

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

Colonial Born And Settlers Indian Association

THE first Natal Provincial Conference of the above body will open at the Royal Picture Palace, Victoria Street, Durban on Sunday December 31, at 10 a.m. The officials of the Association are hard at work day and night making the necessary preparations.

The Late Sir M. M. Bhowmagree

WE deeply regret to record the sad news of the death of Sir Mancherjee Bhowmagree which took place in London on November 14 at the age of 83 years. Sir Mancherjee Merwanjee Bhowmagree, K.C.I.E., was born in 1851 and was the son of a distinguished Parsee merchant in Bombay. He began life as a journalist. He was appointed State Agent in Bombay for the territory of Bhavanagar in 1873 of which he became judicial councillor. The late Sir Mancherjee was the second Indian member of the British Parliament. During Passive Resistance Sir Mancherjee rendered valuable services to the cause of Indians in South Africa as chairman of the Executive Sub-Committee of the South Africa British Indian Committee in London. Sir M. M. Bhowmagree will ever be remembered by Indians in South Africa.

Mr. Qureshi Meets Governor-General

Mr. A. I. Qureshi, M.A., F.R.E.S., an Indian research student of the University of London, whose comments on the treatment of educated Indian visitors in South Africa we published in our last week's issue, had the courtesy of an interview with the Governor-General, Lord Clarendon. "The great courtesy shown me by Lord Clarendon, to whom I presented a letter of introduction from Lord Bledisloe, Governor-General of New Zealand, made me forget that I was in the Union of South Africa, where there are such strict and rigid anti-Indian

laws," Mr. Qureshi observed in the course of an interview. "His kindly smile of welcome made me feel that I was back in my club in London, the Royal Empire Society, where it is usual to sit and discuss matters affecting the unity of the Empire with men of all races and creeds. Due to the good offices of Lord Clarendon, I was able to meet highly-placed officials in Pretoria. I am highly gratified at the interest taken in my visit by Lord Clarendon and at the kindness with which he received me and helped me." His interview with the Governor-General, continued Mr. Qureshi, had led him to urge that it was the duty of the intelligentsia in South Africa to educate large numbers of white people in this country who were colossally ignorant about conditions in India—people who did not seem to realise that India was a civilised and cultured country or that it had a civilisation as old and as great as any in the world.

Mr. Qureshi's all too short visit came to an end on Thursday when he sailed for England.

2,363 Repatriated To India Last Year

ALTOGETHER 2,363 Indians were repatriated to India during the year 1932-33, states the Auditor-General in his report on various Government accounts for that year. This was done at a cost of £55,617 to the Indian Immigration Bureau, which included £34,257 paid as bonuses and £13,668 in respect of ship passage money.

THE NEW YEAR

THE present issue marks the closing of the year 1933. It has been a year of anxiety and excitement practically to the whole world. In the Union great changes have taken place in the Government after a great deal of excitement. It was thought that the change would bring about peace. The Coalition Government has been in power for some months but we have not yet had the peace that one would like. That peace could only come about with a change of heart and that is yet to come in the two ruling races.

Then we were troubled with nature. The drought gave the whole country a very anxious time resulting in the offering of prayers to the Almighty for mercy. Our prayer was heard by The All-merciful and the country has had plenty of rain. But while the rain has brought us some relief the unprecedented swarms of locusts are causing great damage.

Coming to ourselves things have not been very bright. In fact there is a distinct cleavage caused in the community over which no sane person could feel happy. Whether the disturbed state of affairs will lead to the betterment or otherwise of the community remains to be seen.

Depression has been prevalent throughout the world. The wealthiest country like America has had a struggle to deal with her unemployment problem. Germany has been in the throes of race hatred and is busy hounding out the Jews who are being treated just as Asiatics are in this country.

While there is talk of disarmament and an end being put to war on the one hand countries like Japan and China have been constantly warring with each other and other countries have aided by supplying arms and ammunition. The whole world is in a turmoil and is trying to, but is not able to, see the Light. Perhaps it has not yet made an honest attempt to do so.

Then again glancing at India one finds that people—men, women and children are bearing the Cross for the freedom of their country from the tyranny of foreign rule. Their strength is being put to the test. The present year has been one of considerable suffering to them. There is no knowing what is yet in store for them.

In the death of Mr. Sen Gupta and Mr. V. J. Patal the country has received very great shocks while Mahatma Gandhi's terrible fast of 21 days, and his second fast in gaol had caused unbounded anxiety but thank God the calamity has passed and that he is once more enjoying his normal health and his tour in connection with the emancipation of the untouchables is proving a huge success.

Thus the present year has been full of shocks, anxieties and excitement. There is an expression of hope, however, in the Union and also abroad of a better future. It augurs well for the coming year. With the fervent prayer for a better realisation of man's duty to man and increased spirituality, which alone can bring real peace to the world, we wish one and all

A BRIGHT AND HAPPY NEW YEAR.

Transvaal Indian Women's Social Centre Xmas Treat For Indian Children

(Contributed)

The Annual Christmas Tree for the Indian children took place in the Springbok Hall, Vrededorp, Johannesburg on Friday 22nd December. The Hall was attractively decorated, and a Tree specially erected for the occasion, was installed, with oriental lanterns of various shades and colours. On the branches of the tree hung a toy for each child with the name inscribed.

