

Indian Opinion

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To Correspondents

Correspondents are requested to kindly send their matter in for publication to reach here not later than Wednesday.

Manager 'Indian Opinion'

Notes and News

Rev. C. F. Andrews In England

THE Rev. C. F. Andrews arrived in England on Nov. 30, informs our London correspondent. He landed at Plymouth in order to spend a few days with his sisters in Devonshire before proceeding to London. He went to India early in August last because he felt the need for establishing a human contact in view of the gravity of the situation. Few details of the work he has done during these months have reached this country. But we know that he has been with Mahatma Gandhi and talked with Jawaharlal Nehru and other Indian leaders. He has also seen the Viceroy and several other officials at Delhi. The work of this "human shuttle" as he has been called, is well known in many countries and we can imagine the use he has made of his time. One of the Indian papers, commenting editorially says: "His career has been one of endless wandering and it is doubtful whether the submerged classes in the world know of a more familiar figure than his. . . Andrews has represented in himself the type of Christian life which is a living sermon. . . Whether in South Africa or in British Guiana, let alone India, he has friends too numerous for his own capacious memory."

"Modern Review" On Overseas Indians

COMMENTING on the resolutions passed by the Overseas Indians' Conference held at Ajmer in last October, *The Modern Review* (Calcutta) writes:—

There was a time when Indians were encouraged to emigrate to Africa. South Africa and Kenya owe much of their prosperity to these Indian emigrants. This has been admitted by Englishmen who are in a position to pronounce an authoritative opinion on the subject. But for years past these Indians are being ill-treated and denied their just rights. By the assisted emigration scheme and other means many of them have been repatriated to India, where their condition being very unsatisfactory,

they generally want to return to South Africa, Fiji, etc., from where they came. So repatriation should be given up. But though it was thought that the assisted repatriation scheme had been practically abandoned as a matter of fact last year more men came back from South Africa than ever before. One of the grounds on which Germany was deprived of her colonial possessions was that she ill-treated the indigenous population there. But Great Britain does not take any adequate steps to prevent such ill-treatment of non-white settlers in her colonies by white ones.

Overseas Indians have all along put up a plucky fight, and fully deserve all the support which we Indians in the homeland can give them.

Mahatma Gandhi On Inter-Caste Marriages

AT the conclusion of the marriage ceremony of Mahatma Gandhi's grand-nephew at Wardha, he said, addressing the couple:

This was an inter-provincial marriage and not an inter-caste one. He had no hesitation in advocating inter-caste marriages under well-defined limitations, for he believed there was no *varna* or division in the original sense of the term and that limiting marriage to the same division or *varna* was never its distinguishing feature.

THE SECRETARY'S REPORT

ELSEWHERE is given a resume of the report submitted by the secretary of the Transvaal Indian Congress, Mr. D. M. Nursoo, at its election meeting held in Johannesburg. As he has stated in his introductory remarks, "it is customary for secretaries of an institution to submit a report of work done," Mr. Nursoo has obviously done nothing more than the mere observance of that "custom." The secretary has shown no practical work done. Reports of the meeting at which the said report was submitted go to show that any discussion arising out of the report was not allowed. If it had been allowed much light would perhaps have been thrown on the working of the Transvaal Indian Congress. There are certain discrepancies that outsiders even can detect. For instance the secretary states, among other things, that one of the emergency conferences held in Johannesburg was 'to decide whether to co-operate with the Union Government in the colonization inquiry and to send a representative to sit at the inquiry.' In fact the said conference was called to confirm the action of its executive in having decided to co-operate with the Colonisation Committee and having appointed its representative on the Committee. An action which was taken without first consulting the public. The report is silent as to how the Transvaal delegates to that conference were elected.

The report further states that one of the emergency conferences was held "to reject into the Asiatic Land Tenure Act," and the secretary is proud to state, "that after full and frank discussion by delegates

present the Transvaal view, that the Act be rejected in its entirety, was unanimously agreed to." We might add here, what has been omitted in the secretary's report, that a mass meeting of the Transvaal Indian Congress was held at which it was unanimously decided to resist the Act and to refuse to fill in the forms sent out by the authorities in terms of the Act. In view of this and in view of the unanimous resolution of the emergency conference rejecting the Act in its entirety, one would have expected to learn from the secretary's report as to what action, if any, the Congress took to abide by those resolutions, and, if not, what has been the cause of the change of front, for it is now learnt, that almost a hundred per cent of those concerned have confirmed to the requirements of the Act with the encouragement and assistance of the Agent of the Government of India. The people would like to know if the Congress has taken any action whatsoever in this connection or is the secretary also "proud" to state "that nothing has been done in the matter."

Then again at the Transvaal Provincial Conference Mr. S. M. Nana, the jr. secretary of the Transvaal Indian Congress, in opening the discussion on the Transvaal Asiatic Land Tenure Act, made an impassioned speech attacking the Act which he described as "a machinery invented by the Government to cause the ruination of Indians in this Province."

"It contained," continued Mr. Nana, "all the elements of segregation, which they had always resolutely opposed. In this attitude they were supported by the present officials of the Commercial Association. In asking for any particular area to reside in and trade in, they would be asking for segregation."

