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ORDINARY, MS.

Public DEPARTMENT.
G.O., DATED 20-1-94
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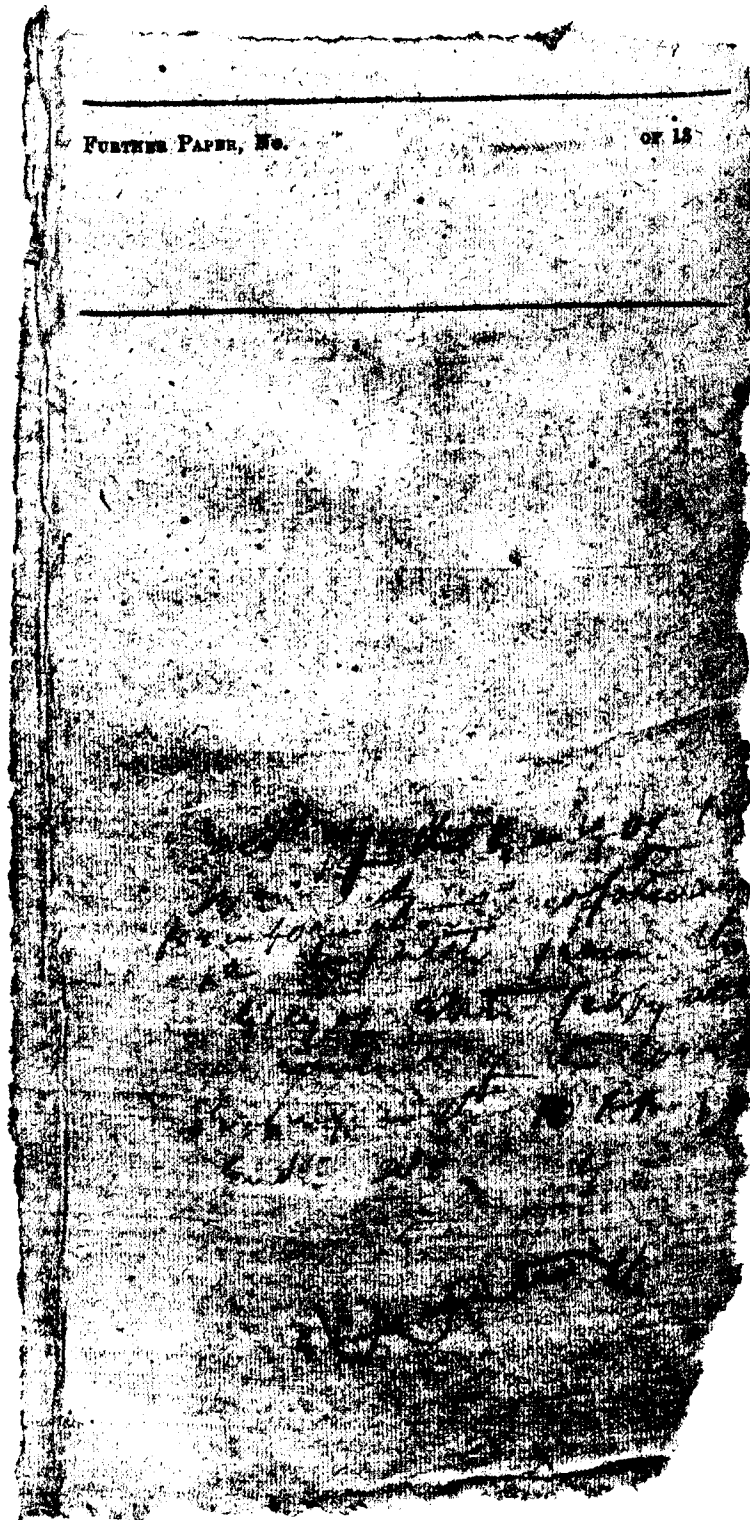
[Despatch Abstract.]

Copy of the Provisions
of Emigrants in continua-
tion of G.O. 21 March 93
to 238 under serial of
the Govt of India forwarded
in correspondence regard-
ing sections 60 & 66 of
the Statute Indian Im-
migration Law No 25 of
1891-..

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பாதுகாப்புப்பிரிவு-1

செப்பனிடுபவர் பெயர் .. த. இரா சேந்திரன்

செப்பனிடுவதற்காக எடுத்துக்கொள்ளப்பட்ட நாள் .. 01/2005

செப்பனிட்டு முடிந்த நாள் .. 8/2005

சரிபார்க்கும் குதல் கு.நி.பா.எ. கையெழுப்பம்

சரிபார்க்கும் இரண்டாம் கு.நி.பா.எ. கையெழுப்பம்

சரிபார்க்கும் குறிச்சி உதவிவகல கையெழுப்பம்

India/1894/Department

From the East of India
Dept of Rev. & Agric.

no 3518
95

Dated 29 June 1893
Recd 6 July 1894
Recd 8 July 1894

Enclosed: 8
14 July 1894

Enclosed: 8
14 July 1894

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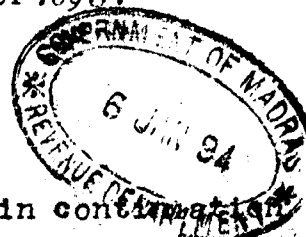
Protection of Emigrants

Copied
29/1

WITH OFF

No. 3518
75
GOVERNMENT OF INDIA.
DEPARTMENT OF REVENUE AND AGRICULTURE.
(Emigration)

Calcutta, dated the 29th December 1893.



