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**"RACE CLASSIFICATION
IN SOUTH AFRICA
-Its Effects on Human Beings"**



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ITS EFFECT ON HUMAN BEINGS

FOREWORD

WARM GRATITUDE is expressed to all those who most generously made available the results of their own investigations and gave of their knowledge and experience when material for this article was being collected.

Among them are Mr. Brian Barrow, Mr. J.H.M. Bridgman, Mr. A.H. Brooksma, Q.C., Mr. H.J. Carelse, Mr. Eldred Green, Mrs. K. Matthews, Mr. N.G. Meyer, Mr. D.B. Molteno, Q.C., Adv. J.G.F. Moulton, the Rev. Fr. Mark Nye, Mr. W.S. O'Brien, Mrs. Margaret Roberts, the Rev. H.C. Samuels, Mrs. Catherine Lance-Taylor, M.P.C., Mr. D. van der Ross, Dr. R.E. van der Ross and the Rev. Stanley Wakeling.

The writer met numbers of the people whose cases were described to her by press representatives and others, and was able to verify the information given. Other cases were personally investigated by her.

The task of collecting this material was an utterly depressing one; but it was inspiring to realize how many people are deeply concerned about the suffering that the Population Registration Act is causing, and who are giving practical help to those affected.

Appreciation is expressed, too, to Mr. D.P.J. Botha, the Population Registrar, who gave information on certain procedural questions.

Dr. Ellen Hellmann and Mr. Jack Halpern kindly read the manuscript and made various useful suggestions which have been adopted.

There were others who gave particularly gracious help which cannot be publicly acknowledged because they are personally involved in stories told in the pages that follow. The reason why they told of their personal tragedies was their earnest hope that the people of South Africa will come to realize that the Population Registration Act cannot be implemented without causing many grave injustices.

The writer, of course, assumes full responsibility for the contents of this article.

MURIEL HORRELL

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RACE CLASSIFICATION IN SOUTH AFRICA

ITS EFFECTS ON HUMAN BEINGS

INDIVIDUAL TRAGEDIES CAUSED BY THE ACT

RACE CLASSIFICATION is now in progress in South Africa. It will be shown in the pages that follow that the investigations necessary for this purpose involve humiliating enquiries into people's racial antecedents, and have caused many individual tragedies.

In a recent press statement ⁽¹⁾ the Minister of the Interior justified the Population Registration Act by saying that many people had lived all their lives in a state of unease because it was uncertain to which racial group they belonged. But now certainty had been given, and the clouds which hovered over them had disappeared.

As will be indicated later, this statement can be seriously challenged. A case can be re-opened should it be alleged that a person has been wrongly classified; and, unless a case has been taken to appeal there is, thus, no certainty. But even if the statement were entirely accurate, can any system be justified that involves heartbreak for large numbers of South Africans?

Various individual case-histories will be given later; but one is quoted at this stage to justify the question posed above ⁽²⁾. A Cape Town man, Mr. X., was recently asked to visit the Population Registration Office. When he arrived there he was told

(1) Cape Times, 21 February, 1958.

(2) This case was described in the Cape Times, 19 February, 1958.

that a report had been received to the effect that he was of "mixed" ancestry. He insisted that he was a European. His entire family was then summoned to the office.

His father had died years before, but his mother and four brothers were scrutinized and questioned. It was decided that they were all obviously European except for Mr. X., who was darker in colour than the rest. All the sons were then asked to leave the office, and their elderly mother was left there alone to face further questioning by the officials. After a time, for the sake of the four other sons, she was forced to admit for the first time that Mr. X. had been born out of wedlock.

P O S I T I O N P R I O R T O 1950

SINCE the early days of White settlement in South Africa people have, to a greater or lesser extent, been "race-conscious"; and the question of race later arose in connection with land tenure, admission to schools, employment, voting rights, pensions, and other matters.

Definitions of various racial groups were incorporated in a number of laws passed from 1910 onward⁽³⁾. These definitions did not always correspond with one another; they were made for the purpose only of the legislation concerned.

But the system was not rigid and immutably fixed. People could "pass" from one group into another if their physical features allowed of this.

The reasons for the endeavours to "pass" are an indictment of a system which controls employment, rates of pensions,

(3) Native Labour Regulation Act of 1911, Natives (Urban Areas) Act of 1923, Native Service Contract Act of 1932, Representation of Natives Act of 1936, Native Trust and Land Act of 1936, Workmen's Compensation Act of 1934, Registration for Employment Act of 1945, Unemployment Insurance Act of 1946, Silicosis Act of 1946, Disabilities Grants Act of 1946, Asiatic Laws Amendment Act of 1948.

residential rights, the right of freedom of movement, and many other matters according to a man's features and the colour of his skin. Even if it meant breaking with their families, there was every inducement for Coloured people to try to "pass" as Whites. They could then send their children to better-equipped schools, could qualify for skilled jobs reserved for Whites, could visit select hotels and cinemas, could qualify for pensions at higher rates.

But there was even more to be gained by Africans who could "pass" as Coloured, since they then became free of the whole system of passes, influx control, registration of service contracts, and extremely restricted residential and freehold rights.

There are in South Africa many thousands of people who cannot be classified according to a rigid system of racial identification. In the Cape Peninsula, for example, the people who call themselves "Coloured" on census returns are usually those whose skins are noticeably darker than those of the Whites and whose hair is often more curly. Many describe themselves, rather, as "mixed". In the central part of Cape Town they have been called "Woodstock White". These are the "border-line" cases.

The lightest-coloured members of these families often "passed" as Whites and went to live in separate homes. Their darker relatives have been referred to as "Venster-Kykers" because, in order not to embarrass those who had "passed", they made a practice of looking studiously into shop windows in order to avoid greetings should they happen to meet on the streets. There was generally not illfeeling between members of families divided in this way.

The first generation of those who "passed" did, of course, often live in a state of anxiety and insecurity, and might well be miserable because they were cut off from their families.

Generally, however, they married White or near-White people, their children were likely to be still fairer in colour, and after two or three generations their identity as members of the White group was unlikely to be challenged. Great individual tragedies occurred, of course, when a dark-skinned child was occasionally born of parents who lived as Europeans.

Until some twenty-five years ago, there were several so-called "buffer" schools in Cape Town that catered for the "near-White" type of child. Arrangements such as this helped to minimise friction between those who had "passed" and those who could not.

But, as a result of recent legislation, such as the Population Registration Act, the Group Areas Act, the Native Laws Amendment Act and others, designed to classify people into separate racial groups, and to divide them into separate group areas, separate schools and separate organizations, such friction is mounting. Here is an example.

There are two brothers in Woodstock, Cape Town, both of whom have saved for years in order to buy good middle-class homes. In terms of a proclamation under the Group Areas Act, one of them is now required to leave the area. Can it be wondered at that he is bitterly jealous of his far less socially conscious brother, who "passes" as White and may possibly be allowed to remain - unless someone "informs" against him?

Another intermediary group in the Cape Peninsula is that of "Coloured" people who have intermarried with "Malays", or who have embraced Islam. Families who are physically homogeneous may be divided on religious grounds, while having deep loyalty one to another. The present Government at first planned to separate the "Coloured" from the "Malay"; but has, since, recognised that such separation would be entirely artificial.

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The people themselves do not use these racial terms: they speak, rather, of Christians and Muslims.

As will be described later, there are, similarly, gradations in physical features, in religion, in modes of living, between Coloured people and Africans. The Griquas of the Northern Cape, the people of St. Helena origin in Durban, and many others, do not fit into any defined compartment.

THE MORE RIGID SYSTEM INTRODUCED IN 1950

IN 1950 legislation was passed to make the whole system of racial classification rigid and inflexible. The racial group of every individual was to be decided, once and for all.

The basis of the whole new system governing inter-racial matters was to be the Population Registration Act. After this had been applied, other legislation such as the Group Areas Act, job reservation, the Separate Representation of Voters Act, the reservation of separate amenities, separate University education, Bantu authorities, and so on, could be fully implemented.

But even in the Acts passed since 1948 there have been no uniform definitions of the various racial groups. There were variations, for example, in the definitions embodied in the Population Registration Act of 1950, the Asiatic Land Tenure Amendment Act of 1949, the Group Areas Act of 1950, the Native Building Workers Act of 1951, the Native Services Levy Act of 1952, and the Native Resettlement Act of 1954.

DEFINITIONS EMBODIED IN THE POPULATION REGISTRATION ACT

ACCORDING TO the Population Registration Act, No. 30 of 1950:

a) a 'White' person means a person who in appearance obviously

is, or who is generally accepted as, a White person, but does not include a person, who, although in appearance obviously a White person, is generally accepted as a Coloured person;

- b) 'Native' means a person who in fact is, or is generally accepted as, a member of any aboriginal race or tribe of Africa;
- c) a 'Coloured' person means a person who is not a 'White' person or a Native.

The Amendment Act, No. 71 of 1956, added the following proviso:

"A person who in appearance obviously is a member of an aboriginal race or tribe of Africa shall for the purposes of this Act be presumed to be a Native unless it is proved that he is not in fact and is not generally accepted as such a member".

It is also provided that Coloured persons and Africans shall be classified according to the ethnic or other sub-groups to which they belong.

DEFINITIONS IN TERMS OF THE GROUP AREAS ACT

IN TERMS of Section forty-one of the Group Areas Act (as consolidated in Act 77/1957):

- a) a person who in appearance obviously is a White person shall for the purposes of this Act be presumed to be a member of the White group until the contrary is proved;
- b) a person who in fact is or is generally accepted as a member of an aboriginal race or tribe of Africa shall for the purposes of this Act be presumed to be a member of the Native group until the contrary is proved;
- c) a person who is not in appearance obviously a White person

and who is not in fact or is not generally accepted as a member of an aboriginal race or tribe of Africa shall for the purposes of this Act be presumed to be a member of the Coloured group until the contrary is proved;

- d) whenever in any proceedings under this Act it is alleged by or on behalf of the Minister or any officer in charge of a deeds registry or in any indictment or charge that any person was at any time an Asiatic in terms of any law repealed by the Group Areas Act of 1950 or that a person is or at any relevant time was a member of any group the allegation shall be presumed to be correct unless the contrary is proved.

Proclamation 334 of 1 November 1957 enabled the Minister of the Interior, when proclaiming group, specified, defined or other areas, to distinguish between members of the Indian, Chinese and (in the Western Cape only) Malay groups.

It provided that any person who in fact is, or is generally accepted as, a member of a race or tribe whose national home is in India or Pakistan will be deemed to be an Indian, or, if his national home is in China, Chinese. Anyone in the Western Cape who in fact is, or is generally accepted as, a member of the race or class known as the Cape Malays, will be deemed to be a Malay.

But a woman of any racial group who is married to or cohabits with a member of any other group will, for the purposes of the Group Areas Act, be deemed to belong to the racial group of the man involved, unless the man is White, when he takes the racial group of the woman. (Mixed marriages between White and Non-White are, of course, now illegal; but those that took place before the dates of the relevant legislation have not been dissolved).

DIFFERENCES IN CLASSIFICATION MADE UNDER THESE ACTS

1. A person who appears to be White but is generally accepted as Coloured might be classified as Coloured under the Population Registration Act; but under the Group Areas Act he could be classified as White, unless an allegation is made, which he cannot disprove, that he is really Coloured.

It is here, as will be described later, that the door is opened to informers.

2. The position of people who appear Coloured but are generally accepted as White, and of those who appear African but are generally accepted as Coloured, is not clearly defined in either Act.

It is here that official discretion counts for so much.

3. Women who are married to or cohabit with men of racial groups different from their own may be classified quite differently under the two Acts. A Coloured woman married to an Indian, for example, is an Indian under the Group Areas Act, in order that she may live in her husband's area, but she remains Coloured under the Population Registration Act.