Practically all avenues of employment were closed to them. How were they to fulfil the conditions of maintaining a Western standard of life as foreshadowed by the Capetown Agreement of 1927?

"The Congress' attitude in opposing the Act," he declared "was not an attitude determined in a spirit of bravado or hostility to the Government or the Europeans, but in a feeling that we were South Africans, born and bred in South Africa, and with a right to live and earn a livelihood in the land of our birth."

"The Government had a calculated policy to reduce the Indian population in South Africa without even paying the bonus of £20 under the repatriation scheme. "We know," he said, "that the things that are happening in this province will be revolting to the soul of Kunwar Sir Maharaj Singh, but he is acting under the orders of the Government of India. The Government of India wants to live in terms of friendliness with a sister Dominion, though we are made the victims."

"The Agent should tell his Government that the South African Government is anti-Indian, and if the Agent goes away we don't think that our lot will improve, but we will know at least that the Government is not a party to the anti-Indian legislation."

The Congress is now seen not only heartily co-operating with the Agent but dancing to the tune of the Agent. One would have liked to know what compromise, if any, has been arrived at with the Agent that has led to this change, but the secretary's report is quite silent on the point.

Not a word is contained in the report about the Transvaal Licences (Control) Ordinance which, we understand, is put into force and many old licences have been refused. It is not a little surprising that the Congress should be silent on such a vital issue. Strong attacks were made on the Agent at the Transvaal Provincial Conference on this question. And yet the public knows nothing of what steps the Congress has taken either

independently of or jointly with the Agent to bring redress to the community.

There has been some heart burning on the submission of a memorandum by the Transvaal Indian Congress to the Provincial Finance Committee. Both the T.I.O. Committee members and the public have been kept in the dark. A very unsatisfactory reply was given by the secretary when asked to produce a copy of the memorandum before the meeting, namely, that it was not prepared, although the secretary is reported to have admitted that twenty-five copies were made of it!

Lastly the secretary expressed the thanks of the Congress "for the services rendered by Mr. Bramdaw at all times." The public is unaware of what position Mr. Bramdaw holds in the Congress.

The report is, therefore, in many respects defective and does not place before the public the true position and one can therefore very well understand the dissatisfaction caused at the meeting.

MR. QURESHI'S EXPERIENCES

WE heartily welcome as one of our compatriots Mr. A. I. Qureshi, a post-graduate student of the London School of Economics and Political Science, who has come to South Africa in connection with his research work into rural credit and marketing organisations of Australia, New Zealand and South Africa. We can but sympathise with Mr. Qureshi for the humiliations he was put to by the Immigration Authorities on his landing in Durban because he happened to be an Indian. His high qualifications acquired from the highest institution of the British Empire, or even a special letter of introduction from the Governor-General of New Zealand to the Governor-General and to the Minister of Justice of the Union did not avail him of anything. It is incidents such as this that really prove what the life of the Indian is in this country. For a self-respecting Indian who does not wish to pocket humiliations or overcome them by bribery and corruption, it is a life of perpetual struggle in this country. In this connection neither the Capetown Agreement nor the three successive Agents of the Government of India have succeeded in bringing about any reform. Mr. Qureshi has come to this country in connection with a work with which Indians are not concerned. We would, however, suggest to him to spare some time in acquiring a first hand knowledge of the conditions under which his brethren are having to live in this country. In doing so we would recommend him to go about the country in his private capacity. Let him travel by trains as such and go to the Post Offices or Telegraph Offices, or some of the Banks, to see how well-to-do Indians who have their accounts there are being treated, and to the municipal buildings to see how payments of rates are received from Indians no matter what their qualifications or status may be. Let him also board the tramcars and see what Indians are subjected to. Let him visit the locations in which Indians are herded. It will all be a revelation to him and give him food for thought and supply him with ample material to place before our brethren in India. If Mr. Qureshi were to take this opportunity incidentally afforded him of doing this he would not only himself profit by it but would be rendering

perhaps the best possible service to his brethren in this country by letting India and the world know the truth about their conditions.

Fountain Of Wisdom

Every thinking man realises that the present state of drift in Child Welfare is a serious menace to White civilisation.—COLONEL BLEW.

He that speaks ill of another, commonly before he is aware, makes himself such a one as he speaks against; for if he had civility or breeding, he would forbear such kind of language.—JOHN SELDEN.

*Lives of great men all remind us,
We can make our lives sublime
and departing leave behind us,
Footprints on the Sands of Time.*

To be haughty to those beneath us is always the sign of a vulgar mind, and a person of low ambition, as when one makes a vaunt of strength before the weak.

—ARISTOTLE.

Duty is a power which rises with us in the morning, and goes to rest with us at night. It is the shadow which cleaves to us, go where we will, and which only leaves us when we leave the light of life.—GLADSTONE.

A Learned Indian Visits Union

Differential Treatment By Immigration Authorities

Mr. A. I. Qureshi, M.A., F.R.E.S., a post-graduate student of the London School of Economics and Political Science, and an honours graduate of the University of the Punjab who is at present investigating rural credit and marketing organisations of New Zealand, Australia and South Africa has arrived in the Union last Sunday.

