

hibited the immigration of any classes of people except the Chinese and Japanese.

As this is a matter of considerable importance and one in which a good many members take great interest, it might be as well for me to put on 'Hansard' the judgment of Mr. Chief Justice Hunter. I am given to understand that the document from which I quote gives the full text of this decision. It is as follows:

As to four of the Hindus, their counsel, Mr. Bird, abandoned proceedings so that the question now concerns the other thirty-five. The main dispute was to the validity as to the Orders in Council known as P.C. Nos. 926 and 920, passed in May 9, 1910.

At the outset, Mr. Bird vehemently urged that Parliament knew that it was impossible for Hindus to come to a Canadian port by a continuous journey and that it had employed a subterfuge to place a ban on Hindus as a race and that therefore the court ought to be astute if possible, to defeat the alleged injustice. As to this it seems necessary once more to point out that in dealing with Acts of Parliament the court is not concerned with questions of expediency or good faith, but only with their validity and interpretation.

To consider the two Orders in Council as to No. 926 it is objected that the expression 'Asiatic origin' is used wherever the statute uses Asiatic race. It is obvious that the word 'origin' includes more than the word 'race.' A person born in India of British parents, domiciled there, would be of Asiatic origin, but not of Asiatic race.

The prohibition in the Order in Council therefore exceeds that contained in the statute itself and is accordingly ultra vires.

Again, the Order in Council requires the immigrant to have \$200 in his own right in actual or personal possession, whereas the statute does not require that the money shall be in actual and personal possession. If an immigrant had the money in his own right, in a Victoria bank at the time of his arrival, he would satisfy the requirements of the statute, but not those of the Order in Council. The Order in Council is therefore bad on this account. Other objections were also urged, but it is unnecessary to deal with them.

As to the Order in Council No. 920, this Order in Council has already been declared invalid by Mr. Justice Morrison in Rahim's case, 16 B.C.R., 471, on the ground that it omitted the qualifying word 'naturalized' before the word 'citizen' in conformity with the amending Act, and no doubt, as he says, the fact of the change in the statute, and I might add that this amending was assented to only four days before that Order in Council was passed.

Mr. Taylor, however, urged that the Order in Council might be upheld in part, so far as regards the requirements by the natives. The difficulty is that the word 'native' is used as a noun in the Order in Council and would therefore include persons of British race born in India, which it is difficult to suppose Parliament intended, whereas in the statute it is used as an adjective qualifying the word 'citizen', and it is obvious that the expression 'native' includes more than the expression 'native citizen.'

The court, having concluded that the persons detained were entitled to their discharge on these grounds, it was then urged by Mr.

Taylor that they were also held because of misrepresentation, but the order for deportation does not state that this was the reason for the detention. The only reason so-called, assigned, which could have any bearing on this matter is given in section 33. This section gives a number of subsections defining certain Acts, and I do not think it is a proper compliance with the Act, to refer generally to the section in this way as a reason for deportation.

Common justice requires, and I think Parliament so intended, that when a person is ordered to be deported out of the country, the reasons for so doing should be clearly stated, in order that he might at least know what was the reason and in any event a reason stated in such a fashion would not constitute a good return to a writ of habeas corpus.

Reference was also made to section 23, which purports to limit the jurisdiction of the court to interfere with deportation proceedings. It is, however, especially enacted that such restriction applied only to proceedings 'had under the authority and in accordance with the provisions of this Act' and it would indeed be strange to find that the doors of the court were shut against any person of any nationality, no matter that the Act complained of might be.

I had not intended placing this lengthy document on 'Hansard,' but perhaps it is as well to have it on record in the proceedings of the House. I am not concerned with the merits of Chief Justice Hunter's decision. As I have said, to the layman his objections would appear trifling, but it would not do for me to suggest that the judgment was not fully warranted by the facts and by a proper interpretation of the words used.

The point I wish to come to, however, in dealing with this decision and the subsequent action of the Government resulting from it, is that there seems not to have been a continuity of policy on the part of the Interior Department in regard to these matters. The final paragraph of Chief Justice Hunter's decision relates to section 23 of the Immigration Act, which reads as follows:

No court, and no judge or officer thereof, shall have jurisdiction to review, quash, reverse, restrain or otherwise interfere with any proceeding, decision or order of the Minister or of any board of inquiry, or officer in charge, had, made or given under the authority and in accordance with the provisions of this Act relating to the detention or deportation of any rejected immigrant, passenger or other person, upon any ground whatsoever, unless such person is a Canadian citizen or has Canadian domicile.

This is a provision of the Act of 1910, and when it was before Parliament it was the subject of discussion and consideration, and it appears in the Act with the unanimous consent of the Parliament of that day. It will be observed that the purpose of the section was to avoid exactly what took