

Indian Opinion

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NOTES AND NEWS

FROM the social side the Indian community owes a debt of gratitude to the Kunwar and the Kunwarani Maharaj Singh for their magnificent services. The Kunwarani is as active as Sir Maharaj Singh in leaving no stone unturned in securing the social uplift of her sisters and brothers in this country. While in the Transvaal recently she paid a visit to Pretoria and there interviewed the authorities with a view to establishing an Indian school in the Capital. The Kunwarani was accompanied by Mr. C. S. Ricketts, secretary to the Agent, and Mrs. Richay, and her first visit was to Dr. Boshoff, Director of Transvaal Education, to request him to assist with the formation of an Indian girls' school in Johannesburg and new premises for an Indian school in Pretoria. The deputation also visited the Town Clerk regarding the school. The Indian community will purchase the ground in Boom Street if the Education Department will erect a suitable building.

ONE unique achievement the Kunwarani may well feel proud of is that she has been able to bring our women of every section of the community out of their seclusion to take a prominent part in our public affairs. Recently the Kunwarani addressed a meeting of Indian women in Pretoria, as a result of which an Indian Women's Association was formed in that town. She gave an outline of the aims of the women's association, and appealed to them to encourage sport and goodwill. She said that a few European women had promised to assist the movement. A committee was formed for the ensuing year, and it was decided to hold meetings every Wednesday. The committee is as follows: Mrs. B. Maharaj (president); Mrs. A. Pillay (vice-president); Mrs. P. Pillay and Mrs. C. Warnasuryia (joint secretaries); Mrs. Josi (treasurer), with Mesdames K. K. Khoja, V. C. Khoja, P. Moorogasen, V. P. Pillay, Thompson, R. Mooloo, Cassim Adam and Jiva Mahomed as members.

It is to be hoped that this and other similar bodies have not come into existence merely as a result of a moment's enthusiasm or in order to hold a few positions with a view to come in the fore front when the Kunwarani or any other distinguished personage has occasion to visit them, but that they have come to stay and to do active work for the advancement of our women and children and to be a source of encouragement and inspiration to the men.

ADDRESSING a meeting of the Benoni Joint Council of Europeans and non-Europeans the Rev. B. L. E. Sigamoney described the housing conditions in the Asiatic quarters of Benoni location as utterly disgraceful and urged the Council to make every effort in the name of humanity to bring about an improvement in that locality.

WE call the following from the *Fiji Samachar* :—

"In recognition of the claims of the Indians overseas for equal opportunity and equal treatment, the Government of the Crown Colony of Trinidad has appointed Mr. Mahabir, Barrister-at-law, to act as the Magistrate of the County of Victoria. We join our compatriots in Trinidad in recording our grateful thanks to their Government which has taken a lead in giving effect to the promises and pledges given by the Imperial Government and we hope that the example set by the Trinidad Government will soon be followed by other Crown Colonies. We congratulate Mr. Mahabir on his magisterial appointment and trust that in the performance of his duties in his high office he will bring to bear those good qualities which have earned for him the confidence of the Government and the respect of his community, and thereby prove to the world that the Indians overseas are fit for any responsibility, whether executive or judicial, and that they can work modern institutions in modern spirit. We shall no doubt wait for our turn in Fiji." We fully endorse the above statements of our contemporary.

THE following caustic comment by the *Tribune* (Lahore), on the accuracy of facts about India as stated by Government men and the Congressmen will be read with interest :—

"Miss Wilkinson seems to be one of those obstinate people who refuse to be convinced even by the logic of "accurate" facts. In a descriptive article in the *Daily Herald* she says:—"It is no matter how many Round Table Conferences meet in London. While Mr. Gandhi lives there can be no peace in India without his co-operation. The longer he is kept in jail the more intense is the devotion he excites." It is quite clear the ex-member of Parliament is proof against light. She must have heard from a hundred officials in India, including some of the highest, that the Mahatma no longer counts in Indian politics, that the only men who count are those whom the Government has in its wisdom chosen for the London Conference, that whatever influence the Mahatma might have commanded at one time has long since been spent up, and that the only role in which he can now flourish is that of a social reformer. But all this "accurate" information appears to have left no effect on her mind. She remembers only what the Congress which the Government has crushed, told her from the grave!"

GENERAL Smuts' motion expressing no confidence in the present Government has been defeated by 83 votes to 63. The South African Party has rejected Mr. Tielman Roos's Coalition terms and while going to Press the negotiations for a Coalition have broken down. It is felt that a Coalition move may now be made by the Government.

BISHOP'S PLEA FOR EQUITY

HIS LORDSHIP the Bishop, Dr. Karney and the Very Rev. W. A. Palmer, the Dean of Johannesburg are among the staunchest friends we have in South Africa. It is a great consolation to find these friends just where anti-Asiatic feeling is perhaps about the highest. When we see these friends advocating the cause of justice we find a ray of hope in the very dismal outlook facing the Indians in the Transvaal at the present moment.