Though he was a first-class passenger holding a British passport, also a special letter from the Governor-General, Lord Bledisloe, to the Governor-General of the Union, Lord Clarendon, and General Smuts asking that he should receive every assistance, Mr. Qureshi had to submit to all the restrictions imposed on Indians ordinarily entering the Union.

The following story of his bitter experience was related by Mr. Qureshi to the *Natal Mercury*:

Research Scholarship

"I am travelling on a research scholarship given by the University Burear of the British Empire on the recommendation of the Committee of Vice-Chancellors and Principals of Great Britain and Ireland," Mr. Qureshi explained.

"In order to enter South Africa I had to undergo certain formalities which are essential for every Coloured man. I was made to feel as if I were a prisoner, and I could not help thinking that I would never care to visit this country again until the present laws are modified."

Mr. Qureshi said that though his passport was no different from that of other passengers and though his credentials were obviously in order, he was not allowed to leave the ship until he had filled in a series of special papers and had made a deposit in South African currency, of which he had none. He was not permitted entrance until long after other passengers were clear. In addition he was ordered to report himself to the authorities on leaving the Union.

India's Status

"People of South Africa should know that with the coming political reforms taking place, the status of India will be almost equal to that of the Dominions," Mr. Qureshi remarked. "The Indian Legislature would consider the unity of the Empire not from the British, but from the Indian point of view."

"The white population of the Union of South Africa is only 1,900,000, and you can imagine how difficult it would be for you to defend yourself if the army of the Empire were not available. The largest army is in India, so in order to defend yourself you need the sympathy of India."

"At this point in the present political development this fact should not be overlooked. In the interests of humanity the white people should try to forget the differences between white and coloured and should try and improve the condition of the coloured peoples, otherwise the coloured people will threaten white civilisation with their low standards of living."

Japan is a small Asiatic country, and it has put the whole world into trouble by selling cheap goods. You can imagine what the condition of the world would be if similar progress to that of Japan were to be made by India and China in the manufacturing world.

I wish to suggest that Indians who are already in South Africa should be given equal rights of citizenship as is the case in New Zealand and Australia. Indians should not be treated differently in the different Provinces, and restrictions on their movements from one Province to another should be removed."

"Important Unit"

Mr. Qureshi said that at the present time when the Disarmament Conference was threatened and while the horizon was clouded with political intrigues, citizens of the British Empire could proud of their unanimity in all matters of importance.

They had to see that this unity was maintained. India was a very important unit of the British Empire and the future unity of the Empire depended on the good relations of the Empire countries with India.

"My tour in Australia, New Zealand and now South Africa has convinced me that the Empire has a very glorious future if the present misunderstandings which exist between India and other countries of the Empire are removed and the anti-immigration laws in many Dominions are modified," Mr. Qureshi added.

"By no means do I suggest that Empire countries should open their doors freely to Indians, but I think there should be a small quota for admission of educated Indians who have got decent standards of living."

"The unity of the Empire sometimes looks like a shadow to me, when to my great disappointment I see that Indians, even very well educated Indians like myself, are not treated as British, but as Coloured and Asiatic."

Mr. Qureshi's Questions

An appeal for assistance in his investigation is made to farming bodies and other interested persons by Mr. A. I. Qureshi, who is anxious to receive replies to the following questions:

What are the various requirements for which the South African farmer has to borrow money?

What are the various organisations which supply him with credit facilities?

On what securities does he borrow money, and what rate of interest does he pay?

Is he satisfied with the present credit facilities? If not, what suggestions has he to make?

Replies should be sent to Mr. Qureshi, care of the London School of Economics. He is now on his way to Pretoria to examine the question from the official side, but he is anxious to receive information from the farmers' point of view as well. The results of his inquiry will be published in book form.

[The above is dealt with in our leading article.—Ed. I.O.]

The T. I. Congress Secretary's Report

In the report submitted by Mr. D. M. Nuroo, secretary of the Transvaal Indian Congress at its election meeting held in Johannesburg on Sunday December 9, the following has been taken note of as the important work done by the Congress during the year:

Three mass meetings, fifteen committee meetings, three farewell meetings, two receptions were held by the Congress. Three conferences were held in Johannesburg of which two were emergency conferences of the S.A.I.C., and one was the Transvaal Provincial Conference.

"The one emergency conference," the secretary states, "was to reject in toto, the Asiatic Land Tenure Act, and the other emergency conference was to decide whether to co-operate with the Union Government in the colonisation inquiry, and send a representative to sit at the inquiry. In the first instance, I am proud to state, that after full and frank discussion by delegates present, the Transvaal view, that the Asiatic Land Tenure Act be rejected in its entirety, was unanimously agreed to. Thus the Transvaal delegates won the day. In the second instance, on the question of the colonisation inquiry, half-a-dozen of the Transvaal delegates differed with their co-delegates of the Transvaal who were in the majority, and equally took part in the discussions. Heated arguments ensued. After some hours of deliberation, the house with a majority carried the day, that is to co-operate with the Union Government, and to send our representative Mr. S. R. Naidoo to take part in the inquiry, whereby the interest of the community could be guarded."

