

Indian Opinion

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INDIANS ON STRIKE

ON Friday last the news reached us that a strike of indentured Indians employed at the coal mines near Newcastle, Natal, had commenced. The object of the strike is simply and solely to compel the Government, by peaceful methods, to fulfil the promise given to the Hon. Mr. Gokhale to abolish the £3 tax on ex-indentured Indians, their wives and children. This is their part of the passive resistance campaign, and as soon as the Government agree to bring in legislation with the desired object the strikers will return to work—this being a strike against the Government and not against employers.

Mr. Naidoo writes from Newcastle:—"Yesterday (the 14th instant) we went to the Railway barracks. Just as we were explaining the position to the people, someone went and fetched the Station-master who came straight to me and asked me what I was doing there. I told him that I had gone there to advise my people to strike work, pending the removal of the £3 tax. He then told me that I had no right there and that he was going to charge me with inciting to cause disturbance. He said the same thing to Messrs. Bhawani Dayal and Ramnaran. We said that he was quite welcome to do so. The poor ladies tried their utmost to get arrested but they could not succeed. They forced their way into the barracks and called upon all women and men to come out, thinking, if they did so, they also would be arrested, and they told the sergeant who came to arrest us that they were also advising these people. But the sergeant took no notice of them and we three were sent to the Charge Office and then to the Gaol where we passed the night in a clean cell but which was full of bugs. We were taken to the Court at nine o'clock the next morning. There were several merchants, also many other Indians, at the Court. We were charged under Sec. 1 of the Ordinance of 1850, that is for inciting the people and obstructing and forcibly preventing peaceful servants from performing their duty. I pleaded guilty to inciting the people to strike but said that no force was used and that no obstruction whatsoever was caused to those who wished to go to work, and that I did counsel them not to go to work until the £3 tax was removed, and that I, as a passive resister, would never use force. The Magistrate, after going through the law-book, found us not guilty, but told the sergeant he had charged us under a wrong law and that he could charge us under the Immigration law; but, instead of doing so, they re-charged us for trespassing under certain Railway laws. I told the Magistrate that I could not understand how they could charge us for trespassing as we went to the Railway barracks by the invitation of one of the Indians who lived there and who is a railway servant. He (the Magistrate) said that I ought to have got permission from the station-master to go there. I said that there were many Indians who went there every day to see

their friends and who did not get any permission. He sentenced us all to £2 fine. I said that we had no money and that we were not going to pay. The Magistrate said "alright you can go; I shall execute."

"We all went to the Fairleigh Colliery on the 15th. All men there have agreed to strike to-morrow. There are about 36 men on that mine. If these are not arrested to-morrow, I intend to take some of them with me to go to another mine. I am told that there are about 400 men there. I hope to get them all out. We are being well looked after by Mr. and Mrs. Lazarus. The poor lady is working from morning to night for us. The Johannesburg ladies have also sufficient to do. They go about with us as advisers."

The Movement Spreads

Mr. Ephraim writes under date the 16th instant:—

"Mr. Kallenbach arrived at Newcastle at 2 p.m. A meeting was summoned immediately. He referred to the £3 tax. He advised the people to be and remain strong.

"A meeting was also held in the compound of Fairleigh Colliery. About 78 struck work next day. Four were arrested and imprisoned for two weeks with hard labour."

"On Friday the movement spread beyond expectations and assistance became necessary to cope with the work. Mr. Polak left on a few minutes' notice for Newcastle by the mail train and arrived here on Saturday early in the morning. He immediately set to work and saw the Magistrate and the mine managers, assuring them that the Indians did not wish to create a disturbance, that no force would be used at any stage, that men on the mines and everywhere would be informed of the position and advised to strike work until a promise was given of the repeal of the £3 tax; that, as soon as the tax difficulty was settled, the men on strike would no longer be called upon to participate in the movement and that this step had become necessary as it was stated that the Natal employers of labour were averse to the tax being removed. Mr. Polak's advent has further strengthened the movement and at the same time calmed the situation considerably. All kinds of rumours were afloat about the intentions of the leaders. But now that the real situation is known the irritation caused among the Europeans by the suddenness of the strike has been largely removed. The other Collieries, too, have struck work. The appearance of the brave ladies simply acts like a charm and the men obey the advice given them without any great argument being required.

"It is stated that General Botha, who happened to be at Newcastle at the time the strike commenced, was interviewed by the mine managers on the situation."

Strike Jottings

Mr. Dwarkasingh, a leading storekeeper of Newcastle, has agreed to waive all his book debts against those of his customers who are on strike or in gaol.

A meeting was held at Dardnhauser under the chairmanship of Mr. Sheikh Ameer. Over 1,000 Indians were present and all decided to strike. The news spread throughout the district like wildfire.

European opinion in Newcastle is almost unanimous in regard to the justice of the demand of the strikers. Many agree that the strike was the only course left open.

A telegram received on Monday night informs us that the men of the Newcastle, Cambrian and Durban Navigation Collieries came out that day. About 2,000 were affected at the time of wiring.

Mr. Gandhi proceeded to Johannesburg to attend a meeting of the European Committee on Tuesday.

Our correspondent understands that General Botha is in telegraphic communication with his colleagues on the question of the strike.

The families of those who have gone to gaol are being supported by the Indian community. It is expected that large numbers of strikers will have to receive food.

A party of 15 proceeded from Newcastle on Saturday to Volksrust to court arrest.

The Transvaal ladies are engaged in looking after the wants of the women and children.

Arrangements are being made for continuing the water and sanitary services on the mines where work is suspended.

Stormy weather prevails and our correspondent says it was a most pathetic sight to see the women and children trudging patiently into Newcastle.

A prominent auctioneer of Newcastle, a stranger to Mr. Naidoo, expressed his feelings to him, saying that he was in full sympathy with the movement and that, if the Indians stand and fight, he would assist financially.

Thirteen men from the Fairleigh Colliery were charged and sentenced each to two months' imprisonment.

Five waiters from the Commercial Hotel and three employees at the Cottage Hospital were also sentenced to two months' imprisonment for striking.

The Transvaal ladies and men took up hawking on Thursday. The Police would not arrest them. In reply to some people who complained to the Chief Constable, the latter said that there was no room in the gaol.

A committee has been formed in Durban, with Mr. Dawad Mahomed as chairman, Mr. O. H. A. Jhaveri as secretary and Mr. E. M. Paruk as treasurer, for the purpose of collecting funds and foodstuff for the strikers.

In Support of the Struggle

The following resolution was unanimously passed at the meeting called by the Anjuman Islam at the Grey Street Mosque, Durban, on the 3rd instant. The audience included prominent Mahomedans, Hindus, Parsées and Christians. Mr. M. S. Randeree presided and speeches were made by Messrs. Osman Ahmed, Dada Osman, Abdul Hack, M. C. Anglia and others:—

"This meeting of the Anjuman Islam deeply regrets the decision of the Supreme Court that single Indian marriages lawfully celebrated according to religious rites are not protected by the Immigration Act. The Court has, in effect, condemned 99 per cent. of Indian marriages which are as fully monogamous as any European marriage.

