

Indian Opinion

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COLOURED PASSENGERS ON CARS

IN the Supreme Court, Pretoria, on the 10th instant, before Mr. Justice Bristowe and Mr. Justice Curlewis, judgment in the appeal case with regard to the right of coloured people to travel in Johannesburg trams (*Williams and Adendorff v. Johannesburg Municipality*) was given. Applicants, who were Cape coloured people, had applied to Mr. Justice Ward for an order restraining the respondent from refusing to allow them to travel on tramcars. Mr. Justice Ward dismissed the application.

Mr. Justice Bristowe yesterday first read the judgment of the Hon. the Judge-President, which stated, *inter alia*: The real issue between the parties seems to be whether a well-behaved coloured person was entitled to board an ordinary tramcar, and whether it would make any difference if there was a notice on the car to the effect that the car had been specially reserved for Europeans. As the sole right was given to the Council to run the tramways for public use, every member of the public had, in his opinion, a right, upon tendering the fare, to demand to be conveyed as a passenger. It was urged that the refusal to take a person as a passenger on the ground that he was coloured was *justa causa* in the circumstances obtaining in Johannesburg. It was said that the whole fabric of society was based on a colour discrimination, and that if natives or coloured persons were allowed to ride in the trams, the whites would refuse to patronise the trams, and the tramway system would break down. The case of the hotel-keeper was said to be parallel. It was urged that as such he was bound to receive any well-behaved traveller who was prepared to pay for his board and lodging. But if he could prove that by putting up a native, for instance, and allowing him to dine in the public dining-room, the white members of the public would cease to patronise his hotel, he would be justified in refusing to receive and harbour the native. If the fact of race or colour feeling could be established, the hotel-keeper, it was contended, would have sufficient grounds for refusing to receive a native or a coloured man.

Separate Cars

Reliance was placed by the Municipality upon by-law 33, under Ordinance 2 of 1906. It was urged that the by-law was void on the ground of uncertainty and of unreasonableness. The cases quoted did not appear on all fours with the present case; for if, by virtue of the by-law, the Council had indicated by notices on the tramcars or otherwise which cars were destined for Europeans and which for coloured persons, there would have been no uncertainty. Whether the by-law was unreasonable was a matter which, in the absence of evidence of what may be held to be *justa causa*, appeared to him to be concluded by authority. In the case of *Moses v. Boksburg Municipality*, the Court laid down that where the enabling Statute did not give the Municipality power of discrimination between natives

or coloured persons and whites in reference to the establishing of compounds, a by-law purporting to so distinguish was *ultra vires*. This decision, unless *justa causa* could be established, would seem to cover the present case. But if there had been clear proof of circumstances justifying the Court in drawing the inference that there was reasonable ground for refusing coloured persons in the same trams with Europeans, he would not be able to hold that the by-law in question was unreasonable. He would like to point out, however, that the Legislature had expressly empowered the Council to discriminate between whites and natives or coloured persons. As this was his view, it became unnecessary to discuss whether Section 176 (b) was *ultra vires* the powers of the Provincial Council.

The result was that, in his opinion, the Council was not entitled on the day in question to refuse to convey the appellants in the tramcar, but for the reasons given above found himself unable to grant the order asked for. But, as the majority of the Court were of a different view, the order would be as stated in the reasons of Mr. Justice Curlewis.

No Other Cars Available

Mr. Justice Bristowe then delivered his own judgment to the following effect:—

The appellants, who are Cape coloured men, were removed from one of the Municipal tramcars on the ground that, being coloured, they could not travel on the same car with white persons. They applied to the Witwatersrand Local Division for an interdict restraining the Municipality from refusing to allow them to so travel. The application was refused, and from that refusal the appeal was brought. The alleged power to exclude coloured persons from Municipal tramcars depended on the tramway by-laws, which were originally made under the Johannesburg Municipal Ordinance, 1906, and which conferred on the Council the right to make by-laws or regulations for regulating locomotives, tramcars, omnibuses, and all private vehicles. This statute was repealed by the Local Government Ordinance, 1912, which enabled by-laws to be made for regulating the use of tramways and for appointing separate tramcars for the use of white persons and of natives or Asiatics or other coloured persons respectively, and restricting the use of such cars to such persons, and prohibiting the use of any tramcars by persons who are not respectably dressed or well-conducted. By-law 33 provided that the Council might set apart and licence any carriage, or portion of a carriage, for the use of passengers of European race only, and made it an offence to enter or travel upon any carriage set apart and licensed for a class of passengers to which one did not belong. And at the end of the by-law was the proviso "that nothing in the by-law shall be deemed to relieve the Council of any obligation that may attach to it to provide reasonable accommodation for every class of passenger." The car in question was a car for