Forwarded to the Government of Madras for information, in continuation
of the correspondence ending with this Department's Endorsement No. 499
25

dated the 1st March 1893.

By order,

Small

Under-Secretary to the Government of India.

List of Papers forwarded.

Despatch from the Secretary of State No. 113

dated the 19th October 1893, and enclosures.

No. 113 (Public—Emigration), dated India Office, London, the 19th October 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 the despatches of your Government noted in the margin, relating to sections 60 and 66 of the Natal Indian Immigration Law, No. 25 of 1891, I forward, for the information of Your Excellency in Council, a copy of correspondence which has taken place between this office and the Colonial Office upon the subject.

No. 533 J. & P., dated India Office, the 19th April 1893.
From—G. W. E. RUSSELL, Esq., *Under-Secretary of State for India,*
To—The Under-Secretary of State for the Colonies.

WITH reference to Mr. Walpole's letter dated the 17th November 1891, I am directed by the Secretary of State for India in Council to transmit, for the consideration of the Marquess of Ripon, two further despatches, with enclosures, which have been received from the Government of India on the subject of the Natal Indian Immigration Law, No. 25 of 1891, sections 60 and 66.

As regards section 60, the Government of India suggest—

- (a) that there should be some executive provision that when an immigrant dies intestate and without heirs in the Colony, and there is still some property left after the claims of all creditors in the Colony have been satisfied, steps should be taken by the Protector of Immigrants (in the Colony) to ascertain from the Protector of Emigrants at the port in India from which the immigrant embarked, whether there is any person in India entitled to the residue of the deceased's estate,—so that, if there is such a person, the residue may be realised by the Protector in the Colony and transmitted to the Protector at the port of embarkation; and
- (b) that it should be considered whether a representative of the deceased, reported to be such by the Protector of Emigrants at the port of embarkation, should not be deemed legally to "have proved his right to the satisfaction of the Protector in Natal." And the Government of India ask that if the objects they have in view cannot be attained by executive order, an amending Bill may be introduced containing the necessary provisions.

To section 66 the Government of India take no exception, if it is construed as prohibiting only future polygamous marriages within the Colony. If, however, it is construed in a wider sense and as precluding the Protector from registering under section 68 a polygamous marriage contracted in India, the Government of India think the section open to great objection, because the law of Natal ought not to refuse to recognise as valid, marriages contracted in India which are undoubtedly valid in India.

I am to say that the observations and suggestions of the Government of India appear to the Earl of Kimberley to be reasonable and sound, and that His Lordship trusts that they may receive the approval of Lord Ripon, and that the authorities in Natal may be instructed to give them their favourable consideration.

I am, in conclusion, to direct attention to the cases of the polygamous marriages among the batches of emigrants recruited in the last two seasons, and to request that, if possible, the information which the Government of India* seek regarding them may be furnished by the Government of Natal.

Dated Colonial Office, the 20th September 1893.
From—EDWARD WINGFIELD, Esq., *Under-Secretary of State for the Colonies,*
To—The Under-Secretary of State for India.

WITH reference to your letter of the 19th of April, No. 533 J. & P., relating to sections 60 and 66 of the Natal Immigration Law, No. 25 of 1891, I am directed by the Marquess of Ripon to transmit to you the accompanying copy of a despatch† from the Governor of Natal. I am to point out that in

the last paragraph of the Minute of the Protector of Immigrants, "6th section" is obviously a clerical error for "68th section."

No. 141, dated Durban, Natal, the 19th August 1893.

From—P. S. HADEN, Esq., Administrator, Natal,
To—The Secretary of State for the Colonies.

I HAVE the honour to acknowledge the receipt of Your Lordship's despatch, marked "Emigration," of the 26th June last, transmitting, for Sir Charles Mitchell's consideration an report, copy of a letter and its enclosures from the India Office, with observations on sections 60 and 66 of the Indian Immigration Law, No. 25 of 1891.

I enclose, for Your Lordship's information, copy of a report which has been furnished by the Attorney General on the subject of Your Lordship's despatch, and also a copy of a report by the Protector of Immigrants, dealing with the practical working of the two sections referred to, and in view more especially of the last-mentioned report, I would ask whether it is Your Lordship's wish that an amending measure should be submitted to the Natal Legislature.

Dated Natal, the 1st August 1893.

From—W. B. MORCOM, Esq., Attorney General, Natal,
To—The Honourable the Colonial Secretary.

