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THE VALIDITY OF INDENTURE CONTRACTS

THE following is the text of the judgment of the Full Bench of the Supreme Court, Natal Division in the matter of *Voorlapu Ramsamy vs D. de Chazal* :—

The appellant was convicted of a contravention of Section 35, Law 25 of 1891, in that on the 16th of January last he, being an Indian Immigrant duly assigned to the respondent, "did wrongfully and unlawfully absent himself from roll-call and work without lawful cause, he at the time being in good health and able to work."

The grounds of appeal go to the validity of the contract of service put in by the employer at the trial.

It appears from the evidence that the appellant came to Natal from India in the year 1901 as an immigrant introduced under the Indian Immigration laws. The open contract of service signed by him in India contained the covenant required by Section 2 of Act 17, 1895. We do not know to whom he was first allotted after his arrival in Natal, but, after serving at least two other employers, he was assigned to the respondent and the contract now in question was executed by both parties on the 26th April, 1913, and was attested in the prescribed form by Mr. MacDonald in his capacity of Acting Assistant Magistrate of the Inanda Division.

This contract is headed "In terms of Act 42, 1905. Man's Contract of Service with Indian Immigrants (being new indenture under Section 107, Law 25, 1891, as amended by Section 4, Act 14, 1897)." It is to endure for two years and the rate of wages is in excess of that prescribed by Act 17, 1895, Section 2.

The printed form on which the contract is drawn resembles that of the renewed indentures in Schedule 1 of the Law of 1891, but there are some important variances.

(1) The contract in question, though executed on the 26th April, 1913, purports to commence on the 14th of that month.

(2) Wages are to be paid monthly to the appellant instead of fortnightly as in the Schedule form.

Any retrospective effect of a contract of renewed indenture would be in conflict with the 108th Section of the law (25, 1891) which requires that "every such further term of industrial service shall commence and be computed from the day of signing such contract."

We are not prepared to say that these variances from the schedule form are fatal to the validity of the contract, it being substantially in accordance with the prescribed form. It was, however, contended on behalf of the appellant that, the officer attesting the contract, not being the Protector or Deputy Protector of Indian Immigrants or an officer specially appointed by the Natal Government in terms of Section 4, Act 14, 1897, the contract was inoperative. The Acting Attorney-General, who intervened at the adjourned hearing, advanced the proposition that in any prosecution under

Law 25 of 1891 it is not necessary to prove the existence of any contract, but that it is sufficient if it be shewn that the accused is an Indian Immigrant within the definition of Section 118, and is in the employment of the prosecutor. We cannot agree in this view. The best evidence of employment is furnished by the contract of service and the best evidence must always be adduced. In the present case, in accordance with what we understand to be the practice, the prosecutor put in the contract upon which he relied as evidence of the employment. If that contract is bad in law, there was no employment because the prosecutor was not entitled to the appellant's services, and he could not be found guilty of the offences charged.

But, if the contract in question can be regarded as a new indenture made under Act 17 of 1895, it has not been properly attested. The persons who may attest such a contract are specified in Section 4, Act 14 of 1897; they are "the Protector or Deputy Protector of Indian immigrants, or any other officer specially appointed by the Natal Government."

As already stated, the contract in question is attested by the Acting Assistant Magistrate who is not the Protector or Deputy Protector of Indian Immigrants and he holds no special appointment from the Natal Government. The Acting Attorney-General made no attempt to support the contrary; but he contended that the contract was one entered into under the provisions of Act 42 of 1905. That Act (Section 1) allows an Indian Immigrant, who has formerly served under lawful indenture, to enter into indentures for a further term of not less than two years and not more than five years, notwithstanding that an interval of time may have passed since the termination of the former indenture. Such re-indenture may be renewed from time to time for similar periods either immediately on the expiry of the previous indenture or afterwards.