the use of Europeans only, but there was nothing on the car itself to indicate this, nor was there anything to show that there was any other car available for the appellants' use.

Provincial Council Powers

He took the view that whether the by-law in question was authorised by the Ordinance of 1906 or not, it was clearly authorised by Section 176 of the Ordinance of 1912, and therefore valid, unless the last-mentioned section itself was *ultra vires* the Provincial Council, which he held was not the case. The attention of the Court did not appear to have been called to the case of *Germiston Municipality v. Rand Cold Storage Co., Ltd.*, where it was held that an existing by-law, in order to be preserved, must be within the powers of the statute under which it purported to have been made. It was not disputed that, in the absence of authority in the enabling statute, a by-law which discriminates between different classes of the population was bad on the ground of unreasonableness. There was, he thought, no question that the power conferred by the Ordinance of 1912 was wide enough to cover by-law 33. The only question that could arise was whether Section 176 itself was within the legislative authority of the Provincial Council. He was in accord with the view that the status of Provincial Councils under the South Africa Act was analogous to that of the Canadian Provincial legislatures under the British North America Act, 1867. In his opinion, there was nothing in the status of Provincial Councils to incapacitate them from creating or authorising the creation of colour distinctions in cases which their powers were otherwise wide enough to include. That the powers vested in the Provincial Councils were wide enough to cover Section 176 of Ordinance 9 of 1912 was assumed in the Court below. The South Africa Act gave Provincial Councils power to legislate in relation to Municipal institutions, but it did not enable them to vest in the local authority "fancy" powers, nor would it necessarily include all and every power which Municipalities frequently possess. The point seemed to be whether the maintenance of a tramway service was a special function or whether it came within the ordinary management of Municipal affairs. Having regard to modern ideas, and taking into account the advance of public needs, a tramway system might now be regarded as an almost necessary adjunct of the Municipal institutions of every large town. For this reason, he came to the conclusion that the power to legislate included power to authorise the establishment and maintenance of a Municipal tramway service. It seemed that the power to make tramway by-laws must be read in connection with the power to maintain a tramway system. Section 31 (that giving power to maintain a tramway) contains nothing in express words to warrant the view that any distinction based on race or colour was intended. They were to be for the benefit of the public generally.

By Implication

It was, in his judgment, just as impossible to say that the section would be satisfied by a tramcar service for the exclusive use of Europeans as it would be to suppose that it would be satisfied by one which was carried on only for the benefit of natives, or was confined to persons of a particular age, or sex, or trade. If, therefore, any authority was to be found in the section for any form of colour distinction, it must arise by implication; and it was settled that a provision could not be implied unless it was necessary to imply it—unless it was otherwise impossible for the enactment to have the effect which it was intended to have. Some regard might be properly paid to the feelings and the sensitiveness, even to the prejudices and foibles, of the general body of reasonable citizens. Persons who use tramcars might fairly expect some protection from dirty and offensive neighbours. It seemed to him that on similar grounds some degree of colour distinction