In his interview to the *Star*, the Bishop has put the case of Indians in its true perspective. "Put on the lowest ground," declared the Bishop, "it would pay South Africa a hundredfold to treat the Indian generously. I have said it again and again, and I have never been contradicted. I know of no country or Empire that has thriven on a policy of repression. Equity for all is best for all." Indeed it is only when this is realised by the rulers that there will be peace and happiness throughout the world. But in these days when hypocrisy and sin is on the ascendancy, this high standard of morality will never be realised. And after all, is it not this greed to be the top dog, at any cost, that is the root of the present unrest in the world? We have not forgotten the days when Mr. Tielman Roos was Minister of Justice and when he put his foot down against the Church meddling with politics. We do not know what would have been in store for Dr. Karney if he would have dared to utter what he has uttered now when Mr. Roos was in power. When rulers do not want God's guidance the dumb are the sufferers as are the Indians and the Natives in South Africa. Generous treatment we have not had the privilege of enjoying at the hands of any Party that came into power in this country but the present Government, we cannot help but saying, have surpassed the previous ones in their harshness both towards Indians and Natives. Their policy, quite obviously, is down with the Englishman, down with the Indian, and the black man must remain eternally their slaves as in the olden days. While we admire the national aspirations of the present Government we do feel that this utter self-aggrandizement on their part can never succeed. The Bishop has very rightly said, "no country or Empire has thriven on a policy of repression, Equity for all is best for all." Our struggle in South Africa has all along been one for equity for all. And while fighting for this we have, by our acceptance of the closed door policy from the year 1913, given the whiteman the assurance that we have no desire to deprive him of his dominance in this country. We can only hope that the message of Dr. Karney will penetrate the heart of every believer in Christ and will inspire him to raise his voice not only against the iniquitous laws against Indians but against injustice being done to any of the voiceless and unrepresented sections of the people in this country. We express our deep appreciation to His Lordship the Bishop of Johannesburg for advocating our cause and in doing so we have not the least doubt that we are echoing the sentiments of Indians not only throughout the Union, but throughout India.

'The Star' On The Indian Question

Tribute To Kunwar Maharaj Singh's Work

The Star, Johannesburg, has the following leading article in its issue of December 28:—

To anyone interested in the Asiatic problem in South Africa it does not require a very long acquaintance with local conditions to realise to the full the unfavourable position occupied by British Indians in this country. It is clear from the recent utterances of the Agent-General for India, Kunwar Sir Maharaj Singh, that during his short sojourn here he has made a very thorough investigation of the matter, and that he has come to much the same conclusion as most right-thinking people are bound to arrive at when the case of the Indian is regarded from a dispassionate point of view. He has stated his case in simple language and he has made his meaning unmistakably clear. In his plea for a greater tolerance he will receive the hearty support of many sympathisers. His task, however, is by no means an easy one. Like Mr. Sastri, one of his distinguished predecessors in office, Sir Maharaj recognises the necessity of getting into close personal contact with the European element, and of having, as it were, a heart-to-heart talk with them. But whereas Mr. Sastri addressed himself more to the philosophic aspect, Sir Maharaj is getting down to everyday business and social affairs, which is the aspect that matters most. Mr. Sastri contributed greatly to South Africa's very imperfect knowledge of the Indian people and of their literature and religions, and he delighted his every audience, with his superb command of the English tongue. His utterances, wherever he was obliged to enter the domain of politics, were statesmanlike. In blazing the trail as it were (for he was the first official representative of the Indian Government to take up office here) he had a very difficult task to perform, and the fact that he left this country with the high regard of every leader of opinion and every responsible section of the community, was a clear proof of the correctness of his methods and the magnetism of his personality.

Sir Kurma Reddi, who followed him, is a lawyer, and his interest naturally centred round the legal status of the Indian, and he busied himself with the many involved provisions of the mass of enactments to which his countrymen had been subjected since those early days when Indian labourers were first imported into Natal. Sir Kurma left the Union with a very extensive knowledge of these laws, and whilst he was here he made some valuable suggestions in regard to their modification, more especially in respect of such legislation as affected the Asiatic "bazaars." He came, however, at a period when feeling was running high and at a time when the Asiatic Land Tenure Act was being forced through Parliament at all costs. The present Agent arrived when the Act had been passed and when recriminations, so far as politicians at any rate were concerned, had vanished. In this respect, however, there is still unfortunately a good deal of activity, and the Minister of the Interior proposes, if he is ever given an opportunity, to introduce in the House of Assembly as soon as possible a further amendment of the Immigration Laws. These things do not help to lighten the task of the Agent, but Sir Maharaj Singh is a practical and patient administrator with a wide knowledge and experience of conditions in other parts of the British Empire, and as he is gifted with great common sense and a most attractive personality, he will undoubtedly influence the trend of events. Rightly and naturally he is

seeking to uplift his fellowmen in an endeavour to ease the social and commercial difficulties under which they labour. He has a clear conception of the work that lies in front of him, and while he quite evidently appreciates the conditions peculiar to South Africa, where colour prejudice has been allowed to develop into something like a national instinct, it is also evident that he thinks that the barriers in his way are not altogether insurmountable, and that if he succeeds in obtaining the sympathetic co-operation of the enlightened European community he will eventually achieve the goal at which he aims.

Bishop On The Indian Question

The Bishop of Johannesburg, Dr. Karney, has supported the plea for fair treatment of Indians in South Africa so eloquently made by Kunwar Sir Maharaj Singh in his recent speeches:—

In the course of an interview to the *Star* (Johannesburg), Dr. Karney said:—

"I should like to begin by saying that the Indian problem is a problem of our own creation—the white man's creation in inviting the Indian over to this country, so he must not run away from it. We must not forget that 80 per cent. are South African born. We are grateful to the Agent for the Government of India, Kunwar Sir Maharaj Singh, for reminding us on several occasions that the problem in the Transvaal is insignificant and the Indian population a small fragment of a whole.