Among those present were the Mayor and Mayoress of Johannesburg, the Kunwarani Lady Singh, Kunwar Sir Maharaj Singh, Mrs. K. M. Pillay, Chairlady Social Centre, Dr. Pauline Podinshuk, M.B., Ch.B., Mrs. G. Lawrence, Mr. and Mrs. Hall, Mr. and Mrs. Summerle and Miss Thresa Summerle, Mr. and Mrs. S. D. Boyeppen, Mr. and Mrs. D. M. Narsoo, Mr. and Mrs. Heister, Mr. and Mrs. Francis Balard, Mr. and Mrs. John Peters, Mr. and Mrs. A. W. Naidoo, Mr. and Mrs. Vithlinga Chetty, Mrs. Kristnasamy Singh, Mrs. Dorothy Hutton, Mrs. Francis, the Misses, Francis, Mrs. Bob, Mrs. Kistna Pillay, the Misses Naidoo, Mrs. Padiachi, Mr. J. F. Marrian, Mrs. David Marrian, Messrs. Rustomjee, B. K. Patel, S. M. Nana, Z. V. Parekh, W. Ernest, George Parkerwood, David Ernest, and others.

Addressing the gathering, the Kunwarani said that she was pleased to be present again this year on a similar occasion to bring cheer to the children during the Festive Season. She paid a tribute to the Committee of the Social Centre and praised the work of the Joint Secretaries, Mrs. Baikun Chetty and Miss Beatrice Francis and wished all a very Happy Christmas.

Chairlady (Mrs. K. M. Pillay) in her presidential speech, pressed thanks and appreciation to the European and Indian friends for their kind contribution towards the Christmas Tree Fund, and particularly to Mr. Mahomed Jajbhoy for his generosity in placing the

popular Springbok Hall at the disposal of the Social Centre on numerous occasions. Mrs. Pillay said that the girls of the Women's Social Centre had done excellently in the first aid of the South African Red Cross Society, and the Home Nursing Examinations.

During the first year, 18 girls had sat for the First Aid Examination, and 15 had passed, and of the 18 who took the Home Nursing last year, all had passed in that subject. If the Indian community played their part, the Social Centre, she added, would do its bit, and in time to come she hoped that Indian girls of the Social Centre will qualify for Nurses, and she recommended to the Hospitals for Indian wards.

Mayor's Message Of Goodwill

It was the eighth function that the Mayor, (Mr. Penry Roberts) had attended. "When were we elected to office, we had made up our mind," Mr. Penry Roberts said, "that we would like to give our time to all sections of the community. To-day, we have been to functions of White people, Coloured people, and Natives. To you to-day I bring a message of Good-will and better understanding between us and yourselves. I must say of the Indian community, that they are a law-abiding people, and they command the respect of the White people.

Speaking to the boys and girls, the Mayor referred to the life of the British Premier, Mr. Ramsay, MacDonald, how the latter elevated from a news boy to his present position, and exhorted them to work hard and to strive to attain the three essentials: Life, grit, honesty, and obedience, so that they might become more useful citizens of the great country of South Africa. In conclusion Mr. Penry Roberts congratulated the organisers on their efforts in making the function the success it was. Messrs. D. M. Narsoo and S. Rustomjee also addressed the gathering.

Programme

A lengthy programme was arranged, and Mr. Sol. D. Royeppen acted as M.C. A feature of the evening was an artistic Oriental Nappole dancing display by the Indian girls of the Red Cross Group, in their gaily coloured Saris, and followed by piano music selections by Miss Joan Narsoo and Miss Gloria Phyllis Royeppen. There was also a programme of recitations by children and songs accompanied by Miss Thresa Peters and Master Anthony Abel Peters, the little artists performing with credit and acceptance.

After refreshments were served for nearly four hundred adults and children, a Christmas hymn "While shepherds watch the flocks by night," was sung by the young ladies of the Social Centre in a procession carrying oriental lanterns. This formed an escort for the arrival of Father Christmas, and the singing of "May God Bless All Friends here, With a Merry Christmas and a Happy New Year," and the distribution of prizes to the children brought the programme to a close.

Master Gurus Morgan acted as Father Christmas, and played his part excellently, so did Master Robert Chetty as Soloist.

CONFERENCE

Colonial Born and Settlers Indian Association

The first Natal Provincial Conference of the Colonial Born and Settlers Indian Association will open at the Royal Picture Palace, Victoria Street, Durban on Sunday, December 31 at 10 a.m. All the District branches are requested to send their delegates.

A. CHRISTOPHER,

President.

A. HAFEEJE

S. L. SINGH

D. S. CHETTY

Jt. hon. Secretaries O.B. and S.I.A.

Pretoria Indians Celebrate Christmas

Distinguished Visitors Present

"I don't know that we have any reason to be proud of our Asiatic Bazaar in Pretoria," said Mr. J. H. Hofmeyr, Minister of the Interior, addressing about 900 children and a large number of Indian and European adults at a Christmas party organised by Mrs. P. F. Kincaid and the Indian Women's Association in the Asiatic Bazaar on Friday, December 22. That, however, applies also to other towns in the Transvaal. They have no reason to be very happy about Indian living conditions either. If things are not as they ought to be in any one part of the town the rest of the town is bound to suffer. I hope the work carried on by Mrs. Ruxton and Mrs. Kincaid will be maintained and extended."