might also be justified. In the existing state of public feeling the segregation of natives might be essential to an efficient tramway system. But it was quite a different thing to extend the segregation to all persons who were not of European race. Such a distinction was entirely artificial. Again, what was the meaning of European descent, and what amount of alloy constituted a departure from pure European blood? As matters stood, the decision rested with the tramway conductor, and could only be based on a rough-and-ready comparison of shades of facial colouration. Cases might arise where brothers and sisters would have to be placed on opposite sides of the colour line; and even the same person who was permitted to travel one day might be excluded the next. He could not think that there was any justification for extending the segregation to persons like the appellants, if they were respectable and well-behaved. In his opinion, the by-law was not within the powers of the Ordinance of 1906; and, if that was so, then it was not preserved by the Ordinance of 1912, and it was not a valid by-law. It was no part of the respondents' case that any tramcar accommodation whatever was provided for coloured persons. And he was disposed to think that the proper inference was that there was none. It was not necessary to decide the point, but he wished to say that it seemed extremely doubtful whether the by-law justified the total withholding of coloured accommodation. A tramway service for white persons only would hardly be one "for public use" within the meaning of the Ordinance of 1906, and even Section 176 of the Ordinance of 1912, though it contemplated segregation, certainly did not contemplate exclusion. For these reasons he thought the decision of the Court below wrong, and should be reversed. He agreed with the form of order proposed by Mr. Justice Curlewis.

Mr. Justice Curlewis delivered a concurring judgment.

The appeal was accordingly allowed with costs, and the Court made an order restraining the respondent or any of its servants from preventing or from refusing to allow applicants from travelling on any of the respondent's ordinary service cars for the conveyance of passengers on payment of the usual fare, and subject to complying with the other by-laws; leave was given to the respondent to bring an action for setting aside the interdict, costs of the application and of the appeal then to be costs in the cause; if such action were not instituted within one month from date of judgment, the respondent to pay costs of appeal and of the lower Court.—*Transvaal Leader*.

Indian Labour in the Colonies

In the House of Commons on the 2nd June Mr. Pointer asked the Secretary of State for the Colonies whether, in all Crown Colonies and Protectorates to which Indian labourers were admitted under indenture, it was a condition that Indians who had completed their indenture should be in all respects free men, subject to no labour ordinance and with personal and civic rights in no way inferior to those of any class of people resident in the Colony or Protectorate; and whether encouragement was held out to them to become proprietors of agricultural land and holdings.

Mr. Harcourt: The reply to both parts of the hon. member's question is an affirmative one. The Committee which reported on emigration from India to the Crown Colonies laid down the general principle that immigration under indenture for private employers should be permitted only to such Colonies as offer an opportunity to the time-expired immigrant to settle in an independent capacity on the land.

From the Editor's Chair

A SURPRISE VISIT

MANY were disappointed by not being allowed to pay their respects to His Highness Sir Aga Khan during his brief stay in Durban last week. His Highness has shown on many occasions his keen interest in our welfare and we all gratefully remember the mass meeting at Bombay during the passive resistance campaign, over which he presided. During the time of Mr. Gokhale's visit to South Africa, His Highness was invited to come to this country but it was not found convenient. He promised, however, to come at a later date. The community have since lived in hope that one day His Highness would favour us with a visit when the community would have the opportunity of honouring so great a son of India. No wonder, therefore, that disappointment is felt. Nevertheless we cannot blame His Highness, under the circumstances, for declining the invitation of the Indian community. Coming as he did, not of his own will but by reason of the steamer in which he was travelling being sent back to Durban by the British Naval authorities, it was not possible for him to accept anything in the nature of a public reception at a time when all attention was drawn to the sad state of affairs in Europe. Had His Highness accepted even a private reception at Durban, the news would have flashed across the country and at every place he would have been met by enthusiastic admirers bent on doing him honour. This would have been embarrassing to him, and at the present time not desirable. His desire to travel as a private gentleman was, therefore, reasonable. When, however, the war is over and things have become normal once again, we think that, if the Indian community were to invite His Highness to pay his promised visit to this country, he would accept it and we have no doubt that the Indian community would unite in doing him honour. We hope that the leaders of the community will take the opportunity, whilst expressing their regret at not meeting him at the present time, of inviting him at a more convenient season.