"Face to face with this problem what is to be our attitude? There are those who say we must get rid of the Indians for fear he might lower the white man's standard of living. The natives, as a whole, have not taken to trading but the Indian has trading in his blood for many generations. He can start in a small way, living on food which would not keep the white man in health, and therefore he can undersell.

"Secondly, it is stated that when he makes money he sends it out of the country. On the contrary, the Jew comes to this country and makes South Africa his home, and when he makes money he spends liberally.

"The answer is plain: the Indian is prepared to raise his standard of living and to spend his money if he is treated as a citizen. One must not be surprised if he (the Indian) wonders if he has any form of citizenship rights. He pays taxes and yet has no vote, either municipal or State. He is conscious of a series of anti-Asiatic laws, all of which tend to make him feel he is not wanted.

"I feel that the right policy towards the Indian is to make him feel he is wanted. He is a member of a country which has a culture far older than the white man's and a country which is now advancing towards Dominion status.

"I suppose what is in the mind of many is not so much the fear of economic rivalry but of mixed marriages if the Indian is given equal rights. I believe this fear is groundless. Where the negro in the U.S.A. has been given full rights the tendency towards miscegenation has declined, for he creates his own segregation such as we see in Harlem—now a negro town within the boundaries of New York City.

"I feel here there is no desire for intermarriage among Indians. All he asks for is to progress to the utmost of his capacity, to be shown that he is wanted and to be given citizenship rights. Put on the lowest ground, it would pay South Africa a hundredfold to treat the Indian generously. I have said it again and again, and I have never been contradicted. I know of no country or Empire that has thriven on a policy of repression. Equity for all is best for all."

On Moral Obligations

Modern Tendency Of Mankind

Major S. Maynard Page, Durban's Chief Magistrate, who has been promoted to Chief Magistrate of Johannesburg, made a noteworthy speech at the Rotary Club, Durban, on the eve of his departure.

"It seems to me that there is a tendency at present to reduce moral obligation to terms of statutory obligation," he said. "No sooner is it considered that something should be done or that something should not be done than someone suggests that there should be a law to deal with the matter with injunctions and prohibitions and with punitive sanction.

"You will all, I think, deplore this. If it is hasty it is deplorable, and if it is not hasty it is even more deplored.

"There is a corollary to this. As we tend to reduce moral obligations to statutory obligations, we shall refuse to recognise any obligation that is not a statutory one and even to evade that with the aid of the astute gentlemen of the legal profession. If this tendency continues then there is a sorry future for mankind."

Major Page spoke to Rotarians as a professional public worker to amateurs. While it was his business to do public work, Rotarians did public service for the love of it.

"The test of a man's achievement is the extent to which he is of service to the community," he said. "If a man did nothing but enough to enable him to live in comfort, he had done nothing more than a cat could do—and a cat could do it more efficiently."

Transvaal Indians' Trading Rights

Lichtenburg Town Council's Attitude

The question of Asiatic licences again came before a special meeting of the Lichtenburg Town Council last week, as a result of a letter from the Administrator, requesting to be furnished with reasons for the Council's attitude in refusing two recent applications made for fruit and produce dealers' licences. These applicants submitted an appeal to the Administrator, and he asked the Council to furnish him with their reasons. The Mayor presided at the meeting, and there were also present Mr. J. P. Conradie, Dr. I. Olop, Mr. S. Rubenstein, Mr. A. I. Ludick, Mr. A. Roks and Mr. P. J. Huyser.

Mr. Ludick, who has always been opposed to the granting of the licences, asserted that the Council should write and tell the Administrator that there was over-trading in the town on the part of fresh produce dealers and also inform him that there were other reasons for their refusal. Mr. Conradie, the champion in the Council of Asiatic rights, considered that they should say what the reasons were. He contended that the reason they submitted was groundless and he tabled a motion to the effect that they should reply that overtrading was not the reason.

A plea for delay was put forward by Dr. Olen, who referred to the pending Supreme Court application in connection with the ejection of Indians in certain stands of the Rooiport-Mariaburg Council. He thought they should await the result of that action as they were being asked to contribute towards the cost of the litigation. This application was allied to their local attitude.

There was a curious incident when Mr. Conradie's amendment was put to the vote. He was supported by Mr. Huyser and Mr. Roks. Mr. Laidick and Dr. Olen voted against the motion, and also the Mayor. Mr. Rubenstein abstained from voting and the Mayor gave his casting vote against the amendment. When Mr. Rubenstein's attention was called to the fact that he had not voted, he said he was reading the health laws and had overlooked the matter. Votes were then taken again, and Mr. Conradie's amendment was adopted, Mr. Rubenstein voting in favour of it.

Meanwhile the question of Asiatic penetration is concerning Venterdorp and there is renewed talk of the revival of the defunct Anti-Asiatic League. One of the growing objections to Asiatic trading is the Indians' recent refusal to co-operate with the Venterdorp Chamber of Commerce. Considerable resentment is expressed at their refusal to fall into line with European storekeepers in the decision of the latter to close their businesses during the lunch hour.—*The Star*.

