

INDIAN OPINION

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NOTES AND NEWS

Rabbi On The Jews

IT is time that a clear statement was made on the actual position of the Jew in the world," said the Rev. Israel Abrahams, Capetown's new Rabbi, addressing the Capetown Rotary Club. "Whenever in the past a world crisis has arisen the Jew has been blamed for it and become homeless." He would not deny that some of the persecutions of the Jews was deserved, but the old saying that "there was never smoke without fire" was the biggest fallacy in the world. Individual Jews, like individuals of any people, may err," he said, "but no race as a whole can be tarred black. "In every country where the Jew has been well treated he has made every possible sacrifice for the country of his adoption. He occupies a patriot's place in the world. The Jew's place in the world is not yet crystallised, but it will be one day," concluded Rabbi Abrahams.

The Jews form part of the ruling race in this country and we wonder why the same rule as enunciated by the Rabbi that, because individuals may err no race as a whole can be tarred black, is not made applicable to the Indian. We find hatred for the Indian in this country not as an individual but as a race and the whole Indian race is tarred black if a single individual may have been at fault. Indians, at least, expect a little more sympathetic treatment from the Jews in South Africa being a persecuted race themselves.

Transvaal Municipal

Association's Anti-Asiatic Policy

At the annual conference of the Municipal Association of the Transvaal, which was opened at Boksburg on Tuesday, October 5, by the Minister of the Interior and Public Health, Mr. R. Stuttaford, the president Mr. D. J. M. Jordaan (Heidelberg) referred to the Asiatic question. There were several big problems connected with Asiatics—mixed marriages, employment of Europeans by Asiatics and the habit of Asiatics of living in European residential areas. The first two of these problems, he said, were not the most serious, as public feeling and opinion

were against them. In addition, they were preventable. But in towns away from the Reef there was no legislation to prevent Asiatics from living in European areas. Asiatics would take up residence in a European quarter, others would come to the same place until there was quite a little colony of them, and the immediate result was that the district deteriorated and the value of the ground depreciated. The Government had promised to set up a commission to go into this problem, said Mr. Jordaan, but that was five months ago and nothing had been done. He was glad of Mr. Stuttaford's assurance that this commission would be appointed. He hoped the municipalities would be allowed to control Asiatic affairs within their own boundaries. The natives had been compelled to live apart from the whites, and the Asiatics should be made to do the same. There was no wish on the part of the municipalities to be unfair to Asiatics, but they were emphatic on the point that Asiatics should live in wards, districts or bazaars of their own, where they could live their own life in their own way.

Land Tenure

When the subject of Land Tenure by Asiatics came up in the report of the Executive Committee of the Transvaal Municipal Association, considerable discussion ensued. A recommendation by the Municipality of Standerton stated that there had been several instances where Asiatics had purchased land in the name of their wives, who were of European or coloured descent. A representative from Warmbaths also related a case where land had been bought by Europeans for Asiatics, and where the European was the owner in name only. There was also discussion on the subject of "bogus companies" which bought land for Asiatics. The incoming executive was instructed to press the Government further in this matter, and a recommendation was made that a deputation be sent to interview the Minister of the Interior.

Some Statements By Dr. Malan

And Mr. Havenga

Addressing a meeting at Klerksdorp Dr. Malan referred to the recent Vereeniging location riots and is reported to

have said it was not merely a question of "slight provocation" on the part of the natives or the police. It went much deeper. Behind the murders was a feeling of hatred for the white man, and behind that hatred was an agitation to sweep up black against white. The natives were urged to strive to be equal to the white man, and to have that ambition they must be Communists. "If we allow this Communistic agitation to continue, South Africa will steer towards very stormy passages" he declared. He opposed votes for natives, saying "white people must be governed by white people."

Mr. N. C. Havenga, Minister of Finance, while speaking at Oudtshoorn was questioned by Mr. Le Roux, the local M.P. Replying to Mr. Le Roux, Mr. Havenga said he personally was not in favour of legislation against mixed marriages. Asked whether he considered Communism was a danger in the country at present, Mr. Havenga replied "No, not now, but if Mr. Le Roux and his friends preach certain things it will soon become a danger." Mr. Le Roux also asked whether the Vereeniging riots were a result of Communism, and Mr. Havenga replied in the negative.

Lord Nuffield's Gift To South Africa

Lord Nuffield has given £100,000 for the development of orthopaedic surgery in South Africa with a view to organising a service for the early discovery and cure of crippling disabilities on a carefully considered plan. Professor Girdlestone will pay a special visit to South Africa during December and January for the purpose of working out the plan. Professor Girdlestone is one of the closest of Lord Nuffield's friends, and is always consulted by him regarding his many generous gifts in furtherance of medical and surgical research. Lord Nuffield, whose princely gift of £1,250,000 to Oxford University for establishing a Medical School at Oxford in 1936 will be remembered, stated some time ago that the supreme ambition of his early life was to become a surgeon, but as there was no money at hand to become one he "had to take on the next best thing—mechanics." "I have been very fortunate in being born into this world with perfect

health," he once said. "And I think that those who have such an advantage should do all they can to help those who have been less fortunate."

A later message from London states that Lord Nuffield has donated another sum of £1,300,000 including £1,000,000

to Oxford University for a new college to encourage research especially in the field of social studies. In addition he has offered a site for the college worth £100,000. These latest benefactions bring the total of Lord Nuffield gifts to nearly £10,000,000.

he said, had been compelled to live apart from the Whites, and the Asiatics should be made to do the same. There was no wish on the part of the municipalities to be unfair to Asiatics, he said, but they were emphatic on the point that Asiatics should live in wards, districts or bazaars of their own.

