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[Despatch Abstract.]

Informing the Govt of
India with remarks that
the Govt agrees with the
views expressed in letter 28
dated 9.3.20 regarding
the application of the Pond
Nationality Law to Indian
immigrants in Rangoon

23-2

BACK PAPER, No.

OF 18

FURTHER PAPER, No.

8208²¹⁰
30-394 9
2925/94

AD AGAIN ORDER OF GOVERNMENT, DATED
18 , No. , MISCELLANEOUS.

ENCLOSURES.

CURRENT No.

STATEMENT WITH DITTO.

ORDER OF GOVERNMENT.

LETTER OF GOVERNMENT.

STATEMENT WITH DITTO.

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

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N.B.—

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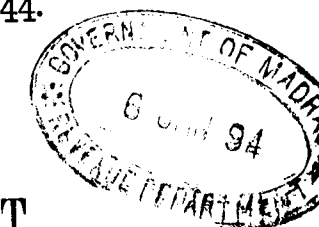
Serial No. 44.

1893.

GOVERNMENT OF INDIA.

REVENUE AND AGRICULTURAL DEPARTMENT.

EMIGRATION.



To

THE SECRETARY TO THE GOVERNMENT OF Madras

Nos. 3512-8443
4

Dated Calcutta, the 28th December 1893.

Recd 6 Jan } 1894
Recd 8 " }

SUBJECT.

FORWARDS, for information, copies of correspondence with the Secretary of State respecting the working of the French Nationality Law in Réunion, and asks their opinion on the subject.

Nos. $\frac{3512-3519}{4}$.

FROM

SIR E. C. BUCK, KT., C.S.I.,
Secretary to the Government of India,

TO

THE SECRETARY TO THE GOVERNMENT OF ^{MADRAS} ~~INDIA~~

Revenue and Agri. Dept.
Emigration.

Dated CALCUTTA, the 28th December 1893.

SIR,

IN continuation of my letter No. 3499—~~3500~~ of the 23rd instant, I am directed to forward a copy of a Despatch, No. 26 of the 2nd March 1893, from Her Majesty's Secretary of State, respecting the engagement under contract of two coolie children in Réunion without the consent of their father. I am also to enclose a copy of a Note on the subject by Mr. Muir-Mackenzie, the officer recently deputed to enquire into the condition of the Indian immigrants in Réunion.

On the issue of fact the Government of India have addressed the Secretary of State in the sense of Mr. Mackenzie's Note, and they have also communicated to His Lordship their views regarding the interpretation of Article XXI of the Convention of 1861, stating, at the same time, that in submitting Mr. Mackenzie's report the opportunity would be taken to suggest that an end should be put to the uncertainty in the meaning of that Article. In this connection I am to refer you to paragraph 4 of my letter above quoted.

2. On the question of nationality Mr. Mackenzie, in paragraph 138 of his report, recommends the maintenance of the *status quo*. You have already received copies of part of the correspondence on the subject with my endorsement Nos. 2524-2525, dated 21st October 1892, and copies of further papers* are

* Despatch from Secretary of State, No. 131, dated 23rd October 1890. ✓
" " " " 146, " 27th November 1890. ✓
" to " " 8, " 21st January 1891. ✓
" from " " 40, " 2nd April 1891. ✓
" " " " 85, " 20th August 1891. ✓
enclosed with this letter, together with a copy of an extract from Article 1, and of Article 6, of the French Nationality Law of 26th June 1889. I am to add that the further Note by

3 Dec 1893
W. J. P.

Mr. Bennett, to which Mr. Mackenzie alludes in the foot-note to paragraph 138 of his Report, has not been received by the Government of India.

3. There appears to be no doubt that under Article 8 of the Civil Code, as now modified, children born in the colony of immigrant parents not so born become French in the eye of the French law at the age of 21, unless in the following year they effectively claim another nationality; and that children born in the colony of parents who were also born in the colony are in the eye of the French law French from birth. Article 2 of the Decree of 1881 lays down that children born in the colony of immigrant parents and children introduced with such parents are considered immigrants up to their majority; and Article 20 of the Decree of 1887 requires that children of immigrants should engage themselves on reaching the age of 10 years, unless they habitually attend a public school when the limit is 15 years. Under the existing law, therefore, the children born in the colony of immigrant parents who were born in the colony are French from birth, and are at the same time immigrants and compelled between the ages of 10 and 21 to engage themselves under the Labour Laws. There would appear, therefore, to be a certain number of persons in the colony who are under the Labour Laws, but are nevertheless deprived of the assistance of the British Consul.

4. The above appears to the Government of India to be the existing law. They are not prepared, as at present advised, to urge, with Consul Bennett, that the fact of a labourer being an 'immigrant,' within the meaning of the Labour Laws is inconsistent with his being a French citizen, and that, consequently, under Article 6 of the Nationality Law such labourer cannot be considered an immigrant and subject to the Labour Law; and they are disposed to agree with Mr. Mackenzie that it will be undesirable to call for any change in the Nationality Law of France.

5. The possible alternative is stated by Mr. Mackenzie and by the Consul to be a declaration under a local Decree that no one of French nationality shall be subject to the Labour Laws; and it is pointed out that this would involve the enfranchisement from those laws of nine-tenths of the engaged Indians (the Consul's letter of 3rd December 1892), or one-half of the adult working Indians (paragraph 138 of the Report). It appears, however, to the Government of India that an immigrant who becomes a French citizen ordinarily does so in one or other of the ways specified at the beginning of my third paragraph above, and that, whatever the actual practice may be, he ceases, in either case, as a matter of law, under Article 2 of the Decree of 1881, to be an immigrant when he reaches the age of 21. It is not known on what authority Mr. Bennett declares that on reaching the age of 21 the children introduced with immigrant parents "may either elect to continue as immigrants or to be removed from the Immigration lists".

The alternative therefore to a change of the Nationality Law would appear to be a declaration to the effect that French children of immigrants should between the ages of 10 and 21 be exempt from the Labour Laws. And as under the 10th desideratum in Mr. Mackenzie's Report such children cannot be engaged till the age of 13 and then only for periods of one year and with the consent of their parents and guardians, the issue is very much narrowed, and the Government of India consider that it will be unnecessary to take any steps for obtaining a declaration which would only be granted by the authorities with some reluctance and which would expressly curtail the Consul's jurisdiction over the immigrant population.

6. The Government of India would therefore, as at present advised, counsel the Secretary of State to make no representation for new action on the subject of nationality, either in connection with the case now reported or as a matter of general principle. I am to ask, however, that the Government of India may be favoured with an expression of views of *His Excellency the Governor in Council* on the subject.

I have the honour to be,

SIR,

Your most obedient Servant,

E. S. S. C.

Secretary to the Government of India.

No. 26 Public (Emigration), dated 2nd March 1893.

From—THE RIGHT HON'BLE THE EARL OF KIMBERLEY, K.G., *Her Majesty's Secretary of State for India,*

To—The Government of India.

With reference to my Despatch No. 93, of the 22nd September last, I forward for the Foreign Office letter dated February 7th, 1893, and all enclosures. consideration of Your Excellency in Council copy of a letter received by me from the Foreign Office transmitting copies of two despatches (with enclosures) from Her Majesty's Consul in Réunion, respecting the engagement of two British Indian children without the consent of their father, and touching on various points connected with the operation in that Colony of the French Nationality Law of 1889.

Letter dated 2nd March 1893.

2. I also enclose a copy of the reply given by this Department to the Foreign Office.

Dated Foreign Office, London, 7th February 1893.

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

To—The Under-Secretary of State for India.

I am directed by the Earl of Rosebery to transmit to you despatches which have been received from Mr. Bennett, Her Majesty's Consul in Réunion, enclosing correspondence between the Consulate and the local authorities respecting the engagement of two British Indian children without the consent and against the wish of their father.

Consul Bennett, No. 34, December 31, 1892 (26 enclosures).

Consul Bennett, No. 2, January 10, 1893 (2 enclosures).

His Lordship would be glad to learn the views of the Secretary of State for India as to the case and as to the instructions which should be sent to the Consul on the subject.

No. 34, dated Réunion, 31st December 1892.

From—C. W. BENNETT, Esq., *H. B. M. Consul at Réunion,*

To—The Secretary of State for Foreign Affairs.

It is with much regret that I have again to send to your Lordship a copy of a long correspondence which has taken place between Mr. Bell as Acting Consul and myself with the local authorities regarding the illegal engagement of two young Indian children at St. Leu without the consent and against the wish of their father.

Twenty-six enclosures.

Succinctly the facts are as follows:—

An Indian named Covindin Paravondom, who came here as a child with his immigrant parents, married an Indian who was herself born in the colony and had issue two children, Tamby and Maria Antonia, aged respectively 14 and 12 years.

Covindin, having arrived here as a child, is, under the Decree of the 30th of March 1881, only an immigrant up to the age of 21; but, not having availed himself of his privileges, he remained an immigrant and is so now, and it is doubtful whether he can, at a date later than his 21st year, claim exemption, if he desired to, from the obligation to engage.

Until he does claim such exemption and it is accorded him, or until he receives a "permis de séjour," the local authorities contend that his children are immigrants up to their majority under article 2, section 2, of the decree above quoted.

Enclosure No. 26.

I enclose an extract of the article.

It is doubtful whether the decree in question can apply to the second generation.

It would apply to the father in this case, and if it is applied to his children, it might as well be held valid for his grand and great grandchildren.

The decree, however, is at variance with the terms of the French Nationality Law of 1889, under which article 8 of the Code Civil, is so altered that by paragraph 3 the issue of the marriage are irrevocably French, a question definitely settled by the decision rendered in the Paris Cour de Cassation on the 7th of December 1891 (affaire Hesse), whilst by article 6 all the regulations contrary to the law of 1889 are repealed.

As such the children enjoy all the privileges of the "droit commun" and are, in my opinion, exempt from the obligation to engage.

To contend, as M. Manès does, that the Decree of 1881 is not in conflict with the law of 1889 appears to me to be a mistaken view of the question, however convenient it may be for the administration and the planters to sustain it.

Moreover, it appears very doubtful whether under the law of 1889, paragraph 4, any Indian child born in Reunion can be legally compelled to engage: such children having a double nationality and, being in a French colony, French, and as such entitled to all privileges as Frenchmen, and remaining definitely French if within their 21st year they do not claim British nationality. They are French "de naissance."

Such, My Lord, appears to be the legal aspect of the question.

Before however dealing with the case from a Nationality point of view I endeavoured to settle it upon its merits.

The father distinctly swears that he never gave his consent, that he was ignorant of the intention to make his children engage, that he knew nothing at all about it until he returned from his work and found his children taken away from him. The same day he complained to his Engagiste, to the Syndic, to the Commissaire de Police, and the following day at the Consulate.

Mr. Bell took up the case and was confronted with a certificate from M. Loupy, Juge de Paix, and the Engagiste of the child Tamby, the girl being engaged to his Greffier, to the effect that he was present when the father gave his consent.

At this juncture I returned to my post, and not wishing, unless it were unavoidable to impugn a statement made by a Judge, even though I had reason to believe it was not in accordance with fact, I endeavoured to settle the case as an infringement of the text and spirit of Article XXI of the Convention.

An extraordinary reply from the Protector followed (enclosure No. 9) which I felt bound to answer in terms which I trust your Lordship will not think too intemperate; and then step by step my arguments were met either by evasive replies or by direct denials without any proof.

Finally I was compelled to refer the question to the Governor, but again without success.

Your Lordship will observe that in his note No. 347 of the 20th instant, the Governor states that offers had been made to Covindin to cancel the engagements and that Covindin had refused.

I immediately asked that Covindin should be sent to the Consulate on the 24th instant. He did not arrive, the Syndic, as on a previous occasion, reporting him ill and unwilling to come. On the 26th I sent my Indian interpreter to St. Leu to fetch him. He was not ill and would willingly have come if his fare by railway had been paid. It was far for him to walk, and moreover he had a sore foot.

The man confirmed every one of his previous statements, but added that as he had now re-engaged he did not intend to go to St. Denis to educate his children.

On being asked whether on December 13th he had given his consent to the engagements, he replied that the Syndic had sent for him and told him that if the engagements were broken he would be compelled to engage his children within three days or it would be so much the worse for him.

Yielding before this menace he gave his consent and subsequently renewed it before the Protector.

The following day I called upon the Protector, accompanied by Mr. Bell and spoke quietly to him about the case.

The Protector lost his temper, flew into a violent passion, enquired whether I believed an Indian's word rather than his, and without being precisely rude displayed great want of tact.

I succeeded however in calming him, and asked whether he would like to hear the Indian's statement, as he was outside. He refused, saying that as I had appealed to the Governor he would not see the Indian.

Finding, all my efforts unavailing, I left him and called next day upon His Excellency by appointment.

Practically the same scene was re-acted, but I have nothing to complain of as to His Excellency's conduct, which was perfectly correct.

He declined to take the matter further, inquired whether I doubted the word of M. le Protecteur, characterized the Indian's reasons for giving his consent as "incroyables," and

subsequently added that if the Syndic had used the words complained of it was not by way of threat and that the Syndic was in the right.

He also talked excitedly of prosecuting the Indian.

Nothing therefore now remained but to take my leave and decide upon what course to pursue.

I decided to let the threatened law suit drop for the present and for several reasons,—

- (1) Its successful prosecution would have completely altered the status of the British Indian community here.
- (2) It would have set free nine-tenths of all the engagés in the island.
- (3) Had a decision against the Indian been given in the Cour d'Appel it would have been necessary to send the case to the Cour de Cassation at Paris.
- (4) I was not authorized by Her Majesty's Government to incur any such great expense.
- (5) Nothing would be lost by awaiting Your Lordship's instructions.

As however the question of the Indian's original consent is disputed I addressed a note to the Procureur de la République to have the accuracy of M. Loupy's statement tested.

Your Lordship will, no doubt, wonder that so much reluctance was shown by the local authorities in releasing at once two children of such tender years from an engagement objected to by their only surviving parent.

M. Loupy, the Engagiste, however, is not only a Juge de Paix, but a man of very dubious morals and an influential supporter of M. de Mohy. He was sent to St. Leu to "nurse" the constituency, and his word for the time being is law.

M. Emart Alexis, the Procureur Général who assisted at my interview with the Governor is a creole of the creoles and wrote the legal notes sent by M. Manès to me. But it is doubtful whether he was invited by M. Manès to assist at the audience as Procureur Général or as brother-in-law of the Syndic of St. Leu.

Extract of paragraph 2, Article 2, of the Decree of the 30th of March 1881.

Sont considéré comme immigrants jusqu'à leur majorité tous les enfants nés dans la colonie de parents immigrants ou introduits avec eux.

Dated Reunion, 10th January 1893.

From—C. W. BENNETT, Esq., H. B. M. Consul at Reunion,

To—The Secretary of State for Foreign Affairs.

In continuation of my Despatch No. 34 of the 31st ultimo regarding the engagement of two young Indian children at St. Leu, I now have the honour to inclose a copy of a further note which I have received from M. Manès and of my reply thereto.

It may be assumed that although M. Manès, as Governor has no right to interfere in legal affairs he will nevertheless succeed in inducing the Procureur Général to shelve the inquiry I have asked for, but his so doing hardly shows much confidence in the justice of the course he has taken.

Dated St. Denis, 31st December 1892.

From—MONS. E. MANÈS, Governor of Réunion,

To—H. B. M. Consul at Reunion.

Après la lettre que j'ai eu l'honneur de vous écrire à la date du 20 décembre courant et l'entretien que nous avons eu à mon cabinet le 28 du même mois, je pensais que l'incident relatif à l'engagement des deux enfants de l'indien Covindin Paravoudom était définitivement clos, en ce qui concerne notamment son consentement.

Vous m'aviez du reste positivement déclaré, en me quittant, que tel était votre avis.

Vous vous m'avez aujourd'hui et vous m'écrivez "qu'il serait convenable de soumettre cette question au Procureur de la République de St. Pierre."

Je ne puis accueillir cette nouvelle demande, car ce serait non seulement mettre en doute les déclarations écrites des fonctionnaires de mon administration, mais encore, et surtout tenir en suspicion le Chef du Service de l'Immigration en admettant que l'enquête à laquelle il a procédé sur des faits de sa compétence peut être mise en échec par les affirmations pleines de réticences et évidemment mensongères d'un immigrant qui, ainsi que je vous l'ai écrit et confirmé verbalement, a reconnu qu'il a consenti à l'engagement de ses enfants, et que ce consentement a précédé cet engagement.

Je tiens, quant à moi, pour loyale et sincère cette enquête, qui doit servir à l'appréciation définitive de cette affaire.

Dated Reunion, 6th January 1893.

From—C. W. BENNETT, Esq., *H. B. M. Consul at Reunion,*
To—*His Excellency the Governor of Reunion.*

I have the honour to acknowledge the receipt of Your Excellency's Despatch No. 361 of the 31st ultimo, with reference to the course I have taken as to submitting the case of the two young Indian children at St. Leu to the Parquet at St. Pierre, and to inform Your Excellency that a copy of it will accompany the despatch which I have addressed to Lord Rosebery on the subject.

No. 51, dated St. Denis, 5th August 1892.

From—J. H. D. BELL, Esq., *Acting Consul, St. Denis,*
To—*The Protector of Immigrants, St. Denis.*

I have the honour to inform you that it has been reported to me that M. Robin, the Syndic of St. Leu, has lately engaged two young Indians, Louis and Antonia, the children of Covindin Paravondom.

Not only has M. Robin done this in opposition to the wishes of the surviving parent of these children, but the engagement is strictly contrary to the new order of things lately established by the law relative to nationality, the parents of these young Indians having been born in this colony.

It so happens that the present case of illegal engagement of Indians has been brought to my notice, but there can be no doubt that many similar cases pass unnoticed.

I should be much obliged therefore if you will be so good as to give instructions to the Syndics on this subject, and have the engagements of Covindin Paravondom's children cancelled.