OTHER CRITERIA BEING TAKEN INTO ACCOUNT

NEITHER of these two laws specifically provides for ancestry to be taken into account.

Laws passed previously did lay down other criteria, for instance:

- a) Ancestry, language spoken, habits and associates may be considered when distinguishing between Coloured people and

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Africans in terms of the Representation of Natives Act (No. 12 of 1936) and the Native Trust and Land Act (No. 18 of 1936).

- b) Coloured persons who pay general or local tax may in certain circumstances be regarded as Africans in terms of the Workmen's Compensation Act (No. 59 of 1934), the Registration for Employment Act (No. 34 of 1945) and the Silicosis Act (No. 47 of 1946).
- c) Coloured persons who live in an African location under the same conditions as an African may be considered to be Africans in terms of the Disability Grants Act (No. 36 of 1946).

Thus a man may be an African in terms of the Population Registration Act, but a Coloured person for the purposes, for example, of the Representation of Natives Act.

Two or three years ago the Minister of the Interior appointed an Inter-Departmental Committee to investigate whether it was possible to arrive at common definitions of the various racial groups for the purposes of all legislation. During 1957 this Committee reported that the task was beyond its powers; but the Minister asked members to try again.

It appears that in practice, officials have been taking into account all or most of the factors mentioned above, when distinguishing between White and Coloured people as well as Coloured people and Africans. Ancestry is certainly being investigated in "border-line" cases.

In the Supreme Court case Goliath vs. Director of Census and Another, on 1 May 1956, the judge said⁽⁴⁾ that appearance in

(4) 1956 Part III SALR (T) 100.

itself can be deceptive. He considered that the main factor to be taken into consideration is preponderance of blood. A man who appeared to be an African might quite clearly not be African by descent, he said.

But when a similar case (Lambert vs. Director of Census) went before a full Bench of the Supreme Court, later, the judges did not agree with this opinion. They considered (5) that preponderance of blood cannot be held to be of over-riding importance, and that recourse must also be held to the alternative tests, that is, appearance and general acceptance.

The Minister of the Interior has said (6) that in the cases of persons of mixed descent, their classification would depend on a number of circumstances, for instance, how far back the union took place, what mode of living the persons had at present, and so on. In general, unless special circumstances existed, persons of a 'lower' layer striving to attain a higher status would not be permitted to do so. But that was a very broad generalization, he said.

Unless an appeal is lodged, the final decision as to a person's race is made by officials of the Bureau of Census and Statistics. It may, possibly, be useful to the authorities to have no clear-cut definition which includes ancestry, for exceptions can then be made. Numbers of the old-established and distinguished European families of the Cape Peninsula have Coloured blood at some stage, the birth certificates of one or more of their ancestors being marked "Mother - unknown". The effects of the Act could, indeed, be far-reaching if the officials were required to investigate ancestry. But there is no justi-

(5) SA 1956 III (T) 452

(6) Assembly, 9 and 17 May 1955, Hansard 15 col.5735 and Hansard 14 col.5228.

fication for taking this into account in some cases and not in others.

DIFFICULTIES THAT HAVE ARISEN OR ARE LIKELY TO ARISE

ALREADY many difficulties have arisen which the originators of the legislation did not foresee. Here are some examples.

1. During 1954 and subsequently, the S.A. National Council for Child Welfare was very much concerned about the fact that children born from the illegal union of White and African parents were being registered as African. It is often necessary to arrange for the adoption of such children, and Coloured foster-parents would be the most suitable.

In May 1955 the special Appeal Board, set up under the Population Registration Act, ruled that these children should be classified as Coloured.

2. Under the Population Registration Act, the children of mixed unions are, it appears, generally being classified according to the 'lower' of the two layers involved - that is, the group carrying fewer privileges. The children of White and Coloured parents would be classified as Coloured, for example, and those of Coloured and African (or Indian and African) parents as Africans.

But under the Group Areas Act, the children of Coloured and African parents, or Asian and African parents, would while they were minors presumably be classified according to the racial group of the father in order that they might live with him and his wife in his group area. The child of an Indian father and an African mother might, thus, be brought up in an Indian environment, but, on reaching the age of 16 and receiving his identity card,

might be forced to leave his parents and change his mode of living and his associates to those of the African group.

3. In practice, exceptions are being made to the general rule mentioned in the first sentence of the preceding paragraph; but it would appear that these result mainly from hasty official action. As will be mentioned later, several cases have been encountered in which a father has been classified as African, while his adult sons are registered as Coloured men.
4. The Population Registration Act does not specify to which group the children of marriages between Asians and Cape Coloured persons or Cape Malays are to belong. Under the Group Areas Act such a child would live in his father's area; but presumably, if his appearance, friends and manner of living were those of the mother, on reaching the age of 16 he could apply to be classified in her group. Throughout his years of childhood there would, thus, be uncertainty.
5. An African woman in Cape Town, who is married to a Coloured man, recently called at the office of the Institute of Race Relations to ask what her position is. None of the officials who were consulted could give a definite reply. It appears that she has the right to remain permanently in Cape Town (despite the rigid influx control measures in force there), as in terms of the Group Areas Act she is now Coloured. But she apparently still falls under other legislation applicable to Africans, and will probably be required to renew each month her permit to remain in the urban area.
6. What is the position of a European woman who married a Coloured man before the law prohibiting this was passed?

She becomes a Coloured for the purposes of the Group Areas Act and proclamations issued under this⁽⁷⁾. Presumably she cannot visit a European cinema, restaurant or club, or be employed as an executive or supervisor in a European trading concern. But apparently, unlike her husband, she may sit in the European part of a bus or train, and may be employed at European rates of pay, except in a senior position in a commercial firm.

7. It may be impossible to establish to which racial group certain individuals belong. A man in the Cape Peninsula, for example, was prosecuted under the Mixed Marriage Act on the charge that, being a Coloured man, he had married a European. In terms of this legislation the onus of proof lies on the Crown, and the case was dismissed, the judge ruling that the Crown had not proved that the man was Coloured.

The name of this man's mother was removed from the voter's roll by the Electoral Officer on the ground that she was Coloured. She took the matter to court; and in this case the appeal was dismissed because she was unable to prove to the court's satisfaction that she was White.

In the Appellate Division case Rex vs. Ormonde and Another, in which the accused was charged under the Mixed Marriages Act, the judge said⁽⁸⁾, "The definition is so framed that there must be a great number of people who cannot be proved to be either European or Non-European for the purposes of the Act. No doubt that position was intentional, taking due note of the fact that there is a doubtful class with one foot on each side of the colour line, in respect

(7) Proclamations 333, 328, 329, 336 and 337, of 1st November, 1957.

(8) 1952 (I) S.A. 272 (A.D.) Fagan J.A.

of whom a rigid classification or a compulsory choice would be artificial and unreal and therefore likely to cause grave injustice. Indeed, cases are quite conceivable in which a person may according to one branch of the definition (that of obvious appearance) fall in the one group and according to the other (that of general acceptance and repute) in the other."

But the officials concerned with the implementation of the Population Registration Act are attempting rigid classifications, which are indeed often artificial and unreal, causing grave injustice.

It should be noted that, in the Lambert case quoted above, the judges considered that, since an enquiry by the Population Registration Appeal Board is not analagous to a law suit, there is no question of onus. The Board must ascertain the facts as best it can, starting de novo, and reach an independent decision. But, in practice, if a person wishes to object to his classification by the Director of Census, he must provide the evidence to prove that this classification is incorrect.

8. "Passing" is likely to become impossible in the future, and anomalies will result. Take the case, for example, of a woman of mixed descent, including some African blood, who now "passes" as White, and is married to a White man. Under the Population Registration Act the whole family may be classified as Coloured, and all their descendants will be so registered.

But according to the science of genetics, although the chances of it are very small indeed, individuals in a hybrid community may revert to one or other of the original types that went to make up the cross, even if no further inter-

ld marriage takes place with members of these original types.
ve It is thus theoretically possible that some of the descen-
a dants of the union mentioned above may, genetically speak-
t ing, be completely White, or completely African. Yet they,
g and their descendants in turn, would remain classified as
he Coloured.

Similarly, it is theoretically possible that a family
now classified as White may have a descendant who is gene-
tically completely African, yet legally this individual
will be White.

FURTHER COMPLICATIONS UNDER THE CAPE EDUCATION ORDINANCE

IN TERMS OF regulations issued under the Cape Education Ordinance,
the principal teacher of an undenominational school for Europeans
must satisfy himself that the pupils he admits are Europeans.
Doubtful cases are referred to the school committee; and, in any
event, this committee, and also the school board, are responsible
for ensuring that no Non-White children are admitted to these
schools.

Until recently the Ordinance provided that a European is
a person of European parentage or extraction; but when it was
amended and issued in consolidated form in 1956, the definition
contained in the Population Registration Act was adopted,
instead. This relates to appearance or general acceptance only;
but school committees and boards, who are empowered to require
parents to prove that their children are European, are in fact
enquiring into ancestry. Documents as far back as the birth or
marriage certificates of the child's grandparents may be re-
quested; and this in spite of the fact that the child himself,
and not his parents or grandparents, is the person concerned in

the regulations relating to admission to schools.

Parents may appeal to the school board against a decision by the school committee whereby their children are refused admission to or excluded from a school. Further appeal may be made to the Superintendent-General of Education, whose decision is final. The process of appeal is often a very lengthy one, though, and meanwhile the children receive no education.

Until about 1933 there were at least five so-called "buffer" schools administered by the Provincial authorities in the Cape Peninsula, which catered for "borderline" cases. But then this practice was discontinued. Children of the "near-White" type were excluded from European schools, and could not always gain admission to Coloured schools, as education is not compulsory for Coloured children, the school accommodation being inadequate.

This case-history is given to indicate the hardship that has resulted. There is a married couple in Woodstock, Cape Town, who have lived all their lives as Whites and associate with Whites only. The wife's birth certificate cannot be traced, but the marriage certificate shows both as being Europeans. Their eldest daughter was accepted without question at a European school.

But the second daughter, who is darker in skin-colour, was refused admission in turn by the principals of fifteen primary schools, although her birth certificate indicated that she is a European. One further principal accepted her for a year, but then notified the parents that she must leave. Finally, when the child was nine years old, the parents appealed to the Cape School Board, bringing documentary evidence that they were Europeans, and also a statement by a member of the Provin-

cial Council who "conscientiously declared them both to be of European extraction, to live in a European area, and to associate only with Europeans". The Board then ruled that the child should be admitted to a European school. Meanwhile, of course, her education had been seriously retarded and she had been subjected to much humiliation.

So far as admission to schools is concerned, the decision of the Superintendent-General of Education is final. Such decision might, theoretically, differ from one by the Population Registration officials, which would mean that a child educated as a European might, on leaving school, have to live as a Coloured person.

The possibility of conflicting decisions being made is shown in another Cape Town case. The eldest child of a family, who appeared to be White, was accepted by the principal of a European school, and had attended for some years when the time came for the next child to start its education. This child appeared to be Coloured, which indicated that one or other of the parents was not of unmixed European descent. But the Superintendent-General ruled that, notwithstanding direct evidence that a child was not of unmixed European parentage, he should nevertheless be admitted if he was generally accepted as a White person.

THE POPULATION REGISTER

THE Population Registration Act provided that the Director of Census should compile a register of the population by extracting the necessary information from forms and returns received by him at the time of the 1951 census, and from such other records as might be available to him. He was empowered to require any person to furnish him with evidence as to the correctness of

particulars given in census or other returns.

It was decided that the register of the African people would be compiled and maintained by the Native Affairs Department. This process is a different one from the registration of the rest of the population, and is not dealt with in this article.