Indian Opinion

FRIDAY, OCTOBER 15TH, 1937

Status Of The Indian

"We cannot call ourselves a democracy and continue indefinitely to deny any kind of representation to an important and permanent section of the population which contributes a far from negligible amount to the revenue and is, on the whole, law abiding and by no means lacking in a sense of citizenship."

THE above words are quoted from a leading article of *The Star* (Johannesburg) dated October 11, on the subject of Sir Syed Raza Ali's plea, before the Pretoria Rotarians, for a limited franchise for Indians. The paper further states: "It has always to be remembered that the Indian attaches a peculiar sentimental importance to what, in this country, we would call "status" and what, in his land, is known as 'izzat'."

As for the question of "status" or "izzat" of the Indian community in South Africa, whatever opinion might be held by ultra-optimists in our own ranks, we strongly believe that we have been fast deteriorating in this respect. We are not inclined to endorse the view of the Agent-General that our status will be enhanced by the grant of a limited franchise. If franchise is to be given in name only to satisfy Indian sentiment and has no practical value we hardly think it is worthwhile having. It has been made quite clear by the Indian community times out of number that while they do not wish to challenge the supremacy of the White man's rule in South Africa they claim full citizenship rights in this country. Only then will the "status" or

"izzat" of the Indian be safeguarded.

Even to-day without having an official representative in Parliament Indians can have representations made on their behalf through European friends and we do not know that anything more will be gained by the grant of a limited franchise.

We have often stated that the Indian question in South Africa should be considered in the light of India and the progress she has made and the status she holds in the world. If Aga Khan, an Indian, can be appointed president of the League of Nations surely India's nationals in South Africa deserve a little better treatment than what is accorded them. Have they indeed not a better claim than foreigners? But we find foreigners having a better place in South Africa than the Indian. Where then is the "status" or "izzat" of the Indian or India being heeded? In the eyes of the ruling race of South Africa the place of the Indian is with the Native.

Last week we dealt with the attitude of the Transvaal United Nationalist Party, as illucidated at their Congress. This week we have before us the report of the Transvaal Municipal Congress at which the president took exception to Asiatics living in European residential areas in country towns. He hoped the municipalities would be allowed to control Asiatic affairs within their own boundaries. The Natives,

This is then the 'status' given to the Indian in South Africa. And how is limited franchise going to help him? Is it going to help him to have better conditions in Claremont where a 'Harijan' township is proposed to be built for him? In view of what is happening in such localities already existing, we have our doubts if he will be able to do even that much. The Agent-General, who is anxious to acquire for the Indian in South Africa a limited franchise can perhaps render much more useful service by rousing India to the daily insults that are hurled at her rather than cringing for a limited franchise; unless he aspires for the self-satisfaction of counting the limited franchise as one of his 'achievements' when he leaves these shores. That will, however, neither help the Indian in this country nor India. If what we have quoted above from *The Star* is truly meant then the Indian certainly merits better treatment all round. But Indians should also remember that 'izzat' can never be given. It has to be merited by one's character and action and then it comes to him. If the 'izzat' of the Indian is not wounded by the present segregation schemes and he is anxious to grab loaves and fishes even in those areas, then he does not know what 'izzat' is. And a person who does not know what 'izzat' is deserves no better treatment than the uncivilised people of the earth. The British people have staked their all for the sake of their status. We behold the same picture among the South Africans. If we cannot learn from them we have no right to grumble about the treatment we are receiving.

PROTEST MEETING OF SPRINGFIELD INDIANS

DIRECT opposition to the proposed five-year lease of 150 acres of the Springfield Estates to the Durban Turf Club for use as a training track for racehorses, was voiced at a mass meeting of about 300 Indian peasants at the Springfield Estates last Sunday, which was attended by the Deputy-Mayor, Mrs. E. A. Benson, and Councillor H. H. Kemp. The Mayor was unavoidably absent and apologies were received from three other Councillors.

Emphasis was laid upon the fact that the tenants had not been given an opportunity of representing their views by their City Council landlords and it was claimed that this was an instance of racial discrimination as it would never have been permitted had the tenants been Europeans.

Strong denials were made against a statement, attributed to Councillors and Corporation officials, that the tenants kept "shallow water wells where mosquitos bred" and an inspection of the wells after the meeting showed them to be 30ft. in depth and to be covered either by sheet metal or by oil-engine pumps.

Three Generations

The tenants, said Mr. R. Heeralall, chairman of the Springfield Estates Committee, who presided, had lived there through three generations. They had experienced floods, drought and other disasters but had never complained to the Council.

Now, however, the persistency of the Durban Turf Club in its efforts to wrest from them 150 acres of land from which they secured their livelihood, was greatly agitating their minds. If the Club was permitted to have its way the tenants would be ousted without having anywhere to go or the wherewithal to start afresh or support their families. They wanted to purchase the land outright subject to conditions satisfactory to the City Council.

Mr. A. Christopher, of the Colonial Born and Settlers' Indian Association, asserted that it was correct for the City Council to give precedence to development affecting the welfare of the City as a whole over matters of individual enterprise, but in this case, the City as a whole was not going to benefit and, what was of equal importance, there were no anti-flooding provisions at the Flats and, for that reason, the Council should not tamper with what existed.

The people who were actually concerned had never had access to the City Council to lay their grievances before it. Schemes for housing Indians had been bruited in the Press but had got no further.

These people at the Springfield Flats were people who were wanting housing schemes, but no effort was made on the

part of the Corporation to send representatives to meet them, hear their suggestions and obtain first-hand knowledge of what the people wanted and required. If the Council did send members to Indians concerned nothing but good could come of it.

"Many a scheme could be made acceptable," said Mr. Christopher, "and more good would be done than by academic discussions and, what is more, the Council could erect houses in which the Indians will live—not houses that are proposed and in which the Indians will never live." He pleaded for personal contact between the Council and the "black underdogs."