Mr. Hofmeyr went on to say that he did not know that it could be possible to bring Christians, Muslims and Hindus together round a Christmas Tree, but it was possible in South Africa, and he was very glad that some of those things that divide the Indians in India did not divide them in South Africa. (Applause.) "A Christmas Tree is the right thing for bringing us all together because it reminds us of one of the biggest, perhaps the biggest event in the history of the world, an event which concerns every people."

"The Christmas Tree is a place where we come together and forget our differences and remember that we are all one family and belong to one another. Remember, we belong to one great family of God's creatures throughout the world. Remember that while it is a good thing to get things, it is a better thing to give them to other people. The biggest happiness does not come from what we get but from what you give."

Mr. Hofmeyr welcomed H. E. the Countess of Clarendon, who was accompanied by Mrs. Hogg Ruthven and Miss Rosemary Russell, was present, as were also the Kunwar Sir Maharaj Singh, and the Kunwarani Lady Maharaj Singh, who had brought with her little girl. "All of us in South Africa are grateful for the way in which their Excellencies are identifying themselves with every part of the community." He thanked the Indian and European ladies who had made the function possible. He thanked them not only for what they were doing at that particular function, but for all their splendid work among the Indian women and children in the location in the past.

First Of Its Kind

Mrs. Louisa Ruxton expressed her gratitude to the distinguished guests for their presence, and said that only Clarendon had herself offered to come. She had not waited to be asked to come. (Applause.) This was the first Indian Christmas party that had ever been held in Pretoria.

It has been organised by your friend, Mrs. Kincaid, wife of the Commissioner for Asiatic Affairs, who worked hard for the last six months in preparing for it. She welcomed the presence of Mr. Hofmeyr and his mother as an example of the happy relationships that were growing up. She was glad also to see the Deputy Mayor and Mayoress. Mr. and Mrs. A. B. Sidey, things were not as they should be in the Indian Locations, but she hoped that there would be a different story to tell next year. (Applause.)

The function was a delightful one, all the children sitting down at long tables to a large meal of jellies, puddings, sweets and other good things, before they ascended the platform to receive their gifts from Father Christmas. — *Pretoria News*.

Indian Ward In Pretoria Hospital Foundation Stone Laid

"When it is sometimes said that the Indian community send all their money to India and do not spend it here, it is not always appreciated that in view of the insecurity of tenure that restricts their development to a large extent it is not always possible to invest or expend their money in this country. I am sure that were they given greater security of tenure they would spend much more on good works," the Agent of the Government of India, Kunwar Sir Maharaj Singh, said in laying the foundation stone of the Cassim Adam ward for Indians at the Pretoria General Hospital on Dec. 19.

The Kunwar continued: Mr. Haje Cassim Adam was well known and respected not only in Pretoria but all over the Union. When he first approached me about this scheme for building a ward for Indians I agreed at once for there is no more deserving institution in Pretoria than a new ward for members of the Indian community."

Mr. Cassim (he recalled) had come to South Africa more than 30 years ago and by his industry, ability and generosity had made for himself a name among the Indian community and was regarded with respect by many of his European friends. Only a few days ago he had been unanimously elected president of the Transvaal Indian Congress.

The Kunwar expressed his Government's high appreciation of Mr. Cassim Adam's generosity and public spiritedness. They owed a debt too to the hospital authorities for their assistance and co-operation and they were grateful to the Administrator, who had throughout been most courteous, considerate and helpful.

The Kunwar went on to give several recent instances of the generosity of wealthy Indians towards their own people, which went to show that the Indians of the Transvaal and Natal were alive to their duties and to their responsibilities, but he appealed to his well-to-do Indian friends, both in Johannesburg and Pretoria, to do even more than they have done towards helping their poorer brethren. Wealth must never be amassed purely for oneself, for "it is a God-given gift which must be expended for the benefit of our poorer brethren." "Remember," he exhorted his audience, "that although there are several wealthy Indian gentlemen in South Africa, there are far more Indian poor. There is extreme poverty and even squalor not four miles away from us, where my fellow countrymen are forced to live."

Mr. Cassim Adam proposed to give more money for other charitable and useful work (the Kunwar continued), for he intended to establish a library for Indians in Pretoria. Appealing to Europeans, the Kunwar said he would like them to leave that function with a more kindly feeling towards his fellow-countrymen, and to treat them with that justice, consideration and generosity to which they were entitled by reason of their ancient civilisation, their culture and by the new political status to which India would attain in the near future. "There is no community more grateful than the Indian community," he concluded, "and if you treat them as citizens of this country I am sure they will be sure, they will contribute to the progress and prosperity of this great sub-continent."

Training Of Indian Nurses

The Kunwarani Lady Maharaj Singh added her thanks for what had been done. It was scarcely a year ago that she had visited the hospital with the superintendent, to whom she had spoken of the need for an Indian ward. She had hopes that the training of Indian nurses would also be undertaken by

the hospital. The Moedersbond Hospital had a further scheme under consideration whereby it was hoped to open an Indian maternity ward there, where Indian girls could be trained as maternity nurses. (Applause).

