

# NO SIGN SO FAR THAT COURT WILL FREE THE HINDUS

J. Edward Bird Had an Uphill Fight Yesterday Before Appeal Judges.

He Credits Members of Parliament With Some Very High Scientific Training.

Old Magna Charta Walked the Plank Again, but Still Holds Good.

Argument Is Expected to Be Finished Early This Afternoon at Victoria.

Victoria, June 30.—"Why is a Hindu?"

"What is an Asiatic?"

"When is the Magna Charta?"

These were a few of the questions which Mr. J. Edward Bird asked the British Columbia Court of Appeals this morning in the second day's hearing of the first case arising out of the arrival of the Komagata Maru.

Mr. Bird closed the argument for the appellant just before noon. Then Mr. W. B. A. Ritchie, leading counsel for the immigration officials, opened his address in reply. He will finish early this afternoon. At this hour a reserved decision is looked for.

Mr. Bird also maintained today that inasmuch as Munshi Singh came direct from Hongkong, a British possession, he had come by continuous voyage from the country of which he was a native citizen. He maintained that the citizenship was of the empire as a whole. In the section the words "of which he is a native or naturalized citizen" were used, and "native," he contended, was an adjective, or there would have been a repetition of the article before "naturalized."

Pointing out several instances of grammatical looseness in the statute, Mr. Bird claimed that legislation capable of being seriously misunderstood should not be construed so as to interfere with the liberty of the subjects. For the subjects of His Majesty in England were just as dear to the sovereign as his subjects in Canada.

Contending that even an alien was entitled to the civil rights of life and liberty conferred by our constitution immediately he came within the three-mile limit, Mr. Bird argued that the Immigration Act had exceeded the powers of the Dominion Parliament. The preservation of civil rights was vested in the provinces by the British North America Act, and inasmuch as the Dominion purported to take away this man's liberty and deport him, the legislation to that end was ultra vires and void. Liberty was a civil right in the guard of his province.

Mr. Bird's concluding argument was that the court as the direct representative of the sovereign had a higher function than any legislature to consider as the King's representative, the effect of legislation in regard to its possibility of bringing about war or rebellion.

Chief Justice Macdonald expressed the opinion that the court could only read the law, not make it, and did not think this phase could properly come before them.

All yesterday afternoon Mr. Bird fought an uphill fight. It was a weary day and the subject highly technical. While the five judges gave close attention. Mr. Bird had a task that was pretty much of a struggle, for he was constantly met with objections and questions which one or another of the five members of the court hurled at him. Not that the hearing was rendered unnecessarily burdensome, for that was not the fact at all; but Mr. Bird had come with many propositions admittedly far-fetched—many of them very far indeed—and the members of British Columbia's highest court, while courteous enough, could not do other than take the attitude that they wanted to explore every possible flaw in Mr. Bird's claims.

Their Scientific Viewpoint.

To the lay spectator, no hearing could have been more patient or fair. Mr. Bird presented not less than a score of points of objection, some to procedure under the Immigration Act and some to the validity of the enactment itself. He went so far back that he finally became lost in history. And he quoted not only from "case law," but from an encyclopaedia. The judges noted them all carefully in their journals, but did not express approval of a single objection. Some of the points Mr. Bird frankly did not press when the court suggested their triviality, but counsel was not dismayed at this, for he endeavored to get every possible angle before the bench.

One of the interesting arguments of the afternoon came when Mr. Bird tried to get to the bottom of the term "Asiatic race," whose members the Immigration regulations sought to exclude. He had turned from dry law books to the fuller encyclopaedia, where to his surprise and pleasure he found that there were no less than three races in Asia and that the East Indians were Aryans like ourselves. Under these circumstances he argued that it was manifestly wrong to include them in an exclusion of members of the "Asiatic race," which he said was a misnomer. He thought this term should be used in its purely scientific, not its popular sense.

"I submit," he said, "that the members of Parliament meant the term in its exact scientific finality and that is the construction that should be placed on it here."

Mr. Justice Gailher, who used to be a member of the House of Commons, was plainly skeptical about the

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May Be Empress of Austria Yet



Archduchess Zita of Austria, wife of Karl Franz Josef, before her marriage to the heir presumptive to the Austrian throne, the Archduchess was known as Princess Zita of Parma.

## MAKE THE BEST OF DESPERATE AFFAIR

Times Has Some Advice to Offer on the Irish Situation.