"The meeting strongly protests against what it is bound to regard as the bad faith of the Government in raising the question in view of the official adoption of an amendment to the Immigration Bill specially designed to protect such marriages, and regards the action of the Government, which deeply wounds the

religious susceptibilities of all Indians, as a further justification for passive resistance."

The Private Secretary to the Governor-General has acknowledged the above resolution by telegram, which says: "I have to acknowledge the receipt of your telegram of 3rd October, the substance of which is being communicated to the Secretary of State for the Colonies with request for transmission to Secretary of State for India."

The following is a copy of a telegram addressed by Mr. V. Devshi (Chairman) Kathiawar Arya Mandal, to the Minister of the Interior:—

"This Mandal, having considered Mr. Cachalia's letter Government, associates itself with the demands therein contained, and fully endorses action British Indian Association, also request full protection of law against Supreme Court's decision that monogamous Indian marriages celebrated according to Hindu and Mahomedan rites are not monogamous but polygamous. My Committee trusts Government will consider the reasonable request and prevent further suff-rings."

European Sympathy

In our report last week of the Hindus' meeting in Johannesburg, we were compelled to hold over the speeches of Messrs. William Hosken, L. W. Ritch and H. Kallenbach.

Mr. Hosken said that those assembled were fellow British subjects, and he was in full accord with the spirit of the resolution. They were making a noble action in adopting it. Europeans could not enter into the spirit of the resolution the same as those who had sacrificed themselves for its purposes. He was convinced that every thoughtful white man here and in Great Britain admired the position they had taken up. English people had for centuries at certain times adopted passive resistance. He thought that for those who had no Parliamentary representation passive resistance was the best means to gain their ends. He hoped they would have the courage to continue. He did not wish to urge them on to lines they might regret; but he was sure they were on the way to ultimate success and recognition of the movement which was impelled by self-sacrifice. It would be good for white people if they recognised the deep things of life and conscience which touched the soul that were behind passive resistance. There had been a meeting in his office of white men who were prepared to help them to be free men. A resolve was made to take a certain line of action to help those at the meeting and others. A letter had been drafted to the Government to ameliorate the condition of the Indians and asking that those who drafted the letter should act as go-betweens.

Mr. Ritch (formerly Secretary of the British Committee, London) said that Mr. Hosken and he were looked upon as renegades by supporting the people assembled. He was there and he shared the reverence of his Indian brothers for their cause, and he had regard for his white brothers there. Pledges had been given by the Imperial and the Union Government, and it was the duty of every white citizen to see these pledges carried out. The position was that a large section of the Union—British subjects—were being regarded as outcasts and pariahs only fit to associate with the dogs of South Africa. The Union Government had played false. The real grievance was the way resident Indians were treated in the Transvaal and the other Provinces. There should be less of the attitude of God Almighty of the white to the black, and more of the man-to-man principle—that was the solution of the problem. He and his fellow-members in London looked upon this as the solution. Passive resistance was to be advocated and not bomb-throwing. The Indian method was a clean one of putting their grievances forward, and they deserved better and fairer treatment at the hands of the Government.

He and other Europeans resented the attitude of the Government, which was unjust, and would help passive resistance all they could.

Mr. Kallinbach said that expression had been given to the sentiment that Europeans were hostile—they were hot; otherwise they would not purchase from Indians.

From the Editor's Chair

THE STRIKE

THE strike of the indentured Indians, foreshadowed on the statement supplied to the press and published in our last issue, has commenced earlier than was expected. It is again due to the action of the Government who have failed to realise that the movement this time, is much stronger than it ever has been, and that passive resistors have a much greater spirit of self-sacrifice than before. They allowed the ladies, who wanted to be arrested at Vereeniging, to cross the Natal border without let or hindrance. The ladies and the leader who accompanied them meant business. They went to Newcastle, found work ready for them and they set to it with apostolic zeal. The presence of these brave women, as our reporter says, "has acted like a charm," and men have willingly left off their work. This strike will, no doubt, create a dislocation of business. But it is inevitable. Evils cannot be removed without involving pain necessary in the process of purification. It was impossible for the community to fight the £3 tax battle without inviting those directly affected by it to join it. Nor can the Government plead that they have been taken unawares. We shall print correspondence between the Minister of the Interior and Mr. Gandhi which shows that General Smuts was warned of what was to be expected. His reply shows that he did not attach any weight to the warning. And it may still prove that he was right and that the strike may fizzle out. It is a bold, dangerous and momentous step. Such concerted action has not been tried before with men who are more or less ignorant. But with passive resistors nothing is too dangerous or too bold so long as it involves suffering by themselves and so long as in their methods they do not use physical force. They can only work, leaving the results to work themselves out, confident in the knowledge that every cause must produce its corresponding effect and that, therefore, a good cause must produce a good effect although one may not always notice it.

It is well that it has been made clear that the strike is confined only to the question of the £3 tax. The remedy, therefore, is in the hands of the employers of Indian labour and the Government. The former can compel the Government to declare that the hateful tax will be removed during the next session of Parliament and the strike will cease.

GENERAL SMUTS SPEAKS

THE Pretoria correspondent of the *Rand Daily Mail* reports to his paper as follows:—

"General Smuts made a short but decisive statement this morning in connection with the Indian question.

"There are, he said, only two questions outstanding between the Indian community and the Government. The first is the recognition of polygamy, on which the Government is not prepared to give way. The Government will not recognise Mahomedan marriage, which allows polygamy, and in which divorce takes the form of simply telling a woman to *voetsack*. Mahomedans must be married according to the law of the Union. In addition, they object to a special law being passed applying to Indians only, and the Government are not prepared to pass one which would apply also to white people.

"The second point is the question of allowing Natal indentured Indians and their children to go into the Cape. This question was fully discussed in Parliament at the last session, and the Cape members were very much opposed to it.

"The Government say that Indians must pass the educational test applied to white people under the new Immigration Act."

We know that General Smuts was decisive in 1907. He would never repeal the Act of 1907. He bowed to stern facts in 1908 and undertook to repeal the Act. He was equally decisive in 1909 when he wrote to Lord Crewe, saying that the racial bar of the Transvaal Immigration Act would never be removed and that South African public opinion would never tolerate it. He reconsidered his views in 1910 and undertook to remove the racial bar. It is, therefore, fair to assume that force of circumstances would again compel reconsideration of his views now so decisively pronounced. On the two previous occasions he was frank enough to admit that it was passive resistance to which he yielded. It is the same resistance he is meeting with this time. There is no reason to suppose that the twice-tried weapon will not answer the purpose now. And, in yielding, General Smuts would only show his statesmanship and not his weakness. He knows that, as a ruler, he must accept the will of the ruled. He insists, and rightly so, upon knowing that will with definiteness. The community is engaged in showing him what its will is. All this is reasonable and as it should be.