In the absence of the chairman of the Hospital Board, Senator R. A. Kerr, Dr. G. van Dyk welcomed the distinguished visitors. He said that when the plans for the new hospital were completed it was felt that the needs of the Indian community were not fulfilled, but as the available funds were exhausted it was not possible to consider further extensions. Mr. Cassim Adam, however, came to the rescue and it was owing to his generosity and his public-spiritedness that the ward was now coming into existence. The building of the ward alone amounted to £2,544, and of this sum Mr. Cassim Adam had provided £1,350 out of his own pocket, while the Provincial Administration had given the balance. A further amount of approximately £500 was required for equipment, and Mr. Cassim Adam considered that he could obtain this sum from the Indian community. Already £300 had been collected.

Medical service would be rendered to the patients in the Cassim Adam ward in the same way as it was given throughout the hospital, namely: patients who were part-paying or free would be attended to by the honorary staff, which consisted of surgeons and physicians appointed by the Hospital Board. These attended to part-paying and free patients without any remuneration. It was felt that the whole question of honorary staffs would sooner or later have to be reviewed, for although medical men never hesitated to treat the poor and needy, it could hardly be expected of them to spend the greater part of their time doing free work in the hospital.

"The treatment of the sick poor is, or should be," Dr. van Dyk continued, "a first charge upon the State, as much as free education or farmers' relief—(applause)—and should not be a burden imposed upon the medical profession. However, I have been asked by the chairman of the board to express publicly the board's appreciation of the services ungrudgingly given by the honorary staff."

Province's Contribution

Dr. van Dyk then handed a silver trowel and mallet to Mr. Cassim Adam, who presented them to the Kunwar to lay the foundation stone, inscribed as follows in English and Afrikaans: "This foundation stone of the Cassim Adam ward was laid by Kunwar-Sin-Maharaj Singh, Agent-General for India in the Union of South Africa, 19/12/33."

In the course of a few brief remarks, Mr. Cassim Adam said that nothing more than his duty demanded what had been done by him. The Indians should have had a separate ward long ago, and he was delighted that his wish had now been realised. He hoped to do more for his community in the future. He thanked all concerned for what had been done towards the furtherance of this object, and referred to the province's contribution of £1,250. "To-day Indians are beginning the fast of Ramadan, and therefore no more auspicious day could have been chosen for this ceremony."

Mr. J. H. Hofmeyr, Minister of the Interior, Education and Public Health, welcomed this step forward in providing for the Indian community. In the long run the interests of all sections of the community were inextricably bound up, and he hoped that the co-operation between Indians and Europeans now displayed could be regarded as an earnest of similar successful co-operation between the two communities in the future.—*The Star*.

Mr. P. B. Singh In Bombay

The *Bombay Chronicle* writes:—

An interesting visitor to India at present is Mr. P. Bharath Singh of Durban, who has come here with a view to make arrangements for an Indian Football team to visit South Africa. Mr. Singh himself who is an enthusiastic sportsman, was a member of Christopher's South African Football contingent which toured that country in 1921. He is also the President of the Natal Indian Lawn Tennis Association.

The object of getting together an Indian team, is to gratify the wishes of S. African Indians, who are desirous of establishing contact with people in this country. Many South African born Indians although they have blood ties, have never seen India. They are ignorant of the conditions of the people here and would like to be acquainted with their manners and customs. An Indian team would act as ambassadors between India and South African Indians, who have been exiled from the mother country through circumstances beyond their control.

The first request from South Africa to send a team was made in Sept. 1932, and since then the Indian Football Association has declared that it is endeavouring to form a Central Board of Control, which would send a representative team from India to tour South Africa. As soon as the Board of Control is formed in Calcutta during the next three months, a team would be chosen which would leave for S. Africa in April 1934. The football season there lasts from April to September.

Mr. Bharat Singh carries with him a letter from Mr. P. Osborne, the Mayor of Durban, requesting bodies in India to help the visitor to accomplish his purpose.

Mr. Singh, who is a member of the Council of Colonial Born and settlers Indian Association, will also make investigations into the conditions of repatriates from S. Africa on behalf of that body.

Indian Schools' Arts And Crafts Exhibition

The fourth biennial Arts and Crafts Exhibition organised by the Natal Indian Teachers' Society at Carlisle Street Government Indian School, Durban, by the Mayoress, Mrs. P. Osborn, last Friday.

For school exhibits a distinctly high standard was shown. The subjects, however, were rather monotonous says the *Natal Mercury*. Considerable skill was indicated in the handling of the various mediums—pastel, water-colours and black and white—and some of the work was distinctly promising.

Probably the best exhibit was the clay model of a woman by M. Gangan, of the Springfield School. Distinct talent worthy of cultivation was shown. A similar figure by M. Perumal, which receive first prize, was also good.

A silver cup, presented by Mrs. A. Christopher for the boys' section, was won by the Springfield School for the second time. St. Anthony's Government-Aided School carried off the cup, presented by the Union College, in the girls' section.

The exhibits included: Modelling, art, handicraft, group work, open class, maps, stamp collection, coin collection, dressmaking, lingerie, crochet, lace, knitting, embroidery, fancy stitchery, art needlework, fancy work group, and an open class. There was also a teachers' section.

Those who spoke included: Mr. T. M. Naicher, President of the Teacher's Society; Mr. S. M. Moodley, Chairman of the Exhibition Committee; Mr. O. K. Winterton, Inspector of Schools; Mr. W. M. Buss, Principal of the Sastri College; Mr. Leo Francois, President of the Natal Society of Artists and Mr. A. D. Lazarus.