Vital that Lords' Amendments Should Secure Temporary Peace.

(Special Copyright Cable to the Vancouver Daily Province and Montreal Star)

Belfast, June 30.—Ulster has given up hope that the amending bill will bring peace and today preparations are being completed for an active provisional government, at least in this city, and probably throughout the whole province. The government seems, at last, to have understood that a few troops and police are no guar-

antee of peace, and despite denials in official circles I have it through military channels that at the first move made towards a provisional government, soldiers and police will be withdrawn from Belfast and the city allowed to remain under the Unionist council. Tonight General Richardson, commanding the Ulster volunteers, will issue a general order allowing men to carry rifles through the main streets of the city while practicing mobilization. Hitherto, in the Belfast district, the men have only carried arms while drilling on private property. Last night two volunteers with rifles were arrested on the main street but later they were released and the charge of carrying arms without license was not proceeded with today. To me it looks as if the militant group of the Ulster council have won their point and sensational developments may follow rapidly.

WINDERMERE.

London, June 30.—The debate in the House of Lords on the Home Rule amending bill begins tomorrow. There has been much running to and fro among the Unionist members to draft an amendment. Regarding this activity and the general action of the Unionist peers, today's Times offers more interesting editorial injunctions: "It is absolutely vital that the Lords' amendments should be sufficient to secure temporary peace," declares the Times. "All these proposals can do is to make the best of a desperate situation by laying down the basis of a temporary truce. Everything is staked upon their acceptance by the country."

The Times proceeds to declare that it is absolutely certain that the Unionist leaders themselves will sooner or later have to take up the settlement of the Irish question. "We should like, in short," it adds, "to see the Unionist leaders make it clear that, while condemning the Home Rule Bill, root and branch, and refusing altogether to accept it as a fait accompli, they are prepared, as soon as ever in a position to do so, to deal with the Irish problem as part and parcel of other outstanding problems by way of a national convention."

Left Over a Million.

Toronto, June 30.—The will of Wm. Harris, of Harris Abattoir Co., was probated today. He left over one million to his widow, four sons, five daughters, and a sister.

# VILLA IS NOW ON A CHASE FOR GEN. CARRANZA

Rebel General Gives Up Pursuit of Federals for Another Game.

First Chief Has Ammunition and Will Not Part With It Now.

Second Man in Command of Northern Army Sends an Ultimatum.

Break Between Constitutional-ist Officers at Critical Stage.

Washington, June 30.—Private dispatches received here from unofficial sources in Mexico City stated that President Huerta had sent his son and daughter toward Puerto, Mexico, and was making preparations for his own departure on short notice. The information was conveyed to the state department.

Juarez, Mexico, June 30.—Abandoning his pursuit of the federal army which he drove from Zacatecas, General Villa began yesterday a pursuit of General Carranza, first chief of the revolution who has ammunition Villa needs and who will not part with it.

The situation in Constitutionalist Mexico has reached the critical stage. The next step, in the opinion of both Villa and Carranza men, may be open warfare between the factions. Villa's entire army has moved back to Torreon from Aguas Calientes. Villa, angered at the recent actions of Carranza, left Torreon yesterday for Chihuahua City. It is believed that he is on the way to the border to get into touch with Carranza and the latter's agents.

Villa has sent an ultimatum to Carranza, it is asserted here, demanding the immediate release to Villa's army of all ammunition the rebels received at Tampico, and which Carranza is holding. Villa also has demanded that Carranza acknowledge him as military chief of all Mexico.

Failure to accede to the demands, it is said, will result in forcible measures being taken by Villa to secure the ammunition and the authority he covets.

Carranza, it appears, has outwitted Villa in the ammunition matter, having promised the army of the North its share of the cargo of the Antilla at Tampico and then refused to release the munitions when Villa failed to go to the relief of General Natera at Zacatecas.

Mediators to Take Recess.

Niagara Falls, June 30.—After a conference today between Ambassador DeGams of Brazil and Ministers Naon and Suarez it was announced that mediation would formally recess tomorrow until such time as the Constitutional delegates and Huerta representatives could confer informally on Mexico's internal problems.

## SIR JAMES ELATED OVER THE OUTCOME

Ontario Premier Comments on the Result of Yesterday's Election.