If the Appellant's contract with the prosecutor can be regarded as executed under the Act 42 of 1905, any question as to its attestation would be set at rest because it is provided in the Act (Section 1) that all such indentures shall be entered into in manner prescribed by Section 107 of Law 25 of 1891 as amended by Section 4 of Act 14, 1897. Now Section 107 requires all renewed indentures to be signed before the Protector or Deputy Protector of Indian Immigrants. That, however, has been amended by Section 4 of Act 14 of 1897, which enables any Magistrate, in addition to the Departmental Officers, to attest such contracts.

We think that the contract, being *prima facie* a binding agreement and there being nothing to show that it may not be a renewal of indentures entered into under Act 42 of 1905, we ought not to refuse to give effect to it. The time between the expiry of the appellant's original term of indenture (which would have expired in or about December, 1906) and the commencement of his first term of re-indenture with

the respondent (probably about April, 1911) is not accounted for, and it does not appear whether the appellant was under any indenture during that period or was a free man subject to the £3 licence (Act 17, 1895, Section 6.) As regards Section 4, Act 42 of 1905, its effect seems to be to recognise renewed indentures under the earlier law and Acts by those who cannot claim to come under Act 42 of 1905 after an interval of time since their former indenture. Had the contract been a renewed indenture, under Act 17 of 1895, the appellant would have been bound to have accepted a rate of wages which is considerably lower than that stipulated for in the contract. This goes to show that the renewed indentures were effected under Act 42 of 1905, Section 2 of which allows the parties to agree upon the rate of wages.

So far we think the grounds of appeal have not been substantiated. Another point, however, has to be considered. Mr. Britten, towards the close of his argument, pointed out that the record contained no evidence that the appellant, who had absented himself from roll-call, was at the time in good health and able to work.

Section 35 of Law 25 of 1891, under which the prosecution was taken, makes it an offence for any Indian Immigrant who, being in good health and able to work, shall absent himself from muster or roll-call without leave. The charge in the Court below was that the appellant being an Indian Immigrant duly assigned to the respondent "did wrongfully and unlawfully absent himself from roll-call and work without leave or lawful cause he at the time being in good health and able to work."

It is, of course, essential that the prosecutor must prove every fact necessary to substantiate the charge, the general rule being that the burden of proof lies on the party who substantially asserts the affirmative. A simple test for ascertaining the incidence of the burden of proof is to enquire what would be the effect of striking out the averment. There is no presumption in law in favour of an Indian Immigrant being always in good health and able to work. We think that the appellant's state of health and ability to work was an essential part of the case for the prosecution. It may be suggested that this was a matter peculiarly within the knowledge of the appellant himself and that therefore it lay upon him to rebut the allegation, but we think that in order to cast the burden on the indentured servant some *prima facie* evidence must be given by the complainant. No doubt it would have been sufficient if an overseer had stated on oath that, so far as he was able to judge, the Indian appeared to be well and able to work when he absented himself from roll-call; it would then have been incumbent on the Indian to disprove this. There is nothing in the Indian Immigration Acts to alter the general rule, nor have we any provision in our Statute book similar to Section 39, Sub-section 2 of 42 and 43 Vic. Chap. 49, to the effect that, in a Court of summary jurisdiction, the burden of proving authority, consent, lawful excuse and the like, shall lie on the defendant.

Although this is not one of the points taken in the writ of review, we are bound to consider it and the result is that, in our opinion, the charge has not been proved. The conviction must, therefore, be set aside.

In the Natal Provincial Council, Mr. Mitchell is reported by the *Advertiser* to have stated: "The Indian trouble had shown them all sorts of ingenious methods of embarrassing the Government. Supposing the next Indian move were to send every Indian child to a Government school? Suppose they poured in in their thousands—would the Council have to find this amount for every child that the agitators chose to have sent in? Where did the liability of the Province end if it ended anywhere? He would like to see a fixed sum set aside for Indian education, not to be exceeded.

Indian Education

In the discussion which took place on the Appropriation Ordinance, in the Natal Provincial Council, on the 28th ultimo, the matter of Indian education cropped up.