Differential Treatment In Post Offices

Mr. Justice Gardiner's Judgment In Appellate Division

The following is the full text of the dissenting judgment given by Mr. Justice Gardiner in the Appellate Division recently in the case of Minister of Posts and Telegraphs and the Postmaster-General *vs.* Rasool in connection with differential treatment accorded Indians in the Pietersburg Post Office.

At the Post Office in Pietersburg (Transvaal) there have always been two separate counters, one where Europeans were served and one for the service of natives. The door leading to the latter counter had above it a notice "Native Post Office." Up to December 1931 Indians were served at the same counter as the Europeans. In that month the Postmaster-General gave instruction to the Postmaster at Pietersburg that Indians should no longer be served at the European counter, but they should be compelled to go to the Native counter. The designations of the two counters were altered, the notice over one door reading—"Alleen Europeane"—"Europeans only;" and the notice over the other—"Nie Europeane—Non-Europeans." It may be worth noting that while the word "only" appears over the European door, there is no such restrictive word over the door leading to the non-European counter. It was admitted for the purpose of the present proceedings that there was equivalence of service at the two counters. The respondent in this appeal who is an Indian, felt aggrieved at this instruction which the Postmaster carried into effect, and he applied to the Transvaal Provincial Division for a *mandamus* compelling the Postmaster-General to withdraw the instruction, or alternatively for an order compelling him to set aside a separate counter for the use of respondent and other Indians only.

Barr. J. in Chambers granted a *mandamus* compelling the Postmaster-General to withdraw the instructions, but granted leave to the appellants to institute an action to have the *mandamus* set aside. From this order the Minister and the Postmaster-General appealed to a full Court of the Transvaal Provincial Division (de Waal J.P., Tindall and de Wet J. J.) The appeal was dismissed, and a further appeal is now brought in this Court.

At the outset of his argument counsel for the appellants contended that this was not a case where a *mandamus* should have been granted on motion, but that the respondent should have proceeded by way of action. He agreed, however, to abandon this point, and therefore the only question which this Court has to decide is that of the validity of the instruction.

The Postmaster-General bases his authority for the issue of the instruction upon section 3 (2) and (4) of the Post Office Act 10 of 1911. These subsections read as follows:—

"(2) The Postmaster-General shall have the supervision and control of all persons in the service of the department and all post offices and post and telegraph services and may issue such instructions as he may deem necessary for the conduct and guidance of officers in carrying out the provisions of this Act, and may, subject to the approval of the Minister, fix penalties for breaches thereof not exceeding £10 for each breach.

"(4) The Postmaster-General may, with the concurrence of the Minister, establish, maintain

and abolish mail services, post offices and savings bank offices, as he may deem fit, make and alter postal and telegraph arrangements with other postal and telegraph administrations, and may further from time to time make regulations, not inconsistent with this Act, for the conduct of any business entrusted to him, or as to the manner of exercising the powers and duties assigned to him by this Act, and all such conventions, agreements and regulations, when approved by the Governor-General, shall be published in the Gazette and shall thereupon have the same force and effect as if they were in this Act contained."

It is common cause that no "regulations" dealing with the matter at issue have been made by the Postmaster-General, or approved by the Governor-General, which of course means the Governor-General in Council. There are no provisions in the Act which refer to natives or to Asiatics, or which make any kind of race distinction. If the Postmaster-General had any power at all to give the instruction, he must derive it from the provision in subsection (2) empowering him to issue instructions "for the conduct and guidance of officers in carrying out the provisions of this Act" or from the provision in subsection (4), enabling him to make and alter postal and telegraph arrangements." Seeing that there is abundant scope wherein these provisions can operate, it seems to me that it would be going far to hold that these general terms can include a special and peculiar power to do what is contrary to the fundamental principle of our law—that in the eyes of the law all men are equal. As I shall come to show, where race distinction has been considered necessary in matters other than those relating to the Post Office, Parliament has specially provided for it by a statute. It is not an unfair inference that if Parliament contemplated, when it legislated for the Post Office, that race distinction might be drawn, it would have made express provision therefor.

It has been urged that this instruction is a pure matter of classification, equivalent to a division of counters, whereunder persons whose surnames begin with a letter falling under A-M go to one counter, while others go to the counter for letters N-Z. To my mind the matter in question involves far more; it is a matter of race distinction, and as such falls under section 147 of the South Africa Act. That section provides as follows—

"The control and administration of native affairs and of matters specially or differentially affecting Asiatics throughout the Union shall vest in the Governor-General-in-Council."

Now the allotment of counters according to race has been dealt with by the Postmaster-General as a matter of administration. It is a matter "specially affecting Asiatics," for specific instructions have been given that "Indians" shall be served only at the non-European counter. If the words "throughout the Union" are to be taken as meaning that only matters of application to Asiatics generally fall under the section—a construction by no means the only one possible—then the letter of the Postmaster-General, dated 29th December 1931, shows that the instruction to the Postmaster at Pietersburg is only an instance of the policy which the former is pursuing through the Union. There remains the question whether the instruction is a matter "differentially affecting Asiatics." Now to "differentiate" in its primary meaning, is to distinguish one thing from another; it does not connote attaching more or less importance, or more or less weight to the one thing than to the other. One may distinguish a hat from

from a yellow by colour, but this does not mean that one rose is more beautiful or smells sweeter than the other. The Imperial Dictionary gives the following as one of the meanings of "differentiate": "To make or distinguish by a difference, as colour, of skin differentiates the races of men."