Racial Discrimination In Post Offices

Supreme Court Judgment

Appellate Division Moved

Mr. I. G. Rasool took action recently against the postal authorities for differentiating between Europeans and non-Europeans by setting aside separate counters and for refusing to serve them at one common counter. The matter had been brought in the first instance before Mr. Justice Barry in Chambers and his lordship had decided in favour of Mr. Rasool and against the Minister of Posts and Telegraphs and the Postmaster-General. Against this decision the Minister and the Postmaster-General appealed—which appeal being dismissed by the Supreme Court of the Transvaal an appeal has now been made to the Appellate Division on the ground that the judgment delivered by the learned judges was bad in law. We publish below the text of the judgment:—

"The issue in this appeal," Mr. B. H. Tindall, Judge of the Supreme Court, said, "is whether the Postmaster-General has authority to withhold from non-Europeans service at post offices except in a separate room reserved for non-Europeans. The respondent is an Indian. Prior to December, 1931, Indians desiring to be served at the post office at Pietersburg were served at the same counter as Europeans while natives were served in a room partitioned off and entered by a separate door above which appeared the words: "Native Post Office." Thereafter this notice was altered to "Non-Europeans," and the postal officials now refuse to serve Indians at the European counter; an Indian who wishes to be served at the Post Office has to go to the counter in the room marked "Non-Europeans." These steps have been taken by the local postmaster under instructions from the Postmaster General, the latter being the official, in terms of subsections (2) and (4) of section 3 of Act 10 of 1911 who may "establish, maintain and abolish" post offices, who has "the supervision and control of all post offices and post and telegraph services," and the right to "issue such instructions as he may deem necessary for the conduct and guidance of officers in carrying out the provisions of the Act." It was contended successfully before the judge in Chambers that the said instructions make a discrimination based on race and colour between classes and are outside the powers of the Postmaster General. The learned judge, applying the principle applied in *Moses v. Boksburg Municipality* (1912.T.P.D. 659) and *Swarts v. Pretoria*

Municipality (1920.T.P.D. 187) held that the Postmaster General had no authority to issue the said instructions. A mandamus was granted compelling the respondent to withdraw the said instructions but he was given leave to institute action within a month to have the mandamus set aside.

In the application affidavits were filed by the applicant, the object of which was to show that at the non-European counter the facilities afforded were inferior to those enjoyed by persons served at the counter; but this suggestion was abandoned in the Court below and the appeal was argued on the footing that there was equivalence of service.

The first point taken on appeal was that the learned judge ought to have upheld an objection that the procedure by way of petition was inappropriate. The practice is now well established in South Africa that a final interdict can be granted on motion if the question does not depend on disputed questions of fact; compare *Frank v. Ohlsson's Cape Breweries Ltd.* (1924 A.D. 289), *Laws v. Rutherford* (1924 A.D. 261). In the present matter the respondent alleges in clause 5 (d) of an affidavit made by the Postmaster that the arrangements referred to are essential for the smooth and prompt working of the post office. Circumstances are conceivable in which friction between two sections of the population might necessitate the provision of separate accommodation for them in post offices; if the existence of such circumstance had been suggested in the present case the hearing of evidence might have been by action, it is unnecessary to express any opinion on the point. But the allegations in clause 5 (d) of the postmaster's affidavit do not raise such an issue; the language is much too vague to convey such a meaning. Having regard to the admissions made I think the learned judge was correct in deciding the matter on petition.

Passing to the merits, the question is whether the discrimination involved is unauthorised. Counsel for the appellant argued that the test of reasonableness, as laid down in *Kruse v. Johnson* and applied by our own courts to by-laws, must be applied. It may be convenient here to say something about the test of unreasonableness as applied to the validity of a by-law or other administrative acts.

In *Feinstein v. Baleta* (1930.A.D. 319) Roos J.A. explained that to say that a by-law is unreasonable is another way of saying that, though in terms the by-law falls within the power, it exceeds the implied limitation to the exercise of that power and in the case then before the court the learned judge held that there was no implied limitation in the enabling section except that the local authority should exercise its discretion honestly. Developing that statement, I think it means this: Sometimes the enabling section confers a specific power in terms which define the limits of the power. In such circumstances the power may in terms cover the by-law. If it does and if the by-law does the very thing that the enabling power authorises, the question of unreasonableness cannot arise. But enabling powers are often conferred in general terms, as e.g. for the good rule and government of, etc., for controlling, etc., for the effectual supervision of, etc. In such cases it is implied in the enabling section that the by-law shall be reasonably necessary for attaining the object mentioned in the enabling section. It is in this sense that the unreasonableness of the by-law may be a test whether it falls within the authority conferred. That being so, the applicability of the test laid down in *Kruse v. Johnson* to cases like *Smith v. Germiston Municipality* (1908.T.S. 240), *Moosa v. Boksburg Municipality* (1912 T.P.D. 659), *Bhika Hira v. Boksburg Municipality* (1914 T.P.D. 513), *Williams and Ardendorff v. Johannesburg Municipality* (1915 T.P.D. 106) and *Swarts v. Pretoria Municipality* (1920 T.P.D. 187) is readily understood. And I think the test in question applies to the present case. Then it was argued that the test does not condemn a by-law on the ground that it makes a class distinction or discrimination, that the discrimination which is un-

