

No. 106 (Public—Emigration), dated India Office, London, the 15th October 1891.

From—THE RIGHT HONOURABLE VISCOUNT CROSS, G.C.B., *Her Majesty's*

To—The Government of India.

Secretary of State for India,

Foreign Office to India Office, 7th August 1891, with enclosures.
Ditto 24th ditto ditto.
Ditto 25th ditto ditto.
India Office to Foreign Office, 5th September 1891, ditto.
Foreign Office to India Office, 4th ditto ditto.
Ditto 29th ditto ditto.
India Office to Foreign Office, 7th October 1891.

I FORWARD, for the information of Your Excellency in Council, copy of correspondence with the Foreign Office on the subject of the imposition upon British Indian *permissionnaires* in Réunion of the tax on foreigners of Asiatic or African origin.

Dated Foreign Office, London, the 7th August 1891.

From—P. W. CURRIE, Esq., *Under-Secretary of State for Foreign Affairs,*

To—The Under-Secretary of State for India.

I AM directed by the Marquis of Salisbury to transmit to you, to be laid before the Secretary of State for India in Council, a despatch, with its enclosures, from Her Majesty's Consul at Réunion respecting the imposition upon British Indian *permissionnaires* of the tax on foreigners of Asiatic or African origin.

Lord Salisbury proposes, with Lord Cross' concurrence, to approve the action taken by Mr. Consul Bennett in the matter, and to send the correspondence to Paris for the information of Her Majesty's Embassy.

His Lordship does not propose to make a representation at present to the French Government on this subject, as the Consul anticipates the repeal of the obnoxious law under which the tax is imposed.

No. 26, dated Réunion, the 10th July 1891.

From—C. W. BENNETT, Esq., *Her Majesty's Consul at Réunion,*

To—The Secretary of State for Foreign Affairs.

ON the 25th ultimo the wife of a British Indian, named Apavon Joseph, appeared at the Consulate, and complained that her husband had been arrested under Article V of the Decree of March 19th, 1887, by which a tax is imposed upon all foreigners of Asiatic or African extraction residing in Réunion, and the harsh application of which law formed the subject of the despatch No. 19 which I had the honour to address to Your Lordship on the 8th ultimo. On enquiring, I found that Apavon was the legitimate son of a British Indian immigrant and was born in Réunion in 1864.

As Apavon did not therefore appear to be liable to pay the tax, I entered into correspondence with the Acting Governor on the subject, and meanwhile found out that Apavon's case was not, as I hoped, an instance of a claim made in error by some over-zealous functionary, but that all the old immigrants who had for years held a *permis de séjour*, either gratuitously or at the small cost of 10 francs a year, were now to be taxed under the law of 1887 in the sum of 50 francs a year.

To Acting Governor, No. 20.
From " " 147.
To " " 21.
To " " 22.
To " " 23.
To " " 24.

I enclose a copy of the correspondence as marked in the margin, and as soon as I receive Monsieur Longnon's reply to my despatches of the 1st, 3rd, and 5th and 6th instant, I will forward it in copy to Your Lordship.

Meanwhile, I have let it be also privately known that if British subjects are to be treated in Réunion in such an illegal and barbarous manner, Her Majesty's Government will be anything but favourably impressed by the action of the Administration.

The seed has taken root, and I hear that the Governor is daily receiving energetic protests from leading planters against the new and hostile action of the Government, and that there is every hope of this very obnoxious law being repealed.

I may add that the matter has been warmly taken up by the Press. I enclose in triplicate a copy of *La Vérité* of July 5th, which gives a very fair *résumé* of the whole question. The Editor of the *Vérité* is personally hostile to the actual administration, and besides being

a newly-elected member of the Conseil Général is acting as the advocate of some twenty Indian *permissionnaires*.

The law in question is universally admitted by lawyers to be illegal and unconstitutional, and two offers have been made to me to carry a case on appeal to the Cour de Cassation at Paris with a guarantee that they will obtain a decision annulling the law as illegal. As, however, this action would be very costly, four to five thousand francs being named, I have been obliged to decline it.

In my opinion, moreover, the tax is doomed, the more so as *La Vérité* makes public for, I believe, the first time, a note from Monsieur Etienne to the Governor of Réunion, dated in 1889, urging the Governor to abolish the tax as being impolitic and contrary to French ideas of liberty and justice.

In conclusion, I may venture to give Your Lordship some figures taken from official sources, showing how large a revenue was raised by taxation of British Indians and Arabs in 1890—

1. Poll-tax on <i>engagés</i>	Francs.
2. Police gratuities for arrests	89,235
3. <i>Permis de séjour</i> granted to old <i>engagés</i>	2,110
4. Total of foreigners' tax	1,790
	83,612
	176,747

I will now take these items in order—

1. Poll-tax—

The Protector of Immigrants gave me as the total number of adult immigrants 11,833 men and 4,324 women on December 30th, 1890. The poll-tax, being six francs per head on all adults except legally married women, should produce at the very least

The total population of the island is about 170,000, but the 90,000,00
poll-tax for 1890 was only 225,000,00

Dividing the difference by 6, I find that only 22,000 Creoles, Caffers, and Asiatics, not immigrants, pay the poll-tax. The figures given by the Protector are probably approximate and I do not believe that more than 12,000 Creoles pay poll-tax, after deducting the African *engagés* and Asiatics not immigrants. I enclose in duplicate a copy of *La Vérité* of July 4th in support of this assertion.

2. Police gratuities for arrest of Indians are most iniquitous and vexatious; they degrade the Indian and brand him as a social pariah. The amount, if doubled, would be under the mark.

3. According to further figures from the Protector there are "615 Indian *permissionnaires* paying the tax;" the receipt under this head is therefore over 6,000 francs a year.