THE JOHANNESBURG TRAMWAYS

THE Transvaal Division of the Supreme Court has just delivered a most important judgment to all people of colour living in Johannesburg with reference to the powers of the Johannesburg Municipality to exclude non-white persons from the use of the municipal tram-cars on grounds of colour alone. The Court has directed the Municipality to allow certain two Cape coloured persons to have equal facilities with Europeans as regards the ordinary service of municipal tram-cars and subject only to the same restrictions as white persons. It is clear that the present Johannesburg Tramway Bye-law that has hitherto excluded coloured persons is held by the Court to be *ultra vires* of the Statute under which the Municipality has acted. We understand that it is the intention of the Municipality to appeal against this judgment, and we strongly urge the members of the Indian community to refrain meanwhile from taking advantage of the present position. The situation is a very delicate one and, even if the Municipality be defeated in the highest Court, it will still be necessary and expedient for an agreement to be arrived at between the various organisations representing non-whites and the Johannesburg Municipality as regards the use of the tram-cars without undesirable friction. We trust, therefore, that the Johannesburg Indians will realise their responsibility and not act selfishly or precipitately.

H. H. Sir Aga Khan

There arrived quite unexpectedly in Durban, on Thursday by the Union-Castle liner *Llanstephen Castle* from Zanzibar, His Highness Sir Sultan Mahomed Aga Khan, G.C.S.I., G.C.I.E., etc. As soon as the leaders of the Indian community became aware of the arrival of the distinguished visitor efforts were made to get into touch with him to ascertain his wishes in regard to the arrangements for his reception. It was thought that, owing to the disturbed condition on account of the war and the fact that the visit of His Highness was accidental, any reception would necessarily be of a private character. Letters were therefore addressed to His Highness by the Natal Indian Association, Zoroastrian Anjuman, Anjuman Islam, Colonial-born Indian Association, Hindu Women's Sabha and others, expressing their hearty welcome and requesting His Highness to meet representatives of the various bodies. Later, telegrams were sent respectfully requesting a reply and stating that there would be great disappointment if the community had no opportunity of doing him honour. After several unsuccessful attempts on Friday morning to find His Highness on board the steamer, at the Marine Hotel and elsewhere, a representative of the Indian community "captured" the object of his search seated in a motor-car, perusing the many telegrams received from all parts, welcoming him to these shores. After a brief introduction the business of the "scout" was disclosed. Would His Highness kindly accept the invitation of the Indian community to a private reception at which the leaders would attend and pay their respects to one who was held in so high esteem by all sections? They felt that it was impossible for them to allow him to pass through Durban without some recognition of his valuable services to the Indian cause in South Africa. These and other suggestions were smilingly refused with many thanks and profuse apologies. His Highness said that he was very much obliged for their kindness but it was quite impossible for him, under the circumstances, to accept their very kind offer. He had decided to travel strictly *incognito* through South Africa. He had come to Natal not by arrangement but by reason of the conditions prevailing. He was also not well, having undergone an operation on his leg and was greatly upset at the enforced alteration of his plans. He intended to reply to those who had sent messages declining all receptions which might be contemplated. "Will you please thank the Durban friends," said His Highness, "and tell them how much I appreciate their good wishes, but it is impossible for me to accept their hospitality. I am leaving by this evening's train for Johannesburg, *en route* to the Cape where I shall board the steamer for England. Good-bye." And with a hearty hand-shake, and a snort of the motor-horn, he was flying away up the street and lost to view.

Replies were afterwards received by the Durban public bodies as follows:—

"I thank you heartily and am much gratified by kind offer to do me honour of visit and reception but am travelling strictly *incognito*, was forcibly brought here and specially made a rule to go through as a private gentleman, besides am not well and am very sad by events."

His Highness, while in Durban, was in telegraphic communication with General Botha, whom he met at the last Imperial Conference, and with whom he received his LL.D. at Cambridge, and, as representing the Premier, he was seen off at the station by Mr. James Dick, head of the Immigration Department, and Mr. Bernard Hodson, magistrate (on behalf of Mr. Percy Binns) and by the Mayor (Mr. W. Holmes).

At Johannesburg

His Highness had telegraphed saying that he was travelling *incognito*, and that accordingly he did not wish to receive any deputations or be the object of any demonstration, and, therefore, with the exception of

a few members of the Khoja community, practically no-one met him at Park Station. Mr. Polak, however, who had met him in India, and who had placed himself at the disposal of the distinguished visitor, showed him the principal sights of the town in the short time available, as it was nearly nightfall, and His Highness subsequently left for Capetown by the Cape Mail at 9 p.m. on Saturday. It is his intention to travel by one of the Portuguese mail-boats, and to visit Morocco before his return to India. Prior to his departure, the Aga Khan desired Mr. Polak to convey to the Indian community his grateful thanks for the many expressions of goodwill that had been received by him, and to explain that his visit to South Africa, which was purely accidental, imposed upon him complete privacy.

