

Indian Opinion

PUBLISHED WEEKLY IN ENGLISH AND GUJARATI

No. 23—Vol. XIII.

WEDNESDAY, JUNE 16TH, 1915.

Registered at the G.P.O. as a Newspaper
PRICE THREEPENCE

STANDING ON THEIR DIGNITY

IN regard to the grave misunderstanding by the Magistrate and officials of the Pretoria Court regarding the powers of the Commissioner who is inquiring into the affairs of the Transvaal Immigration Department, the *Star* gives the following report of further proceedings on the 8th instant :—

The sequel was heard this morning when the accused was again called and did not answer.

Mr. Walton, A.R.M., said application had been made by the Attorney-General for a postponement of the case *sine die*. The Court upheld the application of the Attorney-General, but it should observe its own authority apart from that of the Attorney General. The only explanation for the accused's absence had appeared to be that another person, Mr. Clarence, had been interfering. The Court had been somewhat disarmed by the fact that the request appeared to have come from the Attorney-General, but he thought a warrant should be issued for the appearance of the accused, and when he came into Court he could offer such explanation as he wished.

The Public Prosecutor said he had given instructions that the Police should bring the man before the Court as soon as possible but no warrant had been issued yet.

Mr. Walton : I think that course should be followed, notwithstanding the application for the postponement of the case *sine die*. In the meantime the warrant will be issued.

The Pretoria correspondent of the *Rand Daily Mail* on Friday last reports as follows :—

Chana Rama is an obscure Indian of no particular consequence to anybody but some intimate friends. His name, however, stands a good chance of going down to history, as he has been the humble means of the Attorney-General and a magistrate coming into conflict and indulging in public passages at arms.

The circumstances came about in this fashion. Chana Rama was arrested and brought up for summary trial before Mr. Walton, A.R.M. The charge against him was making a false statement in connection with the application for the registration of an Asiatic minor, or, alternatively, aiding and abetting a prohibited immigrant to enter the Transvaal. Chana Rama formally appeared before Mr. Walton on May 28, and was remanded to June 3. No evidence was taken, and he was released on £50 bail. On June 3 Chana Rama did not appear in Court. He was then giving evidence before Mr. B. C. Clarence, the Special Commissioner appointed by the Government to enquire into the working of the Asiatic Department, and to investigate certain allegations made against officials and others. So that the Commissioner may be able to get at the truth he was empowered by notice issued by the Acting Secretary for the Interior to grant an indemnity to witness who may have confessed or admitted actions that would bring them within the pale of the criminal law. Such witnesses were to be freed from criminal liability.

Chana Rama got such an indemnity from the Commissioner. He did not put in an appearance at the Criminal Court as in duty bound by the summons of that Court and his bail. The Public Prosecutor (Mr. Stanford) and the A.R.M., Mr. Walton, discussed the situation, and it was thought, seeing that the Court had no cognisance of the Asiatic Commission or its powers and privileges, that Chana Rama should have appeared if only in courtesy to the Court, and to explain the position. The net result was that the Court decided to and did issue a warrant for his arrest. The warrant was entrusted to the police for execution when the Attorney-General stepped in and directed the District Commandant to cancel the warrant and not to execute it. But it would appear that the Attorney-General has no power to cancel a warrant, though he may withdraw a prosecution, and the Magistrate wanted to know by what right he did it. The Public Prosecutor communicated with the Attorney-General, and the latter gentleman sent him a communique to be read in open court. When the case was mentioned to-day the Public Prosecutor sought to read the communication, but as he could not give the A.R.M. an assurance that it contained a repudiation of the right of the Attorney-General to cancel a warrant, the A.R.M. declined to allow it to be read. In the meantime the Indian drops out of the play, as the prosecution against him was withdrawn.

The Closing Scene

At the sitting of the Court this morning the Public Prosecutor said he had received instructions from the Attorney-General to mention the case that day. On the instructions or direction of the Attorney-General, he wished to read a statement in his name.

Mr. Walton : Has accused been arrested ?

The Public Prosecutor : No, your Worship.

Mr. Walton : Is he appearing to-day ?