After the 1951 census returns were received, an identity number was allocated to each person enumerated. Census records were housed in the same building as the records of births, deaths and voters, thus enabling officials of the Bureau of Census and Statistics to check the various returns one against the other. Then, to provide further information, all non-African persons aged 16 years and over were required to complete official forms and to send these to the Director of Census together with two copies of a recent photograph of themselves. Arrangements were made with private photographers to take the photographs and to carry stocks of the forms.

Different forms were prepared for members of the various racial groups. White persons were required to state their full name, maiden name (where applicable), surname under which enumerated at the 1951 census, sex, date of birth, marital status, nationality, date and place of arrival in the case of aliens, identity number, birthplace, residential address at the time of the 1951 census and at present, and name and address of employer. Heads of families were also required to state the full names, dates of birth and identity numbers (if known) of their children under the age of 16 years.

The form for Cape Malays and Coloured people was a simpler one. They had to state their full name, race, sex, date and place of birth, and address at the time of the 1951 census and

at present. The name and race of his wife or the woman he lived with had to be included on a man's form. Details of children under the age of 16 were not requested; but the name, race, address and birthplace of each person's father, mother, brothers and sisters had to be given.

Both these forms consisted of single pages only; but Indians, Chinese and Malays (other than Cape Malays) had to fill in 8-page forms giving their name, sex, race, date of birth, and full details of birth-place. They had to state the reference number of any permit, certificate or other document issued by the Immigration Department (e.g. Transvaal Asiatic Registration Certificate, Condonation Certificate, Letter of Protection, Letter of Exemption, Temporary or Provisional Permit, or Aliens Registration Certificate.) The race and full names of both parents and husband or wife had to be stated, and similar particulars given of permits or certificates held by these persons. The names, sex and ages of all children resident or entitled to reside in the Union had to be filled in.

Asians born in the Union had to state in which province they were born. If they were born in the Orange Free State before 28 May 1900, or in the Transvaal before 1 September 1900, they could claim South African citizenship only if their father or grandfather had been born in the Cape Province or Natal or in another British territory (not including an independent Indian State or an Indian State ruled by a Prince).

Those born outside the Union but claiming South African citizenship had to state on what grounds this claim was made, and to give very full particulars in each case. They might, for example, be South African citizens by descent because their fathers or grandfathers qualified in terms of the preceding

paragraph, or were British subjects domiciled in the Union at the time that the person filling in the form was born.

They might be South African citizens by registration if they were British subjects who became permanently resident in the Union before 2 September 1947, and if they themselves, or their fathers or grandfathers, had been born in British territory. Women might be South African citizens by registration because on 1 September 1949 they were the wives or widows of a Union National.

Large numbers of people have not yet filled in these forms. No penalties were laid down for non-compliance; but this may be done later. The Act empowered the Governor-General to make such regulations as he considers necessary or expedient in order that the purposes of the Act may be achieved, and to prescribe penalties for contravention thereof or failure to comply therewith not exceeding a fine of £50 or six months' imprisonment. Furthermore, after a date to be proclaimed, any peace officer or other official authorized to do so by the Director of Census will be empowered to ask anyone to produce his identity card within seven days. Failure to do so will be deemed an offence, punishable on conviction by a fine of up to £50.

The names of all those enumerated at the 1951 census appear on the population register whether or not they have completed the forms, however, as do those of persons whose birth or entry into the country has since been registered. The Minister of the Interior said during 1957 that the names of about 90 per cent of the people had by then been listed.

Constant changes must be made to the register. The Minister has said that every year there are about 144,600 births,

16,000 deaths, between 16,000 and 17,000 immigrants, between 12,000 and 13,000 emigrants, and some 36,700 marriages (Figures for Africans are not included). Moreover, changes in marital status and in permanent address must be recorded. Persons changing their permanent address are required to notify the Director of Census: it is extremely doubtful whether this is being done.

The Act provides that after a date to be published, at the office of the magistrate of every district or at such other office as may be decided, a copy of the register containing the names and particulars of all persons registered as residing within that district shall be maintained, and shall be open for inspection by the public. Persons whose names are not included will then be required to furnish the Director with appropriate information.

These lists are not yet available for inspection by the public; but the official in charge of the population registration office in Cape Town, for example, has a list of the identity numbers of all those residing in Cape Town, Wynberg and Bellville, and furnishes these numbers at the telephonic or written request of persons concerned. In most areas where no population registration office has been established, lists of identity numbers are held by the magistrates.

BIRTH, DEATH AND MARRIAGE CERTIFICATES

BIRTHS are registered at magistrates' offices, and particulars are then sent to the Director of Census who allocates an identity number to the child. The identity numbers of both parents, and the child's race, must be entered on the birth certificates. Identity numbers must also be stated on marriage certificates and also, where possible, on death certificates. These require-

ments have forced people who for some reason were omitted from the 1951 census to register with the Director of Census.

Couples wishing to marry must produce their birth certificates before the marriage officer. Should it happen that the birth of one of them was never registered (this happens occasionally with Coloured people and more frequently with Africans) the Director of Census may authorize the marriage officer to waive the requirement.

Whites are not allowed to marry Non-Whites. If two persons claiming to be White want to get married, the marriage officer is required to send both birth certificates to the Director of Census before the marriage can be registered: the object presumably is to enable census officials to check the certificates against their records in order to ensure that the persons concerned are in fact registered as being White. Birth certificates need not be submitted to Pretoria if both the man and the woman claim to be Non-Whites, whether Coloured, Asian or African.

LACK OF CERTAINTY IN REGARD TO RACIAL CLASSIFICATION

THE Director of Census decides on everyone's racial classification, on the basis of information in his possession supplemented, where necessary, by additional information obtained by officials of the Department of the Interior. This procedure is described below.

But this classification is by no means final. Section five (3) of the Population Registration Act provides that if at any time it appears to the Director that the classification of a person is incorrect, after giving notice to the person concerned,

specifying in which respect the classification is incorrect, and affording him or her an opportunity of being heard, he may alter the classification in the register. (He is precluded from making such alteration only if the Special Appeal Board or the courts have already given a ruling on the case in question).

The Director does not need to state what has led him to consider that a decision should be reconsidered, and the door is thus opened to informers.

Many people are, as a result of all this, left in a continual state of anxiety. In its issue of 19 February 1958, the Cape Times told of one such case. Mr. B, it reported, fell in love with a European girl but could not marry her because his birth certificate was "not in order". The only way he could get his birth certificate changed was through the Population Registration Office in Cape Town. The officials there scrutinized him and noted the colour of his hair, eyes and skin. They sent the details to Pretoria for a decision, but nothing happened. In desperation, Mr. B went to Pretoria himself. "I was desperate and humiliated and I can't tell you the misery I and my fiancée have been through", he said. "Finally I managed to get an affidavit from an influential man to the effect that I was a European. They changed my birth certificate and now we can get married.

"But I am afraid to say anything because something might happen. They told me that if any complaint was made against me they could reconsider my case and change their decision."

As is noted earlier, the definition of a "White" person in the Population Registration Act is a person who in appearance obviously is or who is generally accepted as a White person, but does not include a person who, although in appearance

obviously a White person, is generally accepted as a Coloured person.

The appearance of very many South Africans does not furnish conclusive evidence as to whether they are White or not. The question of general acceptance then becomes of over-riding importance. Should a man who is initially classified as White have a number of Coloured friends and spend many of his leisure hours in their company, he stands to risk being re-classified as Coloured. This is a method of preventing friendships across an arbitrarily determined colour line, which is one of the objectives of present policies.

APPEALS FROM DECISIONS BY THE DIRECTOR OF CENSUS

THE Population Registration Act of 1950 provides that any person who considers himself aggrieved by his classification by the Director may object in writing, enclosing an affidavit setting out the grounds upon which objection is made. The Amendment Act, No. 71 of 1956, added that such objections must be submitted within 30 days after the classification became known to the person concerned.

Once an appeal has been noted, the appellant may be granted time to collect what evidence is necessary to substantiate his case. But the whole process of appeal is foreign to most of the people affected, and it is often extremely difficult for them to trace relatives who could give material evidence. The period of 30 days is far too short. It should be borne in mind that the Director of Census may re-open a case at any time.

All objections received by the Director must be referred by him to the Special Appeal Board set up in terms of the Act.

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He, and the person who has objected, are entitled to appear before the Board either in person or through counsel or attorney, and both parties have the right to lead evidence and to cross-examine witnesses. Sittings of the Board are held in public or in camera as the person whose classification is being investigated may elect.

Decisions of this Board are final and binding on the Director; but any person who considers himself aggrieved by a decision of the Board in regard to his own classification may within 30 days of this decision appeal against it to the ordinary courts of law.

The Act makes provision for "informers". It provides that any person who wishes to object to the classification of any other person may do so in writing, enclosing an affidavit setting out his reasons and also an amount of £10, which will be refunded if the objection is sustained, but forfeited to the State if it is rejected. The Director must send a copy of the affidavit to the person whose classification is questioned. All such objections must be referred to the Board, before whom all parties concerned are entitled to be represented. Should the Board consider such an objection by an "informer" to be unfounded or frivolous or vexatious, it may order the objector to pay to the other person concerned an amount not exceeding the reasonable costs he incurred in connection with his appearance before the Board.

Safeguards against malicious "informing" are, thus, contained in the Population Registration Act itself; but it appears that these do not apply when action is taken under related legislation, also designed to separate human beings into various racial groups. People who have always been considered to be Europeans are being notified that their names have been deleted

from the European voters' roll, or that their racial groups have been altered in the registers of births or marriages. No explanation is given. Such cases are sometimes referred by the Electoral Officer or the Registrar of Births, Marriages and Deaths to Population Registration officials for investigation. The Group Areas Act, closely bound up with the Population Registration Act in its implementation, offers wide scope to "informers". Examples will be given later.

The worst feature of the Population Registration Act is that, instead of placing the onus on officials to prove that a person is not of the racial group he claims, the onus of proving that an allegation by an official is unfounded has in effect been placed on the individual concerned. It would cost the Department of the Interior nothing to institute a legal enquiry; but in some cases it may cost an individual citizen hundreds of pounds to prove his case. He may be doubly penalized; for he stands to lose not only his money, but also his status in the South African hierarchy of race; and it must also be remembered that, because of the lack of clarity in the definitions, it may be very difficult, if not impossible, for a man to prove to which racial group he does belong.

The Special Board has so far visited Johannesburg and Pretoria only: appeals from other centres have been held over. As it has not yet visited Cape Town, people from there who want to challenge a ruling by the Director of Census may be forced to visit Pretoria, and to pay all their own and their witnesses' travelling and subsistence costs besides legal fees. On average, these costs amount to between £300 and £400 per case.

Early in 1957 the Minister of the Interior said that by then appeals had been lodged by 19 persons classified as

... 42 classified as Asians, and 1,250 classified as
... Of the 411 appeals heard, 375 had been upheld. Very
... more appeals would undoubtedly be lodged if the persons
... knew the procedure and were able to afford the costs.

I D E N T I T Y C A R D S

The Population Registration Act provides that identity cards will be issued to all those aged 16 and over whose names are included in the register. The Governor-General may make regulations as to the period of validity of these cards. Should any particulars entered on a card become incorrect as a result of a change in circumstances, and if and when the photograph fixed to it ceases to be a recognizable portrait of the holder, the latter must inform the Director of Census. The holder must pay for any further photographs that become necessary.

Slow progress is being made with the issuing of these cards. In the Senate on 16 May 1957 the Minister of the Interior said⁽⁹⁾ that of about 2,830,000 White, Coloured and Asian persons aged 16 years and over, 102,764 Whites, 4,682 Coloured persons and 878 Asians had received their cards. (Since then, cards have been issued to White people in the Cape Peninsula and on the Witwatersrand). In this speech, the Minister made a significant observation: "The question of the issuing of identity cards is not necessarily part of a population registration system".