Legal Point Ignored

The Indians felt that their point of view should have been considered by the Council before it decided to allow the Turf Club a lease on the 150 acre site. Such a thing would never have been done had the tenants been Europeans, nor would the European public have taken it lying down. The Council had absolutely ignored the legal point of tenant and landlord. If it did turn the tenants out it would amount to sheer eviction.

Unemployment was very widespread among the Indian community at present. The type of Indian represented by the market-gardener peasant was a very desirable type and they were entitled to a square deal.

Mr. H. H. Kemp, who replied to the point concerning the lease, declared that Mrs. Benson and himself would see that the Indian tenants were given the opportunity of sending a deputation to wait upon the responsible Committee of the Council.

It appeared that the Indians were not satisfied with the conditions attaching to the lease that the Turf Club had to make arrangements regarding the dispossessed tenants satisfactory to the Council and he could assure the meeting that the Councillors present would do their utmost to safeguard the rights of the tenants.

While there was no expropriation of land involved in this case, as at Orient Lane and Riverside, it was apparent that the tenants were going to be chivvied about and he considered it was time the Council put its proposals into black and white in regard to the safeguards over the tenants' interests.

Speaking on the housing question, Mrs. Benson declared that it would be one of her major aims this Council year to see that houses for every class of the poor would be erected in Durban, if possible. The Council had had a scheme prepared for 50 houses for the Springfield area but, for some reason unknown to her, it had not been proceeded with. A twin scheme for Cato Manor was being proceeded with now.

Mrs. Benson pledged herself to do her utmost to try and have a Springfield scheme put into effect.

In reply to questions, the Indians declared that the farmer tenants could pay 15s. a month and the labourers 10s. a month in rent.

Resolutions

The meeting unanimously adopted the following resolutions: "That this public meeting of the tenants of the Corporation's Springfield Estates, convened by the Springfield Estates Committee, does hereby represent to the City Council:

"(1) That many of the tenants have been carrying on market gardening and following agricultural pursuits at Springfield for several generations; and

"(2) That the land tenanted by them is the site on which is, always has been and is destined to continue to be the source of Durban's supply of vegetables.

"The desire of being granted the right to purchase their holdings by private treaty with the Council on terms and conditions to be laid down by the Council, and which shall include:

"(1) A servitude that the ground shall be used only for the purpose of market and agricultural pursuits;

"(2) That if at any time the Corporation requires the resumption of any portion of the land sold for any municipal purpose, the same shall revert to the Corporation on terms and conditions to be prescribed by the Council prior to the sale of the holdings.

"(3) That no buildings shall be erected on the holdings sold except as may be approved by an express resolution of the City Council and then only for the storage of plants, seeds agricultural products, etc.

"(4) That the holdings to be sold by the Corporation to the present tenants shall include those holdings situated within the area proposed to be leased to the Durban Turf Club by the City Council for a period of five years provided that any portion of such area is not required by the Durban Turf Club for the legitimate purposes of the Club's training of horses."

The meeting also resolved to request the Council to meet a deputation.

The total number of tenants affected by the proposed lease, and sale of 150 acres to the Durban Turf Club is 69, the total of dependents of those tenants being 563.

TRUSTEE, MAHOMMEDAN MOSQUE, ESTCOURT, vs. MAHOMED SAYED

INTERESTING SUPREME COURT JUDGMENT

The following judgment, delivered in the above case on August 3, by Mr. Justice Carlisle in the Natal Supreme Court, will be read with interest by many of our Muslim readers:—

IN this action the plaintiff, in his capacity as a trustee of the Mohammedan Mosque of Estcourt, asks for an order authorising him to pass transfer of certain property in Estcourt Township described as Sub-division A of Lot 3 Block F, in extent two roods and at present registered in the names of the plaintiff, Abdoorahman, Mahomed Hoosen Vawda, Mahomed Motala and Mahomed Ebrahim, all of Estcourt, Natal, Indian store-keepers, in their capacity as trustees of the Mohammedan Mosque of Estcourt, to and in favour of the plaintiff Mahomed Ebrahim, Mahomed Ebrahim Haffajee, Mahomed Peerbhay and Ahmed Ismail Jeenah as trustees of the Estcourt Sunni Mohammedan Mosque, subject to and in terms of the constitution of that Mosque adopted at the general meeting of the members thereof on July 5, 1936. The plaintiff also asked for alternative relief and costs.

The defendant, who is a merchant in Estcourt, resists the plaintiff's claim on three grounds: The first is that the only constitution in force is one passed in July of 1935 and not that relied upon by the plaintiff; the second is that the plaintiff has no right to institute the present proceedings on behalf of the Mosque; the third is that the plaintiff is not entitled to be a trustee of the Mosque either under the constitution of 1935, or that of 1936.

The history of the case is as follows:— In 1903 the property in question was transferred by two Mohammedan merchants in Estcourt, Abdoorahman and Abdoorazack by name, to the five trustees of the Mohammedan Mosque of Estcourt, their successors in office or assignees. Prior to the transfer being registered, a committee had been formed by the members of the Muslim faith in Estcourt and the surrounding districts, to raise funds to acquire suitable land for the establishment of the Mosque. The land was acquired and is the land held under the Deed in question. Upon it a Mosque was built and in course of time other buildings were erected on the land which are used for business purposes, and these have from time to time been let to various tenants. Apart from the Deed of transfer which conveyed the property, no Deed of trust was ever executed, nor was any constitution for the Mosque ever adopted

until the happenings in and after 1935, which I shall detail.

In July 1935 difficulties were experienced in connection with the administration of the Mosque property because three of the original trustees had died, and one of them, Mahomed Ebrahim, was so old that he was incapable of carrying out his duties. The plaintiff was the only effective trustee, but even he was considerably advanced in years; he was not living regularly in Estcourt, and was anxious to be relieved of his duties.