But General Smuts has ungallantly insulted a great religion and has chosen a most questionable method of expression. He has allowed himself to stray away from facts and to speak of Mahomedan marriages and divorces in a flippant and unworthy manner. His words will rankle in the Indian mind, not only in South Africa but the whole of India. He has chosen to speak emphatically on a subject he evidently knows so little of. He forgets that the community has not asked for legal recognition of polygamy. It only asks for such recognition of *de facto monogamous* marriages. Indians do not object to a special law being passed to grant legal recognition of Indian marriages. Here there would be no question of a racial bar. What is there applicable to whites in the marriage law, saying that Hindu and Mahomedan marriages shall be accepted as valid by the South African Courts, provided that the marriage is restricted to one wife only? For General Smuts to talk of Mahomedan divorce "taking the form of simply telling a woman to *voetsack*" (get out, dog) is to utter blasphemy. If he were to compare statistics he would very probably find that Mahomedan divorces are rare and certainly not as frequent as European and American divorces, which are becoming a scandal and are corrupting society. He can know, if he cares, that a Mahomedan marriage is still, thank God! a status and not a contract. He may learn also, if he will, that there are no collusive divorces among Mahomedans as are to be found among Europeans with fatal frequency. And, finally, if he will pay a visit to India, he will find that the sanctity of an ordinary Mahomedan marriage is just as great as that of any other marriage in any part of the world.

His statement about the Cape law is just as misleading. The community has not asked for permission to Natal indentured Indians to enter the Cape. Children born in South Africa of Indians resident therein have, hitherto, enjoyed the right of entering the Cape. The new Act has taken away the right. The community asks for its restoration. This is different from the mischievous suggestion made by General Smuts that we are asking for something new and that, too, much wider in scope than the reality. Add it is preposterous for him to suggest that white men and women, born in South Africa, have to pass the education test on entering the Cape or any other Province of the Union. In trying to prove too much, he simply spoils his case.

HANDS OFF!

MR. CURSETJI H. DESAI, of Krugersdorp, has carried on interesting correspondence with the Krugersdorp Municipality regarding the use of benches in the public gardens at that dorp. Mr. Desai and other Indians went one day to the gardens and thought that, as rate-payers, they might use the public benches for which they had at least partly paid through the rates. The caretaker thought otherwise and asked the Indians to leave the bench they were occupying. The party refused. Thereupon the caretaker threatened to summon the police. In order to avoid a scene, the party left the bench. Mr. Desai complained to the Town Council which replied that the caretaker was within his rights, as the Town Council had a bye-law which prevented Asiatics and coloured people from using benches in the Municipal gardens on pain of being fined £10 or being imprisoned.

Mr. Desai drew the attention of the Council to the fact that the other Municipalities did not go so far. The Town Clerk replied that that was no concern of the Krugersdorp Municipality. Mr. Desai seems to have dropped the correspondence at this point. We would advise Mr. Desai and his friends to join the passive resisters and to court imprisonment by using these precious benches. The bye-law is an insulting piece of legislation and should be disregarded. Indeed, we consider it to be *ultra vires*. No Municipality can pass racial bye-laws without special authority. And we are surprised that it ever received the Governor's sanction. The Krugersdorp Indians may, if they do not wish to be passive resisters, make a test case. In any event, we hope that they will not sit still under this deliberate insult and deprivation of a simple right.

News of the Struggle

Mr. A. M. Ephraim writes from Newcastle:—

An extraordinarily enthusiastic meeting of British Indians was held in St. Oswald's School-hall on the 13th instant, about 200 being present on the occasion. Mr. L. Seedat was elected to the chair. Messrs. T. Naidoo, Bhawani Dayal, A. M. Ephraim, D. Lazarus, H. S. Ebrahim, Mesdames Moorgan, P. K. Naidoo and T. Naidoo were amongst the chief speakers. The main questions at issue were (1) the abolition of the £3 tax (2) Colonial-born Indians' right of immigrating to the Cape (3) the marriage question (4) the licensing affairs and (5) the domicile disturbance. The following resolution was proposed by Mr. Lazarus, seconded by Mr. S. Ebrahim and carried unanimously:—

"That this meeting of the Indian residents of Newcastle heartily associate themselves with the passive resistance movement and, having read the letters of Mr. Cachalia to the Government, fully endorse it and undertake to abide by the movement till redress is obtained. The meeting also most heartily congratulates the brave sisters and brothers who have set an example by going to gaol."

Besides the Chairman, the following officials were elected:—

Secretary: Mr. Abdial Ephraim, Treasurer: Mr. Amod Vawda, Committee: Messrs. D. Lazarus, M. R. Chetty, M. M. Pillay, M. R. Currian, M. R. Tomy, Ebrahim Khaki, Suliman Seedat, and Amod Dawjee. Amongst those that came forward to court imprisonment at their earliest convenience were Messrs. Moonasamy Naidoo (Railway Sirdar) Messrs. M. R. Chetty, Simon Ephraim and R. M. Kurrian.

On the 13th instant, at Johannesburg, Messrs. P. K. Naidoo, Jivan Premji (Chairman Patidar Association) Mawji Premji (Vice-president) Kunverji Dulabhbhai, Dayal Parbhu, Jivanji Devji, Morar Kanji, Parbhu Chhana, Coopcosamy Naidoo, Narayansamy and Krishnasamy went out hawking with a view to be arrested. They tried everywhere. They went to the

Police but their instructions were not to arrest. The band therefore, returned thoroughly disappointed. They are now seeking some other means of arrest.

Messrs. Badat and Vallibhai write in highest terms of Mrs. Shaikh Mehtab's courage. The former states that, at the Charge Office, Mrs. Mehtab was called upon to give her finger-impressions. The police threatened, but Mrs. Mehtab remained resolute. Mr. Badat says that the Volksrust Committee is taking action in this matter. Young Mehtab (seven years) tried his best to remain with his mother but it was of no avail. He is being looked after by Mr. Badat, pending his being sent to his father.

Mr. Gandhi left Durban on Sunday night by the Kaffir Mail for Newcastle. He was accompanied by Messrs. N. Dookhie, M. R. Pillay, Antony Sabastan, Pappah and Ramkissoo whose destination was Volksrust where they intended to court arrest as passive resisters.

At a crowded meeting of the Colonial-born Indian Association on the 16th instant, the following resolution was unanimously passed:—

"That the Colonial-born Indian Association hereby announces its general approval of Mr. Gandhi's policy, its appreciation of his patriotic leadership and its sympathy with the passive resistance movement."

A crowded meeting of the Hamidia Islamic Society was held on Sunday and a resolution strongly condemning the reference by General Smuts to Mahomedan marriages was carried with enthusiasm.