At Capetown His Highness was met at the station by several of the Indian leaders but there were no speeches.

More Farewell Addresses

The European Committee of sympathisers in Johannesburg presented the following address:—

DEAR MR. GANDHI,

On the eve of your departure for India, we, the undersigned members of the European Committee of sympathisers with the Indian Community during the recent Passive Resistance Struggle, desire to convey to you our most sincere regards for your qualities of self-sacrifice, moderation, devotion to duty, and statesmanlike action.

During these troublous times, in which it was our very great privilege to co-operate with you, and use such influence as we possessed to procure a settlement honourable to all parties, we had your loyal assistance and most valuable advice.

It must be a matter of intense satisfaction to you to know that your self-sacrifice, and that of the community of which you are an ornament, have resulted in complete success to the cause that you have consistently and conscientiously advocated, and we tender you our sincere congratulations upon this happy event.

We wish you and yours long life and happiness and many opportunities of extending your energies on behalf of your countrymen and suffering humanity at large.

We are, dear Mr. Gandhi,

Yours very sincerely,

CHAS. PHILLIPS,

Acting Chairman,

JOHN A. ROGERS,

J. HOWARD,

A. BROWN,

D. POLLOCK,

C. E. NELSON,

H. ROBINS,

A. S. JUDD,

H. KALLENBACH,

H. S. L. POLAK,

R. J. HALL.

DEAR MISS SONJA SCHLESIN,

On behalf of the Transvaal Indian Women's Association, of which you are the honoured Secretary, we desire to offer you our heartfelt thanks for the splendid work that you have done during all these years, on behalf of the Indian Women of the Transvaal.

You have served our Association with a love and devotion that are rare indeed, and you have added to our many obligations towards you by your splendid work at Volksrust and at Charlestown, where you tended the women and children who were members of the families of the indentured and ex-indentured labourers. Such pre-eminently woman's work you have made your own in a manner that has won our hearts and our affections. Now that the strain and stress of the crisis through which we have passed is over, we trust you will enjoy some release from the strenuous labours that you have cheerfully undertaken.

We are sure that we shall always have your sympathy and help, and we pray that you will enjoy many years of life in which to continue your humanitarian work.

We are, dear MISS SCHLESIN,

Yours affectionately,

MRS. V. RAMA MOODALLY,

„ NYNAH FRANCIS PILLAY,

„ S. V. AMACANOO,

„ ATCHICUNOO AMAL.

Johannesburg, 14th July, 1914.

Asiatic Question in Canada

(Concluded)

Demand for Complete Exclusion

Sir Richard McBride, Premier of British Columbia, with the practically unanimous support of the Legislature, demands the complete exclusion of Asiatics. Probably this demand expresses the general sentiment of the Pacific Province. For this the labour organizations agitate. For years the trade and Labour Congress of Canada has passed resolutions in favour of exclusion. The feeling for exclusion is as strong, if less active, among organized labour in the other Provinces as in British Columbia itself. Nor is the agitation confined to labour. There is a common conviction that Indians are unfitted for conditions in British Columbia. Thus far the appeal of Indians to have their wives admitted has been denied. It is held that these people are polygamous and that for this reason alone the demand should not be conceded. But it may be doubted if that is the chief motive in the demand for exclusion. The very efficiency of the Japanese excites apprehension. The Chinese are favourably regarded as domestic servants and perhaps now arouse less hostility in British Columbia than other Asiatic races. At the moment, however, there is intense feeling in Vancouver over the brutal murder of a woman by a Chinese servant. The City Council has instructed the Board of Education to provide a separate school building for Asiatic children, and has adopted a resolution to give civic contract only to contractors who employ no Asiatic workmen. It is also reported that many Chinese servants have been dismissed from the households in which they were employed. The panic will pass, but there could not be a better illustration of how quickly feeling against Asiatics is aroused. The broad and vital objection to Asiatics in Canada, as in every other country where white standards of civilization prevail, is that they do not assimilate and on moral, social, and national grounds, and do not belong where they cannot be permitted to enjoy free and full citizenship.