CLASSIFICATION OF COLOURED AND WHITE PEOPLE IN CAPE TOWN

1. How People Come to Visit the Population Registration Office.

At first, after the Population Registration Act became

⁽⁹⁾ Hansard 13 cols. 4276/77

law, the classification of White and Coloured people in Cape Town was carried out by the Electoral Officer. Later, in January 1958, a branch Population Registration Office was opened there.

The local representative of the Population Registrar may, for a variety of reasons, ask people to call at his office. The Act provides that the Director of Census may require any person to furnish him with evidence as to the correctness of particulars given in census forms or forms completed in terms of the Population Registration Act. He may direct the Registrar in Cape Town to conduct local investigations.

The "Cape Times" reported⁽¹⁰⁾, for example, that early in 1958 a young man who had matriculated at a well-known Peninsula European school received a registered letter marked "Confidential" and headed "Population Registrar". It read:

"Dear Sir, - I have to request you to call on me at the above address on (date) in the above connection. If this appointment is not convenient I shall arrange another. Your near relatives such as parents, brothers and sisters should accompany you".

The "Cape Times" reported that the young man's father is a European clerk, and his sisters went to well-known European schools. They are all employed in European jobs. The father's guess was that the family had been summoned because his wife's birth certificate was marked "mixed". They were awaiting the date of the hearing with no idea of what started the inquisition, but with a great deal of anxiety.

(10) Issue of 21 February 1958.

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The implementation of the Group Areas Act leads to many visits to the Population Registration Office. People wanting to buy, rent or sell property often need certificates stating their racial group. Group Areas inspectors are carrying out house-to-house visits in many areas, and prosecutions are frequently instituted against persons who are racially "disqualified" to occupy the premises where they live. "Informers" may have visited the Group Areas Board. In such cases, the persons concerned may come to the Population Registration Office to try to obtain a ruling that they are of the racial group they claim.

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The identity numbers of the parents must be entered on a child's birth certificate, and nurses must now register their identity numbers with the Nursing Council. People applying for certain jobs must be able to prove their racial group. Others find that their names have been deleted from the European voters' roll on the suspicion that they have Coloured blood. These people must telephone or call at the Population Registration Office to clarify the matter or to obtain their identity numbers, and "doubtful" cases are then investigated by the officials.

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Couples wishing to marry must now produce their birth certificates, and may send for these for the first time to find, to their dismay, that their race has been entered as "mixed". This entry may be quite misleading: the Minister of the Interior quoted a case⁽¹¹⁾ in which the intention had been to indicate that one of the parents was Afrikaans-speaking and the other English-speaking. Or it may be an error. Births are often registered by a nurse, rather than the parents, and cases have occurred in which

(11) Statement in the "Cape Times", 21 February 1958.

the nurse gave incorrect information. But again, an investigation by the Population Registration officials becomes necessary.

An inquiry in regard to one family may involve many distant relatives. Mr. J. Hamilton Russell, Member of Parliament for Wynberg, said⁽¹²⁾ that during May 1957 he had been in correspondence with the Director of Census about a certain family T. "It may be mentioned", the Director wrote, "that the family T is apparently related to the families U, V, W, X, Y and Z, which consist of a large number of persons" (about 50, according to Mr. Hamilton Russell), "some of whom reported their race as Coloured during the 1951 census, while the births of the others are registered as mixed".

2. Procedure at the Cape Town Population Registration Office.

The procedure at the Population Registration Office is highly secret. No observer is in any circumstances allowed to attend.

Legal representation is permitted; but as an inquiry by the Board is not analogous to a law suit, the ordinary rules of court do not apply. The officials may ask any questions they wish. It is pointless for the legal representative to object, since he may succeed only in raising a doubt in the official's mind, or in antagonizing him - this would be highly undesirable as the official's opinion carries so much weight.

It is said that detailed questions are asked about the ancestry, friends and mode of living of the person concerned, the schools he attended and the jobs in which he has been

⁽¹²⁾ "Cape Times", 1 March 1958.

employed. His complexion, eyes, hair, features and bone structure are examined. The official may summon any living relative, including grandparents, and question them in a similar way.

The recommendations by the local officials are sent to the Director of Census in Pretoria, who makes the decision. The person whose classification is being considered is not given a copy of the recommendations and has no opportunity of refuting any statement made. One attorney asked whether it would assist his client if he obtained a sworn affidavit of association; but was informed that the official was uncertain whether or not the Director of Census would require such a document.

It may take months or even years before the matter is settled - and meanwhile the person concerned is left in grave anxiety, and often also in acute difficulty should he wish to marry or to buy, lease or sell property.

3. Some case-histories in Cape Town.

a) Cases resulting from the action of "informers".

A "Cape Times" reporter recorded this case⁽¹³⁾. In November, 1957, Mr. A, who lives in a European Suburb and holds a responsible post in a Peninsula factory, received a card from Pretoria telling him that his name had been deleted from the voters' roll. No reason was given.

He mentioned this to the clergyman of the church where he had been married, and where he was churchwarden, and was flabbergasted to hear that nearly two years previously this clergyman had received the

(13) Issue of 19 February 1958. This story was also told to the writer by the clergyman concerned.

following notice from the Registrar of Births, Marriages and Deaths in Pretoria:

"Sir, - A request has been received for the amendment of Register No. in respect of the marriage of (Mr. A and his wife). As the necessary documentary proof has now been lodged, please amend the original register of this marriage in terms of the provisions of Regulation No. 13(5) framed under Act No. 17 of 1923 as amended, by deleting the husband's race description and substituting therefor 'Coloured'."

The clergyman said he assumed at the time that the documentary proof mentioned had been furnished by Mr. A himself. In any case he thought nothing more of the matter, as Mr. A's racial group was of no concern to him, and he merely filed the letter in the register.

But, when the matter was subsequently discussed with Mr. A, they could only conclude that the "request" referred to had come from an informer. They had a shrewd suspicion as to who had given the information.

Mr. A said: "I sent to Pretoria for my birth certificate and it came showing me as Coloured. But there has never been any question that I am not a European. My father and my mother were Europeans. I went to a European school, and so did all my brothers. All my friends are Europeans. I have always visited European restaurants, hotels, theatres and cinemas. My wife belongs to a select European women's organization. My sons play in prominent European sports teams. I have always taken it that I am European right through, and so have my family".

Mr. A, his wife and sons were summoned to appear at the Population Registration Office, where they were all seated together round a large desk. Searching personal questions were asked of each of them. Each was asked whether he knew of any Coloured blood in the family. The questioner made notes of the colour of their hair, eyes and skin.

Mr. A said : "It was a terrible shock to me, and more so to my sons. The whole future of my family now rests on a decision from Pretoria". The worst part, he added, was that the very act of trying to prove himself European suggested that there might be some suspicion in the matter.

Informers have been known to protest when banns are called in Church, on the ground that one of the parties to the proposed marriage has Coloured blood.

b) Reports by "informers" to the Group Areas Board.

It is fairly common knowledge in Cape Town that "informers" have been making reports to the Group Areas Board. Their object may be to eliminate more successful business rivals, sheer malice, or, as the following example shows, they may act in revenge born of despair.

There is a Coloured man who for long has been living in an area of Cape Town that has recently been zoned for Whites. All his sons, daughters and grandchildren might well "pass" as Whites, and his brothers, in fact, do so. Because of this, they may possibly be allowed to remain in the area, but he will have to sell up, most probably at a loss, and move to some

other suburb, a long distance away from his place of employment. This man has done most valuable work for the whole community, serving on a number of civic and welfare organizations; but his brothers have been engrossed in their own affairs. He is now suffering deep hurt and bitterness, verging on utter despair. He is facing deep temptation to "inform" on his brothers. This is but one example of how people may turn "informers".

When Group Areas inspectors become suspicious that property is being occupied by racially "disqualified" persons, they have tried to obtain evidence from marriage registers held by clergymen, or from school teachers. The cases may be referred to the Population Registration office.

Principals of Coloured schools are often in a position, if they so wish, to give information about families passing as White. One such case was heard in the Johannesburg Magistrate's Court in March 1956.

A family had moved into a house previously occupied by Whites. The head of the family, his brothers, his wife and one of his children had lived all their lives as Europeans; but his sister was living as a Coloured person and two of his children, being fairly dark-skinned, had been sent to a Coloured school to save them from embarrassment. The principal of this school admitted later in evidence that he had informed the Group Areas Board that the family was in reality Coloured. They were visited by an inspector of the Board, and it was ruled that as the householder appeared to be a member of the White group, his

occupation was lawful. This opinion was, however, given without prejudice to any action that might be deemed necessary in future.

Mr. J. Hamilton Russell, M.P., told the "Cape Times"⁽¹⁴⁾ that an official had informed him that an investigation into a person's race was often started by an anonymous letter.

c) Reports by "informers" to School Committees.

Living in one of the southern suburbs of Cape Town is a family who have always been accepted as Europeans. The husband has been employed for a number of years as an oiler in the South African Railways and Harbours Administration, while the wife is a staff supervisor in a clothing factory, with 36 workers, some White and some Coloured, under her control. The family looks White, associates only with Whites, and is resident in a predominantly White suburb.

A small son, who in appearance might come from southern Europe, was admitted to a European primary school, but after a year was excluded. It transpired that the child's uncle, who regards himself as Coloured, had made a complaint to the school committee.

d) Families left in a state of uncertainty and anxiety.

There has been confusion and delay in the Cape as a result of the alteration of the definitions of racial groups in the Education Ordinance, and the uncertainty for some time as to whether rulings by the Department of Census and Statistics would be binding on the Education Department. As is noted above

⁽¹⁴⁾ Issue of 1 March 1958.

it was subsequently decided that, in so far as admission to schools is concerned, the decision of the Superintendent-General of Education shall be final. The following case illustrates the embarrassment and delay caused in individual cases.

In May 1954 a school committee in Wynberg rejected an application for the admission of a girl to the school on the ground that she was not a European. The matter went on appeal to the Cape School Board, and from that body, in April 1956, to the Superintendent-General of Education. The family appeared before a sub-committee of the Board for scrutiny and questioning, and full documentary evidence was submitted to the Department.

The father's classification as a European was never in any doubt. The mother had been brought up and educated in an entirely European milieu. The family lived in a European area and had nothing but European friends and associates. Both parents were registered as Europeans on the voters' roll. The only weak link in the chain of evidence was that the child's mother had been born out of wedlock, and though the grandmother was unquestionably a European, it proved impossible to obtain evidence about the maternal grandfather.

Not long after the documentary evidence had been submitted to the Education Department, the father received a notice requiring him and his family to appear before the Electoral Officer (this was before a special Population Registration official had been

appointed). They were told to bring with them their birth certificates and such other certificates or statements of identity as they could produce.

The family then enlisted the help of a Member of the Provincial Council, and, through her, legal assistance⁽¹⁵⁾. These advisers enquired from the Electoral Office under what statutory provision he was acting, and, after considerable delay, were informed that it was the Population Registration Act. At the same time they ascertained from a senior official of the Cape Education Department that the Department had been in direct communication with the Electoral Office on the matter. On two occasions, once the father alone, and once the entire family, appeared before the Electoral Officer for further scrutiny and examination.

In September 1956, over two years after the father's original application for the admission of his child to a European school, he enquired about the progress of his appeal and was informed that the matter was held up at the Electoral Office. Pressure was brought to bear by the legal adviser, and the Superintendent-General of Education then heard the appeal. On 10 December 1956 the father was informed that the school to which his original application had been made had been instructed to admit his daughter the following term. She was by then nine years of age, and her education had naturally suffered a serious set-back.

(15) Mrs. Catherine Lance-Taylor, M.P.C., assisted the family and an article she wrote about this case was published in the "Cape Argus", 25 July 1957.