authorised is that which is unequal in its operation and that in the present instance there is no such discrimination because there is equality of service. It may be conceded that the discrimination must be unequal in its operation; the words in *Kruse v. Johnson* are: "If they were found to be partial or unequal in their operation as between different classes." But the cases in this Court had laid down that a discrimination based purely on race or colour is a discrimination of that kind; this is the real ground of the decision in the cases of *Moses and Swartz*. In the absence of authority from the legislature a local authority or official is not entitled to make such a discrimination. These decisions are binding on us and in principle they cover the present case. I do not consider it necessary to decide that under no circumstances whatever would the postal authorities be entitled to require different sections of the population to utilize separate counters. The question does not now arise. All that I decide in the present case is that on the admitted facts the appellant is not entitled to make the differentiation made, namely that of Europeans and non-Europeans.

The appeal must be dismissed with costs.

Mr. D. Justice De Waal and Mr. Justice N. J. De Wet concurred.

A European Lady Championing The Cause Of India

Mrs. Cousin's Statement

Price Of Freedom Rs. 30,000

Mrs. E. M. Cousins, a European lady, is also a victim of the Civil Disobedience movement in India. She was recently arrested in Madras for speeches she had delivered in the Madras Presidency and the active interest she was taking in the movement and asked to show cause why she should not be bound over to be of good behaviour for a period of one year and to execute a bond for Rs. 10,000 and furnish two sureties for a like amount each. She was sentenced to undergo one year's imprisonment for refusing to execute the bond. The following statement was submitted by her to the Court:—

"The fact that I am on trial in this Court to-day, is no accident. It is the result of 17 years of intimate living and working with my Indian sisters and brothers. In moving freely with them in attempting to do constructive work, I and my husband learnt how exploitation and injustice through foreign rule is crushing them down. I have openly stated all along that India should have Home Rule immediately. I was a co-worker for these four years with Dr. Annie Besant and took part in the agitation connected with her internment in this cause. I also shared in formulating the Commonwealth of India Bill. Government repression of organised Congress opinion, the largest representative opinion in India, has become ever more severe since then. I watched it in 1930-31. I reported what I had seen in New York and Geneva during my visits there in the past 18 months. In those centres of international opinion, I laid bare the dual game Britain is playing: its pretence of making a constitution to give India freedom but its determination to hold tight to everything essential to India's self-government. I showed that its demands for united and social reforms as necessary to Swarajya, were conditions such as no country had ever complied with. I proved that instead of freedom, the Government by Ordinances was designed to break, if possible, the spirit, ruin the health and cripple the resources of all the people of India who are determined to win the political freedom they want. Representative associations of 18 countries have deputed me to tell the

people here that they "sympathise with them and that they denounce the rule of violence and tyranny now imposed on India," as the New York protest meeting expressed it.

"Now that I return to India, the Ordinances have been turned into a law for three years. This is a challenge to every believer in free speech, free political assembly, free press, free picketing, free peaceful self-expression. I adhere to everything I said in public. I reiterate that the Ordinance Bill and the Ordinance Law should be made inoperative by every one ignoring them by non-violent defiance; for criticism of proposed constitutions is more needed now than ever and political programmes must be worked up. I would not be a worthy daughter of Ireland, if I did not stand shoulder to shoulder with the wonderful women and spirited men of the Congress at this time. Evidently the Government thinks me a valuable ally of the Congress cause when they priced my freedom by bail at Rs. 30,000! If it is their intention to strike me dumb for a year, are we to deduce that their new constitution is going to be so unsatisfactory that I must be locked up for all that time to prevent criticism of it? Have you no hope of welcome reception within one year? Are all political workers to be gagged till this time next year? If this is British justice and democracy, then I am proud to stand here in support of free speech and Indian national freedom, and I am ashamed that English idealism has fallen to the present depths of oppression and suppression."

French Colonial Policy And Coloured Races

By DR. LANKA SUNDARAM, MA., P.H.D. (Lond.)

(Continued from last week)

II.

Passing on from a purely sociological to a political sphere, we find the same difference between the Anglo-Saxon and the Latin races. France's empire was built up and sustained on a basis of racial equality. One may not like the logical thoroughness of the French with which the overseas empire is exploited. Anyway, such is the general policy of any Imperial power now in existence. England in India, Belgium in Congo, Italy in Lybia, the U.S.A. in the Philippines, and Japan in Korea, are one in their respective colonial policies in the economic sphere. But a student of human affairs would be struck with the absence in French colonial policy of the invidious patrician feeling so glaring in the activities of the other Imperial Powers.

For one thing, as it is said in Latin, the French Empire may not be one *pays*, but it certainly is one *patrie*. The colonials of France consider themselves as natural Frenchmen by virtue of their being included in the Imperial system. There is only one citizenship in the Empire. But in the British Commonwealth we are confronted with the obnoxious fact that an Indian is almost an outcast, say, in South Africa or in Australia. Every unit of the Commonwealth possesses a citizenship of its own, and differential treatment of the worst type is meted out to the coloured people of the Empire. There is no doubt that Indian ill-feeling towards Britain is accentuated by the fact that our nationals are subject to the greatest of political, civic, and racial disabilities in the "white" units of the Empire. The "continuous voyage" test in Canada, the "White Australia Policy" in Australia and New Zealand, and the numerous anti-colour legislative measures in

South Africa, have reduced Indians to the ranks of racial inferiors and rendered our feelings poignant. Our indignation at this pernicious racial distinction; now existing in the Commonwealth, is at the bottom on ultimate analysis of the Indo-British impasse. Even the Chinese and the Japanese have better rights in the countries named above than our countrymen who happen to belong to the Commonwealth.