Asiatic Competition

Twenty years ago most of the sawmills of British Columbia were operated by white labour. To a great degree the white workmen have been displaced by Chinese, Japanese, and Hindus. Fifteen or 20 years ago there were 8,000 or 10,000 white fishermen on the Pacific Coast. To-day the fisheries are practically controlled by Japanese. Neither the Chinese nor Japanese are deficient in commercial qualities or lacking in genius to take advantage of conditions in the labour market. The Chinese are willing to be servants, but more and more the Japanese enter into mining and fishing and control the industries in which they engage. They have the genius of industrial masters: the efficiency which outruns competition and establishes industrial sovereignty.

Legislative Devices

But whatever may be the qualities of Asiatics, or however necessary under existing conditions may be Oriental labour on the Pacific Coast, it is certain that British Columbia demands severe restriction, if not

absolute exclusion. At the last General Election for the House of Commons every Liberal candidate in the Province was defeated, and chiefly because the Laurier Administration was suspected of laxity in dealing with Oriental immigration. Provincial Governments, whether Liberal or Conservative, have attempted by various legislative devices to effect exclusion. From time to time Provincial Acts have been passed to prevent the employment of Chinese or Japanese on railways and other undertakings, public and private, subsidized by the Government, to prohibit the use of such labour underground in mines, and to prevent the issue of liquor licences to Orientals. There was firm and continuous protest from Japan, and endless correspondence both between the Provincial and Federal authorities and between the Canadian Government and the Colonial Office. Repeatedly the Acts were disallowed by the Dominion and re-enacted by the Province. Mr. Chamberlain, while Colonial Secretary, expressed sympathy with the desire of British Columbia to prevent any excess of Oriental immigration, but treated the Provincial measures as needlessly offensive to Japan, and urged that by adoption or variation of the Natal Act the object of the Province could be achieved. A Bill resembling the Natal Act was adopted, but, as an educational test in the language of Japan was not permitted, that also was made the subject of Japanese and Imperial remonstrance and was disallowed. In the same way there was protest from Japan against the denial of the franchise to its people, but in provincial elections no power to interfere lay in the Federal Government.

The Dilemma

The problem which embarrassed the Laurier Administration now confronts Conservative Ministers. Sir Richard McBride, as has been said, still demands exclusion, but for Imperial and commercial reasons alike the demand cannot easily be recognized. There is an agreement with Japan to restrict immigration, and this has been observed. No doubt a similar agreement with China is desirable, but it may be difficult to obtain and probably would carry no adequate guarantee of enforcement. There is no prospect that the restrictions upon immigration from India will be relaxed. The existing regulations provide for practical exclusion, and British Columbia will tolerate no modification of the policy. It is in British Columbia that the immediate active feeling against admission of Asiatics is centred. This will be understood when it is remembered that the total population of the province is only 392,480. If Asiatics should begin to swarm across the mountains a feeling as intense as now prevails in British Columbia would develop in the Prairie Provinces. A Bill passed by the Legislature of Saskatchewan to prohibit employment of white girls by Chinese is now before the Imperial Privy Council. If it is found to be constitutional a similar prohibition will be adopted in Ontario.

It has also to be remembered that in the American Pacific States the antipathy to Asiatics is even more pronounced than in British Columbia. Regardless of political boundaries, the whole coast would unite against any serious increase of Oriental immigration. Indeed, there is even now a demand in British Columbia for just such legislation to refuse land titles to Asiatics as California has adopted against the protest of Washington and in defiance of the diplomatic representations of Japan. In Canada, however, there is a power to disallow state legislation which does not exist under the American Constitution. In the fruit districts of British Columbia there is no co-operation between white and yellow farmers. Indeed, there is a practical boycott of Asiatics. They engage freely in vegetable growing, on isolated plots surrounding the cities, but are not allowed to establish themselves as owners in the fruit country. A Royal Commission has just reported that Oriental ownership or leasehold of farm lands is detrimental to truck farming by white settlers. It

is alleged that Hindus have become serious competitors with dairymen who supply Victoria and other communities with fresh milk. It is urged that the facts should be impressed upon the Dominion Government. A further recommendation is that in order to increase the supply of efficient farm labour the head taxes upon Chinese should be drawn upon to assist immigration from Great Britain. The Canadian Government, as has been said, has the whole embarrassing question under consideration. At its elbow is the Conservative Provincial Government of British Columbia, and on the benches of the House of Commons is a united Conservative delegation from the province. Whatever is done, therefore, the regulations against admission of Hindus, Chinese, and Japanese will not be relaxed.