And Funk and Wagnall's Standard Dictionary has—
"To institute and establish a difference between; as many words, once synonymous are now differentiated."

It is true that sometimes the word is used in the sense of giving an advantage to one thing above another; for an example of this see section 6(3), (a) and (b), Act 10, 1911, but this in my opinion is only a secondary meaning, and the primary meaning does not connote the preferring of one thing to another. Where a word is capable of more than one meaning one should take the primary, unless there is some indication from the context that the word is used in another sense. There is not such indication in the South Africa Act. On the contrary, it seems to me unlikely that the legislature meant that whenever a question of acting or not acting, under section 147 arose, enquiry should first be made whether the proposed administration would or would not operate unequally. It must be remembered, too, that an act of administration which, at the moment it was done, would operate equally. It seems to me that the South Africa Act meant to refer to the Governor-General-in-Council all matters of administration whereby express provision was made concerning Asiatics, quite irrespective of whether such administration affected them prejudicially or not. Giving this meaning to the word "differentially," it seems to me that administration affects Asiatics differentially when it places them in a position different from that of other inhabitants of the Union. It is differential if it puts the Asiatics in a worse position than that of the Europeans; it is differential also if it puts them in a better. It is differential also if it puts them in an equal position but yet not the same position. Our Parliament can of course repeal section 147 in whole or in part; it can make its own provision as regards the administration of any matter affecting Asiatics, see R.V. Amodeo (1922 A.D. 217). It would be competent for it to make express provision for differential treatment of Asiatics by the Post Office, as it has done in the case of the Railways (see section 4(6), Act 22, 1916). It had made no such statutory provision in the case of the Post Office. In my opinion the instruction in question, if it could be issued at all without express statutory authority, could be issued only by virtue of a regulation approved by the Governor-General-in-Council under section 3(4), Act 10 of 1911, or as an act of administration done by the Governor-General under section 147 of the South Africa Act. The Postmaster-General could not himself lawfully give such an instruction, and therefore the order of Barry J., compelling him to withdraw the instruction, was in my opinion right.

I have stated that at least a regulation under section 3(4), Act 10 of 1911, or action under section 147 of the South Africa Act, would be required to compel Indians to report only to the native counter. But I go further, and take the view that under neither of these sections could such action be taken and that an Act of Parliament alone could authorise it. As I hope to show the instruction constitutes such a departure from the fundamental principle of the Law of the Union that something much more specific than the power to make regulations given in section 3(4) Act 10, 1911 would be required to

warrant it. As to section 147 of the South Africa Act, this has the effect of substituting for a single Minister, who would ordinarily administer Acts affecting Asiatics, the Governor-General-in-Council. But even the Governor-General-in-Council cannot administer unless something is first provided for him to administer, and that provision is usually made by statute.

Now I have said that it is a fundamental principle of our law that in the eyes of the law all men are equal. This is a principle to which Courts of law must give effect, save where the legislature has made provision to the contrary. And in my opinion it is a principle which the officials of the State must observe to the same extent. But upon this principle the legislature of South Africa have made several inroads, and the result has been to put coloured persons, and more particularly natives, upon a definitely lower status. In the Cape Colony there was very little race legislation, and European and non-European were in the same position as regards one of the most important of the rights of a citizen, the franchise. But in the Republic of the Transvaal and the Orange Free State there was a definite placing of coloured persons in an inferior position to that occupied by whites. Thus in the Transvaal *Grondwet* of 1858, section 9, it was provided that "the people will not permit any equalisation of coloured with white inhabitants, either in Church or in State." This was repeated in the *Grondwet* of 1896, section 8, with the omission of the words "either in Church or in State." Under the Free State Constitution, Sec. 1, burgers, that is persons having full citizen rights were confined to white persons. The historical origin of this distinction is thus stated by Lord de Villiers O.J. in *Moller v. Keimpe's School Committee* (1911 A.D. at 643 ...

"As a matter of public history we know that the first civilised legislators in South Africa came from Holland and regarded the aboriginal natives of the country as belonging to an inferior race, whom the Dutch, as Europeans, were entitled to rule over, and whom they refused to admit to social or political equality. These prepossessions, or, as many might term them, these prejudices, have never died out, and are not less deeply rooted at the present day among the Europeans in South Africa, whether of Dutch or English or French descent. We may not from a philosophical or humanitarian point of view be able to approve this prevalent sentiment, but we cannot, as judges who are called upon to construe an Act of Parliament, ignore the reasons which must have induced the legislators to adopt the policy of separate education for European and non-European children."

Our Courts have also recognised the existence of this prepossession or prejudice by holding that it is defamatory to say of a white man that he is coloured. *Louw v. Nielblock* (1911 O.P.D. 209), *Pitout v. Resentain* (1930 O.P.D. 112)—though according to the latter case, it is not defamatory to say of a coloured man that he is white. The South Africa Act, which united the four colonies into one Union, continued in certain respects this treatment of coloured persons as persons of inferior status. Their disqualifications for the franchise in all Provinces, except the Cape of Good Hope, were continued. They were debarred altogether from becoming members of Parliament, a right which they had previously enjoyed in the Cape Colony, and in that province, therefore, they may be said to have suffered a *capitis diminutio*. When by Act 18, 1930 the franchise were extended to women, the right was con-

fined wholly to Europeans, even in the Cape Province, where previously no race distinction has been drawn as regards the right to vote. In several instances since Union there has been legislation drawing race distinctions, and denying to non-Europeans, or to several classes of them, rights which are given to Europeans. I may give the following examples—

Native (Urban Areas) Act 21, 1923, which enables the Governor-General to compel natives in an urban area to reside within a location, and to prohibit them from occupying a dwelling within three miles of the boundary of an urban area and which makes special provision for removing from an area idle, dissolute or disorderly natives.