Mr. Polak intimated he appeared for the accused.

Mr. Walton said it would be remembered that at the last sitting of the Court when the case was called the accused was in default, and the Court was then informed he was represented by Mr. Niemeyer. There was no explanation of the default beyond the statement of the Public Prosecutor that he was detained by Mr. Clarence, whom the Court then heard of for the first time. The Prosecutor suggested very properly it was a contempt of Court on the part of Mr. Clarence, who was a Commissioner appointed by the Government to hold an enquiry into Asiatic affairs. In view of that statement it seemed desirable that the accused should appear and explain his absence, and the Court issued a warrant for his apprehension after the Prosecutor had told it that the police were endeavouring to apprehend him. The Court thought it should establish its authority and issued the warrant. Yesterday the Court was astonished to receive a letter from the District Commandant of Police informing it that the District Commandant had received instructions from the Attorney-

General to have the warrant cancelled and not to effect the arrest. "I do not know," said Mr. Walton to the Public Prosecutor, "whether you can inform me whether the Attorney-General purports to cancel the warrant?"

The Public Prosecutor: I cannot make a statement in that regard. I can only say the warrant has not been executed.

Mr. Walton: The Attorney-General has no power whatever to cancel any warrant. He may withdraw or abandon a prosecution, which is a different matter from cancelling a warrant. The officer who issues a warrant is responsible for it. The duty of the police in this case was to execute the warrant in obedience to its terms. They were embarrassed by directions for its cancellation from the Attorney-General, and it is owing to that that the execution of the warrant is in abeyance. I mentioned yesterday in Chambers it would be desirable for the Attorney-General to appear in person.

The Public Prosecutor: I mentioned your suggestion to the Attorney-General.

Solicitor-General's Example

Mr. Walton: I do not know why it is not the practice here and why he does not appear before the Magistrate. It may be news to him that the Attorney-General and the Solicitor-General in England appear before Magistrates, and in order that the question may be raised for the benefit of the Attorney-General in such an outlying province of the Empire as the Transvaal, I mention the fact, and in compliance with the wish of the Court he should appear. He should appear this morning. As regards his statement, I cannot allow it to be read until a public repudiation of his alleged action in cancelling the warrant has been made.

The Public Prosecutor: Of course in the name of the Attorney-General I must insist, as a representative of the Crown, on being heard in the matter. That is carrying out my instructions.

Mr. Walton: I cannot allow that instruction of the Attorney-General to be read until there is a repudiation of the affront to the Court. Whether there is cancellation or not there is no repudiation of the cancellation. I have heard from the police that the Attorney-General purports to cancel the Court's warrant.

The Public Prosecutor: I think the District Commandant of Police might be in attendance.

Mr. Walton: What I suggest is that you communicate with the Attorney-General and ask him whether you may repudiate his action in cancelling the warrant.

The Public Prosecutor asked for a short adjournment to do this. On the reassembling of the Court,

The Public Prosecutor said: I have communicated with the Attorney-General and I have to inform the Court that I am not instructed to deal with any matter outside the scope of this statement given me by the Attorney-General to be read in Court.

Mr. Walton: Does that statement contain a repudiation with reference to me?

The Public Prosecutor: I wish to inform the Court further in the name of the Attorney-General that I claim audience of the Court on behalf of the Crown.

Mr. Walton: Something must be before the Court before that audience is given. I may say, having regard to my interview with the Minister, I suggested to you and impressed on you this matter should not be mentioned to-day. It is very unfortunate it has been mentioned. In view of what has transpired the blame lies entirely with the Attorney-General. If you cannot give me the repudiation the Court has the right to demand the communication will not be read.

No Repudiation

The Public Prosecutor: I suggest the Court should hear the statement and then decide whether it should be part of the record. Then the Court would be in a better position to accept or reject it.

Mr. Walton: In view of the position I have mentioned, if you can tell me there is a repudiation—

The Public Prosecutor: I am bound by my instructions to read the statement.

Mr. Walton: Cannot you tell whether it contains a repudiation?

The Public Prosecutor: No, unless I read it.