Dated St. Denis, 8th August 1892.

From—MONS. F. MALCOR, *Protector of Immigrants, St. Denis,*
To—*H. B. M. Consul at Reunion.*

En réponse à votre lettre No. 51 du 5 de ce mois, j'ai l'honneur de vous informer que l'indien Covindin Paravondom, No. 94,477 vous a doublement induit en erreur.

1. Cet Indien n'est pas né dans la colonie. Il est arrivé à la Réunion le 9 juin 1854 à l'âge de 4 ans avec sa mère sur le "*Manuel*," capitaine Loquaz, et s'est toujours engagé depuis 1867. Il est actuellement engagé à un permissionnaire à St. Leu.

2. La communication que je vous fais du certificat ci-joint de M. le Juge de Paix de St. Leu vous edifiera sur la déclaration que vous a faite cet Indien relative à l'engagement de ses deux enfants contrairement à sa volonté.

L'attention de M. M. les Syndics sera de nouveau, comme vous le désirez, appelée sur la question d'engagement d'immigrants sujets français.

Certificate alluded to in foregoing.

Je certifie que j'étais dans le bureau du Syndic des Immigrants de St. Leu lorsque s'est présenté l'indien Covindin pour déclarer qu'il consentait à engager ses deux enfants, savoir l'aîné à M. Auguste Mahe, et la cadette à M. Jules Loupy.

St. LEU : le 6 Août 1892.

JULES LOUPY,

Le Juge de Paix.

Dated St. Denis, 20th August 1892.

From—J. H. D. BELL, Esq., *H. B. M. Actg. Consul, St. Denis,*
To—*The Protector of Immigrants, St. Denis.*

I have the honour to acknowledge the receipt of your letter of the 8th instant, and in reply I desire to say that out of a spirit of conciliation and in the presence of the certificate issued by the Juge de Paix of St. Leu, it had not been my intention to address you again on the subject of the engagement of Covindin Paravondom's children without their father's consent.

But a remark in your note No. 42 of the 19th instant compels me to inform you of my opinion that M. Jules Loupy and the Juge de Paix of St. Leu being one and the same person, and M. Jules Loupy being precisely one of the persons to whom one of the children has been engaged, it might have been more desirable for M. Loupy not to have mixed up his private with his official capacity in an affair where he is personally concerned!

Dated Réunion, 3rd October 1892.

From—C. W. BENNETT, Esq., *H. B. M. Consul, Réunion,*
To—*The Protector of Immigrants, St. Denis.*

I send back to you herewith the Indian Covindin Paravondom No. 94,477 and his two children whom you kindly sent to me on Saturday.

The father will not consent to the engagement of these two young children, who ought moreover to be at school, and, under article XXI of the Convention, to live with their father.

As the engagement is at variance with Article XXI of the Convention already referred to, I would ask you, M. le Protecteur to have the engagement at once cancelled, or if this cannot be done immediately to give the two children permission to live with their father, so that they shall not return to their Engagistes.

I should also be much obliged if you would procure and send to me the Actes de Naissance of Sainy, the wife now dead, and of the two children, which are required for family reasons.

Dated St. Denis, 14th Octobre 1892.

From—MONS. F. MALCOR, *Protector of Immigrants, St. Denis,*
To—*H. B. M. Consul at Reunion.*

En réponse à votre lettre No. 72 du 3 Octobre courant j'ai l'honneur de vous informer que d'après mes instructions à M. le Syndic de St. Leu le Tribunal de Paix, présidé par le suppléant du Juge de Paix a été appelé à examiner la question de la validité de l'engagement des deux enfants de "Covindin Paravondom," No. 94477.

Je vous transmets sous ce pli, en communication, copie de la décision rendue par ce Tribunal à cette occasion.

Pour satisfaire à votre demande, vous recevrez également sous ce pli les certificats du Maire de St. Paul attestant la non-inscription, sur les registres de l'état civil de cette commune, de la déclaration de la naissance des dits enfants de Covindin; ainsi que la déclaration du Maire de St. Leu que Savgaisy Laichoumy, No. 96796, épouse de Covindin est décédée à St. Leu le 1 Mars 1892. C'est sans doute ces pièces, M. le Consul, que vous desiriez obtenir, et qui sont nécessaires à Covindin pour des raisons de famille.

Quant à l'acte de naissance de Sangaisy, également demandé, il ne peut être produit, cette immigrante n'est pas née dans la Colonie.

Audience du 12 Octobre 1892.

Vu la requête présentée ce jour par M. Charles Robin, Syndic des Immigrants de St. Leu.

Attendue que l'indien Covindin Paravondom, No. 94477 s'est présenté dans la journée du deux août dernier dans le bureau de M. le Syndic des Immigrants de St. Leu pour consentir, savoir, à M. Auguste Mahé l'engagement du nommé Tanby, son fils âgé de 13 ans, et à M. Jules Loupy celui de Maria Antonia sa fille, âgée de 11 ans, et ce (*sic*) aux salaires de cinq francs par mois pour chacun d'eux.

Attendu que l'Indien Covindin Paravondom, cédant sans doute à de mauvais conseils, voudrait faire rompre aujourd'hui les contrats qu'il a librement consentis; qu'il contient que ses enfants ne peuvent être séparés de lui, et que, de plus, ils doivent être à l'école.

Attendue que ces raisons puisées dans le décret du 27 août 1887 sont inapplicables à l'espèce.

Qu'en effet les enfants ne sont pas séparés de leur père et qu'il est de notoriété publique qu'il ne les a jamais mis à l'école.

Qu'au contraire il les a placés depuis plus de deux ans tantôt chez l'un, tantôt chez l'autre, au prix de cinq francs par mois.

Par ces motifs :

Le Tribunal de Paix dit bons et valables les contrats d'engagements des enfants Tamby et Maria Antonia passés devant le Syndic des Immigrants de St. Leu le deux août dernier

entre Covindin Paravondom faisant pour ses enfants d'une part et MM. Auguste Mahé et Jules Loupy d'autre part, et en ordonne l'exécution pure et simple.

Depens comme de droit.—Le Suppliant de Juge de Paix.

(Signé) F. AOVLET, *Le Greffier ad hoc.*
(Signé) P. MUTUEL, *Pour copie conforme.*
(Signé) P. MUTUEL.

No. 83, dated Reunion, 15th October 1892.

From—C. W. BENNETT, Esq., H. B. M. Consul at Réunion,
To—The Protector of Immigrants, St. Denis.

I have the honour to acknowledge the receipt of your note No. 126 of the 14th, inclosing copy of a judgment given by the Juge de Paix in the case of two young Indians who have been engaged at St. Leu contrary to Article XXI of the Convention.

With all due respect to the Juge de Paix I cannot, of course, for a moment, accept his decision as to the interpretation of an article in a Convention made between the two High Contracting Powers, and the Judge, well aware of this fact, has seen that he was incompetent to deal with it.

His judgment, however, is valuable as establishing judicially the fact that Covindin Paravondom is the father of "Tamby, his son, aged 13 years," and "Maria Antonia, his daughter, aged 11 years."

All shadow of a doubt as to the paternity of these children being now removed by judicial decision, I again have to ask you, M. le Protecteur, to take the necessary steps to cancel this engagement as opposed to the spirit and the letter of Article XXI of the Convention between our respective Governments.

I have at the same time to ask you to let me have further particulars as to Sainy, the lawful wife of Covindin, whose marriage certificate has been produced before me.

She was, it appears, born at Grand Bois, the property of M. Choppy, St. Pierre.

I would also ask that the two children be restored to their father's keeping until this case is finally decided, or at any rate that they may be taken away from their Engagistes.

No. 147, dated St. Denis, 28th October 1892.

From—MONS. F. MALCOR, Protector of Immigrants, St. Denis,
To—H. B. M. Consul at Reunion.

Après avoir conféré avec M. le Gouverneur de la question qui a fait l'objet de notre correspondance au sujet des nommés Tamby Louis et Maria Antonia, âgés l'un de 14 ans et l'autre des 12 ans, j'ai l'honneur de vous confirmer mes premières appréciations.

Ces enfants sont nés dans la Colonie et ne sont pas dès lors régis par l'article XXI de la Convention du 25 juillet 1860, qui prévoit la repartition des convois d'immigrants, et stipule qu'aucun père ou aucune mère ne sera séparé de ses enfants âgés de moins de 15 ans.

Ce sont exclusivement les articles 20 et 22 du décret du 27 août 1887 sur l'Immigration qui s'appliquent au cas qui se présente. L'article 20 impose aux enfants l'obligation de l'engagement dès qu'ils ont atteint l'âge de 10 ans, limite qui peut être reculée jusqu'à quinze ans pour ceux qui justifient de la fréquentation habituelle d'une école publique.

L'article 22 perge que les contrats d'engagement et de re-engagement de ces mineurs enfants d'immigrants, ne peuvent être passés qu'avec le consentement de leur père ou mère, ou de celui d'entr'eux aux soins de l'autorité duquel l'enfant se trouve légalement placé: ils doivent être passés avec un engagiste habitant la Commune où résident les parents et, autant que possible, avec l'engagiste des parents.

Or, il est établi:

1. Que les nommés Tamby Louis et Maria Antonia n'ont jamais fréquenté aucune école publique ou même privée.

2. Que leurs contrats d'engagement réguliers en la forme, ont été passés avec MM. Jules Loupy et Auguste Mahé, habitant tous deux à St. Leu, où le père de ces enfants s'est engagé et où il réside, lequel a donné son consentement.

En conséquence il y a lieu de maintenir les contrats d'engagement des nommés Tamby Louis et Maria Antonia.

Quant à l'intervention du Tribunal de la Justice de Paix en cette matière je reconnais que c'est à tort qu'elle s'est produite: la question qui lui était soumise ne rentrait en effet dans aucune de celles qui sont indiquées par l'article 101 du Décret sur l'Immigration.

No. 88, dated Réunion, 13th October 1892.

From—C. W. BENNETT, Esq., H. B. M. Consul at Réunion,
To—The Protector of Immigrants, St. Denis.

I learn from your note No. 147 of the 25th of October that after having conferred with M. le Gouverneur you confirm your previous statements as to the legality of the engagements of the two young Indians at St. Leu.

You further state that as these two Indians were born in the colony they are not subject to Article XXI of the Convention of 1860, and in the following paragraph that they fall exclusively under the decree of 27th August 1887.

I have before repeatedly asked you for proof of these children's birth which should be recorded on the "Matricule Générale" of the father, and have not been favoured with it.

I have also asked you for information as to the mother's status and birth in the island on the estate of Grand Bois, and it is not yet forthcoming.

Your statement that these two children, because they are born in the island, are not subject to the Convention is one of so startling a nature that I am anxious to take this opportunity of asking you whether it was not a phrase inadvertently used. It really, in my opinion, amounts to a semi-official denunciation of the Convention; and if so taken by Her Majesty's Government, to whom I am sending a copy of this correspondence, it would immediately determine all the engagements to day existing for the Convention overriding the Decree, and the Decree being dependent upon the Convention, and the Decree having in no way whatever received the sanction or approval of Her Majesty's Government, the denunciation of one entails, so far as British Indians are concerned, the fall of the other.

Until, however, the decision of Her Majesty's Government is known, I beg respectfully to inform you that I consider every British Indian immigrant now engaged in Réunion, whether born here or not, to be engaged solely by virtue of the Convention of 1861, and to further state that it will be my duty in the future, as in the past, to ask for the cancellation of any engagements of British Indians who, not being immigrants, are engaged as such under the Decree.

It is open to you, M. le Protecteur, to cancel the engagements referred to both on legal and moral grounds. The separation of a father from his children without the father's consent and against his wishes is hardly in accordance with the principles of the age.

In view of the certificate of the Juge de Paix I had not wished before to bring forward the fact that ample evidence exists that the engagements were made without the father's knowledge or consent.

Dated St. Denis, 4th November 1892.

From—MONS. F. MALCOR, Protector of Immigrants, St. Denis,
To—C. W. BENNETT, Esq., H.B.M. Consul at Reunion.

Par ma lettre du 14 octobre dernier, No. 136, je vous ai adressée les certificats du Maire de St. Paul concernant les deux enfants de Covindin Paravondom.

Je vous faisais tenir en même temps la déclaration du Maire de St. Leu relativement au décès de la femme Sangainy (le 1er Mars 1892).

Je vous adresse sous ce pli l'acte de mariage de Covindin Paravondom (le 29 janvier 1874) avec Sangainy Latchoumy, cet acte supplée à l'acte de naissance que vous me demandiez de Sangainy; cette femme est née à la Possession dans le courant de l'année 1856; il rappelle également que Covindin Paravondom est né dans l'Inde en 1850.

Indépendamment de cet envoi je vous adresserai une lettre en réponse à la votre, No. 88 du 30 Octobre dernier.

No. 150, dated 4th November 1892.

From—MONS. F. MALCOR, Protector of Immigrants, St. Denis,
To—C. W. BENNETT, Esq., H.B.M. Consul at Reunion.

J'ai eu l'honneur de vous confirmer, en effet, par ma lettre No. 147 du 28 Octobre dernier, quel engagement des deux jeunes indiens de St. Leu avait été fait légalement, et je vous ai exposé les motifs en précisant les circonstances.

L'un de ces motifs est que les dispositions, l'article XXI de la Convention de 1860 que vous invoquez à l'encontre de cet engagement, concernant les enfants faisant partie d'un convoi et qui ne doivent pas être séparés de leur père et mère au moment de leur introduction et de la repartition des contingents d'immigrants.

J'ai dit également que ces deux enfants nés dans la Colonie parvenues à l'âge de 10 ans étaient légalement engagés aux termes des articles 20 et 22 du décret du 27 août 1887, puisqu'ils n'avaient jamais fréquenté une école publique ou même privée; que ces enfants étaient engagés dans la localité où reside leur père, et avec le consentement de ce dernier.

Mais je n'ai pas déclaré comme vous paraissiez le croire, d'après les termes du 4^{me} paragraphe de votre lettre du 30 octobre 1892 No. 88, que les enfants nés dans la colonie ne sont pas soumis à la Convention de 1860.

Je pouvais d'autant moins formuler une semblable opinion que dans le cas qui nous occupe le paragraphe 2 de l'article 2 du Décret du 30 mars 1881 stipule que "sont considérés comme immigrants jusqu'à leur majorité tous les enfants nés dans la colonie de parents immigrants ou introduits avec eux."

Cet exposé vous permettra, j'espère, de vous convaincre qu'il n'est jamais entré dans mon esprit de contester et de méconnaître la force et la portée de la Convention de 1860; j'ai seulement, dans la circonstance, le regret de ne point partager votre opinion sur l'interprétation qu'il convient de donner à un article spécial de cette convention, dans le cas particulier dont il s'agit.

En résumé les questions que nous avons à examiner sont les suivantes:

1. L'engagement des jeunes indiens soumis à cette obligation dès l'âge de dix ans, et qui ne fréquentent habituellement aucune école publique, passé avec le consentement de leur père avec un engagiste habitant la commune où celui-ci reside, est-il valable?

Je le pense.

2. Ce père après avoir consenti librement à l'engagement de ses enfants peut-il le considérer comme (*sic*) non avenu, et en obtenir la rupture par le seul fait de sa volonté?

Je ne le pense pas.

Il y aurait là une violation manifeste de la loi des contrats synallagmatiques (*sic*) dont le maintien ou l'annulation dépendrait alors de la volonté d'une seule des parties contractantes, ce qui est contraire non seulement à l'équité, mais encore au principe général des Conventions inscrit dans toutes les législations.

Ce respect des Conventions se concilie du reste avec celui qui est due à la puissance paternelle, puisque, dans l'espèce, c'est par suite de l'exercice l'égitime de cette puissance que l'engagement a été contracté.

Il est vrai que vous terminez votre lettre, M. le Consul, en faisant allusions à de nombreux témoignages qui vous auraient convaincu que les engagements de ces jeunes indiens ont été passés à l'insu (*sic*) sans le consentement du père; j'ose espérer que vous voudrez bien me communiquer ces témoignages qui viennent à l'encontre des résultats de l'enquête à laquelle j'ai fait procéder.

No. 90, dated Reunion, 8th November 1892.

From—C. W. BENNETT, Esq., H. B. M. Consul at Reunion,

To—The Protector of Immigrants, St. Denis.

I have the honour to acknowledge the receipt of your note No. 150 of the 4th instant, relative to the illegal engagement of two young Indians at St. Leu.

I am pleased to learn that when you wrote that they were affected exclusively by the local labour law you did not mean to imply that all Indians born in the colony were governed solely by the Decree in question.

At the same time I regret that I cannot accept your interpretation of the 21st Article of the Convention as affecting solely the location of families of Indians arriving in the colony.

The spirit of that article, as well as the text, should be considered and construed from a moral point of view.

It is useless now to extend the scope of the discussion by bringing forward evidence of the fact of the father never having given his consent or having been present at the time of the engagement, or of his ever knowing anything about it until on his return from work at his Engagiste's he found his children absent.

I prefer, unless you desire to make another independent inquiry on your own account, to limit the question to the legality of the engagements themselves.

It has all along been within my knowledge that the woman Sainy No. 66796, was born in the colony, although it appears my informant was in error in stating that she was born at "Grand Bois."

You are, no doubt, aware that a recent decision of the French courts has established the fact that it is not necessary for both parents to be born in France for the children to claim French nationality. Under the law of 1889 the two children in question are therefore French, but that French nationality is not yet complete; and until it is so, I have a right to protect them.

They cannot, however, be engaged under the Convention or under the Decree.

I therefore now ask that the question of the nationality of these children be judicially decided.

It would of course be open to the father to take this simple step himself; but I should be sorry to have to assist him in so doing, as it would appear to be discourteously forcing your hand.

Dated St. Denis, 19th November 1892.

From—MONS. F. MALCOR, Protector of Immigrants at St. Denis,

To—C. W. BENNETT, Esq., H. B. M. Consul at Reunion.