Mr. Mitchell said that at the present time there were some 600 educated Indians who were thrown into the towns to fill the positions of Europeans. In all education they had to ask themselves the question what were they educating the children for? What was the position they intended the Indian children to occupy? When they started educating these children they had to fit them as farm labourers to work on farms and on plantations. The white man had to pay heavily to give his children the best education possible, yet the Provincial Council was yearly paying out money to help Indians and natives to take the bread out of the mouths of the Europeans in this country. Before the war there were 200 tailors in Durban; now there was hardly work for 20 of them. White workers were being driven out of the towns, and their places taken by Indians. What was going to be the end of this? Where was finality going to be? Was this going to be a white man's country, or was it going to develop into a second Mauritius. For 4,963 Indian children there was a sum on the Estimates of £5,300 for education. The time had come now when they had to ask themselves whether this country was going to be a white man's country or an Indian's country. The education they were giving the natives was quite good enough for the Indians. He would move a reduction of the vote in Committee.

Mr. Byron said that the member for Umzimkulu had treated the Council to an irate and eloquent speech on Indian education. Notwithstanding that speech, they could only regard the question of Indian education in one light. It was their duty to educate these people. (Cries of "No.") The immigration of Indians had been persisted in until stopped by the Union Government as a result of their own selfishness and a desire for—"Cheap labour"—yes, cheap labour. However unpleasant it might be to face the matter, it was their duty not to withhold education from these people where they demanded it. He could not see how they were to get rid of these Indians, and the only way of improving their country was by education, and it could not be withheld when asked for. Far from desiring to reduce the Vote for Indian education, he would be inclined to increase it, if an increase were demanded.

The Coming Legislation

The Parliamentary correspondent of the *Natal Mercury* writes:—

I believe Mr. Smuts will not let the session pass without bringing in his foreshadowed amending legislation on the Asiatic question. Some of the magistrates, I am informed, began to pass with some severity on the payment of the £3 tax some weeks ago, and one or two hard sentences were inflicted. This took place shortly after the Indian Commission had completed their work. On representation by Mr. Gandhi, Mr. Smuts directed further collection of the tax to be suspended.

Although the Government do not suppose the Natal people as a whole to be inimical to repeal of the tax, they know the hostility of the planter section, and that they have to reckon with the opposition of those Natal members whom that section can influence. The Government will need some courage to give offence in this quarter, because, it was the help they got which saved them from a downfall on the Closure vote. But, of course, they would have the backing of the Unionists on any Imperial line of policy giving patriotic consideration to the difficulties of the Home Government in India.

From the Editor's Chair

CERTAIN INDENTURE CONTRACTS

WE reproduce in another column the full text of the very important judgment delivered in the case of *Voorlapu Ramsamy vs. D. de Chazal*. The chief point raised by Mr. Britter in the Lower Court was whether certain contracts attested under Section 4 of Act 14 of 1897 were not invalidated if they were not signed in the presence of "the Protector of Indian Immigrants, the Deputy-Protector or any other officer specially appointed by the Natal Government." Now the contention on behalf of the Crown in the Lower Court was that any Magistrate appointed under a general circular notice was "any other officer specially appointed by the Natal Government," and, on behalf of the appellant, it was contended that "any other officer" was to be a special officer specially appointed for the purpose of attestation, and this interpretation this important judgment seems to have entirely upheld. But another point was raised by the judges, which has somewhat neutralised the effect that was intended to be produced by the appeal. It is a highly technical point into which we need not go; but any person who is sufficiently interested will be able to make it clear to himself by reading the text of the judgment. The net effect of it is that, whilst renewed indentures made under the provisions of Act 17 of 1895 must be signed before the Protector or a specially appointed officer, indentures entered into in terms of Act 42 of 1905, as the contract in question was, are not affected by this provision as to special appointment, and they may be signed before the Protector, Deputy Protector or before any Magistrate, and the judgment of the Court on this point is quite clear. Further, the Court's decision that renewed indentures under the provisions of Act 17 of 1895 must be signed before a special officer certainly raises the question whether the Government should not immediately declare such contracts to be invalid, inasmuch as they have not been signed before the special officer contemplated by the Act as interpreted by the Court in the judgment under discussion. It raises a very important issue, and it will naturally inconvenience the employers of indentured Indian labour, but the employers are just as much bound by the laws which govern their relations with their employees as any other persons, and, if the effect of this important judgment be to put an end to the system of indenture, it should certainly prove a blessing in disguise to Natal and, indeed, to the whole Union. And, if the Government or the employers of labour can, of their own free will, end the system, which, whatever may be said of the contrary, bears the taint of slavery, it will redound to their credit. But, whether that great result follows this judgment or not, the matter should be immediately brought to the notice of the Government and the Protector, by parties interested, for prompt action. We suppose that the Government of India also will have this judgment brought before their notice in due course, and that they, too, will have something to say about it.