"The Transvaal Provincial Conference held was a huge success. Delegates from all over the Reef and country in the Transvaal took part. The most important of all questions were the licences and the question of immigration. After discussing all the disabilities suffered by the Indian community in the Transvaal resolutions were passed and forwarded to the respective departments of the Union Government."

There were two deputations of the Congress. One with the Honourable the Minister of the Interior, Mr. Hofmeyr, and the other with the Provincial Finance Commission. The first deputation with Mr. Hofmeyr was just a friendly talk. The other deputation met the Provincial Finance Commission in Pretoria and submitted a memorandum "containing all the necessary grievances." "I am pleased to state," the secretary states, "that your delegates made a good impression in the minds of the Commissioners in question, whose attitude seemed very sympathetic with the Transvaal case submitted."

The Congress held 5 memorial meetings in respect of the late Messrs. Sen Gupta, M. S. Dangor, Mavjee Premjee, Vithalbai Patel and O. K. T. Naidoo.

The secretary expressed the thanks of the Congress "for the services of Mr. Bramdaw at all times."

[The above is dealt with in our leading article.—Ed. I.O.]

Floods In Orissa

(By REV. C. F. ANDREWS)

There have been great floods in many parts of India during the monsoon season, but the overflowing of the Mahanadi River in August and September caused the most disastrous flood of all. Its effects are still unremedied.

An opportunity was given me to be present on the scene of action at the height of the second overflow at the end of September which came almost up to the level of the earlier flood in August. It was a weird experience to entrust oneself to the whirling current in an open country boat at full flood we were carried along with amazing rapidity, while the boatmen steered a dexterous course along the eddying flood-tide. The sight of the banks flying past and the railway bridge receding into the background cannot easily be forgotten. It was like watching some film picture which moves rapidly before the eyes. Human life seemed like a tiny plaything amid forces of Nature so vast.

The place we aimed at reaching was one of the branch rivers of the Delta, called Kathjori. The main river,—the Mahanadi—as we went along, seemed always to be leaving sight. But the branch river, whose current was still more rapid, was much narrower than the main stream. At last we found ourselves being drawn by an undertow towards the right bank, where a huge breach had been made by the flood in the embankment. Our boatmen had to work together with all their might and main in order to avoid being sucked into this new current which was now pouring through the breach. After we had avoided our first difficulty they had again to work with the utmost energy in order to get across the Kathjori River to the right hand bank, for we had planned to make a landing just below the breach. When we reached the shore, we were obliged to walk some distance up stream again, along the embankment, before we came to the Marwari Relief Centre at Khandeitta. There we saw crowds of pitiable human objects, who were congregated along the embankment. They raised a feeble cheer, when they saw us coming, which was more like a wail than a shout of welcome.

These were the villagers rescued from the first flood as it had rushed through the breach on that day of wild hurricane and driving rain, August 4. A few had perished in the raging waters, and it seemed amazing to me that the loss of life had been so small. Then on the very day before we arrived, the river had again reached its highest flood-level and some poor villagers who had gone back to their huts on the rising ground had been once more marooned. These had to be rescued by boats which were sent out from the Marwari Relief Centre. Thirty men, women and children had thus been saved. These were pointed to us by the Secretary of the Marwari Society who had gone in a dug-out to rescue them. There was misery still written on their faces, and a hopeless fatalism bordering on despair was in their eyes. The women sat on the ground and turned their heads away from us as we drew near.

While the villagers had regained none of their composure, as they sat on the embankment and looked out towards their fields under water, the cattle which had been rescued, along with their owners were stolidly contented. They were munching dry fodder and paddy husks, which the kindly Marwari Secretary had provided, and they seemed eminently satisfied with their entire freedom from arduous labour. After the sight of other cattle, reduced almost to skin and bone, it did one's heart good to see this picture of obvious content.

We were told by those who had traversed the low-lying country ahead that the new river had rushed

onward in its winding course till it had reached the sea at last, near to Puri. Thus for nearly 60 miles, it had wrought havoc over a large protected area washing away the young paddy and devastating the soil. Owing to the extreme vigilance with which the situation had been met by Government officers and volunteer bands the loss of human life had been, as I have stated, amazingly small. But the cattle everywhere had suffered most and even those whose lives had been saved had not been able to find anything to eat in the midst of flood waters. Only at the relief centres had any provision of fodder been made and the difficulty of keeping up the stock while the number of rescued animals increased had been very great.

Here the work done by different Marwari Societies in Calcutta and also by the Ramakrishna Mission and other agencies has been of great value. The volunteers who have gone out from the Orissa Flood Relief Committee and established centres have made already a definite impression upon this mass of human misery. The officers of the Bihar and Orissa Government have spread a vast network of help over the distressed area. The work of these different agencies is happily not overlapping and there is a co-ordination of help going on which is altogether admirable.

But where at least two thousand square miles have to be covered by relief work, it is easy to understand how inadequate the present effort is to cope with the disaster. Funds will be needed by each agency and also self-sacrificing workers.

A few days later, I was taken along one of the banks of the Mahanadi River to a special point, where the view at sunset has a peculiar beauty of its own. It astonished me to find that the flood so quickly subsided that already sand-banks had begun to appear in the main stream where the torrent had rushed past before. The peace and calm of that evening sunset over the still waters of the river could not easily be forgotten.