Mr. Walton: I see the District Commandant of Police in Court. I do not know that it is worth while calling him. I have a letter from him: "I have the honour to inform you that I have received instructions from the Attorney-General to have the warrant cancelled and not to effect the arrest." The matter must rest there. If you wish at this stage to withdraw the prosecution you are entitled to do so.

The Public Prosecutor: That is my instruction, to withdraw the prosecution.

Mr. Walton: The accused is not present?

The Public Prosecutor: No.

Mr. Walton: I cannot then in any case formally discharge him. The accused is not appearing to-day?

Mr. Polak: He is not appearing.

Mr. Walton: He is accessible?

Mr. Polak: Yes.

Mr. Walton: I understand on the instructions of the Attorney-General he is not appearing in Court?

Mr. Polak: I make no statement.

Mr. Walton: I understood from the Minister this morning that the difficulty was he was not accessible and he did not know where he was. After that it should be brought to the notice of the Attorney-General that he is not only accessible, but is in the immediate vicinity of the building. (To the Public Prosecutor): I will allow the withdrawal of the prosecution.

The Public Prosecutor asked it to be noted on the record that he applied to have the Attorney-General's statement read.

Mr. Walton: Certainly.

Mr. Polak said with reference to the bail, as the charge had been withdrawn there was nothing before the Court and his client was entitled to the return of the bail.

Mr. Walton: I suppose that is so. The Clerk will inform you. Naturally the Crown is not opposing the application under the circumstances.

The Public Prosecutor said he was not concerned about the bail, but he understood there was a civil action about it, as two parties were claiming it.

Mr. Polak went on to explain the circumstances under which the accused and another Indian, who had originally gone surety claimed a refund of the bail. He added that he was present at the early stages of the proceedings in Johannesburg when his client appeared before the Commissioner and received an indemnity in the terms of the letter published by the Acting Secretary for the Interior, giving indemnity to persons who gave truthful evidence where the Commissioner considered it justified.

Mr. Walton: Why did he not appear here?

Mr. Polak said his client was informed by the Commissioner that the latter would take steps to have these criminal proceedings withdrawn, and the Commissioner was under the impression the prosecution would be withdrawn.

Mr. Walton: He was told he need not come to Court?

Mr. Polak: Yes.

Mr. Walton remarked that as far as Chhana Rama was concerned he was satisfied with the explanation and with Mr. Polak's appearance in his behalf. It was apparent that the Commissioner had acted outside his powers.

[BY WIRE]

Monday's *Rand Daily Mail* contained the text of the Attorney-General's statement which the Prosecutor was refused permission to read. The statement completely exonerates the Commissioner from the charges levelled against him by the Magistrate and entirely maintains the validity of the indemnities issued by the Commissioner.

From the Editor's Chair

THE COMMISSION JUSTIFIED

As will be seen from another page in this issue the unpleasant matter of Chhana Rama has now been satisfactorily dealt with by the public withdrawal of the charge against him in the Pretoria Magistrate's Court, by the Public Prosecutor, on the instructions of the Attorney-General. Throughout these proceedings Chhana Rama has been a rock of offence. He has been the cause, quite unwittingly, of serious conflict between the Magistrate and the Prosecutor on the one hand and the Immigration Commissioner on the other, and later between the Magistrate and the Attorney-General. We are frankly not much concerned with the dispute as to the relative prerogatives of these last two officers, except that we are of opinion that the issue of the warrant by the Magistrate, on Tuesday the 8th instant, in the absence of Chhana Rama, and after the case had already been remanded *sine die*, not for the purpose of having Chhana Rama bound and brought before the Court but for inquiry into the circumstances of the case by the Attorney-General, was wholly irregular, being without prior notice to the accused. What is of more importance is that, owing to the conflict between the Attorney-General and the Magistrate, the Public Prosecutor was prevented from making the statement on behalf of the Attorney-General which, we understand, was intended to place the position of the Commission clearly before the Court, with a view to the Commissioner's absolution from the charge or suggestion of having acted *ultra vires* or in a manner implying contempt of court, in indemnifying Chhana Rama against further legal proceedings, and advising him that it was not necessary for him to appear further to answer the charge. Whether or not the Attorney-General intends to leave the matter where it was left by the Magistrate on Friday last, we are unable for the moment to say, but, in any event, the Commissioner, by the very fact of the withdrawal of the prosecution by the Attorney-General, has been justified, as was the British Indian Association, in refusing to tender any further evidence until the charge was withdrawn. We have reason to believe that the attitude adopted by the British Indian Association, and its reasons therefor, were fully appreciated by the Commissioner and also by the Department of the Interior and the Attorney-General. The matter in dispute was not merely as to whether Chhana Rama was to be prosecuted or not for an offence that he had admittedly committed, but whether the Government's indemnity was to be maintained or whether they were to lay themselves open to a charge of breach of faith. In the latter event, of course, there would have undoubtedly arisen a very tragic situation. We stated in our last issue that we did not believe that the Government had any intention whatever to depart from their own word, and events have shown that our interpretation of the incident was correct. Thus, an unpleasant episode has been concluded, and the Commission recommenced taking evidence through the British Indian Association on Saturday morning, after an abstention on the latter's part from tendering evidence for a week.