On the 16th instant, Messrs. S. B. Medh, Pragji K. Desai, Manilal Gandhi, Veerasamy Francis, Soopia Pillay, Anamaly, Khusal Morar, Bhaga Mancha, Dhaya Purbhoo, Rajoo Narsoo and Willy Morgan re-appeared before Mr. Jordan with reference to the charges against them under the Asiatic Act. The charges against all were withdrawn, on instructions from Pretoria. They were marched to the Court-house handcuffed. The last two of these Passive Resisters, whose sentences for hawking licenceless had expired on the morning of the 4th had elected to remain in custody pending their trial under the Asiatic Act.

On the 18th instant, Messrs. Medh, Desai, Manilal Gandhi, Veerasamy Francis, Soopia Pillay, Anamaly, Khusal Morar, Bhaga Mancha and Dhaya Purbhoo were discharged on the expiry of their ten days' sentence for hawking without licences. They were met outside the Fort by a number of friends and were presented with button-holes by Mr. Abdul Karim. The work allotted to them on this occasion was pick-and-shovel work at the Jeppe High School. They state that Indian prisoners are still not allowed ghee. They state, further, that they approached the Superintendent for permission to write to the Director of Prisons in the matter, to which the Superintendent replied that he would write himself, recommending that ghee be not given. The resisters also approached the Visiting Magistrate and he promised to write on their behalf; but the Superintendent intervened, saying that he personally would write and to the effect that ghee should not be given, as it had been found that the criminal prisoners who were serving sentences under three months had not lost weight through the absence of ghee from their rations. If the prisoners wanted these things, he said, they should remain outside. He himself might like to have a drop of whisky, but could not get it when he was in. (He forgot, we presume, that whisky was a luxury, whereas some form of fat was a necessity, according to medical testimony.)

On the 12th instant, Mr. Ritch addressed the Johannesburg Labour Party at the Vaudette Theatre on the subject of Passive Resistance.

Passengers in Trucks

A correspondent at Umgeni informs us that, on the 11th instant, he was waiting at Umgeni Station to meet a friend coming by the 2-40 p.m. train from Durban. On the arrival of the train he was surprised to see what he described as the shocking sight of Native and Indian passengers (women and children) herded together in an open truck. The rain threatened to fall every moment and, before the train could have reached the next Station (Greenwood Park) it commenced. He asks what would be the condition of these unfortunate third-class passengers—most probably soaked to the skin before they had gone far. No seats were provided for the passengers. Our correspondent states that this is not the first time this has happened but he has seen this kind of thing on several occasions.

[NOTE: We are calling the attention of the General Manager of Railways to the above matter.—Ed. I.O.]

Immigration Appeal Board

The Durban Indian Immigration Appeal Board disposed of a number of cases on the 10th instant.

Judgment was given in the case of a woman, named Kulsun Bibi. As a special case the matter had come before the Supreme Court, who decided that the woman's marriage having been celebrated in accordance with Mahomedan rites was of a polygamous character, in spite of the fact that her husband had no other wife at the time.

Mr. Binns intimated that, in view of this ruling the Board had to dismiss the appeal.

Mr. Eugene Renaud asked that judgment should be delayed for three weeks in order that he might decide whether he should take the Supreme Court's ruling to the Appellate Court.

The Chairman said that the Board could not delay judgment, and that the question of the woman's immediate future was a matter which Mr. Renaud would have to arrange with the Principal Restriction Officer.

At the request of Mr. J. H. Nicolson the case of Fatima Begun was adjourned till November 30th in order that he might find out whether the preceding case were to go to the Appellate Court. The cases were similar.

Mr. E. Renaud appeared for Cheeba Devjee, a boy, who was restricted in 1911. Following this an interdict was obtained from the Supreme Court preventing his deportation. Subsequently the interdict was discharged, but the boy then disappeared, and he has only now been found.

The Board held that they had no power to review the action of the Immigration Officer in 1911 when the law was different from what it is to-day, and dismissed the appeal.

Mr. Renaud asked that the Board state a case to the Supreme Court.

Mr. Romer Robinson appeared in the case of Kheroo Begun, a woman. Evidence showed that she was married to Yasham Khan in India according to Mahomedan rites, and that she is the only wife the man has at present.

The Court pointed out that, in view of the Supreme Court's decision in Bibi's case the appeal must be dismissed.

Mr. E. Renaud represented Jalum Chowdaree, who left this country in 1905, and has just returned. Mr. Darby, who appeared for the Immigration Department in all the matters, contended that the appellant by going to India and remaining there for eight years, during which time he earned his living there, kept a home and owned property, had abandoned any domicile he might have in Natal.

Mr. Renaud submitted that the man had property in Natal, and added that he went to India in order to

dispose of the property he had there, and had been detained for the eight years by litigation in connection with it. He had not abandoned, nor did he ever intend to abandon his domicile.

The Court reserved judgment.—*Natal Mercury*.

Mr. Fischer's Pronouncement

A Reuter message from London, dated the 17th instant, states that Reuter's Agency understands that Mr. Fischer has been in consultation with the Imperial Government on the Indian question. With reference to the Indian question, it is understood that the Union Government will not welcome interference on the part of India, and it has been pointed out to the Imperial Government that while there is no chance of altering the existing law, administrative measures are possible with a view to meeting some of the points raised by the Indians. This, however, will be out of the question if the policy of passive resistance is maintained.

A Statement

Mr. Fischer, who is returning to South Africa tomorrow much improved in health, was interviewed by Reuter's Agency to-day. He said: "My own department deals with the Indians, and it is impossible to alter the law on any material point. Indeed the spirit in South Africa is to make the law more strict. The Government will be content to let the law stand. To meet the views of the Indians we will make administrative arrangements where we can, but the popular sentiment and needs of South Africa must be considered. Therefore the Indians in their own interest must be cautious and moderate. If the Indians abandon theoretical questions and adopt a practical standpoint, then a *modus vivendi* is possible."

The House of Lords Debate

(Continued)

The MARQUESS OF CREWE continued:—

The noble Lord opposite resented bitterly the use of the argument that a self-governing Colony or Dominion could not be brought to book if it in any way departed from the standard which we ourselves might desire to see adopted, although what would be the precise standard which we ourselves should adopt in this country if we were liable to large immigration either from Asia or from Africa it is not altogether easy to say beforehand. The noble Lord on the Cross Benches has been Governor himself of an important Dominion, and he knows very well what the limitations are and what the possibilities are where these racial questions arise, and he, I am sure, will agree that a policy of patience, but at the same time of plodding attempts towards the improvement of conditions, is the only practical policy which we can pursue. The noble Lord opposite speaks of the injury which is inflicted on British prestige in India, and it is no doubt of most serious matter that Indian opinion should be stirred by the complaints of their fellow-countrymen in another part of the Empire. I feel great sympathy with my noble friend on the Cross Benches in his expression of the desire that there had been a fuller circulation throughout India of some of the Despatches in which the Government here stated its views and desires, but I think the best service that anybody can render to Indian opinion in this regard is not to overstate the disadvantages of the position of the Indians in South Africa, however serious they may be, but to fix rather upon real and positive grievances than upon those which, however seriously they may be felt by some, are not widespread in their operation, and which do not inflict practical injury upon those who suffer from them.