The Mahanadi has many moods. Some of these are as gentle as a child asleep. Others are like a raging monster lashing itself into wrath. No river in the whole of India is more difficult to control. None endangers so much the village homes that cluster on its fertile banks.

Mahatma Gandhi's Activities

(FROM OUR OWN CORRESPONDENT)

Mahatma Gandhi's tour began on Nov 7, from Wardha with the opening of a private temple in a village 9 miles away from this town. He called this an auspicious beginning. The programme at Nagpur was extremely heavy, little time having been left for rest. The enthusiasm of the people everywhere was unbounded. They collected in their hundreds and thousands to see and hear him. The public meeting at Nagpur was attended by nearly 80 thousand men and women, and was the largest meeting Nagpur had ever seen. Loud speakers were installed and people listened with rapt attention to Mahatma Gandhi as he poured out his heart for full 45 minutes. Auctions of ornaments went on as usual at every big meeting. The meeting of the University Students was well attended. Gandhiji spoke there for twenty minutes in English. The students gave a purse of Rs. 701 in addition to Rs. 898 realised by auctioning some donated articles including an autographed portrait of Mahatma Gandhi which was sold at Rs. 200.

Mahatma Gandhi left Wardha in very good health. He weighed 108 lbs. on the morning of the 8th, prior to his departure from Wardha. He now-a-days gets up at 6 in the morning and works till prayer time, i.e. 4-30

a.m. He makes up the arrears of sleep while travelling by motor. The programme hereafter is not so heavy as it was at Nagpur and there may be less strain. A press representative asked him if, after the experience of the last two days he would be able to bear the strain of the tour. Gandhiji replied: 'Two days is too little a time compared to the 9 months in front of me. Therefore, I cannot say whether I shall be able to bear the strain. I can only say that if God wills that I should finish this tour, then in spite of all this strenuousness He will give me the strength to finish it.'

Mahatma Gandhi will be touring in the C.P. till December 8, after which he is to go to Delhi, and thence to South.

Whiteman Charged For Murdering Native

Piet Jansen, manager of the farm Bagshot, the property of Mr. G. Krooman, appeared before the local magistrate, Mr. P. E. Fourie, on Dec. 11, for preparatory examination on a charge of murder says the Harrismith correspondent of *The Star*.

Jansen, it was alleged, was in the milking kraal on Wednesday, December 6, when a fracas took place between Jack Masibi and two other small natives, and, going up to Jack, struck him a few blows with his whip. Shortly afterwards, as the boy was passing him, it was further alleged, he struck him again, this time with the handle of the whip, behind his head. The native staggered a few yards and fell, then rose, staggered on a little and fell down, dying within a few minutes.

At the close of the evidence for the Crown Mr. Dirk de Villiers, who appeared for the accused, applied to the Court to have the charge of murder reduced to one of culpable homicide for the purpose of asking for bail for his client.

The magistrate said that on the evidence for the Crown it would appear that a prima facie charge of murder had been made out, but that the papers would be forwarded immediately to the Attorney-General for his decision.

The accused was committed for trial on the charge of murder and he reserved his defence.

CONFERENCE

Colonial Born and Settlers Indian Association

A Conference of the Colonial Born and Settlers Indian Association will be held in Durban on December 30 and 31 and January 1 and 2 on vital matters affecting Colonial Born and Settler Indians.

A. CHRISTOPHER,
President.

A. HAFFEJEE

S. L. SINGH

D. S. CHETTY.

Joint Secretaries C.B. and S.I.A.

Supreme Court Judgment

Vally Jooma vs. Lydenburg Rural Licensing Board

The following is the text of the judgment given by the Supreme Court (Transvaal Provincial Division) in the case of Vally Jooma vs. the Lydenburg Rural Licensing Board. The judgment was given on September 4, 1933, and is published here owing to its importance:—

This application raises important questions in regard to the effect on the rights of traders of the new provisions in Ordinance 3 of 1932. Under the previous Ordinance, 11 of 1926, the body entrusted with the power of issuing the certificate required by the trader, before he could obtain the trading licence, if it refused the certificate could only do so on certain grounds specified in the Ordinance, while, if the application was for a certificate authorising the renewal of a licence, the evidence had to be recorded as well as the reasons for the refusal.

The terms of the new Ordinance differ radically from those of Ordinance 11 of 1926. The local authority or rural licensing board is not confined to certain grounds of refusal: section 7 (1) enacts that the local authority or board shall have a discretion to grant or refuse a certificate. Moreover the Ordinance is silent on the matter of recording evidence or reasons for refusal.