Toronto, June 30.—All last night and all today telegrams of congratulation poured into the Parliament buildings and the home of Sir James Whitney felicitating the Premier upon his return to power with practically the same following in the House that he had in the last Parliament. The Premier was particularly cheerful and elated over the results of yesterday's vote. Today Sir James made the following statement:

"Again the people of Ontario have placed my colleagues and myself under a tremendous load of obligation to them. The acts and policy and the work done by the government have been justified, and indeed, as is well known, they were hardly criticized by our opponents."

The outstanding fact is that the people of the province refused positively to be threatened and coerced by a few demagogic clergymen, who, anxious above all things for the success of Mr. Rowell, were not ashamed to make use of a question like the so-called temperance question as a scourge to drive us out of office and put their friends into power."

Recounts are probable in North West, West Kent, North Bruce and East Lambton where the majorities are unofficially reported as being very close. There are also possibilities of recounts being demanded in North Brant, South Essex and South Oxford. The final results show that W. McDonald, Liberal, was elected in North Bruce by a majority of 12. A. Sinclair, Conservative, defeated Colonel Mayberry in South Oxford by a majority of 4. The net Conservative majority in the House will be 59.

Waiting on Carranza.

Washington, June 30.—Some answer from General Carranza as to participation in the Niagara Falls mediation conference was expected at Constitutional headquarters by night. Luis Cabrera, Carranza agent here, said the general has been conferring with his chiefs, as was required by the plan of Guadalupe, and probably by this time had learned their views.



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## KUPOFF FUNERAL

### WAS HELD TODAY

### Many Russians Attended the Affair — Murder or Suicide?

M. Kupoff, the Russian who was supposed to have been murdered or to have committed suicide on the eve of his appearance as a witness in a murder trial at the New Westminster assizes last week, was given a most elaborate funeral this morning. More than 100 of his countrymen marched bareheaded behind the full band, which was requisitioned for the occasion to play appropriate music on the way to the cemetery, and a dozen carriages followed the hearse. The service was held at the chapel of the undertakers, Messrs. Greene & Merkle, Rev. Mr. Edwardes of St. James' Church, officiating. Interment was made in the Russian plot in the Mountain View cemetery.

A report of the inquest on the body of Kupoff, which was held yesterday afternoon, is published in another column. An open verdict was returned. When the body was first found in the International Rooms, on Harris street, the circumstances pointed to a possibility of murder, and this theory is still held by some of his friends.

Kupoff was the chief witness to be called by the Crown in a charge of murder laid against a countryman at New Westminster, and it was rumored that he had been repeatedly threatened with death if he gave any evidence.

He appeared on Wednesday morning of last week before the grand jury and told them what he knew of the alleged crime. He was to have been called to the witness stand on Friday morning, but was discovered in bed by the proprietor of the place with a bullet wound in his head. He died on the way to the hospital.

### LIBERAL VETERAN DEAD

Henry Wilson, for 27 Years a Member  
of British Commons.

London, June 30.—Henry Joseph Wilson, Liberal member for the Holm, fifth division of Yorkshire, from 1885 to 1912, died today, aged 81. He was a strenuous opponent of the Boer war in the height of the war fever, but the sincerity of his convictions, his public service, and his benefactions commanded universal respect.



### SYNOPSIS OF COAL MINING REGU- LATIONS.

COAL mining rights of the Dominion, in Manitoba, Saskatchewan and Alberta, the Yukon Territory, the Northwest Territories and in a portion of the Province of British Columbia may be leased for a term of twenty-one years at an annual rental of \$1 an acre. Not more than 2500 acres will be leased to one applicant.

Application for a lease must be made by the applicant in person to the Agent or Sub-agent of the district in which the rights applied for are situated.

In surveyed territory the land must be described by sections, or legal subdivisions of sections, and in unsurveyed territory the tract applied for shall be staked out by the applicant himself.

Each application must be accompanied by a fee of 35, which will be refunded if the rights applied for are not available, but not otherwise. A royalty shall be paid on the merchantable output of the mine at the rate of five cents per ton.

The person operating the mine shall furnish the agent with sworn returns accounting for the full quantity of merchantable coal mined and pay the royalty thereon. If the coal mining rights are not being operated, such returns should be furnished at least once a year.

The lease will include the coal mining rights only, but the lessee may be permitted to purchase whatever available surface rights may be considered necessary for the working of the mine at the rate of \$10 an acre.

For full information application should be made to the Secretary of the Department of the Interior, Ottawa, or to any Agent or Sub-agent of Dominion lands.