LORD AMPHILL: May I ask the noble Marquess who has overstated the case?

THE MARQUESS OF CREWE: I say it is quite possible that the case may be overstated in India—I was not accusing the noble Lord of having done so—by some of those who are not acquainted with the difficulties with which the whole matter is surrounded. The valuable criticism is that, to my mind, which fixes itself upon positive disabilities and injuries from which a considerable number of persons may suffer, rather than upon isolated cases or those disabilities which involve more injury to sentiment than in actual practice. It seems to me that by far the best chance of a friendly solution of the whole question—I do not say a final one, because the word finality is, I think, not suited to the situation—can be best arrived at by a policy of patience and moderation of the kind which I have attempted to indicate.

(To be continued.)

The Position of Indian Wives

The *Natal Mercury*, in the course of a leading article on the Supreme Court judgment, says:—

We do not question the Court's reading of the law but it is alleged that the section on which the decision is based does not carry out the professed intention of the Government, and, in any case, it is a section that ought to be altered. The section in question provides for the exemption from the prohibition clause of "the wife or child of a lawful and monogamous marriage," and the effect is to bring under the prohibited class the wives and children of all Mahomedans whose religious faith permits of the marriage of more than one wife. But if a Mahomedan, notwithstanding the latitude allowed by his religion, chooses to have one wife only, why should she be excluded from the country if admissible on other grounds? Then, why extend the exclusion to the children on the religious ground alone? A Mahomedan youth converted to Christianity would be an undesirable, under the wording of this law, simply because his parents were Mahomedans. The racial bar is bad enough, but a religious bar is worse. The restriction of Asiatic immigration is the accepted policy of the Union, but in the carrying out of that policy let this British Dominion observe some respect for justice. There are provisions in the Immigration Regulation Act which are a blot upon the Statute-book.

The Colour Bar in Education

At a meeting of the Rand Central School Board on the 3rd instant, Mr. J. J. Ware (Vice-chairman) moved a resolution disapproving the action of the Finance, Building and General Purposes Committee in not forwarding for discussion by the Board the undernoted resolution, and that this resolution be now adopted by the Board:—"That this committee, while deeply appreciative of the energetic and satisfactory manner in which the teaching of trades (manual training) to white boys is being carried out, earnestly hope, in the true interests of those boys, that the teaching of trades or of the use of tools to coloured people and natives will be sternly discountenanced by the Rand Central School Board, and request that Board to pass a definite resolution to such effect."

Mr. Hosken could not agree that the procedure adopted by the committee was wrong. On the colour question he said it was astonishing to find that they were getting back to the mid-Victorian period and saying that they would keep those people without training so that the white people might have a better chance. To his mind it was inhuman and cruel to keep these people as labourers. The only possible way for the white man to maintain his ascendancy was to uplift the lower races. For the School Board, with their responsibilities, to accept such a resolution as that of Mr. Ware's would be monstrous, and he trusted

that the Board would never commit itself to such a sentiment. If the skilled tradesmen wanted to advantage their position by such a method as that, they deserved to lose their responsibility. To pass such a resolution would be a disgrace to the Board and would bring the whole community into contempt. He trusted they would reject it.

The resolution was withdrawn owing to strong opposition.

Latest Information

Newcastle, Tuesday.

To-day the following ladies from the Transvaal were arrested here under the Vagrancy Act as "idle, disorderly or suspicious persons." They admitted having come to Newcastle peacefully to advise the mine labourers to suspend work until the Government gave an unequivocal undertaking to repeal the £3 tax. They refused to give any other account of themselves or to cross examine. They were sentenced to the maximum penalty—to pay a fine of £5 or to be imprisoned with hard labour for three months. The ladies joyfully accepted imprisonment which they had been courting three weeks.

In sentencing, the Magistrate made insulting references to Mr. Polak, who was watching the proceedings, and told the ladies he hoped that the strikers would later retaliate upon them. Much indignation was felt amongst the local Indians at the Magistrate's bitter language to the ladies. These sent the message to South African Indians that they hope their example for their country's honour will inspire all to continue the struggle until victory is won. The names are: Mrs. Bhawani Dayal, Mrs. Thambi Naidoo, Mrs. N. Pillay, Mrs. K. M. Pillay, Mrs. A. P. Naidoo, Mrs. P. K. Naidoo, Mrs. K. C. Pillay, Mrs. N. S. Pillay, Mrs. R. A. Malingam and the Misses M. and M. B. Pillay and six infants.

The photograph of Mr. Budree which we give as a supplement to this issue is the work of Mr. Bryan Gabriel, photographer, Durban.

The Times, in an editorial on the Indian passive resistance movement in South Africa (says a Reuter message from London) indulges in a denunciation of the Union Government, whose attitude it describes as totally unjust, and says that further steps are obviously necessary to prevent the serious injury which a prolongation of passive resistance would inflict upon South Africa and the Empire. It asked if the situation would not be remedied if the Government of India were to send its own official representative to South Africa to discuss the problem first hand.

Our readers will be interested to learn that Mr. Khetsee Haree has been notified by the Immigration Department that his wife, Santok Behn, is to be permitted to remain in Natal, all further proceedings against her being now withdrawn. But for the intervention of the Courts, she would have been deported to India last May. Since that time and until the 21st ultimo, Mr. Khetsee Haree has had to attend no less than thirty times at the Immigration Office in order to obtain the extension of his wife's visiting pass. What his feelings are on the subject may be better imagined than described.

Passive resistance and a plethora of crime are reflected in an announcement which was made at the monthly meeting of the local branch of the Prisoners' Aid Society yesterday (says the *Mercury* in its City Notes of Friday last), in which it was stated that the official visitors had submitted their report, showing that at the present time "something like a record is reached regarding the number of inmates of the gaol."

TREATMENT OF PRISONERS.

Messrs. Surendra B. Medh, Pragji K. Desai, and Manilal M. Gandhi have addressed the following letter, dated the 7th inst., to the Press:—

"We were sentenced last week to seven days' imprisonment with hard labour, as passive resistance hawkers, and discharged to-day. We had ample experience of gaol life during the second Passive Resistance Campaign. During our previous incarcerations we were always supplied with ghee, which is a substitute for fat, but this time none was supplied to us. It has been proved by medical testimony that some fat is necessary for the maintenance of the human frame in good order. The diet supplied to Indian prisoners consists of mealie meal, beans, rice, vegetables and bread. These articles do not contain any fat at all. We explained this to the authorities, but without avail. They, however, if they could not give us encouraging replies, at least were not rude to us. But Dr. Visser called us 'b-coolies,' because we would not indecently expose ourselves in public, but requested that our medical examination should be conducted privately. Thanks to the Superintendent of the gaol, we were spared the ignominy of public exposure, but it was clear from Dr. Visser's remarks that, if he could have done so, he would have had us punished and confined in solitary cells for disobeying his orders. Perhaps Dr. Visser does not know that to an Indian to expose his whole body publicly is a breach of morality and religion. Such treatment as his is but a symptom of the disease against which Passive Resistance has been undertaken by the community to which we have the honour to belong. We shall soon have the pleasure of renewing the worthy Doctor's acquaintance, but we trust that you, who are presumed to voice and mould public opinion, will use your pen in protest against the brutal treatment to which we have drawn attention."