In these circumstances, Mahomed Peerbhay, a friend of the plaintiff, requested, with the plaintiff's consent, the "Imam" or priest of the Mosque, to call a meeting of all worshippers at the Mosque for the purpose of electing new trustees and specifying the conditions of the trust, more particularly with regard to: (1) The mode of succession to the trusteeship; (2) the duties and powers of the trustees; (3) authorising transfer of property into the names of the trustees to be elected, subject to the conditions of the trust; (4) granting authority to the meeting's nominee or nominees to take such action and execute such instruments as were requisite or necessary to carry into effect the resolutions passed at the meeting.

Timely notice of this meeting was given, and the meeting was held on July 28. It was attended by some forty-nine people including the defendant, and Mahomed Peerbhay, who took the chair. A draft constitution had been prepared and it was submitted to, and approved at the meeting. It was further resolved that Mahomed Haffajee, the defendant and Mahomed Peerbhay, should be appointed as trustees in terms of clause 4 of that constitution, and they were authorised to apply on behalf of the congregation to the Registrar of Deeds or to the Supreme Court, for an order authorising transfer of the Mosque property to the trustees appointed under the constitution.

The three persons appointed as trustees, signified in writing their acceptance of the trusteeship.

They then interviewed Mr. R. M. Drummond, a solicitor in Estcourt, and instructed him to put the constitution into proper legal form and to prepare the necessary documents for the purpose of conveying the property from the old to the new trustees. Mr. Drummond prepared the documents which he thought were suitable for the latter purpose. He also re-drafted the constitution, but in doing this he had some

alterations so that it differed from the constitution handed to him. He was not called as a witness and the only reason for the alterations being made in the terms of the constitution was given by Mahomed Peerbhay, who said that Mr. Drummond considered that they would be advantageous. Both Mahomed Peerbhay and Mahomed Ebrahim Haffajee signed the documents prepared by Mr. Drummond including the altered constitution and they endorsed on the latter a certificate that it was the constitution agreed upon at the meeting of July 1935. They had, of course, no right to sign such a certificate, because of the alterations, but I am satisfied that they did so *bona fide* and in reliance upon what Mr. Drummond had told them. The defendant, however, refused to sign any of the documents. He insisted that there should be four trustees of whom he was to be the first named, and his brother, who had not been appointed at all, was to be the second. His reason for the request was that he and his brother were the executors or trustees of Abdoorahman, one of the original trustees. He further insisted that the membership of the Mosque should be confined to persons living in the Estcourt Township, and that persons in the County of Weenen and outside the Township of Estcourt, should not be included as members, as the constitution provided.

Mahomed Peerbhay went to some pains in his endeavours to induce the defendant to change his mind and to sign the documents and accept the trust in accordance with the resolutions passed at the meeting, but without success. The defendant was adamant and refused to sign anything.

On February 19, 1936, Mahomed Peerbhay, on behalf of the plaintiff, wrote to the defendant a letter which is headed "Final Notice" informing him that as he had refused to sign the documents, the plaintiff would be compelled to call another general meeting for the purpose of electing another trustee unless the defendant did so within fifteen days. This letter had no effect upon the defendant and consequently a further meeting was called. The wording of the notice, in so far as the objects of the meeting were specified, is in identical terms with the notice which called the meeting of July, 1935. The meeting was held on the 29th day of March, 1936. Some eighty members of the Moslem community of Estcourt district and the County of Weenen were present, among them being the defend-

ant, and Mahomed Peerbhay was elected chairman. The minutes of that meeting shew that lengthy discussions took place. The reasons why the defendant had refused to sign the documents, which I have already mentioned, were given to the meeting by Goolam Hoosen Peerbhay. What he said was not challenged by or on behalf of the defendant. One person present at the meeting, viz., Goolam Gouse, said that the defendant did not sign the documents because they were not legal. He did not explain to the meeting in what respects the documents were not legal, but he may have meant that the constitution which the defendant had been asked to sign and which Mr. Drummond had altered, was not legal because the alterations had not been authorised by the members of the Mosque. The same Goolam Gouse also raised,—apparently on behalf of the defendant—the question that membership was confined to residents of Estcourt Township, but on this point he was overruled by the chairman. Indeed the evidence adduced on behalf of the plaintiff makes it clear that there is no foundation for such a claim as from the inception of the Mosque, members of the Moslem faith living in Weenen County have regarded themselves as members and have been so regarded by others. I may add that this evidence was not contradicted by the defendant who closed his case without calling any evidence.

The meeting proceeded to elect trustees and Ahmed Ismail Jeenah was elected in place of the defendant. Before his election took place, however, his proposer stated that if defendant would sign the Deed he would withdraw Jeenah's nomination. The chairman himself made a strong appeal to the defendant to sign the documents but the defendant would not and Jeenah was elected. The meeting then further elected Mahomed Ebrahim Haffajee and Mahomed Peerbhay to take the places of the two deceased trustees and it was further resolved that the five new trustees should be authorised to apply to the Registrar of Deeds to have the names of the three new trustees substituted in place of the names of the deceased trustees in the Deed of transfer of the property.

At that meeting a further resolution was passed directing the new trustees to frame a constitution which should be submitted to a general meeting of the members of the Mosque for adoption.

That further meeting was held on the 5th of July, 1936, in Estcourt. Some forty-four people attended it, but the defendant did not. Mahomed was elected as Chairman; the constitution was read; a motion for its adoption was moved and seconded, and although the minutes of that meeting do not say that it was passed, the evidence is that the approval was unanimous.

The trustees then took steps in regard to the conveyance of the property and as a result of their interview with the Registrar of Deeds, who required the authority of an Order of Court, the present plaintiff applied to the Court for an Order authorising him to transfer the property to the new trustees in terms of the new constitution of 1936. The Court directed the issue of a *rule nisi*. The defendant opposed this rule and the Court then directed that the proceedings should take the form of an action.