W. W. CORY,

Deputy Minister of the Interior.

N. B.—Unauthorized publication of this advertisement will not be paid for.—58782

### MORTGAGE SALE OF RESIDENTIAL PROPERTY.

Situate in the Municipality of South Van-  
couver, B. C.

UNDER and by virtue of the power of sale contained in a certain indenture of mortgage, which will be produced at the time of sale there will be offered for sale by public auction by Mr. John S. Rankin, auctioneer, of the city of Vancouver, at 12 o'clock noon, on Monday, the 13th day of July, 1914, at 817 Pender street west, in the city of Vancouver, B. C., the following property, viz: All and singular that certain parcel or tract of land situate lying and being in the Municipality of

## NO SIGN SO FAR THAT COURT WILL FREE HINDUS

(Continued From Page 1.)

technical and scientific viewpoint of his former colleagues. The idea rather amused him, in fact.

### Back to the Creation.

But Mr. Bird insisted on giving them credit for this amount of erudition and rang in the racial history of Shem and his descendants during the discussion. Mr. Justice Gallihier went him a few thousand years better and cheerfully admitted that Adam and Eve were our common foreparents. This was carrying the proposition back over too long a vista for Mr. Bird, who hurried on to his next point.

At the forenoon sitting Mr. Cassidy had called up an authority of 1848. Via the encyclopaedia Mr. Bird after luncheon swept back the scroll of the ages to the time the Aryans overran Western Europe. Then he leaped a few century mile-posts and called up poor old Magna Charta. Mr. Bird said that the Canadian Parliament had trampled on her, had used her "something shameful" in depriving the freeborn Hindu of his rights as a British subject to do whatever he blooming well pleased in the way of travelling within the British Empire. Magna was hauled around the courtroom quite a few minutes before returning to her dusty cupboard.

Mr. Bird considered the wholesale operation of the law as improper and not contemplated under the act. "Each case of objection should be dealt with separately," he declared.

The Chief Justice—How can you suggest that individual cases be dealt with? By proclamation?

"Yes," said Mr. Bird, who proceeded to illustrate that a suffragette, released under the "Cat and Moust" Act in England and seeking entry to Canada might be considered undesirable by the government and her landing prohibited.

Justice Gallihier—It seems to me to destroy the force of your argument.

Mr. Bird—But I shall show that the law is ultra vires of the British North America Act.

Justice Gallihier—Well, that's going a step further.

Mr. Bird said many amendments had been made to the Immigration Act, and he quoted the decision of Chief Justice Hunter last year. This was followed by new orders-in-council whose effect was to make it a crime to belong to any British country in Asia, punished by deportation. They were lacking in the respect that they discriminated in favor of the Japanese and Chinese.

The Chief Justice—Many people from the Mother Country are being excluded.

Mr. Bird—I question the authority of the immigration officials to do so. Can it be suggested that Newfoundland could pass a law excluding Canadians? I hold the same position in regard to Hindus and Canada. There is no authority for such a course.

Mr. Justice Martin—Would not a Hindu born in London be excluded?

Mr. Bird—Yes, but he should not be in either case. Such a prerogative rests with a higher authority than the Canadian Parliament.

He quoted the clause of the B. N. A. Act to show that the Provincial Legislatures had power over immigration and that British Columbia had as much authority as the Dominion in this regard. He claimed the orders-in-council were loosely worded. For instance 43 ports of entry were named in British Columbia whereas under the meaning of the act there were not over half a dozen official ports of entry in the province. The act was riddled full of defects. He asserted the Dominion Parliament has never legislated for a province in regard to immigration matters but the governor-general-in-council was attempting that very thing.

Inasmuch as it is especially provided that officers of His Majesty's military and naval forces and their wives and families are not to be considered as immigrants on applying for admission to Canada, W. B. A. Ritchie, K. C., senior counsel for the immigration officials in the Komagata Maru case before the Court of Appeals, argued this morning that it was thereby assumed that British subjects were to be considered as immigrants.

The same section stated that on retiring from their functions as naval and military officers these classes were to be considered subject to the clauses of the Immigration Act. If nowhere else was it made clear that Canada had the right to exclude British subjects of other Dominions, Mr. Ritchie argued that here at any rate was a clear proof that the Dominion was given such power.

During this morning's session no fewer than 71 volumes from the law library were spread upon the lawyers' tables for reference purposes during the argument.