POWER WHICH IS DANGEROUS

WE reproduce elsewhere the reasons given by the Licensing Officer of Maritzburg for refusing to transfer an Indian licence from one street to another. They are remarkable for one thing: that is, that they are not reasons. Fortunately for the man concerned and for the reputation of the City, the Town Council decided, on the matter being brought in appeal, to upset the decision of the Licensing Officer and grant the licence. We have before us the record of the evidence taken before the Licensing Officer, which fills twenty-three closely type-written sheets of foolscap, and it would be an easy matter to take each of the eight alleged reasons and show that they are not based on facts. But we will content ourselves with emphasising one phase only of the question. In order to do this it is necessary to give a brief outline of the events leading up to the application for the transfer. It appears that the applicant has carried on business at his present shop for the past twelve years. He had been paying £3 per month rent during that period. The present lessor then took a lease of the premises and at once raised the rent to £5 10s. and, as the storekeeper refused to pay this increase, a summons was issued and the Magistrate gave judgment against the storekeeper. An appeal was made to the Supreme Court and the Magistrate's decision was set aside. A notice to quit followed. Several attempts were made to find suitable premises but all efforts failed until those at the corner of Retief and Pietermaritz Streets were secured. It was then found that it would take some time to get the transfer and so the storekeeper was compelled to pay £20 and 10/6 legal charges in order to be able to stay on for another two months. After this there is no wonder that the poor man refused to consider a withdrawal of the notice and a reduction of 5s. in the rent of £5 10s. So the application for the transfer was made and the lessor objected on the ground that he had an interest in the licence. The Licensing Officer, in his reasons for refusing the transfer, points out that the objector "claims an interest in the licence as attaching to the premises," knowing full well that a licence is attached to the person and not to the premises. This same officer speaks of a reduced rental of £5 5s. whilst ordering to mention that the rent had been suddenly raised from £3. We contend that the Licensing Officer, in considering the matter of whether the rent was reasonable or not, exceeded his duty. The applicant was the best and could be the only judge of what was reasonable. In thus deciding against the applicant, the Licensing Officer laid himself open to the very grave charge of assisting a landlord to tyrannise over his tenant. If the appeal had failed, there would have been the greatest encouragement to landlords to raise their rents in the hope that, if the storekeepers kicked, they would be supported by the Licensing Officer in forcing them to remain at the higher rental. In this case an attempt to establish a dangerous precedent has fortunately failed. For this we have to thank Mr. Khimjee Dayaljee, the appellant, who was put to the great expense of engaging a solicitor to appear for him during four days before the Licensing Officer and one day for the hearing before the Town Council. Many a man would be ruined by the heavy expenses attached to fighting a battle of this kind. As pointed out by the appellant's solicitor, this was an application for a transfer of locality only—not a transfer from one person to another. This case shows the danger of placing one man in the position to decide such matters. No one should have the power to prevent a trader from escaping, if he can, the greedy demands of a landlord.