4. *Foreigners' tax*.—This tax varies from 25 to 500 francs per head. Taking it at an average at 50 francs per head, we have 166 persons more to pay the poll tax, giving francs 1,000 more, and 166 to be deducted from the Creole paying total. Certainly nine-tenths of the Asiatics paying the tax are British subjects. Independently, therefore, of the value of the labour left in Réunion, and money spent here, the British Indian immigrant and the Indian trader contribute together about 200,000 francs a year to the Colonial Budget, whilst the sum noted for immigration purposes, Indian, African and general, in 1890 amounted to 62,450 francs. To seek to still further bleed the British Indian is, to put it mildly, very unjust, and I venture to hope that Your Lordship will not find the language I have used in addressing Monsieur Longnon to be out of place.

No. 20, dated St. Denis, the 25th June 1891.

From—C. W. BENNETT, Esq., *Her Majesty's Consul at Réunion*,
To—His Excellency the Acting Governor of Réunion.

I SHALL be much obliged if Your Excellency will enquire into the circumstances under which Apavon Joseph, whose father, Apavon Virapin, No. 82855, an Indian immigrant, holds a *dispense d'engagement* from the Protector of Immigrants, dated August 29th, 1890, is considered liable for the strangers' tax.

Apavon Joseph, who was born in 1864 in St. Denis, has served some years as an *engagé*, and at the age of 21 applied for, and obtained, a *permis de séjour*. Five months since he was called to pay up two years' dues alleged to be owing by him under the strangers' tax decree. Failing to do so, he was imprisoned for three months.

Now, it appears, he is again arrested and lodged in the "Dépôt Communal," probably with a view to further imprisonment.

I trust Your Excellency will be able to at once release the "*permissionnaire*" from payment of the tax, as I cannot believe that it is the intention of your Government to apply the provisions of the Decree of March 19th, 1887, to the children born in Réunion of Indian immigrants.

No. 147, dated Saint Denis, the 30th June 1891.

From—MONS. LONGNON, *Acting Governor, Réunion*,
To—H. B. M's. Consul, Réunion.

EN réponse à la communication que vous m'avez adressée le 25 Juin, sous le No. 20, relative-ment à la taxe imposée au nommé Joseph Apavon, j'ai l'honneur de vous faire connaître que cet Indien a été soumis au permis de séjour exigé d'étrangers asiatiques ou africains en vertu de l'article 2, § 3 du décret du 30 Mars, 1881, qui stipule que les enfants d'immigrants nés dans la colonie, sont considérés comme immigrants jusqu'à leur majorité.

Apavon est bien né dans la colonie le 9 Juin 1863, mais à sa majorité il n'a pas opté pour la nationalité française; sa situation est donc celle de l'étranger de race asiatique astreint à l'obligation du permis de séjour. D'autre part la loi du 26 Juin 1889, qui déclare français l'étranger qui à sa majorité n'a pas opté pour la nationalité de ses ascendants ne saurait rétro-activement être applicable à l'Indien dont il est question.

No. 21, dated St. Denis, the 1st July 1891.

From—C. W. BENNETT, Esq., *Her Majesty's Consul at Réunion*,
To—His Excellency the Acting Governor of Réunion.

I HAVE the honour to acknowledge the receipt of Your Excellency's note, No. 147 of the 30th ultimo, from which I learn that Joseph Apavon falls under Article II, Section 2 of the Decree of March 30th, 1881, and is therefore compelled to take out the *permis de séjour* required from Asiatic or African foreigners; that, although born in the colony, through his not having declared for French nationality he remains a foreigner of Asiatic extraction; and that the law of June 28th, 1889, cannot be made retrospective so as to operate in his case.

With all due deference to Your Excellency, I beg respectfully to state that I cannot adopt the position taken up by Your Excellency.

Apavon was born in the island of an immigrant father.

Under Article IX of the Convention of 1861, Apavon is an immigrant and was entitled to be repatriated with his father if his father returned to India, or without his father after having served five years' engagement.

Your Excellency, I am aware, contends that this right would only be exercised during Apavon's minority.

Without prejudice to a decision on this point which will at the proper time be arrived at between our respective Governments, I admit Your Excellency's contention in the present instant.

Apavon, however, before reaching the age of 21, had not claimed his repatriation, but eventually, under section 3 of Article IX of the Convention, he claimed and received a *permis de séjour* as an immigrant. This *permis* clearly marks Apavon as an immigrant entitled to an immigrant's *permis*.

Apavon continued in this position for about two years paying 10 francs per year. So far as I am aware, he could at that time have been placed in no other position, for the law of 1887 imposing a tax upon foreigners of Asiatic or African origin was not yet passed and no law of a similar nature was, I believe, upon the Statute Book. I fail to find in the Decree of March 30th, 1881, anything regarding *permis de séjour*. The Decree of January 10th, 1887, later on became law, and as Your Excellency rightly takes objection to the law of June 26th, 1889, operating retrospectively in Apavon's favour, so I contend that the law of 1887 should not be allowed to act retrospectively to Apavon's disfavour; his position and that of very many other sons of British Indian immigrants being already fixed before that law was passed.

The Decree of 1887, moreover, whatever may be its actual text, was intended, I believe, to touch foreigners of Asiatic or African origin coming from abroad in large numbers to reside here for business purposes, and it is expressly stated in Article 1 of that decree that "*cette disposition ne s'applique pas à ceux dont le séjour est réglementé par le décret du Mars 30, 1881, sur l'immigration.*"

If, therefore, Apavon falls under the Decree of March 30th, 1881, as Your Excellency contends, he cannot be taxed under the Decree of January 10th, 1887.

Moreover, it would hardly be consistent with generous treatment of foreigners to cut them off by the Decree of 1881 from all benefits of the Convention of 1861 in order to make their plight still worse by heavily taxing or imprisoning them under the Decree of 1887.

In view of this statement, which I now have the honour to submit to Your Excellency, I would ask again that Apavon may be removed from the operation of the law of January 10th, 1887.

No. 22, dated St. Denis, the 3rd July 1891.

From—C. W. BENNETT, Esq., *Her Majesty's Consul at Réunion*,

To—His Excellency the Acting Governor of Réunion.