En réponse à sa note de ce jour j'ai l'honneur de faire savoir à M. le Consul de S. M. Britannique que les deux enfants de St. Leu ne sont pas razés de la liste des Immigrants.

Français en vertu de l'article 8, para. 3 de la loi du 26 juin 1889, ils continuent à être considérés comme immigrants jusqu'à leur majorité en vertu des dispositions de l'article 2, para. 2, du décret organique du 30 Mars 1881.

No. 91, dated Reunion, 20th November 1892.

From—C. W. BENNETT, Esq., H. B. M. Consul at Reunion,

To—The Protector of Immigrants, St. Denis.

From your letter received yesterday I learn that the two young Indian children at St. Leu are not yet removed from the Immigration lists.

You further state that being French by the law of 1889 they continue to be considered as immigrants until their majority under the Decree of 1881.

It is conceded by you that these children are French.

I concur.

Now, what French citizens can by law be engaged as immigrants? Solely French Indians introduced here as immigrants under the existing regulations and no others; not even the children of such Indians born here.

You have already admitted that these children are subject to the Convention and the Labour Law; being free-born French citizens, they can be subject to neither the one nor the other, and were simply engaged in error.

Neither are they subject even in its wording to the Decree of March 31st, 1881. A free-born Frenchman, except as above stated, cannot be an immigrant.

It is true their father can benefit by the article quoted by you and claim exemption from re-engaging on the expiration of his present agreement, and this no doubt he will do.

He thus ceasing to be an immigrant, by no possible manner of means can his children be immigrants?

As however your department has evidently determined, in spite of very great patience on my part, not to cancel these engagements, I have, with great reluctance, been forced to search for justice elsewhere; and having now placed the matter in the hands of the law, I have only to ask you to kindly order the father and his two children to come to the Consulate at 9 A.M. on Wednesday next.

Dated St. Denis, 28th November 1892.

From—C. W. BENNETT, Esq., H. B. M. Consul at Reunion,

To—His Excellency the Governor of Reunion.

I have had a long correspondence with M. Malcor concerning the engagement of two young children at St. Leu to M. Loupy.

These engagements are illegal, the children having a double nationality, being English under English law and French under Article 1, section 4 of the Law of 26th of June 1886.

I have today, in view of a failure to obtain the rupture of these engagements by the Protector, sent M. Paul Rieul to his department as legally representing me to explain the law to M. le Protecteur, and beg him to yield and to grant the children a "dispense d'engagement" for the future.

The interview has not been entirely satisfactory, and I now appeal to Your Excellency privately—and chiefly in the interests of the colony—to order the cancellation of the engagements.

Your Excellency is no doubt aware that under the article quoted above no child of an immigrant born in Reunion can be forced to engage, and I should much regret to be obliged to take a legal step which would at once set free nine-tenths of all the Indian engagés on the island.

I have instructed M. Rieul to await further orders which I trust, in the interest of the colony, Your Excellency's reply will render unnecessary.

No. 92, dated Réunion, 3rd December 1892.

From—C. W. BENNETT, Esq., H. B. M. Consul at Reunion,
To—His Excellency the Governor of Reunion.

On the 28th ultimo I did myself the honour to address Your Excellency a private note asking you to order the engagement of two young Indian children at St. Leu to be broken, and their names removed from the Immigration Lists.

Doubtless the financial crisis through which the colony is now passing has made serious demands upon Your Excellency's time, and your answer to my note, although of a somewhat urgent character, has been thereby delayed.

I would now, however, desire to bring the subject before you in another form.

For convenience of reference I will divide the Indian engagés into three classes—

- (1) Those who have arrived as immigrants in convoys from India.
- (2) Persons born in India and introduced here with their immigrant parents.
- (3) Children of Indian immigrants born in Reunion.

(1). The original immigrants are subject solely to the terms of the Convention, and may renew their engagements if they desire to.

(2). Children who came here with their immigrant parents are also subject to the Convention, and are immigrants up to the age of 21, when, under the Decree of March 30th, 1881, they may either elect to continue as immigrants or to be removed from the Immigration Lists. Such Indians naturally retain the nationality of their father.

(3). Children of Indian immigrants born in Reunion under Article 8 of the Code Civil as modified by Section 1 of the French Nationality Law of 1889 are French, and the dispositions of the Decree of March 30th, 1881, regarding such children being contrary to this law, are repealed by the law in question, as indeed are all other dispositions which are contrary to the said law.

Consequently, such children cannot, from a French point of view, be immigrants and made subject to engagements if they or their parents object to such a course.

Such children are, however, under British law, British, and in this fact a solution of the question may, I think, be found satisfactory to the Colony and this Consulate.

Your Excellency's Government on the one hand cannot force such children to engage as they are French, and neither can I withhold from them during their minority my protection as being British.

These Indians, therefore, who represent fully nine-tenths of the Indian engagé population, practically have the fate of the Colony, from an agricultural point of view, in their hands, but they do not know it.

A judgment given by the Court would immediately bring the fact to their knowledge and plunge the Colony—already sufficiently involved—into still greater confusion.

I should be extremely sorry to have to take such a step, and especially now when Your Excellency has so many difficulties to contend with.

I therefore confidently appeal to Your Excellency to order the engagements of these two young children to be cancelled if this has not already been done, and to cause their names to be erased from the Immigration Lists, as well as that of Marimonton Cataye, concerning whom I had the honour to write to Your Excellency a few days since.

Dated St. Denis, 5th December 1892.

From—MONS. E. MANÈS, Governor of Reunion,
To—Her Britannic Majesty's Consul, Reunion.

J'ai l'honneur de vous accuser réception de votre lettre en date du 28 Novembre dernier et de vous exprimer tous mes regrets de ne pas partager votre opinion au sujet des deux contrats d'engagement qui font l'objet de votre communication, revêtant un caractère tout à fait privé.

Conformément à notre droit, les enfants dont il s'agit, nés dans la colonie d'un étranger et d'une étrangère qui elle-même y est née, n'ont, en vertu du paragraphe 3, et non du paragraphe 4 de la loi du 26 Juin 1889, comme vous me l'écrivez, qu'une nationalité, la nationalité Française à l'exclusion de toute autre. Ils ne peuvent dès lors être l'objet sur notre territoire que de la protection de l'autorité française.

Toutefois, bien que français, ils sont considérés comme immigrants jusqu'à leur 21^{me} année en vertu de l'article 2, paragraphe 2, du décret du 30 mars 1881, parcequ'ils sont nés d'un père immigrant, et ils sont astreints en cette qualité à l'engagement, conformément à l'article 20 du décret du 27 août 1887.

Les dispositions de ces deux décrets, et celles de la loi du 26 Juin 1889 ne sont nullement inconciliables, comme vous semblez le penser.

M. le Protecteur, qui considère comme valables les contrats d'engagement dont vous m'entretenez, ne peut équitablement et de bonne foi en provoquer la rupture sans motifs légitimes.

Comme vous le voyez il m'est tout-à-fait impossible dans la circonstance, malgré tout mon désir de me mettre d'accord avec vous, de faire ce que vous me demandez.

No. 326, dated St. Denis, 8th December 1892.

From—MONS. MANÈS, Governor of Reunion,
To—H. B. M. Consul, Reunion.

J'ai l'honneur de répondre à votre lettre datée du 3 de ce mois et que je m'ai reçue que le 5 suivant dans la matinée.

Dans la colonie les Indiens étrangers ou les individus nés d'eux peuvent se diviser en quatre catégories—

1. Ceux introduits dans les conditions prévues par le décret du 27 mars 1852;
2. Ceux introduits avec leurs parents et qui étaient enfants à cette époque;
3. Ceux nés dans la colonie de parents introduits;
4. Ceux qui sont nés dans la colonie, ou sur territoire français d'un étranger qui lui-même y est né.

Sauf les dispenses qui peuvent être accordées, ceux de la 1^{re} catégorie sont, pendant toute la durée de leur séjour dans la colonie, soumis à l'obligation de l'engagement (article 18 du décret du 27 août 1887.)

Ceux de la 2^{me} catégorie sont astreints à la même obligation jusqu'à leur 21^{me} année et dès l'âge de 10 ans (limite qui peut être réculée à 15 ans dans les cas où ils fréquentent habituellement une école publique—article 2, paragraphe 2 du décret du 30 Mars 1881, et 20 du décret du 27 août 1887 combinés.)

Ceux de la 3^{me} catégorie sont français en vertu de l'article 3 de la loi du 26 juin 1889, lorsque l'époque de leur majorité ils sont domiciliés en France à moins que dans l'année qui suit cette majorité telle qu'elle est réglée par la loi française, ils n'aient accompli les formalités prévues par l'article 4.

Ceux de la 4^{me} catégorie sont devenus définitivement français sous l'Empire de la loi du 7 février 1851, promulgué dans la colonie le 10 mai 1853, s'ils n'ont pas, dans l'année qui a suivi leur majorité, opté pour leur nationalité dans les formes prescrites par la loi précitée.

Depuis la promulgation de la loi du 26 Juin 1889 il n'ont plus cette faculté et ceux qui n'avaient pas atteint leur majorité à cette époque sont devenus irrévocablement français.

Il en est de même de ceux nés depuis la promulgation de la loi.

Les individus de cette catégorie, s'ils sont enfants d'immigrants, sont cependant soumis à l'engagement jusqu'à leur majorité et depuis leur dixième ou quinzième année, suivant qu'ils fréquentent habituellement ou non une école publique, et ce, en vertu des articles 2, para. 2, du décret du 30 mars 1881 et 30 du Décret du 27 août 1887.

Leur qualité de français ne les dispense pas de cette obligation, car les dispositions des décrets sus-visés et celles de la loi de 1889 ne sont nullement inconciliables comme vous le pensez.

Les décrets sur le travail et la Loi de 1889 sur la Nationalité émanant de pouvoirs distincts et tous deux compétent dans la matière qu'ils règlent, se réfèrent à des sujets différents: ils ne se contrarient pas et la Loi de 1889 n'a pas en pour effet d'abroger les Décrets de 1881 et 1887. Ce qui le prouve surabondamment c'est que lorsqu'ils ont été rendus il y avait un grand nombre d'enfants qui étaient français, tout au moins sous condition résolutoire, en vertu de la Loi de 1851 alors en vigueur, puisqu'ils étaient nés dans la colonie de parents étrangers qui eux-mêmes y étaient nés, et néanmoins ces décrets, au point de vue de l'obligation à l'engagement sont conçus en termes généraux et ne comportent aucune exception à cette catégorie d'enfants.

Du reste, en soumettant à l'engagement tous ces mineurs sans distinction le législateur français a été inspiré aussi bien par l'intérêt de la colonie au point de vue du travail et de l'ordre public, que par celui de ces enfants et de leurs familles, car sans cette obligation, la plupart d'entr'eux se livreraient au vagabondage, dont je n'ai pas besoin d'indiquer les conséquences. Grâce à elle ce danger est évité, leur surveillance est facile, et ils sont assurés des moyens d'existence et des soins médicaux que leurs parents seraient dans l'impuissance de leur procurer.

En me plaçant à ces divers points de vue, je ne puis donc, malgré tout mon désir de me mettre d'accord avec vous, faire ce que vous me demandez en prescrivant au Protecteur des Immigrants de requérir l'annulation d'engagements que je considère comme valables.

Mais vous élargissez la question en lui donnant le caractère d'une difficulté internationale que j'étais loin de voir surgir à propos de cet incident, et vous me faites entrevoir les conséquences de la mesure que vous êtes, dites-vous, disposé à prendre si vous n'obtenez pas la satisfaction que vous desirez et qu'il m'est impossible de vous accorder.

Je vous ferai remarquer que les deux enfants dont il s'agit sont nés dans la colonie d'une mère qui elle-même y est née, et d'un père immigrant venu de l'Inde, ainsi que l'indique l'acte de leur mariage célébré à St. Paul le 29 janvier 1874. Ces enfants, comme tous ceux qui sont dans le même cas, n'ont et ne peuvent avoir sur notre territoire qu'une nationalité, la nationalité française; et tant qu'ils s'y trouvent ils ne relèvent que des autorités françaises.

En France ils ne sont que français, et s'ils sont également anglais, comme vous me l'écrivez, ils ne peuvent l'être qu'en Angleterre.

C'est la même application de principes incontestables, et qui servent du reste m (*sic*) base à la législation de votre nation en la matière.

Au surplus, M. le Consul ne trouvez-vous pas comme moi, qu'il y a une contradiction manifeste à reconnoître d'un côté à ces individus la nationalité française pour soutenir qu'ils ne doivent pas être soumis à l'engagement, et à réclamer, d'un autre côté en leur faveur le bénéfice de la nationalité anglaise afin d'étendre jusqu'à eux votre protection?

J'aime à penser que les explications qui précèdent vous amèneront à modifier votre opinion.

No. 95, dated Reunion, 9th December 1892.

From—C. W. BENNETT, Esq., H. B. M. Consul at Reunion,

To—His Excellency the Governor of Reunion

I have the honour to acknowledge the receipt of Your Excellency's note, No. 326 of yesterday's date, and to thank you for the full exposition of the views of your Administration on the question of the engagement of the two young Indian children at St. Leu.

I sincerely regret that we cannot regard the matter quite in the same light.

The children are the infant children of a British subject, and M. le Protecteur admits that they are engaged under the Convention, on either of which grounds they are entitled to my protection as well as to my good offices as regards their privileges secured under their French nationality.

They are borne also upon the Immigration lists, not as French, but as British immigrants. Moreover, it is at the request of their British father that I am acting, and until a court of law has decided that the father is unworthy to take care of his own children, he has an undoubted right to my assistance to protect his infant children's interests of whatever nationality they may be.

Whether the children are "Immigrants" or not depends upon whether the Decree of March 30th, 1881, is or is not contrary to the provisions of the Law of June 26th, 1889, and on this point our respective legal advisers are at variance; but in any case, even admitting that they are immigrants, they are engaged as British immigrants now, although admittedly on both sides they are French.

Moreover, the Decree of 1881 would apply more specially to the father who came here as a child and might have claimed exemption from engagement at the age of 21, and may perhaps yet do so.

It was only when met by repeated checks from the Immigration Department that I was compelled, much against my wish, to urge the double nationality question in despair of obtaining the cancellation of the engagements on any ground of reason or morals.

I now recapitulate the arguments I addressed to the Protector, as I am convinced that amongst them you will find at least one good reason for ordering the engagements to be cancelled.

1. The engagements are contrary to the spirit and the text of Article XXI of the Convention.
2. The father never gave his consent to the engagements.
3. He was unaware until his return from work at his Engagiste's and found his children taken away from his house, that there was any intention of making them engaged.
4. The following day he complained to his Engagiste that his children had been taken away from him against his will and without his knowledge.
5. As soon as possible he laid a similar complaint at the Consulate.
6. The children do not wish to remain engaged to M. Loupy and his clerk, or to be separated from their father.
7. If it was necessary to engage the children, they could have been placed with their father's Engagiste.
8. The father's engagement expires in a few weeks' time, and he desires to come to St. Denis and put his children to school here.
9. No legal reason exists why these children should be separated from their father, their natural guardian.

All those reasons are or should be known to M. le Protecteur already, but I cannot believe that Your Excellency is aware of them, or would wish to sanction engagements which are objectionable from so many points of view.

I therefore again earnestly appeal to Your Excellency to reconsider the question and cause a proper inquiry to be made at St. Leu into all the circumstances of the engagements of these Indians, with a view to cancelling these engagements and saving me from taking a course which I assure Your Excellency I have every desire to avoid, out of deference to Your Excellency's wishes.

Dated St. Denis, 10th December 1892.

From—MONS. E. MANÈS, Governor of Réunion,
To—Her Britannic Majesty's Consul at Réunion.

En réponse à votre lettre du 9 de ce mois j'ai l'honneur de vous informer qu'antérieurement à sa réception les engagistes des deux enfants dont vous m'entretenez, desireux de mettre fin à toutes les difficultés relatives à ces engagements, se sont présentés au bureau du Syndic de St. Leu afin d'en demander la résiliation et de l'obtenir à l'amiable. Pour cela il leur fallait le consentement du père Coviudin Paravondom (Article 39 du Décret du 27 août 1887). Celui-ci mandé au Syndicat de St. Leu et informé de cette intention a déclaré au Syndic dans la matinée du 13 courant, qu'il ne voulait nullement consentir à cette résiliation, qu'il tenait ces engagements pour valables et qu'il entendait qu'ils fussent maintenus dans l'intérêt de ses enfants, qui étaient bien traités par leurs engagistes. Pour achever de faire la lumière sur les faits que vous m'aviez signalés, j'ai prescrit à M. le Protecteur des Immigrants de se rendre à St. Leu le vendredi 16 à l'effet de recevoir les déclarations de Coviudin Paravondom et de ses deux enfants. Cet indien a reconnu devant le Protecteur que ses enfants avaient été engagés avec son consentement qu'ils étaient bien traités par leurs engagistes et il a persisté dans son refus de résilier leurs engagements.

Il a de plus déclaré qu'il n'avait pas l'intention à l'expiration de son engagement de quitter son engagiste le sieur Prima Atchama, dit Debit, chez qui il travaille depuis sept années et qui le traite avec toute la bienveillance qui réclame son état maladif.

Il lui a demandé, en présence du Protecteur, de vouloir bien renouveler son engagement, sans prime, mais moyennant la rénonciation au remploi des 79 journées qu'il lui doit et une avance de 24 francs, ajoutant qu'il n'irait à St. Denis que dans le cas où le sieur Atchama ne voudrait plus de ses services.

Enfin il a exprimé spontanément au Syndic des Immigrants ses regrets au sujet des ennuis que lui a causés cette affaire, et il lui en a même demandé pardon.

Les deux enfants ont affirmé qu'ils n'avaient qu'à se louer de leurs Engagistes.