The £3 Licence

The *Natal Witness* gives the following report of the debate on the £3 tax at the Natal Agricultural Union Conference:—

Mr. A. Townsend, on behalf of the Chaka's, Kraal and Umhali District Association, moved "That the Conference views with grave concern the finding of the Indian Grievances Commission on the following grounds:—

"(1) That the Indian is better provided for under the Act (17 of 1895) than he would be as a free man.

"(2) He retains the privilege of a free passage back to India.

"(3) In view of the already complicated question of the coloured population within the Union it is undesirable that the position should be further aggravated by the inclusion of a permanent Indian population.

"(4) To the Native mind the Commissioners' recommendation will appear as a result of the Indian strike and will most certainly tend to have a disturbing effect."

A Useful Law

In moving, Mr. Townsend quoted from the laws dealing with the return of Indians to India. He explained the circumstances under which the Natal Act No. 17, 1895, was introduced. That Act provided that indentured Indians might return to India after the expiry of their period of indenture, failing which they would be compelled to pay a tax of £3 per annum. The provisions of this Act were subscribed by the signing of an agreement by Indians undertaking re-indenture. The Commission had stated that this Act had not served its purpose, and had not been properly administered. He could not understand how this conclusion could have been arrived at, and he quoted figures to show that under the old Act the number of Indians returning to India each year during the years 1896-1901 varied between 215 and 470, the effects of which became apparent in 1912. The number rose at once to 1,230 and increased to 4,896 in 1909, this latter figure being well maintained. The present law had proved itself to be efficient in securing the return of Indians to India, and, were it to be properly put into force, the number of Indians returning each year to their native country would be still further increased. He considered that the Government should make no change in the existing law.

Mr. W. P. Payn, in seconding, said the withdrawal of the £3 licence would be a very great mistake. This was a white man's country and they should exercise every endeavour to keep it such. The great pity, he thought, was that the licence was not £10 instead of £3.

Mr. H. S. Power thought it would be admitted that the step recommended by the Commission would be a foolish one to take. If the tax were to be taken off, it should not be done at this date. It should die a death in the same manner as did the Poll Tax.

A Political Lever

Col. Crompton heartily supported the motion. He contended that the recent strike was not due entirely to the £3 licence; it was merely a lever for equal rights.

Mr. Jas. King said that the introduction of the Bill had been the outcome of an agreement between the Natal and Indian Government. But the question was whether an agreement had been made by the Union Government and Mr. Gokhale. There was certainly a doubt as to whether a promise had been given by the Union Government, but it had not yet been denied. If a promise had been made by the Union Government, then a resolution would have no effect.

Mr. Miller did not see why the Indian should not be compelled to pay a tax when the native had to, and the agreement had been made before the Indians had come to this country.

In replying, Mr. Townsend said that, even if the Government had given a promise, they had no right to do so without the matter first being dealt with in the House of Assembly. The Indian in his place was quite all right, but as a fellow colonist—well, he would be better away.

The resolution was carried, there being but one dissentient voice.

Mr. King moved "That in view of the recommendation of the Indian Commission to abolish the £3 Annual Licence on Indians, this Union urges Government to continue the licence as at present imposed."