The applicant, who held a hawker's licence for the year 1932, applied for a hawker's licence for the year 1933. The rural licensing board, of which the magistrate for the district of Lydenburg was chairman, considered the application on the 27th January, 1933, the board sitting in the court room at Lydenburg. At the sitting of the board it dealt with a number of applications granting certificates in the cases of one European general dealer, two European hawkers and three Asiatic hawkers and refusing certificates in the cases of one European hawker, two Asiatic hawkers and two Asiatic general dealers. In no case did it give grounds or reasons. Although the petition alleges ulterior motives and prejudice against Indian traders, this ground of review was withdrawn at the hearing and it need not be considered, there being no evidence to support it. The board's refusal to give grounds or reasons for the refusal is, under the circumstances, not sufficient to justify the inference that the ground of refusal was colour prejudice. Another point that can be disposed of briefly, before dealing with the substantial questions in the application, is the allegation that the applicant had no opportunity of appearing before the respondent to give evidence. The affidavits show that the applicant, who had notice of the board's sitting, was in the court-yard of the building during the hearing accompanied by another Indian, John Mahomed, who had handed in the applicant's application and who acted as his agent; but neither of them entered the room where the board sat. The Secretary of the board knew that they were in the court-yard but he did not call either of them. John Mahomed stated in his affidavit that the board's procedure, in the past, has been to refuse to admit Indians in the court room during the hearing of their applications and to let them wait outside. The magistrate denies these allegations and states that he has on occasions seen John Mahomed and other Indians who have submitted applications in the Court room, that the procedure of the board is to ask all applicants if they wish to say anything in furtherance of their

applications, and that only after all applicants have been given this opportunity are they asked to retire. The magistrate, therefore, submits that the applicant's neglect to enter is the cause of his not having been given an opportunity of saying anything in furtherance of his application. On this evidence the Court cannot hold that the applicant had no opportunity of appearing to support his application. Undoubtedly it would have been more satisfactory if the Secretary, who knew that the applicant was outside had called the applicant in and I am surprised that the Secretary did not do so. The putting forward of such grounds of review would be obviated if the chairman took the precaution of having the names of all applicants called both inside and outside the Court room and it is to be hoped that in future the chairmen of all bodies will take such course. But though this course was not taken in the present case, the applicant was not deprived of the opportunity of supporting his application; his failure to appear was due to his own fault.

The other grounds of review raise questions of importance. Firstly the applicant contends that the Provincial Council had no power to entrust to local authorities or rural boards a discretion to refuse a certificate and therefore that section 7 (1) of the Ordinance is *ultra vires*. Alternatively it is contended that, in any event, the board ought to have intimated to the applicant its objection to the granting of the application so that he might have had an opportunity of meeting the objection before the board's decision. The minutes of the meeting of the Board, which have been filed are very brief and only show that certain applications were granted and others refused. They do not show that any outsider objected to the granting of the applicant's certificate. That being so, the inference is that the board refused this application for some reason raised by the board itself. What the ground or reason is this court does not know, as the board has declined to disclose the ground or grounds of refusal.

Dealing firstly with the validity of section (1) in so far as it gives a discretion of refusal to the local authority or board, the powers of the Provincial Council to control the issue of licences have to be considered. In regard to licences within municipalities the powers are conferred by section 85 (6) of the South Africa Act; I think there can be no doubt that the Provincial Council has the power to grant to a municipality the control of the granting of licences within its area. As regards such control outside municipalities the power is to be found in section 12 (3) of Act of 1925. It was held in *Said & Company vs. Receiver of Revenue* (1926 T.P.D. 302) and in *Reloomal vs. Receiver of Revenue* (1927 A.D. 401) that sub-section (3) of section 12 of that act is an empowering one. Accordingly it is clear that the Provincial Council is empowered to make Ordinances governing the granting of authority for the issue of licences of the kind now under consideration. Under such power would fall, clearly, an Ordinance such as Ordinance 12 of 1916, in so far as it controls the issue of general dealer's licences by requiring the applicant to be in possession of a certificate issued by the local authority or the rural board and by empowering such bodies to refuse a certificate on grounds specified in the Ordinance; the validity of such provisions has never been questioned. That being so, the attack on the validity of section 7 (1) of Ordinance 3 of 1932, is based entirely on the point that it does not limit the powers of refusal by grounds stated in the Ordinance but gives such bodies a discretion to grant or refuse. It is difficult to see on what ground

