

JUSTICE AND THE AFRICAN NATIVE
BY

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NATIVES PREFER THRASHINGS.

During the recent Nationalist Party (Transvaal) Pretoria conference the Minister Of Justice, Mr. O. Pirow, delivered a warmly applauded speech, a passage from which reads----- "It is impossible to ~~prevent~~ prevent farmers giving their natives occasional thrashing, and that the natives preferred a thrashing to being brought before a magistrate and sent to prison".

In another speech Mr. Pirow blatantly mouthed the phrase "the law knew no difference between black and white".

One thing saves South African Justice from absolute contempt so far as the native accuseds and offenders are concerned, and that is the integrity of the Supreme Courts. When Mr. Pirow was making his Pretoria speech he conveniently forgot about the notorious Nafte case of last year. The facts are a native farm hand was trussed up to a tree, head downwards, by a Transvaal farmer named Nafte.

He was thrashed to death. The general details were so revolting as to stir the sluggish public conscience and Nafte was brought to trial. In the subsequent proceedings Mr. Pirow, then an Advocate, defended Nafte. ^{seven lashes and} The trial ended in a verdict of guilty of homicide and a sentence of five years penal servitude. Shortly afterwards Mr. Pirow was given the portfolio of Minister of Justice. No sooner was he safely in office than he gave ear to Nafte's friends petition, ~~and~~ ordered his release from prison and detention in an inebriates home. In May of this year a Pietersburg man named Johannes Stoltz, cruelly assaulted a native by kicking him in the back and knocking him down several times. For the offence he was convicted and fined £10 or six months hard labour. He was given six months to find the money for the fine. The native is now a cripple.

September gives two further instances of magisterial ferocity in the Johannesburg courts. A native farm labourer stole a fowl. He was apprehended on a charge of stock theft, convicted and given five months imprisonment, five lashes, and ordered to pay 5/- as compensation to the owner of the fowl. Three punishments for one offence, which could not be justified on the grounds of habitual criminal tendencies, because the native had only one previous conviction for theft.

FLOTSAM AND JETSAM

Another native conceived the old idea of forging a reference to get a job. He paid himself a rather naive tribute by writing "I found him entirely satisfactory in garden work, so he is a suitable boy."

He presented the forged reference to his new employer who made enquiries and had him arrested. He was apprehended on a charge of forgery and uttering, convicted and sentenced to three months hard labour. The records of the South African courts are replete with such instances but now and again the sombre pictures are lightened by humorous incidents. One such incident occurred last year at East London. A Welsh Collier steamer named King Cadwallon after being abandoned at sea on fire, some five hundred miles from Durban drifted back to Port Elizabeth. She was caught and taken in tow to East London still smouldering. She was anchored at the mouth of the Buffalo river, preparatory to having the fire put out and her engines salvaged. During the night a storm sprang up. She broke her moorings and again went out to sea with no crew on board. Later she drifted on to the beach at East London and started to break up. The heavy pounding of the waves forced the cargo of coals out of the holds, on to the beach and crevices in the rocks. For days the beach was alive with natives and a few white people garnering the harvest of coal from the sea. One native got tired of being drenched by spray and refused to gather any more coal. His master summoned him under the Masters' And Servants' Act. He was charged with disobedience. Fortunately the magistrate was sympathetic. He pointed out that the "Flotsam and Jetsam" did not come within the scope of a charge under

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the Masters' And Servants' Act and discharged the native. Another instance which might easily have ended badly for the accused was a charge for assault preferred against ~~the~~ native riding a bicycle, who when indicating his intention to turn, put out his hand and inadvertently struck a European boy. The boy and the native were thrown to the ground. The boy's mother charged the native with assault. The magistrate discharged the native on the grounds that the contretemps were accidental.

A Miscarriage of JUSTICE?

Some months ago a charge of miscegenation was laid against a white man and a native woman in Grahamstown. The woman pleaded guilty and was sentenced to six months imprisonment. The man pleaded not guilty and was sent for trial. Subsequent proceedings were dropped because no evidence was led against the white man. We have ~~yet~~ to hear of the Minister of Justice exercising his prerogative and annulling the sentence passed on the woman, as either there has been a miscarriage of justice, or else there is a deliberate attempt to defeat the ends of justice.

"He IS STILL A CHILD."

There are many who claim that the natives are two thousand years behind the white race, and that "he is still a child". These same unthinking people would be horrified if one suggested that they treat their children as the natives are treated when they do wrong. But if those who contend that the native is a child and really want to know the youngster, they will find that just as with their own children as his confidence grows and he realises that you know and respect him, he will turn voluntarily as he grows older for the discussion of his difficulties, otherwise he may continue to think you are the last one to realise his need for help. Parentage, even if it be a foster parentage, carries with it obligations and duties. The native measured in terms of years is young in our white civilisation. He is often torn between two different codes. The one ~~code~~ ^{code} is that of tribal customs, sanctions and taboos. The other ~~is that of~~ ^{is that of} European Law and Custom. with remarkably few exceptions he has proven himself ^{adapt}able to European Law Etc. and a good citizen. But magisterial indiscretions that go unreprimanded are not only bewildering the native, but are making him sceptical of White Justice.

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