SINCE writing to Your Excellency on the 1st instant regarding the special case of Apavon, I have learned with much regret that it is the intention of your Government to apply the provisions of the Decree of January 10th, 1887, to all British Indians who have taken out a *permis de séjour* under Article IX of the Convention of 1861, and to increase the charge for a *permis* from 10 francs to 50 francs.

I earnestly hope that Your Excellency will, before taking such a step, seriously consider what an unfortunate impression would be made upon the mind of the British and Indian Governments by your so doing.

No. 23, dated St. Denis, the 5th July 1891.

From—C. W. BENNETT, Esq., *Her Majesty's Consul at Réunion*,

To—His Excellency the Acting Governor of Réunion.

WITH further reference to my Despatch No. 21 of the 1st instant, I have the honour to enquire from Your Excellency whether it is a fact that Apavon Joseph was yesterday brought before the Magistrate and fined 5 francs instead of being punished with a hundred francs fine and 15 days' imprisonment; and, if so, to what condemnation of Apavon Monsieur Jacob de Cordemoy alluded when, in his note to me of the 3rd instant, No. 1264, he stated in reply to my request that he would be so good as to have the Indian sent to the Consulate, that "Apavon purge actuellement une condamnation et que je ne puis sans une autorisation de Monsieur le Gouverneur permettre à individu de sortir de prison pour se rendre au Consulat Britannique."

It would not perhaps have been less courteous had Monsieur Cordemoy himself passed my request on to Your Excellency; as it was, the delay in his answering my first note rendered it useless to trouble Your Excellency to order Apavon to be sent here on that occasion.

No. 24, dated St. Denis, the 6th July 1891.

From—C. W. BENNETT, Esq., *Her Majesty's Consul at Réunion*,

To—His Excellency the Acting Governor of Réunion,

ON Saturday a British Indian woman, named Maiaye, a "*permissionnaire*" was tried before the Juge de Paix in St. Denis under Article V of the Decree of March 19th, 1887, for not having a *permis de séjour* upon her.

It appeared in evidence that she had paid the tax and held a Government receipt for the amount, but that the *permis* had not yet been issued to her by the Administration.

The woman was fined 5 francs for not being *en règle*.

Dated Foreign Office, London, the 24th August 1891.

From—SIR T. V. LISTER *Under-Secretary of State for Foreign Affairs*,

To—The Under-Secretary of State for India.

I AM directed by the Secretary of State for Foreign Affairs to transmit to you, to be laid before the Secretary of State for India in Council, with reference to the letter from this Department of the 7th instant, a further despatch from Her Majesty's Consul in Réunion respecting the tax levied on British Indian immigrants.

(Consul Bennett, No. 29, July 22nd.)

Dated Réunion, the 22nd July 1891.

From—C. W. BENNETT, Esq., *Her Majesty's Consul in Réunion*,

To—Her Majesty's Secretary of State for Foreign Affairs.

WITH reference to my Despatch No. 26 of the 10th instant, regarding the application of the law of January 10th, 1887, to British Indian *permissionnaires*, I now have the honour to inclose a copy of Monsieur Longnon's reply to my notes of the 1st, 3rd and 5th instant, in which His Excellency informs me that Apavon Joseph has been placed in the category of Indians paying only 10 francs a year, and that the demand upon other *permissionnaires* to pay 50 francs a year in place of 10 was the result of a *fausse interprétation d'une Circulaire de Service*.

This candid confession of incompetent administration is, I fear, hardly sufficient to gloss over the fact that about thirty *permissionnaires* had to employ legal assistance before the following interpretation of the circular was found out.

Neither Apavon, however, nor any other *permissionnaire*, can be legally taxed under this law even in 10 francs; and I am only awaiting a copy of judgment given in the Court of Appeal a few days since to address a fresh representation to His Excellency on the subject.

Dated Saint Denis, the 18th July 1891.

From—MONS. LONGNON, *Acting Governor of Réunion*,

To—H. B. M's. Consul at Réunion.

La préparation de mon courrier officiel pour le département ne m'a pas permis de répondre plutôt à vos communications des 1er, 3 et 5 Juillet courant, concernant la situation du nommé Joseph Apavon.

J'ai l'honneur de vous faire connaître que je n'ai rien à ajouter aux considérations développées dans ma lettre du 30 Juin au sujet de la situation de cet indien. En conséquence je ne puis faire autrement que de l'astreindre au *permis de séjour*, conformément aux prescriptions du décret de 1887. Je vous prie de vouloir bien, en effet, ne pas perdre de vue que ce décret est applicable à tous les étrangers de race asiatique ou africaine qu'ils soient nés dans la colonie ou qu'ils proviennent de l'extérieur, et qu'il abroge forcément toutes les conventions particulières qui ont pu intervenir avant sa promulgation. Si, au sujet d'Apavon, je vous ai cité l'article 2 du décret du 30 Mars 1881, c'était pour définir la terme "immigrants nés dans la colonie."

Je crois n'avoir pas besoin d'insister aussi sur l'impossibilité de faire bénéficier Apavon des prescriptions de la loi du 26 Juin 1889, sur la nationalité; vous voulez bien reconnaître d'ailleurs que cette loi ne peut avoir d'effet rétroactif en faveur du susnommé.

Par ma lettre du 30 Juin dernier No. 147, je vous ai également fait connaître qu'elle était en situation de cet étranger loi de la mise en exécution dans la colonie du décret du 10 Janvier 1887. J'ajoute qu'à cette époque Apavon n'était pas porteur du *permis* définitif, alors accordé sous certaines conditions aux anciens immigrants et que l'administration a transformé un *permis* gratuit pour ne pas enlever à toute une catégorie d'individus le bénéfice des prescriptions bienveillantes de l'ancienne réglementation. C'est ainsi qu'elle a accordé des *permis* gratuits à deux cent trente huit immigrants indiens porteurs de *permis* définitifs, lors de la mise en vigueur du décret de 1887.

