to send them. That is how the matter stands as far as my experience goes.

519. (Mr. Howel Thomas.) Some boards of guardians would ask the Local Government Board to represent to the Colonial Office the unfairness of dealing with the case at the cost of the local rates, there possibly being some circumstance showing that the case had come upon the union although the man had not anything whatever to do with the locality; and in such a case the guardians would ask the Local Government Board to move the Colonial Office to get a Colony to undertake the cost of repatriation?—If they liked to do that, that would fall in with the suggestion which I venture to make that we should be communicated with when a case arises and ask the Colony if they would do it in the particular case.

520. (Admiral Mann.) Give permission to land?—Not only give permission to land, but also whether in the particular case they would be prepared to pay any part of the cost of repatriating him.

521. (Chairman.) You have already mentioned in your evidence that, speaking generally, they are not willing to pay the cost of repatriation?—That is so. They will not give a blank cheque to the Colonial Office to repatriate.

522. (Admiral Mann.) Probably there are some very undesirable people they would prefer kept away?—Yes.

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[Continued.]

523. (*Sir Francis Fleming.*) With regard to some of the West Indians you have been alluding to, have they come as single men or with families?—I cannot recollect any case of a man with a family. So far as I know, they have all been single men. There was one case of a man who married over here, but that would hardly be a distressed West Indian. It was one of the scholarship students who married, and after his scholarship had run out he was unable to get back to the Colony, but I think you would hardly count him as a distressed West Indian.

524. Has the Colonial Office received applications of such a nature as have been mentioned, that is to say, have they had cases where the guardians have asked the Local Government Board to communicate with the Colonial Office in regard to sending a man back? Do you remember any such case?—I do not remember any such case during the last two or three years. I cannot speak of the time prior to that.

525. Of course, naturally if the expense could be borne in some other way than by the parish the guardians would like that to be done?—Of course.

526. But so far as my experience goes, the guardians in such a case as that communicate with the Local Government Board, and leave it more or less to the Local Government Board to find out how the individual can be expatriated?—Yes.

527. In your opinion, do you think there would be any chance of a kind of general agreement being made between the West Indian Colonies and England with regard to expatriation?—I should have thought not, but the Chairman has just told me of Lord Basil Blackwood's evidence, which points in the direction of such an agreement.

528. As far as Barbados is concerned?—As far as Barbados is concerned; I should think, generally speaking, not. It certainly could not be general. One of the cases, I think, mentioned here is the case of some eleven or more natives of the Virgin Islands, a small and struggling Presidency, which could not possibly pay to repatriate.

529. I know it well; I have been there several times.—You know it would be out of the question there?

530. Of course, the Virgin Islands form part of the Leeward Islands, so the Leeward Islands Government would make some arrangement which would include the Virgin Islands and their dependencies?—Yes.

531. Of course, it would be difficult to deal with the West Indian Islands in the same way as dealing with India, because in India you have one big country?—Yes, and one Government.

532. Yes, and every island of the West Indies considers itself more or less independent?—Certainly.

533. So that more difficulty naturally would arise with regard to any general agreement that might be come to between the West Indies than would arise with regard to India?—Most certainly, that is so.

534. You agree with me in that?—Yes, I agree with you in that. Personally, I think there would be great difficulties in the way of such an agreement, and I should hardly have thought it was worth while proposing; it would be better to try and arrange some system of dealing with each case separately. They are not so numerous as to make that hopeless.

535. (*Chairman.*) You think that if there could be some way of dealing with the comparatively small number of cases that would meet the case of the West Indies?—Yes, it would meet the case of the West Indies.

536. (*Sir Francis Fleming.*) Have you any idea of the time that would elapse between the application of a West Indian to be sent back and the time you receive permission to send him back, because during that time, I understand, you say he would go to the workhouse?—Yes.

537. Have you any idea as to how long he would be likely to remain in the workhouse pending his return?—I should say at least a fortnight or three weeks. We could hardly telegraph in such a case. You cannot telegraph out the details of where a man

lived and who his parents were; that is much too expensive, and it would be cheaper to send him home. We have to send out by mail. If there is any special case of urgency we sometimes ask the Colonial Government to telegraph whether he would be allowed to land. In that case it would vary from about a fortnight in the case of Barbados if we happened to catch a mail to three or four weeks if the case arose just after a mail had gone, and then the further off we get the longer it would take, until eventually it might be three or four months in the case of British Honduras or in the case of the Bahamas.

538. Of course the great thing is to avoid that delay as far as possible?—Yes.

539. (*Mr. Morris.*) Do I understand you to say that none of the West Indian Colonies do actually at the present moment repatriate or send back Britons to this country, distressed Britons who happen to be there?—I am told unofficially that that is done, but I am not aware of any standing arrangement to do it—no definite provision on the estimates, or anything of that kind, but West Indians have said to me, "If you get into trouble in the West Indies we send you back. Why do not you send us back?"

540. There is an impression that it is done somehow or other?—There is an impression that it is done.

541. (*Chairman.*) The Committee is getting a return.—Yes.

542. (*Mr. Howel Thomas.*) With reference to Sir Francis Fleming's statement that guardians would be only too glad to emigrate some of these cases, I think it ought to be made clear that if the Local Government Board were asked to consent they would either apply to the Colonial Office or tell the guardians to apply direct to the Colony concerned to know whether the man would be allowed to land?—Certainly. That is what I was anxious to say; that in anything that was recommended there should be an application to the Local Government to know whether the man would be allowed to land; and that would best be secured by only allowing the guardians to pay for his repatriation with the consent of the Local Government Board, so that the Local Government Board would refer to us.

543. The Board have to consent, but they do not refer to you as regards a Colony other than a Crown Colony. The guardians must get the consent of the Agent-General or some other colonial representative in this country. The Board do not allow the guardians to emigrate anybody out to a Colony unless the Agent-General says they can land out there?—Yes.

544. (*Chairman.*) You lay great stress on the importance of providing a scheme of reference to the Government of the Colony concerned?—Quite so. In view of our experience of the Barbadian who asserted that he was a native of British Guiana.

545. (*Mr. Howel Thomas.*) Do you differentiate in any way between West Indians who come over here in British ships and those who come in foreign ships? The foreign ships are, I presume, chiefly American whalers?—I do not think it would be practicable to do so. They both present the same problem of a distressed British subject anxious to return to his own country, and a charge either on the rates or on private charity in this country until he can do so.

546. There was the case of those negroes in Liverpool that you referred to?—Yes.

547. They engaged on an American whaler, and then they were discharged at Fayal; they either deserted or were left there, and the British Consul or the Board of Trade brought them over here?—The British Vice-Consul sent them over here.

548. In a letter on that subject from the Colonial Office it is stated that "Mr. Lyttelton was of opinion that destitute natives of tropical Colonies should in no circumstances be sent to this country unless it is necessary to do so en route to their own Colonies, and that in such cases arrangements should be made for their being sent on immediately to their homes"?—That is so, but I am afraid occasionally it is impossible to avoid it because of the lack of communication.



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Mr. G. E. A. GRINDLE.

[Continued.]

In that particular case, I think the answer was that it was impossible to get a man home direct from Fayal to the West Indies.

549. There is also a statement in that letter that, in cases of extreme urgency, the West Indian Colonies are prepared to refund the cost of repatriation, while, in other cases, the Colonial Government can be consulted by telegraph. Have you known any cases where the Colonial Government has been asked to repay to the guardians the costs that they have incurred?—No, because during the two or three years I have been in the West Indian Department I have not known any case of the guardians incurring costs on repatriating

a West Indian. I have known one case of the West Indian Government paying the cost of bringing home one of their nationals. That was a Jamaican, but he was asserted to be a lunatic, and he was brought home from a Central American Republic, where he was being detained by the authorities of the Republic in prison, under the plea that they had no proper asylum for him. That was a very special case. Expenses incurred by the Foreign Office have also been refunded in certain cases, but under protest.

550. There is no system by which the Colonial Government are asked to recoup expenses incurred in this country?—No, there is no regular system.

*The witness withdrew.*

(Adjourned till Friday, the 15th instant, at 2 o'clock.)

## FIFTH DAY.

Friday, 15th October 1909.

### PRESENT:

MR. OWEN PHILIPPS, M.P. (*Chairman*).

Sir FRANCIS FLEMING, K.C.M.G.

Mr. G. S. FRY.

Mr. HOWEL THOMAS.

Admiral W. F. S. MANN.

Major-General F. E. A. CHAMIER, C.B., C.I.E.

Mr. THEODORE MORISON.

Mr. EDWARD J. HARDING (*Secretary*).

Mr. K. CHOWDRY called in and examined.

551. (*Chairman*.) You are assistant secretary of the British Indian Seamen's Institute?—Yes.

552. You have put in a précis of your evidence?—Yes. That contains my views on the question the Committee is considering.

My experience of distressed Indians in England dates back to 1904, when, as secretary of the Manchester Indian Association, I was occasionally approached to help a few cases of my destitute countrymen who found their way to Manchester from Liverpool and Hull. They appeared to be men of the seafaring type with the exception of two or three quasi-students or ex-students. In London, however, no less than fifty cases of distressed Indian and Colonial subjects came to my notice, about ten of them hailing from Ceylon, the West Indies, and Mauritius. Roughly speaking, about 60 per cent. of them are seafaring men, about 25 per cent. student adventurers, and the rest consist of ex-tradesmen, ex-theatricals, and foolish adventurers. Very few speak English even tolerably.

It is not possible to attribute their distress to any definite cause or set of causes. The seafaring men as a rule get stranded here either through desertion or discharge in British or Continental ports. Eight out of every ten appear to be deserters. As founder and assistant secretary of the British Indian Seamen's Institute in Victoria Dock Road, I have taken great interest in the Indian seamen known as lascars, and among other things I have tried to discover the reasons of their frequent desertion, and as far as my inquiries go I find that in many cases desertion is directly due to ill-treatment of the serangs (the native supervisors of the various departments). I have also had three or four cases where desertion was attributed to harsh treatment of the European officers on board. Neither the serangs nor the officers are alone to blame when they have to deal with incompetent men dumped on board by unscrupulous crew contractors in India, who make money by such employment.

Cases, however, are not rare when misguided seamen

and saloon boys desert to get better employment on shore, and soon find out their sad mistake. The distress of the sailors who are discharged in European ports is, of course, due to want of re-employment or refusal to accept employment at a lower rate of pay than they usually get. I have come across two or three misguided Indians who came here to appeal to the Home authorities against the decision of the Indian Courts in matters relating to property and were stranded for want of funds. One often meets in the streets of London Indians and Colonials who were once employed as showmen in theatres, and tea or Indian curio travellers, as well as jugglers, and are now rendered destitute through lack of employment. I had a case of a Bombay shopkeeper who came here in search of his missing brother, and was in distress as soon as he had spent his twenty or thirty pounds. The problem of the adventurers of the student type is the most difficult and perplexing one, in view of the fact that they would not go home even if funds are supplied for their passage back.

Their struggle for existence is somewhat keener than that of the lascars, who are more used to hardship and can adapt themselves to change of circumstances.

Now we come to the question of existing methods of relief. It is hard to believe that in a country like England, which is rightly called the home of charities, and which affords protection to every form of human suffering, there is hardly any organisation to take up the cause of the distressed Indians and the coloured colonials, much less to help in their distress which, as in the case of the lascars, is not of their own making. It is true that there exists a Strangers' Home for Asiatics, Africans, and South Sea Islanders, where boarding and lodging can be had for a sum of 10s. 6d. to 14s. a week, and in some few cases destitutes are allowed to stay for a week or a fortnight. The authorities no doubt do their level best to find work for both sailors and non-sailors, but they are not in a position to take up each and every case of distress nor devise

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[Continued.]

means to alleviate it. In my opinion their charge is a little too high, considering that the average pay of Asiatic sailors is only 8s. to 9s. a week, and for every month he stays at the Home he has to spend 48s., which is equivalent to his wages for six weeks. I have had considerable experience in the matter of housing and feeding the destitute Indians in London, and would strongly recommend a charge of 7s. to 8s. a week instead of 10s. 6d. to 14s. In any one of the Salvation Army Metropolises a man can live for 7s. a week (including a good bed) with three good meals a day, and I am told by Staff-Captain Baldwin, of the Middlesex Street Shelter, that the German Consul has an arrangement with the Salvation Army which feeds and shelters the German destitutes for 10d. a day. I am told that the coloured destitutes have occasionally abused the hospitality offered by the Home, and consequently all new comers are looked upon with a certain amount of suspicion, and even subjected to humiliating inquiries. The susceptibility of Indians is too well known, and I need hardly recommend a little more tactfulness and exercise of imagination on the part of the admitting officer.

I cannot speak too highly of the kindness shown by the Salvation Army staff-captains to the destitute Indians, who are not unfrequently sheltered and fed by them at their shelters in Middlesex Street and Whitechapel. Whenever accommodation is available the Church Army officials never refuse shelter.

Their personal application for work to the ship officials, backed by the recommendation of the serang, occasionally meets with success, and at least five have obtained employment to my knowledge in this way within the last three weeks. The authorities at the Strangers' Home, however, make it their regular business to endeavour to obtain employment for the inmates of the Home, and the only complaint that I have heard against them in that respect is, that they are not particular about the rates of wages they secure for them, with the consequence, that in at least 10 or 12 cases that have come to my knowledge the men have refused to accept low rates of pay, and were, of course, turned out of the Home. Whenever the case of a destitute sailor comes to my notice, I make it a practice to communicate with the Indian shipping companies in London and Liverpool at once, and have thus occasionally secured employment for the lascars. On some occasions I was compelled to send a few to work-houses, and although admission is sometimes refused to the men themselves, my personal application on their behalf has not so far met with refusal. They are only allowed to stay for three to seven days in casual wards.

The case is, however, different with the destitute Indians of the adventuring class (including ex-students and quasi-students). The latter do not think of the morrow so long as they have a few shillings in their pockets, and make very little effort to do something for their living.

The political aspect of the distress of stranded Indians in London deserves a special mention. Desperation naturally breeds discontent, and in the present state of political tension in India, the desperate Indians of the student type not infrequently lend themselves as tools in the hands of the dangerous agitators settled in this country as well as on the continent. Not unfrequently one comes across men who have succeeded in obtaining employment as clerk, traveller, or language tutor, and are now attending technical schools in the evening. I have tried in vain to persuade some of them to go back. Those who know something of the social conditions in India will not be altogether surprised at this. They would rather starve than face the social ostracism that would follow were they to return and find themselves in no better position than most of their stay-at-home friends. There are three or four cases where those stranded students have gone back, either through the help of the India Office or some kind English friend. It is true that there are two or three Indian associations and societies in London, but unfortunately the question of the distressed Indians has not been taken up by either of them, although gentlemen like the present hon. secretary of the East

India Association and one or two kind-hearted ex-missionaries, have interested themselves in the distressed Indians, and in some instances assisted them. Among those who befriended the distressed Indians in London, will stand pre-eminent the names of the late Miss Manning, secretary of the National Indian Association, and the late Sir Curzon Wylie, both of whom, one in her non-official capacity and the other in official capacity, have actually been the greatest benefactors of distressed Indians. The American Society does excellent work in sending poor Americans home and in providing for their distress here.

The secretary of the American Society has said that 1,000 applied for assistance last year; 100 were sent back, 300 were relieved here, 250 were unworthy of relief, and of course black-listed. It is true there are not a lot of wealthy Indians settled in this country to interest themselves in this kind of work. But I think Anglo-Indian gentlemen who have retired from Indian service are quasi-Indians, and hold analogous positions to those of the Americans in England, and it is to them we must look for relief of this kind.

My proposals for more effective treatment of these men are simple and practicable. I recommend the formation of a permanent committee consisting of men who have identified themselves with Indian and Colonial shipping, such as Sir James Mackay, Sir Daniel Hamilton, Sir Walter Lawrence, and Sir Alfred Jones, and one or two outsiders. The Asiatic Home for Strangers, the British Indian Seamen's Institute, the Lascars and Colonial Sailors' Missions should be asked to report to this committee cases of distressed lascars and Colonial subjects who ought to be sheltered temporarily in the Asiatic Home or Salvation Army Metropolises or places recommended by the British Indian Seamen's Institute at the expense of the India Office or Colonial Office, according to the nationality of the man. The members of the committee mentioned above, being employers of Asiatic and Colonial seamen, will be the most suitable persons to help them to work their passage home. I believe Sir Alfred Jones has already done a lot for the repatriation of the distressed West Indian sailors, and might be a valuable acquisition to this committee.

As for distressed Colonials and Indians who are not sailors, the East India Association, the Northbrook Society, and the colonial societies should be approached to take up their cases, and help them according to the means at their disposal after proper investigation. The India Office and the Colonial Office should make a suitable annual grant to these associations for this particular purpose.

In the case of the Indian adventurers of the student type, a grant of 20% out of Indian revenue towards their passage to America or India, on condition that this must be paid back as soon as they are able to do so, will meet the case. I am aware that fully 50 per cent. of the Indian students in America are self-supporting, and it is not very difficult to get work compatible with their training as industrial students. As a matter of fact I have personally helped three distressed Indians of this type to migrate to the U.S.A., and according to the letters I have received last month, each one of them is not only drawing good wages, but their occupation does not seem to interfere with the evening studies they are now prosecuting. It must be borne in mind that in these adventurous youths we have splendid raw material for producing industrial experts India is at present sorely in need of. There is no question of encouraging these men by such nominal aid. No one will find sufficient inducement to come to England on the strength of getting this 20%, which should not be paid in cash, but spent in the purchase of ticket and foreign drafts payable at the port of disembarkation.

553. With reference to the British Indian Seamen's Institute, a small home started for the benefit of lascars, is it not primarily meant for lascars in regular employment?—Yes.

554. So that the treatment of Indians in distress is a secondary object?—Yes, that is a secondary object.

555. The India Office has recently appointed a special official to be the adviser of Indian students in

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[Continued.]

London, so that with regard to students and quasi-students the question hardly comes before us?—I see.

556. Besides the students and the class of distressed seamen you mention that there are Bombay shopkeepers, &c. distressed?—Yes.

557. Is it possible to classify these in any way?—They are a sort of misguided adventurers.

558. I meant is it possible to classify them so as to obtain any idea of the particular class who need relief when they come?—There are a few cases of people who come here thinking that they can fight their cases in this country; they have lost their civil suits in India, and they have been misled into thinking that if they come to England they might get some redress in this country. Of course, something can be done for people of that class, because they are really respectable people and people who have lost all their fortunes in fighting law cases in India.

559. The Committee is considering whether it is possible by legislative action to control their coming to this country; for instance, the Committee has been told that in Ceylon and the Straits Settlements laws have been passed to prevent persons such as jugglers being brought to England. Do you know whether there is any similar law in force in India?—No, I do not think so.

560. Would you recommend such a law?—I would recommend some such regulation as that, in case of illiterate Indians coming to England, they must satisfy the shipping companies that they have a sufficient amount of money to keep them for a certain length of time in England or the place they go to, such as they have got in America.

561. I find that the educational advisers of the India Office have no special funds for dealing with cases of students.—That is so.

562. So that question will come within the purview of this Committee.—Yes.

563. You suggest that existing associations should be given a grant?—Yes.

564. Do you think the effect of such a grant as regards Indians might be that it would encourage them to come over here; might it not have the effect of attracting them here, seeing that they would be more likely to get back at somebody else's expense?—I do not think so. They will only get help here so far as their passage out of England is concerned, so that they will not come here simply for the purpose of getting sent back from England.

565. Would they not come here rather more easily for other purposes if they knew that if they were stranded here they would be certain of getting back?—It would have a small effect to my mind.

566. Do you think it would be a good thing to make known in India the likelihood of natives becoming distressed here in the event of their coming to England without sufficient means?—Yes, I should think so. I think the Government ought to publish in their Gazettes, in their provincial or local Gazettes, the extent of the distress which exists now in England, and also the dangers and risks of people getting stranded in this country on coming here without sufficient funds, and then the local newspapers might quote from the Government Gazette.

567. You think that would have a good effect?—Yes, I think it would have some effect.

568. Referring to seamen, you say that 60 per cent. of the cases are caused generally from desertion or discharge?—Yes.

569. Are you aware that by the lascars articles they are not supposed to be discharged here?—That is a point I took pains to inquire into, but I found that some of the ships carry crews from India simply for one voyage only; that is not a usual thing, but an exceptional thing, and I should like to see some provision made for cases of that kind.

570. You mean the case of some ship that is not going back to India?—Yes, that is not going back.

571. But otherwise you have no reason to think that the system has failed in its effect—with the exception of the case you mentioned?—No, I do not think the system has failed in any other respect.

572. Section 185 of the Merchant Shipping Act lays an obligation upon the Secretary of State for India

to repatriate distressed lascars. Have you any complaint to make against this section?—Not a bit. As a matter of fact, I was not aware of the existence of the section.

573. A representative of the India Office has informed us that this section applies even to Indians who have deserted from their ships?—I have myself approached the India Office and asked them to send some of these men out, but the India Office decline to do it; they say they have no funds for that purpose.

574. (Mr. Morison.) Were they seamen?—In two cases they were seamen, not in every case that I presented to them, but in two cases they were seamen.

575. (Chairman.) Do you know whether they were Eurasians?—No, these particular men I am now thinking of were Mahomedans. Of course the proof that they were sailors was not very sufficient; they could not show any papers, but they said that they came on a ship, and, of course, it was naturally presumed that they were sailors. But the India Office did not even go into the question. If the India Office had wanted to satisfy themselves whether they were sailors or not they could have made some attempt to find it out.

576. You speak in your précis of ill-treatment by serangs, and occasionally by European officers, causing desertion. Do you think the evil is so great as to demand investigation, or do you mention it as an occasional source of distress?—I think there have been so many cases of this kind that I would rather like to see that the shipping companies are made aware of the fact—shipping companies which carry lascars should be made aware of this fact that it is due to the treatment of the serangs that the crews desert the ships occasionally.

577. It is principally the serangs?—It is principally the serangs.

578. Ill-treatment by European officers would be in a very few cases?—Yes, very few. The crew contractors in India adopt unscrupulous methods. The crew contractors in Bombay and Calcutta dump incompetent people for the purpose of getting their own commission, and the result is the serangs have to quarrel with these men because they are not competent men for their work.

579. You suggest a permanent committee to look after cases of distressed seamen. In view of the evidence which the Committee has already had, that the number of cases of this kind is comparatively small, would you wish to press this suggestion?—If it is comparatively small I might not wish to press the suggestion, but still I think that the India Office and the Colonial Office should have some system, some method of dealing with the cases, even if the committee is not formed.

580. Then you criticise the Strangers' Home in three ways; you mention the prices charged, the practice of making humiliating inquiries, and the attempt to make lascars take less wages?—Yes.

581. With reference to the last point, the question of wages, is not this probably due to the various classes of men with which, as Mr. Morris told the Committee, the Home has to deal?—Yes, it has to deal with various classes of lascars, but in the cases that came to my notice, and the cases that I inquired into, I found that some of these men were offered wages which were 25 per cent. to 30 per cent. lower than the previous wages they were in receipt of, with the result that they refused to join the ship; they do not want to spoil their book, you see.

582. Might it not have been the fact that they were put on by one of these contractors abroad at a wage which they were not justified in having to begin with?—That may be so, I cannot answer that.

583. (Major-General Chamier.) With regard to these men who were asked to accept lower wages than is usual, were they Cingalese or natives of India?—Cingalese as well as natives of India.

584. Not natives of India, I think. Have you ever heard of a case where a native of India has been asked to take lower wages than those he came to England on?—Yes, I have it in my book, I recorded it.

585. If we cannot find employment in the Strangers' Home on English wages, then we press the others to

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[Continued.]

take lower wages—native wages—but I have never heard of a native of India being asked to take lower wages; they are low enough as they are?—I can give you a concrete example. There were two firemen who signed on on wages of 15 rupees a month, native wages.

586. What was the name of the ship?—The "Abbotsford," according to the discharge note (*producing the note*).

587. To whom did it belong—what company, and how did the port authorities allow them to leave India?—I was myself at a loss to understand it, but there seems to be an exceptional regulation by which they get these people to sign for one voyage only.

588. I have never heard of that?—Neither had I. This document will show you that it is so (*producing document*). He was offered lower than the native wages, not that he signed for higher wages when he came first; he signed on the ordinary native wages, and still he was offered lowered wages, and that is the reason why he refused to join.

589. Where were these men engaged?—They allege that they were engaged at Rangoon.

590. That is not put down here?—I do not think it is necessary to put it down there.

591. The documents generally say the rate of wages and where the men were engaged. Do we know where these men came from?—That is the tale they told me, and then they gave me this paper. They are illiterate people and cannot explain themselves.

592. Was this the vessel that brought them to this country to be discharged in this country?—So it appears.

593. Otherwise they would not have one of these papers. No lascar has papers of this kind?—They came and were discharged in this country.

594. That is a most extraordinary thing. I never heard of a ship being chartered to deposit a lascar crew in this country?—You will find they were actually discharged.

(*Major-General Chamier*.) It does not say where they were engaged. This is a very ordinary statement of wages that every seaman brings, a European especially, and all those that come on English wages—Cingalese from Mauritius and other places; they always have that statement of wages.

(*Mr. Morrison*.) We have had evidence of a certain number of Indians shipped under European articles. These men must have done so.

595. (*Major-General Chamier*.) They were shipped in Rangoon, you say?—Yes. As I have said, I did not write to the office to have his statement corroborated, because that is not the nature of my business, and the very fact that not a day passes but what these lascars get employment on board by personal application to the captain of the ship shows they are discharged and taken on in London, without conforming to some prescribed regulation; for example, the day before yesterday one of our men from my institute went to a ship and saw the serang, and the serang took him to the captain and he was employed then and there, and he never came back to the institute, and I knew he was gone. I do not know what articles he signed on.

596. Is that the only case you know of—that man came on English wages, did he not?—European wages—pounds, shillings, and pence?—No, they signed on Indian wages.

(*Chairman*.) It is 15 rupees a month.

597. (*Major-General Chamier*.) What is this 3l. 8s. here?—That is the total wages.

598. This was prepared in the office at Sunderland?—Yes, I do not know how it was prepared. I got it from one of the men, and I showed it to a captain, a friend of mine who knows something about shipping, and he told me he must have signed on in India, then came here and was discharged, and drew his wages here. This man was offered lower than 15 rupees a month; he was offered 12 rupees a month, equivalent to three shillings and four pence a week for very hard work indeed.

\* From information subsequently supplied to the Committee, it appears that the owners of this vessel recognised that they were responsible for these men, and were ready to pay the cost of maintaining them till they found employment.

599. Where, at the Strangers' Home?—Yes, so he told me.

600. As a fireman?—As a fireman.

601. Perhaps he was engaged to go as a coal trimmer. It is very difficult to get employment for firemen, and easy to get employment for them as coal trimmers?—That might be so; that is not within the scope of my work. It was only after receiving a letter from this office that I have been inquiring into cases of this kind.

(*Mr. Morrison*.) What are ordinary lascars' wages?

602. (*Major-General Chamier*.) They vary from 17 to 15 or 12 rupees a month, the firemen get larger wages, but the stokers get very small. (*To the Witness*.) Are you aware that a number of the inmates of the Strangers' Home of their own accord prefer to live at 2s. a day instead of at the lower rate. There are two messes there, the first and second?—Quite so—those who draw wages on the European scale can live at 2s. a day.

603. How do they manage to pay 2s. a day?—They may be merchants going to Africa.

604. I am talking of seamen from Mauritius and from Ceylon.—But not from India?

605. No.—Because the Indian crews get too small wages to afford to pay 14s. a week.

606. Are you aware that there ought to be no such thing in this country as a destitute lascar living on his own pay at the Strangers' Home? There ought to be no such thing. Do you know that?—I do not know; the fact remains that there are destitute lascars, and the records at the Home will confirm my statement.

607. You have referred to one case where they desert?—And are discharged.

608. And another case is that they are left sick at one of the ports on the continent?—Yes.

609. Then they come on?—Yes.

610. Otherwise they are never to be found in this country living on their own wages. I have never seen one.—When they are discharged they are paid their wages and they live on their wages.

611. But they cannot be discharged?—They were discharged on that condition I have shown to you, I know personally three cases of discharge.

612. How does the superintendent at the ports discharge them? He is not allowed to?—These men were discharged.

613. This is a particular case of men coming from Rangoon to be discharged, but I have never seen such a case. I have known port authorities over and over again refuse to discharge the lascars?—I should like to see that regulation carried out strictly. Then there would be an end to their discharge altogether.

614. (*Sir Francis Fleming*.) You mention that some distressed Indians are found here who have lost their lawsuits in India and come over here in the hopes of getting what they presume to be justice?—Yes.

615. What do they think of doing when they get over here? What steps do they think of taking?—As a matter of fact, they are very undecided about what course to take. They land in London, and the port people seeing their dress, direct them to the Asiatic Home for Strangers, and they go there, and from there are directed to the India Office. When they get to the India Office they are immediately told the India Office cannot help them. Then they meet outsiders and are recommended to some association here or to generous missionaries, who take them up and inquire into their cases, and perhaps communicate with the India Office, but of course with no result.

616. Do you know of any case in which they have got satisfaction?—I do not think so. Of course they must go through the prescribed channel, the Privy Council.

617. Do not you think it would be a good thing to discourage disappointed suitors from coming over here?—I should think so. For instance, four men came from Punjab; they had their own lawyers there, as appeared in the papers shown to me. The lawyers ought to have told them: "It is no good going to England in this fashion unless you are prepared to fight your case in the proper way at the Privy Council."

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[Continued.]

618. That they could not afford to do?—No. It appears to me some people mislead them and get a little money out of them, and say: "There is great justice in England; you might get justice in England," and in that way they were encouraged to come.

619. How do you suggest that should be put a stop to?—It is very difficult to say—by circularising the fact, I think.

620. By notice in the papers, you mean?—Yes; that is the only way, I think.

621. (Mr. Morison.) You refer in your evidence to a class whom you aptly describe as an adventurer class?—Yes.

622. Do you think that class is increasing?—Decidedly.

623. Could you tell the committee your reasons for thinking so? I am inclined to agree with you, but I should like to hear your reasons?—There are two classes of adventurers; one class of adventurers who come here for a course of training, to get the benefit of some English training with the view of getting employment abroad, and there is another class of adventurers who think they can earn wages like those theatricals I mentioned or those jugglers.

624. Take those who come here for a profession first. Is that class increasing?—Yes.

625. Why?—I have mentioned that some people came here within the last ten years or so without any provision, and they appear to have undergone a sort of training in this country—how, God knows—perhaps through the help of some English people or society, and they went back, and it became the topic of the day that so and so had gone to England and become a barrister without any help from home, and was a very energetic and persevering sort of man. That gave a sort of encouragement to these people. There is no industrial school in every town in India and as they like to undergo a sort of industrial training so they think if they can manage to land in England they will get through by hook or by crook. There is no definite encouragement, but they have that vague idea.

626. Are there not some societies in India which you know which will help students to come to this country?—Yes. I know typically the Calcutta Scientific Industrial Association.

627. Do they provide for them when they are here?—Yes, but in some cases they provide passage only on satisfaction being given that the scholars have means to support themselves. It is a curious thing, but only yesterday I had two students call at my house who had come through the help of that Association. The Association only found their passage, and nothing more; they gave them two letters, one to the secretary of the Y.M.C.A., and the second to the manager of the British India Shipping Company, and nothing more. I inquired about their means, and they said that they might get some money from their parents. I inquired repeatedly: "What satisfaction did you give to the Association with regard to your provision in this country?" One of them said, "Because I happen to come from a district which has not yet sent any students; therefore the Association thought by sending me they would get some support from the district." One was from Assam and the other from Calcutta.

628. There is no provision at the present moment for these students?—No provision here, up to now, but they are expecting help from home.

629. They have been sent over by a philanthropic society without making provisions?—Yes, so it appears.

630. What sort of proportion of these young fellows who come without means succeed in making a living or earning any sort of money in England?—Within the last twelve months I know about three cases only where they have succeeded in getting employment or some sort of income in England.

631. Making money here?—Making money here, for bare existence. I know of three cases out of say 13 or 14.

632. (Mr. Howel Thomas.) In what capacities?—One man is a language tutor. He goes to some of these schools of languages. He knows a little Hindustani and Arabic, and he says he makes a few shillings that way. The other man is employed by Lipton's or some

other tea company as a sort of showman. He is an educated man, an undergraduate, and he stands in front of one of their cafés as an advertisement. The third man is also an undergraduate. He has found employment in one of the music halls, and he goes there in the evening for a couple of hours or four hours, and gets some wages. Two of them once joined a Polytechnic for a course of study in electricity and chemistry.

633. (Mr. Morison.) You speak of Indian students in America to the extent of 50 per cent. being self-supporting and being given wages?—Yes, so far as my inquiries go.

634. That is a greater extent than here?—A much greater extent. I know of very few cases of disappointment of Indian students through not getting employment in America.

635. This 50 per cent. is only the number you know, but you think in all probability the considerable majority are able to earn their own living in America?—Perhaps so.

636. That is interesting. Did I understand you to say just now that you were not aware of any case in which the India Office had relieved Indian students or any Indians in distress?—Yes. I personally approached Sir Curzon Wylie in two cases, and he did provide them passages and extra money.

637. I do not mean lascars, but either students or persons who have come for law suits?—That is very exceptional, although I know of two Punzaees who came for law suits and were sent out with the help of the India Office.

638. You think it is rare?—Very rare.

639. We have a list of the number of cases, I think?—Yes.

640. (Mr. Howel Thomas.) Do you know of any society or official who would be likely to give information to these young men before they come here; some private society or association of Indians themselves who in the interests of their fellow countrymen are prepared to give a warning as to the conditions they will find over here?—Yes. There are such societies in India as well as in England who might be asked to give warning.

641. Of course India is a very large place?—Yes. I know especially in Bengal there are one or two societies, and in London there are three or four societies, including the East India Association, the National Indian Association, the Northbrook Society, the London Indian Society, and the Indian Students Union Society.

642. What struck me in reading your statement was, why should these people who have had a measure of education be ignorant of the conditions that prevail here. I am not finding fault with these adventurers you speak of who have imbibed a little of the British spirit in that way, but I am thinking rather of their want of foresight in not making inquiries before they leave?—They get a little encouragement from those who have returned and been successful, and of course they have great faith in the charity of the British nation. They think that with regard to any kind of distress if they only land in England, there are a lot of kind-hearted people who are interested in Indians who would be glad to relieve them and take them up and educate them. Their main object is to get technical or industrial training at somebody's expense, because their opportunities at home are so limited.

643. There is no one to disabuse them of these ideas?—In a paper now and then a warning appears, but that does not have much effect. After all these men are self-willed, and they are not likely to give up their object by mere advice or such a warning as this.

644. I do not allege that want of forethought is especially a weakness on the part of Indians, because our own working men are just the same. They require to be warned, and in this country there is what is called the Emigrants' Information Office which issues notices, and in those it gives a warning. Special warning, for instance, is given against going to some of the South American Republics. For 2d. you

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can get information all about the place. You are told of all the disadvantages that a man who is ignorant of the language or who is not accustomed to the climate, and that sort of thing, will suffer under. The man is told he will not get on there, and warned against going there, and if he goes in spite of that it is his own fault?—That is warranted by the large number of people who emigrate, whereas in the case of India there are 300,000,000, out of which there are only 20 or 25 venture out of their home on this hook; that is to say, to get education on the charity of others, so that such a thing is not warranted there.

645. If warnings were posted at the ports would the majority of these people be able to read them, and would they read them?—The student class, of course, would be able to read them, but the students will come by hook or by crook, notwithstanding any warning, but their number is too small to warrant any special measure.

646. Just to try their luck?—Just to try their luck, as most of the Englishmen did when the colonies were opened. Their idea is not to make a living in this country, but to get the benefit of English education. As you know, in America a lot of these students are allowed to make their living and also to prosecute their studies, and even in Scotland that system still prevails.

*The witness withdrew.*

Mr. ALGERNON E. ASPINALL called in and examined.

655. (Chairman.) You are secretary of the West India Committee?—That is so.

656. You have put in an interesting précis of your evidence?—A précis, yes. The West India Committee is a body of planters, merchants, and others interested in the British West Indies, British Guiana, and British Honduras, established early in the eighteenth century, and incorporated by Royal Charter on August 4th, 1804. The object of the committee is by united action to promote the interests of the agricultural and manufacturing industries and trade of the British West Indian Colonies, and thus increase their general welfare. It has in recent years received a considerable number of requests for assistance from West Indian negroes and coloured people, who have come over to find work and have become stranded in this country. Most of these people appear to have been sent to the committee by the Colonial Office, if their statements are correct. The committee receives no financial support from the Government, and has no fund which it could devote to the repatriation of these people even if it were desirable to do so. The majority of the inquiries for work and passage home have been from men of the labouring class, who come over in the hope of drawing better wages in this country, but a fair number have also been of the domestic servant class, including butlers and nurses, who come over without thinking what will happen to them in the event of their existing engagement being terminated. In several instances the shipping companies, notably the Royal Mail Steam Packet Company and Messrs. Scrutton, Sons, & Co., have, at the request of the committee, allowed men to work their passage home. There is abundant work for negro and coloured labourers in the West Indian islands; indeed, owing to the exodus to Panama there is a scarcity of labour even in Barbados, which, next to China, is for its size the most densely populated part of the world. In the case of the butlers and nurses the committee have often, through the medium of their publication, been able to find employers to take them back to the West Indies. In spite of what is said about the black man being "a man and a brother" he undoubtedly experiences greater difficulty in finding work in this country than the white man. As an example I quote the case of one D—O—, whose father is a negro and mother a white woman. He got employment with the F. and O. Company as a carpenter, and accordingly went to Tilbury, and the morning after his arrival was put to work on one of their steamers in the dock. He noticed the men whispering together and apparently talking about him. After breakfast he

647. (Major-General Chamier.) Do you know whether that Sunderland crew were entirely natives?—I do not know.

648. How many came to the Strangers' Home? Did that man particularly go to the Strangers' Home?—I believe so.

649. Do you know how many went out of the crew?—Three, I think, out of which two came to me.

650. (Chairman.) Could you give the Committee any idea as to how many students become distressed who come here from India,—about what proportion of the students who come here from India, because a very large number of students come here and get their education and go back without being distressed. What proportion should you say?—Two to three per cent. of the total number of students.

651. (Mr. Morison.) You were going to give a number, I think?—13 or 14.

652. A year?—Say 15 a year. I have come across 12 within nine months, and there might be others that I have not seen. I should say 20 in a year.

653. (Chairman.) That is the outside?—That is the outside.

654. That is about two to three per cent. of the total number?—Yes. We have about 300 to 400 students in London, and about 700 to 800 all over the country.

was the only one who came back to the steamer, and shortly after he had done so the foreman sent for him and said that the men refused to work with him as he was not a trade unionist and was a coloured man, and that therefore he was sorry to have to tell him that he could not continue working there. The foreman added that he would give him work elsewhere for the rest of the day or week, but O—'s reply was that as the men had refused to work with him there, the same thing would probably happen elsewhere, and he accordingly left. My informant subsequently got an introduction for him to the Royal Mail Steam Packet Company, but heard from the representative of the company at Southampton that they had had a good deal of trouble there on account of coloured men, and it would be useless his going there. O— subsequently entered the Royal Navy, and is in it now. As a remedy for the existing state of affairs I suggest that in so far as the West Indies are concerned, steps should be taken through the medium of the Press and public notices, to warn negroes and coloured men of the difficulty of finding employment in the mother country.

657. You state that the Colonial Office often refer cases of destitute West Indians to the West India Committee. I suppose that is because the West India Committee represent all the principal West Indian interests in London?—I should assume so, but I ought to say that I qualified my remark by pointing out that that was according to the statement of these men themselves. I do not know whether the Colonial Office have really sent them, but certainly most of the men who come to us say they have been sent by the Colonial Office.

658. You state there are a good many cases of butlers and nurses. There has been a recent ordinance in Ceylon which prohibits anybody shipping more than two natives as domestic servants unless he satisfies the collector of customs that he will return them. Would you recommend the application of this provision to the West Indies?—Most certainly. I think it is an admirable idea. The number of these butlers and nurses is not, however, very great I must say, but certainly in the last few years we have had a fair number of them. At the present moment I am trying to find positions for two nurses and one butler, all of whom are stranded here.

659. In the alternative there is a more stringent precaution by the same ordinance which deals with the maintenance or repatriation of certain classes of people?—Yes. That I should imagine would certainly prevent people bringing over the butlers and nurses

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altogether from our West Indian Colonies, from what I know of them. I think an extension of the first idea would be the better.

660. You suggest in your précis that the difficulty of obtaining work in England should be published in the West Indies. Do you really think this would have the effect of acting as a deterrent?—I think so if the notices were worded sufficiently strongly, because there is no doubt that these men come over thinking they are going to better themselves, and they believe it will be quite easy for them to get work when they arrive, whereas it is extremely difficult for them to do so. There is, unfortunately, an undoubted prejudice against the black man.

661. You suggest, I think, that it might be undesirable to have a fund to be used for the purpose of repatriation. Would you explain your reasons for thinking so?—I beg your pardon, I do not quite follow you. I said that we had not got a fund.

662. But do you think it might be undesirable to have one?—I say that the committee receives no financial support from the Governments and has no fund which it could devote to the repatriation of these people even if it were desirable to do so. I think it is questionable whether it would be desirable to send these people back, because I am afraid, from my experience of the West Indian negro, if they got wind of the fact that they were going to be repatriated others would immediately come over in considerable numbers.

663. We have already had evidence from other witnesses to that effect, and you concur that it would lead to their coming over?—It would most certainly be an encouragement to these people to come over. I think Sir Francis Fleming will bear me out when I say that at the time of the hurricane in the Leeward Islands and Barbados many of the natives from other islands went to Barbados to get the relief there. When they know there is any money going to be distributed they naturally at once like a share of it.

664. You mention the case of a native or a half caste who could not be employed by the P. and O. because the other men, presumably all whites, said he was a coloured man and not a trade unionist. Do you think the first objection was the vital one?—I should think probably that that was mainly at the back of it.

665. You inform us that the shipping companies have in several cases allowed West Indians in distress to work their passage home. Have you experienced the trouble mentioned by some other witnesses of identifying the colony of their birth?—I am afraid I have never gone so closely into the cases.

666. So that he might get back to his right colony, I mean?—No, I am afraid we have left the onus rather on the shipping companies.

667. We have had evidence that the fact of the difficulty of ascertaining what colony he really belonged to, has caused some of the shipping companies to be rather reluctant to take the man in case he is not allowed to land?—I can understand the difficulty would be substantial. I may mention that I have personally had no little difficulty in identifying the individuals; they come to me over and over again, and I used to think they were different people each time. We tried the experiment of giving them small doles when they came, but we found that inevitably brought them back the following week.

668. Could you suggest any way of getting over this trouble, for example, by the issue of some sort of certificate of identity, somewhat similar to a soldier's identification papers?—I think it would be an admirable thing if they were each furnished with a certificate of origin when they came here. That could be insisted upon by the Colonies.

669. So far as seamen are concerned the suggestion has been made to the Committee that the Board of Trade should have the same power of dealing with distressed Colonial seamen in the United Kingdom as the proper authority under the Merchant Shipping Act has of dealing with distressed British seamen abroad?—That would seem to be reasonable.

670. A further suggestion has been made that the West Indian natives should be required to sign articles of agreement similar to Indian articles by which the

shipowner is bound to provide lascars with the means of returning to India?—That also seems to be a good idea.

671. Do you think the Colonies would agree to that?—Yes, I think they would. You see the Colonies really want all the men they can get at the present time—there is ample work for everybody in the West Indies who is willing to do it. Any amount of the labourers are leaving every day for Panama, and reliable people can always get work. I assume that the majority of the people who come here are fairly reliable, because otherwise they would not have the gumption to come over at all. The natives of the West Indies would probably resent it very greatly, but I think the Governments would be willing and able to take the necessary steps in the direction suggested.

672. You think the natives would resent it?—I think the negroes would decidedly resent it; they would speak about the interference with their rights and privileges, but I think that with tact the difficulty could be got over.

673. So far as non-seamen are concerned it has been suggested to the Committee that there might be some sort of convention between the mother country and the Crown Colonies by which each should pay for those of its natives who became distressed, either within or without its limits. Would you give the Committee your views on that suggestion?—I think that would fall rather heavily on the colonies that are not very prosperous. For the prosperous colonies it would be all right, because they would have to pay for very few people going back, but the colonies which are not so prosperous would have to pay for a large number. An island like Montserrat might have to pay more than it would care to afford, while Trinidad might have to pay practically nothing, because few people would leave Trinidad.

674. If the principle were adopted, do you think it best that each part of the Empire should pay for its residents coming back to it, or for sending those from other parts away?—It is rather difficult to say.

675. There are two distinct ways of dealing with it?—Yes. I should think it would fall heavily on the poorer colonies if there was a reciprocal arrangement. What they would like to see, of course, if there is any fund to be provided, would be for the Imperial Government to provide it, but for the reasons already stated I think it would be undesirable to have a fund.

676. (Sir Francis Fleming.) When a West Indian goes to you from the Colonial Office, or is alleged to go to you from the Colonial Office, what steps do you take?—We make a few inquiries, and then communicate with one of the shipping companies. If they are favourably disposed we then send the man along, and very often he is given a passage out to the West Indies.

677. Do you make any inquiries before you send him out as to whether the Colony which he says he comes from will receive him back or not?—No, I am afraid that we have to leave that to the shipping companies, because our staff is limited, and we have not sufficient time to do it.

678. Do you know of any instance in which a Colony has refused to receive a West Indian back, after he has been sent by you to the shipping company?—Not in the case of any of the negroes who have come to us. I believe in British Guiana they have refused to receive negroes going back.

679. On what ground?—On the ground that they did not appear to be sufficiently competent and had not any funds. I believe there is an ordinance in British Guiana by which they can prevent them landing unless they have a certain amount of money.

680. Even the natives?—Even former residents, I believe.

681. You suggest that a certificate of origin would be a good thing?—Yes.

682. What guarantee would you have that the West Indian who showed you the certificate of origin was the real possessor of the certificate of origin?—You have none whatever, I am afraid, but I think it would have rather a helpful moral effect.

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683. Do you think that the West Indian Colonies, taking them as a whole, would be agreeable to any kind of arrangement under which West Indians might be repatriated?—I think that they would, undoubtedly, be willing to come to some arrangement if they did not incur any expense.

684. It is very difficult to carry out a scheme without expense?—I quite agree, but the expense is generally the difficulty in the West Indies, I am sorry to have to say.

685. Have any of those who have come to you to your knowledge been sent to any of the workhouses or unions?—Yes, I have had several cases of that kind. I could submit some correspondence which I had with a lady—I have forgotten her name—about a negro in one of the unions.

686. After they have been sent to the union do you hear any more of them?—In this particular case I am, speaking of, I did hear periodically from the lady asking whether I could find anything for him to do. That raises another question. It seems to me if the unions have these men thrown upon them for several years, the money which is spent in keeping them for those years might very well be devoted to shipping them away instead.

687. When a West Indian or any other Colonial goes to a union, the union does not know whether he is going to be there for a day or year?—Quite so.

688. Would it not be rather premature for the union at once to consent to ship him back?—They would have to take the fact into consideration that it

is difficult for a native to obtain employment over here.

(Chairman.) The Committee has had mentioned a case where a man was sent out to Demerara, and when he got there they refused to have him, as they stated that he belonged to Barbados.

689. (Mr. Howel Thomas.) Could you tell us how many distressed West Indians come under your notice during a year?—I was considering that this morning, and I should say fully 50. A good many men come over and over again, but it is very difficult to recognise them. Some of them appear to be fairly respectable, but others decidedly disreputable; the disreputable ones, as often as not, say they have got nearly enough money to get to Southampton or Cardiff—Cardiff is a very popular place with them—and they say if they can get another shilling or two they will have enough for their fare. If we give them the money, they generally turn up again after a certain time.

690. You are referring entirely to negroes in the metropolis?—Yes.

691. Do you get applications from the provincial ports?—I had one from Liverpool, a very respectable fellow; he obtained employment for a short time at an exhibition in Liverpool at which we were exhibiting, but it did not last, no one would give him permanent employment. He had been a servant. As I have said, I have a butler and two nurses now looking for employment. Very often by means of our publication we succeed in getting people to take the nurses out for their children.

*The witness withdraws.*

Mr. A. BAERNES called in and examined.

692. (Chairman.) You represent the Finance Department of the Board of Trade?—Yes.

693. You have submitted a summary of your evidence?—Yes, it is very slight indeed, because our experience is small, and I am afraid what I have written is not of very much use, but it will give the Committee the views I wish to present. The Board of Trade have no statutory power to afford relief to Indian and Colonial seamen who are in distress in the United Kingdom, though in cases in which application has been made to them they have sometimes been able to assist the Colonial Office, the High Commissioner for Canada, or the Shipwrecked Mariners' Society, through their superintendents of Mercantile Marine at the various ports, in obtaining working passages or passages at reduced rates for distressed Colonial seamen. Sections 184 and 185 of the Merchant Shipping Act, 1894, deal with this subject, but the former section, which apparently relates to Colonial seamen, is not, so far as I am aware, put into operation, and appears to have become a "dead letter." The arrangements for dealing with the relief of distressed Indian subjects are made by the India Office. In the case of natives of Newfoundland the Board have for some years relieved and repatriated distressed natives of that Colony under an arrangement with the Colonial Government that the expenditure so incurred will be refunded, but no similar arrangement exists with any other Colony. The case of the West Indians who deserted an American whaler at Fayal some years prior to the passing of the Merchant Shipping Act, 1906, and after being sent to the United Kingdom became distressed there and chargeable to the poor law authorities, to which reference has been previously made by other witnesses, is one in point. Such cases are not likely to occur now, as the Merchant Shipping Act, 1906, provides for the return of seamen in distress at ports abroad to a proper return port (a port in the country to which they belong), either directly or via the United Kingdom. In a recent case of Chinese seamen sent from New York to Liverpool en route to Shanghai the men refused to proceed, and the Board had no power to compel them to do so. In such a case the man might become a charge on a union, and a similar difficulty might arise in the case of Colonial seamen. I shall, if the Committee desire, be prepared to give evidence as to the relief of Colonial

and Indian seamen who fall into distress at ports abroad, though this matter does not appear to come strictly within the terms of reference to the Committee.

694. Would you kindly describe to the Committee the general procedure with regard to distressed seamen in ports abroad with particular reference to Colonial and Indian seamen?—Yes. Under the Merchant Shipping Act, 1906, the Board have power through the consuls and colonial officers to provide for the relief and repatriation of all seamen who have last served in British ships, and for British seamen after service in foreign ships; the only qualifications necessary are that they should be seamen and that they should be in distress.

695. On applying to the representative abroad they get sent home?—That is so, either by the consul or, in the case of a colony, by the shipping master.

696. Does that apply to the Dominions and Crown Colonies as well as to foreign countries?—Oh, yes. Section 41 of the Merchant Shipping Act of 1906 defines the people who are entitled to be relieved. "Any seaman, whether subjects of His Majesty or not, found in any place out of the United Kingdom, and have been shipwrecked from any British ship or any of His Majesty's ships, or by reason of having been discharged or left behind from any such ship in any place out of the United Kingdom, are in distress in that place, or"—then comes the next clause—"Any seamen, being subjects of His Majesty, who have been engaged by any person acting either as principal or agent to serve in a ship belonging to the Government or to a subject or citizen of a foreign country, are in distress in any place out of the United Kingdom, the proper authority shall," then it goes on to say in what way they shall relieve them. I do not think I need read any more.

697. Could you tell the Committee what steps are taken to recover money expended under the regulations?—The officer who expends the money renders accounts quarterly to the Finance Department of the Board of Trade, and then statements of the expenses incurred for seamen belonging to the various vessels are made out, and claims are put forward against the owners of the vessels. The owner may reside in the United Kingdom or in a Colony.

698. Could you tell the Committee out of the total amount expended how much is recovered, what sort of



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proportion?—Under the latest Act, the Merchant Shipping Act of 1906, shipowners are liable for nearly all expenses. We take a small vote for those cases where the owners are not liable. The vote is from 3,000*l.*–4,000*l.* a year, and the amount recovered from shipowners is, roughly—I speak without having the exact figures—between 18,000*l.* and 19,000*l.*

699. Could you inform us in what cases the shipowner is not liable?—Shipowners are not liable in the cases mentioned in section 42, sub-section 4, of the Act of 1906, which exempts shipowners where a seaman's distress is due to desertion, or to imprisonment, or discharge by order of naval court, on the ground of misconduct. There are a number of other cases which arise in which owners are not liable, or cannot be held to be strictly liable, and those expenses are charged to the small vote that we take.

700. So the small vote that is borne on the Imperial Estimates is about 3,000*l.*?—Yes, between 3,000*l.* and 4,000*l.*

701. You say in your statement, "The case of the West Indians who deserted an American whaler at Fayal some years ago prior to the passing of the Merchant Shipping Act, 1906, and after being sent to the United Kingdom became distressed there and chargeable to the poor law authorities, to which reference has been previously made by other witnesses, is one in point. Such cases are not likely to occur now, as the Merchant Shipping Act, 1906, provides for the return of seamen in distress at ports abroad to a proper return port (a port in the country to which they belonged) either directly or *via* the United Kingdom"?—Yes.

702. Is it not the case that by section 45 of the Act a port in the United Kingdom may be treated as a proper return port in the case of seamen belonging to a British possession?—In the case of seamen belonging to British possessions I think it goes on to say who have shipped and been discharged in a foreign port. The second part of section 45 says, "Provided that in the case of a seaman belonging to a British possession who has been shipped and discharged out of the United Kingdom" (it does not say at a foreign port), "the proper officer may treat a port in the United Kingdom as a proper return port." That is left to his discretion.

703. The practical result of that seems to be to encourage the sending of Colonial seamen to the United Kingdom?—Prior to the passing of this Act of 1906, it was almost the invariable practice to send them to the United Kingdom, partly on this account that we had power to require passages at certain rates, fixed by the Board of Trade on vessels that were bound either to a port in the United Kingdom or to a port in a British possession, but we had no power to send men to a British possession or another port *via* the United Kingdom, nor had we power to require the conveyance of a man at the rates paid by the Board of Trade if he was bound to a foreign port.

704. (Mr. Howell Thomas.) The negroes in the Fayal case were sent here rather than to the West Indies?—There was no vessel available for sending them to the West Indies from Fayal or Lisbon. That was the report received.

705. When you got them here you did not send them on?—We had no power. That was prior to the Act of 1906. Nor should we have power now to send them on unless the proper return port was stated to be a port in the Colony to which they belonged, so in similar cases men may still be stranded in the United Kingdom if they are merely sent to the United Kingdom by the proper authority.

706. (Chairman.) The object of the alteration of the law was to enable you to get them to their destination *via* the United Kingdom?—Certainly. The lines generally are to the United Kingdom. You know of course it is not possible or not easily possible to send a man direct to a port in the West Indies, or to a port in Newfoundland, from the Mediterranean. There are so many routes leading to the United Kingdom that it is simpler to send him there, and then forward him.

707. It was to get over this difficulty that this clause was put in?—Yes.

708. (Admiral Mann.) He must pass along the line of recognised routes?—That is so; the Act was amended to provide for that.

709. (Chairman.) Is there anything in the Act to prevent the seaman when he reaches the United Kingdom from refusing to proceed any further?—Nothing whatever. He may refuse, and we have no power to compel him to go. A case of this sort occurred lately. The seamen were not Colonials, but Chinamen who were sent from New York to the United Kingdom en route to Shanghai. At Liverpool we made arrangements for forwarding them to Shanghai, but the men refused to proceed, and we had no power to compel them to go. They did not come on the rates fortunately. Some compatriot there took charge of them and appears to have provided for them. He succeeded in shipping them eventually, and I dare say got recouped to some extent.

710. You state: "In the case of natives of Newfoundland the Board have for some years relied and repatriated distressed natives of that Colony under an arrangement with the Colonial Government that the expenditure so incurred will be refunded." Have the Board any arrangement for these distressed seamen such as is contained in the Distressed Seamen's Regulations, section 13?—The understanding with Newfoundland to which I refer is this, and it takes the place of a clumsy system which existed before. Only a few years ago it was necessary sometimes to consult the Colonial Office and to communicate with Newfoundland before we could do anything in the matter, and the Newfoundland Government recognised that this was rather a roundabout and clumsy way of managing matters, and gave us discretionary power. They said, "If you will take charge of any shipwrecked Newfoundland men who become distressed in the United Kingdom and send them on to us we will refund the expenses." So, without any more formality than getting the men to make a declaration that they are natives of Newfoundland, and are in distress, we take steps to provide passages, and meanwhile we pay for their board at the Sailors' Home. The account for their board and passages is then transmitted to the Newfoundland Government, and they repay us. I believe, as a matter of fact, they recover from the owners, but we are not concerned with that.

711. Would you recommend that the same arrangement should be extended to other Colonies, if possible? Do you think it would be desirable to extend it?—I may say that what the Board of Trade feel is this with regard to the principle of each Colony providing for the relief of its own seamen. The Board of Trade have really nothing whatever to do with any other than seamen. I think the Board of Trade are anxious that the Colony should recognise its liability and its responsibility for the relief of all Colonial seamen who become distressed, either in the United Kingdom or at ports abroad; I mean, of course, in those cases in which the owners of the vessels in which the men serve are not liable. For instance, take the case of men who have served on a foreign vessel, or have stowed away on a foreign vessel; because the officer has considered that they are probably seamen and are natives of a British Colony, we incur certain expenses for them, and it hardly seems right that the Imperial Government should pay those expenses. It seems more equitable that the Colony should pay them. That is the view we have taken in the correspondence with the Colonial Office for some years now, but more particularly in the last two or three years.

712. Would you recommend that the Board of Trade should have, as regards distressed Colonial seamen in this country, the powers, or any part of them, conferred by the Merchant Shipping Act of 1906 upon the proper authority at a foreign port?—You mean that Colonial seamen who are in distress in the United Kingdom should be dealt with in the same way as though they were distressed abroad, and that the Board of Trade or their officers at the port should have the power to arrange for their repatriation?

713. Yes.—Those cases of course are very few.

714. The question hardly arises?—No, I think not.

715. (Mr. Fry.) The definition of "seaman" is somewhat limited is it not?—Yes.

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[Continued.]

716. It is limited to three months. Perhaps you had better explain that?—In the Distressed Seamen Regulations it is laid down that if a man applies within three months after his last sea service, he is entitled to be relieved as a distressed seaman.

717. If he has been four months out of a ship he ceases to be a seaman as far as the Board of Trade is concerned?—Yes. He still might be relieved, and the expenses would be chargeable to the Foreign Office, but, as a matter of fact, the consuls, either through misapprehension or because they think it is proper, sometimes charge us.

718. (Chairman.) That is covered by the 3,000L. voted by Parliament?—No. In those cases we should apply to the Foreign Office, on the ground that the men were distressed British subjects, and the Foreign Office would refund.

719. In actual practice does the Foreign Office have to refund much in the course of a year?—No. I think 100L. would cover it. It is very small.

720. (Mr. Fry.) But there might be a good many Colonials here who have been seamen, but would not apply for relief until after three months?—Men who have been discharged in the United Kingdom?

721. Colonials who have been discharged in the United Kingdom might not become distressed till after three months?—Certainly.

722. Under the regulations we could not do anything for them?—We could not do anything for them because they are in the United Kingdom.

723. The Chairman was saying that the powers might be extended to give us the same powers as the consuls have?—If the powers were extended, I assume we should still retain the limitation of the three months.

724. A good many Colonials might hang about here for more than three months before they were distressed?—Yes.

725. And then they would not be eligible?—No.

726. (Chairman.) You refer in your statement to section 184 of the Merchant Shipping Act. Can you say what the official view of the Board of Trade is as regards this section 184? Mr. Grindle, of the Colonial Office, has suggested that if it is extended to Colonial seamen it might prove of considerable use?—I have read the evidence, and I have read this section, and it seems to apply generally. It says: "A native of any country in Asia or Africa or of any island in the South Sea or the Pacific Ocean." It is fairly comprehensive. Then it says: "or of any other country not having a consular officer in the United Kingdom."

727. It all depends whether the reference to the consular officer applies generally. That is what I wanted to know, or whether it is limited to the "any other country"?—The matter has been considered somewhat at the Board of Trade, and the impression seems to be that this section, I think I am quite safe in saying this, is really a dead letter, but that it may cover a good deal of the ground, and a good many of the cases that the Committee are considering. The interpretation put on it is that it applies to Colonial seamen. Personally, I confess that reference to a consular officer makes one doubt it, because, of course, a Colony would have no consular officer, and if it applies to the whole lot it evidently means countries other than Colonies. Presumably it would include China and Japan.

728. (Sir Francis Fleming.) I understand you have been referring almost entirely to distressed seamen?—Yes.

729. What are those in whose regard you apply to the Foreign Office?—Those are men who have been seamen, and still are, but are not technically such within the Distressed Seamen Regulations, since their last sea service was more than three months prior to their obtaining relief. The old regulation made the period six months, but when the Distressed Seamen Regulations were drawn up under the Merchant Shipping Act, 1906, section 40, the term was reduced from six months to three months, with the concurrence of the Foreign Office, although it was obvious that the result would be to throw more expenditure upon the Foreign Office.

730. But still they have been seamen?—Yes.

731. You do not communicate with the Foreign Office, or with any other office with regard to anyone who is not a seaman, or who has not been a seaman?—We have had cases in which a man who is not a seaman, and has been engaged for two or three years in one of the South American countries, has become destitute, and the consul has sent him back to England on account of his health or some other good reason, purely humanitarian. In such cases we should apply to the Foreign Office for a refund if the expense was charged to us.

732. Supposing such a man came from a British Colony, what would you do?—A man who was not a seaman?

733. Yes. Supposing the man instead of coming from a foreign country came from a British Colony, what office would you communicate with then?—In a recent case we applied to the Foreign Office, but they have intimated that such expenses are not properly chargeable to Foreign Office funds.

734. But you would still communicate with the Foreign Office?—We should not now, after the expression of their view.

735. You would not communicate with the Colonial Office?—The mere fact that he was relieved in the Colony would not entitle us to claim from the Colonial Office, unless he had been there so long as to be considered almost a native of the Colony; a man entitled to have some rights owing to long residence there. There would be no claim on the Colony, I take it.

736. The reason I asked the question was, because when you communicated with the Foreign Office, you did so on account of the distressed seamen being connected with a foreign country?—No, on account of their being British subjects and in distress.

737. From a foreign country?—And in distress abroad.

738. (Mr. Fry.) The Foreign Office takes a vote, do not they, for relief of distressed British subjects abroad?—Yes, they pay for them as subjects, and not as seamen.

(Sir Francis Fleming.) What I am rather aiming at is to know what is done with a distressed British subject who does not come from a foreign country, but from a British Colony.

739. (Mr. Fry.) As a matter of fact, the Colonial officer could not relieve him?—No, not at our expense.

740. But if he did, and the Foreign Office will not pay, it would have to come out of the vote taken by the Board of Trade?—Yes. They only limit it to the case of men repatriated from British Colonies.

741. (Chairman.) In the sending of certain men to Newfoundland under the arrangement with the Colony do you get the same rates—ordinary D.B.S. rates?—Yes. Under the Act of 1906 we do, because the limitation which existed under the Merchant Shipping Act, 1894, has been removed. Formerly we had to arrange with the shipowner for reduced rates—reduced ordinary passage rates, because we had no power to send them from the United Kingdom at the lower rates, at what we call the distressed seamen rates.

742. (Mr. Morison.) What are the regulations to which you refer? Who formed the regulations, and what is the authority of them by which a man ceases to be a seaman after three months' discharge?—The Distressed Seamen Regulations made by the Board of Trade under section 40 of the Merchant Shipping Act, 1906.

743. They cannot be changed by the Board of Trade, you mean, or can they?—If the Board of Trade have power to make, they have power to amend.

744. You can vary them without reference to Parliament in any way?—Oh, yes.

745. They are not statutory regulations which are difficult to change?—We have to conform with the Act about statutory rules. They have to be presented and laid on the Table of the House, so that if we amend them we should lay the amended copies on the Table of the House.

746. That presents no difficulty?—I think not. The point has not arisen.

747. (Chairman.) The three months was put in to protect shipowners and give them reasonable protection

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when these men deserted abroad, and if they were doing something else for more than three months after that they were free from liability. That was the idea?—Partly to relieve shipowners, and partly also the vote administered by the Board of Trade.

748. (*Mr. Fry.*) It may be well to make it clear to the Committee that the reduction from six months to three months was made at the instance of an advisory committee mainly composed of shipowners, and was rather against the view of the Board of Trade. The Board of Trade wished the old six months to stand?—That was so, I think.

749. (*Chairman.*) That is the point I was trying to get. Three months was considered a fair time?—Yes. Perhaps you will allow me to mention that the Distressed Seamen Regulations, which were drawn up in accordance with section 40, were submitted to the advisory committee appointed under another section of the Act, and they made one or two suggestions, and that was one of them.

(*Mr. Fry.*) I wanted to bring out that it was done advisedly, and rather against the wish of the Board of Trade than at their suggestion.

750. (*Mr. Havel Thomas.*) When you pay the cost of bringing a man over here, does he go to the workhouse when he lands or do you keep him for any length of

time in a sailors' home?—If he is *en route* for somewhere?

751. No. If you have a distressed seaman, say, at Valparaiso, and the British Consul there pays his passage back, what happens to him when he comes back?—A man who belongs to the United Kingdom?

752. Yes.—And is sent to a proper return port in the United Kingdom?

753. Yes.—Then our duty ends. We do not know what happens to him. If he has a home, presumably he goes there.

754. That is all that is provided for?—Yes. I thought for a moment you might mean those cases where men are going to some other country and are passing through the United Kingdom.

755. No, I meant a distressed seaman coming from abroad to this country?—Yes. Under the old Merchant Shipping Act he could only be sent to the port to which the vessel was bound. Now he can be sent to the port of shipment. So he may arrive at Southampton, and may be sent to Liverpool or Glasgow or Newcastle, and if he arrives on a Saturday night and it is not feasible to send him on he goes to the sailors' home, and we pay for him; that is to say, the owners eventually pay reasonable charges like that, and also his railway fare to the final port.

*The witness withdrew.*

Mr. D. L. H. BAYNES called in and examined.

756. (*Chairman.*) You represent the Mediterranean Department of the Colonial Office?—Yes. I think perhaps I ought to say that my views are quite personal. They do not necessarily represent the views of the Department as a whole. My views are contained in the statement I have submitted. *Cyprus.*—Natives of Cyprus are Ottoman subjects and if they ever become stranded in this country they are presumably assisted by the Turkish Consular officials. No case of a distressed Cypriote appears to have come before the Colonial Office in recent years. *Gibraltar.*—Two cases only of distressed natives of Gibraltar in this country appear to have come before the Colonial Office in recent years, both these cases occurring at the end of 1902. One of the two men concerned was repatriated by the Charity Organisation Society at the expense of the Bow Street Police Court poor box; the other was not repatriated, the Gibraltar Government considering for various reasons that his return was undesirable. No question of repatriation at the cost of the Gibraltar Government appears to have arisen. *Malta.*—Cases of distressed Maltese in England are very frequent in comparison with the size of the island. I have prepared a list which I believe to be complete, summarising the cases of distressed Maltese in England which have come to the notice of the Colonial Office during the last two years, that is to say, from September 1907 to September 1909. The usual procedure in dealing with a distressed Maltese who applies, or on whose behalf application is made, to the Colonial Office, is to telegraph to the Governor, giving the name and address in Malta of the Maltese in question, and names and addresses of his relatives in Malta, and asking whether, if the relatives are unwilling to pay, the Malta Government is willing to bear the cost of repatriation at the lowest possible rates. Pending a decision as to repatriation the man is sent to the Strangers' Home for Asiatics, to the Charity Organisation Society, to the workhouse, or, in the case of a seaman, to the Shipwrecked Mariners' Society or one of the other seamen's societies. In recent years the Malta Government has invariably agreed to repatriation at the public expense unless, of course, it has been found that the applicant was not a British subject, or that he had been repatriated before. They sometimes agree to repatriation at the public expense even when the applicant has been repatriated before. Considered as a financial burden on the Island Government, the cost of assisting and repatriating distressed Maltese from England is very small compared with the cost of assisting and repatriating distressed Maltese in foreign countries. The amount spent in the financial year 1907-8 for both objects was 2,600*l.*, and the

amount provided in the Estimates for 1909-10 is 2,400*l.* But it appears that only 56*l.* 3*s.* 2*d.* has been spent from Malta funds in two years in assisting and repatriating destitute Maltese in England who have applied to the Colonial Office. The result of the practice followed in Malta is that a very large proportion of the Maltese who are subsequently repatriated from England at the public expense have left Malta as stowaways, apparently with the idea of seeing the world, in the (practically) certain knowledge that they would be provided with a free passage back to Malta whenever they felt inclined to go home. Malta is the only British dependency under Crown Colony Government whose European-blooded inhabitants are frequently distressed in the United Kingdom. But, in spite of this, I see no reason why the practice followed in Malta should not be changed so as to bring it into line with any definite system as to assistance and repatriation which may be decided upon for the Colonies in general. In the event of such a system making repatriation from England less easy to obtain, however, I think plenty of time should be allowed to elapse before it is brought into force, in order that the Island Government should be able to make it quite clear by public notification, or otherwise, that repatriation from the United Kingdom at the public expense could not be certainly relied upon. *General Question.*—It seems to me that it is very desirable that some definite machinery for assisting and repatriating deserving distressed Colonials in this country should be created. A distressed British subject abroad can go to his consul for assistance, and this is also the case with a distressed foreigner in England. If a distressed foreigner in England makes himself sufficiently undesirable, he can be repatriated at the expense of the British Government. I do not think that Colonials should be treated worse than foreigners. Nor should they be treated worse in England than in foreign countries. Owing to the provisions of the Merchant Shipping Act, 1894, distressed Colonials fall into two classes, "seamen," as defined in the Act, and those who are not seamen. I will deal with these separately. *Seamen.*—Briefly speaking, the Merchant Shipping Act provides machinery whereby distressed British seamen in any British possession out of the United Kingdom may be sent at the public expense either to the port where they were originally shipped, or to any port in the country to which they belong, provided that a seaman belonging to a British possession may be sent either to the Colony where he belongs, or alternatively to the United Kingdom. As far as I have been able to ascertain, however, no machinery exists under the Act

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for the repatriation of a distressed Colonial seaman from the United Kingdom. Practically, this causes very little trouble, because the various charitable institutions for the assistance of seamen nearly always succeed in finding a job for a *bond fide* seaman on a ship which will take him home. For instance, very few, if any, Maltese seamen have been recently repatriated at the public expense, though a certain number have been assisted in other ways. I think that Colonial seamen would be sufficiently provided for if (1) machinery were created whereby the Board of Trade could, if necessary, send them from the United Kingdom to their own countries; and (2) the provisions of section 184 of the Merchant Shipping Act were strictly enforced and extended to apply to seamen from all British possessions, if they do not apply to them already.\* In view of the fact that the cost of repatriation of English-born seamen found destitute in the Colonies is borne by Imperial funds, I think it would be perfectly fair, if it is not the existing arrangement, to suggest to the Colonies that an agreement should be made whereby the Colonial administration concerned should be expected to refund the cost of the repatriation of Colonial-born seamen (not deserters) found destitute in England, on the understanding that the Board of Trade should, wherever possible, recover on behalf of the Colony, the whole or, at any rate, part of the cost, under the Merchant Shipping Acts, *Non-Seamen*.—The great majority of the distressed Maltese who apply to the Colonial Office for assistance are non-seamen, and, as a class, they are much more difficult to deal with than the seamen. As far as Malta is concerned, a very large proportion of these distressed non-seamen have come to England as stowaways, and a few of them, I suspect, have been seamen who have deserted from their ships. Those two classes—stowaways and deserters—should, I think, if possible, be discouraged as much as possible, and for this reason it might be a good thing if the sections of the Merchant Shipping Act dealing with desertion (especially section 221) were applied to Colonial seamen deserting in the United Kingdom, and if section 237 (1) (as regards stowaways) were more strictly enforced. Whatever is done to stowaways and deserters, however, there remains a certain number of *bond fide* distressed non-seamen who are deserving of assistance. Under the existing system (or want of system) both distressed English-born British non-seamen in the Colonies, and distressed Colonial-born non-seamen in the United Kingdom, if repatriated, are, I believe, repatriated at the expense of the Colony concerned. As far as the former class is concerned this state of things is, as far as I know, invariable, but, as far as the latter class is concerned, there are a few exceptions. I have already referred to the case of a native of Gibraltar repatriated at the expense of the Bow Street Police Court poor box; and there is also an instance of a Maltese repatriated at the expense of the West Derby (Liverpool) Union (No. 1 in the table attached†). Such instances as these appear, however, to be very rare. The system by which the Colony pays in both cases seems to me to be quite illogical. Many, if not all, of the Colonies are no doubt anxious to get rid of distressed English non-seamen left on their hands, but I feel sure that they are no more so than the Imperial Government is to get rid of the destitute Colonial non-seamen in England. I am inclined to think, therefore, that if the whole matter is to be placed on a logical basis, the Imperial Government must pay either the cost of repatriation of distressed British-born non-seamen in the Colonies, or that of distressed Colonial non-seamen in England; or, putting it more generally, to cover the case of British subjects born in one Colony and becoming distressed in another, that each administration in the Empire, including that of the United Kingdom, should pay either the cost of repatriation of its own non-seaman who have become

distressed in other parts of the empire, or that of British non-seamen born elsewhere who have become distressed in the territory under its government. The former of these alternatives would bring the case of Colonial non-seamen more nearly into line with that of seamen under the Merchant Shipping Act, but for various reasons I am inclined to prefer the latter alternative. It seems to me that in every case an administration must be more or less desirous of getting rid, if possible, of distressed non-seamen left on its hands, and I cannot imagine an administration really desirous of repatriating its own distressed non-seamen from elsewhere. Moreover, a distressed non-seaman, if not repatriated, must, in this country, fall upon the rates, and, before long, cost considerably more than the expense of repatriation in the original instance. It follows, therefore, I think, that, in practically every case, the repatriation of a distressed non-seaman, if carried out, is to the interest rather of the country in which he becomes distressed than of the country where he was born. For this reason I think the expense of repatriation should fall on the country in which he is distressed and not on that to which he is sent. I do not mean, of course, that every Colonial non-seaman found distressed in England or every Englishman found distressed in a Colony should be repatriated at the expense of the administration under which he is found distressed. The discretion of the paying authority would have to be used in each case. I see no objection to the Government concerned being asked to enquire whether the relations of the distressed man would be willing to pay the whole or part of the cost of repatriation; but I think that if repatriation is decided upon, no part of the cost should fall on the administration to which the distressed man is being sent, unless (a very unlikely case) the man is being repatriated at the request of that administration. The adoption of this alternative, should it prove practicable, would, I think, have other advantages. It would leave the decision as to repatriation in the hands of the authorities best able to deal with it—those actually in touch with the distressed individuals and with full knowledge of the circumstances of each case. It would also tend to make more uniform the treatment of distressed non-seamen. At present, I believe in some Colonies the Colonial Government is very unwilling ever to pay the cost of repatriation of any of its natives who may become destitute in the United Kingdom, however deserving they may be. In Malta, on the other hand, practically all cases are repatriated whether deserving or otherwise. The very fact also that a distressed Colonial non-seaman could not, as a rule, be repatriated at the expense of his Colony, would tend to cause the provisions of the Merchant Shipping Act with regard to deserters and stowaways to be more strictly enforced, whereas the other alternative suggested might have exactly the opposite effect.

757. You mention that 21 cases of Maltese have occurred during the last two years?—Yes.

758. Do you think that these figures may be taken as normal?—Yes, I think so.

759. In connection with Malta inquiries are always made by cable. I suppose the only reason that this is possible is the cheap rate of cable to Malta?—Yes. Of course the cost of a telegram is a great deal less than the cost of maintenance during the extra time that would be taken by mail.

760. We have been told that the Colonial Office do not telegraph to Barbados at 4s. 9d. a word or to Demerara at 7s. a word, but yours is only 4½d.—It is only 2½d. at the Government rate.

761. Your evidence shows that only a very small proportion of the grant provided by Malta is spent on repatriating seamen from England. Do you know how the rest of the money is spent?—I believe it is all spent by British consuls abroad, but I cannot state that positively. At any rate, the greater part of it is spent by them.

762. Do you know why it is that the Maltese Government is so exceptionally generous in this respect?—I think they take the view that all British subjects born in Malta have a claim on the Government of Malta to be repatriated. That, I think, is the chief reason why they are so generous.

\* WITNESS'S NOTE.—On further consideration I do not think that any extension of section 184 is necessary, in view of the provisions of section 43 of the Merchant Shipping Act of 1906. See answer to Question 770.

† See Appendix II. (4)

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[Continued.]

763. Do you think the system has been abused or is liable to abuse and should be checked?—If you accept the point of view of the Government of Malta the system cannot be abused, it seems to me. If you take any other view I think it is abused.

764. If there was any change of policy ample notice should be given?—Yes, I think so.

765. When Maltese are sent to the Strangers' Home pending a decision as to repatriation, who pays the cost?—The Government of Malta.

766. Do you know what the rate of charge is?—2s. a day.

767. So the Government pays for the man, but does not contribute otherwise to the cost of the Home?—No. There is no other contribution.

768. Your view is that just as seamen distressed abroad from a British ship, whether they are British or foreign, are sent home if they are in distress, at the cost, in the first instance, of the Imperial Government, under sections 40 and 42 of the Merchant Shipping Act, so Colonial seamen ought to be repatriated?—Yes.

769. You think this should apply whether they last served in a British ship or in a foreign ship?—Yes; I do not think that ought to make any difference.

770. If this suggestion were carried out do you think it would be necessary to press your second suggestion, namely, for an extension of the scope of section 184 of the Merchant Shipping Act?—I am afraid I overlooked section 42 of the Act of 1906, so it would not be necessary to press the other suggestion.

771. You say that the cost of repatriation of English-born seamen destitute in the colonies is paid from Imperial funds. Is this quite correct?—It is always paid by Imperial funds in the first instance, I think. In some cases it is recovered from the ship owner, but in most cases I imagine it falls altogether upon Imperial funds.

(Chairman.) We have just had evidence as to the proportion of the total amount spent which is ultimately recovered.

772. (Mr. Howel Thomas.) Do you think that the creation of a common fund for dealing with distressed Colonials and Indians in this country would encourage any number of them to come here owing to the knowledge that they would be sent back free of cost?—I do not think they ought always to be sent back free of cost. I would leave it rather uncertain, I think. At present a Maltese has the idea that once he comes to England, however he comes, the Malta Government would send him home for a certainty. I think that impression is rather a bad one to give.

773. I was thinking rather of others than the Maltese. We have questions before us in connection with other colonies. I see that in some of these cases someone recovered the cost. Here is the case of a Maltese who was sent to the St. George's Workhouse. He was repatriated, and the cost subsequently recovered from his relatives. By whom was that cost recovered?—By some authority in Malta. I could not say which authority.

774. Did the guardians pay the cost in the original instance?—I forget. I think the Government of Malta paid the cost.

775. Would that include the cost of his maintenance in the workhouse?—No, I think not.

776. I see there is another case where the men were in the Swansea Workhouse. "They were privates in the Royal Malta Regiment (Militia) and the Malta Government was not consulted beforehand." You sent them out?—Yes.

777. There was no recovery of the cost of their maintenance at the workhouse in those cases?—No. That would not be recovered.

778. (Chairman.) It has been suggested that the system laid down in the Indian articles of agreement, whereby the lascars are promised return passages to India, might be applied to some of the Colonies. How would you regard this in connection with the Colonies with which you are concerned?—I have no very definite opinion upon it. It requires a great deal of consideration. It would lead to considerable diminution in the number of distressed Maltese and others in this country, but at the same time I think it might lead to a preference for engaging foreigners in British ships, and in that way might cause distress in Malta to a considerable extent.

779. As to stowaways you suggest the strict enforcement of section 237 of the Merchant Shipping Act? Would not your own experience in cases of this kind show there is much difficulty in getting the necessary proof?—I have never had any difficulty at all in getting a Maltese to confess he came over as a stowaway, and to mention the name of his ship. If section 237 were strictly carried out and he knew it, no doubt he would not be so ready to confess.

780. As to non-seamen, your view is that there should be some reciprocal arrangement to apply to non-seamen only, whereby each country would pay either for those natives of others distressed within its limits or those natives of its own distressed without its limits. That is your view?—Yes, except that I might possibly include deserters in the term non-seamen.

781. Of these two alternatives you prefer the first?—Yes.

782. If this plan were adopted, would you leave the expense to be borne by the rates?—I am afraid I am not competent to form an opinion on that point.

783. If so, applying this conclusion to Malta, you would save the Colony a considerable amount of expense which it is now ready to bear?—It would save them about 30l a year. It is not really a considerable amount. As regards their being willing to bear it, the Governor sent home a despatch quite recently suggesting that the Imperial Government should bear the cost of repatriating distressed Englishmen in Malta, and I think that shows that they are not altogether willing to pay both, as they do at present.

784. At present they pay both ways?—Yes.

785. (Mr. Howel Thomas.) For seamen as well as non-seamen?—No, only in the case of non-seamen.

The witness withdrew.

(Adjourned till Friday, the 22nd instant, at 2.30.)

## SIXTH DAY.

Friday, 22nd October 1909.

PRESENT:

MR. OWEN PHILIPPS, M.P. (Chairman).

Sir FRANCIS FLEMING, K.C.M.G.  
Mr. G. S. FRY.  
Mr. HOWEL THOMAS.

Admiral W. F. S. MANN.  
Major-General F. E. A. CHAMIER, C.B., C.I.E.  
Mr. THEODORE MORIBON.  
Mr. EDWARD J. HARDING (Secretary).

Mr. LESLIE PROBYN, C.M.G., called in and examined.

786. (Chairman.) You are the Governor of Sierra Leone?—Yes.

787. You have put in a précis of your evidence?

—Yes. I think that some reasons exist which make it desirable to consider whether it would not be better to arrange that the relieving country (i.e.,

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England, India, or the colony in which a British subject has to be assisted owing to his destitute condition) should pay the cost of repatriation to the country of birth rather than that the cost should fall on the latter. If it is decided by convention that the expense in such cases should fall on the relieving country, it is probable that the total expenditure within the empire on such services would be less than if each relieving country could repatriate at the cost of the country of birth, because in the one case, the relieving country would naturally consider whether a cheaper and more satisfactory alternative to repatriation could be found, whereas under the opposite system there would be a tendency, also very natural, to get rid of the apparently destitute as soon as possible in view of the fact that the cost of so doing would fall on the country of birth. Under the system suggested, the annual expenditure of the relieving country would not, in most cases, be greater than under the contrary system, because against the cost of repatriating destitute citizens of other places, the country would have the counterbalancing set-off of having its own destitute wanderers repatriated free of cost. The Merchant Shipping Act provides for repatriation of distressed seamen, because it is considered that in the long run the shipping interest is advanced by all seamen being assured of relief should they fall into distress when in foreign lands. The cost of repatriating labourers who emigrate under indenture is usually secured by bond. In all similar cases the emigration is an organised matter, and is recognised by the country of birth (*i.e.*, the country left by the emigrants) as being advantageous not only to the emigrants but also to the country from which they emigrate. It seems just that the country of birth should bear the cost of repatriating those who emigrate under a system organised by or officially recognised by its government. In such cases the country of birth is a party to the emigration and consequently ought to bear the cost of failure rather than the relieving country unless, of course, the latter brought about the emigration by official requests for labour. The preceding remarks deal with cases in which the country of birth may be said to have encouraged emigration. Different considerations seem to apply to emigrants who for private reasons leave their country without the knowledge of their government. Broadly speaking, the cause of such emigration is the superior attractiveness of the relieving country. The emigrant leaves the land of birth because he hopes that he will more easily succeed in the country to which he emigrates; sometimes he does succeed and his success proves that he supplied a want in the new country. In the cases of absolute failure however the latter has the misfortune of being compelled to be a relieving country. The paupers have not been able to take advantage of the openings for employment which attracted them to the country and the latter is compelled by the law of humanity to relieve them in their distress. The reality of destitution is a question of fact; sometimes it is hopeless and incurable; sometimes it is feigned and sometimes only temporary; the relieving country is able to investigate the evidence in each case and can therefore judge better than the country of birth whether the costly remedy of repatriation is unavoidable. It would be a great convenience if the executive of each country (whether England, India, or a colony) could have at its disposal a fund from which to pay the cost of repatriating foreigners to their own country. The money would have to be voted by the Legislature, who could apply whatever restrictions on the expenditure the circumstances of the country might make necessary. It would, of course, be open to the Legislature of a country, should a stream of undesirable emigrants compel protective action, to pass a law restricting immigration, and in the unlikely event of the cost of repatriating foreigners becoming substantial, it would also be possible to defray the cost from a duty charged on all passengers landing. No great difficulty has as yet arisen in Sierra Leone. A proposal is under consideration which, if adopted, would impose on shipowners the obligation of conveying back to the port of departure such passengers as

become destitute within a stated time after landing in Sierra Leone. At present I am not in favour of this proposal because I think that the shipowners would have to impose, as a matter of self-protection, restrictions on passengers which would check natural and advantageous trading intercourse.

788. You suggest that if a convention were instituted for the repatriation of distressed people it would be better for the relieving country to pay?—Yes, if it is necessary that any action should be taken.

789. First, because they are in a better position to ascertain the facts, and, secondly, because it would be less expensive in the long run?—Yes, precisely.

790. Would you be in favour of a convention for the purpose, namely, that each country should engage to repatriate those found distressed within its limits?—I think it would be convenient if it could be arranged. As far as Sierra Leone is concerned, the difficulty is not very great. The reason why I think it would be convenient is that Sierra Leone has been unable to get rid of one Australian miner except at the expense of the colony, but has had to pay the cost of repatriating a Sierra Leonean native, I think it was from Brighton, and it is obvious that we had to pay in both cases. I might, perhaps, mention that the Australian entered the colony across the land frontier, and consequently would not have been kept out by any restrictions on shipping companies which, in some quarters, are suggested as a solution of the difficulty. He was found to be a murderer afterwards. He refused to go back to his own country. He died before he was convicted.

791. On the whole, do you think it is best that there should be a convention for the purpose, or that each case should be dealt with on its own merits?—I could not answer that question without knowing how the difficulty affects every colony and India.

792. In your particular colony it is such a small question?—Yes, it is such a small question. One can put up with the existing inconvenience. In the case of the Australian miner there was a difficulty in obtaining the necessary sanction to paying the cost of his repatriation. As a matter of fact, I do not think the consent of the Secretary of State was obtained. It would have been convenient, therefore, if there had been such a system.

793. Other witnesses we have had before the Committee have suggested that if it became known that there was some arrangement for repatriating it might lead to more people going abroad, knowing that if they got in difficulties they would be able to get back. Do you think it would have that effect?—I am inclined to think that if the country of birth had to pay the cost of repatriation, it would have that effect when once such a system was thoroughly established, and had been in working order for many years—say, 20 years. A Sierra Leonean, in contemplating such an adventure, we will say in England, or down in Southern Nigeria, might be dissuaded by his family in its own interests. They would say: "Do not go, you may not succeed." Then he would say: "Well, if the worst comes to the worst, I can come back," and he would not be dissuaded because he would be able to quote cases in which emigrants who had tried their luck and failed had been returned at public cost. I think it would tend that way.

794. We have had evidence before us that, in the case of Malta, where they have always been willing to repatriate, it has resulted in many applications and considerable expense.—That is very interesting.

795. You mention that the Merchant Shipping Act provides for repatriation of distressed seamen, on the ground that, by the existence of machinery for this purpose, the shipping interest is advanced, but the Act, according to the evidence before the Committee, does not provide for the relief of seamen who become distressed in the United Kingdom, except very indirectly, if they happen to be on their way through from a colonial or foreign port. Do you think it advisable for the operation of the Act to be extended to colonial seamen who become distressed in the United Kingdom?—I have no data on which I could suggest anything to the Committee with regard to that. There are no Sierra Leone seamen; there are

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firemen. They come over; they are employed as deck hands, and, as a matter of fact, they always get back. I never heard of any complaint.

796. The Committee have had evidence that the Imperial Government take a small vote for the expenses of distressed seamen, which are recovered from the shipowners. As far as your Government is concerned, would your Government be ready to recommend the taking of a small vote to pay for similar expenses? You say there are only firemen?—Yes, only firemen; only firemen go to Europe. From Sierra Leone the outgoing steamers going down the coast take deck hands, and they all come back. I never heard any complaint whatever. It is crew augmented labour, which is all very well arranged.

797. You have no cases in Sierra Leone of students going abroad and getting into difficulties?—No; the family would relieve them. They would go at the expense of the family; the Government sends none.

798. As regards non-seamen, it has been suggested to us that steps should be taken to make known in the colonies the difficulty of getting work, but that also would hardly apply to your Government?—No, I do not think it would.

799. And as far as your Government is concerned, it is not necessary to take any steps to safeguard the emigration of different classes; I mean servants, for instance. You do not have any trouble with servants going abroad and being stranded by being discharged abroad?—No, I have never heard of any cases. There may have been cases, but I have never heard of any.

800. (*Sir Francis Fleming*.) With regard to the Australian miner that you mentioned, was there any delay in getting rid of him?—Yes, there was considerable delay.

801. Do you communicate with the colony before you send him back?—I communicated with the Colonial Office and was informed that the Australian colonies did not repatriate. In the meantime I employed the man to prospect on the terms that a portion of his wages should be kept by the Government to defray the cost of his passage to England. The Colonial Office, however, thought that it was undesirable that this employment should continue, and, acting on that decision, the man was told he could not be employed any more, but I took an interest in the man as he had done good work, and arranged that some private individuals should employ him. A small syndicate was started, and this man was sent up to the northern part of the colony. His departure was delayed by gross intemperance on his part. He was a very rough man, but ultimately he got up to the northern district, and then he was arrested for prospecting in a missionary's store instead of prospecting elsewhere. He got three months' imprisonment for that, and at the end of that time he drifted further down the coast. He was then sent back at the expense, I believe, of Northern Nigeria to England. He then came out again. He came to Sierra Leone, and he drifted away from Sierra Leone, and I heard about three months ago that he had died either in Togoland or in Liberia; I do not know which. In the meantime the application for repatriation had been forwarded probably to Australia, and the police got to know of it, and it appears that this man was a murderer, and that was the reason, of course, why he came back to the west coast.

802. Do you not think that delay might, to a great extent, have been avoided if there had been some agreement between the colony from which he came and the colony to which he emigrated, a kind of agreement authorising his being sent back?—Had there been a convention that the relieving country should carry out that duty, I should at once have paid the man's passage out to Australia.

803. That would have avoided the delay in sending such an undesirable character out of your colony?—Yes, afflicting everybody really, including the missionary.

804. It might be a question whether Australia would ever enter into an agreement to receive such an undesirable character back?—Can a colony refuse to receive its own natives?

805. In some colonies they do refuse to receive their

own natives.—That seems against humanity and against all fundamental laws.

806. I quite agree, but we were told the other day that in British Guiana they have a law now under which they can refuse to receive their own people back.—I know of no law which prevents a man from returning to his mother country.

807. If there was a convention under which this individual or any other individual under somewhat similar circumstances could be sent back it would avoid the delay in getting rid of the individual from the colony where he found himself?—Yes, I think it is desirable. The only reason why I use the word "convenient," which is not an emphatic term, is because the actual difficulty within my personal knowledge is so small, whereas the difficulty of legislation to bring about a convention is very considerable. I do not think it is urgently required. If you take this case of the Australian miner it was very inconvenient and some hardship was inflicted, and a good deal of suffering, but it is not an urgent matter.

808. I did not refer to this particular case so much because I suppose it is about the only case you know of in Sierra Leone in which a question of repatriation has arisen.—Yes.

809. But, generally speaking, with regard to the colonies, I mean.—I will not say that is the only case of repatriation. It constantly happens that a European asks for repatriation.

810. You are not referring to a seaman now, but to one who is not a seaman?—It may be a man who has been employed in some merchant's firm down the coast or on the mines. The fare is comparatively small from the southern colonies on the coast, Lagos and the Gold Coast, to Sierra Leone, and they come up to Sierra Leone in the hope of work. They find they cannot get any work there. They ask for work, and you say: "There is no work," and then they say: "What am I to do?" You are then in a difficulty, and you have to get rid of them.

811. To repatriate them?—Yes, I do not think the colony has had to pay in more than two cases that I remember. My recollection is not very clear about the number of cases, but it is very small, I know. In most instances you are able to get rid of the men. The shipping companies, Sir Alfred Jones, for instance, are very good. He gives them a passage home. They do a little work on the ship or help the purser with the accounts, or do such work as their capacity enables them to do and in that way get back to England. It all means trouble.

812. Between the time the man applies to be repatriated and the time he actually goes is he any charge on the colony? Is the colony put to any expense?—No; it is by private charity. The Australian miner was supported for a short time out of a public vote, and there have been two or three cases in which a few pounds have been spent in that way, but there is no relief system.

813. As I understand you, when an individual is repatriated it is no charge upon the colony to repatriate him. That is all done by voluntary subscriptions?—I think in two cases it has been done at the public expense, but in other cases by management that public expense has been avoided.

814. (*Mr. Havel Thomas*.) Could you give us particulars of the case from Brighton that was sent on to you?—No, I am afraid I could not give you the actual details. My recollection is that it was the repatriation of a widow and family. The man, a Sierra Leonean, died here, and they applied to the Colonial Office, and the case was reported to Sierra Leone, and we repatriated them, or offered to. I am not quite certain whether the widow did come back.

815. You have no municipal funds, as apart from the colonial funds, that would be available for dealing with a destitute man?—There are two municipalities in Sierra Leone, but in neither case do they deal with relief of the poor.

816. (*Sir Francis Fleming*.) Did I understand you to say that, both as regards natives coming back to Sierra Leone and also those whom you repatriate from

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Sierra Leone, the colony has to bear the expense on both sides?—There is the Brighton case. That was a Sierra Leonean, and the colony either did pay, or was asked to pay, the cost of repatriation to Sierra Leone. Then there was the case of this Australian miner. There, the colony had to pay for the repatriation. That was the only way of getting rid of the man.

817. (*Admiral Mann.*) You did pay both ways?—Yes; one may have to pay, under the existing system, both ways.

818. (*Chairman.*) You would not express any definite opinion as to whether a convention is or is not desirable?

*The witness withdrew.*

Miss LAWRENCE called in and examined.

820. (*Chairman.*) You are the honorary secretary of the St. James' and Soho Branch of the Charity Organisation Society?—Yes.

821. You have submitted a précis of your evidence for the consideration of the Committee?—Yes. It contains information which I hope will be useful to the Committee. During the past 13 months there have been, so far as can be ascertained, eight applications, of which seven were from coloured men. This number applies only to cases with which the committee has dealt, and not to those, a considerable number, which have been referred to East End committees. Of the seven coloured men six were West Indians, the seventh being a Zulu, who made his own application. As to the causes of distress, there is hardly sufficient evidence to provide any very definite answer. The obvious cause is, just as in ordinary out-of-work cases, that the men have lost their employment and cannot obtain any other. The tracing of other causes is, to some extent, speculative; but it would certainly seem that the men come over to England in a rather reckless and haphazard way, no doubt having very exaggerated notions of the ease with which a living may be obtained here. Nor apparently are there sufficient restrictions to prevent captains from turning the men adrift in a more or less destitute condition at the end of a voyage; and as the men are subjects of the Aliens Act does not check this system. Of the seven cases, one worked his passage over on the understanding that something, undefined, should be done for him at the end of the voyage. On reaching London he was given 2s. and turned off. Three simply worked their passage over. Two came as passengers, one borrowing the money from the other and leaving him in the lurch in London; and one took his discharge, receiving 14l. 10s. wages, which he had spent while looking for a ship. As to the manner in which the committee deals with these cases, the ordinary system is not very applicable. It is, of course, extremely difficult to obtain any information or to verify statements. Usually the applicant is referred to the workhouse, while such inquiries as are possible are made and negotiations undertaken with a view to finding a ship on which the man can work his passage home. The committee do not consider it to be their duty, as they know so little of the men, to provide them with free board and lodging, at any rate in the first instance, during these negotiations, which, as a rule, take several weeks. It is frankly explained to the applicant that efforts will be made to find him a ship, and that meanwhile he must co-operate with the committee in being content to enter the workhouse, and wait there so that it may always be possible to communicate with him. In the seven cases, two remained in the workhouse for as long as was required and were successfully repatriated. A third remained for a time, but then took his discharge, with the result that when an opportunity had been obtained for him to return home he could not be found, and did not call at the office until several days after the ship had sailed on which he might have worked his passage back. Of the other four, one man insisted on starting at once for Southampton on foot; another declined to enter the workhouse and withdrew his application; the third did not want to be repatriated, but asked for employment on a ship; the fourth was an exceptional case. The man had swindled another coloured man; the police

—Assuming that one were a magician, and that there was no trouble or difficulty in getting the convention passed, then I should say pass it. The only reason why I do not urge that it should be passed is that I know there is very great difficulty in arriving at a common assent in such cases, and the existing trouble seems to me to hardly justify that exertion, having regard to the fact that there are so many very urgently required things.

819. (*Mr. Howel Thomas.*) *De minimis non curat lex?*—Yes. However, an Australian miner is not *de minimis*, quite.

were communicated with, but declined to take action; when, however, the applicant heard the other man's name mentioned he hastily left the office and did not return. The committee would like to record that in dealing with these cases, they have always received very courteous treatment and most valuable assistance from Messrs. Elder, Dempster and Company. The committee have no proposals to make for the more effectual treatment of these cases in this country, as they consider that it is the method of engaging crews in the West Indies that is mainly at fault. At present it would seem that a native can work his passage over and walk off the ship, or be turned off with little or no money, knowing nobody, and with apparently very little chance of being able to get a ship back by his own efforts. The committee have, of course, no definite proposals as to how to remedy this system, which seems to them to be a bad one, but they consider that some sort of restriction should be imposed, e.g., that natives should not be employed in this way save for double voyage—there and back. The one case of a white man who was referred to the committee by the Agent-General for the Cape throws no light on the question at issue. All the information that could be obtained was very unfavourable, and money that he obtained from the Agent-General on the plea that he wanted to go to Southampton, where he had been promised that he should have a chance of working his passage home he used for other purposes and did not go there. Further, it seems that the method of referring coloured men to the workhouse to some extent, at least, sifts the genuine cases. The men who are really anxious to return home agree to go to the workhouse. It is, however, clear that in a good number of these cases the applicant's chief desire is a little cash down and not repatriation. Such applicants refuse to go to the workhouse. To give them money merely encourages them to stay on in England and live by begging. It is impossible for the committee to help these cases; and this opinion is based, not only on the seven cases already referred to, but also on three others of a slightly earlier date.

822. Would you kindly explain to the Committee the manner in which the seven cases referred to came to the notice of the Soho Branch?—I am afraid I cannot in detail. I have not looked it up. Of course any case of any person in distress that is referred to us we go into. Some are referred from the Colonial Office direct, and some by anybody to whom these men may have been who may possibly have given them the address of the office. They come in various ways. They very often apply to a clergyman, for instance, who sends them to the office. I could find what is asked for if you desire it.

823. Could you explain to us the grounds on which the Soho Branch decided to investigate these seven cases, whereas other cases were referred to the East End committee? On what principle was that done?—We take up the case of any poor person referred to us whose home for the moment, even if it is only for one night before, has been in our district. If they have slept the night before, as many have, in the East End, we refer them to the committee in whose district they last had a home of any kind.

824. That is the rule?—That is the rule. Formerly it was not the rule at St. James, because until the Central



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Charity Organisation Society removed from Buckingham Street to Denison House, Vauxhall Bridge Road, all homeless men who had slept nowhere the night before or in the casual ward came to my committee. People were in the habit of sending them to the central office, and we were the nearest to Buckingham Street, and they sent them to us, but now they are each referred to the committee of the district where they last slept.

825. You inform us that the Branch has found difficulties in verifying the men's statements or finding out anything about them. Can you explain to the Committee the ordinary method employed by the Branch in looking into the cases that are brought to its notice?—The case of these men or in general?

826. These men.—We ask them for an account of themselves; where they had come from and what their work had been and who their employers had been. As a rule they are employed by a ship that has gone away. They are not known really to anyone in England, and they have practically no one whom they can refer us to nearer than, say, Jamaica, from whom we can obtain any information whatever.

827. You mention in your précis that the men often have exaggerated notions of the ease with which a living can be obtained in England?—Yes. They are like children. They think they have only to come to London and will certainly find work and money.

828. Do you think good might be done by notifying publicly in the colonies the difficulty of finding work in England?—Yes, I should think so, if it were done in some way which these generally ignorant men could understand.

829. You speak of the difficulties which arise from captains being allowed to turn men adrift on arriving in the United Kingdom?—Yes.

830. From the point of view of the Charity Organisation Society, you would be of opinion that it would be well to adopt for colonial seamen the system laid down by the Indian articles of agreement. The Indian articles make the shipowner responsible for the return of lascars to India?—Exactly.

831. Would the Branch in ordinary cases, if a case of distress were brought to its notice, try and arrange for repatriation as the best means for solving the problem?—Yes; it is the only means. There is no future for such men in England. Practically, if we can, we do. In certain cases we have repatriated them, and they have repaid the money, but those cases are only a very small minority of the whole.

832. (*Mr. Howel Thomas.*) At whose cost?—We have advanced the money; at the cost of my committee. They are responsible for paying that money if it is not repaid.

833. (*Chairman.*) Have you had any difficulty in getting a man repatriated owing to a doubt about the colony taking him back again? Has that come before you?—No, I do not think that has. Of course, it is very difficult to wait long enough to get any information from the colony, as a rule.

834. (*Admiral Mann.*) When you have repatriated you have done it on your own, as it were?—Yes. We have sometimes been very kindly helped by the steamship companies, who have allowed them to work their passage back.

835. (*Chairman.*) You have not made any inquiry of the receiving colony first?—We have in certain cases. If they have relations at home, for instance, we have written and we have correspondents in one or two colonies. The late Mr. Bourne was very good in getting information always. He was an old member of the Charity Organisation Society.

836. Two of the cases reported by the St. James' Branch remained in the workhouse and were ultimately repatriated successfully?—Yes.

837. Did the guardians show any desire to help in repatriation?—The guardians show no desire to touch these cases, and very much resent having them sent to them. They are obliged to take them, but they give no help towards repatriating. They only keep them in the workhouse. One man was most superior to the ordinary run of such men and made himself a great favourite in the workhouse, and was favourably

looked upon at last, and helped in dispensing, I believe, and was got home and repaid the money. Generally men of this low type of intellect are not much good.

838. You are of opinion that the workhouse test has been useful and applicable to cases of this description?—Yes. It is the only one we can apply. It is useful up to a point if they really want to go back. We tell them, "Very well, we will make inquiries, but in the meantime you must go to the workhouse. That is all we can do for you. Possibly at the end we may be able to find you a passage." As a rule they go away and we hear no more about them. It is most unsatisfactory work. Those who have remained in the workhouse in some cases have been sent back.

839. (*Sir Francis Fleming.*) What steps do you take with regard to repatriation as soon as an applicant of that kind comes to you?—If such a man came I should try my best to ascertain from him, which is a matter of great difficulty, whether he had any real prospect of work, or any relations, or any kind of home in the colony from which he came, and then communicate with them, and ask him in the meantime to stay in the workhouse.

840. Would you communicate with the colony direct or would you communicate through any association?—In some colonies we have affiliated associations or correspondents, in others we have to write direct.

841. You mentioned Mr. Clarence Bourne. He was Colonial Secretary in Jamaica?—Yes, he was.

842. I suppose with regard to any repatriation cases connected with Jamaica you would correspond with him?—Yes, and being an old member he was always ready to take trouble in that way.

843. When you send any applicant away to the workhouse in the first instance, do you, generally speaking, hear anything more about him afterwards?—Yes. If he stays in the workhouse in our district we keep in touch with him and let him know the result of our inquiries, but if he discharges himself or never goes to the workhouse we are unable to do so.

844. In the majority of cases you send to the workhouse do you afterwards hear more of the individual?—Yes, we have in each case where they have given us time to complete the inquiries.

845. And they have eventually been sent back to the colony from which they came?—I think I may say that most of those who remained in the workhouse have been sent back. It would depend on the result of inquiries. We might hear he was a most undesirable character, and that there was no work waiting for him in the colony, and that he had left it for excellent reasons, and then we should not try to raise money to send him back.

846. Then he would be left in the workhouse?—He would be left in the workhouse. He would be told we could not help him. It is very difficult to raise money by the charity of the public for such a purpose.

847. After the applicant comes to you in the first instance, does any length of time elapse before you send him to the workhouse?—No. If he is destitute we invite him to go to the casual ward, and thence to the workhouse, the same night.

848. (*Mr. Morison.*) Have you found it is practically impossible for them to find any work here?—I think it is practically impossible.

849. It always happens that they must go to the workhouse?—A great many do not. They go tramping the country. There is no means of getting them regular settled work.

850. They never do get on their own legs?—I do not think so. I think they join the semi-unemployed about the docks, as a rule.

851. So that repatriation is the only remedy?—It is, and, of course, that is not applicable unless the man is worth something.

852. (*Major-General Chamier.*) Do any natives of India come to you?—Very few, if any. I cannot remember any.

853. If they did, you would refer them to the Strangers' Home, the Asiatic Home, I suppose?—Yes; we should deal with them in the ordinary way.

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854. A native of India would not go to the work-house?—I do not really think the point has arisen, or not above once. They do not get past the docks.

855. (*Admiral Mann.*) With regard to funds, have you funds for repatriation?—None whatever. We have no funds for any purpose. We have to get them for each case, according to its merits.

856. Is it the practice to try and get them if you desire to repatriate anybody?—If we think the case good enough we should raise the money. I do not mean we should keep the man waiting while we raised the money. We should make ourselves responsible for the money and pay it, and raise it afterwards.

857. Who would actually pay it at the time?—My committee would pay it. We have a banking account. We take on ourselves the responsibility, and, as a last resource, I and my colleagues have to find the money. We get it from our supporters, people who trust us.

858. (*Mr. Howel Thomas.*) When these applicants come to you are they under any impression that you are a society which would help them to go back to their own country?—It is difficult to say.

859. I mean is there an impression amongst these people that they can get back through some philanthropical society?—Yes; I should say there is. They have a strong impression that they have only to ask somebody or other somewhere, and they will be sent back.

860. Supposing that there was a public fund for the purpose of repatriating these people, do you think that would encourage them to come to this country?—I should think it would, very much indeed. I have often spoken with these men. They come for most extraordinary reasons in the most light-hearted manner and in no responsible way, because they think they would like to see England, for instance, or some reason of that sort, quite gaily and cheerfully.

861. When they give you particulars do you trust those particulars?—A Charity Organisation Society trusts nothing without verification, I might say.

862. You do not find them more inaccurate than English people?—No. I do not think they are at all intentionally inaccurate, but they have a very inaccurate habit of mind, and have very great difficulty in reducing their information to anything systematic. Addresses are of very great difficulty to them as a rule, and there is great difficulty in dealing with them on that account.

863. I once had a subpoena to go to Bow Street from the Charity Organisation Society, because a man had told them a lie about his having been employed by my father, so I am quite aware you get inaccurate information?—Oh, yes.

(*The witness.*) I think in the year on which we reported we had rather more than the average number.

*The witness withdrew.*

Mr. G. E. SHEPHERD called in and examined.

864. (*Chairman.*) You represent the Judicial and Public Department of the India Office?—Yes.

865. You have given the Committee a précis of your evidence?—Yes. *Nature of cases:* The Judicial and Public Department deals with applications made by distressed natives of India, other than seamen, for assistance or for repatriation. *Mode of dealing with cases:* The Secretary of State does not accept any liability or responsibility for such persons, and usually acts on the principle that he cannot undertake to send back to India at the public cost natives of that country who may visit Europe for their own purposes. Each application is, however, considered on its merits, usually in consultation with the Political A.D.C., who makes personal investigation when possible. In exceptional cases the Secretary of State sometimes accepts the cost of repatriation as a charge on Indian revenues. This may either be on compassionate grounds or for reasons of public policy. For the guidance of the Judicial and Public Department in dealing with cases as they arise a précis of precedents has been prepared.

In other cases, if a man is able and willing to work his passage back to India, he is usually referred to the Strangers' Home for Asiatics, which generally succeeds in providing for him. The Secretary of State frequently defrays small items of expenditure incurred by the Home in such cases. No assistance is given to persons to leave England for any other country than India. *Application from Poor Law Authorities:* The Secretary of State for India in Council has on several occasions declined to pay for the maintenance or the repatriation of Indians who have become inmates of workhouses. *Number of applications, 1905-09:* Applications for assistance are not numerous. In the last five years 52 cases involving 61 persons appear to have been considered. Repatriation at the cost of the Government was sanctioned for eight persons. In four other cases loans were granted to enable the applicants to return to India. *Legislation in India:* In 1903 an Act was passed in India to secure natives engaged for the purpose of spectacular performances in Europe and for other purposes against being stranded by their employers. The Government of India had considered previously the question of protecting domestic servants, who are expressly excluded from the above Act, in the same way, but were unable to recommend any action being taken in India. *Distressed Indians abroad:* The relief of distressed natives of India in foreign countries is governed by rules con-

tained in the instructions issued by the Foreign Office to consular authorities. (They are printed at the end of the Précis of Precedents.) The Secretary of State does not accept any liability in the case of distressed natives of India in the Colonies, but has agreed in some cases to defray the cost of repatriation. *Europeans in India:* Europeans found without means of subsistence in India may be declared to be vagrants, and in certain circumstances removed from that country, under the European Vagrancy Act, 1874. This Act gives no right of repatriation, and removal is at the discretion of the Government, subject to the vagrant consenting to enter into an agreement that he will not return to India within five years without permission of the Secretary of State for India. If he does he is liable to imprisonment. The Government of India have furnished figures showing the number of removals under this Act during the last 10 years to be as follows:—Madras, 1; Bombay, 65; Bengal, 53; United Provinces of Agra and Oudh, 2; Punjab, 4; Coorg, 1; Hyderabad, 7; Rajputana, 3; total, 136.

866. Your précis which you have put in shows that whereas there were 30 cases from 1888 to 1899, only three a year, from 1900 to 1909 there have been roughly 80 cases, of which 35 are between 1907 and the present time. Is this a complete list?—It is practically a complete list for the later years, but I think the earlier part of the précis is not complete.

867. That really accounts for the difference?—Yes. I do not think there has been more than a slight increase in the last few years.

868. You say that the Secretary of State for India directed in 1890 that steps should be taken for the publication of notices in the courts to discourage unsuccessful suitors coming to England. Do you know whether this direction is still carried out?—I am afraid I could not say.

869. So you do not know whether it is successful or not?—No. It was chiefly in the Punjab, I believe. We have not had many cases.

870. You state in your précis, "In exceptional cases the Secretary of State sometimes accepts the cost of repatriation as a charge on Indian revenues. This may either be on compassionate grounds or for reasons of public policy." Could you define those reasons in rather greater detail?—If the Secretary of State considers the case is exceptionally distressing he may decide to send a man back or if the man gives a great deal of trouble here he sometimes gets sent back.

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Mr. G. E. SHEPHERD.

[Continued.]

871. With reference to ayahs, you say that the Government of India in 1902 considered the question of including domestic servants among those provided for in the Act of 1902. Could you tell the Committee the reason for the Government then deciding not to include them?—One of the reasons given was that they thought that ayahs and domestic servants generally were able to look after themselves pretty well.

872. Is there any reason to think that the absence of legislation has been a cause of their becoming destitute?—I do not think so.

873. It is stated in the list of precedents: "The question of proposing legislation was considered in 1908, but there was then not sufficient material." Do you know whether this consideration was given by the India Office or by the Government of India?—In 1908?

874. Yes.—By the India Office.

875. You mention that legislation was passed in India in 1902 to deal with persons engaged in spectacular performances, and the Committee has been told that similar legislation in Ceylon and the Straits Settlements has prevented this class of cases arising in those colonies. Is this true also of India?—Yes. I do not think we have had any case since 1902 of men of that kind.

876. Mr. Chowdry informed the Committee that in case of Indian students being destitute here, there was a difficulty in dealing with the cases because in many cases the students would refuse to return home even if an opportunity offered. Can you confirm his statement?—I do not know. I think we have had one or two students who have asked for assistance and have refused to go back to India.

877. You know of such cases?—I think we have had them. I would not like to say for certain.

878. Have you any suggestions to offer for dealing with those cases?—No. I do not know what we could do for such people. If we were to give assistance we

would probably encourage a great many others to come.

879. Could you inform the Committee why it is that the Secretary of State for India has it in charge to repatriate lascar seamen, and has no other similar duty with regard to other destitute persons?—I am afraid I do not know anything about the repatriation of distressed Indian seamen.

880. (*Sir Francis Fleming.*) Have you been much troubled by Indian domestic servants?—We have had very few cases.

881. (*Mr. Morison.*) You have put in a précis of precedents in the Judicial and Public Department. Is this for publication or only for the information of the Committee?—It was a précis started for the information of the Department only as cases came up. We did not intend to publish it.

882. I did not know whether it was sent in as a confidential document or not?—It is not marked "Confidential," but I think the Secretary of State for India should be consulted before it is printed.

883. It was sent with that reservation. If we want it printed you would prefer that we inquire first of the Secretary of State?—Yes, certainly.

884. (*Mr. Howel Thomas.*) Have you considered the question whether if there was a fund to repatriate these people, that would encourage them to come across?—I think the Secretary of State has always taken that view.

885. I find that the apprehension appears right throughout the précis: that if you do what the applicants want it would very likely encourage others?—I think it is quite certain.

886. (*Chairman.*) It is quite clear from your evidence that the Strangers' Home for Asiatics has been of great use to the India Office in many cases?—Yes, most certainly—of great assistance.

887. Have you any suggestions whereby the usefulness of the Home could be increased?—No, I do not know that I have.

*The witness withdrew.*

(Adjourned till Friday next at 2 o'clock.)

## SEVENTH DAY.

Friday, 29th October 1909.

### PRESENT:

Mr. OWEN PHILIPPS, M.P. (*Chairman*).

Sir FRANCIS FLEMING, K.C.M.G.  
Mr. G. S. FREY.  
Mr. HOWEL THOMAS.

Major-General F. E. A. CHAMBER, C.B., C.I.E.  
Mr. THEODORE MORISON.  
Mr. EDWARD J. HARDING (*Secretary*).

Mr. J. A. LEGGE called in and examined.

888. (*Chairman.*) You are master attendant of Colombo?—Yes.

889. You have put in a précis of your evidence?—Yes, I have submitted a short statement. I would point out that as the Colombo shipping office is under the Customs Department, administered by Mr. W. H. Jackson as principal collector, the shipping of native seamen or others does not come under my notice in any way whatever, though as Colombo is only a port of call the numbers must be comparatively few and would come under the following, viz., men who are shipped to fill vacancies caused by (a) desertion, (b) sickness, (c) men who are committed to jail for offences against the Merchant Shipping Act or the Master Attendant's Ordinance, whilst complete crews of lascars are sometimes signed on or discharged at Colombo, the arrangements for these crews to be

brought down from India and taken back being effected by the shipping companies themselves. In the case of seamen if the Board of Trade cannot repatriate them under the Merchant Shipping Act as distressed seamen, as is done with seamen who are natives of the United Kingdom stranded at any colonial or foreign port, I would suggest the Act being extended to embrace colonial seamen. I am under the impression that the Indian Merchant Shipping Act does for the Indian lascars and fireman what the English Act does for the native of the United Kingdom. As regards ordinary natives other than seamen, the only persons who have come under my notice were a band of Sinhalese performers, and the ship they left Ceylon in (believed to be a German vessel) could not be traced. Under the Ceylon Ordinance people of this character can only leave the island with difficulty after careful inquiry.

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Mr. J. A. LEGGE.

[Continued.]

In these cases (if it is not so now) it might be possible to make the shipping company legally liable to repatriate persons, who, on their departure from Ceylon, could not show reasonable certainty of being able to maintain themselves in a condition above the category of distressed persons. I cannot say at this distance, but my impression is that some such ordinance is under consideration in Ceylon. In any case the local ordinance does have a bearing, the exact purport of which I do not recall now, on this subject.

890. You mention that sometimes a lascar crew is brought down from India to be signed on at Colombo. Can you state whether if this takes place the crew invariably sign Indian articles?—Yes, they are bound to sign Indian articles; they sign, I think, the articles before they leave Bombay. I think so, but I am not sure on that point.

891. In any case there are none shipped at Colombo except on Indian articles?—Not in that particular way—lascars.

892. No lascars are ever signed on at Colombo as seamen except on the Indian articles?—My impression is that lascars are not signed on on any other articles but Indian articles.

893. Are you aware of any trouble having arisen with respect to Sinhalese seamen because of the new language test under the Merchant Shipping Act and the possible difficulty of proving that a Sinhalese is a British subject?—No; that is under the recent Act. I have no knowledge of it.

894. Have you had personal experience under the same Act of difficulties owing to uncertificated cooks getting employment?—Native cooks?

895. Yes.—No, I have had no experience.

896. You suggest that the Merchant Shipping Act should be extended so that the provisions as to distressed seamen should apply to colonial seamen stranded in the United Kingdom. The Committee has been told that the Board of Trade have to take a small vote yearly to cover the expenditure on distressed seamen under the regulations which is not recoverable from the shipowners. Do you think that the Ceylon Government would be willing to take a small vote for a similar purpose, the amount of which would be probably very small?—I am afraid I cannot speak for the Ceylon Government. I do not know whether they would be willing or not. I have no authority to speak for them, if you understand what I mean.

897. Are you of opinion that a Sinhalese seaman should not be allowed to leave the colony unless his repatriation, in the event of his being distressed, is provided for in some way?—Yes, distinctly I am. I think it should be done by the shipping master being empowered to make a clause in the ordinary ship's articles, say they are English articles, by making a clause to the effect that Ceylon seamen should be repatriated—worded in some way to that effect.

898. You think that might be grafted on to the ordinary ship's articles?—That could be done, I am sure, if it is legally possible.

899. As regards non-seamen, you mention the case of a band of Sinhalese performers who were taken off on a German vessel. Could you say when this occurred; was it after 1902?—Yes, it was after 1902. We do not know the date for certain. I do not remember the date when they left Colombo, and we could not trace the ship.

900. Was it the case that the performers went off on their own responsibility?—I am not sure about that.

901. Because Ordinance No. 5 of 1902 only provided that employers should be responsible and not the emigrants themselves. Do you know whether they had an engagement, whether the employer took them away or whether they went away on their own?—My impression is that the employer took them away.

902. Then they would come under the Ordinance of 1902?—Yes.

903. If that were so how was it the Ordinance was not enforced in that case?—It is my duty, I believe, if I remember rightly, to keep a record of every person, European or native, who leaves the island as a pas-

senger, but this had not been done by my predecessor or myself for some time until my attention was drawn to the Ordinance owing to this particular case. Since then a record has been kept. I think no record was kept at the time, and that is why we were unable to trace the ship or the employer.

904. The state of the law really did provide for it, only it had fallen into disuse?—In that particular case, yes.

905. Do you think the difficulty is satisfactorily put an end to by Ordinance 32 of 1908, which I understand has been sent to you?—Yes. That Ordinance seems to me to embrace every point.

906. That makes both the employer and the emigrant responsible?—Yes, the individual.

907. This Ordinance, however, only provides punishment for the master if he breaks the law, and does not provide for repatriation by the shipping company if their vessels take emigrants who subsequently become distressed. You suggest such a liability might be enforced by law. Do you think there are likely to be sufficient cases, looking to the increased stringency of Ordinance 32 of 1908, to justify a further amendment?—No. The cases in any case I do not think are very frequent, and I think would hardly justify any further amendment.

908. The Ordinance fairly meets that difficulty?—I think so.

909. The term "emigrant" in Ordinance 32 of 1908 is limited by definition. Have you any reason for thinking that this definition needs to be wider; for example, are there other classes of persons who ought to be but are not at present covered by its provisions?—No. It seems to me to be full enough. I can think of nobody else.

910. You think it covers all the likely or probable cases?—Yes, I do; I think it covers all.

911. (Sir Francis Fleming.) Before a native leaves Ceylon has he got to show a permit to the master of the ship in which he goes—a permit to leave?—He had not before this Ordinance.

912. But now under that Ordinance?—Under this Ordinance, I think from what I recollect, having read it, he has to, but I am not sure. By this Ordinance the responsibility is on the master of the ship. It reads in this way: "It shall not be lawful for the master of any ship to receive on board his ship any emigrant except on presentation of a pass in the form herein-before provided authorising the embarkation of such emigrant."

913. That is what I was referring to: whether the master has to be shown a pass or a permit to embark a native?—Yes.

914. Before that Ordinance was passed could a native leave Ceylon without permission?—I think so.

915. I refer now to the time previous to the passing of the Ordinance?—Previous to the passing of this Ordinance, to the best of my knowledge, he could leave Ceylon.

916. In the case you particularly refer to, in which they did leave without permission, did they leave contrary to the terms of the law as it then stood?—Not of the law as it then stood. The law as it then stood, so far as I recollect at the present moment, made us take a record of their leaving. It did not prevent them leaving.

917. But, as I understand you, they could not properly have left without some kind of permission?—I am not sure how the reading of the Ordinance is. If I remembered it correctly I could say, but I do not remember it well enough to be able to say.

918. They could not have left under the previous law without informing you they were going to leave?—They ought not to have done so.

919. That must have been under some law?—That was under one of the Ordinances of 1902.

920. And that law you say was not strictly enforced?—I did not keep a record until some time after that in my office. I should have done.

921. And that is the way in which those particular people got away?—Yes.

922. But now, under the present law, they would have to show the master a permit for them to leave

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[Continued.]

the colony?—Yes, the master of the ship becomes liable if he does not demand this pass.

923. Is there any law in Ceylon to forbid a native returning to the colony once he goes away?—None, that I know of.

924. He is not obliged to produce a certain sum of money on his return or anything of that kind?—No.

925. How is it proved that he is a native when he comes back?—No questions are asked. Anybody may land in Ceylon. I would like to add this: In a recent Ordinance—it was really levied against criminals and immoral women—there is power to examine people coming in in that way—that class of person. They can be sent back, but that has only been in force in the last three or four years, and I think is quite a recent Ordinance. It does not come under me.

926. (*Major-General Chamier*.) Natives of Ceylon, seamen, are generally shipped on European articles, are they not?—Yes.

927. Which enables them to be freely discharged in the United Kingdom?—Yes.

928. (*Mr. Howel Thomas*.) Have you any experience of Sinhalese coming back home after having been distressed in this country?—No.

929. They would not come to your notice, would they?—No, they probably would not.

930. You cannot tell from general observation whether there are many or few?—No. It has not come under my observation at all. With regard to your question, General Chamier, if a ship has a lascar crew she will have special articles for them, and if that

*The witness withdrew.*

Sir J. L. MACKAY, G.C.M.G., K.C.I.E., called in and examined.

(*Witness*.) I should mention I think that I have not seen the terms of your reference, and I do not know exactly what you are inquiring about.

934. (*Chairman*.) The full terms of the reference to the Committee are as follows: "To inquire as to the best method of relieving, repatriating, or otherwise disposing of (a) seamen belonging to India or to any Dominion or Colony; (b) Natives of India or any of the Dominions or Colonies, who may find themselves destitute or without friends in the United Kingdom." The Committee has been told by Mr. Morris, of the Strangers' Home for Asiatics, that lascars very often desert on getting to England, that they were given one month's advance of salary before leaving India, and that when they reach England money is due to them from the ship. Can you confirm that statement?—My experience is they very seldom desert; very seldom indeed. That is speaking of our own ships, the British India steamers. We have very few cases of desertion.

935. If lascars do desert and subsequently become distressed the Secretary of State for India can apparently deal with them under section 185 of the Merchant Shipping Act, 1894?—He can.

936. And recover the cost from the shipowners?—Yes.

937. Mr. Morris suggested that desertions might be discouraged if sections 221 to 224 of the Merchant Shipping Act of 1894 were extended to apply to lascars in the United Kingdom so as to apply to them the severer penalties applicable to British seamen deserting outside the United Kingdom, especially imprisonment and the loss of any wages which they earned until they returned to India?—Speaking for ourselves, we have really no experience of desertions at all practically.

938. So you would not care to express an opinion on that?—No. It really has not come before us. The question of taking measures against these unfortunate fellows, if they desert, has not come before us. If any man is not satisfied with his ship, for instance if he is not getting on with his chief engineer or his mate, as a rule we transfer him and put him into another ship. They do not desert and become destitute.

939. We had a suggestion also from Mr. Morris that copies of the sections should be printed in the vernacular and made very clear to the lascars.—I do not think it is at all necessary.

940. The Committee has been informed that in the case of Eurasians the Secretary of State for India

ship takes on a Ceylon seaman he goes on native articles, but he is not bound to be repatriated to Ceylon at all; only to India.

931. (*Chairman*.) If the ordinary practice is for one seaman, or very few, to be signed on at Colombo to fill vacancies, would it be possible to open separate articles if they were natives of the colony, for them to sign similar to the lascar articles?—If the demand was sufficient and it was legalised it would be so, but I think merely entering a clause would get over the difficulty, because there cannot be very many who do ship as seamen in that sort of way.

(*Chairman*.) I will ask the secretary to read out to the Committee what the definition of "Emigrant" in Ordinance 32 of 1908 is.

(*The Secretary*.) The definition of "Emigrant" is: "Emigrant" shall mean a person who, being a native of the island, or for the time being resident in the island, shall emigrate or be engaged for the purpose of being employed in any exhibition, or in any theatrical, musical, or spectacular performance, or as a servant in any other business, at any place beyond the limits of the island."

932. (*Mr. Howel Thomas*.) Do I understand that it is only those people described in that definition who require passes?—I do not know of any others.

933. No private people would have to have one; people who were travelling, for instance?—No; rich natives, jewellers, and that class of people it does not apply to; it is not intended to apply to anybody but people likely to become destitute.

exercises the power conferred on him by section 185 of the Merchant Shipping Act, 1894, but makes no claim against the shipowners on the ground that if such claim were made it would be necessary to apply to Eurasians the provisions of the Indian Merchant Shipping Act, which would require them to be signed on under Indian and not European articles.—That is so.

941. Are you aware of any case of distress among Eurasians who are seamen, as against lascars?—We never have any Eurasian seamen.

942. You have not come across any?—No, I am afraid they are no good as seamen.

943. So you do not think it is of importance to extend the Indian Merchant Shipping Act to cover these cases and insist on Eurasians signing native articles?—I think they would probably object very much to signing native articles. They like to be treated, of course, as Europeans. I should say that is the case, Mr. Morison?

(*Mr. Morison*.) Yes, that is so.

944. (*Chairman*.) You would agree with the view which, the Committee understand, is held by the Government of India, that to do this might result in cutting off an avenue of employment to a large number of Eurasians or some Eurasians?—The only cases where Eurasians are employed on board ship, as far as I know, are occasionally in the engine room. There are very few Eurasians employed as deck hands. Of course they would not get on well with the natives. They would not care to take orders from the serang, who is really the boatswain of the ship.

945. It has been suggested to the Committee that desertion amongst lascars is sometimes due to ill-treatment by the serangs. We should be glad of your opinion as to whether there is likely to be any considerable truth in this suggestion?—I think sometimes the serang is inclined to bully them, and they feel it. A man may be lazy and will not do as the serang tells him, and he gets bullied a bit in consequence by the serang and he may desert. In our ships we should make a transfer in such a case, and put him with another serang, where he probably would get on all right. You cannot help it. You are bound to have it, the same as you have occasionally in European crews, where you find the boatswain bullying one man who may be a bit of a loafer, and probably forcing him to desert at the

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[Continued.]

end of the passage. You cannot change human nature in that respect.

946. I was asking about eastern shipping generally. The Committee has been told that there is a certain number of lascars who do manage to sign on European articles of agreement, but they have not yet been told how these cases happen. Are you aware of any such cases, and can you tell the Committee how they come to be permitted?—I suppose you might find a lascar signing on in this country passing himself off as a European. He certainly could not sign on in India; he could not sign British articles in India. He must sign native articles. The shipping master would not sign him on. If you have a lascar at home here who has probably become a semi-European, he may pass himself off as a European and sign as an English sailor, but he could not do it in India.

947. As to seamen from Crown colonies you refer in your letter\* to section 184 of the Merchant Shipping Act?—Yes.

948. As the section under which shipowners can be fined for leaving a native in the United Kingdom destitute?—Mind you, my opinion on this subject is really of very little value to you, because I do not know anything about it except what I have always understood has been the case. Practically, we never sign on any natives in Crown colonies in our own ships.