Comme vous le voyez, M. le Consul, et aussi que je l'avais supposé, les renseignements que vous portez à ma connaissance dans votre dernière lettre sont tout-à-fait inexacts; votre bonne foi a été trompée, aussi bien par Covindin Paravondom que par ceux qui ont confirmé ses dires.

J'aime à penser, dès lors, que cet incident prendra foi, car il a moins que jamais de raison d'être.

Vous constaterez une fois de plus avec moi combien il faut se mettre en garde contre les déclarations des Indiens.

No. 97, dated Réunion, 21st December 1892.

From—C. W. BENNETT, Esq., H. B. M. Consul at Réunion,

To—His Excellency the Governor of Réunion.

I have the honour to acknowledge the receipt of Your Excellency's note, No. 346, of the 17th instant, relative to the engagement of two young Indian children at St. Leu, and to ask Your Excellency to kindly cause orders to be issued for the Indian Covindin Paravondom to be presented at the Consulate at 9 A. M. on the 25th instant, in order that I may decide what steps it will be necessary for me to take to punish him for the false statement which he has made to me both verbally and in writing.

In case he is, as on a previous occasion, too ill to proceed to St. Denis, I would ask that he may be placed at my orders at St. Leu, where I will on that day interview him either in person or by deputy.

No. 98, dated St. Denis, 27th December 1892.

From—C. W. BENNETT, Esq., H. B. M. Consul at Réunion,

To—The Procureur de République, St. Pierre.

J'ai l'honneur de vous transmettre, ci-joint, un certificat de M. Jules Loupy, Juge de Paix à St. Leu, dans laquelle M. Loupy déclare qu'il était dans le bureau du Syndic des Immigrants à St. Leu lorsqu'un indien nommé Covindin Paravondom a donné son consentement à l'engagement de ses deux enfants mineurs, Tamby et Maria Antonia.

Il résulte des déclarations du nommé Covindin faites tant devant moi à St. Denis qu'à mon interprète en présence du Syndic de St. Leu lui-même, de celles de ses enfants et de son engagiste que Covindin ne s'est jamais présenté au Syndicat pour donner le consentement en question.

D'après ces déclarations le certificat délivré par M. Loupy serait inexact et je vous l'envoie afin que vous puissiez que vous jugerez convenable.

No. 99, dated Réunion, 28th December 1892.

From—C. W. BENNETT, Esq., H. B. M. Consul at Réunion,

To—His Excellency the Governor of Réunion.

In the interview which Your Excellency accorded to me today, we have mutually discussed the subject of the legality of the engagement of the young Indian children at St. Leu.

The question of the application of the Law of 1889 having been referred by us to our respective Governments we can easily await instructions from home regarding it.

But the varying statements made by the Indian, the Syndic, and the Juge de Paix de St. Leu can only be reconciled by a legal decision.

I have therefore thought fit to refer the matter to the Procureur de la République at St. Pierre to be dealt with in such manner as he may see proper.

If the statement maintained even now by Covindin that he never gave his consent before December 13th is incorrect, he should, I think, on mature reflection, bear his punishment.

No. 1356, dated St. Pierre, 29th December 1892.

From—MONS. P. HOARAN, Procureur Général de République, St. Pierre,

To—Her Britannic Majesty's Consul at Réunion.

J'ai l'honneur de vous accuser réception de votre lettre du 27 Décembre courant, No. 99, et de vous informer que je la transmets par courrier de ce jour, à M. le Procureur Général Chef du Service Judiciaire.

No. 233 J. and P., dated India Office, London, 2nd March 1893.

From—J. A. GODLEY, Esq., C.B., Permanent Under-Secretary for India,

To—The Under-Secretary of State for Foreign Affairs.

I am directed by the Secretary of State for India in Council to acknowledge receipt of Sir T. V. Lister's letter dated 7th ultimo, transmitting two despatches from Mr. Bennett, Her Majesty's Consul in Réunion, enclosing correspondence with the local authorities respecting the engagement of two British Indian children without the consent and against the wish of their father.

In reply, I am directed to say that the Earl of Kimberley highly appreciates the efforts of Mr. Bennett to obtain the release of the children from the engagement into which they had entered. But before expressing an opinion on the points raised by the Consul, His Lordship desires to obtain the views of the Government of India on the subject. Accordingly, he will forward to that Government a copy of this correspondence.

Note by Mr. J. W. P. Muir-Mackenzie, I.C.S., on deputation to Réunion, respecting the engagement under contract of two children in Réunion of British Indian parentage, without the consent of their father.

* Despatch from Her Majesty's Secretary of State for India, No. 26, dated the 2nd March 1893.

For the appreciation of this case it will suffice to read the Consul Bennett's despatch to the Foreign Office, dated 31st December 1892. I have myself of course carefully examined the whole correspondence. The facts briefly stated are these. The Indian Covindin complained to the Consulate in August 1892 that his two children, Tamby and Maria, had been engaged without his consent. The Acting Consul took up the case, which has been argued on three distinct issues: (1) an issue of fact—*viz.*, whether the father consented to the engagement; and (2) issues of law—*viz.*, (a) that the engagement of the children was illegal under the French Nationality laws; (b) that their separation from their father was contrary to Article XXI of the Convention.

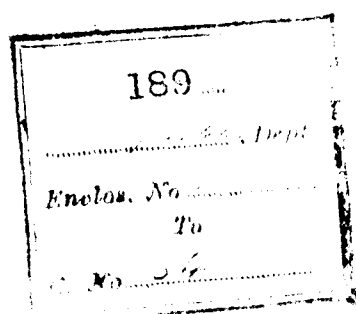
Issue (a) was not pressed by the Consul to decision in a Court of Law because of the far-reaching consequences of a decision in favour of the immigrant. I venture to doubt whether the actual case of *Covindin* was not damaged by bringing in these questions. The grievance was that the children had been engaged without his consent,—an act which is undoubtedly illegal under Article 22 of the Labour Law of 1887, which expressly enacts that contracts of engagement of minors shall require the consent of parents.

The Indian swore in August that he gave no consent. The Protector cited the testimony of a *Juge de Paix* to the effect that he did, and before the Syndic. The *Juge de Paix* concerned, however, seems to have been the actual employer of the girl Maria. His testimony therefore derives no value from his official position. Mr. Bennett very properly therefore fought on. But the consent question was settled in December by the Indian being induced, with the intervention of the Protector, to consent to the engagements. The Indian on being examined by the Consul's interpreter says that these consents were given under duress, and adheres to the fact of his original refusal.

I must say it appears to me possible that the whole transaction originated in a squabble with the Indian as to the *terms* upon which his children should be engaged, and that while he was dissatisfied in August he was probably brought round in December. (The enquiry of the Indian in the latter month, it must be remembered, was made, not by the Consul in person, but by the Interpreter.)

The Governor and Protector have both shown some heat at the suggestion that there is any doubt about the genuineness of the consent given on the latter occasion. The Indian's refusal to come to St. Denis, his plea of a sorefoot and expense of the railway journey, and his admission that he has altered his plans with reference to the education of his children,—all point to the fact that his consent was ultimately gained.

It seems not improbable that if the question of consent alone had been pressed from the first, the Indian would have been satisfied earlier and the case would have been compromised more quickly and satisfactorily.



With regard to the legal questions, I venture to think the Nationality issue (a) exceedingly difficult, and that it will only be obscured by mixing it up with the present case.

As regards the Convention issue (b), Article XXI runs as follows:—

"In the distribution of labourers . . . no father or mother shall be separated from their children under fifteen years of age."

The Protector and Governor contend that this provision refers to the initial distribution upon introduction. The Consul says that the spirit at least of the article demands a wider construction. As to the construction of the article itself I can entertain no doubt whatever that the Governor's view is correct. The "distribution" of labourers is fully dealt with in Article XIX, and the word there connotes the initial distribution on arrival. It can hardly have a different meaning in Article XXI, the clause quoted from which refers to such distribution only.

But it is not so certain that the Consul is not right as regards the *spirit* of the article. For in the very next clause the conditions of subsequent engagement and transfer of the labourer are laid down, and it is reasonable to infer that the children of the labourer were intended to follow him on his subsequent allocation. The French authorities seem to have thought that they complied with all the requirements of the Convention when in the Labour Law of 1887 they enacted that the children might be separated from the parent with the consent of the latter. The point was not probably contemplated by the framers of the Convention. I am inclined to think that in the interest of the children it should for the future be laid down that they should not be separated from the parents even with the consent of the latter before, say, the age of fifteen, unless in the case of the girls, perhaps, for marriage to another Indian; although, considering the restrictions which have been recently placed upon early marriage by legislation in India, it would not be unreasonable to omit the exception for the girls. I have no reason to suppose that any objection would be made to this reform, and I have urged it in my general report.

I suggest therefore that the Secretary of State be told that we consider it to be shown beyond doubt from the papers that the parent was not satisfied in August when he originally complained to the Consul regarding the removal of his children, and that it is to be regretted that it was not found possible before the December following to give him redress. His consent was then obtained with more or less reluctance. This, we might say, was hardly under the circumstances a satisfactory solution of the case, which was one in which the contracts might with greater propriety have been broken off.

We might then say that under the law as it stands it does not seem to violate the letter of the Article XXI of the Convention. But we are unable to think that the framers of the Convention contemplated the possible separation of children of tender age from their parents subsequently to the first distribution. In any case such separation is inadvisable, and we think that it should be prohibited by law in the interest of the children.

The Nationality questions seem to be difficult and do not affect the merits of the case at issue so much as the general status of the Indian in Réunion. The issue is one of those which are being dealt with by the officer who has been conducting a special enquiry in Réunion and observations will be deferred pending his report.

Although the above is the character of reply which I suggest, Government may be glad to have an indication of my views on the Nationality points.

The position taken up by the French with respect to these children is that they can during their minority occupy the position of emigrants and yet be French subjects. The Consul, on the other hand, says that if they are French subjects they cannot be at the same time subject to the Labour Laws. I think, on the whole, that the Consul is right. But the question requires the decision of a French Court of Law.

Another point which he urges is that whether they are French subjects or not, he is, in the interest of the father who is a British Indian subject engaged under the Convention, entitled and bound to inquire into these cases brought before him by the father. Here again he seems absolutely right.

The difficulty to which Mr. Bennett alludes in the present correspondence arises almost exclusively in the case of the grandchildren of immigrants introduced from India, and is due to the fact that their nationality is not really defined until they reach the age of 21. I think we shall have probably to get it strictly defined one way or the other. But if it is determined to define it as French, then we shall probably have to insist on the law being declared in the sense given to it by the Consul, and the grandchildren being made incapable of contracting engagements under the Labour Law.

No. 131 (Public—Emigration), dated India Office, London, the 23rd October 1890.

From—THE RIGHT HON'BLE VISCOUNT CROSS, G.C.B., *Her Majesty's Secretary of State for India,*

To—*The Government of India.*

WITH my Despatch No. 80, dated the 26th of June last, I forwarded, for the information of Your Excellency in Council, copy of the correspondence noted in the margin, respecting the application of the French Nationality Law of the 26th of June 1889 to British Indian subjects in Réunion.

Foreign Office, to India Office, 3rd May 1890.
India Office, to Foreign Office, 22nd May 1890.
Foreign Office, to India Office, 27th May 1890.
Foreign Office, to India Office, 3rd June 1890.
India Office, to Foreign Office, 24th June, 1890.

* Foreign Office, to India Office, 25th September 1890, and enclosures.
India Office, to Foreign Office, 16th October 1890, and enclosures.

2. I now transmit copy of a further letter,* with its enclosures, from the Foreign Office, and I request that Your Lordship's Government will favour me, at an early date, with such observations as you may have to offer on the subject, which seems to be of considerable importance.

Dated Foreign Office, London, the 25th September 1890.

From—SIR T. H. SANDERSON, *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 27th of May last, and the India Office letter of the 24th June, respecting the application to Réunion of the French Nationality Law of June 26th, 1889, I am directed by the Marquis of Salisbury to transmit to you a copy of a despatch and its enclosures from the British Vice-Consul at Réunion; and I am to request that Lord Salisbury may be favoured with any observations which the Secretary of State for India in Council may wish to offer thereon.

No. 1, dated Réunion, the 22nd August 1890.

From—J. H. D. BELL, Esq., *Her Britannic Majesty's Acting Consul at Réunion,*
To—*Her Majesty's Secretary of State for Foreign Affairs.*

I HAVE the honour to transmit to Your Lordship, herewith, copy of a correspondence between Governor Manés and myself, relative to the position of Her Majesty's Indian subjects under the French Nationality Law of the 26th June 1889.

I cannot conceal from Your Lordship my apprehension that very serious complications will result from the state of things inaugurated by the promulgation in this Colony of the new French Law of Nationality.

Your Lordship will notice that Governor Manés, in his Despatches Nos. 203 and 227, declares that Her Majesty's Consul has no longer the right of protection over the Indians, who, although they have become French citizens under French Law, remain British subjects in the eyes of the Law of England; but as His Excellency's opinion is in contradiction with the Foreign Office Circular of the 17th of March last, marked "Treaty," I have replied to His Excellency in the terms of the instructions conveyed in the above-mentioned Circular.

I shall therefore continue to assist those Indians with my protection and advice until I receive Your Lordship's instructions on the subject.

No. 75, dated St. Denis, the 16th July 1890.

From—J. H. D. BELL, Esq., *Her Britannic Majesty's Acting Consul at Réunion,*
To—*His Excellency the Governor of Réunion.*

IN the course of a conversation which I had with Your Excellency in March last, Your Excellency mentioned to me, with regard to certain remarks of mine respecting Indian immigrants in this Colony, that free repatriation and the other benefits secured by the Convention of 1861 could not be extended to the Indians who were born in the Colony, because, by the new French Law of Nationality, the Indians are, by the retroactive effect of that Law, now French subjects.

How far the provisions of the new Law of Nationality can interfere with the 2nd section of paragraph 4 of Article IX of the Convention of 1861, and to what extent this same law

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can be made applicable to foreigners who, like the Indians in this Colony, are governed by exceptional legislation, are questions which will have to be decided through the ordinary diplomatic channel; but with the view to enabling me to make a report to my Government on certain points of the subject, I have the honour to request Your Excellency to be so good as to inform me of the intention of Your Excellency's Government with regard to the operation of the new French Laws of Nationality and of military service as far as concerns the Indians born in the Colony of British Indian parents.

No. 203, dated St. Denis, the 21st July 1890.

*From—His Excellency the Governor of Réunion,
To—Her Britannic Majesty's Acting Consul at St. Denis.*

J'AI l'honneur de vous accuser réception de votre du 16 juillet, No. 75.

Il me paraît facile de concilier les lois du 26 juin et du 15 Juillet 1889 sur la Nationalité et sur le recrutement de l'armée, avec la Convention internationale du 1er juillet 1861.

L'article 9, paragraphe 4, de cette Convention dit: "le droit de l'immigrant au rapatriement s'étend à sa femme et à ses enfants ayant quitté l'Inde âgés de moins de dix ans et à ceux qui sont nés dans la Colonie."

Quelle sera la situation de ceux nés dans la Colonie?

S'ils ont accompli leur vingt et unième année avant la mise en vigueur, à la Réunion, de la loi du 26 juin 1889, c'est-à-dire avant le 7 mai 1890, ils ne sont pas régis par cette loi, qui ne saurait avoir un effet rétroactif. Ils ont droit à leur rapatriement, car ils sont restés étrangers, sauf toutefois ceux qui auraient opté pour la qualité de français en se conformant à l'article 9 du Code Civil ainsi conçu: "Tout individu né en France d'un étranger, pourra, dans l'année qui suivra l'époque de sa majorité réclamer la qualité de Français pourvu que, dans le cas où il résiderait en France il déclare que son intention est d'y fixer son domicile, et que, dans le cas où il résiderait en pays étranger, il fasse sa soumission de fixer en France son domicile, et qu'il l'y établisse dans l'année, à compter de l'acte de soumission."

Quant à ceux qui, nés dans la Colonie de sujets britanniques, ont atteint leur vingt et unième année après le 7 mai 1890, ils sont restés étrangers jusqu'à 21 Ans; mais à dater de cet âge ils sont devenus français ipso facto.

Cependant, cette qualité de français, ils peuvent renoncer, et pour cela, ils n'ont qu'à se conformer au paragraphe 4 de l'article 8 du Code Civil modifié par la loi du 26 juin 1889. Je crois utile de placer sous vos yeux la première partie de cet article: "Tout français jouira des droits civils. Sont français 1er—Tout individu né d'un Français en France ou à l'Étranger.

"L'Enfant naturel dont la filiation est établie pendant la minorité par reconnaissance ou par jugement, suit la nationalité de celui des parents à l'égard duquel la preuve a d'abord été faite. Si elle résulte pour le père ou la mère du même acte ou du même jugement l'enfant suivra la nationalité du père.

"2. Tout individu né en France de parents inconnus, ou dont la nationalité est in connue.

"3. Tout individu né en France d'un étranger qui lui-même y est né.

"4. Tout individu né en France d'un étranger et qui, à l'époque de sa majorité, est domicilié en France, à moins que, dans l'année qui suit sa majorité, telle qu'elle est réglée par la loi française il n'ait décliné la qualité de Français et prouvé qu'il a conservé la nationalité de ses parents par une attestation en due forme de son gouvernement, laquelle demeurera annexée à la déclaration, et qu'il n'ait en outre produit, s'il y a lieu, un certificat constatant qu'il a répondu à l'appel sous les drapeaux, conformément à la loi militaire de son pays, sauf les exceptions prévues aux traités."

5. Les étrangers naturalisés."

Deux hypothèses peuvent donc se présenter:

- (1) L'individu né dans la Colonie de sujets britanniques répudiera la qualité de français; et il conservera tous ses droits au rapatriement;
- (2) il acceptera de demeurer français, et alors il ne pourra plus invoquer une disposition introduite dans la Convention de 1861 en faveur d'indiens étrangers. Il y aura implicitement renoncé, et le Consul de Sa Majesté Britanniques à la Réunion n'aura plus aucune action sur lui. Etant devenu français, jouissant de toutes les prérogatives attachées à cette qualité, il sera soumis à toutes les lois qui régissent les français dans la Colonie, notamment à la loi sur le recrutement de l'armée,

No. 77, dated St. Denis, the 21st July 1890.