Apavon ne peut donc prétendre aujourd'hui obtenir un *permis* gratuit, qui ne saurait plus être délivré sans violer le décret précité, assujettissant tous les étrangers de race asiatique ou africaine à l'obligation d'un *permis* de séjour avec taxe.

En terminant, j'ai l'honneur de vous faire connaître que des instructions seront données pour que cet indien soit ramené à la taxe afférente à la 11^{me} catégorie; c'était d'ailleurs par une fausse interprétation d'une circulaire de service qu'il avait été imposé à la 8^{me} catégorie, ainsi que quelques autres étrangers à qui la différence entre les deux taxes sera remboursés.

Dated Foreign Office, London, the 25th August 1891.

From—T. H. SANDERSON, Esq., *Under-Secretary of State for Foreign Affairs*,

To—The Under-Secretary of State for India.

WITH reference to the letter from this office of the 7th instant, in regard to the treatment of Indian natives in Réunion, I am directed by the Marquis of Salisbury to transmit, for such observations as Her Majesty's Secretary of State for India in Council may have to make thereupon, the accompanying despatch from Mr. Bennett, Her Majesty's Consul in that island, in regard to the case of an Indian woman who was arrested and fined for not having upon her person a *permis de séjour*.

No. 30, dated Réunion, the 23rd July 1891.

From—C. W. BENNETT, Esq., *Her Majesty's Consul in Réunion*,
To—The Secretary of State for Foreign Affairs.

IN inclosure No. 6, in my Despatch No. 26 of the 10th instant, I had the honour to bring before Your Lordship the case of a poor Indian woman who had been arrested and fined for not having upon her person a *permis de séjour*.

Treating Maiaye's case as a typical one, I asked Monsieur Longnon to try to mitigate for the future the severity of Article XXII of the law.

From Acting Governor, No. 160.
To " " 25.
To " " 26.
From " " 162.
To " " 27.

I now inclose a copy of the correspondence, which will show Your Lordship how impossible it is for me to secure from the present Government the faintest support of even the most reasonable suggestions made by me.

No. 160, dated St. Denis, the 13th July 1891.

From—MONSR. Y. LONGNON, *Acting Governor of Réunion*,
To—H. B. M's. *Consul in Réunion*.

En réponse à votre lettre du 6 courant, No. 24, j'ai l'honneur de vous informer qu'il résulte des renseignements qui m'ont été fournis que la nommée Maiaye a été traduite devant le tribunal de simple police correctionnelle de Saint-Denis et condamnée à 5 francs d'amende conformément aux prescriptions de l'Article 22 de l'arrêté du 27 Décembre 1882 pour n'avoir pas en sa possession son permis de séjour.

Cette femme avait, il est vrai, acquitté précédemment la taxe afférente au dit permis, mais elle avait omis de retirer son permis, or il ne vous échappera pas que le point important, le but même du décret de 1887, est que le titulaire d'un permis en soit porteur pour qu'on puisse s'assurer qu'il ne s'agit pas d'un immigrant en position irrégulière.

La condamnation a été justement prononcée.

P. S.—Je suis toutefois disposé à raison du peu de gravité des faits et de l'intérêt que vous portez à cette femme à donner des instructions pour que Maiaye ne soit pas poursuivie pour le recouvrement de l'amende et des frais.

No. 25, dated St. Denis, the 15th July 1891.

From—C. W. BENNETT, Esq., *Her Majesty's Consul at Réunion*,
To—His Excellency the Acting Governor of Réunion.

I HAVE the honour to acknowledge the receipt of Your Excellency's note, No. 160 of the 13th instant, with reference to the woman Maiaye who, under Article XXII of the *Arrêté* of 1882 [? 1888], was condemned to five francs fine for not having a *permis de séjour* on her person.

I am very glad to hear, as I felt sure would be the case, that Your Excellency has taken the necessary steps to prevent Maiaye being prosecuted for the recovery of the fine. The text of the law, it is true, precluded the Magistrate from deciding otherwise than he did, but I should be glad to know that a certain discretion would be left in his hands, for the clause, as it stands, may be used by an over-zealous policeman as a means of annoyance. It might, for instance, easily happen that a "*permissionnaire*" had accidentally left his *permis* at home the very day he was asked for it. In such a case instructions might be given to the police not to draw up a "*procès verbal*" until the Indian's reply that he had left his *permis* at home had been proved to be false. I should be very pleased to hear that Your Excellency had issued such an instruction.

No. 26, dated St. Denis, the 17th July 1891.

From—C. W. BENNETT, Esq., *Her Majesty's Consul at Réunion*,
To—His Excellency the Acting Governor of Réunion.

WITH further reference to my note of yesterday as to the typical case of Maiaye, I have the honour to state that Maiaye now informs me that on the 10th instant she applied to the Commissaire de Police for her *permis* for the second half of 1891, and was told to return for it on the 30th instant.

She would, therefore, appear to be again subject to arrest and fine under the text of Article XXII of the Decree of 1887.

I venture, therefore, to inquire from Your Excellency whether any instructions have been given to protect Indians from arrest and fine under Article XXII of the Decree during the time between payment of the tax and the delivery of the *permis*. If not, perhaps the case might be met by the Commissaire de Police being authorized to issue to such persons a pass valid for the number of days requisite to issue the *permis*; such pass to temporarily represent the *permis* required by Article XXII and to be surrendered, when the actual *permis* is handed, to the *permissionnaire*.

Dated St. Denis, the 22nd July 1891.

From—MONSR. LONGNON, *Acting Governor of Réunion*,
To—H. B. M's. *Consul in Réunion*.

En réponse à votre lettre du 15 de ce mois, relative à la femme Mariaye, j'ai l'honneur de vous faire remarquer que ma communication du 13 avait pour but de vous prouver que la contravention relevée contre cette indienne était parfaitement établie; j'ai ajouté en post-scriptum que je voulais bien exceptionnellement ne pas la faire rechercher pour le paiement de l'amende encourue.