The Chairman of the British Indian Association has addressed the following letter, dated the 9th inst., to the Director of Prisons:—

"Messrs. Medh and other British Indian Passive Resisters, who last week served a term of imprisonment at the Fort of Johannesburg, complained that Dr. Visser was unnecessarily and wantonly rude and insulting to them. They were asked to strip themselves entirely bare in the presence of other prisoners, for medical examination. They respectfully submitted to the Doctor that it was contrary to their moral scruples and to their notions of decency, and they added that they were prepared to submit to the examination in a separate cell. Dr. Visser grew angry over this request and used most insulting language. The exact expression used by him was 'the coolies.' He also charged them with disobedience, but my Committee is informed that the charge was never pursued, and that upon their complaining to the Superintendent of the gaol they were privately examined. My Committee hopes that an inquiry will be instituted into this complaint, and necessary steps will be taken to prevent officers using language alleged to have been used by Dr. Visser, even though it be towards prisoners.

"The discharged Passive Resisters also complained that there was no ghee or any vegetable fat supplied with their meals, as used to be the case before. Their meals, my Committee understands,

consists of rice, mealie meal, vegetables, and a little bread. My Committee showed, it is submitted, during the last campaign of Passive Resistance, that ghee or some vegetable fat was absolutely necessary for maintenance of the human frame in fair order. My Committee understands that animal fat for one of the meals still forms part of the diet given to the native prisoners. It is therefore respectfully requested that instructions will be issued to supply one ounce of ghee per day, as was the case formerly with British Indian prisoners, who are precluded from taking meat or animal fat."

THE FINANCIAL RELATIONS.

The following important letter has been addressed to the Under Secretary of State for India, under date the 12th August, 1913, by the South British India Committee:—

I have the honour, on behalf of my Committee, to draw your attention to Section XI., Sub-section 3 of Act No. 10, 1913, of the Union of South Africa, known as the Financial Relations Act, which came into operation as from the 1st day of April, 1913, and which is to continue in force until the 1st day of April, 1917.

2. It will be remembered that one of the gravest difficulties that have faced the Indian community in South Africa, and particularly in the Natal and Cape Provinces, is that of Trading Licences. My Committee has reason to believe that a recognition of the supreme importance to the Indian community of trading rights, was one of the contributing causes to the insistence of His Majesty's Government upon the inclusion in the South Africa Act, 1909, of the protective provisions incorporated in Section 147.

3. Owing very largely to the exertions of His Majesty's Government, the Natal Dealers' Licences Amendment Act, of 1909, gave to Indian traders resident in that Province the right of appeal to the Supreme Court against refusals to renew licences, and it was hoped that this right of appeal once granted would enable His Majesty's Government as time passed to secure for them more extended rights of appeal.

4. For many years past there has existed in the Transvaal a strong desire on the part of the white population that legislation should be introduced there with reference to trading licences, similar in principle and in effect to that enforced in the Coast Provinces, a desire that has received increasing strength since the inauguration of the Union, and a powerful warning was respectfully conveyed to His Majesty's Government by the Transvaal British Indian Association in its Memorial to the Secretary of State for the Colonies, dated May 1, 1911.

5. Simultaneously with the growth of this anti-Indian agitation in the Transvaal, grew a demand in Natal that the control of trading licences should be transferred from the Union Administration to the Provincial Councils, with the object, if possible, of still further restricting the trading rights of the resident Indian community, and for that purpose it was sought to secure for the Provincial Councils powers that could only be conferred under the South Africa Act.

6. The Financial Relations Act of this year appears now to confer upon the Provincial Councils powers of control in licensing matters that they did

not previously possess and which, my Committee has only too good reason to fear, will be directed, as has so frequently been threatened, against Indian traders.

7. Section XI., Sub-section 3 of the Act above referred to, whilst preserving in those Provinces where it exists the right of appeal to the Supreme Court against refusals to renew licences, confines that right to the case of licences in existence on April 1st last. It is now apparently within the power of Provincial Councils to pass Ordinances taking away that right of appeal, where the renewal of licences issued since April 1st is refused. But the position in the Transvaal is even worse. Heretofore, a registered Asiatic in that Province has been able to obtain a trading licence from a Union Revenue Officer upon tender of the Licence Fee. From the 1st April, application will have to be made to a Provincial Revenue Officer, and it will now be possible for the Transvaal Provincial Council to pass an Ordinance, not only taking away the rights of appeal in the case of refusals to renew licences issued after that date, but taking away every possible right of appeal in regard to the original issue for transfer of trading licences.

8. My Committee feels that it is hardly necessary to remind His Majesty's Government how terrible a weapon of oppression has been forged by the Union Parliament in a most indirect and wholly unexpected fashion. In view of the past history of this most difficult subject and the dangers threatening the Indian community therefrom from time to time, it would, in my Committee's respectful opinion, have been nothing more than the plain duty of the Union Ministers to have informed His Majesty's Government through the Governor-General of the purpose revealed by a closer examination of the Section of the Act under discussion. Whilst my Committee fully realises the difficulty of the position of His Majesty's Government in matters of Provincial legislation, yet having regard to the grave importance of the issues at stake and of the efforts that have, as opportunity offered, been made by the Imperial Government to secure redress of Indian grievances in respect of trading rights, my Committee feels that it is entitled to ask of His Majesty's Ministers that they should take such steps as may be deemed by them to be necessary to inform themselves of the intentions of the various Provinces in the exercise of the powers now conferred upon them, with a view to the avoidance of the introduction of local Ordinances, whose effect will be to diminish those trading rights in existence, either actually or potentially, prior to the commencement of the Financial Relations Act.

IMPORTANT LICENSING DECISION.

K. EBRAHIM v. LICENSING BOARD, ESTCOURT, AND OTHERS.

This case came on for review before the Judge-President Dove Wilson and Justices Carter and Hatlorn, on the 3rd inst. The following is the full text of the judgment:—

DOVE WILSON, J.P.: The appellant applied for the transfer of a retail licence, held by him at Ennersdale, to new premises in the vicinity of Dalton, which place, I understand, is in the same Magisterial Division. It is none the less a new licence, that it is granted to a person who had previously held a licence in respect of other premises, and it is conceded accordingly that the granting of the transfer is simply the issue of a licence in the sense of the Dealers Act, 18 of 1897. With regard to the issue of such a licence the Act provides that it (Section 5) "Shall not be liable to review, reversal or altera-

tion, by any Court of Law, or otherwise than is provided in Section 6. That Section provides in the present instance for an appeal to the Licensing Board of the Division appointed under the Liquor Act of 1896; so that, so far as the merits are concerned, this being the issue of a new licence, the jurisdiction of the Court is entirely ousted. It would be a different matter if this were the case of the renewal of a licence, because in that case Act 22 of 1909, Section 2, gives a further right of appeal to the Supreme Court or the Circuit Court.