But the family's classification under the Population Registration Act, had, a year later, still not been decided. Besides being left in uncertainty all this time, they had been subjected to the ignominy and embarrassment of going through two parallel sets of inquiries.

An investigation may have to be repeated, involving the persons concerned in much delay and expense. Mr. J. Hamilton Russell, M.P., tells of one such case⁽¹⁶⁾. After the Electoral Officer in Pretoria had removed the names of a married couple from the voters' roll, he helped them to convince this official that they were Europeans, and, in April, 1957, their names were restored to the roll.

But, six months later, the Electoral Officer wrote: "Since my decision in April to restore Mr and Mrs to the voters' list, it was officially brought to my notice that Mr 's birth register had been amended by the Registrar of Births, Marriages and Deaths at Pretoria to reflect his race as Coloured. My hands being tied by this action, I have no option but to remove the names in question from the roll, hence my second notice". The lengthy procedure of proving that the couple is European had, thus, to be undertaken all over again.

Feelings of anxiety and insecurity may have serious repercussions on health. A woman told the "Cape Times"⁽¹⁷⁾ that, some seven months previously, soon after the death of her husband, she had received a notification from Pretoria that her birth certificate showed

⁽¹⁶⁾ "Cape Times", 1 March 1958.

⁽¹⁷⁾ Issue of 21 February 1957

she was "mixed". When she and her sons appeared before officials in Cape Town, a few weeks later, she protested that she was a European, her father being an Afrikaner and her mother a Jewess. Her home language was Afrikaans, and she was a member of the Dutch Reformed Church.

"That was more than six months ago", she said. "I have had no word from them since to allay my fear and anxiety. I have wasted away from worry and had a complete nervous breakdown". Every day her son called at her house to see if the letter they had been waiting for had arrived.

e) Families may be divided.

Another tragic tale comes from the southern suburbs of Cape Town. A woman in Plumstead, with several children, married for a second time some years after her first husband had died. Then came the race "inquisition", and the possibility was raised that the father of the children might have had Coloured blood. The step-father completely lost his affection for the children, one of them ran away from home and cannot be traced, and the mother became very seriously ill.

A family in Wynberg has been divided by the Group Areas Act: the Population Registration Act has still to be applied in their case. A man who has always been accepted as a European, whose father was a German, and whose mother had Coloured blood, owns a house there. This was let to Europeans. When they left, he decided to re-occupy his house, but was told that he would not be permitted to do so. However, as his wife is unquestionably a European, she could not

be prevented from occupying the property, which she did. But her husband cannot live there with her. Their sons have all married White girls and live as Europeans. What is their future to be?

f) Other cases involving deep humiliation.

A further case that involved deep humiliation was that of an elderly woman who was forced to confess that her daughter had been of illegitimate birth when the latter was charged on 25 February 1958, in the Cape Town Magistrate's Court, with unlawfully using the European women's lavatory at Salt River Station.

The daughter was subsequently acquitted. The magistrate said⁽¹⁸⁾ that, while a Crown witness had given evidence that she was not European, there was evidence about bad feelings between this witness and the accused's family, and he did not, therefore, attach much importance to the evidence. "From your appearance", he added, "I do not blame the policeman for arresting you. But there is evidence that you are regarded as a European by your Church and that you regard yourself as such, and you are accordingly found not guilty and acquitted".

But this ruling is not binding on Population Registration officials, who have still to decide on the woman's racial group.

Here is another, more tragic, example⁽¹⁹⁾.

A man with a good job on the Railways in Cape Town told a press correspondent there that his life was in ruins because it came to the notice of officials

(18) "Star", 13 March 1958.

(19) Reported in the "Star", 5 February, 1958.

that the word "mixed" appeared on his birth certificate. He had not known this. Here is the story, as he told it:

"My parents were well-known and respected pioneers of Goodwood. My father held a high position in Freemasonry, and my mother drew a European old-age pension. My three sisters, one brother and I were brought up and educated as Europeans.

"In May, 1928, I married the youngest daughter of a Piketborg wheat farmer, a staunch Nationalist. I had never taken any part in politics, but to avoid a division in my home I became a Nationalist.

"I was employed at the railway workshops at Salt River as a first-class machineman. My wife and I were devoted to each other. There was never an angry word between us.

"One afternoon in February, 1952, I returned from work to my home in Woodstock to find two men from the Railway Census Commission sitting there with bulging satchels. They said they had been told by Railway Headquarters to approach me in a tactful way about an error which had been overlooked at the time I joined the Railways in 1923. They said the regulations laid down that only Europeans could be on the artisan pay schedule. They said I could resign or be reduced to a Non-European grade.

"I did not resign immediately because I was at first doubtful whether they were genuine. However, I found that my birth certificate read 'mixed'. So in March, 1953, I resigned from the Railways.

"When my wife learned that my birth certificate described me as 'mixed' she collapsed, crying and saying in Afrikaans: 'You have brought shame on me. Go away from me'. The atmosphere of my home changed immediately from devotion to hatred. My wife called me a 'Hotnot'. Eventually I had to get out of the house.

"A little later my wife sued me for divorce. It was at this time that I decided I could stand it no longer. I took a bottle of aspirin to do away with myself. I was very ill, but recovered, and went to court for the divorce case. At the end of the proceedings my wife collapsed. She remained bedridden until she died three years later in 1956.

"I now had to walk into a new world, never to be a White man again. My own family feared and despised me. My youngest sister, the wife of a railway ticket inspector, never even told me of my mother's death".

- g) Numbers of Coloured people have left South Africa as a result of the race "inquisition".

The "Cape Times" reporter had a harrowing talk⁽²⁰⁾ with a woman whose husband, with seven of his relatives, recently left South Africa for overseas, intending never to return. The husband was taken off the voters' roll in November 1957, and found that he might be classified under the Population Registration Act as Coloured.

The husband is European in appearance, and had a responsible job with a number of people working

⁽²⁰⁾ Reported in issue of 26 February 1958.

under him. He and the other members of his family had always lived in Cape Town as Europeans. They all have European birth certificates except for one sister who, as it happens, is lighter-skinned than the mother or brother.

The husband and wife did not always get on well together, but that, she said, had nothing to do with their "present tragedy". Her husband had left the country because he could not face the judgement that awaited him. "We were still together when this blow came last November. He came in that night and told me, and he sobbed for hours. I was heart-broken and I still am. It is hanging on me, always hanging on me, and I am afraid of what will happen to the children. One of them is booked in at a good European school and I am afraid they will take him away. I might still go overseas, but am afraid for the children and of having no job in a new country."

The same reporter told⁽²¹⁾ of a conversation, "in a modern block of flats in Vredehoek, with a young man with straw-blond hair, blond eyebrows and the features of a Viking". In January 1956 he and his Afrikaans-speaking fiancée decided to marry. He was told by the clergyman to apply for his identity number, which he did.

The result was a letter headed "Registered/ Confidential - Population Register : Race Classification". It said:

"Sir, - I have to advise you that this office

(21) Issue of 25 February 1958.

has at its disposal certain information contradictory to your statement on the census form: viz., that you are a White person. After careful consideration of the available information I am inclined to the view that your race description as reflected on the census form should be amended to read 'Coloured' instead of 'White'. Before applying the legal powers vested in me by virtue of Section 5 (1) of the Population Registration Act, 1950, it is desired to afford you the opportunity to produce satisfactory proof that you are White. For this purpose it is suggested that you obtain and forward to this office for examination any documents which may effectively prove that you are White".

A result of this letter was that the fiancée's father forbade the man to enter his house, and the engagement was broken off.

He went to his lawyer, obtained the birth certificates of his parents, obtained affidavits, appeared before the local officials with all the members of his family for question and scrutiny, and finally received his identity card and an acknowledgment from Pretoria that he is White.

"But the damage has been done. My father-in-law still thinks that there is something in it and he refuses to have anything to do with us. We got married against his will. But I am still afraid to stay here and we are planning to leave the country. The suspicion will always be there. There will always be rumours. And what is going to happen to

him?" - he pointed to his four months-old son. "Will he hear about this when he grows up? What will he think of me? Will he get a letter like that one day, too?"

A Coloured school principal in Woodstock says that within the last eight years, 28 families within his own circle of friends alone have left South Africa. "They are fine people, who would be a great credit to any country". Judging by the man's own character, this can well be believed. Any Friday afternoon if one goes to the docks when the mail-boat sails, one can see, amongst the families embarking, some who have both light-skinned and darker skinned members. South Africa is losing many of the cream of its Coloured and "near-White" folk - and it is they, far more than any other group, who can claim this as their mother-country.

THE CLASSIFICATION OF COLOURED AND WHITE PEOPLE IN OTHER AREAS

IN TOWNS such as Kimberley where no special Population Registration Office has yet been opened, investigations are carried out by the Electoral Officer, in addition to his other duties.

There are numbers of families in Kimberley with some members living as Europeans and others as Coloured. At the time of the 1951 population census, people were, in general, classified according to the racial group they claimed and the suburbs where they lived. But, prior to the general election in 1953, numbers of complaints were made to the Electoral Officer that persons on the European voters' roll were in fact of Coloured

extraction. It is said that some of the persons whose names were mentioned had no Coloured blood at all, but happened to be of Portuguese or other Southern European descent. All of these cases had to be investigated by the Electoral Officer.

In Kimberley and other towns, as well as in Cape Town, couples wanting to get married have to produce their birth certificates, and some people, when sending for these for the first time, find that their race has been recorded as "mixed". If wishing to challenge this, they have to start what may be a very lengthy and costly process of appeal. Appeal is made, first, to the Director of Census, who cross-checks with the birth and marriage certificates of the parents, census returns and electoral records, and may ask local officials to conduct investigations.

Numerous stories of anxiety and heartbreak come from other towns besides Cape Town. The one that follows comes from Port Elizabeth⁽²²⁾. Two days before the wedding of a woman there she received her birth certificate, to find that her race was described on it as "European Mixed". At first she was merely puzzled. She did not realize the implication.

She **thought** it meant her parents were not both of the same European descent. But a telephone call to the Registrar of Births and Deaths revealed that according to the certificate she was Coloured.

"I felt sick with shock", she said. She realised then that her wedding might be prevented The birth certificates of her two brothers and two sisters were carefully examined. They were registered as Europeans. There had to be some explanation.

(22) "Sunday Times" 9 March 1958.

"It must have been your father's fault", an official at the Registrar's office volunteered. But the woman's father is dead, so the official's assumption could not be confirmed.

Her fears grew. She thought of her two children by a former marriage - two girls, aged 16 and 11. "I was horrified at the thought of what it could mean to them", she said. The woman's brothers and sisters are all married and have children. Her mother is a well-known Port Elizabeth business woman. They too would suffer.

Armed with a sheaf of documents the woman went to see a magistrate at the new Law Courts. The magistrate was satisfied she was White. She and her fiancé, a Port Elizabeth man known to many people all over South Africa, were married by special licence.

But if she wanted her birth certificate changed she would have to go to the Supreme Court, she was told. She was given a form on which she had to declare she was White.

The woman's marriage certificate states that she is a European. But the agony is not yet over. An official at the Population Register Office told her to bring her mother, brothers and sisters to his office for him to inspect.

Many similar stories, from towns all over the Union, could be told.

Such situations involve the people concerned in deep humiliation. This cannot be avoided in terms of the existing legislation; and one would at least expect that the officials concerned would handle their cases with the utmost tact and delicacy. Many of them do; but not all.