Mais je ne puis accéder à la demande que vous m'adressez, en donnant à la police des ordres qui auraient pour effet de l'inviter à ne pas faire son devoir; il m'est encore plus difficile ne devant pas intervenir dans les questions de justice de recommander à un magistrat d'apporter une certaine modération dans l'application de la loi.

Enfin, par ma lettre du 17, faisant suite à celle précitée du 15 juillet, vous me faites connaître que Mariaye s'est présentée le 10 de ce mois au Commissaire de Police, dans le but d'obtenir un permis pour le 2^{me} semestre 1891 et qu'on lui a répondu de revenir le 30.

Le permis ne se délivre que contre le récépissé constatant le versement de la taxe au bureau de l'enregistrement, jusqu'ici Mariaye n'a pas été verser le montant de cette taxe pour le 2^{me} semestre; elle sera sous le coup d'un procès verbal si le 30 juillet elle ne s'est pas acquittée.

Vous me demandez également si j'ai transmis des ordres pour préserver les indiens de l'arrestation et de la condamnation, pendant le temps qui s'écoule entre le paiement de la taxe et la délivrance du permis.

Aux termes de l'Art. 13 de l'Arrêté du 22 Décembre 1888, la quittance délivrée par le receveur de l'enregistrement ne peut tenir lieu de permis de séjour que pendant les quinze jours de sa date.

C'est aux assujettis à se munir dans le délai imparti de leur permis de séjour pour éviter d'être passibles de procès-verbaux.

No. 27, dated St. Denis, the 23rd July 1891.

From—C. W. BENNETT, Esq., *Her Majesty's Consul at Réunion*,
To—His Excellency the Acting Governor of Réunion.

I HAVE the honour to acknowledge the receipt of Your Excellency's note, No. 162 of the 22nd instant, with reference to Maiaye.

Your Excellency states that Maiaye has not yet paid her tax for the second half of 1891.

Your Excellency, however, has been misinformed upon this point; the Receveur's receipt marked No. 998 and dated July 10th is now before me.

If, as Your Excellency states, the *permis* were issued upon the payment of the tax, no difficulty would arise; but, unhappily, this is not usually the practice, and it was in order to prevent any unnecessary hardship arising under such circumstances that I asked Your Excellency to find a remedy for the case.

Maiaye paid her tax in July 10th and was told by the Commissaire de Police to call for her *permis* on July 30th.

Her fifteen days of grace expire on July 25th, on which date she, through no fault of her own, may be haled before a Judge on a *procès verbal* and fined.

Maiaye's is not a single case; many Indians are in a similar position. On Monday I was at St. Rose, and was addressed by an Indian who was compelled to come to St. Denis to take out his *permis* which he had paid for several days before.

Dated India Office, London, the 5th September 1891.

From—SIR HORACE WALPOLE, *Under-Secretary of State for India*,
To—The Under-Secretary of State for Foreign Affairs.

I AM directed by Viscount Cross to acknowledge the receipt of your letter of the 7th ultimo, and of Sir T. V. Lister's letter of the 24th ultimo, forwarding despatches, with their

enclosures, from Her Majesty's Consul at Réunion, respecting the imposition upon British Indian *permissionnaires* of the tax on foreigners of Asiatic or African origin.

In reply, I am to say that Lord Cross approves the action of Mr. Bennett, and learns with satisfaction of the success which has so far attended his representations with reference to the tax.

I am also to acknowledge the receipt of Sir Thomas Sanderson's letter of the 25th ultimo, forwarding a despatch, with enclosures, from Mr. Bennett relating to a fine imposed on an Indian woman and, in connection with this instance, the severity of article 22 of the law.

Lord Cross would suggest that, if Lord Salisbury should see fit, an early opportunity might be taken of representing to the French Government the injustice of the present system of working the law, which at times renders the *permissionnaires* liable to fine although they have duly paid the tax.

The original enclosures of the letters under reply are herewith returned.

No. 1387—91, dated Foreign Office, London, the 4th September 1891.

From—SIR T. V. LISTER, *Under Secretary of State for Foreign Affairs*,

To—The *Under Secretary of State for India*.

WITH reference to the letter from this office of the 24th ultimo, in regard to the imposition upon British Indians in Réunion of the tax on foreigners of Asiatic or African origin, I am directed by the Marquis of Salisbury to transmit the accompanying further despatch from Mr. Bennett, Her Majesty's Consul in that Island, upon the subject and upon the particular case of Joseph Apavon.

Consul Bennett, No. 32, dated 8th August 1891.

With regard to the latter, I am to request you to state to Secretary Viscount Cross that Lord Salisbury, with His Lordship's concurrence, is disposed to agree in Mr. Bennett's proposal to let the matter drop.

No. 32, dated Réunion, the 8th August 1891.

From—C. W. BENNETT, Esq., *Her Majesty's Consul in Réunion*,

To—The *Secretary of State for Foreign Affairs*.

WITH reference to my despatch No. 29 of the 22nd ultimo, relative to the case of Joseph M. Etienne, July 19th, 1887. Apavon, I now have the honour to inclose a copy of a note addressed by Monsieur Etienne to the Governor of Réunion, which goes very far to support the views I have expressed to Monsieur Longnon as to the proper interpretation to be placed under Article 2, Section 2 of the Decree of March 30th, 1881.

I also inclose a copy of a judgment given in the Court of Appeal in an almost exactly similar case, which still further strengthens my claim in Apavon's favour.

Judgment, July 16th, 1891.

I met Monsieur Longnon this morning, and in the course of conversation I alluded to Apavon's case, and His Excellency eventually promised me that the fine to which he was condemned should not be enforced.

Apavon has now been set at liberty, has paid his 10 francs for a *permis* for 1891, and no other charge will be preferred against him.

His Excellency was careful to state that this relaxation of the law was not to be considered as a precedent, and that it was only granted on account of the *bonnes relations qui existaient entre l'administration et le consulat*.

Unless I receive instructions from Your Lordship to pursue the case further, I propose to let the matter drop.

No. 120, dated the 19th July 1887.