*From—J. H. D. BELL, Esq., Her Britannic Majesty's Acting Consul at Réunion,
To—His Excellency the Governor of Réunion.*

I HAVE the honour to acknowledge receipt of Your Excellency's Despatch No. 203, dated this day.

Your Excellency has examined the new Law of Nationality in so far as it concerns the Indians born in the Colony of British parents born out of French territory. But the law of the 26th of June 1889 also alters the status of a British subject born in France whose father was also born in France, for whereas by the law of the 16th of December 1874 such persons were allowed to claim British Nationality, they are unable to do so under the law of the 26th of June 1889.

I should therefore very much like to know whether, in the event of a man born in this Colony and having retained British Nationality by a declaration of alienage [in accordance with paragraph 4 of clause 1 of the new law modifying Article VIII of the Code Civil] claiming his repatriation, such repatriation could be refused to his children on the ground that they are irrevocably French subjects?

No. 227, dated St. Denis, the 18th August 1890.

*From—His Excellency the Governor of St. Denis,
To—Her Britannic Majesty's Acting Consul at Réunion.*

J'ai l'honneur de vous accuser réception de votre lettre du 21 juillet, par laquelle vous me demandez si, le cas échéant, le rapatriement serait refusé aux individus français en vertu de l'article 8, paragraphe 3 du Code Civil modifié par la loi du 26 juin 1889.

Je crois devoir vous répondre affirmativement.

Au surplus, il n'appartiendrait pas au Représentant de Sa Majesté Britannique dans la Colonie de réclamer, au profit d'individus français, le bénéfice d'une disposition du traité du 1er juillet 1861 qu'il ne peut invoquer qu'en faveur de sujets anglais.

No. 87, dated St. Denis, the 21st August 1890.

*From—J. H. D. BELL, Esq., Her Britannic Majesty's Acting Consul at Réunion,
To—His Excellency the Governor of Réunion.*

WITH reference to the concluding paragraph of Your Excellency's Despatch No. 227 of the 18th instant, I have the honour to inform Your Excellency that I regret that I cannot refuse my protection to those Indians who have become French subjects in virtue of paragraph 3 of Article 8 of the Code Civil modified by the law of the 26th June 1889; for although under the new French law they are regarded as French citizens, they remain British subjects according to British law; and I am authorised to issue to them British passports, and generally to afford them, in case of necessity, such protection as I can properly grant to other British subjects, except in matters connected with Military service.

If the affording of such protection to those who are British subjects according to British law is authorised in France, how much more ought it to be extended to the Indians who are in Réunion under the shelter of a special International Convention?

Dated India Office, London, the 16th October 1890.

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

I AM directed by the Secretary of State for India in Council to acknowledge the receipt of Sir T. Sanderson's letter, dated the 25th ultimo, transmitting copy of a despatch from the Acting Consul at Réunion, relating to the position of Her Majesty's Indian subjects under the French Nationality Law of the 26th of June 1889.

In reply, I am desired to state that Viscount Cross wishes to obtain the observations of the Government of India on this subject and, accordingly, will refer the matter to that Government for its early consideration.

No. 146 (Public—Emigration), dated India Office, London, the 27th November 1890.

From—THE RIGHT HON'BLE VISCOUNT CROSS, G.C.B., Her Majesty's Secretary of State for India,

To—The Government of India.

IN continuation of my Despatch of the 23rd ultimo, No. 131, I transmit copy of a further
Dated 28th September 1890, No. 2 (Treaty), and Despatch from the Acting British Consul at
enclosures. Réunion, with its enclosures, on the subject of the
operation at that place of the French Nationality Law of 1889.

2. As stated in my former Despatch, I await the observations of Your Excellency in Council on this important matter.

No. 2 (Treaty), dated Réunion, the 28th September 1890.

From—J. H. D. BELL, Esq., Her Britannic Majesty's Acting Consul at Réunion,

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

WITH reference to my Despatch No. 1 (Treaty) of the 22nd ultimo, I now have the honour to transmit to Your Lordship, herewith, copy of a further correspondence between the Governor of Réunion and myself, respecting certain difficulties arising from the enforcement of the French Law of Nationality of the 26th of June 1889, upon British Indians in this colony.

I venture to draw Your Lordship's attention to the importance of this question, and to add that a speedy solution of the points at issue between the Governor and myself will avert much of the anxiety and discontent which the promulgation of the new French Law of Nationality has caused among our Indian coolies.

No. 81, dated St. Denis, the 12th August 1890.

From—J. H. D. BELL, Esq., Her Britannic Majesty's Acting Consul at Réunion,

To—His Excellency the Governor of Réunion.

I HAVE the honour to inform Your Excellency that an Indian woman named Paniaye Sadatchy, No. 115, 135, having quite lately accomplished her engagement, had asked to be repatriated and had accordingly been admitted into the dépôt for that purpose.

At the end of a few days, however, she was informed that she had lost her right to repatriation by the fact of her being now a French subject, having completed her twenty-first year since the 7th of May last.

It appears to me, Monsieur le Gouverneur, that when, as in the present case, an Indian claims his repatriation at the end of his engagement, it is in virtue of one of the conditions under which he contracted this engagement, and that such repatriation can hardly be held to have been forfeited.

The Indian has accomplished his engagement; it is but fair that the other side of the contract should be likewise carried out.

No. 229, dated St. Denis, the 18th August, 1890.

From—His Excellency the Governor of Réunion,

To—Her Britannic Majesty's Acting Consul at Réunion.

Par lettre du 12 août courant, No. 81, vous voulez bien me faire connaître qu'une femme indienne nommée Paniaye Sadatchy, après avoir accompli son engagement et opté pour son repatriement, avait été placée au dépôt en expectation de départ; mais que, peu après, le service de l'immigration lui a contesté son droit au repatriement, parce qu'elle avait atteint sa 21^{re} année, et était par suite devenue française aux termes de la loi du 28 juin 1889.

Contrairement à l'opinion du Service de l'Immigration, vous estimez que le repatriement de la femme Paniaye ne saurait être contesté, son droit ne pouvant être prescrit pour cause de déchéance.

J'ai le regret de ne pouvoir partager votre manière de voir, qui me paraît être en complète opposition avec les prescriptions de l'article 8, paragraphe 4 (m) de la loi précitée, en vertu de laquelle est français tout individu né en France d'un étranger et qui, à "l'époque de sa majorité, est domicilié en France." Or la femme Paniaye étant née dans la colonie et s'y

trouvant domiciliée lors de sa majorité est *ipso facto* sujet français ; par suite la Convention de 1861, qui concerne exclusivement les sujets de Sa Majesté Britannique, ne saurait lui être appliquée.

J'ajouterai toutefois qu'il est loisible à la femme Paniaye de pouvoir bénéficier de la Convention de 1861 en se conformant au même Article 8, paragraphe 4, ci-dessus visé, c'est à dire : "en déclarant, dans l'année qui suit sa majorité, la qualité de français, et en prouvant qu'elle a conservé la nationalité de ses parents par une attestation en due forme de son Gouvernement."

No. 93, dated St. Denis, the 4th September 1890.

From—J. H. D. BELL, Esq., *Her Britannic Majesty's Acting Consul at Réunion.*

To—His Excellency the Governor of Réunion.

As Your Excellency rightly observes in your Despatch No. 229 of the 18th ultimo, Paniaye Sadatchy can always recover her right to repatriation by making a declaration in accordance with the New Law of French Nationality to the effect that she desires to remain a British subject.

In order to fulfil this requirement, the declaration should be made by Paniaye Sadatchy on the form of which the enclosed are specimens ; but the Protector of Immigrants informs me that Paniaye Sadatchy's Act of Birth cannot be found anywhere, and that there is no official record of the place where she was born. Under these circumstances it is not possible for me to receive Paniaye's declaration of alienage in the form prescribed by my instructions, and I have the honour to request Your Excellency to be so good as to inform me whether Your Excellency's Government will not consider the present Despatch as a declaration on behalf of Paniaye Sadatchy, whereby she will recover her right to repatriation by disclaiming the advantage of French citizenship which are offered to her by the Law of the 26th of June 1889.

No. 94, dated St. Denis, the 5th September 1890.

From—J. H. D. BELL, Esq., *Her Britannic Majesty's Acting Consul at Réunion,*

To—His Excellency the Governor of Réunion.

By my Despatch No. 93 of yesterday's date I had the honour to forward to Your Excellency two printed forms that are in use for declarations of British subjects born in France who do not wish to take advantage of the Law of 26th of June 1889, on Nationality.

Your Excellency will not fail to observe that these forms can hardly be made use of in the case of Indians in this colony, for not only are a great many of them unprovided with Acts of Birth, but the particulars required respecting their fathers and mothers are generally involved in mystery.

Under these circumstances I would suggest whether a simple declaration of alienage made at the Consulate, and notified to Your Excellency's Government by despatch from the Consul, should not be deemed sufficient for an Indian to retain his British nationality and the privileges attached to that status.

At all events I shall be much obliged if Your Excellency would consent to an arrangement, such as I have had the honour to suggest, until the Foreign Offices of our respective Governments have decided how far the Law of the 26th of June 1889 can affect Her Majesty's Indian subjects in this colony.

No. 245, dated St. Denis, the 12th September 1890.

From—His Excellency the Governor of Réunion,

To—Her Britannic Majesty's Acting Consul at Réunion.

Par lettre du 4 du courant, No. 93, vous voulez bien me faire connaître que vous adoptez l'interprétation donnée aux dispositions de l'article 8, paragraphe 4, de la loi du 26 juin 1889, et que je vous ai exposé dans ma communication du 18 août dernier, No. 229.

Mais, à cette occasion, vous me faites part des difficultés que vous rencontrez dans l'accomplissement des formalités exigées par la loi précitée, notamment dans la production de l'acte de naissance, pour qu'un indien né dans la colonie de sujets anglais puisse, dans l'année qui suit sa majorité, déclarer la qualité de français et revendiquer la nationalité de ses parents.

En conséquence, vous me demandez si la déclaration formulée A, jointe à votre lettre précitée ne pourrait pas être considérée comme suffisante pour qu'un indien puisse affirmer sa qualité de sujet anglais et recouvrir ses droits à un repatriement gratuit.

Le lendemain, 5 Septembre, reconnaissant vous-même, par lettre No. 94, que la formule sus-indiquée pouvait être difficilement employée en ce qui concerne les indiens dans la colonie, en l'absence de leur acte de naissance et de tous renseignements sur leur famille, vous me demandez "si une simple déclaration de nationalité étrangère faite à votre Consulate et notifiée à mon Gouvernement par lettre du Consul, ne serait pas considérée comme suffisante, pour qu'un indien conservât sa nationalité anglaise et les privilèges qui s'y rattachent."

En même temps vous me priez "de consentir à cet arrangement jusqu'à ce que nos Gouvernements respectifs aient statué sur le mode d'application de la loi du 26 Juin 1889, aux indiens sujets de Sa Majesté Britannique qui résident dans la colonie."

J'ai l'honneur de vous faire connaître, Monsieur le Consul, que je suis tout disposé à déférer à mon Gouvernement la question que vous me soumettez, mais que, jusqu'à la décision à intervenir, il n'est pas en mon pouvoir d'enfreindre les formalités prescrites en pareil cas.

J'estime avec vous qu'une simple déclaration de nationalité faite au Consulate d'Angleterre suffit, mais à la condition que l'indien qui veut renoncer au bénéfice de la loi de 1889, justifie (1) qu'il est né de parents sujets anglais ; (2) qu'il a l'âge requis pour faire cette déclaration.

Ces deux justifications peuvent se faire par la production d'acte de naissance.

A défaut de cet acte, l'indien doit provoquer son inscription sur les registres de l'Etat Civil, en présentant requête par Ministère d'avoué au tribunal civil, qui, après enquête confiée à l'un de ses membres, rendra un jugement, qui indiquera la date et le lieu de sa naissance, ainsi que sa filiation, lequel jugement lui tiendra lieu d'acte de naissance, et dont une expédition devra être annexée à sa déclaration d'option.

No. 8, dated Calcutta, the 21st January 1891.

From—His EXCELLENCY THE MARQUESS OF LANSDOWNE, THE HON'BLE MAJOR-GENERAL SIR G. CHESNEY, THE HON'BLE A. R. SCOBLE, P. P. HUTCHINS, SIR D. BARBOUR, AND C. H. T. CROSTHWAITE, *Members of Council,*

To—Her Majesty's Secretary of State for India.

WE have the honour to reply to Your Lordship's despatches noted in the margin, on the subject of the new French Nationality Law and its possible effect upon the status of Indian coolies in the French colonies.

2. It would appear that there are two kinds of persons affected by the new law in Réunion, *viz.* those whose parents were born in Réunion and those whose parents were born in India. Under the new law the former are French subjects irrevocably from their birth, and the latter become French if they do not formally repudiate French nationality and claim the nationality of their parents within a year after attaining the age of 21.

3. The importance of these provisions lies in their bearing on the right of repatriation. In the case reported in Your Lordship's later despatch a woman, named Paniaye Sadatchy, claimed her right to repatriation and was sent to the dépôt to await the despatch of a vessel with return emigrants. Her 21st birthday occurred while there and she was sent back to her employer, because until she "repudiated French nationality" she was held not to be entitled to the privilege of repatriation. The proof of repudiation consists in an attestation in due form through the repudiator's Government which is to remain annexed to the declaration of repudiation. This attestation, it is gathered, has to be made in the forms attached to the Foreign Office letter of the 17th March 1890, forwarded to us with Your Lordship's Despatch No. 80 of the 26th June 1890. The birth-certificate required by them was not, in the present instance, forthcoming. The Consul represents that such would be the case in the majority of instances, and he requested the Governor of Réunion, until the matter should be settled by the two Governments, to dispense with the formality of proving age by the birth-certificate and to substitute for it a simple declaration of alienage attested by the Consul. The Governor replied that, pending the decision of the respective Governments and in default of a birth-certificate, the age must be proved in the Civil Courts, who would deliver judgment upon such evidence as was available. It seems clear that the course proposed would place the coolie at a considerable disadvantage.

4. We are strongly of opinion that unnecessary obstacles should not be raised to the exercise by the coolie of his right of repatriation. Article IX, Clause 4, of the Convention of 1861 runs as follows:—

"If he (the immigrant) consents to contract a new engagement, he will be entitled to a bounty and will retain his right to a return passage at the expiration of such second engagement.

"The right of the immigrant to a return passage extends to his wife and to his children who quitted India under the age of ten years, as well as to those born in the colony."

It is clear from this clause that immigrants were induced to go to Réunion upon certain terms, one of which was that they and their children—including

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those born in the colony—should have a right to repatriation; and while leaving with confidence to Your Lordship and Her Majesty's Secretary of State for Foreign Affairs the best mode of urging this claim on the French Government, we desire to express our strong conviction that it should be firmly insisted on. The difficulties about repatriation and its paramount importance in the case of Réunion have often been urged upon Your Lordship's attention, and it seems doubtful whether Article IX of the Convention is strictly adhered to in practice. We consider that it would be seriously unjust to ignorant people like the coolies to require such strict proof of age as is proposed by the Governor.

No. 40 (Public—Emigration), dated India Office, London, the 2nd April 1891.

From—The RIGHT HON'BLE VISCOUNT CROSS, G.C.B., Her Majesty's Secretary of State for India,

To—The Government of India.

WITH reference to your letter No. 8, dated the 21st of January last, communicating remarks on the new French Nationality Law, I transmit, for the information of Your Excellency in Council, copy of correspondence with the Foreign Office on the subject.

India Office, to Foreign Office, 25th February 1891.
Foreign Office, to India Office, 4th March 1891, and enclosure.
Foreign Office, to India Office, 13th March 1891, and enclosure.

31st January 1891, No. 5.

2. I also forward copy of a despatch from Her Majesty's Consul at Réunion, stating that he will in future be supplied monthly with returns showing the number of British Indian subjects applying for repatriation.

No. 238, dated India Office, London, the 25th February 1891.

From—SIR JOHN E. GORST, Under-Secretary of State for India,

To—The Under-Secretary of State for Foreign Affairs.

WITH reference to your letters dated the 25th of September and the 5th of November last, respecting the application to Réunion of the French Nationality Law of 26th June 1889, I am directed by the Secretary of State for India in Council to transmit, for submission to the Marquis of Salisbury, copy of a despatch which has now been received from the Government of India on the subject.

Viscount Cross desires strongly to support the remarks of the Government of India, and trusts that Lord Salisbury will cause them to be communicated to the French Government with an earnest protest against any such interpretation of the new law, as would affect the right of repatriation secured to Indian immigrants and their children by specific convention.

Dated Foreign Office, London, the 4th March 1891.

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

To—The Under-Secretary of State for India.

IN reply to your letter of the 25th ultimo, I am directed by the Marquis of Salisbury to inclose, to be laid before Viscount Cross, a copy of a despatch which has this day been addressed to Her Majesty's Ambassador at Paris instructing His Excellency to make an earnest protest to the French Government against any application of the French Nationality Law to Indian coolies in Réunion, in such manner as would be contrary to the stipulations of the Convention of 1891.

No. 403, dated Foreign Office, London, the 4th March 1891.

From—The RIGHT HON'BLE THE MARQUIS OF SALISBURY, Her Majesty's Secretary of State for Foreign Affairs.

To—Her Majesty's Ambassador at Paris.

I TRANSMIT to Your Excellency, herewith, the correspondence noted in the margin, relative to the operation of French Nationality Law in the colony of Réunion, in regard to Indian coolies. Her Majesty's Government are of opinion that the right of repatriation secured to coolies under the Convention of 1861 is of paramount importance, and should on no account be withdrawn from them.