949. The Committee has been told that this section has been allowed to fall into disuse.—That may be the case. I cannot speak with any knowledge or assurance on that point.

950. It has also been suggested that the section does not apply because it is limited to seamen in countries that might have a consul in England, but do not.—Limited to foreign seamen?

951. Seamen of foreign countries.—It seems to me with regard to any difficulty there may be about repatriating the men who sign on in Hong Kong or Singapore, or in the Straits Settlements, or even in Ceylon, that the arrangement which works very well for India might be applied to these colonies. It is quite right that Asiatics who find themselves adrift in this country should be repatriated by the ship that brings them here. That is my opinion. The owners have all the advantages of signing these men on; they sign them on for the advantage of the ship, and I think it is quite right if they bring them away from home, natives of other parts of the world who are not at home in a European country, that they should be repatriated by the ship that lands them here just in the same way as lascars are repatriated now by the ships which bring them from India.

952. Do you think that in the case of a ship which has only to take one or two men, to avoid having a special agreement, there might be some arrangement for the master to give a special undertaking to repatriate those one or two men?—There is no reason why it should not be entered on the articles when these men sign on, an endorsement by the shipping master in the Crown Colony that in the event of these men being stranded in any foreign country outside their home or where they have shipped on, they have to be repatriated at the ship's expense. That would cover everything, and unless they came under that agreement he could decline to allow them to be signed on at all.

953. Do you see any objection to the extension of the Board of Trade Distressed Seamen Regulations to cover the case of a colonial seaman who becomes distressed in the United Kingdom?—You are speaking of white men?

954. Yes. I meant the regulations that now apply to white men. I was not limiting my remarks to India.—I do not quite follow you.

955. Do you see any objection to the extension of the Board of Trade Distressed Seamen Regulations to cover the case of colonial seamen who become distressed in the United Kingdom?—Are you speaking of colonial dark seamen, coloured seamen?

956. I am speaking of both at the moment.—Coloured as well as white?

957. Yes. If a seaman became distressed?—Shipped where?

958. Shipped at any of our colonies.—Where? Name one.

959. Say, Barbadoes.—A white man or a black man?

960. I meant either. Say Canada or Australia.—Yes. That is what I was trying to get at. That is, if a seaman is shipped in Australia and discharged in this country and becomes destitute, should he be repatriated to Australia at the expense of the shipowner?

961. Yes.—Or should he be sent back as a distressed seaman?

962. By the Board of Trade. Should he be sent back as a distressed seaman to Australia?—Would you get Australia to take him in? I think you will find a difficulty about it. I do not know whether it is desirable or whether it is wise to make that change. These rules are introduced by the Board of Trade in order to let seamen who have been cast adrift, say, out in Odessa, or in Genoa, or perhaps in Calcutta or Hong Kong, be brought home to their own country in order that they may find employment again. There is no reason why an Australian should be sent back to Australia to get employment. He can get employment in this country to take him back to Australia, whereas it is extremely difficult for a British seaman stranded in Odessa to find a ship to take him, because ships have all full crews. I do not think it is necessary. There would be no difficulty whatever if a sailor got stranded here and discharged from his ship in his getting back to Australia. There are a number of ships sailing every week for Australia, and he can easily get employment if he wants to go back there. I think you have also this difficulty. If you send a man to Australia who is distressed, will the Australian people take him in? If he is no good in Australia they will not have him, and it will be very difficult to prove he is a native of Australia although he happened to have shipped there. He may have been shipped in Timbuctoo, and the Australian people would say, "We do not want him." If we land a distressed seaman in Australia we are responsible for him. He may be put into a hospital, he is well treated, he is cured, and the whole of the hospital bill is charged against the ship, and the ship has got to provide him with a passage back to the country he came from.

963. In your opinion the same should not be applied conversely to a man who is shipped in the colonies and becomes destitute here?—I do not think it is at all necessary.

964. I am talking of the ones that become destitute; if they become quite destitute?—Because they are shipped in Australia, you mean?

965. Yes.—Have you ever had a case?

966. I am not giving evidence.—I beg your pardon. What I meant was that I have never heard of a case of a man who was destitute who could not find his way back to Australia. It may be there are cases.

967. In any case, from the point of view of the shipowner, is it likely, in your opinion, that he would object to become charged with further obligations towards colonial seamen in the way suggested?—I do not think he would be likely to object. I certainly do not think he ought to object to take an Asiatic back to his home, but I do not think it is necessary to send a white man out of this country back to Australia.

968. Do you think it is likely that the system of Indian articles if introduced would be likely to arouse resentment in any colony which you know; for instance, Ceylon?—No, I do not think so. I do not think it would be necessary to have similar articles. I think you can get all you want by means of an endorsement.

969. (Mr. Howel Thomas.) When you refer to seamen do you include stewards?—You are speaking of natives?

970. Yes.—Yes.

971. You have had no difficulty as regards native stewards?—No, no difficulty.

972. Do not stewards become distressed in this country?—If they get out of a ship we send them back. A native steward if he gets out of a ship is sent back again.

\* See letter from Sir J. Mackay printed as Appendix II. 5.

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SIR BICKHAM SWEET-ESCOTT, K.C.M.G.

[Continued.]

SIR BICKHAM SWEET-ESCOTT, K.C.M.G., called in and examined.

973. (Chairman.) You are Governor of the Leeward Islands?—Yes.

974. You have submitted a précis of the evidence you wish to give?—Yes, I have. I have read the minutes of evidence taken before the Committee on the 16th, 23rd, and 29th July, and the 8th and 15th of October last, and it has occurred to me that it might facilitate my examination if I presented a short statement on the different points on which my evidence might be useful. Leeward Islands Act No. 2 of 1878, entitled "An Act for the relief of Colonial Seamen found in distress" particularly provides for distressed colonial seamen on colonial ships, that is ships registered in the colony, whether they are distressed in the United Kingdom or in foreign countries, and the expenses connected with their relief may be refunded by the Governor of the colony by warrant under his hand, and charged against the funds of the presidency to which the distressed seaman belongs. All claims for relief are subject to regulations and conditions to be made by the Governor, and the relief includes repatriation to the colony. So far as my experience goes, there have been no cases of destitution in the United Kingdom of natives of the Leeward Islands, whether seamen or not, nor can I recollect any cases of destitution in the other colonies in which I have served. But I remember when I was in Mauritius several cases of persons arriving in the colony becoming destitute and being subsequently shipped away at the expense of private individuals. Seamen were in all cases referred to the Superintendent of Mercantile Marine, who dealt with them under the Merchant Shipping Act. Leeward Islands Act No. 9 of 1891, section 4, which has been amended by Act No. 6 of 1898, is entitled "An Act to restrict the introduction of immigrant paupers likely to become chargeable to the colony of Leeward Islands or any presidency thereof." By that Act immigrant paupers who are not natives of the colony, or rescued from vessels, were not allowed to land except they gave a bond to repay to the Treasury within a year all pauper charges, or were able to deposit 10l. to be applied for the payment of pauper charges. Vessels are subject to a maritime lien of 50l. if pauper immigrants are landed contrary to the provisions of the Act, and a penalty not exceeding 50l. may be imposed on masters of ships for allowing the landing of pauper immigrants. I can recollect no instance of the colony of the Leeward Islands or any of the presidencies being required to pay for the repatriation from the United Kingdom of natives of the colony, and I think objection would be taken to the repatriation of persons supposed to be born in the Colony, who might have become destitute in the United Kingdom, unless it was ascertained first that they were actually natives of the presidency in which they stated they had been born. I do not think that it would be desirable to make any definite arrangements with the mother country with regard to the disposal of destitute persons found within its borders, and I should much prefer that each case should be dealt with on its merits. At the present time seamen from colonial ships may be relieved and repatriated at the expense of the colony, and I fear that if it was made generally known that any person who went abroad from the colony to improve his position and who became destitute instead, might be repatriated at the expense of the Government, there would be a tendency at all events for the number of such cases to increase. I can see no objection to the adoption of the suggestion that the fullest particulars should be given in seamen's discharge books, so as to assist identification, and I think it might be useful if notices were issued in the West Indian colonies, warning people of the difficulty of obtaining work in the United Kingdom, though so far as the Leeward Islands are concerned, such notices would probably not be read by many persons. It would, I think, be unwise to impose any special restrictions on emigrants from the Leeward Islands who may be able to pay their passages elsewhere or who may ship as seamen, and I

believe that cases occur very seldom of employers taking domestic servants out of the colony. In the United States of America, no immigrants are allowed to land unless they can produce 20 dollars. I suggest that similar legislation in the United Kingdom might possibly tend to reduce the number of cases of persons who have emigrated from the colonies in the hope of improving their position and have become destitute.

975. Law No. 2 of 1878, to which you refer, applies only to seamen in colonially registered ships?—Quite so.

976. So that in the case of the Leeward Islands it would apply to very few natives?—Yes, very few.

977. Do you know of any cases dealt with under that Act?—I cannot recall any cases at the present time.

978. Would you kindly explain to the Committee how the cases of destitution in Mauritius, to which you refer, arise, I mean cases other than those of seamen?—I have in view cases of men who were shipped as grooms on board ship bringing horses from Australia to Mauritius and who were left subsequently stranded in Mauritius. Generally those men used to come to the Colonial Secretary's office, and steps were taken, sometimes by private subscription or otherwise, to get them shipped off. In the case of all seamen they were referred to the Superintendent of Mercantile Marine, or rather, the officer called the deputy, because the Superintendent is the Harbour Master, and the deputy is the man who actually deals with the case, and he used to deal with those. We have had no trouble with the seamen. It is other persons who come on board ship who give the trouble, and they used to be shipped off to different places, and as far as I can recall now—it is over 18 years ago since any case occurred to my knowledge—it was generally by private subscription. I have subscribed myself very many times to get people out of Mauritius. I think Sir Francis Fleming probably knows a good many cases too.

979. Have you had in the Leeward Islands any instances of the converse problem, namely, the repatriation of natives of other colonies, or of poor whites?—No, I cannot recollect any cases at all during the three years I have been out there.

980. If there were cases like that would the Colonial Government pay, or would it be a matter such as you mention of getting a private subscription?—I do not think we should come to the Colonial Government.

981. In the case of persons repatriated to the colony, the latter, under Act 6 of 1892, might certainly raise difficulty on the ground that the persons repatriated were likely to become destitute on arrival, or that there was a doubt as to their place of birth. You have had no experience of these cases?—We have had one or two cases that I can recall of persons who have been left stranded in, I think, some of the Danish Islands. I am not very sure—I should have to refer to the papers to look up these cases—but in one or two cases that I remember I think that before these persons were brought back again to one of the presidencies included in the colony, inquiry was made as to whether the person had any relative who was able to bear the cost of such transport, and I think that in one case the answer was in the affirmative, and the person was sent back on the understanding that the cost of bringing that person back was borne by his relations in the presidency. We have had no cases of distress, I think, as regards Panama. In the Leeward Islands the persons who have left the island or the colony to go to Panama have generally earned sufficient money to come back again.

982. They have done very well at Panama?—Yes, they earn very high wages there.

983. You have read of the suggestion made to the Committee that there might be a convention between the mother country and the colonies, whereby each would be charged with disposing of destitute persons found within its borders?—I would much rather that each case was dealt with on its own merits. As regards the Leeward Islands we have so very few of them.

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[Continued.]

984. And your reason for that is?—I do not think any hardship would be entailed by it, and I am a little bit afraid that if it were made known publicly that there are facilities for persons being returned to the colony in the case of their going away to make their fortunes, and, failing to make their fortunes, there would certainly be less efforts on their own parts to provide the wherewithal to return in the case of emergency. I think it might encourage unnecessary emigration.

985. Do you think in actual practice, seeing how very slowly information spreads amongst these people, that that would be the case?—I think people would know that very quickly. My impression is that the negro picks up any information very quickly which is to his advantage, and that is distinctly to his advantage. To his disadvantage, no, he does not pick it up. I am not sure whether the Committee are aware of it, but we have a law which was passed shortly after I arrived in the colony in 1906 which restricted emigration from the Leeward Islands. It restricted it in this sense that nobody was allowed to recruit labourers for work outside the colony unless such person received a licence under the hand of the Governor. That was in order to secure protection for the person who was being recruited. The Governor obviously would not grant a licence to any person to recruit, unless he was satisfied that the conditions under which the man was going to work were such as would be fair and right for natives of the colony; that the wages would be properly paid, and so on. That has been looked upon to a certain extent as a restriction on emigration from the island. Of course, it does not interfere in any way with emigration from the island of persons who can pay their own passage. Of course, it is only a restriction on persons coming to the Leeward Islands to recruit for labourers, and getting labourers possibly under false pretences and taking them away to another island.

986. Do you think the Government of the Leeward Islands would be ready to repay expenditure incurred by boards of guardians in repatriating destitute island natives if any such cases arose in the future?—They would not be willing to pay. We could force them to pay because I have a majority, but it would be opposed by all the unofficial members.

987. I said the Government. I am of course aware that it is a Crown colony?—There is a distinction. If it were considered a right and proper thing to do we could carry a vote, but it would be opposed by every unofficial member, and we are just divided, eight for and eight against, so I should have to give my casting vote.

988. You realise of course that the practice of referring each case to the colony would result in an increased expenditure during the interval. You think the cases would be so few that the sum involved would not be appreciable?—I think not. To whom would be the increase of charge?

989. Whoever was responsible.—Ultimately?

990. Yes. I meant while the case was being inquired into; it is very expensive telegraphing.—Yes. Would they not be kept here by some responsible body? I think the workhouse has been mentioned, but the charge once paid by the workhouse would not be refunded, would it? I was a little bit wondering what has been the intention. During the time that such a person who was supposed to be a native of the Leeward Islands was being detained in this country pending inquiry, upon whom would the expense of his keep fall; on the workhouse in the first place?

991. On the board of guardians—If it was decided that he was to be repatriated, would the colony have to refund to the board of guardians the cost of his keep during the time?

992. That is one of the questions we are considering. Various suggestions have been made to the Committee with the object either of preventing the occurrence of cases of distress amongst colonials in the United Kingdom, or of creating machinery to deal with them when they arise. It has been suggested, as regards seamen, that natives of the Crown colonies

should be made to sign articles of agreement whereby the shipowner would be charged with the duty of repatriating them, whether in distress or not; and whereby they could not be discharged outside their own colony without the consent of some responsible authority. This would be similar to the lascar articles of agreement, but it would no doubt involve decreased wages. How would you view this suggestion from the point of view of the West Indies?—From the point of view of the Leeward Islands colony, I should think that is an excellent suggestion. I cannot think anybody is justified in taking away our labourers and shipping them as seamen to a port, and disposing of them so that they are dumped down and become a burden, very likely upon the taxpayer in this country. I think the shipowner or the master of the ship, or if may be, the Board of Trade in the last resort, should be held responsible.

993. Another suggestion has been that power should be given to the Secretary of State for the Colonies similar to that conferred on the Secretary of State for India by section 135 of the Merchant Shipping Act of 1894 to repatriate seamen from the colonies in distress, the cost when possible to be recovered from the shipowner. Would you be in favour of that?—I should not be in favour of that unless the cost was borne in the first instance by the shipowner. I do not want it to be charged to what I may call an advance account, and then in the last resort for the colony to have to pay. It should be paid at once by the shipowner.

994. Or, thirdly, it has been suggested that the Distressed Seamen Regulations applicable now to British, including colonial, seamen at ports abroad and in the colonies, should be extended to colonial seamen in distress in the United Kingdom. Do you think this suggestion preferable to the last one?—No, I do not think so. I prefer the former one.

995. The Committee have been told that the Board of Trade while recovering to a large extent the amount spent under the Distressed Seamen Regulations from the shipowner, have to take a vote for about 3,000*l.* out of 21,000*l.* In the event of the last suggestion being adopted would you be favourable to taking a small vote in the colony for the unrecovered cost of repatriating distressed Leeward Islands seamen; it would be about the proportion of 3 to 21?—I quite understand. I think the burden should fall upon the shipowner.

996. It is found that sometimes seamen's discharge books give faulty descriptions of the men, and very often the men have no papers. Do you think it would be possible to institute in the West Indies some sort of identification papers when the men first sign on, in addition to those particulars given in their discharge books. This suggestion if carried out would perhaps remove the difficulty as to ascertaining the colony from which they come?—As regards the Leeward Islands it is very difficult to say what form of identification could be adopted. As regards the emigration of coolies from India they adopt the system of photographs; each man is photographed, so that when he comes to present ultimately his savings bank book to the Treasury, the first thing the clerk asks for is his book showing the photograph. If something of that sort could be adopted as regards the signing on of natives or colonial seamen it would be a very good thing, because it would save all inquiries on this side in the case of the seamen becoming destitute. I do not attach much importance to it, because speaking only from the Leeward Islands point of view, there is not much difficulty in discovering whether a man is or is not a native of the colony. We have very little difficulty in doing it. The population is not so large as all that.

997. As regards non-seamen you state that you see no objection to the issue of notices in the colonies similar to those issued by the Emigrants' Information Office in the United Kingdom giving warning of the difficulty of finding work in the United Kingdom. But you do not think it would be of much practical use in the West Indies?—That is one of the cases in which the negro would take very little notice of it. There is not much to his advantage in that



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[Continued.]

notice and nothing would be known about that notice. It is only in cases where it is obviously to his advantage that it gets noised abroad, and he would be very careful to make himself acquainted with the terms. There is no harm in it, but I do not think there is much good. With regard to the Leeward Islands there are very few of the coloured natives of the Leeward Islands who come to the United Kingdom seeking their fortunes, so that it is hardly worth the trouble.

998. As regards a particular class, namely, that of domestic servants; you think it would be unwise that legislation should be passed forbidding employers to engage persons outside the colony except under restrictions?—Yes, I think so.

999. Would you explain your reasons for so thinking?—I do not think that in the case of the West Indies it would be a good thing to restrict the liberty of the subject in that way. You may be able to do it in India, or in Asiatic colonies, but I think not in the West Indies. I think there might be some safeguard made with regard to the stranding of these domestic labourers if taken away by ordinary employers. I mean that if, for example, I were to take home a butler from Antigua to England, I think that in the event of my no longer employing him in England I ought to be compelled to ship him again to Antigua, and not let the cost of his maintenance fall on the rates in England, and I see no reason why some agreement of that sort should not be made compulsory by law. It would be a little bit difficult to enforce because if a man takes away a servant from Antigua on board ship with him, and pays him so much wages, very likely there is no agreement entered into before any responsible authority, any protector, we will say, of native labour in the presidency or colony. It would no doubt be a good thing if you could lay down some rule of general application. You would not have to enforce it very often out in the Leeward Islands.

1000. They have a form in use in Ceylon, a form of document under the Ordinance, which says, "whereas I, \_\_\_\_\_, of \_\_\_\_\_, have engaged \_\_\_\_\_, of \_\_\_\_\_, and \_\_\_\_\_, of \_\_\_\_\_, to serve me as domestic servants in \_\_\_\_\_, for the period of \_\_\_\_\_ years, beginning from the \_\_\_\_\_ day of \_\_\_\_\_, 190\_\_\_\_, and I am about to ship them in the ship \_\_\_\_\_ for the Port of \_\_\_\_\_; I do hereby solemnly, sincerely, and truly declare that the said \_\_\_\_\_ and \_\_\_\_\_ are *bonâ fide* required by me for service as domestic servants, and that I will employ them as such and in no other capacity, and will, on the expiration of their term of service or other determination of such service, return them at my own cost and charges to this Port." You think something of that sort could be done?—There would be no harm.

1001. But it is not practically wanted in your colony?—Not at the present time. What I rather mean is this. There would be no objection on the part of the colony, I should think, to the acceptance of some such arrangement as that if it were thought necessary to be of general application. If as the result of the labours of the Committee a general rule of that kind is thought desirable I cannot see how any colony or presidency could resent it.

1002. So far as non-seamen are concerned, if a special fund were provided to help in repatriating persons who become distressed, you think the effect would be to attract natives in larger numbers to the United Kingdom in the knowledge that if they got stranded something would be done to help them?—I think there would be a tendency, but as I have already stated, there are very few who are likely to be attracted in any case.

1003. It was suggested to the Committee that the workhouse test was really the only one applicable to distressed colonials, that if they were willing to go to the workhouse while enquiries were being made as to the possibility of repatriating them it might be taken that their cases deserve consideration, and their cases only. Would you endorse this from your knowledge of the average West Indian?—I have no special knowledge to enable me to say that. I should think he would be quite content to enter a workhouse and be fed, and not to have much work to do.

1004. (*Sir Francis Fleming.*) Do you think that the system that you have referred to in Mauritius of distressed people being sent away merely by means of voluntary contributions is a satisfactory one?—Quite unsound.

1005. Are you prepared to suggest any other means by which it could be done?—No I think not; it is a very wide question, and I think the Committee would be better able to make a proposal after hearing the different evidence than that I should make a suggestion. I should not like to venture to make a suggestion of general application.

1006. May it not be in some instances that a distressed Englishman, or a distressed colonial might have to remain a considerable time before contributions sufficient to send him away were collected?—In my recollection I do not think they were kept there very long. I do not remember any instances of men remaining for what we may call an indefinite period in the colony waiting to be sent away.

1007. During the time they do remain in the colony they have to be kept by voluntary contributions and they are sent away besides at the cost of similar contributions?—A great many of them, even though they were not seamen.

1008. I am referring more to those who were not seamen.—Even those who were not seamen used to be taken on to the Merchant Seamen's Home. There is an institution in Port Louis, and I think they were taken in there notwithstanding that they were not seamen.

1009. As regards distressed West Indians who may be in this country, say, from the Leeward Islands, is it not rather hard upon the British funds that they should have to be kept here in the workhouse and sent back at the cost of England?—It depends how one looks at the point. I am not so sure I do think it is very hard. It depends on the point of view of the taxpayer. We have in the colonies so many instances of these people ourselves. If we go into one of the poorhouses we do not find them all natives of the colony, but natives of other places.

1010. You are talking of the colony?—Yes.

1011. I am referring to distressed colonials being kept a certain time in the workhouse in England and then being repatriated at somebody's cost?—Yes, quite so.

1012. Do not you think it is rather hard on England that England should have to bear the cost of the native while he is in the workhouse here, and also the cost of his being sent back to his colony?—I look upon it rather as a reciprocal arrangement. We in the colonies very often have to keep persons who are in destitute circumstances, and to send them back again to somewhere or other. Now the cases as regards the Leeward Islands occur very seldom. I do not think the Committee probably have had brought before them many instances of destitute natives of the Leeward Islands who have been a cause of expense, but I can recall instances of Englishmen and natives of other colonies, who have been a serious expense to us out in the Leeward Islands. It may be hard, but it is like everything else; it tells both ways.

1013. I am coming to the other way in a moment. Have you not heard of a native of St. Kitts who lately came to England and became more or less distressed?—There was a case in 1897 I see from the evidence, but that is the only case I am aware of.

1014. I think it was last year.—The case referred to in the evidence?

1015. No, the case of a St. Kitts barrister?—That I have never heard of.

1016. There was a case of a St. Kitts barrister who appeared before the board of guardians at Kensington somewhere about a year ago and his wife was sent to a lunatic asylum. Is it not rather hard upon England that such a case should exist, that a native of St. Kitts should come here with his wife, and that his wife should be sent to an asylum at the cost of this country?—Yes, I think it is rather hard.

1017. Can you suggest anything that could be done to avoid that hardship?—No, I think each case must





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be treated on its own merits. I cannot help thinking that if that case had been reported to me I should have been able to make some arrangement by which the cost of his maintenance in England would have been refunded. If he was a barrister he must have been a man of some kind of position. Can you give me the name?

1018. I cannot mention the name at the present moment, but that case will be sent to Mr. Harding, and you can get the particulars from him.—It has never been reported to me. The Colonial Office has never sent out anything to me on the subject, and generally we are informed at once. I cannot help thinking that if the case had been brought to my notice this man must have had some relations who would have been able to have refunded the cost. Undoubtedly it would be a good thing if there could be an arrangement whereby the cost would not fall upon the British taxpayer in such a case, but would fall upon somebody else.

1019. Do you think in a case of that kind that if no general agreement were entered into the colony would be willing to repay reasonable expenses that had been incurred by the English taxpayer, or by the parish?—I think so; they are very reasonable if the cases are properly put, and if it is at all a strong case I do not think there would be any difficulty in getting a refund of what I might call reasonable out-of-pocket expenses. We should then no doubt try and recover those expenses from the relations, parents, or whoever they might be, of the person on whose behalf the money has been expended.

1020. Now coming to the colony itself; when a distressed Englishman is found in the Leeward Islands, how would you send him away?—I have no case before me at the present time of an Englishman in distress who had to be repatriated.

1021. To England you mean?—No. I have had no case during the three years I have been there.

1022. Have you had a case in which a native of some other colony has been sent back to that colony at somebody's expense?—We had one case of a seaman I think.

1023. Seamen are more or less provided for. I would prefer the case of some distressed Englishman or native of a British colony, who found himself distressed in your colony. If he were sent back, upon whom would the expense of his being sent back fall?—This is a hypothetical case because I am not speaking from knowledge, but in the event of a man having to be brought back, we will say to Antigua, from Barbados, if it became necessary for him to be brought back—

1024. I am putting it the other way. Supposing a distressed Barbadian were to find himself distressed in Antigua and he was to be sent back to Barbados, upon whom would the cost of sending him back fall?—We should try and ascertain before he was sent back.

1025. Then you would keep him pending enquiry?—Very likely.

1026. Upon whom would fall the cost of keeping him?—Public funds in such a case as that if he were a native. Probably he would be sent up to the poorhouse. If he is in distress it seems rather to show he is unfit to work, otherwise he would not be in distress, and if he was in distress he would be on the streets, and if he was on the streets he would be sent to the poorhouse. He would be kept at the colony's expense until we had made enquiries whether there were any people to receive him in Barbados.

1027. Would you endeavour to recover the expense when he was sent back?—I think we should if he had

people in Barbados able to pay. We certainly should not apply to the Barbadian Government for the money.

1028. Do not you think it might be desirable if some agreement was entered into between the Leeward Islands colony and other colonies to the effect that if a person was sent back under those circumstances the colony to which he was sent back would pay the necessary expenses on his part?—No, I think it would encourage promiscuous departure from the island. Directly it was reported that there was no work in one island, and there was in another, you would have people in the island where there was no work leaving for the island where there was, and they would have to be kept there at the expense of the island to which they came in the event of their not getting employment. We do not want to encourage emigration from our islands. I am talking, of course, all this time from the point of view of the Leeward Islands. We do not want to encourage emigration from Antigua. There is a shortage of labour there, and in Dominica, and in Montserrat, and, I believe, in St. Kitts.

1029. Is not that caused by emigration to the Panama Canal?—It is.

1030. Those who go to work at the Panama Canal do perfectly well?—Very well.

1031. They send money back to their friends in the West Indies?—They do.

1032. They are not allowed to leave the Leeward Islands without a certificate from the Governor, are they?—Yes, they are free subjects. There is no question of their having to give a bond, or get any kind of permit from the Governor, the Governor does not interfere. All I was referring to previously was the case of a recruiting agent not being allowed to take unlimited labour without having a licence from the Governor.

1033. Is there any recruiting agency in the Leeward Islands?—I do not think so.

1034. The men go of their own accord?—Yes.

1035. And they are not obliged to get any kind of certificate before they leave?—None at all.

1036. (Mr. Howel Thomas.) It is possible that a suggestion will be made to us by a subsequent witness that a home for distressed West Indians should be established in London very much on the lines of the Home for Asiatics?—Yes.

1037. There are several subventions made to the Home for Asiatics; would the government of the Leeward Islands, and the other governments in the West Indies, be likely to assist a Home for West Indians?—I should be very glad to support any proposal for a small annual vote to such an institution as far as the Leeward Islands is concerned. I cannot speak for the other colonies.

1038. (Chairman.) It would be necessary to make a special branch of the Home for the West Indian natives. At present the home is entirely for East Indians?—Yes.

1039. Would you subscribe to the Strangers' Home for Asiatics?—No. If it was an entirely separate home, that is what I understood.

1040. Would it meet your view if there was simply a division of, or an addition to, the Strangers' Home for Asiatics, because there are comparatively few West Indian cases?—Yes, I think that would be the same.

1041. It would reduce the expense?—Quite so. I think the colony would not be unwilling to contribute some small annual sum. It would not be a large sum, but a small sum, and I think they would be glad to contribute and I should be very glad indeed to put it before the colony.

*The witness withdrew.*

(Adjourned till Friday the 5th proximo, at 2 o'clock.)

## EIGHTH DAY.

Friday, 5th November 1909.

## PRESENT:

Mr. OWEN PHILIPPS, M.P. (*Chairman*).

SL. FRANCIS FLEMING, K.C.M.G.  
Mr. G. S. FRY.  
Mr. HOWEL THOMAS.

Admiral W. F. S. MANN.  
Major-General F. E. A. CHAMBER, C.B., C.I.E.  
Mr. EDWARD J. HARDING (*Secretary*).

Captain R. MUIRHEAD COLLINS, C.M.G., Representative of the Commonwealth of Australia, called in and examined.

1042. (*Chairman*.) You have sent a letter to the Committee?—Yes. In that letter I state: "With regard to your questions, I beg to state as follows: (1) The cases of distress which come before me are almost, without exception, the cases of seamen. (2) The causes generally are that these seamen have been engaged in Australia for the voyage home, and in many cases they have been led to believe that they would have no difficulty in getting a passage back to Australia. On arrival here they are discharged, and they find, when they wish to engage to work their passages back to Australia, that almost all the companies, naturally, only wish to engage people who will ship for the round voyage, that is, out and back. (3) At present I have no means of relieving these cases, but I have sometimes managed, through personal influence, to get them passages, and I have generally done so through the help of the Sailors' Home, Well Street and Dock Street, London Docks, E. (4) I am not prepared at present with any particular recommendations without further consideration of the matter."

1043. You state in your letter to the Committee that the cases of distress which come before you are almost always those of seamen. Can you give the Committee any estimate of the number of cases which come before you every year—before your office, I mean?—I should think some 20 or 30 Australian seamen.

1044. Could you say what class of seamen, whether they are A.B.'s, or stokers, or trimmers?—I should think they are about half seamen and firemen, mixed.

1045. About half seamen and half firemen?—Yes.

1046. Do you know whether they are from any particular State principally?—No. I should think more frequently they are from New South Wales, because of that being the chief point of departure of the steamers.

1047. Do you ever come across cases of distress amongst officers from merchant ships?—No.

1048. You mention that the cause of distress generally is that the men have been signed on for the single voyage from Australia. Is this signing on frequent, and is it on tramp steamers, as a rule, or on the steamers of the regular lines?—I think it is both on tramp steamers and steamers of regular lines. I do not know that I have had more cases from tramps; I should not think I have. It generally, I suppose, arises from discharges that take place in Australia. They ship men for the voyage only to England. I do not say the shipping people do it, but representations are often made to the men that they will find it easy to get a passage back. When they get to London they find it is not at all easy to get a passage back, because directly they say they are Australians they are told, "We do not want you, because you will want to leave when you get to Australia; we want people for the round voyage." I pointed this out to Mr. Deakin some years ago, and in January 1908 he issued a notice in Australia to warn seamen against representations made that they would find it easy when they shipped under these conditions to London to ship back again. This notice was published in the Press, but I do not know whether it was put up in the offices, say, of the Registered Seamen's Union. The Registered Seamen's Union would embrace most of the seamen

and the firemen. If such a notice were in that office it would have a very efficacious effect.

1049. It would have more effect than if it were just put in the Press?—Yes.

1050. Because sailors do not see newspapers so much?—Yes, that is so.

1051. Occasional desertion in Australid is with the prospect of men getting higher wages in the Dominion, or settling in the Dominion?—I should say so.

1052. Of course it would be the higher wages in Australia, and the ships being owned in England, that would naturally lead to the English owners wishing them to sign on here instead of for a round voyage from the other side?—Yes.

1053. Could you say whether in these isolated cases there should be an agreement on the part of the master to repatriate men when they first sign the articles—that is, in Australia?—Yes, I think there ought to be some provision of that kind. I believe there used to be some action taken in India; I do not think it exists nowadays, but I believe in Calcutta the Board of Trade or some such authority there would not allow these stranded seamen to remain. They shipped them back by the steamers.

1054. To England?—To England.

1055. We have information before the Committee with regard to the Board of Trade regulations. They have been suggested by previous witnesses for seamen from Crown Colonies, but might not be applicable to seamen from the Commonwealth. It has been suggested by previous witnesses that there should be a rule obliging a master signing on occasional additional hands at the Crown Colonies, in the event of their being discharged here, to take them out again, to be obliged to repatriate them; and previous witnesses have mentioned that while that might be suitable for the Crown Colonies it would not be suitable for the Commonwealth?—I see no reason in the case of well-conducted men. We certainly do not want to have our well-conducted seamen stranded here.

1056. Are there any cases of seamen signing on in the Commonwealth for a round voyage?—I cannot say definitely. Of course those would not come under my notice, and I should not know.

1057. You say you have no means of relieving the cases that do become stranded; you have no fund at your disposal for helping them?—No.

1058. So that any help must be either by the shipping companies or of a private character?—Yes, by private agencies.

1059. If such help is given, are you aware whether any difficulty arises as to the entry of distressed people into the Commonwealth?—No.

1060. There would be no difficulty under that head?—No; that is, of course, assuming they were people of Australia to start with.

1061. Because the Commonwealth Immigration Act does not appear to exempt Australians by birth, and persons who are likely to become a public charge are prohibited immigrants under the Act?—I do not think there would be any restriction upon an Australian seaman whose domicile is in Australia returning to Australia.

1062. In actual practice you do not think there would be any difficulty?—No, not in actual practice.

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[Continued.]

1063. Could you tell the Committee whether you have now any recommendations to make for dealing with the problem, or whether you are aware if the Commonwealth Government has considered the matter?—I am not aware that the Commonwealth Government has considered the matter. Mr. Deakin, however, sent me a cablegram recently, which I passed on to the Colonial Office, in which he said that he should be glad if the Committee would consider the question of dealing with distressed seamen—that is Australian seamen—and desired if possible that the provisions at present in force with regard to distressed British seamen abroad should be made applicable to natives of Australia and Australian seamen discharged at British ports becoming distressed. So that he desired in the telegram that the provisions, whatever they are, at present in force for distressed British seamen abroad should apply to Australian native-born seamen.

1064. Sir James Mackay, who has previously given evidence, deprecated the extension of these regulations that you refer to, the British regulations, to white seamen who become distressed in the United Kingdom on the ground that they are generally found work with comparative ease?—I am quite unaware that they can find work with comparative ease—that is not my experience, nor is it the experience of many of these agencies that deal with these people.

1065. You would rather disagree with that opinion?—Yes, I disagree with that. I think they have the utmost difficulty.

1066. (Mr. Howel Thomas.) Do you mean on this side or on your side?—On this side.

1067. (Chairman.) The Committee has been told that the Newfoundland Government has already an arrangement with the Board of Trade by which distressed Newfoundland seamen are repatriated by the Board, and the boat recovered from the Newfoundland Government. This arrangement is on the lines of the distressed seamen's regulations. You are of opinion that something of the same sort of arrangement would be suitable for the Commonwealth of Australia?—Are those the regulations that exist for distressed seamen?

1068. Yes, the present regulations that exist for British seamen stranded abroad. In the case of Newfoundland by agreement with the Newfoundland Government that is applied to seamen from Newfoundland who are stranded in England?—That would be, I suppose, Mr. Deakin's wish.

1069. That would be, I suppose, what your Government is in favour of?—Yes, I suppose so.

1070. From the telegram you read?—Yes, from the telegram I read.

1071. According to your letter very few cases of non-seamen in distress occur?—Yes, very few.

1072. Do you actually know of some cases?—Yes, but they are very few. I think the only case of that sort that generally comes under one's notice is where some one has come over to England with the idea of recovering some money that is due to him. He finds he does not recover the money, and then he has spent what he had got and is stranded.

1073. With regard to the question of making known in Australia the difficulty of getting work in the United Kingdom you think a notice in the Seamen's Union Office would be most efficacious?—Yes, I think so.

1074. Have you any experience of the converse problem in Australia; do you know whether any inhabitants of the United Kingdom get distressed and need relief?—Yes, I think there are cases sometimes in Australia, but still an able-bodied man ought to be able to get work.

1075. In such cases is the relief offered by the Commonwealth or by the State Governments or by private charity?—There is no relief by the Commonwealth, nor am I aware of any relief under the State Governments. At Sydney, of course, there is a sailors' home, and, I think, it gets some assistance from the Governments, but it is also private charity.

1076. Do you know at all how much assistance it gets?—No, it is under the State Governments; the Commonwealth gives nothing.

1077. (Sir Francis Fleming.) When a distressed Australian who is not a seaman comes under your notice, and wants to be sent back home, do you send him back?—There are no means of sending him back. There have been one or two special cases where the people have established some sort of security that, in the event of their being assisted, their friends or relatives in Australia would refund to the Government. There have been one or two cases of that sort in which we have helped them out and recovered at the other end.

1078. You make inquiries in the first instance as to whether they have any relatives who will be prepared to contribute towards their being sent back?—Yes.

1079. With regard to any distressed Englishman found in Australia, what steps would be taken to send him back? I am not now referring to a seaman, but a non-seaman?—I doubt if such cases would come to the Federal Government at all; they would go to the State Governments and be dealt with by the State Governments; I should not think any of those cases would come to the Federal Government.

1080. (Admiral Mann.) I remember when I was out in Australia the difference of wages that used to occur; for instance, a man shipping on in Australia would get higher wages than he would shipping on in England. Does that still continue?—I am not aware.

1081. If you remember, in the Victorian Naval Force we used to recruit from the crews of the merchant sailing ships?—Yes.

1082. As a rule, the wool ships, for instance, paid off as soon as they got alongside, and after discharge and reloading they shipped another crew. Can you remember whether it would be probably the same crew or men who had come out under those conditions and wanted to get home again?—I could not speak definitely to that.

1083. If they shipped, say, at Melbourne or Sydney, on a wool ship for home, would they ship under Colonial wages or the same wages that the crew came out under?—I think under Colonial wages.

1084. Therefore, they would go out under English wages, and go home under Colonial wages?—Yes.

1085. That would only affect sailing ships?—Yes.

1086. As regards the ordinary steamer trading with Australia, the probability is the men would ship for the all-round trip?—Yes.

1087. Because steamers would not pay off in that way?—No.

1088. Therefore, the only man that would probably ship in those steamers in Australia would be simply a make-up to take the place of a man deserting, and so forth?—Yes.

1089. And the sailing ships are provided for by the paying off?—Yes.

1090. You do not know whether that exists now in sailing ships?—No, I could not say.

1091. (Mr. Howel Thomas.) You referred to native-born Australians. Is there any limit of residence out in Australia which confers upon a man the citizenship of Australia?—It is six months before he would be naturalised—for a foreigner. Of course, a British naturalised man is a British subject. I am not speaking of British subjects.

1092. When you referred to native-born Australians, did you mean to limit your remarks to people actually born out there?—In Mr. Deakin's telegram he says "native born." Of course, I cannot read exactly behind his telegram in that respect. He says distinctly that the provisions should be made applicable to natives of Australia. I do not know whether in his mind he was making such a distinction between people who are actually Australian born and people who have simply gone out there on a voyage. He may have been making the distinction between people who have just gone out there on a voyage, who had not the intention of remaining there, and whose people were not there—whose families, you might say, were not there—and people who were actually Australian born.

1093. You are quite clear that any Australian in distress here would be allowed to land in Australia, if

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there was any fund, public or private, for paying his passage across?—In the case of well-conducted men.

1094. What about the case of a man who is not in good health, a paralytic, say?—If his relatives were there and would be responsible for him he would be allowed to land.

1095. Suppose a small fund was started here to enable either the Colonial Office or somebody else to send distressed people back, would the Commonwealth be likely to join with the other Colonies to form a fund and pay their share of it?—Without binding my Government, I should think so. I could not definitely, of course, say that the Commonwealth Government would; I should think it very probable that it would.

1096. You do not think that the existence of such a fund would encourage people to come over here just to have a look at the old country, where they would get stranded, knowing there is a fund to send them back?

*The witness withdrew.*

Dr. J. McCALL called in and examined.

1098. (*Chairman.*) You are Agent-General for Tasmania?—Yes.

1099. You have sent a letter to the Committee?—Yes. I stated in that letter that "The majority of men who apply to this office for relief are persons who have booked their passages to England, and owing to inability to obtain employment in London they have become stranded. When their cases are considered they are usually granted a small sum of money to enable them to live until, through our shipping agents, we are in a position to obtain working passages for them to Tasmania. Invariably these men have only signed on for the trip to London, instead of for the round trip. The reason that they are induced to sign to London only is that the wages paid to seamen shipped at Australian ports are higher than the wages paid to seamen signing on in London. One remedy would be to instruct the shipping masters at the various ports to warn these men that they should sign on for the round trip unless they have sufficient money to maintain themselves until they have an opportunity of returning to their own country."

1100. You state in your letter to the Committee that the majority of persons who apply to your office are persons who have booked their passage to England, and subsequently got stranded. Are the greater number non-seamen?—I think there must be some mistake if that is stated in my letter. You say "booked their passages to England"; it should not be "booked their passages," but that they have shipped over here, probably worked their passages.

1101. My copy of your letter has "booked"?—

1102. (*Admiral Mann.*) So has mine?—It should be "worked." It is men who have shipped over here with the idea of seeing this country and getting back in the same way. I do not think in any case they have been passengers. There may have been odd cases, but they have always been met by our cabling out to their friends and arranging matters for them.

1103. (*Chairman.*) Could you tell the Committee the average number who apply to your office in a year?—There have been only nine this last year, but then, of course, ours is a small State.

1104. May we take that as a fair average?—A very fair average, I think.

1105. Does any one particular class or do any particular classes predominate?—No, I think they are all of the same class.

1106. (*Admiral Mann.*) You mean the lower class?—Yes, young working fellows.

1107. (*Chairman.*) Wishing to see something of London or the United Kingdom?—Yes, exactly; it is very attractive to them. They seem equally anxious to get away from it.

1108. You state that these men are usually granted a small sum of money to enable them to live till means are found to get them back. Does the Tasmanian

—There is that danger, and that would decidedly be an objection; that has always been the objection to the Commonwealth providing the office here with such a fund. If a man knew he had only to apply to the Commonwealth Office to be sure of a passage back, many young people in Australia would like a trip to London, no doubt, and to see the world, feeling certain that when they had spent their last copper the Government would send them back.

1097. Supposing it took this form: that there was no fund which would be available for individuals, but a fund available to repay expenses incurred by boards of guardians; for instance, when a man had actually become so destitute that he had recourse to the workhouse. Would the workhouse test be sufficient to counteract that desire of a trip?—It might be so. You would have to have some check. I do not think it would do to have a fund of that sort without some provision by which men would not lightly take the voyage to England for the sake of the trip.

Government provide a small fund for that purpose?—I do not wish to advertise that fact, but, as a matter of fact, we do help them a little. If we find them actually in want we endeavour to get them work. We have very few opportunities of doing that, unless we can place them with old Tasmanian people who are resident in London, and we dole them out a few shillings to carry them on till our shipping agent manages to arrange with the company to ship them away.

1109. The Committee quite appreciates that you do not wish to advertise the fact.—I believe there are a certain number of people who put in their time at dunning the Colonial Office and the shipping offices; it is quite a profession. We have to weed out a number of the applicants. Some of the people I have had in have never seen Tasmania, but they come in and apply as Tasmanians after having applied to the other offices; they get up a certain story, and you have to bowl them over.

1110. Your Government in their Estimates do take a small vote?—I am sorry they do not do that; they allow me to spare a little out of my Contingency Fund, so that it really has to be provided at the cost of this office.

1111. It comes under the head of "sundries," I suppose?—Yes, sundries.

1112. I gather that you do think that the knowledge of the existence of a vote, if your Government did vote some money for the purpose, would tend to create an increase in the demand?—I think so.

1113. Have you any special home or institute to which you send the men?—No, we have not. That is one of the things I should like to know about, and to see if it is possible to find some place in London where these people might be received for a short time at some low rate; in fact, before this Committee communicated with me I had an idea of approaching the Salvation Army, or some institution of that kind, or the Sailors' Home.

1114. In the few cases you have had have you left them to their own devices, or simply given them money, or have you sent them anywhere?—I have got them to give an estimate of what it would cost to keep them, and then I have given them perhaps enough to go away for a few days, and then I make them report themselves if they have not got employment so that we may know what our agent has been able to do for them.

1115. Have you come across any cases in which destitute Tasmanians have been repatriated at the expense of boards of guardians—has that come within your personal knowledge?—No, it has not. I have only been here a few months—since the 1st May.

1116. It has been suggested to the Committee that notices should be issued in the Colonies stating the difficulty of finding employment in the United Kingdom—similar to notices issued by the Emigrants' Information Office. Do you think this would have any

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particular effect?—No, I do not think so. They would possibly know the difficulty. They do not know that it is so great as it is, of course. I think really what ought to be done—and I have represented it already to our State—is that the shipping offices ought to warn these men that in shipping here, unless they do so for the round trip, they will have great difficulty—if, indeed, it is not impossible—in getting a trip out again on the same terms. Shipping companies naturally do not want to lose their men in Australia, where they have to employ men at a much higher rate to come back.

1117. Of course, this higher rate of wages applies to Tasmania equally with the other Australian States?—Yes, to all the States of the Commonwealth.

1118. I suppose the higher rate of wages which has to be paid men engaging in Australian ports explains both the desire of the masters to sign on men in London for the round voyage only, and their consequent reluctance to take on distressed Australians in London for the voyage to the Commonwealth?—Yes.

1119. And their equal desire, if vacancies happen to exist in Australia, to ship men from Australia for the home voyage only?—Yes, quite so.

1120. So that the interest of the shipping companies and the interests of the men who want to see London are in this respect identical?—Yes, up to the time he wants to get back again; then his trouble begins.

1121. You think that if the shipping masters warned the men only to sign on for the round voyage from Australia it would be effective?—My idea was not that they should warn them only to sign on for the round voyage, but that they should be told they had better have provisions for getting back, that the companies are not so likely to employ them to return, and that they may have to pay their passage back. I do not know that the law could be amended so that companies bringing men over as they do should be compelled to take them back.

1122. You would not recommend any compulsory restriction as to the signing-on of articles?—No. The man ought to be a free agent, but at the same time he ought to know what he is doing.

1123. It has been suggested to the Committee that the distressed seamen's regulations under the Merchant Shipping Act of 1906 now applicable to British and Colonial sailors outside the United Kingdom might be applied also to Colonial seamen in the United Kingdom. Would you be in favour of that?—That is to say, that they should be returned to their own country?

1124. Yes. The Committee have had evidence both for and against that.—I am not prepared to say off-hand that I should say that should be provided. I mean to say it is a difficult thing to make in an Empire like the British Empire, where they have so many countries; it would lay itself open, I think, to be very seriously abused. One can hardly step into any part of the world without being on British territory. This is only to apply to sailors, I understand?

1125. Yes.—In other countries they go further, I think, than sailors. I think there should be some discretion. With regard to any foreigners in Australia, for instance, the Consul arranges for returning them to their own country, and we are considered a part of England, and, therefore, our people suffer to that extent; I mean the sailors suffer to that extent. I think there ought to be some simpler way of providing for it than that.

1126. If seamen from Tasmania sign on, as a rule, for the voyage to the United Kingdom only, there is presumably little distress due to desertion, and consequently you would not recommend stricter penalties for Colonial seamen deserting in the United Kingdom than those already in force? There would be no cases practically of Colonial seamen deserting here?—I should think not.

1127. Can you tell the Committee whether the converse problem exists in Tasmania, namely, that of repatriation of distressed natives of the United Kingdom?—Sailors from the United Kingdom?

1128. Yes, either seamen or non-seamen?—No, there is no provision for that. As a rule they do not

want to come back; they are always giving trouble to the shipping companies there because they really desert the ship there.

1129. I meant whether there is any problem in Tasmania with regard to having people in distress from Great Britain whom you want to return to Britain because they are in distress, either seamen or non-seamen?—I do not know that we return them; we extend them the charity of the country. They are always provided for. There is no man allowed to go so near starvation there as some people have been allowed to go here. Many of these men who come to me have been walking the streets for nights before, and have hardly had anything to eat at all. Nothing like that happens to the British sailor who might be stranded in Australia. I suppose it is because we know there is a larger number here and more imposition, and they do not know where to go to. I have only been here a few months, and I could not tell them where to go to get relief.

1130. (Mr. Howel Thomas.) When a man is absolutely destitute he could go to the relieving officer?—When I ask them they generally say the police have advised them to come to the office.

1131. Perhaps the men have some repugnance to being relieved under the poor law?—Would they be allowed to get that assistance there?

1132. Every destitute person is entitled to poor-law relief here in the form the guardians may decide to give it?—I am glad to know that; I did not know it.

(Mr. Howel Thomas.) Either in or out of the workhouse.

1133. (Sir Francis Fleming.) Are there any restrictions in Tasmania against a distressed Tasmanian being received back into the Colony?—Oh, no.

1134. He is not obliged to produce a sum of money or anything of that kind before he is allowed to land?—No. I am not aware that that is applied to anybody belonging to the British Empire—any white Britisher.

1135. It is in some of our Crown Colonies. During the time that a distressed British subject, or rather a distressed Englishman, say, is in Tasmania, how is he looked after? You say he is not allowed to starve?—No.

1136. In what way is he provided for?—If he was a man absolutely without friends and had to make his application to the public authorities, that would be done under the Administrator of Charitable Grants. One of his officers would do it.

1137. I suppose, as a matter of fact, there would be little difficulty in a distressed Englishman, even a distressed seaman, finding work in Tasmania?—Very little difficulty. He would find work there.

1138. So that your opinion is that most men really could find work without difficulty?—Yes; of course, a sailor would not be run after. The farmer who wanted to employ men would not run after him. He would probably get something to do sufficient to keep him.

1139. That to a great extent is the distinction between the distressed Englishman in Tasmania and a distressed Tasmanian here. It is not so easy to get work in England?—No. One can be used and the other is not wanted.

1140. And in England, in the first instance, as you say, they go to the police, and the police would naturally inform them that if they are absolutely destitute they can apply to the workhouse?—Yes.

1141. These steps would be taken in England, but, of course, as you say, in all probability similar steps would not be taken in Tasmania?—Quite so.

1142. (Major-General Chamier.) Instead of relying upon shipping masters explaining to Englishmen the difficulty of finding employment on the return voyage, would it not be better to have these notices extensively placarded in the office?—Quite so. I mean notice should be given. I do not mind how it is given.

1143. They can all read, and if the notice was put up in several places there is no excuse?—No.

1144. (Admiral Munn.) You have been in Tasmania recently?—Quite.



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[Continued.]

1145. Have you still sailing ships calling?—Yes, we have some sailing ships; not many.

1146. I mean between England and Tasmania?—Yes.

1147. A few?—We have some that perhaps do not come direct from Tasmania to the old country, but they carry timber—

1148. And wool?—Yes, of course, wool ships come direct here.

1149. Do the wool ships from England, as they formerly did when I was out there a good many years ago, discharge their crew while they are discharging cargo and loading?—In Tasmania?

1150. Yes?—I do not think so.

1151. You think they keep them on? In Australia they generally discharge them while they are loading and unloading?—You mean they do not pay them?

1152. No. They pay them off.—And take their chance of getting men to come home?

1153. Yes.—I was not aware of that.

1154. You do not do that?—No.

1155. With ordinary steamers calling, supposing there are any seamen discharged for that or any other reason, have you any difficulty in shipping English seamen back; in getting them a ship—in getting captains to take them?—I could not say.

1156. I thought very likely not. I know Tasmania is very different to New South Wales?—Yes.

1157. (Mr. Howel Thomas.) You said that you had been considering the question of whether a home could be established?—Whether arrangements could be made with a home—I suppose you have so many homes here already established?

1158. You did not contemplate establishing a colonial home?—No.

1159. Supported very much by subventions from the Commonwealth?—No. My idea was to find out what home would make provision for them at the lowest possible rate, and then ask the Governments of the different States of the Commonwealth or the Commonwealth itself to make provision for paying for those cases as they were dealt with; not to establish a home and have provision there whether it was wanted or not. That was my idea, but, of course, I let the thing rest when I knew this Committee was sitting.

*The witness withdrew.*

Mr. W. G. MARTLEY, Secretary of the South West Ham Committee, Charity Organisation Society, called in and examined.

1164. (Chairman.) You have put in a précis of your evidence, and I understand you have a statement you would like to make to the Committee?—Yes, a somewhat amplified statement.

1165. We shall be pleased to hear it.—I begin with men of colour, and take first those who are seafaring. *Chinamen*.—On October 25th, Mr. Tennant (Board of Trade) stated in the House of Commons that the number of Chinese seamen of all ratings engaged through the Mercantile Marine Office at Poplar during the quarter ending September 30th, 1908, was 240, and during the same quarter of this year 360. Of the 360, 325 proved that they were British subjects, leaving only 35 of Chinese nationality. I do not know how these men proved that they were British subjects. Not all those who sign on at Hong Kong are born at Hong Kong. In England they usually claim to be Hong Kong men, but I am informed that many of them really belong to Canton. I have never yet come across a Chinaman who was homeless or in distress. Whether this is due to the Chinaman's superior self-control and forethought, to his superior abilities as a seaman making it easy for him to get a ship, to the freemasonry which exists among men of his race, or to the existence of a well-marked Chinese colony in Limehouse, I do not know; but that is my experience. I may say that the Chinese colony in Limehouse, after declining for some years, has recently shown signs of expanding. Two homes are open to Chinese seamen (for payment): (1) the Asiatic Stranger's Home, (2) the Chinese Mission Home. Hitherto the Chinese have presented no problem. It is, however, possible that the new regula-

tion of the Board of Trade abolishing, so far as English ports are concerned, the No. 1 and No. 2 system, and insisting that every Chinese seaman shall have a competent knowledge of English, may result in a number of men being rejected. If this happens, some distress is sure to follow. *East Indians* (including Lascars and Cingalese).—I can only recall one East Indian, a ship's cook, from Madras, who had an English wife, and was in distress because, owing to his age (60) and health, he could not get a berth. He was practically domiciled in England. The Lascars present no problem. The Peninsular and Oriental Co. have a home for their own men, and there is also a Lascar mission which looks after them. Destitute Cingalese turn up at intervals. I have some particulars about three. (1) A man of 25, who had worked as an engineer—he probably meant as an engineer's labourer—in Government departments in Ceylon and Madras, and had then drifted round by China and Manchuria to St. Petersburg, whence the British Consul had sent him to London. He professed to want to return to Ceylon, but refused a stoker's job on an eastward-bound ship as too hard. He was not strictly a seafaring man. He had been six months in London, and had stayed at the Asiatic Home, the Red House, and Rowton House. He had also been taken in by (and also taken in) a family in Poplar. He lived by begging of the clergy and others. (2) A man of 22, who had come from Colombo to Cardiff in the capacity of a cabin boy; he had no discharge, and had drifted to London, where he was quite friendless. (3) A lad of 17, who was for a time sheltered at the Scandinavian

workhouse, I suppose, whilst you were waiting to hear from their friends whether they would supply means to have them brought back?—It would altogether depend on the Colonial. In most cases I should say no.

1161. But if they did go to the workhouse, do you think the Colonial Government would be prepared to reimburse the poor-law authorities here the cost they had incurred?—I should say that in a case where a man was really a Tasmanian the Government would not object to doing it, but if, on the other hand, you are going to classify them on the place of their birth, as I think is done in this country under your lunacy laws, at any rate—I do not know about your poor laws generally—when you trace a man to his birthplace and charge that place for his maintenance—our people would object, because our people move about a great deal more than they do in this country, and it is possible a man who is born in Tasmania may have since lived in New South Wales for years and shipped from there. We would object in that case to be held responsible for his maintenance because he has long ceased to be a Tasmanian in the sense of being of any value to Tasmania.

1162. You have not any rule as to a man losing his citizenship after a period of absence?—No.

1163. (Chairman.) If one of the existing homes in London started a branch or had a department for Colonials who were in distress in this country, do you think your Government would be prepared to subscribe something or join with others in subscribing towards it?—I feel sure they would. I should just like to say that though they would not like to see these men in a workhouse who are not fit persons perhaps to be included as inmates of a workhouse, because they are workmen and willing to work if they can get it, it seems to me, as they have nearly all been connected with the sea, they should come into the sailors' home. That is the sort of institution one would like to see provided for them. One would like to see provision made there for them. It might be you might get people stranded who were not sailors, but so far they have all been men who have been at sea and worked their passage over.

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Sailors' Home. The Peninsular and Oriental Company were approached on his behalf, but replied that they had a rule not to employ Cingalese. In cases 2 and 3 particulars were not taken down, and the problem was left to solve itself; wrongly, as I think.

*Mauritius.*—A delicate man, aged 25, who had well-to-do relations in Mauritius, and who had received a good education, had been following the sea for some years as a ship's cook. He had come over from New York on a cattle boat, and was stranded. The Asiatic Home took him in and shipped him to Calcutta. Two years later he reappeared. This man represents a type by no means confined to Mauritius—the seaman who goes here, there, and everywhere, and has no friends anywhere. The man was advised to return to Mauritius, but evidently had no wish to do so. Had he been repatriated he would probably have soon started on his travels again.

*East Africa.*—A single man, aged 21, a Zulu. He had worked his way over on a German vessel as a steward, and had left her at an English port, not wishing to be stranded in Germany. He had no discharge, so probably took French leave. He spoke very little English, and what he did speak was very difficult to understand. He seemed unwilling to return to South Africa. Though homeless, he refused to go to the workhouse. He was accordingly allowed to drift.

*West Africa.*—(1) A man, aged 21, who had come as engineer's mess steward from Old Calabar to Hamburg, and had been passed on by the British Consul to London. There the Salvation Army gave him shelter and offered him work at nominal wages, which he refused. (2) A man of 22, from Sierra Leone. This man was ill and went into a hospital for treatment. He had been only three weeks in London. Eventually he was referred to the Asiatic Home. Messrs. Elder and Dempster are very good in taking back these men.

*West Indies.*—Men from the West Indies are very numerous, and cases of distress are often met. They have no home or agency, and repatriation is difficult on account of the West Indian Island law. It is often difficult to ascertain from which island they really come.

*Antigua.*—A man of 43, newly arrived and quite destitute. Ship discharge not asked for. No particulars.

*Bahamas (Nassau).*—(1) A man of 20, newly arrived from Hamburg. All discharges lost but one. As no ship sailing direct to Nassau could be found he was sent to an agency in Cardiff which hoped to be able to ship him. There is nothing to show whether they did so. (2) A man of 47, who had often been in London and Cardiff. He had an artificial foot and found it impossible to sign on on British ships in consequence. He first asked to be sent to Cardiff as he thought he could get a ship there. Cardiff Charity Organisation Society replied (May 1908): "There are hundreds of 'coloured men in Cardiff at present trying to get a 'ship.' He then asked to be sent to Bristol in the hope that he might get a passage from there to Jamaica. Messrs. Elder and Dempster said they could not take him to Jamaica. The authorities there would not allow him to land.

*Barbados.*—I have the following from Liverpool Charity Organisation Society: "We had applications from two men from Barbados. They were both single, 21 and 26 respectively. They both wanted to get to Barbados. We endeavoured to procure passages for them, but Elder Dempster & Co. had no ship going to Barbados, and another line had had unfortunate experiences and refused to help."

*Jamaica.*—A lad of 21, who had lived with his parents till 20 and had since done three voyages. He had been discharged at a German port. Could have had work on a weekly boat, but refused it. Messrs. Scrutton offered to repatriate him for 30s. The Sailors' Home in Wall Street tried to get him a ship. Result unknown. (2) A man of 54, a ship's cook, married and domiciled in London. Unable for many weeks to get a ship though his character was good, and he was well known at the docks. Where he failed a stranger could hardly have succeeded. (3) A single man, aged 27, a ship's fireman. Referred to the workhouse pending inquiry, he wrote after a few days: "Sir, these few lines is to inform you I is still in prison, and I do not find it a bad place." Subsequently he was boarded out at Poplar under the supervision of the

Missions to Seamen, which eventually induced a captain to take him back to Jamaica. On arrival he wrote a very grateful letter. He had come to England on a "tramp" steamer from Buenos Ayres. (4) A single man, aged 38, an A.B. seaman. He had been sailing on a Danish ship, which he left (? deserted) at Copenhagen. The British Consul sent him to Newcastle. At different times he had been in most English ports. This man was referred to the workhouse, admitted very unwillingly, and urged to take his discharge, which he did. Consequently when a ship was obtained for him he could not be found.

*St. Vincent.*—A man of 24, who had been paid off at Dover from a Norwegian ship. No other particulars. The men are in distress from (a) having been paid off in London; (b) having been paid off in foreign parts and transferred to London; (c) having been so transferred after shipwreck; (d) having been in hospital in London; (e) having been Shanghaied; (f) having missed their ship. In the local groups the isolated men, especially those in C., D., and E. (that is, Mauritius, East Africa and West Africa), are the worst off, and the most helpless. If they have money, men from B., D., and E. (that is, the East Indies, East Africa and West Africa) can go to the Asiatic Home, and this sometimes takes destitute men as well. The Chinamen in A. (China) and the Lascars in B. (East Indies) are rarely in distress. The most serious problem (as regards numbers) is constituted by F. (West Indies), and the men of this group have no home or agency to which they can appeal. Men of their own race domiciled in London are often kind to them. I may instance a barber, who has a flourishing business at Victoria Docks, and a tooth-powder maker somewhere in Stepney. Of the 17 cases cited, two, being domiciled in England, seem outside the scope of this inquiry; seven seem cases for repatriation; four seem cases for deportation; two need only a ship engagement; two are insufficiently known to say how they should be dealt with. I now pass to suggestions. (1) I think that a system of identity papers or discs of metal would be useful to show where the men really come from. Men unable to produce these should be detained in the workhouse or some kind of remand home pending inquiry. In the case of all coloured men signing on for either single or return voyages to home ports, papers should be mailed home from the port of engagement. (2) Homes should be opened for West Indians in London and Cardiff, and possibly in other ports also. Possibly the London West India Committee might help here. (3) These homes should not be free in the first instance, but a guarantee should be given to the managers so that (a) they should not turn out men whose resources are exhausted, a thing which is constantly happening now, and (b) they should not turn away penniless men. These might be referred to them by the Colonial Office or the Board of Trade, always provided that they could show their papers or discs. (4) A system of deportation is needed for the decent men, and one of deportation for those who are no good. (a) At present repatriation is practically confined to West Indians, and in many cases it is rendered difficult, if not impossible, owing to the West Indian Island law. Would it not be possible to establish a neutral island, to which all and sundry might be sent in the first instance? (b) The obvious objection to repatriation is that if the danger of not getting back is removed, more and more coloured men will come over. This difficulty, however, hardly seems to be insuperable. The numbers allowed to sign on at a particular port might be regulated by the numbers repatriated, or men signing on might be asked to give some form of guarantee to be enforced in case of their repatriation. Schemes for repatriation may be divided into two classes, according as (1) they give to the men an absolute right to be repatriated, (2) or give the Government concerned a discretion whether they will act or not in a particular case. The second plan seems preferable so long as the policy of repatriation is frankly accepted. Then, as regards finance, several alternatives present themselves. I only state this, and cannot be expected to have a very strong opinion on them: (a) the Colonial Governments might be asked to pay the whole cost; (b) the Home Government

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might agree to contribute a portion; (c) grants in aid might be given to voluntary agencies to meet money collected by them. (5) Another remedy would be to make the discharge of coloured men in English ports illegal. This would not meet the case of men who are discharged in Continental ports. (6) Or such discharge might be permitted as it now is, but a liability might be imposed on shipowners to repatriate men who after 30 days are still unable to get a ship. To some extent shipping companies do actually help in this way without compulsion. Men received at the Seamen's Hospital are, I understand, in the main, taken back by the companies from whose ships they have been admitted, and I have evidence to much the same effect from Liverpool. So far as my information goes, I think the great steamship lines do their best to prevent men being stranded here. My papers do not show, but I strongly suspect that the majority of stranded men come off "tramp" steamers, and possibly special regulations should be made relating to them. (7) Another suggestion is that we should revert to the old custom of allowing coloured men to enter the Royal Navy. There may be serious objections to such a step (the men would evidently be untrained), but many of those stranded in London should make good stokers. (8) Lastly, it seems desirable that there should be some system by which coloured seamen, while in London, should have their addresses registered and be under supervision. It seems expedient that there should be some central Government bureau which could be consulted by poor-law authorities, hospitals, charitable agencies, &c. Such a bureau would keep the coloured men in sight, and would ascertain definitely what becomes of them. It would be useful to know what percentages fail to get employment, and of those who fail how many become temporarily or permanently chargeable to the rates. As it is, nobody knows exactly what does happen. I learn that at present very few are chargeable in the areas with which I am acquainted. The Poplar Guardians now have in their workhouses four West Indians, aged respectively 33, 48, 62, and 69. The West Ham Guardians report having dealt with one West Indian, single, 25, a coal trimmer (admitted to the workhouse), one Hindoo (who died in the infirmary). Possibly others may have been overlooked. From time to time cases of coloured sailors have been referred by the Colonial Office and others to the Charity Organisation Society. The society has had very small success in dealing with them, and has perhaps hitherto not sufficiently considered the problem which they present. It may be that methods which are well suited for dealing with English people are less well suited for dealing with men of colour. In some cases the committees have been willing to transfer the problem to the poor law, which, as at present constituted, is quite unable to deal with it. It has nothing to offer except admission to the workhouse, and once interned there the stranded man has no chance at all of gaining a ship. Action of this kind amounts to a shirking of the problem. Other committees, while relegating applicants to the workhouse pending inquiry, do make serious efforts to find them work or to repatriate them, efforts which more often fail than succeed. And, as many of the men decline to enter the workhouse, it is only for a minority that the efforts are made. Owing to the infrequency of the cases committees are very often at a loss how to deal with them, and sometimes are not aware of the help they might obtain from such bodies as, e.g., the Shipwrecked Mariners' Society, the Strangers' Friend Society, and the Seamen's Institutes. The managers of these last have a good knowledge of seamen, white and coloured, of their needs, and of the best ways to meet them, and consequently they are less hampered in dealing with them than Charity Organisation Society committees, and their methods are less rigid. One such institute exerts itself to find berths for men, and, as an interim arrangement, sends them to the wood-chopping yards of the Church Army to earn their board and lodging, or makes other provision for them. This seems to me a better plan than referring applicants to the poor law. As an outcome of the present inquiry the society will probably

revise its practice and make it more uniform. I now pass to cases of distress occurring among men of colour who are not seafaring. (1) The largest group of these consists of law and other students from India, whose requirements have, I believe, been recently considered by the India Office. I have one case of such a student who married an Indian wife, and forfeited the support of his family by doing so. He seemed also to be unable to pass his examinations. He was well-known at the India Office. (2) Another group is made up of men brought over to occupy Oriental villages at exhibitions, and of troops of jugglers, &c. (3) Certain people of the rolling-stone type, come over without any clearly defined purpose. I can recall two. (i) A yogi who was studying occidental religion in a common lodging-house, and who greatly appreciated London drinking water. He expressed a very decided opinion that charity was not understood in the West. (ii) A Hindoo teacher of spiritualism who after spending a year or two in Paris came to London and found himself in great difficulties. (4) The Liverpool Charity Organisation Society writes: "Two years ago we had two men from Demerara. One of them was a stonemason, the other a dispenser. Both were single men (aged 21 and 23 respectively), and they represented themselves to be students at the Demerara Missionary and Industrial Institution. They had come to this country with a view to raising some money for the mission, but had not been successful. We succeeded in getting them a passage back by paying 5*l.* to the captain of a cargo steamer with the consent of his owners, and sent them back, the 5*l.* being provided by a benevolent gentleman." I may here say that the Charity Organisation Society in Liverpool has been more successful in dealing with coloured men than the London Society. (5) A man from Jamaica who had migrated first to Costa Rica and later to Boston. He had come over from Boston to Liverpool on a cattle boat, and had tramped to London. He said he would not go to the workhouse pending inquiry. He would tramp to Southampton instead. (6) A single man from Jamaica who had been a hospital attendant at Bocas del Toro, Panama. A patient there engaged him as a servant, and they came to England *via* Jamaica and New York. All expenses of travelling were paid out of applicant's savings, and when they reached London the master disappeared. This was the story. The man was kept at a lodging-house for a time, then sent to the workhouse, and finally repatriated. He subsequently returned to Panama, and was taken back at the hospital. In the case of these landmen repatriation seems to be the only possible form of treatment. *Colonials (white men).*—(1) The largest number of Colonials in distress comes from Australia and New Zealand. As a rule, the men have been doing well in the Colony, and have come over just to have a look at the old country. They have no intention of remaining here. Often they decide to come at a moment's notice, because a captain offers to ship them in place of deserting seamen. They do not reflect that they will be paid off in London, and that their chances of working their way back will be very small. Others come over in a more deliberate way and belong to a better class. They travel as passengers and bring with them money to spend. These also intend to return, but do not take return tickets. At other times they do take them and lose them. Often they overspend their money and find themselves unable to pay their fare back. Not infrequently they complain of having been robbed either on shipboard or after landing. They run up bills at lodging-houses and try to get help from well-to-do Colonials (quite strangers to them) in London. As a rule they have no friends or connections here or, if they have, are ashamed to mention them. For the same reason they seem unwilling to write to Australia. The Liverpool Charity Organisation Society writes: "We have at present under notice a single man, 23 years of age, belonging to Christchurch, New Zealand, his father being a retired farmer there. He states that he worked his passage home intending to have a holiday here, and had 90*l.* in his possession on landing. He was

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"robbed of 64*l.* and is now destitute. We are giving him temporary help until he hears from his father." Sometimes these stories are true, sometimes they are untrue. The men strike one as pleasure-loving, irresponsible, and without principle. Life seems for them to have been made up of boon companionship and the totalisator. They have doubtless got into scrapes and have been (in Australia) helped out of them. Here they fall hard. As a consequence, they become reckless, and do not care how they raise money so long as they raise it. They are a constant source of loss to East End lodging-house keepers. Sometimes they are married men, with wives and children in Australia. Sometimes (worse still) it is the wives and children who have come over, leaving the husbands in Australia. The pretext for these voyages is usually to consult a London doctor; sometimes he is actually consulted, sometimes not. Then accidents happen, letters miscarry, remittances do not come, and destitution supervenes. The women vary, but they, too, seem rather irresponsible. (2) During the war many Anglo-Africans came over, and a few do still. They are a very difficult class to deal with. Recently we have had dealings with a couple who at one time kept a hotel at the Cape. They appealed to be sent home, and were sent home by a charitable society; now they want to return. They are English born, and belong to the class which I term semi-Colonial. This includes (a) those who have spent most of their life in a Colony; (b) those who have a Colonial wife or husband. A single man, aged 44, a native of Natal, has quite recently sought help. A light horseman during the war, and subsequently a policeman at Johannesburg, he afterwards became a contractor's workman, and was employed by Sir John Aird in Egypt at 42*s.* a week. He was struck down with fever, and went to Nice to recuperate. Getting no better, he got the British Consul to send him to London. He said he was homeless and destitute. He was walking on two sticks, and was advised to go to the infirmary, which he did. No further action was taken. (3) Canadians are usually cattlemen who have lost their return pass. These are rare in London. The number of stranded Colonials in the Port of London is probably not very large. No doubt the Agents-General could supply exact figures. Three Australians and one Cape Colonist are known to have been dealt with by the West Ham Guardians during the last five years. (4) Occasionally men turn up from Cyprus, Malta, and Gibraltar. A single man, aged 26, from Malta, a ship's engineer, after working for a time ashore in a London factory, sought to enlist in the Royal Navy, and was told that he could be taken only for non-continuous service, and then only at Malta. He was accordingly sent back to Malta. Subsequently his name was given as one of those saved from H.M.S. "Victoria." I now come to the suggestions. It may be said that where Colonials are single men and able-bodied they should be treated as our own unemployed, and left to get work in the home market by their own exertions. (1) I agree that there are cases which should be treated in this way, but in most cases I am in favour of a policy of repatriation. I would not, however, repatriate the men till they had been here at least three months. Unless they are allowed to suffer some amount of hardship, they will learn nothing from their experience, and will not deter others. (2) I suggest that each Colonial Government should form a fund, out of which its agents might make grants at its discretion (of not less than one-half or more than two-thirds) of the return passage money on being satisfied that the balance would be forthcoming from voluntary sources. (3) I suggest further preventive action on the part of Colonial Governments. (a) They might be asked to display warnings in all post offices, and at all ports. (I understand that Mr. Deakin did cause certain warnings to be issued when he was in office.) (b) Seamen or quasi-seamen signing on for the home voyage only might be required to find a guarantor of half their return fare. The name and address of this guarantor should be mailed to London. (c) Men should be warned against signing on for a single voyage to a foreign European

port. (4) I suggest also the formation of a society or societies for rendering assistance to Colonials in distress, on the lines of the societies which already exist for helping foreigners in distress. I attach considerable importance to this suggestion. Colonials know probably better how to deal with Colonials than we do.

1166. One of your suggestions is that there should be a system of identifying papers or discs to show where men come from. Would you explain to the Committee how you think this plan could be carried out? Something similar has already been suggested to the Committee for use in the West Indies?—I was led to make the suggestion from the fact that it is so very difficult to ascertain where these men come from. A man will tell you one day that he comes from one island, and the next day that he comes from another. I thought also of the Chinamen. They cannot all come from Hong Kong, but they say they do.

1167. I wanted to know whether you have any view as to how such a plan could be worked?—I suppose at the port where they signed on they would be given this paper or disc. Information would be obtained from them there, and when they turned up here I have suggested that they should be treated better than those without credentials.

1168. I gather that you are of opinion that with reference to a home for West Indians it would be better to extend one of the existing homes than to start a new one?—Yes, if that could be done, certainly.

1169. As to your suggestion of a guaranteed payment to homes, the Committee has been told that the Strangers' Home keeps lascars for 30 days without payment, and that thereafter the Secretary of State for India pays for them if they are destitute and cannot get work. You would advocate an extension of this to Colonial seamen if the financial difficulty could be got over?—Yes.

1170. Or, if the Colonies could not be persuaded to make grants or increase their present ones, you would suggest a contribution from the Imperial Treasury?—I think I should.

1171. As regards repatriation, you suggest two different ways of dealing with applicants. For example, you say that the applicants should have an absolute claim to relief or a claim contingent on satisfactory proof of desert. Would you explain which of these alternatives you would prefer, and for what reasons?—Well, I think I am in favour of giving the authorities a certain discretion, but I am also in favour of a system of deportation, if that can be arranged.

1172. With reference to the financial questions involved, you point out that there are three alternative schemes. Would you point out to the Committee your preference for one of these if you have a preference, and your reasons?—My preference is for the third alternative. Grants in aid might be given to voluntary agencies to meet money collected by them.

1173. You would not in any case advocate the Home Government paying the whole?—No.

1174. You suggest that the discharge of coloured men in London should be prohibited, or at least regulated. You would counsel the application to all coloured men of the system laid down in the Indian articles of agreement, whereby repatriation is made a necessity on shipowners?—I was not aware of these Indian regulations. I am very pleased to hear of them. I do generally approve of them.

1175. The Committee has had evidence with regard to that. You would not think that the idiosyncrasies of some of the coloured races, for example, of West Indians, would render this undesirable?—Repatriation?

1176. Yes.—No. I am strongly in favour of repatriating them.

1177. You bear in mind that the system of compulsory repatriation might lead to a decrease among the number employed, and would almost certainly lead to lower wages?—You mean it would lessen the labour market for the West Indians?

1178. Yes.—Yes; I have considered that. I think still we must bear in mind that it is an undesirable labour market for them to be in.

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1179. In spite of the drawback you still think it would be a good thing if they were treated in the same way as natives of India, lascars, and if they came over here that the shipowner should be obliged to take them back?—I doubt if I am a very good person to give you an opinion on that. My experience is limited.

1180. Then I will not press that. As to the exclusion of coloured men from the Royal Navy, would you press this suggestion for modification of the law as a help to the particular problem before the Committee?—I only mentioned it because it had been mentioned to me. There, again, I hardly feel that I can express an opinion. I suppose the Admiralty has good reasons for its regulation.

1181. Because the particular cases before the Committee are not likely to be those where admission to the navy would remove the trouble?—Occasionally they would, I think.

1182. As to the supervision of coloured men in London, you have already explained to us how this could be best carried out?—I think if there were a central bureau, as I have suggested, the coloured men would be sent there by every agency, and they would get into the habit of reporting themselves there.

1183. As to non-seamen of the coloured races, your opinion is that repatriation is the only possible remedy?—In nearly every case.

1184. You mention Indian players as persons likely to become distressed. Can you give the Committee any instance? The Committee have been told that the Indian law regulates such people and works satisfactorily?—I thought I had an instance, but I could not find it when I went to look for it.

1185. So possibly you may be mistaken on that point?—It is a very rare problem. I should think probably Indian law does meet it.

1186. Have you had any experience of distress among students? If so, the Committee would be glad of your views on this particular problem. They have been told that in a good many cases students would not return even if facilities were given them for so doing?—Well, one of the cases mentioned by me, I think, would certainly come under that category: a gentleman who was a teacher of spiritualism in Paris and London, I think, had no intention of going back to the East.

1187. As to white men, you make two suggestions. The first, preventive action by way of warning in the Colonies themselves. I think you have already explained Mr. Deakin's recent action?—I understand he did issue warnings.

1188. We have had particulars of that from a previous witness. So far as white men are concerned, you would not, as in the case of coloured men, advocate absolute Government assistance in any case. Is that your position?—I suggest that each Colonial Government should form a fund, out of which its agents might make grants at their discretion, not less than half or more than two-thirds of the return passage money?

1189. Under no circumstances, more than two-thirds?—No. My point there is that if no voluntary people can be got to take an interest in these people, probably they are not much good.

1190. Your suggestion that the workhouse test is not enough applies also to white men only, because the representative of the Soho Branch of the Charity Organisation Society expressed the opinion that in the case of coloured men it was the only possible test?—I should disagree, I think.

1191. You refer to the need for better organisation of charity. Could you explain to the Committee on what lines, in your opinion, improved organisation of charity in this respect could be obtained?—I might mention three things. Firstly, the provision of a Home for West Indians; secondly, a Committee for dealing with the West Indians—I understand that there is a West Indian Committee for other purposes in London at present, and I dare say if they were approached they would develop a philanthropic agency—thirdly, I have suggested the formation of a Society for dealing with Colonials in distress, which I take it would be manned mainly by Colonials living in London.

and they would deal with the applications in a sympathetic way. They would be the people to whom I should like to hand the balance of the grants for the cost of repatriation.

1192. In other words, that the people interested in different parts of the world from which these men come should deal with the cases of those men?—Yes. We have that at present in the case of foreigners. I think I would also suggest in that connection that probably more use might be made of the Seamen's Institutes. It seems to me that they have a much better understanding of seamen, and much better means of helping seamen than a miscellaneous society like the Charity Organisation Society.

1193. (Sir Francis Fleming.) You suggest that the Colonies should vote a certain sum of money for repatriation, but not the whole amount?—In the case of white men, not the whole amount.

1194. And you give as your reason for that, that there are some distressed Colonials who are not much good?—Yes.

1195. Those are the ones that you would not contribute towards?—No, but they might come in under a deportation scheme.

1196. I am referring now to any assistance that would be afforded for repatriation as to these people whom you describe as not much good. What would you do with those?—On the whole, I should be in favour of a deportation arrangement.

1197. That would take some time, would it not?—Yes.

1198. In the meantime they would be here at our cost?—I should let them go the workhouse if they were that sort.

1199. Quite so. You would let them go to the workhouse, and they would be kept at England's expense during that time?—Until the deportation could be arranged. I take it deportation would mean legislation. We have no power to deport at present.

1200. I fancy it would. Pending the deportation of these individuals who are not much good, they would remain here at the expense of England?—Unless the charities dealing with the matter would pay the whole expense of sending them back.

1201. But if they went to the workhouse that would not be likely. It would not be likely that a charitable institution would pay their workhouse expenses?—No, but I think you would find this case: Colonial people would say, "It is very hard that the Colonial Office or the Agent-General will not deal with this family; they are not such a bad lot after all. We will make a whip round and send them back."

1202. What I want to get at is this: so far as any State assistance is concerned, you would not advocate State assistance for those who were not much good?—No. I advocate discretionary assistance.

1203. Therefore, they, in fact, would be a charge upon the British taxpayer?—I am afraid they would.

1204. You have also suggested that distressed Colonials should not be repatriated under three months. You would have them remain here three months before they were repatriated?—Yes.

1205. Who would pay their expenses during those three months?—They would live on the community during those three months.

1206. They would also be here at the expense of the British taxpayer or ratepayer?—It would be an unseen tax. I do not think they would go on to the ratepayer; they would cadge for three months. They would go round to the Colonials in London and raise the wind in that way. They would also live at the expense of lodging-house keepers.

1207. Presuming they were not able to get voluntary assistance?—Colonials surely would have wits enough to do that.

1208. It does not at all follow that a distressed Colonial has any friends on British soil?—No, but he has wits.

1209. He is not always able to take advantage of his wits?—I must say my experience has been that they have a good idea of how to look after themselves.

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1210. Presuming they were unable to obtain assistance by means of their friends or obtain a living by means of their wits, they would be a charge on the British taxpayer during those three months?—They would. I think that would be a desirable thing. I think it would be better they should be kept here for three months rather than sent back at once, because it would be a deterrent. They would go back and report the news that they had had a bad time.

1211. And on this ground prevent others from coming?—Yes.

1212. (*Admiral Mann.*) When you speak of deportation, do you mean the same as repatriation, or are they two different things?—The result, I suppose, is the same. The thing is rather different: the one is with honour, the other is with dishonour. I mean that I should treat the self-governing colonies as we treat foreign nations. We should have an agreement with them for mutual deportation.

1213. (*Mr. Howel Thomas.*) I assume that by "deportation" you mean compulsory repatriation, and by "repatriation" you mean sending out at the request or with the acquiescence of the person himself?—Yes.

1214. (*Chairman.*) As to the Chinese seamen, the certificate system started by the Board of Trade is intended to prevent distress among Chinese who are British subjects?—Yes. You understand where the difficulty may arise in the near future. They have just abolished the "No. 1 and No. 2" system. I believe they abolished it on the 1st October, and that is an immense change.

1215. (*Mr. Fry.*) You are referring to the language test, are you not?—Yes. Up to now, as I understand, it has been competent for a ship master to engage a crew of 80 to 40 Chinamen, of whom only two, No. 1 and No. 2, understand the English language.

1216. (*Chairman.*) The Serang?—Yes.

1217. With reference to Cingalese, if seamen, the suggestion to the Committee that where they are

shipped the master should give an undertaking to repatriate might possibly partially solve the difficulty?—Yes.

1218. This might also be made to apply to the case of Mauritius?—Yes.

1219. You find a considerable reluctance on the part of boards of guardians to help? Is not this because they are not particularly fitted to help?—They cannot find the men ships, that is certain; and I have one case which I stated in which the board of guardians strongly objected to the men being sent to them.

1220. Only a part of the cases of seamen are cases for repatriation?—Yes.

1221. Miss Lawrance gave evidence before the Committee that she thought all cases should be dealt with in this way, and in this way only?—I suggest that sometimes they could be dealt with simply by getting them a berth on board ship. They do not always want to be repatriated.

1222. If natives are discharged at Continental ports, the D.B.S. Regulations provide for them?—They come home here or are sent home here. I do not know that they always get further than London.

1223. Could you tell the Committee anything about the Strangers' Friend Society?—Very little. I have not made special inquiries about it.

1224. Do you know whether it does carry on native work?—I cannot say.

1225. As to white Colonials, I conclude you would not agree with the policy of treating the man before the crisis of destitution, as the Poor Law Minority Report has it?—I am not in favour of repatriating them at once, when they have spent their money and had their fling. These men are very irresponsible, and letting them fall hard is not a bad thing if you do not leave them there.

1226. You are of opinion that the men should be warned against signing on for a foreign European port only?—Yes.

*The witness withdrew.*

(Adjourned till Friday, the 19th inst., at 2 o'clock.)

## NINTH DAY.

Friday, 19th November 1909.

### MEMBERS PRESENT:

SIR OWEN PHILIPPS, K.O.M.G., M.P. (*Chairman.*)

Sir FRANCIS FLEMING, K.O.M.G.

Mr. G. S. FRY.

Mr. HOWEL THOMAS.

Admiral W. F. S. MANN.

Major-General F. E. A. CHAMBER, C.B., C.I.E.

Mr. THEODORE MORISON.

Mr. EDWARD J. HARDING (*Secretary.*)

Dr. O. S. LOCK called in and examined.

1227. (*Chairman.*) You are the Secretary of the Charity Organisation Society?—Yes.

1228. You have put in an interesting précis of your evidence?—Yes, I have shortly given my views.

(I.) The consideration of this subject requires a great deal of special knowledge, which I lack, as to the shipping of seamen and other matters. (II.) These cases, judging from the records of the charity organisation societies, do not occur very frequently, but are very various. Thus, the following are mentioned:—(1) Negro sailors; a Singalese sailor; a West Indian cook. (2) Seamen patients at the Seamen's Hospital. (3) Trained nurse; students from India and elsewhere. (4) Discharged workmen. (5) Casual strays, e.g., persons stated to have come to England for a holiday or for a change on the ground of health. (III.) In regard to seamen (II. (1) above), there are the Board of Trade regulations under the Consolidation Act and the Merchant Shipping Act,

57 and 58 Vict. c. 60, for sending home seamen and apprentices found in distress abroad. (*See* introduction, Charities Register and Digest, 1900, p. LXXIV.) It would seem that some similar arrangement might be made in regard to seamen stranded in the Colonies, &c., and in regard to seamen stranded in England. (IV.) The difficulty is as to maintenance pending the passage home. This might be either by the recognition of the poor law as providing the necessary maintenance, or by the recognition of certain homes for seamen, to which persons in places where there are no such homes may be sent pending their passage. (V.) The clause in the Consolidation Act (Register, p. LXXIV.), as to any native of any country in Asia, Africa, &c., who is brought to the United Kingdom in any ship as a seaman, might be extended to all seamen brought into the country from any Colony or Dependency, unless it is proven that the contract was a one-way voyage, and did not include return. This entails a knowledge of shipping

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contracts with seamen of which I have no sufficient information. But, in some such way, the letting loose in England of seamen from Dominions and Dependencies might to some extent be prevented. (VI.) Seamen (II. (2) above) who fall ill and are received into seamen's hospitals might be dealt with in the same way. They would be eligible for maintenance, pending a passage. Thus to the accommodation provided in a poor law workhouse, or in a home for seamen or Asiatics, &c., would be added the poor law infirmary and hospitals, especially hospitals for seamen. (VII.) Next as to students (II. 3) and discharged workmen (II. 4), and what I have called stray cases, the miscellaneous cases that cannot well be classified must be dealt with otherwise. There is no arrangement, such as that made in the case of seamen, on which one can fall back. Accordingly, these cases can only be dealt with individually according to the best means of inquiry and decision that are available. (VIII.) In these cases the applicants may be found in any part of London, or usually in any large town, but naturally more frequently in towns that are ports. (IX.) First as to inquiry and decision, the Colonial and India Offices might require definite information on a kind of "application form," with a supplementary report or statement in regard to any case in which application was made to them for assistance towards a passage, or for maintenance, or maintenance and medical aid, pending passage. They would recognise no other claim. The inquiry should be made with verification, &c., either by the Poor Law Guardians of the Union, where the applicant is or applies, or by any accredited society. The duty of inquiry would impose on the investigating authority the submission of a plan of help; and it would be for the Colonial Office to accept or reject the plan. If they rejected it, the applicant could, like anyone else, apply to the guardians. If they accepted it, they should bear the costs as stated above. They could get the work of inquiry, &c. done without charge. (X.) There is no doubt difficulty in ascertaining the facts; and a paper from the Colonial and India Offices making suggestions as to whom inquiries might best be addressed in these cases, would be of service. The suggestions would, of course, be based on a consideration of the difficulties that have arisen in actual cases; and would be for the use of corresponding agencies only. (XI.) As to carrying out decisions, when their suggestions have been approved, this duty might be left to the local bodies that have made the inquiries. This, I think, would be less cumbersome than that the Colonial or India Office should do such work. (XII.) It would be well, I think, if some departmental officer, acting on behalf of the Colonial and India Offices, were the recognised correspondent in these cases, or rather, perhaps, took charge of this branch of work. His advice would be most useful, and, in the course of the fulfilment of his duties, certain useful precedents would arise which might guide the corresponding bodies. A paper issued from the offices through him might state what the law is, and what, in general, is the practice proposed. This need not have a wide publicity, and thus stimulate applications, but it might be sent to the bodies specially concerned. (XIII.) I write, I fear, without sufficient knowledge; but I would suggest (1) a classification of cases; (2) a general arrangement for dealing with cases according to this classification; (3) the investigation of cases by certain local bodies; (4) the settlement of these cases, according to this investigation, by an authority at the Colonial and India Offices; (5) the treatment of cases of seamen on the basis of the Merchant Shipping Act, but extended; (6) the treatment of other "passage" cases by payment for maintenance, &c. pending passage, and by payment of passage; (7) non-intervention in all other cases, *i.e.*, in cases in which there is, or is considered to be, no question of a passage out of England.

1229. With reference to seamen, your suggestion is that the Board of Trade Regulations for Distressed Seamen should be extended, that instead of being applied as they now are to British seamen, abroad only, they should be extended to Colonial seamen in the United Kingdom?—Yes.

1230. Would you apply this suggestion equally to

seamen from the Crown Colonies and to those from the Dominions?—So far as I know, yes.

1231. Both to the Crown Colonies and to the Dominions?—Yes, have a general single system.

1232. It has been suggested to the Committee that in the case of white seamen, they very often get distressed by coming to the United Kingdom to see the country, or for some such reason, and that application of the Distressed Seamen Regulations might only increase the numbers?—I think that is connected really with any form of intervention. You can only deal with the individual cases, I think, when you get to the miscellaneous group. It will include all kinds.

1233. On the principle that a system of prevention is best, it has been suggested that a better way would be to issue warning notices at the ports of the Dominions. You would hardly consider such a way adequate to meet the case?—I think it might be a matter of pure experiment whether it was of service. I should try it if it was found a great many came, but I think you would find that they would wear their way through it.

1234. As regards native seamen, it has been suggested that provision ought to be made by local legislation for their repatriation, either by requiring them to sign a special agreement, like the Indian Articles of Agreement, or by making the master of the ship, engaging them on the ordinary articles, promise to repatriate them. Would you favour this course?—Yes, but I cannot say I am at all an expert in the matter of the conditions. In general terms it seems to me, unless there is an agreement to the contrary, the party bringing the persons to England should be seized with the duty of taking them back.

1235. As to the cost of maintenance pending repatriation, it would ultimately be a cost on the ship were the Distressed Seamen Regulations extended, but in some cases the cost would doubtless not be recovered. You would, I conclude, advocate the recognition of special homes or of the Poor Law to deal with cases in the interval. Which of these two would you prefer?—It seems to me a serious matter to set aside the whole Poor Law system, which is ubiquitous. You might find you had to use it, but in the main, where there were homes for Asiatics and others, I should use them, only I should not tie my hands. I think I should keep open the possibility of using anything. There are cases in which you would have to use the Poor Law, I think.

1236. You refer in your statement to section 184 of the Merchant Shipping Act. This is of doubtful application. You think that it might be extended to all Crown Colonies?—That is so.

1237. The cases of seamen who are left behind in hospitals were also dealt with. As to non-seamen, I gather your opinion is that there is no way of dealing with them, and that each case must be dealt with on its merits?—I think so.

1238. The Committee have had specially before them two classes of cases, that of students and that of domestic servants; can you give any information as to those two classes or any suggestion for dealing with them?—In the case of the students I think you would have to be very careful that the proper method was adopted, namely, that if there are special organisations, such as homes or anything of that kind, they should be used. That is why I lay such stress upon the particular cases being thoroughly investigated. A treatment of those two classes as if they were one would lead to great discontent.

1239. Generally, your idea would be that inquiry should be made locally in the first instance, and that the completed cases, so to say, should be reported to the Colonial or India Offices, or to the representatives of the Dominions in London for approval of the action contemplated. The action, however, to be taken by the local bodies, and not by the Government Departments?—Yes, I think you would have at your disposal, from the point of view of the Government Departments, a great deal of labour which would be useful. I think that you could fairly state the conditions, whatever they might be. You could put a form down which you would require to be filled up, and you would get it filled up. Also, you would show by your form that verifica-

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tion was necessary, and possibly by arrangement where the facts were outside our knowledge in England, you might facilitate the ascertaining of the facts and their true verification.

1240. But you think that where the action contemplated was approved, the Government should pay if it involved sending an applicant home. If this was not involved, do you think the Government should pay?—By Government, I was using the word in the broadest sense. Some authority should pay. I have talked of passage cases and non-passage cases. I think there are certain cases where the person has come here wittingly, and I do not see that there is an obligation to send him back. There might be considerations in connection with the public good which I do not understand, but in the main it seems to me if they come here for their own purposes, they must suffer for their action. There should be no obligation, I mean, to send them back because they have come.

1241. You suggest that the work of inquiry could be done without charge. You would not then advocate Government assistance to any existing institution for relieving such cases except when a definite plan had been approved?—I think you would find in connection with homes and in connection with any societies like ours, great readiness to ascertain the local facts. These societies are in most of the large places, but they are not everywhere; and, therefore, you might have to rely a great deal on the poor law or some other body sometimes, though I do not think it would be at all necessary to have a new system of investigation for this purpose alone.

1242. Your view is that this suggestion would not have the effect of stimulating applications, as none would be helped without the fullest investigation. On the other hand, it would help in the disposal of really deserving cases and applications for such disposal, because there would be a prospect of real relief from the Government?—Yes. I think what is to be avoided is their getting into the way of begging about and thinking they are going to go, and not quite wanting to go.

1243. I can appreciate that. Do you consider that this Government help should come from the Imperial Government or the several Colonial Governments?—If there is similar help on the other side I should get them to pay for their cases while we paid for ours. I mean, if a case stranded in their Colony is sent back to England, then I should suggest that we, if we send a case back, should pay. It is a great help to us to get rid of these cases very often, because they go about discontented; they are a sign of a certain amount of mal-administration probably, and if they come upon the poor law, the poor law people will ask that they be removed, so we are pretty well bound to see that cases which I call passage cases should go back.

1244. In applying your scheme, how would you propose to deal with the cases which apply direct to the Colonial or India Offices, of which the Committee have been told there is a considerable number. For example, how would the officials know which relieving body, the guardians, the Charity Organisation Society, or the various homes would be most suitable?—I think that could be arranged without much difficulty. One would take all the leading places where these people are found, and one would make a list of the probable available homes, and one would also put down the agencies to which reference might be made. I think you will find that the bulk of the cases come from a few centres, but if they did not, one or two lines could be taken. A friendly request to the police might really get you the information you want without any appearance of intervention, or you might—which I think would not be always so easy—ask the poor law authority, after arrangement with the Local Government Board I mean, or indeed with a certain knowledge of the areas, you could ask a clergyman and he could tell you. Some will take trouble and some will not. There are a good many lines you could adopt, and a little practice in dealing with the cases would show what should be done. I do not think you need feel that you have nothing to rely upon when there is not a definite organisation or a home.

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1245. It has been suggested to the Committee that it would be very advantageous to have in London a home where West Indians could go to, or a fresh branch of an existing home. Would you agree that this would be advisable?—I think it is quite likely. If there was a home to which you could attach it I should rather do that; but I think there should be in a place like London, and possibly in other large places, sufficient voluntary accommodation for these cases, and a margin. There ought to be no scandal about them, I cannot help thinking that without money, but with a certain patronage from the authorities here or in the India Office, you could really get all you want done.

1246. It would not be really a very big matter?—No; for instance, from a colony or from any dependency there are people resident as a rule in London, and very many people are interested in these classes, and knowing the colony or the dependency, they pity them if they are wandering about and unable to get off.

1247. (Sir Francis Fleming.) Do you think, presuming such homes as have been referred to were established, they would prevent these destitute people from going to the workhouse to any extent?—I think they would. I think they would first go to the homes.

1248. In the case of such homes being established, would it not be necessary to give instructions to the police, because, naturally speaking, when a policeman finds one of these destitute people in the street he takes him to the workhouse?—I certainly should do that. I should treat this home somewhat as a philanthropic common lodging-house established for the particular purpose.

1249. You mention in paragraph 5 of your report: "The clause in the Consolidation Act as to any native of any country in Asia, Africa, &c., who is brought to the United Kingdom in any ship as a seaman, might be extended to all seamen brought into the country from any colony or dependency." Are there not certain provisions in regard to distressed people from Africa? There are from Asia, I know?—I am afraid I cannot tell you to what extent these provisions are applicable. All I meant was that I thought there were reasonable provisions which should be applicable.

1250. You mention Africa; that is why I ask the question?—That is rather with a view of putting it inclusively before you. The cases that we come across from Africa are people rather who have been settlers there, and not quite of this type. They have come to England in another way and for another purpose. They are rather like our own people who have come back from abroad.

1251. As regards the treatment of the colonies towards distressed subjects, you would suggest, from a financial point of view, reciprocity of arrangement?—That is it.

1252. (Mr. Morison.) Have you found in your experience that it is possible to make inquiries locally in England with regard, we will say, to Asiatics?—It is obviously very difficult. Of course, we take a good deal of pains in getting the history, and of course in the process certain people and authorities come to light, and of course there are means of ascertaining through friends here something more than you could get from the applicant. It is in that way the thing is worked, but it is difficult.

1253. I was going to ask specifically with regard to your recommendation. You think that from such organisations and homes you would get more information than you would get from the India Office. Would you at once go to the India Office for more information?—If the India Office arrangements, such as I have suggested, were working, I should go to them first.

1254. I was contemplating the India Office acting on your suggestion, that is to say, receiving an application either from a society or from the poor law people. The India Office, you say, would ask them to fill in details?—Yes. My idea was this. You would have a form; you would say to any of the societies, "Here is our form; if any of this class come to you, use this

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"form." Then they would take down the case as far as they could. Local references, London references, or others, they could verify, but there might be a point at which they would say to you, "We have gone as far as we can; can you put us on the track to do anything further, unless you prefer to do it yourself." You might find it was convenient not to do it.

1255. Or you might find a person arrived here about whom nobody knew anything, and the only way to find out would be to telegraph to India?—Certainly.

1256. With regard to the centres in London. I suppose you would contemplate several centres?—Yes. I think that is really a matter to be settled with the list of the cases before you. My idea was that the bulk of the applications would come to some centre in the east of London, but, with a better knowledge of the subject, there may be other areas. I do not know whether in the St. John's Wood district, or somewhere out there, there might be a certain class of student.

1257. You refer to students?—I am thinking of students there.

1258. The students are not covered by any exact centre. They will be found in the neighbourhood of Hampstead, or West London, or Shepherd's Bush?—Yes. There must be a good understanding between the agencies acting for you. Then, for instance, the officer of one of them might say: Here is a man applying to us who strikes us as rather exceptional. I am not quite sure that we should go on without telling you. You might find he was a swell in some ways, and you might say we can ascertain on the whole all we want, and so the thing would drop. It is that kind of agency, I take it, is desirable in these cases—something that is not too stiff, but rather pliable to the cases.

1259. (*Admiral Mann.*) There is one question I should like to ask you, but I do not know whether you can answer it. Could you roughly tell us the average number of cases before you?—I am afraid I cannot.

1260. You could not within a hundred or two hundred?—No, I could not. I think I sent in the best return I could get.

1261. I do not think it gives the actual total?—It does not.

1262. Would it be a thousand or more?—I could only speak for London; it would be much less than that.

1263. That is good enough for me?—I cannot tell you what the number would be; I could only speak for those that happened to come to us.

1264. Would it be probably nearer five hundred than a thousand?—Yes. I should have liked to have taken a year's count in a clear year, and I should be surprised if it came anywhere near five hundred—those who come to us I mean. Of course, I do not include the large number that go to the Asiatic Home, and others like that, because they are dealt with direct, and I do not include cases of seamen in the hospital, except those that are for some exceptional reason sent to us. Many men could get away from the hospital, and start off, but where there is some difficulty, then I think very likely they would ask us.

1265. So you might fairly say you would be surprised if it was as much as five hundred?—Yes, I think I should in which there was trouble.

1266. (*Sir Francis Fleming.*) Are all those cases that go to the district Charity Organisation Society's offices brought to the notice of the central office?—

No, that would be partly my difficulty. I would have to tell them that a count was wanted, and they would have to register the cases. Therefore, I am not sure that I am the best judge on this matter. I mean I cannot speak of all districts.

(*Admiral Mann.*) I perfectly understand that.

1267. (*Mr. Howel Thomas.*) You referred to desirables. What would you do with the undesirables that no one would help?—I think it is a question of public policy in their case. If you think from that point of view an undesirable had better be in his own land, you should certainly send him there, and I think you will find the people will help you with the undesirables probably, and that will become more and more a charge on the Government of the Colony or the Home Department.

1268. Legislation would be required to force a man out of the country?—I was taking for granted that he wanted to go and was undesirable, or that he made an application in some form, and that you could not therefore get the voluntary aid that you might in other cases. I do not understand that there would be a compellability applied to a man who was undesirable *per se*.

1269. As a matter of organisation—you have had much experience in that—would you focus all these cases on to a single office somewhere?—I should have one single office combining, as I have suggested, although I do not know enough about it possibly, the Colonial and the India Offices as a centre of reference. I think it would help immensely if one person had the oversight of all this work.

1270. With an office known to the police where all these cases could be sent direct? Is that your idea?—No. I should not do it like that. I should have an office just as it might be in any place. I should not let the crowds come anywhere here. I would have nothing to do with individuals direct unless they were asked to come. I think you might get a very undesirable crowd if the thing got known.

1271. I was looking at it from the point of view of relieving the Colonial Office and the India Office from personal dealing with these cases?—If they came here, and by usage you thought it right to see them here, and that is the practice now going on, then I should divert them to the office I have in my mind; but if there is no such practice, as far as possible I should only deal with those people when they were inquired into, and if they came and made application I should say: "Will you apply to so and so," whatever the phrase may be, "in the first instance," and then on the strength of what you learn you might take any course—either write an official "No," or else tell them to call, and so on. For the purpose of identification you might find it very desirable to ask them to call.

1272. Assuming that there is some doubt about a case, and the case is left to the poor law authorities, would you see any value in the workhouse as a test in these cases, and if so, would you think that the boards of guardians should be reimbursed the expense they have incurred?—I think you would have to reimburse the boards of guardians. As to the utility of the workhouse as a test in these cases, I am not sure; it depends so much upon the standard of life of the people whether they find the accommodation in the workhouse a test or not. They might like it. I think the test might fail in your hands.

*The witness withdrew.*

Mr. A. E. LODGE called in and re-examined.

1273. (*Chairman.*) Before going into the cases of distress from the Dominions, I wish to ask your opinion on various suggestions that have been before the Committee as to preventing or dealing with distressed native seamen from the Crown Colonies. It has been suggested to us that the system laid down by the Indian articles of agreement should be applied to them, or that, if special articles are not opened, masters when signing on natives should be required to give a special undertaking to repatriate them, or that the Distressed

Seamen Regulations should be applied to native seamen who become distressed in the United Kingdom as well as to British seamen who become distressed abroad or in the Colonies. Take the first one first. That is, native seamen from the Crown Colonies. Is it your opinion that the system laid down in the Indian articles of agreement should be applied to them?—I am afraid I do not quite know what those articles are. (*A document was handed to the witness.*) I am afraid that could be hardly applied to these seamen. These ships

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stay such a long time in dock. There is a case now. Two sailing ships came home with some Australians, and these ships have been laid up now for nearly three months, and I think if the captain had given them a promise to repatriate them he would hardly have kept them on board working. I think that would be the principal question; if the promise is given as to how it is going to be done.

1274. Under the Indian articles he has to do it, whether it is convenient or not?—There are more ships going back to India, I think, employing native crews. You have the P. & O. and several companies employing a good many lascars, and it would be much easier in the case of Indian natives than other natives. I think that could hardly be applied to Australian seamen.

1275. I was asking about the Crown Colonies.—That would be the East Indies and the West Indies?

1276. Yes. Australia is a Dominion. As to seamen from the Dominions, you mentioned particularly in your statement the case of boys from the New South Wales training ship "Sobraon." Is this ship in New South Wales' waters, and are boys shipped solely from there?—Yes, they are local boys. I think they have been dealt with recently by the New South Wales agent here. I have made inquiries during the last week, and I could not find one of these "Sobraon" boys around the docks anywhere. Quite recently they sent back 12. They had some arrangement with a Captain Carson, I think his name was. He came over here on three months' leave to take a ship back from Hull which had been purchased, and he had power if he could get hold of any "Sobraon" boys to ship them back to New South Wales.

1277. Does this New South Wales ship go to various countries?—She is a training ship.

1278. But is she also a trading ship?—No. She is like the "Warspite" is here in the Thames.

1279. But she comes into these waters, I mean?—No, she never leaves New South Wales.

1280. Then you think the difficulty has been dealt with. These provisions that have been made you think meet the difficulty?—I think so, with these boys for the present.

1281. There will be no further difficulty with boys from there?—I think not. At one time they were shipping them here very fast. At one time we had 12 from two ships, and I inquired specially from these boys, and they had been given no advice whatever when they landed here. Although I saw a statement in one of the New South Wales papers saying an interview had been had with the captain of the ship, and that he had said that the boys were instructed as to how they could get back to Australia, I inquired of the boys, and they said they knew nothing about it.

1282. You mention in your statement that officers of ships trading to the Dominions will not take a colonial because he will probably desert on arrival and they would have to get a substitute on higher wages?—Yes, that is the case.

1283. And for the same reason they are also unwilling to ship a distressed colonial for the outward voyage only. The same reason would apply?—Yes.

1284. And, similarly, if a vacancy occurs at a port in the Dominion they endeavour to ship a colonial for the homeward voyage only—for the same reason?—Yes.

1285. So that the system has a tendency to increase the number of sailors from the Dominion who get distressed and to decrease their chances of getting away?—That is so.

1286. Can you suggest any remedy for this? Would you advocate the extension of the Distressed Seamen Regulations to white colonial sailors who get distressed in the United Kingdom? The Committee have heard evidence both for and against this suggestion?—I do not know whether I know exactly what the regulations are. What are these regulations, may I ask?

1287. To return them as distressed seamen.—The same as those regulations applying to British seamen abroad?

1288. Yes.—I should think that would be a very good plan if that could be adopted. It is a great help

to a British seaman if he applies to the Consul and is sent home as a distressed British seaman.

1289. You have stated that the Commonwealth Government have just started a subscription of 15*l.* to the Sailors' Home?—They gave the Sailors' Home 15*l.* last year. There was some complaint made by the agent that very little help was given. I think one of these "Sobraon" boys had been up there and was complaining that he had to leave the Sailors' Home, and the Agent-General wrote to me and said he thought something more might be done for these boys, so I called on him and showed him a bill that had been incurred on account of these boys in the preceding three months which amounted to 25*l.* They left us in debt, so really the Sailors' Home has been doing a good deal for them. Captain Muirhead Collins said, "I will see if I can get the Government to help you at all," and following that he sent me on 15*l.*

1290. So you would be glad to learn that even a larger subscription was made even if it did not enable you to dispose more effectively of the cases which you get?—I think on colonials there is a loss of 70*l.* or 80*l.* a year.

1291. Do you get any subscription at present from the New Zealand Government?—No. That is the only subscription we have ever received from the Colonies. Sometimes these colonials, if they happen to come back and come to the Sailors' Home, do pay us up. The matters are indexed and we can trace them back.

1292. Have you made any application for a subscription either to the New Zealand Government or to Canada?—We make an annual appeal for the Destitute Sailors' Fund, and we sent an appeal to the Agent-General, and from most of them we received a reply that they had no funds. This was a special case where I brought the matter before Captain Muirhead Collins, and he said he would see what could be done.

1293. (*Admiral Mann.*) Those agents did not forward them to their Governments?—I suppose not.

1294. (*Chairman.*) With reference to your remarks as to legislation to prevent men being shanghaied, that is needed more abroad than in the United Kingdom or in British possessions?—It does not apply in the British Isles, of course. There is a case now in the docks, I know. The men came to us, and after they had spent their money—it was a matter of 30*s.* they were paid off with—I asked them how it was they joined this ship in Australia, and they said: "The captain told us that it would be a good chance to see London, and that we should have no difficulty in finding work, or, if we wanted to get back, that we could easily get a ship." As a matter of fact, there were no ships that would take them. Luckily, we got one of these men on a coasting ship as a coasting seaman. Another one we sent to Liverpool, and the other one disappeared. The ship happens to be in the dock now.

1295. So that the proposal of legislation to prevent that would hardly be a means of solving the problem before this Committee?—It is such a difficult problem that I do not know how you could solve it. I would suggest that a notice be put up in all the shipping offices pointing out the difficulty there is of getting ships back.

1296. (*Sir Francis Fleming.*) When did the captain tell the men what you have just stated?—The men informed me that they were told at the shipping office. One said: "I asked the captain what good would it be for me to go to England, I should never get back," and that the captain replied there would be no difficulty whatever. "If you want work in London there is plenty of work, and if you want a ship back you can easily get one, and you would have a good chance of seeing London."

1297. Where was the shipping office?—In Melbourne, I think.

1298. Somewhere in Australia?—Yes.

1299. Is the 15*l.* you have referred to as a subscription the only donation you have received from the Colonies?—Yes.

1300. That is a donation rather than a subscription?—It is really a donation. There is nothing stated that I should get it next year.

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Mr. A. E. LODGE.

[Continued.]

1301. (*Mr. Morison.*) I do not quite understand why this training ship "Sobraon" seems to manufacture people who become destitute in such large quantities. You seem to refer to the fact that these persons in Australia are mostly trained in this training ship "Sobraon"?—I find most of the boys come from the "Sobraon." Their ages did not exceed 20 or 21.

1302. It seems a little odd that a training ship should produce a large number of paupers or persons who become destitute?—It is really a pauper ship. It is not quite the same as our "Arethusa," but they are boys who are picked up from the unions. They are not the class of boy we get on the "Warspite" here. They are all a lower class of boy.

1303. And are not well-trained either, one would conclude, if they cannot get a job?—In seamanship, you mean?

1304. Yes?—I think it is only a matter of one year or two. We have not been able to ship these boys as we have been able to ship the boys in England who have been trained in ships. They are not able to steer, so you could hardly say they are properly trained.

1305. (*Admiral Mann.*) You do not mean to say they come straight from the "Sobraon"? It is simply that they were trained there, and then go to some other ship, and then come to you?—Yes.

1306. (*Mr. Morison.*) I understood that. It seems a large proportion of undesirables to come from this ship?—They are too small for the Navy here. I have endeavoured to get them into the Navy here in England, but they are undersized.

1307. You get some into the Army, I think?—Two or three into the county regiments.

1308. (*Mr. Howel Thomas.*) Is this ship supported

by the Government or by a local institution?—I understand it is supported by the New South Wales Government. I am not quite sure of that, but I understand it is so.

1309. There is a pauper training ship here, the "Exmouth"?—Yes, they have the same class of boys.

1310. The reports about the "Exmouth" from the inspecting admiral and others most highly commend the boys trained there.

(*Admiral Mann.*) They have much longer training. (*Mr. Howel Thomas.*) They speak about the "Exmouth" as one of the best training ships in the country. You know something about it, Sir Francis?

(*Sir Francis Fleming.*) Yes.

(*The Witness.*) We have an agreement with the "Exmouth." A number of them are always staying at the Sailors' Home in the London Docks. I mean they are recruited from a certain class of people.

1311. (*Mr. Howel Thomas.*) They do not come to you destitute, I suppose?—They are sent there straight from the "Exmouth," and all their expenses are paid by the "Exmouth" authorities.

1312. (*Admiral Mann.*) They get ships?—Yes; they have agents there.

1313. (*Mr. Fry.*) Do you have any donation or subscription to your society from the India or Colonial Office?—No.

1314. Have you ever applied?—I think application has been made. I have not applied. I have been in charge there two years, but I have never applied to the Indian Government. I have applied to the other Governments, and have invariably received the reply: "We have no funds."

*The witness withdrew.*

Mrs. S. DUNN called in and examined.

1315. (*Chairman.*) You are the matron of the Ayahs' Home at Hackney?—Yes.

1316. The Committee have received this letter from the Superintendent: "Gentlemen, In reply to your circular of inquiry of the 25th ultimo I beg to say, as superintendent of the 'Ayahs' Home' 26, King Edward Road, Mare Street, Hackney, that we shall be pleased for the matron to attend and give evidence before you as to cases of distress, &c., at any time you name. The following cases may be briefly cited: Y—*Ayah* was sent to England with four children, the mother having been burnt to death in Quetta. The ayah brought the children to their grandmother in Manchester (without supervision) and then was sent to the home with payment for one week's board, after which the employer refused to have any more responsibility. The ayah stayed in the home from April 28th, 1908, to October 3rd, 1908, and was kept free, and an engagement found to return to Bombay. H—*Ayah* was engaged to return to India and remained in service in Scotland for some time, and then travelled up to London expecting to go on board s.s. 'Arabia' the next day and sail for Bombay. On arrival at King's Cross Station the ayah was given one pound and left there, her employers going to Tilbury and embarking, leaving ayah stranded. She was in the home from June 26th, 1908, to October 17th, 1908, and kept free, and an engagement was given to return to Bombay. The ayah was given an excellent reference on termination of engagement. S—*S*—This ayah was brought to England, her mistress leaving the steamer at Marseilles, and ayah was brought to the home by the shipping agents to stay four days, after which time they refused to have anything further to do with her. The India Office kindly sent 5l. 12s. 0d. towards the ayah's board. She was here from April 10th, 1909, to August 10th, 1909, and an engagement given for her to return to Calcutta. She also gained an excellent reference. M—*Ayah*—This ayah was found in the streets in Hornsey by a lady on October 22nd last and brought here. The ayah says she and her boxes were turned out by her employer after being in their service for three years.

"The employer was seen by us, but refused to do anything further for the ayah. The names and addresses of employers can be given, if desired. I am, &c., (Sd.) Jas. Dunn, Superintendent of 'Ayahs' Home'?"—Yes, I have seen that letter.

1317. Would you tell the Committee the object of the Ayahs' Home?—I believe some years ago women were found to have been stranded in England, and a committee of ladies resolved that there should be a home, and now it is supported by the London City Mission.

1318. Could you tell us the number of cases with which it deals each year?—I have about 90 ayahs pass through the home during the season, but of course some are very well taken care of by the ladies who bring them—in the majority of the cases.

1319. About 90 are dealt with in the home altogether?—Yes.

1320. Does it receive any Government grant?—None whatever.

1321. Could you tell the Committee approximately the average number of cases of distress which the home gets every year. I think you said 90 altogether passed through in the course of the season?—I should say about three during the year.

1322. Only about three?—Only about three.

1323. Are these cases generally due to remissness on the part of the employers or simply to termination of engagements, or do they arise because the ayahs themselves are not suited for their work?—I have only had one case in which the lady has found fault with the way in which the ayah behaved. It has been the case that they have been perfectly indifferent.

1324. (*Mr. Morison.*) Who has been perfectly indifferent?—Those that have brought the ayahs from India.

1325. (*Chairman.*) In all the four cases mentioned to the Committee in the Superintendent's letter the home seems to have succeeded except in the last one, which is very recent, in getting the ayahs work. Is this generally the case?—Yes. I always find them situations after a time. We keep them there, and have no support for them at all. Perhaps one or two ladies will come forward and offer to help in their support.

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[Continued.]

1326. You have never had to repatriate them to India or go to the expense of repatriating them to India?—No.

1327. Could you tell the Committee whether it is generally the case that employers when engaging ayahs undertake to send them back to India?—Anyone coming to the home for an ayah finds their passage out to India, and, of course, pays the ayah for her services on board.

1328. When they engage them in India do they become responsible for taking them back again?—A great many take a return ticket for them to go back. That is left with me, and I sell it for the lady who brings the ayah, and with that she will help to pay for her board while in the home, and the ayah can obtain money on her return for supporting her family in India.

1329. I gather you hardly think it necessary that there should be a law compelling employers to be responsible for their repatriation?—No. I do not think that is necessary. The only thing I should suggest is that we should report any case that is left to the India Office, and that they should compel the employer to repatriate them. The charitable public are not inclined to keep ayahs when people can afford to bring a servant from India.

1330. You do think that ultimately the employers should be responsible for maintaining them here?—Yes, I quite think that.

1331. The superintendent says in this letter that the ayahs in distress were kept free. Would you tell the Committee what is the usual charge for ayahs who come to the home?—If a lady brought an ayah to the home for one or two weeks we should charge 14s. a week, but if she brought one to me about February, and very likely I have to take the risk of how long we should have to keep her, and if she gave me a certain sum of money, I should take over all responsibility with regard to that woman and get her a situation to go back.

1332. Is the home intended for ayahs from India only, or does it also receive nurses from the Colonies?—Not from the Colonies. We have them from China and Japan.

1333. (*Sir Francis Fleming*.) Is your office open all the year round or only during the season? You mentioned season as distinguished from the year?—I was referring to the travelling season. Of course we keep it open all the year round.

1334. Practically, your business is confined to the season?—It is over by the end of November.

1335. (*Admiral Mann*.) From when?—From the beginning of March to the end of November. The ladies generally arrive in March or April.

1336. That is nine months?—Yes.

1337. (*Sir Francis Fleming*.) As regards the return tickets the ayahs have, are they transferable?—They must be used for the same ayah.

1338. You mentioned that you sold the return tickets?—Yes.

1339. If you sell the return ticket it must be purchased back by the ayah?—No. It must be purchased by the lady who is taking the ayah back, and then the lady will pay me for the ayah's board while in the home.

1340. You say you do not receive any ayahs from the Colonies. Have you received any from Hong Kong?—Yes. I refer to these as Chinese.

1341. As a matter of fact, they have come from Hong Kong?—Yes, I know.

1342. (*Mr. Morison*.) I see in this letter there is a reference to ayah S—— S——, who had a formal agreement entitling her to her return passage. Have the ayahs usually a formal agreement?—Most of them have an agreement. In the other three cases, they came away hurriedly with the children from India, and there was no time to draw up an agreement.

1343. You think they usually have an agreement?—I think they usually have an agreement.

1344. So they have a redress at law if their employers do not send them home?—Yes. In the

case of S—— S——, the lady said she behaved herself very badly on board. In the other cases, they were very good women indeed.

1345. Do you think the cases of bringing ayahs home are on the increase? Do you think there are a larger number now than, say, 10 or 15 years ago?—I have only been in the home for about seven years, but the number is just about the same as when I first went there.

1346. And you do not think it is necessary that there should be any provision for the protection of domestic servants because domestic servants are not included in the provisions of the Act of 1902?—I do not see that there should be, but I think that those who bring them home should not be allowed to abandon them to be left to the charitable public to keep.

1347. Did not you find it rather difficult in the case of S—— S—— to compel them to take her back?—Yes. I reported it to the India Office, and the late Sir Curzon Wylie asked me to call there, and asked me could I give this woman a good character; the year before she had given me a lot of trouble.

1348. It is not always possible to compel them to send the ayahs back?—If the woman has no written agreement, I suppose we cannot compel them.

1349. And the India Office cannot compel them if there is no written agreement, and they do not happen to be servants of the Government?—No. I have had cases where ayahs have been left, and I have written to the ladies and threatened to report them to the India Office, and they have made provision for the ayahs.

1350. They would probably be in the Government service?—Most of them belong to the Civil Service or to the military.

1351. (*Mr. Howel Thomas*.) What do you do with any ayahs that become sick? Do they go to the poor law infirmary?—I have had a case where a woman lost her reason, and we had to send her there, but if they are sick in the home we provide a doctor for them.

1352. For how long?—For as long as they are sick, and then, if we have their ticket, we send them back again if they are not better. If we think they are not quite capable of working we send them back.

1353. If the case remains for rather longer than you think it ought on your hands, a case where through some such circumstances as you mentioned just now no agreement has been entered into and you find you cannot get employment for them, do you send them to the workhouse?—No. I have never had such a case. I had a case where a woman was ill for some time, and I spoke to two or three ladies who subscribed to the home, and they said if she was not better and able to work I was to write to them, and they would do their best to get a ticket and send her back, but the woman recovered and had an engagement to return.

1354. The expenses of the home are borne by private subscriptions, are they not?—Yes. We have one lady who is very kind to us, and she makes up any deficit at the end of the year.

1355. The expenses do not come from the funds of the London City Mission?—I suppose if this lady was not kind enough to pay they would come from the funds of the London City Mission.

1356. (*Chairman*.) Do you think all the cases of ayahs being stranded in England do come to you, or do you think there are any in the outports, Liverpool and Glasgow, for instance?—No. This is the only ayahs' home, I believe, in the wide world.

1357. So that every case of an ayah getting into distress in England would come to you?—Yes. Women know this home and ask someone to write to it. There was a case of one being at Hayward's Heath who was not kindly treated, and a lady wrote to me, and I went and fetched the ayah. In that case we could not compel the lady to keep her, but the poor woman was so badly treated that I could not leave her there. I had known the woman for some years.

1358. (*Mr. Howel Thomas*.) Who is it that protects the ayah on leaving India, and sees that she has a proper agreement with her employer?—That is generally done with the shipping companies or the people who undertake to supply ayahs to the ladies.

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[Continued.]

1359. There is no public authority that sees that no ayah leaves the country without a proper agreement?—No.

1360. (*Admiral Mann.*) I suppose they would get

ayahs from agents in Bombay, or wherever it was?—Yes, and the agents would draw up an agreement.

1361. (*Major-General Chamier.*) The agreements are on stamped paper, I imagine?—Yes.

*The witness withdrew.*

Mr. R. RUSSELL, Junr., called in and examined.

1362. (*Chairman.*) You are acting Agent-General for Natal?—Yes; that is so.

1363. You have put in a *précis*, which contains various cases?—Yes. My letter to the Committee gives the following information.

"The following are the answers to the questions put by the Committee in their letter on the subject:—

(1) Non-seamen form the majority of those who apply to me for relief. (2) It is extremely difficult to specify exactly the causes which give rise to these cases of distress. In some instances the misfortune of the applicant is due to misconduct or folly. In others, his or her position constitutes what might be called a genuinely hard case. It is really impossible to generalise on this subject, as there are no two applicants in similar circumstances. (3) There is no vote on the Natal Estimates from which any payment or assistance can be made to distressed Natalians in this country. I may say, however, that the Agent-General occasionally assists deserving cases by a small personal contribution. With regard to the seamen, it has been found practicable in certain cases, especially where they had relatives in Natal, to secure the good offices of the steamship companies trading to South Africa, the latter arranging to take them back either at a nominal rate or carrying them in return for services rendered. (4) I propose to take up the question of recommendations after I have received a communication from my Government on the subject. At present I have not received any indication of their views. I have some particulars with me of certain specimen cases which I can show to the Committee, but I think it would be well to treat them as confidential, my reason being that, as certain of the persons referred to are still alive, it would perhaps be fit that publicity should not be given to their circumstances."

1364. In one of the enclosures in your letter you state that the cases of distress average about one a month. Do you think there is any tendency for them to increase in number?—No. I think there is a tendency for them to decrease. I think the increase has taken place during the last four or five years, when there was a period of depression in South Africa. It was partly due to the depression in the country, but that is, happily, being removed now.

1365. You say it is impossible to generalise on the causes of distress. Can you tell the Committee whether there is a general way of dealing with them; for example, are they sent to the workhouse and the Charitable Organisation Society?—In certain cases we refer them to charitable organisations on this side, and the Salvation Army has taken up one or two cases and dealt with them very fairly.

1366. (*Mr. Howel Thomas.*) At whose cost?—That would be at the cost of the Salvation Army.

1367. (*Chairman.*) Have you had experience of any cases where the guardians have assisted in repatriation? No, I do not think so.

1368. In your opinion, is repatriation the best means of disposing of these cases?—Well, it is really very hard to give a general answer; I mean the cases are so very dissimilar. As, perhaps, you know, we have an Immigration Restriction Act in the Colony which was passed in 1903, and under a section of that Act we allow people to return to the Colony who can satisfactorily prove either to the Colonial authorities on this side or in the Colony that they are domiciled in Natal; that is, that they have resided there for three years.

1369. If they have been domiciled there for three years it does not exclude them?—No, with this proviso that the minister, if he hears from any trusted source on this side that they are not desirable people, may put a

veto on their return; but provided they are satisfactory in other respects, or if they can show they have been domiciled there for three years, the Government may see to their return to the Colony.

1370. With the exception of repatriating them, have you any other suggestion to make to the Committee as to the way of dealing with these cases?—We have no Government fund to assist these people either by temporary means or with a view to repatriation, but I have made a suggestion unofficially that the Government should put a small sum on the votes each year which should be used by the Agent-General or whoever is in power on this side for the relief of these people according to his own discretion, but so far nothing has been done in the matter. I throw it out as a suggestion that the Union Government might very well consider the advantage of taking some such action.

1371. Most of the specimen cases of which you have given us particulars are those of white people, but there is one of Zulus who were brought over for a show. Is this an isolated case?—No; we have had one or two cases of Zulus; that was in 1894.

1372. Would you think it desirable that there should be legislation in the Colony to prevent natives coming to the United Kingdom for shows, etc., unless security is given for their eventual repatriation. The Committee has been told that such legislation exists in India and Ceylon?—And in Natal as well. There is what is known as the pass law. Unfortunately, these natives sometimes get out by means of subterfuge. They evade the law.

1373. If money were voted as you have suggested, do you think that the knowledge of its existence would tend to increase the demands on it?—Yes, there certainly is that tendency, but if it appeared simply in the official votes, and no mention was made in the Press of it, I think there would not be that difficulty—a secret vote, for instance.

1374. Or wrapped up under some other heading?—Yes.

1375. The Agent-General for Tasmania told the Committee that he was endeavouring to ascertain whether a home could be found to take cases of distress at very low rates, and that he proposed then to ask his Government to pay for the cases as they were dealt with. Would this suggestion commend itself to you? That was an actual suggestion made by the Agent-General for Tasmania.—Speaking personally, I would approve of that. Of course, I cannot pledge my Government.

1376. Do you think that the cases of distress are sufficient in number to justify a warning being given in Natal of the difficulty of finding work in the United Kingdom, similar to the warnings given from time to time by the Emigrants' Information Office?—I think, as far as I recollect, in the last issue of their handbook they did make such a statement, that labour was not required in Natal, and warning persons not to go there with the idea of obtaining employment.

1377. As regards seamen, could you tell the Committee whether many cases come before the agency?—No, not very many. I think we have only had two or three seamen.

1378. Do you know what the causes were that led to their distress?—No, I could not say at all. In one case a man had simply shipped for the voyage from Natal to Hartlepool, and was discharged there, and by some means or other got over to the Continent looking for work, and was eventually picked up at Ismalia in a fainting condition, on the railway platform.

1379. Do you know whether the same difficulty occurs in Natal as in the Australian Colonies, namely, that steamship companies want to sign on men for the

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[Continued.]

round voyage from London only, and that they are unwilling to sign on men for the round voyage from the Colony because the rate of wages in the Colonial ports is higher?—Yes, that is quite true.

1380. That would apply also to Natal?—That would apply also to Natal.

1381. (*Admiral Mann.*) Your wages are higher, too?—Yes.

1382. (*Chairman.*) Do you find that for the first of these two reasons the steamship companies are unwilling to ship distressed Natal seamen for the outward voyage only?—Yes. If it is possible we make a friendly arrangement with the lines; they make us concessions if they can. We go to them, and they help us out of the difficulty. Of course, we cannot depend on it as a certainty.

1383. You have no suggestion to meet that difficulty?—No, I am afraid I have not.

1384. Supposing men are signed on in the Colony, would you suggest that the shipowner should be obliged by the agreement to repatriate them?—There are very few men who sign on in the Colony; they generally sign on on this side, because we have regular steamships trading to and from the Colony, and it is in very few cases that a tramp steamer goes there and picks up some—it is a very rare occurrence.

1385. There are so few that it is hardly worth while putting notices in the shipping offices?—No.

1386. It has been suggested to the Committee that the Distressed Seamen Regulations under the Merchant Shipping Act of 1906 should be extended to Colonial seamen in distress in the United Kingdom; at present they apply only to British seamen outside the United Kingdom. The Committee have heard arguments—both for and against this proposal; how would you regard it from the point of view of Natal?—That is, that the Imperial Act should include Colonial seamen?

1387. Yes, that it should treat Colonial seamen here for the purposes of distress as if they were British seamen abroad?—That would be to the advantage of the colony. I think they would welcome a suggestion of that sort if it were carried out.