From—MONSIEUR E. ETIENNE, *Under Secretary of State, Marine and the Colonies, Republic of France*,

To—The *Governor of Réunion*.

En réponse à votre lettre du 18 Janvier dernier, j'ai l'honneur de vous faire connaître l'interprétation qu'il convient de donner à l'Art. 2, para. 2, du décret du 30 Mars 1881, dans les différents cas que vous avez soumis au Département.

I. L'enfant né dans la colonie de parents immigrants ou introduits avec eux, n'acquiert le bénéfice de l'Art. 2, para. 2, que s'il l'a réclamé après sa majorité et avant toute renonciation, expresse ou tacite.

En effet, si les termes de cette disposition paraissaient devoir faire considérer l'enfant d'immigrant comme cessant d'être soumis aux règlements sur l'immigration par le fait seul qu'il a atteint l'âge de majorité, il résulterait, de son esprit et des travaux préparatoires, que le décret de 1881 a voulu simplement donner à ces enfants d'immigrants devenus majeurs le droit de réclamer leur radiation des matricules de l'immigration.

Cette disposition insérée dans le décret du 30 Mars 1881, en vue de protéger les enfants mineurs de l'immigrant, n'a pu avoir ni pour but ni pour effet de leur imposer la qualité de travailleurs libres et de les contraindre à renoncer aux avantages résultant de leur qualité d'immigrants; car il ne faut pas perdre de vue que, si les règlements soumettent les immigrants à des règles exceptionnelles pour leurs contrats, s'ils leur imposent l'obligation de l'engagement et du séjour, s'ils créent des délits et des contraventions spéciaux, ils leur accordent certains avantages, tels que salaires, rations, rechanges, logement, assistance et soins médicaux, assistance judiciaire et rapatriement gratuit, dont ils ne peuvent être privés que par une renonciation certaine.

En ce qui concerne spécialement le droit au rapatriement gratuit, ils ne peuvent le perdre que par une renonciation expresse ou tacite résultant soit d'un nouveau contrat d'engagement, dans lequel, en échange de ce droit, ils stipulent des avantages particuliers, soit par l'obtention d'un permis de séjour entraînant nécessairement la dispense d'engagement. Dans ces conditions, on ne saurait considérer l'arrivée de la majorité comme opérant par elle-même un changement dans la situation de ces immigrants, modifiant les contrats en cours d'exécution et leur faisant perdre la qualité d'immigrants, ainsi que tous les droits et avantages qui y sont attachés. C'est pourquoi les bénéfices de l'Art. 2, para. 2, ne peuvent être acquis à ces enfants devenus que par une déclaration faite au service de l'Immigration dès qu'ils ont atteint leur vingt et unième année.

II. "Les mineurs introduits dans la colonie sans leurs parents ne peuvent pas invoquer l'Art. 2, para. 2."

La disposition de l'Art. 2, para. 2, qui considère comme immigrants jusqu'à leur majorité tous les enfants nés dans la colonie de parents immigrants ou introduits avec eux, est trop nette, trop précise pour permettre aucune équivoque. Elle a été exclusivement en vue des enfants nés dans la colonie de parents immigrants ou introduits avec eux. Elle ne pourrait par suite être étendue aux travailleurs africains ou asiatiques, âgés de moins de vingt et un ans, introduits dans la colonie sans leur parents.

III. "Les dispositions finales du décret du 13 Février 1852 sont applicables aux enfants d'immigrants soumis au droit commun."

Les dispositions pénales du décret du 13 Février 1852, étant générales et absolues, s'appliquent indistinctement à tous les travailleurs qu'ils appartiennent à la population immigrante ou à la population coloniale française ou étrangère. Par suite les enfants majeurs d'immigrants placés dans le droit commun y sont soumis.

IV. "Tout enfant immigrant né dans la colonie ou introduit avec ses parents, alors qu'il était mineur peut réclamer l'application de cette disposition dès qu'il ait atteint sa majorité, avant ou après la promulgation du décret du 30 Mars 1881, à moins qu'on ne puisse lui opposer une renonciation, expresse ou tacite."

Après avoir rappelé que les lois relatives à l'état et à la capacité saisissent les individus au moment de leur émission et fixent leur condition suivant les prescriptions qu'elles édictent, on peut ranger dans cette catégorie les dispositions de l'Art. 2, para. 2, et dire qu'il doit être appliqué à tous ceux qui se trouvaient au moment où il est intervenu dans les conditions déterminées par le décret du 30 Mars 1881. Mais il y a lieu de remarquer qu'aujourd'hui, en ce qui concerne les enfants d'immigrants devenus majeurs avant le décret du 30 Mars 1881, cette disposition ne présente plus d'intérêt parcequ'ils peuvent être considérés comme ayant tacitement renoncé à s'en prévaloir en contractant de nouveaux engagements depuis la promulgation de ce règlement. Il en est d'ailleurs de même pour beaucoup de ceux qui ont atteint leur majorité depuis 1881.

V. "La perte du droit au rapatriement à l'assistance judiciaire, &c., est la conséquence nécessaire du travailleur non-immigrant réclame par l'enfant devenu majeur."

Cette interprétation se justifie par les motifs exposés plus haut. Le droit au rapatriement, à l'assistance judiciaire, &c., constitue des avantages accordés aux immigrants à raison de cette qualité. Dès lors les enfants d'immigrants, en renonçant à cette qualité, ont renoncé, par la même, au droit de se prévaloir des avantages qui y sont adhérents.

Toutefois, en ce qui concerne le droit au rapatriement gratuit, aux soins médicaux, et autres avantages qui peuvent être stipulés par contrat débattu entre le travailleur libre et celui qui l'emploi, les clauses de la Convention feront la loi des parties et aucune disposition législative ou réglementaire ne s'oppose à ce que les avantages spéciaux soient insérés dans le contrat qui pourra intervenir.