There is a Coloured man in Johannesburg whose daughter

happens to be light in colour, but has no wish to disown her parents. She wanted to be a teacher, and in the Transvaal all students registering at teacher training colleges for Coloured people must produce certificates stating that they are Coloured. Some two years ago, she was, therefore, forced to appear before Population Registration officials. In front of her they discussed the colour of her hair and its length, the colour of her eyes, and the shape of her cheek-bones. They asked her "What colour is your boy-friend?". They pointed to darker people standing in the room and asked, "Would you like to be associated with people like that?"

THE CLASSIFICATION OF COLOURED AND AFRICAN PEOPLE IN KIMBERLEY

1. Classifications made in August, 1955.

On 15 August 1955 the following notice appeared in the "Diamond Fields Advertiser": "The classifying of Coloureds for the Population Register will start in Kimberley tomorrow. A representative of the Department of the Interior (Mr. M.....) has arrived in Kimberley to interview people who have been regarding themselves as Coloureds and will decide whether or not they really are Coloureds Those allowed to retain Coloured status will be given a letter to that effect. When the population register team arrives, the Coloureds will then exchange the letter for an identity card

"The people who now find that they are Natives will also be given a letter. This letter must be handed to the Native Affairs Department who will register them. They have, however, the right to appeal. This appeal will be lodged with a special appeal board - not yet formed -

and, in due course, they will be notified where and when they are to present themselves. They will also be told what they must take with them in the way of proof that they are Coloured and not Native.

"All Coloured males aged 16 years and over should see Mr. M He strongly advises all Coloureds to appear for identification. There are many 'holes' through which they must eventually pass, he said, and if they are not registered they will, in time, be discovered. He points out that once the register is complete, nobody will be able to get married, register a birth or death, buy or sell property, or, in fact, perform any official act without producing his identity card

"He will be at the following places on the dates given"

Large numbers of the Coloured people of Kimberley did appear before Mr. M. . . . - Indians were not affected. Many employers instructed their Coloured employees to go. Rumours spread that those who stayed away would be punished. But not all of them did present themselves for classification - some of the leaders advised against this.

People who did go say that they queued up near the entrance before a junior clerk who entered their names and addresses on official forms. They then queued up again outside an office occupied by Mr. M., and went in one by one. He made very little attempt to investigate their background (e.g. whether or not they were on the Coloured voters' roll), gave them no opportunity of fetching documentary proof of their statements, and said he was not interested in documents issued by other Depart-

ments (for example, certain certificates issued by the Division of Coloured Affairs, described below). He made a very cursory examination of their physical features, asked what racial group they claimed, recorded his decision, and told them to wait outside. There some were handed roneoed letters stating whether they had been classified as Coloured or African: others apparently had the letters posted to them.

No official information is available as to the numbers that were classified into these groups; but large numbers were given a letter stating (in translation from Afrikaans):

"In reference to your request to be classified as a 'Coloured', I must inform you that this Department is not prepared to register you either as a White or as a Coloured.

"It will thus be necessary for you to apply without delay to the Department of Native Affairs for a reference book.

"In this connection I must point out that if you wish to lodge an appeal against the classification, in terms of Article 11 of the Population Registration Act, 1950, such objection must be lodged in duplicate with this office, and must be accompanied by an affidavit in duplicate, setting forth fully the grounds upon which the objection is made.

"Unless these documents are lodged with this office within thirty days from the date of this letter, it will be noted that you do not wish to appeal against the classification".

It should be noted that at the time when these letters

were dispatched, the Act provided that "Any person who considers himself aggrieved by his classification by the Director may at any time object in writing to the Director". It was only after June 1956 that, in terms of an Amendment Act, the objection had to be lodged within thirty days after the classification became known to the person concerned or after the commencement of the Amendment Act, whichever was the later.

Numbers of people who received those letters did go to the Native Affairs Department to be registered and to obtain reference books. Others took no action at all. Still others, perhaps about 240 of them, went to attorneys for help and lodged official objections. It is certain that many more would have been well advised to take this action.

2. Some case histories.

This case is typical of many. Mr. H. has always been considered Coloured, and so have his parents. He attended a Coloured school, is registered as a Coloured voter, and married a Coloured woman. He is employed as a mason, and is admitted without question to bars catering for Coloured people. But he was classified as an African.

Another case, among those investigated by the writer, is even more startling. Mr. B., employed in a prominent position, is most definitely Coloured in appearance: he is light-skinned, and has an aquiline nose and thin lips. If any racial admixture was suspected one might conjecture that he had perhaps a little Indian blood, but certainly not African. His brother is married to an Indian woman.

Mr. B. was called before the population registration official to give evidence about his brother. He answered

the questions that were put to him. To his utter amazement he was later sent a letter like that quoted above, stating that he had been classified as an African. It had not been explained to him that his own classification, as well as that of his brother, was under consideration. Mr. B. is one of those who appealed, and whose appeal was successful.

A third case is described to show the absurdities that may arise. Mr. T. is in appearance obviously Coloured, and his sons and daughter are near-White: his sons, in fact, served as Europeans in the army. Both of them now live as Coloured men and were so classified. But Mr. T. trades in an African location and wants to continue doing so. It is said that he asked the official to classify him as an African: certainly this was done.

3. The classification of the Griqua people.

Near Kimberley is Griquatown, the headquarters of the remaining Western Griqua people, who are now dispersed throughout the surrounding towns and villages. Their ancestors were the offspring of Hottentot and Bushwomen by the old colonists. They left the colony and later intermingled with the small remnant of the true Griqua Hottentot people, with the Bastards (also of mixed Hottentot and European ancestry, but with more European characteristics than the Griquas had) with African refugees and refugee slaves, and with elements of Korana and Bushmen. In time they became a distinctive group.

The Griquas have little social contact with the Cape Coloured people, who want to forget the Hottentot element in their original ancestry. Many of the younger ones

have inter-married with Africans; but there are still considerable numbers of people who can speak Griqua (one of the Hottentot languages), and who have the distinctive Griqua appearance - a yellowish skin, high cheekbones and somewhat hollow cheeks, prognathic jaws, hair growing in little curly clusters. The younger ones have Afrikaans as their home language.

Very few of the Griquas have registered on the Coloured voters' roll; but they are freely admitted to bars catering for Coloured men, those who draw pensions are paid at Coloured rates, and most of the men hold certificates of non-liability for Native taxation.

During December 1953 Dr. P.C. van Haght, a research officer of the (then) Division of Coloured Affairs, visited Kimberley and interviewed large numbers of these people. He examined each case very thoroughly, and is said to have given many of the men roneoed certificates stating that their ethnic group is Griqua.

But the Griquas are another of the tragic groups who do not fit into any of the Government's rigid racial compartments. When the Population Registration official, Mr. M., visited Kimberley, he classified them as Africans. He is reported to have said that he was not interested in the certificates issued by Dr. van Haght. This is an extremely serious matter for the Griquas. As well as having to carry reference books, to register service contracts, to obey curfew regulations, to draw pensions at lower rates and to pay poll tax, their children will fall under the Bantu Education Act, and will have to be educated through the medium of one of the African lan-

guages - completely foreign to most of the Griquas, who speak Afrikaans.

Most unfortunately, the Griquas of Kimberley were illadvised by the then local representative of the aged present Captain, Nicholas Waterboer II. He advised them not to go to lawyers, but to trust him to put matters right; and after collecting money from them he disappeared. He took away the reference books from some who had obtained these. And, by the time that his duplicity had become apparent, it was too late for the Griquas to appeal against their classification as Africans.

At the time of writing their position was extraordinarily confused. They are not Africans for the purposes of the Representation of Natives Act, yet cannot qualify for the Coloured voters' roll. Some of them, while holding certificates of non-liability for Native taxation, have been issued with reference books making them liable to pay poll tax.

Mr. C., obviously Griqua in appearance, is an old-age pensioner, drawing his pension at Coloured rates, yet has been made liable for Native taxation as from 1955.

Mr. J., also a Griqua in appearance, is one of those who was certified by Dr. van Hagt to be a Griqua. His baptismal certificate states that he is Coloured, but he now holds an African reference book.

Officials who issue these reference books are required to state the holder's group and tribe. Here again there is much confusion. In some books these spaces have been left blank, some state "Native", some "Griqua", and others "Ex-Griqua".

4. Re-Classifications made in October 1957.

As is mentioned above, numbers of Coloured people who were classified as Africans by the official Mr. M., lodged appeals through local authority. The average fee charged was £5. 5. 0. One attorney handled 180 cases, another 30, and others smaller numbers.

The objections, affidavits and supporting documents were sent to the Director of Census, and for over two years nothing further happened.

Then at the beginning of October 1957, the Director of Census wrote to the attorneys concerned to say it appeared that the full information available was not placed before Mr. M. The Director was willing to send Mr. H., a more senior official, to verify the additional information subsequently submitted, thus obviating the necessity of an investigation by the Population Registration Appeal Board. He would interview only those people who had appealed. The attorneys would be permitted to represent their clients during the interviews. If the investigation by Mr. H. did not justify an amendment to a client's classification, the latter's objection would in no way be prejudiced as it would eventually go before the Board in the normal way.

Mr. H. conducted very thorough investigations, and gave a sympathetic hearing to the objectors. Of the 210 appeals handled by the two attorneys mentioned earlier 208 succeeded - the remaining two will be heard by the Board at some future date.

Many injustices were, thus, put right; but the people concerned had suffered grave anxiety for over two

years. But, more serious than this, Mr. H. heard evidence only from those who had lodged appeals. Many others, who might have succeeded in being re-registered as Coloured, had failed to appeal within the stipulated 30 days, or, being ill-advised or bewildered, had registered themselves as Africans with the Native Affairs Department.

Another point should be noted. After all those of the age of 16 and over have received their identity cards, the Governor-General may issue a proclamation empowering any authorized official to order any European, Asian or Coloured person to produce his card within seven days at a stipulated place. But Africans already must produce their cards on demand. In effect, the darker-skinned Coloured people are now required to carry "passes", in that they must on demand produce their identity cards, or their certificates stating that they are Coloured, in order to prove that they are not Africans.

THE CLASSIFICATION OF COLOURED AND AFRICAN PEOPLE IN JOHANNESBURG.

1. Visit by Population Registration Officials in August 1955.

Officials of the Department of Census and Statistics have visited numerous other centres to classify the Coloured people. They came to Johannesburg during August 1955, their visit being well advertised. Some employers told their Coloured workers to go. The officials were reported to have visited numbers of factories, interrogated Coloured bedding assistants employed by the Railways, and interviewed workers in laundries.

There were, at this time, a number of pass raids by the police. Non-White people alighting from trains on

their way to work, for example, were ordered to produce their reference books or passes, and any of them who were considered to have the appearance of Africans, and did not possess these documents; were taken or ordered to report to census officials for classification.

The "Sunday Times" reported⁽²³⁾ one such case. A Coloured man "was stopped by the police and asked what he was. He replied, 'I am what I am, Coloured'. The police then said they were arresting him. He asked whether he had committed an offence. The police answered that it was compulsory for all Coloureds to be identified. This Coloured man served in the South African Police for three years as a Coloured constable. He has related his experience in a sworn affidavit."

Anxiety and fear mounted among the Coloured people, and hundreds presented themselves for classification in order to avoid arrest. Employers advised their Coloured workers to go for this reason. Dr. Ellen Hellmann, the then President of the Institute of Race Relations, visited the Pass Offices, where the census officials were in session, and reported⁽²⁴⁾ that one official had said that there were 400 Coloured people outside the offices. "Another said 600. I don't know - I didn't try to count. It shamed me even to look at these massed faces because other eyes would soon look at these faces and decide - by assessing colour and feature and hair, and asking certain questions - the race category to which these faces would henceforth belong".

The Native Affairs Department official "tried to

(23) Issue of 21 August 1955.