1388. Under these regulations as they stand, the amount not recovered from shipowners is paid by the Board of Trade. Do you think that the Natal Government would take a small vote for the amount not recovered respecting Natal seamen. The amount is generally recovered from the shipowner?—Yes.

1389. There is a certain amount it is impossible to recover?—Yes. I could not pledge them to anything on that point.

1390. (*Sir Francis Fleming.*) You have mentioned that a distressed Natal native after being domiciled in Natal for three years will be received back, as a rule?—Yes.

1391. But the Government have power to refuse his return?—Yes.

1392. What becomes of him in case that power be exercised?—That is a question which I do not think we have had any particular instance of. I am simply telling you what the law is on the subject. I do not think we have had any instance in which we have actually refused a man who has been domiciled in Natal, because as a rule he has his parents or his friends. I might give you an instance of a man out of employment in Natal who thought he would get employment in England. He came over here and there was nothing for him here, but his parents were out there, and he was able to return to Natal by the grace of the steamship company, and he got work again, or his parents supported him.

1393. Supposing that that law were put into force, where would the refusal take place?—It might take place on this side. I myself might refuse to sign a certificate if in my opinion the applicant were a

drunkard or undesirable in certain respects. I could telegraph or write to the minister, and say that in my opinion although this man could prove he was domiciled in Natal, I did not think he should be granted admission under the terms of the Immigration Restriction Act.

1394. Then the undesirable individual would be left on the soil of England?—Yes, but I understand there is an Alien Immigration Act in this country.

1395. Yes, but not exactly under similar circumstances; aliens do not include British subjects?—It prevents the introduction of certain people here. Supposing you had a starving Englishman or a man who was absolutely destitute, could you not refuse him admission here?

(*Sir Francis Fleming.*) No, it only applies to aliens.

1396. (*Mr. Morrison.*) If he was a starving Italian we could not keep him out. You gave the case of one, B—, in 1906. Though a native of Durban, he would be regarded as a prohibited immigrant, I understand; therefore, he was absolutely excluded in this case?—I really cannot tell you what became of the man. These men come to the office very often, and we do our best for them. They probably find a situation somewhere else. They rush to us as soon as there is the slightest trouble, and by the time we have done something for them, they find work elsewhere.

1397. It has never been put in force?—No.

1398. It is only a threat?—Yes.

1399. (*Admiral Mann.*) It is many years since I was in Natal now, but have you a seafaring population?—No. A very few. We have the Indians who conduct the fishing business, those are the principal ones, and these men who have certificates for local tugs, but we have not any appreciable quantity of seafaring men in the Colony.

1400. (*Mr. Howel Thomas.*) If a common fund were started to which contributions were made by all the Colonies, do you think Natal would come in?—Speaking generally, I should think we would. I may say personally I have drawn the attention of the Government to this question from time to time.

1401. Would the existence of that common fund be more likely to be known than a vote?—Yes, of course. The Union Government comes into office on the 1st June next, and if they did adopt any suggestion as to this fund, I think it should be, as the Chairman said, covered up in some way so that the public should not know of it.

1402. I mean, if Australia and Canada and the Crown Colonies all contributed for dealing with cases on this side?—Yes. I do not think, personally speaking, that the Government would have the slightest objection; in fact, they would be inclined to join in with the others if they found the other Colonies approved of that step. I think they would join forces at once.

1403. Do you think that would in any way encourage people to come over here knowing that there was a fund to send them back?—No, I do not think so. Some of these people who come to us are undoubtedly impostors, we have proved that; but there are a certain number of genuine and deserving cases.

1404. (*Chairman.*) Dr. Lock, of the Charity Organisation Society, suggested that it would help dealing with these cases in the future if they were systematised by having the same form filled up as far as possible in every case of all these distressed colonials. Would you approve of that?—Yes, I would, certainly. Of course, we would not always get at the facts, but so far as we could it would help us on the way.

1405. It would help you to know how other colonials were dealt with from other Colonies?—Yes, I cordially agree with that.

*The witness withdrew.*

19 November 1909.]

Mr. W. L. GRIFFITH.

[Continued.]

Mr. W. L. GRIFFITH called in and examined.

1406. You are Secretary to the High Commissioner of Canada?—Secretary to the office of the High Commissioner.

1407. You have put in a *précis* of your evidence?—Yes. So far as Canada is concerned, the cases of distress dealt with are not sufficiently numerous, or of such a character, as to create any general problem; or that would call for any particular steps to be taken for the prevention of such cases amongst natives of Canada. The cases of distress dealt with do not include those of seamen belonging to Canada. The cases of distress which come before this Office are usually those of persons in humble circumstances who, from one cause or another, are without sufficient funds to enable them to return to Canada. During the last fiscal year 90 persons applied to this office for assistance; 28 of these were provided with return passages to Canada, and of the balance 51 were given money to meet their immediate necessities. With regard to the remaining 11 persons, after careful investigation of the claims presented it was concluded that they did not warrant the extension of any Government aid. The method which has been adopted for dealing with the cases is to make careful enquiry into the statements made, and to verify them so far as may be possible. The names and addresses of relatives or friends in Canada are obtained, and if these are likely to be in a position to assist, a cablegram is sent to them on behalf of the persons in distress, mentioning their condition and asking that funds to cover the return passage may be remitted—the rule adopted being that passages are not to be provided at Government expense when they can be paid for by the relatives or friends of the parties concerned. Cases of distressed Canadians on the Continent of Europe are dealt with by His Majesty's Representatives in the particular country in which they arise, the accounts for any expenditure incurred being subsequently referred to, and met by, the High Commissioner. The authority by which the High Commissioner deals with the cases of distressed Canadians other than seamen that arise in this country and on the Continent is contained in the Orders in Council of the Canadian Government, dated 2nd February 1891 and 9th February 1897, copies of which I have sent to the Committee.

1408. It is mentioned in the statement sent to the Committee that 90 persons applied to the High Commissioner's Office in the last fiscal year. Is this about the average number?—Yes, about the average number, I think. Of course, it is growing with Canada, you know; all those things do.

1409. Is there any reason to think that there are many other cases occurring in other parts of the United Kingdom which do not come to the High Commissioner's notice; for instance, the West Derby Board of Guardians have told the Committee that 42 Canadians, including nine seamen, were relieved by the Union during the last five years?—I think not. We have representatives in most of the chief centres of England, and they report to us. Of course, those whom we assist officially out of Government funds do not include all those who are more or less distressed. For instance, Lord Strathearn helps a great number whom we cannot officially deal with out of his private purse.

1410. I gather from the statement which you have made, that in all cases a careful investigation is made. Would you explain what happens to the applicants in the interval? Are they given money or left to do as best they can, or sent to the workhouse? In the grant of relief is any distinction drawn between Canadians by birth and Canadians by domicile?—In regard to what is done with them in the meantime?

1411. Yes.—We see them, and we arrive at some more or less accurate idea as to whether they are genuine or not, and we give them the benefit of any doubt. If we are not sure we give them some temporary assistance to go on with. Perhaps they say, "We have a relation in Canada." We ask, "Who is he?" and cable out there, and so get information from Canada through official sources, but we take care to be on the safe side. That is to say, we take care that no genuine case, or even doubtful case, shall suffer if

there is more or less direct evidence that he is one or the other.

1412. In the grant of relief is any distinction drawn between Canadians by birth and Canadians by domicile?—No. If a man has only been in Canada for, say, a short time, we should refuse assistance, but between a man who has been there two or three years and one who was born a Canadian we should draw no distinction. I would not say any definite time, but a man who is associated with Canada, and is making his way in Canada, is a Canadian.

1413. Can you give the Committee any information as to the usual causes of distress?—That is rather difficult. They are as varied as the men. Generally speaking, Canadians are well-to-do, and can look after themselves, and do not require to be dealt with as "distressed cases" like those who come in with insufficient means. Pastures are green afar off, and many think in London—a great magnet is London—there is play for their particular genius. They come over here, and get stranded. If I might be permitted to make a suggestion, it would be if this Committee could give a warning which could be circulated in the Colonies that there is no room for young professional geniuses over here. As far as my experience of Canada goes it would answer a very useful purpose.

1414. In the case where you assist people in distress, is any fund provided by the Canadian Government for the purpose?—Yes, a small fund.

1415. A small vote is taken?—Yes, and we are rather afraid we shall have to ask to have it increased.

1416. Is it the fund referred to in the Order of Council of 1897? Is that used for cases of distress in the United Kingdom as well as in foreign countries?—Yes, the same fund.

1417. The Agent-General for Tasmania told the Committee that he thought it was well not to deal too quickly with the cases; that a little hardship was good for the majority. Would this be your view as regards Canadians?—It may seem very simple, but to deal with these men is very difficult. You may have a young French-Canadian who cannot express himself properly. He may be in great distress, and to look at him you would think he was an utterly unworthy man. The first impression would be that one should not assist him, and yet you probe into his case and find it genuine. Another case comes which impresses you favourably and you find, on investigation, he is unworthy. The course which I pursue in dealing with these cases is to be sure that no man suffers. I would rather an unworthy man got a little temporary assistance than that a genuine case should suffer. That is the first view I take. Then we go very, very carefully into the case. I think if anybody gets any preference at the High Commissioner's office it is the "under dog" who comes in the form of a distressed Canadian. Their cases receive very careful investigation, but they are very often difficult to get at.

1418. However, you think the cases are too few to need any special treatment?—The machinery we have now at the High Commissioner's Office is sufficient to deal with them. While I do not entirely agree with the evidence you have just cited, at the same time there is great need of care in administering any assistance, because applicants would spring up like bees round sugar if there was any laxness. They would come from all quarters, and I am afraid they would increase unless great care were taken.

1419. As regards seamen, the Order in Council of February 2nd, 1891, refers to relief given to distressed seamen belonging to Canada who last served on ships registered in ports of the Dominion. This relief is given by the Shipwrecked Mariners Society, is it not?—Yes, I believe so.

1420. Do you know whether many cases occur?—No, I do not know. I cannot speak to that much. Occasionally they drift through to us, but not many, and I cannot speak as to how many there are.

1421. But the agreement in question does not apply to Canadians who last served in other than Colonially registered vessels, is not that so?—That is so.

19 November 1909.]

Mr. W. L. GRIFFITH.

[Continued.]

1422. The statement furnished to the Committee shows that the High Commissioner's Office does not deal with them?—That is so.

1423. Do you know whether cases of distress among Canadian seamen occur? Mr. Loder has told the Committee that there have been 93 Canadians in the Sailors' Home during the last two years?—That is possible, but we have no knowledge; at any rate they have been dealt with, or else they would get through to us.

1424. You could not say how many approximately do occur on an average during the year?—No, I am afraid not.

1425. (*Admiral Mann.*) Naturally, if they are dealt with at the Sailors' Home you do not hear of them?—We do not hear of them.

1426. (*Chairman.*) If we want further information about that, we could only get it from the Seamen's Home?—I think so. We have nothing which would go to help you at all.

1427. There is nobody you can refer the Committee to who would have the information?—No, I think not. We have a great many of what are known as cattle men who come over. You know about them. They sign on, and get a shilling, and their employers pay them whatever wages may be agreed upon. We get a great number of these, but we have not dealt with those in any statement I have made. Of course they are entitled to go back by the first available boat.

We refuse assistance at once unless there is some very special reason, because there are hundreds of these men, and if any help were given to one we should, I am afraid, be overrun.

1428. (*Admiral Mann.*) They are bound to send them back?—I suppose so. If they are in distress in London, and have not gone back, the strong presumption is it is their own fault, so we put a very stern face on when they turn up asking for assistance.

1429. (*Sir Francis Fleming.*) Have you any restriction against the landing of distressed Canadians if they went back to Canada?—Not against a distressed Canadian in the legal interpretation of that term.

1430. Have you any restrictions against the landing of any distressed person without any visible means of subsistence?—The Immigration Act of Canada provides that every man must have 25 dollars in his possession, but that does not apply to a man who is a *bona fide* Canadian.

1431. Either born or domiciled in Canada?—Yes; it does not apply to him.

1432. (*Chairman.*) In the event of Canadian seamen being stranded in England, would you be in favour of the application to them of similar regulations to those which apply at present to British seamen who are stranded abroad?—To be candid, I am not quite clear about the regulations.

(*Chairman.*) Then I will not press the question.

*The witness withdrew.*

(Adjourned sine die.)



## APPENDICES.

## APPENDIX I.

No. 1.

MEMORANDUM communicated by Sir SYDNEY OLIVIER,  
K.C.M.G.

(1) I believe that very few natives of Jamaica are attracted, either as seamen or otherwise, to go to Great Britain. Jamaicans seeking employment outside of the Island almost invariably go—and they go in great numbers—to the Isthmus of Panama, to Costa Rica, or to the United States of America, and the circumstances in which a Jamaican would go to England would be exceptional. The only cases I remember have been cases in which the man went with an engagement from an employer to repatriate or otherwise continuously provide for him, which engagement was not kept. Jamaicans are usually fairly cautious with regard to such ventures.

(2) The Jamaica Government would not be disposed to assist in the repatriation of natives of Jamaica who might find themselves distressed in Great Britain. The reason is that there is, as I have indicated, a very considerable emigration of Jamaicans to Central America and the United States, and also, I may say, to Cuba and Hayti in a lesser degree. The Jamaica Government could not recognise and provide for claims for repatriation of Jamaicans distressed in Great Britain without recognising and providing for the similar claims of the much greater numbers who emigrate, with the intention of returning, to these other places. The local laws do, in fact, make provision for repatriating Jamaicans distressed in these places, but on condition of the emigrant depositing in the Island Treasury before he leaves Jamaica a sum sufficient to provide for his return passage. Emigration to the Isthmus of Panama, to Costa Rica, Hayti, and some other places is, in fact, prohibited except on condition of such a deposit being made. The deposit is returned to the emigrant on his claiming it after his return, if it has not been spent in repatriating him.

These provisions have been made on account of the numerous calls that have come upon the Island Government in times past for the relief of Jamaicans in distress in Central American countries, where there is no provision for paupers. I should not be prepared to recommend that any obligation to repatriate from Great Britain should be undertaken except on similar conditions—which would be prohibitive to all who could not afford to deposit the price of a return passage. At present the knowledge that repatriation in cases of distress will not be provided for acts as a not disadvantageous deterrent from emigration to countries

where a Jamaican is likely to fall into distress, and to industry and foresight on the part of those who do emigrate to such countries.

I may add that in the case of natives of other West Indian colonies left destitute in Jamaica and likely to become chargeable to the poor rates of the Island, provision is made, from time to time, partly from public and partly from charitable funds, for returning these to their native places.

SYDNEY OLIVIER,  
Governor of Jamaica.

21 July 1909.

No. 2.

MEMORANDUM communicated by Sir J. RODGER,  
K.C.M.G.

Nearly all the Gold Coast natives who proceed to England, other than those casually employed on board steamers, do so for the purpose of becoming qualified as clergymen, lawyers, or doctors, and, during the five years that I have been Governor of the Colony, I have known of only one case in which the Colonial Government was asked, and consented, to assist in the repatriation of a native. On the other hand, many British wastrels (of the class designated "Beach-combers" in the East) are attracted to the Gold Coast, in connection with the mines; and we find it difficult to legislate against the landing of such immigrants, however undesirable and unemployable they may be, as a British subject can scarcely be described as an "Alien" in a British Colony.

These persons are usually repatriated by private charity; but in a few cases, where their conduct has been so scandalous as to cause ridicule and contempt among the native population, the Colonial Government has considered it advisable to provide them with deck-passages to England.

Whatever arrangement is made for the repatriation or other assistance of distressed British, Indian or Colonial subjects, whether seamen or otherwise, it should, in my opinion, be based on grounds of strict reciprocity, and, as far as the Gold Coast is concerned, I am prepared to assent to any reciprocal agreement that may be arrived at.

JOHN RODGER,  
Governor of the Gold Coast.

11 July 1909.

## APPENDIX II.

No. 1.

The following statements were handed in by Mr. J. R. Walker, Chief Clerk of the Shipwrecked Mariners' Society, as part of his evidence:—

(I.)

LETTER to COLONIAL OFFICE as to DISTRESSED WEST  
INDIANS in 1897.

11th December 1897.

DEAR MR. MACNAGHTEN,

I AM much obliged for your letter of yesterday explaining matters with regard to the St. Kitts men. Mr. Olivier, of your office, wrote to me on the 1st instant saying he had requested Messrs. Scrutton to provide passages for the three men at £2 each, that he had sent them a cheque for 6£, and asked them to send this

Society a receipt in full (which has not yet come to hand). He said he would forward this with a cheque for 3£, which I do not quite understand. Perhaps you will kindly see him about it and enable me to settle up with him. I may say that our Society much appreciates this generosity and we should like to know in whose names the 3£ should be entered in our books.

Last evening seven more St. Kitts men appeared here, having been to the Lord Mayor, the Colonial Office and the Board of Trade. All I could do was to give them a good meal and 1s. each and tell them to go to the St. George's-in-the-East Workhouse. To look after these men and find them passages to their homes would cost the Society some 30£, and they are really not cases contemplated by our founders and supporters.

Do you think anything could be done in the Colonies in the way of warning these men of what they are

themselves to by embarking on American ships? These men said they were turned out by the Captain, a Portuguese, because they only spoke English, but it is difficult to know the exact truth of such stories, often told in a lingo hard to understand.

Yours, &c.,  
GERALD E. MAUDE,  
Terence C. Macnaghten, Esq. Secretary.

## (II.)

## AGREEMENTS TO REPATRIATE SEAMEN, UNDER ACTS OR ORDINANCES OF CROWN COLONIES.

Bermuda	Yes	Proviso	Bermuda vessel.
Jamaica	Yes	"	Colonial ship.
British Honduras	No	"	In the event of <i>bona fide</i> case of distress there would be no hesitation in defraying cost incurred, &c.
Turks' Islands	None	—	—
British Guiana	Yes	Proviso	Colonial ship.
Bahamas	Yes	"	Colonial ship shipwrecked in United Kingdom.
Trinidad	Yes	"	If unable to work passage.
Barbados	None	—	—
St. Vincent	Yes	Proviso	Colonial ship and seamen.
Grenada	Yes	—	—
Tobago	None	Proviso	No colonial seamen.
St. Lucia	Yes	"	Colonial seamen and shipwrecked in United Kingdom. (See specimen case of 1903. H. Mathers.)
Antigua	—	—	—
Montserrat	—	—	—
St. Christopher	—	—	—
Nevis	Yes	Proviso	Colonial ship and seamen. (See specimen case of 1897. St. Kitts.)
Virgin Islands	—	—	—
Dominica	—	—	—
Gibraltar	Yes	—	—
Malta	Yes	Proviso	If unable to work way back.
Sierra Leone	None	—	No colonial seamen.
Gambia	Yes	Proviso	Colonial ship and seamen. (See specimen case of 1880. Yanks John.)
Gold Coast	None	—	No colonial seamen.
Lagos	Yes	Proviso	But no colonial seamen.
St. Helena	None	—	No registered ships.
Ceylon	Yes	Proviso	Shipwrecked and colonial seamen.
Hong Kong	Yes	—	—
Labuan	None	—	No colonial seamen.
Mauritius	Yes	Proviso	Colonial seamen. (See specimen case of 1884. Quesnel.)
Straits Settlements	Yes	—	—
Falkland Islands	None	—	No colonial seamen.

## (III.)

## SPECIMEN CASES OF REFUND BY COLONIAL OFFICE, &amp;c., UNDER AGREEMENTS.

Jamaica	Two lads, Lozalis and Perry, carried out to sea in small fishing boat from Nassau, Bahamas, rescued and landed at Glasgow, Lozalis shipped as O.S., and Perry repatriated. Total cost refunded by Colonial Office, 14 <i>l.</i> 17 <i>s.</i> 3 <i>d.</i> —1880-1.
do.	1886.—F. Ponton, sick, repatriated. Total cost refunded by Colonial Office, 10 <i>l.</i> 13 <i>s.</i> 5 <i>d.</i>

St. Lucia	1903.—H. Mathers, hospital case, repatriated. Total cost refunded by Colonial Office, 5 <i>l.</i> 14 <i>s.</i> 6 <i>d.</i>
Gambia	1880.—Yanks John, Greenwich Hospital case, repatriated to Bathurst. Total cost refunded by Colonial Office, 11 <i>l.</i> 11 <i>s.</i> 10 <i>d.</i>
Trinidad	1905.—J. Jeffers left at Hamburg by Swedish ship. Repatriated by Colonial Office (free passage). Other charges borne by the Society, 3 <i>l.</i> 4 <i>s.</i>
Tortola	1907.—G. Williams, frost bite, repatriated by Colonial Office (free passage), and arrangements made at Barbados and Antigua for man's detention pending sailing of a ship to final port. Other charges borne by the Society, 3 <i>l.</i> 13 <i>s.</i> 3 <i>d.</i>
Malta	1880.—J. Pourtalis, sick, repatriated (free passage). Total cost refunded by Colonial Office, 3 <i>l.</i> 12 <i>s.</i> 9 <i>d.</i>
	1896.—C. Sopardi. Repatriated. This man was discharged at a Continental port and sent to Grimsby by the British Consul. In course of conversation with Sir Edward Wingfield I was informed that, although the British Consul had power to repatriate the man direct, there was no such power when he arrived in England, but 5 <i>l.</i> was finally paid by the Colonial Office for his passage to Malta, the Society bearing the cost of his fare from Grimsby to London, and board, &c.
	1907.—H. and A. Mempelao (father and son), worked passage to London on S.S. "Thistledhu." Colonial Office obtained free passage for both men, and the Society gave temporary help to the amount of 1 <i>l.</i>
	1907.—Two Maltese workmen, J. Musent and J. Spatie, who had been working on a lighter (coaling), fell asleep in the ship's hold and were brought to England in the steamer. Repatriated (Crown Agents obtained passages). Total costs refunded, 8 <i>l.</i> 0 <i>s.</i> 10 <i>d.</i>

## (IV.)

## OTHER CASES OF COLONIAL SEAMEN REPATRIATED BY THE SOCIETY.

(Expenses not repaid by the Colonial Office.)

	£	s.	d.
1895.—1 Man sent to Demerara, cost of passage	-	-	2 0 0
1895.—1 Man sent to Quebec, cost of passage	-	-	1 10 0
1895.—1 Man sent to Trinidad, cost of passage	-	-	1 10 0
1895.—1 Man sent to Grenada, cost of passage	-	-	1 10 0
1896.—1 Man sent to Dominica, cost of passage	-	-	1 10 0
1897.—1 Man sent to Barbados, cost of passage	-	-	1 10 0
1897.—1 Man sent to Trinidad, cost of passage	-	-	1 10 0
1897.—3 Men sent to St. Kitts, cost of passages	-	-	2 0 0 each.
1898.—3 Men sent to St. Lucia, cost of passages	-	-	1 10 0 each.
1905.—1 Man sent to Barbados, cost of passage	-	-	2 0 0
1908.—2 Men sent to Trinidad, cost of passages	-	-	1 10 0 each.
1897.—Three St. Kitts men were repatriated ("Pearl Nelson" case) at the cost of 6 <i>l.</i> for passages (one-half paid by Mr. Olivier of the Colonial Office), and seven other men from the same vessel were sent to Bristol Channel ports, after being supplied with bags of clothes.			

1908.—Four Jamaican seamen, paid off at Havre from the Norwegian barque "Sumarli," and sent to Southampton by the British Consul, and to London by the Society's Honorary Agent. Repayment of board, &c., amounting to 11l. 17s. 5d., refused by the Jamaican Government. Sent to the St. George's-in-the-East Workhouse. In many cases we have given colonial seamen, fit to work, temporary help and clothing, and sent them to various ports, but owing to their place of birth not being entered on our records, I am unable to give definite information as to their number, or amount expended in relief. Natives of India and Ceylon have also, to a limited extent, been assisted in the same way. During 1908, 4,679 shipwrecked and distressed men (including fishermen) were assisted by the Society, in addition to 5,945 relatives of seamen, &c. Total 10,624.

## No. 2.

*Distressed Colonial Seamen and Stowaways.*

The following statement was sent in by Mr. J. A. MORRIS, Assistant Superintendent of the Strangers' Home for Asiatics, Limehouse:—

Could not sections 48 and 49, Merchant Shipping Act, 1906, be extended to deal with distressed British Colonial seamen, and stowaways from British Colonies, found destitute in the United Kingdom? Such extension to give power to an Authority to send distressed Colonial seamen to their homes on the same terms that distressed British seamen are sent to the United Kingdom from Colonies and foreign countries. It would considerably reduce the cost of repatriation by ordinary passenger rate, without inflicting any particular burden upon shipping companies, provided that the ridiculous stipulation that a master must accept one such distressed British seaman for every fifty tons burden of his ship, be altered to one for every five hundred tons at least. Under the present ruling, the master of an ordinary tramp steamer, of, say, five thousand tons burden, could be compelled to carry one hundred distressed British seamen, requiring about three times the accommodation he had for himself and entire crew.

*Destitute Indian Seamen.*

Such only as by their own wilful act desert or are left behind in gaol or for reasons that are not brought about by any act of the master or owner, might be dealt with under an extension of section 48 and 49, introduced to deal with such special cases, not detracting from the regular obligations of masters and owners under section 185.

*S.S. "Evandale" in reference to section 184.*

Following my report to your Commission in July regarding the four Zanzibaris and five natives of Muscat:—

These men were kept in the Strangers' Home for about 70 days before employment could be got for them. This institution alone stood between them and the workhouse. Had we not kept them, they would now have been a burden on the ratepayers, with no prospect of their getting employment.

Will the Commission say whether, had we put the men in the workhouse, the guardians could have recovered from the owners under section 184? This is very important.

With reference to the four Zanzibaris, their Government very generously made good the loss sustained by the Home; but in the case of the five Muscat men, the Home sustained considerable loss. This loss is more pronounced as no support comes to the Home from Muscat or people connected with that State. It is open to consideration whether this institution could not be placed on the same footing as poor-rates (section 184) for the purpose of operating that section, as here the men would have the opportunity of re-employment which would not reach them in the workhouse.

J. A. MORRIS,  
Assistant Superintendent,  
Strangers' Home for Asiatics.

2020.

## No. 3.

The following statement was handed in by Mr. G. E. A. Grindle as part of his evidence:—

During the last few years an informal list of distressed West Indian applicants for relief has been kept in the West Indian department. The list only contains the name and a short note of the story told, and is kept mainly to prevent the department being imposed on more than once by the same man.

15th September 1904.—S. S. and another, from St. Vincent; house painter by trade, came over a month ago, work being slack in St. Vincent; brought a little money with them but have spent that, and have got no work and are destitute; willing to work or go back; sent to Charity Organisation Society.

29th September 1904.—S., of Montserrat; waiting for admission to hospital; sent to Charity Organisation Society, who advised the workhouse infirmary for his operation; returned to Downing Street and said he could get a passage from Cardiff; given a shilling; returned 8th November, saying he had been in hospital, and asked for more money; refused.

November 1904.—Twenty-two distressed negroes in Liverpool workhouse. Offer of Elder Dempster Company to repatriate at 3l. a head refused, as no funds available.

(It appears from the papers that these men had left a New Bedford whaler at Fayal and appealed to the Vice-Consul for protection. There being no opportunity of sending them to the West Indies, the Consul was obliged to send them to the United Kingdom, *via* Lisbon, as distressed seamen. Once they reached the United Kingdom the power of the Board of Trade to help them ceased. There was a similar case in 1897 of a number of men being sent to London by the Consul from the Azores having to go to the workhouse. These men appear to have served in a foreign ship. Steps were taken to warn seamen of the risk of serving in foreign ships.)

January 1905.—W. B., of Antigua; discharged from a Spanish barque at Gibraltar; came to London on a German steamer; six weeks in London and cannot get work; has been to Charity Organisation Society, and they advised him to go to workhouse; told he had better follow their advice.

A. T., Jamaica, sent to Liverpool by Consul at Valparaiso; Foreign Office asked for repayment of cost of passage; reply, no funds available.

W. B., in Southampton workhouse; Guardians prepared to pay his passage to Barbados, but he has been five years in Buenos Ayres, and thus comes under section 3 of Article 11 of 1905 (which prohibited the landing of destitute persons, unless natives of the Colony, who had been absent for less than five years and had not spent three years in any one country or place).

June 1905.—T. J., Trinidad; sailed in Norwegian ship to Hamburg; in hospital there; on discharge sent to England by Norwegian Consul-General; destitute; wishes to return to Trinidad; given a passage by Royal Mail Steam Packet Company at request of Colonial Office.

September 1905.—E. C., British Guiana; came to London for operation on his eyes; stranded, unable to get passage back; sent to Charity Organisation Society; referred by them to Messrs. Scrutton, who gave him passage for 5l., which he raised himself.

January 1906.—W. K., Barbados. Brought to England as a servant, but ill-treated and dismissed. Case investigated by Charity Organisation Society, who "feared W. K. was not truthful," and advised him to return to employer.

December 1906.—A. B., seaman, Barbados. Sent to Charity Organisation Society with letter. Charity Organisation Society assisted him to return to the Colony.

October 1907.—B., of Jamaica, L. and K., of British Guiana. Sent to Charity Organisation Society with a letter of introduction. Charity Organisation Society asked Royal Mail Steam Packet Company, and

G

latter agreed to allow them to work passage on cargo steamer.

Governor subsequently reported that K. was a Barbadian and had no relatives in British Guiana, and that as K. was a known thief and would return as a pauper alien, he would be prevented from landing. L. had relatives in the Colony, and would be allowed to land.

December 1907.—G. B., seaman, Jamaica. Sent to Charity Organisation Society. Messrs. Scrutton offered passage for 30s. G. B. applied at Colonial Office for the money, which was refused—no funds available.

J. B., Jamaica.—Said he had landed at Liverpool and walked to London. Charity Organisation Society advised him to go to the workhouse while they looked for a ship. Refused to do so, and said he would walk to Southampton.

C. S., Leewards. Sent to Charity Organisation Society, who thought it impossible to do anything without a more accurate and substantial account than he gave.

A. D., Jamaica.—Sent to Charity Organisation Society, who told us he had given false name and address, and was disposed to be impudent. Called again, and said Crown Agents had told him he could get 3s. here: sent away. Called again some months

afterwards, giving name of G. C. C., Antigua, and asking for letter to Charity Organisation Society. Sent away.

N. F., Nassau, Bahamas.—Sent to Charity Organisation Society, who replied, impossible to verify statements. Now in workhouse; Charity Organisation Society trying to get him a ship.

J. J., Jamaica.—Sent to Charity Organisation Society 3rd October 1908, to whom he gave name of R. D. They could not help, and advised him to walk to Southampton. Called again 16th September 1909, and said he had been a sandwichman recently, and that Messrs. Elder, Dempster had promised him a passage if he could get to Bristol. Told if he got written verification of this, his case would be considered; advised to go to workhouse meanwhile. Called again 29th September 1909 to ask for a letter to show he was a Jamaican. Supplied particulars, which are being referred to the Governor for inquiry, with a request for a telegram in reply; told he must wait till the answer came, and advised to go to the workhouse; help towards fare to Bristol promised if the workhouse authorities reported favourably on his behaviour in the interval; refused to go to workhouse, and asked for money; left, saying he would walk to Bristol.

## No. 4.

## LIST of CASES of DISTRESSED SEAMEN from MALTA put in by Mr. BAYNES.

Name.	How brought to Notice of Colonial Office.	Whether sent to Charitable Institution, and if so, which.	How came to England.	Whether Repatriated at Malta Government Expense (Malta Government was consulted beforehand where not otherwise stated).
1. J. M. -	By West Derby (Liverpool) Union.	In West Derby Union.	Stowaway -	Repatriated at expense of Guardians.
2. J. M. -	By Shipwrecked Fishermen and Mariners Society.	S. F. & M. Society	" Fell asleep on board a ship at Malta after coaling, and on waking found themselves at sea."	Yes.
3. J. S. -				
4. J. P. -	Called at C. O. -	Sent to Strangers' Home for Asiatics.	Not stated in papers.	Malta Government was willing to repatriate, but at last moment P. obtained work and refused to go on.
5. O. C. -	Called at C. O. -	He was staying at some Home not identified.	Not stated in papers.	Malta Government was willing to repatriate, but C. did not turn up again.
6. C. M. -	Called at C. O. -	He was staying at Seaman's Home, Well Street.	Not stated in papers.	Repatriated partly at his own and partly at Government expense. He was a fireman in the R.N.R., and it was therefore not thought necessary to consult the Malta Government beforehand.
7. P. B. -	By Home Office -	Swansea Workhouse.	Stowaways -	Yes. They were privates in the Royal Malta Regiment (Militia), and the Malta Government was not consulted beforehand.
8. P. Z. -				
9. T. B. -	Called at C. O. -	Sent to workhouse	Stowaways -	Malta Government was willing to repatriate, but B. and M. left the workhouse and did not turn up again.
10. J. M. -				
11. S. P. -	Applied to C. O. by letter.	No - - -	Had been in England 15 years. Formerly apparently a sailor.	Yes.
12. And wife				
13. Dr. P. B.	Called at C. O. -	St. George's workhouse.	Not stated in papers.	Repatriated, cost to be subsequently recovered from relatives.
14. J. M. (same as 1).	Called at C. O. -	Workhouse -	Stowaway -	No. Malta Government were unwilling to repatriate as he had already been once repatriated. He did not turn up again.

Name.	How brought to Notice of Colonial Office.	Whether sent to Charitable Institution, and if so, which.	How came to England.	Whether Repatriated at Malta Government Expense (Malta Government was consulted beforehand where not otherwise stated).
15. S. G. - 16. E. A. - 17. A. V. -	By Missions to Seamen Institute.	V. sent to Hospital for Diseases of Throat and Nose.	Seamen	No. They were given railway tickets to places where they had friends, G. and A. to Liverpool, and V. to Cardiff.
18. P. G. -	Called at Crown Agent's Office and subsequently at C. O.	Sent to Strangers' Home for Asiatics.	Apparently as ship's carpenter.	Yes. He had also been repatriated in 1904, at Malta Government expense.
19. A. M. -	By Field Lane Institution, subsequently called at C. O.	Question still under consideration.	He was sent to Gibraltar by British Vice-Consul at Casablanca, and not allowed to land, so he came on to England in the ship.	Question still under consideration. Malta Government is willing to repatriate.
20. W. P. - 21. A. D. -	- - - -	Sent to Strangers' Home for Asiatics.	Stowaways	Question still under consideration.

## No. 5.

SIR J. L. MACKAY, G.C.M.G., K.C.I.E., to the SECRETARY.

(Received 23 October 1909.)

(Extract.)

9, Throgmorton Avenue,  
London, E.C.,  
October 22, 1909.

DEAR SIR,

I have been looking into the question, and I find that British seamen can make an open agreement with a shipowner for any voyage and can sign off at any foreign or British port.

If he signs off at any foreign port and becomes destitute, the British Consul can send him home by any British vessel at recognised charges, *i.e.*, 4s. a day for officers and 3s. a day for ordinary seamen, and at half these rates if the distressed seamen are sent home by a vessel belonging to the owners from which he was discharged abroad. All British vessels are compelled to accept distressed British seamen in proportion to their tonnage, one seaman for every 50 tons. If a seaman signs off in a port in the United Kingdom and becomes destitute, he has no claim for a passage home.

Lascars can only make agreements within the limits set down in the Articles fixed by the Government of India; they are debarred from signing off at a port outside the Indian Empire, unless with the consent of the British Consul, or, in the case of the United Kingdom, of the Shipping Master, and if allowed to sign off, the Consul or the Shipping Master provides that the owner's liability to repatriate the lascar continues.

There are very few destitute lascars ever in evidence in this country. If a lascar does become destitute, the Secretary of State for India is his protector under the Law, and if the lascar applies to the Secretary of State for India, he is provided for and sent back to India at the expense of the owners of the ship which engaged him and landed him in the country, the Secretary of State meanwhile paying for the lascar's sustenance, and, if necessary, his passage, recovering the cost of same from the owner through the Board of Trade. There is no fixed charge for passages or victualling the lascars, such being a matter of private

arrangement between the Secretary of State and the ship by which the lascar is sent back to India.

The regulations as to lascars work perfectly smoothly and, as far as I know, require no improvement.

Natives of Crown Colonies are in a different position from lascars. They sign ordinary British seamen's articles and have no protector in this country such as the Secretary of State for India. Should the native of a Crown Colony become destitute in this country by being chargeable on the rates or being convicted of some police offence, such as being an idle or disorderly person, no help is afforded him. In the case of such destitution, however, the owner or master of the ship, or in the case of a foreign ship the consignee of the ship which brought him into the country, can be proceeded against and fined the sum of 30L, which amount is used to repatriate the native, unless the master can show that he has offered the native due means of returning to his native country, or that from which he was shipped. In the latter case the native becomes a burden on the local rates.

I have no knowledge as to the number of natives of Crown Colonies who become destitute in this country, but it seems to me that it would be a perfectly fair arrangement to make, for each Crown Colony to pass a rule, to be embodied in the Articles, that in the event of natives being shipped at their ports they cannot be discharged in a country outside the Crown Colony where they were shipped, or if discharged it must be with the consent of the British Consul, and in any case the master or owner of the vessel shipping them, or in the case of a foreign owned vessel, the consignee, should be responsible for their repatriation in the event of their being found destitute away from the place of shipment, thus putting them practically on the same footing as natives of India.

The British Consuls abroad might be made the Crown Colonies seamen's protector, and the Crown Agents for the Colonies might be made their protectors in this country.

Yours, &c.,

E. J. Harding, Esq.,

J. L. MACKAY,

Secretary,  
The Committee on Distressed Colonial  
and Indian Subjects.

## No. 6.—SUMMARY OF THE PROVISIONS MADE IN COLONIAL ORDINANCES

British Colony or Possession.	Title of Colonial Ordinance.	Where Relief may be granted.	Nature of Relief.
Bahamas - - -	Acts of 8th April, 1870, and 2nd April, 1880.	Any place abroad or in the U.K.	Any reasonable expenses for relief and repatriation.
Barbados - - -	Merchant Shipping Act, 1891	In foreign parts or in the U.K.	Any disbursements under the Merchant Shipping Acts, or in the U.K., in respect of relief, subsistence, conveyance home, or burial.
Bermuda - - -	Distressed Seamen's Act, 1880.	Any place out of these Islands.	Expenses incurred in accordance with Merchant Shipping Acts and Board of Trade Regulations for relief and sending home.
Canada - - -	Canada Shipping Act (Sections 207-209).	Any place out of Canada	Reasonable expenses on account of subsistence or transport back to Canada.
Ceylon - - -	Ordinance No. 3 of 1880	In the U.K.	Any reasonable sum expended for relief and sending home.
Fiji - - -	Distressed Seamen's Ordinance, 1879.	Any place out of the Colony	Disbursements - - -
Grenada - - -	Distressed Seamen's Relief Ordinance, 1888.	Any foreign country or in the U.K.	Disbursements under the Imperial Merchant Shipping Acts or otherwise for relief, subsistence, conveyance, or burial.
Hong Kong - - -	Merchant Shipping Amendment Ordinance, 1903.	In the U.K., or foreign country, or other Colony.	Expenses incurred under the provisions of the Merchant Shipping Acts.
Jamaica - - -	Shipwrecked Colonial Seamen Law, 1875, Extension Law, 1881.	In the U.K. or (in certain cases) any place out of the Island.	Expenses incurred in relieving and sending home.
Leeward Islands - - -	Act No. 1 of 1885	In the U.K.	Relief and sending back to the Presidency of this Colony to which the ship belonged.
Mauritius - - -	Ordinances No. 13 of 1869 and No. 8 of 1880.	Any place in the U.K. or abroad.	Expenses incurred under the authority of the Imperial Merchant Shipping Act and Board of Trade Regulations, including sending back to Colony.
New Zealand - - -	Shipping and Seamen Act, 1908.	<i>The provisions of Section 108 of the Colonial Act are similar</i>	
Saint Lucia - - -	Distressed Seamen's Relief Ordinance, 1898.	In foreign parts and in the U.K.	Disbursements for or in respect of relief, subsistence, conveyance, or burial.
Saint Vincent - - -	Distressed Seamen's Relief Ordinance, 1884.	Abroad and in the U.K.	Disbursements for or in respect of relief, subsistence, conveyance, or burial.
South Australia - - -	Marine Board and Navigation Act, 1881.	Any place out of the Province.	Reasonable expenses on account of subsistence or transport back to the Province.
Southern Nigeria - - -	Distressed Seamen's Ordinance No. 3 of 1870.	<i>Not directly specified, but presumably any place out of the Colony.</i>	Expenses paid by the Board of Trade.
Straits Settlements - - -	Distressed Seamen's Ordinance, 1869.	Any place out of the Colony	Subsistence until employment obtained or passage provided to a port in the Colony.
Victoria - - -	Marine Act, 1897	<i>The provisions of the Imperial Merchant Shipping Act, 1894,</i>	
Western Australia - - -	Merchant Shipping Act, Application Act, 1903.	<i>Part II. of the Imperial Merchant Shipping Act, 1894,</i> <i>owners, masters, and</i>	

\* The Shipwrecked Mariners' Society only to relieve a seaman  
INDIA.—Provision for the relief and repatriation of Natives of India is

## FOR THE RELIEF OF DISTRESSED COLONIAL SEAMEN.

Conditions under which Relief may be given.	Authorities nominated to afford Relief	Definition of Term "Colonial Seaman."	Definition of Term "Colonial Ship."
Shipwrecked while serving in a vessel registered in the Colony.	Board of Trade, or duly authorised Officer, or the Shipwrecked Mariners' Society in the U.K.*	Belonging to the Bahamas Islands and a British subject.	Registered at any port in the Colony.
Shipwrecked, discharged or left behind from any Colonial ship.	Board of Trade, Consular Officer, or Shipwrecked Mariners' Society in the U.K.*	Employed or engaged in any capacity on board a Colonial ship, on his last voyage, whether a British or foreign subject.	Registered at this Colony and employed in the merchant service thereof.
Shipwrecked, discharged or left behind from any Bermuda vessel.	Board of Trade, Consular or Colonial Officer or any body or public officer in the U.K.	Serving in any Bermuda vessel employed in the service of the Colony.	Registered in Bermuda, owned by a resident in the Islands, and engaged on a voyage either begun or intended to end at Bermuda.
Shipwrecked or otherwise in distress—domicile in Canada (or on Canadian ship) for twelve months being necessary.	Board of Trade, Consular Officer, or Officer in any British Possession other than Canada.	Domiciled in Canada for twelve months—persons serving in ships registered in Canada being deemed as domiciled while so serving.	Registered in Canada.
Shipwrecked - - -	The Shipwrecked Mariners' Society.	Last served in a ship registered in the Colony.	Registered in the Colony.
Shipwrecked, discharged or left behind.	Government of any British Possession or Colony, or any society or person authorised by the Governor.	Belonging to and who last served in a vessel registered in the Colony.	Registered in the Colony.
Shipwrecked, discharged or left behind from a Colonial ship.	Board of Trade, or Consular Officer, or the Shipwrecked Mariners' Society in the U.K.*	Last served in a ship registered within the Colony.	Registered in the Colony and employed in the merchant service thereof.
Distressed - - -	The Imperial Government, Shipwrecked Mariners' Society, Colonial or Consular Officer.	Last served in a ship registered in the Colony.	Registered in the Colony.
Shipwrecked, discharged or left behind from any Colonial ship, or hurt or injured in the service thereof.	The Shipwrecked Mariners' Society,* or Board of Trade, or any Governor, Consular Officer, or Merchants.	Any Colonial seaman (name and country to be supplied) last serving in Colonial ship.	Any Colonial ship.
Shipwrecked, discharged or left behind from any Colonial ship in the U.K.	The Shipwrecked Mariners' Society.	Employed or engaged in any capacity on board a Colonial ship on his last voyage, whether a British or foreign subject.	Registered within the Colony and employed in the merchant service thereof.
Shipwrecked, discharged or left behind from any vessel registered in the Colony.	Board of Trade, Governors of other Colonies, authorised Officers, or the Shipwrecked Mariners' Society in the U.K.	Last served in a Colonial registered ship and a British subject.	Registered in the Colony.
<i>to those contained in Section 42 of the Imperial Merchant Shipping Act, 1906, and apply to any ship within the jurisdiction of the Colony.</i>			
Shipwrecked, discharged or left behind from a Colonial ship.	Board of Trade and the Shipwrecked Mariners' Society in the U.K.*	Last served in a ship registered in the Colony.	Registered within the Colony and employed in the merchant service thereof.
Shipwrecked, discharged or left behind from a Colonial ship.	Board of Trade and the Shipwrecked Mariners' Society in the U.K.*	Last served in a ship registered in the Colony.	Registered within the Colony and employed in the merchant service thereof.
Shipwrecked or otherwise	Board of Trade or Officer in British Possession other than South Australia, or Consular Officer.	Belonging to the Province.	
Distressed - - -	Board of Trade.	Belonging to any ship registered in the Colony.	Registered at any port of the Colony or Protectorate.
Shipwrecked, discharged or left behind from a ship registered in the Colony.	Board of Trade or Officers authorised.	British subject, sailing on voyage from Colony in vessel registered in the Colony.	Registered as a British vessel in the Colony.
<i>apply mutatis mutandis to British ships registered out of the U.K., and the owners, masters, and crews thereof such ships are within the jurisdiction of the Colony.</i>			
<i>applies to all British ships registered at, trading with, or being at any port in Western Australia, and to the crews thereof, where such ships are within the jurisdiction of the State.</i>			

when he is unable to provide for himself by working his passage back.  
made in the Imperial Merchant Shipping Act, 1894, Sections 125 and 185.

## APPENDIX III.

No. 1.

The AGENT-GENERAL FOR THE ORANGE RIVER  
COLONY to the SECRETARY.

121, Victoria Street,  
Westminster, S.W.,  
18th October 1909.

SIR,

I HAVE the honour to acknowledge the receipt of your letter of even date in which you advise me that the terms of reference to the Committee have been extended as set forth in your letter, and ask whether I am in a position to give evidence which is likely to be useful to your Committee in assisting them in the consideration of the problem so far as it affects the Orange River Colony. In reply, I may say that no seamen or natives of the Orange River Colony have applied to this Office for relief since it was opened in July 1908, consequently I am unable to give any evidence as regards such applications, which, moreover, do not seem likely to arise.

I have, &amp;c.,

R. E. BROUNGER,  
Agent-General, Orange River Colony.

E. J. Harding, Esq.,  
Secretary,  
The Committee on Distressed Colonial  
and Indian Subjects.

No. 2.

The AGENT-GENERAL FOR SOUTH AUSTRALIA  
to the SECRETARY.

Office of Agent-General  
for South Australia,  
Threadneedle House,  
23, Bishopsgate Street Within,  
London, E.C.,  
21st October, 1909.

SIR,

I AM directed by the Agent-General to acknowledge receipt of your communication of the 18th instant, with reference to the scope of the inquiry of the Committee on Distressed Colonial and Indian Subjects, and to say in reply to your questions:—

- (1) There has been a number of distressed South Australians who have applied to this Office for assistance, the majority of whom are non-seamen.
- (2) The destitute condition of these persons is due in most cases to the fact that they have worked their passages to London for the purpose of seeing this country, and having no means and finding it impossible to obtain employment are reduced to destitution.
- (3) The only relief that the Agent-General has been able to afford these persons is by endeavouring as far as possible to obtain for them the opportunity of working their passages back to South Australia.

The Agent-General desires me to say that this information is practically the sum of his knowledge of the question, but he will be very pleased to meet the Committee and give them any information if it thinks his evidence will be of value, and for this purpose the first or second Friday in November will suit his convenience.

I have, &amp;c.,

J. B. WHITING,  
Secretary.

The Secretary,  
The Committee on Distressed  
Colonial and Indian Subjects,  
Colonial Office, S.W.

No. 3.

The AGENT-GENERAL FOR VICTORIA to  
COLONIAL OFFICE.

Melbourne Place, Strand, London, W.C.,  
26 October 1909.

SIR,

WITH reference to Mr. E. J. Harding's letter of the 18th instant respecting the terms of reference to the Committee on Distressed Colonial and Indian Subjects, I have the honour to state that the only cases of distress which come under my notice, as far as Victoria is concerned, are Victorian seamen who have signed on in Victoria for a voyage, and have experienced great difficulty in securing employment on a return vessel. Application is then usually made by them to me, and they are furnished, in *bona fide* cases, with general letters of introduction to the steamship companies trading with Australia, the majority of whom give preference to seamen so recommended.

In view of the considerable difficulty that is often experienced in obtaining for such men opportunities to work their passages back to Australia, it would obviously be a wise proceeding on the part of the seamen not to sign on for any company unless an undertaking is given that they will be employed on a vessel returning to Australia, and influence might perhaps be brought to bear on the shipping companies trading with Australia to engage such seamen for return passages only.

I should add, in conclusion, that no funds are provided by my Government for the repatriation of distressed Victorians, and I am personally not in favour of the establishment of any such grant, as the provision of funds for such a purpose would unquestionably lead to abuse.

I have nothing to add to the foregoing statement of my views, but should the Committee wish me to attend, I should be glad to do so.

I have, &amp;c.,

J. W. TAVERNER,  
Agent-General.

No. 4.

AGENT-GENERAL FOR THE CAPE OF GOOD HOPE to  
the SECRETARY.

100, Victoria Street,  
Westminster, S.W.,  
27 October 1909.

SIR,

IN reply to your letter of the 18th instant, I have the honour to inform you that the terms of the reference to the Committee on Distressed Colonial and Indian Subjects were duly conveyed to me by the Secretary of State for the Colonies, and I informed him that if the Committee considered it desirable that I should give verbal evidence, I should be willing to do so. On looking further into the matter, however, and after consultation with my Government, I have come to the conclusion that all the information I am in a position to furnish can readily be given in the form of a letter, but should the Committee consider that any point can with advantage be further developed by personal examination, I shall be quite willing to attend before them. In matters of principle I am not in a position to express any opinions other than those in the instructions laid down by the Colonial Government for my guidance. My evidence would therefore be largely confined to a statement of facts.

The main object of the Committee, I understand, is to enquire into the best method of relieving, repatriating, or otherwise disposing of

- (a) Seamen belonging to India, or to any Dominion or Colony, and
- (b) Natives of India or any of the Dominions or Colonies

who may find themselves destitute or without friends in the United Kingdom, and the Committee wishes to know—

1. The nature and extent of distress which has come before me, and particularly whether seamen or non-seamen form the majority of those who apply for relief.



2. The causes which give rise to distress.
3. The method adopted in dealing with cases which occur, and
4. Any recommendations I may wish to make for the prevention of cases of distress amongst the natives or seamen of Cape Colony or for the effective treatment of cases when they occur.

Dealing with these subjects *seriatim*, I may remark:—

(a) *Repatriation of Seamen belonging to the Cape Colony.*—Over a long period only about a dozen men who have alleged that they have been employed on board ship have applied for relief or to be assisted back to the Colony. They have, as a rule, been men who have worked their passages to England and cannot therefore properly be described as seamen in the ordinary sense of the term. They have generally obtained passages in the hope of being able to get work here, or in the event of their being unable to do so, have relied upon their being able to obtain permission to work their way back to the Colony. As a rule this class of man has no relations in the Colony or elsewhere either willing or able to assist him to return. It is understood that the shipping companies when in want of hands will only ship casuals for the homeward voyage as the round voyage ends at Southampton or London as the case may be. I have, I may say, requested my Government to bring to the notice of the Shipping Masters in the Colony the necessity for care being taken in regard to the signing on of such men with a view to its being made clear to them the risk they run and their personal liability if they should become stranded in England without being able to obtain work, or some means of securing a return passage to the Colony.

(b) *Natives.*—There is very little, if any, difficulty in regard to Cape Colonial natives. They are not a seafaring race and but rarely come over to this country. During the last two years applications have only been received from two Kaffirs and two coloured women, who have represented themselves to be destitute. Instances have, however, been known of coloured men joining circus troupes and becoming unemployed after arrival in this country, though the number of such cases is so limited as not to call for particular attention.

(c) Since 1907, 52 cases of distress have been investigated by this office. Apart from the cases already described, the applicants have come within one or other of the following categories:—

(1) Colonial-born men; men who have become domiciled, or have resided for a considerable number of years in the Colony, but, having a little money (retrenched Government employees, for example), have come over to this country in search of employment, and being unable to find it, have come to the end of their resources.

(2) Men who have come over here on a holiday and in some way or other—generally through robbery or dissipation—have lost their money and become destitute.

(3) Men or women who have come over as employees for some person and have subsequently been discharged without means of returning to the Colony.

(4) Persons who have obtained employment in this country and have lost it through old age, accident, or infirmity, and who desire to be helped to get back to their friends and relations in the Colony.

Of the 52 cases dealt with, about 30 have been relieved in some form or another. For six working

passages have been obtained, four were repatriated at the expense of the Colonial Government, three were dealt with by the Charity Organisation Society, to which the Cape Government is a subscriber, one was granted an indulgence passage by the War Office, three were dealt with by the South African Colonisation Society, two were assisted to join the Royal Navy, and employment was found for two.

Various causes are, as a rule, assigned as the reason of destitution. Loss of money in some way or another, inability to find work, failure of friends or relations in the Colony to supply funds, drugging and robbery in the neighbourhood of the docks, &c., &c.

In dealing with cases the applicants are seen in the first place by one or other of the officials of the Agency who are acquainted with the Colony, and who are in a position as a rule to test the accuracy of the representations made as to Colonial birth or residence. Applicants are also frequently questioned in the Dutch language if they claim to come from the Western Province of the Colony where that language is very commonly spoken. As a rule few of them possess any papers or letters, usually alleging that they have been stolen from them. If they have any documentary evidence in their possession, such evidence is carefully examined and full information obtained as to the reason for coming to this country, the date of arrival and how the intervening period has been spent. It is not, as will be readily understood, an easy matter to test the genuineness of the statements made, and more than once assistance has unfortunately been given to plausible persons who have afterwards been found to be impostors.

Some years ago it was fairly easy to secure working passages for stranded men of respectable appearance, but of late years this has become more difficult. If applicants have friends in the Colony who are in a position to render them assistance, or if they are known to the officers of the Agency, information in regard to their destitute condition is conveyed by cablegram through the Government of the Colony, and in several cases this has resulted in the required aid being forthcoming.

As regards the prevention of distress, more particularly among seamen and natives, but little can be done beyond the steps already taken by the Government. All other cases are more or less fortuitous and preclude the possibility of preventive measures. I am also inclined to doubt whether any more effective means than those now adopted can be taken to provide the necessary relief. It is not, in my opinion, possible to lay down any general rules, as each case must necessarily be taken on its merits. The Government of the Colony, whilst holding the opinion that repatriation from England should be confined within the strictest limits, places a small sum at my disposal for compassionate purposes. It has decided, however, that assistance can only be rendered to Cape colonists by birth, or long residence, with all their family interests in the Cape Colony, and not even in such cases unless there are special circumstances which, in my opinion, make it essential, in the cause of humanity, that assistance should be given.

It is worthy of remark that destitute citizens of other countries and colonies who become a charge to the State in the Cape Colony receive no assistance from the countries to which they belong, and if repatriation is carried out, it is effected at the expense of the Cape Government. In this connection I may, perhaps, be permitted to draw your attention to the large sums which have from time to time been spent by the Cape Government in repatriating British-born subjects who have become stranded in the Colony. Particulars of a number of recent cases are given in the accompanying Return marked (A). Until, therefore, there is more reciprocity in matters of this kind, my Government is of opinion that it is not altogether unreasonable that the country in which distressed persons are found should primarily be responsible.

I have, &c.,

S. W. FRENCH.

E. J. Harding, Esq.,  
Secretary to the Committee  
on Distressed Colonial and  
Indian Subjects.

## Enclosure in No. 4.

## REPATRIATION OF DESTITUTE EMIGRANTS.

Particulars.	No. of Emigrants.	Amounts.	Totals.
		£ s. d.	£ s. d.
"Cluny Castle," London, 12 April 1907 - - - - -	90		
Subsistence money given by Agent-General to 89 men - - - - -		28 7 6	
Officers from Agent-General's Office—travelling expenses - - - - -		8 10	
Dock dues - - - - -		1 4 0	
Carriage on boxes - - - - -		1 3 0	
Passages, 90 at 8l. 8s. - - - - -		756 0 0	
			787 3 4
"Gaika," London, 13 April 1907 - - - - -	15		
Subsistence money given by Agent-General to 12 men - - - - -		3 7 6	
Officers from Agent-General's Office—travelling expenses - - - - -		9 4	
Dock dues - - - - -		3 0	
Subsistence money given by purser, 15 at 2s. - - - - -		1 10 0	
Passages, 15 at 8l. 8s. - - - - -		126 0 0	
			131 9 10
Railway fares from London—"Cluny Castle" and "Gaika" - - - - -			70 7 4
			989 0 6
"Gascon," London, 21 June 1907 - - - - -	19		
Subsistence money given by Agent-General to 14 men - - - - -		3 15 0	
Officers from Agent-General's Office—travelling expenses - - - - -		8 2	
Dock dues - - - - -		5 0	
Railway fares from London - - - - -		8 9 8	
Subsistence money given by purser, 19 at 2s. - - - - -		1 18 0	
Passages, 19 at 8l. 8s. - - - - -		159 12 0	
			174 7 10
"Avondale Castle," London, 19 February 1908 - - - - -	13		
Subsistence money given by Agent-General to 9 men - - - - -		3 10 0	
Officers from Agent-General's Office—travelling expenses - - - - -		8 0	
Dock dues - - - - -		1 6	
Railway fares from London - - - - -		5 12 1	
Subsistence money given by purser, 13 at 2s. - - - - -		1 6 0	
Passages, 13 at 8l. 8s. - - - - -		109 4 0	
			120 1 7
"German," London, 27 March 1908 - - - - -	9		
Subsistence money given by Agent-General to 6 men - - - - -		2 2 6	
Officers from Agent-General's office—travelling expenses - - - - -		6 4	
Dock dues - - - - -		2 0	
Railway fares from London - - - - -		5 11 5	
Subsistence money given by purser, 9 at 2s. - - - - -		18 0	
Passages, 9 at 8l. 8s. - - - - -		75 12 0	
			84 12 3
"Gaika," London, 23 April 1908 - - - - -	3		
Subsistence money given by purser, 2 at 2s. - - - - -		4 0	
Passages, 3 at 8l. 8s. - - - - -		25 4 0	
			25 8 0
"Galician," London, 14 June 1908 - - - - -	1		
Subsistence money given by Agent-General to 1 man - - - - -		5 0	
Subsistence money given by purser, 1 at 2s. - - - - -		2 0	
Railway fare from London - - - - -		1 13 0	
Passage, 1 at 8l. 8s. - - - - -		8 8 0	
			10 8 0
"German," London, 26 September 1909 - - - - -	1		
Subsistence money given by Agent-General to 1 man - - - - -		2 6	
Subsistence money given by purser, 1 at 2s. - - - - -		2 0	
Railway fare from London - - - - -		16 6	
Passage, 1 at 8l. 8s. - - - - -		8 8 0	
			9 9 0
"Gaika," London, 18 October 1909 - - - - -	1		
Subsistence money given by Agent-General - - - - -		5 0	
Railway fare from London - - - - -		1 4 0	
Passage, 1 at 8l. 8s. - - - - -		8 8 0	
			9 17 0
Totals - - - - -	152		1,423 4 2

The Colonial Secretary reported that all the above men were British-born subjects, and that the majority of them were unemployable, and their characters and antecedents gave little hope of their being capable of obtaining permanent work or maintaining themselves by their own efforts.

No. 5.

The AGENT-GENERAL FOR THE TRANSVAAL to the  
SECRETARY.

72, Victoria Street,  
Westminster, S.W.,

SIR, 9th November 1909.

WITH reference to your letter of the 18th ultimo, I am directed by the Agent-General to inform you that since the Transvaal Agency was opened on 1st July, 1907, about 50 applications for relief have been received; of this number one applicant only alleged that he had followed a seafaring life for six or seven years. The remainder was composed of persons who had emigrated to the Transvaal before the War, ex-soldiers who had served in the War, ex-constables of the South African Constabulary, men employed in a subordinate capacity on the Government Railways, and persons who had been born in the Transvaal. Relief was granted to the last-mentioned class only, their number amounting to four:—

- (a) One, a woman, had come to Europe for medical treatment. She had underestimated the cost, had been assisted by the British Consul at Hamburg to get to England and arrived here practically penniless. Enquiry was made by cable as to whether she was worthy of assistance, and the reply being in the affirmative, she was repatriated to Johannesburg at the expense of the Government.
- (b) A man born in the Transvaal, who had worked his passage to England with the intention of going to his sister in Germany, turned up at the office and stated he expected a remittance from his sister of the necessary funds to enable him to proceed to Germany. Being without funds of any kind, a sum of 5s. was granted, to provide food and shelter until he heard from her.
- (c) The case of the ex-burgher who had followed the seafaring occupation, above referred to, was one where considerable doubt existed. He was granted the small sum of 2s., but a telegraphic enquiry failed to trace the existence of his relatives in the Transvaal. He did not call a second time.
- (d) Relief was also granted in the case of an ex-burgher who had been sent to Germany by the Government for medical treatment. Subsequent enquiry elicited the fact that his conduct while in this country would have disentitled him to any assistance.

The above exhausts the cases of relief granted on the initiative of this office. It may, however, be of interest to the Committee to learn that, after the conclusion of Peace, a considerable number of ex-burghers of the late South African Republic taken prisoners of war drifted to various parts of the world and were found to be stranded destitute. It seemed desirable to the present Transvaal Government that such persons, provided they had not divested themselves of their rights as ex-burghers, should be repatriated to the Transvaal at the expense of the Transvaal Government. This policy was probably dictated by a desire to obliterate all traces of the late War, as well as by humane considerations. It is understood that at the present time several white Transvaalers are stranded destitute in the Congo State and the Transvaal Government has agreed to bear the expense of repatriating them. In this instance the desirability for relieving is emphasized by the necessity for maintaining white prestige and the idea of the solidarity of the white race. The above remarks may, it is thought, be regarded as covering the questions 1, 2, and 3 of your letter of the 18th ultimo.

There were, in addition, several cases of personal application by persons who alleged that they had been born in the Transvaal, that they had come to the United Kingdom for various reasons, that they were unable to find employment and were in a state of destitution. The fact of their having been born in the Transvaal was, as a general rule, unsupported by reliable evidence, and the statements as to destitution were equally vague, and certainly could not be

accepted without strict inquiry. These facts notwithstanding, the Agent-General felt that they were entitled to consideration, but in order to safeguard his Government against fraudulent or unworthy applications, the services of the Charity Organisation Society were solicited, with results which have restricted assistance to worthy cases.

The Agent-General had, in the meantime, obtained authority from his Government to expend a sum not exceeding 50% per annum in granting such assistance to genuine cases of distress as appeared to him necessary. The inquiries made by the Charity Organisation Society on behalf of the Agent-General are naturally confined to the cases of applicants who have lived for some time in this country.

The Transvaal Government does not, however, recognise any legal obligation to repatriate any person, and its action in each and every case is entirely *ex gratia*. In common with other South African Governments it has taken precautions against the immigration of persons likely to become destitute in the Colony. There is no Poor Law in the Transvaal, but, should such immigrants afterwards become destitute, no distinction is made between them and other persons in any schemes for relief adopted to meet exceptional distress. It cannot deport them unless they have committed an offence against the laws of the Colony warranting deportation.

The case of a destitute colonist in the United Kingdom and that of a destitute Britisher in a Colony is entirely different from that of a British subject in a foreign country. The question of British prestige is not involved and, being among persons speaking the same language and accustomed to similar institutions and modes of earning a livelihood, they may for practical purposes be considered as being in their own country.

But if it be admitted that in strictness a Colonist had no legal or moral claim upon the Government of the Colony in which he was born, considerable difficulty would nevertheless be experienced in practice by the Colonial representative in England in refusing some measure of assistance in bona fide cases of distress brought to his notice. If his Government wholly declined responsibility, it would, as experience has proved, inevitably follow that he would have to do so out of his private purse. No hard and fast principles have been evolved sufficiently conclusive and so generally acceptable as to counteract the promptings of charity which exists so universally as to appear to be instinctive.

The fact that a person has been born in the Transvaal gives him a claim upon the good offices of the Agent-General, but the extent to which these services can be drawn upon depends entirely upon the special circumstances of each case. So far as the Transvaal is concerned, genuine cases of distressed Transvaalers have been extremely few, and the problem of relief, therefore, has not assumed such proportions as to be one of moment to the Transvaal Government.

I have, &c.,  
JAMES BURNS,  
Secretary.

No. 6.

AGENT-GENERAL FOR WESTERN AUSTRALIA to the  
SECRETARY.

15, Victoria Street, London, S.W.,

SIR, 2nd December 1909.

IN reference to your letter of the 18th October last, on the subject of an inquiry into the seamen and residents of any of the Overseas Dominions who may find themselves in an impecunious position in the United Kingdom, I have to say that if it is desired by the Committee I shall be pleased to submit any evidence I can give in relation to such cases as have come under my notice.

At an interview I had the pleasure of having with you, I gather that the Agent-General for Tasmania has already given his evidence, and that the Representative of the Commonwealth of Australia has also been examined before the Committee.

I further gather that the conditions of those described by these gentlemen are practically the same as the cases I have had brought under my observation, and it may not be deemed necessary for me to travel over the same ground.

The question is one which I have felt for a number of years to be a real trouble, and in May, 1907, a report was sent out to my Government from this Office in the following terms:—

*Stranded Australians in England.*

"The question of persons domiciled in the Commonwealth arriving in this country and here becoming destitute is one which needs the closest consideration by the Government. At present there is no provision made to meet such cases. Men arrive by steamer, or at times, sailing vessels, having, in most cases, worked their passages home, with a view to "seeing the world." These men, after a week or so, find that there is a grave obstacle to their getting back to their friends in the same capacity as they obtained the homeward voyage.

"It cannot be too widely known that vessels leaving this country engage their crews for the round voyage, and the captains of such vessels do not care to sign on hands who will not undertake to work the vessel home again as well as on the outward voyage. The reason for this is obvious, as ship masters do not wish to incur the risk of finding themselves at a foreign or colonial port short-handed.

"The result, however, is disastrous to many, as they, having come to London or other English port with a light heart and a lighter purse, find on arrival their resources exhausted, and no means of getting home, and a very slight chance, in the contest for work, of being able to earn even bare existence.

"The result is no less a hardship to the Agent-General and his staff. Speaking for myself, I may say that pounds on pounds are annually expended by me in helping such men when in a state of semi-starvation, while I regret to say it for the credit of the Australian working man, that there is seldom, if ever, any effort made on the part of the recipient, when better days turn up, to repay the advances made to them when in their direst distress. The question, when put to such people, 'Why did you come here?' is always answered in the same way: 'I don't know, I thought I could easily get back again.'

"The Board of Trade in England provide a homeward passage for distressed Englishmen when stranded from ships abroad. Some such arrangement, in my opinion, should be made by the Commonwealth when *bona fide* Australians are found wandering destitute in the seaports of Great Britain.

"The fact, too, should be widely advertised, and shipping officers should be directed to personally warn men engaging for the homeward voyage as coal trimmers, &c., that a difficulty will be experienced in returning to Australia on the part of the man if it is his wish and intention to do so, unless he has funds sufficient in his possession to pay for his ticket as an ordinary passenger.

"There are other Australians who find themselves destitute in England, and this, perhaps, is a class far harder to deal with, but it appears to me that neither the States nor the Commonwealth should leave it to the personal charity of the Agent-General and his staff to relieve the immediate wants of persons who, be the cause what it may, find themselves in necessitous circumstances in a land far distant from their homes; where they are absolutely devoid of friends or sympathetic acquaintances. Cases have occurred of Australians, when in such straits, applying to the London magistrates for assistance and advice, but no such case has, so far as I am aware, occurred as regards any Western Australians. The press in London at once takes such matters up, and then the Australian States as a whole

are taken to task for not looking after their necessitous citizens, with the result that a bad impression is created in the minds of the public."

Notices have been inserted in the local press in Western Australia, and have also, I understand, been posted at the shipping offices in the State drawing attention to this matter.

I, here, always have close inquiry made, and the answers given by the men to the questions on the enclosed sheet duly recorded, besides others which any particular case suggests.

My practice in dealing with such cases as are considered genuine is to endeavour to secure passages as workers in the ordinary trading steamers to Western Australia, and I have been deeply indebted in the past to Messrs. Bethell, Gwyn & Co., Messrs. Trinder, Anderson & Co., and Messrs. W. Marden & Co. for the assistance they have rendered in carrying this practice into effect.

I feel hardly qualified to express an opinion as to the best means to cope with the trouble in England. It hardly appears to me to be equitable that steamship companies availing themselves of the services of Australians to fill a gap in their ships' crews when short-handed, should refuse, on any terms whatever, return berths to the men so engaged.

Cases where men ship in vessels carrying a foreign flag (and these are not infrequent) are, in my opinion, even more difficult, but these cases would, perhaps, be best dealt with at the time of engagement, firstly, by warning the men at the time of their engagement of the risks they run, and also by ensuring that such engagements are entered into in the presence of the proper authority.

I have, &c.,  
R. C. HARE,  
Acting Agent-General.

*Enclosure in No. 6.*  
**STRANDED MEN.**

Name.	
Place and Date of Birth.	
When did you leave Australia, and when arrive in England?	
Name of Ship.	
In what capacity did you travel?	
Have you Relations in any part of Australia? If so, give full address.	
Would your Relations or any friend help you if informed? Give full address.	
How have you come to land in this country and allow yourself to become impecunious?	
What is the present request you make to the Agent - General for Western Australia?	
How long were you in Western Australia? And while there, in what capacity were you employed?	

## No. 7.

The AGENT-GENERAL FOR NEW SOUTH WALES to  
The SECRETARY.123 and 125, Cannon Street, London, E.C.,  
8th December, 1909.

SIR,  
WITH reference to previous correspondence on the subject of the Committee on Distressed Colonial and Indian Subjects, I beg to inform you that, having brought the matter under the notice of the Honourable the Premier of New South Wales, I am now informed by that Minister that he is in receipt of a report from the Shipping Master, Sydney, to the effect that it is not the practice for New South Wales seamen to sign on in Sydney on articles of a ship which expire in the United Kingdom, and that, when natives of that State do sign on under such circumstances, the position in which they will find themselves on their discharge in Great Britain is explained to them.

Sydney is the largest port in Australia and the place from which the greatest number of seamen are shipped, and it is probable that the largest number of seamen who are stranded in London find their way to this Office, and I can say of my own knowledge that during the last three years no seaman who has come here has said that he was induced to sign articles under a wrong impression, but all knew that they would be discharged in London.

The practice of this Office is to help stranded persons in a charitable way and, where they are deserving, to endeavour to find them employment or a means of getting back to the State; but shipwrecked seamen and lads from the Government training-ships are dealt with in a special way, out of funds provided for the purpose.

The number of stranded seamen has been by no means large, I should say from 8 to 12 would be the yearly average, and I do not think that the subject is one that demands the interference of the Imperial Government; indeed, I think it would be running counter to Australian sentiment for the Imperial Government to undertake to deal with the cases of Australians in Great Britain; this is a matter which might well be left to the discretion of the Governments of the Commonwealth and of the States. So far as New South Wales is concerned, this agency has successfully dealt with all applications from seamen who have presented themselves, and I should imagine there were few stranded persons from the State, whether seamen or otherwise employed, who have failed to bring their cases under attention.

I should say that probably more than two-thirds of the persons who call at this Office reporting themselves to be Australians stranded in London and asking for assistance are not seamen, but ordinary travellers. A numerous class is that of persons who, when they left Australia, had definitely abandoned it, having no intention of ever returning. Funds are not provided by the Government for the relief of such cases, which I think is wise, for if it were understood that there was a Government fund to be expended in relief, it would lead to relief being claimed as a right and not as a favour.

I presume it has not escaped the observation of the Committee that if there is need on the part of the Imperial Government to consider the relief or repatriation of Australians in London, there is much greater need to consider the cases of distressed Englishmen in Australia.

I am, &amp;c.,

T. A. COGHELAN.

## APPENDIX IV.

## No. 1.

The following information was supplied to the Committee by the Secretary of the Charity Organisation Society in London.

## (a.)

ABSTRACT OF REPLIES FROM PROVINCIAL  
CHARITY ORGANISATION AND OTHER SIMILAR SOCIETIES  
in regard to applications made to them by  
INDIANS AND COLONIAL SUBJECTS.

*Cardiff.*—The Society have no suggestions to make. The number of applications has been too small. There is no exceptional distress amongst this class. When they apply, it is on account of slackness in the shipping. The cases are treated as ordinary cases.

*Dundee.*—Only one application from an Indian in the last 10 years. Applications from Colonials (very few) are generally from seamen making their way to other ports. Their wants are generally met with by their being dealt with in the ordinary way.

*Leeds.*—"Races" are not classified in the Society's index. Only two cases can be recalled, though there may have been more in the last few years.

*Leith.*—Only four or five cases in the year, as a rule penniless. Nearly all are seafaring men, ship's cooks, firemen, or sailors who, while drunk, are robbed, and leave, or are dismissed from, their boat. Food and lodging is sometimes supplied to them, and, when there is no boat available for them, their fares are paid to Glasgow or Newcastle. No applicant has proved satisfactory.

*Liverpool.*—The Society have very few applications. An occasional application is made by a cattleman, which, as a rule, is not entertained. Steamship companies bringing these men from Canadian ports provide a return pass, which the men lose or sell, and then application is made for their passage. Cases instanced.—Two single men, aged 21 and 23, from Demerara; one a stone-mason, the other a dispenser.

Had come over to raise money for the Demerara Missionary and Industrial Institution, of which they said they were students, but had been unsuccessful. They were sent back in a cargo steamer, 57, being raised and paid for the purpose. Two others, 21 and 26, from Barbados, who wanted to return. They had applied to the Colonial Secretary. Endeavours to procure passages for them failed; one line of steamers would not help because of former unfortunate experiences in such cases. A man, 30, single, who lost his employment in the South African Postal Service through some foolishness. He was put to work at the Society's workshops. No prospect of getting abroad presenting itself, he got work, which he retains, as a carriage cleaner on the railway. Several West Africans. It is best, generally, to send them back, as there are few opportunities of work here, and the Elder Dempster Line are very good in giving them passages. Case at present under notice: a single man, 23, of Christchurch, New Zealand, professing to be a seaman. Father a retired farmer. Applicant has private means. He worked his passage, and intended to have a holiday here. Had 90l. on landing, was robbed of 64l., and has written to his father for funds. Will probably be assisted for a short time pending the result of this letter.

As far as possible, endeavours are made to send these men back and to get them to work their passages, but this is not easy. There is no means to treat them effectively. They must be treated individually on the ordinary lines of careful inquiry.

*Manchester.*—The Society have very few cases; only one this year.

*Portsmouth.*—Only two cases. The widow of a clerk who had mostly lived in India. She had the offer of a home with a son in India, and, in co-operation with relatives, was sent back. A canvassing superintendent came from New Zealand for his health some years ago, recovered, and was anxious to return. He had a promise of work with his former employers, and his repatriation was assisted. He contributed 9l. from insurance money.

*Southampton.*—Only one native case remembered. A Jamaican, an old servant of the Royal Mail Steam Packet Company, thrown out of work owing to an accident. The Company paid 12s. 6d. a week to the man for some months, but stopped this previous to his recovery. Inquiry showed that the Company had passed the case on to the Shipping Federation, to arrange his claim for compensation. The Federation agreed to continue the 12s. 6d. a week, or to give a lump sum to start the man in business. The Society have a good many applications from Englishmen who have returned from South Africa, who, as a rule, owing to slack trade, have worked their way home, and have found themselves stranded.

*Swansea.*—Singularly exempt. Only one case known at the shipping offices of the Board of Trade, and that some time ago. The man was dealt with at the Infirmary. The Head Constable has no record of any cases. The Society sometimes meets with coloured seamen, but they soon get a ship. The trade of Swansea is not so much as many other seaports with Asiatic countries.

The following Societies report that they have had no applications from this class:—

Bristol, Cambridge, Glasgow, Oxford, Leicester, Hull, Sunderland, Newcastle-on-Tyne.

(b.)

ABSTRACT OF REPLIES FROM DISTRICT COMMITTEES OF THE LONDON CHARITY ORGANISATION SOCIETY IN REGARD TO APPLICATIONS MADE TO THEM BY INDIANS AND COLONIAL SUBJECTS.

*Kensington.*—One case in March 1909: B——— O———, who described himself as a Prince. Was educated at Edinburgh University. Had published a book—"A Defence of the Ethiopian Movement," and is deeply interested in the raising of his countrymen. Owing to political trouble his remittances from his uncle's estate on the Gold Coast (Lagos), where his uncle is a King, have ceased. He wanted a loan of 125l. to pay off debts, and to go to America to speak for the native cause. Has got into the hands of a money-lender. Mr. Ramsay Macdonald, to whom he had been, had promised to bring his uncle's troubles before the House of Commons. He could not apply to the Colonial Office on account of difference in politics. Inquiries at Edinburgh showed him to be the son of a dock or shore porter. He compiled his book in a printer's office where he was employed. It was a total failure. Owes publishers 60l. and landlady 20l. Had received 25l. from a gentleman in Edinburgh. The inquiry at Edinburgh elicited a reference from the Charity Organisation Society there to his companion, T——— H———, who left owing his landlady. The career of both was anything but exemplary. His (O———)'s father sold his little bit of land in order to send him to England to pursue his studies. When his money was exhausted he started begging. Only attended two classes for half a session at the University, and when taken to task said he was abandoning law for politics. One of his references thought him sincere and honest and highly intelligent, but knew nothing of his financial prospects. His application was declined.

Another case, also in March, 1909: M——— M———, who applied for general help; an Indian student who had passed all examinations for the Bar except the final. His remittances from his mother in Calcutta had ceased because he (a Hindoo) had married an Englishwoman. Very favourable reports were received from his landlord and another reference. The case was known to the Acton Society, to whom applicant came for similar help a year before. He was a Freemason. He was said to have "played the fool" (nothing serious) at Gray's Inn, otherwise he ought to have passed his examinations in three years, whereas he had been studying five years. He had given two sureties instead of the usual 50l. deposit. Some help was given by the Kensington Committee, but further help was declined in April 1909. Applicant had also received help from a Freemason, and from a philanthropic society. He obtained some temporary work at the Salvation Army Insurance Office.

*Hammersmith.*—One application in the last twelve months, from Demerara.

*St. Marylebone.*—Occasional applications. One at present, A——— T———, an Antiguan.

*South St. Pancras.*—Only two cases of recent times. One a Jamaican trained nurse who came over for further training, but got stranded. She was repatriated, as she had certain work on her return. The other a coloured student or missionary who disappeared before any steps were taken.

*City, Clerkenwell, and Holborn.*—One case: a coloured man, R———, formerly a Jamaican planter.

*Shoreditch.*—Only one application four or five years ago, from a Parsee, which was withdrawn.

*St. George's-in-the-East.*—No experience. Only one or two applications in many years. Men are of the common lodging-house class, and have been referred to the Poor Law.

*Whitechapel.*—Only three applications since May 1908, from negro sailors. One from Old Calabar, robbed of everything at Rotterdam, sent to England by British Consul, referred to the Charity Organisation Society by the Salvation Army. Inquiry showed that he had refused work at the Salvation Army on several occasions, and the Committee did not intervene. Another, a Cingalese engineer, who wanted to return. He had been six months in England. He was discovered to be lazy; had refused maritime and other work. Unsuccessful efforts were made for him to work his passage to Ceylon. The Committee could not recommend him for help. Another sent by the Colonial Office—a night watchman; sailor; native of the Bahamas. He wanted to go to Cardiff to get a ship. This was thought useless. Then he suggested Jamaica, and unsuccessful attempts were made through the Bristol Charity Organisation Society to get him a berth.

There is great difficulty in dealing with these cases. There should be a special branch of the Colonial Office for the purpose. Two special difficulties are: the men are British subjects; the impossibility of adequate inquiry and verification of statements.

*Stepney and Mile End.*—The Committee cannot give much information or make practical suggestions. In the last two years they have had only three or four applications from coloured Colonials (sent by the Colonial Office). They have been homeless cases, and have been advised to go to the workhouse—no inquiry being made. The Committee think that the Clerk to the Guardians might be consulted, and inquiry made at the Home for Asiatics, and the Sailors' Home, Well Street.

*Poplar.*—The Committee recall only three cases (two being brothers) Indians—one a Mauritian. The brothers, who applied in 1908, were advised to present credentials they had that their friends might help them to settle down. They wanted help to join the Poplar School of Engineering, which sent them to the Charity Organisation Society. The other Indian was referred to the workhouse, being out of work and health. The Mauritian was referred to the Home for Asiatics in 1900. He made a subsequent application in 1902, and was referred to the Believing Officer.

NOTE.—The Committee, however, subsequently report three other cases:—(1) A Cingalese lad of 17 who was given temporary food and lodging. He had been in the Sick Asylum, where they said they were afraid he was not very straight. An abortive attempt was made to find him employment in the service of the Peninsular and Oriental Steam Navigation Company, but their ships do not carry Cingalese. Eventually he was referred to the workhouse. (2) A West Indian ship's cook, who applied through the Vicar of St. Michael, Bromley, in October 1901. He was referred to the Stepney Committee of the Society, who told him of the Believing Officer and the clergy, and to call during office hours (he had not so called). He did not come again. He was respectable and well-dressed. He applied again to the Poplar Committee in July 1906, having lost his clothes, for a new suit. He had no prospect of a ship, and was told his clothes seemed good enough. He was rather dirty, and had been living for about five years in a common lodging-house in Stepney, and was reported

from there as quiet and respectable. The address of the Stepney Committee was left for him and the Stepney Committee informed. (3) A West Indian negro sent by the Colonial Office in March 1908. He could not get a ship, as he had lost his discharges (save one). They would not go into his pocket, so he lost them! Being destitute, he was sent to the workhouse pending the result of attempts to send him to Nassau, Bahamas. Endeavours to this end were made through the Charity Organisation Society at Liverpool without result. Eventually he was sent to Cardiff, the Seamen's Institute there undertaking to find him a ship, but no intimation of this having been accomplished was received. The deficit on the case was *l. 10s. 4d.*, which the Colonial Office were unsuccessfully asked to pay or to contribute towards.

*St. Saviour's, Southwark.*—Only one application recently—from Trinidad (sent by the Colonial Office), where he had relations able to help him. He was referred to the "Morning Post" Home.

*Lambeth.*—Only one case lately—a West Indian.

*Vauxhall.*—Only one case in the last two years—from India, but not a native—a woman sent to England for health reasons. She was temporarily assisted pending inquiries. She was, however, arrested for drunkenness, and was sent by the Prison Chaplain to a Southampton Refuge, with a view to her return to India.

*Brixton.*—One case only—from Trinidad (referred by the Colonial Office). Applicant had property in St. Kitts, but had never received anything from it. His mother in Trinidad wished him to join her. He came when a child to England and had never returned. No assistance was given, as the man and wife were able-bodied and had good trades.

*Woolwich.*—The Committee have had very few cases. In the last five years three only: a West Indian discharged from the Royal Arsenal on reduction; an Australian; and a Jamaica woman. The two former were assisted. The last was referred to the Poor Law.

*Norwood.*—The Committee have had two cases only: L— D—, wife of the Gaoler at Boshof, Orange River Colony, who was repatriated; M— R—, wife of a "Prince of the Blood Royal" of Burmah. Husband was brought home on a ship of the Royal Navy, and died some years after. No report of what (if anything) was done for the woman.

The following Committees of the Charity Organisation Society have had no cases of this description before them:—

Fulham, Paddington, Chelsea, St. George's, Hanover Square, Hampstead, North St. Pancras, Islington, Holloway, Hackney, Dalston, Bethnal Green, North-West Ham (four Indians now—29 July 1909—in West Ham Asylum at Goodmayes; the West Ham Hospital deals with Indians sent from the Docks), Newington, Bermondsey, Wandsworth, Clapham, Battersea, Camberwell, Dulwich, Deptford, Lewisham.

## No. 2.

## THE ASSOCIATION OF POOR LAW UNIONS to the SECRETARY.

5, King's Bench Walk, E.C.

January 8th, 1910.

SIR,

ADVERTING to your communication of July 27th last\*, and to my subsequent interviews with you, I have to state that it is desired to put before your Committee the recommendations on behalf of this Association which you will find attached to this letter.

As I have already informed you, the Association were not in possession of any statistics of their own, and inasmuch as they have been put in possession of

the information obtained by your Committee from the Boards of Guardians to whom a copy of your letter of July 27th last was sent, it has not been considered necessary to request the Clerks of such Boards to again furnish the information they have already given to your Committee.

Careful consideration has, however, been given to the particulars so furnished, and opportunity has been taken of consulting Mr. H. P. Cleaver, the Clerk to the West Derby Union, to which Union it appears there have been chargeable by far the greatest number of the distressed persons with which your Committee are concerned.

If you should find it necessary to make any comments upon the enclosed would you kindly communicate with me forthwith?

Yours, &amp;c.,

E. J. HARDING, Esq., HERBERT DAVEY,  
Secretary to the Committee  
on Distressed Colonial and  
Indian Subjects.

## Enclosure in No. 2.

## RECOMMENDATIONS ON THE SUBJECT OF THE REPATRIATION OF DISTRESSED COLONIALS AND OTHER BRITISH AND FOREIGN SUBJECTS FROM BEYOND THE SEAS.

1. That His Majesty's Government be requested to sanction legislation on the lines of section 185 of the Merchant Shipping Act, 1894, but sufficiently extended so as to include the cases of all distressed natives of India, the Crown Colonies, and Protectorates, and other British and Foreign Dominions beyond the Seas, who, though British subjects, ought to be maintained by the Governments of their own Countries, but have become chargeable to Boards of Guardians in England and Wales.

2. That the Secretary for the Colonies be empowered by means of legislation, if necessary, to take action for procuring the repatriation of such distressed persons who become chargeable to Boards of Guardians as are included in Recommendation No. 1.

3. That the provisions of the Aliens Act, 1905, be extended so as to enable the Home Secretary to authorise the repatriation of natives of Foreign Countries who become chargeable to Boards of Guardians, and who have neither become naturalised British Subjects nor have become legally settled in any Poor Law Union in England or Wales.

4. That upon notice being given to the Home Secretary, or to the Colonial Secretary, as the case may require, in regard to any distressed person included in Recommendation No. 1, that such person is willing to be sent to his own country, such distressed person may be forthwith repatriated, if, in the opinion of the Secretary of State, the circumstances of the case are such as to justify such repatriation.

5. That in the case of the repatriation, in accordance with either of the foregoing recommendations, of any distressed person who has become chargeable to a Board of Guardians, the proportion of the total expenses incurred to be borne by such Board of Guardians shall be determined by the Secretary of State. Provided that a Board of Guardians shall not in any case be called upon to pay more than one-half of such expenses.

6. That the provisions of section 184 of the Merchant Shipping Act, 1894, with reference to the liabilities to penalties of masters and owners of ships in respect of seamen who become chargeable to Boards of Guardians within six months of landing in the United Kingdom, be extended to include the cases of all such distressed persons as are mentioned in Recommendation No. 1, who, having been brought to the United Kingdom in a ship, British or Foreign, become chargeable to a Board of Guardians in England or Wales.

\* See Appendix V. (page 94).

## APPENDIX V.

The following circular was sent to the Guardians of the Poor Law Unions of—

Bermondsey, City of London, Greenwich, Hackney, Poplar, St. Mary Abbots, St. George's, St. George in the East, Stepney, Strand, West Ham, and Westminster.

Barrow-in-Furness, Birkenhead, Bristol, Cardiff, Dover, Great Grimsby, Hull, Liverpool, Toxteth Park (Liverpool), West Derby (Liverpool), Newcastle-on-Tyne, Newport, North Shields, Orsett (Grays), Plymouth, Southampton, South Shields, Sunderland, Swansea, and West Hartlepool.

Edinburgh and Glasgow.  
Belfast, Cork, and Dublin.

Downing Street,  
27 July 1909.

Sir,

I am directed by the Chairman of the Committee on Distressed Colonial and Indian subjects to inform you that the Committee are anxious to acquire information as to the extent to which cases of distress of the kind which they are now considering come before the Boards of Guardians of Great Britain.

The cases in question are those of (1) seamen belonging to India or to any Crown Colony, (2) natives of India or any of the Crown Colonies who may find themselves distressed or without friends in the United Kingdom.

The Committee would therefore be much obliged if you could, without undue inconvenience, furnish them with statistics as to the number of the cases which have during the last five years come before the

, and if you could also state generally what method is adopted in dealing with these cases, whether efforts are made to repatriate, &c.

The Committee would also be glad to receive any recommendations which the may wish to make as to the best course to be followed in treating such cases of distress.

I am, &c.,  
E. J. HARDING,  
Secretary.

EXTRACTS FROM THE REPLIES received containing the MORE IMPORTANT INFORMATION SUPPLIED are given below.

## BERMONDSEY.

I send you hereunder the information desired.

Question.	Colony.	Nature of Relief.
1. Seamen belonging to India or to any Crown Colony.	1 New Zealand	Out relief.
	2 Australia	1 medical attendance.
	1 Canada	1 infirmary treatment.
2. Natives of India or any of the Crown Colonies.	Nil.	Nil.

Also the following cases (not seamen) of persons born of European parents in India or one of the Crown Colonies (which parents appear to have been domiciled therein, but who were not natives of such Colony) have been relieved.

10 India	4 infirmary treatment. 4 outdoor relief. 1 medical attendance. 1 admitted to workhouse.
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Question.	Colony.	Nature of Relief.
	6 Canada	4 infirmary treatment. 1 outdoor relief. 1 medical attendance.
	3 Australia	2 infirmary treatment. 1 admitted to workhouse.
	4 Cape Colony	Infirmary treatment.
	1 Bermuda	Do.
	1 New Zealand	Do.

These cases are not of the class that could be repatriated.

## CITY OF LONDON.

There are no natives of India or of any of the Crown Colonies chargeable to this Union.

## GREENWICH.

After enquiry I find that no persons of the classes referred to have been chargeable during the period in question; having regard to this fact, the Guardians have no recommendations to make with regard to the treatment of such cases.

## HACKNEY.

I beg to enclose herewith a statement with reference to the cases of the classes referred to above who have during the five years ended at Midsummer 1909 become chargeable to this Union.

I am to state that the question of repatriation has not arisen in this Union owing to the few cases of distressed Indian and Colonial subjects with which the Guardians have had to deal, and to the fact that in each instance the chargeability has ceased, and I am to add that the Guardians scarcely feel in a position to offer any suggestions as to dealing with such cases of distress, having regard to the limited number which have come under their notice.

Statement with reference to cases of—

(1) Seamen belonging to India or any Crown Colony;

(2) Natives of India or any of the Crown Colonies relieved during the five years ended at Midsummer 1909.

*Outdoor Relief.*\*—One man, wife and five children from the West Indies in receipt of temporary relief for varying periods during the years 1905, 1906, and 1907. The relief has ceased since the last-named date, the man having found work.

*Indoor Relief.*—One man, a ship's stoker and a native of Jamaica, was in the workhouse about one month during the year 1909, when he was discharged at his own request.

One man, a native of Ceylon, was in the workhouse for three days during the year 1908, when he was discharged at his own request. He had worked his passage over from Colombo, and going ashore at Marseilles missed his boat.

## POPULAR.

I am only able to give particulars of three cases that have come directly under the notice of the Guardians during the last five years.

In one case the Elder, Dempster Steamship Co. were approached and arranged for the man in question to work his passage out to his native place, Jamaica.

\* It is not known from what part of the West Indies this man and his family came.



In another case, that of a native of Demerara, the Guardians applied to the Crown Agents for the Colonies to assist in the man being repatriated, but they were informed that there were no funds at the disposal of the Crown Agents to assist in the repatriation.

In a further instance, that of a wrecked seaman, a native of St. Vincent, the Guardians approached the Crown Agents, and the letter was referred to the Under-Secretary of State for the Colonies, and the Guardians were informed that there were no funds available for assisting the man, but that if particulars could be given of any relatives or friends residing in St. Vincent who might be willing to assist him, Lord Crewe would communicate with the Governor of the Windward Islands and ascertain whether his repatriation could be facilitated.

The man's only relative who could assist him was employed at Panama and his address was uncertain. He therefore decided to tramp to Cardiff with the object of finding a ship in which he might work his passage to St. Vincent.

#### ST. MARY ABBOTS.

Only five distressed Colonial and Indian subjects, so far as I have been able to trace, have become chargeable to the Guardians during the last five years.

The names of these cases are as follows:—

E. Da C., Case Paper No. 4,705.  
A. E. I. D., Case Paper No. 15,867.  
K. I., Case Paper No. 16,684.  
S. T., Case Paper No. 6,735.  
H. D. W., Case Paper No. 15,055.

The number of cases that the Guardians have to deal with is so small that they are not prepared to make any recommendations as to the best course to be followed in dealing with such cases of distress.

#### ST. GEORGE'S.

So far as can be discovered from the Guardians' records, there appear to have been only three cases of distressed Crown Colony or Indian subjects dealt with by them during the past five years, viz., two natives of India and one native of Ceylon.

The three cases were dealt with on their merits, and in the case of the Cingalese, a man giving the name of J. de S., I personally made enquiries at the Colonial Office on the 18th November last, but his statements were of such a contradictory nature that no further action was taken in his case.

The Guardians have no suggestions to offer as to the best course to be followed in treating such cases of distress, but they direct me to state that they will be very pleased to receive any assistance in dealing with similar cases in future.

#### ST. GEORGE IN THE EAST

During the past five years the only cases in question that have received assistance from the Guardians were two seamen, one Australian and the other Maltese, who were admitted to the infirmary and discharged on their own request after receiving medical treatment for a few weeks.

#### STEPNEY.

I forward herewith, by direction of the Guardians, a copy of a report made to them by the general relieving officer, on the subject of distressed Colonial and Indian subjects who have become chargeable to this Union during the five years ended 24th June last.

#### Report.

Respecting the information asked for by the Committee on Distressed Colonial and Indian subjects, I beg to state that during the past five years, ending 24th June last, the cases dealt with by this Union were as follows:—

Indian seamen	-	-	-	3
Distressed Indians	-	-	-	3
Colonial seamen	-	-	-	15
Distressed Colonials	-	-	-	19
				Total
				40

Of the above, 38 were relieved in the Union workhouse.

Of the above, 2 were relieved in the lunatic asylums.

With the exception of one, no steps were taken to repatriate any of the above by this Union, the exception being the case of a man named J. W., a seaman and a native of Ceylon, admitted to the workhouse on the 9th November last, when your clerk, Mr. Stacey, wrote to the India Office, asking them to repatriate him; the reply being unfavourable. Mr. Stacey subsequently obtained his admission to Canon St. John's Home for Working Boys. A few years prior to the period embraced by this return, a party of Hindoos were left stranded in London and became chargeable, and were subsequently returned to India upon representations being made to the India Office by this Union.

I am informed by Captain Morris, Superintendent of the Home for Asiatics, West India Dock Road, that the India Office will not repatriate natives of India who come to this country for their own purpose, but will only assist seamen who get stranded through no fault of their own; he frequently has men sent to his institution, Hindoos and others, by the India Office, who pay for their maintenance for short periods in the Home, until he can procure a ship for them to work their passage back to their native country.

One man included in this return refused to go on a ship when arrangements had been made, and so became chargeable to this Union, and was subsequently ordered out of the workhouse by the Visiting Committee.

#### STRAND.

I herewith forward a list containing names and ages of persons relieved in the casual wards who stated they were natives of the various places set over their names. Many of these persons were subsequently admitted to the workhouse or infirmary.

I also send the names of the following persons, who have been admitted to the workhouse and infirmary of the Union direct, viz.:—

W. D., 25, native of India.  
A. J., 20, " "  
F. B., 41, " "  
S. C. R., 49, " "  
T. M., 77, " "

S. C. R. and T. M. are inmates of the workhouse of this Union at Edmonton at the present time.

LIST OF PERSONS relieved in the CASUAL WARDS of the STRAND UNION from November, 1904 to October, 1909, who stated they were NATIVES of the various places set over their names:—

ST. VINCENT.		Age.	GIBRALTAR.		Age.
E. D.	-	42	K. M.	-	43
			T. O.	-	35
WEST INDIES.			INDIA.		
E. A.	-	49	H. M.	-	35
A. A.	-	59	M. C.	-	49
R. W.	-	65	G. D.	-	30
D. H.	-	22	C. G.	-	59
G. J.	-	31	F. E.	-	49
G. M.	-	—	F. W.	-	52
EAST INDIES.			W. C.	-	32
F. B.	-	48	A. F.	-	32
R. B.	-	60	C. G.	-	50
J. C.	-	47	E. J.	-	51
G. D.	-	52	H. N.	-	29
E. M.	-	32	H. S.	-	39
R. D.	-	25	H. S.	-	54
E. H.	-	33	H. T.	-	54
J. C.	-	61	W. W.	-	51
W. H.	-	58	F. C.	-	33
			M. T.	-	38
MALTA.			J. E.	-	45
J. C.	-	45	H. B.	-	35
J. E.	-	20	H. F.	-	41
J. McC.	-	49	F. H.	-	25
			O. McL.	-	27
			M. McH.	-	44

## WEST HAM.

As the Guardians have had no special reason for doing so, they have kept no reliable record of cases coming before them from time to time either of (1) seamen belonging to India or to any Crown Colony or (2) natives of India or any of the Crown Colonies. Inquiries have, however, been instituted covering the period of the past five years, and it has been elicited that at least one West Indian, three Australians, two Hindoos, and one Cape Colonial have had occasion to apply for assistance, and have been relieved either outside or inside the workhouse.

As indicated above, the Guardians have not considered it necessary to take any special steps in dealing with cases of the kind in question, although it might be desirable for powers to be created for the purpose of deporting natives of India or of the Crown Colonies who had, or were likely to, become a charge on the rates.

## WESTMINSTER.

The Guardians are not aware of any cases other than those of a woman named S. T., aged 62, admitted to the workhouse from India on the 18th October 1908, and who died on the 1st March 1909, at the Union Infirmary, Cleveland Street, and a man named R. Le B., aged 17, admitted to the workhouse from Ceylon on the 8th September 1909, discharged on the following day, re-admitted same day and discharged next morning.

The female inmate referred to above suffered from delusions and her statements were unreliable. As to the male inmate, it was extremely difficult to understand him, but it was believed that he was a sailor and, having come to the Port of London with a sum of money in his possession, he thought he would like to visit London. It was gathered from him that he had been robbed, and was consequently destitute, and admitted to the workhouse.

## BARROW-IN-FURNESS.

The only cases of distressed Indian or Colonial subjects who have required relief from the Guardians within the last five years have been the following:—

A. A., aged 30 years, fireman, S.S. "Orleans," an Arab, belonging to Aden, suffering from fever. Admitted to workhouse infirmary. All expenses paid by the shipowners under the Asiatic Rules.

P. A. N., 42 years, steward on the S.S. "Orleans," left behind when the ship sailed. Admitted to the workhouse. All expenses paid.

The local shipping authority made arrangements for the return of both the above after a short stay.

T. L., 21 years, sailor, from Sydney, Australia, six days in the workhouse in June 1909. Discharged himself.

W. H., 63 years, sailor, from Melbourne, Australia, in the workhouse two months. Discharged himself.

The Guardians have no recommendations to make.

## BIRKENHEAD.

I beg to give you the following particulars of such cases which have arisen in the Birkenhead Union during the last five years, viz. :—

- (1) The number of seamen belonging to India or to any Crown Colony; and the method adopted in dealing with these cases, whether efforts are made to repatriate, &c. :—

Thirteen Lascar seamen admitted to the workhouse through sickness.

These cases are paid for by the owners of the ships to which they belong, and taken back on board ship upon recovery from sickness.

- (2) The number of cases of natives of India or any of the Crown Colonies; and what method is adopted in dealing with these cases, whether efforts are made to repatriate, &c. :—  
One man, a Hindoo (butcher's labourer), died of phthisis in the workhouse.

One half-caste (Indian), widow of an English soldier, is being relieved in the workhouse.

One old man (Irish Canadian) was relieved in the workhouse.

The Guardians consider that the best course to be followed in treating such cases of distress is to grant them relief in the workhouse and not by means of out-door relief.

## BRISTOL.

I find, as the result of careful enquiry from the 13 relieving officers, and the masters of the three workhouses of this Board, that only a very limited number of cases have been relieved from the rates here during the past five years, and those were in nearly all cases relieved for short periods only.

The number of seamen belonging to India or to any Crown Colony relieved during the five years, appears to be ten, all in the workhouse, for short periods only.

The number of natives of India or of any Crown Colony relieved during the five years appears to be two, each for a few days.

I feel it right to say that this is all the information I can get from the relieving officers and masters referred to, but I do not pledge myself that it is perfectly accurate, as no special record has been kept of these types of cases, and I fear that the officers have had to trust to recollection.

As the numbers are so few, the Guardians have not felt the burden great enough to deal with it in such a way as to enable them to suggest any special action.

## CARDIFF.

Separate statistics have not been kept of the Colonial and Indian subjects relieved by the Guardians, who are relieved in the same way as ordinary applicants of a similar nature, and as the relief given is usually of a temporary nature, on account of sickness, the Guardians do not consider that any special steps are needed to return these persons to their own countries.

## DOVER.

There have not been any cases of distressed Colonial and Indian subjects dealt with by this Board during the past five years.

## GREAT GRIMSBY.

During the past five years the only case which came within the knowledge of my Board is that of a man, named G. E. O., who is a Eurasian. He is now a patient in the Bracebridge Asylum, Lincoln, chargeable to this Union.

## HULL.

I have caused a careful search to be made through the books of this Incorporation and, with the view of affording your Committee the most accurate information, I have prepared and send you herewith a list showing all applicants for relief during the last five years who were (1) seamen belonging to India or any Crown Colony and (2) natives of India or any Crown Colony (not seamen).

The relief granted in every case has been by admission into the workhouse, and it will be noticed that in most cases the applicant for relief remained only a very short time.

I regret that I cannot show which of the persons named in this list are "white" and which are "coloured." The name given is very little indication, except in a few instances, and the officers concerned cannot remember with any degree of certainty.

In the case of natives of India, I remember that on one occasion a destitute native was repatriated with the aid of the Secretary of State for India; but in most cases the men only remain a few days and then obtain another ship.

## KINGSTON-UPON-HULL INCORPORATION FOR THE POOL.

SEAMEN belonging to INDIA and other CROWN COLONIES relieved during the past Five Years.

Date of Admission.	Name.	Age.	Calling.	Length of Residence in England where known.	Where Born.	Discharged.	Remarks.
1905. July 24th	A. A.	49	Sailor	10 years	India	1906. June 11th.	
Aug. 14th	W. E.	54	Seaman	—	Canada	1905. Aug. 22nd.	
Nov. 23rd	W. O.	49	Seaman	5 years	Canada	Dec. 2nd.	
Dec. 5th	W. C.	68	Seaman	—	Australia	1906. May 9th.	
Dec. 25th	J. D.	24	Seaman	—	West Indies	Feb. 12th.	
1906. Jan. 22nd	S. H.	25	Seaman	—	India	Jan. 30th.	
May 9th	J. C.	26	Ship's Fireman	—	Canada	May 21st.	
July 25th	J. A.	35	Ship's Fireman	12 years	Canada	July 27th.	
Dec. 1st	F. T.	67	Ship's Cook	—	India	Dec. 4th.	
Dec. 20th	W. W.	74	Ship's Fireman	—	Canada	1907. May 4th	Absconded.
1907. Feb. 10th	— B.	21	Seaman	—	India	Feb. 18th.	
Feb. 20th	— E.	30	Seaman	—	India	Feb. 26th.	
Feb. 28th	T. B.	32	Seaman	—	Canada	April 24th.	
May 2nd	J. B.	56	Seaman	—	Newfoundland	July 12th.	Dead.
July 9th	J. M.	21	Seaman	—	West Indies	July 19th.	
Nov. 2nd	J. J.	33	Seaman	2 days	Newfoundland	Nov. 7th.	
Nov. 13th	C. H.	64	Seaman	—	Nova Scotia	1909. Sept. 11th.	
1908. Jan. 2nd	J. A.	31	Steward	2 years	West Indies	1908. Jan. 29th.	
Feb. 4th	S. C.	27	Fireman	—	West Indies	Feb. 19th.	
March 9th	H. A.	61	Steward	7 years	West Indies	March 21st.	
March 17th	C. W.	69	Fireman	—	Gibraltar	—	Still here.
July 2nd	J. M.	78	Cook	—	New Zealand	—	Still here.
Oct. 22nd	J. F.	40	Seaman	4 years	Barbados	Oct. 30th	Dead.
Dec. 16th	F. O.	28	Seaman	—	Australia	1909. Jan. 6th.	
Dec. 17th	S. M.	18	Seaman	10 days	Jamaica	1908. Dec. 21st.	
Dec. 21st	J. B.	18	Seaman	—	Jamaica	Dec. 28th.	
Dec. 21st	E. M.	22	Seaman	—	Jamaica	Dec. 28th.	
Dec. 30th	G. McI.	27	Fireman	8 months	Australia	1909. Jan. 7th.	
1909. Jan. 2nd	J. W.	34	Seaman	—	New Zealand	Jan. 5th.	
Feb. 9th	C. M.	37	Ship's Cook	—	Australia	Feb. 23rd.	

## NATIVES of INDIA and other CROWN COLONIES (not Seamen).

1905. July 29th	D. D.	46	Labourer	13 years	Canada	1905. Sept. 11th.	
Dec. 3rd	A. B.	27	Male Nurse	—	Canada	Dec. 5th.	
Dec. 18th	J. W.	44	Land Fireman	—	Canada	1906. Jan. 3rd.	
Dec. 27th	J. R.	46	Labourer	Years	Canada	Jan. 2nd.	
1906. Jan. 22nd	J. C.	39	Labourer	—	Australia	Jan. 24th.	
May 9th	W. W.	35	Hawker	9 years	West Indies	June 4th.	
Sept. 8th	S. S.	44	Fruit Labourer	—	Australia	Sept. 24th.	
Oct. 3rd	F. C.	69	Gardener	—	Canada	—	Still here.
Oct. 5th	D. G.	62	Clerk	30 years	India	Oct. 15th.	

Date of Admission.	Name.	Age.	Calling.	Length of Residence in England where known.	Where Born.	Discharged.	Remarks.
1907. April 23rd -	T. C.	63	Labourer -	—	West Indies	1907. April 26th.	
1908. Nov. 13th -	F. K.	29	Interpreter -	—	India -	1908. Nov. 18th.	
1909. June 15th -	M. G.	44	Labourer -	Probably years -	India -	1909. June 19th.	
Aug. 21st -	C. M.	36	Labourer -	—	Australia -	Aug. 30th.	

## LIVERPOOL.

But few applications from persons coming under this description come under the notice of the Select Vestry. As no special record of such applications has been kept, it is now impossible to obtain exact particulars respecting the cases which have been dealt with, but it may be sufficient to state that they certainly do not exceed from 15 to 20 per annum, and that they largely consist of seamen (sailors and firemen) who come into the workhouse hospital for the treatment of temporary ailments—leaving the hospital when cured and giving no further trouble.

Somewhat special cases which have occurred within the specified period are the following:—

(a) In the early part of 1905 a number of West Indian negroes (sailors) became chargeable to the parish under exceptional circumstances, and were sent home at the cost of the local rates. The details of the case were reported, at the time, to the Local Government Board, and are now, I have reason to believe, in the possession of a member of your Committee.

(b) At the beginning of the present year, two young men, natives of Malta, were admitted to the workhouse of the parish. They, according to their own story, had been stowaways in a vessel bound for London, had, when they found themselves destitute, applied at the Colonial Office for assistance to get home, and had there been referred to one of the London workhouses. After being inmates there for a short period, they took their discharge, and made their way to Liverpool. Some efforts were made by the Select Vestry's officers to get them away, but before anything could be done in that direction, the men, becoming impatient, took their own course and left the workhouse. Nothing has since been heard of them.

(c) There are at present in the workhouse two Indian subjects who have become chargeable within the last fortnight. Both are sailors.

## TOXTETH PARK, LIVERPOOL.

During the past five years the following cases have been dealt with by the Guardians of this township, viz:—

Name.	Age.	Native of	Nature of Relief given.
P. T.	33	Philippine Islands.	Workhouse (cut throat), attempted suicide.
G. H.	49	Bermuda	Workhouse (sick).
G. S.	82	Bahama Islands.	Outdoor relief.
A. H.	21	Barbados	Medical relief.
D. B.	28	Straits Settlements.	Workhouse (orohitis).
I. H.	65	Transvaal	House.
S. J.	23	Sierra Leone	Workhouse.
C. L.	24	West Indies	Do. (phthisis).

Name.	Age.	Native of	Nature of Relief given.
J. B.	?	Sierra Leone	Interment.
G. Q.	17	Sierra Leone	Workhouse (sick).
J. H.	23	Bonny, W. C. Africa.	Do. do.
G. G.	21	Jamaica	Do. (injury to side).
H. H.	61	India	Medical relief.
W. L. B.	43	Jersey	Workhouse (sick).
T. A.	85	Transvaal	Do. do.
J. C.	29	Sierra Leone	Do. do.
S. B.	41	Egypt	Do. do.
Total 17			

It will be noticed that most of the cases arise owing to temporary sickness; the total numbers are small, and no effort is made to repatriate, &c.

## WEST DERBY, LIVERPOOL.

NUMBERS OF NATIVES OF INDIA and of the CROWN COLONIES who have been in receipt of INDOOR RELIEF from the WEST DERBY UNION for the period of FIVE YEARS ending 18th September, 1909.

Australia	-	33	including 13 seamen.
British Columbia	-	1	" 1 "
Canada	-	42	" 9 "
East Indies	-	5	" — "
Gibraltar	-	1	" — "
*India	-	46	" 7 "
Malta	-	7	" — "
Newfoundland	-	4	" 3 "
Nova Scotia	-	10	" 6 "
South Africa	-	9	" 3 "
West Indies	-	14	" 11 "
Colonies	-	4	" 3 "
		176	" 56 "

The cause of relief in the above cases was through—

Destitution	-	124
Sickness and destitution	-	47
Insanity	-	5
		176

Natives of India - 5 giving Indian names.

" " - 41 " British "

46

Attempts have been made to bring natives of Crown Colonies under the operation of the Aliens Act for the

(\*) With regard to the 46 cases noted here as natives of India, five only (all seamen) bear Indian names, the other 41 give British names which would lead one to suppose that, although they are all natives of (i.e., born in) India, they are of British descent (or partly so) unless some of them have adopted British names (which is often done).

reason that, in the opinion of this Board, that Act implies that all persons not born within the United Kingdom are liable for deportation; this opinion is strengthened by the fact that Crown Colonies (particularly Canada) daily deport persons to the United Kingdom who are born here and who are likely to become a public charge to them. Our opinion of the Aliens Act is not, however, shared by the Home Secretary, who refuses to allow them to be deported.

Permission has been given to the Guardians by the Colonial Office to send home at their own expense a boy belonging to Malta, and he was so sent; also in one case of a native woman to India.

1. The Guardians are of opinion and would recommend that similar action should be taken by the Home Secretary or Colonial Office or other authority for the repatriation of Indians and Colonials in a similar manner to that taken in the case of aliens who have received relief.

2. That natives of India or Colonials who have become destitute and wish to be sent home may be legally sent home either by the Home or Colonial Offices or Guardians' directions at their separate or combined expense.

3. That any Indian native or Colonial who has been in receipt of relief may be removed to his native country unless he has acquired a legal settlement within the United Kingdom.

4. If evidence can be obtained that cases have been brought here by ship's officers or shipping companies and then discharged, whereby they become destitute, action should be taken against such officer or company to compel them to take the case back.

5. That it is undesirable that a case should become irremovable to his native country simply because he has managed to live in the United Kingdom a year—that the time he has been in receipt of relief in any case should not count as part of such residence.

#### NEWCASTLE-UPON-TYNE.

I am unable to find any cases of Colonial or Indian subjects whose destitution or distress have required relieving by my Board.

With regard to the methods adopted for relieving these cases, we have often Chinese and German sailors relieved in the workhouse from time to time. The attention of the respective Consuls residing in the city is drawn to this, and in almost every case they repay the whole of the expenses which the Guardians have been put to on their account, and otherwise make orders for deportation of the men to their own countries.

Instead of men being admitted to the workhouse, it may be possible to arrange that the better class of lodging-house be used for their maintenance, pending their return to their respective countries.

#### NEWPORT.

So far as I can ascertain, we have, during the past five years, relieved 18 men, classified as follows:—

1. Seamen belonging to India	3
2. Seamen belonging to other Crown Colonies	11
3. Natives of India distressed or without friends in the United Kingdom	1
4. Natives of other Crown Colonies distressed or without friends in the United Kingdom	3

In all these cases the cause of their becoming chargeable has been temporary sickness or want of employment, and they have not long remained in the workhouse. No effort has been made to repatriate. In one case a young man, a native of India, was, through the assistance of a London society, sent back to India.

The Guardians have no recommendations to make as to the course to be followed in treating these cases, the greater number of which they find are seamen who have been employed upon ships trading with the ports of this country for many years.

#### NORTH SHIELDS.

I beg to forward the accompanying copy of a report received from our Mr. Haddon, relieving officer, which

was laid before the Guardians of this Union at their last meeting, containing a list of the only cases of Colonial and Indian subjects which have come before this Board during the last five years. No cases of the kind are known by the relieving officers of the other districts of the Union to have been dealt with by them during the period named.

You will note that the relief afforded in each of the cases was only of a temporary character, and that it was not found necessary to take steps to effect their repatriation.

I may say, however, that I remember on one or two occasions some years prior to the period in question, communicating with the India Office with regard to Lascar seamen who had been left by a vessel and subsequently arranging to send them to the Asiatic Homes in London.

The Guardians are of opinion that further provision than at present exists should be made for dealing with distressed Colonial and Indian subjects by extending Section 185 of 57 & 58 Vict., c. 60, to embrace all such cases as may arise whatever their vocation or the cause of their chargeability, making it the duty of the India and Colonial Offices to effect the removal of their respective subjects and repay the whole of the expenses incurred by the Guardians in affording such temporary maintenance as may be found necessary.

4, Northumberland Square,  
North Shields,  
31st August 1909.

DEAR SIR,

#### *Distressed Colonial and Indian Subjects.*

In reply to yours of the 13th instant I have to report that the following Colonial and Indian subjects have been chargeable in the workhouse (from my district) during the last five years, viz.:

1. M. E. (25), of Kurachee, suffering from venereal disease, was chargeable from 8th November 1904 to 24th December 1904. He had resided in the Sailors' Home for one night, having arrived from a lodging-house in Newcastle.
2. P. S. (25), also of Kurachee, who had been found sleeping in a brickyard, was chargeable from 10th November 1904 to 19th November 1904.
3. C. J. (60), a native of Manitoba, was admitted from a common lodging-house and chargeable from 29th August 1905 to 30th October 1905.
4. A. H. (22), a Lascar, suffering from pneumonia, of which he died on 11th April 1906, was chargeable from 29th January 1906. All costs were paid by shipowners.
5. J. S. (60), of Mauritius, suffering from eczema, was admitted from common lodgings and chargeable from 7th July 1906 to 17th July 1906.
6. "A." a Lascar, was admitted on the 6th May 1906, but died two days afterwards from erysipelas. All costs were defrayed by shipowners.
7. S. B. C. (26), of Singapore, had a bad foot, and was chargeable from 13th November 1908 to 21st November 1908. The costs in this case were also paid by shipowners.

All the above named on their recovery, or on notifying their desire to leave the house, were discharged in the ordinary way, and as they were only short period cases, it was considered unnecessary to take any steps for their repatriation.

I am, &c.,  
Geo. HADDON,  
Sept. Scott, Esq.,  
Clerk to the Guardians,  
Tynemouth Union.

#### ORSETT (GRAYS).

During the last five years the Guardians of the Orsett Union do not appear to have been called upon to relieve any distressed Indian or Colonial subject, and I enclose a report on the subject which I have to-day received from the relieving officer.

During the period mentioned the Guardians have dealt with several lunatics brought from the Colonies. In these cases the lunatics who had a settlement in England have been made chargeable to the Union of their settlement, but lunatics whose settlement could not be ascertained, or who had no settlement, have been adjudicated on the county.

*Relieving Officer's Report.*

I beg to state I have searched carefully through my books for the past five years, but cannot find that any has been relieved here during that period.

I remember one or two cases of Indian seamen (Lascars) being relieved temporarily in the Infirmary after their arrival at Tilbury Docks, but this would be beyond the date mentioned, 1904, and in those cases the method adopted in getting them back to their native country, as far as we are concerned, was by handing them over on their recovery to the Consul in London.

No repayment has yet been made to the Guardians for the cost of maintenance of such cases.

PLYMOUTH.

No cases of distressed Colonial or Indian subjects have come to the notice of, or have been relieved by, my Board during the last five years.

SOUTHAMPTON.

During the last five years 32 seamen belonging to India or to any Crown Colony, and 27 natives of India or any of the Crown Colonies, have become chargeable to the Common Fund of this Union.

The majority of the above cases are those of persons who were admitted to the Union Infirmary on account of illness, and who took their discharge when recovered, and the others were relieved in the Workhouse.

The Guardians have only repatriated one case. It appears to this Board that each of the Colonies should be made to contribute towards the expense of maintenance and also the cost of repatriation, in the event of a Central Committee recommending that any particular case was a suitable one to return to his own Colony.

SOUTH SHIELDS.

I enclose herewith a list of cases relieved by the Guardians of the South Shields Union during the five years ended Lady Day last.

Practically the whole of the cases were seafaring men, stranded, either through sickness, or destitution, and needing hospital treatment. It is not improbable that a few cases of this kind will also have been assisted at the local infirmary, but I am not in a position to give any data as to these.

It has long been felt by the Guardians that there should be some easy and ready means of recovering the cost in cases where the men are working a *bonâ fide* engagement on board ship. In the majority of cases it is only with difficulty that recovery can be effected, and in some it is impossible.

A further point that has arisen is, that provision should be made for transferring any case which may be likely to continue a burden upon the rates for any length of time, especially pauper lunatics (foreigners), as it would appear to be inequitable to impose the burden of their maintenance for probably many years upon either the Poor Law Union or the County Borough, or the Administrative County, in cases where the settlement cannot be ascertained.

There does not appear to be any specific provision made for transferring these cases, and the Guardians have frequently felt themselves fettered in this respect, although they have in a very few cases succeeded in getting them transferred chiefly through the good offices of the Consul.

LIST OF DISTRESSED COLONIAL OR INDIAN SUBJECTS RELIEVED during the Five Years ended March 1909.

Name.	Date of Birth.	Cause of seeking Relief.	Nature of Relief.
1. H. H.	1855	Sickness	Infirmary for treatment.
2. B. B.	1882	Do.	Do. do.
3. R. S.	1865	Do.	Do. do.
4. S. A.	1872	Do.	Do. do.
5. A. H.	1864	Destitution	Indoor relief.
6. A. S.	1876	Sickness	Infirmary treatment.
7. B. K.	1870	Do.	Do. do.
8. A. A.	1869	Do.	Do. do.
9. G. R.	1845	Destitution.	Indoor relief (tramp).
10. M. Mc G.	1850	Do. do.	Do. do. (Canadian).

In the case of Nos. 6, 7, and 8, the full cost of maintenance was repaid by the owners of vessels to which these men belonged.

SUNDERLAND.

Only some four or five cases have been dealt with in this Union during the past five years. An order for admission to the workhouse is always offered, and the men never remain therein more than a few days.

SWANSEA.

Enquiries have been made of each of the six relieving officers and the master of the Union workhouse, and no natives of India appear to have been dealt with, while by only one relieving officer have natives of Crown Colonies been dealt with—three cases who received orders for admission to the Union infirmary from which, on recovery, they were discharged.

These being the only cases, nothing further than what is stated has been done. It appears desirable that repayment of cost out of Imperial funds should be made in such cases.

WEST HARTLEPOOL.

Two coloured seamen from the West India Islands, and one native (seaman) of British India, have been relieved in our workhouse during the period above stated, each case requiring only temporary relief on account of sickness.

These men left the workhouse soon after restoration of health, and, no doubt, obtained berths on shipboard.

EDINBURGH.

I have to inform you that the registers of this parish have been searched for the last five years, when it was ascertained that no seamen belonging to India or natives of India or any of the Crown Colonies had made application here for parochial relief.

There have been, however, a few persons chargeable during the period mentioned, who were born in India and the Crown Colonies, and whose parents, although temporarily resident there, belonged to this country.

GLASGOW.

I beg to enclose a list of those cases which fall within the scope of the Committee's enquiry, with additional information. While the persons mentioned may not at present be chargeable as paupers to this parish they may, of course, return at any time.

FOREIGN and COLONIAL BORN CASES having been chargeable to GLASGOW PARISH COUNCIL  
from 15th May 1906 to May 1909.

Date.	Record.	Name.	Age.	Birthplace.	Condition.	Occupation.	How disposed of.	Certified.	Remarks.
22 May 1906.	a/5788	T. B.	28	Jamaica	Single	Cook	Hospital	Haematuria	His parents are both in Jamaica. He left there five months ago. Five weeks chargeable, and left at own request. Nothing further heard of him.
8 Aug. 1906.	6890	E. E.	21	West Indies	Do.	Music Hall Performer.	Poorhouse	Bronchitis	(Black man.) Left West Indies two months ago. Stowed away on a ship. Sixteen days chargeable, and left at own request.
25 Aug. 1906.	7164	P. J.	34	Australia	Do.	Seaman	Hospital	Epilepsy	His father is dead. Mother still in Australia. He has been going to sea. Fourteen days chargeable, and left at own request. Again became chargeable a month later and remained in 11 days. Nothing further heard of him.
14 Sept. 1906.	7999	B.	26	India	Do.	Do.	Poorhouse	Influenza	"A Coolie." Destitute. Lost his ship 20th September 1906. Taken back to India by Clan Line. One week chargeable.
14 Dec. 1906.	8754	W. R.	38	New Zealand	Do.	Carpenter	Do.	Wound of hand.	Parents in New Zealand. Came from there four months ago. He has been three times chargeable altogether; first time, three days; second time (six months later), in for two weeks; and third time (one month later), eight days chargeable. Left poorhouse and has not been heard of since.
2 Jan. 1907.	9117	D. V. A.	20	British Columbia.	Do.	Stoker	Hospital	Catarrh	Father was a cotton gardener. He (applicant) came to Glasgow six days ago. Was 10 days in hospital and left cured.
19 Feb. 1907.	9915	A. H.	30	India (Bombay).	Do.	Seaman	Poorhouse	Debility	Came from Bombay two months ago. Lost his ship and is destitute. 4th March 1907, Mercantile Marine Office sent him back to India. Fourteen days chargeable.
27 April 1907.	11,021	E. R.	34	Jamaica	Do.	Marine Fireman.	Do.	Bronchitis	(Black man.) Father was a plant dresser, mother is still in Jamaica. He missed his ship in Glasgow, and is destitute. Seven days chargeable. Left at own request.
29 Feb. 1908.	15,819	M. Z.	30	India	Do.	Seaman	Hospital	Phthisis	29th February, 1908. Arrived off a ship to-day, was very ill, and had to be removed to hospital. 11th April, 1908, taken charge of by the Clan Line. Six weeks chargeable.
13 Mar. 1908.	15,003	J. M.	34	South Africa	Do.	Clerk	Poorhouse	Rheumatism	He has been knocking about this country since he came from South Africa two years ago. His parents are both in Johannesburg. Four days chargeable, and left at own request.
13 Mar. 1908.	16,009	S. F.	39	West Indies	Do.	Seaman	Do.	Bronchitis	Parents both dead. He is a sailor, but has lost his ship and money. Eight days chargeable, and left at own request.

Date.	Record.	Name.	Age.	Birthplace.	Condition.	Occupation.	How disposed of.	Certified.	Remarks.
31 Mar. 1908.	16,384	W. M.	15	Calcutta	Single	Apprentice Painter.	Boarded-out	Insane	This lad was born in Calcutta, and his father was born at Poonah, India but they have resided in Glasgow for the last ten years. Glasgow Settlement. He is a boarded-out lunatic.
28 April 1908.	16,847 16,848 16,849	J. F. S. M. B. S.	20 18 40	India	Do.	Seaman	Poorhouse-	Destitute	"Three destitute coolies" They were seven days chargeable. All left same morning. They would most likely get a ship.
7 July 1908.	17,932	F. B.	25	Canada	Do.	Farmer	Do.	Influenza	Parents in Montreal. He left home five years ago. Eight days chargeable, and has been in three times since (40 days in all). Last heard of on 14th September 1908.
21 July 1908.	18,101	C. E.	33	Australia	Married	Porter	Do.	Bronchitis	Parents in Sydney, Australia. Left there three years ago. Thirteen days chargeable. Left at own request.
22 July 1908.	18,126	D. C.	28	Canada	Single	Engine Driver.	Do.	Ague	Parents in Longpoint, Inverness co., Cape Breton Canada. He was with Canadian Scouts and served seven years in South Africa. Only two days chargeable and not heard of since.
12 Sept. 1908.	19,067	A. K.	27	Calcutta	Married	Seaman	Do.	General weakness.	He is supposed to have come over in one of the City Line Boats, but they do not know anything about him. 30th September, 1908, handed over to Mercantile Marine Office. Eighteen days chargeable.
7 Nov. 1908.	19,759	J. B.	31	Australia	Single	Fireman	Do.	Phthisis	Parents in Australia. He left there 18 months ago, and has been at sea since. Six weeks chargeable. Would most likely go away in a ship again.
23 Nov. 1908.	20,126	A. G.	22	Jamaica	Do.	Seaman	Do.	Rheumatism	Mother in Jamaica. He has been going to sea for 6 years. Seven days chargeable. He had 5s. 3d. in his possession when admitted. Refunded 2s. 6d. when he left.
24 Mar. 1909.	22,311	J. S.	21	Do.	Do.	General Labourer.	Do.	Syphilis	Left Jamaica one year ago to go to sea. His father is harbour-master at Kingston, Jamaica (A half-caste.) Seven days chargeable, and again (three months later) for 23 days. Not heard of since 12 July 1909.
4 Aug. 1908.	18,880	T. M.	57	India	Do.	Fireman	Do.	Ulcer	This man is presently chargeable. His father was a British soldier, but his mother is a native of Lahore, Punjab, India, and is still there. He has been twice chargeable and keeps pestering us to send him back to India.

## BELFAST.

The Board of Guardians have received a report stating that the records of the workhouse do not give the required information, and it is not within the knowledge of the matron of any persons of the class referred to in your letter having been admitted to this workhouse for some years.

## CORK.

No persons of the class referred to received relief in the Cork Union during the past five years.

## DUBLIN.

There are no Colonial or Indian subjects chargeable at present in this workhouse, nor on out-door relief.



## APPENDIX VI.

No. 1.

THE SECRETARY OF STATE to the GOVERNORS, &amp;c.

Circular.Downing Street,  
10th August 1909.

SIR,

I HAVE the honour to inform you that I have recently appointed a Committee to inquire as to the best method of relieving, repatriating, or otherwise disposing of (a) seamen belonging to India or to any Crown Colony, (b) natives of India or any of the Crown Colonies who may find themselves destitute or without friends in the United Kingdom.

2. I am informed that at the outset of their inquiry the Committee has been faced with the question of the corresponding difficulty in the case of the Crown Colonies; they have received evidence to the effect that cases of distress, not only amongst British seamen but also other British subjects, occur not infrequently in the Crown Colonies, and that sometimes repatriation in these cases is effected at the expense of the Colony. The Committee is anxious to obtain, as far as possible, precise information as to the extent to which these cases occur.

3. I should therefore be obliged if you could furnish me with a return, for communication to the Committee, showing approximately for the 12 months ending the 31st of December 1908, and, if possible, for two years previously (a) the number of distressed British seamen not being natives of the Colony who were repatriated from the Colony under the Board of Trade Regulations in that behalf; (b) the number of distressed British subjects other than natives of the Colony, who were repatriated or otherwise helped by the Colonial Government; (c) the number of persons (whether seamen or otherwise) not being natives of the Colony, whose case came before the local authorities, but who, for some reason or another, could not be assisted.

4. You will notice that in all these three classes of cases I am excluding natives of the Colony itself.

5. It would be convenient if, in this return, a distinction could be drawn between British subjects of European descent and those who do not fall within this category; and if the return could also include and distinguish the cases of persons who were repatriated, or who applied for repatriation, to parts of the Empire other than Great Britain.

6. If the statistics available for the year mentioned would, in your opinion, convey a wrong impression as to the number of cases which occur on an average in each year, you will no doubt indicate this in your reply.