VI. "L'enfant qui à sa majorité a déclaré vouloir bénéficier de l'Art. 2, paragraphe 2, ne peut plus renoncer à la situation qu'il a acquise et être à nouveau inscrit sur les registres de l'Immigration."

Il est de principe que l'état et la capacité des individus ne sauraient dépendre exclusivement de leur volonté et que la situation des personnes doivent être fixée et stable. C'est pourquoi l'enfant d'un immigrant qui a réclamé, après sa majorité, la qualité de travailleur libre ne pourrait être admis à modifier sa condition par une déclaration ultérieure et à reprendre une qualité qu'il a abandonnée.

Extract from the Registrar of the Court of Appeal's Minutes,—St. Denis, the 16th July 1891.

ENTRE

Monsieur le Procureur Général, ... Appellant,
ET

Le nommé Vayabourg Perian Catan, Matricule Générale No. 102429, né à }
Ste. Suzanne, âgé de 30 ans, célibataire, domestique, sans engagement, }
démourant à Saint-Denis Répondant.

MONSIEUR le Procureur de la République appelle d'un jugement du Tribunal de Première Instance de St. Denis, qui a relaxé Vayabourg Perian Catan des fins de la poursuite dirigée contre lui pour vagabondage. A l'appel de cette cause le prévenu ne comparait ni en personne ni par une personne pour lui, quoique régulièrement cité, la Cour, après en avoir délibéré, donne défaut contre le dit Vayabourg Perian Catan et dit qu'il sera passé outre aux débats.

"OUI.—Monsieur le Président," en son rapport de l'affaire le ministère public en ses réquisitions.

"Vu le jugement dont est appel, en date du 24 Juillet 1890, enregistré à Saint-Denis, le 12 du mois suivant, fo. 71, Ce. 5, pour 2 frs. en débit.—Par D'ACHERY."

"Vu l'appel du Ministère public, en date du 24 Juillet 1890, enregistré à Saint-Denis le trent Juillet 1890, fo. 87, Ce 3, pour 4 francs 50 centimes, en débit.—Par D'ACHERY."

La Cour, après en avoir délibéré, statuant sur l'appel du Ministère public :—

Attendu qu'aux termes de l'Art. 2, para. 2, du décret du 30 Mars 1881, "sont considérés comme immigrants jusqu'à leur majorité, tous les enfants nés dans la Colonie de parents immigrants ou introduits avec eux :"

Que cet article doit être entendu en ce sens : que jusqu'à sa majorité, l'enfant d'immigrant doit toujours être considéré comme immigrant, mais qu'après sa majorité, il lui est permis d'opter pour la condition de travailleur libre ou conserver sa qualité d'immigrant :

Qu'il résulte de l'extrait de Matricule Générale que Vayabourg a, depuis sa majorité, contracté de nombreux engagements et renoué, par conséquent, à réclamer la qualité de travailleur libre :

Qu'en réstant sans engagement en 1889, il a, par conséquent, encouru les pénalités édictées par l'art. 149 du Décret du 27 Août 1887, dont lecture a été donnée, lequel est ainsi conçu—

Art. 149.—"Tout immigrant qui ne justifie pas d'un engagement régulier, ou d'une dispense d'engagement, ou qui, étant régulièrement engagé est en état de désertion de chez son engagiste depuis plus d'un mois est réputé en état de vagabondage et passible d'un emprisonnement de 3 à 6 mois."

Mais attendu que les meilleurs renseignements ont été recueillis sur ledit Vayabourg et que, du reste, il est en instance pour obtenir un permis de séjour, qu'il y a donc lieu de le faire bénéficier des dispositions bienveillantes de l'Art. 463 du Code Pénal, dont lecture a été donnée, lequel est ainsi conçu :

Art. 463. "Dans tous les cas où la peine de l'emprisonnement et celle de l'amende sont prononcées par le Code Pénal, si les circonstances paraissent atténuantes, les tribunaux conditionnels sont autorisés même en cas de récidive à réduire l'emprisonnement même au dessous de six jours et l'amende même au dessous de seize francs. Ils pourront aussi prononcer séparément l'une ou l'autre de ces peines et même substituer l'amende à l'emprisonnement sans qu'en aucun cas elle puisse être au dessous des peines de simple police."

PAR CES MOTIFS :

Reforme le jugement dont est appel et condamne ledit Vayabourg Perian Catan à un franc d'amende et aux dépens liquidés en Instance, à la somme de douze francs 25 centimes, et en Cour à celle de dix sept francs 45 centimes.

Ordonne que le présent arrêt sera exécuté à la diligence du Procureur Général.

Ainsi juge et prononce à l'audience publique correctionnelle de la Cour d'Appel de l'Île de la Réunion, séant à Saint-Denis, au palais de Justice, le Jeudi, 16 Juillet, mil huit cent. quatre vingt onze, où siégeaient M.M. Crepin, Président de la Cour d'Appel, Chevalier de la Légion d'Honneur, Murat, Berthier, Poymiro et Gillet, conseillers, Brunet, Procureur Général au banc du Ministère Public et Jouy de Fondaumière, commis greffier assermenté.

[Signé] CREPIN, MURAT, BERTHIER, POYMIRO, GILLET et J. DE FONDAUMIÈRE.

En marge est écrit :

"Visé pour timbre et enregistrement à Saint Denis, le vingt juillet 1891, fo. 40, Ce. 1re, débit trois francs vingt cinq centimes."—[Signé] D'ACHERY.

Dated Foreign Office, London, the 29th September 1891.

From—SIR T. V. LISTER, Under-Secretary of State for Foreign Affairs,

To—The Under-Secretary of State for India.

WITH reference to your letter of the 5th instant, J and P. 1393, in regard to the imposition upon British Indian *permissionnaires* of the tax on foreigners of Asiatic or African origin, I am directed by the Marquis of Salisbury to transmit the accompanying copy of

Mr. Egerton, No. 22 (Consular), a despatch from Her Majesty's Minister in Paris, enclosing, 22nd September 1891. copy of a representation addressed by him to the French Gov-

ernment upon the subject.