It will, I think, be a convenient method of dealing with the case, to consider in the first place, the grounds upon which the defendant opposes the application.

The first of these is that the only constitution is that agreed to in July of 1935. I do not think that this contention is a valid one for the following reasons: The constitution originally agreed upon was rejected by the defendant and that state of his mind remained steadfast in spite of the overtures made to him to change it, until the meeting of March 1936. When it became apparent at that meeting that his refusal to have anything to do with the trusteeship or the constitution was definite and fixed, the meeting accepted the position and decided *inter alia* upon two courses of action. First, to appoint another person as trustee in his place and second, to have another constitution prepared. It is to my mind clear that as soon as that course was taken, the former constitution became null and void, as did the defendant's office as trustee. If, in the circumstances of the case, that constitution ever was binding by and between the members of the Mosque and the plaintiff, it could only have been so because of the agreement made to that effect when it was originally consented to, i.e. to say, it was a matter of contract. It is a simple proposition that if one party to a contract repudiates it, the other may take him at his word and treat it as at an end. That is what happened in this case. Indeed, I agree with Mr. Shaw's submission that the defendant, having repudiated the agreements come to at the 1935 meeting of the Mosque, cannot now take up the position that the agreements are in force; those agreements being the appointment of himself as one of the trustees and the constitution under which he was to act.

The second ground is that the plaintiff has no *locus standi* to institute the present proceedings, which, it is said, was brought on behalf of the Mosque, as he has no authority from the members to do so. But this ground does not impress me. The plaintiff is a trustee of the Mosque properties and it seems to me that he has the right to come to Court in that capacity and ask for the assistance of the Court to deal with the trust properties and to do so on behalf

of the members who are the *fidei commissaries* under the Trust Deed. He is in fact the sole trustee until others are validly appointed, for Mahomed Ebrahim, the other original Trustee, died after the institution of this action.

The third ground, viz., that the plaintiff is disqualified from trusteeship under the 1935 and 1936 constitutions, is based on the fact that he is no longer a resident in Estcourt or in Weenen County, whereas that qualification is essential.

But this ground only touches the form of relief asked for and does not affect the merits of the case. I will deal with it later when I come to discuss the appropriate order to be made.

The grounds of opposition then, in my view, fall away and I now come to consider the question whether the Court should grant the relief asked for.

It falls into two parts, viz: the appointment of new trustees approved of by the Mosque members and the approval of the 1936 constitution. The first of these creates no difficulty—there is ample authority in our Courts that, if trustees die and no provision exists in the Deed of Trust for the appointment of successors, the Court will appoint them and has the power to do so under the Common Law. See per Watermeyer, J. in *Darroll & Another vs. Tenant & Another* (1932 C.P.D. at p. 416).

There is, however, no authority to which my attention has been drawn to the effect that the Court has made any particular provision to ensure a succession in the trust. It was done in the case of *de Wet vs. Marais* (1911 C.P.D. 361), but the facts of that case brought it within the terms of Act 3 of 1875 (Cape) which provides by section 6 that the Court may appoint new trustees where no other means of supplying a vacancy exists and may (section 8) make such provision, if any, as may be required for the more effectual performance by the trustees of the trusts reposed in them.

But I do not see why, on principle, the Court should not make the order here asked for. Counsel for the defendant did not seriously contend that the Court had no jurisdiction to authorise trustees to hold property subject to and in terms of a constitution agreed by the members of a voluntary association, provided that the Court is satisfied:

- (a) That the constitution is accepted by the majority of such members, and
- (b) that the constitution amply protects the rights of the members as a whole and as individuals.

Indeed, Mr. Golding apparently recognised the power of the Court to grant such an order, for at the outset of

the case he intimated that the defendant was prepared to accept an order authorising the plaintiff to transfer the property to the trustees appointed at the July 1935 meeting, to be held by them in terms of the constitution then framed and adopted.

I find that in the case of Abdool Waharp Salie (10 C.P. Rep. 552) the Court allowed trust property to be sold and the proceeds utilised to purchase other property to be used for the purposes of the trust and apparently did so because it was satisfied:

- (a) That the majority of the beneficiaries favoured the application, and
- (b) that the proposed change would be to their benefit, having regard to the purpose of the trust.

In the present case the application is, on the evidence, supported by the majority of the Mosque members and the constitution is itself one that amply protects all members, having regard to the purposes and objects of the trusts. The order asked for, however, must be varied, seeing that one of the proposed trustees is dead and the plaintiff is disqualified from being appointed. Two other trustees should, therefore, be elected and that should be done in terms of the constitution of 1936.

The order which I make is as follows:

That plaintiff, Amod Mahomed Haffajee, is authorised to pass transfer of the property described as Sub-division A of Lot 3, Block F in the Township of Estcourt, in the County of Weenen, in extent two roods, more or less, at

present registered by Deed of Transfer 1043 of 1903 in the names of Amod Mahomed Haffajee, Abdoorahman, Mahomed Hoosen Vawda, Mahomed Motala and Mahomed Ebrahim, all of Estcourt, Natal, Indian storekeepers, in their capacity as trustees of the Mahomedan Mosque, of Estcourt, to and in favour of Mahomed Ebrahim Haffajee, Mahomed Peerbhay, Ahmed Ismail Jheena and two other trustees to be elected, all as trustees of the Estcourt Sunni Mahomedan Mosque adopted at the general meeting of the members thereof at Estcourt on the 5th day of July, 1936.

With regard to the costs, the defendant is ordered to pay the costs incurred by reason of his opposition as he has been wholly unsuccessful.