7. I understand that the Committee is also desirous of ascertaining (a) how far, if at all, the laws of the Colony under your Government prohibit the return of natives of the Colony itself, and (b) how far they prohibit the entry of natives of other parts of the Empire (including Great Britain), if in either case they are, or are likely to become, destitute, and I should be glad if this information with reference to the Colony under your Government could be supplied also for the use of the Committee.

The Officer Administering  
the Government ofI have, &c.,  
CREWE.

No. 2.

## GIBRALTAR.

The DEPUTY GOVERNOR to the SECRETARY OF  
STATE.

(Received 8th September 1909.)

Gibraltar,

MY LORD,

September 2, 1909.

In reply to Your Lordship's Circular despatch of the 10th August last, I have the honour to forward the returns relating to the repatriation of distressed British subjects required by the Committee which has

been recently appointed to inquire as to the best method of disposing of natives of India or any Crown Colony who are found destitute in the United Kingdom.

2. In six cases only of the total of 19 shown in return (b) as repatriated, was repatriation effected at the expense of, or with financial assistance from, the Colonial Government. In the other cases refunds were obtained from the Governments concerned.

3. The laws of Gibraltar do not prohibit the return of any native of the Colony itself unless he is a person who has been ordered by the Governor to quit Gibraltar under the provisions of the Aliens Order Extension Order in Council 1900.

4. No native of any other part of the Empire (including Great Britain), not being employed in His Majesty's service, nor being the wife or child of such employe, may enter Gibraltar without a permit, and such persons, if desiring to reside, may be called upon to enter into a bond with sureties for the payment of the expenses of their return to their native country.

I have, &c.,  
FRED. EVANS,  
Deputy Governor.

## Enclosure 1 in No. 2.

A.

RETURN showing the NUMBER OF DISTRESSED BRITISH SEAMEN, not being NATIVES of GIBRALTAR, who were repatriated from Gibraltar under the BOARD OF TRADE REGULATIONS in that behalf.

Year.	European Descent.	Non-European Descent.	Sent to	
			Great Britain.	Other Parts of the Empire.
1906	5	—	5	—
1907	1	—	1	—
1908	3	—	3	—

In addition to the above there are British Seamen who arrive at Gibraltar in distress and are found employment on board ships in need of hands. These average eight a year.

## Enclosure 2 in No. 2.

B.

RETURN showing the NUMBER OF DISTRESSED BRITISH SUBJECTS, other than NATIVES of GIBRALTAR, who have been repatriated or otherwise helped by the COLONIAL GOVERNMENT.

Year.	European Descent.	Non-European Descent.	Sent to	
			Great Britain.	Other Parts of the Empire.
1906	5	1 (a)	4	2
1907	11 (b)	1 (c)	—	12
1908	—	1 (d)	—	1

H 4

(a) An Indian sent to Gibraltar by British Consul at Lisbon for repatriation to India.

(b) Ten of whom were Maltese. One of these was sent to Gibraltar by British Consul, Cadiz, for repatriation to Malta. Five were sent to Gibraltar by British Consul-General, New York, and three were returned to Malta at request of that Government.

(c) An Indian sent to Gibraltar by British Consul at Cadiz for repatriation to India, under instructions from India Office.

(d) A Maltese sent to Gibraltar by British Consul at Seville for repatriation to Malta.

Enclosure 3 in No. 2.

C.

RETURN showing the NUMBER of Persons (whether Seamen or otherwise) not being NATIVES of GIBRALTAR, whose Cases came before the LOCAL AUTHORITIES, but who for some reason or another could not be assisted.

Year.	European Descent.	Non-European Descent.	Applied to be sent to	
			Great Britain.	Other Parts of the Empire.
1906	1	—	1	—
1907	1	—	1	—
1908	1	—	1	—

No. 3.

MALTA.

The ACTING GOVERNOR to the SECRETARY of STATE.

(Received 27th September 1909.)

The Palace, Valletta,

September 21, 1909.

MY LORD,

I HAVE the honour to acknowledge the receipt of Your Lordship's Circular Despatch of the 10th ultimo, on the subject of the repatriation of destitute seamen belonging to India or to any Crown Colony, and of destitute natives of India or any of the Crown Colonies.

2. I enclose herewith the return called for in paragraph 3. As regards (c), no record is kept of the number of persons (whether seamen or otherwise) not being natives of the Colony, who came before the local authorities, but for some reason or another could not be assisted. It may be mentioned, however, that a good many applications for assistance (mostly verbal) are made to the Lieutenant-Governor by persons who are natives of the United Kingdom, but the majority of such applications are refused, the funds at the disposal of the Government being very limited.

3. I take this opportunity of observing that the Government of Malta is always charged with the cost of repatriating distressed Maltese from the United Kingdom, and it would be very satisfactory if some reciprocal arrangement could be made under which the cost of repatriating distressed British subjects who are natives of the United Kingdom could be refunded to the Colony.

4. With reference to paragraph 7 of the Circular the Crown Advocate reports that there is no local law prohibiting the return of natives of the Colony itself, or the entry of natives of other parts of the Empire, under any circumstances.

I have, &c.,

E. M. MEREWETHER,

Officer Administering the Government.

Enclosure in No. 3.

RETURN of PERSONS, not being NATIVES of the COLONY, repatriated by the GOVERNMENT of MALTA during the Years 1906, 1907, and 1908.

Year ending	(a) Distressed British Seamen repatriated from the Colony under the Board of Trade Regulations in that behalf.			(b) Distressed British Subjects repatriated by the Colonial Government (exclusive of (a)).	(c) Persons who came before the local Authorities, but who, for some reason or another, could not be assisted.	Total.	Remarks.
	Of European descent.	Of Non-European descent.	Total.				
31st Dec.							
1906	59	5	64 (i)	Nil	No record	64	(i) 58 to the United Kingdom and 6 to other countries.
1907	50	5	55 (ii)	7 (iv)	Do.	62	(ii) 49 to the United Kingdom and 6 to other countries.
1908	72	3	75 (iii)	5 (v)	Do.	80	(iii) 68 to the United Kingdom and 7 to other countries. (iv) Cost of repatriation not recovered. (v) Cost of repatriation recovered in 2 cases only.
Total	181	13	194	12 (vi)	—	206	(vi) All of European descent; repatriated to the United Kingdom, with the exception of 3, one of whom was sent to Marseilles, another to Alexandria and the third to Shanghai.

No. 4.  
CYPRUS.

The HIGH COMMISSIONER to the SECRETARY  
OF STATE.

(Received 30th October 1909.)

Government House, Troodos,  
18th October 1909.

MY LORD,

In reply to your Lordship's Circular of the 10th August 1909, on the subject of the repatriation of destitute seamen, I have the honour to inform your Lordship that, as regards paragraph 3 of the Circular, there have been (a) no distressed British seamen who were repatriated from Cyprus; (b) no distressed

British subjects who were repatriated or otherwise helped by the Island Government; (c) no persons (not being natives of the Island) whose case came before the local authorities but who could not be assisted.

2. As regards paragraph 7 (b) under Ordinance 1 of 1882, the High Commissioner has power to prohibit by Proclamation the landing of destitute persons, irrespective of nationality, and a Proclamation of 1898 to this effect is now in force; but (a) by a Circular of the Chief Secretary in 1907, the local authorities were instructed that the Proclamation of 1898 was not intended to apply to natives of Cyprus returning from abroad.

I have, &c.,  
C. A. KING-HARMAN.

No. 5.  
CEYLON.

The GOVERNOR to the SECRETARY OF STATE.

(Received 6th December 1909.)

The Queen's House, Colombo, Ceylon,  
16th November 1909.

MY LORD,

As desired in your Circular Despatch dated the 10th August 1909, I have the honour to forward herewith a return prepared in the form indicated in paragraph 3, in respect of British seamen and others repatriated from this Colony.

I have, &c.,  
HENRY McCALLUM,  
Governor, &c.

Enclosure in No. 5.

	Year.			British Subjects of European Descent.			Those who do not fall within Category 2.			Repatriated to Parts of the Empire other than Great Britain.			Remarks.
	1906.	1907.	1908.	1906.	1907.	1908.	1906.	1907.	1908.	1906.	1907.	1908.	
(a) Number of distressed British seamen, who were repatriated from the Colony under the Board of Trade Regulations.	—	—	230	—	—	64	—	—	168	—	—	148	Include 86 shipwrecked seamen and 60 discharged without provision being made for their repatriation, viz., 22 Chinese sent to Singapore and 38 Lascars to Calcutta.
(b) Number of distressed British subjects, other than natives of Ceylon, who were repatriated or otherwise helped by the Colonial Government.	9	2.	1	9	1	1	—	1	—	7	2	—	
(c) Number of persons (whether seamen or otherwise), not being natives of Ceylon, whose case came before the local authorities, but who for some reason or another could not be assisted.	—	1	—	—	1	—	—	—	—	—	—	—	

No. 6.  
CEYLON.

The GOVERNOR to the SECRETARY OF STATE.  
(Received 11th December 1909.)

The Queen's House, Colombo, Ceylon,  
24th November 1909.

MY LORD,

In continuation of my Despatch of the 16th November,\* I have the honour to transmit here-

with a copy of Ordinance No. 12 of 1907†, which restricts the immigration into Ceylon of destitute and vicious persons and stowaways. Your Lordship will observe that natives of Ceylon are exempted from the operation of the Ordinance.

I have, &c.,  
HENRY McCALLUM,  
Governor, &c.

\* No. 5.

† Not reprinted.

## No. 7.

## STRAITS SETTLEMENTS.

The GOVERNOR to the SECRETARY OF STATE.  
(Received 11th December 1909.)

Government House,  
Singapore,

MY LORD,  
16th November 1909.  
In reply to Your Lordship's circular despatch of the 10th August last, I have the honour to transmit a return of the number of

(a) Distressed British Seamen repatriated,  
(b) Distressed British subjects repatriated or otherwise helped,  
(c) Persons whose cases came before the local authorities but who could not be assisted.

2. Should a person of British nationality be repatriated on account of vagrancy it is usual to obtain his signature to a bond by which he engages not to return to the Colony for a term of years, generally five.

3. Non-British subjects banished under the provisions of the Banishment Ordinance are liable to arrest and imprisonment should they return to the Colony, the Federated Malay States, or Johore.

4. Decrepit and destitute persons are not allowed to land in the Colony under the provisions of Act XLI. of 1850, as amended by Ordinance IX. of 1906.

I have, &c.,

JOHN ANDERSON.

## Enclosure 1 in No. 7.

SCHEDULE of DISTRESSED BRITISH SEAMEN repatriated and DISTRESSED BRITISH SUBJECTS repatriated or otherwise assisted, for the Years 1906, 1907, and 1908 :—

Description.	1906.	1907.	1908.
(a) Distressed British Seamen—			
(i) Sent to United Kingdom.	31	53	62
(ii) Sent to India and Ceylon.	5	50	11
(iii) Sent to Australia -	4	—	1
(iv) " " Hong Kong -	—	—	26
(b) Distressed British Subjects (not domiciled in Colony)—			
(i) Repatriated -	—	3	78
(ii) Assisted* -	74	52	44
(c) Persons not assisted -			no records kept.

\* These persons were assisted from the Police Courts' poor-boxes, or on discharge from prison or the House of Detention. The records of persons assisted from the poor-boxes of Police Courts, or by free admission to the Sailors' Home, &c., are not complete.

## No. 8.

## HONG KONG.

The GOVERNOR to the SECRETARY OF STATE.  
(Received 11th November 1909.)

Government House,  
Hong Kong,

MY LORD,  
5th October 1909.  
In reply to paragraph 3 of your Lordship's Circular Despatch of the 10th of last August, I have the honour to forward the enclosed schedules which supply the information asked for.

2. With reference to paragraph 7 of the same Despatch, I forward, upon the advice of the Attorney-General, copies of the Hong Kong Ordinances\* Nos. 9 of 1897 and 2 of 1905 relating to Vagrancy, No. 5 of 1903 relating to Stowaways, and Nos. 1 of 1904 and 15 of 1904 relating to Imbecile Persons introduced into the Colony.

I have, &c.,

F. D. LUGARD,  
Governor, &c.

\* Not reprinted.

## Enclosure 1 in No. 8.

A.—SCHEDULE of the Number of DISTRESSED BRITISH SEAMEN, other than Natives of the Colony, repatriated from the Colony under the Board of Trade Regulations.

Year.	No.	Relieved or Repatriated.	Amount expended by the Board of Trade.
1906	158	Relieved - -	\$ c. 3,179 29
	95	Repatriated - -	
1907	116	Relieved - -	2,920 11
	61	Repatriated - -	
1908	177	Relieved - -	3,568 22
	144	Repatriated - -	

## Enclosure 2 in No. 8.

B.—SCHEDULE of the Number of DISTRESSED BRITISH SUBJECTS, other than Natives of the Colony, repatriated or otherwise assisted by the Colonial Government.

Year.	No.	Assisted or Repatriated by the Colonial Government.
1907	1	Given a passage to Natal, South Africa.
1908	1	Repatriated.
	1	Given a passage to Singapore.

## Enclosure 3 in No. 8.

C.—SCHEDULE of the Number of PERSONS (Seamen or otherwise), other than Natives of the Colony, whose case came before, but no action was taken by, the Local Authorities.

Year.	No.	Remarks
1906	1	A Chilean subject. The Consular Representative here came to his assistance.
	1	A British subject. No action resulted.
	1	An American subject. He eventually found employment in the Canadian Pacific Railway Company.
	1	Nationality unknown. Left the Colony before a decision was come to.
	1	An American subject. No action resulted.
1908	1	A British subject. Her husband, whom she had deserted, ultimately condescended to provide her with a monthly allowance of \$70.

*Enclosure 4 in No. 8.*

D.—SCHEDULE of the Number of PERSONS (Seamen or otherwise), other than BRITISH SUBJECTS and Natives of the Colony, whose case came before, and action was taken by, the Local Authorities.

Year.	No.	Action taken.
1908	1	A Swede repatriated to Sweden at the expense of the Government. The Swedish Government has been asked by its Representative in the Colony to refund the expenses incurred on behalf of the destitute.

## No. 9.

## WEIHAIWEI.

The COMMISSIONER to the SECRETARY OF STATE.  
(Received 2nd December 1909.)

Government House,  
Port Edward, Weihaiwei,  
20th October 1909.

MY LORD,

I HAVE the honour to acknowledge the receipt of your Lordship's Circular Despatch of the 10th August 1909 respecting the relief or repatriation of distressed British seamen and other distressed British subjects.

2. As regards paragraph 3 of your Lordship's Despatch, I have the honour to inform you that no cases coming under any of the three categories mentioned in that paragraph have been brought to the notice of this Government.

3. With reference to paragraph 7 of the same Despatch, there is no legislation in force here either prohibiting the return of natives of this territory or prohibiting the entry of natives of other parts of the Empire under any circumstances.

I have, &amp;c.,

J. H. STEWART LOCKHART,  
Commissioner.

## No. 10.

## SEYCHELLES.

The GOVERNOR to the SECRETARY OF STATE.  
(Received 27th October 1909.)

Government House, Seychelles,

MY LORD,

7th October 1909.

I HAVE the honour to acknowledge the receipt of your Lordship's Circular Despatch of the 10th August last, and to enclose a copy of a minute by the Collector of Customs, giving the information required as to distressed British seamen.

2. In view of the difficulty of seamen obtaining re-engagement in Seychelles, every effort is made to prevent the discharge of men without the deposit of funds to defray the cost of their maintenance and repatriation.

I have, &amp;c.,

W. E. DAVIDSON,  
Governor.

*Enclosure in No. 10.*

HIS EXCELLENCY THE GOVERNOR,

SINCE 1906, only one distressed British seaman was repatriated from this Colony. He was a native of the Cape Colony.

2. No other cases came before the local authorities, except two French deserters from a French man-of-war. They were referred to their Consul.

GEO. HOLLIER GRIFFITHS,

6th October 1909. Collector of Customs.

THE HONOURABLE THE TREASURER,

THE only case of repatriation of a distressed British seaman since 1906 is the case of G—R—, a native of Cape Colony.

Name of vessel from which discharged—S.S. "Loch Cair."

Date of discharge—26th March 1908.

Rate of maintenance per diem—Rs. 1.00.

Rate of passage to Cape Colony—Rs. 465.00.

GEO. GEMMELL,

6th October 1909. First Customs Officer.

## No. 11.

## MAURITIUS.

The GOVERNOR to the SECRETARY OF STATE.  
(Received 26 November 1909.)

Government House, Port Louis

22nd October 1909.

MY LORD,

I HAVE the honour to acknowledge the receipt of your Lordship's Circular Despatch of the 10th August last, and in compliance with the request contained in the third paragraph thereof, to transmit a return showing for the three years 1906, 1907, and 1908, the number of distressed British seamen and British subjects who were repatriated or otherwise helped by the Colonial Government, and the number of persons who could not be assisted.

2. I also transmit a copy of a minute by the Procureur-General, with annexures, giving the information desired in the seventh paragraph of the Despatch with respect to the provisions of the law on this matter.

I have, &amp;c.,

CAVENDISH BOYLE.

*Enclosure 1 in No. 11.*

## RETURN.

Number of Distressed British Seamen, not Natives of Mauritius, repatriated under the Board of Trade Regulations.	Number of Distressed British Subjects, other than Natives of Mauritius, repatriated or otherwise helped by the Colonial Government.	Number of Persons, not being Natives of Mauritius, who could not be assisted.
9 Europeans	1906. —	—
13 Europeans* 81 Natives of India.*	1907. 6 Europeans —	—
2 Europeans	1908. —	2 Turkish subjects (landsmen).
7 Natives of India	—	—

\* Including 6 Europeans and 77 natives of India who formed the crew of the S.S. "Fortunatus" which was burned at sea.

*Enclosure 2 in No. 11.*

PROCEUR-GENERAL TO HONOURABLE COLONIAL SECRETARY.

(No. 1502.) 15th October 1909.  
ADVERTING to your letter D/Circular/10.8.09, of 30th ultimo, our Ordinance No. 8 of 1907,\* "The Destitute and Criminal Immigrants Regulation Ordinance" supplies the information desired in the seventh paragraph of the Circular referred to:—

- (a) The return of natives is governed by Article 4 of that Ordinance, which enacts that "any repatriated native of Mauritius or of any of its Dependencies shall not be landed except under the care of and in compliance with the directions of the Visiting Officer";
- (b) The entry of destitute persons likely to become chargeable to the Colony and of undesirables is restricted by the other provisions of the Ordinance.

2. It may be added that our Ordinance No. 13 of 1869\* (as amended by subsequent legislation) makes provision for the relief of distressed Colonial seamen, while Article 18 of Ordinance No. 17 of 1902\* (The Poor Law Ordinance, 1902) provides for the refund by the Colonial Treasury of expenses incurred in the reconveyance to Mauritius of distressed natives of the Colony by the British Consul in any foreign country, or the Governor of any British Colony.

3. It might prove convenient to forward copies of the enactments afore-quoted for the use of the Committee referred to in the Circular.

A. HERCHENRODER,  
Procureur-General.

\* Not reprinted.

## No. 12.

## SOMALILAND.

The COMMISSIONER to the SECRETARY OF STATE.  
(Received 16th September 1909.)

Commissioner's Office, Sheikh,  
August 31, 1909.

MY LORD,  
I HAVE the honour to acknowledge the receipt of Your Lordship's Circular Despatch of the 10th of August 1909, and to state, with reference to paragraph 3, that, during the three years ending on the 31st December 1908, no application for assistance or repatriation was made to the Protectorate Government by distressed British subjects of European or other descent.

I have, &c.,  
H. E. S. CORDEAUX.

## No. 13.

## EAST AFRICA PROTECTORATE.

The GOVERNOR to the SECRETARY OF STATE.  
(Received 7th January 1910.)

Government House, Nairobi,  
December 13, 1909.

MY LORD,  
In reply to your Lordship's Circular of the 10th of August last, respecting the repatriation (a) of Distressed British Seamen, (b) of Distressed British Subjects, (c) of persons other than natives of the Protectorate, I have the honour to report as follows:—

- Number under (a) - Nil.  
" " (b) - for 1907, 2; for 1908, 2.  
" " (c) - in 1907, Nil; in 1908, 1.

These cases were all British subjects of European descent; the two instances in 1907 under (b) were lunatics. The application under (c) was for a passage to South Africa; in the other cases passages to England were granted.

2. I would add that during the present year there have been four cases under (b) up to date; two of European descent to Bombay; one of European descent to England; and one native of Mauritius to Mauritius.

I have, &c.,  
E. P. C. GIROUARD,  
Governor.

## No. 14.

## UGANDA.

The ACTING GOVERNOR to the SECRETARY OF STATE.  
(Received 29th November 1909.)

Government House, Uganda,  
21st October 1909.

MY LORD,  
WITH reference to your Lordship's Circular Despatch, dated the 10th August last, dealing with the repatriation of distressed British subjects, I have the honour to state as follows:—

2. The answer to paragraph 3 (a) and (b) of the Despatch under consideration is, none.

3. The answer in reply to paragraph 3 (c) of the Despatch is, that one or two persons have applied for assistance. This assistance could not be given them as there are no funds for this purpose, and, in the event, the persons applying for assistance found employment in other directions.

4. It is considered that in the near future a greater number of distressed British subjects will make applications for assistance, and in the present year two persons have applied for such assistance.

5. No special provision is made for the repatriation or assistance of distressed British subjects in this Protectorate. The Uganda Vagrancy Ordinance, 1909, provides that any person found asking for alms or wandering about without any employment or visible means of subsistence may be arrested and committed to jail. Whilst in jail he is paid a certain sum; when this sum is sufficient to carry him out of the country he is put on board ship and deported.

6. By arrangement with the British East Africa Protectorate European vagrants are to be imprisoned at Mombasa jail. Under this arrangement one person has this year been dealt with, and I am informed that there is another destitute British subject who will in all probability be dealt with in the same way.

7. In reply to paragraph 7, the laws of this Protectorate do not prohibit the entry of persons who are likely to become destitute.

I have, &c.,  
ALEXANDER BOYLE,  
Acting Governor.

## No. 15.

## NYASALAND.

The GOVERNOR to the SECRETARY OF STATE.  
(Received 7th January 1910.)

Government House, Zomba,  
Nyasaland Protectorate,  
2nd December 1909.

MY LORD,  
I HAVE the honour to acknowledge the receipt of your Lordship's Circular Despatch of the 10th of August 1909, requesting information in respect of the procedure in force in this Protectorate with regard to distressed British subjects.

2. In accordance with the third paragraph of the despatch in question, I transmit a return showing the statistics asked for. This return, while it embodies all the information available, cannot be considered entirely complete, as there are not infrequent instances of assistance having been given to destitute travellers, &c., out of the private funds of officials and others and by private subscription. Of these there is no official record.

3. With regard to the law in force in the Protectorate affecting the general question:—

(a) The return of destitute natives of Nyasaland is not prohibited.

(b) Immigration into the Protectorate is regulated: (1) by the Nyasaland Immigration Restriction Ordinance, 1905; (2) Rules made under this Ordinance dated the 30th of March 1907; and (3) The Nyasaland Immigration Restriction (Supplementary) Ordinance, 1908.

4. Under these laws, persons without visible means of support or likely to become a public charge may be prohibited from entering the Protectorate, or, if found therein, are liable to removal.

I have, &c.,  
ALFRED SHARPE,  
Governor.

## Enclosure in No. 15.

## RETURN OF DISTRESSED BRITISH SUBJECTS.

Year ending 31st December.	Number of Distressed British Seamen (not being Natives of the Protectorate) who were Repatriated from the Protectorate under the Board of Trade Regulations (a).	Number of Distressed British Subjects (other than Natives of the Protectorate) who were Repatriated or otherwise helped by the Protectorate Government (b).		Number of Persons (not being Natives of the Nyassaland Protectorate) whose Case came before the Local Authorities, but who could not be Assisted (c).		Notes.
		Europeans.	Others.	Europeans.	Others (all Indians).	
1906	Nil	Nil	Nil	6(a)	4(b)	(a) Three applied to be sent to South Africa. (b) Two applied to be sent to India.
1907	Nil	2	Nil	5(c)	4(d)	(c) Three applied to be sent to South Africa. (d) All four applied to be sent to India.
1908	Nil	2(e)	Nil	5(f)	6(g)	(e) One sent to South Africa. (f) Two applied to be sent to South Africa. (g) Three applied to be sent to India.

No 16.  
GAMBIA.The ACTING GOVERNOR to the SECRETARY OF STATE.  
(Received October 4, 1909.)Government House,  
Bathurst, Gambia,MY LORD,  
9th September 1909.  
With reference to your Lordship's Circular despatch of the 10th August I have the honour to

transmit a return having reference to the repatriation of distressed persons by this Colony, which I trust contains all the information which the Committee recently appointed by your Lordship requires.

I have, &c.,  
H. M. BRANDFORD GRIFFITH,  
Acting Governor.

## Enclosure in No. 16.

RETURN showing REPATRIATION of DISTRESSED PERSONS by the COLONY of the GAMBIA from 1st January 1906 to 31st December 1907.

Year—1st January to 31st December.	A.					B.					C.					Remarks.
	British Seamen of European descent Repatriated to Great Britain.	British Seamen of European descent Repatriated to Parts of the Empire other than Great Britain.	British Seamen not of European descent Repatriated to Great Britain.	British Seamen not of European descent Repatriated to Parts of the Empire other than Great Britain.	Total.	British Subjects of European descent Repatriated to Great Britain.	British Subjects of European descent Repatriated to Parts of the Empire other than Great Britain.	British Subjects not of European descent Repatriated to Great Britain.	British Subjects not of European descent Repatriated to Parts of the Empire other than Great Britain.	Total.	Distressed Persons of European descent whose cases came before the Local Authorities, but who could not be assisted.	Distressed Persons not of European descent whose cases came before the Local Authorities, but who could not be assisted.	Total.	Totals of "A," "B," and "C."		
1906	2	—	—	—	2	—	—	—	—	—	—	—	—	2	Grand Total of "A," "B," & "C."	
1907	1	—	1	—	2	—	—	—	—	—	—	—	—	3		
1908	—	—	—	—	—	—	—	—	—	—	—	—	—	—		
	2	—	1	—	3	—	—	—	—	—	—	—	—	4		

W. B. STANLEY,  
Acting Collector of Customs.

No. 17.

## GOLD COAST.

The GOVERNOR to the SECRETARY OF STATE.

(Received 24th January 1910.)

Government House,  
Accra,

4th January, 1910.

MY LORD,

I HAVE the honour to acknowledge the receipt of your Lordship's Circular despatch of the 10th August, 1909, relating to the relief, repatriation, or other disposal, of destitute seamen and other persons.

2. In reply to the inquiries contained in paragraphs 3-6, I attach three tabulated statements showing, categorically, how the persons in question have been dealt with, during the last few years, in this Colony.

3. In reply to the inquiries contained in paragraph 7:—

(a) The only prohibition of the return of natives of the Gold Coast is in respect of political prisoners, specifically mentioned in various Ordinances, who have been deported to the Seychelles.

(b) Ordinance No. 24 of 1903, which provides for the imprisonment of prostitutes not being natives of West Africa, practically prevents the entry of such women into the Colony; and "The Immigrant Paupers Ordinance, 1909" (No. 10 of 1909), renders shipmasters liable to repay to the Government of the Colony all costs and charges incurred on behalf of any person, other than a native of West Africa, who becomes destitute within one month after his arrival; and renders employers similarly liable, in the case of persons imported under engagement who become destitute within six months after arrival.

I have, &c.,  
JOHN RODGER,  
Governor.

## Enclosure 1 in No. 17.

(a)—The NUMBER of DISTRESSED BRITISH SEAMEN, not being NATIVES of the COLONY, who were REPATRIATED from the COLONY under the BOARD OF TRADE REGULATIONS.

1906	-	-	-	-	3
1907	-	-	-	-	5
1908	-	-	-	-	3

N.B.—These figures represent the records kept. It appears, however, that there may have been additional cases of which no return has been submitted, but which may be recorded at the Board of Trade.

## Enclosure 2 in No. 17.

(b) The NUMBER of DISTRESSED BRITISH SUBJECTS, other than NATIVES of the COLONY, who were REPATRIATED or otherwise helped by the COLONIAL GOVERNMENT.

Year.	British Subjects.		Name.	Nature of Assistance.
	Of Euro- pean Descent.	Other.		
1902	7	—	H. -	2nd class passage to England.
			J. C. -	" " and local hotel expenses.
			E. A. -	Deck passage to England.
			W. W. -	2nd class passage to England.
			G. R. -	" " and local expenses.
			W. H. -	2nd class passage to England.
			C. P. - (? Swiss subject)	Passage to Addah.
1903	12	—	A. T. -	2nd class passage to England.
			A. A. -	Deck passage to England.
			W. J. S. -	" "
			T. G. -	" "
			T. J. B. -	" "
			D. W. -	" "
			R. C. -	2nd class passage to England.
			L. C. -	" "
			R. B. -	" "
			J. C. K. -	" "
1904	5	—	F. B. -	" "
			W. T. H. -	Deck passage to England.
			J. V. -	2nd class passage to England.
			H. T. -	" "
			F. E. S. -	" "
1904	—	2	F. -	Deck passage to Tenerrife.
			H. S. -	Passage to England.
1904	—	2	W. A. W. -	Half cost of passage to Sierra Leone.
			W. C. -	Deck passage to Lagos.
1905	1	—	C. B. C. -	2nd class passage to England and local expenses.
1906	Nil.	—	J. W. -	Deck passage to Sierra Leone.
			—	—
1907	1	—	R. H. -	2nd class passage to England and local expenses.
1908	1	—	T. C. -	Passage to Lagos.
			S. K. -	" "
			W. W. -	" England.
			J. -	" Lagos.
1909	2	—	A. R. -	" "
			J. H. B. -	" Sierra Leone.
			L. McL. -	Passage to Lagos.



## Enclosure 3 in No. 17.

(c)—The NUMBER of PERSONS, not being NATIVES of the COLONY, whose CASE came before the LOCAL AUTHORITIES, but who were NOT ASSISTED.

Year.	Nationality.	Name.	Remarks.
1902	French	F. C.	Passage to Europe paid by firm.
	German	L.	Passage from Accra to Sekondi paid by private subscriptions.
	English	R. F.	Passage to England paid by local company.
1903	"	J. E. E.	" " " firm.
	"	L. F.	" " " company.
	"	D. H.	" " " "
1904	Nil.	Nil.	
1905	English	C. J. E.	Application for passage to England refused, as applicant not destitute.
	German (P Italian)	D.	Passage provided by Sekondi Lighterage Company.
	English	S.	" " private subscriptions.
	"	P.	" " " "
	"	G. E. T.	" " employers.
1906	"	J. A.	Passage to Sierra Leone paid by private subscriptions.
	American	F. B.	" England " " "
	"	Mrs. D.	" " " " "
	German	Unknown	" Germany refused. " " "
	"	G. E.	" " paid by employers.
1907	Nil.	Nil.	
1908	English	H. B.	" England refused.
	"	M.	" " "
1909	"	J. S. T.	" " "
	"	A. G.	" " "
	German	F.	" Germany paid by private subscriptions.

## Enclosure 1 in No. 18.

RETURN of CASES of REPATRIATION of NON-NATIVE BRITISH SUBJECTS which occurred in the COLONY of SIERRA LEONE during the Years 1906, 1907, and 1908.

No. 18.

## SIERRA LEONE.

The ACTING GOVERNOR to the SECRETARY OF STATE.

(Received 6th October 1909.)

Government House,  
Freetown, Sierra Leone,  
22nd September 1909.

MY LORD,

I HAVE the honour to acknowledge the receipt of your Circular despatch of the 10th of August, relative to the repatriation of British subjects other than natives of this Colony, and to transmit a Return which furnishes the particulars of information desired.

2. With reference to the information required under (c) in paragraph 8, the inability to furnish it, as explained in the remarks column of the enclosed Return, is due to no record having been kept of such cases. The applicants made their requests in person, and were informed by the Colonial Secretary of the Government's inability to render them aid. They were, however, subsequently repatriated by means of subscriptions obtained from the public officers and the mercantile community.

3. In regard to paragraph 7, I enclose a "Nil" Return, as there are no laws prohibiting the return of natives or the entry of non-natives who are or may likely become destitute into this Colony. In connection with this subject I beg to submit a printed copy of a Bill,\* entitled "An Ordinance to make provision with regard to Destitute Persons landed or left behind in the Colony," which is before the Legislative Council, and which makes provision for cases of destitute persons brought into or left in the Colony, and for seamen who may be discharged or wrongfully left by a ship in the Colony.

I have, &c.,  
G. B. HADDON SMITH,  
Acting Governor.

\* Not reprinted.

	(a)		(b)		(c) No. of Persons, whether Seamen or otherwise, Non-Natives of Colony, who could not be assisted by Local Authorities.
	No. of Distressed British Seamen—Non-Natives of Sierra Leone—repatriated under Board of Trade Regulations.	No. of Distressed British Subjects, Non-Natives of Colony, repatriated or assisted by Colonial Government.	Descent. Euro- pean.	Descent. Non- European.	
1906	†15	1	—	—	†Several, but no records kept.
1907	†5	Nil.	†4	Nil.	
1908	†6	1	†3	"	

† To Great Britain.

‡ These persons applied personally to the Colonial Secretary, and were told that the Government could not render them assistance. They were, however, repatriated by means of subscriptions raised by the public officers and the mercantile community.

## Enclosure 2 in No. 18.

RETURN as to LAWS prohibiting RETURN of NATIVES to and ENTRY of NON-NATIVES into the COLONY of SIERRA LEONE.

Laws prohibiting the return of Natives of Sierra Leone if they are or are likely to become destitute.	Laws prohibiting the entry of Natives of other Parts of the Empire (including Great Britain) if they are or are likely to become destitute.
NIL	NIL

No. 19.

## SOUTHERN NIGERIA.

The GOVERNOR to the SECRETARY OF STATE.

(Received 14th October 1909.)

Government House,  
Lagos, Southern Nigeria,  
September 20, 1909.

MY LORD,

I HAVE the honour to acknowledge the receipt of your Lordship's despatch, Circular, of August 10 on the subject of the relieving and repatriation of distressed British seamen and other subjects.

2. The enclosed return gives the information asked for in paragraphs 3, 4, and 5 of your Lordship's despatch under reply.

3. I have no reason to believe that the statistics for 1908 would convey a wrong impression to the Committee appointed by your Lordship, but it should be borne in mind that with the growth of this Colony, and as it becomes more generally known that railway and harbour works are in progress, there will be a natural tendency to increase in the number of such persons.

4. With reference to paragraph 7 of your Lordship's despatch, the only enactment which prohibits the return of natives of the Colony itself is the Deportation of Prisoners Ordinance, Chapter XXVII., page 404, of the Laws of the Colony of Southern Nigeria, 1908; there is no enactment prohibiting the entry of natives of other parts of the Empire (including Great Britain) who are likely to become destitute, but Ordinance No. 29, of 1908, deals with the recovery of the expenses incurred by the Government on behalf of destitute persons from the master of the ship or other person responsible for the entry of such destitute persons.

I have, &amp;c.,

WALTER EGERTON,  
Governor.

## Enclosure in No. 19.

RETURN OF DESTITUTE BRITISH SUBJECTS dealt  
with in SOUTHERN NIGERIA in 1908.

Distressed Seamen.	Distressed British Subjects.		Persons who applied for Relief, but who were not Assisted.	Remarks.
	Of European Descent.	Not of European Descent.		
Nil	(a) 5	(b) 1	(c) 1	(a) Two applied for and were given passages to Cape Town, but on arrival at Grand Canary preferred to work their passage to England. (b) Given a passage to Sierra Leone, his native place. (c) Applied for a passage to Sekondi and was refused.

No. 20.

## NORTHERN NIGERIA.

The ACTING GOVERNOR to the SECRETARY OF STATE.

(Received 24th November 1909.)

Government House, Zungeru,  
23 October 1909.

MY LORD,

I HAVE the honour to acknowledge the receipt of Your Lordship's Circular despatch of the 10th August last, and to set out hereunder a return of the

distressed persons assisted by this Administration during the past three years:—

	During twelve months ended 31st December 1908.	During two years ended 31st December 1907.
Number of distressed British subjects other than natives who were repatriated or otherwise helped by the Northern Nigeria Administration.	3	Nil
Do. native of Lagos - -	1	Nil
Do. British seamen - -	Nil	Nil
Cases in which relief applied for but not given.	Nil	Nil

I have, &amp;c.,

WM. WALLACE,  
Acting Governor.

No. 21.

## SOUTH AFRICA.

The HIGH COMMISSIONER to the SECRETARY  
OF STATE.

(Received 30th October 1909.)

High Commissioner's Office,  
Johannesburg,

MY LORD,

11th October 1909.

WITH reference to your Circular despatch of August 10th, I have the honour to transmit to you a copy of a despatch from the Resident Commissioner of Southern Rhodesia on the subject of destitute British seamen and other British subjects.

I have not considered it necessary to call for reports from the Resident Commissioners of the native territories under my control.

I have, &amp;c.,

SELBORNE,  
High Commissioner.

## Enclosure in No. 21.

Resident Commissioner's Office,  
Salisbury.

MY LORD,

30th September 1909.

WITH reference to Your Excellency's despatch No. 143 of the 7th instant, on the subject of destitute British seamen and other British subjects, I have the honour to forward to you a copy of a despatch received from the Acting Administrator on the subject.

I have, &amp;c.,

JAMES G. FAIR,  
Resident Commissioner.

His Excellency

The Right Honourable  
The Earl of Selborne, K.G., G.C.M.G.,  
&c. &c. &c.

High Commissioner for South Africa.

Administrator's Office,  
Salisbury,

SIR,

27th September 1909.

I HAVE the honour to acknowledge the receipt of your Honour's despatch of the 13th of September, enclosing a copy of one from the High Commissioner on the subject of destitute British seamen, and other British subjects.

2. In reply to the questions contained in paragraph 3 of the circular letter from Lord Crewe, which accompanied this letter, I regret I have no returns which will enable me to give the full particulars desired.

3. During the year 1908, 747 British subjects were assisted by this Administration with food, and eleven were repatriated from the Territory, making a total of 758 to whom relief was afforded.

4. No records were kept distinguishing British seamen from other British subjects, nor has any record been kept of applicants who for any reason were not assisted. With reference to the latter, I think I may safely assert that in every genuine case of distress brought to the notice of the authorities relief was given.

I have, &c.,  
F. J. NEWTON,  
Acting Administrator.

His Honour  
The Resident Commissioner,  
Salisbury.

No. 22.

ST. HELENA.

The GOVERNOR to the SECRETARY OF STATE.

(Received 30th October 1909.)

The Castle, St. Helena,  
24th September 1909.

MY LORD,  
I HAVE the honour to acknowledge receipt of your Lordship's Circular Despatch of the 10th ultimo on the subject of the relief and repatriation of seamen and other persons in the Crown Colonies.

2. I transmit herewith the return called for in paragraph 3 of your Lordship's above quoted despatch. In reply to the last paragraph of that despatch, I beg to inform your Lordship: (a) There is no law existing in St. Helena prohibiting the return of natives of the Colony; (b) nor is there any law to prohibit the entry into St. Helena of natives of other parts of the Empire.

3. My Police Magistrate, after 50 years' service in St. Helena, informs me that he has never known of a case of any person coming to the Colony being in destitute circumstances, and in consequence thereby seeking relief from either the Colonial Government or parish authorities.

I have, &c.,  
H. L. GALLWEY,  
Governor and Commander-in-Chief.

Enclosure in No. 22.

RELIEF and REPATRIATION of SEAMEN and OTHER PERSONS during the Years 1906, 1907, 1908.

	Distressed British Seamen, not being Natives of St. Helena, repatriated under Board of Trade Regulations.	Distressed British Subjects, not being Natives of St. Helena, repatriated or otherwise helped by the Colonial Government.	Persons, not being Natives of St. Helena, whose cases came before local authorities, but who were not assisted.
1906	2	Nil.	Nil.
1907	3*	"	"
1908	1	"	"

\* Including one Russian.

No. 23.

FIJI.

The GOVERNOR to the SECRETARY OF STATE.

(Received 29th November 1909.)

Government House, Suva,  
16th October 1909.

MY LORD,

I HAVE the honour to acknowledge the receipt of your Circular Despatch of 10th August in which you ask to be furnished with a return showing (a) the number of distressed British seamen, not being natives of the Colony, who were repatriated from the Colony under the Board of Trade Regulations in that behalf; (b) the number of distressed British subjects, other than natives of the Colony, who were repatriated or otherwise helped by the Colonial Government; and (c) the number of persons (whether seamen or otherwise), not being natives of the Colony, whose case came before the local authorities, but who for some reason or another could not be assisted.

2. In reply, I have the honour to inform you that no distressed British seamen were repatriated from the Colony under the Board of Trade Regulations during 1908, or during the two years previous. The information under (2) is contained, so far as it relates to East Indians, in the enclosed copy of a minute by the Agent-General of Immigration; no other distressed British subjects were repatriated or helped by the Colonial Government; and no person who applied for assistance, and whose circumstances required assistance, applied for and was refused assistance by the Colonial Government.

3. It should be added that, except in the case of East Indians, very few cases occur in which assistance is sought from this Government, and that no returns of such cases have been kept.

I have, &c.,  
EVERARD IM THURN.

Enclosure in No. 23.

AGENT-GENERAL OF IMMIGRATION to  
COLONIAL SECRETARY.

No British "non-immigrant" Indians were repatriated at cost of the Colony during the period in question.

2. The following numbers of Indian immigrants not entitled to free return passage to India, but who were found during term of indenture to be unfit for service, were repatriated at the expense of public revenue, viz.:-

In 1906.	1907.	1908.	Total.
129	94	72	295

at a cost of 2,066*l*.

3. A considerable number of Indians, both immigrants and others, were maintained for treatment in the Lunatic Asylum, Leper Asylum, and in different hospitals; the actual numbers can be obtained, if required, from the Medical Department, *see* under. The cost of treatment in Hospital and Lunatic Asylum was as follows:-

	1906.	1907.	1908.
To Revenue	£ 532 12 0	£ 994 0 0	£ 616 17 0
To Destitute Indians Fund.	187 2 0	38 10 0	274 10 8
	719 14 0	1,032 10 0	891 7 8
	Total 2,643 <i>l</i> 11 <i>s</i> 8 <i>d</i> .		
Numbers treated in:-			
Colonial Hospital.	620	646	620
Lunatic Asylum	6	5	7
	626	651	627
	Total 1,904.		

4. Destitute Indians, Immigrants and others: About twenty were received and maintained in the Korovou Depot during the three years in question, at cost of "Destitute Indians Fund."

5. I have no knowledge of any instance of an Indian applying for relief as a destitute person, in which assistance has not been given.

A. R. COATES.

No. 24.

WESTERN PACIFIC.

The HIGH COMMISSIONER to the SECRETARY of STATE.

(Received 31 January 1910.)

Office of the High Commissioner  
for the Western Pacific,  
Suva, Fiji.

MY LORD,

December 27, 1909.

I HAVE the honour to acknowledge the receipt of your Lordship's circular despatch of the 10th August last, asking for certain information as to the treatment of British subjects found destitute in the islands administered by the High Commissioner for the Western Pacific.

2. In reply I would refer your Lordship to my Fiji despatch of 16th October, 1909,\* on the same subject. The statements made in that despatch as to Fiji are also true of the islands under the High Commissioner. Under neither Administration is there any system of repatriation or assistance by Government of destitute persons (other than East Indians as in the case of Fiji).

3. I may, however, add that occasional, though not very frequent, cases are brought to my notice of persons such as those referred to at (c) in the 3rd paragraph of your circular despatch as "persons (whether seamen " or otherwise) not being natives of the Colony, " whose case came before the local authorities, but " who, for some reason or another, could not be " assisted." These cases pass unrecorded, because there is no system of relief; and yet the assistance which it is sometimes impossible to withhold from them is a serious drain on the private resources of officials who, not merely in common humanity but also as a moral obligation attached to their official position, are obliged to find the requisite funds.

4. In illustration of my meaning I attach copy of a despatch (No. 190 of the 4th November, 1909) which refers to the typical case of W— O—. I may add, as regards the facts of this case, that O—, after remaining some months in the New Hebrides partly on charity and partly by running up debts which he professed his intention of paying from the very exaggerated sums which—I think *bonâ fide*—he expected to recover from —, was enabled to return to his home, I think in New South Wales, by an official who, in order to avoid further scandal, paid from his personal means the rather considerable sum necessary.

5. Cases such as that just referred to are sufficiently common to warrant consideration of the suggestion that in each Crown Colony there should be a moderate sum at the disposal of the Governor or some other authority from which necessary assistance of the kind in question could be rendered.

I have, &c.,  
EVERARD IM THURN.

Enclosure in No. 24.

British Residency, Vila,  
4th November 1909.

SIR,  
I HAVE the honour to acknowledge the receipt of your Excellency's despatch No. 178 of 7th October on the subject of the repatriation of seamen, and in reply to state that no cases of the nature referred to

in Lord Crewe's Circular of the 10th August have come under my notice, save one, which might be classed under (c) of the 3rd paragraph, i.e., that of W— O—, a master mariner, who personally brought his grievances to your notice during your visit to the New Hebrides in June, 1908.

O— had been engaged by the late — of Port Patterson, Banks Islands, to navigate his schooner from Sydney to Vila, at which port he should have been paid off. He, however, took the vessel on to Port Patterson, where he was discharged, as he alleges, insufficiently paid, and without provision for his return to Sydney. What occurred subsequently during O—'s stay in the Group is too well known to your Excellency to need recapitulation here.

I have, &c.,  
M. KING,  
Resident Commissioner

His Excellency  
The High Commissioner  
for the Western Pacific.

No. 25.

FALKLAND ISLANDS.

The GOVERNOR to the SECRETARY OF STATE.

(Received 30th December 1909.)

Government House, Stanley,  
29th November 1909.

MY LORD,

IN reply to your Circular Despatch of the 10th August, on the subject of the repatriation of British seamen, I have the honour to transmit herewith the return asked for, which has been prepared by the Shipping Master.

I have, &c.,  
W. L. ALLARDYCE,  
Governor.

Enclosure 1 in No. 25.

RETURN showing NUMBER of DISTRESSED BRITISH SEAMEN not being NATIVES of the COLONY who were REPATRIATED from the COLONY during the Years 1906-1908.

Year.	Name of Ship.	No.	Cause of Distress.	Sent to.
1906	"M. E. Watson"	2	Illness -	U. Kingdom.
	"Caradog"	1	" -	"
	"Allonby"	1	" -	"
	Total	4		
1907	"Belford"	1	" -	"
	"Baden Powell"	17	Shipwreck	Halifax, N.S.
	Total	18		
1908	"Baden Powell"	1	" -	"
	"Simla"	2	Illness -	U. Kingdom.
	"Gladova"	3	" -	"
	"Metropolis"	1	" -	"
	"Lodore"	1	" -	"
Total	8			

M. CRAIGIE-HALKETT,  
Shipping Master.  
Stanley, Falkland Islands,  
23rd November 1909.

\* Appendix VI, No. 23.

Enclosure 2 in No. 25.

No. 26.

## COLONY OF FALKLAND ISLANDS.

## BERMUDA.

RETURN showing NUMBER of DISTRESSED BRITISH SUBJECTS other than NATIVES of the COLONY who were REPATRIATED or otherwise HELPED by the COLONIAL GOVERNMENT during the Years 1906-1908.

The GOVERNOR to the SECRETARY OF STATE.

(Received 5th October 1909.)

Government House,

Bermuda,

22nd September, 1909.

NIL

M. CRAIGIE-HALKETT,  
Shipping Master.  
Stanley, Falkland Islands,  
23rd November 1909.

MY LORD,

I HAVE the honour to acknowledge the receipt of your Lordship's Circular despatch of the 10th of August, asking for certain information respecting the relief and repatriation of destitute British seamen and other British subjects.

2. The enclosed table gives the information asked for in paragraphs 3 and 5 of your despatch.

3. With reference to paragraph 7, I have the honour to state, in reply to (a), that the laws of this Colony do not prohibit in any degree the return of natives of Bermuda, and with respect to (b), to forward, for your Lordship's information, copies of the Immigration Acts\* which contain the restrictions imposed on immigration into this Colony.

4. I have recently appointed a Committee to inquire into the general working of the Immigration laws, and I shall shortly address your Lordship on the subject.

I have, &amp;c.,

WALTER KITCHENER,

Lieut.-General, Governor  
and Commander-in-Chief.

\* Acts Nos. 58 of 1902 and 4 of 1907, not reprinted.

Enclosure 3 in No. 25.

## COLONY OF FALKLAND ISLANDS.

RETURN showing the NUMBER of PERSONS (whether SEAMEN or otherwise) not being NATIVES of the COLONY whose case came before the LOCAL AUTHORITIES, but who, for some reason or another, could not be ASSISTED during the Years 1906-1908.

NIL

M. CRAIGIE-HALKETT,  
Shipping Master.  
Stanley, Falkland Islands,  
23rd November 1909.

## Enclosure in No. 26.

TABLE showing REPATRIATION of DISTRESSED BRITISH SEAMEN and other BRITISH SUBJECTS.

Year.	(a) Distressed British Seamen.			(b) Other Distressed British Subjects.			(c) Applicants who could not be assisted.		
	European.	Other.	Repatriated to	European.	Other.	Repatriated to	European.	Other.	Remarks.
1908	1	-	Great Britain.	-	11	West Indies.	-	20	Estimated number of applicants for repatriation to West Indies.
1907	3	-	Canada.	-	23	West Indies.	-	20	Do. do.
1906	-	1	Canada.	-	31	West Indies.	-	20	Do. do.

No. 27.

## BAHAMAS.

The ACTING GOVERNOR to the SECRETARY OF STATE.

(Received 25th October 1909.)

Government House, Nassau,  
7th October 1909.

MY LORD,  
IN reply to your Circular Despatch of the 10th August, I have the honour to transmit to your Lordship a statement of the number of British seamen, not being natives of the Bahamas, repatriated from this Colony under the Board of Trade Regulations during each of the years 1906, 1907, and 1908.

2. The Receiver-General reports that no distinction is made between seamen of European descent and other races, and as he sends all distressed British seamen to His Majesty's Consul-General in New York he has no knowledge of their ultimate destination, but

he understands that a fair proportion of them go to Canada.

3. There are no cases in which distressed British subjects were repatriated or otherwise helped by the Colony during the years named. Two cases, one in 1906, and one in 1908, were brought under the notice of the Government but assistance was rendered by relatives or friends.

4. With reference to paragraph 7 of your Lordship's Despatch, the only local law upon the subject is "The Immigrant Paupers Prevention Act, 1908" (7 & 8 Ed. 7, ch. 9). It expressly excludes natives of the Colony from the prohibition against the landing of persons likely to be a burden upon the Colony.

I have, &amp;c.,

W. HART BENNETT,  
Administrator.

*Enclosure in No. 27.*

## RETURN of BRITISH SEAMEN repatriated from the COLONY of the BAHAMAS under BOARD of TRADE REGULATIONS.

Year.	Number of Seamen.
1906	6
1907	23
1908	22
Total	51

W. E. HUNT,  
Receiver-General's Office, Receiver-General.  
Nassau, Bahamas,  
15th September 1909.

## No. 28.

## BRITISH HONDURAS.

The GOVERNOR to the SECRETARY OF STATE.  
(Received 8th November 1909.)

Government House,  
Belize,

MY LORD, 23rd October 1909.

I HAVE the honour to inform your Lordship, in reply to your Circular Despatch of the 10th August last, that in 1908 the British schooner *Annie* was wrecked. The crew of five men (all British subjects, but two of them coolies) were shipped to New York on the barquentine *Annie Smith*. Warm clothing was supplied them and they were fed in Belize. They cost the Colony \$34.15, which was repaid by the Board of Trade. There is no record of any cases in the two previous years.

I have, &c.,  
E. J. E. SWAYNE,  
Governor.

## No. 29.

## LEEWARD ISLANDS:

The ACTING GOVERNOR to the SECRETARY OF STATE.

(Received 29th November 1909.)

Government House, Antigua,  
5th November 1909.

MY LORD, In reply to your Lordship's Circular Despatch of the 10th August last, I have the honour to report, with reference to paragraph 3 thereof, that from inquiry made from the several presidencies of this Colony, it does not appear that there has been any case of a distressed British seaman, not being a native of the Colony, or of a distressed British subject other than a native of the Colony, repatriated during the last three years; nor does it appear that there has been any case within the same period of any person (whether seaman or otherwise), not being a native of the Colony, that has come before the local authorities but could not be assisted.

2. With regard to paragraph 7 of your Lordship's Despatch, I beg to disclose a copy of a minute by Mr. Martin J. Camacho, lately Acting Attorney-General, on the law of the Colony with respect to the landing in the Colony of immigrant paupers or persons likely to become destitute.

I have, &c.,  
DOUGLAS YOUNG,  
Acting Governor.

*Enclosure in No. 29.*

## HON. ACTING COLONIAL SECRETARY,

REFERRING to paragraph 7 of S.S. Circular/18.8.09, I find that the subject of the landing in this Colony of immigrant paupers is governed by L.I. Act No. 9 of 1891, as amended by L.I. Act No. 6 of 1898.

2. Section 3 of No. 6 of 1898 defines "immigrant pauper" and excludes from such definition—

- (a) Any person who is a native of the presidency or island at which he desires to land; and  
(b) "Any person rescued from any vessel and brought to this Colony without having been taken to any other British possession where he could have been landed and properly cared for and relieved."

The section further provides "that any foreign seaman or any stowaway may be discharged or allowed to land if the Consular Officer of the country to which the vessel belongs shall undertake in writing to maintain such foreign seaman or such stowaway until he can be re-shipped or sent away from this Colony."

3. Section 4 of the same Act provides for the arrest of seaman deserting or immigrant pauper or stowaway landing.

4. Section 5 of No. 9 of 1891 prohibits the landing of any immigrant pauper except by permission of the Governor &c., unless—

- (a) Some person resident in the presidency at which the immigrant pauper desires to land, to be approved by the Government, &c., shall covenant by deed to repay any pauper charges which may within one year from the date of such deed be incurred in respect of such immigrant pauper; or

- (b) The immigrant pauper shall deposit the sum of 10l. (reduced by section 5 of No. 6 of 1898 to 5l.), out of which the pauper charges above referred to shall in the first place be paid and the balance, if any, or if no such charges be incurred within one year of the landing of such immigrant pauper, then the whole of the said sum, shall be returned to the depositor.

5. The other sections of the Act impose penalties &c., &c.

6. It will be observed from the above that—

- (a) The laws of this Colony do not prohibit the return of natives of the Colony itself; and  
(b) That they do prohibit the entry of natives of other parts of the Empire (including the Mother Country) if they are, or are likely to become, destitute, unless certain conditions be complied with.

MARTIN J. CAMACHO,  
Acting Attorney-General

28.10.1909.

## No. 30.

## WINDWARD ISLANDS (GRENADA).

The GOVERNOR to the SECRETARY OF STATE.  
(Received 13th December 1909.)

Grenada,

25th November 1909.

MY LORD, REFERRING to Your Lordship's Circular despatch of the 10th August last, I have the honour to enclose a return shewing the number of distressed British subjects, other than natives of Grenada, who have been repatriated from the Colony in the period 1906-08.

2. No repatriations falling within the category of paragraph 3 of that despatch have taken place, nor were there any distressed persons who could not be assisted.

3. With regard to paragraph 7 of the Circular despatch, the Law Officer's statement of the law on the points referred to is also enclosed.

I have, &c.,  
J. HAYES SADLER,  
Governor.

*Enclosure 1 in No. 30.*

RETURN showing number of DISTRESSED BRITISH SUBJECTS, other than NATIVES of the COLONY, repatriated from GRENADA in the period 1906-'08.—

No.	Name.	Birth-place.	Place to which repatriated.	Date of repatriation.
1.	J. I.	St. Kitts	St. Kitts	28th Apr. '06.
2.	A. B. & child.	St. Lucia	St. Lucia	18th Mar. '07.
3.	E. B.	Barbados	Barbados	29th Apr. '07.
4.	D. N.	St. Vincent	St. Vincent	5th Feb. '08.
5.	R. J.	Africa	St. Vincent	13th May, '08.

None of the above were of European descent.

EDWARD DRAYTON,  
Colonial Secretary.  
18 November 1909.

*Enclosure 2 in No. 30.*

ACTING ATTORNEY-GENERAL to ADMINISTRATOR.

1. The Law relating to persons arriving in this Colony who are likely to become chargeable to the Colony is to be found in the Infirm Paupers and Immigrants Regulation Ordinance, 1897.

2. Natives of the Colony or their families are excepted from the operation of the Ordinance. The laws of the Colony do not, therefore, restrict the return of natives.

3. Section 4 provides that if, on the arrival of any ship, there shall be on board any person who in the opinion of any Visiting Officer is a pauper or destitute and likely, if permitted to land, to become chargeable to the Colony, the Visiting Officer shall give notice that that person is a destitute immigrant.

4. Destitute immigrants may only land in the Colony, (1) by permission of the Governor, (2) if a bond is given by some person resident in the Colony to repay pauper charges which may be incurred by the Colony within six months from the date of the bond, (3) if the destitute immigrant deposits 5l. in the Treasury.

23rd September 1909.

N. J. P.

No. 31.

WINDWARD ISLANDS (ST. LUCIA).

The ACTING GOVERNOR to the SECRETARY OF STATE.

(Received 18th October, 1909.)

MY LORD,  
St. Lucia,  
25th September 1909.

I HAVE the honour to acknowledge the receipt of your Lordship's Circular despatch of the 10th August last, and in reply to forward a memorandum prepared by the Acting Colonial Secretary, containing the information required by that despatch to be furnished, so far as relates to the repatriation or assistance of distressed British seamen or other subjects in the Colony of St. Lucia.

2. Information as to the restrictions placed by local law on landing in the Colony is also given.

I have, &c.,

EDWARD J. CAMERON,  
Acting Governor.

*Enclosure in No. 31.*

Paragraph 3.—(a) For the twelve months ended 31 December  $\left\{ \begin{array}{l} 1906 \\ 1907 \\ 1908 \end{array} \right\}$  the number of distressed British

seamen, not being natives of St. Lucia, who were repatriated under Board of Trade Regulations was  $\left\{ \begin{array}{l} 5 \\ 85 \\ 10 \end{array} \right\}$ ; of this number  $\left\{ \begin{array}{l} 1 \\ 23 \\ 7 \end{array} \right\}$  were British subjects

of European descent, and  $\left\{ \begin{array}{l} 4 \\ 12 \\ 3 \end{array} \right\}$  were of non-European descent.

(b) During the same periods no distressed British subjects, other than natives of St. Lucia, were repatriated to the United Kingdom or otherwise helped by the Colonial Government.

(c) Nor were there any persons, seamen or otherwise, not being natives of St. Lucia, whose case came before the local authorities, but for some reason or other could not be assisted.

Paragraph 5.—For periods ended 31 December  $\left\{ \begin{array}{l} 1906 \\ 1907 \\ 1908 \end{array} \right\}$  there were  $\left\{ \begin{array}{l} 2 \\ 1 \\ 3 \end{array} \right\}$  persons of non-European descent who were repatriated to parts of the Empire other than Great Britain, viz. :—

$\left\{ \begin{array}{l} 1 \text{ to Dominica; } 1 \text{ to Barbados;} \\ 1, \text{ with family, to Barbados;} \\ 2 \text{ to Antigua; } 1 \text{ to Trinidad.} \end{array} \right\}$

Paragraph 7.—The "Infirm Paupers and Immigrants Regulation Ordinance, No. 6 of 1904," prohibits the landing of infirm paupers, destitute immigrants, and criminals.

Section 21 of the same Ordinance exempts natives of the colony of St. Lucia from the operation of the Ordinance. There is no law prohibiting the return of natives.

No. 32.

WINDWARD ISLANDS (ST. VINCENT).  
The GOVERNOR to the SECRETARY OF STATE.

(Received 15th November 1909.)

Grenada,

20th October, 1909.

Forwarded.

J. HAYES SADLER.

Government House,  
St. Vincent,  
2nd October, 1909.

SIR,

In reply to the Secretary of State's Circular despatch of the 10th August last, I have the honour to state, for his Lordship's information, that no British subjects have been repatriated from this Colony during the past two years, nor have there been any applications for assistance from distressed persons towards repatriation.

2. With regard to paragraph 7 (a), there is nothing in the laws of St. Vincent having special reference to the return to the Colony of natives of the Colony itself. Such natives are as a rule allowed to land without question. In regard to 7 (b), under the Infirm Pauper and Immigrants Regulation Ordinance, 1897 (No. 12 of 1897), the landing of any person who by reason of physical or mental infirmity is unable to maintain himself, or of any person likely to become a charge on the Colony, can be prevented.

I have, &c.

C. GIDEON MURRAY.

Administrator.

His Excellency

Edward J. Cameron, C.M.G.,  
&c., &c., &c.,  
Acting Governor of the Windward Islands,  
St. Lucia.

No. 33.

## BARBADOS.

The GOVERNOR to the SECRETARY OF STATE.

(Received 18th October, 1909.)

Government House,  
1st October, 1909.

MY LORD,

I HAVE the honour to acknowledge the receipt of Your Lordship's Circular despatch of the 10th of August last, and, in reply, to transmit Returns showing (A) the number of distressed British seamen, not being natives of Barbados, who were repatriated from the Colony under the Board of Trade Regulations, from 1906 to 1908; (B<sup>1</sup>) the number of distressed British subjects, not being natives of Barbados, who were assisted to leave the Colony; (B<sup>2</sup>) the number of distressed British subjects, not being natives of the island, who were repatriated from the Colony; and (C) the number of persons, not being natives of Barbados, whose cases came before the Government, but who, for some reason or another, were not assisted.

2. With regard to the last paragraph of your despatch, I have to state that (a) the laws of Barbados prohibit the return of natives to the Colony itself, if they have been absent continuously for five years next preceding their arrival, and have been resident, during that period, for three consecutive years in any British Colony or India, and (b) no second or third class passenger, not being a native, is allowed to land if the Harbour Master is satisfied that such passenger is unable, by reason of physical or mental infirmity, to maintain himself or is likely, if permitted to land, to become chargeable to the Colony. By an Act\* of the Legislature, passed recently, the disability of natives as stated under (a) has been removed, but I have not yet been informed of His Majesty's pleasure with reference thereto.

I have, &c.,  
G. T. CARTER,  
Governor.

\* NOTE.—The Governor has been authorised to assent to this Act.

## Enclosure 1 in No. 33.

(A.)

RETURN showing the NUMBER of DISTRESSED BRITISH SEAMEN, not being NATIVES of the COLONY, who were repatriated from the COLONY under the BOARD of TRADE REGULATIONS in that behalf.

1906.	
Number.	How disposed of.
5	Sent to the Dominion of Canada.
1	Sent to St. Lucia, B.W.I.
45	Sent to the United Kingdom.
<hr/>	
Total 51	

Of these—

35 were British subjects of European descent.  
15 were foreign subjects of European descent.  
1 was a native of British Honduras.

1907.

7	Sent to the Dominion of Canada.
1	Sent to Colon.
1	Sent to Demerara (British Guiana).
4	Sent to Antigua, B.W.I.
70	Sent to the United Kingdom.
<hr/>	
Total 83	

Of these—

61 were British subjects of European descent.  
21 foreign subjects of European descent.  
1 was a native of Peru.

1908.

Number.	How disposed of.
28	Sent to the Dominion of Canada.
10	Sent to St. Vincent, B.W.I.
2	Sent to Antigua, B.W.I.
14	Sent to the United Kingdom.
<hr/>	
Total 54	

Of these—

42 were British subjects of European descent.  
5 foreign subjects of European descent.  
2 West Indians (coloured).  
3 Cape de Verde.  
1 British Honduras.  
1 British Columbia.

## Enclosure 2 in No. 33.

(B<sup>1</sup>)

RETURN showing the NUMBER of DISTRESSED BRITISH SUBJECTS, other than NATIVES of the COLONY, who were assisted from the COLONY.

1906.	
Number.	How disposed of.
Nil.	
<hr/>	
1907.	
1	Sent to the United States of America.
This person was a native of England.	
<hr/>	
1908.	
2	Sent to Colon.
2	Sent to Surinam.
<hr/>	
Total 4	

Of these—

2 were natives of England, and  
2 were natives of St. Lucia, B.W.I.

## Enclosure 3 in No. 33.

(B<sup>2</sup>)

RETURN showing the NUMBER of DISTRESSED BRITISH SUBJECTS, not being NATIVES, who were repatriated from the COLONY.

1906.	
Number.	How disposed of.
3	Sent to Trinidad, B.W.I.
1	Sent to Jamaica, B.W.I.
1	Sent to St. Lucia, B.W.I.
6	Sent to Antigua, B.W.I.
<hr/>	
Total 11	

1907.

1	Sent to Jamaica.
8	Sent to Trinidad.
2	Sent to Demerara.
1	Sent to St. Kitts.
<hr/>	
Total 12	

1908.

4	Sent to Jamaica.
10	Sent to Demerara.
11	Sent to Trinidad.
1	Sent to Grenada.
1	Sent to Antigua.
2	Sent to Dominica.
<hr/>	
Total 29	



## Enclosure 4 in No. 33.

(C.)

RETURN showing the NUMBER of PERSONS, not being NATIVES of the COLONY, whose CASES came before the LOCAL AUTHORITIES, but who, for some reason or other, could not be assisted.

1906.	
Number.	Natives of
1	Demerara.
1	St. Kitts.
<u>Total 2</u>	
1907.	
1	Jamaica.
<u>Total 1</u>	
1908.	
1	United States of America.
2	Demerara.
1	Bernuda.
<u>Total 4</u>	

No. 34.

TRINIDAD.

The GOVERNOR to the SECRETARY OF STATE.

(Received 4th October 1909.)

Government House,  
14th September 1909.

MY LORD,

In accordance with the instructions contained in the third paragraph of your Lordship's circular despatch of the 10th August last, I have the honour to forward the attached copy of a minute by the Harbour Master, enclosing the returns asked for, to be communicated to the Committee appointed to inquire as to the best method of relieving, repatriating, or otherwise disposing of distressed British subjects belonging to India or the Crown Colonies who may find themselves destitute or without friends in the United Kingdom.

I have, &amp;c.,

GEORGE R. LE HUNTE,  
Governor.

## Enclosure in No. 34.

MINUTE by the HARBOUR MASTER.

HON. COLONIAL SECRETARY,

RETURNS referring to (a) and (b) of paragraph 3 of the Secretary of State's despatch are enclosed.

There are no restrictions on the return of natives of the Colony. Coloured West Indians of the labouring class, in good health, are admitted practically without any restriction. All other persons whose general appearance conveys the impression that they may become a burden on the funds of the Colony come under the Infirm Paupers' Ordinance. They are permitted to land if they have 20*l.*, or some person resident in the Colony enters into a bond to refund all pauper charges incurred by the Government for one year from date of landing.

J. B. SAUNDERS,  
Harbour Master.  
7 September 1909.

(A.)

RETURN of DISTRESSED BRITISH SEAMEN repatriated under BOARD OF TRADE REGULATIONS.

Year.	British Subjects of European Descent.		British Subjects not of European Descent.		Total.
	Sent to United Kingdom.	Sent to other Ports.	Sent to United Kingdom.	Sent to other Ports.	
1906	6	2	—	6	14
1907	1	—	—	2	3
1908	8	—	1	1	10

(B.)

RETURN of BRITISH SUBJECTS repatriated by the COLONY of TRINIDAD.

Year.	Native of United Kingdom sent Home.	Natives of British Colonies sent Home.	Total.
1906	1	27	28
1907	1	43	44
1908	—	36	36

These British subjects were repatriated at the expense of this Colony. No foreigner was repatriated.

(C.)

RETURN of APPLICANTS (not, being Natives of the COLONY) for FREE PASSAGES to their HOMES, who were NOT ASSISTED:—

1906	-	-	-	24
1907	-	-	-	43
1908	-	-	-	21

The majority of these applicants were not of European descent.

No. 35.

BRITISH GUIANA.

The ACTING GOVERNOR to the SECRETARY OF STATE.

(Received 1st November 1909.)

Government House, Georgetown,  
Demerara,

MY LORD,

8th October 1909.

In compliance with the request contained in your Circular of the 10th August, I have the honour to enclose copies of minutes from the Harbour Master and Poor Law Commissioners which give the information desired by the Committee enquiring into the best means of relieving natives of India or the Colonies who become destitute in the United Kingdom.

2. I enclose also a copy of the local laws\* restricting the introduction of persons likely to become a charge on the Poor Funds.

I have, &amp;c.,

CHARLES T. COX.

\* Ordinances Nos. 2 of 1886; 4 of 1896; 5 of 1906; not reprinted.

*Enclosure in No. 35.**Minute.*

## GOVERNMENT SECRETARY,

FOR the three years previous to the 31st December 1908, 30 distressed British seamen were repatriated under the Board of Trade Regulations:—

- 17 were British subjects of European descent.
- 11 were foreigners serving in British ships.
- 2 were British subjects not of European descent.
- 6 cases were not assisted, chiefly on account of being foreign seamen left behind by foreign ships, or deserters from them.

L. H. J. T.,  
for Harbour Master.

20th September 1909.

During the twelve months ended 31st December 1908, 2 persons were repatriated, both British subjects; one was from Barbados and the other from St. Kitts. For the same period 14 persons were not repatriated, as they were able to earn sufficient to pay their own passages to their native country:—

- 1 was from Europe (came in shortly after for about 35,000\$).
- 1 was from Jamaica (gave up work to abscond from wife).
- 2 were from Trinidad.
- 10 " Barbados.

C. L. HENDY,  
Acting Secretary, Poor  
Law Commissioners.

5th October 1908.

*Minute.*

## GOVERNMENT SECRETARY,

FOR the twelve months ending 31st December 1908, seven distressed British seamen were repatriated under Board of Trade Regulations:—

- 4 were British subjects of European descent.
- 2 were foreigners serving in British ships.
- 1 was a British subject not of European descent.
- 2 cases were not assisted.

L. H. J. T.,  
for Harbour Master.

24th September 1909.

## No. 36.

## JAMAICA.

The GOVERNOR to the SECRETARY of STATE.

(Received 9th March 1910.)

King's House,  
Jamaica.

16th February 1910.

MY LORD,

I HAVE the honour to acknowledge the receipt of Your Lordship's Circular Despatch dated the 10th of August, 1909, asking to be furnished with certain information in regard to cases of distressed persons who have been repatriated or otherwise helped, and who have been refused such assistance.

2. In reply I have the honour to forward the accompanying return, which represents the facts desired as far as it has been possible to ascertain them.

3. I would explain that the names and other particulars outside of persons to whom assistance to leave the Island was granted or refused by the Government had to be obtained from the Kingston Charity Organisation Society and the Mayor and Council of Kingston, the only other agencies who take part with the Government in meeting the cost of passages of distressed persons to enable them to leave the Colony.

4. With regard to paragraph 7 of Your Lordship's despatch, I have the honour to inform you that the laws of this Colony do not prohibit the return of natives of the Island, but that Law 25 of 1905 prohibits the entry of all persons, other than natives of the Colony, who may be considered unable by reason of physical or mental infirmity to maintain themselves or who are likely, if permitted to land, to become chargeable to the funds provided for the relief of the poor. This law is the only one in force in the Colony on the subject.

I have, &c.,  
SYDNEY OLIVIER,  
Governor.

*Minute of the Poor Law Commissioners.*

## GOVERNMENT SECRETARY,

FOR the three years ending 31st December 1907, 39 British subjects were repatriated or otherwise assisted to leave the Colony:—

- 1 was from St. Eustatius,
- 1 " St. Lucia,
- 1 " St. Kitts,
- 2 were from Grenada,
- 3 " Trinidad,
- 31 " Barbados.

During the same period 25 persons, all British subjects, were refused assistance, as it was found on inquiry that they were able to assist themselves:—

- 1 was from England,
- 1 " St. Vincent,
- 1 " St. Lucia,
- 1 " Jamaica,
- 4 were from Trinidad,
- 17 " Barbados.

Enclosure in No. 36.

RETURN CALLED FOR BY SECRETARY OF STATE'S CIRCULAR DATED 10TH AUGUST, 1909.

Year.	(a) Number of distressed British Seamen, not being Natives of the Colony, who were repatriated from the Colony under the Board of Trade Regulations in that behalf.				(b) Number of distressed British Subjects, other than Natives of the Colony, who were repatriated or otherwise helped by the Colonial Government.						(c) Number of Persons (whether Seamen or otherwise) not being Natives of the Colony, whose Case came before the Local Authorities, but who, for some other reason or another, could not be assisted.						
	Of European Descent.	Not of European Descent.	Repatriated to Great Britain.	Repatriated to Parts of the Empire other than Great Britain.	Of European Descent.	Not of European Descent.	Repatriated.				British Subjects of European Descent.	British Subjects not of European Descent.	Of Foreign Nationality.	To be repatriated.			
							To Great Britain.	To Parts of the Empire other than Great Britain.	To Foreign Parts.	Total repatriated or otherwise helped.				To Great Britain.	To Parts of the Empire other than Great Britain.	To Foreign Parts.	Total.
1906 - - - -	Nil	Nil	Nil	Nil	3	Nil	3	Nil	Nil	3	2	1	3	1	Nil	5	6
1907 - - - -	8	Nil	8	Nil	2	14	2	8	6	16	3	2	1	3	1	2	6
1908 - - - -	2	Nil	2	Nil	4	3	3	1	2	6	1	3	2	1	1	4	6
Total - - -	10	Nil	10	Nil	9	17	8	9	8	25	6	6	6	5	2	11	18

NOTE.—A Mrs. P— was assisted by the Charity Organisation Society in 1908 to go to Colon, but as her nationality has not been established the case has not been included in the above return.

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TRANSVAAL.

S 2188

CORRESPONDENCE

RELATING TO

LEGISLATION AFFECTING ASIATICS

IN THE

TRANSVAAL

[In continuation of Cd. 3251.]

3

Presented to both Houses of Parliament by Command of His Majesty.  
February, 1907.



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1907.

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TRANSVAAL.

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CORRESPONDENCE

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No. 1.

THE SECRETARY OF STATE TO THE GOVERNOR.

(Sent 2.52 p.m., May 11, 1906.)

TELEGRAM.

[Answered by No. 2.]

May 11. No. 2. My attention has been drawn to case\* of heirs of Aboobaker Amod, referred to in "Indian Opinion" 17th March. Assuming correctness of facts stated, which appear to be in conformity with Law No. 3 of 1885,† I should be glad to receive any observations you have to offer and to learn whether it is not now necessary to amend law on lines laid down by my predecessor—see [Cd. 2239] p. 45. Would it be possible to permit Indians to purchase land anywhere as natives can now do?—ELGIN.

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No. 2.

THE GOVERNOR TO THE SECRETARY OF STATE.

(Received 3.56 p.m., May 21, 1906.)

TELEGRAM.

May 21. No. 1. Your telegram, 11th May, No. 2;‡ Legislation repealing law which imposed disability on Asiatics in respect to land tenure could not be passed on the eve of the establishment of responsible institutions except by the severest use of vote of official members and in the teeth of the protest of whole white population. These laws are regarded as fundamental by the population, and any attempt to alter the main position now would be regarded as a breach of faith, and would greatly prejudice chance of securing a moderate attitude on the part of an elected Legislature. I agree, however, that the disability on heirs and successors shown

\* See Appendix.

† Printed at page 9 of [Cd. 3251].

‡ No. 1.

to exist by Amod's case was not intended, and should be rectified at once by legislation which would also correct several other defects in the laws, mostly unintentional, which are not only [? calculated to] bear hardly on Asiatics, but also to prevent Government from keeping pledges which have been definitely made to all parties.

I am dealing at length with the whole subject in a despatch\* which leaves by to-night's mail enclosing drafts of the legislation which I propose for your approval. A telegraphic reply to this despatch would enable legislation to be introduced before the Legislative Council rises.—SELBORNE.

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No. 3.

THE GOVERNOR to THE SECRETARY OF STATE.

(Received June 9, 1906.)

[Answered by No. 41.]

MY LORD,

Governor's Office, Johannesburg, May 21, 1906.

I HAVE the honour to confirm my telegram, No. 1, of the 21st May, † copy of which is attached to this despatch, in answer to Your Lordship's telegram, No. 2, of the 11th May, ‡ relative to the case of the heirs of Aboo Baker Amod. I propose to take this opportunity, in replying to Your Lordship at length, of placing on record my views with regard to certain aspects of the Asiatic question in this Colony. In doing so it is necessary to note the circumstances which occasion the special difficulties with which a British Government is faced when dealing with this particular problem.

2. After the retrocession of the Transvaal to the Boers in 1881, Asiatics, many of whom were British Indians, attempted to enter the country to reside in it, to trade, and to acquire property. Their liberty to do so was questioned less at the instance of the Boers themselves than of the European traders who were in great part British subjects or of British origin. The British Government enforced the claims of the Asiatics by all the diplomatic means in its power, and the restrictions to which they were subjected were among the subjects of disagreement which led to the outbreak of war. In spite, however, of the protests of the British Government, the South African Republic was able to pass and to maintain certain restrictive laws. Now that the country is in the hands of the Imperial Government, the Asiatics who are British subjects naturally claim that the same privileges should be accorded to them as were demanded on their behalf from the Republican Government.

3. The European inhabitants of the country, however, and more especially the trading section of the population, assert that if Asiatics are freely admitted to this country, and if their disabilities are removed, they will in time displace all but a small minority of the white population. They draw attention to the fact that although Asiatics have been freely admitted to Natal for a comparatively few years they already exceed the white population, which is scarcely sufficient to maintain its supremacy over a large semi-civilised native population. In this task the Asiatic population, drawn almost exclusively from the lowest and most unwarlike races of India, take no share as combatants. They point to Mauritius, parts of which are more temperate and healthy than the lower portions of Natal, an island which was uninhabited when it was first discovered some 400 years ago, which has since that time been open of access to all races without distinction or restraint, and which now supports a large population, of whom no more than 2½ per cent. are Europeans, while upwards of 70 per cent. are pure Asiatics. Owing to the presence of the native population there is in practice no room in this country for unskilled labourers of European race, and it is contended that the removal of restrictions placed on the ingress of Asiatics and their residence in this country will mean that certain large and important branches of the mechanical trades, of agriculture, of commerce, and even of the professions, which now support the white inhabitants,

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\* No. 3.

† No. 2.

‡ No. 1.

will be invaded and ere long monopolised by Asiatics of the lower caste. They argue, and I must admit the force of their argument, that the white population of the country will not increase as it ought to in proportion to that of non-European origin, and that in less than a century, perhaps, the proportion which the white population bears to the coloured will approach the proportions which now exist in Mauritius. Under these conditions, South Africa will, for all time, require to be occupied by troops imported from Europe, not only for its protection against foreign invasion but even for the enforcement of order among its native population. Turning to America they contend that there is hardly any mistake which a young State may commit which cannot afterwards be amended and undone except a mistake in the elements of population. While admitting the grave difficulties in which this Government is placed by reason of its attitude on this question before the war, they ask that, where the future of this country as a home for Europeans is at stake, the Imperial Government should be prepared to reconsider a position adopted under circumstances very different from those with which they are now faced.

4. In considering these two positions a distinction must be drawn, so far as the Asiatics are concerned, between those who have acquired rights of domicile in the Transvaal as distinguished from those who have not, and who now claim to enter it. I am confident that a responsible Ministry, supported by the belief that the Imperial Government appreciates to the full the gravity of the question from the point of view of the white Colonists, can be trusted to listen to the just claims of British subjects of Asiatic nationality resident in the Transvaal, which will be pressed upon them by that Government, and to effect the settlement of this part of the question on just and moderate lines. The claims of the Asiatics who wish to acquire the right to enter the country, and the claims of the Europeans (more especially the British population) who demand the right to maintain the country they have settled and civilised as a European, and not as an Asiatic, community, seem to me to be in antagonism towards one another which cannot be reconciled. Whatever the settlement may be on paper, in the course of time one of the two parties will, in fact, be ousted from their position, and South Africa will either remain a "white man's" country, so far as it is possible for any country based on a negro proletariat to claim that title, or it will become a country peopled by aboriginal natives and Asiatics, under the control and management of Europeans, who form an insignificant proportion of the indigenous population.

5. From the outset I have recognised that the issues involved are so far reaching, that the settlement must await the establishment of representative institutions. An attempt to decide now any one of the main issues at stake would aggravate the difficulties of the question because an elective legislature would in all probability re-open it. All that can be effected now is to keep these issues open, and, in the meantime, to induce by every possible means a reasonable and moderate temper in both the parties concerned. The necessity of this course was so apparent from the outset that I have not hesitated to give to the European population pledges of the most specific nature that the question would be reserved to be dealt with by their representative Government. For Your Lordship's information, I enclose a passage from my speech, delivered at Potchefstroom on October 7th last, dealing with this subject (Annexure "A").

6. Unhappily this is a question which cannot be kept open by merely abstaining from action, and herein lies the peculiar difficulty for an intermediate and provisional Government. Where the Mineral Laws of the country are concerned or questions relating to native franchise, it is quite open for the present Government to postpone all decision pending the establishment of responsible institutions and to remain passive in the meantime. On this question, however, the mere inaction of the Government would do more to predetermine the issues in question than any positive steps which they might adopt. It is obvious that unless the present Government had enforced deliberate measures for the exclusion of Asiatics they would have flocked into this country in anticipation of the establishment of Responsible Government. It is, in practice, impossible to remove a population which has once established itself, and the first Legislature elected to represent the whole European population of the Colony, would have found themselves deeply committed on a fundamental question of population before they had had an opportunity of expressing their views to His Majesty's Government. These obvious considerations are

necessary to explain the extreme difficulties which have had to be faced by a British Government assuming responsibility for the administration of this Colony. Before the war the Transvaal was a foreign country, and the British Government was bound to maintain the rights of all British subjects as secured by conventions made with the Government of the Republic, to enter the country and to reside and trade there. When, however, the country was annexed to His Majesty's dominions the conventions lapsed, and though the moral responsibility of the British Government towards His Majesty's Indian subjects remained unaltered, the British Government were faced with an entirely new set of conflicting responsibilities which they had assumed towards the inhabitants of the Transvaal, many of whom now became British subjects for the first time. The British Government after the war necessarily undertook the administration of the country until such time as its inhabitants were in a position to administer it themselves, but they did so subject to a pledge, in some cases explicit, but in all implied, that the solution of the fundamental and permanent questions of the country should, so far as was possible, be left over until the time when, through the medium of their own responsible government, they could discuss these questions face to face with the Imperial Authorities. The British Government were, therefore, in honour bound while maintaining their own attitude on the subject so far as the Asiatics were concerned, to hold the question open in fact as well as in law, pending the establishment of responsible institutions, and had the British Government granted free admission to the Asiatics and repealed the restrictive laws imposed by the late Republic in which they or their predecessors had acquiesced so as to carry out, in the letter as well as in the spirit, the pledges given to Asiatics, they would have been untrue to a trust, in no degree less sacred, towards the European population which had been assumed through circumstances which were utterly unforeseen. For these reasons there was, in my opinion, no course honourably open to the Government of the Transvaal other than to maintain the fundamental laws relating to Asiatics for the time being, so far as was possible, unchanged, and as interpreted from time to time by the Courts, and also to prevent the further influx of Asiatics, however distasteful that task might be.

7. This latter object has been effected by means of the Peace Preservation Ordinance, which was not passed specifically to secure this object, but was intended to enable the Government to deal with the position which arose from the circumstances of the war. That Ordinance as amended by Ordinance No. 5 of 1903 conferred on all persons in the country at the time of the declaration of peace (31st May, 1902) the right to remain there. All Asiatics, therefore, who were actually in the country at that time have a statutory right to remain. As a matter of equity this privilege was extended to refugees who had left the country in consequence of the outbreak of war. Your Lordship will note that in my speech at Potchefstroom I expressed my belief that the Ordinance was effectively used to prevent the further influx of Asiatics for the time being. From the reports then before me I could arrive at no other conclusion, but the information which I have since received has led me to revise that opinion, and I am no longer able to assert with confidence, either that Asiatics are not entering in considerable numbers, or, that the law provides a machinery which enables them to be excluded or to be detected when they enter unlawfully. The Government of the Transvaal is pledged, however, to the European inhabitants to restrict the Asiatic population entitled to reside in this Colony within the limits specified above, so far as it is possible for them to do so.

8. On the other hand, I hold that the Government is bound in honour to spare no effort to mitigate the undoubted hardships involved by the position which I have described, on the Asiatics whose right to reside in this country they have recognised. When I say that they are bound to maintain the existing position so far as is possible, unchanged, I mean that in my opinion they should do so in the spirit rather than in the letter. Where it appears that laws passed by the late Republic, or laws passed by this Government operate harshly on the Asiatic in ways which were not foreseen, and which were not intended, or where they necessitate administrative methods which are harassing to Asiatics who have entered the country legitimately, then, in my opinion, it is the duty of the present Government to modify those laws. It is, however, their duty no less to secure that the other side of the bargain shall be kept in the spirit as well as in the letter, and unless the Government are able to assure the Legislature that effective steps are being taken to check a general influx

of Asiatics they will be placed in a false position, as regards the European inhabitants.

9. Your Lordship's telegram, No. 2, of the 11th May,\* referring to the case of the heirs of Aboo Baker Amod, offers one of the instances in which I consider this Government should intervene in order to preserve the intention of the law, which its actual terms have failed to express. Article 2 of Law 3 of 1885 provides that Asiatics shall not be capable of being owners of fixed property in the Republic, subject to the provision that this restriction shall not be retrospective. The obvious intention of this law, as I read it, was, that Asiatics, who held property previous to the date of its enactment, should retain undiminished the rights they had acquired, and, from an equitable point of view, a necessary part of these rights was the power to transmit that property to their heirs. Of this right, however, they have been deprived by the technical wording of the law, and I am in accord with your Lordship in thinking that it is the duty of the Government to ask the Legislature to redress this hardship, and I have very little doubt that they would consent to do so. I am unable, however, to recommend that any attempt should be made pending the constitutional changes now impending, to repeal the provisions of Law No. 3 of 1885, which relate to the holding of property by Asiatics, because these provisions are regarded as an element in the fundamental position which should remain unaltered until it can be dealt with by an elective legislature. The feeling, in fact, on this subject is so strong that the Government could only carry an amending Ordinance by a vigorous use of the official majority, a step which, at this stage, I am confident would not commend itself to your Lordship's judgment. At the same time, the opportunity might well be taken to rectify a number of other hardships involved by the present form of the law, the removal of which would not in any way prejudice the ultimate settlement of the question as between a Responsible Government and the Imperial Government.

10. Among the various steps which I have taken to modify the administration on lines compatible with the establishment of responsible institutions, has been the transfer of the control of Asiatic permits from my own Office to the Office of the Colonial Secretary. These duties have now been placed under the immediate charge of the official previously known as the Protector of Asiatics, whose title has now been changed to Registrar of Asiatics, in order that he may carry out the duties imposed on the Government by Law 3 of 1885. At the same time, the various enactments affecting the position of Asiatics in this country have been made the subject of careful examination by the Law Officers of the Crown, with the result that they are found, in their present form, to impose many hardships on Asiatics entitled to enter or reside in the country, which have no justification in themselves, and which would not, I believe, if understood, receive the approval of public opinion in this country.

11. Your Lordship will note that sub-section 3 of Article 2 of Law 3 of 1885, as modified by the Proclamation of January 24th, 1887, imposes a poll tax of £3 on the registration of every Asiatic entitled to reside in the country. In theory, of course, there should be very few Asiatics in the country from whom this tax has still to be collected, but, even so, I should recommend its abolition on principle. The tax is not sufficient to deter any Asiatic from entering the country, who wishes, and is able to do so on other grounds. On the other hand, most of them are British subjects, and I cannot conceive any possible justification for imposing on one special class of British subjects permitted to reside in this country a separate poll tax, seeing that the Asiatics follow much the same occupations as Europeans, and, therefore, unlike the native, contribute in the same way as Europeans, to the ordinary taxation.

12. The practice of allowing Asiatics, not entitled to reside in the country, to visit it for a limited period for business purposes and other special reasons, has long been admitted, and, in my opinion, it is a very proper practice, and one of which European opinion in the Transvaal approves. These facilities have gone a very long way towards mitigating the hardships imposed upon Asiatics by the present system of exclusion. It was found, however, that numbers of Asiatics who



received temporary permits to visit the country, failed to leave it when those permits expired.

13. The Law Officers of the Crown have now pointed out that the Peace Preservation Ordinance does not contemplate temporary permits, and that if permission is given to an Asiatic to enter the country for a time only, the law contains no machinery which makes it possible to enforce their departure at the expiration of the time specified. In effect, therefore, a temporary permit confers on the holder the same right to reside permanently in the country as an ordinary permit. As Asiatics have availed themselves of this technical defect, the Government have been obliged to stop the issue of temporary permits, except in cases of most exceptional urgency. This restriction imposes a very serious hardship on Asiatics who wish to enter the country for genuine reasons and honestly intend to quit within the time specified. As the matter now stands, the continued issue of temporary permits under the existing state of the law is inconsistent with the pledges which have been given to the European population. In the interests of all parties therefore I am strongly in favour of amending the law at once in such a way as will enable the Government to grant relief to Asiatics in this much appreciated manner.

14. It appears, however, that a hardship of an even more serious nature has been inflicted unwittingly by the provisions of the Labour Importation Ordinance. The Law Officers of the Crown have pointed out that any Asiatic who seeks to enter under a contract of service cannot be introduced into the Transvaal otherwise than subject to the provisions and limitations of that Ordinance. In some cases Asiatics have applied on the ordinary grounds for permits to enter the Transvaal and the justice of their claim has been proved; at the same time they have admitted that the immediate reason for their desire to return to the Transvaal has been a contract of service with some person in the Colony. Such contracts are, of course, ordinary contracts, not contracts of indenture. Under these circumstances, it is impossible for the Registrar of Asiatics to issue a permit without exposing himself and other parties concerned to the heavy penalties imposed by Section 6 of the Ordinance. Thus, by an unforeseen accident of legislation, Asiatics, whose right to reside in the Colony is admitted, have been deprived of that right, and an injustice has unintentionally been done which ought to be rectified as soon as possible.

15. I must now turn to the actual administration of the permit system. In view of the pledges given by me at Potchefstroom, I have directed that, while every possible courtesy and consideration is to be used towards Asiatics residing in the country, the Peace Preservation Ordinance should be administered on the lines set forth in my speech. A more exact application of the law has now shown that the methods necessitated by its terms are at once harassing to the Asiatics and ineffective in securing the purpose for which they are designed. The Government has undertaken, for the time being, to limit the classes of Asiatics who reside permanently in the country to refugees who left on account of the war and those who acquired a statutory right under the Peace Preservation Ordinance. In order to enjoy these rights, any Asiatic who is entitled to them must of course substantiate his claim to do so, and it is obvious that a very large number who desire to enter the Transvaal will demand privileges to which in fact they are not entitled. Under the present system an Asiatic who wishes to enter the Transvaal applies by post to the Registrar of Asiatics to do so. If there appears to be *prima facie* evidence that the grounds for his claim are genuine, he is accorded provisional permission to enter the Transvaal and to present himself for examination at the office of the Registrar of Asiatics. In very many cases this examination proves conclusively that the man has never been in the Transvaal before, and has no right, under the existing system, to a permit. He is there however, located in the Transvaal, and the onus of expelling him from the country then devolves upon the Government. At the same time, the Asiatic has been put to the expense of a journey from the coast to Pretoria and back. Frequently, however, he is not actually compelled to disburse the cost of his return to the coast, because he disappears before the necessary summons can be served upon him. He has, however, little difficulty in escaping detection and re-appears a year later disguised under another name and fully posted in all topographical details; and applies once more as an old resident of the country who has lost his registration certificate. In most cases it is impossible to obtain such information

or evidence as will afford any possibility of success in seeking from the Courts an order for his eviction from the Colony. Another objectionable feature of this system lies in the fact that it has called into existence a whole class of "Permit Agents" in the Transvaal, who, in many cases, are nothing more or less than experts in the art of evading the permit restrictions and in obtaining the affidavits necessary to support applications. In one case an Asiatic was arrested with a manual in his possession designed to enable him to emerge successfully from an examination in topographical details. I contend that this system is very harassing for Asiatics who have a genuine right to enter the Transvaal and whose comfort we are concerned to protect in every possible way. To meet the convenience of this class I propose, in future, to station officers at the coast to whom Asiatics can apply direct, without previous reference to Pretoria. These officers, by examination, will be able to ascertain whether the applicant has previously resided in the Transvaal or not. Under the present system of correspondence great delay is necessarily entailed. When, however, the applications are dealt with by officers at the coast, such applications can be disposed of at once, and, if an application is not granted, the Transvaal Government will not be placed under the odious necessity of putting the law in force nor will the unsuccessful applicant have the opportunities, which he at present enjoys, of evading the law.

16. These measures, however, will not prevent the illicit influx of Asiatics, who are fast discovering that if they can enter the country and remain there for some time unobserved, the Government is in many cases powerless to secure their expulsion. For this reason I fear such influx is likely to increase in the future, unless effective steps are taken to check it. When experience has shown how great is the difficulty of preventing the egress of Chinese from the Witwatersrand merely by the watchfulness of the police, it need scarcely be argued that any attempt to prevent the ingress of Asiatics across the Transvaal frontiers, which measure some 2,000 miles, is certain to fail. The only feasible means of securing immunity for the country, for the time being, from a steady and rapid increase of the Asiatic population permanently residing here, is to insist, as the Government of the Transvaal is at present professing to insist (except in the case of Asiatics born in the Transvaal) that every Asiatic who remains in the Colony should be furnished with documents substantiating his claim to reside there. This is far from being the case at present. It is most unfortunate that nearly all the Registers of Asiatics kept in accordance with Law 3 of 1885 were destroyed in the course of the war. The registration certificates issued to the Asiatics under this law were nothing more than receipts for the £3 registration fee. They contain on their face no such information as now makes it possible to connect them with the original Asiatic to whom they were issued. In many cases the Indian names are entered carelessly, and without knowledge, and sometimes amount to no more than the name of a caste which is equally applicable to several hundred other Indians in the country. In very many cases these permits, owing to their unsubstantial nature, have been lost or destroyed. An attempt has been made by the British administration to substitute for these registration certificates, held by Asiatics living in the country, permits, issued under the Peace Preservation Ordinance, which bear the thumb mark of the holder and such other particulars as make it possible to ascertain whether the holder at any particular time is in fact the person in respect of whom the permit was issued; but the Government had no power to require the substitution of these new permits for the old registration certificates. The result is that Asiatics enter the country illicitly with old registration certificates which were issued in respect of Indians who are dead or who have left the country. The Asiatic assumes the name on the certificate and then applies on the strength of it for a permit under the Peace Preservation Ordinance. In most cases, however, the old registration certificates are no longer obtainable even at a high price, but there is nothing to prevent an Asiatic who holds no papers at all from pleading that he was in the country before the war and has been there ever since, and if he has been sufficiently long to acquaint himself with the local topography, he can answer satisfactorily all questions put to him and, in many cases, it is impossible to obtain such evidence as will enable proceedings in a Court to be instituted with any chance of success.

17. The present condition of affairs has many evil results. In the first place it is the occasion of an amount of fraud and perjury which is almost inconceivable.

to any one not accustomed to dealing with the lower classes of Asiatics. In the second place, where, as not infrequently happens, an Asiatic, who is entitled to reside in the country has lost his papers, he has to be subjected to a searching and harassing enquiry. Even so, his papers cannot be renewed, because such renewal would encourage the sale of these documents, which, in some cases, are known to have realised upwards of £30. In the third place, the Government of the Transvaal is no longer in a position to profess that it is carrying out the policy to which it has again and again been pledged, of preventing the promiscuous immigration of Asiatics pending the establishment of responsible institutions. Lastly, and this is perhaps the gravest objection of all, the present unmethodical system is such as to offer Asiatics every inducement to corrupt the police and the officers of the Government responsible for administering the permits. Everyone who is accustomed to deal with Oriental races is aware that to obtain their object by means of bribery is not contrary to their code of morals and any attempt to carry out the systematic verification of permits under the present system would, in my opinion, place temptations in the way of police officers and other officials on low salaries to which they should never be exposed.

18. With a view to the amendment of these defects in the present system I propose to remodel it on lines which will leave the smallest possible opening for corruption in the future and which will reduce to insignificance any inconvenience which may be occasioned to Asiatics who are lawfully resident in the country. With this object in view I would propose to pass legislation enabling Asiatics, within a specified date to place their names on a new register and to receive the new certificate of re-registration. It is already a practice in India, owing to the difficulty which exists when dealing with Asiatics of preventing personation, to attach the finger print as well as the signature to legal documents. Following this precedent the register, as well as the certificate, would record the name as well as the finger print of the holder. The new certificate should constitute for the holder final and indefeasible title of his right to reside in this country, and the means of identification afforded by the finger prints would enable the police, without further enquiry, to connect the certificate with its lawful holder. The certificate should be checked once a year, but not more, and the Registrar of Asiatics would be able to ascertain, by a comparison of his registers with the inspection reports, whether the checking had been carried out, and would thus reduce to a minimum the possibilities of corruption.

19. It should also be provided in the law that, after the lapse of the time during which it would be open for Asiatics to apply for new certificates, it would still be open for Asiatics who did not hold them to apply, but that the onus of proving his right to reside in the Transvaal would rest with the Asiatic and that it would not be incumbent on the Government to disprove his right before refusing to grant him one of the new certificates. The situation would then be that the holders of certificates would in future be free to come and go on the strength of their papers, the necessity of any supplementary enquiry as to their right to these papers would no longer exist and an end would be put to all the delays and inconveniences which such enquiries impose on the Asiatics. Even if the holder lost his certificate, by giving his name and finger prints a new certificate could at once be issued to him on comparison of these data in the records of the Registrar. On the other hand, if an Asiatic, after the time specified, were to be found without a new certificate, the burden of proving his right to such documents would rest with him and not with the Government and the present system of detective enquiries would be rendered unnecessary.

expressed  
and C.

20. For your Lordship's information I attach to this report two draft Ordinances, which would be necessary to carry out the recommendations I have made, and which, with your approval, I propose to ask the Government of the Transvaal to submit to the Legislative Council in the session about to take place. I am advised that it would be possible to obtain the consent of the Legislature to the Ordinances now submitted to your Lordship, which will remove many of the most substantial grievances of the Asiatics and will prevent the permit system from imposing hardships upon Asiatics genuinely entitled to live in the country by making it possible to distinguish them without enquiry from those who have entered in contravention of the law. Unless something of the kind is done the European population will feel that the pledges given to

them have not been maintained with an even hand, and they will not listen to any proposals for removing the hardships which the Ordinance now put forward is designed to relieve. The question will then be dealt with at the forthcoming elections in a spirit of aggravation which will tend to prejudice its chance of final settlement on reasonable lines, when a Responsible Government is established here and is in a position to address the Imperial Government on the subject.

21. I anticipate that the Legislative Council will be sitting when this despatch reaches London, and that the session is likely to be a short one. I have the honour to request, therefore, that your Lordship's conclusions may be communicated by telegraph, so that, if the views expressed in this despatch are adopted, the draft Ordinances may be submitted as soon as possible to the Legislative Council.

I have, &c.,  
SELBORNE,  
Governor.

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Annexure "A" in No. 3.

EXTRACT from a Speech delivered by His Excellency the High Commissioner.

You will say to me how can we be sure that a further large number of Indians will not be permitted into this country and swamp the white trader? On that subject you may be perfectly assured. No Indians who were not here before the war will be admitted into the country till you have your own Parliament and by your own representatives you can express your own opinions. (Hear, hear.) I give you that assurance as your Governor and High Commissioner, and, therefore, the future is in your own hands when you are in the position, the natural position, of freemen to manage your own affairs by your own representatives. Remember what I have said at the beginning; remember the distinction between the men who are now in the country and the men you don't want to come here. Remember that honour is as dear to His Majesty's Government and as dear to the King as it is to every individual citizen in the Transvaal, and that, in the case of the men who were in the country before the war, it is impossible for that aspect of the case to be left out of sight. Draw the clearest distinction, is my advice to you when you come to manage your own affairs, between the men who were in the country before the war and the men whom you don't want to come into the country at all. If, as I am confident you will, you, as fair men, regard the case of these men sympathetically and treat them according to the rights which the Courts have decreed to be theirs, you will find no difficulty with His Majesty's Government in safeguarding your future.

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Annexure "B" in No. 3.

DRAFT ORDINANCE to Amend the Peace Preservation Ordinance, 1903.

Be it enacted by the Governor of the Transvaal with the advice and consent of the Legislative Council thereof as follows:—

1. Permits to enter the Colony may be issued in the form prescribed by regulations made by the Lieutenant-Governor to enter and remain in the Colony for any period which may be named on such permit.

2. Upon the expiry of the period named on any permit issued under the last preceding section, the person to whom such permit was issued shall be deemed to be not duly authorised to be in the Colony and within the meaning of Section 6 of the Peace Preservation Ordinance, 1903, or any amendment thereof, and thereupon the provisions of sections 6, 7, and 8 of the said Ordinance shall apply to such person.

3. The provisions of Section 9 of the said Peace Preservation Ordinance, 1903, shall apply to permits issued under Section 1 of this Ordinance.

4. This Ordinance may be cited for all purposes as the Peace Preservation Amendment Ordinance, 1906.

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Annexure "C" in No. 3.

DRAFT ORDINANCE to Amend Law No. 3 of 1885.

Whereas the registers required to be kept under paragraph (c) of Article 2 of Law No. 3 of 1885 by the Landdrosts of the various districts of the Colony have been lost or destroyed during the course of the late hostilities:

And whereas in divers cases the receipts for registration fees paid in accordance with the provisions of the said article have been lost by the holders thereof and thereby great inconvenience is caused to such holders:

Be it enacted by the Lieutenant-Governor of the Transvaal, with the advice of the Legislative Council thereof, as follows:—

1.—(i.) Every person of the races mentioned in Article 1 of Law No. 3 of 1885, who is lawfully entitled to reside in this Colony may apply to such officer as the Lieutenant-Governor may appoint, to be placed on a new register to be kept in accordance with the said Law No. 3 of 1885 or any amendment thereof, and to receive, without payment, a certificate of registration, provided that such application be made within a time to be prescribed by the Lieutenant-Governor and notified in the Gazette.

(ii.) The officer aforesaid may make it a condition of the grant of such certificate that the applicant shall supply him with such particulars and furnish him with such means of identification as may be prescribed by regulations to be made by the Lieutenant-Governor. If at any time such certificate be lost or destroyed, the applicant may apply to have the same renewed, and it shall be the duty of the officer appointed for that purpose by the Lieutenant-Governor to renew such certificate on the conditions aforesaid and on payment of a fee of five shillings.

2. Any such person as is described aforesaid entering or residing in this Colony may be called upon by any member of any police force lawfully established in this Colony or by any other person authorised thereto by the Colonial Secretary, to produce the authority given to him under this or any other law for his being lawfully within the Colony and to supply him with such particulars and furnish him with such means of verifying the same as may be prescribed by such regulations aforesaid.

3. Every such certificate shall be accepted as conclusive evidence in all places that the lawful holder thereof is entitled to reside in this Colony, provided always that the provisions of this section shall not apply to persons who have under Section 10 of the Peace Preservation Ordinance, 1903, been ordered to leave the Colony.

4. After the expiry of the time prescribed by the Lieutenant-Governor as provided by sub-section (i.) of Section 1 of this Ordinance, if any such person therein described shall not have applied for registration as therein provided, the burden of proving that he has complied with the provisions of Law No. 3 of 1885 and that he is lawfully residing in this Colony shall in any Court of Law be upon such person.

5. The registration fee of three pounds imposed by Law No. 3 of 1885, as amended by Volksraad resolution, Article 1419, of the 12th August, 1886, is hereby abolished, and all registrations under such law or under this Ordinance shall, save as provided in sub-section (ii.) of Section 1 be effected without payment of any fee.

6. Notwithstanding anything in sub-section (b) of Article 2 of Law No. 3 of 1885, any fixed property in this Colony registered before the taking effect of such law in the name of a person to whom such law applies, may be transferred by sale, gift, exchange or otherwise, or transmitted by inheritance, and every registration officer may do all acts necessary to give effect to such transfer or transmission.

7. Nothing in the Labour Importation Ordinance, 1904, contained shall be deemed to prevent the issue of permits to enter this Colony under the Peace Preservation Ordinance, 1903, or any amendments thereof to persons registered under Law No. 3 of 1885.

8. This Ordinance may be cited for all purposes as the Asiatic Law Amendment Ordinance, 1906.

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No. 4.

THE GOVERNOR to THE SECRETARY OF STATE.

(Received 2.25 p.m., June 20, 1906.)

TELEGRAM.

[Answered by No. 5.]

June 20. No. 2. Please telegraph reply to my despatch, 21st May,\* as whole Asiatic question is likely to be raised in Legislative Council on discussion of estimates. I am most anxious to avoid revival of racial agitation which absence of a satisfactory statement would excite.—SELBORNE.

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No. 5.

THE SECRETARY OF STATE to THE GOVERNOR.

(Sent 1.15 p.m., July 4, 1906.)

TELEGRAM.

[Answered by No. 6.]

July 4. No. 1. Referring to your despatch, 21st May,\* in view of considerations which you urge as to local feeling on the Asiatic question, I am prepared to accept legislation on lines proposed as the most that can be obtained on the eve of Responsible Government.

I would, however, invite you to consider whether it would be possible to provide for the granting both to Asiatics and to natives of letters of exemption from restrictions. Such letters might be of two classes, one to be given to those natives and Asiatics who might be reasonably regarded as entitled to all the privileges of a European, the other to be given to such persons as natives or Asiatics following a trade or skilled industry who might be exempted from operation of special laws such as municipal curfew regulations. This principle is already recognized in case of natives by Ordinance No. 28 of 1902, and Proclamation 35 of 1901.† I should be glad to learn your views as to possibility of legislation with this object in both Colonies before the establishment of self-government.—ELGIN.

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No. 6.

THE GOVERNOR to THE SECRETARY OF STATE.

(Received 9.45 p.m., July 17, 1906.)

TELEGRAM.

July 17. No. 2. Your telegram of 4th July, No. 1.‡ It is already the practice to issue letters of exemption to natives under the statutory powers referred to by you. Asiatics and coloured persons are not subject to municipal curfew or to Pass laws, but the Transvaal Government is prepared, by means of Proclamation 35 of 1901 or, where necessary, by arrangement with municipalities, to endeavour to

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\* No. 3.

† Printed at p. 42 of [Cd. 904].

‡ No. 5.

secure for Asiatics who have attained European standards of civilization same privileges as Europeans in respect of liquor, travelling, &c. This, however, can only be done gradually especially where municipal Regulations are concerned. It is out of the question, pending Responsible Government, to touch laws relating to fixed property.—SELBORNE.

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No. 7.

THE GOVERNOR to THE SECRETARY OF STATE.

(Received 3.36 p.m., July 18, 1906.)

TELEGRAM.

[Answered by No. 8.]

July 18. No. 2. Supreme Court in a recent decision has ruled that under Law 3 of 1885, children are not subject to registration, and has thrown doubt upon whether Asiatics not trading on their own behalf are so subject. In abolishing the tax on registration propose to clear up the matter by providing for free registration of all Asiatics domiciled in the country, as advised in Section 16 of my despatch of 21st May,\* so as to create indisputable record of all who have acquired such domicile.

In order to give statutory expression to the explicit pledges given that, pending Responsible Government, further Asiatic immigration should not be permitted I propose to provide that during the next twelve months no further immigrants shall acquire permanent right of domicile seeing that in the last four years genuine refugees must all have returned. During that time every facility will be given to other Asiatics who have good reason for visiting the country by means of temporary permits as provided in draft legislation.

I further propose to give Asiatics right of holding fixed property for religious purposes.

I have been fortunate in securing services of Mrs. Arthur, formerly Miss Sorabji, and Secretary to Lord Hobhouse, a Persian lady, to deal with Asiatic women, and to advise on the education of their children.—SELBORNE.

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No. 8.

THE SECRETARY OF STATE to THE GOVERNOR.

(Sent 4.40 p.m., July 26, 1906.)

TELEGRAM.

July 26. No. 2. Your telegram 18th July, No. 2,† I concur except that I cannot agree to proposed legislation to prohibit acquiring domicile during next twelve months.—ELGIN.

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No. 9.

THE GOVERNOR to THE SECRETARY OF STATE.

(Received July 28, 1906.)

MY LORD,

Governor's Office, Johannesburg, July 9, 1906.

WITH reference to your despatch of the 11th April last,‡ regarding the effect of the decision of the Supreme Court in the case of Lucas's Trustee *versus* Ismail and Amod, I have the honour to inform you that the Acting Attorney-General advises that it is not to be inferred from the decision of the Supreme Court of the Transvaal in Lucas's Trustee *versus* Ismail and Amod, 1905, T.S. 239, that the holding of land in trust for an Indian is legal notwithstanding the provisions of

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\* No. 3.

† No. 7.

‡ Not printed.

Law No. 3 of 1885, nor that an Indian can acquire land on his name being registered as a *cestui que* trust. Such points were not argued before the Court and the Court expressed no opinions on them.

2. The effect of the Court's decision was that the legal "dominium" in the stands in question was at the time of his insolvency in Lucas, who was a friend of the Indians, and who, at their request, held the stand licences for them—they not being able, owing to the terms of the Gold Law and owing also to Law 3 of 1885, to hold the stands in their own names. Secondly, the Court decided that Lucas must be regarded in law as holding the stands not as trustee for the Indians but in his individual capacity. Thirdly, that the Indians, though not registered owners of the stands, and, therefore, not holders of the dominium, having been in continuous occupation for a considerable time and being able to show that they effected considerable improvements on the stands during their occupation were entitled to £650 compensation for the improvements made. The Court refused to express an opinion as to whether the Indians could, under the Insolvency Law, prove as concurrent creditors for the difference between £2,000 which they claimed and the £650 awarded them against the insolvent estate of Lucas.

3. Nothing new relative to Law 3 of 1885 or to the legal disabilities of Indians can be said to have been settled. It was assumed by both sides for the purposes of the argument and by the Judges for the purposes of their decision that the transaction (whatever it may be called) between Lucas and the Indians was not an illegal transaction and one not directly prohibited by the law, but, as pointed out above, the Court expressly decided that Lucas did not hold the stands in trust but in his individual capacity.

I have, &c.,  
SELBORNE,  
Governor.

No. 10.

THE GOVERNOR to THE SECRETARY OF STATE.

(Received 9.45 p.m., September 13, 1906.)

TELEGRAM.

[Answered by No. 11.]

September 13. No. 1. Chairman, British Indian Association, asks me to telegraph following Resolution to yourself and Secretary of State for India and also asks that the substance of the Resolution be telegraphed to Viceroy, India:—

*Begins:* Resolution (1). This mass meeting of British Indians here assembled respectfully protests against the draft Asiatic Law Amendment Ordinance now being considered by the Legislative Council of the Transvaal and humbly requests the Local Government and the Imperial authorities to withdraw the draft Ordinance, for the reasons that—

First, it is manifestly in conflict with the past declarations of His Majesty's Representatives;

Second, it recognizes no distinction between British and alien Asiatics;

Third, it reduces British Indians to a status lower than that of the aboriginal races of South Africa and the coloured people;

Fourth, it renders the position of British Indians in the Transvaal much worse than under Law 3 of 1885 and therefore than under the Boer régime;

\* Fifth, it sets up a system of passes and espionage unknown in any other British territory;

Sixth, it brands the communities to which it is applied as criminals or suspects;



Seventh, the alleged influx of unauthorized British Indians into the Transvaal is denied;

Eighth, if such denial is not accepted a judicial open and British enquiry should be instituted before such drastic and uncalled-for legislation is enforced;

Ninth, the measure is otherwise un-British and unduly restricts the liberty of inoffensive British subjects and constitutes a compulsory invitation to British Indians in the Transvaal to leave the country.

Tenth, this meeting further and specially requests the Right Honourable the Secretary of State for the Colonies and the Right Honourable the Secretary of State for India to suspend the Royal sanction and receive a deputation on behalf of the British Indian community of the Transvaal in connection with the draft Ordinance.

Resolution (2). This meeting hereby appoints a delegation, with power to the Committee of the British Indian Association to add to its membership or to change its *personnel*, to proceed to England and to lay before the Imperial authorities complaint of British Indian community of the Transvaal regarding draft Asiatic Law Amendment Ordinance.

Resolution (3). In the event of the Legislative Council, the local Government, and the Imperial authorities rejecting humble prayer of the British Indian community of the Transvaal in connection with draft Asiatic Law Amendment Ordinance this mass meeting of British Indians here assembled solemnly and regretfully resolves that rather than submit to the galling, tyrannous, and un-British requirements laid down in the above draft Ordinance every British Indian in the Transvaal shall submit himself to imprisonment and shall continue so to do until it shall please His Most Gracious Majesty the King Emperor to grant relief. *Ends.*

Statements in the Resolutions with regard to the draft Ordinance are greatly exaggerated. The object of the Ordinance is merely to get Indians who are lawfully resident in the Transvaal to take out certificates of registration so as to prevent Indians coming into this Colony unlawfully. It does not apply to women.

Ordinance will contain usual clause reserving it for the assent of His Majesty, and will therefore not become law until that assent has been given. Full report will accompany Ordinance when sent to you.—SELBORNE.

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No. 11.

THE SECRETARY OF STATE TO THE GOVERNOR.

(Sent 2.55 p.m., September 21, 1906.)

TELEGRAM.

[Answered by Nos. 12 and 14.]

September 21. No. 1. Your telegram of 13th September, No. 1.\* You should inform British Indian Association that legislation in question while far from effecting all the improvements in the condition of His Majesty's Indian subjects in the Transvaal which His Majesty's Government would desire, has been approved by me as removing some of the hardships to which Asiatics are subject and goes as far as is possible on the eve of Responsible Government. You may at the same time inform Association that, while Delegates from Transvaal, if sent, will be given opportunity of stating views, I do not consider that any useful purpose is likely to be served by sending deputation.

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\* No. 10.

No. 12.

THE GOVERNOR to THE SECRETARY OF STATE.

(Received 3 p.m., October 2, 1906.)

TELEGRAM.

[Answered by No. 15.]

October 2. No. 1. Your telegram of 21st September, No. 1.\* British Indian Association ask that following message may be telegraphed to you:—

‡ British Indian Association regrets Lord Elgin's approval of Asiatic Ordinance. In its humble opinion approval due to misunderstanding of Ordinance. Association does not consider any relief being granted Indian community. Association has therefore with great deference decided to send Messrs. Gandhi and Ally as deputation to lay before Imperial Government Indian views as to Ordinance and prays that Royal sanction be withheld pending hearing being granted deputation. Deputation proceeds by next mail.—SELBORNE.

No. 13.

THE GOVERNOR to THE SECRETARY OF STATE.

(Received 6.47 p.m., October 8, 1906.)

TELEGRAM.

[Answered by No. 20.]

October 8. No. 2. British Indian Association asks that following message may be telegraphed to you:—

British Indian Association has read with regret Vrededorp Stands Ordinance published in Government Gazette. Restrictions as to transfer leases to and residence of Asiatics Vrededorp unjust. Request stay Royal sanction pending receipt Association's protest.

—SELBORNE.

No. 14.

THE GOVERNOR to THE SECRETARY OF STATE.

(Received 5.40 p.m., October 9, 1906.)

TELEGRAM.

[Answered by No. 15.]

October 9. No. 2. Your telegram of 21st September, No. 1.\* Ordinance referred to is of the class mentioned in Subhead 10 of Section 22 of the amended Royal Instructions 23rd September, 1902, and there is therefore a clause in it suspending its operation until signification of His Majesty's pleasure thereupon. I should be glad to know as soon as possible that His Majesty approves of Ordinance † which went to you by last mail under cover of my despatch 8th October, ‡ so that necessary machinery for carrying out its provisions may be got ready.—SELBORNE.

\* No. 11.

† The Ordinance is printed as [Cd. 3251].

‡ No. 21.

No. 15.

THE SECRETARY OF STATE to THE GOVERNOR.

(Sent 12.55 p.m., October 11, 1906.)

TELEGRAM.

October 11. No. 1. Your telegrams 2nd October, No. 1, and 9th October, No. 2.\* Association should be informed that King's pleasure upon Ordinance will not be signified until the Deputation has arrived and has received a hearing.—ELCIN

No. 16.

THE GOVERNOR to THE SECRETARY OF STATE.

(Received October 13, 1906.)

[Answered by No. 41.]

MY LORD,

Governor's Office, Johannesburg, September 24, 1906.

I HAVE the honour to refer to my despatch of 21st May, 1906,† on the subject of an amendment of the law relating to the registration of Asiatics, and to subsequent telegraphic correspondence in which you approved of the introduction of such an Ordinance into the Legislative Council.

2. The Ordinance referred to therein has now passed through the Council, and will be transmitted to you in the ordinary course. As it imposes certain disabilities on persons of non-European races, it contains a clause in accordance with the Letters Patent suspending its operation until His Majesty's pleasure not to disallow it has been signified.

3. I think it necessary to address you specially on this Ordinance, as its publication has excited strong feelings of opposition among the Asiatic population here—feelings which, in my opinion, are not justified by the provisions of the measure itself.

4. The principle which I have followed, with your concurrence, in dealing with this most difficult matter is that the question of future Asiatic immigration into this Colony is one which must be settled by a Responsible Government in consultation with His Majesty's Government. This Government has accordingly endeavoured, as far as possible, to restrict the immigration of Asiatics to those who had been resident here before the outbreak of the late war, and it will pursue that policy so long as it remains in power. The new Ordinance does not deal with the conditions affecting immigration, except that Section 17 provides that the Government may issue temporary permits enabling Asiatics to enter the Colony and reside for a certain specified time. This provision became necessary, as I explained in my previous despatch,† owing to the fact that no provisions exist in the Peace Preservation Ordinance enabling permits to be issued for a certain limited time only. Otherwise the conditions governing the immigration of Asiatics remain as they are.

5. The object of the new Ordinance is to require all Asiatics now in the Colony to apply for registration, and to provide for the issue to those who are lawfully resident here of a certificate of registration, which will be clear evidence of their right to be and remain here. Section 3 prescribes that the following classes of Asiatics shall be deemed to be lawfully resident in the Colony:—

- (1) Those who have been duly authorised to enter and reside under a permit issued under the Indemnity and Peace Preservation Ordinance, 1902, or issued between the date of the annexation of the Colony and the date of taking effect of that Ordinance, unless such permit was fraudulently obtained, and was not expressed to be a temporary permit only;
- (2) Those who were resident and actually in this Colony or the Orange River Colony on the 31st day of May, 1902, and therefore under the provisions

\* Nos. 12 and 14.

† No. 3.

of the Peace Preservation Ordinance do not require a permit to enter the Colony;

- (3) Those born in the Colony since the 31st day of May, 1902, not being the children of labourers introduced under the Labour Importation Ordinance.

6. Section 5 provides that a certificate of registration must be issued on application to all Asiatics lawfully resident in the Colony as above defined. Discretion is reserved to the Registration Officer to issue certificates to others who may be approved by him. This provision is inserted so that the Government may be able to deal with cases which may arise in carrying the Ordinance into effect where serious hardship and injustice might be caused by the strict application of the principle that no certificates should be issued except to those who are lawfully resident as above defined. In the event of registration being refused the applicant, if he is of the age of sixteen years or over, is to be notified and directed to appear before the Resident Magistrate of the district to show cause why he should not be ordered to leave the Colony, and if he fails to satisfy the Magistrate that he is lawfully resident in the Colony, the Magistrate is required to order him to leave the Colony, and thereupon the provisions of the Peace Preservation Ordinance dealing with persons who have entered the Colony without being authorised as therein provided are made applicable.

7. Sections 6, 7 and 8 (2) deal with the registration of children under the age of sixteen. For some time after the passing of the Peace Preservation Ordinance a rule was observed not to require permits in the case of youths under sixteen entering the Transvaal with their parents or guardians. This led to the importation on a large scale of boys and youths by Asiatics who desired to use them as shop assistants, &c., and who assumed the relationship of guardian so as to comply with the requirements of the Permit Office. Since the 4th July, 1905, this practice has been discontinued, and the application of the ordinary permit regulations to all such immigrants has disclosed the fact that this class of immigration has been going on to an almost alarming extent, and that the relationship of parent or guardian is habitually alleged where there is no foundation for it in fact.

8. The provisions of the Ordinance in regard to registration apply to boys of eight years of age and upwards. Parents or guardians are bound to make application in respect of such boys of whom they are the parents or guardians, but in the event of registration being refused the provisions of Section 5 do not operate against the boys till they attain the age of sixteen. On attaining such age if they have been refused registration on the application of their guardians or if no application has been made on their behalf, they are required to apply on their own behalf and thereupon the ordinary procedure of the Ordinance applies to them. I should add that it is the intention of this Government if they are in office when the Ordinance comes to be applied to give every consideration to applications on behalf of children who have been introduced into the Colony on informal authorisations, though they may not actually hold permits issued under the law. Provision is also made for obtaining particulars as to children under the age of eight from persons claiming to be their fathers or guardians (Sections 6 (1) and 7). Section 8 (2) also provides penalties against any person introducing into the Colony a child under the age of sixteen who is not lawfully resident here, *i.e.*, who does not possess or obtain the qualifications required in Section 3 and against any person who employs any child so introduced.

9. The remaining sections of the Ordinance up to Section 20 do not call for special reference. Section 20 deals with a difficulty which has arisen in the case of Asiatics who were residing here before the war, but who have left the Colony, and wish to return under a contract of service. The terms of the Labour Importation Ordinance are so wide as to cover all contracts of service of any kind, and under the provisions of that Ordinance such Asiatics can only come into the Colony as indentured labourers under the Labour Importation Ordinance. Section 20 provides for exemption from the terms of that Ordinance in the case of Asiatics who before the date of its taking effect were lawfully resident here or were allowed to enter it under a permit.

10. Section 21 deals with the case of an Asiatic who, before the date of Law 3 of 1885, obtained fixed property, which shortly after the passing of the said law was registered in his name. The Courts have held that his heirs cannot take title to the land in view of the provisions of Law 3 of 1885, and it has been thought reasonable to provide that this restriction should be removed. There is only one case affected as far as I am aware. It was at first intended in the same section to provide that fixed property on which a place of worship is erected or intended to be erected might be acquired by and registered in the name of any religious community of Asiatics. This provision, however, was subsequently omitted in view of the fact that by a recent judgment of the Supreme Court it has been decided that an association of coloured persons incorporated under Ordinance No. 56 of 1903 was not subject to the disability in regard to the holding of land to which coloured persons individually are subject. Relying on that decision the Indian Association represented that they did not desire special legislation on this matter.

11. In one other important respect the provisions of the Ordinance have been modified as compared with the proposals submitted in my despatch of 21st May, and telegram No. 2 of 18th July,\* viz., by the exclusion of women from its scope. In the draft Ordinance as published women were included in the provisions with regard to registration. The Asiatic community, however, in a deputation which met the Colonial Secretary, protested very strongly against the violation of their customs and the precepts of their religions, which, as they alleged, would result from these provisions being put in force, and the Government, after considering their representations, introduced an amendment while the Ordinance was passing through Committee altering the definition of Asiatic in Section 2 so as to exclude women. An exemption was also inserted at the same time in favour of Malays born and resident in any British Colony of South Africa. There has been a community of Malays established in the Cape Colony for many generations who have long been regarded as part of the South African population, and have indeed mixed to a large extent with the coloured population of the Cape Colony. Law 3 of 1885, though in terms applicable to such people, has never been put in force as regards them, either by the late Administration or the present one. There is practically no immigration from the Malay States to South Africa now, and it was thought reasonable to give statutory authority to the established practice in regard to the South African Malays.

12. The British Indian Association have protested strongly against the Ordinance, and their objections are recorded in certain resolutions passed at a mass meeting held in Johannesburg on the 11th instant, copies of which I enclose herewith.

13. Their objections are based on the grounds :—

- (1) That it is unnecessary;
- (2) That it is harassing and degrading to the Indians, who are lawfully here, and to whom protection has been promised.

14. In support of the first proposition, they contend that it is not the case that any considerable number of Asiatics who were not resident here before the war has come into the Colony in evasion of the law, and they demand an enquiry into the matter. On this point I would observe that the officers who have been dealing with the issue of permits to Asiatics are confident after long observation that there has been immigration on a considerable scale of Asiatics who were not resident here before the war. It is common knowledge that there has been considerable traffic in certificates of registration issued by the late Government, and also in permits issued by this Administration. A prominent member of the Indian community who recently interviewed the Colonial Secretary as a member of a deputation protesting against the Ordinance, admitted that there were many Indians now here who were not here before the war, though his statement was disputed by others present. The same opinion is held almost universally among the European population, whose experience goes back to before the war. The suggestion of an enquiry is, in my opinion, quite impracticable, as no such enquiry could be of any use unless statutory powers were conferred on the Government to require the attendance before

a responsible official of all Asiatics now resident here, and the production by them of evidence as to their residence here before the war. This, however, is practically the procedure laid down in the Ordinance as antecedent to registration, and is one of the requirements of the Ordinance to which most exception is taken.

15. I am strongly of opinion that unless all attempts on the part of the present Government to control Asiatic immigration are to be abandoned, the provisions of this Ordinance for a new registration are necessary. The language of Law 3 of 1885, which governs registration at present, is of the vaguest kind, and it is very doubtful whether it applies to any Asiatic who comes here otherwise than for the purpose of engaging in trade on his own account, and also whether it applies to any Asiatic born in the Colony, whatever may be his occupation. Moreover, it confers no power on the Government of requiring means of identifying an Asiatic purporting to have been registered under it with a certificate of registration issued to him.

16. The Peace Preservation Ordinance, under which immigration is now limited, is inadequate for the same reason, *i.e.*, that it does not provide for the making of regulations to ensure a ready means of identification. Moreover, under that Ordinance there are certain classes of persons who cannot be required to show a permit as evidence of authorisation to enter this Colony, *e.g.*, persons who were resident and actually in this Colony or the Orange River Colony on the 31st May, 1902.

17. The new Ordinance is intended to remedy these defects, and provide what is clearly essential to any proper control, *viz.*, that a clear distinction should be established between those Asiatics who are regarded as lawfully resident here, and those who have entered in defiance of the established restrictions, and that the former class should be provided with a clear certificate of their title to remain in the Colony, which can readily be identified as belonging to the person claiming it as his.

18. In regard to the second point above-mentioned, I will not repeat the arguments urged in my despatch of 21st May,\* in favour of restricting Asiatic immigrants into this Colony.—You are aware that the feeling of the European population is very strong on this matter, and that it is founded on a reasonable apprehension of an immigration of Asiatics in such numbers as seriously to prejudice the development of the European population. I assume that you are not prepared to admit the objections taken by the British Indian Association in so far as they are based on the principle that they should not be subject to any restriction which is not imposed on other subjects of His Majesty.

19. It remains, therefore, to consider whether the provisions of the Ordinance impose any conditions which in themselves are harassing or degrading. On this point I cannot but think that the resolutions passed at the meeting to which I have referred represent an altogether exaggerated view of the effect of the Ordinance. The statement that the requirements of the Ordinance are such as to reduce the status of the Asiatic below that of the aboriginal native is a gross misrepresentation.

20. The only requirement of the Ordinance, as far as I am aware, to which they are able to point when asked to substantiate their complaints is that which gives power to the Government to require the Asiatic to do acts which may be necessary for identifying the person to whom a certificate is issued with the certificate itself, or for identifying the person professing to hold a certificate with the person to whom such certificate was actually issued. It is proposed to do this by means of the finger print system, which, as far as I know, is the only means by which such identification can be ensured. The great majority of these Asiatics are wholly illiterate, and the temptations to impersonation are so great and detection is so difficult without this system that I regard it as an essential part of the machinery of the Ordinance. I cannot see that it involves any act of degradation on the part of any Asiatic to impress his finger prints on a document. It has been in use for some time in connection with the issue of permits and registration certificates under the existing law (though there is no express provision enabling us to insist on it), and, as far as I know, it has been complied with without any feeling of degradation. I admit that it is capable of being made a means of exciting sentimental opposition

to the law, but I consider that it is so essential to the maintenance of the control which is necessary for the working of the system of registration that no sentimental objections should be allowed to outweigh its other advantages.