Native Taxation and Development Act 41, 1925, which imposes certain taxes upon natives.

Mines and Works Act 26, 1926, which provides that certain certificates of competency in occupations relating to Mines shall be granted only to Europeans, Cape Malays, Mauritius Creoles or St. Helena persons, and thus excludes natives and Indians.

Native Administration Act, 38, 1927 which enables the Governor-General to create and define pass areas within which natives may be required to carry passes, and to prescribe regulations for the control and prohibition of the movement of natives.

Liquor Act 30, 1928, which prohibits in the Transvaal and Orange Free State, save as otherwise provided in the Act, the supply of liquor to any Asiatics in Natal to consumption on the premises, and prohibits generally supply to natives, subject to certain exceptions.

Now this legislation, it seems to me, creates one status for the European, another and inferior status for the Asiatic, and another and more inferior status for the native. Wharton's Law Lexicon defines "status as the condition of an individual regarded as a person, the constructive elements of which were liberty, citizenship and membership in a family."

The exclusion from the franchise alone makes a difference in status between European and non-European. As part of a man's status he has his *dignitas*, which may vary in degree with his status. "*Existimatio est dignitatis illa esse status legibus ac moribus comprobatur, qui ex delicto nostro auctoritate legum aut minuitur aut consumitur.*"

Digest 50, 13, 5, 1. I had occasion in *R. v. Helli-day* (1227 C.E.D. at p. 400) to discuss the meaning of *dignitas*. De Villiers on injuries (p. 34) says that by *dignitas* is meant "that valued and serene condition in his social or individual life which is violated when he is, either publicly or privately, subjected by another to offensive and degrading treatment, or when he is exposed to ill-will, ridicule, disesteem or contempt. The rights here referred to are absolute or primordial rights, they are not created by, nor dependant for their being upon, any contract, every person is bound to respect them, and they are capable of being enforced by external compulsion. Every person has an inborn right to tranquil enjoyment of his peace of mind, secure against degrading and humiliating treatment; and there is a corresponding obligation incumbent on all others to refrain from assailing that to which he has such right."

(To be continued)

Holiday Boxing Programme

Kid Singh Wins By K. O.

The Durban Town Hall was the venue of another big boxing programme on Boxing Night, December 26. Despite the holidays the well-known promoters, Messrs J. B. Panday and M. Mahomed were successful in securing a bumper house to witness Kid Singh in what was expected to be his last fight in this country. Fortunately an extension of his contract has been intimated.

There were several notable personalities present as well as a large crowd of women.

Mottee Kid Singh vs. Peter Dunker

This fight of 12-min. rounds was billed to be the star bout of the evening but it really did not survive the first round. This bout between Kid Singh (9st. 3lbs.) of British Guiana, U.S.A. and England and Peter Dunker (9-16) of Capetown, was the shortest hitherto seen in Durban.

The first and only round opened with hectic hitting by Kid who did not receive a single blow from his opponent. Half way through, Kid's profile left found an easy target in Peter's chin. The blow was a heavy one and resounded to further recesses of the hall. Dunker was on the floor for a count of 6 but on rising Kid repeated with his right. Dunker was down for another count of 4. Immediately after he was again on the floor for a count of 3 but on rising groggily again, Kid delivered a forceful right which sent Dunker on the ropes for the full count.

Little had been known of Dunker until now but it is not probable that he will hurriedly fight in Durban again. Kid, who was in the pink of condition displayed his usual equanimity and was energetic and springy throughout. Of his four public official appearances in the ring in South Africa this is the third contest that Kid has won by the K.O. route.

Kid Ahmed 7st. 6lbs. vs. Kid Vengan (77)

The first bout of the evening was one of 4-3 min. R's between Kid Ahmed and Kid Vengan. The opening was fast but the preliminary rounds were characterised by a good deal of wild hitting. The first round was even. R. 2 was again marred by erratic hitting and little judgment was displayed in the blows delivered. In R. 3 Kid Vengan got in some well timed blows as a result of which Kid Ahmed's nose was beginning to bleed. The end of this round saw Vengan landing some hard blows to his opponent's solar plexus. R. 4 was also characterised by hard hitting but the points were evenly shared. The final gong gave Young Vengan the verdict on points.

On the whole this was a hard hitting bout and an unusual feature of the fight was the fact that the contestants never at any time showed signs of fatigue, though the fight was fast. The blows were, however, a little erratic but with more judgment the boxers should do well.

V. S. Govender (9st. 4lbs) vs. Dave Shade (9.4)

The next bout of 8-3 min. rounds was comparatively slow. The boxing was most unscientific. The blows delivered lacked force. Govender, it was evident, had the advantage of height and in consequence the diminutive Dave Shade was coerced quite frequently to stoop and crouch. Even in the infights Dave did not have things his own way. In R. 6 Shade, nevertheless, landed some fine blows to his opponent's head but they lacked sting to have the desired effect. In R. 7 Shade was showing signs

of fatigue and up till the final gong resorted to infighting and clinching.