As for France in the Empire, no such distinctions exist. Psychologically as well as legally, all the peoples of the Empire are one and equal. Alike with Holland, France encourages intermarriage between the French people proper and the colonial races. Thus a spirit of mutual trust, confidence and respect is fostered between these two sections of the French citizens. Economic rivalry between them is possible as in the case of Indo-China where communistic activity in the indigenous population is militating against the French economic policy, or in Morocco where the Moors are revolting against the French Imperial system. While racial bitterness is fully exhibited against the British in Egypt, Ceylon, India and China, no such feeling is discernible in the French Colonial Empire. This is entirely due to the policy of racial equality fully operating there.

Perhaps one of the most important reasons for this unique feature of French colonial policy is the fact that every unit of the Empire sends its representatives to the *Chambre des Deputés* in Paris, a system which is peculiar to France alone. In the rough and tumble of the parliamentary system in Paris, colonials and real French rub shoulders on a basis of equality. It sometimes happens that Frenchmen from France stand for election from the colonial units, as was the case from Pondicherry recently. Further, when the apportionment of portfolios is imminent, the Premier of France has to depend upon the votes of these colonial representatives. I very clearly remember the case of M. Diagne, a negro delegate from Senegal, West Africa. He is a member of the French Parliament. Last year he was made Under-Secretary of State for Colonies. The most curious thing about him is, that he is the darkest of the Africans I have met in Europe during the course of four years. But he has perhaps one of the fairest of Frenchwomen as his wife. When the question of forced labour among the colonial possessions of the White Powers came up for discussion in a Committee of the Inter-Imperial Labour Conference, it was M. Diagne who defended the French system which is admittedly the worst on record. No doubt, the late Lord Sinha was an Under-Secretary of State for India. But this was on sufferance and official patronage, and certainly on the liberal initiative of the late Mr. Montagu. In the case of M. Diagne, his portfolio was obtained in his own right and on a perfect basis of racial equality. It would be difficult to find a ready parallel to this instance in the whole of the British Commonwealth. There is only one instance to my knowledge in the case of a Brahman Knight being made a Minister of Native Education in New Zealand. But this was purely of a domestic nature and for a specific issue affecting his own race. But M. Diagne's portfolio has almost world jurisdiction as far as the French Empire is concerned and envelopes the fortunes of numerous branches of the coloured races, some of which are admittedly superior to the African, such as the Moslem and the Indo-Chinese. In this unique manner, France is solving one of the fundamental issues of the modern era—the problem of colour.

Summing up, we may ask the question whether the world would ever be able to solve the momentous problem verminating out of the clash of colour.

Britain and other Imperial races have distinctly failed. It was Hitler, leader of the Nazi movement in Germany, which was shorn of her colonial empire as a sequel to the Peace of Paris, who asserted recently that the grant of independence to India would be a menace to the Western civilisation. And Hitler is a man of destiny and is sure to shape the future policies of Germany and of Europe. His statement is ominous. Before the War, German *kultur* was considered a menace to world progress and concord. Thousands of Englishmen to-day honestly believe that the fortunes of the coloured races are a divine trust reposed in the white races. The colour complex is prominent even in such a democratic country as the U.S.A. and the Ku Klux Klan has attained notoriety through organised lynching of negroes in the American Continent. Instead of mitigating the evils of the colour bias, most of the white races are now trying to accentuate it. Only France supplies us with a programme of political action designed to minimise this evil. From the purely sociological point of view, she has weathered the storm and this French example is worthy of consideration and imitation by other colonial powers. Otherwise, colour-war, considered by arm-chair politicians all over the world as a figment of imagination, will be a distinct reality in the near future.

(Concluded)

Administration Of Justice In England

Six Principles

(BY HIS HONOUR JUDGE MCCLEARY)

There are certain leading principles which are applied in all the English courts. They form the basis of the administration of justice in this country. Without their application it is considered that justice cannot be done. The first and most important principle is that the tribunal which is called upon to administer justice must be absolutely impartial. It must approach the trial with a mind uninfluenced by any preconceived ideas or prejudices. Any knowledge of the parties or of the dispute between them must be totally disregarded; any desire to find for one side or the other, for any reason whatever, must play no part in the decision. The court must have an open mind. It must decide what are the facts applicable to the case, and having found the facts it must apply the law without fear or favour. The process involved is almost mechanical—the legal machine is supplied with certain material, facts and law, and the decision is an inevitable product. It is by the universal application of this principle that the administration of justice in England has become the admiration of the world.

The second principle is that justice must be available to every one of his Majesty's subjects, however humble. The opportunities which a poor man has for the preparation of his case and for its adequate presentation in court are, of course, not equal to those of his richer opponent but his Majesty's courts are open to him, and it is a tradition of the judges that no man shall suffer by reason of his inability to have his case properly presented. No scheme has yet been devised which will place all litigants upon an equal footing, but the assistance which a judge can and will give to a poor litigant in the conduct of his case goes far to reduce any inequality.