21. The new Ordinance provides for stricter administration of the registration system, and is necessarily more detailed in its requirements than the existing registration law, which, as is apparent on the face of it, is altogether inadequate for its purpose, and must in any case be superseded if the control of Asiatic immigration is to be a reality. It will be administered so long as I am directly responsible for it with every respect for the feelings and customs of Asiatics. It has been accepted by the European population with a certain amount of misgiving as to the possible settlement in the Colony of Asiatics who were not resident before the war, but, on the whole, with full recognition of the obligation on the Government to respect the rights of those who were settled here before the war. It is understood that it will be for the new Government to lay down the conditions under which Asiatic immigration will be permitted for the future, and that the object of the Ordinance now under consideration is to ascertain and identify those Asiatics who are properly entitled to settlement here. I trust that His Majesty's Government will fully realise the importance which is attached by the whole community here to the maintenance of the policy which I have endeavoured to explain, and that they will agree with me that the Ordinance contains no provisions of such a character as to justify them in advising its disallowance and leaving the law in regard to Asiatic immigration in its present uncertain and ineffective condition.

22. I enclose copies of representations from certain Chambers of Commerce assembled at Johannesburg and also from the Central Committee of the Asiatic Convention, which, as you will remember, was constituted some two years ago to represent the views of the European population on the Asiatic question.

I have, &c.,  
SELBORNE,  
Governor.

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Enclosure 1 in No. 16.

RESOLUTION I.

This mass meeting of British Indians here assembled, respectfully urges the Honourable the President and Members of the Legislative Council of the Transvaal not to pass the draft Asiatic Ordinance to amend Law No. 3 of 1885, now before that Honourable House, in view of the facts that:—

- (1) It is, so far as the Indian community of the Transvaal is concerned, a highly contentious measure.
- (2) It subjects the British Indian community of the Transvaal to degradation and insult totally undeserved by its past history.
- (3) The present machinery is sufficient for checking the alleged influx of Asiatics.
- (4) The statements of the alleged influx are denied by the British Indian community.
- (5) If the Honourable House is not satisfied with the denial, this meeting invites open, judicial, and British enquiry into the question of the alleged influx.

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RESOLUTION II.

This mass meeting of British Indians here assembled respectfully protest against the draft Asiatic Law Amendment Ordinance now being considered by the

Legislative Council of the Transvaal, and humbly requests the local Government and the Imperial Authorities to withdraw the draft Ordinance, for the reasons that:—

- (1) It is manifestly in conflict with the past declarations of His Majesty's representatives.
- (2) It recognises no distinction between British and alien Asiatics.
- (3) It reduces British Indians to a status lower than that of the aboriginal races of South Africa and coloured people.
- (4) It renders the position of British Indians in the Transvaal much worse than under Law 3 of 1885, and, therefore, than under the Boer *régime*.
- (5) It sets up a system of passes and espionage unknown in any other British territory.
- (6) It brands the communities to which it is applied as criminals or suspects.
- (7) The alleged influx of unauthorised British Indians into the Transvaal is denied.
- (8) If such denial is not accepted, a judicial, open, and British enquiry should be instituted, before such drastic and uncalled for legislation is enforced.
- (9) The measure is otherwise un-British, and unduly restricts the liberty of inoffensive British subjects, and constitutes a compulsory invitation to British Indians in the Transvaal to leave the country.
- (10) This meeting further and specially requests the Right Honourable the Secretary of State for the Colonies, and the Right Honourable the Secretary of State for India, to suspend the royal sanction and receive a deputation on behalf of the British Indian community of the Transvaal in connection with this draft Ordinance.

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#### RESOLUTION III.

This meeting hereby appoints a delegation with power from the Committee of the British Indian Association to add to its membership or to change its personnel, to proceed to England and to lay before the Imperial Authorities the complaint of the British Indian community of the Transvaal regarding the draft Asiatic Law Amendment Ordinance.

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#### RESOLUTION IV.

In the event of the Legislative Council, the local Government, and the Imperial Authorities rejecting the humble prayer of the British Indian community of the Transvaal in connection with the draft Asiatic Law Amendment Ordinance, this mass meeting of British Indians here assembled, solemnly and regretfully resolves that, rather than submit to the galling, tyrannous, and un-British requirements laid down in the above draft Ordinance, every British Indian in the Transvaal shall submit himself to imprisonment and shall continue so to do until it shall please His Most Gracious Majesty the King Emperor to grant relief.

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#### RESOLUTION V.

This meeting desires the Chairman to forward copy of the first resolution to the Honourable the President and Members of the Legislative Council, and copies of all the resolutions to the Honourable the Colonial Secretary, to His Excellency the Acting Lieutenant-Governor, and to His Excellency the High Commissioner, and to request His Excellency the High Commissioner to cable the text of resolutions Nos. 2, 3, and 4 to the Imperial Authorities.

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## Enclosure 2 in No. 16.

## RESOLUTIONS PASSED AT A MEETING OF DELEGATES REPRESENTING THE VARIOUS CHAMBERS OF COMMERCE IN THE TRANSVAAL.

That this meeting, having carefully considered the draft Ordinance to amend Law No. 3 of 1885, approves the said Ordinance in principle on the ground that it is calculated to be of benefit to the country by preventing the further influx of Asiatics, and providing means for the removal of any who are now in the country, but are not lawfully resident there, and that a copy of same be forwarded to the Colonial Secretary.

The following was also agreed to, the Chamber of Trade dissenting :—

To make representations to the Legislative Council to the following effect :— Inasmuch as Sub-section (1) of Clause 3 will give a legal status to any Asiatic authorised to enter and reside in this Colony by a permit issued under the Indemnity and Peace Preservation Ordinance of 1902, this meeting is of opinion that the above sub-section of Clause 3 should be amended and that any Asiatic should not be registered under the terms of the draft Ordinance unless it is clearly proved to the satisfaction of the Registrar of Asiatics that he was in this Colony prior to the outbreak of the late war.

Further agreed to recommend that the Registrar should be assisted by Local Committees in each town or district when considering applications for registration, and that, as far as possible, applications for registration should be made in the town or district where the person resided at the time the late war broke out. It is also felt that under the draft Ordinance the danger of a large influx of children exists, and it is hoped that the Ordinance will be so amended so as to prevent this.

## Enclosure 3 in No. 16.

SIR,

Box 72, Pretoria, September 10, 1906.

I HAVE the honour to inform you that at a meeting of the Central Committee of the Asiatic Convention, it was felt that, whilst the principle of the draft Ordinance No. 403 A, amending Law No. 3 of 1885, was in principle good, and should be accepted on the ground that it is calculated to be of benefit to the country by preventing the further influx of Asiatics, and providing means for the removal of any who are now in the country, but are not lawfully resident here, it might usefully, and to the satisfaction of this Committee, be amended in the following particulars, viz. :—

- (A) That inasmuch as Sub-section 1 of Clause 3 will give a legal status to any Asiatic authorised to enter and reside in this Colony by a permit issued under the Indemnity and Peace Preservation Ordinance, 1902, this Committee is of opinion that the above Sub-section 3 should be amended, and that no Asiatic should be registered under the terms of the draft Ordinance unless it is clearly proved to the satisfaction of the Registrar of Asiatics that he was in the Colony prior to the outbreak of the late war.
- (B) That it is felt that under the draft Ordinance the danger of a large influx of children exists, and it is hoped that the Ordinance will be so amended so as to prevent this.
- (C) That it is also felt that there should be some kind of registration of women coming into this Colony, without hurting any sentimental, religious, or national feelings.

I have, &c.,  
HENRY LAMB,  
Secretary.

P. Duncan, Esq., C.M.G.,  
Colonial Secretary,  
Pretoria.

No. 17.

THE GOVERNOR to THE SECRETARY OF STATE.

(Received 2.50 p.m., October 17, 1906.)

TELEGRAM.

October 17. No. 1. Referring to my telegram 2nd October, No. 1.\* I am forwarding to you by next mail Petition signed by 270 British Indian residents in Johannesburg protesting that Messrs. Gandhi and Ally have no mandate to represent British Indian community. They ask that the 107 signatures attached to an informal Petition posted to you direct on the 1st October may also be regarded as being appended to this Petition.—SELBORNE.

No. 18.

THE GOVERNOR to THE SECRETARY OF STATE

(Received October 20, 1906.)

MY LORD,

Governor's Office, Johannesburg, September 29, 1906.

I HAVE the honour to forward, for your information, the documents specified in the attached schedule.

2. They are interesting, as illustrations of the methods employed by Asiatics to obtain admission into the Transvaal, and of the extent to which this illicit immigration is going on, more particularly in the case of youths under sixteen years of age.

I have, &amp;c.,

SELBORNE,

Governor.

## SCHEDULE.

1. Letter from the Protector of Emigrants, Bombay.
2. Report of Coast Agent for Asiatic Affairs on illicit ingress through Komati Poort.
- 3/4. Reports of the same officer regarding restricted immigrants from s.s. "Reichstag" and "Somali." \*
5. Return of Asiatics found in the Colony without proper authorisation during the past six months.

Enclosure 1 in No. 18.

SIR,

Preventive Service Office, Bombay, June 2, 1906.

I HAVE the honour to forward you a document which I believe to be a forgery. Possibly you may be able to deal with the Valabh Jiva of Johannesburg. I have noticed that this man, Valabh Jiva, has rather too many sons under 16 years of age, and on studying the accompanying document I have come to the conclusion that it is a forgery. The name of the Justice of the Peace is quite illegible, as it is probably meant to be. All the other writing is by the same hand. I have refused to allow the boy Bhaga Valabh to proceed anyhow.

I do not know how far you wish to prohibit the immigration of natives of India into South Africa, but it appears to me an extremely easy thing for a man to take a boy with him saying he is his son, or to send a passport like the attached, which may be accepted at your end. It is impossible to verify statements as to age or relation here as, of course, many of these people come from hundreds of miles up-country. I understand that the passports you are issuing now will only hold good for one year. These passports can, of course, be bought and sold here, and are. I often find that the passport does not at all tally with the man who presents it. In such cases, should I detain the passports and forward them to you letting the man go from India on his own responsibility, or should I destroy them here? Many of them are dated 1900, 1901, and 1902, and represent that the bearer is a hawker whereas now he is something else.

I have, &c.,  
A. E. BOYD,  
Protector of Emigrants, Bombay.

To the Chief Magistrate,  
Johannesburg.

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I, the undersigned, Valabh Jiva, of Johannesburg, Permit No. 1687, and the Asiatic Registration Certificate, No. 9390, do solemnly declare on oath that the Bhaga Valabh, age 12 years, is my *bonâ fide* son, and is below 16 years of age, and that he is proceeding from Port of Bombay without the necessary permit to enter in the Transvaal Colony as per instructions of the Permit Department of Johannesburg.

VALABH JIVA.

Sworn before me at Johannesburg on this the 13th day of November, 1905.

Name illegible.  
Justice of the Peace.

2/6 stamp.

Pass refused, as bearer is a field labourer.

A. E. BOYD.

June 1, 1906.

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Enclosure 2 in No. 18.

REPORT FROM THE COAST AGENT FOR ASIATIC AFFAIRS, TRANSVAAL.

Box 402, Durban,  
August 22, 1906

I have the honour to place before you my report respecting my recent inspection at Komati Poort, which lies on the borders of the Transvaal, and is conveniently situated for Asiatics who require a back door entrance to the Transvaal. Adjoining the Portuguese territory it has several fordable spruits, and all the evil-designed Asiatic has to do to gain admittance here is to detrain at the earlier station, Ressano Garcia, and from there climb into the Transvaal. From information gleaned at Lourenço Marques I learn that until recently this practice was common amongst Indians, and that detection was not feared once they were in the Transvaal. The punishment meted out was a fine which was not regarded as punitive. Latterly, however, the authorities have substituted imprisonment for fining, and the sterner measure has acted as a deterrent.

The principal port of entry into the Transvaal is, of course, the railway junction, and Asiatics only in possession of permits use the same; but there are Asiatics who

pass to the Colony under the provisions of the Act, and detected I have after a minute inspection of the documents. At the Transvaal un- held, but, however considered, the South African had not the duties, they are handicapped in the limited time at their disposal or under present circumstances.

As you are aware even their case for falsification is with affidavit, it is a very common practice to erase the thumb impression, endorsed not in printer's ink, and insert a rolled impression.

I believe a restriction law against Asiatics migrating is in force, but its observance is questionable, and to all intents and purposes a dead letter.

E. J. Burgess,  
Coast Agent, Asiatic Affairs, Transvaal.

The Registrar of Asiatics,  
Pretoria.

Enclosure 3 in No. 18.

REPORT FROM THE COAST AGENT FOR ASIATIC AFFAIRS, TRANSVAAL.

Box 402, Durban, September 18, 1906.

I have the honour to submit a report respecting the s.s. "Somali" which arrived in Durban Harbour on Wednesday last. She carried 72 passengers, 18 were intended for Johannesburg, but of these I restricted 14; they are now on their way to India.

*Restricted.*

Adults with false permits	...	...	...	...	2
Minors, with affidavits	...	...	...	...	11
Minors, without affidavits	...	...	...	...	1
					<u>14</u>

Attention has already been drawn to one, Purbhoo Gowan, an alleged permit trader. The number of minors it was anticipated this man would bring out, or cause to be brought by the s.s. "Somali," has been exaggerated. I discovered two boys only, but it suffices to prove that despite the indignant contradictions of the Indian community in Johannesburg, the percolation of prohibited Asiatics into the Transvaal has not ceased. In this instance the two boys Sida Gowan and Mathav Gowan, held affidavits signed by their alleged brother, Purbhoo Gowan, Registration Certificate No. 2415, and Permit No. 5764, stating that the holder was solely dependent on him. I questioned the minor brothers separately, both of them said that their brother's name was Purbhoo Gowan, but neither of them knew one another. It is difficult to say where Purbhoo Gowan is. I was led to believe he had sailed for South Africa on the "Somali" according to the statements of the boys, he is in Johannesburg, their testimony can, however, be safely discredited. My information leads me to believe that he is not in South Africa, but that he may arrive in Durban towards the end of the month per the s.s. "Kaiser." Arising out of these there cannot be a suspicion of doubt that a permit market thrives in Bombay. False documents are carried by Indians who have never been in the Transvaal previously, and minors are able to procure affidavits with the greatest facility.

Another point has arisen in connection with the arrival of immigrants in harbour, and their subsequent movements, and with the assistance of the Immigration Restriction Officer I hope to be able to report on what at present may be

In my opinion there are Indians who leave Bombay proceeding to the Transvaal, but on the arrival of the steamer they intend landing at Durban and staying in Durban on of a false permit and Registration Certificate, and then proceeding to land in Natal on a visiting pass for a fortnight. The boy, who has a ticket for Johannesburg, passes the guards at Volksrust, and is met by the Natal Government Railway Agent at Johannesburg, who issues a visiting pass. This procedure can be adopted by adults who are restricted, but the appeal of a reputed parent—and this has its effect. Thus, if a boy is restricted, an adult Immigration Restriction Officer and swears that a certain boy is his son or ward, and in complying with the regulations, *i.e.*, by producing two reliable witnesses, the boys will be allowed to land; and the difficult part of the journey is performed. Later, they will be advised by an Indian, Bahadur Ali (Joseph), that the boys can continue, and that there are over 500 Bombay Indians in Durban who are waiting for an opportunity to go to the Transvaal. He himself was approached by one to sell his Registration Certificate and permit.

Since writing the above I had the opportunity of inspecting the list of passengers that left Bombay per the s.s. "Somali," I find that 25 were booked for Johannesburg, yet only 18 presented themselves for examination.

E. J. BURGESS.  
Coast Agent, Asiatic Affairs, Transvaal.

The Registrar of Asiatics,  
Pretoria.

Enclosure 4 in No. 18.

REPORT FROM THE COAST AGENT FOR ASIATIC AFFAIRS, TRANSVAAL.

Box 402, Durban, August 21, 1906.

I have the honour to submit report relative to the examination of certain Asiatic Immigrants who were returned to India by the s.s. "Reichstag."

The s.s. "Reichstag," carrying 95 Indians and two Chinese passengers, arrived in Durban Harbour on Saturday, the 25th ultimo, and was immediately boarded by a representative of the Immigration Restriction Office and myself. At first 63 Asiatic and one Chinese were included in the Transvaal group, but the Chinese, who was an undesirable, and had been refused admission at Delagoa Bay was taken in charge by the Harbour Board Authorities. Forty-three were boys whose ages varied from 10 to 22. They each of them carried an affidavit signed by a parent or guardian, and sworn to before a Justice of the Peace in Johannesburg.

I append a table showing the numbers allowed to land, and those rejected:—

<i>Accepted.</i>				
Adults with permits	...	...	...	18
Adults with affidavits	...	...	...	2
Boys (sons under 12) with affidavits	...	...	...	8
				28
<i>Rejected.</i>				
Adults with false permits	...	...	...	17
Adults without permits	...	...	...	2
Boys with affidavits	...	...	...	35
				54
Total	...	...	...	82

As regards the men and boys who were rejected I have little to say, except that they were endeavouring to creep to the Transvaal under false documents. Men who claimed to have resided in the Transvaal had not the remotest idea of the topography of the town, nor were they able to say where or under what circumstances the permits they held had been issued to them.

The boys, on the other hand, who were armed with affidavit papers testifying that their father, uncle, brother, or guardian was in the Transvaal made no pretension of having been domiciled in the Transvaal, but made ingenious efforts to reduce their ages.

In reference to the men who were able to stand the test of previous residence, I would venture to say that about eight only were pre-war residents, the balance consisted of men who arrived in the Transvaal subsequent to the war, but their permits were in order, and their knowledge of Johannesburg was remarkable, and, of course, there was no help but to sort them out as Transvaalers.

The adoption of a system of examination on board ship has not been without good results, 54 men and boys have been returned to India by the same boat that conveyed them to this Port, and this action must have a wholesome and beneficial effect on permit traders and their willing accomplices. Had no such system existed 17 men would have been added to the Indian population in the Transvaal, and we should have been menaced by 37 others knocking at the borders, and it is no exaggeration to say that the majority of those would have entrained to the Transvaal under borrowed permits, and others crossed the territory without fear of detection, their ages proving their salvation.

Hitherto it has been the endeavour of the office to encourage Indians to regard Durban as a port of disembarkation, but in view of the altered regulations, it would not be surprising if they turn their eyes to Delagoa Bay, and in such an eventuality what is there to prevent the unscrupulous from filtering into the Transvaal, possessed of borrowed or purchased permits, and with the greatest of facilities in landing at Delagoa Bay, there is nothing in the world—certainly not at present—to stop their marching into the Transvaal.

It may be of interest to draw your attention to the means adopted to bring over men and boys to the Transvaal. I have already animadverted to the affidavits held by boys. These are drawn up in Johannesburg, and after scrutinising them I am forced to the conviction that with one or two exceptions they are the work of a single agent. The similarity of the type, the paper and phraseology of the documents themselves, and the similarity of answers given to me by the holders thereof guided me in my belief. Again, in regard to the adults who held false papers, without exception they replied that they lived in the Malay Location, Johannesburg, but beyond this meagre information they betrayed a lack of knowledge of Johannesburg, albeit they were pedlars, and their business required them to scour the town to sell their goods. These circumstances force me to the conviction that there is an organized agency trafficking in permits.

In concluding my report, I will quote an instance of the determination of a man to get to South Africa. He had been warned that permission to land in South Africa would not be granted to him; that night he jumped overboard and swam ashore, but fell into the hands of the police.\* The evening before the boat sailed several reputed parents implored a re-consideration of their sons' cases. I agreed if proper reasons were advanced, and as a preliminary, asked for the names of the children; the parents hesitated, but undertook to point out their boys, to which course I did not assent. Finally, when I obtained the names I found there were no such boys on board, or if they were, their names were for the moment changed.

E. J. BURGESS,  
Coast Agent, Asiatic Affairs, Transvaal.

Enclosure 5 in No. 18.

Number of Asiatics in wrongful possession of permits, or found to be without permits, during the past six months, 237, of whom 165 were charged and convicted, and 122 are in the Colony, but cannot be traced.

M. CHAMNEY,  
Registrar of Asiatics.

September 27, 1906.

No. 19.

THE GOVERNOR to THE SECRETARY OF STATE.

(Received 3.30 p.m., October 20, 1906.)

TELEGRAM.

October 20. No. 2. British Indian Association request me to telegraph to you following Resolution:—

“This meeting British Indians residing in Transvaal in view of impending reception of Delegates sent by them to London to wait upon Imperial authorities in connection with Asiatic Law Amendment Ordinance hopes that deputation will receive sympathetic consideration and that aforementioned class measure will not receive Royal sanction.—SELBORNE.

No. 20.

THE SECRETARY OF STATE to THE GOVERNOR.

(Sent 12.8 p.m., October 22, 1906.)

TELEGRAM.

[Answered by No. 34.]

October 22. No. 1. Your telegram 8th October, No. 2.\* I presume that Ordinance will be reserved by you for signification of His Majesty's pleasure and that I shall receive a full report.—ELGIN.

No. 21.

THE GOVERNOR to THE SECRETARY OF STATE.

(Received October 27, 1906.)

[Answered by No. 41.]

MY LORD,  
Governor's Office, Johannesburg, October 8, 1906.  
I HAVE the honour to forward, for your information, two copies of Ordinance

No. 29, of 1906, "To amend Law No. 3. of 1885,"\* together with a report thereon† by the Acting Attorney-General.

I have, &c.,  
SELBORNE,  
Governor.

No. 22.

THE GOVERNOR to THE SECRETARY OF STATE.

(Received October 27, 1906.)

[Answered by No. 46.]

MY LORD, Governor's Office, Johannesburg, October 8, 1906.  
REFERRING to my telegram, No. 2, of to-day's date,‡ I have the honour to enclose, for your information, a copy of a petition from the British Indian Association, on the subject of the "Vrededorp Stands Ordinance, 1906."

I have, &c.,  
SELBORNE,  
Governor.

Enclosure in No. 22.

To His Excellency the Right Honourable the EARL OF ELGIN,  
His Majesty's Principal Secretary of State for the Colonies,  
London.

The PETITION of ABDUL GANIE, in his capacity as Chairman of the British Indian Association of the Transvaal.

Humbly Sheweth,

That the British Indian Association of the Transvaal respectfully approaches your Lordship with reference to the Vrededorp Stands Ordinance of 1906 published in the Transvaal Government Gazette, dated the 28th September.

(2) The Ordinance, your Petitioner notices, is not to take effect "unless and until the Governor shall proclaim in the Gazette that it is His Majesty's pleasure not to disallow the same."

Your Petitioner, therefore, ventured to send your Lordship a cable requesting that the Royal pleasure may not be declared until the Association had the opportunity of making its submission to your Lordship.

(3) The Association respectfully protests against Sections 5, 8, and 9 of the Second Schedule to the Ordinance above-named.

(4) The sections in question are as follows:—

5. This lease shall not be transferable to any coloured person, and if registered in the name of any such person this lease shall *ipso facto* cease and determine.

8. Neither the said stand nor any part thereof nor any building thereon shall be sublet to any coloured person or Asiatic. Upon any breach of this condition the Council may forthwith by notice in writing given in the manner provided in Clause Four terminate this lease.

\* Printed in [Cd. 3251].

† Not printed.

‡ No. 13.



9. The Lessee shall not permit any coloured person or Asiatic other than the servant *bonâ fide* of some white person for the time being residing on the said stand to reside thereon or to occupy the same or any part thereof. If any coloured person or Asiatic other than such servant as aforesaid is at any time found residing on the said stand or occupying the same or any part thereof the Council may give notice to the Lessee in the manner provided in Clause Four requiring him to cause such person to cease to reside thereon or to occupy the same or any part thereof within a period of three weeks from the date of such notice and if at any time after the expiration of such period such person shall be found residing thereon or occupying the same or any part thereof the Council may forthwith by notice to the Lessee given in the manner aforesaid terminate this lease.

(5) Thus, in effect, the Ordinance prohibits the residence of British Indians except as domestic servants.

(6) Such prohibition will create a fresh disability against British Indians.

(7) In the humble opinion of the Association, there is no justification for the contemplated restriction.

(8) The Association, moreover, draws your Lordship's attention to the fact that British Indians have, for years past, held stands within the area affected by the Ordinance, from the original grantees—the burghers of Vrededorp.

(9) Some British Indians have erected substantial structures on such stands, and some are at present either residing on the stands leased by them or carrying on trade.

(10) If the clauses objected to are sanctioned, all such persons as are hereinbefore referred to and have acquired vested rights will be adversely affected and some of them ruined in business.

(11) The Association ventures to point out that, when the Vrededorp Commission sat some time ago to report upon the draft Ordinance, objection to any such clauses as are before referred to, was submitted to the Commission on behalf of British Indians.

(12) The Association draws your Lordship's attention to the further fact that the area affected by the Ordinance is contiguous to the Malay Location, which contains a large Asiatic and principally British Indian population. The relations between the inhabitants of Vrededorp and the Malay Location have always been satisfactory.

(13) The Association feels that if the clauses referred to are approved by your Lordship, the acceptance will form a precedent for other bodies, and may lead to ultimate reduction of British Indians to the status of menials and their compulsory removal to locations.

(14) Your Petitioner, therefore, humbly prays that the Ordinance in question will be disallowed or such other relief will be granted as to your Lordship may seem meet.

And for this act of justice and mercy your Petitioner shall for ever pray, &c., &c.

Dated at Johannesburg this 8th day of October, Nineteen Hundred and Six.

ABDOOL GANIE, Chairman,  
British Indian Association.

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No. 23.

THE GOVERNOR to THE SECRETARY OF STATE.

(Received 2 p.m., October 27, 1906.)

TELEGRAM.

October 27. No. 3. My telegram, No. 1, 17th October.\* I have received and am forwarding by mail further sixty signatures of British Indians resident in Johannesburg protesting that they have not given any mandate to Messrs. Gandhi and Ally to represent them in England.—SELBORNE.

No. 24.

MR. GANDHI to COLONIAL OFFICE.

(Received November 3, 1906.)

SIR,

Hotel Cecil, London, W.C., November 2, 1906.

In continuation of my letter of the 31st October,† I have now the honour to enclose herewith a representation containing a statement of facts prepared by the Delegates which will form the basis for further submission to Lord Elgin on the 8th instant. I shall be obliged if you will kindly lay it before His Lordship.

I have, &c.,  
M. K. GANDHI.

Enclosure in No. 24.

To the Right Honourable the EARL OF ELGIN, His Majesty's Principal Secretary of State for the Colonies, Colonial Office, London.

## APPOINTMENT OF DELEGATES.

MY LORD,

1. We, the undersigned, have been appointed by the British Indian Association of the Transvaal to lay before you the views of the Indian community of the Transvaal regarding the Asiatic Law Amendment Ordinance of the Transvaal Legislative Council published in the Transvaal Government Gazette dated the 28th day of September, 1906. At a mass meeting of British Indians, numbering nearly 3,000 British Indian Residents of the Transvaal, held at the old Empire Theatre in Johannesburg on the 11th day of September, 1906, it was among other things resolved to send a deputation to attend on your Lordship. The selection of the Delegates was left to the Committee of the Association, and, as said before, we were selected by the Committee.

## WHO ARE THE DELEGATES?

2. The first undersigned is the Honorary Secretary of the Association, was one of the organisers of the Natal Indian Volunteer Ambulance Corps formed at the time of the Boer war, and was the organiser and in charge of the Indian Stretcher Bearer Corps formed under the auspices of the Natal Indian Congress in connection with the recent native rebellion of Natal. He is a Barrister of the Inner Temple and has since 1903 practised as a solicitor in Johannesburg.

3. The second undersigned is a merchant by profession, and besides being a member of the British Indian Association, is the Founder and Chairman of the Hamidia Islamic Society of Johannesburg.

4. Both the undersigned are old settlers of South Africa; the first undersigned settled in South Africa in 1893 and is father of four children, all of whom are in South Africa. The second undersigned has settled in South Africa for the last twenty-three years and is the father of eleven children all born in South Africa.

\* No. 17.

† Not printed.

## INDIAN POPULATION OF THE TRANSVAAL.

5. The present Indian population of the Transvaal is about 13,000, according to permit returns, and over 10,000 according to census returns, as against a white population of over 280,000. The Indians of the Transvaal are merchants, traders, their assistants, hawkers and domestic servants—the great majority being merchants or hawkers.

## LAW 3 OF 1885.

6. Law 3 1885 as amended in 1886 is applicable to Asiatics, including "coolies, Malays, Arabs, and Mahomedan subjects of the Turkish Empire," and as interpreted by the Supreme Court of the Transvaal,—

- (1) confines as to residence those who come under it to locations or streets set specially apart for them, for a breach of which provision there is no sanction provided in the law and which is therefore nugatory in effect,
- (2) deprives them of Burgher rights,
- (3) deprives them of right of ownership of fixed property except in locations and streets before referred to,
- (4) and requires those who may settle in the Transvaal for purposes of trade or otherwise to pay a fee of £3 and be registered within eight days of their arrival. (*The Law as interpreted by the Courts does not require registration of children of such settlers, their wives and those who are not traders.*)

7. The above Law is not restrictive of immigration but it is meant to penalise traders to the extent of £3. During the Boer régime it formed the subject of representations by the British Government and was therefore never then strictly enforced. For its administration there was no separate department of the State, and registration merely consisted in passing to the payer a receipt for £3.

## UNDER THE BRITISH RÉGIME.

8. After the advent of British rule, contrary to promises and expectations, separate Asiatic offices were established. The Peace Preservation Ordinance, which was admittedly a measure calculated to safeguard the State from dangerous characters, was misapplied to restrict Indian Immigration, and under it permits were only granted to British Indians on the recommendation of the officers in charge. This practice gave rise to much abuse and corruption. These officers accepted bribes on a wholesale system, and Indian refugees who had a right to immediate return to the Transvaal had difficulty in doing so, and were often obliged to pay as much as £30. This was brought to the notice of the Local Government more than once by the British Indian Association, with the result ultimately that two officials were criminally tried, and although the jury discharged them for want of evidence, they were dismissed from Government service. The Asiatic offices were then abolished and the granting of permits was transferred, as it should have been, to the Chief Secretary for Permits. Though under this régime permits to British Indians were granted only sparingly and after a great deal of delay and searching examination, there was no corruption. In the meanwhile an official was appointed under the designation of Protector of Asiatics in the Colonial Department.

## INDIANS REGISTERED.

9. While the Permit Department was under the Chief Secretary for Permits, Lord Milner thought fit to enforce Law 3 of 1885 rigorously, and appointed the Permit Secretary to be Registrar of Asiatics. The British Indian Association respectfully protested against the step, but although it was not obligatory on the British Indians who had paid £3 to the Boer Government to re-register, on the urgent advice of Lord Milner, they allowed themselves to be re-registered. These certificates contain names of holders, their wives, number of children, the age of the holders, their distinctive marks and thumb prints.

10. The following was the assurance given by Lord Milner at the time the advice was offered:—"I think that registration is a protection to them. To that

registration there is attached a £3 tax. It is only asked for once. Those who have paid it to the old Government have only to prove that they have done so and they have not to pay it again. Again, once on the register their position is established and *no further registration is necessary*, nor is a fresh permit required. That registration gives you a right to be here and a right to come and go."

11. At the present day, save women and children, almost every Indian in the Transvaal is in possession of a permit bearing the holder's name, place of birth, occupation, last address, his signature and as a rule thumb impression, and in most if not all cases registration certificates above described. If, therefore, there are any Indians in the Transvaal who are without permits and do not fall within the exemption clauses of the Peace Preservation Ordinance, they are unauthorised residents and liable to be expelled under that Ordinance. Those who cannot produce permits have the burden thrown on them of proving that they come within the exemption clauses. If they do not obey expulsion orders, they are liable to suffer imprisonment. The Peace Preservation Ordinance moreover makes it a criminal offence to obtain a permit by fraudulent representations, or to abet one in so obtaining a permit, or to enter on a permit obtained by fraud.

#### PRESENT MACHINERY FOR DETECTION OF UNAUTHORISED ENTRY COMPLETE.

12. Thus the machinery for punishing unauthorised Indian residents in the Transvaal is complete and effective. And by its voluntary act above referred to, the Indian community has furnished the authorities with complete means of identification of a double character. Those Indians who have tried to enter on permits belonging to other Indians have been heavily punished. Many such cases are on record.

13. There would appear therefore to be no occasion for any further measure of Law to prevent fraud, or impersonation, or unauthorised entry. Under the present permit regulations, according to the testimony given by an official,—

- (1) women, whether they accompany their husbands or not;
- (2) children of whatever age, even infants, whether in company of their parents or not, are required to produce permits. Cases have happened where tender children five years old have been torn away from their parents, and wives from their husbands, although the fathers or the husbands accompanying the children or wives have produced permits.

14. Old residents of the Transvaal who have paid £3 as the price of their residence, experience a delay of months before they receive their permits, and that after an investigation which is over-severe in character and carried on secretly, and by Boards which sit at their leisure to conduct their examination.

#### NEW ORDINANCE.

15. On the top of all these disabilities has come like a thunder-bolt upon the Indian Community the Amending Ordinance. It sets up a humiliating system of passes to be carried by every Indian resident in the Transvaal. It establishes a system of identification which may vary from time to time. The Assistant Colonial Secretary informed a deputation of Indians that the imprints of all the digits should be required and passes containing such imprints should be produced by the holders to every police official who may wish to challenge the Indians. The permits and registration certificates, obtained after a great deal of trouble, are to be surrendered in exchange for the new certificates. We may state that in order to carry out the above registration, people were dragged from their rooms in the early morning and subjected to much hard treatment.

#### ITS REAL NATURE.

16. The Ordinance in fact is not one for registration but for identification, of a type applied to the worst criminals. So far as we are aware such a law is unknown in any of the British Colonies. It is hardly an amendment of the Law 3 of 1885, because its scope is admittedly totally different from that of the latter.

17. The amending Law condemns every permit unless the holder of it can prove it to be not tainted with fraud. It leaves the children of parents, though the

latter may be in possession of *bonâ fide* permits, to the tender mercy of the officer in charge of its administration. It is class legislation of the worst type. While it is calculated to submit the Indians to intense irritation and humiliation, it gives absolutely nothing.

#### THE SO-CALLED RELIEF.

18. For, the remission of £3 fee is superfluous, as every adult male Indian, and in many cases even children at present resident in the Transvaal, have already paid it. According to the Statement by the Transvaal Colonial Secretary, no Indians who are not pre-war residents of the Transvaal will be allowed to enter the Colony until the Responsible Government has considered the question of immigration. And as the present Indian residents have already paid the £3, and as the pre-war residents who have still to re-enter have also mostly paid the £3 to the Dutch Government, the remission of the £3 payment is no concession at all.

19. The authority for temporary permits is also not required as they have been granted at the discretion of the authorities under the Peace Preservation Ordinance.

20. The relief as to the supply of liquor is, so far as it may be applicable to Indians, a direct insult.

21. The relief to the heirs of those Indians who may have held fixed property before the date of Law 3 of 1885, is individual in character and is meant only to affect one small piece of land in the Transvaal.

22. The Ordinance therefore is in no way a relief or protection to the Indian community.

#### COMPARISON.

23. We cannot lay too much stress on the fact that the Amending Ordinance, while it leaves untouched all the disabilities of Law 3 of 1885, makes the position of British Indians much worse than under Law 3 of 1885, as will appear more clearly from the following comparison:—

##### UNDER LAW 3 OF 1885.

1. *Traders only* were required to pay £3 and take out receipts.
2. No particulars of identification had to be furnished.
3. Registration was not in restriction of immigration.
4. Children of registered parents were not required to register.

##### UNDER THE NEW ORDINANCE.

All male Indians (They have already paid £3) are now to take out certificates of registration.

Most humiliating particulars of identification are to be furnished.

This registration is essentially for restricting immigration.

Children of registered parents must all be registered:

- (a) Children under eight years to be provisionally registered, and parents to furnish means of identification. (A baby eight days' old will have to give ten digit prints and be carried to the registering officer?)
- (b) Children over eight years must be separately registered, subject to the same requirement as to identification.
- (c) If the children are not so registered after they attain the age of 16 years, they are liable to expulsion under severe penalty unless they get themselves registered.

- (d) Any Asiatic without authority bringing into the Colony a child under 16 years is liable to a severe penalty and cancellation of his registration and to expulsion. (This probably applies to parents bringing their babies in arms and certainly to lawfully resident Asiatics bringing the baby of another resident Asiatic.)
- (e) Any Asiatic employing (even ignorantly!) such child is liable to like penalties.
- (f) Failure on the part of parent or guardian to make application under (a) and (b) renders him liable to a fine of £100 or 3 months' imprisonment.

5. Failure to register never carried with it expulsion.

Failure to register carries with it expulsion although the Asiatic in question be in possession of permit and registration, and therefore doubly a lawful resident of the Transvaal, even according to the Amending Ordinance. *Thus by a stroke of the pen the present title to residence is to be rendered of no effect and value. In other words, vested interests, hitherto considered so sacred, are to be taken away to satisfy a caprice.*

6. Malays were subject to registration under Law 3 of 1885.

Malays are exempt from the operation of the New Ordinance.

7. Law 3 of 1885 was a law passed by an ignorant Government, and was under promise of total repeal by the British Government.

The present Ordinance has been passed deliberately by an enlightened Government in possession of full knowledge of the history of India and its civilisation.

8. Responsible Government could not use Law 3 of 1885 as a precedent for class legislation.

Responsible Government would be perfectly justified in using this Ordinance as a precedent for class legislation.

9. Law 3 of 1885 was passed by a Government in respect of people not its own subjects.

The present Ordinance has been passed by a Government belonging to the same Imperial fold as the Indians.

10. There could be no question of exemption as registration was not humiliating.

The present Ordinance reduces Indians to a lower level than the Kaffirs,

- (a) because Kaffirs who carry passes do not have to supply humiliating identification particulars contemplated by the Ordinance;
- (b) Kaffirs having reached a certain status are exempted from liability to carry passes, whereas Indians, no matter what status they may enjoy or how well educated they may be, must be registered and carry passes.

#### REASON FOR THE NEW ORDINANCE.

24. We learn that the reasons for passing the Ordinance are:—

- (a) That the Local Government wishes to stop the alleged large, unauthorised

influx of Indians, against whom there is a great deal of prejudice on the part of the white residents of the Transvaal.

- (b) The Local Government believes that there is on the part of the Indian community an organised attempt to flood the country with British Indians without authority.

25. It is not denied that there are Indians who attempt to enter the Transvaal without authority. To meet such cases the present laws are, as shown above, amply sufficient. A large unauthorised influx has been repeatedly denied by the Indians, and never proved. The allegation as to an organised attempt by the community is a pure fabrication.

#### LOCAL PREJUDICE.

26. The prejudice on the part of many white men, especially of the petty trading class, is admitted. We would at the same time respectfully state that the general body of white people are indifferent. The Indian trader and the hawker—the former relying on the support of wholesale European houses and the latter on the white householders of all descriptions—would not be able to exist in the Transvaal but for such support. The petition presented on behalf of Indians by Mr. Hosken and other representatives of leading houses bears out this contention.

#### REMEDY FOR MEETING THE PREJUDICE.

27. But recognising the prejudice, the Indian community has all along accepted the principle of restriction of immigration along the Cape or Natal line, subject to permission to import assistants and servants, and since it is the traders who arouse hostility and jealousy, the community has also accepted the principle of control and regulation of *new* trade licences by municipal bodies, their decisions being subject in gross cases to review by the Supreme Court. These two enactments if adopted, would dispel all fear of an inordinate influx of Asiatics, or their competition in trade. *But any such legislation should, by repealing Law 3 of 1885, restore to the resident Indian population the right of ownership of fixed property and freedom of movement and locomotion.*

28. Legislation of the above-mentioned type, being applicable to all, would obviate gross abuse of authority, which experience has shown always takes place wherever there is class legislation specially applicable to weaker races. It will moreover continue the policy laid down by Mr. Chamberlain at the Conference of the Colonial Premiers and since re-affirmed by him in practice. It was that policy which dictated a veto of the first Disfranchising Bill of the Natal Legislative Assembly and the Immigration Restriction Draft Bill specially applied to Asiatics and submitted by the late Mr. Harry Escombe. Such non-class legislation can be effectively passed now. It will then place before the incoming Responsible Government the Imperial idea of restrictive legislation and throw on it the burden of showing the necessity for any further restrictions.

29. If, however, such a step be not practicable at present, the whole question should, in the humble opinion of the Deputation, be left over until the newly formed Transvaal Legislature under the new Constitution has met.

#### A COMMISSION AS AN ALTERNATIVE.

30. In the meanwhile, the least that is due to the Indian community is the appointment of a strong and impartial Commission to investigate the allegations as to the unauthorised entry of British Indians in the Transvaal, and to report upon the administration of the Peace Preservation Ordinance as affecting British Indians, and also to report upon the adequacy or otherwise of the present laws to meet unlawful entry of Indians, and generally upon the legislation affecting British Indians. If those who have been making the allegations are sincere, the deliberations of the Commission need not take a long time.

#### BRITISH INDIANS AS APART FROM OTHER ASIATICS.

31. The Deputation has been specially directed to secure an insistence on the consideration of the question affecting British Indians as such, instead of their being mixed up with non-British Asiatics. Special promises have been made to

British Indians, both in India and outside it, even in connection with the Transvaal Laws. It may not be considered too much on the part of the Indians to ask for a proper fulfilment of such promises.

32. Above all, the integrity of the community is at stake. The Amending Ordinance is a punitive measure. It has been brought in to meet the alleged organised attempt of the community to introduce into the Transvaal unauthorised Indians. If His Majesty's Government sanctions such a measure, it will be party to a wholesale condemnation of the Indian community, without any proof whatsoever having been publicly brought forward to substantiate such a serious accusation.

We have the honour to remain,  
Your Lordship's humble Servants,  
M. K. GANDHI,  
H. O. ALLY.  
(Members of the Transvaal British Indian Deputation).

Hotel Cecil, London,  
October 31, 1906.

No. 25.

THE GOVERNOR to THE SECRETARY OF STATE.

(Received 1.8 p.m., November 3, 1906.)

TELEGRAM.

November 3. No. 4. I have been requested by Town Council of Klerksdorp to transmit following Resolution to you:—

Klerksdorp Town Council do strenuously urge His Majesty's Government to sanction the Asiatic Law Amendment Ordinance, 1906, which they consider absolutely essential to the welfare of the country.

—SELBORNE.

No. 26.

THE GOVERNOR to THE SECRETARY OF STATE.

(Received 9.55 p.m., November 5, 1906.)

TELEGRAM.

November 5. No. 1. My telegram of 3rd November, No. 4.\* Following Resolution received from Town Council of Wolmaransstad:—

Unanimously resolved that this Council respectfully urge that Asiatic Law Amendment Ordinance be not vetoed.

—SELBORNE.



## No. 27.

THE GOVERNOR to THE SECRETARY OF STATE.

(Received 7.8 p.m., November 7, 1906.)

## TELEGRAM.

November 7. No. 1. Christiana Town Council ask me to telegraph following Resolution to you:—

“Christiana Town Council seriously urge His Majesty’s Government to sanction Asiatic Law Amendment Ordinance 1906, which is deemed extremely desirable in restoring commercial confidence.”

—SELBORNE.

## No. 28.

THE GOVERNOR to THE SECRETARY OF STATE.

(Received 7 p.m., November 7, 1906.)

## TELEGRAM.

November 7. No. 2. I am requested by the Town Council of Potchefstroom to inform you that they earnestly urge Imperial Government to assent to the Asiatic Law Amendment Ordinance 1906 in the interests of European trading community of this Colony.—SELBORNE.

## No. 29.

THE GOVERNOR to THE SECRETARY OF STATE.

(Received 5.54 p.m., November 8, 1906.)

## TELEGRAM.

November 8. No. 2. My telegram, of 5th November, No. 1.\* I have received following resolution from the Zoutpansberg White League:—

In the opinion of Zoutpansberg White League, Ordinance No. 29 of 1906 is fair, equitable, and calculated to protect interests of white inhabitants of this Colony, and this meeting respectfully begs Government to use every endeavour to obtain assent of the King thereto as speedily as possible.

This resolution was personally handed to me by Mr. Munnik, who was Landdrost of Zoutpansberg under the late South African Republic, and is now head of the local branch of Het Volk. He came all the way from Pietersburg on purpose to see me and to express the complete support of both Boers and British of the policy of the Government in this matter.—SELBORNE.

\*1No. 26.

No. 30.

PROCEEDINGS AT A DEPUTATION TO THE RIGHT HONOURABLE  
THE EARL OF ELGIN ON BEHALF OF BRITISH INDIAN SUBJECTS  
IN SOUTH AFRICA.

Colonial Office, Thursday, November 8, 1906.

The deputation consisted of the following gentlemen:—

Lord Stanley of Alderley.  
Mr. O. Ali, } Delegates from Transvaal.  
Mr. Gandhi, }  
Sir Lepel Griffin.  
Mr. J. D. Rees, C.I.E., M.P.  
Sir George Birdwood, K.C.S.I.  
Sir Henry Cotton, K.C.S.I., M.P.  
Mr. Naoroji.  
Sir M. Bhownagree, K.C.I.E.  
Mr. Amir Ali.  
Mr. Harold Cox, M.P.  
Mr. Thornton, C.S.I.

The EARL OF ELGIN: I should just like to say, gentlemen, that I made this interview a private one because I thought, from experience of other meetings of the same sort, we should be better able to discuss the matter friendly across the table without the presence of public reporters; at the same time, I am quite aware that the deputation wish to go into matters of some detail, and therefore I have made arrangements for a note to be taken so that anything which may be said shall be on record.

Then I should like to say one other word. I recognise among the deputation some of those with whom I have had the pleasure of working in India, and I hope they have explained to the deputation, if it was necessary, that my sentiments would all be in favour of doing anything I could for the interest of British Indians. (Hear, hear.)

SIR LEPEL GRIFFIN: My Lord, what you have just said makes my duty in introducing the delegates more easy. We are very much obliged to your Lordship for admitting this deputation of men who are all known to you as gentlemen connected with India, who have been most of them in India themselves, and all are interested in India, and we are very glad, without any question of party feeling, because all sides are represented in this deputation, to introduce to you the delegates from South Africa, Mr. Gandhi, who is, as your Lordship is aware, a barrister of the Inner Temple and a man who, in the late Boer war and in the late rising in Natal, has done most excellent work for the country in organising ambulance corps and in other ways—he practises now in Johannesburg—and Mr. Ali, his colleague, who is the representative of the Mohammedan part of the Indian community in the Transvaal, a merchant of very good position and the founder, and I believe the Chairman of Islamic Association in the Transvaal. To those gentlemen I propose to leave any details of the Ordinance which has now been passed and which we are about to ask His Majesty's Government to veto. But I would like to say a few words in explaining the matter now before the Colonial Office, and I shall take up the time of your Lordship only for a few minutes.

I have been asked to present this deputation principally, I fancy, because I happen to be the Chairman of the Council of the East India Association, of which your Lordship is a distinguished Vice-President, but the question which the East India Association has so often urged upon successive Colonial Secretaries and Secretaries for India and Viceroys of India, is not directly concerned in our presence here to-day. The bed-rock, as your Lordship is aware, of the East India Association's protests, that all well-conducted, loyal, and industrious British subjects, whatever their race or colour, should receive equal rights in all Colonies of the British Empire; that is the bed-rock of justice which has always been refused in the past, but on which the East India Association, which is represented largely here to-day, begs to continue to rely and from which it must continue to make its protest. That, my Lord, is not precisely the question which this deputation desires to put forward

this afternoon; they are not making any of those large claims which we have before made; they only ask that a certain Ordinance applying to the Transvaal alone may not receive the sanction of His Majesty's Government.

A few words only are necessary on this point. During the Boer Government the British Indians were treated with considerable harshness, but their immigration into the Transvaal was not prohibited, and with the exception of a fee for a licence for adult traders they were not interfered with. But their position was an exceedingly uncomfortable one, and many protests were raised which we understood, when the country fell into the hands of the English, would be redressed. So far from being redressed, their position is made worse and the rules for registration and identification were made exceedingly more rigorous. The Ordinance which has now been passed makes, whatever people in South Africa may choose to say, their position infinitely worse and more degrading. It may be said that in the Transvaal these rules are for the benefit of the Indians, but the toad under the harrow knows where the harrow grips him, and the Indians in the Transvaal consider that the new regulations of this Ordinance are a grievance and an insult which is almost too grievous to be borne; and I for one most strongly support their claim and their protest.

Under this Ordinance everyone in the Transvaal is exposed to the most rigorous investigation; the impressions of his fingers are to be recorded on every pass; no one is allowed in—man, woman, or child—without registration of so rigorous a character that has been unheard of in any civilised country within my recollection. Under this regulation every Indian in the Transvaal, whether an adult male, whether a woman, or whether a child, and even babes in arms will be obliged to be registered under such conditions as only ordinarily apply to convicts in a civilised country; and evasion or ignorance or even forgetfulness on this point is punished by crushing fines, by imprisonment with hard labour, by expulsion, and by ruin. You, my Lord, who have been Viceroy of India and whose sympathy is with the country must know that legislation of this sort is unheard of under the British flag; indeed, to-day in Europe I may say, without any exaggeration, that with the exception of the Russian legislation against the Jews, there is no legislation comparable to this on the Continent of Europe; and in England, if we wanted a similar case, we should have to go back to the time of the Plantagenets.

And against whom is this legislation directed? Against the most orderly, honourable, industrious, temperate race in the world, people of our own stock and blood, with whom our own language has as a sister language been connected. There is no occasion in the presence of people connected with India, who know its history, to say what the Indian community is to-day; it is almost an insult to refer to it.

And by whom is this legislation instigated? I am told, and I believe it, that it is not by the best part of the British community in the Transvaal, who are, I believe, in favour of giving all reasonable privileges to British Indian subjects; it is by the alien foreign population in the Transvaal who are perhaps to some extent inconvenienced by Indian traders who are so very much more temperate and industrious than themselves. It does not come from the English. The legislation is prompted, and the prejudice against the Indians is encouraged, by the aliens, by Russian Jews, by Syrians, by German Jews, by every class of aliens, the very off-scourings of the international sewers of Europe. The English residents, against whom I do not wish to say one word of criticism, are a part, in my mind, of the Transvaal, but the Transvaal is only a Colony by conquest, not by settlement, and it is the aliens who are opposed to this honourable Indian community.

My Lord, I do not wish to take up more of your time, but what I wish to say is, that to-day we ask you, as representing His Majesty's Government, and as we know your sympathies are with the Indians over whom you have ruled with so much distinction, to procure the vetoing of this Ordinance. No large questions are brought before you to-day by this deputation. They are not asking for political rights; they are not asking for gratitude for their great and devoted services in the Transvaal war where so many of them lost their lives in their devotion to England, doing as courageous work as anyone of the members of the armies which were sent by England, by Australia, or by Canada. Those services have not been recognised; on the contrary, they have been ignored and further burdens have been

placed upon them. We ask for nothing to-day except the merest barest justice. We ask that the whips which the Boers have inflicted upon us may not be changed into scorpions wielded by the British Government.

I would say in conclusion that we hope everything from the present Government, and for this reason, that the grievances of the Chinese have received the utmost sympathy at the hands of the Government, but, so far as this deputation is concerned, the Chinese and other alien nations do not count. We ask not for the Chinese, but for our own fellow subjects, and we ask that justice, if not generosity, may be dealt out to them and that your Lordship will save them from insult and oppression.

It was at your Lordship's request that this deputation was a small one; it might have been indefinitely extended. This is a test case—a question of going forward or going back. Your Lordship, as a past Viceroy of India, must know that the attention of the whole of India, 300 millions of Indians, is intent to-day upon the decision which will be given in this test case, and I beg your Lordship to think and to remember that besides the Indians of Indian birth, against whom the insults of this Ordinance are directed, there are the whole body of Indian officials, to which I and most of the members of this deputation belong, who are insulted with the natives of India. Is it to be supposed that we who have worked with, we who have governed this Province of India under your Lordship and under your predecessors and successors, have been governing degraded creatures who are placed lower even than the Zulus and Russian Jews? No, my Lord. We trust to you to do what you can to defend the people whom you have governed so well. And I will beg you to excuse any exciting warmth in my way of speaking, because I assure you that any warmth in my words is very much exceeded by the feeling of shame and resentment which fills my heart at the way in which the British Indians of the Transvaal are treated to-day by the settlers (I will not call them Colonists) of that country.

Mr. GANDHI: Both Mr. Ali and I are very much obliged to your Lordship for giving us the opportunity of placing the British-Indian position before you. Supported though we are by distinguished Anglo-Indian friends and others, I feel that the task before Mr. Ali and myself is very difficult, because your Lordship, in reply to the cablegram sent to you through Lord Selborne, after the great British-Indian mass meeting in Johannesburg, was pleased to inform the British Indian Association, that although you would be pleased to give us every opportunity of stating our case, no good purpose was likely to be served as your Lordship had approved of the principle of the Ordinance, in that it gave some measure of relief to the British-Indian community, though not as much as His Majesty's Government would desire. We who are the men on the spot and who are affected by the Ordinance in question have ventured to think otherwise. We have felt that this Ordinance does not give us any relief whatsoever. It is a measure which places British Indians in a far worse position than before and makes the lot of the British Indian well-nigh intolerable. Under the Ordinance the British Indian is assumed to be a criminal. If a stranger, not knowing the circumstances of the Transvaal, were to read the Ordinance he would have no hesitation in coming to the conclusion that an Ordinance of that nature which carries so many penalties and wounds the British-Indian community on all sides, must only apply to thieves or a gang of robbers. I venture, therefore, to think that although Sir Lepel Griffin has used strange language in connection with the Ordinance he has not at all exaggerated, but every word of it is justified. At the same time I beg to state that the Ordinance, as amended, does not apply to British-Indian females. The draft Ordinance undoubtedly applied to females also, but owing to the very strong protest made by the British-Indian Association and by Mr. Ali separately, as Chairman of the Hamidia Islamic Society, pointing out the great violence that would have been done to female sanctity, if I may say so, the Ordinance was amended so as to take females out of its operation. But it applies to all adult males and even to children, in that the parents or guardians have to take out registration certificates for their children or wards as the case may be.

It is a fundamental maxim of the British law that everyone is presumed to be innocent until he is found guilty, but the Ordinance reverses the process, and brands every Indian as guilty, and leaves no room for him to prove his innocence.

There is absolutely nothing proved against us and yet every British Indian, no matter what his status is, is to be condemned as guilty and not treated as an innocent man. My Lord, an Ordinance of this nature is not possible for British Indians to reconcile themselves to. I do not know that such an Ordinance is applicable to free British subjects in any part of His Majesty's dominions.

Moreover, what the Transvaal thinks to-day the other Colonies think to-morrow. When Lord Milner sprung his bazaar notice on British Indians the whole of South Africa rang with the bazaar idea. The term "Bazaar" is a misnomer; it has been really applied to locations where trade is utterly impossible. However, a proposal was seriously made, after a bazaar notice, by the then Mayor of Natal, Mr. Ellis Browne, that Indians should be relegated to bazaars. There is not the slightest reason why this Ordinance also, if it ever becomes law, should not be copied by the other parts of South Africa. The position to-day in Natal is that even indentured Indians are not required to carry passes as contemplated by the Asiatic Law Amendment Ordinance; nor are there any penalties attached to the non-carrying of passes as are defined in the Ordinance under discussion. We have already shown in our humble representation that no relief has been granted by this Ordinance, because the remission of the £3 fee, referred to by Mr. Duncan, is quite illusory, because all we British Indians, resident in the Transvaal who are obliged to pay £3 under Law 3 of 1885 and those who, under Lord Selborne's promise, are likely to be allowed to re-enter the Transvaal, have paid the £3 already.

The authority to issue temporary permits is also superfluous in that the Government have already exercised the power, and there are to-day in the Transvaal several Indians in possession of temporary permits. They are liable to be expelled from the Colony on the expiry of their permits.

The relief under the Liquor Ordinance is, British Indians feel, a wanton insult. So much was this recognised by the Local Government, that they immediately assured the Indians that it was not intended for British Indians at all, but for somebody else. We have no connection with anybody else and we have always endeavoured to show that the British Indians ought to be treated as British subjects, and ought not to be included with the general body of Asiatics with respect to whom there may be a need for some restrictions which ought not to apply to British Indians as British subjects.

There remains one more statement that is in connection with the land owned by the late Aboo Baker. That land should belong to the heirs by right, but under the interpretation reluctantly put upon it by the Supreme Court, that it is only individual in character and does not touch the community, the land cannot be transmitted to the heirs. The Ordinance is intended to rectify the error, but as I had the honour to represent the heirs, I ventured to think that even they would not consent to pay for getting this relief at the price, in the nature of this Ordinance for British Indians; and certainly the Indian community can never exchange for the relief given to the heirs of the land of Aboo Baker an Ordinance of this nature, which requires them to pay so great a price for what is really their own. So that under the Ordinance in that respect again there is absolutely no relief. As I said before, we shall be under the Ordinance, branded as criminals.

My Lord, the existing legislation is severe enough. I hold in my hands returns from the Court of the Magistrate at Volksrust. Over 150 successful prosecutions of Indians attempting to enter the Transvaal have taken place during the years 1905 and 1906. All these prosecutions, I venture to say, are by no means just. I venture to believe that if these prosecutions were gone into you would see that some of them were absolutely groundless.

So far as the question of identification is concerned the present laws are quite enough. I produce to your Lordship the registration certificate held by me, and it will show how complete it is to establish identification. The present law can hardly be called an amendment. I produce before your Lordship a registration receipt held by my colleague Mr. Ali from the Transvaal Government. Your Lordship will see that it is merely a receipt for £3. The registration under the present Ordinance is of a different type. When Lord Milner wished to enforce law free of 1885 he suggested new registration. We protested against it, but on his strong

advice, as a voluntary act, we allowed ourselves to be newly registered, and hence the form produced before your Lordship. At the time that registration was undertaken, Lord Milner stated emphatically that it was a measure once for all, and that it would form a complete title to residence by those who hold such registration certificates. Is all this now to be undone?

Your Lordship is doubtless aware of the Punia case, wherein a poor Indian woman, in the company of her husband, was torn away from her husband, and was ordered by the Magistrate to leave the country within seven hours. Fortunately, relief was granted in the end, as the matter was taken up in time. A boy under 11 years was also arrested and sentenced to pay a fine of £50 or to go to gaol for three months, and at the end of it to leave the country. In this case again the Supreme Court has been able to grant justice. The conviction was pronounced to be wholly bad and Sir James Rose-Innes stated that the Administration would bring itself to ridicule and contempt if such a policy was pursued. If the existing legislation is strong enough and severe enough to thus prosecute British Indians, is it not enough to keep out of the Colony British Indians who may attempt fraudulently to enter it?

It has been stated that the reason for passing the Ordinance is that there is an unauthorised influx of British Indians into the Transvaal on a wholesale scale, and that there is an attempt on the part of the Indian community to introduce Indians in such a manner. The last charge has been, times without number, repudiated by the Indian community, and the makers of the charge have been challenged to prove their statement. The first statement has also been denied.

I ought to mention one thing also—that is the fourth resolution that was passed at the British-Indian mass meeting. It was passed by the meeting solemnly, prayerfully, and in all humility, and the whole of that great meeting decided by that resolution that if this Ordinance ever came to be enforced and we did not get relief the British Indians, rather than submit to the great degradation involved in it, would go to gaol—such was the intensity of the feeling aroused by the Ordinance. We have hitherto suffered much in the Transvaal and in other parts of South Africa, but the hardship has been tolerable; we have not considered it necessary to travel 6,000 miles to place the position before the Imperial Government. But the straining point has been reached by the Ordinance, and we felt that we should in all humility exhaust every resource, even to the extent of sending a deputation to wait on your Lordship.

The least, therefore, that in my humble opinion is due to the British-Indian community is to appoint a Commission as suggested in the humble representation submitted to your Lordship. It is a time-honoured British custom that whenever an important principle is involved, a Commission is appointed before a step is taken. The question of alien immigration into the United Kingdom is a parallel case. Charges somewhat similar to the charges against the Indian community were made against the aliens who entered the United Kingdom. There was also the question of the adequacy of the existing legislation and the necessity for further legislation; all these three points were referred to a Commission before any step was taken. I, therefore, venture to think that a Commission should be appointed, and the whole question threshed out before any drastic measures are taken.

I venture, therefore, to hope that your Lordship will see your way to grant this small measure of relief to the British-Indian community.

Mr. O. ALI: My Lord, we are very much obliged to you for the patient hearing your Lordship is giving to the deputation. Mr. Gandhi has stated the case fully before your Lordship, and I do not wish to add much to what has already been said. I am not a lawyer, but as a layman, and as a resident of old standing in the Transvaal, I do wish to submit to your Lordship that the hardships that the present Ordinance would inflict upon us are unbearable. And I can assure your Lordship that, immediately the Ordinance was introduced into the Legislative Council of the Transvaal, my fellow countrymen felt, and felt very keenly, to think that such laws can be passed under a British Government. It is what I should never have believed years ago.

Our lot is to-day infinitely worse than under the Boer régime; we were able to get protection from the British Government during that time. Are we now, under the same Government, to be persecuted?

When aliens of all classes are, at the very moment that the Ordinance is introduced, pouring into the Transvaal, and when they enjoy all the rights and privileges granted to British subjects, my countrymen, who are always to the fore for the defence of the Empire, are suffering these serious disabilities and the disabilities threatened by the Ordinance. To-day in India the frontier is guarded by my fellow-countrymen, who shoulder the rifle in defence of the Empire; and it is very grievous that they should have to suffer such misery, and that there should be class legislation against them of this type.

I appeal for justice, and I appeal to your Lordship in the name of the British traditions, that you will be pleased to remove the disability that the Ordinance will place upon us, by vetoing it, or at least by granting a commission. We are loyal British subjects, and as such we are entitled to the fullest protection. We have not asked for, and we do not now ask for, political rights; we are content that the white man should be predominant in the Transvaal; but we do feel that we are entitled to all the other ordinary rights that a British subject should enjoy.

Sir HENRY COTTON: I wish to say one word, my Lord, if I may. I am here not only as a retired Indian official, like many distinguished men I see around me, but also as a member of the present Parliament, and as Chairman of a meeting which sat in the Grand Committee Room upstairs in the House of Commons attended by more than 100 members of the Liberal Party. I take this opportunity of saying that I deeply regret that the invitations to attend that meeting were not extended to both sides of the House. (Hear, hear.) It was an unfortunate oversight which we all regret. But that meeting I say was attended by 100 and more members of the House of Commons, and their feeling was very strong indeed upon this subject; indeed they went so far as to record a resolution that they sympathised with and supported the prayer of the petitioners. Since that meeting, my Lord, I have been brought in contact with many members of the House of Commons who were not present at the meeting, gentlemen on both sides of the House. Many gentlemen on the opposite benches have also intimated to me that there is a complete sympathy with the attitude taken up by Messrs. Gandhi and Ali on behalf of their fellow subjects in the Transvaal.

I wish also in associating myself, as I do completely, with the observations which fell from Sir Lepel Griffin to remind your Lordship that it was Lord Lansdowne, for whom we all have the greatest regard and respect, who, although he is the Leader of the Opposition in the House of Lords, is at all events, as we know very well, a most liberal-minded statesman, who drew prominent attention in England to the grievances which the British Indians in the Transvaal suffered from under President Kruger's Administration. Nothing, he said, roused so much indignation in his mind or so much anger as the ill-treatment which the British Indians received in South Africa. And he went further even in his speech—it was a speech delivered at Sheffield two or three weeks after the outbreak of the War—for he said that he regarded with grave anxiety the state of feeling which must inevitably exist in India when it was known that the British subjects of India in South Africa were so ill-treated and ground down. And he pointed out the imperative duty of the British Government to improve their status and position.

Now, my Lord, that is a pledge which was given by the head of the Opposition in the House of Lords, and I appeal to you, my Lord, as the representative of a Liberal Government, in dealing with this matter in South Africa, that your duty is at least as decisive as Lord Lansdowne claimed for himself a few years ago.

It is true that the people of India do feel this matter very deeply. It is true also that the British Indians in South Africa have greater grievances to complain of now than they had under the Dutch Government; and the climax has been reached in the passing of this Ordinance, of which Messrs. Gandhi and Ali here so justly complain. Representing as I do a very influential and large section of the House of Commons, and I believe the almost unanimous official feeling in India on the subject, I do trust that your Lordship will be able to give this petition your favourable consideration.

Sir M. BROWNAGREE: My Lord, I think the case has been so ably and clearly put before your Lordship that there is not the least occasion for me to go into any details, and if I feel called upon to address your Lordship for a very few minutes, it is simply on account of the interest I took in this question all through my ten and a half years' career in Parliament. I want to bring to your Lordship's notice a few points which perhaps may not be within your knowledge.

In complaining of the grievances of British-Indian subjects in South Africa, I had opportunities of seeing your predecessors, Mr. Chamberlain and Mr. Lyttelton, very often on the subject. My activity had taken the form at last of a long printed letter in which I detailed the whole narrative of the facts, and Mr. Lyttelton thereupon assured me that the case had been so fairly put, and the demands made were so reasonable, that he hoped to get some relief. I, on the other hand, knew what the local forces of opposition to a liberal policy on the part of any ministry of the Imperial Government would be, and while I thanked him for his sympathetic answer, I told him it might be necessary to appoint a commission to enquire into the whole subject. Sir George Farrer, who represented the Anti-British-Indian interest in the Transvaal Legislature, also happened, at the same time, to suggest that the appointment of a commission would ventilate the matter, and might bring some solution of that very difficult problem. Thereupon I addressed Mr. Lyttelton again, accepting Sir George Farrer's offer, and matters were in that train, and I believe Mr. Lyttelton would have ultimately appointed a commission, but the Government, of which he was a member then, went out of office. Recognising the very difficult position in which the whole question stands, I now urge that a commission might be appointed pending the report, of which this Ordinance might at least be held in abeyance, so that you may have the benefit of judging of the whole question by the report of that Commission.

I have only one word to add, my Lord. For five years your Lordship has been the Custodian and the Guardian of Indian interests and the protector of their rights, during a memorable and distinguished vice-royalty. To-day—as our leader, Sir Lepel Griffin, has well said—the eyes of all India are focussed upon the proceedings which are taking place in this room, and I am only expressing the sentiments of the 300 millions of people of India when I express the hope that your Lordship will, on account of the sympathy which you have shown, and which I believe you are ready to show, and of which, even on our entrance into this room, you assured us, allow no other consideration but that of justice to weigh with you, and will grant the prayer which these gentlemen have come all this long distance here to ask at your hands.

Mr. REES: I am not going, my Lord, into the subject of the merits of the case—I think they were amply dealt with by Sir Lepel Griffin; nor am I going to speak of my interest in this subject, which I have often brought before Parliament myself. But when Sir Henry Cotton spoke of the meeting yesterday I should like to say that it was not only a party meeting, but it was a meeting of a part of a party, and that I do deprecate with all my heart and soul in a matter which is of such serious importance any endeavour to make any subject connected with British India a party subject. I do not think there can be a more serious matter than this very serious one upon which we have come before your Lordship, namely, the unfortunate manner in which our fellow subjects have been treated in the Transvaal.

Mr. HAROLD COX: My Lord, I am in a somewhat different position from most of the gentlemen here, because I am neither an ex-official of the Government of India, nor am I myself Indian by birth, but I did have the honour personally of serving in India for two years under a native Prince, and I look back to that period of my life with the greatest pleasure. That is one special reason why I am here to-day. But at the back of my mind the real reason why I am here to-day is because I am English, and because I think this matter is a disgrace to my country. Our country was pledged when we went to war with the Transvaal to do justice to the British Indians. That justice has not been done, and I contend that it is not possible for the present Government, of which your Lordship is a part, to ride off on the plea that the Transvaal is a self-governing Colony. It is not a self-governing Colony. It is absolutely subject to your authority, and whatever is done by you to-day, or at any other time, is done not in the name of the Transvaal, but in the name of the English people, and in the name of the English people I protest against any injustice being done to British subjects.



Mr. NAOROJI: I do not want to take up your Lordship's time, and after the able manner in which the whole subject has been laid before you, I would only join in the appeal that has been made to you on behalf of my fellow subjects under the British flag. If there is one principle more important than another, it is that of the freedom of British subjects under the British flag, and I do hope that the British Government, especially a Liberal Government, will stand upon that basis.

Mr. AMIR ALI: Will your Lordship allow me to make one observation only? Perhaps my recent experience of India is the most recent of all. I venture to say this: that the feeling of India is very strong on this subject of the injury done to British Indians in the Transvaal, and it will be a serious mistake if the subject is put on one side. That is the only matter I want to present to your Lordship.

The EARL OF ELGIN: In the first place, I would like to say that I entirely accept the position which Mr. Cox put upon me. I am responsible, no doubt, for the advice which is given in this matter and nobody else, and I do not wish to shirk my responsibility. In the second case, I wish also to express my adherence to what was said by Mr. Rees, Sir Henry Cotton, and others, that I regard this as no party question at all. Sir Henry Cotton quoted from Lord Lansdowne, but I have before me a despatch from the Colonial Secretary of the last Government from which I should like to read one paragraph\*: "His Majesty's Government cannot believe that the British community in the Transvaal appreciate the true nature of the proposition which some of its members are pressing upon you. They, as Britons, are as jealous of the honour of the British name as ourselves, and even if a material sacrifice were necessary to vindicate that honour, I feel assured they would cheerfully make it. His Majesty's Government hold that it is derogatory to national honour to impose on resident British subjects disabilities against which we had remonstrated, and to which even the law of the late South African Republic rightly interpreted did not subject them, and they do not doubt that when this is perceived the public opinion of the Colony will not any longer support the demand which has been put forward."

Sir HENRY COTTON: May I ask which Colonial Secretary that was?

The EARL OF ELGIN: It was from Mr. Lyttelton, written in 1904.

Now, I understand from the gentlemen who have come before me to-day that we are not here to discuss general sympathies, nor even are we to consider anything further than the rights which the British-Indian community possessed in the past. They do not ask at this present moment for an extension of those rights. That limits the matter, as I think you wish it to be limited, to the question of this Ordinance itself.

Sir LEPEL GRIFFIN: For the present, my Lord. We are going to fight the question hereafter.

The EARL OF ELGIN: Oh, yes; I am thinking of to-day, and the answer I have to give.

Sir LEPEL GRIFFIN: Yes.

The EARL OF ELGIN: I only make that observation in order that I may be precise in my answer. The question, therefore, is with reference to this Ordinance, and following up the remark I made just now about its being no party question, I hope you will accept it from me that it was no intention of the men at the head of the Transvaal Government, they distinctly stated so to me, that they had no intention whatever in the legislation they brought forward to do otherwise than to improve, rather than to make worse, the condition of the British Indian community. I am not saying that the subject is not perfectly open to your criticisms, but I wish you to accept from me that that was the intention with which this legislation was brought forward.

Now Mr. Gandhi explained that in some cases, for instance, in the case of the poll tax, this concession, which was supposed to be given under the Ordinance, was illusory. I admit that I think there was something in his statement, that most of those who would come under the restriction I have just mentioned would probably have paid the £3. But at the same time, dealing with this as a matter of the status of the British Indians in the Transvaal, I conceive that the Government might quite fairly have held that in removing the imposition of the poll tax once for all they were, *pro tanto*, improving the status of the British Indians.

\* See page 45 of [Cd. 2239] August, 1904.

Then, with regard to the question of permits or registration, we have seen one of the permits given under the Boer Administration. It is merely a receipt for the money. The Boer Administration in that respect, as well as in a good many others, was not so accurate as the administration which necessarily with our ideas obtains under the British Government; and, therefore, I am only stating the view which has been put before me, the view of the Government of the Transvaal is this: that as it stood under the rules of the Boer Government which they had inherited, there was great confusion, and there were great administrative difficulties, and that consequently there was a considerable degree of friction, and also there arose considerable delay in the determination of cases of which I see traces in the petition itself. It was for that purpose, as I understand it, that the Government of the Transvaal proposed to substitute the form of registration, but according to their representations to me, there was no intention whatever of making that form of registration in any way more oppressive than the form of permits properly ministered.

And if I may, just for a moment—I do not want to go into all the details—follow this question of thumb marks, I think that thumb marks first came into notice prominently when Sir Henry Cotton and I were associated in the Government of India, under our friend Mr. Henry, who occupies a prominent position in this city now. No doubt the imposition of thumb marks was introduced in that case for the detection of criminals, but I do not know why the imposition of a thumb mark in itself should be a very debasing operation; in fact, as they say, it has always seemed to me a most marvellous thing that they say they can trace every thumb mark, there might be an advantage over the hieroglyphics which some of us call our signatures. And there is this fact I want just to mention, and to bring to the notice of Mr. Gandhi, that on the permit which he has handed to me, issued under the present Ordinance, there is a thumb mark already imposed under the present Ordinance in just the same way as it will be imposed under the new Ordinance.

Mr. GANDHI: Only that that, as I said, is a purely voluntary act done by us on the advice and the instigation of Lord Milner. He asked us to do it.

The EARL OF ELGIN: Quite so; but still here is a certificate which is an official certificate, and it bears a thumb mark.

LORD STANLEY OF ALDERLEY: It was affixed without prejudice.

The EARL OF ELGIN: I do not see why it should not be affixed to the registration certificate without prejudice.

Sir M. BROWNACRE: Might I explain one thing? Whatever Lord Milner asked British Indians to do was done on the understanding that the whole question of the treatment of the community was the subject of consideration between the Colonial Secretary for the time being and Lord Milner and the local authorities, so that they might have submitted to Lord Milner's injunction in a respectful way, and, as Lord Stanley just now said, without prejudice. But this imposes a sort of distinction between one subject and another in the Transvaal.

The EARL OF ELGIN: Do not suppose I am taking it further than this; I am only saying here is a document which is at present in use with a thumb mark, and it cannot be called debasing.

Mr. GANDHI: It is the ten finger mark.

The EARL OF ELGIN: Is it more debasing with ten fingers?

Sir HENRY COTTON: It is only required in the case of criminals.

The EARL OF ELGIN: I do not want to argue it, but I think there is just that much to be said.

Then there is one matter about registration, that is, that if the system of registration was carried out it would give a final and indefeasible title to those who are registered to their rights in the Transvaal. That is the position of the Transvaal Government on that matter. And as regards the carrying of a pass, and any oppressive use of the power of inspection, I am informed, and I have taken some trouble to ascertain it, that all that would be intended, so far as checking the Ordinance Certificate is concerned, is that it would probably be inspected once a year. As

regards any other casual demand for it, it would be, as I am told, exactly in the same position as this permit is, which, if I am right, may be demanded from anybody in the Transvaal. That is the position. I do not want to elaborate too much on this subject, I only wish to make this explanation, that those were the sort of reasons which the Government of the Transvaal put before me when they asked my assent to the introduction of the legislation on these grounds, and it is distinctly upon my apprehension that these modifications of the law would, in the long run, be for the benefit, and not for the oppression, of the British Indian community, that I gave my assent to the introduction of that legislation.

Now, gentlemen, we are in the position that this is challenged. I think I ought to say, without in any way challenging the authority with which Mr. Gandhi and Mr. Ali come here as the representatives of a large meeting, that I have got telegrams from the Transvaal advising me of the forwarding of a petition from British Indians, which they say has been largely signed, in opposition to the views which have been placed before me to-day; and with regard to the general feeling I have to-day received two more telegrams, I say two more, because there are a good many others from different municipalities in the country urging the passing of the Ordinance and so on. I cannot, therefore, entirely subscribe to what Sir Lepel Griffin said about the opposition, and the nature of the opposition to this matter. I regret it more than anybody in this room. I suppose there could be found, if not in the records of this office, at any rate, in the records of the India Office, despatches with my signature attached to them, protesting, in as strong language as has been used here, against the restrictions on British citizens, and I do not go back from one single word. But we have to recognise the fact that all over the world there are difficulties arising on the part of white communities, and we have to reckon with them. I do not say that they ought always to succeed; they certainly ought not to succeed in points of detail which would, in any way, involve oppression. But the fact of there being that sentiment has to be borne in mind when we have to deal with matters of this description.

I do not think I have much more to reply to. Reference has been made to the proposition towards the end of the petition, that at any rate there might be a postponement for the examination of the subject by a commission. That, no doubt, is an alternative which might be adopted; but I am not in a position to-day to say whether that is so or not. Indeed I think you will easily acknowledge that I did you the best compliment when I did not endeavour to make up my mind until I had seen you, and heard what you have to say. That is my position. I have now heard what Mr. Gandhi had to say. I hope he has put before me, as fully as he desired, what he has come so far to say. I have heard the other gentlemen who have accompanied him. I will give the best consideration to their representations, and I shall think it my duty to make up my mind with the full responsibility which I have to assume.

Mr. GANDHI: May I make one statement, my Lord, for one minute? I have listened with the very greatest attention, and with very great obligation, to your Lordship's statement, but I must submit that the information placed before your Lordship on some point is not accurate, and I am in a position to refute that information by documentary evidence with regard to permits, as your Lordship used the term, in connection with the Ordinance of 1885, but this is not the occasion when I could do it. But if your Lordship will ask us to wait upon you we will do it. But that just shows that nothing short of a commission would place our position accurately before your Lordship.

Sir LEPEL GRIFFIN: My Lord, I beg, on behalf of the deputation, to express our best thanks for the exceedingly kind and courteous way in which you have received us, and the patience with which you have listened to what we had to say. We were assured before of your full sympathy in this matter, and knew it perfectly well.

(The deputation then withdrew.)

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No. 31.

THE GOVERNOR to THE SECRETARY OF STATE.

(Received 5.5 p.m., November 13, 1906.)

TELEGRAM.

November 13. No. 1. I am requested by Johannesburg Town Council to transmit following Resolution to you:—

That it is imperative in the interests of this town as well as in those of the Colony that the Ordinance recently passed by Legislative Council for the registration of all Asiatics in the Transvaal should pass into law.

—SELBORNE.

No. 32.

THE GOVERNOR to THE SECRETARY OF STATE.

(Received 1.31 p.m., November 16, 1906.)

TELEGRAM.

November 16. No. 1. Referring to my telegram of 13th November, No. 1,\* similar Resolutions received from Town Councils of Machadodorp, Springs, and Ermelo.—SELBORNE.

No. 33.

THE GOVERNOR to THE SECRETARY OF STATE.

(Received November 17, 1906.)

[Answered by No. 46.]

MY LORD,

Governor's Office, Johannesburg, October 29, 1906.

I HAVE the honour to forward, for your information, two copies of Ordinance No. 31, of 1906, "To transfer certain Stands in the Township of Vrededorp to the Council of the Municipality of Johannesburg on certain conditions," together with a report thereon by the Attorney-General.

I also forward eight unauthenticated copies of the above-mentioned Ordinance.

I have, &c.,  
SELBORNE,  
Governor.

Enclosure 1 in No. 33.

No. 31 of 1906.]

VREDEDORP STANDS ORDINANCE.

[Legislative Council.

AN ORDINANCE to transfer certain Stands in the Township of Vrededorp to the Council of the Municipality of Johannesburg on certain conditions.

Whereas the Government of the late South African Republic by certain Executive Council Resolutions No. 709 of 13th December 1893 No. 137 of the 20th March 1894 No. 180 of 3rd March 1896 and the First Volksraad by resolution Article 940/96 and 1181/97 authorized the issue of stand licenses on the open stands in the township of Vrededorp to indigent persons for the purposes of occupation by such persons and on certain conditions in the said Executive Council Resolutions set forth;

And whereas it is expedient that the freehold title of the Government of this Colony to the said stands should be transferred to the Municipal Council of Johannesburg but subject to certain conditions;

Be it enacted by the Lieutenant-Governor of the Transvaal with the advice and consent of the Legislative Council thereof as follows:—

Definitions.

1. In this Ordinance unless the context otherwise requires:—

“council” means the Municipal Council of Johannesburg;

“stand” means any stand within the area defined in the First Schedule to this Ordinance;

“the said resolutions” means the resolutions referred to in the preamble to this Ordinance;

“registered holder” means the person or persons for the time being registered as holding any stand subject to the terms of a grant made under any of the said resolutions;

“appointed day” means the First day of January 1907 or such later day as the Lieutenant-Governor may appoint by Proclamation in the *Gazette*.

Transfer of freehold title in Vrededorp township from the Government to the Municipal Council of Johannesburg.

2.—(1) On the date of the taking effect of this Ordinance the freehold title in so much of the area of land defined in the First Schedule hereto (known as the township of Vrededorp) as is vested in the Crown except such portions thereof as are now occupied by the Crown for public purposes shall be transferred to and vested in the Council without reservation to the Crown of the right to minerals mineral products or precious stones on or under such area of land and shall be registered by the Registrar of Deeds in the name of the Council in the Deeds Office of this Colony without payment of transfer duty stamp duty or registration charges; provided always that the area of land hereby transferred shall be held by the Council subject to the provisions of this Ordinance.

(2) All rights and obligations of the Lieutenant-Governor under and by virtue of the said resolutions and any grants made thereunder shall be vested in the Council on the date of the taking effect of this Ordinance but such rights and obligations and the rights acquired by the registered holders of stands under the said resolutions shall only continue in force subject to the provisions of this Ordinance.

Right of registered holder to obtain lease from the Council.

3. On the appointed day and at any time within a period of four years thereafter every registered holder of a stand shall be entitled on making application in writing to the Town Clerk to obtain from the Council at the price and subject to the conditions hereinafter mentioned in substitution for his existing interest in such stand a lease thereof for a term of eighty years reckoned from the appointed day or for the portion of such term remaining unexpired which lease shall be in the form set forth in the Second Schedule to this Ordinance.

The price to be paid to the Council for such lease shall be in the case of any stand which is situate at the corner of two streets fifty pounds (£50) and in the case of any stand which is not so situate forty pounds (£40) and such price shall be deemed to become payable on the appointed day but the Council may accept payment thereof in such instalments as it shall think fit at any time within the said period of four years and the amount for the time being unpaid shall bear interest as from the appointed day at the rate of six per cent. per annum.

Payments to be made to Council before lease is granted.

4. Before such a lease as aforesaid is granted by the Council in respect of any stand the applicant therefor shall be required to pay to the Council—

(a) The price of such lease as hereinbefore mentioned together with any interest due thereon;

(b) All arrear stand licenses monies in respect of such stand together with an additional sum of 5s. (five shillings) per month for every month or part of a month which has elapsed since the appointed day;

(c) All charges due to the Council for sanitary service and for the supply of water gas or electricity and for any other municipal service in respect of such stand and all rates imposed thereon;

but upon such payments being duly completed in respect of any stand at any time prior to the expiration of the period of four years hereinbefore referred to the Council

And whereas it is expedient that the freehold title of the Government of this Colony to the said stands should be transferred to the Municipal Council of Johannesburg but subject to certain conditions;

Be it enacted by the Lieutenant-Governor of the Transvaal with the advice and consent of the Legislative Council thereof as follows:—

1. In this Ordinance unless the context otherwise requires:—

- “council” means the Municipal Council of Johannesburg;
- “stand” means any stand within the area defined in the First Schedule to this Ordinance;
- “the said resolutions” means the resolutions referred to in the preamble to this Ordinance;
- “registered holder” means the person or persons for the time being registered as holding any stand subject to the terms of a grant made under any of the said resolutions;
- “appointed day” means the First day of January 1907 or such later day as the Lieutenant-Governor may appoint by Proclamation in the *Gazette*.

2.—(1) On the date of the taking effect of this Ordinance the freehold title in so much of the area of land defined in the First Schedule hereto (known as the township of Vrededorp) as is vested in the Crown except such portions thereof as are now occupied by the Crown for public purposes shall be transferred to and vested in the Council without reservation to the Crown of the right to minerals mineral products or precious stones on or under such area of land and shall be registered by the Registrar of Deeds in the name of the Council in the Deeds Office of this Colony without payment of transfer duty stamp duty or registration charges; provided always that the area of land hereby transferred shall be held by the Council subject to the provisions of this Ordinance.

(2) All rights and obligations of the Lieutenant-Governor under and by virtue of the said resolutions and any grants made thereunder shall be vested in the Council on the date of the taking effect of this Ordinance but such rights and obligations and the rights acquired by the registered holders of stands under the said resolutions shall only continue in force subject to the provisions of this Ordinance.

3. On the appointed day and at any time within a period of four years thereafter every registered holder of a stand shall be entitled on making application in writing to the Town Clerk to obtain from the Council at the price and subject to the conditions hereinafter mentioned in substitution for his existing interest in such stand a lease thereof for a term of eighty years reckoned from the appointed day or for the portion of such term remaining unexpired which lease shall be in the form set forth in the Second Schedule to this Ordinance.

The price to be paid to the Council for such lease shall be in the case of any stand which is situate at the corner of two streets fifty pounds (£50) and in the case of any stand which is not so situate forty pounds (£40) and such price shall be deemed to become payable on the appointed day but the Council may accept payment thereof in such instalments as it shall think fit at any time within the said period of four years and the amount for the time being unpaid shall bear interest as from the appointed day at the rate of six per cent. per annum.

4. Before such a lease as aforesaid is granted by the Council in respect of any stand the applicant therefor shall be required to pay to the Council—

- (a) The price of such lease as hereinbefore mentioned together with any interest due thereon;
- (b) All arrear stand licenses monies in respect of such stand together with an additional sum of 5s. (five shillings) per month for every month or part of a month which has elapsed since the appointed day;
- (c) All charges due to the Council for sanitary service and for the supply of water gas or electricity and for any other municipal service in respect of such stand and all rates imposed thereon;

but upon such payments being duly completed in respect of any stand at any time prior to the expiration of the period of four years hereinbefore referred to the Council

shall forthwith grant to the registered holder of such stand a lease thereof in the form aforesaid.

5. At the expiration of the said period of four years any registered holder of a stand who has failed to make application for a lease thereof in the form aforesaid or to complete the payments necessary for the purpose of obtaining such lease shall *ipso facto* forfeit to the Council all his right to and interest in such stand and shall forthwith quit the stand and remove therefrom all movable property belonging to him. No compensation shall be payable by the Council to any such holder for improvements effected upon such stand and he shall not be entitled to recover any sums paid on account of the price of such lease or the interest thereon.

Registered holder who fails to apply for lease or to complete payments within period specified to forfeit all rights.

6.—(1) Notwithstanding anything contained in the Transfer Duty Proclamation 1902 the Stamp Duties Amendment Proclamation 1902 the Deeds Proclamation 1902 the Registration of Mining Rights Proclamation 1902 or any amendment of such laws it shall not be necessary that a lease granted by the Council under this Ordinance be notarially executed nor shall the same be subject to transfer duty stamp duty or registration charges except in the case of a cession of such lease in which case such cession shall be executed in the form and subject to the duty and charges prescribed by law.

Registration of leases in Mining Rights Office which may be under hand and free of transfer duty or registration charges.

(2) The Registrar of Mining Rights shall open and keep special registers wherein all leases granted under this Ordinance and any transfers thereof shall be registered; provided always that no registration of any transfer of such lease shall take place unless there be produced to the registering officer a receipt or certificate signed by the Town Clerk or other person authorised by the Council showing that all rent and all charges for sanitary service and for the supply of water gas and electric energy and for any other municipal service due to the Council in respect of the stand leased together with all rates imposed thereon have been paid as well as the consent in writing of the Council to such transfer signed by the Mayor.

7. The Council shall not be entitled by virtue of anything contained in the said resolutions or any grants made thereunder to deprive any registered holder of his right to and interest in any stand prior to the expiration of the said period of four years except in the event of the license monies in respect of such stand being three months or more in arrear in which event such stand together with any building thereon may be declared forfeited to the Council.

Council not entitled to deprive registered holder of stand prior to expiration of said period unless license monies are three months in arrear. Power of Registrar of Mining Rights to pass transfers of Stands. Vrededorp not restricted.

8. Notwithstanding anything contained in the said resolutions or any grants made thereunder it shall be lawful for the Registrar of Mining Rights to pass transfer of any stand or portion thereof whether or not the persons to whom transfer is to be passed fall within the provisions of such resolutions or grants and any such transfers passed before the taking effect of this Ordinance to persons not falling within such provisions shall be deemed to have been lawfully passed.

9. This Ordinance may be cited for all purposes as the Vrededorp Stands Ordinance 1906 and shall not take effect unless and until the Governor shall proclaim in the *Gazette* that it is His Majesty's pleasure not to disallow the same and thereafter it shall come into operation upon such date as the Governor shall notify by Proclamation.

Title and date of taking effect.

Passed in Council the twelfth day of September, One thousand Nine hundred and Six.

E. M. O. CLOUGH,  
Clerk of the Council.

Authenticated under my Hand and the Public Seal of the Colony:—

RICHARD SOLOMON,  
Acting Lieutenant-Governor.

Pretoria,  
September 20, 1906.

Assented to:—  
SELBORNE,  
Governor.

Johannesburg,  
September 23, 1906.





4. Should the lessee at any time be six months or more in arrear with the payment of the aforesaid rent the Council shall be entitled by notice posted to the Lessee at his last known address and also delivered at or affixed to any building or erection on the said stand to demand payment of all rent due up to the date of such demand and failing payment of such arrears within three months after the date of such demand this lease shall *ipso facto* cease and determine without any further notice to the Lessee and the said stand and all the buildings thereon shall be forfeited to the Council.

5. This lease shall not be transferable to any coloured person and if registered in the name of any such person this lease shall *ipso facto* cease and determine.

6. The lessee shall not transfer this lease to any person except with the consent of the Council.

7. No intoxicating liquor shall be sold on the said stand except with the written consent of the Council signed by the Town Clerk and subject to the terms of such consent. Upon any breach of this condition the Council may forthwith by notice in writing given in the manner provided in Clause Four terminate this lease.

8. Neither the said stand nor any part thereof nor any building thereon shall be sub-let to any coloured person or Asiatic. Upon any breach of this condition the Council may forthwith by notice in writing given in the manner provided in Clause Four terminate this lease.

9. The Lessee shall not permit any coloured person or Asiatic other than the *bonâ fide* servant of some white person for the time being residing on the said stand to reside thereon or to occupy the same or any part thereof. If any coloured person or Asiatic other than such servant as aforesaid is at any time found residing on the said stand or occupying the same or any part thereof the Council may give notice to the Lessee in the manner provided in Clause Four requiring him to cause such person to cease to reside thereon or to occupy the same or any part thereof within a period of three weeks from the date of such notice and if at any time after the expiration of such period such person shall be found residing thereon or occupying the same or any part thereof the Council may forthwith by notice to the Lessee given in the manner aforesaid terminate this lease.

10. Upon the expiration or earlier termination of this lease all buildings on the said stand shall become the property of the Council and the Lessee shall not be entitled to receive any compensation therefor.

11. All Bye-Laws and Regulations for the time being in force in the Municipality of Johannesburg shall apply to the said Stand in the same manner as to any other stand within the Municipality.

Thus done at Johannesburg on the day month and year first above-written in the presence of the subscribing witnesses.

WITNESSES : On behalf of A. B

1. the Council.

2.

WITNESSES : Lessee C. D

1.

2.

Enclosure 2 in No. 33.

TRANSVAAL LEGISLATION.

REPORT.

No. 31 of 1906.)

(23rd September, 1906.

*Ordinance.*

This Ordinance which is entitled the Vrededorp Stands Ordinance 1906 passed its third reading in the Legislative Council on the 12th September and received the assent of the Governor on the 23rd September.

Inasmuch as the effect of a certain clause is to cast disability on coloured persons the Ordinance will not take effect until His Majesty's pleasure thereon has been signified.

Section *three* of the Ordinance enables the registered holder of the stands referred to in the Ordinance to obtain a lease for eighty years of such stands and the form of that lease is prescribed by the Ordinance. This lease the form of which was inserted at the special and repeated requests of the Johannesburg Town Council contains a clause—*five*—that it shall not be transferable to a coloured person. Hence the suspending clause of the Ordinance.

The reason for the enactment of the Ordinance is that the Government in 1904 on the recommendation of a certain Commission called the Crown Lands Commission undertook to transfer certain Government land in the Municipality of Johannesburg to the Town Council. Some of those lands were the subject of Ordinance No. 24 of 1905; the remainder were stands which had been allotted on certain conditions by the Government of the late Republic to indigent persons for the purposes of personal occupation. These conditions were contained in certain Executive Council Resolutions of the late Government in 1893, 1894, and 1896 which had been recognized by the present Government in 1903. It was considered advisable to safeguard to some extent the rights which these persons had acquired.

The Ordinance was referred to a Select Committee which heard evidence both on behalf of the Town Council and the stand holders. Though adopted by the Government the Ordinance contains practically the draft proposals of the Johannesburg Town Council.

I see no reason why His Majesty should exercise His right of disallowance.

H. F. BLAINE,  
Acting Attorney-General.

Attorney-General's Office,  
Pretoria, October 2, 1906.

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No. 34.

THE GOVERNOR to THE SECRETARY OF STATE.

(Received November 17, 1906.)

[Answered by No. 46.]

MY LORD,

Governor's Office, Johannesburg, October 29, 1906.

I HAVE the honour to acknowledge the receipt of your telegram, No. 1, of the 22nd October, 1906,\* requesting a full report on the provisions relating to coloured persons in the Vrededorp Stands Ordinance, lately passed by the Legislative Council of the Transvaal.

2. The great complexities of the Vrededorp question, which the present Ordinance is designed to settle, are the results of the somewhat loose methods of dealing with public land and also with poor relief which prevailed in this country under the administration of the late Republic.

3. When Johannesburg was surveyed as a township on the Government Farm Randjeslaagte, a certain area of land was purchased to the west of the township to be used for general purposes of a public nature, and, as will be seen from the map of Johannesburg annexed to this despatch, various portions were set apart for cemeteries, for municipal compounds, for the residence of Malays, and as a native location. Another portion immediately adjacent to the native and Malay locations was parcelled out by President Kruger in small stands for occupation by indigent Dutch families.

4. To begin with, the title granted was a mere squatter's right, which could be transmitted by the head of the family to his widow or direct issue only. Subsequently it was extended so far as to allow the owner to assign his rights to other

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\* No. 20.

† Not reproduced.

persons in the same position, that is to say, to other indigent burghers. These rights were always subject to expropriation at the will of the Government on payment to the squatter or standholder of the value of the buildings erected by him on the ground. President Kruger, in the face of considerable pressure, persistently refused to grant title in any form which was generally negotiable, on the ground that the class of persons whom it was desired to benefit would yield to the temptation to sell their land to speculators, quickly spend the price received, and then appeal once more to the charity of the State.

5. The tenure, however, specified in the titles granted, was so vague in terms as to make it difficult or impossible for anyone to know what was the exact nature and extent of the rights conferred. Whether a would-be purchaser came within the description of "Poor Burgher" or not was in practice very hard to decide. Apart from the difficulty of saying whether a man is or is not poor, the word "burgher" had lost its original significance, and the Registrar of Mining Rights was instructed by the present Government some years ago to grant transfer of the stands without undertaking to enquire whether the purchaser could be described as a "Poor Burgher." This, however, did not alter the obligation to occupy the property in person, by which, in terms of the title, the owner was still bound.

6. The vagueness of this title and the liability to ejection at any time on payment of the value of the buildings tended to discourage occupants of the ground from settling down and generally improving their mode of life. It was decided, therefore, on the advice of several Commissions, to make over to the Town Council such rights in the land as the Government still retained, and to enable the standholders to acquire by law a title similar to that granted in other parts of Johannesburg. A measure to effect these objects was framed, to which the Town Council and the occupants of Vrededorp both assented, after lengthy and difficult negotiations.

7. Under the Law of the Transvaal no Asiatic can acquire title to land, and as, under the terms of the tenure granted in Vrededorp by the Government of the late Republic, the owner of a stand is required to occupy his property, the occupation of a stand by an Asiatic would clearly be a violation of these terms. The restriction, therefore, which is embodied in the present Ordinance merely perpetuates the legal conditions which the Government found in existence in Vrededorp when the country was annexed to the British dominions.

8. But there are strong reasons for retaining this restriction on its own merits. The arrangement whereby a community of poor whites was placed in close juxtaposition with the Malay quarters and native locations was not in itself a happy one, but it would be much less so if these different elements of population were massed together. The practice of allowing Europeans, Asiatic, and native families to live side by side in mixed communities is fraught with many evils, and is, I am satisfied, injurious to the social well-being of all three. The policy of the Government, which aims at keeping the quarters in which the various races reside apart from one another, has my approval, and it is in pursuance of this policy that white persons are prohibited from residing in the bazaars assigned to Asiatics and in the native locations. It would have been impossible for the Government of the Transvaal to sustain this wholesome regulation, and at the same time to insist on throwing open for Asiatic occupation a township specially designed by the late Government as a workman's quarter for poor whites of Dutch nationality. The difficulty of such a course would have been all the greater seeing that the occupation by Asiatics of this quarter is not at present lawful, and that the whites themselves are not allowed to reside in the Malay and native quarters immediately adjacent. The poor whites resident in Vrededorp, who are for the most part Dutch, are strongly in favour of the provision maintaining this prohibition.

9. One of the reasons for passing this Ordinance lies in the fact that it has been found impossible in practice to insist on the residence of the owner, and a certain number of the stands have got into the hands of absentee landlords, in spite of the provision requiring personal occupation. If Asiatics were allowed to occupy these stands, for which they would no doubt be willing to pay considerable rents, the remainder of the stands still occupied by the poor Dutch families would greatly depreciate in value. A number of these titles have already changed hands on the

understanding that Asiatic occupation was not permissible in this area, and to alter that condition now would be to impose a great hardship on purchasers whose right to acquire these stands has already been admitted.

10. Apart from the question of depreciating the value of the stands, any action on the part of the Government which threw this quarter open to the entrance of Asiatics would be deeply resented by the present owners who, by reason of their poverty, are perhaps more sensitive on racial questions than any other class in this country. Such action would only tend to aggravate the racial feeling which it is the constant anxiety of this Government to allay. The policy of keeping the white and coloured races as far as possible apart in separate quarters is calculated to secure this object by minimising opportunities of friction between them.

11. The Ordinance confers substantial benefits on the poor Dutch families resident in Vrededorp, and will, I trust, receive His Majesty's approval.

I have, &c.,  
SELBORNE,  
Governor.

No. 35.

THE GOVERNOR to THE SECRETARY OF STATE.

(Received 1.40 p.m., November 17, 1906.)

TELEGRAM.

November 17. No. 1. Referring to my telegram of 16th November, No. 1,\* I am requested to forward following message to you:—

The Chambers of Commerce and Trade of Johannesburg, Pretoria, Barberton, Boksburg, Germiston, Heidelberg, Klerksdorp, Middelburg, Potchefstroom, Randfontein, Roodepoort, Zeerust, and Zoutpansberg desire to respectfully urge on His Majesty's Government that it is extremely desirable that Ordinance dealing with Asiatics which has passed Transvaal Legislature should be brought into operation at the earliest possible date, and it is earnestly hoped that His Majesty the King will not be advised to disallow proposed law.

—SELBORNE.

No. 36.

THE GOVERNOR to THE SECRETARY OF STATE.

(Received 4.15 p.m., November 19, 1906.)

TELEGRAM.

November 19. No. 2. Referring to my telegram, 13th November, No. 1,† similar Resolutions passed by Councils of Middelburg, Belfast, Nylstroom, Schweizer-Reneke, and Krügersdorp.—SELBORNE.

No. 37.

THE GOVERNOR to THE SECRETARY OF STATE.

(Received 1.50 p.m., November 21, 1906.)

TELEGRAM.

November 21. No. 1. I am requested by Chairman British Indian Association to transmit following message to you:—

British Indians, Transvaal amazed report certain Indians cable adversely. Searching inquiries made reveal same emanates from one Dr. William Godfrey who seconded, supported, Resolution passed at mass meeting

\* No. 32.

† No. 31.

British Indians September which appointed deputation. He subsequently threatened such action to gratify personal animus. Are in possession of sworn declarations he obtained signatures to blank paper by false representations. Signatures now withdrawn. Entire Indian community indignantly repudiates and denounces Dr. Godfrey's proceedings. Request fullest investigation.

It appears that there are two sections among British Indians in the Transvaal, one of which is represented by Gandhi and Ally, while the other denies that these two gentlemen have any mandate to represent them. I am unable to determine relative strength of two sections.—SELBORNE.

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No. 38.

THE GOVERNOR to THE SECRETARY OF STATE.

(Received 12.35 p.m., November 22, 1906.)

TELEGRAM.

November 22. No. 1. Referring to my telegram of 19th November, No. 2,\* similar Resolutions passed by Town Councils of Volksrust and Bethel.—SELBORNE.

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No. 39.

THE SECRETARY OF STATE to THE GOVERNOR.

(Sent 3.45 p.m., November 27, 1906.)

TELEGRAM.

November 27. No. 2. Asiatic Ordinance. I explained to the British Indian deputation whom I received on 8th November that the proposals made to me were certainly not intended to prejudice the position of British Indians legally qualified for residence and that I gave my assent to the introduction of legislation distinctly because I anticipated that in the long run the modifications of the law would be for the benefit of the British Indian community. I gave no indication as to what my decision in the matter would be.

I feel, however, that I cannot without further consideration advise His Majesty that the Ordinance should be brought into operation and that this makes it impossible to comply with the provisions of Section 4 (1) on the date named therein. I shall therefore announce that in meantime it will not be further proceeded with.

A despatch† follows by next mail.—ELGIN.

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No. 40.

THE GOVERNOR to THE SECRETARY OF STATE.

(Received 5.5 p.m., November 28, 1906.)

TELEGRAM.

November 28. No. 2. Following facts will be of interest to you as illustrating dangers to which present system of issuing permits to Indians to enter Transvaal leads. On 10th November Indian named Dahtabhai offered sergeant inspecting permits at Komatipoort £2 for each Indian he would allow enter Transvaal without permit. Dahtabhai stated £100 to £150 per month could be made in this way and that another sergeant was collecting large sums by bribery through similar procedure at Volksrust. Subsequently he introduced two Indians, Karsam and Dallap, who were in possession of permits issued to other persons, and handed the sergeant £4 to pass them. The Indians were thereupon arrested and tried at Barberton last week, Dahtabhai sentenced £50 fine or six months' hard labour; Karsam and Dallap

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\* No. 36.

† No. 41.

£30 each or three months. Dahtabhai, who is a permit agent, has paid his own fine and is arranging payment other Indian fines.—SELBORNE.

No. 41.

THE SECRETARY OF STATE TO THE GOVERNOR.

[Answered by No. 47.]

MY LORD,

Downing Street, November 29, 1906.

I HAVE the honour to acknowledge the receipt of your despatch of the 8th of October,\* submitting, for the signification of His Majesty's pleasure, Ordinance No. 29 of 1906 of the Legislature of the Transvaal entitled "An Ordinance to amend Law No. 3 of 1885."

2. I have received a full and lucid expression of your views upon the question of the position of Asiatics in the Transvaal in your despatches of the 21st of May,† and the 24th of September,‡ and the presence of Sir Richard Solomon in this country has afforded me an opportunity of obtaining further advice in the matter from one who enjoys your confidence and shares your responsibility for the policy which has been pursued by the Transvaal Government and which is embodied in this Ordinance.

3. In your despatch of the 21st of May,† you submitted the drafts of two Ordinances which you proposed, subject to my concurrence, to introduce into the Legislative Council; and you requested me to communicate my decision to you by telegraph. The view which I then took of the question was clearly indicated in my telegram, No. 1, of the 4th of July.§ It was impossible for me to regard the proposals embodied in the draft Ordinances submitted to me as, in themselves, affording an adequate measure of relief from the disabilities to which British Indians are subject in the Transvaal. It was clear to me that they fell far short of the reforms which Her late Majesty's Government repeatedly pressed upon the Government of the late South African Republic, and that they did not contain more than an instalment of the measures of relief which had been advocated by my predecessor. I was, however, fully alive to the considerations which you urged as to the state of local feeling in the Colony and the inexpediency of forcing through in the last session of the existing legislature and by means of the official majority, a measure which would be condemned by the public opinion of the Transvaal. I, therefore, accepted your proposals on the understanding that they would improve the position of the British Indians now resident in the Transvaal, not, indeed, to the extent which I could have desired, but in an appreciable degree; and I was content to hope that the future responsible government of the Colony would, of its own free will, ultimately carry the same policy a stage further.

4. But at the present time the position is by no means so simple as it was when I approved your original proposals. The two draft Ordinances which you submitted have been replaced by a single Ordinance; their provisions have been entirely re-drafted, and, in regard to some points, at any rate, the alterations affect the substance as well as the form. I have never for a moment doubted that your own intentions, and the intentions of your advisers, have been to improve, by means of this legislation, the position of British Indians in the Colony, and I was at pains to impress this fact upon the members of the deputation which waited upon me on the 8th instant.|| But I am bound to give a careful and sympathetic consideration to the representations of those whom it has been my object to benefit. Messrs. Gandhi and Ally have come to this country as the representatives of the British Indian Association, and though I have been informed that the British Indian community in the Transvaal does not accept them with complete unanimity as its spokesmen, I must, in the absence of stronger evidence to the contrary, regard them as really representative of the majority of their compatriots. They have protested against the Ordinance, not on the ground that it affords inadequate relief, but on the ground that it actually aggravates the disabilities from which they at present

\* No. 21.

† No. 3.

‡ No. 16.

§ No. 5.

| See No. 30.

suffer; and they have urged that the retention unamended of the provisions of Law No. 3 of 1885 would be preferable to the allowance of the new Ordinance.

5. It is, of course, possible that the British Indians have formed a mistaken view of their own interests in opposing this Ordinance, but it is not easy for me to urge them to accept as advantageous a measure which they repudiate as detrimental to their interests. The gist of their contentions you will be able to gather from the printed memorandum\* which they have communicated to me, and from the report† of my reception of the deputation on the 8th instant, copies of which I enclose herewith.

6. In paragraph 4 above I have referred to the differences between the drafts originally submitted by you and the Ordinance as ultimately passed by the Legislative Council. The most important difference is that the registration of Asiatics, which under your original proposals would have remained optional, is made compulsory and enforceable by severe penalties under the Ordinance. Another provision in the Ordinance which appears to me to be open to criticism is that which empowers a Resident Magistrate to issue an order requiring an Asiatic who has failed to satisfy him that he is lawfully resident in the Transvaal to leave the Colony within a time to be specified in the order. I am disposed to think that a right of appeal to the Supreme Court from such an order should have been given. I am advised that, under the existing law, no such right of appeal would exist, and I am not satisfied that a Resident Magistrate ought to be entrusted with the power of final determination of a matter of such importance.

7. I have received from you a number of telegrams reporting resolutions which have been passed by various municipalities and other bodies in the Transvaal in favour of the Ordinance. I have not failed to attach due weight to these expressions of the opinion of the white community in the Transvaal, and I fully understand your desire that the matter should not be left in suspense longer than is necessary. But in a question of such importance and difficulty a hasty decision is impossible, and I must, therefore, ask you carefully to consider this despatch and to favour me with a further expression of your own opinion upon the question, in view of the strong, and, as I gather, somewhat unexpected, opposition with which the Ordinance has been met by the majority of the Indian community.

8. I recognise that it follows that the decision on this Ordinance must be postponed until it is too late to bring into operation the provisions of Section 4 (1) on the date named therein. Under these circumstances, and in view of the near approach of the establishment of responsible government, I think it expedient to announce at once that it is not proposed, in the meantime, to proceed further with this measure.

I have, &c.,  
ELGIN.

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No. 42.

THE GOVERNOR to THE SECRETARY OF STATE.

(Received 1.7 p.m., November 30, 1906.)

TELEGRAM.

November 30. No. 1. Referring to my telegram of 22nd November, No. 1,‡ similar resolutions passed by Town Councils of Pretoria, Boksburg, and Barberton.  
—SELBORNE.

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No. 43.

THE GOVERNOR to THE SECRETARY OF STATE.

(Received 3.23 p.m., December 1, 1906.)

TELEGRAM.

December 1. No. 3. Referring to my telegram 30th November, No. 1,§ similar

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\* No. 24.

† No. 30.

‡ No. 38.

§ No. 42.

resolutions passed by Town Councils of Vereeniging and Roodepoort, Maraisburg.—SELBORNE.

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No. 44.

THE GOVERNOR to THE SECRETARY OF STATE.

(Received 8.50 p.m., December 4, 1906.)

TELEGRAM.

December 4. No. 1. British Indian Association ask me to communicate following message to you, and to Secretary of State for India:—

British Indians Transvaal most gratefully thankful to His Majesty's Government for declining advise His Majesty to sanction provisions Asiatic Law Amendment Ordinance.—SELBORNE.

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No. 45.

THE GOVERNOR to THE SECRETARY OF STATE.

(Received 6.50 p.m., December 10, 1906.)

TELEGRAM.

December 10. No. 6. Referring to my telegram of 1st December, No. 3,\* similar Resolution passed by Town Council of Pietersburg.—SELBORNE.

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No. 46.

THE SECRETARY OF STATE to THE GOVERNOR.

MY LORD,

Downing Street, December 21, 1906.

I HAVE the honour to acknowledge the receipt of your despatch of the 29th of October,† in which you report fully upon the provisions of the Vrededorp Stands Ordinance, as affecting the rights of coloured persons.

2. The considerations which you urge appear to me to afford a sufficient justification of the Ordinance in the special circumstances existing at Vrededorp, and I have therefore to request you to inform the British Indian Association, whose petition protesting against the Ordinance you forwarded in your despatch of the 8th of October‡ that I have considered their representations, but that I am not prepared to give effect to their wishes.

3. I have accordingly to inform you that His Majesty will not be advised to exercise his powers of disallowance in respect of Ordinance No. 31 of 1906 of the Legislature of the Transvaal, entitled "An Ordinance to transfer certain Stands in the Township of Vrededorp to the Council of the Municipality of Johannesburg on certain conditions," a transcript of which accompanied your despatch of the 29th of October.§

4. I desire, however, to add, with reference to paragraph 7 of your despatch of 29th October, that I cannot allow it to be supposed that the perpetuation of the

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\* No. 43.

† No. 34.

‡ No. 22.

§ No. 33.



restriction of the existing law which prevents British Indians from holding land is acquiesced in by me, for I share the view expressed by my predecessor in his despatch of 20th July, 1904,\* that, besides being permitted to own land in the locations set apart for Asiatics, British Indians who are entitled to reside outside locations should have the right to acquire property in the premises which they occupy for business purposes.

I have, &c.,  
ELGIN.

No. 47.

THE GOVERNOR to THE SECRETARY OF STATE.

(Received February 2, 1907.)

MY LORD,

Governor's Office, Johannesburg, January 14, 1907.

I HAVE the honour to acknowledge the receipt of your Lordship's despatch of the 29th November last† on the subject of the Ordinance passed by the Legislature of the Transvaal during its last session, entitled, "An Ordinance to amend Law No. 3 of 1885."

2. I regret very much the decision to which His Majesty's Government has come in regard to this Ordinance, for two reasons in particular:—

(1) Because it was intended to carry out definite pledges which I have more than once publicly given (as I understood with your concurrence) that the Government would maintain, as regards Asiatic immigration, the condition existing prior to the war, pending the establishment of Responsible Government;

(2) Because I am very apprehensive of the results which may arise when the new Legislature deals with the question, as it will be driven very shortly to do.

3. I did not conceal from myself the likelihood of an agitation on the part of the British Indians against this Ordinance, and you may be assured that I would not have allowed legislation to be introduced on a subject on which His Majesty's Government has such intimate and delicate responsibilities had I not been convinced that without such an amendment of the law I could not give effect to the pledges which I had given and which I believed to be in accordance with the policy of His Majesty's Government. In particular, I should not have allowed the introduction of such an Ordinance if I had not supposed that I had your approval for so doing or if I had supposed that its introduction would lead to what has actually occurred, viz., a reversal by His Majesty's Government, at the instance of the British Indians here, of a policy which is regarded almost unanimously by the European community as being vital to the best interests of the Colony.

4. In paragraph 6 of your despatch‡ you call attention to difference between the draft originally submitted by me and the Ordinance as ultimately passed, the most important of which you state to be that the registration of Asiatics, which, under my original proposals, would have remained optional, is made compulsory and enforceable by severe penalties under the Ordinance. It is true that the original draft did not provide for the registration of all Asiatics, but in my telegram, No. 2, of the 18th July last,† I pointed out that, in view of certain doubts raised as to the interpretation of Law 3 of 1885 by a decision in the Supreme Court, I proposed to provide for the free registration of all Asiatics domiciled in the country, and this proposal was approved by your telegram, No. 2, of the 26th July.§ I concluded, therefore, that I had your approval to depart to this extent from the draft which had been sent to you.

5. In the same paragraph of your despatch you take exception to the provision in the Ordinance which empowers a Resident Magistrate to issue an order requiring an Asiatic who has failed to satisfy him that he is lawfully resident in

\* No. 4 in [C.d. 2239].

† No. 41.

‡ No. 7.

§ No. 8.

the Transvaal to leave the Colony within a time to be specified in the order on the ground that a right of appeal should be given to the Supreme Court from such an order, and that a Resident Magistrate ought not to be entrusted with the power of final determination of a matter of such importance. It is true that the provisions of the Ordinance give no such right of appeal, and it was not contemplated that there should be such a right. The power conferred upon the Magistrate in this respect by the Ordinance is practically the same as he now exercises under Section 6 of the Peace Preservation Ordinance, 1903, from which according to a judgment of the Supreme Court, no appeal lies. I am not aware that any injustice has resulted from the exercise by Magistrates of this power. The point at issue is a simple one, involving no question of disputed law or of complicated facts, and I do not think it necessary or desirable that a right of appeal should be given. The law could not be administered successfully unless the action which it prescribes in the case of an Asiatic who is found to be unlawfully residing in the Colony can be promptly carried out. An appeal would be taken practically in every case in order to defeat the object of the prosecution, and experience has shown how difficult it is when once an Asiatic has entered the country to find him again.

6. These are the only two points of detail to which you call attention in your despatch as being open to objection. In regard to the general provisions of the Ordinance and the objections which have been raised to it I have already explained my views at length. I propose at present only to touch upon two points on which great stress was laid by the deputation which waited upon you on behalf of the British Indians here. The first is that the Ordinance is not really necessary, that there is no considerable immigration of Asiatics into the Transvaal, and that the existing provisions of the Peace Preservation Ordinance and Law 3 of 1885 are sufficient to enable the Government to restrict immigration and to maintain the *status quo*. The second point is that the Ordinance imposes harsh and degrading conditions upon the Asiatic population who were settled here before the war. Having dealt with these points I propose to touch upon the general question of the position of Asiatics who were here before the war and of the attitude of the European population of the Colony towards these Asiatics and towards the question of Asiatic immigration.

7. On the question of the extent to which immigration is going on, the opinion of those whose experience of the state of the country goes back to before the war is unanimously against that expressed by the deputation, and it is confirmed by the experience of those officials who have had to deal with the immigration and registration of Asiatics since the war. I cannot doubt, from facts which have come to my personal knowledge, that immigration is going on to a considerable extent. There are actual records of immigration of Asiatics who were not here before the war to an extent which is considerable when regard is had to the numbers of the European population, and I am satisfied that many Asiatics come in without the requisite permits of whose entry no record exists.

8. On the question of the inadequacy of the existing law to control immigration there can be no doubt. Even a layman has only to read Law 3 of 1885 to see that it is little more than a vaguely drafted expression of policy providing no machinery by which the Government could detect and prevent non-compliance with its provisions. As regards the Peace Preservation Ordinance, the deputation stated to you (and it is true) that the British Indians only consent to give their finger impressions on permits as an act of grace and not because they could be required to do so by the law. With a population, such as that in question, most of whom are entirely illiterate, the only effective means of identifying a particular permit with the person to whom it was issued is by the finger print system. One need not be a lawyer to know, even without the actual experience which the Government has had of attempting to administer these laws, that a system of registration which does not even give any power of requiring production of the certificate of registration, combined with a permit system which provides no means of identifying the permit with the person to whom it is issued, are quite useless for the purpose of controlling the immigration of Asiatics. Mr. Gandhi must know better than most people that there is an extensive traffic in permits and registration certificates, and he has had unique experience of the ease with which the Courts can be moved (and

rightly so while the law remains as it is) to upset any administrative action which is intended to carry out an effective control over immigration.

9. The second point on which I propose to touch is that the Ordinance imposes harsh and degrading conditions on the Asiatic population who were settled here before the war.

10. On that point I adhere to the opinion which I have already expressed that this aspect of the question has been grossly exaggerated. The provision requiring Asiatics to give their finger impressions is chiefly relied on by the opponents of the Ordinance, and in regard to that I would only repeat that in the case of a population most of whom are entirely illiterate and cannot comply with the ordinary means of identifying themselves with particular documents I can see no objection whatever to their being required to give their finger impressions. As an instance of the extent to which the nature of the Ordinance is misrepresented, I would invite your attention to the remarks of Sir Lepel Griffin, as printed on page 2\* of the report of the interview which you accorded to the deputation. He is reported as having said that "every Indian in the Transvaal, whether an adult male, whether a woman, or whether a child, or even a baby in arms, will be obliged to be registered under such conditions as only ordinarily apply to convicts in a civilised country." It is to statements such as this that I refer when complaining of the gross misrepresentation of the provisions of the Ordinance. If Sir Lepel Griffin had read the Ordinance he would have seen that women are expressly and altogether exempted from its provisions and that registration is not compulsory on youths under the age of sixteen.

11. On the question of the position of Asiatics who were settled in the Colony before the war the deputation contended that the Ordinance provided no substantial amelioration of the disabilities of which they complain. I do not claim that their position would have been substantially improved by the minor amendments of the law to which they refer. These amendments were in themselves desirable and the opportunity was taken to give effect to them. But I claim that the policy on which the Ordinance was based would have resulted in a permanent and substantial improvement in the position of these Asiatics by definitely recognising their rights in respect of residence in the Colony and by allaying to a great extent the dread which is entertained by the European community of a large increase in the Asiatic population.

12. The strong prejudice which exists here against any removal of existing restrictions on the residence and trading of Asiatics rests largely on the fears which are almost universally entertained of extensive Asiatic immigration which the community feels itself powerless to control. If these fears were removed and the people felt that they have the means of protecting themselves from Asiatic immigration on a large scale, I consider that public opinion would be much more willing to recognise the claims of those Asiatics who have settled in the country. Until that is accomplished, I see no grounds for hoping for a more favourable attitude on the part of the European community to any proposal for removing any of the disabilities of which the Asiatics now complain.

13. Much as I regret such an attitude on the part of the European colonists against the subjects of His Majesty's Indian Empire, I am bound to ask His Majesty's Government not to dismiss it as mere unreasoning prejudice without careful consideration of the conditions from which it arises.

14. Every patriotic South African looks forward to the establishment of a large and vigorous European population here. It is indeed the object with which all his hopes for the future of the country are bound up. Recognising, as he must, the existence of a large native population and its natural development, he yet sees ample room for the growth of a European population in the extension of agriculture, industries, and trade. The immigration of an Asiatic population on a large scale he regards as a menace to the realisation of this ideal. He sees already in Natal a picture which impresses even the casual observer of the rapidity with which the Asiatic is filling a place in trade, and now even in agriculture, which otherwise would have afforded scope for a growing European population. He sees the same process at work in the Transvaal, more slowly at present, but capable, as

he believes, of rapid acceleration. He is quite willing to recognise the claims which British Indians naturally have on His Majesty's Government, but he protests against, and is prepared to resist, those claims when they involve the peopling of his country which he believes to be fitted to be the home of a strong European nation with a people who can never be anything to him but an alien race. Moreover, as is natural in an undeveloped country, he feels that every accession to the alien population, which represents to him the negation of his hopes for the future of his country, is irrevocable and accelerates the progress of the evil.

15. I fully realise the heavy responsibility which rests on His Majesty's Government in respect of any restrictions or disabilities which are imposed on subjects of His Majesty's Indian Empire. It is my duty, however, to put before them as clearly as I can the feelings of the people of the Transvaal in regard to a question which most vitally affects the future of the Colony and to beg that the most earnest consideration of His Majesty's Government may be given to those feelings and to the conditions which give rise to them.

16. The question of how (if at all) Asiatic immigration is to be limited is one which will have to be dealt with by the Responsible Government. It is not touched by the Ordinance now under consideration. That Ordinance was intended to enable the Government to maintain, as far as possible, in regard to the numbers of the Asiatic population, the condition existing before the war, pending a settlement of the larger question of immigration. I am confident that without some such amendment of the existing law the *status quo* cannot be maintained and that I cannot make good the pledges which I have given on that point.

17. For that reason and because I am still of opinion that the Ordinance is not unnecessarily harassing or in any sense degrading to those Asiatics who are lawfully resident here I regret the decision of His Majesty's Government.

I have, &c.,  
SELBORNE,  
Governor.

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## APPENDIX.

## EXTRACT FROM TRANSVAAL LAW REPORTS SUPREME COURT.

## AMOD'S EXECUTOR V. REGISTRAR OF DEEDS AND EX PARTE AMOD'S EXECUTOR.

1906. March 12. INNES, C.J., and SMITH and MASON, J.J.

*Land.—Registration.—Asiatic.—Successor in title.—Law 3 of 1885, sec. 2.—Administration of estates.—Executor.—Lease.*

Sec. 2 of Law 3 of 1885, which took effect on the 17th June, 1885, provided that Asiatics should not be owners of fixed property, such provision not to have a retrospective effect. Before the date of promulgation an Asiatic purchased land but did not obtain transfer till the 26th June, 1885. He died in 1887 and bequeathed the property to his son and his brother. The executor applied for an order directing the Registrar of Deeds to pass transfer to the legatees. He also asked by separate application for authority to lease the property for twenty-one years. *Held*, that, assuming the testator to have acquired the property prior to the passing of the above law (a point not decided), it could not be transferred to the legatees as they were Asiatics and as such disqualified from owning fixed property; *Held*, further, that an executor has no authority to lease property in an estate and the Court cannot empower him to do so.

Appeal from a decision of FAWKES, J., in Chambers and an original application heard together.

In the court below the applicant applied to compel the Registrar of Deeds to register erf 373, Pretoria, in the names of two Asiatics, the son and the brother of the late Aboobaker Amod. The latter had purchased the property in October, 1884, but on the date on which Law 3 of 1885 came into force he had not yet obtained transfer. Subsequently to the taking effect of that law the erf was registered in his name on the 26th June, 1885. He died in 1887, leaving the ground to his son and his brother. The Registrar of Deeds refused to register on the grounds that the original transfer to the testator, having been made after the law took effect, was null and void, and that in any case the legatees were Asiatics and could not own fixed property. FAWKES, J., upheld this contention and the applicant appealed. While the appeal was pending the executor filed a further application for authority to lease the property in question for twenty-one years and for an order authorising the Registrar to register such lease against title. The lease was most beneficial to the heirs and they concurred in it. The Registrar opposed on the first of the two grounds put forward by him above, and on the further ground that an executor had no power to grant leases. The two matters were heard together.

*Leonard, K.C.* (with him *Gregorowski*) for the appellant: The transfer to the testator was before the Registrar of Deeds in 1885, before the law came into force; the Government authorised him to pass transfer and the transfer to Amod should be treated as a case where property was acquired before the law. In such a case the law has not retrospective effect. The grant was to Amod and his heirs. The property keeps its hereditary quality and it was never intended by the legislature that in a case like the present the testator's heirs cannot own. As to the lease the Court has the power to authorise it. It will be for the benefit of the heirs, they consent and there can be no object in winding up an estate in such circumstances. The Court can extend the time for lodging the account indefinitely.

*Barber*, for the respondent: The testator did not acquire this property before the law, and therefore the proviso as to retrospective effect does not apply. Even if he did so acquire it, transfer cannot be passed to Asiatics who are personally disqualified. In regard to the lease, the Court cannot empower an executor to do what according to law he has no authority to do. An executor cannot grant a lease; see *Ex parte Eckard* ([1902] T.S. 169); *Ex parte Prinsloo* ([1903] T.S. 17).

*Leonard, K.C.*, replied.

INNES, C.J.: The first matter comes before us from chambers, where an application was made for an order directing the Registrar of Deeds to pass transfer of certain property from the name of a testator into the names of two heirs. The learned judge refused the order, and against his decision an appeal is brought.

Law 3 of 1885, sec. 2 (b), enacts that no Asiatic shall be "capable of being the owner of fixed property in the Republic." The section then goes on to say that "this provision shall not be retrospective." The meaning of those words is that an Asiatic who had acquired property before the promulgation of Law 3 of 1885 should be entitled to hold that property as if the law had not been passed. I think that is clearly the effect of the proviso, and we cannot extend its scope beyond the words used. It is contended that the testator Amod did own the property in question before the law came into force. In the view which I take of this case it is not necessary to decide that point. But to say the least, it is open to grave doubt. The registrar of Deeds says there was no registration in Amod's name till 26th June, the law having been promulgated on the 17th. The Government had directed the issue of the title, and the deeds had been signed and were lodged in the office on the 12th June, but they were not actually registered. Therefore it is, to say the least, extremely doubtful whether the late Aboobaker Amod ever was the owner of this property before the promulgation of Law 3 of 1885.

But assuming that he was, that fact would entitle Amod to hold the property himself, but not to confer upon another Asiatic the right of holding it. He could not legally have either sold or given it to those who are now his heirs. The two heirs are unfortunately Asiatics, and they come under the provisions of the law. They do not enjoy the protection which Amod enjoyed, and they therefore cannot claim to become registered owners of his property. For this simple reason I think that the learned judge was right in refusing the order, and that the appeal from his decision must be dismissed.

Then as to the second matter. That is an application for an order authorising a lease of this property for twenty-one years. The heirs thinking they had a right to do so, agreed to let the property to a European at a considerable rent for twenty-one years, the lessees undertaking to erect upon the land a building of the value of £14,000. That arrangement would be exceedingly advantageous to the heirs. And if the Court finds itself unable to sanction the registration of such a lease, it can only come to that conclusion with the greatest regret. It is an extremely hard case; I cannot imagine, a harder one. The property is still registered in the name of the deceased, who was himself exempted during his lifetime from the disqualification of the law. It is held for the benefit of the heirs. In their interest it is proposed to conclude a very advantageous lease; and yet, in my opinion, the Court is precluded by law from granting the order which they desire. What is that order? They ask that the executor should be authorised to enter into a lease, as the heirs cannot do it themselves, for the term of twenty-one years. The Court has over and over again laid down the principle (and it is one of importance in connection with the administration of estates) that the duty of executors is to reduce the property into possession, to clear it of its incumbrances, to make it fit for enjoyment by the heirs, and then to hand it over to the heirs. The executor in the present instance is quite willing to hand the property over to the heirs. If they were not disqualified under Law 3 of 1885 he would at once hand it over to them. But because the heirs are disqualified from receiving or holding it, and cannot lease it themselves, we are asked to set aside all our practice with regard to the administration of estates, and to disregard our previous decisions, in order to evade the law, and so enable these two Asiatics to enjoy the benefits of the property. I think we should be setting a very bad precedent if, for the purpose of allowing these persons to enjoy indirectly the benefits of this property—which, directly, the law forbids them to enjoy—we authorised the executor to do what we have repeatedly said executors ought not to do, that is, lease this property for a long period.

True the will gave the executor a certain discretion, but it is not asked that he may keep the estate open in order to exercise that discretion in the interests of the estate. He has finished with the estate; he is quite willing to hand it over to the heirs. We are really asked to allow him to keep it open for the purposes of the lease, contrary to the settled practice of the Court. Hard case though this may be, we cannot establish such a precedent. And therefore I have come reluctantly to the conclusion that we cannot grant the application. If the property was not registered in the name of the original testator before the promulgation of the law—and I pointed out that there is considerable doubt that it was—then the second application becomes hopeless. But I will not decide it upon those grounds. I will decide it upon the other grounds I have endeavoured to explain. I think we must refuse the application.

SMITH, J.; I am of the same opinion. I am afraid this Court cannot give redress. It is only the legislature which can do so in a case of this kind.

MASON, J., concurred.

Applicant's Attorney: *P. Lapin*; Respondent's Attorneys: *Findlay, McRobert & Niemeyer*.

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**EAST AFRICA PROTECTORATE.**

**CORRESPONDENCE**

RELATING TO THE

**FLOGGING OF NATIVES BY CERTAIN  
EUROPEANS AT NAIROBI.**

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Presented to both Houses of Parliament by Command of His Majesty.  
July, 1907.

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EAST AFRICA PROTECTORATE.

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CORRESPONDENCE

RELATING TO THE

FLOGGING OF NATIVES BY CERTAIN  
EUROPEANS AT NAIROBI.

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No. 1.

"DAILY MAIL," MARCH 15, 1907.

NATIVE PERIL IN EAST AFRICA.

RIFLES SERVED OUT TO THE WHITES AT NAIROBI.

(From Our Own Correspondent.)

Nairobi, Thursday, March 14.

In consequence of their having insulted white women and gone unpunished by the authorities, three negroes have been publicly flogged in front of Nairobi Court House, in the presence of a large crowd, by Captain Grogan, president of the Colonists' Association.

(From Our Own Correspondent.)

Mombasa, Thursday, March 14.

Owing to sudden unrest among the natives at Nairobi, the citizens have demanded ammunition and rifles. The Acting Commissioner has agreed to issue them, and has appointed a defence committee.