(24) "Race Relations News", September 1955.

pacify them. He told them to come next Monday, next Wednesday. But no, they said. They had waited yesterday, and now they were losing their pay for today, and the rent would soon be due, and if they were not classified they would be arrested - 'Hulle sal ons optel. My vriend was gister opgetel', they said. The word came from every quarter of the yard, - 'optel, optel'. The official urged them to go back to work. He promised them finally that there would be no further arrests for two months. Some accepted this assurance and departed, but the milling mass in the yard seemed no less dense, and they clustered round that official wherever he stood. I remember in particular one old, blind man, guided by his friend. The official relented and sent them straight to Room 7, where the Department of Census was operating, carrying out the classification."

The "Sunday Times" reported⁽²⁵⁾ that both the Commissioner of Police and the Director of Census had said they knew nothing about the arrests, but that, following representations by the Johannesburg Non-European Affairs Department, these had ceased.

2. Points of procedure that were queried.

A deputation from the Johannesburg City Council met the Director of Census on 17 August 1955, and thereafter issued a press statement to the effect that the Census Department would make provision for Coloured people to be classified at times and places mutually agreed on. The Minister of the Interior subsequently said⁽²⁶⁾ that "the inquiry is quite voluntary. We simply provide the facil-

(25) 21 August 1955

(26) Statement published in the "Rand Daily Mail", 5 September 1955.

ities and try to make it as convenient as possible for the people." But, as is explained earlier in this article, it was officially announced during November 1955 that the identity numbers of both parents must be stated on birth certificates, and that couples wishing to marry must inform marriage officers of their identity numbers. It is usually necessary for Coloured people to report for racial classification in order to obtain their identity numbers⁽²⁷⁾. Moreover, such classification is often necessary before inter-racial property transactions can be undertaken, and Coloured students wishing to enter teacher training institutions must produce population registration certificates. The process is, thus, not entirely voluntary.

People refused classification as either White or Coloured were at first instructed to report without delay to the Native Affairs Department for registration as Africans, whether or not they intended appealing against the classification. They were forced to take out reference books and were made liable for payment of poll tax. Father Mark Nye, of Pretoria, said⁽²⁸⁾, "Even a convicted murderer is not hanged, if an appeal has been noted on his behalf, until that appeal is heard. But when a Coloured man is refused classification as such he is told to go to the Native Affairs Department for a pass. There ought to be some protection for such people against arrest. They should be given an interim

(27) Identity numbers were supplied to those enumerated at the 1951 census, but many people have mislaid these, and some were not enumerated.

(28) "Rand Daily Mail", 25 August 1955.

certificate stating that their racial claim is being investigated. While their appeal is pending they should not be thrown into gaol for not having a reference book".

Following a press campaign and representations by many organizations and individuals, the Minister of the Interior announced⁽²⁹⁾, "The objection has been raised that a person classified under a certain group, while he himself believes that he belongs to another group, is immediately treated according to the new classification, even though an appeal has been lodged. On the assumption that this objection is justified, I am willing to make a concession.

"Although the classification of the Director of Census and Statistics is in force, and remains so until it is set aside by the proposed board of appeal (this body was not set up until September 1955), I shall suspend the ruling of the Director until the pending appeal has been dealt with; but then the appeal must properly be lodged in accordance with the provisions of the Act within thirty days of the Director's ruling." Where rulings had already been given, the thirty-day period would commence from the date of the Minister's statement.

(As is pointed out earlier, at that time the Act provided that "Any person who considers himself aggrieved by his classification by the Director may at any time object in writing to the Director." It was not until June 1956 that the thirty-day period was made legal).

After the Minister had made this statement, persons who had lodged appeals were provided with official docu-

(29) "Rand Daily Mail", 5 September 1955.

ments stating that their racial group was being investigated.

3. Tests imposed.

People who reported to the officials for classification were not told what documentary evidence the Department might have, and were given no opportunity of calling witnesses. They were asked such questions as "What race are you? What race are your mother and father? And your grandmothers and grandfathers? Where were they born? Where do you live? What race is your wife? Is her complexion darker than yours? What length is her hair? What languages do you speak? Are your friends Coloured?" It is reported that some were even asked "Do you eat porridge? Do you sleep on the floor or in a bed?" Some Coloured people said⁽³⁰⁾ that they had been told to turn sideways so that the officials could study their profiles.

Large numbers of people did succeed in being recognized as Coloured. The Director of Census is reported⁽³¹⁾ to have said that the manager of a Rand factory had asked the officials to classify his workers. Of 134 workers, 100 had been classified as Coloured and the remaining 34 as Africans.

But there were many cases in which the reasons for the decision were hard to follow. A "Sunday Times" reporter wrote⁽³²⁾ "No-one has been able to understand exactly the yard-stick by which a Coloured man is measured and turned into a Native. In dozens of cases the Coloured man has replied that he is Coloured, that his parents are

(30) "Sunday Times", 21 August 1955.

(31) "Star", 17 August 1955.

(32) Issue of 14 August 1955.

Coloured and his grandparents too, that his wife is Coloured and that they live in a Coloured area, mix only with Coloureds and speak no Native languages. But the officials have classified them as Natives.

"They just looked at me and said I was a Native' a young Coloured man told me," the reporter wrote. "I spoke to a 59-year-old Coloured man with nine children. He has been Coloured all his life. Last week he became a Native. One Coloured man with blue eyes and fair skin was told to get a pass book. None of these Coloured people have Native names. Their language is usually Afrikaans, sometimes English, virtually never Native."

4. The implications for people classified as Africans.

This reporter investigated in more detail the case of Mr. W., a Coloured man who served in the Cape Coloured Corps in the two World Wars, and lived in Noordgesig, one of the Coloured townships of Johannesburg. Both his father and mother had Afrikaans surnames. He was employed in an occupation in which only Coloured people were accepted.

"But", the reporter wrote, "it took a Government official exactly half-an-hour to turn him into a Native. Now he will have to carry a pass. He will have to leave Noordgesig, and find another home. He will come under the laws that provide for the removal of Natives from urban areas. He will lose his job. When he becomes unfit to work, he will not be able to claim a war veteran's pension because 'Natives' are not eligible for it. 'Mr. W. is Coloured - there is no doubt about it', the secretary of the B.E.S.L. in Johannesburg told me. 'I cannot understand how anyone with even an elementary knowledge of

the racial groups can think differently".

The Deputy Manager of the Johannesburg Non-European Affairs Department is reported to have said at the time⁽³³⁾ "We are prepared to say that all the Coloureds in our townships are in fact Coloureds". The Department's welfare staff made a thorough investigation. It demanded marriage certificates, and it called on the parents and relatives to see whether the person lived habitually as a Coloured and was regarded as such. "Yet", the reporter commented, "these findings, carefully reached, are being upset by half-hour interrogations by population register officials."

Mr. Leo Lovell, M.P. pointed out in the Assembly⁽³⁴⁾ that the incorrect classification of only one bricklayer, 25 years of age, from Coloured to African, would be equivalent to a life-time sentence of a fine of £13,500, payable in instalments of £45 a month. As a Coloured bricklayer this man would be earning £60 a month, but as an African he would earn only £15 a month.

In an editorial in the "Sunday Times" of 21 August 1955 it was said:

"Think what it must be like to go in daily dread that you will suddenly be haled before a government official, to be questioned about your parentage, your wife and friends and habits and environment; to have your physical characteristics examined; and then to be cast out of the community to which you have always belonged

"Imagine what this means to a man who has built his whole life and brought up his family in the belief

(33) "Sunday Times" 21 August 1955.

(34) 15 June 1956.

that he is a recognised member of the Coloured community.

"If he lives in a township from which Natives are excluded, he must give up his home and part forever from his neighbours.

"If he works in a factory where only Coloureds are employed, he must lose his job.

"If he does not find other employment within a prescribed time he can be forced to leave town altogether and may have to take much less remunerative work for which he is unsuited.

"His children must withdraw from the school they have been attending and say good-bye to their playmates.

"In short, for the whole family, utter catastrophe.

"We cannot believe that it is the will of the people of South Africa that these terrible miseries and hardships should be inflicted on people who have done no wrong.

"Surely, whatever the problems of classification may be, it could be adopted as a basic principle that, when a person is able to show that in the past he has generally been recognised as Coloured, has lived and worked among the Coloured people and founded his life on their ways, he cannot in the name of humanity, be cut off from that community and ordered to start life anew as a Native."

5. Classifications at present being made.

The classification of Coloured people is still in progress in Johannesburg: a team of officials comes from Pretoria every Wednesday and sits in offices made available at the Pass Office.

Coloured people who have been picked up by the police because they are considered to have the appearance of Africans and are not in possession of reference books, and others who have to be classified so that they can register births, deaths or marriages, walk nervously into a large office and form up in three queues before three officials.

These officials question the people at the head of the queues and fill in forms - there is no privacy as those behind can hear the questions and answers. On average, the investigation of one case appears to take about twelve minutes. The persons concerned are then told to sit down on benches at the back of the room. The completed forms are passed to a more senior official sitting at a table behind his assistants, and he makes the decisions, calling the people one by one to come and fetch their documents.

They may be handed a document stating that they have been classified as Coloured. In such cases they must then complete the population registration questionnaire and have themselves photographed, if they have not already done so. Later they are summoned back to the pass office to collect their identity cards.

Some people emerge from the office with thunderous faces, having been given documents stating that they

cannot be classified as either White or Coloured, must apply to the Department of Native Affairs for a reference book, and, if they wish to appeal against the decision, must do so within thirty days.

Others are left in a state of perplexity and anxiety, having been given documents stating that their cases are under consideration and that they will in due course be notified of the result.

People with troubled faces gather in groups in the corridors outside the office: old ladies whose sons have been arrested by the police, men who are nervously discussing the ordeal facing them, people who have learned the catastrophic news that their whole pattern of life may have to be altered.

6. Appeals.

Numbers of those who were classified as Africans lodged objections with the Director of Census, sending sworn affidavits prepared by clergymen or other people of standing in the community, in which the objectors stated their racial groups according to their birth and marriage certificates and gave such information as school attended, township in which resident, languages spoken, church attended, nature of employment, racial group of friends, and so on. In some cases these people were then re-classified as Coloured without further ado.

About 200 other cases went before the special appeal board, which sat in Johannesburg from April to June, 1956. Appellants could decide whether their cases should be heard in public or behind closed doors. As the Department of Census had never made it clear on what basis its

decisions were reached, the appellants and the lawyers who represented some of them were uncertain what should be done to establish their claims. The chairman of the Board ruled that photographs could not be accepted as evidence: certainly photographs alleged to be of relatives could prove very little. But, as the "Rand Daily Mail" pointed out⁽³⁵⁾, photographs supporting a man's plea that he had been educated, and married, and lived as a member of a particular group, might help to prove his point, and were often all the evidence that he had to offer.

An appellant is permitted to produce witnesses, but that may mean bringing relatives or friends from distant parts of the country. He may lose wages while fighting the appeal - but there is no provision for recovering any costs should his appeal succeed.

As nearly all of the persons concerned asked that their cases be heard behind closed doors, little information was divulged to the public. Numbers of the appeals did succeed, however.

Mr. H.A. of Germiston, for example, originally classified as an African, was re-classified as a Coloured man after he had stated that his father and mother were both Coloured, he had attended a Coloured school, had always been paid at Coloured rates, and had never carried a pass nor paid Native taxes⁽³⁶⁾.

The appeal of Mr. A.A. of Springs against his classification as an African also succeeded. His legal representative led documentary and oral evidence that his

(35) 11 May, 1956.

(36) "Star", 9 May 1956.

grandparents on both sides were Coloured, that he attended a Coloured school, had married a Coloured woman, was accepted socially as Coloured, and was employed as a painter - an occupation not open to Africans outside African townships. The legal representative told the Board that he particularly objected to the fact that his client had appeared for classification, not because of information in the possession of the Director of Census, but because he was rounded up with Africans at Mayfair railway station and taken to the pass office⁽³⁷⁾.