this court would be justified in holding that the Provincial Council has no power to legislate in the terms contained in section 7 (1) of Ordinance 3 of 1932. The governing of the granting of authority for the issue of licences must necessarily involve entrusting the granting of such authority to the hands of some person or body of persons. I do not think that the entrusting to a body of the power to issue certificates can be said to be outside the powers of the Provincial Council because in doing so it does not specify the grounds of refusal but leaves the matter to the judgment of such body. Entrusting the issue of certificates to local authorities or to boards constituted as provided in the Ordinance seems to me to be covered directly by the Power to make Ordinances governing the granting of authority for the issue of licences. It may be said that in the case of rural boards the legislative authority is not an original authority conferred by section 85 (6) of the South Africa Act, as was the case in decisions like *Abraham vs. Durban Corporation* (1927 A.D. 444), but one delegated by Parliament. It would be anomalous, however, if the Provincial Council's powers were less in the case of rural licences than in the case of licences in a Municipality. It cannot be questioned that the Provincial Council has power to entrust the issue of a certificate to such bodies; and, if it has that power, it seems to me that it has the power to entrust to such bodies the discretion of granting or refusing. The wisdom of giving an unlimited power of refusal to officials or to a body of persons is another matter; but that is a question of policy with which the court is not concerned. Parliament placed the control of the granting of the authority for the issue of such licences completely in the hands of the Provincial Council. I do not think that it can be said that the Provincial Council exceeded its powers because it failed to define the grounds on which the local authority or board could refuse and relied on local authorities and boards to act fairly and without prejudice. It is significant that the corresponding Cape Ordinance of 1916, No. 14 of 1916, 1st Schedule, General Dealer, Hawker, similarly gave the local authority or board a discretion to refuse; the validity of that Ordinance was never attacked in a court of law although it was contended unceasingly that the local authority or board was bound to disclose its ground of refusal; see *Abraham vs. Wynberg Municipality* (1917, C.P.D. 197).—It seems to me that Parliament gave full power to Provincial Councils to control the granting of licences, subject, of course, as was pointed out in *Abraham vs. Durban Corporation* to the power of the Governor-General in Council to withhold his consent to any ordinance and to the power of Parliament to repeal or modify any ordinance. For the above reasons I am of the opinion that the attack on the validity of section 7 (1) of this ordinance must fail. The proviso to subsection (3) of section 12 of Act 46 of 1925 does not apply to the licence at present under consideration.

Passing to the remaining question, previous decisions in other statutes show, I think, that the applicant is not entitled to compel the board to disclose the grounds or reasons for its refusal. In *Judes versus District Registrar* (1907, T.e. 1046) turned on a section of the Gold Law which provided that a person desiring a stand licence should apply to the mining commissioner who "shall decide whether such application shall be granted or not." The commissioner, having refused an application without giving reasons, the applicant applied to court for an order compelling him to issue the licence. It was

held that the statute conferred an absolute discretion on the commissioner and that in the absence of proof that the commissioner had acted *malà fide* or that he had not considered and come to a decision on the application or had disregarded the provisions of the statute, the Court had not power to interfere. Innes C.J. (page 1031) laid down that reasons could not be obtained for the mere purpose of appealing against them, though a refusal to give reasons might be an important element in deciding whether the decision had been influenced by bad faith or ulterior motives where such an issue was raised. In *Abraham versus Wynberg Municipality* the respondent refused to grant to the applicant a certificate authorising the issue of a hawker's licence to her. She applied for the reasons for such refusal but the respondent declined to give any. The applicant then applied to court for an order directing the respondent to consider the application and to furnish her with the reasons for the refusal. It was held that she was not entitled to demand the reasons and the court refused to grant any relief. Mention may also be made of English decisions such as *Queen versus Smith* (L.R. 8.Q.B. 146) and *Queen versus Sykes* (Q.B.D. 52); decided under a statute under which the licensing authority was entitled to refuse a licence only on certain grounds specified in the statute. It seems to me implicit in these cases that if the statute had not specified the grounds of refusal but had given the licensing authority an absolute discretion; it could not have been compelled to disclose its grounds of refusal. I hold, therefore, that the board cannot be compelled to disclose its grounds of refusal. Sub-section 5 of section 7 of the Ordinance is not in conflict with this view. That sub-section enacts that if the Administrator is satisfied that any application has been refused solely on the ground that there is already a sufficient number of businesses of the same class within a particular area, he may issue a certificate to the applicant. As was stated of a similar section in *Jaffer versus Wynberg Municipality* (1915, C.P.D. 155) this sub-section authorises the Administrator to do an administrative act. I do not think that its terms show that the Court can compel the board to disclose the grounds of refusal. I express no opinion on the position where an application for removal is refused under section 12. Sub-section (5) of section 12 speaks of an appeal to the Administrator; the wording of sub-section (5) of section 7 is different.

This conclusion that the board cannot be compelled to disclose the ground of refusal is important in deciding whether the remaining contention on behalf of the applicant is sound, namely that, before refusing the certificate, the board ought to have intimated to the applicant what it had against the granting of the certificate so that the applicant might have an opportunity of removing its difficulties. It is argued that the board's failure to do so was contrary to the elementary standards of justice and that on that ground the applicant is entitled to have the matter remitted to the board with instructions to the board to notify the applicant of the nature of its objection to the granting of the certificate and to afford him an opportunity of meeting such objection. If this argument were upheld, such decision would be in conflict with the decision that the board cannot be compelled to disclose the grounds of refusal; for the intimation of its objection or objections would amount to a disclosure of the ground or grounds of refusal. Accordingly, if I am correct in holding that the board is not bound to disclose the grounds of refusal, it would be illogical to hold that the board, before refusal, was bound to acquaint the applicant with its objection. Counsel