The climax has been reached, it is considered, owing to the Government's refusal to appoint white police some time ago.

Nairobi has a population of about 8,000, of whom 600 are Europeans and Eurasians. The East Africa Protectorate has a total population of 4,000,000, of whom only 2,000 are European or Eurasian.

White police are to be introduced in Nairobi on April 1, but the Colonists have been agitating for their immediate appointment for some months past.

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No. 2.

THE SECRETARY OF STATE to THE ACTING COMMISSIONER.

(Sent 1.15 p.m., March 15, 1907.)

TELEGRAM.

[Answered by No. 3.]

March 15. According to telegrams from Nairobi appearing in "Daily Mail," three negroes, not having been punished by authorities for insult to white women,

have been flogged by Grogan in front of Court House, and defence committee has been formed and you have agreed to issue arms to settlers. .

Report fully on matter by telegram.—ELGIN.

No. 3.

THE ACTING COMMISSIONER to THE SECRETARY OF STATE.

(Received 5.25 p.m., March 16, 1907.)

TELEGRAM.

[Answered by No. 4.]

No. 36. With reference to your telegram of March 15,\* there is absolutely no foundation for report of native rising.

On Thursday morning Grogan, Russell, Bowker, and another flogged three Kikuyu natives in front of the Court House, having collected upwards of 100 Europeans, of whom many were armed, as supporters and witnesses. They disregarded attempted intervention by European police officer and magistrate. Natives were alleged to have insulted two European ladies whom they were pulling in rickshaw. Details very vague, but insult was apparently not of a serious nature, and at most did not amount to more than rudeness and disobedience. Culprits were not taken to the police, but were taken down to the town and treated as arrested. Flogging was carried out in a most brutal manner. Majority of spectators were led by ringleaders to believe that the insults offered to the ladies had been of a gross nature.

Immediately after the flogging Grogan and a so-called committee of about 30 persons made their way to my office and formally gave me his version of the occurrence, of which I was previously in complete ignorance, and asserted that Europeans of Nairobi were much alarmed at the prospect of a native rising, and that their excitement could be allayed only by means of self-protection being given to them by the Government.

In order to calm these excited and hysterical people and avert what might have led to a serious fracas in the town, I consented to a loan of ammunition being made on certain conditions to persons whose isolated position rendered them in their own opinion insecure. At the same time I pointed out that the Government did not share their apprehension, and was, in fact, convinced that there was no foundation for the idea of a native rising. I have published a Notice to the effect in today's "Gazette." Up to the present only one man has applied for any ammunition.

I regard the whole incident as deliberately engineered and planned by Grogan, Burn, Fichat, Low and others with a view to bringing the Administration, and more particularly the Judicial and Police Departments, into contempt, and I consider the matter serious in view of the fact that all our available forces are native and cannot be used against this gang of European lawbreakers. I would urge the immediate appointment of the European police force asked for in the Estimates if sanction has been given.

I have made careful enquiries and am convinced that there is absolutely no feeling of unrest among the natives. They are perfectly quiet at present. Whether they will remain so if incidents like that of Thursday are repeated is another matter, but personally I am of opinion that it would take a great deal to rouse them.—  
JACKSON.

No. 4.

THE SECRETARY OF STATE to THE ACTING COMMISSIONER.

(Sent 6.40 p.m., March 18, 1907.)

TELEGRAM.

March 18. I have received the news contained in your telegram, No. 36,\* with regret. I presume that legal proceedings have been taken against ringleaders.

A reduction from thirty to twenty has been made in the strength of the European Police Force in the Estimates. Twenty may be appointed at once.

Will the force which you will then have be sufficient to bring the ringleaders to justice?—ELGIN.

No. 5.

THE ACTING COMMISSIONER to THE SECRETARY OF STATE.

(Received at 8.20 p.m., March 19, 1907.)

TELEGRAM.

No. 39. I hope to be able to engage twenty constables as sanctioned in your telegram of to-day.†

Summonses have been issued against Grogan, Bowker, Bennett, Fichat, Burn, Low, and others for holding an unlawful meeting, and Grogan and Bowker will be charged with resisting the police. Case will be heard March 25th. If committed to Sessions they will be tried about April 5th, on which day flagship arrives.

I am considering the question of selecting Mombasa as the place of trial, as it may be impossible to obtain an unbiased jury here. Should accused refuse to proceed to Mombasa I shall attempt to raise force of special constables. I have warned Admiral that I may require assistance. May I detain ship of war if necessary?

It is stated that over 100 settlers have sworn to release Grogan if he is sentenced to imprisonment.

Natives report slight unrest in Kikuyu due to Grogan's action and to rumoured threat which has reached them that the white men intend to kill them.—JACKSON.

No. 6.

THE ACTING COMMISSIONER to THE SECRETARY OF STATE.

(Received 2.32 p.m., April 19, 1907.)

TELEGRAM.

No. 58. My telegram, No. 36, of the 16th of March.\* Considerable capital is being made by the local Press and the Colonists' Association out of the statement made by Your Lordship in the House of Lords that many of the participators in the flogging incident were armed, because this was not proved at the trial.

Reports received at the time justified the statement in my telegram. As, however, evidence could only be procured against Bowker and Grogan, the charges under the 144th Section of the Indian Penal Code were not proceeded with.—JACKSON.

\* No. 3.

† No. 4.

No. 7.

THE ACTING COMMISSIONER to THE SECRETARY OF STATE.

(Received 2.44 p.m., April 23, 1907.)

TELEGRAM.

No. 62. Have been asked to forward following. Charges in connection with transmission have been paid:—

Colonists' Association of British East Africa contends that local Administration turned flogging incident into most unscrupulous political prosecution. Your Lordship's statement in House Lords of April 11th, as reported reference a hundred Europeans, many of whom were armed, an unwitting but gross libel on this community at large, and we request that Board of Enquiry be appointed from home to enquire into this and other pressing grievances.

JACKSON.

No. 8.

THE ACTING COMMISSIONER to THE SECRETARY OF STATE.

(Received April 30, 1907.)

[Answered by No. 11.]

MY LORD,

Commissioner's Office, Nairobi, April 9, 1907.

I HAVE the honour to transmit herewith a copy of the file and judgment in the case of *The Crown versus Grogan and others*, which terminated on the 2nd instant.

2. The sentences were quietly received and the prisoners offered no resistance. Later in the day, however, a mass meeting was held and telegrams were in consequence despatched to Your Lordship and to the Premiers of the various South African Colonies.

3. A deputation also waited upon me to ask that the prisoners might be incarcerated in a place where their disgrace might not be witnessed by native convicts.

4. In view of the fact that the gaol has been medically condemned as insanitary for Europeans, and is, besides, very ill-fitted for their accommodation, I acceded to the request of the deputation, and ordered the transfer of the prisoners to a building on Nairobi Hill, where they are confined under the surveillance of the police.

5. I was somewhat reluctant to do this, as the moral effect would, I consider, have been greater if the sentence had been carried out in the regular prison, but, having regard to the strictures passed on the Mombasa jail in the Wehner case, I thought it better not to give any opportunity for adverse criticism. I trust, however, that ere long we shall have a building in which malefactors of every kind can be confined, irrespective of race and colour.

6. The sentences, which in view of the gravity of the offences committed cannot be reasonably regarded as other than lenient, have, nevertheless, provoked a considerable amount of vituperation in the local press, as an instance of which I have the honour to enclose a copy of the "Times of East Africa" of the 6th instant. Such expressions of opinion are only to be expected from the persons who are known to be the authors of them.

7. The trial and its result have, as far as I am aware, produced no effect whatever on the native mind, which is far too unintelligent and ignorant to take any interest in such proceedings, unless their scope and meaning were very carefully explained.

8. It is at any rate certain that the knowledge that they can only be punished in accordance with law is unlikely to have a disquieting effect on the Kikuyu. If they were led to understand that they could be flogged by Europeans whenever the latter thought fit it certainly might disturb their tranquillity.

I have, &c.,  
F. J. JACKSON,  
Acting Commissioner.

Enclosure 1 in No. 8.

CROWN *versus* GROGAN, BOWKER, WILSON, BURN, LOW, FICHAT, GRAY, BENNETT, and WALKER DUN.

Town Magistrate, Nairobi,  
March 25, 1907.

Parties present: Combe, for Crown; Allen, for Grogan; rest undefended.

Combe opens. Asks permission to withdraw case against Walker Dun, McClellan Wilson, and Bennett.

Walker Dun, McClellan Wilson, and Bennett discharged accordingly.

H. O. DOLBEY.

EWAN REGINALD LOGAN, European, Protectorate Officer, Nairobi, sworn, states:—

I am Town Magistrate at Nairobi.

On 14th March, 1907, I was in this Court building. At about 10 o'clock in the morning I arrived at this Court, and went to my private room. Immediately I got there I saw through my window a number of men coming towards the Court from the Government Road. They were Europeans, and came into the space outside the Court, and walked past my window, and came to main entrance of Court. They stopped there. At that moment Mr. Ghandy the pleader walked past my window quite close. I asked him what the matter was about. In consequence of what he said to me, and from what I heard from my clerk, I sent my clerk (Nadirshaw) to find out what the matter was.

He presently returned without information. He had applied to Mr. Burn for information, and was refused.

In consequence of what information I did get, being under the impression that an unlawful proceeding was about to take place, I felt it my duty to go outside and protest to the crowd against what was being done. I went out and walked to the steps leading to the main door of the Court. I stood on the top step and found a large crowd of European men gathered round the foot of the steps. I should think they were 40 or 50, perhaps more. In the centre of the crowd there was an open space; lying on the ground in this open space I saw two natives. One of these natives, the one nearest me, was doubled up in a heap, the other was lying at full length. Mr. Bowker (accused) was bending over him. By Mr. Bowker's side was Captain Grogan (accused). I called to Mr. Bowker and said: "Mr. Bowker, what are you doing"; he did not reply. I then said "Gentlemen, you are not allowed to take the law into your own hands. Your proper course is to make a complaint to the proper authorities." I said this in a loud voice so that everyone present could hear. Grogan then said to me "If we do, what will happen," or words to that effect, "Will he be advised not to do it again?" (I imagine he was referring to one of the natives on the ground.) I replied "If anything is proved against them I imagine it will be something more severe than that." These were, I think, my words. Grogan then said "What will he get?" I replied "Without knowing what the offence is I can't say what the punishment will be." That was all that was said.

I waited a minute or two on the step, and then seeing that the men were determined to do what they intended, I walked away back to my room. Shortly after this I heard the sounds of blows apparently by some thick thong upon the bare flesh. Shortly after this I saw the crowd of men dispersing, and they went away. Ne

complaint of any sort or kind against these natives had been made to me at all. I was completely taken by surprise by what happened, and at the time there were no white police present. When I was in my room, after leaving the crowd, or before they dispersed, Captain Smith (policeman) arrived, and whilst the crowd were dispersing, Mr. Tyssen and other white police arrived. I saw Mr. Low (accused) on the verandah of the Court when I first walked to the steps. I also saw the accused, Captain Gray, on the verandah also. They were forming part of the crowd which had come up on the verandah near the entrance. The crowd quietly dispersed after this occurrence.

Mr. Allen reserves his cross-examination.

Cross-examined by Captain Fichat:—

Q. Did you only see two boys?—I only noticed two boys lying on the ground.

Q. Would you be surprised to hear there were three?—No.

Q. Will you swear that you addressed the crowd when you said "Gentlemen, you are not allowed to take the law into your own hands," and that you did not address Grogan alone?—Yes, I will swear it.

Q. Did you say to everyone "I am the Magistrate?"—No, everybody knows me.

Q. Did you order the crowd to disperse?—I did not tell them to go away.

Q. Did you tell them that by remaining they were forming an unlawful assembly?—No.

Q. Did you send for the police, if so, white or black?—I sent for the white police.

Q. Is this building commonly known as the Town Hall?—I don't know.

Q. Do you know the Government rent this from the Municipal Authorities?—I do.

No more questions.

Mr. Burn reserved his cross-examination. (Logan continues evidence.)

Outside the Court, close to the main entrance, where the crowd was standing, there is a large notice board with the words "Notices, Town Magistrate's Court," printed on it in large letters. Close to the gate where the crowd entered the compound there is another notice board with the words "Town Magistrate's Court" printed in large letters upon it.

Both these notices were in the positions I have described on the 14th March, 1907.

Fichat cross-examines (on continued statement):—

Q. Are there not two entrances to the so-called compound?—Yes.

Q. Is there not a large notice board close by one entrance with the words "Municipal Offices, Nairobi," upon it?—Yes, there is such a board.

No more questions from either accused.

H. O. DOLBEY.

Read over and found correct,

H. O. DOLBEY.

GEORGE SMITH, A.D.S. Police, Nairobi, European, sworn, states:—

About 10 o'clock a.m. the 14th March, 1907, I came to the Town Magistrate's Court building. On arriving here I saw a crowd of Europeans grouped round the steps of the Court House; they were in a semi-circle, and on the ground in the centre I saw three Wakikuyu; they were bound. I saw Grogan also in the semi-circle, also Mr. Bowker. The Town Magistrate, Mr. Logan, was standing on the Court steps addressing the crowd.

I heard him warn them about the consequences of taking the law into their own hands, but I don't recollect his exact words; I do, however, remember him saying that there were proper authorities to take a complaint before or words to that effect.

The Magistrate having finished his remarks went to his office. I followed him. I had a conversation with him there, and then returned. I pushed my way through the crowd, and put my hand on Captain Grogan's arm. As I did so the crowd closed in and hustled me outside the circle.

The crowd hustled me, and one of them who hustled was the accused, Mr. Bowker. I was in uniform at the time.

After I was hustled out of the crowd Grogan commenced to flog one of the Wakikuyu. I saw this myself. I saw it was useless my remaining any longer, and so I left, and went to the Police Office and returned with the A.D.S. of Police in Charge at Nairobi. On my return I found the crowd had dispersed. In the crowd I also saw Captain Gray, but none of the other accused beyond those mentioned. I should say there were about 100 to 130 Europeans present.

(Allen and Burn both reserve cross-examination.)

Fichat cross-examines:—

Q. You were present when Mr. Logan was speaking?—Yes.

Q. Did you salute him?—Yes, when I got inside the semi-circle.

Q. Did Mr. Logan acknowledge your salute?—Not that I remember—he was addressing the crowd.

Q. How long did Logan speak after you arrived?—About a minute.

Q. How close were you?—About a yard and a half away.

Q. Was he speaking generally or addressing anyone in particular?—As far as I understood him, he was addressing his remarks to Grogan.

Q. Was Logan nervous or excited?—I can't say.

Q. Did you hear him say in a loud voice "Gentlemen, you must not take the law into your own hands?"—Yes, I heard him.

Q. In a loud voice?—Not in a very loud voice, but quite audibly.

Q. Audible to you?—I think everybody present could have heard.

Q. Did you hear Grogan's replies?—Yes, but I don't remember his words.

Q. Where were you standing?—I was standing next to Captain Grogan.

Q. How far was Captain Grogan from the verandah?—About two yards away.

Q. When you were hustled by the crowd were you in any way ill-treated?—No, the crowd closed in and pushed me aside.

Q. Mr. Bowker may have been pushed on to you by the crowd?—Yes.

Q. When this happened did you call anyone to assist you in the name of the law?—No.

Q. Why not?—I don't know.

Q. When outside the crowd did you write down the names of those present?—No.

Q. In fact you did not think the matter very serious?—I don't admit that.

No more questions from either accused.

Read over and found correct,  
H. O. DOLBEY.



VICTOR MARRA NEWLAND, Agent, Nairobi, European, sworn, states :—

I am a resident in Nairobi.

On 14th March I met Fichat (accused) in the main road of this town. It was nearly opposite Mrs. Elliott's tea-rooms. This would be about 9.30 a.m. I had a conversation with him. He told me that Grogan was going to flog natives publicly, and asked me if I intended to be present. I asked him the reasons of the flogging, and he told me that natives had grossly insulted white women. I asked him what women, and I understood him to say Mrs. Grogan and another lady. I then asked him what they had done (meaning the natives), and he told me that they had caught hold of "their" private parts (by "their" I understand Fichat to mean the ladies above referred to). I said, "Certainly I will be present." This was, to my recollection, the whole of the conversation.

After this I went down to my office and told my clerks what had been told me, and told them to witness the public flogging also. I also sent my native boys as well.

On the 14th I was a member of the crowd that assembled outside the Town Magistrate's Court. I attended for the purpose of taking part in the object of this assembly. At that time I was under the impression that an indecent assault had been committed by these boys, otherwise I would not have attended.

I saw Grogan, Bowker and Gray in the crowd, and Fichat also, but before the flogging took place.

I saw Fichat later on in the day. I think it was in the "Travellers' Club." I spoke to him in discussing this flogging, and he said he thought he had got a crowd together on record time. I saw the floggings. There were three natives, and Grogan, Bowker and Gray each flogged one.

Before the flogging I also saw and spoke to Bowker. He was very angry, and from what he told me it was evident that he was under the impression that an indecent assault had been committed.

Fichat cross-examines :

Q. Did I tell you that, when discussing this with you on March 14th, about four months ago a native had exposed his private parts to a female member of my family?—Yes, you said that this wasn't the first time an act of this sort had been committed.

Q. Did I say that these things must be put a stop to as they had occurred before?—Not to my recollection.

Q. When I made, as you say, the observation about the record time to you in the Travellers' Club, was this on the 14th March?—Yes.

Q. You were present at the flogging?—Yes, from commencement to the end.

Q. Did you see Logan?—Yes.

Q. Did you hear the conversation that passed between Captain Grogan and Logan?—I did, but not all.

Q. Did you hear Logan address anyone else?—I did not.

Q. Where were you standing?—About 10 yards from Logan.

Q. Did you hear Logan say in a loud voice, "Gentlemen you are not allowed to take the law into your own hands"?—I did not.

Q. Did you hear Grogan say in reply to Logan: "I am beating them because they insulted my sister and another lady"?—No. I heard Grogan say, in reply to Logan's question of why was he beating these boys: "Because I want to."

Q. Did you hear the crowd ordered to disperse?—No, I did not.

Q. You did not see me present when the flogging was taking place?—No.

Low cross-examines :

Q. Did you come to my office last Friday?—Yes.

Q.—Anyone else present?—Yes, Fichat.

Q. You came to my office to get me to publish a letter?—Yes.

Q. Did I hesitate about publishing this letter?—Yes.

Q. You asked me to do so as you were labouring under a misapprehension?—Not only I but other people.

Q. Did you say that you were present, being under the impression that an indecent assault had been committed on women?—Yes.

Q. On the 22nd this wrongful impression had been removed?—Yes.

Q. When was the impression removed?—On the previous day—the 21st.

Q. When did you receive a summons in this case?—I don't remember.

Q. When did the police approach you?—Not before I got my summons.

Q. Did you receive your summons prior to your changing your opinion?—Yes.

Q. Did you approach Grogan or did he approach you?—I asked him to come round to my office. This was on 21st March.

Q. What occurred?—I told Grogan what had been told me relative to the cause that brought me to the assembly, and asked him if there was any truth in it. He replied that there was no truth in it, and that he had been betrayed.

Q. Is it not the fact that before you received the witness summons that you expected to be summoned as a defendant?—Yes, I did.

No more questions.

Read over; correct.

H. O. DOLBEY.

BERTRAN GRAY ALLEN, Solicitor, Nairobi, European, sworn, states:—

I am practising in Nairobi.

On 14th March I came to the Court Building—that would be about 5 or 10 minutes past ten. There were many Europeans standing outside the Court—I should say anything from 175 to 250 in number. I had come across from my office to the Court House. I did not see Mr. Logan then or at any time. I saw some of the accused—Grogan, Gray, Low, Burn, Fichat and Bowker.

Mr. Burn was on the verandah just at the top of the steps. There were many others in the verandah, it was full. I asked Mr. Burn what the matter was all about, he said that Captain Grogan was going to beat some natives for insulting white women. I then said, "What about the Magistrate and the police," and asked if Logan was not in his room. He replied, "What can they do, they've got neither military nor white police in the country, how can they stop it?" He said, "The Magistrate came out a minute ago and made some ridiculous remark about the proceedings not being legal; he's gone back again to his chambers."

I said that I was afraid there would be trouble over this. He said, "Yes, there is bound to be," and then he asked me if I thought the Government would do anything or take any notice of it. I said, "I thought they would be bound to." He said: "They would have to either ignore the matter altogether, in which case it would be an absolute admission of impotence, or take it up, in which case, if they tried to arrest anybody, there would be the biggest row there ever had been in East Africa." I agreed with him.

I saw Captain Smith—he was, I think, standing in the outskirts of the crowd, near the Magistrate's chamber. I saw him make his way into the crowd after Grogan had finished speaking, and was preparing to beat the natives. I saw him get to the inner edge of the circle. I saw a lot of people when they saw him coming get in front of him and with their elbows bar his way, and this prevented him getting to the centre of the ring.

I saw the floggings. These were three and were performed by Grogan, Bowker and Gray, respectively. Fichat was present when the flogging took place. I think Burn was also immediately behind me when the flogging was going on. Our conversation terminated about half a minute before the flogging commenced. Later

I had a conversation with Fichat. This was immediately after the flogging was over. I asked him what the boys had really done. He said Mrs Grogan and, he thought, Mrs. Bowker were going home in their rickshaw to Grogan's house last night, and these boys came and stopped the rickshaw and had pulled the ladies out of the rickshaw, turned their clothes over their heads and grossly insulted them.

I said it was absolutely incredible, and that I did not believe it, and, further, said that if raping white women was going to start in this Protectorate I did not think it was these three poor wretched devils who would start it. He said it was perfectly true, and that this sort of thing must be stopped at once. He said that this was not the first time such things had happened, and said, "You know what happened to my own wife."

I said to him that these floggings would create a big row at home, and he replied that it would be in all the English papers by to-night or to-morrow morning. He then said he must go and send off a cable at once. I said I thought Low (another accused) would do that. He said Low might send one, but he had to send one also. He turned away, and as he did so I saw two men come up and ask him what the boys had done, thereupon I heard Fichat begin telling the same story to them as he told me.

The next day I had a further conversation with Burn. We were sitting at the pleaders' table in his Court. He told me that he and a lot of others had adjourned to T. A. Wood's premises after the flogging and had passed a resolution (or resolutions, I forget which). As a result of this resolution I understood him to say that they had gone to the Acting Commissioner's house.

He said the meeting that had gone there had represented to the Acting Commissioner the likelihood of a native rising and that he (the Acting Commissioner) had promised that every white man who asked for it would be given a rifle and 200 rounds of ammunition. This I think was all that passed between us.

On March 14th the flogging took place before the Court sat, I think. I came into Court 10 minutes after the flogging had finished and I found nobody there at all. The Magistrate was not sitting.

Examined by Combe:—

I know the publisher and proprietor of this paper. ("The Star of East Africa" produced and put in.) The publisher is Low (accused).

Burn cross-examines:—

Q. You frequently see me in Court?—It is a daily occurrence.

Q. Where I told you that Grogan was going to beat some natives there were a number of people outside the Court?—Yes.

Q. At this time you knew as much as I did. Why did you stop?—To see what was going on.

Q. What other object had I for stopping. I did not do anything more than you did?—I don't know.

Q. Is it not the fact that I am prosecuted for political motives?—I don't know, but I heard the Crown Advocate state that you were selected as being a ringleader.

Q. I have on various occasions dared to criticize the Government?—Yes.

Q. Can you give any reason, other than a political one, why I should be in the dock and you in the witness box?—I presume you are a more important man.

Q. Did I discuss this matter with you from other than a spectator's point of view?—Understood you to take a greater interest in it than that.

Q. You were close to me at the time of the flogging?—Yes, I believe so.

Q. I did nothing but look on?—No.

Q. Was there anything illegal in the conversation that passed (second conversation)?—No, I don't think so.

Q. Did you hear either the Magistrate or police call on anyone for aid in suppressing this assembly?—No.

Q. Would you have given aid if called on?—No.

Q. As a member of an unlawful assembly—(Question unfinished)?—I don't admit the assembly was unlawful.

Q. Then you don't think there was anything unlawful in the assembly?—I couldn't say I considered it a lawful assembly.

Q. How was I armed?—I saw no weapons on you.

No more questions.

Fichat cross-examines:—

Q. Our conversation took place after the flogging and when the crowd was dispersing?—Immediately after the flogging.

Q. When the crowd was beginning to disperse?—Yes.

Q. During the past 12 months there has been certain animus between us?—Not on my side.

Q. Are you aware I am the representative of the "East African Standard"?—I am.

No more questions.

Low cross-examines:—

Q. Where was I standing when you saw me?—On the verandah, in about the middle of it.

Q. Did you see me taking any part in the assembly beyond looking on?—No.

No further questions from either of accused.

Combe re-examines in reply to questions:—

When I saw Burn at the assembly I thought he was more than a spectator. He struck me as being there approving the proceedings that were going on. I formed this opinion from what he (Burn) said and from his manner.

No more questions.

Read over; correct.

H. O. DOLBEY.

Arthur Dawson Milne, Deputy Principal Medical Officer, European, sworn, states:—

On March 14th I met Burn shortly before 10 a.m. in the street here. It would be just this side of the bank. He was going to the bank—that would be away from the Court. There was another man with him. I stopped to speak and Mr. Burn, who stopped also, pulled out his watch and at the same time said, "I must not miss this." I asked him what was up. He replied that Grogan was going to flog his gharri boys at the Court House for assaulting Mrs. Grogan. He then corrected himself and said at least for a technical assault.

Burn cross-examines:—

Q. Had I been a newspaper correspondent this hurrying of mine would have been a very natural proceeding?—Yes.

Q. Are you surprised to hear I am a special correspondent for a London paper?—Not in the least.

Low cross-examines:—

Q. Did you see either a Sub-Commissioner or Collector of Uganda present at the assembly?—No.

Combe re-examines:—

Q. Were you present at the assembly?—No.

No further questions from either accused.

Read over; correct.

H. O. DOLBEY.

Pherozsha Pestonjee Nadirshaw, Court Clerk, Parsee, Zoroastrian, sworn, states:—

On March 14th I was in the Court buildings. I saw a crowd coming towards the Court compound. This was about 9.45 a.m. I was speaking to Logan at the time and facing the window—I was with him in his private room.

I saw Bowker, McClellan Wilson, and T. A. Wood, and behind Gray and Mr. Standing following. I drew Logan's attention to it.

Logan then spoke to Ghandy and then wrote a note to Tyssen the Assistant District Superintendent of Police which he gave to me. I handed it on to David, the Court Interpreter, for delivery. Logan gave me permission to go outside to see what the Europeans wanted. I came to the steps of the Court and there I saw Burn. I asked him if these gentlemen wished to see Logan on any urgent business. Burn looked round and smiled, but he did not give me any answer. I addressed the question directly to Burn.

I then returned and reported the matter to Logan. Logan then came out of the Chambers and I got on my bicycle and rode to Tyssen's office. When I returned the crowd had dispersed. Mr. Burn had no engagement in Court that morning. That is there was no Court case in which he was engaged on that morning.

Burn cross-examines:—

Q. Did you not ask me if I wanted to see Logan?—As far as I remember I did not.

Q. Did Logan ask for me to go and see him after you told him I was here?—No, he didn't ask for you.

No more questions from either accused.

By Court: Answers:—

I asked Mr. Burn what the assembly was about because I knew him best. I had no reason to suppose he knew more about this assembly than anyone else.

Read over; correct.

H. O. DOLBEY.

John Acland Lethbridge, Livery Stable-keeper, European, resident at Nairobi, sworn, states:—

At 8.30 on the morning of 14th March I received certain communications. That morning I saw Captain Fichat near his office and had a conversation with him. This was before 10 o'clock a.m. He told me that certain ladies had been grossly insulted by three rickshaw boys. I was told Mrs. Grogan was one of the ladies, I think it was Fichat who told me.

With regard to the insult I forget Fichat's exact words, but the impression he left in my mind from his language was that they had been grossly insulted. He did not tell me how. He said that, in consequence, Grogan was going to punish them publicly. I witnessed it. I saw Smith of the police, he was there. He came from the balcony and down the Court steps, but I don't know if he tried to get to Grogan. I saw him moved away, by whom I don't know, but by several persons. I cannot identify any of the people who moved him away. I witnessed the floggings—I didn't count the strokes. I should think about 25 strokes each were given.

There was no violence shown to Smith, he was simply hustled away.

No questions from either accused.

Read over; correct.

H. O. DOLBEY.

EDWARD LANCELOT SANDERSON, Town Clerk, Nairobi, European, sworn, states :—

On 14th March I met Low and Fichat. They were together, and the time was 9.30 a.m. I met them close to Gailey and Roberts' office. They spoke to me and told me that some natives were going to be flogged. I can't say which of them told me, I think both. Fichat said they were to be flogged for an attempted assault on a white lady. I understood the lady was Mrs. Grogan and that there was another lady. I gathered that the assault was of an indecent nature from what I was told, but I cannot remember the exact words. I expressed surprise at this but Fichat corroborated his statement by giving two instances of similar indecent behaviour toward white women in Nairobi. After this I went on to my office. I witnessed the flogging.

I saw Captain Smith put his hand on Grogan's shoulder before the flogging took place. When Smith did this he was crowded out of the ring.

I saw Bowker, Grogan and Gray each flog a native. Having regard to what I had heard, I did not consider in the circumstances it was a severe punishment. I could not identify anybody of those who were crowding Smith out of the ring.

Burn cross-examines:—

Q. Were there people about besides those forming the ring on the ground?—Yes, there were some on the verandah and many on the top of the steps who were looking on.

No more questions.

Low cross-examines:—

Q. Do you think both of us told you that floggings were going to take place?—Yes.

Q. Will you swear that Fichat took part in the conversation?—Yes.

Q. Will you swear that it was Fichat and not I who told you the floggings were for an assault on a white lady?—I think it was Fichat who told me, as I distinctly remember his telling me about two previous instances of this nature.

Q. Was the word "indecent" ever used by either of us as descriptive of the assault?—I won't swear that it was.

Q. Will you swear that the word "assault" was used?—No, I won't swear that.

Q. Was not the word used "insult"?—No, that was certainly not the description of the affair.

No further questions from either accused.

Read over; correct.

H. O. DOLBEY.

GETRUDE EDITH GROGAN, married woman, European, sworn, states :—

I am the wife of Captain Grogan.

On the morning of March 14th Fichat came to our house. We were having our breakfast at the time. He was informed of an incident that occurred with regard to the insolent conduct of three of my gharri-boys toward Mrs. Hunter, who is my sister-in-law, and Miss McDonnell, who is a friend of ours. He was present when we discussed the conduct of the gharri boys. There was no suggestion that these boys had been guilty of any indecent act. When Fichat came in my husband and I were present, and we three discussed the affair together.

No questions.

Read over; correct.

H. O. DOLBEY.

Adjourn till to-morrow.

EDWARD STEVEN HARGREAVES, employed in Nairobi Municipality, European, sworn, states :—

On March 14th I came down to my office. When there I heard that a disturbance was about to take place. I arrived at my office at 9.30 or 9.40 a.m.

On my way to the office I saw several people outside the Town Magistrate's Court.

Later on I saw a number of Europeans arriving there. My office abuts the Court premises. I saw Grogan arrive with three natives, bound. Afterwards I heard Logan enquire of Grogan what was going to happen. Grogan replied that he was going to beat the boys for insulting his sister and a lady friend. I don't remember exactly what the further conversation was. I know Smith. I saw him there. I saw him put his hand on Grogan's shoulder after the conversation between Logan and Grogan had taken place and before the boys were flogged.

The next thing I saw was that Smith was outside the circle. I can't say how he got outside, whether he was pushed outside or how otherwise. I did not see the boys flogged. I saw one of them tied up. Bowker tied him up. He tied the boy's arms to his legs. I was standing inside the Court verandah at the time.

I heard no mention made of any resistance in the event of arrests being made.

No questions from either accused.

Read over; correct.

H. O. DOLBEY.

ARTHUR FITZHERBERT MACGEE, Manager, Travellers' Club, Nairobi, European, sworn, states :—

I saw the three natives flogged outside the Court on 14th of this month.

I came up to the Court with Grogan. They (the natives) were bound, I believe, as to their wrists. I saw Logan. I heard him tell the assembly that the gathering was illegal, or use words to that effect. I think there would be about 100 people present. After this the boys were thrashed. I saw Smith there. I saw him go up to Grogan to try and stop it. He was pushed back by the crowd. I won't swear to the identity of anyone who actually pushed him. He was pushed back with the object of preventing him interfering any further with Grogan.

After the flogging the boys were cut loose; there was cheering on the part of crowd. They appeared to be cheering the men who had done the flogging.

I heard there was going to be flogging of natives for indecently assaulting white women, and that is why I came. There was a rumour to this effect. Neither of the accused told me anything about the matter.

Low cross-examines :—

Q. You heard cheering. They may have been cheering for the King?—I think they were cheering the men who had done the flogging, I was.

Fichat cross-examines :—

Q. After the affair was over did you hear a rumour that Mr. Ferrier stood with a rifle against the Town Magistrate's chest?—No.

Combe re-examines :—

Q. If you had heard such a rumour, would you have believed it?—If informed by any credible witness I should have believed it.

No more questions from either accused.

By Court :—

I heard no other rumour regarding the reason why these natives were to be flogged besides the one to the effect that they have indecently assaulted white women.

No questions.

Read over; correct.

H. O. DOLBEY.

DAVID OWEN ROBERTS, European, trader, Nairobi, sworn, states:—

I was present on March 14th when three natives were flogged outside the Court House. I heard they were to be flogged for grossly insulting two ladies.

I saw Smith in the crowd. He was next Grogan. I did not see him removed. I heard shouts of "Leave him alone" addressed by the crowd to Smith. I understood the crowd were telling him not to interfere with Bowker or Grogan. The shouting was general. I heard nothing else said.

By "grossly" insulting I did *not* understand "indecently" insulting.

No questions from either accused.

Read over; correct.

H. O. DOLBEY.

Prosecutor's case.

Combe states does not press charge of rioting or for being armed.

Burn objects. States having been summoned for these offences which are triable by Court of Sessions. The case must necessarily go to Sessions.

Combe replies. Says Burn's argument is wrong in law.

H. O. DOLBEY.

I think case is governed by Section 209, Sub-section 1, but as Burn asks for time to consult and produce authorities, adjourn till 2 p.m. for that purpose.

H. O. DOLBEY.

Burn quotes Ramtahal Singh 5, W.R. Code 65 (1866), and Rupaga Bom. H.C. Criminal Rule, No. 33 of 21st May, 1888. I hold these cases have no bearing on the point. Emp. V. Parmanand 13 C.L.R. 375 (S.C.) appears to me to make quite clear the meaning of Section 209, Sub-section 1.

H. O. DOLBEY.

The accused all asked if they wish to recall any of the witnesses for the prosecution for cross-examination.

E. R. LOGAN (re-called). Cross-examined by Burn in reply to questions, answers:—

My clerk told me you were there, he did not say in the buildings.

I have never detected you in any unlawful proceedings before.

I think you, if called upon, would have been as likely as anybody about the Court on 14th March to have helped to prevent a breach of the peace.

I did not send for you to help me keep the peace because I thought you were taking part in unlawful assembly. My reason for my opinion is based on the fact of your being present at the meeting.

I did not draw up a list of names of those present. I made a report which I submitted for the Commissioner. This report gave an account of what took place. I cannot give the names of all concerned. I don't think there were 20 names in this report—yours, I think, was one. One reason for my not calling on you to help me was because my clerk said you would not give him any information. I believed the assembly to be an unlawful assembly, and I practically told them so by saying that they were behaving illegally.

No more questions from either of the accused.

Read over; correct.

H. O. DOLBEY.



Captain SMITH (re-called), cross-examined by Burn, answers, in reply to questions:—

I did not call on anybody present to aid in suppressing a breach of the peace.

I was present when Logan was speaking. I did not hear anybody actually say the words "unlawful assembly," or tell them to disperse in those very words. I did not see you myself. There were a number of people on the verandah.

None of the accused wish to ask any more questions.

Neither of the accused desire to have any of the witnesses back for the purpose of cross-examination.

Read over; correct.

H. O. DOLBEY.

The accused are called on to produce witnesses for their defence or on their behalf.

H. O. DOLBEY.

W. A. BURN, one of the accused, examined by Court. Burn claims the right to be sworn—sworn accordingly.

Q. Were you present when the natives were flogged?—Yes.

Q. Were you a member of that assembly?—No, I had no connection with the proceedings at all.

Q. Do you repudiate this meeting altogether and say you had nothing at all to do with it?—Nothing at all, I was an onlooker.

Q. Is it true to say you were a sympathiser?—No, I was an onlooker.

Q. What object had you in being an onlooker?—To collect copy for a newspaper for which I contribute in London.

Q. Had you not been a newspaper correspondent you would not have gone?—No, I don't think I should.

W. A. BURN.

Above is examination of the accused and his signature thereto.

H. O. DOLBEY.

Burn calls as witness for defence RANALD DONALD, Inspector-General of Police, Nairobi, European, sworn, states, in answer to questions:—

I have had the investigation of this flogging affair, or partly. I have not had all the names of those concerned in this affair. Since it happened I have 10 or 12 names divulged to me.

Q. Did you instruct the Crown Advocate to represent that the persons now accused in this matter were the ringleaders?

Combe objects to question on ground that it is irrelevant.

Objections upheld.

H. O. DOLBEY.

Witness proceeds:—

I have no other evidence against you beyond what has been produced in Court.

No more questions.

Read over; correct.

H. O. DOLBEY.

I am of opinion that the evidence against the accused Burn is too weak to justify the framing of any charge against him.

He, Burn, admits being present at this assembly. This explanation is that he was there as a reporter for the purpose of obtaining copy for a newspaper which he represents.

He denies that he had any part whatever in the proceedings, or that he was in sympathy with the meeting or its objects.

The only evidence against him is that he was present standing looking on on the Court verandah—(where as a pleader of the Court he had every right to be in ordinary circumstances)—when this assembly took place, and that he knew what the object of the meeting was.

Since he has on his oath repudiated any connection in this affair, I think his explanation of his presence is more or less satisfactory, and that he should be discharged.

The Crown Advocate not objecting  
Order Burn to be discharged accordingly.

H. O. DOLBEY.

Ernest William Low, asked by Court, states he has no witness to call on his defence.

H. O. DOLBEY.

Ernest William Low, examined by Court:—

Q. Were you a member of this unlawful proceeding on the 14th?—Yes, I was present, but the proceeding was not unlawful.

Q. Were not natives flogged at the meeting?—Yes.

Q. Were you there?—I was standing on the verandah of the Town Hall.

Q. Did you belong to the meeting?—Yes, I presume everyone did.

Q. Why were you there?—I am the editor or proprietor of the "Star" and a newspaper correspondent; I went there as a spectator, and my object was simply to report what occurred as matters of public interest.

ERNEST LOW.

Above is the examination of the accused Low and his signature thereto.

Accused Bowker has no witness to call.

H. O. DOLBEY.

Accused Grogan does not wish to call his witness at this stage.

H. O. DOLBEY.

Captain Gray does not wish to call any witnesses.

H. O. DOLBEY.

Adjourn till to-morrow.

H. O. DOLBEY.

March 27, 1907.

Captain Fichat does not wish to call any witnesses.

H. O. DOLBEY.

Mr. Bowker does not wish to call witnesses, but hands in written statement (produced).

H. O. DOLBEY.

After carefully considering the evidence in this enquiry I have come to the conclusion that this case is not a case for commitment to Sessions. There is no evidence that either of the accused was armed with a deadly weapon or at all, and, therefore, the offence under Section 144, I.P.C., falls to the ground.

Neither, to my mind, is there sufficient evidence of rioting to justify the case being sent before a jury, Section 147, I.P.C.

With regard to the assault upon Captain Smith, a public servant, as such, the evidence is very weak.

From the evidence before me (including Captain Smith's) I have no doubt that a technical assault upon a police officer, that is, upon Smith, did in fact take place, but I do not think that the assault can be called more than technical.

From the evidence of Smith himself it appears to me that he never made any serious endeavour to exert his full authority.

Smith himself states that on discovering this assembly was intent upon its purposes he made no further effort to restore order than the one ineffective attempt to get into the centre of the meeting which he has described in his evidence.

He has stated that on making the discovery above referred to, he went away.

Had he been ill-treated, or had he exerted his authority to its full and insisted, so far as his power enabled him, on the meeting dispersing, or had he in the name of the law called on anyone to assist him in restoring order, the case would have been very different. None of these things appear to have been done, and, in the circumstances, I don't think the evidence of resisting a police officer, as such, in the execution of his duty (353 I.P.C.) is sufficiently strong as to make it probable that a jury would convict. Consequently, nothing remains for consideration in this enquiry except the charge, as outlined in the summonses, against the accused of being members of an unlawful assembly in contravention of Section 143 of the Penal Code. That offence is triable by me as a first-class Magistrate, and since I am invested with this power, I assume I am intended to use it unless a good reason appears to the contrary.

I have followed the procedure as set out in Section 209 of the Criminal Procedure Code with regard to this enquiry, and I now come to that part of the section which states that if at this stage it appears to the Magistrate that the case is not one for Sessions, but rather one which should be tried by himself, he shall proceed accordingly. No proceeding under Section 143, I.P.C., in a summons case.

I, therefore, proceed to try, as a summons case, the charge made against the accused of being members of an unlawful assembly under that section.

H. O. DOLBEY.

March 27, 1907.

Accused—Grogan, Bowker, Fichat, and Low, summoned for being members of an unlawful assembly under Section 143, that is, of being members—as defined by Section 142, I.P.C.—of an assembly of five or more persons, the common object of such assembly being the commission of an offence within the meaning of Section 141, I.P.C.

Particulars of offence stated and explained to accused in accordance with Section 242, Criminal Procedure Code.

Bowker hands in statement—has nothing to add to it. H. O. DOLBEY.

Allen, for Grogan, pleads "not guilty." H. O. DOLBEY.

Gray pleads "not guilty." H. O. DOLBEY.

Low pleads "not guilty." H. O. DOLBEY.

Fichat pleads "not guilty." H. O. DOLBEY.

Combe states, evidence for the prosecution being before the Court—does not propose to call further evidence—states accused should show cause why they should not be convicted.

Allen agrees—no objections.

H. O. DOLBEY.

I think the accused should have the opportunity of cross-examining the prosecution witnesses now they know the specific offence which is alleged against them.

Neither of the accused wishes to cross-examine any of the witnesses for the prosecution.

H. O. DOLBEY.

Bowker, in reply to question from Court, says, "I have no other evidence to call nor evidence to give other than that sustained in my statement." Above is full and correct account of accused's statement made in my presence.

H. O. DOLBEY.

Fichat states Crown have failed to prove that he went to an unlawful assembly with intent to commit any offence. There is no case to be defended.

Combe—Crown had to prove that there was an unlawful assembly and that Fichat was a member of it.

I hold there is a case made out for Mr. Fichat to answer.

H. O. DOLBEY.

I ask the five accused if they have any statements they wish to make.

H. O. DOLBEY.

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STATEMENT OF RUSSELL BOWKER.

I was present at the flogging on the 14th instant and flogged one of the boys myself.

I did so because I was told by two of my most reliable and best friends, Messrs. Grogan and Fichat, that the boys had insulted white women. Neither of them said anything which gave me the impression that any indecent assault of any sort or kind had taken place.

As it has always been the first principle with me to flog a nigger on sight who insults a white woman, I felt it my bounden duty to take the step I did, and that in a public place as a warning to the natives.

I have lived for 50 years, and ever among native races, and I have always found that where natives are treated with laxity, they become insolent, and when insolent to white women they go further and attempt to commit graver crimes.

If I have done wrong, it was done with the best intention.

W. RUSSEL BOWKER.

Above is statement handed in by accused Bowker and read out by me.

H. O. DOLBEY.

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Ernest Low: The substance of the charge is that the common object of the assembly must be illegal. The Crown has not produced evidence of that. I therefore have no case to answer.

H. O. DOLBEY.

Combe: There is ample evidence of the common object of this assembly.

H. O. DOLBEY.

I hold that Low has a *prima facie* case to answer.

H. O. DOLBEY.

Low objects to statement made by Magistrate in his examination of Low in preliminary enquiry, and feels he is prejudiced thereby. The Magistrate's question was "How do you explain your presence in this unlawful assembly?" objecting to

that term "unlawful" as at that point if the assembly had not been held to be "unlawful."

It is pointed out to Low that it is still open to him to prove that the assembly was not an unlawful one. In reply to Combe, Low states he understands that from Magistrate's statement he is not now prejudiced, and further says nothing in his objection is to be taken as an objection to the Magistrate trying the case.

H. O. DOLBEY.

ERNEST Low demands to give sworn evidence in own defence. Newspaper proprietor, European, Nairobi, accused, sworn, states:—

I am proprietor of the "Star" and correspondent for several London papers. On morning of March 14th, at 8.45 a.m., I met Fichat, who is a personal friend of mine, in Government Road slightly below his office.

He said that Grogan was going to flog three natives for having insulted two ladies. I have ascertained since who the ladies were, but I am not certain whether any definite statement of the identity was made at this time.

I went with Fichat and met Sanderson. I spoke to Sanderson while Fichat walked on a bit. I told Sanderson what Fichat had told me about Grogan's flogging. Fichat and I went down Government Road and saw Newland. He was on a bicycle. We hailed him; he dismounted, and Fichat went up and spoke to him while I walked along the footpath.

I did not hear what Newland and Fichat were saying. Fichat then rejoined me a minute later. He and I remained together up till the beginning of the gathering. While on the verandah of the Town Hall, at the time of the assembly outside, I saw Fichat sitting on the steps. I think he remained there all the time.

Before the gathering took place I did not hear any one state that they had been led to believe there had been an indecent assault. Many people seemed to labour under that delusion afterwards, from what I myself heard. I took no part in the proceedings. I was, as the only witness for the prosecution who had anything to say upon the subject stated, a mere spectator. I was present as a newspaper correspondent. Within half an hour or so of the break up of the assembly I sent a cable to a London daily newspaper.

I was never aware at any time during the proceedings that I was a member of an unlawful assembly. I have heard Logan in witness box declare he addressed assembly in loud voice. I deny he spoke in a loud voice at all. What he may have said it was impossible for anyone to hear who was not close to him to say. I was not more than two or three yards away when he spoke. I couldn't swear to anything he said; he spoke in an indistinct manner. To my mind he was obviously addressing Captain Grogan. It was quite out of the question that the people at the confusion of the assembly could have heard him. He was evidently in a state of intense agitation, and to my mind did not appear to understand what was happening.

Cross-examined by Combe:

It was about 8.45 when I first heard Grogan was going to beat some boys. I told Sanderson and possibly a lot of other people that this was to take place. Fichat told me.

I heard it was going to happen in the centre of the town somewhere.

I don't know who it was who told me this. I don't think it was Fichat. I followed Grogan down about 10 to 15 yards behind him. I could not say what I should have done if Logan had asked me to go away.

I did not know an unlawful act was going to take place.

I knew Grogan was going to flog a boy.

I did not know that was unlawful; I am not learned in the law.

I went to the meeting as a newspaper correspondent and as a private citizen. I did not go there solely to get copy.

Cross-examined by Allen:

Q. You told Sanderson about the matter so whatever impression Sanderson had of the matter must have come to him from you or Fichat?—I don't know, he may have got his impressions elsewhere.

Q. Did the information seem to be new to him when you imparted it?—I don't remember.

Q. You and Fichat saw Newland passing a few minutes later?—Yes.

ERNEST LOW.

Signature of witness:

H. O. D.

Above is full and correct account of Low's evidence given in my presence and hearing.

H. O. DOLBEY.

Low has no witnesses to call.

H. O. DOLBEY.

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SYDNEY FICHAT, estate agent, European, Nairobi, an accused, demands to give sworn evidence, sworn, states:—

Grogan told me on March 13th in the evening that he was going to beat three boys for insulting his sister and a lady friend.

He did not know at that time if he could get the boys, but he asked me to go over to his house the next morning and I would get more information. I went over the next morning at breakfast time. I saw Grogan and we discussed the matter. Grogan went outside the house and came back and said "it's all right, the boys are here." Just before leaving Grogan told me his idea was to take the boys down to T. A. Wood's premises in Nairobi and give them a hiding there. Mr. Wood is an auctioneer, and his premises are just below the Grand Hotel. I suggested to him the large open space between my premises and the blacksmith's shop. There was no mention of our specially coming to the Court House.

I then left him—it would then be about 8.30 a.m.—and rode down to my office. I told people that Grogan was going to beat some natives for insulting ladies. I told Low, Winealls, Longworth, and several others.

I saw Low, and remained with him practically the whole time until the assembly congregated.

We met Sanderson and Low; told Sanderson about the proposed flogging (though I did not hear exactly what passed), and I walked on. Presently they overtook me, and I told Sanderson what had happened some months ago to a personal member of my family in connection with the indecent behaviour of natives towards white women. Sanderson then said something about the boys should properly be brought to Court and not beaten.

Newland then passed us on his bicycle. I went up to him and I told him what I had told others, that Grogan was going to beat some boys for insulting his sister-in-law and a lady friend. I told him also of the incident that had happened to a member of my family. I never met Newland outside Mrs. Elliott's tea rooms that morning. I was near the blacksmith's shop, and there met Grogan (about 10 a.m. coming up the street with, I think, Bowker with him and the three native boys).

The boys were bound, their hands were, and were being led by another boy. They were brought here opposite the Court and there beaten. I sat on the steps and watched the proceedings from start to finish. I heard the conversation that took place between Logan and Grogan. I never heard Logan say "Gentlemen, you are committing an illegal act." I heard conversation between them, and heard Grogan say "I am going to beat them." Logan said "What for?" And Grogan replied "Because I want to." Grogan followed this up by saying "Because they insulted my sister and another lady," and heard him say just after this apparently to the crowd "I want no interference; there is no indecency in this." The flogging

took place, and the crowd immediately started to disperse. I started off as soon as I could as I was in a hurry to send off a newspaper telegram to the coast, and also because I had a Committee Meeting of the Colonists' Association also that morning at 10.

As I started off I met Schwartzel, who spoke to me, and then, for the first time, I saw Allen. He asked me a question which passed out of my recollection as next morning I had forgotten it. I deny I ever mentioned Mrs. Bowker's name to him, or that it was in the dark, or that three boys came down out of the bush and held the rickshaw up. I also deny that I recounted the same thing that I was alleged to have told to some other people who came up then, as Mr. Allen states.

Few days after I did meet Allen, and told him, in order to illustrate how people exaggerate matters, a story I had heard other people say as to women's clothes being lifted up in connection with the conduct of these natives.

I saw Gray in the street either just before or after the assembly, and he mentioned to me that he had heard that these women had been indecently assaulted, and mentioned what ought to be done to the boys. I told him it was nothing of the kind, and told him that the women had been insulted, and that there had been no indecency. Either Allen has confounded the different stories, or he has given vent to the animus that has existed between us for the last eighteen months.

Cross-examined by Combe:

It was about six or half past that I saw Grogan on March 13th.

It was then he told me he thought he would give the boys a public hiding. I did not persuade him not to do this. I would not attempt to reason with Grogan when he has made up his mind. I am a personal friend of Grogan. I did not deter him from this because I did not then think it would hurt him.

I agreed with him in thinking it was a proper thing to do.

We did not discuss where the flogging should take place then. I told no one that night.

Grogan and I discussed the matter next morning at his house.

It was next morning that Grogan said he thought he would go to Wood's.

The Colonists' Association also meets at Wood's sometimes.

I suggested the flogging should take place elsewhere.

Grogan did not tell me to tell other people about this flogging.

I told Longworth, Low, and Winealls as far as I remember what actually had happened to the ladies; I told others they had been insulted simply. I was the first person in the town to know about this flogging.

I know that it was general impression that indecency had occurred. This was built up on people misunderstanding the word "insulting," which I had used.

I think 100 to 150 Europeans were present at the assembly.

I did not suggest to Newland that he should be present himself.

I did not think Newland was excited by what I told him.

I don't remember exactly if he said he would come or not.

I am certain I did not tell him that ladies had been indecently assaulted. I am not sure I did not tell him what actually transpired.

I admit I was present at the assembly.

I inwardly approved of this flogging, but by no outward signs.

I am sure that Grogan addressed the crowd when he said he wanted no interference. He meant that he was going to beat them himself and that the matter was his shauri.

I did make the remark in the Travellers' Club that the crowd got together in a record time. I am not prepared to deny that I said I had got a crowd together in a record time.

No more questions.

H. O. DOLBEY.

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Allen cross-examines :

Nobody did interfere with Grogan except Gray and Bowker, if you call that interference.

I saw nothing at the time which would have prevented the crowd interfering with Grogan had they so desired. There was no police or physical or natural barrier of any sort, which would have prevented the crowd flogging the boys, had they so desired, except Grogan's request. Captain Smith was the one policeman present.

After the flogging some of the crowd called out: "Bring back the first boy, he has not had enough."

No further questions are desired to be asked this witness.

H. O. DOLBEY.  
S. FICHAT.

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Above is a full and correct account of accused's evidence given in my presence and hearing, and signed by accused.

H. O. DOLBEY.

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Captain Fichat does not desire to call any witnesses.

H. O. DOLBEY.

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Captain Gray does not wish to give evidence on his own behalf, but wishes to make this statement.

"In my opinion I do not think this was an unlawful assembly, and considering what the natives had done, everything that happened was correct. I have served the Government for 10 years and have been through six campaigns. Had I thought this an unlawful assembly I would have gone away and done it to the natives somewhere else. I think any white man with any decency at all would have done likewise. I am Justice of the Peace for the Eastern Transvaal and the Natal Colonies.

T. GRAY.

Above is full and correct account of accused (Gray's) statement made in my presence and hearing and signed by accused.

H. O. DOLBEY.

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EWART SCOTT GROGAN, settler resident at Nairobi, accused, demands to give evidence on oath, sworn, states :—

I have large interests in this country. I am a member of the Municipal Committee appointed by the Government, and President of the Colonists' Association and a Visiting Justice to Nairobi Gaol.

On March 13th I received a communication as to the conduct of some of my rickshaw boys. In consequence I went to try and find the boys; I was at the time gardening. I was extremely angry at what I had heard. My first idea was to seize them, but on reflection I went to my headman and my syce. I found they had both gone away—it was rather late, about 5.45 p.m. When I came back I found the gharri boys had gone also. I was angry and unwell, and walked halfway to



my brother-in-law's house intending to discuss the matter with him. I changed my mind as to this since no purpose would be served by this discussion, since he would be as angry as myself over the matter, and went and saw Fichat, another neighbour of mine instead. I found him at home and said: "Fichat, I am very angry." He asked "What is the matter now, is it the Land Office again?" I said "No, more serious." I explained to him what had happened, and we discussed matters connected with natives generally for some time, and he told me of a case of native indecent conduct towards a member of his own family, which had moved him very much.

I think he then asked me what I proposed to do. I am not sure if I then said I meant to flog the boys in public, it was very probable; but at that time I was not sure whether I could catch these boys, as I thought it quite likely they would not come back.

I asked him to come over in the morning on his way into town.

The following morning he came in while I was having breakfast. There was a certain amount of desultory conversation connected with this subject.

After breakfast I went outside and got my headman and syce, and finding the gharri boys had returned, I collected them, tied their hands behind their backs, and put them into a shed. I went back into the house and told Fichat I had caught the boys, and I think I told him then I would beat them in public definitely.

(I remember in discussing this matter with Fichat the night before that he, to the best of my belief, made some remarks to the effect that if I did beat these boys I should get into trouble, but I only have a hazy recollection of this.) This decision I arrived at without any encouragement from Fichat. It was purely my own idea and my own decision.

It would then have been a quarter to nine—Fichat about this time went away.

At or about 9.45 I came into town. I brought the three natives in with me in charge of three other natives, a Masai, Mkamba and Mkavirondo. I selected different tribes so as to let the news circulate among different tribes. I came down the main road, past the police station, and into the main street. I was still undecided where to have this flogging. I first thought of the police station, then thought the Collector's office, but changed my mind and went down the street with the intention of having the scene near Mr. Wood's office. When I got there I saw a number of people coming towards me from different directions, so I brought them down to the front of the Court House and drifted into the enclosure. Logan came out and stood on the top of the steps. He called out to Bowker, who did not hear him, he then turned to me and said: "Captain Grogan, what are you doing?" I replied, "I am going to beat these boys"; he said, "Why"; I replied, "Because I want to." He then said, "But what for"; I replied, "For insulting my sister and a lady friend." I think I gave some particulars; I am not sure now whether I did or not. At this period a noise started, and it was very difficult to hear. I understood him to say words to the effect that this was not the proper procedure, that I ought instead to take them before the proper authorities and lay a charge. I said: "I was sick of being made a fool of and this was a matter I dare not trust to the authorities." There was a great noise at this time. There were three or four more passages between Logan and myself, and then Logan turned his head away from me and spoke to the crowd, and I forget his words, but he prefaced them with "Gentlemen," and said something about not taking the law into our own hands. At this time there was very considerable noise. He then went away and Captain Smith came up.

I soon after saw the crowd was getting very angry, and I could see that something unforeseen might occur, so I spoke thrice to the crowd, and said I did not want any interference of any sort or kind, and to remove any wrongful impression I told them that there was no suggestion of indecent conduct alleged against these men. I also asked crowd to give me their word that after I had done with these natives they would not do anything more to them. A chorus of consent followed. The words I used to the crowd were: "Will you promise me that when I have done with these natives you will not touch them or do anything to them?" There was a general shout of "Yes, promise."

I then asked if there was anybody present who could speak Kikuyu, and a man stepped out, whom I since know to be Mr. Cowlie, and I got him to interpret to these natives again what I was doing and why I was doing it, and told them to tell their own fellow natives that white men would not stand any impertinence to their women-folk.

Mr. Cowlie, presumably, interpreted this. I then gave one of the boys 25 lashes. When I finished the kiboko I used was pulled out of my hand, the crowd closed in around me, and I did not see what followed. I waited to see the natives brought out, and when the crowd dispersed and I knew there was no more risk of trouble, I told the boys to go off home. I then went to the Travellers' Club, and went from there to T. A. Wood's to attend a meeting, for which I had come down into town. My object in flogging natives in public was because I have noticed my own natives, becoming unruly owing to the impossibility (in the great majority of cases) of getting a conviction against them in a Court, or to the inadequacy of punishment if convicted. I look upon the safety of one's women-folk as a matter of such paramount importance that I do not consider I am justified as a family man in leaving such a matter to the mercy of the vagaries of the law and the application thereof. I wished natives to understand, and it should be generally understood, that any action of that nature involves a far greater risk than a dose of horse-tooth mealies or a mild suggestion not to do it again.

My chief reason was to provide an example to the natives. To let the authorities know of the discontent which I felt in this matter was also in my mind. There was nothing in my action in the least personal to the Magistrate, who I know has no jurisdiction over natives, and that therefore there would be no point in making it personal to the Magistrate.

Adjourn till to-morrow.

March 28, 1907.

Cross-examined by Combe :

Fichat came to see me on the 14th at my house at my request.

I had not finally made up my mind to flog the boys in public till the morning of March 14th.

I probably told Fichat to come over because I thought I might require his assistance to catch these boys.

I did not tell anybody on the 13th that I was going to flog these boys.

I told my brother-in-law the next morning of my intention, but no one else; this was on my way down to town; he overlooked [? overtook] me on the road.

I caused no one else to be informed.

I am still surprised that so many Europeans should have turned up.

I thought it quite possible that news of this affair would get about, though I did not think about the matter very much at the time.

I did not think at all about the probability of Fichat's talking of it.

I should not have wished it to get about. The result, that is to say that so many people turned up, was probable in the circumstances."

When I said I "drifted" to the Court, I mean the unconscious movement of the crowd which I accompanied.

They did not follow me, a large number preceded me.

I came to the space in front of the Court deliberately; I was not forced.

To my knowledge there has been no case brought before any Magistrate in this Protectorate in which a native has been brought up for assaulting white women.

The boys were deliberately impertinent. I did not ask these boys for any explanation before I flogged them. I told them simply why I was going to beat them, I did not ask them if they had anything to say.

I would not anyhow take the word of a native against that of a white lady.

I did not think it necessary to ask a lawyer if these boys could be legally punished; I was trained in the law myself.

They did not deny it when I told them what I was going to beat them for. At that time I had made up my mind to flog them publicly; nothing they could have said would have altered my mind, for I don't admit of any explanation for a native's being impertinent to a lady. I deemed it necessary to ask the crowd not to touch the boys after I had finished with them from an idea I had of the demeanour of the crowd.

Their demeanour might have been very likely based on a wrong impression of what had occurred.

No more questions.

Allen does not wish to re-examine.

EWART S. GROGAN.

Above is full and correct account of the accused's evidence given in my presence and hearing, and signed by the witness.

H. O. DOLBEY.

Allen has no more witnesses to call.

H. O. DOLBEY.

Combe on the case:—

Facts are not in dispute.

Questions are whether there was unlawful assembly and if the accused were there.

Unlawful assembly conclusive.

Nos. 2-5. Three participants in flogging. Low and Fitchat who helped to collect crowd. All helped by hustling Smith.

Common object of crowd to witness or assist in flogging.

Grogan: Deliberate and intentional defied the law—leading person in country—admits flogging. Admits what occurred was the probable result of the act.

Fitchat assisted Grogan. He quite approved of Grogan's premeditated act. Done his best to collect a big assembly; succeeds. Must have known that crowd would come to witness flogging. Admits membership of meeting.

Bowker: Active part. Flogged one of the boys. Bowker evidently didn't ask or care whether boys were asked for any explanation or had an opportunity of making any defence.

Gray: Also active part. No defence. Willing to come forward like Bowker to flog any native for anything, apparently.

Low: Present. One purpose may have been newspaper work. He admits that was not his only object. *Vide* comment in Low's (Exhibit A) newspaper. Shows his approval. States in his paper the act of flogging untried and unheard natives, supreme law people, and law that has come to stay. Shows his sympathy with meeting.

Generally, the offence of taking law is very grave, cannot be overlooked.

Replies of accused:—

Bowker does not wish to address the Court in his defence.

H. O. DOLBEY.

Low addresses Court in his own defence. Irrelevant matter introduced by Crown Advocate.

Not charged with inciting people, so our statements to people that flogging would take place is irrelevant. Also not charged with seditious writing, therefore my newspaper not relevant. As paper has been introduced, will read other parts of paper.

The leading article voices the opinion of the paper:

No illegal act till the flogging of natives has by legal authority, *i.e.*, Court, been proved to be illegal. Crown Advocate has presumed illegality. Therefore, no unlawful assembly. (Illustration of Low's) stump orator, who says, "Down with the King"—does that make crowd who heard him guilty of an offence? One of the two witnesses who saw me (Low) at meeting describes me as mere spectator.

Sanderson and Logan were spectators just as I was. As a newspaper reporter I do not join an unlawful assembly by standing at a distance for the purpose of reporting the proceedings.

Fichat addressed Court in own defence. Maintains, like Low, that flogging the natives has yet to be proved an offence.

Also must be five convictions, as five is necessary number to form an unlawful assembly.

H. O. DOLBEY.

Captain Gray addressed Court in own defence.

Associates his opinion with those already expressed by Low and Fichat. Nothing to say.

H. O. DOLBEY.

Allen (for Grogan) addressed Court:—

Client charged simply under Section 143. Case not nearly so serious now as at the time.

No unlawful assembly, as there were not five persons with common object. None of the crowd were other than spectators.

The object of three was to flog natives, of the rest to look on.

H. O. DOLBEY.

Judgment to be delivered on Tuesday, April 2nd, 1907.

H. O. DOLBEY.

#### JUDGMENT.

April 2, 1907.

In this case the accused, Grogan, Bowker, Gray, Fichat, and Low, are summoned for being members of an unlawful assembly under paragraph 143, I.P.C.

Section 141 states that any assembly of five or more persons having as its common object the commission of an offence is an unlawful assembly.

The term "offence" for the purposes of this section is defined by paragraph 40 of Chapter II. of the Penal Code as being any offence punishable under the code or under any special or general law with imprisonment for a term of six months or upwards.

Section 142 states "Whoever being aware of facts which render any assembly an unlawful assembly intentionally joins that assembly or continues in it is said to be a member of an unlawful assembly."

As the facts in this case can hardly be said to be in dispute, it is unnecessary for me to do more than briefly restate them.

On March 13th Grogan, in consequence of information which he states he received regarding the conduct of three of his gharri boys, conceives the idea of flogging them in public. On the evening of that day, and the morning of the next, he consults with Fichat on this subject, and while in Fichat's company definitely decided upon this course of action. On this Fichat circulates the news of this decision throughout the town about an hour before the act is to take place by informing a variety of people whom he meets.

In the circulation of this news the evidence shows he is assisted by Low.

About 10 o'clock in the morning of this day (*i.e.*, 14th March), Grogan brings these three natives into the town. On his arrival he is met by a large crowd of

Europeans, estimated in number from 50 to 250, who have assembled to witness the flogging in consequence of the announcement which Fichat circulated. The boys are taken in front of the Court House, the crowd accompanying them.

On arrival there they are met by Logan, the Town Magistrate, who asks the meaning of this assembly, and on being informed, warns the crowd of the illegality of their proposed action.

In spite of this warning, and in spite also of the efforts of Smith, of the Police, to prevent it, the flogging takes place, the actual men to do the flogging being Grogan, Bowker, and Gray, who each flog one of the natives.

It is this flogging that constitutes the offence which is the essence of the unlawful assembly, the substance of this charge, and I find that this offence is punishable under paragraph 323 of the Code with imprisonment for one year. Thus, with regard to the nature of the offence the requirements of paragraph 141 of I.P.C. are fulfilled.

With regard to the other requirements of that section, it is necessary that there should be at least five persons present at that assembly with the common object of committing the offence to which I have referred.

Allen has argued that there were not five persons in fact present whose object it was to flog these natives; that at most there were only three with that object; and that the common object of the remainder of that assembly was merely to look on.

I do not think there is very much in that contention. With regard to Grogan, Bowker, and Gray, their acts make it obvious what their object was. Fichat was present with Grogan when the decision to flog these natives was arrived at. He admits he approved of the idea. He made no effort to dissuade Grogan, who apparently originated the scheme. He states he made suggestions as to where the flogging should take place, and finally he collected the crowd who assembled. By this series of acts I find the accused, Fichat, has been guilty of abetment by instigation (Section 107, I.P.C.). Abetment of this nature may be either direct or indirect. It is sufficient if the abettor counsels an offence, or if he evinces an express liking, approbation, or assent to another design of committing an offence (Starling page 119). It is laid down that taking any active proceeding either in procuring, inciting, or in some other way encouraging the act done by the principal will bring a person accused of abetment within the section. Fichat, to my mind, has been clearly guilty of counselling Grogan in his design by the suggestion which he admits he made to Grogan during their discussions on March 13th and 14th with regard to the place where the flogging should take place. He also admits that he approved of the act and assented to it. It is also clear, in my mind, that by collecting a crowd to witness Grogan's commission of this act that he was thereby encouraging the act.

In the collection of this crowd Fichat was assisted by Low in these proceedings, and I consequently find Low encouraged the act done by Grogan, and is likewise guilty of abetment by instigation.

In law a person present abetting an offence is to be deemed to have committed that offence though, in fact, he does not do so any more than a principal in the second degree (Starling page 130). He is to be considered as a principal (Reg. & Shib. Chunder Mudle, Starling page 131). The punishment for both principal and abettor in the offence in question is the same, and I do not think that there is any distinction to be drawn between the common objects of Grogan, Bowker, Gray, and that of Fichat and Low.

I think there is complete evidence of the presence of the five persons necessary under the section without including the witness Newland who, in his evidence, stated that he attended the meeting for the purpose of taking part in the object which it possessed.

But, however this may be, assuming for an instant that this meeting was a lawful assembly at its commencement, there cannot be much doubt but that it subsequently became an unlawful one.

After the illegality of its object had been stated to the assembly by Logan, the Town Magistrate, the crowd still remained, and actively assisted Grogan, Bowker,

and Gray in the prosecution of their purpose by forcibly preventing any interference by Captain Smith, the Police Officer, when he attempted to intervene. They cheered these three men at the close of the proceedings, and further evidence as to their intention is disclosed by the fact that Grogan himself found it necessary to extract promises from them that they would not molest these three men when he had finished with them.

They all became abettors of the offence, and since the lowest computation of their number is almost fifty, I have come to the conclusion that the assembly was an unlawful assembly within the meaning of Section 141, and find accordingly.

Having come to this conclusion, and also to the conclusion that those of the accused who are not guilty as principals in this affair are guilty as abettors, it necessarily follows, since they were all admittedly present at this meeting, that they were members of this unlawful assembly within the meaning of Section 142.

I will, however, leave for the moment the question as to the degree of criminality attaching to each of the accused as such members, and return to it later.

The next point for consideration is the magnitude of the offence, the commission of which formed the object of this meeting.

From first to last it appears to me that out of all the people present assisting at the flogging of these men, there was no one of that number who ever took the trouble to satisfy himself as to whether these natives had ever done anything deserving of punishment at all. There was no trial of any sort nor any form or pretence of trial. These boys were neither asked whether they had any defence or explanation to give, nor does it appear that they ever had any opportunity of making one. Grogan, who ordered the flogging, has himself stated that no plea or defence which they might have made would have diverted him from his purpose.

This is a very unpleasant feature in the case, and I consider that of its class this offence it is about as bad as it can be. Yet, in my opinion, it is further aggravated by the fact that the place selected for this unlawful act was directly in front of the Court House.

It has been stated in defence that this selection was not a matter of pre-arranged choice, but the fact remains that this situation was chosen and continued on after the Town Magistrate had made his protest to the crowd to desist from their purpose.

In face of these facts I am compelled to take a serious view of the offence, and with regard to their respective participation in it, I will first deal with the cases of the accused, Fichat and Low.

For reasons that I had already stated I find Fichat was an abettor of this flogging, in fact, the most active abettor.

I think the words he is stated to have used in the Travellers' Club, and which he has not denied, to the effect that he had got together a crowd in a record time, give the best indication of the part he has played in this affair.

As regards Low—since I have already found him to be a member of this unlawful assembly, and an abettor of the offence committed by it, I need not go at any length into his defence whereby he pleads that he was a newspaper reporter present to make a report of the proceedings. He admits in cross-examination that this was not his only object.

The evidence shows he assisted Fichat in the collection of this record crowd which directly encouraged the commission of the offence, but I do not think he was an abettor to as large an extent as Fichat.

I sentence Fichat to 14 days' and Low to 7 days' simple imprisonment.

With regard to the accused, Bowker and Gray, they were members of this unlawful assembly who each took an active part in the flogging. The statement put in by Bowker is no defence at all to the charge against him, and the points raised by Gray in the statement made by him to the Court have already been dealt with in this judgment.

I convict them both, and sentence each to 14 days' simple imprisonment, and (each) to pay a fine of Rs. 250, in default 14 days' simple imprisonment additional.

The worst case of all is that of E. S. Grogan, who originated the whole affair. I have been careful in considering his defence to weigh the reasons for his actions which he has put forward, but I cannot find any justification of any sort or kind which can be urged on his behalf.

Owing to the position which he occupied he was a man to whom the Government ought, with reasonable expectation of success, to have been able to look for assistance in the keeping of law and order. In fact, from the evidence in this case, it is clear that he has used his influence toward the commission of a most lawless act in open and premeditated defiance of the authorities.

Having regard to the circumstances I do not see what other constructions can be placed upon his actions.

I cannot find the slightest foundation in fact, for his statement that the offence which he alleges these natives to have committed constituted a matter of such paramount importance that, having at heart the safety of his women folk, he dare not trust this matter to be dealt with by what he describes as the vagaries of the law and the application thereof.

On his own showing the safety of his women folk was never involved—at most these natives had only been guilty of impertinence—and on his own admission he has no recollection of any case ever being brought before the Courts of this Protectorate in which natives have been charged with indecent conduct to white women.

But I should add that, to my mind, there is nothing more calculated to set a bad example not only to natives but to others also than exhibitions of lawlessness of the kind of which Grogan himself has been guilty.

The order of this Court is that he be imprisoned for one month simple imprisonment, and pay a fine of Rs. 500, in default one month simple imprisonment additional.

Convictions and sentences under Section 143 I.P.C.

H. O. DOLBEY.

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Enclosure 2 in No. 8.

"THE TIMES OF EAST AFRICA," Saturday, April 6th, 1907.

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THE BEGINNING OF THE END.

To say that the judgment given on Tuesday came to one and all as an oppressive shock is to state the facts mildly. From a comedy has emerged tragedy, and of no mild type. The law has been outraged and the culprits must pay the price. But how have our all-wise and all-seeing ruling powers decreed that the penalty shall be enacted? By the degradation of imprisonment without option of fine or appeal, the degradation of incarceration in a common gaol full of the vilest scum of our Indian and native population! The daily subject of the jeering scrutiny of the fellow brutes of those whose insults to our womenkind led to the climax which now occupies all our minds!! The triumphant ridicule of the negro from Mombasa to the Lake and to the extreme limits of Kenia!!! Such is the just and wisely-decreed ordeal that our five fellow-townsmen are condemned to undergo. And all for what? Because, to go to the root of matters, three men stood up publicly to punish an insult to white women and two others who have dared in the past to lift their voice in condemnation of the puerile and inefficient administration which we have suffered were present to see the act performed. True, the charge was that of being present at an unlawful assembly. What in itself was that? Nothing but an assembly to mete out due reparation to offenders whom it was felt the law would inadequately deal with. But granted that the punishment is awarded for the breach of the law aforesaid and that the Government and the Europeans in this dependency recognise it simply and solely in this light, that is not where the colossal error has been made. The only question with which we have to deal is "What will the native think?" Does the Government delude itself and want to induce us to believe that our black hordes will take this simple view. No greater mistake was ever made. Not a single native but will conclude inevitably that five Europeans have been sent to gaol because they lifted their hands to punish an offence by natives against white women. Not a single black but will decide that he can do no wrong which will entail punishment at the hands of the law whether it be mere insult to our women or worse. Argue as much as you like, you who administer justice according to the creed of Exeter Hall and those enlightened statesmen who wished to preclude Natal's just retribution on black offenders. An ineradicable impression has been made on the native mind, an impression that cannot fail to bear fruit. A day will most surely come when those responsible for this gigantic folly will be forced to recognise the peril which their act has generated.

The majesty of the law must be upheld. Rightly! But would not the law have been adequately satisfied with the imposition of a fine? Never, we believe, has the prestige of our race been dragged so low as those responsible for the maintenance of that prestige have dragged it now. They have meted out punishment not to *five* men but to the whole of the white inhabitants of a territory who are absolutely at the mercy of teeming numbers of brutal savages. We hope they are satisfied.

#### MASS MEETING IN NAIROBI.

##### THE PEOPLE'S ANSWER TO THE VERDICT.

Immediately the verdict by the magistrate, on Tuesday morning last, in *Rex v. Grogan* and others was pronounced, it was felt that only one course of lawful action was open to the public, and a mass meeting was arranged for 3 p.m. to protest against the frightful enormity in which the trial had terminated. The sentences were as follows:—

Capt. E. S. Grogan, to one month simple imprisonment and pay a fine of Rs. 500.  
W. R. Bowker and I. T. Gray, to 14 days' simple imprisonment and pay a fine of Rs. 250.  
S. C. Fichat, 14 days' simple imprisonment.  
E. W. Low, 7 days' simple imprisonment.

Judgment having been postponed for four days, a general rumour was current that inspiration had been sought from that centre of fanatical intolerance, the Colonial Office. To that fount of right and justice, then, it was determined to appeal.

Shortly after 3 p.m. about 150 settlers and business men met in Mr. T. A. Wood's auction room, and no time was lost in getting through the agenda. The meeting was extremely orderly and business-like, but the administration evidently imagined that their last hour had come, for almost the whole of the white police were present. We noticed the Inspector-General of Police, the Deputy Inspector-General, and five inspectors. What fears were knocking at the hearts of our rulers? Had not the occasion precluded merriment, this great array of power would have furnished much cause for laughter.

Mr. W. A. Burn opened the meeting, the chair being taken by Mr. T. A. Wood. The first on the agenda was a resolution by Mr. Burn, seconded by Mr. Sergeant:—

"That this meeting desires to express to the Secretary of State its emphatic protest against the sentences of imprisonment passed upon Europeans to-day in the case *Rex v. Grogan* and others, which will convey to the native mind that they have been punished for flogging natives, and this meeting is of opinion that the policy of the Government in this case renders the presence of Europeans in this Protectorate practically untenable." Carried unanimously.

Discussion was then invited, and an amendment suggested by Mr. Gulowsen to the effect that the words "and other matters" be deleted having met with general approval, the resolution thus altered was put to the meeting and carried with only one dissenter. We cannot congratulate Mr. Skellern on the ill-judged and ignorant stand he took on this and the following resolutions. We trust that the stinging rebuke administered by Mr. Douglas and the firm attitude of the chairman have given him food for thought.

The Rev. P. A. Bennett followed with a resolution which, with the explanatory comments introducing it, met with a storm of hearty cheers. Mr. Bennett pointed out that he could not be accused of partisanship in preferring this motion. He was not a friend of Mr. Low nor did he hold with all that Mr. Low, as editor of the "Star," published in his paper. This, however, was not a time to think of personal feelings. He viewed the matter from the standpoint of justice only and asked one and all to sink private differences, as he was doing, and give the resolution their fullest support. Mr. Phipps-Coles having seconded in a pithy little speech, the resolution which follows was put to the meeting and carried amid strong applause:—

"That this meeting wishes to offer its indignant and emphatic protest to the Secretary of State against the sentences of imprisonment, without the option of an appeal, passed upon Mr. E. Low, the editor of the "Star," in the case *Rex v. Grogan* and others, as in the opinion of this meeting there was nothing in the evidence or in fact to justify his selection from amongst the 150 other onlookers." Carried unanimously.

Mr. Douglas then rose to address the meeting preparatory to proposing a third resolution. In a few well-chosen words, which were clearly heard by all, he pointed out the dangers that must follow the action of the Government in the matter under discussion, and instanced the obstinacy and ignorance of the Administration in refusing to benefit by the dearly-bought experience of the Governments of the South African Colonies. He then put as a resolution:—

"That the several Governments of South Africa be approached to intercede against sentences of imprisonment without option against Messrs. Russell Bowker, Gray, Fichat, Grogan, and Low (all South Africans) for flogging natives publicly for insolence to white women." Carried unanimously.

This, being supported by Mr. Watkins in a forcible speech, was unanimously carried.

A motion by Mr. T. H. Howitt, seconded by Mr. H. Tarlton, was next preferred, which suffered a slight amendment before being put to the meeting. It read:—

"That a public subscription be raised to provide funds for costs of appealing and paying fines if necessary and cabling above resolutions." Carried unanimously.



Referring to this motion, Dr. Grice sensibly pointed out that, as it would take some little time to effect anything by cable, it would, perhaps, not be without result if a deputation were sent to ask the Acting Commissioner for amended conditions regarding the imprisonment of those committed to-day. The resolution read as follows :—

“That this meeting appoint a committee to approach the Acting Commissioner to ask for amended conditions regarding the imprisonment of Grogan and others committed to-day.”  
Seconded by Mr. G. Evans. Carried unanimously.

The next resolution was proposed by Mr. F. Watkins and seconded by Mr. Burn :—

“That the preceding resolutions be forwarded to the Acting Commissioner with a request that they be cabled to the Secretary of State for the Colonies and that this meeting is prepared if necessary to provide funds for that purpose.” Carried unanimously.

Mr. Howitt proposed, seconded by Mr. P. Coles :—

“That five gentlemen be elected to approach the Acting Commissioner.” Carried.

The following gentlemen were elected :—Messrs. T. A. Wood, Douglas, Bayldon, Gulowsen and Grice.

After a vote of thanks to the chairman, the meeting dispersed quietly.

No. 9.

THE SECRETARY OF STATE to THE ACTING COMMISSIONER.

(Sent 10.20 a.m., May 1, 1907.)

TELEGRAM.

[Answered by No. 10.]

Referring to your despatch, April 30,\* did natives receive serious injuries? What was exact nature of insult for which they were flogged?—ELGIN.

No. 10.

THE ACTING COMMISSIONER to THE SECRETARY OF STATE.

(Received 3.10 p.m., May 3, 1907.)

TELEGRAM.

No. 68. Your Lordship's telegram of 1st May.† Medical officer certifies that two of the natives received simple hurt and one severe hurt nearly amounting to grievous hurt. Last mentioned was in hospital considerable period.

Exact nature of insult, according to statement of Miss Macdonell, one of two ladies said to have been insulted, was impertinence and shaking shafts of rickshaw.—JACKSON.

No. 11.

THE SECRETARY OF STATE to THE GOVERNOR.

SIR,

Downing Street, June 18, 1907.

I HAVE the honour to acknowledge the receipt of Mr. Jackson's despatch of the 9th of April,\* forwarding a report of the trial and conviction of Captain Grogan and Messrs. Bowker, Gray, Fichat, and Low, on charges arising out of the flogging of natives in Nairobi on the 14th of March. I have also received Mr. Jackson's telegram of the 23rd of April,† transmitting a message from the Colonists' Association complaining of the action of the local administration and of a statement reported to have been made by me in the House of Lords and asking that a Commission might be appointed to enquire into these and other alleged grievances.

\* No. 8.

† No. 9.

‡ No. 7.

2. The report shows that the offenders had a fair and full trial, and that there was little dispute as to the facts. The contention of the defendants—with the exception of Low, who claimed that he was a mere spectator—was that the flogging was justified because the natives had been guilty of insulting white women; *e.g.*, the defendant Bowker expressed himself as follows:—"As it has always been the first principle with me to flog a nigger on sight who insults a white woman, I felt it my bounden duty to take the step I did, and that in a public place as a warning to the natives."

3. I fully appreciate the importance attached by the white settlers to the protection of their wives and families from insult or assault. But I have to point out that the law provides most severe penalties for such offences. Under the 376th section of the Indian Penal Code, which is in force in the Protectorate, the crime of rape is punishable with transportation for life; under the 354th section indecent assault is punishable with two years' hard labour; and under the 509th section an insult to the modesty of a woman, not amounting to assault, renders the offender liable to one year's imprisonment.

4. Natives charged with such offences would be tried by white magistrates and judges, who would not be inclined to be unduly lenient to offenders, particularly if the injured party were a white woman. But, as a matter of fact, it does not appear that any crimes of this nature have been brought before the Courts of the Protectorate, and it is accordingly impossible to plead delay or refusal of justice as a justification for the action of the defendants in the present case in taking the law into their own hands. Moreover, it appears from your telegram of the 3rd instant,\* that the insult alleged was of the most trivial character, and involved no indecency.

5. The place and the circumstances of the flogging—in front of the Court House and in spite of the protest of the Magistrate—make it clear that it was intended to be a deliberate defiance of settled order and government, and the offenders were fortunate in not being convicted on the more serious charges of riot and assault on a public officer. The conduct of the defendant Fichat, who appears from the evidence to have deliberately spread a report that white women had been indecently assaulted, well knowing it to be false, cannot be too strongly reprobated. No doubt many persons were thus led to take part in the assembly who would not have done so if the true facts had been known to them.

6. With regard to the telegraphic message† from the Colonists' Association, I see no ground for saying that the prosecution of the offenders in this case was a political one, unless there is a party in Nairobi which advocates as a policy the indiscriminate flogging of natives for trivial offences without trial; and the question whether many of the Europeans present at the flogging were armed or not does not materially affect the gravity of the offence committed. I see no reason, therefore, for appointing a Commission to enquire into the circumstances of the flogging, which are in other respects sufficiently established by the evidence given at the trial.

7. The fears of a native rising which induced some of those who took part in the flogging to demand arms and ammunition for their protection do not appear to have had any foundation. I am bound to observe, however, that the commission of such flagrant acts of lawlessness and injustice as those of which the defendants in this case have been found guilty is the surest way to provoke an outbreak. In the interests not only of the natives (constituting as they do an immense majority of the population) but also of the innocent white inhabitants, it is the duty of the Government to restrain and punish those who commit such acts, and you will be able, if necessary, to make use of the provisions of the East Africa Order in Council, 1902, which authorize the deportation of any person who conducts himself so as to be dangerous to peace and good order in East Africa.

I have, &c.,  
ELGIN.

\* No. 10.

† No. 7.

EAST AFRICA PROTECTORATE.

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S 2188

CORRESPONDENCE

RELATING TO

(5)

AFFAIRS IN THE EAST AFRICA  
PROTECTORATE.

---

Presented to both Houses of Parliament by Command of His Majesty.

July, 1908.

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Serial No.	From or to whom.	—	Date.	Subject.	Page.
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V61:410245

EAST AFRICA PROTECTORATE.

CORRESPONDENCE

RELATING TO

AFFAIRS IN THE EAST AFRICA  
PROTECTORATE.

No. 1.

THE GOVERNOR to THE SECRETARY OF STATE.

(Received 7.50 a.m., 24 March, 1908.)

TELEGRAM.

[Answered by Nos. 3 and 4.]

No. 63. 23 March. A large meeting of colonists was held to-day convened by me at which I presided to consider question of labour. Large number of speeches were made, mostly of a temperate character, and on the motion of Lord Delamere certain propositions were agreed to unanimously by colonists present. I gave a sympathetic address at opening, and in conclusion referred to questions raised, dealt with main points, and promised to consider most important. Leading proposals were immediate withdrawal of labour rules fully approved by Under Secretary of State for the Colonies, formation of Central Board to frame new rules, separation from native affairs of labour bureau, and appointment of Secretary for Native Affairs from an outside Colony. I thought that meeting ended satisfactorily and amicably. In the afternoon about fifty settlers repaired to Government House headed by Lord Delamere. Mr. Baillie also was present. On being asked by my aide-de-camp what they wanted, they stated that they insisted on seeing the Governor, and refused my invitation to two or three of the leaders to enter Government House. I then met them outside, and attitude of Lord Delamere was most truculent and aggressive. He and his followers insisted on definite and immediate reply to motion carried in the morning. I declined to do this on the spur of the moment, and I said to them that I would reply to them in my office to-morrow morning, remarking at the same time on the extraordinary nature of their proceedings. Lord Delamere and his followers were not satisfied with this, and as they went away greeted me with shouts of "resign," "resign." The whole of proceedings showed unseemly ill-will towards the Government of Protectorate, and I consider that the two unofficial members of Legislative Council acted most improperly in taking part.—SADLER.

No. 2.

THE GOVERNOR to THE SECRETARY OF STATE.

(Received 6.35 p.m., 24 March, 1908.)

TELEGRAM.

[Answered by No. 3.]

24 March. Conduct of Lord Delamere and Mr. Baillie in connection with proceedings reported in my telegram of to-day,\* is, in my opinion, so serious and so gross an insult to this Government and His Majesty's representative that I have

\* No. 1.

suspended both of them, under Section 18 of the Royal Instructions, from their duties on the Legislative Council. In informing them of this I have added that I am recommending the removal of their names from the list of unofficial members, and that if they think fit to send me any explanation I shall be happy to submit it in forwarding that recommendation.—SADLER.

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No. 3.

THE SECRETARY OF STATE TO THE GOVERNOR.

(Sent 8.30 p.m., 25 March, 1908.)

TELEGRAM.

March 25. With reference to your telegrams of March 23rd, No. 63,\* and March 24th,† you will, of course, take such measures as may be necessary to safeguard yourself, as His Majesty's representative, from organised demonstrations of insulting and disorderly character.

It appears to me that the conduct of Lord Delamere and Mr. Baillie in taking part in such a demonstration is incompatible with their position as members of the Legislative Council, and I fully approve of your action as described in your telegram of the 24th.† I shall be glad to consider any explanation of their conduct which they may give.—ELGN.

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No. 4.

THE SECRETARY OF STATE TO THE GOVERNOR.

(Sent 8.30 p.m., 25 March, 1908.)

TELEGRAM.

25 March. Your telegram, No. 63, (March 23.\* Main principles of labour regulations must be enforced, but if they are unreservedly accepted you may, of course, consider modifications as to details, and discuss them in the Legislative Council.—ELGN.

---

No. 5.

THE GOVERNOR TO THE SECRETARY OF STATE.

(Received 6.51 p.m., 25 March, 1908.)

TELEGRAM.

[Answered by No. 7.]

25 March. Lord Cardross asks me transmit following telegram to your Lordship:—

This general meeting settlers has heard with amazement and indignation of action taken by His Excellency the Governor regard to Delamere and Baillie. Meeting feels it was indefinite and inconclusive character His Excellency speech at public meeting called by him in reply to question of vital urgency that was reason and justification for subsequent gathering at Government House. Meeting regrets that His Excellency should have represented respectful and orderly gathering at Government House as disorderly demonstration. Meeting regrets that few individuals, stung by unsympathetic attitude and speech of Governor, were betrayed into making use of exclamations to which His Excellency has taken exception. For this, however, whole meeting was in no way responsible.

—SADLER.

---

\* No. 1.

† No. 2.

No. 6.

THE GOVERNOR to the SECRETARY OF STATE.

(Received 6.50 p.m., 25 March, 1908.)

TELEGRAM.

25 March. With reference to Lord Cardross's telegram,\* facts are as stated in my telegram of 23rd March.† I was thoroughly sympathetic meeting morning, naturally not to demonstration at my house, which was intolerable. Executive Council and senior officials unanimously support my opinion and my action which was fully justified. Telegram referred to appears to be work of a committee composed of persons names not yet known.—SADLER.

No. 7.

THE SECRETARY OF STATE to THE GOVERNOR.

(Sent 28 March, 1908.)

TELEGRAM.

28 March, 1908. Referring to your telegram of 25 March,\* inform Lord Cardross that your action with regard to Lord Delamere and Mr. Baillie has my full approval.—ELGIN.

No. 8.

THE GOVERNOR to THE SECRETARY OF STATE.

(Received 7.35 p.m., 12 April, 1908.)

TELEGRAM.

12 April. Your Lordship will probably receive about May 1st explanations of Lord Delamere and Mr. Baillie. They contain very qualified expressions of regret, which I do not consider satisfactory, and they mainly attempt justification of action taken.—SADLER.

No. 9.

THE GOVERNOR to THE SECRETARY OF STATE.

(Received 16 April, 1908.)

[Answered by No. 15.]

(Extract.)

Governor's Office, Nairobi, 23 March, 1908.

I have the honour to submit a copy of a resolution proposed by Lord Delamere in the Colonists' Association and sent to me under cover of a letter from the Secretary of that Association. Copies of this letter and of the reply which I caused to be sent are attached.

This resolution appears to have been framed by Lord Delamere immediately on his return from England, before he had even taken the trouble to consult me as to the matters with which it dealt, and I am sorry to say shows but too plainly the spirit in which he has returned to resume his duties on the Legislative Council.

Enclosure 1 in No. 9.

RESOLUTION.

"That the Colonists' Association is of opinion that the present attitude of the Government, as regards settlers and natives, is one which is fraught with danger to the whole community, and sure to lead to severe breaches of the peace; that if the Government persists in its present course, it is responsible for the results, and

\* No. 5.

† No. 1.



the Association therefore asks that immediate steps be taken to withdraw the impression that the Government is against the settler and for the native, thereby encouraging the latter to lawlessness and crime, leading to reprisals which must cause suffering to many innocent natives."

Enclosure 2 in No. 9.

YOUR EXCELLENCY,

Nairobi, 5 March, 1908.

I AM instructed by my Committee to forward you the attached resolution, proposed by the President, the Right Honourable the Lord Delamere, and seconded by the Deputy President, Mr. T. A. Wood, and I am directed to forward the following letter, drafted by the Committee, forwarding covering the said resolution:—

"In connection with the attached resolution, we wish to bring the following to Your Excellency's notice. It seems to us that the extraordinary labour rules which are in force for those who wish to obtain labour through Government officers have had the following effect: to greatly increase, in fact to double at least, the cost of unskilled labour, without any adequate return to the employer; it must not be forgotten that, although Rs. 4 or 5 per month is a small wage, yet in most cases it is more than the native is worth, as he is idle, unskilled, and untrustworthy.

"We also understand that officers connected with the Labour Department have personally informed the natives that they need not work for white men unless they wish to do so.

"We recognise that 'forced labour' cannot be carried on in this country, but to deliberately advertise to the natives that they need not work unless they wish to, must, to the savage mind, appear to be a broad hint to stop work, the result being that all over the country dearth of labour is being felt, and in many instances, as in the Ukamba Province, the settler is almost without labour and must inevitably be ruined unless the present situation is materially altered.

"We must point out, Your Excellency, that it is grossly unfair to invite the settler to this country, as has been done, to give him land under conditions which force him to work, and at the same time to do away with the foundation on which the whole of his enterprise and hope is based, namely, cheap labour, whilst the native is allowed to retain large tracts of land, on which he can remain in idleness, and no attempt to elevate or raise him is made, and if a period of famine arrives, he has only to apply for assistance and help to the Government.

"The unfairness of the situation we feel sure must appeal to, and will be remedied by, Your Excellency.

"Again, as a result, crime amongst the natives, against the settlers, is greatly on the increase within the last 12 months, greatly increasing within the last six; we have had murders of white men, robbery with violence, many cases of insolence to white women, and at least one case of attempted rape, a most serious state of affairs when one considers what small white population this country has at present.

"In conclusion we must point out that unfortunately the Honourable the Secretary for Native Affairs does not appear to realise the responsibility of his position; a far higher and broader view should be taken than one of advocating the cause of the native only and thereby setting the one race against the other, a position fraught with difficulty and peril; it seems to us that the Honourable the Secretary for Native Affairs should be a just arbiter between the settler and the native, viewing neither with exceptional favour, and always ahead to find what is best, both now and in the future, for the best interests of the country and its population, white and black. There can be no equality for many years between the two races, and a reference to other countries under English rule, will easily bear out this statement, as it will take many generations before the native is sufficiently educated, both morally and mentally, to meet the white man as equal, and never if the present policy of encouraging savagery and idleness is persisted in.

"We would respectfully point out to Your Excellency that the present views which appear to have been adopted, whether those of one man or more, are against those of many of the officials of long standing and experience in this country; and against those of the whole of the white settlers, many of whom we venture to say have had a far longer, broader, greater, and more humane knowledge of treatment

of natives than the Honourable the Secretary for Native Affairs appears to have, and yet, so far as we are aware, in no case has any attempt been made to consult them.

"This Association exists in the interests of this country and the settlers in it, and wishes most sincerely to work and co-operate with Your Excellency and His Majesty's Government, and would therefore ask you to take immediate steps to put an end to an intolerable situation, one which can only end in ruin to many settlers, and also must have a material effect on the future prospects of this country as a whole.

"As a remedy to the existing state of affairs we would respectfully suggest the following:—

"The immediate withdrawal of the whole of the present Native Labour Rules, which are unworkable, and essentially unfair.

"The substitution of ordinary fair working rules with the insistence of the fulfilment of the contract by white or black under penalty of the law, and that in these rules no effort be made by the Government to force the standard rate of wages to a higher rate than in the past, and that these be framed by a Board of officials and non-officials with a knowledge of the natives.

"That instructions be issued to Provincial Commissioner and other officers to impress the native with the desirability of working for settlers and not otherwise."

I have, &c.,  
S. FICHAT,  
Secretary, Colonists' Association.

His Excellency  
The Governor,  
Nairobi.

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Enclosure 3 in No. 9.

MY LORD,

Governor's Office, Nairobi, 12 March, 1908.

I AM desired to acknowledge the receipt of your Secretary's letter of the 5th instant giving cover to a resolution of the Association proposed by your Lordship and seconded by Mr. T. A. Wood.

2. His Excellency cannot but express his surprise and regret at the terms in which this resolution is worded and the impression it is evidently intended to convey. There can be no question as to the attitude of the Government of this Protectorate as regards settlers and natives. It has been, and always will be, one of impartiality, directed to the promotion and encouragement of the best interests of all. If such an impression exists, that the Government is for the native as against the settler, it is a wrong one; it is not justified by any act or acts of the Government, least of all by the attitude of the Government itself towards the settlers and the willingness it has shown to help them wherever it legitimately can. Whilst this Government will sternly suppress any tendency on the part of the native to lawlessness and crime it will equally suppress any attempt at such reprisals as those to which you refer.

3. The letter of the Secretary deals primarily with crime by the natives against white men and with the labour question. It is much to be regretted that there have been lately two instances of murder of white men by natives and one of robbery and violence; unfortunately no country, especially lately opened to settlement, can be altogether free from such incidents. The cases referred to, in each of which the culprits have been arrested and brought to trial, are isolated cases of crime, and His Excellency is not advised that they point to any general feeling of unrest on the part of the natives or to any general spirit of ill-will on their part to the white man. Should such a position arise the Government will be fully prepared to deal with it.

4. As regards the conditions of labour supplied by the Government those were laid down at a time when it was necessary to put an immediate stop to certain abuses which were brought to notice. If the Government undertakes to supply labour it is incumbent on it to ensure that that labour is properly fed and cared for. The Government has not been unmindful of the complaints that have been made by settlers against some of these conditions, and it is recognised that the conditions

which should properly apply to labour working under unfavourable climatic conditions outside its own districts, need not necessarily be enforced in their entirety in the case of natives working for settlers in the districts in which they are recruited.

5. Since January last steps have been in progress for forming Provincial and District Labour Boards, on which the settlers will be represented, and it is hoped that these arrangements will be completed in time to allow of a meeting being held at Nairobi about the 23rd instant at which the various questions involved can be discussed and to which your Association will be invited to send representatives.

6. His Excellency is unable to accept the view put forward by the Association as to the manner in which the Secretary for Native Affairs conducts the duties of his Department and the assumption that he is setting race against race, being diametrically opposed to the reasons for which his appointment was made and to the objects his Department is striving to attain, is as irrational as it is unjust.

7. It is presumed that paragraph 4 of the letter under reply refers to reports which have been current that an officer of the Department for Native Affairs in the Kenya Province told the natives that they need not work for the white men unless they wish to. Labour, as you are aware, cannot be forced; at the same time needless emphasis such as that referred to is to be deprecated in the conditions of the country, and I am to say that enquiries instituted into the matter do not bear out the construction implied from the reports published in the local Press.

8. It is observed that at this meeting which does not appear to have been attended by the President and at which such large and wide-reaching issues were raised, the attendance appears to have been limited to the members of the Committee and one or two residents of the town of Nairobi, the outside settler who is principally interested in the matters referred to in the resolution being conspicuous by his absence.

I have, &c.,  
J. W. MONSON,  
Secretary.

The Right Honourable  
Lord Delamere.

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No. 10.

THE GOVERNOR to THE SECRETARY OF STATE.

(Received 18 April, 1908.)

[Answered by No. 15.]

MY LORD,

Governor's Office, Nairobi, 26 March, 1908.

I HAVE the honour to submit the proceedings of a large meeting of settlers convened by me at the Railway Institute on the morning of the 23rd instant to discuss the difficulties connected with the labour question and the best means of meeting them. There were about 150 persons present.

2. The spirit in which I and the officers of this Administration were prepared to meet the settlers on this question is shown in my opening address. Naturally, no definite ruling could be given on the points raised in Lord Delamere's motion on the spur of the moment; the proceedings were orderly, and on the whole passed off satisfactorily.

3. It was after this meeting that the unseemly incident occurred at Government House to which I have referred elsewhere.

4. The following morning I received at my office at midday a deputation consisting of:—

Lord Delamere,  
Lord Cardross,  
Mr. Baillie,  
Mr. Russell Bowker,  
Mr. T. A. Wood,  
Mr. Watkins,  
Mr. Ward,

to hear my replies to the matters put forward in Lord Delamere's motion of the previous day. These are given on the attached memorandum. Whilst not agreeing to the formation of a permanent Central Board until experience had been gained of the working of the Local Boards, I saw no reason to dissent from the request made to me by the Deputation that as the Provincial Commissioners were now assembled at Nairobi, advantage be taken of their presence to form a temporary Board to consider, with representatives of the settlers and heads of labour-employed departments, the terms on which labour will be supplied by Government, and to enquire into the conditions of labour. To this proposal I gave my assent, and the Board commenced its sittings at 10 a.m. yesterday, and is, I believe, working harmoniously. The delegates of the settlers are:—

Lord Delamere,  
Mr. Watkins,  
Mr. Stevens,  
Mr. Ward,  
Mr. Russell Bowker,  
Mr. Wood.

5. It will be convenient if I defer considerations of the questions involved in the labour problem until I am in receipt of the report of the Board.

6. It will be observed that I have declined to cancel the main existing principles of the labour rules, though I admitted concessions on two points to which the settlers attach importance.

I have, &c.,

J. HAYES SADLER.

Enclosure 1 in No. 10.

PROCEEDINGS OF THE LABOUR CONFERENCE.

23 March, 1908.

Mr. ANDERSON stated that he had been an employer of native labour for eight years—sometimes in large, sometimes in small, quantities. He did not represent the Coast Planters' Association, but had been asked by many planters to ask His Excellency to call a similar meeting to the present one at Mombasa.

The country, he said, owed a deep debt of gratitude to those responsible for publishing the Labour Rules, which have been the means of creating a common bond of sympathy between the Heads of Government Departments and the non-official population. The labour question is equally important to the settler requiring four or five natives as to the Manager of the Uganda Railway.

He had received an invitation, which had been spread broadcast, in which His Excellency had asked those interested to express their opinions on the difficulties of this question, and he thought that all present fully realized the responsibility they took in giving an opinion on so important a matter.

Mr. Anderson said that he had prepared a motion which he thought dealt with the question, and which, with the permission of the meeting, he proposed to move:—

That in the opinion of this meeting no permanent or satisfactory solution of the native labour question will be possible until such time as the present Native Affairs Department is reorganized, and the native population is called upon to contribute, on a more equitable basis, to the revenue of the State.

*Subsidiary Motion.*

Further, that this meeting respectfully submits to His Excellency the Governor for his consideration the following suggestions for the reorganization of the Native Affairs Department:—

(a) The creation of Provincial Native Commissionerships, the new positions to be filled by the present Provincial Commissioners;

(b) The appointment of a Commissioner of Natives of proved ability from an older Colony as Head of the Department; the present Secretary of Native Affairs to act as Departmental Secretary;

(c) The collection of native taxes and the issuing of native liquor licences to be added to the duties and responsibilities at present laid down to be fulfilled by the Native Affairs Office.

Continuing, Mr. Anderson said, he moved this with the idea that the great question before His Excellency should be met in a statesmanlike manner. He did not think it a time to tinker the question, as in the near future an enormous labour supply would be needed. He was very pleased to hear that His Excellency had decided to allow non-officials to sit on the Boards and advise the Government in the matter of labour, but did not see much use in asking them to discuss the matter when there was no labour there. No doubt, he said, His Excellency was aware that there was a scarcity of labour to-day, and strange to say in a country where the labour is most prolific.

Referring to the suggestion of separating the Labour Office from the Native Affairs Office, he trusted that it would not be done, as the labour question was bound up in the greater question of Native Affairs. He did not think that the blanket question of boiling water affected the supply, and failed to see that further legislation would help them.

The Master and Servants' Ordinance was a good Ordinance, but the Act does not seem to have been tested in the highlands, but in the lowlands it had been found satisfactory. In any case, an Act itself, unsympathetically rendered by Magistrates was practically useless, and would not present an employer robbing his employee or the employee from deserting when he wanted.

Expressing himself subject to His Excellency's correction, he went on to state how the Native Affairs Office is constituted, viz.:-

That the Secretary for Native Affairs is called upon to protect the rights of the natives, collect statistics, particulars as to their manners and customs, and advise the Government on the subject of native reserves, and it is further laid down that he has to superintend taxation. In other words, the weakest department has to do the work which is beyond the power of any official of this country; in fact, he believed it would be necessary to go outside the country to do the work.

Mr. Anderson said that he had never advocated going outside the country to fill a post, but as the Commissioner of Public Works had proved such a success, he had no hesitation in asking His Excellency to recommend to the Colonial Office that a Commissioner of Native Affairs of tried ability be appointed in whom the Government and the settler would have entire confidence. With regard to the Provincial Commissioners he asked that they might be relieved from all the detail that had hampered them in the past, and which had in many instances made them undeservedly unpopular.

Mr. Anderson thought that if his motion was accepted at this meeting and recommended to the Colonial Office, the question would be solved. He also believed that if the Provincial Commissioners had no other work than to look after the natives, the native would look upon them as advisers and friends, and that 50,000 might be forthcoming.

He was not in favour of increasing the taxation, as he did not think it a good policy to take one lot of native and let another lot go free. Looking at the Kenya District, 200 million natives, £26,000 hut tax, he thought the amount should be £100,000. But nobody could call it a just taxation when one man pays Rs. 3 and five others laughed at him.

In his motion, Mr. Anderson said he had made no mention of a remedy for the present circumstances, which were very serious at this moment, but personally he did not believe it was possible to improve them without going down to the root of the matter.

He thought that the Governor should instruct his officers to assist the settler, while the settler on his part should remember that if he does not "play the game" no Government in the world can help him. He added that the Planters' Association regarded any man abusing his labour as the common enemy of the planter and settler alike, and took prompt steps to bring him to book.

Mr. Anderson said that he believed that this resolution, if tempered with His Excellency's admirable judgment, will have solved the only problem which lies in front of them.

Mr. WATKINS, in seconding the motion, said that he agreed with Mr. Anderson that it was a most crucial question. They were endeavouring to develop the resources of the country, but without unskilled labour it was impossible to do so.

The Government, he said, had not hitherto helped them, but had put every possible difficulty in the way of obtaining labour.

Mr. ANDERSON rose at this point, and disclaimed responsibility for everything his seconder said.

Mr. WATKINS accepted sole responsibility and proceeded to say that the Government at this juncture in the history of the country should assist in every possible manner in getting labour for the settler. How can the settler obtain labour? By several methods, which should have been tried long ago. There was the Pass System in vogue down south. They should insist on natives clothing themselves and increasing their requirements.

He cited an instance of his own, where some Kikuyus who had worked nine months had received blankets, advances, 2 lbs. food (mealies and rice) daily, and had, after being taken to Nakuru, deserted suddenly because the place did not suit them. Their railway fares had cost him Rs. 9. He had no redress, as the police could not help him. Was that a condition, he asked, that should prevail in a British Colony which should depend on native labour for its development?

The appointment of Boards, he thought, would probably improve matters, but some drastic measure should be at once introduced.

He quite agreed that there were many settlers, probably, responsible for the situation to-day. The Government should protect the native, and the settler should do his best to give the native no cause for complaint.

Mr. Watkins said that he had been sent down to represent the Pastoralists' Association with no other instructions than to listen to what took place, as the notice was so short that they had been able to formulate no proposals to put forward. No shape of salary was asked for, nor even compulsory labour, but he wanted something by which the native labour would not be able to leave at will as they have done.

Finally he urged the settlers to speak out their minds at the meeting and not simply grumble outside.

Mr. STEVENS asked for the total number of adult natives who could work in this Colony and the total number of adult natives who are actually employed so that the meeting could have some idea of the number of natives working and those who were not working.

HIS EXCELLENCY drew attention to the motion before the meeting which had not yet been carried.

Mr. STEVENS thought that the figures might assist them in voting on the motion.

HIS EXCELLENCY said that as no census had yet been taken, it was very difficult to arrive at the figures asked for, but statistics were gradually being obtained.

Mr. STEVENS said that he was a new-comer here, and did not propose to address the meeting at this stage, as he imagined that there were many men of more experience than himself anxious to speak, but as no one took up the running he would proceed. He had only been here for close on three months, he had experience and had studied the native question in various other Colonies and had to confess that he had never seen the labour question in such a disorganised or chaotic position as in this Colony.

Mr. Watkins had had similar experience to his in South Africa and had mentioned the Pass System. A great many gentlemen present were South Africans who knew that for a hundred years the question has been studied and the result of the hundred years' experience is the Pass System. Under that system you get a disciplined native; you know where every native is, what his wages are and his employment and any instance of irregularity comes to the notice of the Government.

Mr. Stevens was not able to associate himself with Mr. Anderson's suggestion that the Labour Department should *not* be separate from the Native Affairs Department. He said that there should be two Departments, as the Labour Department and Native Affairs are in direct conflict. One Department could protect the interests of the natives while the other could look after the employers and the people he employed.

Mr. Stevens had had three gardeners engaged for six months at the beginning of this month. After a week one disappeared without complaint or warning; three days ago another walked off, and he was daily expecting the third to disappear. His Excellency, in his address, had referred to a better check on wilful desertion; he added that His Excellency was consulting his legal advisers as to what better check could be provided; it appeared to him that any man with average intelligence

could draft one or a dozen rules more or less drastic, and surely the first thing the Native Affairs Department should do in this Colony would be to put a check on wilful desertion. In his experience he had found that the only way of handling a native was to temper severity with justice.

Mr. Stevens agreed with Mr. Watkins that grumbling at the Government outside was useless and that any one with grievances should state them before His Excellency.

Mr. Howitt said that for four years spent in this country he had employed on an average 50 natives a month on his farm. For some unknown reason he had had no natives for the last three months. He had not ill-treated them and had always paid them their full wages, as his wage-book would show. The natives having suddenly decided not to work, he and his brother-in-law had been planting and hoeing on their own land after the fashion of native women. Much of the land under cultivation was going bad; his pigs were without a herd and his cattle were roaming. Times were bad, but were getting worse.

Mr. J. R. Wood (Limuru) said he had been in the country over six years and had cultivated over 250 acres of land at Njoro. His present manager, after managing over 2½ years, wished to take his farm over and just as all arrangements are practically completed the labour supply fails. The natives absolutely refuse to work and the land has to be thrown out of cultivation. He had always had a little trouble, but this year he cannot carry on.

Mr. Wood complained that when sharply spoken to the natives walked into their reserves and took as much land as they liked. On his land he had to limit them. He said that the Labour Regulations, not having reached Njoro during the last fortnight, he had had to refuse 150 applicants. He had not a bad name, though he made his labourers do a fair amount of work.

Mr. G. W. Caine referred to the Pax Britannica before which the Kikuyus and other semi-pastoral tribes were continually harassed by the Masai, their flocks, women, and children being carried off. The Kikuyu were then confined to a circumscribed area. We had often been accused, he said, of taking away so much land from the Kikuyu, but he really thought they had a much larger area under cultivation than in the past, together with large native reserves allotted to them by Government. They now enjoy peaceful occupation, are increasing in numbers, flocks and herds and have good markets for their produce. With such prosperity and with wives to do this work—legalized slaves—as Mr. Caine remarked, there was little inducement for him to work except under compulsion. There was certainly an unpleasant sound about the word compulsion, but after all the majority of people throughout the world had to work from compulsion and often take up work that is distasteful to them in order to obtain the necessaries of life.

The hut-tax hardly touch the male Kikuyus, 10 men often living in one hut, and in some cases he had known of natives taking down or burning down their huts when the hut collection commenced and put them up afterwards.

The only remedy was then in compulsion by either insisting upon the head chiefs in native areas finding sufficient labour at the market rates or imposing either a fairly heavy poll-tax or a reasonable land rent. It was necessary, he said, to make the native realize that he owes some obligation to British rule, and the sooner it was impressed upon him the better for himself and everyone.

Mr. Caine regarded the Labour Regulations as hopelessly unworkable for monthly labour. They were too elaborate. All that seemed requisite to him was to fix the standard rate of wage for unskilled labour in each district and to provide that the employed as well as the employer fulfils the agreement, with some conditions as to diet, the labourer of course paying for his food out of his wages. The blanket should be paid for by the native when his engagement was for a shorter period than three months.

Mr. MORGAN, speaking as the only representative from the rubber and fibre parts of Ukamba, said that he was living amidst thousands of Wakamba who never did a hand's-turn for any white man, most of their labour being recruited from German East Africa, which he thought was a reflection on a country dealing with natives. He referred to the amount of drunkenness amongst the male Wakamba. There certainly appeared to be no need for them to work, as they were able to buy their blankets, wire, and beads so cheaply owing to the absence of any import duty on those articles. The natives were enjoying such benefits under the British rule and paying nothing for it that Mr. Morgan suggested that an

import duty be put on blankets, wire, and beads so that there would be an additional inducement for them to work for the white man.

Mr. Swift (Punda Milia) said that he had been told that it might be of some service in arranging labour rules for the future to give a rough sketch of his experience in Kenya Province and the relationship existing between officials, settlers, and natives.

They had employed on an average from 70 to 80 natives a month and very often 250. No Swahili headmen superintended them and the work was very heavy. When they first went there the District Commissioner had evidently told the chief that they would require much labour, which was apparently forced. Had the chief not insisted on their coming in, they would have received none. The natives, finding that they had earned a certain number of rupees, did not object so much, and no trouble was experienced for about 18 months until the new road to Fort Hall was made. At this time the Executive Engineer of the Public Works Department was obliged to get labour quickly.

The current rate of wages was then Rs. 3, but the Executive Engineer, finding it impossible for him to get the necessary amount of labour in a short time, started giving Rs. 4. He then obtained what labour he wanted—at the expense of the settler in the district. “At the time we felt this a great injustice, but we found that he had many Indian fundies, &c., receiving high wages who were necessarily idle through the lack of natives to work under them so that the Engineer had to make his own arrangements.

“But what we felt afterwards about the matter was that the officials in our district might have helped him. He had to get his own labour entirely and had to pay Rs. 4.

“We received at that time a letter from an official in the district informing us that he understood we might have trouble with our labour, adding that several other farmers had complained of the same thing. Then we had to apply to him for labour for safaris to go into Nairobi. We had two safaris, but on writing for the third he said he was sending, but the natives of the two former safaris complained that they had not received their fair wage, and that the chief of the district told him that his natives were not anxious to work for us at all.

“If I hear a further complaint of this sort, I must refuse further labour” was the remark we were met with.

“Not ‘if proved beyond doubt’ or ‘if I find on inquiry,’ but if he heard from a weak vacillating untruthful people like Kikuyu of any similar complaint, he would refuse to supply us with further labour. This correspondence I forwarded to His Excellency; it was then referred to the District Commissioner and I heard nothing further of it, but that young man got promotion shortly afterwards.

“Then we were advised at that time that the only course we could adopt was to pay the men Rs. 4—25 per cent. increase. Can you imagine what that meant to us, after working 2½ years? I would not say reduction of profits, but increase of losses.

“We did not take the advice given us; we did not raise our wages. We paid Rs. 3, struggled on, but could not get the natives to go into Nairobi. We told the natives that the road would soon be finished, that the safari work would be taken away and we managed to get on and still pay Rs. 3.

“We went on for another year with comparatively little trouble till a labour officer was appointed to our district. At that time a young man who possessed eccentric ideas or who put his own construction on his orders was turned into our province. He has been removed, but I am afraid he was there sufficiently long to do us lasting harm.”

Mr. Swift said that one of the local chiefs had informed him that he and his men had been told that they need not work unless they thoroughly wanted to. This kind of thing, he said, had naturally done a lot of harm, the results of which were being felt now, but he hoped in time things would be gradually altered and that the natives would understand that it was necessary for them to work.

Regarding the labour conditions, Mr. Swift found from his own experience that at Rs. 3 it is fair labour if looked after closely; at Rs. 4, poor; at Rs. 5 it is unworkable. With regard to the relationship of officials with the settlers and the natives, he thought that the officials had not shown the amount of sympathy and enthusiasm as they should have done. They were too ready to say, after receiving a complaint from a native: “It is no use our trying to supply this settler with more labour.”



There *must* be some complaints of ill-treatment. Mr. Swift added that his interpretation of the duties of an official, rightly or wrongly, was that if they did find the employer ill-treating natives not to cut off his supply without a word, but to go to him and say: "You have made a very poor hand of your labour; you must treat them fairly." Try and help him, and not block him by refusing to supply him, however bad he is. The experience of Messrs. Swift and Rutherford was that the natives were weak, untruthful, vacillating people, who yet seemed to have a certain sense of justice that was very strongly marked. If their wages were paid, and they were treated firmly, rather than kindly, and knew that what the white man said he would not go back on, they got to know exactly what to expect of him. At first they tried every trick in their power to take advantage of their employer, and in fact were always trying to take advantage of him, but by treating them fairly they had very little trouble with them.

Mr. Swift deprecated cutting the pay of the natives; it was much better, if they behaved badly, to *kiboko* them, for they know then what to expect. So long as the employer made up his mind to always keep his word in every single arrangement with them.

Mr. Swift had recently about 200 natives working, who were very dissatisfied, and has threatened the headmen, who were quite afraid of them. His partner kiboked them, and they worked with a marked improvement in their behaviour.

In conclusion Mr. Swift said he only expressed these views because he was told that their experience in Kenya District might be of some service to other people. The reason they were to get labour was because they lived on the border of a large Kikuyu country, but he did feel that in the past there had been a great want of help from the officials.

Mr. MACLELLAN WILSON, addressing the meeting, said that 12½ years in this country had given him a little understanding. Besides working with natives in their country he had worked with the natives of other countries, and even in ship's holds, and he knew their minds and talk.

He quite agreed with His Excellency that when the railway was built it was impossible to get labour. Then when people began to settle and take up farms the natives found that with a rupee they could buy something, and after that discovery were not at all particular where they got the rupees from wherewith to buy. At any rate they found it policy to work, and came in five years ago, four years ago, and three years ago to seek work before there was any interference on the part of the Government. When settlers increased in the country, Government officials went out of their way to get settlers' labour, and there was very little trouble with it. For one thing, the price was kept uniform. Later on, the official dared not send out natives to work, as it was forced labour.

Quoting instances of theft, Mr. MacLellan Wilson said he had had four sheep stolen lately during the night. He sent the herd up to the Boma, where the District Commissioner retained him for four or five days though nothing was proved against the boy. He had afterwards to release him because it was forced labour. The District Commissioner said that many of his cases where he had convicted and put natives into prison had been quashed in Mombasa. What must the natives think in the case of a man whom they know is guilty, and whom the Administration know is guilty, and released?

Referring to forced labour, Mr. Wilson said that we read in the annals of history that man had a cross put upon him, and by the sweat of his brow he must live. That is so as regards the white man, so that the man who does nothing to induce the native to work, or who goes out of his way to tell the natives not to work, was, in his mind, criminally culpable. The best thing for the natives was work, and as they work they improved.

It was Mr. Wilson's experience, and he had worked in steel works at home, that the same trouble was to be found amongst white men in the matter of disinclination to work. But there, if the man did not work, he remained at the same level, and made no progress. There were at home a certain sort of people, good and conscientious people, and some personal friends of his own, who believed that it was wrong to induce the native to work. It had taken many many years for us to attain our stage of civilization, and now we wanted to do in five years here what it had taken us thousands of years to do at home. He quite agreed with Mr. Anderson that we may frame all the laws or ordinances that we can, but they will avail nothing unless there is a proper sympathetic administration, not in the letter, but in the spirit.

Mr. Wilson advocated the treatment of a native as that of a child, and as such he said must not be allowed to do exactly as he likes. The rod was necessary in its early stage, and the kiboko might be possibly needed, but the necessity would not be for long. The white man that had to kiboko daily was a fool, and had no personality. Unfortunately the native came in as a rule for a month, and during the first fortnight was trying all he could to get the best of his employer, but if he were induced to stay longer he generally acquired a respect for his employer, and would perhaps be with him for a very long time.

Some of the suggestions for improving the labour conditions were:—

Pass Law.  
Poll Tax.  
Increased Hut Tax.  
Better collection of Hut Tax.

In addition we should give native chiefs power to do as they like with natives—“barring murder.” The chief is the father of his tribe. We had introduced an individual law, said Mr. Wilson, which had broken the tribal laws, as an instance of which he quoted the case of the prevalence of drunkenness amongst the young men about three years ago. There were not the same number of white men as now, and there was likelihood of some trouble. The chiefs were, however, induced to call these young men together, and, by some play on their superstitions, had managed to obtain their promise that they would not drink for a period of two years. The attitude of the Government unfortunately had at the end of this period robbed the chiefs of much of their power, and it was found impossible to obtain a renewal of the promise for another two months; since then Mr. Wilson had seen in one native hut 30 to 40 men sitting together drinking. The man responsible for this was the man who told the native he need not work for the white man.

Mr. MacLellan Wilson cited instances of the theft of sheep and a heifer recently, though he said for the last five years he only knew of one case of theft of his stock.

Finally, he said that it was hard when a man comes to this country with a few hundreds of pounds has to slave from 5.30 a.m. to 8 or 9 in the evening, and finds that all the fruits of his labour are lost because the native has been pampered and spoiled. Every year, he continued, adds a year to a man's life, and at this high altitude his heart may be affected or his liver may have some cancerous growth. It was all right for salaried gentlemen who went home periodically, but what did it mean for those who had to sell a farm to go home. He believed that six settlers had applied for land since September. That could not be considered a sign that the country was going a-head, but when we got sympathy from the Administration that was something, and he felt that the holding of that meeting was a step in the direction of sympathy.

Dr. Scott (Scotch Mission) said: “I represent the Church of Scotland in Kikuyu. I have been in the country only three months, but I have been about 18 years in Nyassaland, and seen the native question pass through many stages. We have heard to-day a good deal about forcing labour. While I, as a Minister, would protest against all means of forcing labour (for one thing arbitrary methods never pay in the long run), yet I sympathise with the Commissioners who at times have to resort to irregular methods, which afterwards come to light, and rouse protests from the other half of the community. Therefore, to ask Commissioners to use forced methods is not fair to the Commissioners, but let us legalize methods we would all approve of.

“To think that the natives have not a duty to the country as well as to the revenue is short-sighted. Every man in the country should do duty, not only by paying, but by working. How best to get them to work for their good as well as for the good of the country it is difficult to say, but work would undoubtedly be beneficial to them, and in developing the country they would assist to develop themselves. Work supplied to natives is, therefore, a most excellent thing. What we want is some principle, some legislative measure to encourage natives to work. In Nyassaland, some years ago, they adopted a principle which has done more to solve the labour question than anything else.

“Their tax is a month's work. In Nyassaland their month's work is three shillings and their tax is three shillings, and I would suggest that the tax here is a month's work, Rs. 4, and their tax Rs. 4, because it would associate labour with the tax in their own minds.

"In Nyassaland, the Commissioner said: We shall raise the tax to double in certain prescribed areas where there is a circulation of money, and where there is, therefore, labour. But if a man work for a month for a European and gets a certificate to that effect, then he may pay three shillings along with his labour certificate.

"The result was that a man who did not wish to work paid six shillings."

"But the man who worked a month got his labour certificate for three shillings, and went straight to the Boma to pay his tax, and the result has been a very considerable increase in the labour supply without any arbitrary methods and pressing men to work. I think that might help towards the solution here. Then it might occur to many that, supposing this were adopted, you will have in certain districts a surplus of labour; the result of that would be that these men would have to go elsewhere to search for work, or in districts where there were no Europeans natives would have to go into European districts for labour service, and the result would be a better distribution of labour throughout the country."

Dr. Scott, in conclusion, said that taxes should not be paid in through chiefs. He believed that there was abuse where chiefs collected two or three taxes from the people, and he thought most distinctly that all taxes should be paid to the District Commissioner direct, which he thought would also have a beneficial effect.

In Nyassaland there were much fewer men to a hut, and the tax, therefore, amounted to a poll tax.

Mr. WILLIAMS (Kibwezi) said that the question as affecting the fibre people in the country between Voi and Makindu was important. Personally, he had found no difficulty in getting as much labour as he wanted. They stayed with him for considerable periods, and when returning from holidays generally brought other boys to work for him. They never asked for blankets or suffurias, and even when there was a temporary scarcity of food a small temporary rise of pay was generally sufficient to meet the difficulty.

The demand for labour was going up, as so many new companies were starting, and the local labour supply was useless, so that he was entirely dependent on labour up and down the line.

The labour, in his opinion, required very careful managing, and the differences between the various tribes had to be studied, viz., Mwanumwezi, Wachaga, Wakamba, &c. His boys generally put up their own huts.

(Remainder of speech drowned by 11 o'clock hooter.)

Mr. BLAYDEN TAYLOR said that since 1904 he had employed between 500 to 600 men a month at a wage of Rs. 4. He received Rs. 40 per 1,000 cubic feet. The time had now come when he was paying Rs. 14 a man, and receiving Rs. 50 per 1,000 cubic feet. He was unable to get Kikuyu labour now, but on one occasion was sent 307 men. The railway provided a train for them, he poshoed them on arrival, and gave 209 of them blankets. Later they all deserted.

The Honourable Secretary for Native Affairs asked Mr. Taylor if they did actually desert, as from certain letters written by Mr. Taylor it would appear that he returned them to the Labour Office as unequal to the work.

Mr. Taylor submitted that it amounted to the same thing—desertion. On another occasion, he said, 85 and 42 men deserted from him. He spoke at the meeting because, being now unable to furnish the quantity of fuel required by the railway, he expected his contract, which had been threatened, to be taken away from him.

Mr. PRIDMORE (Limuru) spoke to having had at the beginning of one month close on 100 boys; half-way through the month he had 5; now he had 2.

Mr. H. W. BUCKLAND said that they had had an excellent speech telling them how things were managed in Nyassaland. For many years he had lived in Rhodesia, a new country; there they had the master mind of Cecil Rhodes, who was able to cope with the question.

After the Matabele Rebellion Cecil Rhodes appointed headmen throughout the country, every native being registered under them. Every district had a native Commissioner, who had magisterial and judicial powers over the native, and he had, of course, complete control over the headmen; then, by instituting the Pass system, they got every control over the native who, if found outside his district, was immediately sent back. Natives deserting were easily traced, and made [? laid] hands on. When Mr. Buckland left it was practically a working system.

Mr. Rhodes adopted an Act called the Glen Grey Act, by which a native, if he could produce a pass from a white employer, need not work for one, two, or three months, and was relieved from a certain amount of taxation. It certainly took some time to bring this measure in, as they were hampered by Exeter Hall.

Mr. WARD then addressed the meeting on behalf of the Afro-American Fibre Company. He said that at the present time they were working one-half of the missionary- [? manufactory] for three days a week for five hours, and had been doing so for the last four months. He pointed out what an uncomfortable position it was for him, a responsible officer answerable to his Board of Directors.

He admitted that Voi was not altogether a health resort, and, furthermore, did not suit the highland native, possibly because of the heat, the difference in temperature between noon and 4 o'clock in the morning, (something like 25 to 30 degrees) or the water. However, between September 6th until January they had Wakikuyu then, as the Labour Department knew, 243 we railed back to Nairobi at Government expense—every man sick. These men had been housed and blanketed, and everything that could possibly be done for them was done. The Government compounder was at the camp daily, but so sudden and pronounced was the sickness that in certain cases men working at 11 o'clock died at 12. Thus highland labour did not do, and Mr. Ward had to turn to the local labour. "One cannot say," said he, "as to the number of men we could rely on, but the East African Handbook gives the number of the population at four to five thousand, but we know for absolute fact that there are two or three thousand able-bodied men." My colleague went out to the hill on a three weeks' safari, going to all the huts and villages, as it had been always impossible to get the men to stay longer than one month. I told him to try and find out what complaints they made. We had either to get a labour supply or shut down. My colleague returned with 150 men, stating that they had two complaints:—

- (a) It was too far for them to walk from their camp to their work;
- (b) They did not want headmen over them who did not belong to their tribe.

With regard to (a) I had a special camp made, and there wood and water was sent to them, while as concerned (b) men chosen by themselves were appointed headmen, there being only one stranger, a capable Mnyamwezi.

Mr. Ward asked what was the rock bottom cause of the scarcity of labour, was it a sheer laziness? If so, some system should be introduced to combat this, such as exemption from taxation through work, *i.e.*, that the native should be taxed inversely proportionate to the amount of work he did for Europeans. Speaking to Mr. Churchill with regard to the forced labour, he was told that "they would not like that at home." If the Government could give him some advice as to how to get labour Mr. Ward said he would accede to all the wishes they expressed. The only solution he personally thought was taxation, but so arranged that the more a man worked the less he should pay to the Government. Expressing this idea to Mr. Churchill that gentleman said "but what is to become of the revenue?" To which Mr. Ward replied that with an export duty of £1 13s. 4d. a ton on fibre the increased quantity of fibre exported would more than make up for the deficiency on native taxation.

Mr. Ward proceeded to explain his position with regard to his Board of Directors. He has postponed his mail until the conclusion of this meeting, in the meantime cabling them to expect important advices by the next mail. In his position he was necessarily the financial adviser of his Board, and could he honestly tell them that a suggested outlay of £5,000 on new plant, &c., was justifiable in the present condition of things?

The problem, so far as the Afro-American Fibre Company was concerned, had to be solved within the next month or they had to pay their debts and go home. Mr. Ward realised that from the Government point of view the question was exceedingly difficult, but he wanted 500 men to-morrow and did not know from where to obtain them. He stated that he had a chit from Mr. Wachter, who said, "Please regard our interests as your interests." Mr. Wachter has at present sufficient labour, because they have a class of work which they cannot put out in piece-work (the only profitable manner of working labour here). He prophesied the same trouble later for Mr. Wachter as he was experiencing to-day, as they were at present on the easy work and must shortly come to the harder tasks.