About a Transfer

On the 8th instant an appeal was brought before the Maritzburg Town Council against the decision of the Licensing Officer of the City in refusing to transfer the licence of one Khimjee Dayaljee from premises No. 489 Church Street to premises No. 461 Pietermaritz Street. The matter had been under consideration for some time, the application for transfer being made to the Licensing Officer on the 17th March last. Evidence was taken on the 16th, 23rd, 26th and 27th April when the Licensing Officer refused to grant the transfer applied for. Notice of appeal having been lodged, the Licensing Officer gave the following reasons for his decision:—

"The application is one by Khimjee Dayaljee of Bellair for the transfer of a retail general dealer's licence held by him in respect of the premises 489 Church Street, situate 250 yards below Retief Street, to the premises 461 Pietermaritz Street, situate at the corner of Retief Street, and on the main avenue drive round the City; and my reasons for refusing the application are as follows:—

1.—The Council has adopted the administrative policy of restricting Asiatic trading in respect of premises on this main avenue drive. In the case of G. B. Noel, a European who handed over to Asiatics the control of his business at the corner of Retief and Church Streets, the Supreme Court (Natal Provincial Division) in dismissing an appeal, held that it did not feel called upon to criticise the Council's policy in this regard.

2.—The appellant Khimjee Dayaljee admits that he is particularly anxious to get into Retief Street, and that more business would be done there.

3.—The premises to which the appellant desires his licence transferred are already licensed to Ismail Moosa, who is being ejected in consequence of the appellant having obtained a lease of the premises.

4.—Ismail Moosa has made an application for the transfer of his licence from 461 Pietermaritz Street to other premises in Retief Street. If both his application and the present one were granted another Asiatic general dealer's business would as the result be established on the main avenue drive.

5.—The application of Khimjee Dayaljee for the transfer is opposed by V. C. Naidoo, who has obtained from the Commercial Hotel Company, the owners of the property, a lease of the store premises sub-let to Khimjee Dayaljee, and of premises adjoining. The objector, V. C. Naidoo, claims an interest in the licence as attaching to premises leased to him, and he objects to the licence being transferred away from the premises.

6.—The applicant Khimjee Dayaljee and the objector V. C. Naidoo have had differences which have resulted in proceeding being taken in the Magistrate's Court and Supreme Court. As a consequence the appellant is determined to leave the premises for which he holds a licence and stated in his evidence that he was not agreeable to remain on at a reduced rental of £5 5s. od. a month nor even £4 10s. od. a month. The objector V. C. Naidoo is prepared to reduce the rent to a figure which appears to me to be reasonable, but the applicant does not wish to continue his tenancy.

7.—If the objector, in his capacity as the appellant's landlord, were unreasonable, the appellant would, following a decision of the Town Council on 6th October, 1908, in re Ismail Moosa, be justified in asking for the transfer of his licence to other premises in a suitable quarter; but he would not be justified even in such circumstances in asking for the transfer to premises on the main avenue drive.

8.—The reasons framed by the Town Council for upholding my decision in refusing to renew G. B. Noel's dealer's licence for the premises 460 Church Street (situate on the main avenue drive) were as follows:—

"The appellant does not reside in the City;

"Does not personally manage the business, only visiting the premises occasionally;

"Employs only Asiatics in the conduct of the business."

The conditions prevailing in the present case are identical.

Mr. A. J. McGibbon acted throughout for the appellant and, in his remarks before the Town Council, pointed out that this was an application for a transfer only—not a transfer from one licensee to another—not a renewal where the character or ability of the licensee was challenged; it was simply an application by a licensee who had held a licence for twelve years to transfer his business to premises in respect of which a similarly licensed business had been carried on for at least six or seven years. The locality where he wished to trade was a quarter solely occupied by Indians. In regard to the objection of V. C. Naidoo, he pointed out that the applicant was forced to remove because his rent had been raised from £3 to £5 10s. per month, besides which he had been compelled to pay £20 10s. 6d. for two months' rent pending the granting of the transfer. If the lessor knew that the applicant could not hope to get a transfer, he could charge him even £40 per month.