Acting Consul Bell, Réunion, No. 1 T., August 22nd, 1890.
Acting Consul Bell, Réunion, Treaty No. 2, September 28th, 1890.
To Acting Consul Bell, Réunion, Treaty No. 1 November 5th, 1890, India Office, February 25th, 1891.

I have therefore to request your Excellency to address an earnest representation to the French Government upon the subject in the sense of the despatch from the Government of India of the 21st January 1891, which forms the enclosure to the letter from the India Office of the 25th instant.

You should urge the French Government to give to their prompt attention to the matter, and you will no doubt inform me, as soon as possible, what answer you receive.

No. 476, dated Foreign Office, London, the 18th March 1891.

From—T. H. SANDERSON, Esq., *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 Viscount Cross, a copy of a note which Her Majesty's Chargé d'Affaires at Paris addressed on the 5th instant to Monsieur Ribot on the subject of the repatriation of Indian coolies in Réunion.

No. 476 J. and P., dated Paris, the 5th March 1891.

From—E. H. EGERTON, Esq., *Her Majesty's Minister at Paris*,
To—M. RIBOT.

DURING the past year many communications were exchanged between the Government of Réunion and the British Acting Consul in that colony, on the subject of the position of Her Majesty's Indian subjects under the French Nationality Law of June 26th, 1889.

Of the Indian coolies in the island, there are two kinds of persons affected by this law, viz. those whose parents were born in Réunion and those whose parents were born in India. Under the new law the former are French subjects irrevocably from their birth, and the latter become French if they do not formally repudiate French nationality and claim the nationality of their parents within a year after attaining the age of 21.

The importance of these provisions as regards Indian immigrants lies in their bearing on the right of repatriation secured to them by special Convention. A case has been reported to Her Majesty's Government of an Indian woman, named Paniaye Sadatchy, who claimed her right to repatriation and was sent to the dépôt to await the despatch of a vessel with return immigrants. Her twenty-first birthday occurred while there, and she was sent back to her employer because until she repudiated French nationality, she was held not to be entitled to the privilege of repatriation. The proof of repatriation consisting in an attestation in due form through the competent British official.

In this case the birth-certificate required by the forms was not forthcoming.

Under the conviction that such would be the case in the majority of instances with the coolie immigrants, the British Acting Consul addressed himself to Governor Manés, with the request that until the matter should be settled by the two Governments, the formality of proving age by the birth-certificate should be dispensed with, and for it should be substituted a simple declaration of alienage attested by the Consul.

The Governor replied that, pending the decision of the respective Governments and in default of a birth-certificate, the age must be proved in the Civil Courts, who would deliver judgment upon such evidence as was available " [à défaut de cet acte l'indien doit provoquer son inscription sur les registres de l'Etat Civil en présentant requête par Ministère d'avouer au tribunal civil, qui, après, enquête confiée à l'un de ses membres, doit rendre un jugement qui indiquera la date et le lieu de sa naissance, ainsi que sa filiation, lequel jugement lui tiendra lieu d'acte de naissance et dont une expédition devra être annexée à sa déclaration d'option]. "

It seems clear that the course thus proposed by the Governor, that is to say, to require such strict proof of age from ignorant people like the coolies would place them at considerable disadvantage. Her Majesty's Government are of opinion that the right of repatriation secured to coolies under the Convention of 1861 is of paramount importance and should on no account be withdrawn from them. Of this Convention, Article IX, clause 4, runs as follows:—

"If he (the immigrant) consents to contract a new engagement he will be entitled to a bounty, and will retain his right to a return passage at the expiration of such second engagement.

"The right of the immigrant to a return passage extends to his wife and to his children who quitted India under the age of ten years, as well as to those born in the colony."

It is clear from this clause that immigrants were induced to go to Réunion upon certain terms, one of which was that they and their children, including those born in the colony, should have a right to repatriation, and I have the honour consequently, in obedience to instructions, earnestly to invite Your Excellency's prompt attention to a matter to which Her Majesty's Government attach so much weight.

No. 5, dated Réunion, the 31st January 1891.

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

WITH reference to Sir Villiers Lister's Despatch No. 5 of July 9th, 1890, inclosing copy of a despatch from Lord Lytton, dated May 29th, No. 18 (Consular), concerning the refusal of the

Colonial authorities here to keep the Consulate fully informed as to applications for repatriation such applications to be recorded in a register open at all times to the inspection of the Consulate, I have the honour to report that on the 29th instant I called upon the Protector of Immigrants and asked him to kindly let me have monthly returns of the number of British Indians applying for repatriation.

He at once acceded to my request, and the monthly return will show not only how many are ready to be repatriated, but also how many of those who, having already applied for repatriation, have, from month to month, grown weary of waiting in the dépôts and taken up re-engagements.

The point so strongly insisted upon by Mr. St. John is therefore gained in principle.

I must, however, give the entire credit to Mr. Bell, who by great tact has succeeded in winning the confidence of the local authorities and made my position here an easy one.

No. 85, Public (Emigration), dated London, 20th August 1891.

From—HONOURABLE VISCOUNT CROSS, G.C.B., *Her Majesty's Secy. of State for India,*
To—*The Government of India.*

With reference to my Despatch No. 40, dated the 2nd of April last, I transmit, for the information of Your Excellency in Council, copy of correspondence with the Foreign Office respecting the bearing upon the status of Indian immigrants in Réunion of the new French laws relative to nationality and military service.

Dated 20th July 1891.

From—SIR T. V. LISTER, *Under-Secretary 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, Despatches from Her Majesty's Consul at Réunion respecting the bearing upon the status of Indian coolie immigrants of the new French laws relative to nationality and military service.

To Lord Lytton, No. 27, Consular,
July 20.
Consul Bennett, No. 18—9, June 3.
Consul Bennett, No. 1, Treaty,
June 3.
Consul Bennett, No. 2, Treaty,
June 5.
To Lord Lytton, No. 27, Consular,
20th July 1891.

I am to enclose copy of a Despatch which His Lordship has addressed to Her Majesty's Ambassador at Paris upon the subject.

His Lordship will be glad to receive any observations which Lord Cross may wish to offer upon Consul Bennett's Despatch.

No. 18, dated Réunion, 3rd June 1891.

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

I have the honour to enclose a copy of a correspondence, as marked in the margin, which has taken place between the Protector of Immigrants and myself concerning an Indian named Kalicharane who was engaged as a servant to a Monsieur Lagrange at Ste. Suzanne.

It is a case purely typical of the great difficulty which is experienced in obtaining justice for an Indian. Your Lordship will note that the facts complained of were, first of all, denied *in toto*, that a prosecution for a *fausse plainte* was instituted without my knowledge and failed. Next, a remonstrance from me procured a further inquiry and the reluctant admission that the boy's story was mainly true, adding, however, that Kalicharane had been placed at the disposition of the Procureur de la République and was to be prosecuted for *denonciations calomnieuses*.

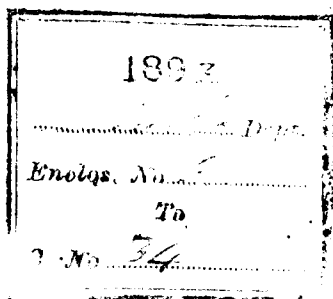
I did not consider the case of sufficient importance to warrant a further official remonstrance on my part, which would, in all probability, have led to a complete rupture with the Protector and thus impaired my influence for good in other and more important questions. I however placed all the papers in the hands of a lawyer with instructions to defend Kalicharane in court.

The Parquet, however, finding Kalicharane was not yet friendless, dismissed the case without trial, and, as your Lordship will observe from the last note from the Protector [inclosure No. 9], decided that Kalicharane was a Frenchman, and therefore not liable to engagement, and was moreover removed from my jurisdiction.

I have to-day addressed a Despatch to Your Lordship, marked No. 1, Treaty, upon this aspect of the case.

Although the second inquiry [inclosure No. 6] made by the Protector is very partial and biased, I believe he was animated by a sincere desire to do justice to Kalicharane.

Circumstances, however, were too strong for him. The Syndic complained of is a son of Monsieur d'Esmenard, the former Protector of Immigrants, who is now publishing an insignificant daily paper which is not very choice in its epithets when speaking of the Protector or Her Majesty's Consul. The *Juge de Paix*, Monsieur Lagrange, and the Syndic, are moreover on extremely friendly terms together, and I can hardly better express the real opinion of the Protector as to the merits of Kalicharane's case than by stating that, on the 29th ultimo, I learned



from the Bishop of St. Denis that the Protector had, on that day, recommended Kalicharane to His Lordship as a *domestique de confiance*.

Had the *droit d'enquête* referred to in my Despatch No. 14 of the 7th ultimo been in operation, this question would have been settled in half an hour, and the nationality point would never have been raised.

I have taken legal advice as to Kalicharane instituting a prosecution for malicious prosecution and false imprisonment, but it appears the process would be costly, and the result doubtful.

No. 27, dated St. Denis, 2nd May 1891.

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

To—The Protector of Immigrants, Réunion.

Kalicharane Mangrea [born at Réunion], engaged to Mr. Benjamin Lagrange as a domestic servant, submits the following complaints:—

- (1) that, although engaged to serve only as a domestic servant, he is compelled by his master to work with a *pioche*, in the garden, to take care of the cows and mules, to gather fodder for the cows, and to do all sort of work outside of the house.
- (2) That his master does not give him sufficient time for his meals.
- (3) That he has obtained no redress from the Syndic of his district, although sent to him by the Protector himself.
- (4) That the Syndic has refused to give him a *permis* to enable him to come again to the Protector and to lay his complaint before me.

Wherefore complainant claims the cancellation of his engagement.

No. 29, dated St. Denis, the 9th May 1891.

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

To—The Protector of Immigrants, Réunion.

Kalicharane Mangrea, referred to in complaint paper No. 27, appeared here again to-day and complains that he has been waiting at St. André until now for a solution of his complaint. That he has been kept in the Dépôt but refused food and drink by the Syndic and the Master of the Dépôt. That he was also refused permission to dine in his father's house.

Further, that he again asked for a *permis* from the Syndic to come here, which was refused. That he then went to the *Juge de Paix* and stated his case.

The *Juge de Paix* went with him to the Syndic and asked what the Syndic meant by causing *autant de misères* to the boy.

The Syndic again refused. The arbitrary conduct of the Syndic at Ste. Suzanne is frequently complained of, and Monsieur le Protecteur will, I doubt not, take active steps to bring him to a proper sense of his duties.

Dated St. Denis, the 13th May 1891.

From—MONS. F. MALCOR, *Protector of Immigrants, Réunion*,

To—Her Britannic Majesty's Consul, Réunion.

En réponse à vos notes ci-jointes des 2 et 9 Mai courant, Nos. 27 et 29, j'ai l'honneur de vous faire connaître le résultat de l'enquête à laquelle sur mes instructions, s'est consciencieusement livré le Syndic de Ste. Suzanne.

En ce qui concerne les griefs articulés par l'Indien Kalicharane, No. 10288 (c), contre son engagiste, Monsieur Lagrange, il a été péremptoirement établi, d'après les déclarations même de ses co-engagés que, jamais, ce domestique n'avait été employé comme palefrenier ou vacher. Lors de la passation de son contrat devant le Syndic Kalicharane avait spontanément accepté d'aller faire du fourrage pour les animaux de ce propriétaire, lorsque la nécessité s'en ferait sentir.

Monsieur le Syndic m'apprend également, que (il y a quelques jours de cela) le travail de cet immigrant étant terminé de bonne heure, M. Lagrange l'employa à arracher des herbes dans un emplacement contigu au sien;—de l'autre part le Syndic lui-même, dont le bureau se trouve à quelques mètres de l'immeuble Lagrange, m'affirme avoir vu très souvent Kalicharane quitter le travail à 11½ heures pour ne le reprendre qu'à 2 heures, soit une heure de plus que le temps réglementaire. Son propriétaire n'est donc pas exigeant. [A ce sujet permettez-moi de vous dire, Monsieur le Consul, que les immigrants engagés comme domestiques doivent tout leur temps à leurs employeurs sous la réserve, évidemment, d'un délai moral pour les repas.]

A la suite de votre note du 2 mai, Kalicharane fut renvoyé librement à Ste. Suzanne pour y attendre la solution donnée à cette première plainte. Le Syndic le plaça momentanément au Dépôt Communal, car son engagiste, indigné de ses mensongères déclarations, s'était refusé à le reprendre chez lui.

Monsieur le Syndic me fait savoir que Kalicharane ne s'est nullement plaint à lui de n'avoir pas été nourri au Dépôt. Je ne puis blâmer Mr. le Syndic d'avoir refusé à cet Indien, qui était alors sous la prévention d'une plainte fautive, l'autorisation d'aller prendre ses repas chez son père à St. André.

Quant au refus formel opposé par le Syndic malgré l'intervention du Juge de Paix de délivrer un "laissez-passer" à Kalicharane c'est là encore une déclaration absolument fautive. M. le Juge de Paix fit simplement part au Syndic de la visite que le plaignant lui avait rendue le soir à son domicile. Je me permets d'espérer, Monsieur le Consul, qu'après ces explications le Syndic de M. le Syndic, vous serez convaincu de l'inanité de la plainte de cet Indien, dont le but était évidemment d'obtenir la rupture d'office de son contrat avec ce propriétaire au moyen d'allégations et d'accusations reconnues à cette heure sans fondement. Il s'est ainsi placé sous le coup de poursuites [article 156 du Décret].

Je puis donner l'assurance à Monsieur le Consul en terminant que les fonctionnaires du Service de l'Immigration ont trop profond le sentiment de leur responsabilité pour s'exposer bénévolement à des blâmes ou à d'autres répressions plus sévères.

No. 12, dated St. Denis, the 15th May 1891.

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

To—The Protector of Immigrants, Réunion.

I have the honour to acknowledge the receipt of your reply of the 13th instant to my complaint papers Nos. 27 and 29, regarding Kalicharane Mangrea.

Before addressing you again upon the subject, I should be much obliged if you would order Kalicharane and his father to be sent to the Consulate on Monday at 9 A. M.

I would however now inquire what was the object of the visit paid by Mangrea to the *Juge de Paix* à son domicile, and the nature of the Judge's reply to Mangrea's remarks.

An explicit statement from the Judge that Kalicharane did not complain to him—

- (1) that the Syndic refused him a *laissez-passer* to come to the Consulate or to St. Denis,
- (2) of general ill-treatment by the engagiste,
- (3) of general ill-treatment by the Syndic,

would go far to remove from my mind a strong opinion that justice has not yet been done in this case through the whole truth not yet being before you.

No. 14, dated St. Denis, the 18th May 1891.

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

To—The Protector of Immigrants, Réunion.

I have to thank you for sending to-day to my office Kalicharane Mangrea and his father. With reference to the remark made in your reply on this case, dated May 13th, that immigrants engaged as servants *doivent tout leur temps* to their engagistes, I draw your attention to Art. X of the Convention of 1861, under which the hours of labour are limited to nine and a half.

Kalicharane maintains his complaint in every particular and summons as a witness Monsieur Salluce, a *Bijoutier* of Ste. Suzanne, who, he states, will prove that he was employed as a *palefrenier* and a *vacher*, and also to go for fodder for the beasts.

His father confirms the story of having to send food to the boy daily from St. André. A clear case for further and searching investigation is thus established on the boy's complaint alone.

But, Monsieur le Protecteur, the case becomes even more serious from the further revelations made by the boy.

On arrival at Ste. Suzanne he presented to the Syndic, at 1 P.M., when the office was opened, the *laissez-passer* given him by you. The Syndic immediately sent for a guard and placed him in prison, where, with one interval which will be dealt with later on, he was kept until Saturday at 8 A.M., when he was ordered to prepare to proceed to the Consulate.

By what authority and on what charge was Kalicharane imprisoned on Thursday last? At 8 in the morning of Friday, Kalicharane was tried before the *Juge de Paix* and was acquitted.

Kalicharane was again put in prison. I again respectfully ask by what authority and on what charge was this British subject imprisoned on Friday last.

I fully recognize the fact that Monsieur le Protecteur had at my request sent a telegram to Ste. Suzanne to postpone the trial in order that Kalicharane's case might be properly pleaded before the court; owing, however, to the precipitate action of the Syndic, your good offices were exercised too late, and in regard to this aspect of the case, I would desire to record the fact

that if Kalicharane was prosecuted for making an alleged false complaint at the Consulate, courtesy towards me, as the Indian's legally constituted representative, should have induced the Syndic to have caused me to be informed of the circumstances, even if the law as it stands does not require it.

I have ordered Kalicharane and his father to repair to your office to-morrow.

I now for the present leave the case in your hands with a full assurance that justice will be meted out to the Indian, who, even supposing he were guilty of making a false complaint, has been already more than adequately punished, and to the Syndic, of whose partial and precipitate action I have, I am sure you will admit, just cause to complain.

No. 84, dated St. Denis, the 21st May 1891.

From—MONS. MALCOR, Protector of Immigrants, Réunion,
To—Her Britannic Majesty's Consul, Réunion.

L'affaire de l'Indien Kalicharane a donné lieu à vos lettres des 15 et 18 Mai, Nos. 12 et 14. Pour la clarté des explications qu'elles provoquent, j'ai l'honneur de résumer, ci-après, tout

d'abord, le rapport de Monsieur le Syndic de Ste. Suzanne, en réponse à la première communication, réponse qui ne pouvait être parvenue, en effet, au Protectorat que Mardi dans la matinée, pendant que je me portais en personne à Ste. Suzanne pour faire une enquête à la suite des nouveaux griefs articulés dans votre seconde lettre.

Kalicharane absent de chez son engagiste depuis le 27 Avril dernier, s'est présenté au Syndicat de Ste. Suzanne le 30, et a demandé la rupture de son contrat passé au profit de Monsieur Lagrange; il venait de St. Denis où, il demandait au Syndic de contracter une autre engagement; il lui fut répondu, sans doute, qu'il avait d'abord à rompre son engagement actuel.