It was most undesirable to have this tax repealed if merely on account of the effect it would have on the native population.

Col. Addison seconded and the resolution was carried unanimously.

The Demands of the Immigration Department

The following telegram has been sent by the Chairman of the Anjuman Islam, Durban, to the Minister of the Interior:—

"The Anjuman Islam of Durban has had brought to its notice some cases where respectable members of the Indian community who are well known to many have been called upon to furnish photographs of their wives on arrival here from India, the ladies in two of the cases accompanying their husbands and in two coming to join their husbands already here. The reason given by the Immigration Officer was that the Magisterial certificates as to marriage brought by them did not identify them. My Anjuman admits that the wives are not sufficiently identified in the certificates, but it has serious religious objections to the furnishing by its members of photographs of their wives. Such a demand has not hitherto been made. It has created such consternation in the community that it became necessary to hold a special meeting to consider this one point. We have approached the Immigration Officer, but he declines to reverse his decision, saying that the husbands themselves promised to furnish the photographs. But it is respectfully submitted that this is not a matter in which the husbands' promise could be allowed to violate the religious sentiment of a whole community. The husbands have undertaken, and my Anjuman undertakes on their behalf, to furnish sufficient local identification, consistent with religious sentiment, and proof of marriage. My Anjuman, therefore, respectfully trusts that the Immigration Officer will be authorised and instructed by the Government to accept local proof and allow the wives in question to remain in the Province. I beg further to state that these wives are the only wives of the parties concerned whether in South Africa or in India. As the matter is very serious and urgent, and as the Visiting Passes issued by the Immigration Officer will expire within eight days, my Anjuman requests an early and favourable reply from the Minister."

Mr. Gandhi wired to the Minister of the Interior:—

"I have seen telegram sent by the Anjuman Islam, Durban, regarding photograph required from Indian wives seeking entrance into the Province. Unable understand requirement Immigration Department." Venture draw attention fact that, when question arose regarding even males in Transvaal some years ago, it gave rise to such bitterness that Government were pleased withdraw requirement. Regarding women it is a most dangerous thing. Hope Minister will be pleased instruct Immigration Officer waive requirement and accept local proof offered by the parties in question. Understand also that Immigration Department adopting severe methods regarding Indian entrants generally. Among these is insistence upon Indians possessing rights domicile

more than one Province choosing one Province only. Submit requirement arbitrary, uncalled for. Practice recognising double or triple domicile never hitherto questioned, and, whatever legal interpretation Immigration Act 1913, hope Government do not intend depart from existing practice."

From the Interior to Mr. Gandhi:—

"Your telegram to-day. Matter being inquired into."

The Recent Prosecutions

In reply to Mr. Gandhi's telegram asking for the release of any persons imprisoned for non-payment of arrears of the £3 tax, the Secretary for the Interior replied as follows:—

"I have the honour to acknowledge the receipt of your telegram of the 24th instant, on the subject of the release of Indians who, during recent prosecutions, were imprisoned at Verulam or elsewhere for failure to pay instalments of the £3 licence, and to state that the matter has been submitted to the Minister of Justice for consideration."

We are glad to be able to announce that the man Bhola, who was sentenced to a term of one month's imprisonment at Verulam, has been released.

Refusal of Licences in the Transvaal

At a recent meeting of the Krugersdorp Town Council, several members expressed themselves strongly on the attitude taken up by the Council in the matter of the issuing of trading licences to Asiatics.

There were four applications before the Council, two being for general grocers' licences, one for a fruiterer's and one for a butcher's. On the first application, that of the butcher, being called, Mr. Wade wished to know if it was the same applicant who had already been refused a licence. If so, he objected to the Council frittering away their time considering the application. All the apostles in the world would not make him change his opinion that the licence should be refused.