The Council retired to consider the matter in Committee and, on resuming their places in the Council Chamber, it was announced that the Council had decided to uphold the appeal and grant the licence.

Local Government Ordinance

The General Purposes Committee of the Durban Town Council recently recommended: That the Natal Municipal Association be informed that pending the passing of further legislation by the Union Parliament defining the spheres of action of the Union, Provincial, and local authorities, the Durban Town Council is not prepared to take any further steps in connection with the consolidation and revision of the Natal Municipal laws.

It will be remembered that the Committee recommended an amendment of the law by which Indians would be deprived of the Municipal franchise. If, therefore, the Natal Municipal Association accepts the above recommendation, and shelves the Draft Ordinance, this question will be removed from practical politics for the time being. Matters of trading licences, public health and the control of coloured persons in Municipalities are also included in the question of consolidating the laws. Those who are watching the development of these various matters will, no doubt, read with interest the minute of the General Purposes Committee which we give below:—

The Council will remember that at its meeting held on February 4th this Committee submitted a report in connection with the Draft Local Government Ordinance—which the Executive Committee of the Natal Municipal Association then had under consideration—in which it was stated, *inter alia*, that since Union: "No steps have been taken to legislate on the powers of municipalities relating to public health and the control of natives and coloured people within municipal areas. It has been found not only in Natal, but throughout the Union, that statutory power is most required in connection with these two departments of municipal life. But the Provincial Councils are not empowered to legislate thereon, except to a very circumscribed extent. The difficulty underlying the whole matter is, of course, that neither in the Act of Union nor in the Financial Relations Act, 1913, is the dividing line between the powers of the Union and Provincial Governments clearly drawn. This point, no doubt, has engaged the attention of the Union Government, for General Botha stated in connection with the Financial Relations Act, 1913, that a Financial Relations Commission would be appointed at an early date by the Union

Government to inquire into and report upon the whole question of local self-government in the Union."

After consideration, the Council resolved that it should be a recommendation to the Natal Municipal Association that, pending the passing of further legislation by the Union Parliament, no action should be taken by the Natal Municipal Association in the direction of recommending the Natal Provincial Council to consolidate and amend the laws relating to municipalities and townships in this Province. This resolution was submitted to the Association in February 1st, but was not adopted. The view accepted by a majority of the Association was that the Natal local authorities should be invited to submit reports on the provisions of the draft ordinance, and a resolution was passed to the effect that such reports should be considered by the Association at a special meeting to be held not later than June, 1915, to consider the necessary amendments which should be made in the draft ordinance.

We have already submitted an exhaustive report on certain principles which, in our opinion, should be included in the measure in so far as the election section is concerned, and, while we will continue our investigation into other principles underlying municipal government, and report thereon from time to time, we desire once again to emphasise—as strongly as we can—the danger which the Council will run if, prior to the passing of legislation by the Union Parliament defining the respective spheres of action of the Union, Provincial, and local authorities, it allows its present powers to be repealed and re-enacted in a Provincial Consolidation Ordinance. The danger to which we allude will be apparent to the Council when we refer to the question of public health—a matter which is purely one for the Union Parliament to legislate upon. There can be no question that no lasting Municipal Consolidation Law can be promulgated unless and until the Union Parliament legislates comprehensively upon the subject of public health. Another important feature regarding such an act will be the definition of the duties delegated local authorities for the safeguarding of the public health. In our opinion, therefore, the introduction of a Public Health Act for the Union is a necessary preliminary to the drafting of a Local Government Consolidation Ordinance for Natal, in that the former Act will necessitate a considerable revision of the Municipal Laws of the Province so far as the administration of public health now entrusted to local authorities is concerned.

We have been officially informed that the Union Public Health Bill has been drafted, and that copies will shortly be circulated to local authorities for consideration and for such observations as they may desire to make.

The arguments which apply to a comprehensive Public Health law for the Union of South Africa apply equally—even if not with greater force—to the enactment of laws dealing with the control of natives and coloured people within municipal areas, and on this point we may say that only recently a communication was received from the Provincial Secretary asking for certain information regarding the native population of Durban, which was "desired in order to enable the Union Government to introduce into the Union Parliament at the earliest opportunity a Bill consolidating, and where necessary amending, the laws dealing with natives in urban areas."