for the applicant relied strongly on Nanabhay versus Potochefstroom Municipality (1926, T.P.D. 483) where it was laid down, under the repealed Ordinance, that an applicant for a certificate must be given an opportunity to answer any prejudicial allegations contained in any objection lodged whether such objection is raised by the local authority itself or by some other person. In the judgment in that case the court left open the question whether that principle applies where the body is given the absolute discretion to grant or refuse the certificate. That question arises for decision in the present case and in my opinion it must be decided in the negative. The case of Kadalie versus Henworth N.O. (1928, T.P.D. 495), relied on by counsel for the applicant, is not on the same footing. There the statute in question (Ordinance 28 of 1902) indicated that if the applicant produced satisfactory evidence of the requisites mentioned therein, the certificate must be issued to him. But where, as in the present case, the body has an absolute discretion to grant or refuse a certificate, I know of no ground on which it can be held that it is bound to intimate its difficulties against granting the certificate and to give the applicant an opportunity of meeting such difficulties. A body clothed with such powers does not exercise judicial functions; it exercises an absolute discretion and the discretion is administrative. In the absence of anything in the present application to prove that the discretion was not exercised in good faith or that it was exercised capriciously or was influenced by an improper consideration or motive this court cannot interfere. (Compare Nunes versus Boksburg Municipality (1928, T.P.D. 324) and cases there cited. It is of course, generally speaking, impossible for an applicant to make out such a case if the board cannot be compelled to disclose its grounds for refusal; but this difficulty in an applicant's way is due to the effect of the legislation which confers an absolute discretion on the board. The court is not concerned with the wisdom of the legislation and must give effect to its necessary implications.

The application is dismissed with costs.

News In Brief

The New India Assurance Co. Ltd., have opened their Transvaal Office in Johannesburg on December 16, at Barclay's Arcade, 6 Diagonal Street, Johannesburg. Mr. Sorabjee Rastomjee, representative of the Company, gave an At Home at the Selbourne Hall, to celebrate the occasion.

Dr. Hjalmar Reitz, M.P., intends to introduce a motion during the next Session of Parliament to the effect that the right of appealing to the Privy Council shall be abolished. Dr. Reitz stated that the object of the motion was primarily to find out exactly how South Africa stood in this matter. "Either Lord Hailsham or General Hertzog is wrong" said Dr. Reitz. "General Hertzog has told us we are absolutely free, but Lord Hailsham does not seem to hold this impression. We want to know what is the position."

Owing to the serious illness of Mr. E. G. Jansen, Speaker of the House of Assembly and with the position of Deputy Speaker and Chairman of Committee being vacant through the death of Mr. J. O. Joel Krige, it is expected that the Rev. B. R. Hattingh, Deputy-Chairman of Committee, will preside at the opening Session of Parliament on Jan. 26.

The final exam. in connection with the Indian Women's First Aid (Red-Cross) classes took place at the

Carlisle Street School on Wednesday, December 14. It is pleasing to note that only two candidates failed to satisfy the examiners.

Next week, from December 27 to 30, about one hundred boys representing the various Indian schools in and about Durban, will join in a general 'scouts' rally at Prospect Hall. The headquarters of the various corps will be the Sir Kurma Reddi School. Mr. B. D. Lalla, president of the 'Scouts' sub-Committee, informs us that the rally, which is the first of its kind for Indian boys, is expected to be a great success.

Students Arts And Crafts Exhibition

The 4th bi-ennial Arts and crafts Exhibition of the Natal Indian Schools will be opened by Mrs. Percy Osborne the Mayoress of Durban, at the Carlisle Street Government Indian School, on Friday 22nd December, at 11 a.m.

The exhibition which promises to be one of the finest yet held in Natal is being organised by the Natal Indian Teachers' Society.

The judging will take place on Thursday, 21st Dec. and the exhibition will be open to public inspection both on Friday and Saturday. On Friday evening the exhibition will also be open till 10 p.m. Admission is entirely free and parents as well as the public at large are requested to pay the exhibition a visit.

The exhibits, on the whole, are of a high order and is striking testimony of the work being done in Indian schools in the direction of arts and handicrafts. The judges in the different sections are:—

Prof. O. J. Oxley, F.R.A.C., Mr. Crispe, Art Instructor at the Technical College, Inspector Mr. Banks M.A., and Mrs. W. P. M. Henderson.

Sporting News

(BY SPORTSMAN)

Boxing

Tuesday's Big Tournament

Boxing Night will be a night of big boxing in Durban on Tuesday, December 26. The well-known promoters, Messrs. J. B. Panday and M. Mohamed have been successful in securing some fine pugilists of repute.

The star bout, in which Kid Singh will figure against Peter Duncker, will no doubt be one of many thrills. Great interest will be evinced in the fight particularly as little or nothing is known locally of the Oapetonian. Meanwhile Kid is trim and is not leaving anything to chance. He is most optimistic about victory.

The second star bout of the evening between Benni Singh, of local fame, and Cecil Jonosky of Johannesburg ought also to be one of interest. In the last contest the Randite secured a narrow win over the Natal Idol on points. Meanwhile Benny has been training arduously and means at all costs to redeem his impaired prestige. The other minor bouts are also well matched and though the number of fights is smaller than on previous occasions the quality of the contests as a whole should in no way be impaired. The following is an epitome of the program:—

1. Mottee Kid Singh vs. Peter Duncker (12-3 min. Rs.)
2. Benny Singh vs. Cecil Jonosky (12-3 min. R's)
3. Bud Gengan vs. Willie Fogus (12-2 min. R's)
4. Daye Shade vs. V. S. Govinder (8-2 min. R's)
5. Kid Ahmed vs. Kid Vaidgad (4-2 min. R's)