As to section 60, I do not know what the Protector's practice may be, but in any case I presume he reports to the Indian authorities the fact of the death of any Indian immigrant, and such information as may be necessary in reference to the estate of such deceased Indian. If there are any heirs in Natal entitled to any residue, and heirs should be known to exist in India, the Indian can take steps on behalf of such heirs to prove, to the satisfaction of the Protector of Immigrants in Natal, the right of such heirs to receive any available balance, and the Protector will at once remit the money to India.

If there are any sums of money unclaimed, the Natal Government should keep them, and it should be the Protector here who should be satisfied with the proof which the Indian Government may submit in any case. The provisions of the section appear to be sound in principle, and in practice are simple and inexpensive, and I submit no amendment is required therein.

As to section 66, I understand this section to prohibit polygamous marriages of Indians in Natal, and the registration of such marriages. This registration seems to me to refer to the provisions as to local marriages and their registration under section 70. I do not understand that under section 68 the Protector of Immigrants refuses to register polygamous marriages contracted in India, and proof of which is produced to him on the landing of the Indian immigrants in this Colony.

It appears to me that any attempt to amend the Indian Immigration Law, No. 25 of 1891, in the matter of the two sections referred to, will not meet with favour in the Legislature, and rightly so. The law already in reference to Indian marriages goes further than was absolutely necessary.

Natal does not provide by its legislation that marriages of Europeans contracted in other parts of the world in a manner and between persons whose marriages could not be so contracted in Natal, shall, on these persons coming to Natal, be recognised, or that the local courts shall have jurisdiction to register the marriages, or divorce the married persons. In the case of Indians, however, for the purpose of facilitating divorce, a simple mode of proving marriage and of dissolving the marriage is furnished.

I do not think it should be taken for granted that marriages which are not conclusively proved in terms of the wide provisions of Law 25 of 1891 should be recognised by the Courts of Law in this Colony without the strictest proof, and without liability to have raised the question of jurisdiction of the Courts of Law in this Colony to dissolve the marriages of persons lawfully married and domiciled in India, when temporarily resident in Natal.

I trust the Secretary of State will see that criticisms on the sections are not borne out by the terms of the law, but that, if they are, any attempt at amending legislation in the manner suggested is undesirable.

Dated the 7th August 1893.

Minute by L. H. MASON, Esq., Protector of Immigrants, Natal.

My duty under section 60 is to collect and take possession of the property of any Indian immigrant who may die intestate in the Colony.

To deliver all such property to any person in this Colony who shall satisfactorily establish a right thereto.

In the absence of any such right being established, the property is then sold to the best advantage, and the proceeds paid into the Colonial Treasury.

Yearly statements, or oftener if necessary, are sent by my department to the Government Emigration Agents in India, giving names, description and particulars of deceased immigrants, showing amounts realised in deceased's estates unclaimed in the Colony, and copies of these statements are sent by the Government Agents to the Protector of Emigrants at Madras or Calcutta, as the case may be.

If heirs to any or all the amounts shown in these statements are traced in India, and claims proved to the satisfaction of the Protector of Emigrants either at Madras or Calcutta, the amounts so claimed are then paid to the Protector by the Agents and debited to the accounts of the Indian Immigration Trust Board, Natal. Amounts paid in India in this way are then withdrawn from the Colonial Treasury and repaid to the Trust Board here.

All amounts unclaimed, either in the Colony or in India, remain in the Colonial Treasury.

Section 66 prohibits the registration of polygamous marriages contracted in this Colony. Prohibition under this section does not, however, extend to registration of polygamous marriages contracted in India.

Under the 64th section my duty is to demand from Indian immigrants, upon arrival in this Colony and before assignment, such of them as are described as married in the emigration lists, certified copies of their married registers handed to them by the Protector of Emigrants at Calcutta or Madras, and to register the marriages of the persons to whom such certificates refer (polygamous or otherwise). Such registration must then be accepted in all courts within this Colony as evidence of the marriage to which the same relates.

If such certificates are not produced, or have been lost during the voyage, the marriage may be registered from particulars contained in the general register above referred to.

Since the law referred to came into operation, eight polygamous marriages contracted in India have been registered in accordance with the provisions of the 66th section; the certificates referred to in that section being produced by the immigrants on arrival in this Colony.

No. 1824 J. & P., dated India Office, the 12th October 1893.

From—SIR A. GODLEY, K.C.B., Under-Secretary of State for India,
To—The Under-Secretary of State for the Colonies.

I AM directed by the Secretary of State for India in Council to acknowledge the receipt of Mr. Wingfield's letter of the 20th ultimo, with reference to sections 60 and 66 of the Natal Immigration Law, No. 25 of 1891, and to state in reply that, after the explanations contained in the correspondence forwarded with that letter, it appears to the Earl of Kimberley unnecessary to insist on the alterations of the law and practice suggested in Mr. G. W. E. Russell's letter of the 19th of April last.

