

the orders-in-council P.C. 920 and 926 are both invalid as exceeding the prohibition of the statute as to persons to be debarred from entering Canada.

Re Rahim, 4 D.L.R. 701, referred to.

4. A requirement under an immigration law that the immigrant shall have, on arrival, a stated sum in his own right, does not alone demand that the money shall be in his actual and personal possession, and would be satisfied by his having the money on deposit in a Canadian bank.

J. E. Bird, for application. *W. J. Taylor*, K.C., contra.

ANNOTATION ON ABOVE CASE.

This case, in itself, merely decides that two Dominion orders-in-council are invalid because they exceed the powers given by the Dominion Immigration Act on which they purport to be based. But read in connection with the Dominion order-in-council passed a few days after the judgment, which prohibits until March 31 next, the landing at ports in British Columbia of any immigrant who is an artisan, or skilled or unskilled labourer, it brings up the general question of Canada and the other self-governing Dominions refusing to British subjects the right of entry. Hindus from British India are as much British subjects as Canadians; whether they are equally British citizens, or whether a distinction can be usefully drawn between "British citizens" and "British subjects," is a point which has been recently mooted, but need not be discussed here. Immigration and agriculture are the only two matters over which the British North America Act explicitly confers concurrent jurisdiction on the Dominion Parliament and the provincial Legislatures, but with the proviso that provincial legislation shall have effect so long and so far only as it is not repugnant to any Act of the Parliament of Canada. The Dominion Parliament has very properly undertaken to regulate immigration for as Mr. Joseph Chamberlain, then Secretary of State for the Colonies, said in a despatch to Lord Minto, of January 22, 1901, "the whole scheme of the British North America Act implies the exclusive exercise by the Dominion of all national powers, and, though the power to legislate for promotion and encouragement of immigration into the provinces may have been properly given to the provincial legislatures, the right of entry into Canada of persons voluntarily seeking such entry is obviously a purely national matter, affecting as it does the relation of the Empire with foreign states" (Provincial legislation, 1899-1900, p. 139). And the federal Government regards with jealousy any attempt at provincial legislation in relation to immigration in view of the Dominion legislation on that subject, and has quite recently exercised the veto power against it: (Provincial legislation, 1867-1895, pp. 634-5; 1899-1900, at pp. 134-8; 1901-1903, pp. 64, 74-5).

But what is of more importance in connection with this subject