There is a further reason which we desire to submit for delaying action in the promotion of the draft Local Government Ordinance, and it is that the revision of the Financial Relations Act (No. 10 of 1913) may involve an alteration of the existing arrangements regarding licences. Though we trust that there will be no disturbance of the present arrangement, yet pending the decision of the proposed Financial Relations Commission on this point, it would be unwise in our opinion, to proceed with the draft Local Government Ordinance at the present time, as any alteration of the

licensing powers entails many amendments to the draft Ordinance both from the control and the revenue points of view.

The Natal Municipal Association in December last reported that it was "interesting to note that since the advent of Union" the Transvaal has consolidated its municipal and township laws. We regard the Transvaal precedent rather as a warning than as an example to follow, and on this point we can quote no more conclusive proof to the Natal Municipal Association than the resolution adopted by the Transvaal Municipal Association on June 9, 1914, viz: "That the Transvaal Municipal Association express its dissatisfaction with the position created by the invalidity of much of the legislation passed by the Provincial Council, and urge upon the Central Government the advisability of dealing at the earliest possible date with this matter, with a view to effecting a remedy."

In conclusion, we feel it incumbent upon us to bring to the notice of the Council that considerable risk will be run if, prior to the enactment of fresh legislation by the Union Parliament, as is above referred to, it accepts as its charter a Provincial Consolidation Ordinance which would in every probability involve the Corporation in no little expenditure in defending legal actions which will most certainly arise in connection with the question of determining the right of the Provincial Council to legislate on matters which are on the borderland of Union and Provincial authority.

Mr. and Mrs. Gandhi at Madras

The Madras papers contain reports of the arrival of Mr. and Mrs. Gandhi at Madras. The *Times* says:—It would be difficult not to smile at the story of the arrival of Mr. and Mrs. Gandhi at the Central Station on Saturday evening. Long before the train arrived, the station platform and the station compound were crowded with expectant crowds; and the crowd on the platform included some of the most distinguished Indians in the city. The train was more than an hour late, but patience was rewarded at last, and the crowd clapped joyously as the train rolled in. But the expected visitors were not to be found and it seemed that they had not arrived after all. But they had; the *Hindu* describes the circumstances graphically: "A long search discovered Mr. and Mrs. Gandhi sitting in a third class compartment. Mr. Gandhi looked thin and emaciated; a loose shirt, soiled by four days of continuous travel, covered his body, and a pair of trousers, similar in appearance, covered his legs." Such was the man that the crowd had gathered together to receive. And when they found him, there was such a rush to welcome him that a band of policemen was powerless to restrain the rush. And the husband and wife were taken from the third class compartment to a carriage that was in waiting, and were dragged in triumph by students to the house in which they were to reside.

The *Commonweal*, conducted by Mrs. Besant, contains the following editorial notes:—

Mr. and Mrs. Gandhi have been the chief "events" during the week in Madras, and Mr. Gandhi has delivered some remarkable and interesting speeches—remarkable for their candour, directness and vigour, and interesting from the light they throw on the nature of the work he will take up, and the spirit in which it will be guided. Mr. Gandhi comes from a successful struggle for Liberty in one part of the Empire to another part of it which is panting for Liberty; he is used to suffering, and employs it to serve the people; he has utilised free speech despite the gaol, and comes from among Indians who regarded it as a discredit not to have been in prison. In South Africa the prison was a badge of social honour, not of disgrace. He has to face, here, however, a different difficulty and a much more serious one. In South Africa there was a clear

and sharp concrete issue between the Indians and the Government. Here the issue is wide, vague, and general. India wants "Self Government," but the demand is not formulated, there is no clear issue to struggle for. Attempts to formulate it, to raise an issue, are not made; no Indian, so far, has spoken out clearly an issue for which Indians can agitate, and, if need be, suffer. I raised a scheme, with a view to discussion, in the Mahajana Sabha; the discussion was "adjourned," i.e., shelved, and the holidays are here. I raised it at the U.P. District Conference, and intend to keep on raising it. If an Indian will outline a better scheme, I will willingly drop my tentative one, and follow him. The only thing I will not do, is to drift idly on, talking for years, and doing nothing. That is not the way Freedom is won.