Things In General

Sir Syed Raza Ali On Colour Bar

WHAT he called the "monstrous deity of the colour bar" was discussed by Sir Syed Raza Ali, Agent-General for the Government of India, in an address to Toc H in Johannesburg on Tuesday last. The segregation of Indians, he said, had received statutory sanction in some of the provinces of the Union, a feature that distinguished South Africa from all those countries where large European and non-European populations lived side by side. Intolerance was the child of ignorance and artificial walls between various sections of people fostered a want of knowledge which was antagonistic to the spirit of common nationalism. "What sympathy," he asked, "can a member of the white race have with coloured people, when he has no opportunities of knowing under what conditions the coloured people live in this country. Animal sacrifices were offered at one time in the East to propitiate a deity which was supposed to have it in its power to do evil. Protests have brought a change in this practice. It is sad to reflect, however, that in this enlightened and democratic age, reason itself is being sacrificed at the altar of monstrous deity of the colour bar."

Pandit Rishiram Returns To Durban

Pandit Rishiram, after spending a fortnight in the Transvaal, returned to Durban last Monday morning. The Panditji was given a farewell reception jointly by the Hindu Seva Samaj and the United Patidar Society who presented him with purses. Panditji handed both amounts to a fund started in Natal by the Hindu Maha Sabha for the establishment of a lectureship for the cultural uplift of Indians in South Africa.

To Visit Northern Natal

The Hindu community of the Northern Districts in Natal will be delighted to learn that Pandit Rishiram intends shortly to visit the Northern Districts of Natal. Secretaries and presidents of the various

Publisher's Notice

OWING to our Diwali Special Number, which will be published on or about October 29, there will be no issue published on October 22 and on November 5. Correspondents are requested to send in their correspondence not later than October 25. Correspondence will receive attention only if written clearly in ink or typed and as briefly as possible. Photo blocks of Indian public institutions and pictures and reports of other social activities, physical culture, sports, etc., will be welcomed.

—Publisher INDIAN OPINION.

institutions in the Northern Districts of Natal, are requested to communicate with Mr. S. Bagwandeem, P.O. Glencoe, Natal, for particulars. Mr. Bagwandeem is to act as secretary for the Pandit in Northern Natal, and the arrangements with regard to his reception have been left in his hands. He appeals to all the local institutions and committees to give their full co-operation and not to miss this unique occasion of meeting the eminent Hindu Vedic Missionary.

Mayor Of Durban

Mr. Fleming Johnston has been formally re-elected Mayor of Durban for

the third year in succession. Mrs. E. A. Benson has been elected Deputy-Mayor. Mr. Fleming Johnston was Mayor of Durban from 1920 until 1922. He was elected to office again in 1935, and has held office since then. He will remain in office until October, 1938.

Indian Wedding Celebrated In City Hall

A function took place at the Durban City Hall under the chairmanship of the Mayor on Monday, October 4, when Indians and Europeans were entertained by Mr. A. I. Kajee and Swami Bhawani Dayal at a reception, to celebrate the marriage of Mr. J. Maganlal, of the staff of Messrs. A. I. Kajee (Pty.) Ltd., to Miss Gayatri Devi, a niece of Swami Bhawani Dayal. Many speeches were made, expressing good wishes for the future happiness of the bride and bridegroom.

Mahatma Gandhi's Birthday Celebration

A meeting of the officials and members of the Shree Gopallal Hindu Temple (Verulam), was held at the Temple Hall, on Oct. 4, to celebrate the 69th birthday anniversary of Mahatma Gandhi. After prayer, the secretary, Mr. S. R. Maharaj, placed a beautiful flower garland, made by the younger son of Mr. R. Talawantsingh, on the photograph of Mahatma Gandhi, which was placed in the centre of the Temple hall, on a cushion table. Speeches were made by the following gentlemen: Babu Talawantsingh the president, Messrs. R. Talawantsingh, Raghavjee Raghunath, Babu Chandusingh, Choonilal Raghavjee, Jutha Jeewa and L. Rajkumar. A cable message was sent to Mahatma Gandhi, wishing him long life.

Shree Gopallal Hindu Temple

The bi-annual general meeting of the Shree Gopallal Hindu Temple was held on September 12 at the Temple hall, when over 60 members and officials were present. The following officials were elected:—Messrs. Phalad Raghunandan, S. R. Maharaj and Ochoonilal Raghavjee, trustees, owing to vacancies occurred by death and resignation; Life President: Babu Talawantsingh; President: Mr. R. Talawantsingh; vice-president: Mr. Juhta Jeewa; hon. secretary: Mr. S. R. Maharaj; treasurer: Mr. Phalad Raghunandan; committee members: Messrs. S. Dhanpath, S. Sham, S. M. Singh, Dataram, Nathallal Raghavjee, R. L. Beharee, Narowtham, E. P. Jaguth Maharaj, Ochoonilal Raghavjee, Sewamber, S. Athwaree Maharaj; auditor: Mr. G. Ramnath. The committee decided to erect a new Temple Hall at a cost of about £600, for the purpose of a vernacular school for which a Sanskrit teacher will be arriving in the course of a few months. Mr. S. Sham and Mr. Moonsamy (brother of Mr. Tom Murugen) were appointed as trustees for the Verulam Hindu crematorium.

Farewell Reception To Popular Headmaster

A very successful and a very well attended farewell reception was accorded to Mr. Vincent Vinden, head-master of the Mount Edgecombe Government Indian School on Sunday last at Mount Edgecombe, by the Mount Edgecombe Indian School Old Boys, on his impending transfer to Durban. The chairman, Mr. M. N. Pillay, paid a high compliment to Mr. Vinden for his services in the upliftment of the future generation of Mount Edgecombe, and wished him every success in his future activities. The secretary, Mr. C. P. Singh, referred to the Old Boys' Club, of which Mr. Vinden was the president, and said that it was Mr. Vinden who was responsible for its success. Other speakers were Messrs. M. C. Lal (treasurer), M. S. Rajoo and Dwarika Maharaj. Mr. Vinden was then garlanded and presented with a golden cigarette case. After Mr. Vinden had suitably replied, light refreshments were served to all those present. The Mount Edgecombe Indian School Old Boys' Orchestra was in attendance, with Messrs. M. Sigamoney and J. Osman as conductors.