Monsieur le Syndic de Ste. Suzanne lui fit observer qu'il devait à Monsieur Lagrange une avance importante et des journées de emploi. Kalicharane répondit qu'il paierait avec la prime que lui donnerait un nouvel engagiste.

Monsieur le Syndic lui dit alors d'aller s'entendre avec Monsieur Lagrange pour lui exposer son désir, que lui seul pouvait prendre en considération sa demande moyennant le remboursement de la somme de 75 frs. due par lui.

Au lieu d'aller à Monsieur Lagrange comme il lui était conseillé, il s'est rendu dans les environs du bourg dit "Bel-Air" s'offrir à un tiers; sur le refus qu'il a essuyé Kalicharane est parti pour St. Denis. Monsieur Lagrange fut instruit des démarches de son engagé pour obtenir la rupture de son contrat et témoigner à Monsieur le Syndic son étonnement qu'il ne l'eût pas fait arrêter puisqu'il était absent de chez lui; en même temps, ayant eu connaissance, par Monsieur Vaulbert, que Kalicharane avait paru à "Bel-Air," il envoya à sa recherche un agent de police en le lui signalant comme absent depuis trois jours; l'Indien ne fut pas rencontré.

Le 3 mai le Syndic recevait la première plainte portée au Consulat; il fit prévenir Monsieur Lagrange pour lui en donner lecture, en présence du plaignant. Celui-ci, à chaque grief appelé, ne répondit absolument rien à propos des diverses accusations portées par lui contre son engagiste.

Un co-engagé fut également appelé, lequel remplit les fonctions de charretier, le nommé "Zaoumalé"; la plainte fut relue et le co-engagé a déclaré que jamais Kalicharane avait donné à boire ou à manger aux mules et chevaux, qu'il n'avait jamais fait de jardinage puis qu'il n'en existe pas chez son engagiste; qu'il n'a jamais vu son co-engagé être battu par Monsieur Lagrange.

Kalicharane, invité à présenter le témoignage d'un autre témoin à opposer aux dénégations de Monsieur Lagrange et aux affirmations de son co-engagé, a répondu négativement.

Interrogé au sujet du "laissez-passer," qui lui aurait été refusé pour se rendre auprès de Monsieur le Consul, il a déclaré, qu'en effet il ne l'avait pas demandé.

Il y avait lieu d'attendre la suite qui serait donnée à la plainte portée par l'Indien, il fut interné au Dépôt de Commune, en vertu de l'Article 132, para. 3, du 27 Août 1887.

Le 8 Mai, avant d'avoir reçu aucune solution à sa plainte, il se présente dans la matinée à Monsieur le Juge de Paix, qui demeure à plus de deux kilomètres de la Mairie, et lui fit ses doléances—

1°. A propos de la rupture de son contrat qu'il ne pouvait obtenir du Syndic et que, s'étant engagé comme domestique, on l'employait à toutes sortes de travaux.

Il s'est gardé de faire connaître à ce magistrat ce qui vient d'être rapporté plus haut et qui a trait à cette demande de rupture d'engagement.

2°. Il s'est plaint qu'on l'avait mis au Dépôt de Commune et qu'on l'empêchait d'aller manger chez son père.

A cette prétention il y a lieu de faire remarquer que l'immigrant, placé au dépôt de Commune à la disposition du Syndic, du Commissaire de Police ou de l'autorité judiciaire et qui y est retenu pour l'instruction de plainte, ne peut, en aucun cas, quitter le dépôt, et par ce qui précède, il est facile de se convaincre des facilités qui sont laissées aux internés, mais ils ne peuvent être autorisés à aller, prendre leurs repas chez leurs parents. Le père de Kalicharane habite chez Monsieur Albert Bédier, à St. André, distant de plusieurs kilomètres de Ste. Suzanne.

3°. Le plaignant avait prié le Juge de Paix d'intervenir pour lui auprès du Syndic afin qu'une solution soit donnée, au plus tôt, à sa réclamation.

La plainte, portée au Consulat devait donner lieu à une correspondance entre Messieurs le Consul, le Protecteur et le Syndic; tout ceci demandait un temps relativement long.

Monsieur le Juge de Paix, néanmoins, donne rendez-vous à l'Indien, le 8 Mai, dans la matinée, pour 3 heures. [Sic.]

Le magistrat fit appeler le Syndic, et, en présence de Kalicharane, il fit connaître les réclamations de cet immigrant.

Monsieur le Syndic explique au Juge de Paix tout ce qui s'était passé, et celui-ci conclut en exportant l'Indien à attendre que satisfaction lui soit donnée par l'autorité compétente.

Dans cette consultation, si je puis m'exprimer ainsi, Monsieur le Syndic déclare que Kalicharane, exposant devant le Juge de Paix tous les reproches qu'il croyait avoir à faire, n'a nullement parlé de ce soi-disant refus qu'il aurait essuyé, d'un permis pour se rendre à St. Denis, et ce n'est que bureau fermé, et le Syndic parti par le train, qu'il en a fait la déclaration à Monsieur de Floris.

C'est à ce moment que Kalicharane pris la décision de se rendre librement au Consulat et de porter une nouvelle plainte, non plus contre son engagiste, mais bien contre un fonctionnaire, dans l'exercice de ses fonctions et à l'occasion de l'exercice de ces fonctions.

C'est cette plainte qui a motivé l'autorisation demandée par le Syndic à traduire Kalicharane devant le Tribunal disciplinaire.

Présenté au Juge de Paix ce magistrat s'est déclaré incompétent. Sur les ordres provoqués par le Syndic, à l'occasion de ces faits, l'engagiste a porté plainte au Commissaire de Police, qui avait, dès lors, à faire une enquête pour mettre le plaignant à la disposition du Procureur de la République.

Sur ces entre-faites, Monsieur le Syndic recevait le 16 Mai avec des instructions de Monsieur le Protecteur une seconde lettre dans laquelle étaient formulés plusieurs *desiderata* de Monsieur le Consul; ci-joint la déclaration de Monsieur le Juge de Paix.

Conformément aux instructions de Monsieur le Protecteur Kalicharane reçut un "laissez-passer" pour St. Denis et Monsieur le Syndic de St. André fut avisé d'avoir également à diriger sur la même direction le père de l'Indien afin que l'un et l'autre se trouvassent Lundi, 18, à 9 heures du matin au Consulat.

Tels sont, Monsieur le Consul, les faits relatés par Monsieur le Syndic.

Je vais, dans une seconde lettre, avoir l'honneur de vous faire connaître le résultat de mon enquête à Ste. Suzanne dans la journée d'hier.

Je, soussigné, Juge de Paix du canton de Ste. Suzanne, Ile de la Réunion, certifie que le Vendredi, huit Mai courant, dans la matinée, l'Indien Kalicharane, engagé au Sieur Benjamin Lagrange, s'est présenté à ma demeure, six au bourg de la Marine, et a demandé à me parler, mon fils, lui ayant dit que je ne pouvais l'entendre pour le moment, l'a invité à revenir dans la journée. A midi environ, il s'est de nouveau présenté chez moi et m'a déclaré—

(1) Que depuis une douzaine de jours, il perdait son temps, étant en instance auprès du Syndic des Immigrants pour obtenir la rupture de son engagement, parceque s'étant engagé comme domestique, son engagiste l'employait à toutes sortes de travaux.

(2) Qu'on avait voulu le mettre au dépôt communal et l'empêcher d'aller manger chez son père.

(3) Qu'il me priait d'intervenir pour lui auprès de Monsieur le Syndic afin qu'une solution soit donnée au plus tôt à sa réclamation.

Ne sachant pour quels griefs contre son engagiste cet Indien demandait la rupture de son engagement, je l'ai invité à se rendre au bureau du Syndic le même jour à trois heures de l'après-midi.

Fidèle au rendez-vous que je lui avais assigné, en sa présence, j'ai entretenu Monsieur le Syndic des Immigrants de sa réclamation, lequel m'a fait connaître qu'il attendait de son chef une réponse à une lettre qu'il lui avait écrite, avant de décider ce qu'il aurait à faire au sujet de la réclamation de Kalicharane; j'ai en conséquence invité cet Indien à attendre.

Le même jour [8 Mai] vers quatre heures me trouvant sur la place de la gare du chemin de fer à Ste. Suzanne, Kalicharane est venu à moi et m'a dit—

"Monsieur le Syndic me refuse un permis pour me rendre à St. Denis. Je ne puis attendre ici plus longtemps; j'irai trouver Monsieur le Protecteur. Je lui ai répondu que je n'avais pas à me mêler des affaires concernant le Syndicat des Immigrants, de faire selon sa volonté, puis qu'il ne consentait pas à attendre patiemment. A ce moment le Syndic avait quitté Ste. Suzanne; au bureau de ce fonctionnaire Kalicharane n'a pas dit en ma présence qu'il désirait aller à St. Denis et n'a pas demandé d'autorisation pour s'absenter de la Commune. Je déclare le présent pour servir et valoir ce que de droit, sur la demande de Monsieur le Syndic des Immigrants de mon canton.

STE. SUZANNE;
Le 16 Mai 1891.

A. DE FLORIS.

No. 85, dated St. Denis, the 21st May 1891.

From—MONS. F. MALCOR, Protector of Immigrants, Réunion.
To—Her Britannic Majesty's Consul, Réunion.

Quand le service dit que les immigrants engagés comme domestiques doivent tout leur temps à leurs engagistes, il est bien certain qu'il n'extend pas par là qu'il soit exigé d'eux plus

de travail que n'en comporte la limite fixée par la Convention, mais simplement que le domestique ne peut élever la prétention d'avoir droit à des heures sans emploi dans la journée, après le temps consacré aux repas.

Sous ces réserves, et pour suivre votre lettre du 18 Mai courant dans ses développements, j'ai l'honneur de vous faire connaître le résultat de mon enquête à Ste. Suzanne au sujet des plaintes de l'Indien Kalicharane.

Cet Indien est engagé à Monsieur Lagrange à raison de 20 francs par mois; au moment de s'engager, il recevait 75 francs d'avance pour remboursement à son ex-engagiste, et il était convenu que la vache serait à ses soins et qu'il devait fournir matin et soir un paquet de paille; elle se fait autour de l'emplacement, c'est une affaire d'un quart d'heure chaque fois; ces conditions à Ste. Suzanne sont générales.

Des déclarations de Kalicharane, il est résulté, dans ma conviction, qu'il n'avait été occupé comme palefrenier qu'une ou deux fois en deux mois, tout-à-fait accidentellement et par suite du dérangement du co-engagé attaché aux chevaux.

Monsieur Salluce, Bijoutier, à Ste. Suzanne, que j'ai entendu, a constaté ces faits sans vouloir en tirer des conséquences, puisque, a-t-il dit, "je ne connais pas les conventions entre les internés."

Kalicharane ne s'est pas plaint de ne pas recevoir ses vivres, mais dans une de ses dépositions au Consulat, qu'on ne lui laissait pas le temps de prendre ses repas. Cette assertion tombe d'elle-même, puis qu'il est établi que son père, bazardier de St. André, lui laisse journellement des denrées de son commerce pour agrémenter ses repas.

Cet Indien, m'a dit Monsieur Lagrange, est un bon cuisinier; j'ai été très-satisfait de son service pendant quelques temps, puis tout à coup il ne se présentait plus devant moi que sous l'influence de la boisson et se négligeait à un tel point que j'en étais fatigué; il était sous le coup d'une plainte de ma part pour mauvais service; dans une même journée et sans doute intentionnellement, croyant ainsi obtenir la rupture du contrat, il m'a coûté l'achat de deux de mes repas de famille pour m'avoir servi le matin des viandes grillées, le soir des viandes immangeables par le défaut contraire; enfin il s'est absenté me laissant dans l'embarras sans autre motif que celui d'obtenir la rupture du contrat que je ne désirais pas après tout, parce que, dès le début, son service m'avait parfaitement convenu et que je le savais capable.

Kalicharane a été remis à la Police le Jeudi 14 à 2 heures, à son retour de St. Denis, pour être à la disposition du Juge de Paix et passer devant le Jury disciplinaire en vertu de l'autorisation de poursuites que j'avais donnée à Monsieur le Syndic. Le Jury disciplinaire s'est réuni le Vendredi et loin de prononcer un acquittement comme l'Indien l'a laissé croire à Monsieur le Consul, il s'est déclaré incompétent.

Kalicharane a donc été ramené au Dépôt de Commune à la disposition du Commissaire de Police pour être déféré au Parquet après enquête.

Ce Dépôt n'est pas à proprement parler un lieu de détention, la preuve, c'est que l'Indien a pu venir à St. Denis pour porter une nouvelle plainte.

Cette plainte donnait lieu à votre lettre du 15 Mai et à mes instructions écrites au Syndic après la vérité que j'eus l'honneur de vous faire, celui-ci se mettait en mesure d'y satisfaire et il était survenu à la suite à donner au délit de fausse plainte. Kalicharane était muni d'un "laissez-passer" afin d'aller à St. André, porteur d'une lettre pour Monsieur le Syndic, afin que le père fut avisé qu'il était appelé au Consulat.

Monsieur le Consul a, en effet, reçu l'un et l'autre; toutes les satisfactions ont donc été données aux plaignants dans la mesure du possible et en faisant la part du temps matériel nécessaire pour correspondre de St. Denis à Ste. Suzanne et vice versa.

Il n'y a eu d'autre part aucune intention d'empressement fâcheux de la part de Monsieur le Syndic pour la présentation de l'engagé au Jury Disciplinaire qui ne comportait pas d'avis préalable de la part d'un fonctionnaire qui ne relève que du Protecteur.

Les Syndics sont des fonctionnaires assermentés qui n'ignorent pas l'étendue de leur responsabilité et de mon côté, si je n'ai pas cru devoir vous aviser de mon autorisation au Syndic de poursuites de l'Indien pour fausse plainte, c'est que cette solution découlait naturellement à mes yeux des rapports successifs des 6 et 12 Mai du Syndic et de mes lettres à votre adresse.

Je serais donc fort peiné, Monsieur le Consul, qu'après ces explications vous ne soyez pas convaincu que le Service de l'Immigration, par l'un ou l'autre de ses représentants, n'a eu nulle intention de manquer de déférence ou de courtoisie envers Monsieur le Consul de Sa Majesté Britannique.

L'enquête pour fausse plainte ayant été maintenue par le propriétaire, Monsieur le Commissaire de Police de Ste. Suzanne en a repris le cours là où il l'avait laissée.

No. 15, dated St. Denis, the 23rd May 1891.

From—C. W. BENNETT, Esq., H. B. M.'s Consul, Réunion,

To—The Protector of Immigrants, Réunion.

I have the honour to acknowledge the receipt of your notes, Nos. 84 and 85, of the 21st instant, with reference to the complaints of Kalicharane, and in thanking you for the great care which you have taken in drawing up the reports on the subject, I beg to inform you that I do not think it necessary for me to trouble you to make any further inquiries.

It would serve no good purpose to point out that in many unimportant points the boy's complaints were found on your personal inquiry at Ste. Suzanne to be correct, as the chief charges appear to be unsupported by sufficient evidence.

In view of your explanations, I cheerfully accept your assurance that no discourtesy to me was intended by the Syndic of Ste. Suzanne, and I should be very sorry if you, for a moment, thought that I desired to impute discourtesy to you personally, for our relations since my arrival have been most cordial and marked by extreme consideration on your part.

I desire, however, to add that I hope Monsieur le Protecteur will be so good as to let me know beforehand of any case in which a British Indian is to be prosecuted for a false complaint preferred at the Consulate, so that I may be prepared to take measures for his defence, should in my opinion the case require it.

No. 40, dated St. Denis, the 25th May 1891.

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

To—The Protector of Immigrants.

Kalicharane Mangrea states that his *engagiste* will not accept of his further services and will not cancel his engagement.

What steps does Monsieur le Protecteur intend to take?

From—MONS. F. MALCOR, Protector of Immigrants, Réunion,

To—Her Britannic Majesty's Consul, Réunion.

J'ai l'honneur de faire connaître à Monsieur le Consul que la plainte du Propriétaire et l'enquête faite par le Commissaire de Police pour le délit de fausse plainte sont entre les mains du Procureur de la République.

L'Indien est à sa disposition au Dépôt Colonial.

No. 89, dated St. Denis, the 29th May 1891.

From—MONS. F. MALCOR, Protector of Immigrants, Réunion,

To—Her Britannic Majesty's Consul, Réunion.

Monsieur le Procureur de la République me fait savoir la décision du Parquet de St. Denis concernant l'Indien Kalicharane. Aux termes de l'Art. 2 du Décret du 30 Mars 1881, cet homme n'est pas immigrant puisqu'il résulte de son acte de naissance qu'il avait plus de 21 ans lorsque se sont passés les faits incriminés.

Le Parquet estime même que le Service doit aller plus loin et considérer Kalicharane comme français, puisque, né de parents étrangers et domiciliés dans la Colonie à l'époque de sa majorité; il n'a pas réclaté la nationalité de ses père et mère dans l'année qui a suivi cette majorité [Art. 8], para. 4 du Code Civil, modifié par la loi du 26 Juin 1889.

Cet homme ne relève donc pas de la juridiction du Consul d'Angleterre et doit être rayé des contrôles de l'immigration.

Au cas où cette décision du Parquet ne serait pas conforme à votre opinion, vous aurez à vous adresser directement à Monsieur le Procureur Général pour le prier d'examiner à son tour cette affaire.

No. 1, dated Réunion, 3rd June 1891.

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

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

In connection with my Despatch No. 18, Consular, of to-day, and with reference to Sir Thomas Sanderson's Despatch No. 1 of this series, dated the 4th of March, I have the honour to inclose a copy of a note from the Protector of Immigrants in which he informs me that a British Indian, born in Réunion, of British Indian parents, both immigrants, and legally married, is removed from my jurisdiction under the operation of the French Nationality Law of June 26th, 1889.