Mr. Retief, solicitor, who appeared for the applicant, wished to know if those remarks were noted. He submitted that they were part of the proceedings of the Council. The Mayor stated that they had not been noted, and refused to accede to Mr. Retief's request to have this done. Mr. Retief then wished to know if the Council had received a petition signed by 162 persons in favour of the licence being granted, and, being answered in the affirmative, said he would have nothing further to say.

Some of the members then proceeded to put questions to the applicant, and, on Mr. Hoatson doing so, Mr. Retief asked that it be recorded that that gentleman, who was carrying on a butchery business, was asking questions of an applicant for a licence for the same trade in his vicinity. He submitted that that gentleman was not entitled to sit in judgment on the question. The Mayor held that Mr. Hoatson was quite entitled to act as he did. After further consideration, the application was refused.

Before the next application was considered, Mr. Saner burst out with a statement that the Council was behaving like a lot of children, and going in for a lot of tommy-rot. They all, he submitted, wanted to make this a white man's country, and were afraid to say so. They were wasting their time night after night considering these applications. Why not stand up at once and say they did not want the Asiatics, who were simply undercutting white traders?

The Mayor explained that they were following the procedure laid down by the Ordinance. The other

applicants were then examined and licences refused them, including one in which Mr. Black appeared for the applicant, and Mr. Stent, as holding a general retainer on behalf of the Mahomedan community.

The Viceroy on the Commission's Report

In the Imperial Legislative Council, on the 17th March, H.E. the Viceroy said:—

Before resuming the business of the Council, I am anxious to avail myself of this opportunity to give the hon. members all the information in my possession on a subject which has recently occupied the very serious attention of the Government of India; that is to say, the troubles that have arisen in South Africa in connection with the treatment of Indians in that country. This Council will recollect that, in consequence of the outbreak of passive resistance and of the strikes in Natal in the month of November last, the South African Government appointed a Commission to investigate the causes of the disturbances in Natal and to formulate proposals for dealing with the alleged grievances of the Indian population. That Commission was presided over by a judge of the Supreme Court, assisted by two members, and a forecast of their conclusions was made public yesterday in the daily press. The report of the Commission has been laid on the table of the Union Parliament at 2 o'clock to-day, and I should now like to explain in fuller detail to my Council the significance of the Commission's Report. In the first place, the Commission recommended the repeal of Section 6 of an Act passed by the Natal Government, No. 17 of 1895, which imposed on indentured Indians, who have completed their service of the indenture and failed either to re-indenture or to return to India, an annual licence tax of £3. I do not desire to weary the Council with a complete history of the negotiations between the Natal Government and the Government of India in 1894 and subsequent years, which decided the imposition and the subsequent modification of this tax.

Why the Tax was Imposed

Its imposition arose from the fear entertained by the Natal Government that indentured Indians on completion of their indentures would settle in that Colony in such numbers as to form an embarrassing problem to those interested in the future of the country. The Government of India of that time desired to secure the continuance of emigration to Natal as forming a valuable outlet for the surplus agricultural population, while maintaining that failure to return to India or to re-indenture at the end of the original indenture period should not entail criminal prosecution and the penalties that are ordinarily attached to breaches of the criminal law. From this point of view, the action subsequently taken by the Natal Government, that is to say, the imposition of a £3 tax on those who failed to re-indenture or to return to India after the expiry of the period of the original contract was considered to be the most reasonable solution of a very difficult question. Modification in the £3 tax has been made from time to time by legislation, with the object, amongst others, of exempting such women as were not in a position to pay. But it has been felt for some time that the tax was undesirable and burdensome and, since the complete cessation, by order of the Government of India in 1911, of all indentured immigration to Natal, the retention of this tax and its capricious enforcement, even though it is not levied on more than a small number of those liable, has been a constant source of irritation among Indians in Natal.

Important Proposals.

When the Immigration Act of 1893 was passed, it was hoped in many quarters that the occasion might be utilised to repeal this objectionable impost, but this un-

fortunately was not done. The Government of India welcome the recommendation of the Commission for the repeal of the tax and, although they fully realise that the Government of South Africa are not definitely committed to the findings of the Commission they earnestly hope that the Government of the Union may accept this proposal and give effect to it at the earliest possible date by means of the necessary legislation.