Lecture On Beauty

Under the auspices of the Stanger Hindu Youth Club, Mr. H. Jennings B.A. principal of the European School of Stanger, gave an interesting lecture on "Beauty," to a large gathering of Indians of Stanger, presided by Mr. V. Thomas, at the Stanger Picture Palace, recently. Mr. T. Vadivalu, in proposing a vote of thanks, congratulated Mr. Jennings on his interesting talk and thanked him for his valuable suggestions. The

president announced that a lecture on "How we are related to God materially and spiritually," would be delivered by Mr. R. Sewpaul, a member of the Stanger Indian School staff, on October 24. The members then held their customary meeting.

Mr. Kodanda Rao To Marry An American Lady

Indians in South Africa will be interested to know that Mr. Kodanda Rao, of the Servants of India Society, who was in South Africa as private secretary to the Rt. Hon. Srinivasa Sastri, when the latter served as Agent of the Government of India in the Union, is shortly to be married to an American lady, Miss Mary L. Campbell. Mr. Kodanda Rao met Miss Campbell in Honolulu last July. She is a teacher in a school in Poland.

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Mr. Hajee Ismail Returns To The Union

Mr. Hajee Ismail, the son of Khan Bahadur Hajee Cassim Adam, of Pretoria, who went on a holiday trip to Europe in last April, has returned to Durban on Thursday morning by the German vessel "Windhoek." He was received by many friends and looked hail and hearty after his six months' holiday. Mr. Hajee Ismail reached London just at the time of the Coronation which he took the opportunity to attend. While in London he came in touch with many distinguished Indians and several princes of India and many South African Indian students. He had also the pleasure of meeting Kunwar Sir Maharaj Singh, who was a personal friend of his father's, Sir Phiroz Khan Noon, the High Commissioner for India, and Mr. H. S. L. Polak. Mr. Hajee Ismail also visited the International Exhibition at Paris. He toured right through the continent, and among the places he visited included Brussels, Amsterdam, Berlin, Vienna, Budapest, Geneva, Rome, Monte Carlo etc. He went to the United States of America by the "Empress of Britain." In America he saw skyscrapers and met Douglas Fairbank, Jack Johnson and Joe Louis. Mr. Hajee Ismail has had a thrilling time and has returned with many pictures and mementoes of his interesting tour. During his whole tour, only in London he was disappointed to notice sparks of colour prejudice. Some of the hotels were not too willing to accommodate non-Whites.

Young Indians Social Reform Society

A meeting of young Indians from all over the Transvaal will be held at the Trade's Hall, (Hall No. 3), Kerk Street, Johannesburg, on Sunday, October 17, at 2-30 p.m. to form "The Young Indians Social Reform Society" with the sole object of emancipating the Indian community from the shackles of old-age superstition-ridden customs and traditions. Dr. Y. M. Dadoo is the organiser and all communications are to be addressed to him at 47 End Street, Johannesburg. The circular announcing the above meeting contains also the following: "Revolt against all degenerating and demoralising influences. Forward to wholesome and healthy social reforms; make yourself a better member of human society"; "Only those who genuinely believe in drastic social reforms as a means of our salvation need attend"; "We want determined, fearless and courageous members."

Death Of Lord Peel

The death has taken place in London of Earl Peel, chairman of the Royal Commission which proposed the partition of Palestine. Lord Peel was, for some time, Secretary for India. He was a member of the India Round Table Conference and chairman of the section which dealt with Burma. In 1936 he was chosen as chairman of the commission appointed to inquire into the causes of the unrest in Palestine.

Whole Natal Railway Line Electrified

The first electric train unit arrived on Tuesday, October 5, at Volksrust, and took the passenger train to Durban. This is another step in the extensive development of the South African railways and means that the whole Natal line from Durban to Volksrust, a distance of about 321 miles, is now electrified.

Permits System Changed In Mozambique

A Government notice abolishes many formalities confronting many Portuguese nationals who desire to cross the borders of the Colony into neighbouring territories. Hitherto visitors to the Union were compelled to produce a number of documents in order to secure a passport costing about £4. Now an application for a permit costing about 5/- is all that is necessary. The permits are valid for six months and may be renewed for subsequent similar periods. The order brings the Colony's system into line with that in the Union.

South Africa's First Young Indian Poet

Poet S. Ismail, the principal of Nigel Government Indian School, is the author of "Ashes of Meditation," a book of verse, published by Arthur H. Stockwell Ltd., London, in Vol. XII of "The Poets' Library". S. Ismail is South Africa's first young Indian poet,

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ference held in London, will open the anniversary proceedings. The above institution was founded by Professor Bhai Parmanand M.A. of Lahore, India, during his visit to this country in 1905. The association, during this period of its existence, continued its work towards its objects, that is education, social and religious. A free Tamil school is conducted whereat about 250 children are receiving free education. Weekly meetings are conducted by the members. The associa-

tion's main hall and reading room (situated at the corner of Church and Williams Streets), are used by the general public in the interest of the community. The Natal Education Department are conducting the Girls' Indian High School in the association's buildings. A recent addition was made to the association's premises through the kind and generous donation of Mr. Kuppie Murrie, an old member of the association, known as the H.Y.M.A. Annex.