But although our jurisdiction upon the merits is ousted, it is, of course, competent to this Court to intervene if it shall be made to appear to it that the Licensing Officer, or the Board to which appeal from him has been taken, has either refused to exercise the jurisdiction committed to it by the statute, or has exceeded that jurisdiction, or has been guilty of some irregularity amounting to a refusal to the applicant of the fair trial of the question to which he is entitled; or if it shall be shown that the Licensing Officer or the Board have acted in any way corruptly. As following upon that, it is competent for this Court to intervene and quash proceedings if it is of opinion that the tribunal that came to the decision was open to objection on the grounds of bias or interest.

In the present case objections to the granting of the licence were lodged, and evidence upon these objections was led; and it may be noted, in passing, that, as the decision of the Board is not founded upon any of the objections that were taken, it is unnecessary to consider the nature of those objections. The grounds on which the Board overturned the decision of the Licensing Officer granting the licence may, I think, be reduced to two. The first is the dissatisfaction expressed with the book-keeping arrangements; the second is that the applicant has failed to show that there was any necessity for the licence being granted in the particular neighbourhood.

Now, with regard to the first of these findings—although the reasons given by the Board are not very precise—I think it may be gathered from the wording of their reasons—and particularly Reason No. 3—that it was the opinion of the Board that the applicant had failed to show to their satisfaction that he was able to fulfil the conditions of the Insolvency Law, No. 47 of 1887, Section 180, Sub-section (a.): "As regards the keeping of such books of account in the English language as are usual and proper in the business to be carried on." These are the words used in Section 7 of the Dealers Act, No. 18 of 1897.

The words of Reason No. 3 are: "The fact that the respondent is away from his store for the greater part of the year, the person in charge cannot keep the books in the English or Dutch languages, but the books are posted up periodically shows that the letter and spirit of Section 7, Act 18, 1897, are not being complied with."

In the facts found proved the Board found that "the respondent is unable to keep his books in the English or Dutch language as requested by Section 7, Act 18, 1897"—and I pause here to say that the Dutch language is not mentioned in the Section—and his bookkeeper is an Asiatic who resides in Estcourt, about 18 miles from Dalton Bridge, and keeps the books of more than half a dozen Asiatic storekeepers, and would only visit the store of respondent periodically to enter up the books.

Then in paragraph 6 of the reasons for the decision they say: "The Board is well aware that persons are granted store licences, and the persons in whose name the licence is may not be capable of

keeping the books in the language required by Section 6, Act 18, 1897, also the person may live out of the Union, but unless those persons have capable managers or bookkeepers in charge of their stores, then it would be difficult for them to comply with the Insolvency Act; and if this Board had granted the licence, knowing the respondent is nearly always away from the store, has a manager who cannot keep books, and a bookkeeper who is entirely disconnected with the business, and no necessity exists for granting the licence, this Board would have defeated the object for which Boards are created."

Now, I can only read that as meaning, as I have already said, that the applicant had failed to satisfy the Board that he was in a position to keep in the English language such books as are usual and proper in the business to be carried on, or to procure the necessary assistance to keep such books, and where that is the case Section 7 no doubt vetoes the granting of a licence, but only where the applicant has been required specifically to show his ability to keep these books or to have them kept.

In the present case the applicant was not required by the Licensing Officer to satisfy him that he was in a position to have the usual and proper books kept, and the Licensing Officer must have been satisfied that he was. The Licensing Officer had had considerable experience of the applicant, for the latter had a licence which he renewed from time to time at Ennersdale. It is quite true that in the reasons stated in the appeal to the Licensing Board reflections are cast upon the efficiency of the book-keeping methods of the applicant, but if these were pressed before the Board—apparently they were not—the answer would have been: "But I was never required to take any steps to show my ability before the Licensing Officer to keep the necessary books in the English language." And it would have been open to the Board to have said: "Well, assuming that the Licensing Officer was satisfied, we are not, and you must proceed to satisfy us now," but they did not do so. There is nothing to show that they or the objectors ever required the applicant to demonstrate to the satisfaction of the Board his ability to keep the books. Yet we find that the Board has decided this application largely, if not entirely, upon the view they hold of his ability to keep the books, although they never required him to show, nor gave him an opportunity of showing, that he could keep books in the English language, or have them kept sufficiently to comply with the statute.

The Board found that it would be necessary—so far as one can gather from their reasons—that there should be a resident bookkeeper at the store. But applicant was never asked if he were prepared to employ a resident bookkeeper, and, for all we know, he may be in a position to do so; but the question of what were the usual books in the trade in question, of whether he could have them kept sufficiently to comply with the terms of the Act, was never put in issue. This being so, it seems to me to decide against him on that very point—without giving him the opportunity which the Act required that he should have to demonstrate his ability—is an irregularity which amounted to denying him the trial which he was entitled to of his application. The objection was not stated by the objectors, and the applicant was not required to show his ability; he was therefore entitled to assume that no objection would be taken by the Board to his ability to keep the necessary books, and we cannot presume against him that he did not possess that ability.

But, as I have already said, the Board has decided also, upon another ground, viz., that the applicant had failed to show any necessity for this particular

licence being granted in this neighbourhood. I am not, of course, entitled to review the decision of the Board on its merits. But I may say, in passing, that if it were necessary, in the case of applications like this; to show an absolute necessity for the granting of licences, very few new licences would ever be granted. The question is not one of necessity, but of the reasonable convenience of the persons dwelling in that neighbourhood. But it is quite plain, I think, from the reasons of the Board, that this question of necessity was not, as has been urged upon us, the predominant consideration in their mind. Indeed, there is evidence to show that, even accepting their view that no necessity for this licence had been made out, they would still have granted the licence provided that they had been satisfied of the ability of the applicant to keep the necessary books. In their reasons for decision they say (par. 3.): "If the respondent kept a manager as is done in many places of business, who could keep his books as required by law, or even a bookkeeper on the premises, it would have been very different." I can only read that as meaning that it would have changed their view, and whereas they felt themselves in the circumstances constrained to refuse the licence, they would, if these desiderata had been present, have granted it.

I do not think, therefore, that it can be said that there is sufficient otherwise in the reasons to prevent us quashing the decision of the Board on the ground of irregularity, with regard to the finding as to the bookkeeping.

I, therefore, think that we cannot allow the decision of the Board to stand.