The Duty Of Advocates

The third principle is that justice must be administered with absolute fairness. Any attempt to take an unfair advantage, either in the preparation or in the conduct of a case, is at once repressed. In a modern trial the advocates are expected to put their cards on the table. They must not keep anything up their sleeves. And, above all, they must never attempt to deceive the court. They win with the strength of their cases, with their ability to elicit the truth, and with their skill in the presentation of their cases. There is no room in our courts for the advocate who is a crafty dodger. If an advocate knows of any reported case which is in favour of the other side he is expected to call the attention of the court to such case. If in a criminal prosecution he knows of anything which will assist the accused in his defence he must say it. In criminal proceedings there must be no attempt to trap or bully an accused person into making damaging admissions. No confession can be given in evidence which was not made voluntarily and after due warning that it might be given in evidence.

The fourth principle is that the decision of the tribunal must be according to the evidence. It has been pointed out that the tribunal must find the facts necessary for its decision. The facts may be found by evidence which is either oral or documentary. The evidence must always be the best which is available. If it is oral it must be given by a person who has directly perceived the fact to which he testifies; it must not be as to something which he has been told. If it is documentary the document must be produced if it is obtainable, and if not its absence must be explained. Evidence must be capable of being tested by cross-examination. If, when so tested, it is found to be unreliable, it is rejected.

The Burden Of Proof

The fifth principle is that the burden of proof lies upon the person who asserts a fact. In other words, a person who seeks the decision of a tribunal in his favour must satisfy the tribunal that he is entitled to such decision. If he fails to do so the decision must be against him. It is for the person who asserts a fact to prove it, and not for his opponent to prove the negative. He may give evidence which, if uncontradicted, would be sufficient. It is then necessary to hear what the other side has to say. Having heard the evidence on both sides, it is the duty of the tribunal to balance the evidence and to arrive at a conclusion as to the side on which the truth lies, always remembering that the onus of proof lies on the person who asserts a fact. If there should be any doubt, he must fail and the decision must be for his opponent.

This principle is rigorously applied in criminal trials. The prosecution takes upon itself the burden of proving that the prisoner is guilty. 'Very well,' says the law, 'prove his guilt.' Every prisoner is presumed to be innocent until the contrary is proved. If the prosecution can produce sufficient evidence to establish the guilt of the prisoner, and the evidence which is given on the prisoner's behalf is insufficient to remove the effect of that evidence, there must be a conviction. But if any doubt is left the prisoner is entitled to the benefit of that doubt, on the principle that the prosecution has failed to discharge its onus of proving affirmatively that he is guilty. In English law there is no half way house. If a prisoner is not proved to be guilty he is entitled to be assumed to be innocent.

The sixth principle is that justice must be tempered by mercy. It is not, however, until the

tribunal has arrived at a decision as to which of the parties to a trial is entitled to succeed that the question of mercy arises. Then it may become necessary to pass a sentence, or make an order, or give a direction as to the enforcement of its decision. It is here that the prerogative of mercy is exercised. In criminal matters the court takes into consideration the previous history of the prisoner, the opportunities he has had of leading a decent life, the temptations to which he has been subjected, his contribution for the offence he has committed, and any other facts which can be urged in his favour. The sentence which is pronounced must be according to law, but its severity must always be tempered by mercy.—*Manchester Guardian*.

Immigration Appeal Boards

The following persons have been appointed under the Immigration Act as members of the Appeal Boards at Capetown, Durban and Pretoria with effect from January 1 to December 31 :—

CAPETOWN—

George Blackstone-Williams, I.S.O. (chairman).
Francis Louis Hay Aitchison
Johannes Hendrik Conradie with Charles Robert Louw as alternate member.

DURBAN—

Major Sidney Maynard Page
Magistrate (chairman).

Charles William Lennox
Charles Winsor, O.B.E.
Frederick Charles Mottram.

PRETORIA—

Frank Fleck (chairman)
Ernest Percival Niemeyer
Dr. Rolf Reitz with Montgomery Blair Robinson, Additional Magistrate, as alternate member to act as chairman during the absence on leave or duty of Mr. Fleck.

Pretoria Indian Hospital Bazaar

The joint secretaries of the Tamil Vedic Young Men's Association, Pretoria, write :—

The above association heartily thanks Mr. Jeewa Mohammed for allowing the free use of his Majestic hall, the Oriental Palace to hold the Indian hospital Bazaar, and also thanks all the Europeans, Indians and coloureds who supported the Bazaar and made it a success. It also expresses its grateful thanks to the various Indian and English papers for giving it publicity. The amount cash on hand £18-18-8 will be given on behalf of the Pretoria Indian community to the Superintendent of the Pretoria General Hospital.