India Letter

(EXTRACTS FROM A. I. C. C. FOREIGN LETTER)

Education

THE draft bill of the Education Minister to the C.P. Government reveals both the inadequacy of the present system and the end in view. Of the total population of round 1,55,00,000, only 2.6% attend primary schools, while 12.6% are of school-going age. Only 1 child in 5 even attends school. Literacy during the last 80 years has advanced by 2.2% and during the last 30 years, the number of illiterates has been reduced by one in a hundred. If the present rate of educational progress were to remain constant, the Central provinces could hope to liquidate its illiteracy in the year 4937 A.D.. The draft-bill provides for a Vidyamandir, school, for every village with 40 boys and girls of school-going age. It also introduces a system of conscript teachers and social servants. In order that a student should qualify for the matriculation certificate, he will have to put 1 year of free teaching and social service. Again, if a student wishes to qualify for a further college degree, he will devote himself for another year to free teaching and social service. Board and lodge shall be provided for him at village expense. This system obviously seeks to achieve two ends at the same time. To the high-school and college boy and girl, it will give social as distinct from individual attitudes. To a society which is today unable to bear the expense of education on service-payment basis, it is the only escape from continued illiteracy. The draft-bill has been drawn up in consultation with Mahatma Gandhi who writes: "Education should be revolutionised as to answer to the wants of the poorest villager instead of answering to those of the imperial exploiter."

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Foreign Affairs

In answer to a question during question-hour in the Central Assembly, the Government of India explained that, though India was a full member of the League of Nations, their relations with the League were only indirect and through the British Government in London. Further, the British Government had not consulted the India Government in regard either to China or Spain and the India Government was fairly contented with this position, as China and Spain did not concern them. And yet, Indian troops have been sent to China. The Governor-General used his special powers to prevent discussion on three major problems of foreign affairs. He has disallowed a resolution which drew attention to the menace of war and India's advantage in keeping away from it. In like manner, all discussion on the Indian delegate's speech at the London Imperial Conference and on Palestine was throttled. In answer to a question whether the Indian delegates at international conferences re-

presented Indian public opinion, the Government declared that they represented India and the President rescued the Government by pronouncing that everybody knew what India meant. Demonstrations were held all over the country to express resentment against the imperialist partition of Palestine and several cities observed wholesale strikes.

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Training Students For Citizenship

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The Sporting World

Verulam Temple Cricket Club

THE Verulam Temple C.C. met the Sydenham C.C. in a friendly fixture on Sunday, October 10, on the Verulam Indian Sports Ground, before a fairly good crowd. This was the second match of the season played on the home ground. It was the bowlers day as would appear from the very small scoring: Verulam Temple C.C. first innings, 28 runs; Sydenham C.C. first innings, 39 runs. The Temple's batsmen determined effort performed better scoring in their second innings, and were able to carry the score to 82 runs. (Gavin Maistry 19, B. Sewsunder 12) were the best performers, and thus left the visitors with 72 runs to win. The Sydenham batsmen attacked the bowling vigorously, the second wicket fell at 32, but the remaining offered better assistance, and the whole side was dismissed for 63 runs, leaving the Verulam Temples C.C. victorious by 9 runs.

Malvern Indian School Sports Committee

The sixth annual general meeting of the Malvern Government-aided Indian School Sports Committee attracted a fairly good attendance on Sunday afternoon, Mr. Sirkari Naidoo, president, being in the chair. In submitting his report, the secretary, Mr. V. K. Naidoo, thanked the public who subscribed so generously to their sports fund, to the teaching staff for arranging the entertainment, to the Cartage Contractors, and to Mr. K. P.

Moodley, who had so willingly assisted the club. The sports, last year, were very successful, and were well attended. Thanks were also extended to Mr. H. Middleton, a leading member of the local Health Board and patron of the above committee, who had presented the prizes at the sports. The treasurer, Mr. S. M. Saib, submitted his financial statement which showed a good figure of credit balance in hand, which was an improvement on the last year. The following office-bearers were then elected for the ensuing year:—Patrons: Messrs. H. Middleton, Geo. Hindson and King; President: Mr. V. S. Sirkari Naidoo B.A.; vice-presidents: Messrs. G. Mungar, A. B. Naidoo, F. M. Charles, K. P. Moodley and M. S. Moodley; secretary: Mr. R. J. Maharaj; assistant secretary: Mr. J. Gangoo; treasurer: Mr. S. M. Saib; auditor: Mr. S. J. Maharaj; committee: Messrs. P. K. Pillay, V. N. Moodley, P. S. Moodley, R. G. Kid, S. G. Naidoo, R. Lucken, P. S. Pillay, N. Needhie, Amir Khan, K. P. Naidoo, M. Budram, S. S. Moodley, M. V. Naicker, A. S. Naidoo, L. R. Naidoo, M. Subratie, E. Sheikh, T. Pillay, Misses E. G. James and J. C. Ramrack. It was unanimously agreed to hold the annual sports in the month of December.

Dundee And District Golf Club

Fifty entrants representing Durban Golf Club, Durban Country Club, Maritzburg and Dundee competed for the

Northern Natal Open Championship, held on the Dundee course on Sunday, September 26, with strong wind in the morning but fine weather favouring in the afternoon. Mr. S. O. Peer opened the tournament, by driving off the Tee at 8.15 a.m. From the first round, J. Sewpersadh, the Natal Golf champion, with 30 lead the field by 4 strokes, and eventually returned a 36 hole score of a brilliant 128 with R. Laljee as runner up with 136, doing the last 9 holes in 29. He was closely followed by J. M. Pillay and E. Marrian, and P. Rajoo with 137. At the conclusion, a banquet was given by the Dundee Golf Club. B. Ramouthar, a member of the Dundee Club, holed out the 8th, (155 yards) in 1. On Monday, J. Sewpersadh and Jack Nathan played against two local Europeans, G. H. Williams and H. Kahn, in a four ball match over 18 holes. The Indians finished 2 down after conceding 6 strokes. This in itself was a creditable show against such seasoned opponents.

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