Next in importance to this question of the repeal of the £3 tax, here is the necessity of providing by some form of legislation for the position of women either in South Africa or desiring to enter South Africa, who are married to Indians by a form of union which is not at present recognised by the laws of that country. The South African legislature has, hitherto, shown disinclination to give any form of legal recognition to marriages performed according to the rites of any religion which permits the practice of polygamy. This attitude has been necessarily extremely embarrassing to Indians in South Africa, whether married to one or more wives, who desire to obtain recognition for at least one wife. The report of the Commission contains numerous recommendations intended to meet the reasonable requirements of Mahomedans and Hindus in respect of this difficulty. The substance of their recommendations is that a law should be passed providing for the appointment of marriage officers from amongst the Indian priests of different denominations, whose duty it would be to solemnise future marriages in accordance with the religion of the parties to the transaction, and duly to register the same. Only one marriage in each case can be so solemnised and registered and it will then have the great advantage of ranking entirely with any other marriage contracted under the laws of the Union existing. Actual monogamous marriages are to be similarly recognised by this law and further provision is to be made for the admission into the Union, along with her minor children, of one wife in the case of any Indian who is married according to the tenets of his religion whether it recognises polygamy or not, outside the Union of South Africa, provided that she is the only wife in the country. Further than this, I venture to think is a very noteworthy and important proposal. It is recommended that Indians, after registering one wife in the manner to which I have already referred, should not be debarred in any way from contracting other marriages according to their own religious rites, though it will, of course, be impossible to accord to such marriages any form of legal recognition whatsoever.

Other Modifications

Next, the Commission have dealt with some minor grievances which formed the subject of protest on the part of the Indian population in South Africa against the recently enacted Immigration Act. They have recommended that a clause in the Act which repeats the provisions of a law of the Orange Free State, directed against the immigration of Asiatics, should, I understand, be made unobjectionable by the issue of executive orders of a nature calculated to remove all cause for dissatisfaction. Also that certain existing restrictions with regard to the issue of certificates enabling Indian residents in South Africa to leave the country and to return within a stated period should be modified in a very favourable manner. Measures are also recommended for increasing the facilities for the issue of permits to those Indians who desire to visit the Union for temporary purposes.

In their recommendations, I find a very complete and satisfactory attempt to arrive at a final solution of the difficulties that have arisen in South Africa, and I should like to take this opportunity of expressing the warm appreciation of the Government of India of the broad and statesmanlike manner in which these difficult questions have been approached and dealt with by the Commission. I believe the presence and active co-operation of Sir Benjamin Robertson, to whom we are indebted for his firm and conciliatory attitude, has very

materially contributed to the formulation of these proposals and I feel confident that, if, as I sincerely hope will be the case, they are adopted by the Union Government and combined with sympathetic administration of the existing laws, they should undoubtedly lead to a lasting settlement.

The Architects of India

The Thursday lecture at the Hall of the Carpenters' Company, London, recently, says the *Morning Post*, was by Mr. E. B. Havell, who spoke of "Indian Buildings." Sir Krishna G. Gupta presided. The lecturer said that the most vital fact with regard to Indian architecture and that which was most important to the European student was this, that in India the craft traditions, which in England were represented only by the names of the City Companies, had been handed down from generation to generation ever since the dawn of civilisation. The significance of this as bearing on Indian architecture was suggested by the fact that in the great pottery industry of Staffordshire, in spite of efforts to reduce the science to a mechanical process, the potter who could trace back his ancestry to three or four generations of craftsmen in his own vocation was worth two of those who began their career with no such craft pedigree.