Mr. H. of Alexandra Township also objected to his classification as an African, and succeeded in his appeal. He had always been regarded as a Coloured man, he said, and was so registered with the Department of Labour. His father was a White man from Australia who went farming in the Pietersburg district, and had four children Mr. H. among them, by an African woman⁽³⁸⁾.

THE CLASSIFICATION OF COLOURED AND AFRICAN PEOPLE IN PRETORIA

1. Classifications by officials of the Department of Census.

Coloured people in Pretoria were told during 1955 that they should report to the offices of the Department of Census and Statistics for classification. It was alleged by the Coloured Vigilance Association⁽³⁹⁾ that large numbers of dark-skinned Coloured people were arrested for not having passes, and taken to the population registration officials. Some of them are said to have spent a night in

(37) "Rand Daily Mail", 8 May 1956.

(38) "Rand Daily Mail", 12 May 1956.

(39) "Star", 16 December 1955.

gaol first.

The classification procedure was similar to that adopted in Johannesburg. Again, large numbers of people who had always regarded themselves as Coloured were told that they were Africans. In one family, one twin was classified as Coloured and the other as African. A member of a Coloured Church Council was classified as Coloured, while his wife (who was Coloured in appearance) and their five children were classified as Africans⁽⁴⁰⁾.

In another case, a young man was classified as an African, and protested on the ground that both his parents had previously been classified as Coloured. The parents were then instructed to return for re-examination. In another similar case, the official is said to have told the parents bluntly that the son, classified as African, must be the illegitimate offspring of the mother before her marriage.

Clergymen and others helped with the preparation of sworn affidavits, which were submitted to the Director of Census by numbers of persons classified as Africans. After some months, many of these people were informed that the Director had re-classified them as Coloured: the remaining cases were submitted to the appeal board.

In order to protect people who had appealed from arrest, a Pretoria clergyman provided numbers of them with documents stating that they claimed to be Coloured, and that their cases were under consideration by the Department of Census. The police agreed to accept these documents. Later, the Department itself issued certificates stating that the racial group of the holder was under

(40) "Rand Daily Mail", 25 August 1955.

consideration.

2. Appeals heard by the Board.

The special appeal board sat in Pretoria in December 1955 and during the early months of 1956. Again, many appellants elected to have their cases heard behind closed doors, and not much information became public.

Some of the appeals were disallowed, for instance that of Mrs. G. of Eersterus. She was not legally represented, and the chairman of the Board is reported⁽⁴¹⁾ to have said that her evidence had been very vague, and that the written affidavit submitted by her had not given the facts required. He would, however, make an entry in the record of proceedings to the effect that her appearance was not that of an African. The appeal of Mr. E. was also rejected⁽⁴²⁾. He had always regarded himself as a Coloured man, his friends were Coloured, and he has an Afrikaans name. His grandfather was a European farmer; but his grandmother was a Zulu. The chairman is reported to have said that, according to law, descent was the decisive factor⁽⁴³⁾, and, as far as descent was concerned, Mr. E. was an African.

Other appeals succeeded, and very grave hardship was thus avoided in their cases. An eighteen-year-old youth told the Board that he had passed his junior certificate examination in a Coloured school, and intended to train as a teacher. At that stage census officials declared that he was an African; but his brother was class-

(41) "Star", 9 December 1955

(42) "Star", 26 January and 22 February 1956.

(43) This was in accordance with judgment in the Goliath case, described earlier. A higher court subsequently considered that preponderance of blood could not be held to be of over-riding importance.

ified as Coloured. Not only was a family split threatened, but the youth found it impossible to continue with his education, for, knowing no African languages, he could not gain admission to any training school for Africans. The Board agreed to re-classify the lad as Coloured.

Another appeal that succeeded was that of an 81-year-old man who, after twenty-five years of married life was having to consider divorcing his wife. He had been classified as an African, and his wife as Coloured. She told the Board that she came from a "high" family: her grandfather had been a judge. She could not face having to move to an African location⁽⁴⁴⁾.

Mr. T., too, was reclassified as a Coloured man after having originally been classified as African. The Chairman of the Board is reported⁽⁴⁵⁾ to have said that while Mr. T. was clearly African in appearance, evidence showed that he was Coloured by descent and by acceptance. It was subsequent to this that the Act was amended to provide that "a person who in appearance obviously is a member of an aboriginal race or tribe of Africa shall ... be presumed to be a Native unless it is proved that he is not in fact and is not generally accepted as such a member".

FURTHER DIFFICULTIES CONFRONTING COLOURED PEOPLE

AFTER THIS, it became necessary for those who might be deemed to have the appearance of Africans to prove both descent and general acceptance in order to justify a claim for classif-

(44) These two cases were reported in "The Forum", April 1956.

(45) "Star", 20 March 1956.

ication as Coloured. Descent may often be a difficult matter to prove. A man may, for example, be illegitimate by birth, and unable to trace his father. He may be illiterate, living far away from his place of birth, and out of touch with his relatives.

It was mentioned earlier that some White people, on sending for the first time for their birth certificates, find that their racial group has been entered as "mixed", but that, on further investigation, this may be found to imply nothing more than that one parent was, for example, an immigrant from Sweden, while the other was an Afrikaans-speaking White woman.

Some Coloured people in Cape Town are encountering somewhat similar difficulties. They may find that a registering official, employing the long out-dated terminology which is now considered to be extremely derogatory if not down-right insulting, has entered their race, on their birth-certificates, as 'Hotnot'. Not only is this extremely wounding, but it may cause difficulty for the person concerned in securing classification as a Coloured person rather than an African.

In Bloemfontein, as in numbers of smaller towns, strict residential segregation of the Coloured and African people was not enforced in the past, but is likely to be in the future as the Group Areas Act is implemented. But many cases of intermarriage have taken place.

The difficulties that result were high-lighted in a recent issue of the "Cape Argus"⁽⁴⁶⁾. The Bloemfontein correspondent of this paper wrote:

"One of the men affected in this way is Mr. Henry Hawkins, a Coloured man whose grandfather was a European.

(46) 28 March 1958.

He is married to a Native woman, and his children have been classified as Natives. Mr. Hawkins has not been told what the authorities concerned intend doing about his case. According to the Group Areas Act, he, as a Coloured person, will have to live in the Heathdale Coloured Township, while his family will have to remain in the location.

"He feels that his children should be classed as Coloured people.

"Mr. Jim Chatfield claims that his father was a European officer in the South African War. Mr. Chatfield has lived in the Native Location for 37 years. The four children of his marriage to a Native woman have been classified as Natives. He feels they should have been classed as Coloured people.

"If I must move to Heatherdale my family will move with me, or else I will stay in the location until I die', he said."

Judging by what is happening in other areas, it seems likely that all members of such families will eventually be classified as Africans. If so, the Coloured parent will have to relinquish all the social and material benefits of his present status. If not, the families may be divided.

GENERAL COMMENT

ATTENTION has been focussed, in the preceding pages, on the position of the "betwixt and between" people in the South African population, and on racial classifications that were challenged. In fairness, it should be stated, though, that

very large numbers of people were satisfied with their classifications: their cases were, thus, not publicised.

It should also be said that it is not the fault of Population Registration officials that hurtful questions have to be asked by them. They are public servants, entrusted with the administration of an Act of Parliament. Many of them make every endeavour to treat the people courteously. When the writer visited the Johannesburg classification office recently, for example, she noticed that an official was trying to avoid the formation of long queues, in which the Coloured people would have to stand for long, tiring periods. He was arranging for them to come to the counters in batches, sitting on benches at the back while awaiting their turns.

It is the Act that is at fault: it cannot be administered without causing great suffering in very many cases. Time has proved that it is well-nigh impossible to define the various racial groups clearly enough to avoid uncertainty.

The difficulty, in so many cases, of distinguishing between Coloured people and Africans illustrates this point. The Act originally defined an African as a person who in fact is, or is generally accepted as, a member of any aboriginal race or tribe of Africa. When investigating borderline cases, officials noted appearance and enquired into general acceptance and ancestry. When he was questioned in Parliament during May 1955, the Minister of the Interior gave no clear indication of the main criteria on which decisions were based.

Then, a year later, the judge in the Goliath case said that appearance could be deceptive, and that, in his opinion, the main factor to be taken into consideration was preponderance of blood. But in the Lambert case, later, heard in a

higher court, the judges held that preponderance of blood could not be held to be of over-riding importance, and that appearance and general acceptance must also be taken into account. The Act was amended to make appearance the main factor in cases where people appear to be Africans.

In the Goliath case it was ruled that the onus of justifying the classifications he made lay with the Director of Census; but in the Lambert case the judges considered that the question of onus did not arise: the Board must ascertain the facts and reach an independent decision. In practice, as was pointed out earlier, if a person wants to object to his classification he must provide the evidence to prove that it is incorrect.

An Inter-Departmental Committee appointed to investigate whether it is possible to arrive at common definitions of the various racial groups for the purposes of all legislation has been unable to reach any finality.

It is not to be wondered at that there is confusion and bewilderment amongst those affected.

One would, at any rate, expect that people would be given the benefit of any doubt: it could matter little to the State if "border-line" cases were classified in the "upper" of two possible layers, but it matters vastly to the people concerned. But, as has been shown in the preceding pages, the benefit of the doubt is certainly not always being given.

Furthermore, one would not expect a ruthless adherence by officials to the strictest possible interpretation of the terms of the Act. But decisions which appear unreasonable have been made. One such case was that of Mr. P. of Johannesburg, who contended that he had been incorrectly classified as an African. He was notified of this classification :

in an official letter dated 23 January 1958, which he received on about 25 January. On 22 February his attorneys wrote to the Director of Census objecting to the classification; but, in a reply dated 28 March, he was informed that as the documents had not been submitted within the prescribed 30 days, they could not be considered by the appeal board.

There were several similar cases; and a petition was submitted to the Supreme Court, Pretoria, on behalf of one of the people concerned, asking that the Director's ruling be set aside. At the time of writing, judgment had not been given⁽⁴⁷⁾.

C O N C L U S I O N

The writer looks to the day when all citizens of South Africa will be treated on their merits, irrespective of their racial groupings.

But, in the meantime, while racial classification is still necessary for certain purposes in terms of numerous Acts, passed by the present Nationalist Government as well as the previous United Party one, for example those dealing with registration as voters, registration for pensions, etc., these classifications should, as in the past, be valid only for the purposes of the legislation concerned. The Government-appointed committee of officials has itself found that to attempt more than this is to attempt the extraordinarily difficult, if not impossible. It has been shown in the preceding pages how impracticable it is to try to classify human beings, for all time, into definite categories, and how much suffering has resulted from the efforts made to do this.

(47)

As reported in the "Star", 27 March 1958.

The impression may possibly have been given, in this article, that a considerable proportion of the people of South Africa are of an indeterminable racial group. If such impression has been given, it should be dispelled. Perhaps one per cent of the people is in this tragic position. But the fact that this one per cent constitutes so small a proportion of the total provides no consolation for the thousands involved. They are human beings, with human feelings, and they are being hurt. European civilization has endured for three hundred years in South Africa without these immutable racial classifications. Irrespective of what policy is followed for the solution of South Africa's difficulties, it could make no notable difference if the one per cent of the people who are "borderline" cases were accepted as members of the group they claim.

It may be useful for a variety of purposes for people to have identity cards; but an enquiry into their racial antecedents should not accompany the preparation of these cards, and the racial groups of the holders would thus not be indicated on them. The cards should never be producible on demand by the police.

The Population Registration Act, in its present racial form, should be repealed: it is a piece of legislation that has been responsible for deep hurt and humiliation, and has caused bitter suffering and tragedy in thousands of South African homes.

5. 11. 1948