Govender won on points. But this by no means reflects any real pugilistic art. He fails to put his height and reach to full advantage and his blows are weak very often being mere jabs and pushes. He will have to fight much better when he meets a better opponent.

Bud Gengan (9st. 8lbs) vs. Willie Fogus (9-8)

The third bout on the programme was indeed a gory affair. The fight opened with hectic hitting by both contestants and from one of the infights Bud emerged with a cut forehead. The wound bled profusely and frequently Bud's right eye was bathed in blood. This must, to some extent, have impaired his visibility for he had often to wipe away, with his glove, the streaming blood.

Hard and well timed hitting was the main feature of the following rounds. Bud's fighting was open and no doubt shows a marked improvement in his style. Kid Singh's style of infighting, too, has apparently had an influence on the local champion for Bud was using his arms like pistons in the infights and much of his scoring was done in this way. R's 4, 5, and 6 were decidedly Bud's. The sight of red certainly goaded him on like a bull and never before has he been so ferocious. He was continually on the offensive and in the 7th R damaged his opponent's lip which began to bleed freely. In R 8 the Capetonian's right eye was also bleeding but in the 10th Round another wound was visible on Bud's left forehead. The bleeding on both contestants was profuse and within a short while the ring was sprinkled with blood.

The final gong gave Bud Gengan an easy win on points. This was a hard-hitting and gory contest and perhaps the best on the programme. Both bled profusely and was a sickening reminder of the recent Williams-Smith affair. Bud by this win has redeemed his lost prestige which for some time had been on the wane.

Bennie Singh (9.9) vs. Cecil Jonosky (9.10)

The last fight of the evening saw full time. This was a return fight. On the previous occasion the Randite beat Benny Singh on points. In view of this a keen tussle was anticipated.

The contest opened with none of the usual vigour and glamour, both contestants being content to start warily. Throughout Cecil Jonosky was calm and mainly on the defensive but Benny showed more initiative and quite frequently landed some forceful left jabs, but one is inclined to feel that Benny should have been more forceful and hectic. He was not as prolific as he was in his last victory over Bud Gengan. Cecil showed slight advantage of height but this did not seem to trouble Benny. The bout was also characterised by a good deal of infighting where the scoring was even. In the final rounds Benny opened out and when the last gong was sounded it was felt that he had won on points for he had been leading, though by a narrow margin, all the way. The decision was, however, given to the Randite and was met with lukewarm approval.

If a return fight eventuates Benny ought easily to reverse this decision but he will have to be more prolific, more ferocious than he was on Wednesday night.

Mr. Maistry Presents Gold-Belt

Mr. V. M. Maistry, proprietor of the Central Laundry, has donated a Gold-Belt, valued at over £100, to Mottee Kid Singh as present Feather-weight Champion of the world. The belt is to be competed for by Indians only in this division and Indians

from any part of the globe are eligible to fight for the possession of this handsomely-ornamented Gold-Belt.

Tennis

The "A" division League matches have now been completed. Spes Bona for the second year in succession annexes the much-coveted Alfred David Shield by their splendid victory over the Moonlighters on Sunday.

The "B" division league matches are still being completed. On Sunday, 31st Dec. the Moonlighters travel to play Umzinto while another of importance in deciding the log will be the Sydenham-Spes Bona match to be played at Sydenham the same day.

Original Correspondence

TO THE EDITOR "INDIAN OPINION"

SPRINGS MAHOMEDAN COMMUNITY

Sir,—Under the heading "A Vernacular School In Springs," an article appeared in the INDIAN OPINION of 24th ultimo, and 1st inst.

We would like to draw your attention especially that of the Indian public to the fact that this advertisement, is in no way whatsoever connected with the Mahomedan community. We think that this article is very misleading.

Mr. B. Gangadeen, who was mentioned as chairman, is entirely unknown to us, and we were absolutely unaware of such meeting being held. There is not in existence such an Indian Society, under the chairmanship of Mr. B. Gangadeen. Therefore, if any committee is out for the collection of funds in the district for the establishment of an Indian school in Springs, it is not righteous. It is possible that this may be for the welfare of Hindus only, with which we Moslems have no connection.

We hope that you will kindly let this fact be publicly known in the next issue of your valuable paper, and oblige.

Yours Truly,

MAHMOOD SAHEB

Hon Sec. Springs Mahomedan community.

[NOTE: The above letter is written in bad taste. Mr. B. Gangadeen who is a leading merchant in Springs is, we understand, president of the local Sanatan Veda Dharma Sabha. The Sabha is obviously inspired with the best of motives in promoting vernacular education among our people. Whether the proposed school is to be run on sectional lines or is going to admit all Indian children we do not know. We know of many vernacular schools conducted by either Hindus or Mahomedans to which all children are admitted irrespective of what their caste or creed may be. That is as it should be. If therefore, the school in question is also to be conducted for the benefit of all sections of the community it is certainly the duty of all to help towards it. If, however, it is to be conducted solely for the benefit of the Hindus it would be the duty of the Hindus to help towards it and for other sections of the community to give friendly contributions. Everyone should support the cause of education and in education there should be no barriers based on race colour, class or creed.—Edi I. O.]