Magistrate Severely Censured

"The accused was an incorrigible rogue. He had been convicted 14 times, and it seemed proper to apply ordinary jurisdiction to the sentence. I was quite aware that this was not strictly legal, and the matter would not have been questioned had it not been for the officiousness of the superintendent of the Durban Gaol. What business it is of gaol officers to criticise magistrates' sentences I have yet to learn. There has been no appeal or objection by the prisoner." This (says the *Natal Mercury*, was the statement made by the Resident Magistrate of Verulam in his reasons for sentencing an indentured Indian named Powlett to six months' imprisonment, with hard labour, on a charge of failing to produce his pass when called upon to do so by a duly authorised person.

The said Indian, Powlett, appealed against the sentence, and the case came on for review in the Natal Provincial Division of the Supreme Court, before the Hon. the Judge-President (Mr. Justice Dove-Wilson), Mr. Justice Broome, and Mr. Acting Justice Bird.

Mr. Shaw was for the appellant, and Mr. Douglass, K.C., Attorney-General, for the Crown.

The grounds of the appeal were that the charge as laid down disclosed no crime, and that the judgment or sentence was *ultra vires* and illegal.

The Attorney-General said that he could not uphold the finding of the Magistrate.

The Judge-President, in giving judgment, said that in this case the appellant was sentenced to six months' imprisonment, with hard labour, for an offence which at the most would have entailed imprisonment for only 30 days. The extraordinary part of the case was that the Magistrate admitted that he was quite aware at the time he passed the sentence that it was not strictly legal. How then the Magistrate could proceed to do what he was aware was not strictly legal was beyond his (the Judge-President's) comprehension. But he was not content with saying that he was aware that what he was doing was not strictly legal, but went on, in effect, to express his censure of what he termed the "officiousness of the superintendent of the Durban Gaol," to whom he (the Magistrate) ascribed the fact that his illegal sentence had been called in question. He asked: "What business is it of a gaol officer to criticise magistrates' sentences?" It was obviously within the province of anybody who found that an illegality had been committed, even by a magistrate, to criticise that illegality, and if it were a fact—he (the Judge-President) did not know if such was the case—that it was due to the superintendent of the Durban Gaol that this illegality had been exposed, then that officer was only doing his duty in taking the proper steps to have it exposed. This was the first time in his (the Judge-President's) experience that a magistrate had contended that he knew what he did was illegal, and had complained of the officiousness of the person who had been the means of exposing his illegality, which, had it not been exposed, would have resulted in the appellant being detained in prison for five

months longer than the Legislature had thought sufficient.

Mr. Justice Broome said he had nothing to add, and Mr. Acting Justice Bird also concurred. The conviction, therefore, was quashed.

The Rice Supply

A meeting of the Natal Sugar Growers' Association was held on Wednesday, says the *Natal Advertiser*, for the purpose of considering what action, if any, should be taken to conserve the supplies of rice. The chair was occupied by Mr. C. B. de Gersigney, and the attendance was composed of representatives of practically the whole of the principal sugar growers of Natal.

The chairman explained that as soon as it had become known that war had been declared it was felt to be the duty of the employers to ascertain how the food supply of those they employed would be affected. At one time it was evident that a panic had set in, and indiscriminate buying was resorted to, but that had happily passed. Now however, it was their duty to see that their Indians suffered as little as possible until the country was more settled, and the meeting had been called together to learn the wish of the employers as to whether other rations should be given to their Indians, or whether anything could be done to ensure full rice supplies in the near future.