Tracing the early beginnings of Indian architecture to the third century before Christ, the lecturer declared that it had been influenced less by foreign work than had most of the great architectural schools of Europe. In India there had never been any artificial distinction between fine art and decorative art, and the best master builder was also the best sculptor. The history of Indian architecture began with the erection of shrines to Buddha. In the course of his studies, he had come across evidence of the existence of Town Councils in India as early as the tenth century. These Councils, which met in the shrines or temples, had a Tank Committee, whose function it was to see to the water supply, a Garden Committee, entrusted with the keeping in good order of the public gardens, and so forth. They even had votes for women in those days, for there were women Councillors, and even women Justices of the Peace. Indian architecture at the present day showed an extraordinary vitality. Photographic pictures were shown of many beautiful buildings which, as the lecturer said, had been constructed by master craftsmen, earning from tenpence to eighteenpence a day.

"Citizen Rights within the Empire"

Mr. J. Ramsay MacDonald writes to the Editor of *India* as follows:—

I notice in a paragraph in your "Notes and News," in the issue of April 3, the following statement regarding the Labour Party resolution upon citizen rights within the Empire: "But unconsciously, no doubt, the wording of the resolution excluded those portions of the Empire which were not self-governing." That is not true. The resolution specifically covered the whole Empire; but, in order to make it quite clear that we meant to include self-governing Dominions, these were specifically mentioned after the more general words, "common to the whole Empire." We only consented to withdraw the latter words because Mr. Harcourt made it clear in his speech, when accepting the first part of the resolution, that he had self-governing Dominions in his mind as well. As a matter of fact, in drafting the resolution, I had no part of the Empire more clearly in my mind than India and no grievance more prominently in front of me than the grievances of Indians both at home and in South Africa.

News in Brief

London, May 3—A Reuter telegram from St. Petersburg says that seven leading magistrates and municipal administrators in Finland have each been sentenced to seven months in prison and deprivation of office for ten years for refusing to enforce the operations of the law passed by the Russian Duma, but not by the Finnish Diet, giving Russians equal rights with Finns in Finland.

Speaking at a Kimberley Council meeting, with reference to the Administrator's inclusion in the Cape amended Municipal Ordinance of the provisions securing registration and medical inspection of domestic servants and children's nurses, with a view to preventing the spread of contagious or loathsome disease, the Mayor (Mr. Oppenheimer) said he was quite sure that the Council would not support the thing as it stood. The Council's object was not only to prevent the disease from spreading to European children, but to prevent its spreading to coloured and native children. As so, if anything was to be done, he wanted to make it clear that it was his and the Council's wish that it should be done to protect everyone, and not one section of the community merely. They should do anything they could to deal with this, so long as it was not class legislation and it applied to every section of the community.

The workers are beginning to take sides (says the *International News Letter*) against coloured labour, which often includes Southern Italians, Turks, Spaniards and Greeks, all of whom can manage to exist upon the half of the usual local wages and to save upon same. They live all huddled up together, dress and eat in a most primitive manner and know nothing of the more modern conditions of civilisation. Not only the difference in the language but especially the positively insurmountable difference in customs renders it impossible to raise these workers to the level of the indigenous workers. So long as this is impossible, not only is the further progress of the indigenous worker retarded, but his very existence is threatened. It is, therefore, not surprising that the rift between the races should become wider and wider, much to the advantage of the employers. But it is obviously impossible to permanently exclude the other races (having regard to the modern means of communication, commercial demands, etc.) merely because they are also workers. All the more is it necessary that the workers of all the modern countries extend their organisation work directly or indirectly to their less fortunate fellow-workers in the backward countries. They have successfully met the revolution caused by the advent of machinery and will find a way of thwarting the attempts of the employers and grappling with the problem of the immigration of coloured labour.

"Many an Indian civilian or African merchant, for example, who has returned with the idea of separate races had no intimate knowledge of the uneducated people of his own country before he went out," writes Dr. Caldecott in the *London Quarterly*. "He has passed from school and college or counting-house and the society of his compeers to find himself for the first time at close quarters with people of the 'peasant' or the 'artisan' class. Or, in some cases, the returned merchant has neither at home nor abroad come into personal contact with any of the working classes except domestic servants or the lower employees in the business: of the general population he knows nothing worth knowing in either case."