There are other matters which have been dealt with, but in the view that I have taken of the case it is not necessary to deal with them at length. There is a statement in the second of the reasons for decision: "And had this Board not given the decision it did, it would have disregarded the decision of the Supreme Court, which is referred to as that given in the case of *Johnson & Co. v. Kajee*" (31 N.L.R., 45). But as I read that decision, it has no connection with the present case. The Board cites it as showing the construction put by this Court upon Section 49, Act 38, 1898. This is a Section of the Liquor Act and it provides that where, in the case of any retail licence, the majority of the voters in the district shall have lodged with the clerk of the Board, seven days before the hearing, a memorial signed by them objecting, the licence shall be refused. I cannot see how that in any way can affect the issue of a licence under the Dealers Act, even if we had in the present case any evidence that the majority of the voters in the district were against the issue of this dealer's licence. I am, therefore, at a loss to know how the Board could have considered that it would have been running counter to the case of "*Johnson & Co. v. Kajee*" if it had given any other decision than which it gave. And it may be a question, which I do not think it necessary to decide, whether, if they did think that they were constrained by the decision in "*Johnson & Co. v. Kajee*" to come to the decision which they gave, they were not altogether misconstruing the jurisdiction which was committed to their charge; and, therefore, in effect, not exercising it.

However, it is unnecessary to decide that point.

The other matter of importance is the objection which was taken to both the members of the Board who constituted it when the decision under consideration was given. These members were Mr. Foxon, the Magistrate, and Mr. Blaker. As against Mr. Foxon it was urged that, shortly before the hearing of the case, he expressed himself in a report—as I understand to the Government, to the

effect that legislation ought to be introduced which, *inter alia*, would prevent the granting of a licence to any Arab trader—such as applicant is—throughout the country. It was an extra judicial and general opinion and without any reference whatever to this particular application. I am not prepared to infer from a statement of opinion of that kind that Mr. Foxon would refuse, with regard to any particular section of the community, no matter its colour, to administer the law as it now stands; and from the voluminous reasons which are stated by the Board, it seems to me that he did consider the application upon its merits.

With regard to Mr. Blaker it is urged, and I think admitted, that, in a previous case when a licence was asked for by an Arab, he signed an objection to the effect that he was entirely opposed to the establishment of an Arab or Indian store in the neighbourhood, and considered that an Indian store in that vicinity would be a demoralising influence, "and trust you will do your best to prevent the transfer of the licence." It is unfortunate that, when counsel for the applicant objected on this ground to Mr. Blaker sitting, that the Board gave no reason for its decision that the objection was not well founded. If Mr. Blaker had said: "It is quite true that I said that with reference to that particular application, and with reference to the locality then under consideration, but that has nothing to do with my trying the present application," it would be what one would have expected him to say, and it would be an explanation that I would be quite prepared to accept. But although he gave no explanation, I am not prepared to go the full length of inferring from that statement—and it is the only evidence before us—that he does hold the view that any Arab should be denied a new licence for trading, merely because he is an Arab and irrespective of all other circumstances. I need hardly say that persons who are not prepared to decide applications of this kind entirely upon their merits have no right, as honourable men, to sit upon the Board. Standing the law as it does, they have no right to deny the benefit of it to a very considerable portion of the community, which the law itself does not exclude. They are there to administer the law on behalf of the whole community, and it does not lie in their mouths to say, "We shall consider the applications of persons of one colour, but not of any other." If that were their attitude, they would be in a position of refusing to exercise the jurisdiction committed to them wherever the application happened to belong to that part of the community of which they did not approve. They were there to administer the law and not to refuse to administer it. I do not think that it is necessary to come to the conclusion that either Mr. Foxon or Mr. Blaker went upon the bench with the intention of refusing the application whatever its merits, merely because the applicant was an Arab or Indian, and, as I have already said, the reasons given by the two gentlemen would seem to point to the fact that they did consider the application upon its merits and apart from the colour of the applicant.

Upon the ground that the applicant has had his licence refused upon an objection that he was not given the opportunity of meeting contemplated by the Act, and without trenching in any way upon the merits of the application, I think the decision of the Licensing Board must be quashed.

CARTER, J.: I agree with all that the Judge-President has said.

HATHORN, J.: If Mr. Blaker still holds the views which he gave expression to on the 23rd April, 1910, I think that he should have rescued himself and not

have attempted to take part in the decision of this case. It is fortunate that the case has gone off on other grounds, and it will be sufficient to express the opinion here that if Mr. Blaker still holds those views—and I must confess that on the documents it is likely he does—he would be well advised not to sit in the case of an Indian who applies for a licence in the neighbourhood in question. I would like to say a word on the question of bookkeeping. I think it is quite a mistake for the Board to set themselves up to say that a person who keeps, say, a small country store, must of necessity keep a resident bookkeeper; it would mean that such a person would have to employ an assistant qualified as a bookkeeper and salesman, and it seems to me that it would be very difficult always to be able to find a competent salesman who was a bookkeeper, and still more difficult to find a competent bookkeeper who was a salesman. It therefore seems to me that it would be quite proper that in a small establishment a salesman should be competent to write down what he sells and buys, and then that a visiting bookkeeper should transcribe that into the English language and formulate it into proper books. The spirit of the law is not what the Board says it is, it is "If you become insolvent we want to know for three years previous to your insolvency all about your transactions." The law says: "Such books of account as are usual and proper in the business carried on by him and as sufficiently disclose his business transactions and financial position within the three years immediately preceding his insolvency." The books of a country store may be quite a minor matter in a man's financial transactions. We want information, that is the spirit of the law, and the Board ought not to set itself up and say, "you are to keep a resident bookkeeper."

DOVE WILSON, J.-P.: The decision of the Board will be quashed and the appellant will have costs in both Courts.

NEWS IN BRIEF.

We extract the following from the speech recently delivered at Kimberley by Mr. Martin, the President of the Associated Chambers of Commerce: "It should be the inalienable right of every inhabitant of the Union, irrespective of race or colour, to take such part in the industries of the country as his skill and ability permit, and to dispose of his labour to the best advantage without restraint of any sort, and any regulation or custom to the contrary should be abolished and declared illegal. Personally, I have come to the conclusion that no settlement of the industrial position can be permanent that refuses to recognise the right of the coloured man and the native to perform such skilled or semi-skilled work of which he may be capable, or that permits the importation of contract labour."

The Natal Brahman Mandal, at a meeting at Sydenham, on Sunday, passed a resolution protesting against the position created by the recent Supreme Court decision on Indian marriages, and pointing out that Hindu marriages are affected in the same manner as Mahomedan marriages.

The "Globe" says that the latest decision of the Supreme Court at Maritzburg with regard to Indian marriages may be good law, but it is not good sense, and, unfortunately, it affects more than South Africa, for the decision has a serious effect in India.—Reuter.

At the Church Congress in London recently, Sir Sidney Olivier, ex-Governor of Jamaica, declared there would be no solution of the American colour difficulties except by disclaiming the race differentiation theory.