The Right Honourable LORD DELAMERE said:—

“We were told that we were making an agitation on an unsound basis; that we were not representing the country; that we were trying to make a name for ourselves; and that the people did not feel these things as they were stated.”

His EXCELLENCY interposed and said that the Government had not queried any labour representations.

LORD DELAMERE accordingly withdrew his remarks and proceeded:—

“At any rate I hope Your Excellency is now of opinion as to the matter being of vital importance to everybody, and that unless we take some steps to remedy it, there are a large number at present on the brink of ruin, while if this state of affairs continues there will not be a soul left with any money in a few months.

“Now, Sir, we have heard what practical men working in the country have said. Personally, I have got stock and it does not affect me to any extraordinary extent. There seem to me to be two points:—

“(1) To meet the trying needs of those who have to get labour at once, and the only way to do this is to withdraw the rules and let matters go on as before.

“Within the last three or four months there has been a great deal more difficulty with labour. It seems to me a matter of suggestion to the native. If officials go into Kikuyu country and tell the native that they have no obligation to work, they interpret it as the wish of the Government that they are not to do so. Another reason for their not working is that while looking for voluntary labour they are caught on the road and sent in to the Labour Department. The Labour Department takes them and decides who is to have labour and who is not to have labour. If a man is not good to his natives he obtains no boys, but if he is not quite as good as he should be, he should be given more labour and the matter brought into a Court of Law. He may possibly be new to the country and not understand the natives.

“I think that the present question is purely whether the Government is in sympathy with us or not. We should carry on until we get legalized methods to meet this question; I have always been in favour, as far as possible, of voluntary labour, but if it is found that voluntary labour cannot be obtained, then pressure should be put on them—the same pressure as anywhere else in the world, that of being forced out into the world to earn one's own living.

“I think that the legalized methods should be these:—You have to create wants as far as possible. There is one want in this country—the blanket. But by the new rules the employer has to pay for this, and, therefore, that want is done away with.

“The price of labour must be lowered, and the lower you keep it (not raising it artificially) the man can buy less with that money and so has to work longer to get what he wants.

“I think that the amount of land that natives are allowed to hold should be absolutely limited; as long as the natives may take their cattle away and put them on new land you will not get a supply of labour. A Kikuyu reserve is being formed north of Kenya on Masai land, the object being presumably to encourage the Kikuyu to become pastoral, with no inducement to work.

“The method of the Government has been right through to encourage the native not to work. If you cannot get labour by voluntary means put a tax on. An indirect taxation, such as a tax on blankets, &c., would certainly bring more into work and they would not attribute it to the Government. We have got to come to legalize methods and force the native to work; I hope that we may rely on the Government to meet the case. At the present time we want the labour rules to be withdrawn and to go back to where we were before, and we want the Government to issue strict orders that we are to have every assistance to enable us to get labour.

“I think that Your Excellency will admit, after the speeches from practical men, that you have a great responsibility in this matter and that means must be devised to meet the case.

“I feel so strongly about this matter that I cannot speak about it.”

Lord Delamere then read the resolution which he desired to put to the meeting (copy attached), and added:—

“Mr. Anderson, in his motion brought before this meeting, said that among other things we wanted a Commissioner for Native Affairs from somewhere where

they know how to work natives. It is not a personal thing; we want such a man; and this clause we have added to the motion. I cannot agree with Mr. Anderson that the Secretary for Native Affairs should have control of the Labour Bureau or that the Secretary for Native Affairs should hold a position under the new Commissioner for Native Affairs."

Mr. SCOTT (representing the Limoru Farmers' Association) said that they needed a strong man for the native question and one who could make the native work. At Limoru there was no lack of natives, who, however, preferred to loaf on their shambas instead of working. He considered that registration would be a step towards the Pass system at present in vogue in South Africa. He read a list of resolutions passed at a meeting of the Limoru Farmers' Association held on the 18th March, as follows:—

- (1) Resolved that a deputation from this Association urge upon the Government at the meeting to be held on the 23rd March in Nairobi the advisability of instituting a system of registration among natives not only on private farms but throughout reserves.
- (2) That Pass system somewhat on lines in vogue in the south be put into practice in the Protectorate.
- (3) That no natives registered on a private farm be allowed to quit such farm or be ejected without giving three months' notice on either side.
- (4) That Government be asked to induce natives on vacant farms to reside on occupied farms or to insist on all owners of farms to occupy same.
- (5) That the deputation be asked to point out to the Government that the rules at present governing native labour are not considered practically [practicable?], and with a view to bettering the labour supply they impress upon the Government the necessity or advisability of initiating measures as outlined in the foregoing resolutions.

Mr. T. A. WOOD rose to second Lord Delamere's proposition. He said he had very little to add, but would emphasize one or two points.

Personally, he thought that the Government departments had not received all the blame they deserved for putting up the price of wages. The Public Works Department, he thought, was the cause of most of the trouble. The settler paid the native from his hard-earned money, but the Public Works Department pay out from the British taxpayers' money, which, he said, was always reckoned at "so much per bucketful."

Mr. WOOD said that at the present time 80 per cent. of the settlers would willingly and quickly leave the country if they could get back a fair proportion of the capital they had invested here, which was not a healthy state for a country.

With regard to taxation, he said that it did not matter how sympathetic a legislation we had on the spot here if we were spoiled by Exeter Hall. Exeter Hall and the Liberal Administration should only legislate up to a certain point in matters the burden of which is borne by other people hundreds of miles away.

We were told, said Mr. T. A. WOOD, that the Master and Servants Ordinance was very effective; he had not found it so—the point being that deserting boys could never be caught. He supported Dr. Scott's views, as amplified by Mr. Buckland. He said that it did not do for a country to spoil its revenue, and as budgets have to be prepared at the beginning of stated periods they must have revenue. He suggested a taxation of Rs. 12 per head—not hut—Rs. 9 of which could be rebated for work done. We had got to educate the native to work. We were educated years ago to work; it was, therefore, our duty to teach the natives to come into line as well.

Referring to the number of desertions, Mr. WOOD said that any man working for another man who does not perform his duty is a thief, and as a thief should be punished—not necessarily under the Master and Servants Ordinance.

There should be some registration enabling a native to be traced, no matter where he runs from or where he runs to, and bring him back, as is done in the Transvaal.

There seemed to be some little doubt as to the meaning of the word "luxury." Mr. WOOD contended that a blanket is a luxury to a native who never had one before we came here. As concerned the 2 lbs. of posho, personally he thought he could not eat it, and doubted whether a native could eat 2 lbs. of meal. In any case he thought that they should be paid a rate of wage, the food to come off their money.

The Secretary for Native Affairs, said Mr. Wood, was an officer appointed to look after the native. He could not sub-divide himself to represent the poor unfortunate employer as well as the employé. The Labour Bureau should look after the interests of the employer while the Secretary for Native Affairs looked after the native.

Mr. Wood thought it would be rather difficult to alter the conditions now, as the rules had laid down a sort of minimum that the native may now expect. He did not speak as an employer of labour, though as a matter of fact he had for some time wanted 30 boys, but could not get them.

Finally, Mr. Wood agreed in coupling Mr. Anderson's clause suggesting the appointment of a capable Native Commissioner.

Mr. CLUTTERBUCK agreed with Lord Delamere's proposition. He had employed a good many men, and formerly used to rely practically on Kikuyu. The Kavirondo were useless. For the last six months the supply has dwindled, but for the last three months had had no men at all. The Labour Department had helped him, but they had not been able to get any man to go up.

Up at Kisumu the difficulty seemed to hinge on the word "voluntary." Mr. Clutterbuck pointed out that if one got a number of men into a boma, and asked those who wished to work to step out, the number of volunteers would be probably very small. If the Collector said to them "It is my wish that you should go to work," and if they knew that it was the wish of the Government that they should work, he believed they would go.

HIS EXCELLENCY said that it *was* the wish of the Government that they should work.

Mr. CLUTTERBUCK said he did not think it was put to them in that way, and said that they should be persuaded as schoolboys are persuaded to go to school. How many schoolboys, he asked, would go to school if it were for them to choose?

Referring to the Kavirondo, Mr. Clutterbuck said that as a "sengi" labourer he was the worst in the world, but after he has worked for about two months he is about as good as any in the country. But the difficulty, in the first instance, is to persuade him to work.

Apparently under the rules at present, if a native comes to you and says he wants work you write him on, but if you do not write him on in the presence of a Magistrate he can run away at the end of 14 days and turn round and demand his 14 days' wages.

To bear this out Mr. Clutterbuck quoted an instance where some of his men deserted after 14 days' work. He caught them, and put them into prison, but on reporting this to Mr. Ainsworth that gentleman said that he had not only committed an illegal act in putting them in prison, but they could sue him for 14 days' wages.

There ensued some discussion over this incident, Mr. Ainsworth stating that some proof of contract was necessary before proceeding against the deserters. The Honourable Secretary for Native Affairs stated that an oral contract up to one month was binding, being a complete contract when the employé intimated his intention of working.

Mr. Clutterbuck admitted that Mr. Ainsworth helped him as much as possible and the principal reason he understood that an oral contract between employer and employé was not binding was that Mr. Ainsworth immediately registered his deserters for the 14 days' balance of work, that they had to perform.

#### LORD DELAMERE'S RESOLUTION.

That this meeting of settlers and employers of labour is of opinion that the present state of native labour is one which, if allowed to continue, is disastrous to the development of the country, and ruinous to those who have invested their capital in agricultural, stock-raising, and planting ventures, and that no satisfactory solution of the labour question can be arrived at unless the rules promulgated by the Secretary for Native Affairs are immediately withdrawn, and the following principles adhered to in any future course of action:—

- (1) That the framing of new rules shall be by a Central Board on which employers of labour shall be adequately represented, and that after such general rules have been framed, District Boards be formed to

- adapt the working of the same to the requirements of the particular district.
- (2) All contracts for labour to entail obligations on the part of both parties, and to ensure a minimum term of service, provided that adequate machinery be employed enabling the terms of the contract being enforced.
  - (3) That all luxuries to be supplied to the employee shall not fall on the employer, but must be paid for by the employee in the course of his employment.
  - (4) That the Labour Bureau shall not be under the control or in any way part of the Department of the Secretary for Native Affairs.
  - (5) That the rate of wages for unskilled labour shall not be fixed at a rate exceeding that in existence 12 months ago.
  - (6) That all Government Departments conform to the rules which may be so framed.
  - (7) That all Government Officers be directed, and be strictly required to encourage the native to seek labour, and to do their utmost to assist those who require it in recruiting the same.

*Portion of Mr. Anderson's Motion embodied.*

That a Native Commissioner be appointed as head of the Department of Native Affairs, who will be a man of tried Colonial experience.

LORD DELAMERE rose at this point and asked if he might add something to the motion before it was put. He said:—

“I think besides discussing the rules the Central Board ought to discuss measures to be taken for encouraging the native to work, and for keeping him to work, and that legal measures should be brought in to carry it out.”

The resolution of Lord Delamere, together with Mr. Anderson's clause *re* the appointment of a Native Commissioner were put to the meeting, Mr. Anderson's original motion being withdrawn by Mr. Watkins (Mr. Anderson having left) in favour of that of Lord Delamere.

(Carried unanimously.)

HIS EXCELLENCY, in conclusion, said: “I am much obliged to you for the light you have thrown on this subject. You must not expect me to agree with you on every point.

“You say that the Government is not sympathetic; I cannot agree with you here. Mistakes have been made, and where made have been remedied. The Officers of the Administration wish the settlers well in every respect, and I think his meeting is very fortunate in that it has taken place when I have been supported by my Provincial Commissioners, who have heard what you have said to-day, and who I am sure will do all they can, one and all, to help you in this matter.”

“You may take it from me that you will have sympathetic consideration in this matter. I can see your point of view in wishing to adopt the Nyasaland and Rhodesian system, but can say nothing at the moment. Apart from the question of the policy of introducing such a measure into this Protectorate, to my mind it verges on forced labour because you are increasing the tax to enforce labour. I should like to point out that some one has said that there is no check against desertion, which is wrong. There is the Master and Servants Ordinance, which provides against desertion. There is, however, a preliminary to be got through before taking advantage of it, namely, to catch your men, and in this country it is not very easy to do so. However, in the last three weeks 87 men have been arrested. They were not tried because the employer did not find it worth while to prosecute them.

“I think that as we employ responsible headmen with judicial powers—a matter we are proceeding with now—we shall find many annoying matters, such as desertion, removed.

“I am quite aware that we do not get anything like three rupees for every hut, and for the last six years I have been forcing my views on His Majesty's Treasury to increase my staff because it is practically by the Administrative Staff that the tax is collected. I certainly think that the tax should be paid to the British Officer, and as our Administration proceeds look forward to the final goal when each man pays direct to the officer from whom he will get the receipt.



"As regards the Labour Officer in Kenya, I cannot be responsible for individual officers. If Kibarabara is the chief who makes these statements, we come again to the question of voluntary labour. We cannot force a man to labour, but we do not want to put obstacles in his way. We want the men to work, and we shall try and get him to do so.

"I cannot withdraw the rules for the reasons given though several of the conditions are relaxed. I do not believe the increase in wages is due to the labour rules; I think it is more due to the high wages paid to porters by the sportsmen, who do not care how much they spend on a shooting trip, and who, within the last few months, have taken as many as 3,000 natives on safari with them. At the coast, too, the wages are higher. I saw myself men in the Bazaar at Mombasa who had walked down from Mumoni to get 10s. a month.

"There is much to be said for the Pass System, but it is one that would be very difficult to work in this country. While on safari, on the Guaso Ngishu Plateau, it struck me, seeing some natives some hundreds of yards ahead of me, how very difficult it was to keep check over the thousands of natives in such out-of-the-way districts as that referred to, with the limited staff that we have at present.

"In Kyambu and Ukamba we are commencing a census scheme which I hope will gradually be extended into a general registration scheme."

As regards the blankets, these are only lent. The man who has had the loan of the blanket feels the need of it, so that instead of reducing a want we are increasing it.

"I propose that the Provincial Boards, which are about to start, should at once take up the question of the rules, as they apply to their districts, but I do not think that a Central Board would be of much use.

"In conclusion I would say that the discussion, on the whole, has been very moderate, and put forward in a very good spirit. The Government has been blamed for allowing such a state of things to come to pass which I think is due to the conditions of the country, and I consider that Mr. Hollis and his assistants have done their best, and have done good work."

The proceedings then terminated.

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Enclosure 2 in No. 10.

GENTLEMEN,

I HAVE asked you to meet me to-day, in the words of the notice convening the meeting, to consider the difficulties connected with the labour question and to discuss the best means of dealing with them.

That difficulties, and very great difficulties, surround this question is admitted on all sides. This is the case in other countries besides ours, and in East Africa the position is complicated by conditions at present existent in it, but which I trust will gradually be overcome. The country is new; white settlement is new; and the native tribes upon which we rely for our unskilled labour are raw and untrained, and, in many cases, but very recently brought from a state of independence and semi-savagery under partial administration. Is it then to be wondered at that the labour that has so far come in has frequently been found to be fitful, variable, and unreliable?

As a whole the natives are unaccustomed to any form of labour but that of the simple and easy task of hoeing their fields, too frequently left to their womenkind; added to this we have the fact that, whether pastoral or agricultural, the natives live under such easy natural conditions that there is little in these conditions to induce them to overcome the natural tendency of the African to avoid manual labour.

Now we all want the African to work—to work for the Government, for you, and for himself—in a far greater degree than has hitherto been the case. How is this to be brought about? How are the wants of the settlers, of the numerous agricultural and industrial concerns now springing up, and of the Government to meet? We cannot have forced labour, we cannot resort to compulsion. I think that the solution—and it must necessarily be a gradual solution—lies in moral suasion, in educating the chiefs, and through the chiefs the people, to the advantages of work, in making the conditions of work as easy as possible so as to retain the labour that comes in and induce other to follow, in careful training of the labour.

we have got, and in creating wants, through the expansion of trade, which will oblige the native to earn the wherewithal to satisfy those wants.

I have never taken a hopeless view of the labour question in East Africa, nor am I one of those who hold that the African either cannot or will not work, and I think I am justified by the experience of the last few years. When the Uganda Railway was in course of construction native labour was practically unprocurable; now the natives are doing most of the up-keep and maintenance work on the railway. Labour is coming in from the Kikuyu districts, from Fort Hall, and Kavirondo, while hundreds of labourers have come to Nairobi from the Embo District, which was only brought under administration 18 months ago. We are extending our influence north to Mweru, and there a further labour supply would be opened. I think you will admit that there are satisfactory signs—unfortunately they do not meet our immediate needs, hopeful as they may be for the future.

During the last five months 25 settlers have applied for 1,346 men, of whom 650 have been asked for since the 1st of this month; 696 have been supplied.

2,042 men have been recruited by Government Departments, and 2,893 labourers, out of 3,589 applied for, have been supplied to contractors. Unfortunately, the present is just the worst season to obtain labour, as the natives are preparing their shambas for the rains.

Turning to the so-called rules, or conditions under which the Government undertakes to assist settlers with labour, I may say at once that the main principles are a matter of policy; I consider them just and proper and I do not intend to interfere with them. If the Government supplied labour it is incumbent on it to ensure that that labour is properly housed, treated, and fed, and, unfortunately, several instances have occurred where the labour has returned from contractors' camps in a most deplorable state. I need not further allude to these cases, because under the system lately introduced they cannot, I hope, occur again, and it was to attain this object that these so-called rules were introduced, and I must admit that we then had the question of these camps more in view than the question of small parties of natives working on the farms.

The details, such as the necessity to supply blankets and food, the nature of the food, and other points, are fair matters for discussion, and where they press hardy and can be properly altered they will be altered.

To commence with, it is admitted that settlers in labour districts need not be required to supply blankets and food to natives working in the district in which they are recruited, where they can obtain their own food and where they do not wear blankets when working for themselves, and orders to this effect are now being given. In cases where the farm is situated at a long distance from a food supply, or for other causes the natives employed are unable to supply themselves with food; the employer must arrange to see that they get food. As I have already intimated, Local Boards are being formed in the headquarters of provinces and in some selected districts on which settlers and employers of labour will be represented; there will be Advisory Boards to the Provincial Commissioner and their functions will be to keep in touch with local requirements, with the conditions of labour within their area, and with the views of all interested in the labour question. These Boards will report the conclusions arrived at through the Provincial Commissioner to the Lieutenant-Governor at headquarters, where they will receive the careful attention of the Government.

The concurrence of opinion is, I believe, against having a large Central Board at present, as conditions vary in the different provinces. In any case I propose to give the Local Boards a fair trial before considering the question of a Central Board.

The further details of the so-called rules, other than those I have just dealt with, might well be considered by the Local Boards; they will then be discussed in the Legislative Council as I have already promised, but I repeat that the main principles of these rules I do not propose to alter.

As regards recruitment the Government wishes to help in every way it can; but I do not see why it should be called upon to supply five or six men to farms situated in a labour district for which the settler ought easily to be able to make his own arrangements. Experience has shown that, except at certain seasons of the year, men who are careful of their labour have no difficulty in obtaining what they require. By far the most important consideration is the supply for contract and industrial work in the non labour-producing districts.

The settlement of natives on the farms under agreement with the settler is for every reason to be encouraged.

The question of private labour bureaux has been broached. They exist already in the matter of the supply of porters for sportsmen and tourists. I should have no objection to the system being extended so as to embrace agricultural and other labourers, but doubts have been raised as to whether such a system would answer under present conditions, and it is feared that the tendency would be to raise prices.

Government cannot insist on a maximum rate of wage, though it is quite ready to co-operate in checking, as far as may be, the tendency of wages to rise. The question is one of supply and demand and is not capable of a definite ruling. And in connection with wages there is no question but that the large number of natives employed as porters on high wages for shooting parties does tend to raise the price, and as the native becomes more civilized he will more and more try to sell his labour in the best market. These are conditions with which it is very difficult for the Government to interfere. Nor in the present state of the labour supply can the Government accept the responsibility that all the labour asked for and supplied is fully equal to the work it is required to do. The reasons for this are obvious and are in the main due to reasons given at the commencement of this speech. Take, for instance, fuel cutting, the most unpopular form of labour with the native. The great majority of them have never seen an English or American axe in their lives and they have no notion as to how to use them, and the first day's work often leaves them sore and dispirited.

All we can at present do is to recruit the labour required and to leave to the employer to deal gently with his men under conditions quite new to them, and to train them to the work he wishes them to do. By this means there will gradually be obtained gangs of men more fitted and accustomed to the work required of them, a process which, indeed, is now in course of being.

Complaints have been made, and in cases I believe rightly made, of the frequency of desertions. I am in communication with my legal advisers as to whether steps cannot be taken to secure a better check against wilful desertions through no fault of the employer, than is afforded under the present law.

I have spoken somewhat at length on this subject of labour; I wish you to hear from me the conditions as they actually present themselves to the Government at the present time, so that we may understand how we are mutually situated, and that various misconceptions which have arisen in this connection may be cleared away.

My remarks necessarily apply more particularly to the uplands; I shall shortly have more to say in connection with the conditions as they exist in the coast areas.

I will now invite those principally interested in the labour problem to favour me with their views; and any feasible proposal that can be put forward to bring us nearer to a satisfactory solution of the question will receive my most sympathetic consideration.

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Enclosure 3 in No. 10.

HIS EXCELLENCY'S REPLY TO DEPUTATION AT HIS OFFICE ON THE MORNING OF THE 24TH MARCH.

I must decline to withdraw the rules referred to. In two points to which importance has been attached by the settlers they have been modified to suit their interests, and further modifications not involving matters of principle will be discussed by the Labour Boards and the conclusions arrived at, and the whole question of the rules discussed in the Legislative Council.

It is on the representation of the settlers that the two alterations above referred to have been made.

At the request of the meeting His Excellency agrees to a Board of Inquiry commencing its sittings to-morrow composed of the Provincial Commissioners, Heads of Departments, or their representatives, meeting under the presidency of the Lieutenant-Governor with six unofficial delegates to consider the terms under which labour will be recruited by the Government, and to inquire into the conditions of the labour supply.

Arrangements have been made for the creation of Provincial and, in some cases, District Boards to consider the details of rules for the recruitment and supply of labour on which unofficials will be represented. As I mentioned yesterday I do not propose to consider the question of a Central Board until the working of the Provincial and District Boards have been given a fair trial.

2. Contracts for labour do entail obligations on both parties.

Labour contracts.

As regards the machinery to be employed I have already stated that powers are about to be given to headmen under the Headmen's Ordinance, 1902, and I consider that these are sufficient for the present. I am in communication with my Legal Advisers as to the steps that can be taken to secure a greater check against desertions than is afforded by the present law.

3. By luxuries it is presumed that blankets are meant.

Luxuries.

I agree that luxuries supplied to the employee should be paid for by him, and the cost deducted from his wages.

4. There appears to be some misapprehension regarding the system of Civil Administration in the Protectorate.

Labour Bureau  
Native Affairs Department.

The Provincial and District staffs form in effect the Native Affairs Department. The Secretary for Native Affairs holds a travelling appointment, and is attached to the Governor's Office.

It is absolutely impossible to separate the question of native labour from other questions of native administration, and any officers detailed for the recruitment of native labour are, and must remain, under the orders of the Provincial and District Staff.

5. The Government cannot fix a rate of wages of unskilled labour. It must necessarily depend on the conditions prevailing in the districts and the class of labour required. When employers apply to the Government for labour they may state the rate of wages they are prepared to offer and the class of labour, and the recruiting officer will supply it if possible. The Government will do all it can to check the tendency of prices to rise.

Rate of wages.

6. I am quite prepared to accede to this request.

Co-operation of Government Departments

7. This has always been the intention of the Government, and a further circular urging particular attention to this point will now be issued.

Encouragement of labour.

8. I fully agree that labour boards to discuss the questions referred to, and such legal measures as are possible will be taken.

9. I am not prepared to consider this question.

J. HAYES SADLER.

Commissioner of Native Affairs.

Nairobi,

March 24, 1908.

No. 11.

THE GOVERNOR to THE SECRETARY OF STATE.

(Received April 18, 1908.)

[Answered by No. 15.]

MY LORD,

Governor's Office, Nairobi, 27 March, 1908.

In my telegram, No. 63, of the 23rd instant,\* I gave the main facts connected with the disgraceful scene in front of my house on that day.

About 3.30 in the afternoon Mr. Monson bicycled over to the new Government House, which I have lately occupied, and told me that news had been received from the town by telephone that an excited crowd of settlers was moving up to see the Governor. About half an hour afterwards they arrived, in rickshaws, on bicycles, on horseback, and on foot, and formed up in front of my house.

I had with me at the time Mr. Monson and my Aide-de-Camp: the latter was sent out to ascertain what the demonstration wanted. He was told they had come to see the Governor; he pointed out that I could not see such a crowd in my house and asked if they would nominate two or three of the leaders to come inside and

\* No. 1.

interview me. This was refused, and he was told that they wanted to see me and hear my answer *en masse*. He replied that they could not all speak at once, and again suggested two or three delegates approaching me. This was again refused with acclamations, and a demand made that I should be seen and heard by them from the upper balcony. The spokesman was Lord Delamere.

I then went out of the hall door and, walking up to the crowd, said "Good evening, gentlemen, this is a most extraordinary proceeding, what do you want?" Lord Delamere, round whom were grouped Mr. Baillie, Mr. Watkins, Mr. Russell Bowker, Mr. Ward—the manager of the Afro-American Fibre Company—and others, forming the centre of the crowd, then addressed me in an excited and offensive manner to the effect that they were all dissatisfied with the results of the morning's labour meeting, that they had since convened another meeting at which a resolution was passed which he wished to read to me. This was to the effect that I had lightly treated their representations in the morning, that I had only dealt with unimportant points, and had given no satisfactory answers to the points which were of extreme importance to the settlers. The resolution ended by a demand for the instant cancelling of the labour rules and for an immediate and definite answer to all the matters raised in Lord Delamere's motion at the morning's meeting. I replied that I had dealt with what I could at the time, and that it was quite impossible for me to give a decision off-hand on the larger questions, that I had promised to consider them and was doing so, and that if a deputation would attend at my office at noon the following day, I would explain what was being done and give as definite a reply as I could to all the questions raised.

I was at once interrupted by Lord Delamere, who burst out with "to-morrow, to-morrow, it is always to-morrow, we are sick of to-morrows; we are not schoolboys, we demand an immediate answer on the spot and nothing else," or words to that effect. Allusions were made to the settlers being ruined for want of labour, to obstacles having been put in their way by the officials ever since they entered the country, and to the fact that their coming up as they did in the heat of the sun showed the earnestness of their purpose.

In all this he was backed by Mr. Baillie, Mr. Watkins, and Mr. Ward, who all spoke, Mr. Watkins in a particularly aggressive manner.

I again told Lord Delamere that it was impossible to deal with these important matters off-hand, that he was entirely wrong in thinking that I was not sympathetic with the settlers, that I was dealing with the questions referred to, and that I would give my answer, as I said, at noon the following day.

There were then signs that the ill-feeling of the crowd, hitherto more or less suppressed, was beginning to make itself evident, and that the demonstration would turn into a rabble, and as I was not inclined to further bandy words with Lord Delamere and his supporters in their then excited condition, I wished them "good evening" and withdrew into the house.

On the door being closed shouts were raised of "resign, resign,"

The crowd then withdrew and immediately formed another meeting inside my grounds, within about one hundred and fifty yards of my house. This lasted a few minutes, and then broke up with cheers, which can only be interpreted as a general approbation of the previous proceedings.

The following morning I discussed the questions raised in Lord Delamere's motion with my principal officials, and at midday gave my reply to the deputation. Copies of the motion\* and of my answers† thereto are attached. Although this deputation was headed by Lord Delamere and all its members were present at the demonstration before my house, not a word of regret or apology was expressed.

In the evening I sent Lord Delamere the letter a copy of which is enclosed suspending him from his duties on the Legislative Council: a similar letter, *mutatis mutandis*, was addressed to Mr. Baillie:

Formal letters of acknowledgment were received from Lord Delamere that evening and from Mr. Baillie the following morning, but no word of apology or regret, and none has been received since.

The whole of the disgraceful proceedings before Government House were due to Lord Delamere, whose conduct I cannot too severely condemn. As the leading unofficial member of my Council it was his duty to give me his advice and assistance in matters in which the settlers are interested, and when necessary to lay his views

\* See enclosure 1 in No. 10.

† Enclosure 3 in No. 10.

before me personally. Instead of that he led a disorganised crowd, largely composed of the rabble of Nairobi, up to my house, and in the most aggressive and insolent manner at the head of his followers endeavoured to browbeat me into accepting his demands.

It was noticed that he was very excited at the meeting held at the Railway Institute in the morning and, as he himself said, on moving his motion, he felt so strongly on the labour question that he was unable to speak. His attitude after the meeting and before he led his followers to Government House is shown in the enclosed report by the Inspector-General of Police. Unfortunately I have further reason to complain of the attitude of Lord Delamere. Ever since he has been in the Legislative Council his manner in debate has been characterized by an aggressive spirit towards the Administration and its measures exceeding the bounds of legitimate criticism, often requiring on my part the exercise of a patience I should hardly have been inclined to accord to anyone but Lord Delamere.

On one occasion, last December, during the debate on the Estimates, he got up from his seat and left the Council Room like a petulant child, and wrote me a letter submitting his resignation.

This I smoothed over, considering it to be in the interests of the settlers and of the country that he should remain on the Council, and after coming to an implicit understanding with him as to his position as an unofficial member, relative to the Government, he withdrew his letter and I returned it to him.

As the incident was closed, I did not deem it necessary to report it at the time, but in view of his subsequent conduct I have now had to refer to it.

Immediately on his return from England, without consulting me or in any way giving me notice of his intention, he frames, as President of the Colonists' Association, a resolution denunciatory of the Administration to which I have taken strong exception. He did not even attend the meeting of the Association at which his resolution was passed, and the attendance at the meeting was confined to the Committee, whose Secretary is the well-known Captain Fichat, and a few townspeople.

I have reported on this matter in my despatch of the 23rd instant.\*

Under all these circumstances I submit that, whether Lord Delamere apologises for his recent extraordinary conduct or not, his further retention on the Legislative Council of this Protectorate is impossible. If he does not resign himself, I shall have to recommend his dismissal.

Mr. Baillie has, so far, only shown himself a puppet of Lord Delamere, at first strongly inclined to second his aggressions and in his absence quiet and with no opinion of value of his own to offer in the deliberations of the Council.

I shall take the same course with regard to him as I am taking with Lord Delamere, although he is not nearly so much to blame.

As to the causes which led to this unseemly demonstration they are, I think, to be found in the spirit of political unrest, impatient of any form of government, but its own, which has been so marked a feature of the Uplands since they were opened to European colonisation, and which was thought to have culminated with the Grogan incident of this time last year, to which, indeed, the present movement is much akin.

The idea that I and my officers are unsympathetic towards the settler, or that my attitude at the labour meeting lacked sympathy, is an idle excuse and needs no refutation on my part.

As regards the labour rules, too, they seem to have been made the peg from which Lord Delamere was able to appeal to the feelings of a number of people for various reasons discontented with existing conditions, some of whom were disappointed that the proceedings at the meeting of the morning had passed off so smoothly.

I have already said that, in two points—the question of the supply of food and blankets to labourers working on farms under certain conditions—I had met the settlers' views, and had promised to consider other details and discuss them in the Legislative Council. To argue then that we were unsympathetic was simply ridiculous. But there is no question that of late there has been a serious falling off in the supply of labour, and this question is occupying our serious attention. It is not so much due to the labour rules as to a variety of circumstances outside our control. In the first place certain proceedings of the chiefs in rounding up

labour have been put a stop to as they come to light as being little short of forcing labour, and this has undoubtedly had an effect on the natives in some of the districts, whose ideas are apt to go to the other extreme.

Then there is the fact that thousands of porters have been engaged within the last few months for shooting parties on a rate of pay of Rupees Ten per mensem and food; not only will people so employed refuse to work at the settlers' wage of three or four Rupees per mensem, but the fact that they are able to get this rate for even a short time must have its effect on their fellow-tribesmen. Added to this is the natural tendency for wages to rise. I am informed that lately Messrs. Smith McKenzie have had to double the rate they pay their labour, when a ship has to be rapidly unloaded—it is worth their while to do so—and the up-country natives are beginning to get sufficiently intelligent to understand the advantage of selling their labour in the best market, and as prices are far higher on the coast, there is an inclination to work there in preference to up country.

But, notwithstanding this, there has been a fairly good influx of labour from Fort Hall, and further labour supplies will be opened up as our Administration extends northwards to Mweru; and there is the personal equation, the settler who is good to his men gets his labour and keeps it.

At the bottom of all this agitation is the fact that the settlers are beginning to realise that farming in the Uplands is not the paying proposition they thought it would be, and I regret to say that after two bad seasons a number of the poorer settlers are nearing the end of their tether. Amongst them, there is, I fear, a good deal of distress, and the position will have to be watched carefully; it may be possible to assist some deserving settlers by temporary employment on a scheme of irrigation the Commissioner of Lands has in prospect and for which I may have to ask for your sanction to be allowed to re-allocate a portion of the funds voted for roads next year.

The question of the supply of labour to the agricultural and industrial concerns which are now opening up is a matter of great importance, and one the Administration is endeavouring to solve; but to reach a solution we want assistance and advice, not opposition and hostile agitation.

The whole question of the labour supply, so far as the Uplands are concerned, is being carefully examined, and I shall address your Lordship again on this subject. I shall personally look into the question in the coast area, besides obtaining the advice of the Local Boards.

I have, &c.,

J. HAYES SADLER,

Governor.

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Enclosure 3 in No. 11.

MY LORD,

Governor's Office, Nairobi, 24 March, 1908.

You yesterday headed a crowd of European colonists which made a demonstration in front of Government House. You refused the invitation of my aide-de-camp that two or three of your number should enter the house and interview me, and you insisted on my addressing all present. I came out and met you. In an excited and offensive manner you demanded an immediate and definite reply to matters raised in the motion which was proposed by you and carried at yesterday's meeting at which I presided, although I had informed you at that meeting that the matters referred to would have my sympathetic consideration.

Not content with the assurance I gave you that it was impossible for me to reply to these matters on the spur of the moment and that I would be prepared to do so at noon to-day, the reply I received was that you were all tired of "to-morrows," and you again persisted in your demand for an immediate answer.

On my declining to move from the position I had taken up to defer any reply till to-day, and on my wishing you "good evening," you and your followers left my house with shouts of "resign"! "resign"!

Subsequently a short conference was held by you and your followers within a short distance of Government House which broke up amidst cheers.

Such an unseemly demonstration of ill-will and open insult before the house of the King's representative, headed by yourself, the senior unofficial member of the Legislative Council, and supported by another member of that Council, must be almost without a parallel in the annals of Colonial history.

It is evident to me that I can no longer look to you for the advice and support in the legislative administration of this Protectorate which I have a right to expect, and I accordingly have to inform your Lordship that I hereby suspend you from your duties on that Council.

I have further to inform your Lordship that I am recommending His Majesty to remove your name from the list of the members of that Council. In doing so I shall be glad to forward any explanation of your attitude in connection with these unpleasant incidents which you may wish me to submit.

I am, &c.,  
J. HAYES SADLER,  
Governor.

The Right Honourable  
Lord Delamere.

Enclosure 4 in No. 11.

Inspector-General of Police's Office,  
Nairobi, 26 March, 1908.

SIR,

In compliance with His Excellency the Governor's orders as to what happened at the recent meetings, I beg to report as follows:—

A meeting was convened by His Excellency the Governor at the Railway Institute on the 23rd, at 11 a.m. After the meeting Lord Delamere, Mr. Clutterback, Mr. T. A. Wood, and some others were lunching in a private room at the Bank Café, when the advisability of calling a meeting of the settlers was discussed. A meeting was held at 3 p.m. at the office or business premises of Mr. T. A. Wood. Lord Delamere took the chair and addressed the meeting as follows:—"Gentlemen, now what are we to do. Are we to send a petition demanding a reply to the resolution just passed, or should we go to the house and get the reply. All, or nearly all, present said let us go to the house. Lord Delamere and nearly everyone present forthwith proceeded— first to the office, then to Government House. Over 100 persons took part in this.

I may here mention that Lord Delamere before taking the chair had *drawn up a resolution in his own hand-writing calling upon His Excellency the Governor to resign.* This he afterwards erased on the advice of one or two persons. I have information, but of this I am doubtful, that Mr. R. Bowker was the first to call upon His Excellency the Governor to resign at Government House.

On the 24th another meeting was held, Lord Delamere being in the chair. He told the meeting that His Excellency the Governor had given an unsympathetic reply and went on to say that, in his opinion, His Excellency the Governor was not in sympathy with the colonist because when he went to Government House His Excellency was very rude to him, in fact distinctly so.

He went on to say that their action in going to Government House was in order—they had been perfectly orderly, and they had nothing to be ashamed of—he said he was very sorry that some one made the remark calling on His Excellency to resign, and that the response of the crowd was spontaneous.

In the evening another meeting was held in the Norfolk Hotel after it had become known that Lord Delamere and Mr. Baillie had been suspended. This was attended by only a select few. It is not known what transpired at this meeting, which was held in a room adjoining the billiard room.

On Wednesday, 25th, a kind of indignation meeting was held. The meeting was quite an orderly one, and the following resolution was passed:—

" This general meeting of settlers has heard with amazement and indignation of the action taken by His Excellency the Governor regarding Lord Delamere and Mr. Baillie. The meeting feels that it was entirely the indefinite unintelligible character of the Governor's speech in replying to the question of vital emergency at the meeting called which was the reason and justification for the subsequent gathering at Government House.

" This meeting regrets that His Excellency the Governor should have misrepresented the respectable and orderly gathering at Government House as a disorderly demonstration. This meeting, however, regrets that the few individuals in the crowd, stung by the unsympathetic attitude and speech



of the Governor, were betrayed into a spontaneous outburst of feeling. For this, however, the whole meeting is in no way to blame."

A cable was also sent to His Excellency the Governor, I am told, to forward to the Secretary of State. Every person at this meeting was asked to subscribe 1s. each towards the expense of this cable. This was found insufficient and eventually 5s. per head was collected.

Lord Cardross took the chair on this occasion. He asked if any person at the meeting had any resolution to put forward. D. Atkinson had a resolution condemning the action of Government and sympathising with the suspended members. The Chairman then asked if anyone had anything to say; a person (name unknown) said he wished to add that instead of Lord Delamere and Mr. Baillie doing anything to excite the people, their presence acted as a deterrent on the *rabble*. Mr. Allen, Solicitor, said that no mention of *rabble* should be made. Mr. Buckland and Mr. Grant concurred. Mr. Baillie then handed in his letter of suspension to the Chairman, who read it to the meeting.

The Secretary  
to the Administration.

R. DONALD,  
Inspector-General of Police.

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Enclosure 5 in No. 11.

NOTICE.

Notice is hereby given that the officers of the Administration and Native Affairs will do their best to supply labour for settlers, planters, contractors, and others on the following terms:—

- (1) The employer shall erect suitable huts for the employed or see that they are properly housed.
- (2) The employer shall provide each of the employed with one good blanket free of charge on his arrival at the place of work for the use of the employed whilst in his employ.
- (3) The employer shall endeavour to give to the employed such food as they are accustomed to in their own country. He shall supply to each of the employed 2 lbs. of rice, maize, or other suitable and wholesome grain, or 2 lbs. of flour or beans every day. He shall further supply 2 lbs. of sweet potatoes or suitable alternative to be approved by the District Commissioner or Assistant to the Secretary for Native Affairs to each of the employed twice a week. An allowance in lieu of food to be paid daily may, with the sanction of the recruiting officer, be given to the employed.
- (4) The employer shall provide and keep supplied one large *sufuria* and *senia* for every ten men.
- (5) The employer shall detail one man out of every gang of fifty men to cook the food for the rest of the gang, such man to be allowed to return to camp at least 3 hours before the other men.
- (6) The employer shall report by telegram or by the most direct route to the nearest District Commissioner or to the nearest Assistant to the Secretary for Native Affairs (Labour Officer) any trouble or friction with his men, any desertions and any outbreak of sickness or deaths amongst his men.
- (7) The employer shall keep an adequate supply of suitable medicines and bandages at each of his camps.
- (8) In the event of any of the employed being seriously sick the employer shall arrange for his or their transport by train or by the most direct route to the nearest hospital.
- (9) In the event of the water supply at a camp being polluted or unfit for drinking purposes the employer shall arrange for the water to be boiled before it is given to the men to drink.
- (10) The employer shall deposit the requisite sum with the recruiting officer to enable that officer to purchase a sufficient supply of food for the men's consumption on the way to and from their homes and place of work.
- (11) The employer shall deposit with the recruiting officer the wages of the employed or shall give a suitable security or guarantee to ensure that such wages as are due to the employed will be paid monthly.

(12) The employer of men working on or near the Uganda Railway shall take the necessary steps to rail time-expired men from the nearest station to his camp to the station of departure to their homes.

(13) The rates of wages obtainin in various districts will be notified from time to time in the "Official Gazette" by the Secretary for Native Affairs.

(14) The fees for the attestation of contracts of service shall be as set forth in the Proclamation under Section No. 6 of the Master and Servants Ordinance, 1906.

J. HAYES SADLER,  
Governor.

Nairobi,  
18 November, 1907.

No. 12.

THE GOVERNOR to THE SECRETARY OF STATE.

(Received 30 April, 1908.)

[Answered by No. 15.]

MY LORD,

Governor's Office, Nairobi, 4 April, 1908.

WITH reference to my despatch of the 23rd ultimo,\* I have the honour to transmit herewith copies of correspondence which was exchanged between Lord Delamere and myself on the subject of the resolution passed by the Colonists' Association respecting labour.

2. Your Lordship will perceive from the concluding words of my letter that Lord Delamere had no reason for supposing that any representation he might make to me privately would be disregarded, and his conduct in connection with the incident of the 23rd ultimo is rendered even more inexplicable.

I have, &c.,

J. HAYES SADLER.

Enclosure 1 in No. 12.

SIR,

Nairobi Club, British East Africa, 14 March, 1908.

I HAVE the honour to acknowledge receipt of a copy of your reply to the Secretary of the Colonists' Association. I do not know whether the Association will communicate further with Your Excellency on the subject, but for myself I should like to say that after many years in Africa without, I hope, making an enemy among the natives, I am hardly likely to have proposed a resolution of the sort sent to you without consideration. I believe honestly that it is a danger to the settler and the native that the attitude of the Department of Native Affairs should be one of one-sided interference between master and servant, and one undoubtedly, in my opinion, likely to give the native the idea that the Government is with the native against us. I do not infer that that is the intention of the Secretary of Native Affairs, but I truly believe it to be the result. Once before, when Mr. Ainsworth was Sub-Commissioner of Ukambani, about five years ago, the natives gained the impression that they need show no respect or obedience towards the settlers; I do not again say it was directly given, nor that Mr. Ainsworth meant to give that impression, but the result was identical with the present. Thefts from settlers in the Kikuyu District occurred daily, settlers had great trouble with their men, one, at least, was violently assaulted and seriously hurt. On the other side the settlers individually took the law into their own hands. Several natives were shot while thieving, and things were certainly bad, but this state of things stopped immediately with an alteration of policy.

Now, sir, you have to-day assaults on settlers by natives; you have much friction between master and servant; you have white men taking the law into their own hands more and more every day. In one case, at least, this has led to the shooting of a native, and, I believe, that this state of things is caused by the attitude of the Department of Native Affairs.

\* No. 9.

I should be the last person to suggest that such a result was expected; but what is the case to-day? that settlers getting no help from Government with their employes, daily take the law into their own hands, and that the effect of the idea among the natives that the Government will stand between them and their employers against the latter has certainly been that their respect and obedience is less, and their laziness is greater.

I note that it is said in your letter that the Government is in a position to put down any reprisals on natives, and I am glad to hear it, and I would point out that prevention is better than cure, and also that these petty reprisals take place every day unchecked.

The only chance for the natives to be reasonably treated throughout the country is to my mind that the Government shall see that he is, as far as possible, reasonable, obedient, respectful to his employer, and when he has contracted to work, that he shall do a reasonable amount of work for the time for which he has contracted. The Government, having satisfied the mass of employers of labour, will then be in a position to deal with cases where men do not treat their men properly, or with cases of assaults on natives and so on, which I submit Government is unable to do to-day.

The reprisals spoken of might, under certain conditions, mean concerted action, but are generally single personal cases of men who knock their boys about, and don't pay them because the natives, looking towards the Department of Native Affairs, are idle and cheeky.

I may point out that the object of the resolution and letter sent to Your Excellency is to prevent all these undesirable things happening, not to encourage them.

I am, &c.,  
DELAMERE.

To His Excellency the Governor.

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Enclosure 2 in No. 12.

DEAR LORD DELAMERE,

Nairobi, 20 March, 1908.

THANK you for your note of the 14th instant. I fully realize what you say, and I feel sure that you would not yourself wish to embarrass the Administration in the difficult task it has before it of reconciling the various interests concerned in the difficult question of the labour supply.

I need hardly tell you that it is the object of myself and the officers of the Administration to encourage the settlers, not to discourage them, and I cannot avoid the feeling that the resolution to which you refer, and the Secretary's letter published in all the papers of the Protectorate, cannot but create an unfortunate and wrong impression of what the aims of this Administration are.

There are difficulties I know over the labour question, and had you given me the pleasure of a few minutes' conversation on your return from England, instead of sending me this resolution, I should have been enabled to hear your views, and I think I should have been able to convince you that we are not indifferent to the complaints that have been made, and are really trying to find a means of remedying them, and I shall be most happy to talk over these and any other questions in which you are interested with you whenever you like.

Yours sincerely,  
J. HAYES SADLER.

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No. 13.

THE GOVERNOR to THE SECRETARY OF STATE.

(Received 30 April, 1908.)

[Answered by No. 15.]

(Extract.)

Governor's Office, Nairobi, 8 April 1908.

In continuation of my despatch of the 26th ultimo\* reporting on the incident at Government House, I have the honour to submit, for your Lordship's considera-

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\* No 10.

tion, copies of letters of explanation from Lord Delamere and Mr. Baillie, the former dated the 2nd instant, which reached me yesterday. Both letters appear to me to be written in justification of the extraordinary proceedings which took place before my house, for all of which the writers accept full responsibility, excepting the shouts, from which they now dissociate themselves, fifteen days after the incident occurred.

The whole tone of Mr. Baillie's letter I consider impertinent; Lord Delamere's is civilly worded enough, but throughout he seeks to throw on the Government the responsibility for the course of action he took, which, after the expiration of a fortnight, I can only regard with exactly the same view as I looked upon it at the time it occurred.

On the 22nd January the Lieutenant-Governor, at my desire, issued a circular letter to certain Heads of Department and to the Provincial Commissioners, informing them that it was proposed to form either a Central Labour Board or District Labour Boards, composed of official and non-official members, for the full discussion of all labour questions, and inviting an expression of their views.

Correspondence ensued, and finally I arranged for a public meeting to be held at Nairobi on the 23rd March, when the Provincial Commissioners would all be present for a conference on inter-Provincial matters.

A great deal has been said of the delay in summoning this meeting and in the appointment of the Boards: this delay was inevitable. It was the touring season; the Provincial Commissioners were not all at their stations—Mr. Bagge, indeed, only returned to Naivasha a few days before the meeting of the 23rd March—and I myself between January and the middle of March was absent on three tours of inspection, having till then been obliged to neglect my district work—a most important part of my duties—owing to pressure of legislative work and other business at headquarters. Further, it was obviously impossible to be sure that a shortage of labour was really universal and due to the Labour Rules, until general enquiries had been made, and it was not till the Provincial Commissioners arrived a week before the meeting that the facts could be definitely ascertained. These showed that there was undoubtedly a shortage of labour in many parts of the country, but the causes appeared to me to be more attributable to the fact that the collection of forced labour by the chiefs had been stopped, and to other causes, such as the rise in prices due to two bad seasons, the disinclination of the natives to work when they could afford to live without doing so, and the particular season of the year when they were preparing their fields, rather than to the direct effect of the Labour Rules, which were not intended to interfere with the private recruitment of labour, but which did tend to operate hardly in some cases, though I feel sure not to the extent that was attempted to be made out.

The fact is, as I have already reported, European settlement has not turned out to be the success that was anticipated, and two successive bad seasons had thrown the poorer settlers on their beam ends; this is the real cause of the trouble.

I have repudiated the statement that my attitude was unsympathetic at the meeting on the morning of the 23rd March, and I have already submitted to your Lordship a copy of the address\* I delivered on the occasion. I could not answer at once the questions raised in Lord Delamere's motion, and the fact of my not being able to do so in no way implies want of sympathy on my part. I feel sure that not one official left that meeting without being in sympathy with the difficulties to which the speakers gave expression.

It is also implied that the agitation resulted in my meeting their demands: this is not the fact, the action I intended to take was in no way affected by the proceedings at my house in the afternoon; when the deputation met me the next morning at my office and I had time to consider the questions raised in consultation with my principal officers, I met them as far as I could. The Board of Enquiry asked for by the delegates whilst the Provincial Commissioners were still in Nairobi, was granted by me: it was not intended to be a permanent Central Board, which I do not consider at present to be necessary.

I refused, as I had all along done, to withdraw the rules or to alter their principles, though I was ready to reconsider details, two of the conditions referring to blankets and food having been already modified the previous day to meet the settlers' wishes. The argument that the members of the demonstration could not be held responsible for the behaviour of their followers because I had refused to

\* Enclosure in No. 10.

hold myself responsible for the actions of individual officers is beside the point. What I did say was that the Government could not hold itself responsible for the act of an individual officer, and that the act attributed to him was explicitly denied by him. The officer referred to is Mr. Dundas, the labour officer in Kenya, who is said to have told the natives that they need not work for Europeans unless they like.

Neither Lord Delamere nor Mr. Baillie appears to recognise the gravity of their conduct in heading a disorderly demonstration at my house, the behaviour of Lord Delamere and his supporters and the language used being a direct insult to my position as Governor of the Protectorate and the King's representative. To argue that it was an orderly and respectful gathering is, on the face of what actually occurred, merely a misrepresentation of facts. No one questions the loyalty of Lord Delamere and Mr. Baillie to the King, and to demand a public enquiry as to what took place is a request that cannot possibly be entertained. I regret that I cannot accept the very qualified expressions of regret contained in these letters as in any sense a befitting apology for what took place a fortnight before their receipt, and it will be remembered that Lord Delamere had the opportunity of expressing his regret the following day, when he headed the deputation at my office.

Under these circumstances I have confined my reply to the draft a copy of which I enclose.

Both Lord Delamere and Mr. Baillie have shown themselves unfit for the position they occupied as members of the Legislative Council, and I have no other course but to recommend that their names be removed from the list of members.

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Enclosure 1 in No. 13.

YOUR EXCELLENCY,

Nakuru Hotel, April 2, 1908.

IN continuation of my letter of the other day, acknowledging receipt of yours suspending me from my place on the Legislative Council, I would now beg to forward the following to His Majesty's Secretary of State for the Colonies for his information, as it appears to me to represent the facts as far as I know them.

Some months ago the Secretary of Native Affairs brought out some rules under which the Government were willing to supply labour. We were all agreed that rules were required for the better safeguarding of the natives, especially those travelling a long distance from their homes, but we objected to the form in which these rules were drawn up, especially to the fact that they would raise the price of unskilled labour at least 25 per cent. in a country where the rate of pay is already higher in proportion to the cost of living than in any other that we know of. At the same time the Secretary for Native Affairs started a system of supervision which was bound to break up the good relations between master and servant, and to create an increase in racial feeling throughout the country. In the past it had been the custom to give employers the benefit of the doubt, and believe them to be good until something was heard to the contrary. Under the new system of the Secretary of Native Affairs secret inquiries were made from the native employees, and, in fact, the men were encouraged to tell tales about their masters. Any one knowing any thing about natives can readily understand the result of such a system, the absolute breaking down of the authority of the employer at the direct instigation of the Government.

I asked a question on the subject in the Legislative Council when it met in Mombasa about the middle of December. I believe that Your Excellency answered that the rules were tentative, and probably not perfect, but that the question was receiving your sympathetic consideration.

A day or two later a meeting of the Planters' Association was held in Mombasa at which were present, besides many prominent planters, the Secretary for Native Affairs and the Commissioner of Lands. Amongst the matters discussed was a letter from Your Excellency to the Planters' Association saying that probably the reason natives did not like going to work at certain places was owing to the treatment they had received there. The Secretary of Native Affairs had to admit that this statement, in part at any rate, was based on the evidence of natives which had been taken as true without application being made to the employers for verification or information.

One case turned out to be against the East Africa Corporation, which represents the great cotton interests of the British Cotton Growers' Association in British East Africa. Apparently two natives had come to Mr. Hollis (the Secretary of Native Affairs), and told him that they had not been paid at Malindi by the Corporation's Manager there. No effort had been made to verify the statement in any way (it turned out to be quite false), but on it was based a serious statement by Your Excellency in a letter that natives did not care to go to Malindi because they had been badly treated there.

We pointed out that the position of employer was an impossible one under this system, and that we considered that cases of this sort should only be dealt with by a Court, and that if Government wished to avoid very bad feeling between employers and employed, they must not interfere between master and servant, except where there was a clear case, and then only by law.

The question of the new rules was also discussed, and we pointed out that they should be withdrawn as unworkable and others substituted after consultation with employers. We said that if once the increase of price caused by these rules became known to the natives no new set of rules would bring the price of labour down again.

No arguments were advanced in favour of the present rules, but this serious meeting was simply told that the rules could not be withdrawn, but that the framing of a new set of rules would receive the sympathetic consideration (or some such term) of the Government.

In January the Colonists' Association of British East Africa sent Your Excellency a letter protesting against the rules, and asking for their withdrawal. I am informed by the Secretary of the Association that this letter, although acknowledged, has never been replied to. I was absent in England from the middle of December to the middle of February.

On my return I found things had got much worse, that the feeling between native and European was bad, and that this state of things was undoubtedly due to the methods employed by the Department of Native Affairs. The natives had certainly been given to understand that they need not work unless they liked for the settlers and planters (of course this was taken as almost a command from Government not to do so), that Government was there to protect them against the Colonists, and indeed generally that the whole ties between master and servant were broken down. I do not say that this was necessarily the intention of the Government. Their intention was probably to remove from the native's mind that he was in any way bound to work, and that Government would protect him from bad employers. But the result, as had been foreseen by every one conversant with the native, was to throw the whole labour market, and to make bad blood between employers and employed without the slightest corresponding advantage to the native.

Apart from the extra expense the employer had to bear in carrying out the conditions of the rules, the Labour Office had undoubtedly in many cases arbitrarily raised the price of unskilled Kikuyu labour from Rs. 4 without posho to Rs. 5 with posho, or over 100 per cent. at the present price of food. This raising of wages was without doubt partly owing to a complete failure to realise the impossibility of suddenly raising wages in this way without causing acute distress among planters, contractors, and settlers, who employ large gangs of men. It was also probably partly due to the fact that owing to the suggestions made by the Department of Native Affairs to the natives that they need not work, the supply was undoubtedly short. The reasons given by the Secretary of Native Affairs for this shortage of labour, that it was harvest time, cannot really hold water, as numbers of people who have always had plenty of labour in former years at the same time, are practically destitute of labour.

But the worst point was that numbers of Europeans were being ruined for want of labour. Anyone who knows anything of natives will agree that the suggestion on the part of the Government to the natives that they need not work unless they like would be construed almost into a command. But personally I would go further; I would say that if by purely friendly suggestion of the Government, backed by the chiefs, natives can be persuaded to take a more active part in the development of the country, then that suggestion ought to be given.

Now, Sir, I saw that farmers, contractors, and others were being ruined by the new methods of administering the native; several people approached me on the subject. I was sincerely of the opinion that a bad feeling between native and European, between master and servant, was being fostered by the methods of the

Department of Native Affairs. I was sure that some of the cases in which natives or Europeans have taken the law into their own hands lately, were directly traceable to those methods, so I therefore forwarded a resolution to the Colonists' Association of which, as Your Excellency is aware, I am the President, asking them, if they thought fit to approve of it, to forward it to Your Excellency. They did forward the resolution together with an explanatory letter, with which I agree except on one or two minor points.

I look upon the labour question and the question of colour feeling as inextricably interwoven as I believe that it takes a decent, willing, industrious employee to make a good employer just as it takes a fair employer to make a good employee, and to my mind the two must go together.

If the impression grows amongst colonists that the Government takes the side of the native against them in their business then I am sure that the employer will be likely to treat his employee less well, and the position of the Government in dealing with bad employers will undoubtedly be weakened. If all the moderate employers of labour in the country look on the Government policy as one detrimental to all industrious advancement of the country then the Government will find it extremely difficult to get public opinion to help in dealing with the bad employers. So the colour feeling grows although it is in the interests of everyone to help in abating it. That is my sincere belief.

The resolution and explanatory letter from the Colonists' Association were answered by a letter which accused the Association of crime to embitter feeling, when in truth the object of the resolution was to try and get the methods of the Native Affairs Department done away with because it was sincerely believed that those methods were creating bad feeling.

I also raised one side of the question (that of the labour supply) in the Legislative Council, dealing also with the rules, and in the opinion of those present we received very inadequate replies, but a renewed assurance of sympathy.

Your Excellency, however, did call a public meeting to discuss the whole labour question, and this meeting in the evident sincerity and conviction shown by the speaker, and the evidence brought forward, could have led no doubt in Your Excellency's mind that the matter was a vital one, and yet the reply given by Your Excellency could hardly be called a serious answer to a serious question. Your answer reiterated your intention of giving the matter your sympathetic consideration, but failed to bring any arguments to bear against resolutions passed by the meeting, but simply said they could not be entertained. Now, Sir, men cannot live on sympathy, they want something more than that when they are being ruined by a policy initiated by the Government of the country in which they live.

Another meeting was, therefore, held, and it was decided to go up to Your Excellency's office (or house, if you were not at the office) to press you for an answer. The meeting went to Your Excellency's Office, and not finding you there went on to Government House. It was impressed on every one present that the meeting must be orderly. When we arrived your aide-de-camp came out and said that Your Excellency would probably not care to see more than three or four as a deputation. The feeling of the meeting was evidently against this, so we asked if you would come out and speak to us, and I suggested that Your Excellency should come out on the balcony over the porch. Your Excellency then came to the door and advanced to the edge of the porch. We had withdrawn outside. 'I and one or two others addressed Your Excellency and pressed for an answer. I must deny that I was "offensive," as stated in Your Excellency's letter. I raised my hat when speaking to you, and addressed you as "Sir." That I may have been slightly "excited" I will not deny, as no one could have gone to the meeting in the morning without coming away excited by a sense of wrong and injustice; that a serious meeting representing the whole country should have been treated like a body of school children. I am sure that the language I used to Your Excellency was quite respectful, and I must consider that I was justified by the facts of the case in being insistent.

It never entered my head that anyone would say that the meeting had gone to Government House with the object of insulting the representative of His Gracious Majesty, and I deny that such a thought ever entered our heads. Your Excellency agreed that you would meet a deputation next day at 12 o'clock, and then withdrew, saying that it was a most extraordinary proceeding to come up to Government House as we had done. This remark produced the shouts from a few people of "Resign." I cannot accept responsibility for the remarks of a few people

in the crowd, because the reason for going to Government House had been clearly stated "To try and get an answer which would satisfy us that the Government meant business, and that the matter was not going to be shelved again for months." The remark that we were "tired of to-morrow" seemed to me justified by the facts of the case. We, as a meeting, have repudiated the cries of "Resign" as not having been intended by us, and as unfitting from a serious meeting addressing the representative of His Majesty on a serious question, and we sincerely regretted the cries had been raised.

Your Excellency has further taken exception to the fact that we had a meeting close to Government House after our interview with you. We took care not to hold it close to Government House, and it was a necessary meeting to appoint the deputation to meet Your Excellency the next day. That was the only business discussed, and I really cannot admit that there is any serious harm in the meeting passing a vote of thanks to me at its conclusion. I submit, Sir, that with the exception of the cries of "Resign," which we have repudiated, the meeting was an extremely orderly one, with a purely constitutional purpose, to get a reasonable answer to a vital question, and I must also submit that what has happened since seems to me at any rate a proof that we were not agitating for nothing, in that the Board of Enquiry appointed by Your Excellency has put in a report supporting the reforms suggested by us.

As Your Excellency will remember, the deputation waited on you next day at your office. It was only after considerable persuasion then that Your Excellency granted this Central Board of Enquiry to consider the rules under which Government are to supply labour and to make recommendations for the increase of the labour supply and the prevention of desertion. That Board included all the Provincial Commissioners, the Heads of Departments, and the Secretary of Native Affairs himself. Among the unofficial delegates was Dr. Scott, of the Church Missionary Society Mission, and yet the Board was unanimous in altering all the objectionable points in the rules, and only differed in detail as to the best means of procuring and retaining labour. And yet, Sir, this enquiry had been refused for months without reasons given.

Moderate men all over the country have been forced into opposition to the Government on this question, and all for no reason which is apparent to the ordinary man. And is the native so very contented under the present *régime*? I have hundreds of friends among the natives, and they appear to hold the same opinions as those expressed by natives before the Natal Commission, that what made life uncomfortable was the number of small regulations preventing the free movement of natives about the country, and the fact that no man was safe from arrest for the breaking of some petty regulations which he had probably never heard of. A native who wants to come a mile into Nairobi has to walk several miles to a Government Station to get a pass, and probably has to sit outside half a day before he gets it. These petty regulations, this pin-prick policy, are what worry the natives more than anything. I am sure they would far prefer any reasonable, well-thought-out plan, even if it resulted in their doing a little more work, if at the same time their life was eased of the petty annoyances they undergo daily at the present time.

The country is on the brink of bankruptcy owing to the interference of Government with the land laws and the labour supply, and it cannot be wondered at if people take strong measures to try and avert their own ruin.

It is undoubtedly to be regretted that we had to go to Government House to get an answer to our appeals, but it seems a pity that these important questions should have been deliberately shelved for months in the face of the appeals from all sides.

I must repeat that the meeting at Government House went there solely with the object of getting an answer to a vital question, and that no one intended any insult to the representative of His Gracious Majesty.

If it is the intention of Your Excellency to question the loyalty of those present at this meeting, I would beg that the matter be made the subject of a public enquiry, as such an unjust and damaging stigma should not be allowed to rest on us, except after the fullest inquiry into the facts. On the question of the etiquette of our proceeding to Government House, for which I take the fullest responsibility, if we have acted in an unconstitutional manner, or if there is the slightest suspicion that any insult to the Crown was intended, I beg to tender to Your Excellency, as the representative of His Gracious Majesty, my fullest apology.



In view of the misconceptions extant on certain phases of this matter, I would beg Your Excellency's permission to publish your letter to myself and my reply.

I have, &c.,  
DELAMERE.

Lieutenant-Colonel Sir J. Hayes Sadler, K.C.M.G., C.B.,  
Governor, East Africa Protectorate,  
Nairobi.

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Enclosure 2 in No. 13.

MY LORD,

Governor's Office, Nairobi, 9 April, 1908.

I AM desired to acknowledge the receipt of Your Lordship's letter of the 2nd instant, received yesterday, which has been duly submitted for the information of the Secretary of State. Pending the consideration of the correspondence by the Secretary of State, His Excellency cannot think that the publication of the letters to which Your Lordship refers is desirable.

I have, &c.,  
W. J. MONSON,  
Secretary.

The Lord Delamere,  
Nairobi.

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Enclosure 3 in No. 13.

SIR,

Nairobi, 7 April, 1908.

IN continuation of my letter of March 24th, acknowledging your suspending me from my seat on the Council, I wish first of all to correct a number of mis-statements of facts occurring in the said letter.

I must point out that in the ordinary meaning of the word there was no demonstration, there was an orderly and respectful meeting of the Colonists, who, on failing to find Your Excellency at your office, proceeded quietly to Government House.

It is perfectly true your Aide-de-Camp invited two or three to enter and discuss the question, but those present, feeling the vital necessity of the question, urged that you would address the meeting and not a few delegates.

The Lord Delamere addressed you, pointing out that the morning's meeting had received no adequate answer, in fact no answer at all, and urged the emphatic necessity of dealing with the situation at once, or at least giving some assurance that some immediate steps would be taken.

Mr. Ward, Mr. Watkins, and myself were the only other speakers, and I must entirely repudiate any suggestion that we were either excited, or our manner or language anything but respectful.

I greatly regret that we were forced by the urgency of the question to go to Government House, and that the shouts of a few individuals should have been construed into an open insult and demonstration of ill will to the representative of His Most Gracious Majesty, and must entirely deny that this was either our intention or wish.

I must point out to Your Excellency that, when you first mentioned a deputation meeting you at noon the next day, you made no mention of giving us a definite answer, and it was only by a firm insistence on our part that you at last consented to giving us a definite reply.

I am strongly of the opinion that it was Your Excellency's somewhat abrupt remark "that you did not understand why such a gathering should have come up to Government House" after the reason had been so clearly explained, which unfortunately induced some few individuals to shout "Resign," the cry was not taken up by the meeting and died away directly.

Neither the meeting or ourselves were responsible or in any way connected with these cries, and entirely dissociate ourselves from them.

It seems to me, Sir, that as you publicly stated "you could not be held responsible for what your subordinates said," that, in common fairness, we can hardly be held responsible for the remarks of five or six individuals out of a large

crowd, the majority of whom neither agreed nor concurred in any way with the cries before mentioned.

Four or five days before the labour meeting, I received a notice asking me to attend a public meeting called by yourself and stating that there were certain difficulties in obtaining labour and that you wished to give an opportunity of fully discussing the question, in the hopes that such difficulties could be removed.

At the opening of the meeting, you read an address in which you admitted there were difficulties as regards the labour supply, that you sympathised with us, but that you were not prepared to withdraw certain rules, and gave, practically, a decision at the beginning of the meeting which you confirmed at the end, this notwithstanding that you had called the meeting to give those present an opportunity to express their views.

The confirmation at the conclusion of the meeting was made in the face of incontrovertible evidence, that men were being ruined all over the country (a fact which Your Excellency stated "you refused to admit"); evidence was also given which pointed to an absolute want of system of any description except that of the Native Affairs Department which the meeting was unanimous in stating was ruinous to the settlers and employers of labour, and evidence was also given as to the hampering of the settler by official methods, yet Your Excellency's answer to a large and representative gathering called by yourself, appeared to be to the following effect:—

That Your Excellency was in sympathy with us and would give our resolutions your consideration.

That Your Excellency was convinced the Native Affairs Department was doing good work, although to us the opposite was painfully apparent, and here I must say that no Native Affairs Department can be run with good results in the present or the future, unless it be on a sympathetic policy both for the white and black; it is a Department, in a country like this, which has boundless opportunities, and should only be under the direction of one with a very broad knowledge of natives and their treatment when brought in contact with the white man. It must be remembered that the whole development of this country can be absolutely retarded unless a proper native policy be arrived at, and the relations between white and black be on a proper footing. If the present suicidal policy be continued, which has resulted in nothing else except setting the one against the other, the development of this country and the progress of both white and black is bound to be put back for many years.

So long, Sir, as these Star Chamber methods of Government are kept in force, whereby unfair rules are promulgated and those with a stake in this country are never consulted or listened to except under pressure, there is bound to be discontent; and sympathy between Government and settler will be non-existent.

To go back to your reply to the meeting, it seemed to us that such a vague and indefinite answer to certain specific resolutions, and no assurance of when any definite answer would be given, is hardly satisfactory to a responsible body of men, and such being the case, and owing to it being a question of *existence*, the meeting referred to was held.

Your Excellency stated at the meeting that the matter had been gone into since January, and yet the deputation on the next day elicited the following information in reference to the Provincial Boards:—

That only two gentlemen on one Board had been appointed. At several places names had been suggested, but the gentlemen in question knew nothing of this. At several places no names had been suggested, and at one place, Naivasha, the Provincial Commissioner did not know that a Board was to be formed there.

This appears to be the result of looking into the matter for three months.

At the labour meeting Your Excellency stated, before any opinion by the meeting had been given, that the general concurrence of opinion was against a Central Board and that at present you did not intend to have one, although you had already promised it in writing, as stated in the Legislative Council.

The voting proved the general feeling to be unanimous in favour of a Central Board and yet you adhered to your original decision, but after being pressed by the deputation on the following day, a Central Board of Enquiry has been instituted which appears to answer the same purpose. A Board of Enquiry had been previously pressed for for some months without any results.

The matter was brought publicly to Your Excellency's notice in December and January last and again in March by the Planters' Association at Mombasa; and,

secondly, the Colonists' Association at Nairobi; and has also been represented to you privately; and although the seriousness of the question was apparent to every one, until matters were pressed, no redress was given.

The spectacle of men being ruined and the country in a state bordering on bankruptcy through inaction on the part of the Government is not a pleasing one, and I hold we were thoroughly justified in the steps we took.

I have already stated that any insult to His Majesty's representative was the thing we thought of, and is to be thoroughly regretted.

I cannot for one moment admit any disloyalty on my part or that of any member present at such meeting, and if by any breach of etiquette on our part in going to Government House, for which I accept full responsibility, a suspicion of disloyalty has been raised, or that if through ignorance we have in any way acted unconstitutionally, then I beg to tender my sincere apologies to Your Excellency as His Majesty's representative.

I should be obliged if Your Excellency would forward this letter to the Secretary of State for the Colonies at the earliest opportunity, and I would beg for a public enquiry to clear away any suspicion of disloyalty if such exists.

I have, &c.,  
ARTHUR A. BAILLIE.

His Excellency  
The Governor,  
Nairobi.

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Enclosure 4 in No. 13.

YOUR EXCELLENCY, Nairobi, 7 April, 1908.  
As my answer to your letter of March 24th is one of public importance to myself and the European colonists in this country, I would ask Your Excellency's permission to publish in the local press your letter to myself and my answer.

An answer at your earliest convenience will greatly oblige.

I have, &c.,  
ARTHUR A. BAILLIE.

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Enclosure 5 in No. 13.

SIR, Governor's Office, Nairobi, 8 April, 1908.  
I AM desired to acknowledge the receipt of your letter of the 7th instant, received yesterday, which has been duly submitted for the information of the Secretary of State. Pending the consideration of the correspondence by the Secretary of State, His Excellency cannot think that the publication of the letters to which you refer is desirable.

I have, &c.,  
W. J. MONSON,  
Secretary.

A. A. Baillie, Esq.,  
Nairobi.

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No. 14.

THE GOVERNOR TO THE SECRETARY OF STATE.

(Received 30 April, 1908.)

[Answered by No. 15.]

MY LORD, Governor's Office, Nairobi, 8th April, 1908.  
At the request of Lord Cardross I have the honour to submit a letter addressed to your Lordship by his Committee.

I have little to add to what I have already reported in connection with this disgraceful and very unpleasant incident.

The reference (a) to my opening address at the meeting on the morning of the 23rd March is incorrect. I refused to withdraw the rules, and said I would consider details whilst adhering to main principles. The two details referred to were

the conditions regarding the supply of food and blankets to labourers, to which great importance had been attached by the settlers.

I again repeat that it was impossible to deal with the questions raised in Lord Delamere's motion on the spur of the moment.

The statement that I turned on my heel and spoke in an angry tone is not in accordance with fact. I was perfectly cool and collected under circumstances as difficult perhaps as a Governor could be placed in; I never raised my voice, and answered Lord Delamere quietly and civilly, but firmly, restraining my feelings in the position in which I found myself placed.

The statement that I declined to receive Lord Cardross's Committee is quite correct, and in accordance with the dignity of my office and the position I feel assured your Lordship would have wished me to assume. No apology had been received from the leaders of the demonstration, and in the absence of such I declined to enter into a verbal controversy with Lord Cardross's Committee and to receive them until a full and public apology had been made for all the proceedings in front of my house.

As I have already said in my despatch of to-day,\* no one questions the loyalty of the leaders or members of the demonstration. The demonstration itself was an intolerable insult, and this neither its leaders nor Lord Cardross's Committee appear to recognise.

I have, &c.,  
J. HAYES SADLER.

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Enclosure in No. 14.

SIR,

Nairobi, 8 April, 1908.

WE, the Committee elected by a mass meeting of settlers were entrusted with the task of drawing up an account of recent occurrences in connection with the meeting convened by His Excellency on the 23rd ultimo.

The labour question is no new one, but has been brought before His Excellency's notice on many previous occasions, and notably so within the last three or four months.

In November the Malindi planters prepared an address to Mr. Winston Churchill pointing out the difficulty of the labour supply.

November 2nd.—There was a planters' deputation to Mr. Churchill complaining of the same difficulty.

November 23rd.—A deputation from the Colonists' Association.

December 7th.—New Labour Rules published.

December 13th.—There was a meeting of planters at Mombasa.

The Secretary of Native Affairs suggested that the labour difficulties were caused by ill-treatment of natives, and cited cases which, however, could not be proved, whereupon he withdrew the suggestion. The meeting asked for the abolition of the new Labour Rules.

January 24th.—A general meeting of the Colonists' Association at Nairobi passed a resolution asking for a Committee of Enquiry and also that the present Labour Rules should be abolished.

March 5th.—Committee of Colonists' Association sent a letter and resolution saying that the present attitude of Government towards settlers and natives is fraught with danger, and again asking for the withdrawal of the Labour Rules.

On several occasions the subject of the labour question was raised by the unofficial members of the Legislative Council.

To all of these representations His Excellency expressed his sympathy, but nothing further was done.

Meantime the situation became critical and it was apparent to everyone that something must be done. His Excellency the Governor, therefore, convened a general meeting for March 23rd "to discuss the labour question, and to consider the best means of removing the difficulties which have arisen in this connection and of dealing with the various issues involved."

Although the notice was exceedingly short there assembled a large and representative gathering of settlers, including the principal employers of native labour from all parts of the country.

The Governor, in his opening speech, and before hearing any evidence, stated, *inter alia*:-

(a.) That he would not consent to the alteration of the recently promulgated Labour Regulations except in one or two details which had never been enforced and which he had decided to alter previously.

(b.) That he thought the solution of the labour question lay in the gradual education of the chiefs and people, and in making work as easy as possible.

(c.) That Local Boards were in process of formation, and that he would not, at present, agree to a Central Board, nor did he think the same necessary.

(d.) That employers who treated natives well had no difficulty except at certain seasons.

(e.) That he was consulting his legal advisers as to what steps could be taken to better check desertion.

The Governor then invited expressions of opinion, and stated that any feasible proposal would receive his most sympathetic consideration.

A great number of employers of labour then addressed the meeting and related their experiences, and numerous suggestions were made for remedying the present state of affairs.

From these speeches it was clearly proved that great distress was caused throughout the country owing to the shortage and uncertainty of native labour, and it was asserted that so far from helping to a solution of the difficulty some Government officials had practically discouraged natives from working.

A unanimous resolution was passed.

The Governor, in reply, said that the Government was not unsympathetic, and that desertion was met by the Masters and Servants Ordinance.

*He wished to point out that he could not be responsible for the actions of individual officers.*

He refused to withdraw the Labour Rules and did not think that they had caused a rise in wages.

That Provincial Boards now in process of formation could deal with such details as the loan of blankets.

Such an inadequate reply was so totally unexpected that it was not until His Excellency had left the chair that those present were able to realise its purport. This meeting lasted over three hours.

In consequence of this reply a large number of those present at the Governor's meeting again met in the afternoon to discuss the situation. It was generally felt that the Governor had really given no answer to the questions involved and that the labour difficulty was again put on one side indefinitely.

It was resolved, therefore, to go up to the office and request the Governor to give a more definite reply, including an assurance that immediate steps of some kind would be taken. The meeting was informed that the Governor was at his house and that it was impossible to communicate with him owing to the telephone being out of order. Many of those present had come from distant parts of the country and could not remain long in Nairobi. All wished to hear a definite statement from the Governor, and, in fact, having been invited by the Governor to this meeting, felt that they were entitled to such reply.

The meeting, therefore, proceeded in a perfectly orderly manner to Government House.

Captain Sadler, Aide-de-Camp, came to the door and said that he did not think that His Excellency would care to see the whole meeting, and proposed that three or four should enter the house as a deputation.

It was suggested that His Excellency should be asked to come out on to the balcony for a few minutes and address the meeting. In response to this request His Excellency came out in the porch. Lord Delamere, addressing His Excellency, said that it was felt that the labour question involved the success or ruin of every settler in the country, and requested, in the name of the meeting, an answer to the unanimous resolution of the morning.

Messrs. Ward, Watkins, and Baillie made short speeches, and the Governor said he would not answer at once and that the meeting had better send a deputation to his office on the morrow.

Lord Delamere replied that everyone was tired of being put off till to-morrow and asked whether His Excellency would then give a definite reply. His Excellency replied that he would give a definite reply next day, and the meeting was prepared to retire, when the Governor turned on his heel and said in an angry tone that it was a most unheard of proceeding coming up in a crowd to Government House. Several of those present, not more than half a dozen, then called out "Resign, resign."

For this the individual members of the meeting might as justly deny their responsibility as the Governor had already done for the action of his subordinate officers, but we have no desire to shift the blame on other shoulders and accept full responsibility for the actions of all present. During the meeting the utmost decorum had been observed. Except for the four speakers, everyone kept silence, the leaders and most of those present stood bareheaded. The allegation that the meeting was disorderly and offensive entirely misrepresents the facts.

The meeting withdrew to a distance of several hundred yards and halted for a few minutes in order to select the six delegates that His Excellency had invited to meet next day.

On His Excellency's decision to suspend Lord Delamere and Mr. A. A. Baillie from their duties and to recommend their removal from the Legislative Council, a mass meeting of settlers passed a resolution deprecating His Excellency's drastic action and expressing regret at the cries of "Resign" having been raised. This Committee was appointed by that meeting to forward such resolution to you, and to take what future steps might be deemed advisable to endeavour to clear up any misunderstanding as to the object and nature of the meeting at Government House and to deal with the serious situation caused by the threatened removal of the honourable members who represent so efficiently the interests of the non-official population.

We accordingly, in furtherance of that object, requested His Excellency to meet us in order that we might explain fully the facts leading up to the meeting and to personally express our regrets for anything that occurred to which exception might be taken by His Majesty's representative. We were informed through one of the members of the Legislative Council that His Excellency insisted that a full and unconditional public apology for all the proceedings which took place in front of Government House must precede any interview or explanation. This we were unable to agree to and, in consequence, His Excellency refused to meet us.

We have, therefore, decided, on behalf of those persons who attended the meeting at Government House, to forward to you this full, and, we believe, accurate statement of all that led up to the public meeting of the 23rd ultimo, and to the subsequent meeting at Government House and all that took place there, and, further, on behalf of such persons to apologise for anything which may have taken place at such meeting which was contrary to etiquette or might in any way be construed as an insult to His Majesty's representative or an appearance of disloyalty to the Crown. The object in going to the Governor's office and subsequently to Government House was purely a desire for a satisfactory assurance that steps would be taken by the Government for speedy relief from the deadlock into which the labour question had brought those who depended on the labour supply for their daily bread. No thought of disloyalty or of making a demonstration was in the minds of the meeting in so doing. His Excellency in calling the public meeting and himself presiding had entered into the political arena, and, unfortunately, when feelings are strong on political questions, words are sometimes used by individuals, even in more august assemblies, which are immediately regretted. We do not consider that any stigma of disloyalty should rest upon the non-official population of this Colony, and, lest this should be the case, we would earnestly beg you to grant a full public enquiry as to everything that took place at such meeting and the events leading thereto and resulting therefrom.

I have, &c.,  
CARDROSS,  
Chairman of Committee.

To His Majesty's Principal Secretary of State  
for the Colonies, London.

## Sub-Enclosure in Enclosure in No. 14.

Resolution.	Governor's reply at Meeting, 23rd March.	Governor's reply to Deputation on March 24th.
(a) Immediate withdrawal of Labour Rules.	(a) I do not see in what way the rules affect employers of labour, and I do not intend to withdraw them. As regards blankets and food, these clauses can be altered. Blankets are only lent to the native.	(a) I must decline to withdraw the Rules.
(b) Framing of new rules to be by Central Board with adequate non-official representation, rules to be subsequently adapted to districts by Local Boards.	(b) I am against having a large Central Board at present as conditions vary in different Provinces. In any case I propose to give the Local Boards a fair trial before considering the question of a Central Board.	(b) I do not propose to consider the question of a Central Board until the working of the Provincial and District Boards has been given a fair trial. I agree to a Board of Enquiry commencing its sittings to-morrow composed of the Provincial Commissioners and the Heads of Departments or their representatives, which will meet under the Presidency of the Lieutenant-Governor with six unofficial delegates to consider the terms under which labour will be recruited by the Government, and to enquire into the conditions of the labour supply. I fully agree that Labour Boards should discuss the questions referred to, and such legal measures as are possible will be taken.
(c) Contracts for labour to contain obligations on both sides, and to ensure a minimum term of service. Adequate machinery to be employed to enforce these provisions.	(c) No reply ... ..	(c) Contracts for labour to entail obligations on both parties.
(d) Luxuries to be paid for by the employee in course of his employment.	(d) No reply ... ..	(d) By luxuries I presume that blankets are meant. I agree that luxuries supplied to the employee should be paid for by him, and deducted from his wages.
(e) Labour Bureau to be apart from the Department of Native Affairs.	(e) No reply ... ..	(e) There appears to be some misapprehension regarding the system of Civil Administration in the Protectorate. The Provincial and District Staffs form in effect the Native Affairs Department. The Secretary for Native Affairs holds a travelling appointment and is attached to the Governor's Office. It is absolutely impossible to separate the question of native labour from other questions of native administration, and any officers detailed for the recruitment of native labour are and must remain under the orders of the Provincial and District Staff.
(f) Rate of wages for unskilled labour not to be fixed higher than that in existence 12 months ago.	(f) No reply ... ..	(f) Government cannot fix rate of wages, but will do all it can to check the tendency of prices to rise.
(g) Government Departments to conform to Rules.	(g) No reply ... ..	(g) I am quite prepared to accede to this request.
(h) Government Officers to be directed to encourage the native to labour, and to assist the employer to obtain such.	(h) Myself and my Staff, particularly Secretary for Native Affairs, and the Labour Officers are in sympathy with the Settlers, and have done and will do everything possible to assist them in getting labour, but at the same time the native must be protected.	(h) This has always been the intention of Government and a further circular urging particular attention to this point will now be issued.
(i) A Native Commissioner of tried colonial experience to be appointed as head of Department of Native Affairs.	(i) No reply ... ..	(i) I am not prepared to consider this question.

No. 15.

## THE SECRETARY OF STATE to THE GOVERNOR.

Sir,

Downing Street, 12 June, 1908.

I HAVE the honour to inform you that I have given careful consideration to your despatches of the 23rd, 26th, and 27th of March, and of the 4th and 8th of April,\* with regard to the proceedings at Government House on the 23rd of March in consequence of which you suspended Lord Delamere and Mr. A. A. Baillie from the exercise of their offices as members of the Legislative Council of the East Africa Protectorate.

2. I concur with my predecessor in approving of your action in this matter, and I have to inform you that, in accordance with the advice which I felt it my duty to tender to His Majesty, the King has been pleased to confirm the suspension of Lord Delamere and Mr. Baillie and to give directions that they shall no longer hold their seats in the Legislative Council. I have to request that you will cause them to be informed accordingly.

3. The questions connected with the employment of native labourers are engaging my earnest attention, but I do not propose to enter upon them in this despatch.

I have, &c.,  
CREWE.

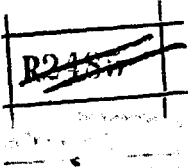
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\* Nos. 9, 10, 11, 12, 13, and 14.



EAST INDIA (INDIA) EAST AFRICA.

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of

Correspondence  
regarding the position of Indians in East Africa  
(Kenya and Uganda).

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Presented to Parliament by Command of His Majesty

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EAST INDIA (INDIA) AND EAST AFRICA.

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No. 1.

*Letter from the Government of India to His Majesty's Secretary of State for India,  
No. 33, dated 21st October 1920.*

We have the honour to refer to letter J. and P. 5432, dated the 19th August 1920, from your Secretary, Judicial and Public Department, forwarding a copy of a despatch, dated the 21st May 1920, from the Colonial Office to His Excellency the Governor of Kenya Colony, conveying Lord Milner's decisions on various questions concerning the position of Indians in East Africa. We have now considered the information placed before us by Sir Benjamin Robertson, who was deputed by us, with the consent of the Colonial Office, to visit East Africa and discuss Indian questions with the authorities there.

2. In our Despatch No. 13, dated the 4th June 1919, we recalled the principle which your predecessor pressed upon the Colonial Office in 1914, that there is no justification in a Crown Colony or Protectorate for assigning to British Indians a status in any way inferior to that of any other class of His Majesty's subjects. His Excellency the Viceroy, in his opening speech to the Indian Legislative Council on the 30th January last, and again on the 20th August, reiterated that this is, and always will be, the position of the Government of India. We observed with satisfaction that Lord Milner, in his speech in the House of Lords on the 14th July last, appeared to accept this principle. "In East Africa," he said, "as in other countries under the administration of the Colonial Office, it has been the avowed principle, and it is the definite intention, of the British authorities to mete out even-handed justice between the different races inhabiting those territories." But this does not appear always to have been the policy which has been followed. In reply to a deputation from the Nairobi Indian Association, on the 24th March 1919, His Excellency the Governor is reported to have said that "the principle had been accepted at home that this country (British East Africa) was primarily for European development, and whereas the interests of the Indians would not be lost sight of, in all respects the European must predominate." This was confirmed in letter No. 15528-41, dated the 6th June 1919, from the Chief Secretary to the Government of the East Africa Protectorate to the Indian Association: "His Excellency believes that, though Indian interests should not be lost sight of, European interests must be paramount throughout the Protectorate."

3. At a mass meeting of Indians held at Nairobi on the 22nd August to consider the announcement of Lord Milner's decisions, a resolution was passed protesting against assigning an inferior status to British Indians in the East African territories—

- (a) by not granting them due and effective representation on the Legislative and Municipal Councils;
- (b) by insisting upon the application of the principle of segregation of races;
- (c) by putting restrictions on ownership of land by them.

We propose in this Despatch to confine ourselves to consideration of these three vital issues.

4. *The Franchise.*—In para. 3 of the Despatch of the 21st May, Lord Milner states that he has decided that arrangements shall be made for the election of two Indian members of the Legislative Council on a special franchise. It is understood that the Legislative Council will then be composed as follows:—

- 18 nominated officials, including the Arab Lawali of Mombasa;
- 11 elected Europeans;
- 2 elected Indians.

No authentic figures appear to be available to show the comparative numbers of the European and Indian population, their financial interests in the country, and the amount of taxation contributed by each community. But it is understood that it is not in dispute that by any of these tests the number of seats allotted to the Indian community is not proportionate to their importance. In his speech in the House of

Lords on the 14th July, Lord Milner laid stress on the fact that the majority remains official, and that the final decision, therefore, in all important matters of legislation really rests with the Imperial authorities at home. In these circumstances it seemed to him that the question of the number of elected representatives, and the method of their election, was not of the first importance. This argument, however, would appear to apply equally to European representation. We fully recognise the necessity of maintaining an official majority in order to safeguard the interests of the natives, who, as Lord Milner remarked in his reply to Lord Islington's deputation on the 19th April, are sometimes forgotten in this controversy. But we would strongly urge that even-handed justice requires that the representation of the European and Indian communities, and the method of election, should be assimilated. "What is of vital importance," said Lord Milner, "is that the view of every section of the community should be adequately voiced in the Assembly." It is not clear to us why the European community should require 11 members to voice its views, while two members are considered to be sufficient for the Indian community.

5. Further, where Indian interests are concerned, the official majority does not appear always to be a reliable safeguard. Our attention has been called to the report of the proceedings of the Legislative Council in the Nairobi *Leader* of July 10th last. It is stated there that Lord Delamere, an elected European member, moved an amendment to the Income Tax Bill to the effect that English should be the only permissible language for book-keeping. It was objected that many Indian traders would be unable to keep books in English, and that small out-post traders would be driven from the country; but Lord Delamere insisted that it was an English colony. His Excellency the Governor intervened in the debate, and pointed out that the matter was one for the home authorities to decide. Nevertheless, Lord Delamere's amendment was carried, His Excellency voting in the minority.

6. We are convinced that the only reliable safeguard for Indian interests is adequate representation on the Legislative Council. At the same time, we desire to reiterate our opinion that there should be a common electoral roll and a common franchise on a reasonable property basis *plus* an educational test without racial discrimination, for all British subjects. We believe that this is the true solution of the East African problem. We fear that separate representation for the different communities will perpetuate and intensify racial antagonism. On the other hand, a common electorate, whereby a member of one community would represent constituents of another community, would tend to moderate and compose racial differences. In no other way, we believe, will the diverse races in East Africa become a united people.

7. We recognise that practical objections will be urged against such a solution. In the first place, the Legislative Council Ordinance of 1919 conferred adult suffrage on the European population; and it may be admitted at once that the Indian community is not ripe for adult suffrage. On the other hand, the adoption of a common franchise on the basis which we have suggested would mean a narrower franchise for the European community than that which they now enjoy. It is not within our province to question whether it was wise at once to confer adult suffrage on the shifting European population of a new country like Kenya Colony. It is probable, at any rate, that the great majority would satisfy the property and educational qualifications which we would suggest. We recognise that it would not be possible to disfranchise anyone who already has the vote; but for the future we would urge that there should be a common qualification for everyone, of whatever race, who is admitted to the electoral roll. The composition of the Legislative Council is admittedly experimental, and we would submit, with respect, that its revision should not be prejudiced by the Ordinance of 1919, which was passed without consideration of our views, and indeed without our knowledge.

8. Secondly, it may be objected that as the Indians in East Africa are more numerous than the Europeans and are likely to increase more rapidly, a common electorate would mean that the Indian members would dominate the Legislative Council, and that this would be incompatible with the responsibilities of the British Government for the welfare of the Colony as a whole and of the native population in particular. The objection is admittedly not immediate, for it is stated in para. 3 of the Despatch of the 21st May that there is only a very small number of the Indian community who can be regarded as qualified to exercise the franchise. Hence, if the qualification for a common franchise is properly defined, it

follows that the number of Indian voters will be far less than the number of European voters. In the future it is true that with better educational facilities and increased wealth the Indian voters might outnumber the European. But the Indian voters would still, it is believed, to a large extent be concentrated in the urban constituencies. The country districts would continue to return European members. Finally, it is common cause that the interests of the native population require that the official majority should remain. The fear of Indian domination is, we submit, unfounded.

9. In para. 4 of the Despatch of the 21st May, Lord Milner directs that the same arrangements should be made for the elective representation of Indians on Municipal Councils. We understand that the Nairobi Municipal Council, which is the most important in the Colony, now consists of one nominated official and 12 elected Europeans, and that it is proposed to add three elected Indians. We have no exact figures to show the relative positions of the different communities, but we are informed that the population and the incidence of municipal taxation are roughly as follows:—

	Population.	Municipal taxation.
	---	---
		Rs.
Europeans - - - - -	2,000	70,000
Indians - - - - -	5,000	1,20,000
Africans - - - - -	12,000	10,000
Government grant - - - - -	—	50,000

Here, again, we would urge most strongly that Indian interests should be adequately represented. In the Municipal Councils there is not even the safeguard of an official majority. And it is believed that the insanitary conditions in which Indians are frequently living are due, in part at any rate, to the neglect of the municipal authorities.

10. Here again, also, we would press for a common electoral roll and a common franchise. The ward system of election would secure adequate representation for each community; and an increase in the number of official members, which the interests of the large native population would appear to require, would be a safeguard against the predominance of any single community.

11. *Segregation of Races.*—In para. 7 of the Despatch of the 21st May, Lord Milner has directed that the principle of race-segregation should be adhered to in the residential areas of townships, and, whenever practicable, in commercial areas also. We noted with satisfaction Lord Milner's assurance to Lord Islington's deputation that in any decision which might be come to he would certainly not be actuated either by racial prejudice or allow considerations of trade jealousy to prevail. And we observe that there is no intention to discriminate against Indians or to sacrifice Indian to European interests. It appears from Lord Milner's speech in the House of Lords on the 14th July that the policy of race-segregation emanates from Professor W. J. Simpson, whose principles are enunciated in para. 16 of his Report on Sanitary Matters in the East Africa Protectorate, Uganda and Zanzibar, as follows:—

"Lack of control over buildings, streets and lanes, and over the general growth and development of towns and trade centres in East Africa and Uganda, combined with the intermingling, in the same quarters of town and trade centres, of races with different customs and habits, accounts for many of the insanitary conditions in them and for the extension of disease from one race to another. It is necessary that this haphazard method should be ended and that town-planning schemes embodying separate quarters for Europeans, Asiatics and Africans together with regulations for and control of buildings should be adopted. In forming such schemes, it is requisite to bear in mind the differences which obtain between towns in East Africa and Uganda and those of Europe. In the latter, where the race is practically the same, town planning resolves itself into arranging for residential, commercial and manufacturing areas, which are further governed in character by rental and class, and in such a way as to secure convenience, good transit, pleasing amenities and healthiness for all. In the former something more than this is required where the races are diverse and their habits and customs different from one another. Though the same objects have to be aimed at in both, it has to be recognised that the standard and mode of life of the Asiatic do not ordinarily consort with the European, whilst the customs of Europeans are at times not acceptable to the Asiatics, and that those of the African, unfamiliar with and not adapted to the new conditions of town life, will not blend with either. Also that the diseases to which these different races are respectively liable are readily transferable to the European and *vice versa*, a result specially liable to occur when their dwellings are near each other.

"In the interests of each community and of the healthiness of the locality and country, it is absolutely essential that in every town and trade centre the town planning should provide well defined and separate quarters or wards for Europeans, Asiatics and Africans, as well as those divisions which are necessary in a town of one nationality and race, and that there should be a

neutral belt of open unoccupied country of at least 300 yards in width between the European residences and those of the Asiatic and African. This neutral or protective zone definitely prevents European houses approaching or encroaching on the Asiatic or African quarter and *vice versa*; it is also a useful open space which can be used for recreation purposes by all races."

Professor Simpson's object is thus sanitary. Lord Milner is also influenced by social reasons. To quote again his speech of the 14th July:—

"My own conviction is that in the interests of social comfort, social convenience and social peace, the residence of different races in different areas—I am speaking now of the populous city areas—is desirable, and so far from stimulating it is calculated to mitigate hostility and ill-feeling."

Nevertheless, Lord Milner's decision is bitterly resented not only by Indians in East Africa, but by educated opinion throughout India. The reasons for this resentment require careful consideration.

12. We will first consider segregation in commercial areas. The first objection is that it is irrational. If the end in view is to prevent "the intermingling, in the same quarters of town and trade centres, of races with different customs and habits," the nationality of a business firm would appear to be of less importance than the nationality of its employees and customers. It seems irrational, for instance, that a European and an Indian firm, which are alike dealing mainly with European customers and are alike employing Indian clerks and assistants, should be made to trade in different quarters. Or again, sanitation and social convenience do not appear to require that a European firm with a large native retail trade should carry on its business in the European quarter. The distinction would break down altogether in the case of companies.

Secondly, from the strictly commercial point of view it is inconvenient that firms doing the same class of business should be separated by an artificial barrier. In the Uganda Protectorate, which is less affected by racial prejudice, the recently appointed Development Commission, in para. 209 of their report, stated that they would be strongly opposed to any segregation in the business areas. And we are informed that the Uganda Chamber of Commerce has expressed similar views. Again, in Mombasa, the most important commercial town in East Africa, which is free from the racial bitterness of the uplands, we understand that European opinion generally favours a joint business area.

Thirdly, it is feared that the condition of segregation which Lord Milner postulates, namely, that Indians should be fairly dealt with in the selection of sites, will not be fulfilled. And it must be admitted that the plans of Nairobi, Mombasa and Kisumu, facing pages 24, 45 and 59 of Professor Simpson's report, are sufficient cause for anxiety. In Nairobi, Professor Simpson proposed that the whole of the present business quarter between the railway station and the river should be reserved for Europeans; Indians were to be relegated to the other side of the river. In Mombasa, again, the whole of the area adjoining the harbour of Kilindini was to be the European business area; Indians were to be kept on the other side of the island. And in Kisumu, where practically the whole of the trade is in the hands of Indians, one short street was allotted for the Indian "bazar," while an extensive block was to be laid out as European business quarters.

Fourthly, it is objected that segregation in commercial areas is impracticable. In Nairobi a considerable part of the land which Professor Simpson had included in the European commercial area is already occupied by Indians, who, it is recognised, cannot be expropriated. We are indebted to Sir Edward Northey for the plan attached to this Despatch, showing the lay-out which is now proposed. Comparison with the map facing page 24 of Professor Simpson's report will show that his recommendations have been substantially modified. We gratefully acknowledge the liberal spirit in which Sir Edward Northey has interpreted Lord Milner's orders. At the same time, it is apparent that his proposals, which are based on practical considerations, are not consistent with Professor Simpson's theories. The European and Asiatic areas are now separated only by the width of a street; and the Indian bazar, which, in Professor Simpson's opinion, is the centre of infection, remains where it is, running out like a promontory into the European area. Moreover, a large number of plots in the revised European area, and more especially in the important Government Road, are still occupied by Indians, whom it is not intended to disturb. In fact, it would appear that commercial segregation in Nairobi is now practically narrowed down to the question whether Indians shall be allowed to bid for certain unoccupied plots in the best business streets, in which Indians are already established, but which it is now desired to reserve for European occupation.

13. If, then, the object in view is sanitation and social convenience, we submit the criterion should be the class of business, and not nationality. We suggest there should be a joint commercial area, regulated by strict sanitary and building laws which would ensure that only businesses of good class, whatever may be their nationality, should be established in the best streets, and that business of inferior class, whatever may be their nationality, should be confined to less important streets. Further, it has frequently been noticed that the practice of "living-in" leads to insanitary habits and over-crowding; and we would suggest that "living-in" should be prohibited, at any rate in the best streets. In other words, to use the phrase which, we understand, is current in Nairobi, there should be a joint "lock-up" commercial area.

14. We have next to consider the question of segregation in residential areas. It is admitted that the Indians in East Africa naturally prefer to live together in their own quarter, and have no desire to live in the European residential area. They have only asked that they should be allowed to acquire suitable residential sites, which hitherto have generally been denied to them. The only exceptions are the few Indians who have been brought up to live in European style; and it is understood that the Government of the Colony would not desire to enforce the policy of segregation rigidly in such cases.

15. The Indian objection to residential segregation is primarily a question of principle. It is felt, not only by Indians in East Africa, but also throughout India, that compulsory segregation implies a racial stigma. In theory, it may be that there is no question of racial discrimination against Indians. It is unfortunate, however, that the policy of segregation as advocated by Europeans in East Africa, is animated by the racial feeling which marred the Economic Commission's Report. And it is not easy for Indians to appreciate that the reasons for which Lord Milner has accepted this policy are wholly different. Nor is it a matter of mere sentiment. They fear that in practice the policy of segregation will be administered in a spirit of racialism rather than of even-handed justice. In his speech of the 14th July, Lord Milner said that the condition on which he was prepared to defend segregation was that there should be fair treatment of both races in the matter of sites. "I mean to say," he added, "that you should not give all the best sites to Europeans and cram the Indians into inferior localities." This, however, they consider, is precisely what has happened in the past, when the principle of segregation was not formally recognised. And they see no reason to expect that the formal recognition of the principle will better their condition.

16. These fears do not appear to us to be groundless. In the projected plans of Nairobi, Mombasa and Kisumu in Professor Simpson's Report, the areas demarcated for European and Asiatic residence respectively, apart from any question of convenience, are wholly disproportionate to the numbers of the two communities. And it is understood that in the case of residential areas no substantial modification of Professor Simpson's proposals is intended. It seems to us, indeed, almost inevitable that compulsory segregation will mean that the best sites will be allotted to the race which is politically most powerful. Further, it can be taken as almost certain that the race which controls the Municipal Council will spend an unfair proportion of the revenue of the Municipality on its own quarter, and will neglect the areas occupied by other races. The practical effect of compulsory segregation on the race which is politically weaker, can be seen in the Asiatic ghettos in the Transvaal.

17. We deeply regret that Lord Milner should now have considered it advisable to adopt the principle of race-segregation. It seems to us to be a reversal of the principle for which His Majesty's Government have always contended in the parallel case of South Africa. We may perhaps be permitted to quote the words in which the late Mr. Alfred Lyttelton, in his Despatch dated the 20th July 1904, rejected the proposals which the Governor of the Transvaal had submitted for the segregation of Indians in the Transvaal:—

"His Majesty's Government hold that it is derogatory to the national honour to impose on resident British subjects disabilities against which we had remonstrated, and to which even the law of the late South African Republic rightly interpreted did not subject them, and they do not doubt that when this is perceived the public opinion of the Colony will not any longer support the demand which has been put forward."

We believe that sanitation and social convenience could be adequately secured by mutual consent, by strict enforcement of sanitary and building laws, and by a just

administration of municipal revenues. In this way the end which Lord Milner has in view, to promote social comfort, social convenience and social peace, might be attained. But legislation on racial lines, so far from mitigating, will stimulate hostility and ill-feeling. It will, we fear, gratuitously provoke a conflict which may have grave political consequences in this country and throughout the Empire.

18. *Restrictions on Ownership of Land.*—We will consider first the restriction on the ownership of land in townships. In para. 8 of the Despatch of the 21st May, Lord Milner says that it seems necessarily to follow from the adoption of the principle of race-segregation that as a general rule no transfer of land either by way of ownership or mortgage between Europeans and Asiatics should be allowed; and similarly, when township plots are put up to auction, Europeans should not be allowed to bid for plots in the Asiatic quarter or Asiatics to bid for plots in the European quarter.

19. Even if the principle of race-segregation is admitted, the necessity of this consequence does not seem to us to be obvious. Professor Simpson himself, at the end of para. (16) of his report, says:—

“The town planning and division into separate zones and reservations would not prevent any European, Asiatic, or African owning land or buildings in any zone, except the neutral zone, provided they conform to the provisions of the Ordinance relating to these zones.”

We would also invite attention to para. 212 of the report of the Uganda Development Commission:—

“We have said that we advocate segregation in residential areas, but we consider that a person should be able to acquire land in any area in a township, even though he may not be able to occupy it himself. Any restriction on acquisition would prevent a plot holder from obtaining the full market price for his land and we do not think that this is justifiable or necessary.”

It may be added that the restriction would close a legitimate field for investment both to Indians and to Europeans, and in the case of sales of new plots would be likely to prevent the State also from obtaining the full market price for Crown lands. It is understood that Indians already own many plots in the areas now occupied by Europeans, and *vice versa*. It would appear to us to be inequitable to restrict the right of transfer of plots already alienated, and unnecessary to impose any such restriction in the sale of new plots which may be alienated hereafter.

20. There remains the restriction on the acquisition by Indians of agricultural land in the uplands. It is suggested in para. 6 of the Despatch of the 21st May that this merely reaffirms Lord Elgin's decision, contained in his Despatch of the 19th March 1908, that as a matter of administrative convenience *grants* of land in the upland area should not be made to Indians. We understand, however, that practically no land which is now capable of development remains to be alienated in the uplands. In the course of his address to the Convention of Associations at Nairobi on the 9th August last, His Excellency the Governor is reported in the *East African Standard* of the 14th August to have said:—

“By the time this whole settlement scheme (the Soldier Settlement scheme) had been readjusted *i.e.*, that farms which had not turned out to be what it was hoped they would be were replaced by something better, there should not be a farm left worth having.”

It would thus appear that there is now practically no land left to which Lord Elgin's decision could be applied. It is understood, however, that the restriction has now been extended so as to prohibit the transfer of land to Indians. We would point out that this goes far beyond Lord Elgin's decision, and is incompatible with his own pronouncement that it is not consonant with the views of His Majesty's Government to impose legal restrictions on any particular section of the community in regard to the acquisition of land.

21. Lord Milner has justified the exclusion of Indians from the uplands on the ground that Europeans are by nature physically excluded from other areas. Hence if the limited area which is suitable for European settlement were thrown open to the competition of Asiatics, there would be, taking the Colony as a whole, a virtual discrimination in favour of Asiatic as against European settlement. He cannot, therefore, regard the Indian claim to be admitted to the uplands as just or reasonable.

22. It has been argued with force that there are vast areas in the Empire suitable for European settlement from which Indians are excluded either by law or climatic conditions, and that it is, therefore, unjust that Indians should be prohibited from acquiring agricultural land in a colony which has been, to a considerable extent,

developed by Indian enterprise. Apart from this, however, it is not clear that the admission of Indians to the uplands would be a virtual discrimination against Europeans. First, it is necessary to determine what exactly is meant by the "uplands." This term is defined in the Despatch of the 17th July 1906, in which the Colonial Secretary approved of the principle "that the land outside municipal limits "roughly lying between Kiu and Fort Ternan should be granted only to European "settlers." It might be inferred from the Despatch of the 21st May and from Lord Milner's speech of the 14th July that the European settlers were confined to a comparatively small area, while Indians enjoyed a monopoly elsewhere. But reference to the map appended to this Despatch, for which we are again indebted to Sir Edward Northey, will show that by far the larger part of the area coloured red, which is alienated land or land surveyed for alienation, lies between Kiu and Fort Ternan. Further, almost the whole of the alienated land outside these limits, that is in the lowlands, which *ex hypothesi* are unsuitable for European settlement, has been alienated to Europeans. The total area alienated to Europeans or available for alienation is given as 11,859 square miles. The total area held by Indians, we are informed, is only 32 square miles, out of which 21 square miles have been purchased from Europeans and only 11 square miles have been obtained from the Government. In addition, Indians hold a small area of agricultural land in the coastal belt; but here again, we understand, Europeans own large plantations.

23. The attitude of the Government towards the acquisition by Indians of agricultural lands, even in the lowlands, can be judged from the following case, which has been brought to our notice :—

On the 11th February 1918 an estate, area 35 square miles, situated at Voi in the lowlands, lying about 150 miles east of Kiu, the eastern boundary of the uplands, which belonged to the Deutsche Englische Ost-Africa Kompagnie Gesellschaft, an enemy firm, was sold by the liquidator, together with the machinery standing thereon, to Mr. William Stirling of Nairobi for Rs. 1,700. By an agreement dated the 22nd June 1918, Mr. Stirling agreed to sell an area of 10,000 acres, being part of this estate, to Messrs. Jiwa Walji and Habib Nanji, British Indian subjects, for Rs. 82,500. The Hon. the Land Officer, however, refused to sanction transfer. At an interview with Mr. Allen of the firm of Messrs. Allen and Hamilton, solicitors for Messrs. Jiwa Walji and Habib Nanji, on the 13th September 1918, the Land Officer was unable to suggest any reason why consent to transfer had been refused, beyond the fact that it had not been the practice of the Government to grant farms to Asiatics exceeding 100 acres in area. This was confirmed in a letter dated the 14th September 1918, addressed by Messrs. Allen and Hamilton to the Land Officer, which continued as follows :—

"The concession which it is desired to transfer from Mr. Stirling to our clients is situate at Voi, a part of the Protectorate which it has never been suggested should be retained exclusively for exploitation by Europeans.

"It is the inherent right of a British subject such as Mr. Stirling is, to sell his property to the best advantage and to anyone whom he pleases, and it is the inherent right of our clients as British subjects, to purchase any property they think fit, provided only, in the case of land, that the proposed transaction does not infringe any law or regulation in force at the time.

"We are aware that transfer requires the consent of Government, but such consent should not and may not be arbitrarily withheld to the prejudice of individuals.

"Our clients have two or three other Indians associated with them in the proposed purchase and they have undertaken to pay Mr. Stirling Rs. 82,500 purchase money, so it is obvious that they are substantial persons.

"We would ask you to be good enough to have the application for transfer referred back to His Excellency in Council with the request that the matter may be reconsidered in the light of the facts set forth in this letter. If the refusal of consent cannot be withdrawn, we request that we may be informed as soon as possible of the exact reasons for the refusal."

In his letter No. 7304 II., L.A.J., dated the 17th October 1918, the Land Officer replied to Messrs. Allen and Hamilton as follows :—

"In reply to your letter No. 478-3 of the 14th instant, I beg to inform you that His Excellency has given the matter long and careful consideration, but does not consider the present an opportune time to introduce such an important innovation in the Land Policy of the Protectorate as would be constituted by the registration of this proposed transfer, to which therefore His Excellency regrets that he is unable to consent."

We submit that it is not easy to reconcile the land policy of the East African Government with Lord Milner's assurance that "it has been the avowed principle, and "it is the definite intention, of the British authorities to mete out even-handed justice "between the different races inhabiting those territories."



24. In the circumstances which we have set forth, we are unable to agree that the Indian claim to be allowed to acquire agricultural land anywhere in the Colony is neither just nor reasonable. We do not consider that the proposal in the latter part of para. 6 of the Despatch of the 21st May is adequate compensation for the exclusion of Indians from the uplands. And we hold most strongly that there is no justification for the extension of Lord Elgin's decision so as to prohibit the transfer of land to Indians, which, in our view, is incompatible with his own pronouncement. We would add that it is the opinion of Sir Benjamin Robertson that climatic disabilities in the Colony as a whole tend to operate against the Indian rather than against the European settler. The European, who works on the plantation system with native labour, can and does cultivate the lowlands. The European planter is more excluded by climatic considerations from the lowlands than he is excluded from other tropical countries. On the other hand, it is doubtful whether the Indian farmer would prosper in the cold climate of the uplands. We understand that this opinion is supported by experience in Natal. The acquisition of agricultural land by Indians in Natal is not restricted. There are many wealthy Indians, and there are more than 100,000 Indians of the agricultural class. There is a keen demand for land in the coast belt, which has not been satisfied. But very few farms have been acquired by Indians in the uplands; and the evidence before the recent Commission was that where Indians have attempted to farm in the uplands they have generally failed. If then, as Lord Milner suggests, the issue in Kenya Colony is merely a question of climate, we would urge that it be left for the climate to decide.

25. The Despatch of the 21st May purports to deal only with the various questions affecting the Indian community in British East Africa. We are informed, however, by Sir Benjamin Robertson that under the orders of the Colonial Office Lord Milner's decisions were announced simultaneously in Nairobi and Entebbe, and are understood to apply *mutatis mutandis* to the Uganda Protectorate. We were not previously aware that the position of the Indians in Uganda was even under the consideration of the Colonial Office. Moreover, from the information before us it would appear that the East African decisions are generally inapplicable to conditions in Uganda.

26. In the first place, we understand that in Uganda there is no Legislative Council nor any elected Municipal Council. On the contrary, in the important Buganda Province the native Lukiko already enjoys a substantial measure of autonomy, and it is likely that similar forms of native government will eventually be established in the other Provinces.

Secondly, as has already been stated, the Uganda Development Commission, in para. 209 of their report, have rejected the principle of segregation in business areas as impracticable.

Thirdly, the Development Commission in the same paragraph of their report, which was signed by two Asiatic members, accepted generally the principle of separate residential areas for different races; and it would appear that if no orders had been issued, this question would have been settled amicably by mutual consent.

Fourthly, as already stated, the Development Commission in para. 212 of their report have rejected restrictions on the acquisition of land in townships as neither justifiable nor necessary.

Finally, there are no "uplands" in Uganda.

27. In short, the racial issue would seem to have been raised unnecessarily in Uganda. We are informed by Sir Benjamin Robertson that the relations of the Indian community in Uganda with the Government and with unofficial Europeans have always been cordial; and this is borne out by the friendly spirit of the report of the Development Commission, on which all classes were represented. We may, perhaps, be permitted to quote para. 43 of their report, in contrast to the racial bitterness which animated the report of the East Africa Economic Commission:—

"The country owes much to the Indian trader, and we consider that a broad policy of toleration should be adopted towards him. He has shown energy and enterprise, and has assisted in the opening up of the more remote districts. He is also of value as an agriculturist, and his activities in this direction might well be encouraged."

It seems to us regrettable that Uganda should have been drawn into the East African controversy. As things now stand, the Indians in Uganda fear that disabilities to which they have not hitherto been subjected, will now be imposed upon them. It will relieve anxiety if they are assured as early as possible that this is not the intention of His Majesty's Government.

28. To conclude, we are unable to accept Lord Milner's decisions as a final settlement. It is our duty to impress on you that public opinion throughout India regards the case of the Indians in East Africa as a test of the position of India in the British Empire. At the Imperial Conference of 1918, for the sake of Imperial unity, we accepted the reciprocity resolution, which practically excludes Indians from the self-governing dominions. We cannot agree to inequality of treatment in a Crown colony, more especially in a colony in which India has always had a peculiar interest. We have shown in this Despatch that, whatever may be the intention of Lord Milner's decisions, there is in practice an unfair discrimination against Indians in East Africa. If further proof is needed, we may point to the fact that in Tanganyika territory, where Indians are protected by the Covenant of the League of Nations, Lord Milner's decisions cannot be applied. It seems to us to be an impossible position that British Indians in a British Colony should be subjected to disabilities to which they cannot be subjected in an adjoining mandated territory.

29. It has been suggested that a Royal Commission should be appointed to consider the whole question of the administration of the East African territories; and it appears from his reply to Lord Islington's deputation on the 19th April that Lord Milner himself is not averse to the proposal. We would urge the appointment of such a Commission and the inclusion of the Indian question in the terms of reference. In no other way, we believe, will it be possible to assemble the facts on which a just decision can be based. We would also urge that the Government of India should be represented on the Commission. We cannot admit that we are not directly concerned. To quote once more Lord Milner's reply to Lord Islington's deputation, "we will cease to be an Empire if any portion of the Empire is entirely relieved from responsibility for what happens in another." The Government of India cannot and will not disclaim responsibility for the welfare of the Indians who are settled in East Africa.

## No. 2.

*From His Majesty's Secretary of State for India to the Government of India, dated 24th December 1920.*

(Telegraphic.)

East Africa. Your Despatch of 21st October. I need hardly say that I am fully alive to importance of question, and as responsible here for protection of Indian interests I have urged upon His Majesty's Government the strength of case which you have so cogently presented. I have not answered your Despatch merely because the matter is still before His Majesty's Government, and I wish Your Excellency's Government to be assured that your Despatch has reinforced case which I was already urging.

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SOUTH AFRICA.

S2188

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## SECOND REPORT

OF THE

Committee appointed by the Secretary of State  
for the Colonies to consider certain questions  
relating to

RHODESIA.

(In continuation of [Cmd. 1273].)

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Presented to Parliament by Command of His Majesty.

August, 1921.

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[Cmd. 1471.]

#### COLONIAL OFFICE NOTE.

On the 7th March, the Secretary of State for the Colonies appointed a Committee to consider certain questions relating to Southern and Northern Rhodesia. The Committee consisted of:—

The Right Honourable Earl Buxton, G.C.M.G., late Governor-General of the Union and High Commissioner for South Africa (Chairman).  
Sir Henry Lambert, K.C.M.G., C.B., Assistant Under-Secretary of State, Colonial Office.

Mr. R. M. Greenwood, C.B.E., of the Treasury Solicitors' Department.  
Lieutenant-Colonel Sir E. W. M. Grigg, K.C.V.O., D.S.O., and  
Major W. Waring, M.P.

#### THE TERMS OF REFERENCE WERE AS FOLLOWS:—

“The Committee is asked to advise:—

(1) When and with what limitations (if any) Responsible Government should be granted to Southern Rhodesia.

(2) What procedure should be adopted with a view to working out the future constitution.

(3) Pending the coming into effect of Responsible Government what measures will be required to enable the British South Africa Company to carry on the administration.

It is also desired that the Committee should consider the future of Northern Rhodesia generally and the nature of the reply to be returned to the recent petition: and in particular advise:—

(1) Whether the question of the British South Africa Company's claim to the land and minerals, and to the administrative deficits should be referred to the Privy Council for settlement.

(2) Or alternatively, whether the claim should, if possible, be settled by agreement between the Crown and the Company.

(3) Whether it is possible to terminate Chartered Government pending the settlement of these questions, and, if not, what further constitutional development is possible in the meantime.

(4) Whether a Commission should be sent to Northern Rhodesia to take evidence as to the views of the white settlers on the Company's claim, and on an alteration of the form of Government, and on the measures to be taken in the event of an alteration, to ensure the solvency of the territory.

(5) What steps should be taken in the event of a termination of Chartered Government to safeguard the interests of the natives.”

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The cost of printing and publishing this Report is £9 9s.

SOUTH AFRICA.

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SECOND REPORT



OF THE  
Committee appointed by the Secretary of State for the  
Colonies to consider certain questions relating to  
**RHODESIA.**

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THE RIGHT HONOURABLE WINSTON S. CHURCHILL, M.P.

SIR,

WE dealt in our first Report,\* of 12th April, with that part of our Reference which concerned Southern Rhodesia. In the present report we deal with Northern Rhodesia, in respect of which our Terms of Reference requested us to consider the future of Northern Rhodesia generally and the nature of the reply to be returned to the recent Petition from the Northern Rhodesia Settlers, and in particular to advise

(1) Whether the question of the British South Africa Company's claim to the land and minerals, and to the Administrative Deficits, should be referred to the Privy Council for settlement.

(2) Or alternatively, whether the claim should, if possible, be settled by agreement between the Crown and the Company.

(3) Whether it is possible to terminate Chartered Government pending the settlement of these questions, and, if not, what further constitutional development is possible in the meantime.

(4) Whether a Commission should be sent to Northern Rhodesia to take evidence as to the views of the white settlers on the Company's claim, and on an alteration of the form of Government, and on the measures to be taken in the event of an alteration to ensure the solvency of the territory.

(5) What steps should be taken in the event of a termination of Chartered Government to safeguard the interests of the natives.

2. In considering the questions submitted to us we have relied for the most part on the full documentary information supplied to us by the Colonial Office and by the British South Africa Company. But we have also heard two witnesses, Earl Winterton, M.P., representing the point of view of the Northern Rhodesia Political Association and of the Northern Rhodesia Farmers Association, and Mr. D. O. Malcolm, a Director of the British South Africa Company.

3. Northern Rhodesia is a territory of nearly 300,000 square miles, with a white population of about 3,000 persons and a native population which cannot be much under a million. Through it, from South to North, runs the railway line connecting Bulawayo and Cape Town with Elizabethville and the Belgian Congo. Except for a small settlement of about 250 persons round or about Fort Jameson in the extreme East, the white population is concentrated on the railway strip. There is no similar method of communication from East to West; and, owing to the geographical features of the country, communications between Fort Jameson and Livingstone, except by telegraph, take at present three or four weeks. To the East of the railway strip the whole country, excepting at Fort Jameson, is inhabited by natives; while to the West of the line lies Barotseland, which is, and must remain, a Native Territory.

4. Northern Rhodesia has never been administered by the British South Africa Company as part of Southern Rhodesia, though quite recently the Administrator of Southern Rhodesia, Sir Drummond Chaplin, has been made also Administrator of Northern Rhodesia. Up to the year 1911 North Western Rhodesia and North Eastern Rhodesia were administered under different Orders

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\* [Cmd. 1273.]

in Council (Barotseland North Western Rhodesia Order in Council, 1899, and North Eastern Rhodesia Order in Council, 1900), while at an earlier date special agreements with the Company existed (see C. 7637). In 1911 the whole country was brought under one Administration by the Northern Rhodesia Order in Council of 1911.

5. The Administration, subject always to the powers reserved to the High Commissioner who legislates by Proclamation, is entirely in the hands of the Company's Administrator, who is a servant of, and under the control of, the British South Africa Company. An Advisory Council was instituted in 1917 consisting of five members elected by the white settlers. The Council has, however, no Legislative or Executive authority.

6. The Territory has never so far been self-supporting. The revenue for the current year is estimated at £224,270, and the deficit at £147,728. The deficits for the last three years are as follows:—1918-19, £68,767; 1919-20, £130,472; 1920-21, £157,000 (estimated). These deficits have been borne by the British South Africa Company. The total of the deficits is stated by the Company to amount, at the 31st March, 1919, to over one and a quarter million pounds.

7. Before making any observations on the future of the Country, or suggesting the nature of the reply to the recent Petition (printed in Appendix I), we will deal with the particular points referred to us, since our answer to the first two points in respect of the British South Africa Company's claims fundamentally affects our replies to the other questions addressed to us.

8. In June, 1920, the Advisory Council passed a Resolution that "This Council, after consideration of Your Honour's (the Administrator) statement of 24th June, 'Whether that Agreement gave the land to the Company, or whether it was an Agreement made by the Company, as agent for the Imperial Government, was essentially a legal question,' advises that the whole question of ownership of the land and mineral rights in Northern Rhodesia be submitted, without delay, to the Judicial Committee of His Majesty's Privy Council," and it will be seen that the Petition asks that further inquiry be directed as to who owns the land and minerals.

9. On the other hand, the British South Africa Company, while fully agreeing that an authoritative decision is necessary, do not consider that a reference to the Privy Council is required; and they urge that, in order to avoid long and expensive legal proceedings, their claims should be settled by agreement with the Crown.

10. We have every sympathy with the Company's desire to settle these questions by agreement, which might save time, and certainly money; but, for two reasons, we do not regard this solution as possible: (1) the number of interests involved, (2) the obscurity and complexity of the position.

11. Technically, it is true that the question may be regarded as one between the Crown and the Company, and there is apparently no legal reason why the Colonial Office and the Company should not arrive at a settlement, which, when embodied in an Order in Council, would be binding on all concerned. But practically there are other Parties vitally interested—the Natives, the white Settlers, and perhaps the British Treasury. A settlement is therefore required which will finally bind all Parties; and such a settlement can in the nature of the case only be obtained through a legal decision which would not be open to challenge.

12. The decision of the Judicial Committee in the Southern Rhodesia case did not cover Northern Rhodesia, and it is quite uncertain whether, or how far, the principles laid down in that Judgment can apply to the case of Northern Rhodesia.

This is of special importance in regard to the question of the Administrative Deficits for which the Company claim reimbursement from the Crown. Even if the Company's claim to the minerals and so much of the land as is covered by Concessions which have been duly approved by the Crown is admitted, the question of the Administrative Deficits remains open. In Northern Rhodesia there was no conquest, and no consequent settlement; but only a series of agreements and instruments made in wholly different circumstances from those which prevailed in Southern Rhodesia. Some of these documents do not even apply to the whole Territory. It is possible, indeed, that a claim might be put forward that the unalienated lands, which in the case of Southern Rhodesia the Judicial Committee declared to belong not to the Company, but to the Crown, and on the proceeds of the sale of which the Company's reimbursement depends, belong in Northern Rhodesia, to neither of them, but to the Natives.

It does not appear to us that questions so obscure and involving interests so diverse and considerable, can be settled satisfactorily except by a Court of Law.

13. If the whole question of Administrative Deficits is referred to the Privy Council, the Reference should, we consider, cover the question of the liability for extraordinary War expenditure (except in so far as any part of it was Southern Rhodesia expenditure). In this controversy the Colonial Office has contended that so far as the expenditure was incurred in the defence of Rhodesia the liability should fall on the Company, while the Company repudiates all liability, and the question is still unsettled.

14. We have considered whether with a view to reducing the cost and the length of the proceedings a submission to Arbitration rather than a reference to the Privy Council would be preferable.

We do not think, however, that if the Arbitration is to cover all the ground (and this appears essential), any advantage in either respect is likely to be gained.

We recommend, therefore, that the matter should be submitted to the Privy Council. The long delay which occurred in the Southern Rhodesia Reference was in great part due to the War, which broke out just as the proceedings began, and we see no reason why the Northern Rhodesia case should not be disposed of far more rapidly. Every effort should be made to expedite the proceedings for reasons which we explain in the next paragraph. As a first step, the Legal Advisers of the Crown should be asked to formulate, as soon as possible, for submission to the Privy Council, the precise points on which the Company's claims cannot be accepted.

15. Under head (3), we are asked whether it is possible to terminate Chartered Government pending the settlement of these questions. We think not; that is to say that we could not advise that the British South Africa Company should be relieved of the responsibility of administering Northern Rhodesia before their Administration comes to an end in Southern Rhodesia. But it is very desirable that the decision of the Judicial Committee should be delivered in good time before there is a change in the Government of Southern Rhodesia in order that the Company's Administration may be wound up simultaneously in both Territories, and so that all questions of liability for expenditure should have been previously settled.

16. As regards further Constitutional development, we are of opinion that the British South Africa Company should be asked at once to consider the creation of a Legislative Council on which the settlers would have adequate representation. In the circumstances of the Territory, and especially in view of the large annual deficits, it would, of course, be necessary to maintain a standing Official majority. But we are decidedly of opinion that the Settlers ought to be allowed to take an effective share in the work of legislation.

17. We have given very careful consideration to the proposal for sending out a Commission to Northern Rhodesia to take the views of the white Settlers, referred to us in head (4) of our Terms of Reference.

We think that an inquiry into the views of the Settlers is eminently desirable before any final decision is taken with regard to the future of the country, but we do not think that the moment has yet come for such an inquiry. In the first place, we do not see that any useful purpose would be served by taking the Settlers' views on the Company's claims which are to be submitted to the Privy Council for decision, since these are not questions of opinion, but questions of law. And, secondly, so much depends on the decision of the Privy Council that it is doubtful whether, until the decision is given, there is much on which the Settlers' views could be usefully formulated.

18. Northern Rhodesia has no essential homogeneity either in population, geographical features, or history. Among the various suggestions for its future which have been put forward it has been proposed that the Territory should be divided. It is suggested that the Eastern portion should be united to Nyasaland; that the Barotse Reserve should form a Native Territory, a sort of Basutoland; and that the Railway Strip should either be administered as a separate Colony or be united to Southern Rhodesia.

These are large questions of policy on which we do not wish at present to express an opinion. Any reasoned view on them must largely be determined by financial considerations, and until the Judicial Committee has supplied the data on which the financial basis can be fixed no advantage would be gained by our considering such proposals in detail. But at the same time they indicate the sort of question on which, when the time comes for taking a decision, we think that the Settlers' views should be ascertained, and an inquiry into their views would be desirable.

19. We are not at present in a position to indicate any special steps that should be taken, in the event of the termination of Chartered Government, to safeguard the position of the Natives. (See Head (5) of the Terms of Reference.) It may be desirable later on to delimit Reserves in certain districts, as has been done in Southern Rhodesia; but until the position has further developed we do not recommend any action in this direction. We believe the Administration of Native Affairs in Northern, as in Southern, Rhodesia to be generally speaking satisfactory.

20. It remains for us to refer to (i) the future of Northern Rhodesia generally, and (ii) the nature of the reply to be returned to the Petition.

21. With regard to (i), we have already indicated that, in our opinion, the first step should be to obtain from the Privy Council a decision which will render possible a clear view of the Financial position; and that, until the decision is given, it would be premature to make proposals on the subject.

22. As regards (ii), we consider that the reply to the recent Petition should be to the following effect:—

(a) If our proposal with regard to the Reference to the Privy Council is accepted the Petitioners should be informed accordingly. (See paragraphs 8-14.)

(b) We think that the claim of the Settlers to have some more effective share in the Government of the country than they at present possess is in itself reasonable, and the British South Africa Company should consider the establishment of a Legislative Council. The proposal which we have made would in fact go an appreciable way towards meeting the Petitioners' desires. Meanwhile the Company, as Lord Milner has explained in his telegram of 25th January, will make available for the information of the Advisory Council all details of Administrative revenue and expenditure, and will also submit to it draft Proclamations affecting Europeans. (See Appendix II.) The Petitioners should be further informed that it would not, of course, be possible to invest a non-Statutory Body, such as the Advisory Council, with power to veto taxation or to make alterations in the law. (See paragraphs 5 and 16.)

(c) It is not, in our opinion, necessary to appoint representatives of the Resident Commissioner to control the collection and expenditure of revenue contributed by the Natives and to safeguard their interests. (See paragraph 19.)

23. Our Recommendations may be summarized as follows:—

(1) The claims of the British South Africa Company to the Land and Minerals in so far as they are open to doubt, and in any case their claims to any reimbursement of the Administrative Deficits (including the question of extraordinary Military expenditure) should, in view of the number of Parties interested and the obscurity of the subject, be decided by a Court of Law (paragraphs 8-13).

(2) For this purpose a Reference should be made to the Privy Council, and the Legal Advisers of the Crown should formulate, as soon as possible, for submission to the Privy Council, the precise points on which the Company's claims cannot be accepted (paragraph 14).

(3) We do not recommend the termination of Chartered Government pending the decision of the Privy Council. It is, in our opinion, important, however, that this decision should be obtained as early as possible and before Chartered Government comes to an end in Southern Rhodesia, so that the Company's Administration may end simultaneously in both Territories (paragraph 15).

(4) We recommend that the Company be asked at once to consider the creation of a Legislative Council for Northern Rhodesia (paragraph 16).