Statement Of Income And Expenditure

The following are details of the income derived from the various stalls at the Bazaar :—

Tamil Vedic Young Men's Association reception to Kunwar Maharaj Singh and Kunwarani	15	15	0
—60 tickets at 5/3			
Pretoria Indian Physical Culture Club—Fruit, Vegetable & Jam stall	5	13	5
Mrs. Bob Maharaj—Drapery stall	9	12	6
Mrs. Varathoo Naidoo & Mrs. F. Small—Jelly & Custard stall	8	11	2
Mrs. P. M. Joshi—Sweet meat stall	2	6	8
Mrs. S. Ernest & Miss C. Ballakistan—Tea Room	1	4	6
Mrs. Rajoo & Miss Agnes—Jam tarts & Ice cream	1	15	7

Messrs. C. Kanan, K. Murugasen, M. Kanabathy	
—Mineral stall	2 17 8
Mrs. Varansurian Charles—Pin cushion stall	2 10 6
Messrs. M. Aroojunan, M. Verapen, M. Nadasen,	
P. Vellauthum, S. Velloo, M. Veramoothoo	
—Toy & Flower stall	8 13 10
Mrs. I. N. Naidoo—Tea Room	3 9 6
Messrs. G. Perumall & N. Govindan—Taj Mahal Hotel	3 7 8
Messrs. G. P. Pillay, S. Ganasen, W. Charles,	
M. Desai—Court of Justice	8 19 0
Miss Philomina—Button hole stall	5 5 7
Miss D. Singh—Box collection	1 4 5
Miss Soomanthra Singh „	1 6 10
Miss Soobathra Singh „	1 3 4
Mr. G. Krishnan—Raffling two tea sets and toys	5 10 0
Mr. C. A. Pillay—Raffling 3 sets Brass vases	5 0 0
Messrs. Bob Maharaj & C. A. Pillay—Raffling	
Bantom Fowls	2 16 0
Messrs. A. Ballakistan, P. Soobhia, A. Sigamoney,	
C. Ballasundram—Dance income	10 12 0
Mr. Anthony Pillay of Witbank	2 6
Principal Govt. Indian School—Collection	3 5
Sundry collections	9 0
	<u>£108 10 5</u>

Expenditure

Reception to Sir and Lady Kunwar Maharaj Singh	5 17 5
Advertisements	5 1 6
Cleaning, decoration, garland, bouquets	4 2 10
Breakage, shortage, repairing, hiring	4 4 6
Motor car expense	10 6
Sundry expense	2 5 0
Music	4 7 6
Electric light	2 6
	<u>£26 11 9</u>
Total Income	£108 10 5
Expenditure	26 11 9
Cash on hand	£81 18 8
Outstanding	<u>£1 11 0</u>

Fountain Of Wisdom

Go to it and do it! Beautiful plans will never put sugar on your bread.—DAVID HUME.

We ought, in humanity, no more to despise a man for the misfortunes of the mind than for those of the body when they are such as he cannot help. Were this thoroughly considered we should no more laugh at a man for having his brains cracked, than for having his head broke.—POPE.

Nature understands no jesting; she is always true, always serious, always severe; she is always right, and the errors and faults are always those of man.—GOETHE.

Most men are afraid of a bad name, but few fear their conscience.—PLINY.

“When mankind realise women are neither playthings nor slaves, and when womanhood is determined to establish these facts, then and only then will the problem of sex be solved.”—Dean Palmafi

ગુજરાતી સાહિત્ય લંડાર

નીચેનાં પુસ્તકો આ ઝોરીએથી મળી શકશે મંગલ-
નારાઓએ ઝોરર સાથે નાજા મોકલી આપવા મહેરમાની કરવી.
વી. પી. ઝોરરને ખીલકુલ ધ્યાન આપવામાં આવશે નહિ.

		શી. રો.
રસધાર	ભાગ ૧ લો	૨ ૬
”	” ૨ જો	૨ ૬
”	” ૩ જો	૩ ૩
”	” ૪ થો	૩ ૭
”	” ૫ મો	૩ ૩
સોરઠી બહારવટીયા ભા. ૧		૨ ૮
”	” ભા. ૨	૨ ૮
”	” ભા. ૩	૨ ૮
ઝેમીનના બહારવટીયા		૧ ૪
સોરઠી મંત્રો ભા. ૧ લો		૧ ૬
કુંભપટ્ટી		૧ ૬
સોરઠી ગીત કથાઓ		૨ ૬
રઠીયાળી રાવ ભાગ ૧ લો		૧ ૬
”	” ભાગ ૩ જો	૧ ૬
ચુંદડી		૧ ૬
હાથરડાં		૧ ૩
જાતુ ગીતો		૨ ૦
ઝોરીયાતું કલક		૨ ૩
સમગ્ર આપરરેન્ડ		૧ ૬
હંમેરીનો વરણવાર		૧ ૬
લેનીન અને અમલુલ		૨ ૦
મીસરનો મુક્તિસંગ્રામ		૨ ૧૦
મંડાધારી		૧ ૬
નરવીર મદાનંદ		૧ ૬
શિવરાજ		૧ ૧૦
લાલાજી		૧ ૦
રાજરથાની જીવાવળ		૨ ૬
કુરઆનીની કથાઓ		૧ ૬
જીવોતો દીપક ભાગ ૧ લો		૨ ૬
”	” ૨ જો	૧ ૧૦
વેણીના કુલ		૧ ૦
કીલોલ		૧ ૩
લાકવણો		૧ ૩
ઝોળાળો		૧ ૦
મીતાના અંગારા ભાગ ૧ લો		૧ ૦
”	” ભાગ ૨ જો	૧ ૦
જીવકાળના પડછાડા		૧ ૦
આપણા ઉપરમા		૧ ૦
કનમી રકુ		૧ ૦
વર્તમાન બહારવટીયા		૧ ૩
દિવ્યમણી		૪ ૬
જ્યંત		૪ ૬