Mr. Saunders thought they were working in the dark for no one seemed to know really what the position was. They did know that rice was likely to be scarce, and he was of the opinion that the meeting should come to some understanding with a view to conserving the supply of rice in the country, and so to increase its value. He suggested that it be agreed that the ration of rice be reduced, but be made up by an equivalent amount of meal. There was little difficulty in the way, and he was sure if the Indians were told how the country stood in regard to its rice supply they would willingly forego a portion of the rice ration now rather than run the risk of being without a month hence. He would not countenance any action which deprived the Indians of any portion of their rice ration without their sanction. If all went well the full ration could be resumed in a very short time. He proposed:—

"That the rations provided by Government scale, namely, 6 lbs. of rice and 7 lbs. meal, shall be adhered to, and, with the consent of the Indian, in cases where extra rations are being issued, such extra rations shall be replaced by issuing meal in the ratio of 4 lbs. of meal to 3 lbs. of rice, and in the meantime the Sugar Association communicate with the Government in regard to the whole position."

The resolution was seconded by Mr. Tucker, who, along with others, endorsed the remarks of Mr. Saunders, but Mr. Askew said it was a question as to whether the resolution would adjust the position. Some of them had never been in the habit of giving their Indians more than the minimum allowed by Government. He thought the Indians should be asked to accept a half ration of rice.

Mr. Saunders impressed upon the meeting that any arrangement made could only be with the concurrence of the Indians, but suggested that it would be better if any resolution arrived at was unanimous, and pointed out that if it was agreed to conserve the supply in the manner named it would have a deterrent effect upon those who were now asking exorbitant prices for rice.

Mr. Townsend said that there would be no difficulty as far as the Indians were concerned. The men in his district had already agreed to the reduction of the rations, but another speaker thought the question of a reduction in rations was fraught with difficulty. It was already seeking trouble to reduce the ration of rice. He suggested that the question be postponed until the position became more clearly defined.

Mr. J. Kirkman explained that some estates gave more than double rations, and pointed out that under the proposed alteration the Indian would get the same bulk, but a larger proportion of meal.

After a desultory discussion upon the financial position, the chairman summed up the debate, and said as far as he could see there were two important points bearing upon the position, the first of which was what was the consumption, and then what stocks were held in the country? They had also to take into consideration that many of them had undertaken to provide their Indians with a certain quantity of rice per week. He took it for granted that stocks were running short, as exorbitant prices were now being asked. They were aware that large quantities of rice were on order, but they had heard of the financial difficulties in the way of securing this rice, and unless these were removed there would follow a famine of rice. He thought it would be far better if every means of securing a sufficiency of rice were exhausted before asking the Indians to consent to a reduction of rations, and in this connection he thought the Government should be asked to assist them. It was the prime duty of the Association to prevent famine being brought upon any section of the community, and as the question of a reduction in rations must necessarily be a delicate one, and might lead to complications not now thought of, he suggested that the Government be approached upon the subject. They were willing to pay cash for their supplies, but the difficulty was in the transmission of the cash to the seller on the other side, and it was there that Government could assist. If facilities were available there would be no need for any such resolution, and even if these were not forthcoming there was still a question as to whether the Indians should be approached by the employers or by the Government.

Mr. Kirkman took practically the same view, and pointed out that the coal companies would be glad to avail themselves of the labour now used on the sugar estates, so that they should proceed very warily in the matter of reducing the rations.

Mr. Saunders altered his previous resolution so that it included an instruction to the Sugar Association to approach the Government in reference to the whole position, and the resolution was then adopted, there being only two dissentients.

Indians and the War

The Indian farmers and stall-holders at the Durban Indian Market have subscribed over £58 to the Mayor's War Relief Fund. The Committee, with the Market-Master as chairman, has expressed the desire that the money should be used specially for the benefit of the distressed in England. The following amounts contributed by Indians to the Mayor's Fund also appear in the official list:—M. M. Kharsany £5 5s., Parsee Rustomjee £16 16s., G. H. Miankhan & Co. £15 15s.

The Indian storekeepers at Ladysmith have voted £100 to the local War Relief Fund and passed a resolution affirming their loyalty to the British Empire.

A Reuter message from London, dated the 15th instant, which, however, had been delayed by the Censor, states that Mr. Gandhi and others are organising Indians who are offering themselves for unconditional service.