His Lordship proposes, with Secretary Viscount Cross's concurrence, to approve Mr. Egerton's communication.

No. 22 (Consular), dated Paris, the 22nd September 1891.

From—E. H. EGERTON, Esq., Her Majesty's Minister in Paris,

To—The Secretary of State for Foreign Affairs.

I HAVE the honour to acknowledge the receipt of Your Lordship's despatch No. 34 (Consular) of the 16th instant, and to inclose herewith copy of the representation which, in compliance with Your Lordship's instructions, I addressed to Monsieur Ribot on the subject of the fines imposed by the French authorities upon Indian subjects of the Queen residing in the Isle of Réunion.

Dated Paris, the 21st September 1891.

From—E. H. EGERTON, Esq., Her Majesty's Minister in Paris,

To—MONSIEUR RIBOT.

FROM reports received from Her Majesty's Consul at Réunion it appears that cases have arisen where by a harsh application of the Decree of March 1887, imposing a tax on all foreigners of Asiatic and African extraction, British Indian *permissionnaires* are rendered liable to fine though they have paid the tax due from them.

I have the honour to bring to Your Excellency's notice two instances in proof—

One is that of Apavon Joseph, the legitimate son of a British Indian emigrant born in Réunion in 1864, who was arrested under Article 5 of the Decree of March 19th, 1887.

He had at the age of 21 applied for and obtained a *permis de séjour*, but early this year he was called up to pay two years' dues alleged to be owing by him under the Strangers' Tax Decree, to which I have alluded, and, failing to do so, was imprisoned for three months.

He was after this again arrested, though he was paying 10 francs a year for his *permis de séjour*.

The Réunion authorities having thus applied the provisions of the Decree of 1887 to a British immigrant who had taken out a *permis de séjour* under Article 9 of the Convention of 1861, and having thereby increased the charge levied on Apavon Joseph from 10 francs to a tax of 50 francs, Her Majesty's Consul lost no time in representing his case to the Acting Governor.

The second case is that of a British Indian woman named Maiaye, a *permissionnaire* who was tried before the Juge de Paix in St. Denis under Article 5 of the Decree of March 19th, 1887, for not having a *permis de séjour* on her, and fined 5 francs, though she had paid the

tax and held a Government receipt for the amount, the *permis* not having yet been issued to her by the Administration. This instance of delay in issuing the *permis* is not a single one; many Indians are, says Her Majesty's Consul, in a similar position owing to the slowness shown by the Police in granting a *permis* which may have been paid for several days before.

I should add that the representations of Her Majesty's Consul were favourably entertained by the Acting Governor in these individual instances in so far as the diminution of the price of the *permis de séjour* to 10 francs in the first case and the remission of the fine in the second, but I am instructed by Her Majesty's Principal Secretary of State for Foreign Affairs to call Your Excellency's attention to the subject in order that the recurrence of similar treatment of British Indian *permissionnaires* by the local authorities of Réunion may be specially guarded against.

It would appear that about 30 *permissionnaires* have had to employ legal assistance before the demand to pay 50 francs a year instead of 10 was admitted by the Acting Governor to Her Majesty's Consul, to be the result of a *fausse interprétation d'une circulaire de service*.

No. J. & P. 1450, dated India Office, London, the 7th October 1891.

From—HORACE WALPOLE, Esq., Under-Secretary of State for India,
To—The Under-Secretary of State for Foreign Affairs.

I AM directed by Viscount Cross to acknowledge the receipt of Sir T. V. Lister's letters of the 4th and 29th ultimo, relative to the imposition upon British Indian subjects in Réunion of the tax on foreigners of Asiatic or African origin.

I am to inform you that a copy of the correspondence will now be forwarded to the Government of India for their information.

With reference to the case of Apavon, Lord Cross concurs with Lord Salisbury in thinking that the matter may now be let drop, and that Mr. Egerton's communication to the French Government of the 21st ultimo should be approved.

No. $\frac{1712}{47}$.

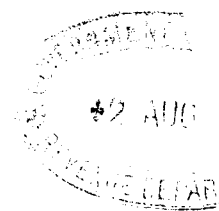
GOVERNMENT OF INDIA.

REVENUE AND AGRICULTURAL DEPARTMENT.

(Emigration)

Simla, dated the 27th July 1892.

Forwarded to the Government of Madras for information.



By order,

James Mackenzie

Under-Secretary to the Government of India.

List of Papers forwarded.

- Despatch from Her Majesty's Secretary of State for India.
No. 54 of the 9th June 1892 and enclosures.
2. Despatch from Her Majesty's Secretary of State for India
No. 106 of 15 October 1891, and enclosures.

NT NO.

1892) Dept.

5/7/92 No 69 Vno
3/11/91 No 925-u
27/7/92 No 519-u

Hill

Submitted

Govt. of India,

Emigration Dept.

25/3 Order 25/3
3/8/11 Recorded

4 Aug.

No 1712
47

27th July } 1892
2nd August }

2

Subject

Forwarding despatches from
Secy of State Nos 54 & 106
dated 9th June 1892 & 15th Oct 1891,
respectively.

FURTHER PAPER, No. 2357/92 of 640 of 18
23-9-92

C No 3028 of 93

READ AGAIN ORDER OF GOVERNMENT,
18, No.

ENCLOSURES.

CURRENT No.

STATEMENT WITH DITTO.

ORDER OF GOVERNMENT.

A A

LETTER OF GOVERNMENT.

STATEMENT WITH DITTO

* PAPERS NOT FILED UP, BEING MEANT FOR DESPATCH
IN ORIGINAL (not paged).

N.B.—
A = Copy in full.
B = Not to be copied.
P = Copy abstract only.
Q = Copy heading only.

ORDINARY, MS.

Public DEPARTMENT.
G.O., DATED 8-29-92
No. 546.

RECEIVED.

~~When given for copying.~~

[Despatch Abstract.]

Correspondence
with the Image office
regarding the tax
on Remuneration on in-
struments of Asiento
copies —