I also enclose, in copy, a note I addressed to Monsieur Lounnon, the Acting Governor, on the subject, and His Excellency's reply.

I took an opportunity of calling upon Monsieur Lounnon yesterday to talk the matter over and endeavour to induce him to let the whole question remain in *statu quo* until I received your Lordship's instructions.

His Excellency, however, whilst expressing his regret, replied that he had no power to do so.

I then said that I presumed he did not intend to deny the right of such persons to repatriation with their parents under Art. IX of the Convention.

His Excellency replied no, so long as they were minors, but that, when once they had reached the age of 21, they ceased to be "immigrants," and at 22, if they had not declared for British nationality, they became, *ipso facto*, French, and lost all rights to repatriation at the expense of the colony.

He dwelt particularly upon the word *enfants* in Art. IX, sec. 4, as meaning "minors." I was unable to obtain any further concession from His Excellency on this point.

After all the interpretation put upon the clause seems fairly reasonable, for if the word *enfants* is held to include persons of full age, it would be difficult to know where to find a limit, for the son being held an "immigrant," the grandchildren of the original immigrant might perhaps legally claim repatriation.

Apart from the question of treaty rights, the Indian who becomes French is, in my opinion, better off than the British Indian. He acquires all the rights of French citizenship, including the right of voting; he is not bound to "engage" as a labourer, he can travel and reside freely in the Island, or leave it, if he wishes, and is only subject to one tax, the poll-tax, of frs. 6.00 a year, whilst he is freed from all the vexatious police ordinances which make a British Indian's life so harassing at times.

Most of the young Indians have become Roman Catholics, and nearly all have married in the country, most with Indians, but many with creole women.

They would feel lost in an Indian village, where they would have no acquaintances, and, from what I can learn after questioning many of them, they would never return to India unless more or less compelled by the parents to do so.

P.S.—For convenience of reference, I give a copy of the article quoted by Monsieur Loughon from President Grevy's decree of March 30th, 1881, which became law here on May 3rd, 1891.

"Sont considérés comme immigrants jusqu'à leur majorité tous les enfants nés dans la colonie de parents immigrants ou introduits avec eux."

No. 12, dated St. Denis, the 29th May 1891.

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

To—*His Excellency the Acting Governor of Réunion.*

I have the honour to inform your Excellency that I have received a note, numbered 89, and dated to-day, from the Protector of Immigrants, in which he informs me that the Parquet of St. Denis have decided in the case of an Indian named Kalicharane, that as this Indian was born in the island of Réunion, is domiciled here, is 22 years of age, and has not declared at the Consulate in the special time, that he intends to retain his British nationality, he has become a French citizen, and is therefore removed from my jurisdiction and from the obligation to engage.

It is not my intention to start an academic discussion upon this point, which has been already, I learn from Monsieur Manes (note 245 of September 12th, 1890), addressed to Acting Consul Bell, referred to Paris.

I desire, however, to record the following opinion:—

- (1) That the French Law of June 26, 1889, was intended to apply to free residents, and that Indian immigrants in Réunion cannot in any way be considered free residents.
- (2) That as regards children of immigrants the law is inapplicable, as their status and rights are fixed by the terms of the Convention of July 1, 1861, which overrules any portion of the decree in question which is at variance with the provisions of the Convention.
- (3) That Her Majesty's Ambassador in Paris has addressed to the French Government an earnest protest against any application of the French Nationality Law to Indian coolies in Réunion in such manner as would be contrary to the provisions of the Convention of 1861.

I would therefore ask Your Excellency to let the question stand over for a few days longer until the decision of our respective Governments on the points at issue are respectively communicated to us, and that, meanwhile, my right to protect children of British immigrants, Indians in Réunion, may be allowed.

I am the more inclined to make this request in view of the utter disorganization which would be caused on sugar estates by the sudden freeing under the operation of the law of several hundred labourers.

No. 120, dated St. Denis, the 1st July 1891.

From—*His Excellency the Acting Governor of Réunion,*

To—*Her Britannic Majesty's Consul, Réunion.*

J'ai l'honneur de vous accuser réception de votre lettre du 29 Mai dernier, relative à la nationalité des Indiens nés dans la colonie et qui y atteignent leur majorité.

Nous me demandez la question ayant été portée devant nos Gouvernements respectifs de la laisser en l'état jusque la notification de la décision qui interviendra.

Permettez-moi de vous faire remarquer qu'il n'appartient pas à l'autorité administrative d'entraver l'action de l'Autorité judiciaire à laquelle ressortissent uniquement les questions relatives à l'Etat Civil.

Je n'ai donc pas, vous le reconnaissez d'ailleurs, à revenir sur la question de la légalité de l'application aux Indiens immigrants, sujets anglais, des dispositions de la loi du 26 Juin 1889. Je crois devoir toutefois appeler votre attention sur le paragraphe de votre lettre ainsi conçue.

"Les Indiens immigrants ne peuvent en aucune façon être considérés comme habitants libres."

Veillez, je vous prie, vous reporter à l'Art. 2, para. 2, du Décret du 30 Mars 1881; vous remarquerez que les enfants des immigrants ne sont considérés comme immigrants que jusqu'à leur majorité. Du jour où ils ont atteint leur vingt et unième, ils cessent d'être soumis au régime spécial de l'immigration.

C'est à partir de ce moment que la loi leur accorde une année entière pour revendiquer, si bon leur semble, leur extranéité. S'ils ne l'ont fait, on ne peut donc pas arguer de ce qu'ils étaient soumis à un régime spécial pour dire que loi ne leur est pas applicable.

No. 2, dated Réunion the 5th June 1891.

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

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

In continuation of my Despatch No. 1 of this series, dated the 3rd instant, I have now the honour to inclose a copy of a further note which I addressed to Monsieur Loughon, No. 13. Monsieur Loughon, inquiring whether His Excellency would consent to repatriate a British Indian who had become French under the law of June 26th, 1889, provided he had served five years' engagement.

Monsieur Loughon in the note, copy of which I also inclose, replies in the negative.

No. 13, dated Réunion, the 3rd June 1891.

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

To—*His Excellency the Acting Governor of Réunion.*

With reference to the conversation which I had the honour to hold with you yesterday, regarding the rights of British Indians who have become French under the French Law, I would ask your Excellency to reply to the following question.

Indians arriving here as *passagers libres* are allowed a right to repatriation at the expense of the colony after having served five years' engagement.

In case an Indian, son of a British Indian immigrant, who has become French by local law, has served five years' engagement, will the Government grant him a similar right to repatriation in case he asks for it?

To quote an imaginary case. A British Indian has engaged in 1888 for three years; in 1890 he arrives at the end of his 22nd year, and not having made a declaration of British nationality he becomes French; he finishes however his three years' engagement, engages again for two years, and in 1893, having finished his five years, claims his repatriation.

Will it be granted at the expense of the colony without question as to his nationality?

No. 121, dated St. Denis, the 4th June 1891.

From—*His Excellency the Acting Governor of Réunion,*

To—*Her Britannic Majesty's Consul, Réunion.*

Par votre lettre du 3 Juin courant, No. 13, me demandez, si "étant donné que les Indiens venus dans la Colonie comme *passagers libres* ont droit au rapatriement aux frais de la Colonie après 5 ans d'engagement, l'Administration accorderait ce même droit s'il le réclamait, à un Indien, fils d'immigrant sujet anglais, devenu français d'après la loi du pays, et qui aurait accompli 5 années d'engagement."

Au cours l'entretien que nous avons eu ensemble, dans mon cabinet, le 2 du courant, j'ai été amené incidemment à vous parler de la situation des Indiens qui viennent dans la Colonie comme *passagers libres* et auxquels, il a été convenu avec votre prédécesseur que l'Administration refuserait l'engagement. L'opinion que j'ai émise est en complète opposition avec celle que vous reproduisez.

Je vous ai dit que ces hommes qui parfois ne pouvaient pas trouver de travail en dehors de l'engagement auraient peut-être la possibilité d'acquiescer un droit au rapatriement si votre Consulat consentait à les considérer comme immigrant et s'ils accomplissaient dans la Colonie un engagement d'une durée égale à celle des contrats originaires dans l'Inde. Mais j'ajouterais que cette hypothèse devant être écartée, c'est à vous Monsieur le Consul, qu'il appartiendra nécessairement de les repatrier.

Rien donc, dans cette partie de notre conversation ne pouvait s'appliquer aux fils d'immigrants nés en pays français et devenus français lorsque l'année de leur majorité s'est écoulée sans qu'ils aient réclamé leur extranéité.

Le fait d'un engagement de travail ne saurait un rien leur faire perdre la nationalité qu'ils tiennent de la loi et il ne saurait être question pour eux de repatriement puisque leur patrie est la colonie où ils sont nés.

No. 27 (Cons.), dated Foreign Office, London, 20th July 1891.

From—Her Majesty's Secretary of State for Foreign Affairs,

To—Her Majesty's Ambassador at Paris.

With reference to my Despatch to Mr. Egerton, No. 17, Treaty, of the 14th of March, I transmit, for Your Excellency's information, copies of further Despatches from Mr. Bennett, Her Majesty's Consul at Réunion, respecting the bearing upon the status of Indian coolie immigrants of the new French Laws relative to nationality and military service.

Your Excellency is doubtless aware that the object of the French Government in negotiating the Convention of July 1st, 1861, was to put an end to the recruitment of African labourers for the French colonies, and to secure the engagement of free Indian coolies in their stead. The aim of Her Majesty's Government on the other hand was to ensure that the recruitment of British Indian subjects should be so regulated as to afford the fullest protection for persons whose religion, language, and customs rendered them peculiarly ignorant of the laws prevailing in a country governed by European methods.

The convention accordingly contains provisions of a special character, by means of which every immigrant is made fully acquainted with the conditions of his temporary and voluntary exile; and it provides that Her Majesty's Consul should also be informed of any change brought about in those conditions by the termination or renewal of each individual contract.

The status of every British Indian in Réunion, whose renunciation of the right to a return passage has not been formally announced to Her Majesty's Consul by the local authorities, is governed exclusively by the stipulations of the convention; in order to emphasize this fact, it is provided that every contract shall quote those Articles of the convention which relate to the terms of the engagement, the conditions of work, the assistance of the Consul, and the right to a free return passage.

One of these articles, No. 9, distinctly stipulates that "the right of the immigrant to a return passage extends to his wife and children who quitted India under the age of ten years, as well as to those born in the colonies."

If Your Excellency refers to the Consul's correspondence with the Acting Governor of Réunion, you will see that the local authorities decline to admit that the convention can bar the operation of recent legislation, and, apparently, contend that it is superseded by the Decree of March 30th, 1881, which does not seem to recognize the children of immigrants as being themselves immigrants after they have attained their majority.

I have to request that Your Excellency will address the French Government on this subject, and that you will state that Her Majesty's Government trust that early measures will be taken to correct the misapprehension entertained by the local authorities of Réunion as to the possibility of municipal enactment overriding the distinct provisions of an international agreement, and thus barring the claim to repatriation of children of immigrants born in the colony.

Dated India Office, 14th August 1891.

From—A. GODLEY, Esq., Under Secretary of State for India,

To—The Under Secretary of State for Foreign Affairs.

I am directed by the Secretary of State for India in Council to acknowledge the receipt of

Dated 3rd June 1891, No. 18, and enclosures.

Dated 3rd June 1891, No. 1, Treaty, and enclosures.

Dated 5th June 1891, No. 2, Treaty, and enclosures.

Sir T. V. Lister's letter of the 20th ultimo, transmitting three Despatches from Her Majesty's Consul in Réunion (herewith returned), together with a copy of a Despatch which the Marquis of Salisbury addressed, on the 20th ultimo, to Her Majesty's Ambassador at Paris, respecting the bearing upon the status of Indian immigrants in Réunion of the new French

laws as to nationality and military service.

In reply, I am to state that Viscount Cross, cordially supporting the representation which the Earl of Lytton has been instructed to make to the French Government on this subject, trusts that the French Government will accede to the request of Her Majesty's Government.

India Office, to Foreign Office, 25th February 1891.

Foreign Office, to India Office, 4th March 1891.

Foreign Office, to India Office, 13th March 1891.

It will be remembered that the question of the application of the French Nationality Law in respect of the right of repatriation formed the subject of the correspondence noted in the margin, ending with Mr. Egerton's note to M. Ribot, dated the 5th of March last, to which no reply has yet been received.

Extract from the French Nationality Law of 26th June 1899.

Article 1er.—Les Articles 7, 8, 9, 10, 12, 13, 17, 18, 19, 20, et 21 du Code Civil sont modifiés ainsi qu'il suit :

"Article 8.—Tout français jouira des droits civils.

Sont Français :

(1) Tout individu né d'un Français en France ou à l'étranger.

L'enfant naturel dont la filiation est établie pendant la minorité, par reconnaissance ou par jugement, suit la nationalité de celui des parents à l'égard duquel la preuve a d'abord été faite. Si elle résulte pour le père ou la mère du même acte ou du même jugement, l'enfant suivra la nationalité du père ;

(2) Tout individu né en France de parents inconnus ou dont la nationalité est inconnue ;

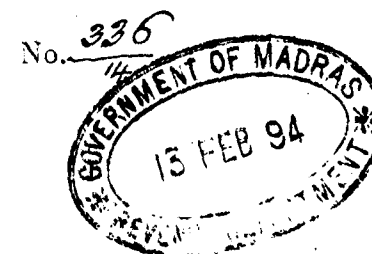
(3) Tout individu né en France d'un étranger qui lui-même y est né ;

(4) Tout individu né en France d'un étranger et qui, à l'époque de sa majorité, est domicilié en France, à moins que, dans l'année qui suit sa majorité, telle qu'elle est réglée par la Loi Française, il n'ait déclaré la qualité de Français et prouve qu'il a conservé la nationalité de ses parents par une attestation en due forme de son Gouvernement, laquelle demeurera annexée à la déclaration, et qu'il n'ait en outre produit, s'il y a lieu, un certificat constatant qu'il a répondu à l'appel sous les drapeaux, conformément à la Loi Militaire de son pays, sauf les exceptions prévues aux Traités ;

(5) Les étrangers naturalisés.

6. Sont abrogés les Décrets des 6 Avril, 1809, et 26 Août, 1811 ; les Lois des 22 Mars, 1849, 7 Février, 1851, 29 Juin, 1867, 16 Décembre, 1874, 14 Février, 1882, 22 Juin, 1883, et toutes les dispositions contraires à la présente Loi.

Revenue and Agricultural Department,
(Emigration)
Calcutta, The 9th February 1894.



To

The Secretary to the,
Government of Madras.

SIR,

I AM directed to invite attention
to the communication marginally noted,*
and to request the favour of an early reply
thereto.

Subject.

Asking the views of the Govern-
ment of Madras in regard to the
application of the French nation-
ality Law to Indian Immigrants
in Reunion.

I have the honour to be,

SIR,

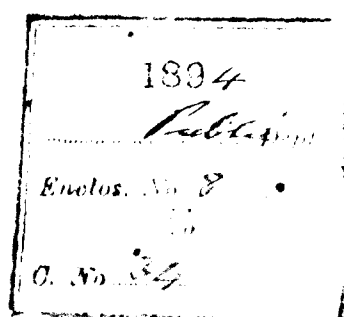
Your most obedient Servant,

C No 34 in
8061
24.1.94

* No. 3512, dated 28/12/93.
subsequent reminder No.
dated

T. S. Moulagun

Under-Secretary to the Govt. of India.



C no 34 in 80 618 24-194
Sp. 92 D 10-2-94

Public C. 34 2434

146

434

From

The Govt. of India
Rev & Agri: Dept.

No 336

14

9 February 94
13

Requesting early reply
to their letter regarding ap-
plication of French
nationality law to Indian
immigrants in Réunion.

It seems to me that ^{in Réunion} the new
French naturalization law affects
by these children of Indian immi-
grants ⁽¹⁾ who have been born in the
country, ⁽²⁾ whose parents have not
sought to avail themselves ^{under the Convention} of their
right of repatriation at the end
of their term of engagement, and
⁽³⁾ have themselves not taken the
necessary legal steps within a year
of attaining their majority to main-
tain their British nationality. The
new law of naturalization is a
real one with which another
nation cannot interfere, as the matter
is in which it has, I believe, long
settled that every nation
is at liberty to make its own laws.
I therefore agree with the Govt. of I.
that there is no room for any
intervention on its part. ^{as to the} fact accounts
can do is to see that immigrants
in children are made acquainted
with their legal position with care.
as quences,

In proper time. B.S.
17/2/94

I think the Govt. of I. are
right

JG
17/2

I think we may express agreement
with their view of the Govt. of India.

W
17 Feb

India asks for an early
reply to its letter No. 3512
of the 28th Dec. last, in
which the views of this
Govt. were requested in
regard to the application
of the French Nationality
Law to Indian Immig-
rants in Réunion.

The letter was originally
circulated with the
other papers disposed
of by G.O. of 24.1.94, No. 61,
and as the many details
therein were not gone
into the fact accounts
for the request in para:
6 of the current now
circulated having
been overlooked.

38B. I submit that the Govt. of
India may be told that this
Govt. coincides in the views ex-
pressed by it. This Réunion business
is one of Mr. E. Dute's special pet.

AD
14/2/94

N 117
20 Feb 94

To the Secy to the G. of I.
Depo of Rev: & Agri.

DESPATCHED
21 FEB 94

IN M.S.

Sir,

In reply to your letter ³⁵¹²/₄
of the 28th Dec: last, I
am directed to inform
you that this Govt
agrees with the views
expressed therein.
all that can be done
apparently is to take
steps to ensure that
immigrants and
their children are
made acquainted
with their legal position
and its consequences
at the proper time.

/ from ord
JH

3513.
19/2

19/2/94