(5) We think that a Commission of Inquiry into the views of the settlers is eminently desirable before any final decision is taken as to the future of the Country, but we consider that such an inquiry would be premature pending the decision of the Privy Council (paragraphs 17 and 18).

(6) We have not felt in a position at present to make any special recommendation regarding the position of the Natives in the event of the termination of Chartered Government (paragraph 19).

(7) With reference to the future of the Country generally, we consider that it is premature to make proposals pending the decision of the Privy Council, which will make possible a clear view of the financial position (paragraph 21).



(8) With regard to the reply to the Petition, we suggest that if our proposal respecting the Reference to the Privy Council is accepted, the Petitioners should be informed accordingly. They should also be informed of our proposal that the Company should be asked to consider the establishment of a Legislative Council; and that in the meantime the Company will make available, for the information of the Advisory Council, all details of Administrative revenue and expenditure, and will submit to it draft Proclamations affecting Europeans, but that it would not be possible to invest a non-statutory Body such as the Advisory Council with power to veto taxation or to make alterations in the Law. They should be informed that it is not considered necessary to appoint representatives of the Resident Commissioner to control the collection and expenditure of revenue contributed by the Natives and to safeguard their interests (paragraph 22).

24. Owing to absence from England, Mr. R. M. Greenwood is unable to sign this Second Report, but before leaving he authorized us to state that he fully concurred in the substance of our conclusions.

We are indebted to our Secretary, Mr. H. N. Tait, for the valuable assistance which he has given us.

BUXTON.  
HENRY LAMBERT.  
E. W. M. GRIGG.  
WALTER WARING.

H. N. TAIT,  
*Secretary,*  
29th April, 1921.

## APPENDIX I.

*Petition from the Northern Rhodesia Settlers.*

## TO THE KING'S MOST EXCELLENT MAJESTY.

THE HUMBLE PETITION of the undersigned subjects of Your Majesty in the Territory of Northern Rhodesia, which Territory is under Your Majesty's protection, sheweth that:—

1. The British South Africa Company, which is a commercial undertaking, is entrusted with the administration of the Territory under very limited control by His Excellency Your Majesty's High Commissioner for South Africa.

2. The population consists of about one million natives in a backward state of civilization, and from three to four thousand white people, who are largely British subjects, and nearly all of whom are well educated and members of the professional classes or engaged in agriculture and mining. There is also a very advanced and well educated white working class population. The whole of the white population is capable of taking an active part in the government of the country.

3. The white population are allowed no share whatever in any kind of government in the Territory.

4. The Chartered Company have obtained Proclamations from the High Commissioner imposing certain indirect taxation upon the white population without their consent.

5. The white population have a properly constituted body elected by them called the Advisory Council, which represents the general body of the white people, and was formed to advise His Honour the Administrator.

6. The Company and His Excellency the High Commissioner are proposing to levy an income tax on the white people. This proposal was submitted to the Advisory Council, who advised:—

“That the imposition of the proposed income tax had better be deferred until agreement on the lines suggested can be come to between the British South Africa Company and the Advisory Council.”

The agreement suggested was:—

1. The expenditure and collection of all monies from the public of Northern Rhodesia shall be subject to the approval of and be controlled by the Advisory Council.

2. No alteration shall be made to the law of Northern Rhodesia nor shall any Proclamation have any force or effect within the Territory of Northern Rhodesia after the \_\_\_\_\_ day of June, 1920, unless such alteration or Proclamation shall have first received the approval of the Advisory Council.

7. There is no provision for any control of expenditure by the Advisory Council as representatives of the white people nor for satisfying them that the money collected is not being misapplied.

8. Proclamations altering the law are frequently made without the consent or advice of the Advisory Council, and great public dissatisfaction is caused thereby.

9. The British South Africa Company claims to own all the land and minerals in the country as a private commercial asset, and the people claim that both these belong to the Crown and say that the country will be greatly impoverished if the greatest part of its wealth is thus taken from the Crown as custodian for the people of this Territory.

10. For the above-mentioned reasons the people of this Territory are living in great uncertainty as to what laws will from time to time be altered, and as to what liability may be incurred, and fear that taxes may be misapplied and that the land and minerals may be lost to the Crown.

Your Petitioners therefore humbly pray that an inquiry may be held as to whether the public monies of this Territory are being properly expended, that the Advisory Council may be empowered to veto taxation and expenditure and alterations in the law, and that a further inquiry be directed as to who owns the land and minerals, and also that representatives nominated by Your Majesty's Resident Commissioner be appointed to control the collection and expenditure of all revenue contributed by the natives and to safeguard the interest of the natives.

And your Petitioners as in duty bound will ever pray, etc.,

(Here follow 175 Signatures.)

## APPENDIX II.

*Lord Milner's Telegram to the High Commissioner of the 25th January, 1921.*

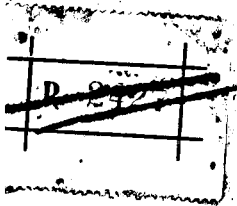
(Sent 12.40 p.m., 25th January, 1921.)

## TELEGRAM.

25TH JANUARY. Northern Rhodesia Income Tax Proclamation. After careful consideration, I have come to conclusion that Proclamation should be issued, but I shall be glad if announcement of this decision to Advisory Council may be accompanied by statement for publication, explaining that in authorizing you to issue Proclamation I have asked you to point out that the stipulations asked for by Advisory Council cannot be conceded without fundamental change of present constitutional system; that this, even if desirable, could not be effected without full consideration, and that the whole constitutional question has now been raised by the petition to the King, which has recently been received, but which cannot be answered without some delay: that I am advised that additional revenue is urgently needed, and can to some extent be provided without the imposition of an onerous burden on the settlers by means of the proposed income tax, and that I have, therefore, agreed to the issue of the Proclamation, but that the Advisory Council and the general public may feel assured that issue of the Proclamation will not be allowed in any way to prejudice consideration of constitutional question as raised in the representations which have been submitted. You should add that Directors of British South Africa Company have agreed (a) that details of all administrative revenue and administrative expenditure should be made available to the Advisory Council if asked for and (b) that all draft Proclamations affecting Europeans (other than Proclamations which High Commissioner considers to be urgent or to involve matters of Imperial policy) should be submitted to Advisory Council, and that any representations made by Council with respect thereto should be submitted to High Commissioner before decision as to issue of Proclamation is reached. Please telegraph when announcement has been made.—MILNER.

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(Statement made by Sir Benjamin  
Robertson before the Asiatic Enquiry  
:: :: Commission. :: :: )

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**PART I**

**Historical.**

The Indian community in South Africa has its origin in the indentured labour which was introduced by Natal between 1860 and 1911 for the development of her industries, and more especially for the sugar and tea plantations. This indentured labour came in two streams, one from Madras and the other from Upper India through the port of Calcutta. It was recruited mainly from the agricultural labouring classes; and the majority of the immigrants who have settled in the country on the expiry of their indentures, and their descendants, are still connected with agriculture, being either employed by planters and farmers or settled on their own land as market gardeners. A considerable number, however, have taken to other occupations, such as household service, industrial labour, both skilled and unskilled, employment on railways and under Municipalities, clerical work, trading, and even the learned professions. With few exceptions, the Indians of this class are confined to Natal. South Africa is now their home. Few of the Colonial-born have seen India, and an ever increasing number can scarcely speak or understand any Indian language.

Origin of Indian community in South Africa (a) Indenture labour.

It should be emphasised that there has never been any spontaneous emigration of the labouring classes from India to South Africa. Those who came were recruited with difficulty, and not infrequently by methods which were commonly known in India as "coolie catching."

2. In the wake of the indentured labourer came the trader, who is generally a Mahomedan from the Bombay Presidency and is commonly mis-named "Arab" in South Africa. He came first to supply the wants of the indentured labourer; but when once established here, he quickly extended his dealings to natives and Europeans. These Bombay Mahomedans have for centuries traded along the East Coast of Africa and up the Persian Gulf as well as in Burma and the further East. They are men of considerable enterprise; and until ingress was prohibited, they spread into the Transvaal and the Cape Province, finding a peculiarly favourable field for their activities in the pioneer development of the Transvaal which followed the gold rush. Generally they maintain a close connection with India, which they still regard as their permanent home.

(b) The trader.

Here again the recruiting ground is limited. Indeed, a considerable proportion of these Mahomedan traders come from the single district of Surat, at the mouth of the river Tapti, which was formerly an important port on the west coast of India, but has sunk into comparative insignificance as commerce has concentrated on Bombay and Karachi. It is largely the traders of this decayed port and its neighbourhood who have found an outlet in South Africa.

3. The Government of India have always felt a peculiar responsibility for the welfare of the Indians in South Africa. Apart from the interest which the Government of any country must feel for its nationals overseas, they could not but acknowledge special obligations to a community which originated from an organised system of recruitment to which they had assented. Nor have the Government of India been able to distinguish between the labourer who was directly recruited, and the trader who followed him. They have always held that the case of all the Indians in South Africa must be regarded as one. Thus, for instance, in 1899 and again in 1903 they pressed *inter alia* for an amendment of the Natal trade-licensing law, so as to allow an appeal to the Supreme Court against refusal of a licence, as a condition of the supply of indentured labour; and the Natal Act No. 22 of 1909 was actually passed as consideration for the postponement of the prohibition of further immigration. Again, in 1903, when it was desired to recruit Indian labour for the Transvaal, the Government of India refused to agree to such recruitment unless the restrictions imposed upon Indians generally in the Transvaal were substantially modified.

Responsibility of the Government of India.

4. Their responsibility appears to the Government of India to be especially heavy in those Provinces where Indians have not been granted political rights. In the Cape Province, where Indians enjoy the parliamentary franchise, it is felt that they should find a remedy for their grievances by constitutional methods through the exercise of the vote. In Natal, again, where they have the municipal franchise, Indians have some means of protecting themselves against abuse of

the powers exercised by Municipalities in the granting of trade licences and so on. But in the Transvaal, where Indians are politically helpless, the Government of India have felt bound to defend their interests by every possible means. At the Imperial Conferences of 1917 and 1918, it was submitted that the true remedy for this controversy regarding trading rights was the grant of the franchise, or at least of the municipal franchise, which would enable the Indian community to work out their own salvation as subjects of the Union. The Government of India recognise that such a remedy would not at present be acceptable to the majority of the electorate. But, at the same time, it may be observed that in the Cape Province there are practically neither Indian grievances nor anti-Indian agitation; and that the difficulties which have led to the appointment of this Commission have been forced by a Transvaal Municipality.

side of the ment of wards emi to South migration indenture.

5. The Government of India were at first not averse to the emigration of indentured labour to Natal. It was believed that it would relieve the congested districts of India, and would offer the emigrant a wider and more prosperous career. At that time, it should be observed, the Natal authorities actually encouraged permanent settlement by offering grants of land in lieu of a return passage to India; and until 1895 the terms of indenture provided that the immigrant should remain in the Colony for five years after the expiry of his indenture. Afterwards, however, as the number of free Indians settled in the Colony increased, public opinion demanded that measures should be taken to secure the return of the indentured labourers as soon as their indentures expired. The history of the negotiations which followed, is summarised in the Report of Sir William Solomon's Commission, and shows that the Government of India were prepared to go far to meet the wishes of Natal in discouraging permanent settlement. In doing so, the Government of India abandoned the objects for which the emigration of indentured labourers had first been approved. Their object now was to secure fair treatment for the Indians already settled there. As they put it in their despatch, dated the 14th May 1903, to the Secretary of State for India:

"We are constrained to recognise the fact that if emigration is to continue, and if reasonable treatment is to be secured for Indian settlers in Natal, measures must be taken to prevent that rapid increase in the numbers of the settlers which has been so marked in recent years. We realise that if those numbers should continue to increase greatly, the Colonial anti-Indian feeling would become intensified and would be more difficult to control, especially in the towns. The irritation excited against the Indian might take shape in measures or action which would cause increased ill-feeling and resentment in this country, and might even become a source of embarrassment to the Imperial Government."

The Government of India were now indeed completely disillusioned of the benefits which might accrue to India from the emigration of indentured labour to South Africa. Their attitude at this time is clear from a note, dated the 23rd May 1904, by Lord Curzon regarding the supply of indentured Indian labour for the Transvaal railways, which was being pressed upon the Government of India strongly as an Imperial need:—

"He (Lord Milner) regards it as 'deeply to be deplored that the Government of India should refuse to permit its subjects of the labouring class to come to this country.' The fact is that we are not in the least anxious for the Indian to go to the Transvaal at all. The relief thereby given to our Indian problem is infinitesimal: and we only lay up for ourselves a crop of troubles in the future. Outside the Government of India itself, where the Imperial sentiment is strong, I know of no class, community or individual in India who wants the Indians to have anything to do with the Transvaal. The bitter example of Natal is before them."

Finally, in 1908 the Government of India decided to prohibit the further emigration of indentured labour to Natal. The reasons for this decision were stated in Mr. (now Sir B.) Robertson's letter, dated the 18th December 1908, as follows:—

"It is more particularly in view of the continued failure to secure the necessary amendment of the Dealers' Licences Act that the question of prohibiting emigration to Natal has again been raised. After giving their best consideration to all the issues involved, the Government of India have formed the conclusion that emigration to Natal should be stopped. So long as Natal maintains her present attitude, they consider that they would not be justified in permitting the continuance of a system which must have the effect of increasing the number of Indians who may ultimately be affected by the measures adopted by the Colony. With a constantly increasing free Indian population, the divergence between the Indians' and the Colonists' standpoints will necessarily become more marked, the points of friction with the Colonial authorities must inevitably be multiplied, and the difficulties which have to be faced in ensuring fair treatment will similarly be aggravated."

Subsequently, however, on the earnest representations of the Natal Government the Secretary of State for India, on behalf of the Government of India,

agreed to permit the emigration of indentured Indians for a further period not exceeding one year, on condition that a law was enacted allowing a right of appeal to the Supreme Court against a refusal to renew a dealer's licence. The Natal Act No. 22 of 1909 was in consequence passed, and the Secretary of State for India then gave the following assurance to the Colonial Office in the India Office letter, dated the 2nd December 1909 :—

"I am to say that as the Government of Natal have passed an Act amending the Dealers' Licences Act, so as to give a right of appeal to the Supreme Court against the withdrawal of licenses, the Secretary of State in Council gives an assurance that the emigration of indentured Indians will not be stopped until the Union Government has come into existence and decided on its future policy in the matter. It is understood that the duration of this period will not exceed one year from the present date."

The emigration of indentured labour to Natal was finally prohibited by the Government of India with effect from the 1st July 1911.

6. The attitude of the Government of India towards free emigration has been guided by similar considerations. They regretted the necessity for restrictions which excluded British Indian subjects from South Africa, but they accepted the prohibition of further immigration in order to secure the fair treatment of those who were already lawfully settled there. Thus the Secretary of State for India in his despatch, dated the 21st July 1897, while accepting the Natal Immigration Restriction Act of 1897, considered himself "entitled to demand fair and equitable treatment, involving complete equality before the law," for those Indians who had already been allowed to settle in Natal or who might hereafter under the new Immigration law be permitted to do so. The Cape Immigration Acts of 1902 and 1906 followed. The Transvaal Immigrants Restriction Act of 1907 was commended to the Secretary of State for India in the Colonial Office letter, dated the 5th January 1906, in the following terms :—

"I am to state that it appears to Lord Elgin (then Colonial Secretary) that, in order to secure the fair treatment of the Indians now in the Colony, Lord Selborne (then Governor of the Transvaal) suggests that His Majesty's Government should be prepared to approve legislation having the practical effect of excluding Asiatics from entering the Transvaal in future. Lord Elgin regards this as the only possible course to adopt in the circumstances."

The Secretary of State for India in a letter, dated the 31st January 1906, replied as follows :—

"The Secretary of State for India in Council, while regretting the necessity for a step which entails the practical exclusion of natives of India from a British Colony, agrees with Lord Elgin that the compromise proposed by Lord Selborne is likely to afford the only practicable solution of this difficult question."

The Union Immigrants Regulation Act, 1913, was regarded as a continuation of the same policy.

8. It will appear from the assurance given by General Smuts at the Imperial Conference of 1917 that the Union Government on their side understood and accepted the position of the Government of India. General Smuts then said :—

"I wish to say a few words, Mr. Chairman, on this subject especially as the matter of the treatment of Indian immigration in South Africa, as you know, has been a cause of constant trouble, not only between us and the Empire of India, but between us and the Colonial Office and the India Office. I agree with the former speakers that a departure has been made in this Conference, in bringing the representatives from the Empire of India to this Conference, which will go far to obviate the recurrence of such troubles in the future. In South Africa there has been this fundamental trouble, that the white community have been afraid of opening the door too wide to Indian immigration. We are not a homogeneous population. We are a white minority on a black continent, and the settlers in South Africa have for many years been actuated by the fear that to open the door to another non-white race would make the position of the few whites in South Africa very dangerous indeed. It is because of that fear, and not because of any other attitude towards the question of Asia, that they have adopted an attitude which sometimes, I am bound to admit, has assumed the outward form, although not the reality, of intolerance. Luckily we have got over these difficulties. The visit of the late Mr. Gokhale to South Africa did an enormous amount of good. His visit was followed later by the visit of Sir Benjamin Robertson, a distinguished public servant of India, who also assisted the Government to overcome great difficulties on this point some years ago. The result has been the passage of legislation to which both the white and the Indian communities in South Africa agreed. There is still a difference of opinion on administrative matters of detail, some of which are referred to in the memorandum which is before us, but I feel sure, and I have always felt sure, that, once the white community in South Africa were rid of the fear that they were going to be flooded by unlimited immigration from India, all the other questions would be considered subsidiary and would become easily and perfectly soluble. That is the position in which we are now—that the fear which formerly obsessed the settlers there has been removed; the great principle of restricting immigration for which they have contended is on our Statute book with the consent of the Indian population in South Africa and the Indian authorities in India, and

General Smuts' assurance at the Imperial Conference of 1917.

The Reciprocity  
solution of the  
Imperial Confer-  
ence of 1918.

9. This understanding was confirmed at the Imperial Conference of 1918, when a Reciprocity Resolution was accepted by both parties. This Resolution runs as follows:—

that being so, I think that the door is open now for a peaceful and statesmanlike solution of all the minor administrative troubles which occurred and will occur from time to time. Of course the main improvement has been the calling of India to the Council Chamber of the Empire. Here, if any question proves difficult of treatment, we can discuss it in a friendly way and try to find in consultation a solution, and I am sure we shall ever find it. I for one do not consider that amongst the multitudinous problems which confront us in our country, the question of India will trouble us much in the future."

"1. It is an inherent function of the Governments of the several communities of the British Commonwealth, including India, that each should enjoy complete control of the composition of its own population by means of restriction on immigration from any of the other communities.

"2. British citizens domiciled in any British country, including India, should be admitted into any other country for visits, for the purpose of pleasure and commerce, including temporary residence for the purpose of education. The conditions of such visits should be regulated on the principle of reciprocity as follows:—

"(a) The right of the Government of India is recognised to enact laws which shall have the effect of subjecting British citizens domiciled in any other British country to the same conditions in visiting India as those imposed on Indians desiring to visit such country.

"(b) Such right of visit or temporary residence shall, in each individual case, be embodied in a passport or written permit issued by the country of domicile and subject to *visé* there by an officer appointed by and acting on behalf of the country to be visited, if such country so desires.

"(c) Such right shall not extend to a visit or temporary residence for labour purposes or to permanent settlement.

"3. Indians already permanently domiciled in the other British countries should be allowed to bring in their wives and minor children on condition, (a) that not more than one wife and her children shall be admitted for each such Indian and (b) that each individual so admitted shall be certified by the Government of India as being the lawful wife or child of such Indian.

"4. The Conference recommends the other questions covered by the memoranda presented this year and last year to the Conference by the representatives of India in so far as not dealt with in the foregoing paragraphs of this Resolution, to the various Governments concerned with a view to early consideration."

The memorandum presented in 1918, which is referred to in paragraph 4 of the Resolution, specifically considers some of the questions which are now before the Commission, and an extract of the portions which are relevant to the Commission's enquiries, is added as Appendix A to this statement.

Mr. Burton, on behalf of the Union of South Africa, accepted the Resolution in the following words:—

"The matters which were raised by Sir Satyendra Sinha and the Maharajah (the Indian representatives) in connection with this question, present, I suppose, some of the most difficult and delicate problems which we have had to deal with, and which it is our duty as statesmen to attempt to solve satisfactorily if the British Empire is to remain a healthy organisation. I am sure we all feel, as far as we are concerned—I have told Sir Satyendra myself that my own attitude has been, and I am sure it is the attitude of my colleagues—sympathetic towards the Indian position generally. There are, of course, difficulties, and it would be idle to disguise the fact that many of these difficulties are of substantial importance, which have to be faced in dealing with this matter. But I do not despair of satisfactory solutions being arrived at.

"Sir Satyendra Sinha has been good enough to refer to the attitude adopted by Canada and ourselves in discussing this matter in Committee, and I think it is only right from our point of view to add that the possibility of arriving at a satisfactory solution on this occasion has been due very largely indeed to the reasonable and moderate attitude which the Indian representatives themselves have adopted. But for that, of course, the difficulties would have been ever so much greater. As far as we are concerned, it is only fair to say—and it is the truth—that we have found that the Indians in our midst in South Africa, who form in some parts a very substantial portion of the population, are good, law-abiding, quiet citizens, and it is our duty to see, as he himself expressed it, that they are treated as human beings, with feelings like our own, and in a proper manner.

"As to the details, I need not go into all of them. Paragraph No. 3 embodies, as a matter of fact, the present law of the Union of South Africa. That is our position there, so that our agreement as to that is no concession. I pointed out to Sir Satyendra when we were in Committee that in some of these points which he brought up as affecting South Africa, I thought in all probability, if he were in a position to investigate some of them himself, he would find that the complaints had been somewhat exaggerated. I cannot help feeling that that is the case, but I will not go into these matters now. As far as we are concerned in South Africa, we are in agreement with this Resolution, and also with the proposal referring the Memorandum to the consideration of our Government, and we will give it the most sympathetic consideration we can, certainly."



10. The Government of India have thus agreed that further immigration of Indians into the Union should be prohibited. They themselves stopped indentured emigration to Natal, and they refused to allow indentured emigration to the Transvaal. They accepted the various Immigration Restriction Acts passed by the Colonies before Union. They accepted the Union Immigrants Regulation Act of 1913. They accepted the Resolution of the Imperial Conference of 1913 that each community of the British Commonwealth should enjoy complete control of the composition of its own population by means of restriction on immigration from any of the other communities. They have gone further than this, for they have acquiesced in the extension of the principle of the Resolution to the different Provinces of the Union; and they do not ask for any relaxation of the laws regulating inter-provincial migration until the Provinces themselves are satisfied that such relaxation will not be harmful.

Position of the Government of India.

11. On their side, Governments in South Africa have from time to time given undertakings and assurances that Indians who are lawfully settled in the country, will be fairly treated, and their existing rights safeguarded. The assurances given by General Smuts in 1917 and by Mr. Burten in 1918 have already been quoted. Previous undertakings in regard to particular laws are summarised below. In addition, there was the so-called Smuts-Gandhi agreement of 1914, to which the Government of India were not a party but were in a sense a witness. Recently there appears to have been a tendency to narrow unduly the application of this agreement; and in the Transvaal it seems to have been construed as an undertaking by the Indians there that they would apply for no new trading licences. The correct interpretation of the agreement in regard to trading in the Transvaal is examined in more detail later on. It is desired to emphasise here that the agreement is of general application to the whole of the Union. As reported to the Government of India, it is embodied in two letters, both dated the 30th June 1914, exchanged between Mr. Gorges, then Secretary to the Department of the Interior, and Mr. Gandhi. The Union Government undertook to give relief on the points in issue in the passive resistance movement, and in consideration of this undertaking passive resistance was ended. One of the points in issue, as stated by Mr. Gandhi in his letter dated the 21st January 1914 to the Minister of the Interior, was "an assurance that existing laws especially affecting Indians will be administered justly and with due regard to vested rights." The required assurance was given by Mr. Gorges in his letter, dated the 30th June 1914, in the following terms:—

Position of the Union Government. The Smuts-Gandhi agreement.

"With regard to the administration of existing laws, the Minister desires me to say that it always has been and will continue to be the desire of the Government to see that they are administered in a just manner and with due regard to vested rights."

The Government of India interpret this undertaking as implying that no new law would be passed imposing fresh restrictions on Indians. An undertaking to administer existing laws in a just manner appears to them to be meaningless, if the rights which Indians are entitled to exercise under those laws can be restricted at will by fresh legislation. The writer of a South African article in the March number of the "Round Table" has stated that this was generally admitted in South Africa at the time. "It would probably be fair to say," he writes, "that all reasonable men in South Africa at that time recognised that new difficulties would arise and would have to be met; and that in meeting them they would be bound by no obligation except that of at least maintaining the Indian in the status which he acquired in 1914."

12. In addition to the general undertakings applicable to the Union as a whole, special obligations have been incurred by particular Provinces. The memorandum which has been placed before the Commission by the Natal South Coast Indians is a clear and cogent statement of the peculiar claims of the indentured Indians and their descendants in Natal. It will be admitted that it would be inequitable to deprive them or their descendants of rights which were open to them at the time of their introduction into the Colony, and were in effect conditions of their recruitment.

Provincial undertakings. (a) Natal.

Again, as has already been stated in paragraph 5, the Natal Act No. 22 of 1909, providing for an appeal to the Supreme Court against refusal to renew a dealer's licence, was the condition on which indentured emigration was permitted for another year. Natal has received full consideration for this Act, and is not now free to repeal it.

Transvaal.

13. The history of the Transvaal legislation relating to land and trading rights is complex, and has not always been clearly understood. It may be admitted at once that Transvaal Governments from 1885 onwards have desired to take legal power to restrict Asiatic trading and to compel Asiatics to reside in locations. It is common ground that Asiatic trading has not been effectively restricted, nor do Asiatics ordinarily reside in locations. It is the contention of the representatives of the South Africans' League who have appeared before the Commission, that Asiatics have systematically evaded or ignored the restrictive laws which have from time to time been passed. This, however, is not the reason for the divergence between the apparent intention and the actual operation of the laws. The true position is this. Article XIV of the Convention of London of 1884 secured for all persons, other than natives, the right to reside in any part of the Transvaal, the right to trade, and the right to hire or possess houses and business premises. The British Government objected to any law aimed at Asiatics which appeared to violate the spirit of this Article; and later, they consistently asked for assurances, both from the Crown Colony and the Responsible Government, that the existing rights of Indians were safeguarded, before assenting to any legislation which appeared to affect those rights. It is admitted that the assurances given from time to time may have been open to misunderstanding; and laws, which have been assented to as sanitary or police measures, are capable of being used to restrict trading. But with rare exceptions they have not been so used by the Government; and it was not until the Municipalities established their *locus standi* before the Courts, that the position became acute.

14. A detailed account of this legislation is given in Appendix B to this statement. A summary will be sufficient here:—

(1) Law No. 3 of 1885, as amended by the Volksraad Resolution of 1886, was accepted by the British Government as a *sanitary* measure; and it was understood that it would not apply to traders and other persons of a superior mode of life (not being coolies) whose relegation to locations was not necessary on sanitary grounds.

Subsequently, the Republican Government claimed that the law applied—

- (a) to all Asiatics alike;
- (b) to business premises as well as to residences.

In 1895 the dispute was referred to the arbitration of Mr. Melius de Villiers, then Chief Justice of the Orange Free State, who held that the interpretation of the law should be left to the ordinary courts.

In 1898, in Tayob Hadji Mohammed Khan's case, it was held that the law covered a merchant's place of business. This decision was reversed in 1904 in Habib Motan's case. It was then held that the law did not apply to the business places, but only to the residences of Asiatics, and that the Government had not the power under that law to refuse to grant to Asiatics licences to trade in places outside locations.

(2) The Gold Law of 1898, No. 15 of 1898—

(a) by section 92 prohibited any but white persons from being the holders of stands granted under that section;

(b) by section 133 prohibited coloured persons from holding licences, such as diggers' and claims' licences, or from being in any way connected with working of the diggings.

But—

(a) it did not prohibit coloured persons from acquiring and exercising leasehold rights to such stands;

(b) it did not prohibit coloured persons from holding licences to trade on the diggings.

This is the law as it was interpreted in Khotas' case in 1900 and confirmed in Tamblin's case in 1911. And this is the law as it was actually administered, for otherwise the Khotas and Tamblin cases would not have arisen.

(3) The Vrededorp Stands Ordinance, No. 31 of 1906, as amended by the Vrededorp Stands Act, No. 27 of 1907, prohibited Asiatics, natives or coloured persons from residing on or occupying stands in the township of Vrededorp.

This legislation was assented to on the ground that these stands had been granted by President Kruger to indigent burghers for their personal occupation, and hence occupation by an Asiatic would be a breach of the conditions of the grant. This was regarded as a special case, and it followed by implication that this restriction did not extend beyond the stands in the township of Vrededorp.

(4) The Gold Law of 1908, No. 35 of 1908, and the Townships Amendment Act, No. 34 of 1908, together have the general effect of prohibiting coloured persons from residing on or occupying any land proclaimed as a public digging. Before assenting to this legislation, the British Government obtained the following assurances :—

(a) that any rights which coloured persons might at that time have of occupying land in mining areas, were safeguarded ;

(b) that no right or privilege which a coloured person had at that time, was taken away by the new Act ;

(c) that the powers reserved to the Mining Commissioner would enable him in the future to exempt Asiatics of superior class from living in bazars, locations or compounds.

As the value of these assurances is sometimes obscured by disputes as to the precise meaning which should be attached to the word "rights," it is important to notice that the Colonial Secretary in his telegram dated the 11th December 1908, definitely enquired, with special reference to the former Gold Law, No. 15 of 1898, whether the new law would "deprive those coloured persons who had not actually acquired vested rights on gold fields, of power to acquire rights which were open to them before." The intention of the Law of 1908, as explained by the Attorney General in his report, dated the 3rd October 1908, was—

(i) to continue the existing law which reserved for white persons the right to acquire mining title or privileges incidental thereto ;

(ii) as a matter of sound police and sanitary legislation to regulate the residence of coloured persons in the populous mining areas of Witwatersrand.

The word "trading" or its equivalent does not occur in the report. It has been seen that Law No. 15 of 1898 did not prohibit Asiatics from trading in mining areas. If, therefore, the Law of 1908 is now used to prohibit Asiatics from trading in mining areas, then either it is being used for a purpose which is contrary to its intention, or else that intention was not made clear to the British Government when their assent was obtained.

(5) The indirect ownership of property by Asiatics dates from 1888, when the Republican Government permitted one Mohamed Ismail to register certain stands which he had purchased at a Government sale at Klerksdorp, in the name of the Mining Commissioner as trustee. It is understood that there were subsequently other cases in which the Mining Commissioner was appointed as trustee, and in one case certainly, under Crown Colony Government, the trustee was the Colonial Secretary. Indirect ownership through a private person as nominal trustee also became common. The trustee frequently passed a mortgage bond in favour of the real purchaser and also gave him an irrevocable power of attorney. From 1909, when the Transvaal Companies Act, No. 31 of 1909, was passed, Indians began to form themselves into limited liability companies for the purpose of acquiring fixed property, and in recent years this method of ownership has generally been preferred to the old practice of ownership through a nominal trustee.

due of past  
takings.

15. Much of the evidence recorded by the Commission ignores altogether the undertakings and assurances which have been given in the past. In the Transvaal it is apparently considered that the alleged evasion of the Smuts-Gandhi agreement, which is discussed in paragraphs 54 to 58 below, is a sufficient reason for denouncing all obligations, whether to the Indians in South Africa or to the Government of India or to the British Government. Elsewhere not even this pretext has been put forward; and one view would seem to be that self-preservation justifies the repudiation of any undertaking. As a representative of the Natal Agricultural Union put it:

"When relations between two nations reach breaking point, documents are torn up as was instanced in the late war, and it appears to me that in connection with this question relations are reaching breaking point."

It is assumed that the recommendations of this Commission will be framed on the understanding that these undertakings and assurances will not be dishonoured.

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## PART II.

### The Present Situation.

16. It is unnecessary to traverse in detail the indictment which has been framed against the Asiatics. Some of the charges are trivial or refer to matters which can be dealt with under the ordinary laws. Others, again, are mutually destructive. It is alleged, for instance, that Asiatics are dishonest as traders and are specialists in offences against the insolvency laws : but it is also complained that the wholesale merchants give better terms to Asiatic than to white retail dealers. Again, it is objected in the Transvaal that the high proportion of males in the Asiatic population is unhealthy : and yet there is an outcry that they are allowed to bring their wives from India. It is complained that their trading promotes an undesirable intimacy which may even lead to "miscegenation" : and simultaneously it is objected that they are a foreign community which will not assimilate with the South African people. The Asiatic is condemned as a bad citizen who has no interest in the public affairs of South Africa : but his aspirations for civic and political rights are regarded as a threat to the white community, and his success in trade is dreaded as a channel through which his influence grows and expands. He is blamed as a poor spender : but any attempt to find an outlet for expenditure is either resented or prohibited. He is told that he ought to invest more money in the country : but he is prevented from acquiring fixed property by special legislation in the Transvaal, while in Natal his investments are a menace for which the only remedy is expropriation. In the Transvaal he is abused as an unproductive parasite, who does not add to the wealth of the country by farming or starting factories : but at the same time the public are warned that, if his progress as a trader is maintained, he will inevitably claim the right to manufacture what he sells ; and the one Indian farm in the Province is regarded as a portent. He is condemned by the Natal Agricultural Union as an inefficient agriculturist who allows farms, which in European hands are fine properties, to lie waste and unproductive ; but he is dreaded by the Richmond Agricultural Society because he produces too much and can beat the European at farming as he beats him at trading. And so on.

The case against the Asiatics.

17. It will be sufficient to examine the more important aspects of the case. At the back of everything is the question of numbers. The present agitation against Asiatics started in the Transvaal ; and it is clear from the evidence that this agitation springs from the fear, which is sedulously fostered by propagandists, that the white population in the Transvaal is being swamped by Asiatics. The position is summed up in the statement of the Chairman of the Ventersdorp Municipality before the Commission : "The Immigration officers do not stop them from coming in. I hear that they are pouring over the border. It is in the South Africans' League handbook."

Numbers.  
(a) Transvaal.

The statistical value of this authority can be judged from the following extract from the address of the Chairman of the League, printed on page 13 of Handbook No. 2 :—

"The point is how many succeeded in getting in. From every town in the Transvaal the same report comes that Indians have noticeably increased in numbers in recent years. In Johannesburg where a few years ago you noticed an Indian as something more or less exceptional, to-day you may see him by the score."

Now, one of the few authentic figures available is the special census of Asiatics in Johannesburg which was taken by the Republican Government in 1896. At that time there were 4,556 Asiatics in Johannesburg. From the evidence available, the number of Indians in Johannesburg does not appear to have increased materially, if at all, since that date, while the white population of the town has probably quadrupled. The suggestion that there has been a marked increase in the ratio of Indians to the rest of the population is palpably absurd. Yet these vague assertions are spread broadcast and believed.

18. In estimating the present number of Indians in the Transvaal, it would be unsafe to deduce too much from the statistics furnished by the Immigration Department. As Mr. Cousins has said, the only real index figures which can be taken are the census figures for 1904 and 1911. For the Transvaal the figures for all Asiatics are :—

Year.	Males.	Females.	
1904	9,799	1,522	11,321
1911	9,013	2,054	11,072
L476DC			

It is understood that these numbers include about 1,000 Chinese. The rest are Indians, the majority of whom are Mahomedan traders.

The causes which operated to keep the Indian population from increasing between 1904 and 1911, may be summarised as follows :—

- (1) The exclusion of new immigrants ;
- (2) The low sex ratio ;
- (3) The drift back to India.

The first two causes have been relaxed to some slight extent by section 3 of the Indians Relief Act, 1914, which permits the entrance of the wives and children under 16 of Indians already domiciled in the Province. This is an inevitable sacrifice to the advantage which accrues from encouraging domiciled Indians to live a wholesome home life ; and the principle has been confirmed by paragraph 3 of the Reciprocity Resolution of 1918, quoted in paragraph 9 above.

19. No exact return is available of the number of persons thus admitted to the Transvaal since the Act of 1914 was passed. The estimate given by the Principal Immigration Officer, Pretoria, based on the assumption that all women and children arriving from India *via* Delagoa Bay are new admissions, cannot, it is submitted, be accepted as correct. Women resident in the Transvaal pay visits to India and children born in the Province are sent to India for their education and return to South Africa, the usual port of arrival in such cases being Delagoa Bay. A better index is the figures of new registrations (*i.e.*, of male resident children reaching the age of eight years or of children returning from India after that age), the numbers being as follows :—

Year.	Number Registered.			
1914	..	..	..	494
1915	..	..	..	532
1916	..	..	..	303
1917	..	..	..	355
1918	..	..	..	359
1919	..	..	..	374

Against these new registrations must be set off the decrease from natural causes, and the drift back to India which still continues. The card record of migration which has been maintained by the Census Office since 1918, gives the following figures for the Transvaal :—

Year.	Arrivals.	Departures.	Net Decrease.
1918	594	1,019	—425
1919	1,065	1,359	—294

20. The general conclusion of the Immigration Department is that there has been no material increase in the number of Indians in the Transvaal since 1911. It is contended, however, that there is a continuous influx of illicit immigrants usually estimated in "shiploads," who elude the Immigration Department altogether. The officers of the Department deny this.\* They say that their watch on the frontier is vigilant, and they argue with force that the life of an unregistered Indian in the Transvaal is too precarious and too constricted to be attractive. He cannot, in any case, get a licence to trade, for the fingerprints of every applicant for a licence are taken and sent to the Immigration Department for check. He cannot even get decent employment. To quote Mr. Dobson's words :—

"A man who comes here illegally is an outlaw. Unless he enters the country properly, life is not worth living for him. He cannot get any permanent employment or work as a trader, because there is the Shop Inspector always coming in to examine the register under the Shop Hours' Act, and there is the Factory Inspector going round and the police, so that I do not place much credence in this idea that there are crowds of these people roaming about. I think their numbers are quite negligible."

21. It may be said that this does not explain how it is that responsible witnesses from all parts of the Transvaal are obviously convinced that the num-

\*It has since been ascertained by personal enquiry in Rhodesia that there is no immigration of Indians into the Union through Rhodesia.

ber of Indians in their midst has increased enormously in the last few years. It may be that Indians are now tending to migrate from populous towns on the Reef, where they are lost in the crowd, to country towns where their presence is more conspicuous. But it is also suggested that this idea of a recent influx is the result, rather than the cause, of the anti-Asiatic agitation. The Asiatic looms large because attention is focussed on him. It is difficult to arrive at hard facts, but when facts are forthcoming, they do not indicate a noticeable influx. For instance, the present population of Pietersburg, according to a recent census taken by the municipal officials, is given as 2,250 whites and 147 Indians; but it was reported by Sir A. Lawley in his letter, dated the 13th April 1904, that there were then in the town 1,684 whites and 135 Indians. And again, the deputation from Zeerust, which gave evidence before the Commission, said: "If you go into our town, you will see that it looks like a coolie location." But the latest figures, which were subsequently quoted by the deputation, showed that the white population is between 1,300 and 1,400, while there are 33 adult male Indians, 7 women and 8 children.

The conclusion is that the number of Indians in the Transvaal, though relatively important in the distributing trade, is insignificant in itself. It has been almost stationary since 1904. Further immigration is stopped; the sex ratio is still unequal, and the effect of the Indians Relief Act of 1914 does not appear materially to have augmented the natural increase. On the other hand, the drift back to India continues. It may be taken as certain that the number of domiciled Indians is not increasing in the same ratio as the white population.

22. The number of Asiatics in the Cape Province in 1904 and 1911 was as follows:— (b) Cape Province.

Year.	Males.	Females.	Total.
1904	9,316	926	10,242
1911	6,605	1,085	7,690

These figures include about 1,000 Chinese. The number of Indians in the Cape Province in 1911 was given by the Medical Officer of Health, Cape Town, as follows:—

Males	5,590
Females	1,016
Total	6,606

They are of mixed occupations, small traders and fruit hawkers predominating. There is some immigration from the other Provinces of the Union under the so-called "Cape entry" right. But this right is strictly limited by head (3) of Mr. Gorges' letter, dated the 30th June 1914, which forms part of the Smuts-Gandhi settlement and runs as follows:—

"In administering the provisions of section 4 (1) (a) of the Union Immigrants Regulation Act, No. 22 of 1913, the practice hitherto existing at the Cape will be continued in respect of South African born Indians who seek to enter the Cape Province, so long as the movement of such persons to that Province assumes no greater dimensions than has been the case in the past; the Government, however, reserves the right, as soon as the number of such entrants sensibly increases, to apply the provisions of the Immigration Act."

On the other hand, the Medical Officer of Health, Cape Town, gave evidence that the birth-rate was small owing to the low proportion of females, that Indians were peculiarly susceptible to any illness or epidemic, and that here also there was a drift back to India. The statistics furnished show that 1,158 Indian births and 1,280 deaths have been registered since 1913.

Indians in the Cape Province are concentrated at large centres, such as Cape Town, Kimberley, Port Elizabeth and East London. There is no evidence of any increase in recent years.

23. It is in Natal that the real problem arises. The Asiatic population in 1904 and 1911 was as follows:— (c) Natal. Total population.

Year.	Males.	Females.	Total.
1904	63,497	37,421	100,918
1911	80,490	52,949	133,439

Practically all are Indians. Indentured immigration continued until 1911 : and in the last year special efforts were made by the planters of Natal to import as many labourers as possible.

*Indentured Indians and their descendants.*

24. According to the records of the Protector of Immigrants, in 1911 there were 113,192 indentured Indians and their descendants in Natal : and at the end of 1919 there were 115,515, classified as follows :—

	Males.	Females.	Total.
Born in India	37,493	19,203	56,696
Born in Natal	29,252	29,567	58,819
<b>Total</b>	<b>66,745</b>	<b>48,770</b>	<b>115,515</b>

There is a fair sex ratio, and births exceed deaths. Since 1911 the average birth-rate has been 45 per mille and the death-rate 19 per mille. Against this, considerable numbers have returned to India permanently in accordance with the terms of their indentures or under the provisions of the Indians Relief Act of 1914.

In 1915, when the Relief Act first began to operate, there were 116,451 indentured Indians and their descendants in Natal. Since then, returns to India have rather more than counterbalanced the excess of births over deaths, and there has been a net decrease of about 1,000. It must be admitted, however, that in the course of time, as the floating Indian population becomes more settled, returns to India are likely to be fewer, and the normal excess of births over deaths will assert itself. Since 1916 the annual number of returns has dwindled from 5,585 to 1,691. These numbers have undoubtedly been affected by outside causes; such as shortage of shipping, the prohibition on the export of gold and so on. And there is evidence to show that there are still many who would leave the country, if they were given opportunity and encouragement. As a general principle, however, it may be taken that the longer the Indian immigrant stays in Natal, the less will he be inclined to return to India. In the second and third generation the drift back to India will become less and less until it almost ceases.

*Other Indians.*

25. As has already been explained, the indentured Indians and their descendants are mainly agriculturists. The rest of the Indians in Natal, numbering about 20,000, are for the most part the Mahomedan traders and their families, who originally came as free immigrants in the wake of the indentured labourers. They are of the same class as the traders of the Transvaal and the Cape, and the same causes are operating to restrict their numbers. But being established in the midst of a large Indian community, they are probably more inclined to regard South Africa as their permanent home. According to the figures furnished by Mr. Dick, the Immigration Officer at Durban, the number of new entrants under section 3 of the Indians Relief Act, 1914, has been comparatively trifling :—

Year.	Wives.	Children.	Total.
1915	54	61	115
1916	76	61	137
1917	69	88	148
1918	57	87	144
1919	86	148	234

26. The conclusion is that in the Transvaal and the Cape there is no possibility that the white population will be swamped by sheer force of numbers. The total number of Asiatics in these two Provinces is insignificant in itself, it has remained stationary or has tended to decrease in the past, and there is no reason to expect any considerable increase in the future. In Natal the number of Indians is large : and though there is evidence to show that there are many who do not wish to settle permanently in the country, it will undoubtedly remain large. Natal, however, deliberately decided in the past that an Indian element in her population was essential for her economic development, and she cannot now disclaim responsibility for this decision.

*he economic lem.*

27. The problem now before the Commission is primarily economic. The difficulty on which a large part of the evidence has been directed, is that the



Asiatic by reason of his lower standard of living competes on unfair terms with the white man, and is already excluding him from certain avenues of employment. The occupations which are stated to be especially threatened are —

- (a) Retail trade ;
- (b) Wholesale trade ;
- (c) Agriculture ;
- (d) Skilled labour.

It is proposed to examine the conditions of the problem under each of these four heads.

28. The case of the retail dealer has taken up the greater part of the Commission's time ; and although deeper issues have now been raised, it will probably be admitted that the present agitation was originally inspired by the grievances of the small shopkeepers against their Indian competitors. Only a year ago so reliable an authority as Mr. J. A. Naser said in his evidence before the Select Committee : " The farming population and the consumers generally were in favour of the Asiatics, with whom they did a large amount of business. "It still applies to the present day. . . . The trading community has always been "up against them and the agitation against them has always come from the "trading community." At a time when profiteering has been one of the main issues at a recent general election, it is somewhat paradoxical to complain that the middleman's profits are unfairly reduced. The reduction of the middleman's profits is advantageous to the consumer and to the community as a whole. And this view, which is supported by ample evidence from the consumers themselves, and more especially from the Dutch farmers in the Transvaal, might perhaps be regarded as a sufficient answer to the complaint of the retail dealers. (c) Retail trade.

29. The precise extent of the Asiatic invasion into retail trade is by no means clear. Except in Natal and in Cape Town, generally speaking, no authentic figures have been placed before the Commission to show how many Asiatic shops there are now, or to compare present numbers with the numbers in previous years. The number of dealers' licences held by Asiatics in the Cape and Natal has scarcely increased in recent years, except in so far as the law has been altered to require dealers in colonial produce to take out licences. In the Transvaal, some local bodies have put in comparative figures ; but present figures have been somewhat disingenuously swollen by the inclusion of the large number of new general dealers' licences which were taken out by Indians in 1919 as a precautionary measure when restrictive legislation was threatened, and have never been exercised. For instance, there are said to be 101 general dealers' licences now held by Asiatics in Krugersdorp ; but the number of general dealers on the 31st March 1919, according to the memorandum laid before the Select Committee by the Krugersdorp Municipality was only 14, or including Burghershooop and District Township, 32 ; and the number of new licences issued between the 1st July 1914 and the 31st March 1919, was only 2. Again, it is asserted by the Chairman of the South Africans' League, in direct conflict with the evidence of the Principal Immigration Officer, that the number of licences now held by Indians in Johannesburg is nearly 5,000 ; and the conviction is expressed that, if the present rate of progress made by the Indians in Johannesburg is maintained for the next 25 years, the very large bulk of the trade of the Reef will be in their hands. But the statement in Schedule B appended to the Select Committee's Report shows that the total number of new general dealers' licences issued to Indians between 1914 and 1919 on Proclaimed Gold Fields, excluding Boksburg and Germiston where Indians are confined to locations, was :—

Krugersdorp	..	..	2
Johannesburg	..	..	1
Heidelberg	..	..	7
			—
Total	..	..	10

30. Even if the number of shops were known, it would convey no idea of the volume of trade. In Natal the Licensing Officer of the Province, Mr. Wynne-Cole, considered that there had been no increase in recent years in the volume

of Asiatic trade in the country stores. In the Transvaal towns which were inspected by the Commission, it was obvious that many of the Indian shops were petty concerns. So far as is recollected, the Commission were not shown a single large Indian store which had been established in recent years. The spread of the Indian trader into the country towns of the Transvaal is represented as a new peril; but so long ago as 1904 Sir A. Lawley, in his letter dated the 13th April 1904, described Pietersburg as a typical country town of the Transvaal in the following terms:—

“While the town supports a few substantial wholesale merchants, almost the entire retail trade is in the hands of the Indians. There are a few large stores belonging to European merchants, which are the retail depots of wholesale establishments. In addition to these, there is one retail store in the hands of a small English trader. With these exceptions, and leaving aside hair dressers, chemists and shops of a special nature, the whole of the retail trade round the square is in the hands of the Indian.”

In none of the towns of the Transvaal which the Commission visited, it is submitted, can such conditions be said to exist to-day.

31. The Indian trader specialises in groceries, soft goods, and the distribution of fruit and vegetables, for which he admittedly shows a special aptitude. These are the lines of business in which he has been trained for generations, and he has not shown much enterprise in going beyond them. By cutting down his overhead charges, and more especially by living with his assistants on his business premises, he is frequently able to undersell his white competitor; but this necessarily reacts on the class of custom which he attracts, and he caters especially for the consumer who cannot afford to pay for window-dressing. The difference in price does not appear from the evidence to be marked; but on the other hand it is shown that the Indian attracts business by his civility and consideration, especially towards poor customers and natives. He has a peculiar economic value to the rural community, which may be briefly summed up from the evidence as follows:—

- (1) He plays a useful part in the development of isolated districts by establishing small stores in places where the turnover is insufficient to support a European business.
- (2) He is more considerate than his Jewish rival in his dealings with the farmer, gives longer credit in times of scarcity, and is content to regard trade as an end in itself and not as a means of foreclosing on his customer's land.
- (3) He studies the requirements of the native population more carefully than the white trader does.

On the other hand, the Indian shop scarcely competes at all with the better class of European shop in the large towns. No Chamber of Commerce from any large centre has given evidence before the Commission. It is understood, moreover, that in South Africa as in other places, the retail trade of the country districts is being attracted more and more to large shopping centres; and big retail firms are now paying special attention to the development of their postal business. Experience in India, where the postal system of distribution has been established for years, has shown that the Indian trader cannot compete in this class of business with the big European store.

It has frequently been stated in evidence that many European storekeepers have been compelled to close their business owing to Indian competition. But there appears to be a tendency to attribute the closure of any European business to Indian competition, whatever may have been the real cause. For instance, Mr. Rüssouw, the Mayor of Zeerust, stated that the firm of Messrs. John Reid & Co. of Zeerust, which closed business in 1911, could not contend with Indian competition. But he subsequently admitted that it was not on account of Indian competition that Mr. Reid, who is understood to be a wealthy man, retired from business; and he further admitted that he himself had been Mr. Reid's assistant, and had started in business on his own account as a general dealer when Mr. Reid retired.

The Assistant Master of the Supreme Court at Pretoria has also stated in evidence that in the last eight years not a single instance is recollected in which an insolvent has attributed his failure to Indian competition; and he added that there has been no appreciable difference in the number of insolvencies in the country districts during the last ten years.

32. The Indian trader in South Africa is generally a retail dealer; but there are also a certain number of wholesale merchants, some of whom have extensive businesses. These wholesale businesses were probably established in the first instance to supply the Indian retail dealers, but now do a considerable trade with Europeans also. It has not been suggested that the Indian wholesale merchant undersells the European, or competes with him on unfair terms. On the contrary, the evidence is that the Indian trader, both wholesale and retail, has the support of the European merchant. No leading Chamber of Commerce has joined in the anti-Asiatic agitation. (b) Wholesale trade.

33. Competition in agriculture is an issue only in Natal. The majority of the indentured labourers were recruited from Indian districts where holdings are small and cultivation is intensive. They have introduced the same system of agriculture into Natal, and the Coast belt, where they are numerous, is now the most intensively cultivated part of South Africa. The area held by Indians is comparatively small. Two or three have acquired considerable sugar estates; but generally speaking in Natal, as in their own country, their holdings are small and closely cultivated. According to the evidence of Mr. Maritz, Magistrate of Stanger, the 20,000 Indians in his district have only about 20,000 acres in their hands. There is no evidence that the Indian cultivator is ousting the European farmer. On the contrary, both Mr. Maritz and Mr. Renaud have stated that the Indian reclaims waste land; and when it is developed, he is not infrequently pushed out by the European. Indeed, the suggestion is that his inability to get a reasonable tenure prejudices his efficiency as a cultivator and his value to the country. (c) Agriculture.

On the other hand, excluding the planters who rely mainly on Indian labour, the European is a mixed farmer, grazing and cultivating extensively large areas on the uplands. The Indian who has come to Natal is not accustomed to this kind of farming; and the evidence of the Natal Agricultural Union is that, where he has attempted it, he has generally failed.

Generally speaking, it would appear that the Indian cultivator and the European farmer in Natal are complementary to each other and not in competition.

34. Competition in the skilled trades is also mainly a Natal question. The only skilled trades which have given evidence before the Commission on the subject are the furniture makers of Durban and the tailors of Johannesburg. The last authoritative pronouncement on the relations of Indian and European skilled labour is contained in the Report of the Economic Commission published in 1914:— (d) Skilled labour.

"In the skilled trades the efficiency of the Indians is distinctly beneath that of the white men, and there is doubt as to the extent to which they undertake work for white people. So far as they labour for their own people, objection to their advancement is not even plausible. That they perform tasks of a not very expert kind in painting, carpentering, bricklaying and so forth, on the direct order of white consumers, is beyond dispute, but it would seem impossible to determine the extent of the work in question, and how far the white man is affected by it. Much of the work is evidently that of the handy-man rather than that of the expert artisan. Again there was conflict of testimony as to the amount of skilled work performed by Indians indirectly for white consumers. Skilled Indians work for shops kept by Indians, but the degree of recourse to these shops by whites it is hopeless to attempt to measure. It was alleged, farther, that work, such as the making up of clothes, was put out by white shopkeepers to Indian skilled workers, but certain Indian witnesses examined by your Commissioners declared that the bulk at any rate of this work was done for Indian shops to the best of their knowledge. Again, the extent of the trade done among other Indians, by Indian manufacturers employing Indians only, is unknown, but it seems likely that in cheap tinware, especially for natives, it is relatively considerable. It may be added that skilled Indians either bring their knowledge from India or pick it up through being employed for rough work where skilled whites pursue their avocations. Your Commissioners failed to discover evidence proving that white skilled labour has suffered seriously from the competition of Indians."

The Commission went on to remark on the fact that "new licences to trade or manufacture for sale have been generally, if not invariably, refused to Asiatics in Natal, though old licences have been renewed," and added that the drastic course adopted in Natal was harsh and imprudent.

Experience in India corroborates the Commission's conclusions as regards the skilled trades. One of the greatest obstacles to the industrial development of India to-day is the inability of the Indian artisan to become a skilled workman of the highest class.

is drain.

35. There is one other economic question which has figured prominently in this enquiry ; and that is the so-called drain of gold from South Africa to India through Indian remittances. It will be admitted that it would be unreasonable to suggest that the indentured labourer, returning to India, should leave his savings behind him in South Africa. Nor is it reasonable to object because the trader, who is discouraged as a permanent settler, maintains his family in India. But the matter goes deeper than this. In 1918 the imports from India into the Union were valued at £3,388,117, while the exports from the Union to India (excluding specie) were valued at only £89,148. It is not easy for the Union to finance her Indian purchases, which include articles such as jute bags which are necessary for the development of her own industries. To quote *Trade of South Africa in 1918* : " Throughout the war the difficulty of financing India's exports steadily increased and the high prices which many of these attained, notably raw cotton and jute goods, only served to accentuate the difficulties." It is understood that these difficulties still continue. In these circumstances, it is for consideration whether Indian remittances do not serve a purpose in redressing the adverse balance of trade. It is not desired to press the point; but it is suggested that expert financial opinion should be taken before the theory of the "drain" is accepted.

is social prob-

36. The social evils arising from the presence of Asiatics in South Africa, have been stated under four main heads :—

- (a) Trading relations lead to an undesirable intimacy with the white population, and more especially with white women.
- (b) The influence of Asiatics on the native population is bad.
- (c) They penetrate into the residential quarters of the white population.
- (d) They are insanitary.

Intimacy with  
e population.

37. It may be admitted that white people who trade with Indians probably come into more friendly relations with them than they would otherwise do. It is a matter of opinion and prejudice whether such relations are objectionable. The suggestion that there are undesirable intimacies between Indian traders and white women has, it is submitted, in no way been substantiated. It may be added that in all the years of the British occupation of India no such suggestion has ever been made there.

Influence on  
native popula-

38. It has been alleged that familiarity between the European and the Indian destroys the respect of the native for the European ; and further that the privileges which the Indian enjoys are resented by the natives. These allegations have been specifically denied by witnesses like Mr. Eugene Marais and Mr. Leary of Zeerust, who have special knowledge of the subject.

On the other hand such an authority as the late Mr. Maurice Evans deprecates " Kafir store-keeping " as an occupation for the white man, and regards with misgiving its effect on the relations between the white and the black population. He discusses the question at length on page 290 of his " Black and White in South-East Africa. " " The very fact, " he writes, " of his catering for the wants and desires of the members of an inferior race placed the white man in a false racial setting. . . . The white man was, after all, there in the position of one asking favours or seeking clients from whom he expects benefits, and the black man knew it, and his behaviour and conduct, though it might not be contemptuous, was that of one for the time being in the superior position." Mr. Evans draws a picture of the wife and daughters of the white married storekeeper standing behind the counter of the store, " often crowded with naked natives of both sexes, who feeling that it existed for their convenience, although respectful, were not delicate nor restrained in language or behaviour." Even more dubious was the position of the unmarried white man, who too often " became for life a white Kaffir." So far as the native question is concerned, Mr. Evans does not regret the displacement of the white storekeeper by the Indian trader, and he adds : " One other point must be scored to the credit of the Indian trader. As a Mahometan he is an abstainer from intoxicants and, keen trader as he is, does not pander to the cravings of the native for strong drink."

(e) Penetration  
white residen-  
quarters.

39. Two or three Indians are occupying houses on the Berea at Durban. But the general tendency is for Indians of the same social standing to live, as far as possible, in the same quarter ; and the evidence given before the Commission shows that this is as marked a characteristic of the Indian in South Africa as it is in his own country.

The statements which have been made that Indians in India are not permitted to live in the European quarter, are incorrect. There is no legal prohibition; but in practice Indians show no desire to live amongst Europeans unless they have had a European upbringing.

40. The insanitary habits of Indians, of which so much has been heard, are largely the result of overcrowding, and are seen at their worst in such places as the Vrededorp and Germiston locations. The Municipalities appear to be somewhat lax in enforcing sanitary bye-laws; but this is partly, at any rate, due to recognition of the fact that no better accommodation is available. <sup>(2) Sanitary habits.</sup>

The indentured labourer came to South Africa with a low sanitary standard; and generally speaking, his habits do not appear to have been improved during the years which he spent in an estate barracks. The conditions under which the majority of the ex-indentured labourers and their descendants are now living in Natal, are admittedly discreditable.

It has not been found that Indians of the better class, when they live apart, fail to observe sanitary regulations. But the habit of living on business premises, to which reference will subsequently be made, leads to overcrowding.

41. It has been pressed upon the Commission in the Transvaal that the Indian Mahomedans are likely to spread Islam amongst the native population and undermine the work of the Christian Missionaries. But not a single case of conversion to Islam has been quoted. The Mahomedan trader does not proselytise. <sup>The religious problem.</sup>

On the other hand, a large number of Indians in Natal are Christians.

42. It is in evidence that the leaders of the anti-Asiatic movement in the Transvaal regard Indian activity in trade as only a means to an end. Mr. Phillips, the Chairman of the South Africans' League, stated his position before the Commission as follows:— <sup>The political problem.</sup>

"I take it that I am here to-day representing not only a desire, but a determination on the part of the white people that this country shall remain a country for white people. That is the whole of my intention in appearing here to-day. I am not here representing traders. I do not care a snap of my fingers for traders in this matter. I am here as representing this question of trade to you merely as a channel through which the Indians' influence grows and expands."

In his address to the Pretoria Congress of the League, which has also been put in as evidence, Mr. Phillips forecasted the future in the following terms:—

"This watchful interest of the Indian Government is of extreme importance, and unless the people of South Africa wake up to the effect of the Indian invasion upon this country, unless they convince our own Government that they are alive to it, we shall see the influence which produced the recent Act (No. 37 of 1919) grow in strength from year to year, until at last South Africa, gripped in a strangle-hold from which there is no freeing herself, will be forced to accept the position that this sub-continent will become an expansion ground for the Indian Empire."

43. The process of expansion is explained more precisely by Mr. J. Dougall of Pretoria in the evidence which he has placed before the Commission:—

"But there is to-day much more involved in this question of securing their right to dwell and carry on business in the Transvaal. Information gleaned from the English and British Indian press and other sources near at hand, clearly shows that the Aga Khan, Mr. Gandhi and their English, Indian and South African associates are planning and pressing with full determination by virtue of large purchases of fixed property in town and country to secure full rights to the franchise and all the privileges of citizenship in South Africa. And once this is secured, the gradual influx of two or three millions of British Indians, judiciously placed in residences and businesses in the towns and country districts throughout the Union, would mean South Africa in course of time becoming an annex to India."

44. As the Commission is aware, the government and to a great extent the commerce of India have been controlled for over a hundred years by a handful of Europeans. The suggestion now is that a few thousand Indian shopkeepers from the decayed port of Surat will do in South Africa what the British have done in India. Further, they are to achieve by virtue of their inferior civilisation what the British achieved in India by their superior civilisation.

## PART III.

## Suggestions and Recommendations.

eed for a calm-  
atmosphere.

46. Such, in outline, is the case which the Commission is asked to consider. It is submitted that the first condition of a wise solution of the problem is a calmer atmosphere than that which now prevails. It is difficult for one who has heard the evidence given before the Commission, not to feel that some of the witnesses and those whom they represent have lost all sense of proportion. As the Commission is aware, grave national issues are involved; and in a matter of such vital importance the Government of India feel that they have a right to expect that public opinion should be formed, not by organised agitation, but by calm consideration of the facts. The first step should be to clear the air of misconception, misrepresentation and unreasoning alarm.

termination of  
alleged influx.

47. Firstly, it is suggested that the Commission should ascertain and verify, as far as possible, the true extent of the alleged Asiatic influx into the Union, and particularly into the Transvaal. The number of Asiatics in the different Provinces of the Union cannot be exactly determined until the figures of the next census are forthcoming. In Part II of this statement, however, an attempt has been made to deal with the information that is now available. Except in Natal, there is no trace of any tendency for the number of Asiatics substantially to increase; the Immigration authorities cannot discover it; the Indian shopkeepers outside Natal complain of difficulty in finding shop assistants now that immigration has been closed; and the loose statements that Asiatics are pouring into the Union are, it is submitted, without any valid foundation. As the allegation comes almost solely from the Transvaal, it is suggested that there should be a thorough investigation of the facts in selected towns of that Province where the influx is said to be noticeable. The Indian population might be classified, its origin ascertained, and the increase in recent years compared with the corresponding increase in the white population.

It should also be emphasised that further immigration is barred not only from overseas, but also, from one Province to another. The Government of India have accepted this. The representatives of the Transvaal British Indian Association have not only given an undertaking to the Union Government that they will not countenance any illegal entry into the Union; they have also stated in evidence before the Commission that they have accepted the restrictions on inter-provincial migration.

termination of  
alleged increase  
in Asiatic trading.

48. Secondly, it is suggested that the Commission should ascertain, as far as possible, the true extent of the increase in Asiatic trading in recent years. It has not been contended that there has been any marked increase in the Cape Province and Natal. In places like Cape Town and Durban it is admitted that the licensing laws have been deliberately administered so as to restrict Asiatic trading. In the Transvaal, however, where general dealers' licences are issued by the Receiver of Revenue to any applicant on payment of a prescribed fee, more definite and more detailed information is required. It has been explained in paragraph 29 that the increase in the number of licences issued to Asiatics in 1919 is meaningless, for practically none of the new licences which were issued have been exercised. What is wanted is more accurate information regarding the increase in the actual number of Asiatic shops in recent years, as compared with the increase in the number of European shops in the same period. Even this does not go far enough. Comparative figures of turnover will alone prove or disprove the allegation that the Asiatic is ousting the white trader. The difficulty of obtaining such figures is recognised. But it is suggested that detailed enquiries might at least be made in selected towns of the Transvaal, where the growth of Asiatic trading is said to have been especially rapid. At the same time, where specific instances are given of white traders having been ruined by Asiatic competition, the circumstances under which their businesses were closed might be examined. A more precise investigation of conditions in the Transvaal is especially important; partly because the agitation against Asiatic trading originated there, and still more perhaps because the facts which would be disclosed would indicate the natural expansion of Asiatic trading when there is no artificial restriction on the issue of licences. Here again, as in the matter of the alleged influx, there is need of facts. The issue is too serious to be decided by mere assertions.

alleged dis-  
turbance of  
law and  
order.

49. Thirdly, it is necessary to consider the charge made against the Indian community that they are "perverse and inveterate breakers of the law", and

have "flouted and broken" their own undertakings. This charge is in direct conflict with Mr. Burton's testimony at the Imperial Conference of 1918: "As far as we are concerned, it is only fair to say—and it is the truth—that we have found the Indians in our midst in South Africa, who form in some parts a very substantial portion of the population, are good, law-abiding, quiet citizens." And this testimony has been amply corroborated by evidence before the Commission. The more specific charge against the Indians of the Transvaal that they have evaded certain restrictive laws and have disregarded the terms of the settlement of 1914, has been met by them in a way which should satisfy reasonable men. But the charge is still reiterated, and is in the forefront of the petition which has recently been presented to Parliament by the South Africans' League: "That the avowed and publicly expressed contempt for and continued and persistent evasion and disregard of our laws by Asiatics cast a serious reflection upon the Administration and tend to instil into the minds of the large native population a lack of respect for the laws and institutions of this country." And it is beyond question that this accusation, which has been persistently repeated until it is generally believed to be true, has seriously prejudiced the Indian case.

50. The particular laws and undertakings which the Indians are said to have disregarded, are understood to be:—

- (a) Law No. 3 of 1885,
  - (1) by acquiring fixed property by methods of indirect ownership;
  - (2) by refusing to reside in locations;
- (b) Sections 130 and 131 of the Gold Law, No. 35 of 1903, by residing on or occupying proclaimed land;
- (c) The Smuts-Gandhi agreement, as defined in Mr. Gandhi's letter to Mr. Gorges, dated the 7th July 1914,
  - (1) by applying for new licences to trade;
  - (2) by forming limited liability companies under the provisions of Act No. 31 of 1909 for the purpose of owning fixed property.

It is unnecessary to repeat at length what has been said in paragraphs 13 and 14 and in Appendix B to this statement. It will be sufficient to summarise the salient points, and to consider how far it is fair to say that the Indians have disregarded these laws and undertakings.

51. Clause 2 (b) of Law No. 3 of 1885 prohibits the ownership of fixed property by Asiatics, "except only in such streets, wards and locations as the Government for purposes of sanitation shall assign to them to live in." The Republican Government, however, permitted indirect ownership anywhere, but direct ownership nowhere. Indirect ownership was, in fact, first suggested to the Indian community in 1888 by the Republican Government, which authorised the Mining Commissioner to be registered as nominal trustee. No steps were taken to prevent the indirect acquisition of fixed property until 1919. At the same time, as they have already stated at the Imperial Conference of 1918, the Government of India agree that these indirect methods of acquiring property are objectionable, not only because they are cumbersome, but because they "tend to foster insincerity on all sides"; and it is for this reason that they asked that the law should be repealed.

52. Clause 2 (d) empowers the Government for purposes of sanitation to assign to Asiatics certain streets, wards and locations to live in, but it provides no penalty for residing outside such locations. This law was referred to the British Government under Article XIV of the London Convention of 1884, and was accepted by them only on the understanding that it would not apply to traders and other persons of a superior mode of life (not being coolies), whose relegation to certain areas was not necessary on sanitary grounds. The Republican Government did not enforce the law strictly, even against Indians of the lower classes. On one or two occasions, however, they attempted to restrict Indians of superior class to locations. Such attempts were resisted by the Indian community by the advice and with the support of the British Agent. It was always the view of the British Government that the application of the law to Indians of superior class would be a contravention of the terms of Article XIV of the London Convention; and, as is well known, the grievances of British Indians in the Transvaal were among the causes which led to the outbreak of war in 1899.

After the war when the new Government proposed fresh legislation for restricting Indians to locations, the British Government refused to agree in the following terms:—

"His Majesty's Government hold that it is derogatory to national honour to impose on resident British subjects disabilities against which we had remonstrated, and which even the law of the late South African Republic rightly interpreted did not subject them, and they do not doubt that when this is perceived, the public opinion of the Colony will not any longer support the demand which has been put forward."

It will at least be conceded that the Indians who have refused to reside in locations, have only followed the interpretation which the British Government, from the time when they assented to it, have always placed on the law. The Indian community cannot fairly be condemned on this account as "perverse and inveterate breakers of the law".

The Gold Law. 53. Sections 130 and 131 of the Gold Law of 1908 were accepted by the British Government on the explicit assurance that they did not deprive Indians of any rights which they enjoyed under the Gold Law of 1898. These rights included:—

- (1) the right to acquire and exercise leasehold rights to stands granted under section 92 of the Law of 1898;
- (2) the right to hold general dealers' licences to trade on diggings.

The quotation in Mr. Gandhi's letter to Mr. Gorges, dated the 7th July 1914, shows that he knew the terms of the Attorney-General's report on the Law of 1908. The Indian community cannot reasonably be blamed for acting on the assumption that the assurance which was given to the British Government would be respected.

Further, it does not seem to be sufficiently realised that the application of sections 130 and 131 of the Gold Law of 1908 is limited, viz. :—

- (1) Section 130, in accordance with the ruling in Tamblin's case, does not apply to stands covered by section 77 of the Act, that is, to stands outside townships, which had been laid out under the Mining laws prior to 1908;
- (2) Section 131 does not apply—
  - (i) under sub-section (1) to stands on which the Mining Commissioner may permit coloured persons to reside;
  - (ii) under sub-section (3) to coloured persons who at the commencement of the Act were lawfully in occupation of premises.

It must be emphasised that the occupation of proclaimed land by Indians is not necessarily a breach of the Gold Law. They have a legal right to occupy any stand, outside a township, which was laid out before 1908. Further, the express object of section 131 (1) was to enable the Mining Commissioner to exempt Indians of superior class from being required to live in bazars, locations or compounds.

In point of fact, until the case of Krugersdorp Municipal Council vs. T. W. Beckett & Co. (which was undefended) in 1919, the Gold Law was never used to prohibit the occupation of proclaimed land by Indians; and at the Imperial Conference of 1913 it was not included in the list of Indian disabilities.

The Smuts-Gandhi Agreement. 54. Mr. Gandhi's letter, dated the 7th July 1914, relates only to a side-issue in the settlement of 1914. As is clear from the opening sentences of Mr. Gandhi's letter, his definition of "vested rights" referred to such rights *only in connection with the Gold Law and Townships Amendment Act*. The Smuts-Gandhi agreement, as reported to the Government of India, consists of the two letters of the 30th June 1914; and the letter of the 7th July was not made known to them until it was published in the report of the Select Committee of 1919. Its meaning, however, seems clear enough.

The amendment of the Gold Law and the Townships Amendment Act was not an issue in the passive resistance movement. They fell within the category of existing laws which the Union Government undertook to administer "in a just manner and with due regard to vested rights". General Smuts promised that he would endeavour to protect vested rights as defined by Mr. Gandhi. Mr. Gandhi accordingly submitted the following definition *in connection with these two particular laws* in his letter of the 7th July:—

"By vested rights I understand the right of an Indian and his successor to live and trade in the township in which he was living and trading, no matter how often he shifts his residence or business from place to place in the same township."



The Government of India understand this to mean that any such trader *who might be occupying land in contravention of the Gold Law or the Townships Amendment Act*, would not be evicted. Section 1 of Act No. 37 of 1919 gives legal validity to General Smuts' promise, and by extending the period until the 1st July 1919 more than fulfils the undertaking which was given in 1914.

55. On the other hand, the Government of India can find nothing in the letter, either expressed or implied, to suggest that the Indian community undertook to refrain from applying for new licences to trade or from acquiring fixed property according to the procedure which was then open to them. The letter nowhere refers to the licensing laws or to Law No. 3 of 1885. The Indians had established by Motan's case in 1904 their legal right to apply for and obtain licences to trade. Even after the legislation of last year, this right remains unimpaired, for Colback Collins' amendment, which would have empowered a licensing authority to refuse the application of any Asiatic without reason assigned, was deleted by the Senate. Again, in 1914 they had a legal right to acquire fixed property by indirect methods, which were first suggested to them by the Republican Government, and had not then been questioned by any subsequent Government. They were only deprived of this right by legislation *ad hoc* in 1919. Further, they had established, by Tamblin's case in 1911, their legal right to occupy any stand on proclaimed land, outside a township, which had been laid out before 1908; and under Section 131 (1) of the Gold Law they had the legal right to reside on proclaimed land in whatever place the Mining Commissioner might permit. The object of the passive resistance movement and of the agreement which ended it, was to better the position of the Indian community; not to worsen it. The suggestion that the Indians, as part of the settlement, renounced their established legal rights cannot, it is submitted, be sustained.

56. There is one further point, however, on which stress has been laid in this enquiry. It has been disputed whether the first limited liability company formed by Indians for the purpose of owning fixed property was registered before or after the agreement of 1914. The point is only important because on it depends the allegation that the Indians have broken the agreement. "You will remember," said Mr. Blackwell on behalf of the South Africans' League, "that was our chief claim as to how the Smuts-Gandhi agreement was violated. 'I am speaking of the Company device to evade the Smuts-Gandhi agreement.' The return of Companies of which the shareholders are all Indians, is given in Schedule E of the Select Committee's report as follows:—

Year.	No. of Companies registered.
1913	3
1914	9
1915	38
1916	103
1917	201
1918	114
1919 (to 31-3-19)	12

In point of fact, however, the first Indian limited liability company which was registered in the Transvaal for the purpose of owning fixed property, was the "Land and Trading Company, Limited". It was registered in June 1909, Register folio No. 226, and it obtained transfer of stand No. 205, Prinsloo Street, Pretoria, on the 19th October, 1909.

It seems fairly clear that the practice began in 1909, immediately after the passing of the Transvaal Companies Act, No. 31 of 1909, but only became common in 1916 when its legality was confirmed by Mr. Justice Ward's decision in the case of Reynolds vs. Oosthuizen.

57. In any case, however, this dispute about dates does not appear to be of much consequence. The principle of indirect ownership dates from 1888, and was recognised, and indeed suggested, by the Republican Government. The method adopted does not affect the principle. In some of the cases into which the Commission has enquired, the same property was registered first in

the name of a white trustee, and afterwards in the name of a Company. In other words, the Companies Act was merely used as an alternative for the nominal trustee. Whether the first company was formed before or after 1914, the practice cannot reasonably be regarded as an evasion of the Smuts-Gandhi agreement. The matter was not in issue in 1914; and it was admitted by the Secretary for the Interior before the Select Committee of 1919 that the Government took no steps to inform the Indian community that they regarded the practice as an evasion of the agreement of 1914.

58. At the least, it must be admitted that the interpretation which has been placed by the Secretary for the Interior and others on Mr. Gandhi's letter of the 7th July 1914, is not obvious. The Government of India for one would not accept it; and it would not be reasonable to say that the Indian community had "flouted and broken the agreement in the most flagrant fashion" because they had construed it differently. Further than this, it is in evidence that the letter of the 7th July was regarded by the Union Government as confidential, and was not made generally known to the Indian community until 1919. Mr. Phillips' statement before the Commission that he himself had seen a copy of "Indian Opinion", dated some time in 1915, in which the letter of the 7th July was published, is mistaken. It was not published in "Indian Opinion" until the 13th June 1919.

Moreover, Mr. Gandhi's farewell message to his fellow countrymen, which was circulated through Reuter's Agency and published in the *Rand Daily Mail* of the 20th July 1914, contains the following passage:—

"But I have also assured them that the present settlement does not preclude them from agitation (as has been made clear in my letter to the Secretary of the Interior of the 30th ultimo) for the removal of other disabilities which the community will still suffer from under the Gold Law, Townships Act, and Law 3 of 1885 of the Transvaal and the Trade licences laws of Natal and the Cape. The promise made by General Smuts to administer the existing laws justly and with due regard to vested rights gives the community breathing time, but those laws are in themselves defective and can be, as they have been, turned into engines of oppression and instruments by indirect means to drive the resident Indian population from South Africa."

The people to whom this message was publicly addressed, could scarcely be expected to regard the agreement of 1914 as a final settlement of the question of trading and ownership of fixed property in the Transvaal.

luntary repa-  
na.

59. The last proposal which it is desired to make, with a view to restoring a calmer atmosphere, is that the number of Indians in the Union should as far as possible be reduced by a well-organised scheme of voluntary repatriation. It has been seen that for many years the Government of India have been compelled to recognise that it was necessary to restrict the number of Indians in South Africa in order to secure fair treatment for those who are permanently settled there. It must be obvious to anyone visiting Natal that the condition of many of the Indians there is far from satisfactory; and it is believed that it is in the interests of everyone to encourage and facilitate the repatriation of those who are willing to return to India. It will be better for those who go, it will be better for those who remain. It will moderate the agitation which has been aroused by the supposed influx of Asiatics, and will prepare the way for a peaceful and reasoned settlement.

60. It is unnecessary to discuss in detail a proposal which the Commission has already recommended in an interim report. It is only desired to emphasise two points. Firstly, many Indians of the poorer class cannot be expected to leave the country unless they are allowed to take with them their legitimate savings in gold. Secondly, whatever is done should be done with the advice and assistance of the leading Indians who represent the interests of their various communities.

It is also suggested that it would be wise to look beyond the possibilities of re-emigration to India alone. There are other parts of the Empire which welcome the Indian immigrant, and it is suggested that it would be well to enter into communication with the Governments of those countries, which might offer the Indian who is accustomed to colonial life a wider and more attractive field for self-development.

61. It must be anticipated, however, that the majority of those Indians who have made their homes in this country will prefer to remain here. How are they to be treated? The Government of India would urge most strongly that the repressive legislation which so many witnesses have recommended, is no solution of the problem. Fresh restrictions would be regarded not only by the Indian community in South Africa, but also by the Government and the people of India, as a breach of the settlement of 1914, which was universally accepted as a guarantee that the status which the Indian community had acquired in 1914 would at least be maintained. As has already been said, an undertaking to administer existing laws in a just manner is meaningless, if the rights which Indians are entitled to exercise under those laws, can be restricted at will by fresh legislation. Any attempt to impose new restrictions would revive at once the unhappy struggle which was ended by the settlement of 1914. To quote Mr. Naidoo's own words to the Commission:—

The Indians who remain. Repression no remedy.

"We respect the laws of the land, except such laws as are brought up to oppress us. It is human nature to resist any oppressive measure. Any oppressive measure will be resisted by any human being, because we cannot help but resist those laws."

62. The Commission will doubtless also consider the inevitable effect of a repressive policy on the white population of this country. It would be impertinent for the representative of the Government of India to dwell on this aspect of the case. The spirit animating much of the evidence must have impressed the Commission as forcibly as it has impressed him. But it may perhaps be permitted to quote the words which a South African, the late Mr. Maurice Evans, has written on the restrictive licensing laws of Natal:—

Effect on the white population.

"With all this, through the legislature he (the white man) endeavoured to reduce their numbers and hoped by refusing to grant any more licences, and gradually eliminating those at present held, to get entirely rid in time of the Indian trader. Some of the legislation passed to this end was advanced by specious argument, and it would be difficult to defend it on the score of justice, and the violation of conscience engendered by this course of action has been felt by many in the colony, though any defence of these men was exceedingly unpopular. It followed on the false step of introducing Indian coolies, which has directly and indirectly committed South-East Africa to many social difficulties and led to action, apparently dictated by motives of self-preservation, which could not be justified. It has been a case of taking the lower road, the line of least resistance which though apparently at first clear and open, leads invariably into jungle and morass. The gods will not be deceived."

Page 298 of "Black and White South-East Africa."

63. For good or ill, the Indian has been brought to South Africa, and it remains to consider what his future is to be. The right road has been pointed out by a Natal witness, Mr. Leon Renaud, whose evidence throughout shows a remarkable insight into the Indian character.

The right road.

"If you approach them and talk to them," he said, "there is no man more easily influenced than the average Indian. It is extraordinary how they are influenced by people with whom they come in contact. . . . The Indian is not easily forced, but if fairly treated he is easily led. If he is told that there is anything forcible, he will be a martyr. He will submit to anything rather than to force. He is not very strong physically but morally he is strong. He does not like to be driven, but if fairly treated he is easily led."

Repression will not succeed; and the future will be embittered by the memory of the struggle. But it should be possible now, by fair and sympathetic treatment, to make the Indians who remain here useful and contented subjects of the Union.

64. Before considering the means by which such a policy might be carried out, it is necessary to examine in more detail the remedies which have been suggested by different witnesses. They fall roughly into two categories, compulsory repatriation and compulsory segregation. Compulsory repatriation, which would be preceded by expropriation, has been rejected as impossible by Mr. Blackwell on behalf of the South Africans' League. It is not rejected by him on account of the cost or the difficulty of inducing other Provinces to agree to facing the cost. Nor is it rejected on account of the difficulties which would arise with the Imperial and Indian Governments, though it is admitted that these would be very real. It is rejected by him because it would be essentially unjust, and would react on the national life and character. Compulsory repatriation may well be left at that.

Remedies suggested. Compulsory repatriation.

65. Compulsory segregation in the eyes of many of its supporters is merely a means to an end. The ultimate aim is to force the Indians, and more especially the better class Indians, to leave the country. The deportation from

Compulsory segregation.

Zeerust, for instance, gave the following evidence before the Commission :—

(Mr. Wilsenach). "It is the superior class that we most dread. I think they would rather go back to India than go into a bazar. I admit that in handling this question we must treat the Indian fairly and justly. Our suggestion is to place them all in bazars. . . . Of course we would really prefer giving them a ticket to return to India rather than put them into a bazar, but we do not suggest that. . . . You suggest that he must be provided with the means to earn a living. Well, he can come and work for me in the future, if he likes. . . . I think they would probably prefer to go away rather than go into a location. . . . (Mr. Ziervogel). Personally, I most strongly support the attitude taken by the (South Africans') League. I am representing our Church (the Dutch Reformed Church) in the League, and I helped to draw up that petition. What I think is, and what I tried to bring out in the Committee is, that our main object is to get the Indians out of this country; that, I think, must be our ultimate object. . . . Therefore I say that as a means to that end I support segregation, but only as a means to that end."

Compulsory segregation, as interpreted by such witnesses, differs only from compulsory repatriation in that it avoids the expense of expropriation and repatriation. Such evidence is, at any rate, useful as indicating the spirit in which a policy of segregation might be administered.

Similar evidence was given in Natal by the deputation<sup>a</sup> representing the Natal Agricultural Union, who also considered that their proposals were humane and just :—

"Our idea is that, if legislation were carried out on proper lines, the number of Indians would greatly diminish as a result of the number who would voluntarily emigrate, when they saw that their future was blocked in this country."

66. There are, however, other witnesses who are convinced that the separation of the races is essential for the welfare of the community as a whole, and honestly desire to minimise the hardship and injustice that must ensue. It will be for the Commission to consider whether the proposals which have been put before it are practicable. Difficult questions such as the provision of land, payment of compensation for removal, the administration of the Asiatic area, and so on, have not always been fairly faced. It will be sufficient here to examine more generally the principles and the probable effect of such a policy. It is not desired to dwell on the racial stigma which compulsory segregation implies, or the resentment and resistance which it would inevitably arouse. Nor is it desired to emphasise unduly that restrictive legislation would be regarded as a breach of the settlement of 1914 and subsequent assurances. It is desired first of all to consider the proposal on its merits from the point of view of the white, as well as the Indian, community.

67. Segregation as advocated by these witnesses can be distinguished under two heads, *viz.* :—

- (a) Economic ;
- (b) Social.

<sup>a</sup> Segregation of Asiatic trading.

Economic segregation has usually meant no more than the restriction of Asiatic trading to certain specified areas or "bazars." Its primary object is to prevent unfair competition with white traders, whose running expenses are greater on account of their higher standard of living. But if the customer has equal access both to the European and to the Asiatic areas, it is obvious that segregation will fail of its object. The divergence between the methods of business will become more marked; competition will be keener; and the centre of trade will shift to the Asiatic area. Segregation for this purpose will only be successful if it acts as a deterrent to the customer; that is, if Asiatic trading is relegated to a distant or unattractive locality. This would be an artificial restraint on trade, which, on the face of it, is indefensible.

68. At the same time it may readily be admitted that Asiatic trading as frequently carried on in this country has objectionable features. The premises are sometimes inadequate and unsightly. The "living-in" system is bad in itself, and may lead to under-payment of shop assistants and breaches of the shop hours' regulations. There is over-crowding and neglect of sanitation. The Asiatic is not altogether to blame, for it may be difficult for him to get sufficient land on a good title. Nor is the Asiatic the only offender. However that may be, it may be conceded that the welfare and general amenities of a town may require that businesses which are conducted on such lines, should not be established in the principal streets. There could be no objection to regulations which compelled a person trading in certain quarters to maintain a certain standard of business. But the criterion should be his standard of business, and not his nationality.

69. In Natal, however, economic segregation in a much wider sense has been suggested. The proposals which have been put before the Commission have not always been clearly thought out, but the general idea is that the large Indian agricultural population should be concentrated in one area. To an outside observer it would appear that any such hard and fast line of demarcation would be impracticable. Round Durban, for instance, Indian market gardens and European suburban residences are everywhere intermingled; and it is difficult to see how either the one or the other could be expropriated. It must also be repeated that any restriction on their existing right to acquire, own and occupy land anywhere in the Province, would not only be resisted as such, but in the case of the ex-indentured Indians and their descendants would be regarded as a breach of the conditions of their recruitment. It may be agreed, however, that it would be advantageous to attract the Indian population as far as possible to the Coast belt, provided that their existing right to acquire, own and occupy land elsewhere was in no way diminished. The climate and system of agriculture in the Coast belt are best suited to Indian enterprise. The white farmer of the uplands would be relieved of the fear of an Indian invasion. And from the point of view of the general community, if Indian activities were given fair scope, the Coast belt might become one of the richest and most intensively cultivated tracts in the world. So far as has been ascertained, the difficulty of getting land on reasonable tenure is the chief obstacle to Indian settlement in the Coast belt. It is suggested that it should be earnestly considered how far this obstacle might be overcome by Government intervention.

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Settlement of  
Natal Indians in  
the Coast belt.

70. Social segregation, as proposed to the Commission, means that all Indians would be compelled to reside in certain specified areas or "locations." There is no evidence that the Indians have shown a desire to settle in European residential quarters. In many places it has been objected that Indian traders and their families reside on their business premises in the principal streets; and it may be admitted that there is much that is objectionable in this practice. But it is not necessary on this account to compel all Indians to reside in a location. The remedy is to prohibit "living-in."

(b) Residential  
segregation.

71. It should not be impossible to meet the natural desire of Indians of the same class to live near one another. But any attempt at compulsion would at once be resisted. It is easy to say that this is contempt of the law. But it is not believed that the attitude of any self-respecting people would be different. Nor is it a mere matter of sentiment. The members of the Commission have visited the Vrededorp and Germiston locations and can judge for themselves what compulsory segregation means. They will have realised the irony of segregation "for sanitary purposes." It is idle to say that the admitted evils of the Transvaal locations can be cured by better administration. There is no guarantee that the administration will be better in the future than it has been in the past. Mr. Blackwell himself has admitted that the Municipalities are not to be trusted, and has recommended that "the Registrar of Asiatics should be entrusted with the duty of periodic inspection and constant supervision to see that the requisite facilities are maintained." It may be permitted to doubt whether such inspection would be effective. The segregation of a community which has no political power will always mean ghetto conditions. Freedom to reside elsewhere is the only safeguard that the Indian quarter will be decently administered.

72. To conclude: as things now are, voluntary separation may be wise. But there should be no legislative barrier. The case against the Indians is that their standard of living is lower than the white standard, and that their civilisation will not coalesce with the western civilisation of South Africa. Compulsory segregation would depress still further their standard of living, and perpetuate and intensify their easternism. The remedy would merely aggravate the disease.

73. The basis of the economic problem is that the Asiatic by reason of his lower standard of living competes on unfair terms with the white man.

The logical solution.

The only logical solution is to raise the Asiatic's standard of living to the white man's level.

The basis of the social problem is that the Asiatic by reason of his easternism is not assimilated into the western civilisation of South Africa.

The only logical solution is to westernise the Asiatic, and help him to fit into his environment.

It is submitted, moreover, that this is not merely the logical solution, but a moral claim. To quote again the South African writer in the March number of the "Round Table":—

"As long as any Indians remain in South Africa, they have a claim to positive justice from the Government of the country. In the negative justice of discouraging all views and practices tinged with passion and prejudice, and of respecting vested rights, neither the Government nor the Parliament of the Union has been wanting. But this is surely not enough. If Indians by their standard of living endanger the white population, they should be encouraged and assisted to raise that standard."

Its practicability.

74. It will be said, no doubt, that east is east and west is west. But it should not be assumed that heredity is stronger than education and environment. Some of the Colonial-born Indians of the second and third generation, even with the limited opportunities now open to them, are already comparatively westernised. At the same time, the difficulties are admittedly great; and it will perhaps be helpful to indicate briefly the lines of progress, which, it is submitted, would lead towards the goal.

Suggested lines of progress.  
(1) Education.

75. The first need is education. It is certain that a sound western education in a western environment would have far-reaching results. There is a widely expressed desire among the Indians settled in South Africa that facilities for education should be provided for them: such facilities are at present admitted to be inadequate. Primary education should be compulsory for Indian boys as it is for white children. Wealthy Indians might be encouraged to found institutions for higher education. Experience in India has shown that a purely literary education gives the Indian boy too narrow an outlook, and tends to overcrowd the clerical and learned professions. Facilities for technical and agricultural instruction are also required. Games should not be neglected. Cricket, football and hockey, for which Indian boys have a great liking, are a powerful influence on the formation of character. They teach good sportsmanship and western ideas of fair play.

76. Even more important perhaps is the education of Indian girls. Here again Mr. Renaud's evidence may be quoted, for it goes straight to the point:—

"It is the influence of the mother that makes you want all sorts of comforts and improvements. I suppose myself that the influence of the mother produces to a great extent the improvements in the homes and general living conditions. Where the women are closeted and have not developed, there you will find that the general living conditions lag behind: but where the women have had education, there you will find the development in the home. I have noticed that myself. There is that drawback, but that will disappear in time. Of course it is very difficult for them to assimilate European education and civilisation at once; their old habits and customs have been ingrained in them for many centuries. I know some Mahomedans whose daughters are very highly educated; at first they were looked down upon by the others, but now that spirit is dying out. The other day, for instance, I was visiting one of my clients, and I heard a girl playing the piano very well, and I enquired and she was brought in; she was his daughter. I advocate that very much. I advocate that assimilation and emulation of European habits and customs; and if we can get them to follow along the lines of such development, a lot of the feeling of antipathy that exists will die away. However, the development will have to be gradual, although I think the improvement that has been made so far is very great; and the further we go, the greater will be the improvement."

Patience and caution will be necessary. Different creeds and castes have different prejudices, which should be respected. But the results will justify the effort.

(2) Improvement wages.

77. Secondly, the wages of Indian employees should be improved. It may be admitted that the wages which are now frequently paid to Indians, are unfair not only to them, but also to the white wage-earners with whom in certain spheres they compete. When the effect of education begins to be felt, the Indian workers will automatically increase their demands in order to support the higher standard of living to which they will have been trained. But meanwhile some external action may be required. The remedy rests primarily with the white Unions. As the writer of the "Round Table" article, which has already been quoted, has pointed out: "The Trade Union, if like the Amalgamated Society of Engineers, it adopts the only rational attitude of admitting coloured members and insisting "on their being paid the same wages as Europeans with like qualifications, offers "a means of raising the coloured man to the European standard of life." In other words it is open to the white Unions to give practical effect to their doctrine of equal pay for equal work.

78. It is understood that the problem has been solved on these lines in Australia and New Zealand. In Durban there is already a movement in the

same direction. There are now nine Indian Unions in Durban, namely, Hotel employees, Shop Assistants, Dock workers, Railway workers, Municipal employees, Tobacco workers, Furniture workers, Master bakers' vanmen, and Printers, as well as a Teachers' Society. There is also an Indian representative on the Central Council of the Shop Assistants' Union. At present, however, the Indian workers generally are not strong enough to bargain on fair terms with their employers. It is understood that they would welcome the appointment of an independent Wages Board; and it is suggested that it should be considered whether it would not be possible to improve their position by fixing a legal minimum wage.

79. Better wages alone will not raise the standard of living. As experience in India and elsewhere has shown, a higher scale of wages may merely reduce the output of work. The Indian must be systematically taught to find an outlet for his increased earnings. It is unnecessary here to elaborate a scheme of welfare work. Night schools, reading-rooms and games at once suggest themselves. An effort should also be made to improve domestic hygiene. (3) Welfare work

80. Fourthly, sanitary and industrial laws, which should be based on the white standard of living, should be more strictly enforced. It will be admitted that Indians are sometimes permitted by the sanitary authorities to live under conditions which are degrading to themselves and intolerable to their neighbours. This laxity is partly a consequence of the low scale of wages which Indians are now earning, for it is felt that they cannot afford to live otherwise. In the Transvaal also it must be recognised that the restrictions on the ownership of fixed property lead to overcrowding. But Indians who are anxious for the welfare of their community, would welcome a stricter administration of the sanitary laws, provided always that the means to live decently are not denied them. (4) Enforcement of sanitary and industrial laws.

In particular, shopkeepers and their assistants should, as far as possible, be prohibited from residing on their business premises. Many arguments have been urged with force against this practice. But perhaps the most serious objection is its effect on the Indians themselves. The trader who resides on his business premises is never away from his work. Even when his shop is closed, he is immersed in his books and correspondence; he becomes absorbed in money making; he has no outside interests; mentally and physically his growth is stunted. ?

81. Lastly, in Natal, where Indians of the cultivating class are numerous, they should be given reasonable opportunities for agricultural development. The advantages of an Indian settlement in the Coast belt have already been suggested. (5) Development of agriculture.

82. It would seem to be necessary to appoint an administrative authority to carry out the policy which has been outlined. In its petition to Parliament the South Africans' League has said:— (6) Need for an administrative authority.

"That your petitioners are convinced of the failure of central administration and urge upon Government to decentralise such administration by entrusting to Municipalities the duties of enforcing the laws appertaining to Asiatics which are already in existence in this Province."

It is not necessary to discuss whether such decentralisation would be consistent with section 147 of the South Africa Act, which reserves to the Governor-General in Council the control and administration of matters specially or differentially affecting Asiatics throughout the Union. It is clear from the evidence which has been given before the Commission that the attitude of the Municipalities towards Asiatics is essentially repressive. It would not be possible, for the present at any rate, to rely on them to carry out a progressive policy.

It has been the object of the present deputation to impress on the Indian community in South Africa that they should look to the Government of the country in which they live for redress of their grievances, and should loyally co-operate with the Union Government in any measures which may be taken for their welfare. At the same time, if the need for a more constructive policy is accepted, it may perhaps be permitted to suggest that more direct personal relations would be desirable. It is recommended that the administration of the Asiatic policy of the Union Government should be entrusted to a responsible official in whom the Indian community has confidence.

83. It is feared that this memorandum has gone beyond the strict terms of reference to this Commission. But, as the Commission has already recognised, the right to trade and the right to own land cut deep into the social and economic life of the community. The problem with which the Commission is confronted is primarily economic and social. An attempt has been made to indicate the lines on which a solution might be found. It remains to consider the manner in which the law relating to trading licences and the ownership of land should be amended. It is unnecessary to discuss details here. It will be sufficient to state the general principles for which the Government of India would contend.

law relating  
to  
licences.

84. In the Transvaal a general dealer's licence is issued to any applicant by the Receiver of Revenue on payment of the prescribed fee. But under section 90 of the Transvaal Local Government Ordinance, No. 9 of 1912, a Municipal Council is empowered to refuse a licence to sell articles of food and drink for human consumption for any of the reasons specified in that section, subject to an appeal to the magistrate. Comparatively few Municipal Councils appear to have exercised this power. In the Cape Province and Natal every application for a licence to trade is considered by the local authority or by a special licensing officer, who may grant or refuse the application at discretion.

85. Economically it does not seem sound that a Municipal Council should be able at its discretion to restrict the natural development of trade and commerce. Nor does it seem fair to the applicant that his case, as must often happen, should be adjudicated by his trade rivals. In particular, it is clear from many cases which have come before the Courts, that Municipal Councils refuse an application from an Indian merely because he is an Indian, although it has repeatedly been held that this is not a fair exercise of discretion within the limit of the Statute. The Municipal Licensing Officer at Durban frankly admitted before the Commission that it was his policy to discriminate against Asiatics, although discrimination is not permitted by the law. "If," he said, "you refuse a man a licence in West Street because he is an Indian, you do not put it on this ground; you have to cover it up to a certain extent."

However, Sir William Solomon's Commission in 1914 concluded that "any recommendation to deprive the Municipality of the control of licences would be opposed to public opinion and would, therefore, be wholly ineffective." And it must be conceded that public opinion on this question has not changed. At the same time, it will be admitted that it is unfair to the Indian traders that their businesses should be at the mercy of a licensing authority which evades or disregards the law. It leads to perpetual litigation between Indians and the Municipalities, which is a constant source of irritation and expense. And if it may be permitted to say so, it does not appear to be in the public interest that the law should be deliberately disregarded by the authority which is responsible for its administration.

86. It is hoped therefore that the licensing law will be amended so as to give effect to the following principles. Firstly, it should not be possible for the licensing authority, whatever it may be, to refuse a licence arbitrarily. Secondly, it should not be lawful for the licensing authority to refuse a licence on the ground of the applicant's nationality. If these principles are accepted, it would appear to be necessary to lay down by statute the grounds on which a licence may be refused, to require the licensing authority to give the reasons for refusal, and to provide for an appeal to an independent and impartial tribunal.

It is presumed that the first principle is common ground. It is in the interest of the white trader, as much as the Asiatic, that a licence should only be refused for reasons recognised by law. It is in the interest of the whole community that trade should not be arbitrarily restricted.

It must be admitted, however, that the second principle is opposed to a strong body of public opinion. In fact, the House of Assembly last year inserted a clause in the Asiatics (Land and Trading) Amendment Bill empowering any licensing authority in the Transvaal to refuse, without reasons assigned, the application of any Asiatic who was not on the first of May 1919 carrying on business in the area for which such authority issued licences. And many people who are willing to protect existing Asiatic businesses, feel that something should be done to prevent the issue of any new licences. It must be repeated that any new restriction on Asiatics as such would be regarded, not only by the Indian community in South Africa but also by the Government and people of India, as a breach of the Smuts-Gandhi agreement, and as incompatible with the assurances which were given at the Imperial Conferences of 1917 and 1918.



87. In the Cape Province and Natal there are no restrictions on the ownership of land by Asiatics. Regarding the Transvaal, the views of the Government of India are contained in the memorandum which was laid before the Imperial Conference of 1918 :—

"On the contrary, the prohibition against Indian ownership of fixed or landed property should be repealed by Parliament, on the grounds that it tends to foster insincerity on all sides, to deprive Indians of some of the elementary rights and responsibilities of citizenship, which are not denied even to the aboriginal natives and other non-Asiatic coloured peoples of the Province, and which are possessed by their compatriots in the Coast Provinces, and especially in Natal, where the bulk of the Indian population of the Union is to be found. Transvaal Indians ought not to be compelled to regard themselves as possessing an inferior status, in this respect, to their compatriots residing in the Coast Provinces, and such a statute as Law 3 of 1885 is an anachronism and opposed to the spirit of modern legislation."

As has already been stated, the restrictions on the occupation of proclaimed land by Indians which are imposed by the Gold Law, had not been enforced in 1918, and were not then discussed. It will be understood that the right to own fixed property naturally implies the right to occupy.

88. It is hoped that this memorandum will now receive the sympathetic consideration which was promised in 1918. The difficulty of amending Law No. 3 of 1885 or the Gold Law in the present state of public opinion is recognised. It must indeed be admitted that it would be a reversal of the decision of Parliament, as expressed in Act No. 37 of 1919. But if the policy which has been outlined in this statement is accepted, it is urged that the Transvaal laws relating to the ownership and occupation of land should be brought into consonance with that policy. It has been pressed that the only logical solution of the problem before the Commission is to raise the Asiatic's standard of living. It is a condition of this solution that the Asiatic should be permitted to own and occupy land. It is not possible for him to raise his standard of living if he is continually obstructed by insecurity of tenure and by the difficulty of obtaining land for residential, business or other purposes.

Experience has emphasised the danger of any divergence between policy and the law. Understandings have led only to misunderstandings. Law No. 3 of 1885 which was accepted by the British Government as a sanitary measure, and the provisions of the Gold Law which were represented by the Attorney-General to be "a matter of sound police and sanitary legislation," are now avowedly being used by the Municipalities to restrict Indian trading. The Indians, who have only done what they were permitted to do, have been accused of evading and disregarding the laws. And the Union Government has been blamed for apathy in administration. The Indians, on their side, feel that the assurances which were given when these laws were passed, have not always been respected; and an unexpected decision of the Courts has now forced a crisis to which the Government of India cannot be indifferent. It is submitted that it is in the interests of everyone that the law should conform to policy, and administration should conform to the law.

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“ On the contrary, the prohibition against Indian ownership of fixed or landed property should be repealed by Parliament, on the grounds that it tends to foster insincerity on all sides, to deprive Indians of some of the elementary rights and responsibilities of citizenship, which are not denied even to the aboriginal natives and other non-Asiatic coloured peoples of the Province, and which are possessed by their compatriots in the Coast Provinces, and especially in Natal, where the bulk of the Indian population of the Union is to be found. Transvaal Indians ought not to be compelled to regard themselves as possessing an inferior status, in this respect, to their compatriots residing in the Coast Provinces, and such a statute as Law 3 of 1885 is an anachronism and opposed to the spirit of modern legislation.”

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## APPENDIX A.

EXTRACT FROM THE MEMORANDUM PRESENTED BY SIR S. P. (NOW LORD)  
SINHA TO THE IMPERIAL WAR CONFERENCE OF 1918.

The following would appear to be some of the principal grievances of South African Indians:—

- (1) *Trading Licences.*—It is necessary to obtain a licence in order to be able to carry on any trade or business in South Africa. Each Province has its own trading licence legislation, and the tendency recently has been in every Province to transfer the control of licences from the Government to municipalities. Although there is a system of appeals from the decision of the municipalities, *e.g.*, in Natal to Town Councils or to Licensing Appeal Boards, the right of appeal to the Courts is extremely limited. Thus, in Natal, against refusals of application for new licences there is a right of appeal in matters of procedure, but not of facts, to the Provincial Division of the Supreme Court, whereas, in cases of refusal to renew licences there is a right of appeal on facts also. It is generally contended that the municipalities arbitrarily refuse to grant licences to Indians with the improper and indirect object of destroying Indian trade, and the Indian newspapers are full of such instances. The trading rights of Indians in South Africa are a vital issue. If the Indian community remain at the mercy of their European rivals in respect of the right of their members to earn an honest livelihood by trade, it is only a question of time for the whole community to become impoverished and be reduced to industrial helotry. The remedy seems to be to give the fullest right of appeal in all cases of refusal of licences to the Provincial Division of the Supreme Court—on questions of fact as well as of procedure.

- (3) *The Ownership of Land.*—Unlike their compatriots in Natal and at the Cape, Transvaal Indians, under the old Republican Law 3 of 1885, remain under the disability that they are denied the right to own fixed property, *i.e.*, from having the legal ownership registered in their own names. The system of indirect ownership, in other words nominal European ownership, originally suggested by the Republican Government themselves, prevailed until quite recently, and is still occasionally adopted. The process is roundabout, cumbrous, and expensive, but the facts are notorious, and the circumstances are legally recognised by the Courts.

Since about the year 1914, the practice has grown up of forming and registering, under the Transvaal Companies Act, 1909, small private companies, with limited liability, whose members are all Indians (frequently an Indian and his wife), and possessing an independent legal *persona* for the purpose, amongst other things, of acquiring fixed property. All these transactions have recently received judicial recognition. It is said that attempts are now being made by interested parties to deprive Indians of this right of indirect ownership of fixed property. Recently a question was put on the subject in Parliament, and the Government spokesman replied that it was intended to examine into the question when the new companies law was under consideration. Advantage has frequently been taken by Indians of these indirect, but quite legal, methods to open businesses in townships whose private regulations prohibit the sale of stands to Indians, which, in themselves, are intended indirectly to compel Indians to reside and trade in special locations, which, again, would mean financial ruin to most of them, and against which attempt the Indian community has fought since long before the Boer War.

On the contrary, the prohibition against Indian ownership of fixed or landed property should be repealed by Parliament, on the grounds that it tends to foster insincerity on all sides, to deprive Indians of some of the elementary rights and responsibilities of citizenship, which are not denied even to the aboriginal natives and other non-Asiatic coloured people of the Province, and which are possessed by their compatriots in the coast Provinces, and especially in Natal, where the bulk of the Indian population of the Union is to be found. Transvaal Indians ought not to be compelled to regard themselves as possessing an inferior status, in this respect, to their compatriots resident in the coast Provinces, and such a statute as Law 3 of 1885 is an anachronism and opposed to the spirit of modern legislation.

## APPENDIX B.

## THE TRANSVAAL LAW No. 3 OF 1885.

Article XIV of the Convention of London of 1884 provides as follows :

All persons, other than natives, conforming themselves to the laws of the South African Republic, <sup>The Convention of London of 1884</sup>

- (a) will have full liberty, with their families, to enter, travel or reside in any part of the South African Republic ;
- (b) will be entitled to hire or possess houses, manufactories, warehouses, shops, and premises ;
- (c) may carry on their commerce either in person or by any agents whom they may think fit to employ.

2. \*Law No. 3 of 1885 in its original form was objected to by the British Government as Law No. 3 of 1885 being a contravention of the terms of Article XIV of the Convention of London. It was accordingly amended to meet this objection by the Volksraad Resolution of the 12th August 1886, and as finally promulgated it provided as follows :—

- (a) Persons belonging to one of the native races of Asia, including the so-called coolies, Arabs, Malays, and Mahomedan subjects of the Turkish Empire, cannot obtain the burgher right of the South African Republic.
- (b) They cannot be owners of fixed property in the Republic except only in such streets, wards, and locations as the Government for purposes of sanitation shall assign to them to live in.
- (c) Those who settle in the Republic for the purpose of carrying on any trade or otherwise shall be bound to have their names entered in a register on payment of a proscribed fee.
- (d) The Government shall have the right, for purposes of sanitation, to assign to them certain streets, wards, and locations to live in (ter bewoning).

3. The present enquiry is not directly concerned with burgher rights. In regard to the remaining provisions of the law, the following points are of importance :—

- (1) Its object was sanitary, not economic.
- (2) It was accepted by the British Government on the understanding that, as being a sanitary measure, it "would not apply to traders and other persons of a superior mode of life (not being coolies), whose relegation to certain districts was not necessary on sanitary grounds."
- (3) It permitted the acquisition of fixed property by Asiatics in the streets, wards and locations assigned to them.
- (4) It recognised the right of Asiatics to settle in the Republic for the purpose of carrying on trade.
- (5) Power was only taken to assign streets, wards and locations "to live in," and not for business premises.
- (6) The assignment of streets, wards and locations "to live in" was optional and not compulsory, and no penalty was provided for living outside locations.

4. After the law had been passed, however, the Government of the South African Republic claimed

- (1) that it applied to all Asiatics alike ; and
- (2) that it gave power to compel Asiatics not only to reside, but also to carry on business, in the streets, wards and locations assigned to them.

5. In 1895 the matter was referred to the arbitration of Mr. Melius de Villiers, then Chief Justice of the Orange Free State, who held that the Government of the South African Republic was entitled to give full force and effect to Law No. 3 of 1885 as amended by the Volksraad Resolution of 1886, "subject to sole and exclusive interpretation in the ordinary course by the tribunals of the country." <sup>The arbitration of 1895.</sup>

The effect of this award was to leave the question in issue for decision by the Courts.

6. In 1898, in the test case of Tayob Hadji Mohammed Khan, the High Court of the Republic held by a majority of two to one that the words "ter bewoning" in Law No. 3 of 1885 covered a merchant's place of business as well as a place of residence. <sup>Tayob Hadji Mohammed Khan case.</sup>

7. The law, however, was not strictly enforced by the Republican Government. Indians were permitted not only to trade, but also to reside outside locations. In 1898 (Government Notice No. 621), however, "the coolies and other Asiatic persons who do not as yet dwell and carry on business in locations" were ordered "to proceed to dwell and carry on business in the locations appointed for that purpose." The order was repeated in 1899 (Government Notice No. 208). <sup>Law not strictly enforced by the Republican Government.</sup> (a) Residing at trading outside locations.

\*For the history of these negotiations, see letter dated the 20th July 1904, from the Secretary of State for the Colonies to the Governor of the Transvaal.

Pretoria, did not comply; and no effect appears to have been given to these Notices prior to the outbreak of war in October 1899.\*

(b) Ownership of 8. Indians were also permitted to own fixed property outside locations through nominal white trustees. The practice of the Republican Government was thus described by Mr. Eugene Marais de locations of Pretoria in his evidence before the Commission:—

rough nominal  
white trustees.

“It is a fact that the late Republican Government appointed trustees to hold fixed property for Indians. On the Gold fields where Indians acquired land, either the Mining Commissioner or someone else was appointed to hold land in trust for Indians. That was also the practice among the natives when General Joubert was Superintendent of Natives.”

The first known case is that of Mahomed Ismail, who in 1888 purchased certain stands at Klerksdorp at a Government sale, and was permitted by the Government to register his purchase in the name of the Mining Commissioner as trustee.

The practice was continued under the Crown Colony Government. In 1903, Mr. W. E. Davidson, the Colonial Secretary, who was holding erf No. 84 at Pietersburg in trust for Ayob Ibrahim and Co., gave transfer to A. Mahomed and E. Tayob trading as Ayob Ibrahim and Co. (deed of transfer No. 4500<sup>1</sup>). Indirect ownership through a private person as nominal trustee also became common. In such cases the trustee frequently passed a mortgage bond in favour of the real purchaser and also gave him an irrevocable power of attorney.

Habib Motan's  
case.

9. In 1904 the decision given in 1898 in the case of Tayob Hadji Mohammed Khan was reversed by the Transvaal Supreme Court in the case of Habib Motan. It was then held that Law No. 3 of 1885 did not apply to the business places, but only to the residences of Asiatics, and that the Government, therefore, had not the power under that law to refuse to grant to Asiatics licences to trade in places outside the boundaries of the locations assigned to them. In his judgment the Chief Justice, Sir James Rose-Innes, emphasised the fact that “the mischief purported to be aimed at (by Law No. 3 of 1885) was an insanitary mode of life in the midst of a European population, not an inconvenient competition with the European trader.”

Legislation pro-  
posed by the Crown  
Asiatic Govern-  
ment providing:—

10. In the same year, in consequence of the agitation against Asiatics and especially against Asiatic competition in retail trade, the Transvaal Government proposed to introduce legislation providing:—

- (1) That those Asiatics who satisfy the Colonial Secretary of the Colony that their mode of living is in accordance with European ideas should be allowed to live, with their servants, outside locations, but not to trade outside locations unless they fall under (2);
- (2) That those Asiatics who had established business outside locations before the war should not be disturbed;
- (3) That with the two exceptions mentioned above all Asiatics should be required to live and trade in locations, and should be prohibited from holding land outside: this provision not to apply to land now set aside and used for religious purposes.

Reply of the Im-  
perial Govern-  
ment. terms:—

11. The Colonial Secretary, in his despatch dated the 20th July 1904, replied in the following

“Every rational precaution to safeguard the health of the community and of the British Indians themselves must, of course, be taken, and regulations securing this end with respect to their residence, and to the general treatment of the lower classes, carefully prescribed.

“But an apprehended trade competition from the British Indians now in the country, whose number is now comparatively small and will under the proposed restrictions on immigrants be in a diminishing proportion, cannot be accepted as sufficient reason for the legislation proposed. His Majesty's Government have steadily declined to allow this fear to influence their views in the past. On the contrary, for many years they repeatedly protested before the Empire and the civilised world against the policy and laws of the late South African Republic in relation to this subject.

“These laws were indeed only partially enforced, yet His Majesty's Government is now asked not merely to sanction their strict enforcement, but to set aside by legislation a judgment of the Supreme Court which has given to the British Indian rights for which His Majesty's Government have strenuously contended.”

12. It was accordingly requested that the proposed Ordinance, which was to take the place of Law No. 3 of 1885, should be amended as follows:—

- (1) Those required to live in locations should be so required for sanitary reasons in each case, while those of a superior class should be exempted and allowed to reside anywhere;
- (2) Those who were entitled to reside outside locations should at least have the right to acquire property in the premises which they occupied for business purposes;
- (3) The right of those already in the country to obtain licences to trade outside locations, should not be interfered with;
- (4) The right of newcomers in respect of trade should not be limited unless and until it was proved that the proposed Immigration Restriction Ordinance had failed to limit the influx to a minimum.

\*NOTE.—The Government Notices of 1898 and 1899 provided for the exemption of those who had entered into long leases or obtained transfer.

The proposed legislation was then dropped, and Law No. 3 of 1885 was allowed to remain as it stood.

13. In 1909 the Transvaal Companies Act, No. 31 of 1909 was passed; and in accordance with its provisions Asiatics began to form themselves into limited liability companies for the purpose of acquiring fixed property. The legality of such acquisition was tested in the case of Reynolds vs. Oosthuizen, when Mr. Justice Ward held that a company had an independent legal *persona*, that it had no nationality, and that it was not competent for him to enquire into the nationality of the shareholders.

In 1919, however, in the case of Krugersdorp Municipal Council vs. Dadoo Ltd., the Division of the Supreme Court held that the formation of such companies for the purpose of acquiring fixed property was a contravention of the law prohibiting the acquisition of land by Asiatics, and that all transfers so obtained were *in fraudem legis*.

This decision was reversed in 1920 by the Appellate Division.

14. In 1918, Sir S. P. (now Lord) Sinha, as the representative of India, placed before the Imperial Conference a memorandum on certain disabilities of Indians in the self-governing Dominions, which referred *inter alia* to the Transvaal Law No. 3 of 1885; see Appendix A. It was represented that Law No. 3 of 1885 should now be repealed. The Conference passed a Resolution recommending the questions covered by this memorandum to the various Governments concerned; and Mr. Burton, the representative of South Africa, accepted the Resolution in the following terms:—

"As far as we are concerned in South Africa, we are in agreement with this Resolution, and also with the proposal referring the memorandum to the consideration of our Government, and we will give it the most sympathetic consideration that we can, certainly."

15. At the beginning of 1919, arising out of the case of Krugersdorp Municipal Council vs. T. W. Beckett and Co. under sections 130 and 131 of the Gold Law (see below), the Member for Cape Town, Castle, moved for the appointment of a Select Committee with a view to remedial legislation. The Minister of the Interior moved an amendment extending the scope of the Committee's enquiry so as to cover the alleged evasion of Law No. 3 of 1885 by the formation of limited liability companies or otherwise. The motion was agreed to as amended.

16. As a result of the Select Committee's Report, the Asiatics (Land and Trading) Amendment Act, No. 37 of 1919, was passed. Section 2 enacted that, as from the 1st May 1919, Law No. 3 of 1885 should be construed as prohibiting

- (1) the registration of a mortgage over fixed property in favour of an Asiatic otherwise than as security for a *bona fide* loan or investment; and
- (2) the ownership of fixed property by a company in which one or more Asiatics have a controlling interest.

The legality of ownership by Asiatic companies before the 1st May 1919 was left for the Courts to decide. Such ownership has now been held by the Appellate Division to be legal in the case of Krugersdorp Municipal Council vs. Dadoo Ltd.; see paragraph 13 above.

It is understood that the primary object of this amendment Act was not sanitary, but economic, that is, to restrict Asiatic trading.

#### THE TRANSVAAL GOLD LAWS.

Law No. 3 of 1885 restricts the *ownership* of fixed property by Asiatics to the streets, wards and locations assigned to them. But it permits *occupation*, on lease or otherwise, anywhere,

- (a) for residence, by persons who are not required for purposes of sanitation to reside in locations;
- (b) for business purposes, by anyone.

The Gold Laws impose additional restrictions on the *occupation of proclaimed land* by Asiatics.

2. Section 92 of the Gold Law No. 15 of 1898 runs as follows:—

"Every white person who wishes to erect a shop, or houses or dwelling on a proclaimed field, but not in stand townships, shall make application to the Mining Commissioner for one or more stand licences and produce a diagram clearly indicating the locality. The Mining Commissioner shall decide whether such application shall be granted or not."

Section 133 says:—

"No coloured person may be a licence holder, or in any way be connected with the working of the diggings, but shall be allowed only as a workman in the service of whites."

3. In 1909, in the case of Khotas, these sections were interpreted by the Transvaal Supreme Court as follows:—

- (1) The fact that section 92 of the Gold Law of 1898 prohibited any but white persons from being the holders of stands granted under the section, does not prevent coloured persons from acquiring and exercising leasehold rights to such stands.
- (2) Section 133, prohibiting coloured persons from being licence holders or from being in any way connected with the working of the diggings, refers only to such licences as diggers' and claim licences, and does not prohibit such persons from holding general dealers' licences to trade on diggings.

Thus there is nothing in the Gold Law of 1838, as interpreted by the Courts,—which restricts either occupation on lease or trading by Asiatics.

Vrededorp 4. The Vrededorp Stands Ordinance, No. 31 of 1906, as amended by the Vrededorp Stands Act, No. 27 of 1907—

- (1) by section 4 entitled the registered holder of a stand in the township of Vrededorp to obtain a freehold title, subject to the conditions that it should not be transferred or sublet to any Asiatic, native or coloured person, and that after the expiry of four years the owner should not permit any Asiatic, native or coloured person (other than the *bona fide* servant of a white person for the time being residing on the stand) to reside on or occupy the stand or any part of it ;
- (2) by section 13 declared that after a period of four years it should not be lawful for any Asiatic, native or coloured person to reside on or occupy a stand in the township of Vrededorp ;
- (3) by section 14 expressly enacted that every transfer of such a stand and every agreement to transfer or sublet to an Asiatic, native or coloured person, if made after the 5th August 1907, should be null and void.

The Imperial Government assented to this legislation as a special case on the ground that these stands had been granted by President Kruger to indigent burghers for their personal occupation, and hence occupation by, or transfer or sublease to, an Asiatic or coloured person would be a breach of the conditions of the grant.

It followed by implication that these restrictions did not extend beyond the stands in the township of Vrededorp.

The Colonial Secretary, while conveying the assent of the Imperial Government in his letter, dated the 21st December 1906, added :—

“ I cannot allow it to be supposed that the perpetuation of the restriction of the existing law (i.e., Law No. 3 of 1885) which prevents British Indians from holding land, is acquiesced in by me, for I share the view expressed by my predecessor in his despatch of 20th July 1904, that, besides being permitted to own land in the locations set apart for Asiatics, British Indians who are entitled to reside outside locations should have the right to acquire property in the premises which they occupy for business purposes.”

legislation 5. In 1908 the Townships Amendment Act, No. 34 of 1908, and the Precious and Base Metals Act, or “ Gold Law ”, No. 35 of 1908, were passed. They apply to “ proclaimed land,” that is, to land proclaimed as a public digging.

No. 34 of 6. Under section 60 of Act No. 34 of 1908 a leasehold in a Government township on proclaimed land can be converted into a freehold, and under section 62 the Governor can lay down the conditions of such conversion. One of the standard conditions is :—

“ The lot or any portion of it shall not be transferred, leased, or in any other manner assigned or disposed of, to any coloured person ; and no coloured person, other than the domestic servants of the registered owner or his tenant, shall be permitted to reside thereon or in any other manner occupy the same.”

This was assented to on the ground that the disability on Asiatics applied only in respect of premises which it was desired to transfer from leasehold to freehold, and such transfer was not obligatory. An assurance was also given that it was not proposed to interfere with vested rights which were acquired by individuals prior to the date of the grant of freehold. See letter from the Colonial Office to the India Office, dated the 12th January 1912.

No. 35 of 7. The important sections of the Gold Law of 1908 are sections 130 and 131, which impose the following restrictions on coloured persons :—

Section 130 :

- (1) No right under the Act may be acquired by a coloured person except as provided in section 24 for native locations.
- (2) The holder of a right shall not transfer or sublet any portion of such right to a coloured person, nor permit any coloured person (other than his *bona fide* servant) to reside on or occupy ground held under such right.

Section 131 :

In the mining districts of the Witwatersrand no coloured person shall be permitted to reside on proclaimed land except in bazars, locations and mining compounds. But—

- (1) the Mining Commissioner is empowered to relax this restriction ;
- (2) the section does not apply
  - (a) to coloured persons in the employ of a white person in so far as they live on the premises where they are employed ; or
  - (b) to coloured persons who at the commencement of the Act were lawfully in occupation of premises.

8. Before the Bill was passed, the Under Secretary for the Colonies was asked in the House of Commons on the 13th May 1908, whether “ the effect of the proposed new law will be to deprive “ coloured persons including British Indians of the right which they now possess to trade or reside in “ the mining districts, and compel them to remove for both trade and residence into compounds,



"locations and bazars." The matter was referred to the Transvaal Government, and the Attorney-General, Mr. Jacob de Villiers, in his note dated the 3rd October 1908, reported as follows :—

"In every previous mineral law of the Transvaal the right to acquire mining title or privileges incidental thereto has specially been withheld from persons who do not belong entirely to European races, and, certainly, public sentiment in this Colony would not tolerate a departure from the practice of withholding such a right from coloured persons. The Act (i.e., No. 35 of 1908), therefore, throughout specially provides for the issue of prospecting permits, prospecting and diggers' licences, stand licences, and other privileges to white persons only; but no right or privilege which a coloured person has at the present time is taken away by the new Act."

Section 131 was justified on the following grounds :—

"Section 131, which before the Bill was introduced into Parliament, formed the subject of questions in the English House of Commons, and of despatches from the Secretary of State to the Governor, has been amended in Committee so as to safeguard any rights which a coloured person may at the present time have of occupying land in mining areas. But as a matter of sound police and sanitary legislation, the power to regulate the residence of coloured persons in the populous mining areas of the Witwatersrand is most essential. By the legislation passed under the Crown Colony administration the residence of such persons inside municipalities is confined to the bazars and locations set aside by the Town Council, as the coloured mine employees have always as a matter of convenience been housed in special quarters provided by their employers. But there are parts of the Witwatersrand which are not within municipalities, and it is important in the interests of public health, morality, and good order, that unauthorised and unsupervised congregations of coloured persons—many of them idlers and loafers—should not be allowed to exist so as to be a danger and nuisance to the community."

9. The Colonial Secretary, in his telegram dated the 11th December 1908, noted the assurance that no right or privilege which a coloured person then had was taken away by the new Gold Law. But he was not satisfied that the new law might not "deprive those coloured persons who had not actually acquired vested rights on gold fields, of power to acquire rights which were open to them before," i.e., under the Gold Law of 1898; and he asked for a further explanation.

On receiving a further assurance, in the Governor's telegram dated the 17th December 1908, that section 130 of the new law "carried out the spirit of section 133 of the Gold Law of 1898," the Secretary of State replied on the 23rd December 1908 that His Majesty would not be advised to exercise his power of disallowance. In conveying this intimation, he expressly noted three points :—

- (1) that section 131 (3) safeguarded any rights which coloured persons might at that time have of occupying land in mining areas;
- (2) the assurance of the Attorney-General that no right or privilege, which a coloured person had at that time, was taken away;
- (3) that by the use of the words "other places" in section 131 (1), the powers vested in the Mining Commissioner enabled him in the future to exempt coloured persons, including Asiatics of superior class, from being required to live in bazars, locations or compounds.

10. Thus the Gold Law of 1908 was assented to on the explicit assurance that it did not deprive coloured persons, including Asiatics, of any right which they enjoyed under the Gold Law of 1898. These rights, according to the ruling in Khotas' case included—

- (1) the right to acquire and exercise leasehold rights to stands granted under section 92 of the Law of 1898;
- (2) the right to hold general dealers' licences to trade on diggings.

Further, the intention of the Law of 1908, as explained by the Attorney-General in his report dated the 3rd October 1908, was not to restrict Indian trading, but—

- (1) to continue the existing law which reserved for white persons "the right to acquire mining title or privileges incidental thereto";
- (2) as a matter of sound police and sanitary legislation to regulate the residence of coloured persons in the populous mining areas of the Witwatersrand, and more especially outside municipalities.

In fact, the restrictions on the residence of coloured persons purported to be aimed, not at Indian traders, but at "idlers and loafers"; and special powers were reserved to the Mining Commissioner to enable him to permit respectable Indians to reside outside locations.

In actual practice, it is understood that Receivers of Revenue continued to issue to Indians licences to trade on premises on proclaimed land without discrimination.

11. In 1911, a Mr. Tamblin was convicted by the Assistant Resident Magistrate, Krugersdorp, and sentenced to a fine of £2 or 10 days imprisonment under section 130 of Act No. 35 of 1908 for renewing the lease of a stand to certain Asiatics, which had expired in January 1909. On appeal, the Transvaal Division of the Supreme Court held that section 77 of Act No. 35 of 1908, which provides that all the rights and obligations attaching at the commencement of the Act to a stand outside a township and acquired under Law No. 15 of 1898 or a prior law should remain in force, created an exception to section 130 of the Act, and safeguarded all rights attaching to stands under any previous Gold Law. Hence, as it had been held in Khotas' case that coloured persons could acquire and exercise leasehold rights to stands granted under section 92 of Law No. 15 of 1898, it followed that no restriction was imposed by Act No. 35 of 1908 on the letting to Asiatics of any stand, outside a township, which had been laid out under the Mining Laws prior to 1908.

Tamblin's case.

The Gold Law 12. After this decision, it is understood that orders were issued to Mining Commissioners to enforced by take no action in matters connected with Asiatics without previous reference to the Department of Mines. No further action was taken by the Government under sections 130 and 131 of Act No. 35 of 1908; and as was admitted by the Minister of the Interior in the debate in the House of Assembly on the 21st March 1919, it was never contemplated that any person or body of persons except the Government could enforce the Act.

Attitude of the 13. The Government of India were not given an opportunity of expressing their opinion on ver nment of Acts Nos. 34 and 35 of 1908 until after they had been assented to. In their despatch, dated the 11th April 1912, they said that the Acts appeared to them to be opposed to the principles enunciated in previous despatches, and in particular in Mr. Lyttelton's despatch to the Governor of the Transvaal, dated the 20th July 1904; but as assent had already been given, they considered that they were precluded from making any protest against their operation, unless evidence was adduced of their unfair administration.

Krugersdorp Mu- 14. At the beginning of 1919, however, the Krugersdorp Municipal Council took action under sec- nicipal Council vs. tions 130 and 131 of Act No. 35 of 1908, and obtained an order from the Transvaal Division of the Supreme Court interdicting Messrs. T. W. Beckett & Co. from permitting the residence of coloured persons on a stand in Krugersdorp, which had been leased by them to an Indian tailor for a shop. The Indian was not made a party to the action, which was undefended.

Act No. 37 of 15. Certain leading Indians then petitioned the House of Assembly for relief. A Select Committee was appointed, and on its report Act No. 37 of 1919 was passed. The first section of the Act deals with the Gold Law, and enacts as follows:—

Those provisions of sections 130 and 131 of Act No. 35 of 1908, which relate to the residence on or occupation of ground held under a stand licence on proclaimed land by coloured persons, and any similar provisions contained in a deed of grant or a freehold title in a Government township issued under Act No. 34 of 1908, shall not apply—

(a) to any British Indian who on the 1st May 1919 was, under the authority of a trading licence lawfully issued, carrying on business on proclaimed ground or on any stand or lot in such township, or to his lawful successor in title; or

(b) to any person *bona fide* in his employment;

so long as he carries on business in the same township.

Krugersdorp Mu- It has since been held in the case of Krugersdorp Municipal Council vs. Dadoo and Garda that al Council vs. Indian traders and their employees who fall within the terms of this section, are legally entitled to reside anywhere in the township in which they are carrying on business.

16. As previously explained, since the Transvaal Companies Act, No. 31 of 1909, was passed, Indians have frequently formed themselves into companies for the purpose of owning fixed property. The legality of such ownership has now been confirmed by the Appellate Division in the case of Krugersdorp Municipal Council vs. Dadoo Ltd.

The position of such companies in regard to *occupation* has been before the Courts in the case of Johannesburg Municipal Council vs. Madrassa Anjuman Islamia under section 4 of the Vrededorp Stands Act, No. 27 of 1907. It was held by the Appellate Division that a company is incapable of being physically present at any place, and that the occupation of the stand in question, therefore, was by the employees of the company within the meaning of the statutory conditions. The decision is now under appeal to the Privy Council.)