We have had a big open-air meeting for Mr. Gandhi, a welcome from the Mahajana Sabha and Congress Provincial Committee, from the Servants of India Society, the Muslim League, the Vaisya Community, the Cosmopolitan Club, the Theosophical Society, the Students, and a very pleasant social party, given by Mr. S. Srinivasa Iyengar. This is all very right and very good. But what work for India is to come out of all this enthusiasm? This is the play-side. What of the work?

Durban Medical Report

From the Durban Medical Officer's Report for the year ended 31st July, 1914, we learn that the estimated population was as follows:—Europeans 34,000, Coloured 2,600, Indians 18,400 and Natives 20,800; making a total population for the Borough of 75,800.

During the year there were 314 European deaths, 189 Asiatic and 123 Native, making a rate per 1,000 of 8.6, 10.3 and 5.9 respectively. Ten years ago the Asiatic death rate was nearly 40 per 1,000.

The principal causes of death among Asiatics were Phthisis 26, Diseases of Birth and Development 29, Diseases of the Nervous System 20, Diseases of the Heart and Circulatory System 19, Pneumonia 26, Bronchitis 21, and Diarrhoea, Catarrh, Enteritis 38.

The number of Indians from outside the Borough visiting the Tuberculosis Bureau has increased. They are appreciating more the services rendered, and taking advantage of the advice and treatment given. Many of these come from Overport, Cato Manor, Umgeni, Sydenham, etc. Indians resident in the Borough show a considerable decrease on last year's numbers, and a decrease of 65 per cent. over the number notified in 1911-12.

Mr. Harcourt's Tribute

In the course of an address delivered in London during January last, the Right Hon. Lewis Harcourt, Secretary of State for the Colonies, said:—

We are met to-day to acknowledge with deep gratitude the debt we owe to every corner—even the remotest—of that Empire for the unexampled response to the needs of the Motherland. There is no sacrifice of men, of money, of material which has seemed too great for those of our blood who are well-flung throughout the world.

Ah! and not of our blood or colour only. There were ill-informed, blind, misguided fools who thought that when England was at war India would be in mutiny. They were wrong. But they might have been right if we had mistrusted our Indian fellow-subjects, for I am told there would have been a mutiny if we had not permitted our Indian troops to fight with us in the trenches.

Nobody surely can have read without emotion that noble and touching dispatch from the Viceroy, in which

he described how the Rajahs and rulers of the native States placed at our disposal their treasure and their trust. Men, horses, guns, motors, ambulances—all the paraphernalia of modern war have for months crossed the Indian Ocean in a stream, without mishap and in perfect security under the convoy of our Navy, and to-day our Indian troops are making for themselves an imperishable record on the battlefields of France and Flanders.

He concluded with these words:—

To every race—of whatever colour—under the British flag, we can proudly say:

"Your loyalty is ample vindication

Of all we claim to be,

The builders of a State wherein each nation

Though subject, still is free."

News in Brief

The profit made on the Durban Indian Market for the year ended 31st July, 1914, was £1,177 13s. 1d., which is a decrease compared with that of £1,456 for the previous year. The income was £3,602 4s. 6d. made up as follows:—Baskets £886 14s. 3d., Carts £456 19s. 6d., Stands and Squatters £2,258 10s. 9d.

A member of a London Regiment at the front writes: "I am sitting in a wood close to the graves of thirty-one Gurkhas all killed by the same shell. Half a dozen Gurkhas are standing round, their faces betokening grief, and lips moving in silent prayer. British soldiers respect their grief and stand apart. We realise that duty called more faintly to them than to us; yet they have come farther and given their lives."

Jemadar Pancham Singh Mahar, of the 2nd Battalion of the 39th Garhwal Rifles, has been awarded the Military Cross for "conspicuous gallantry on March 10th, 1915, during the attack at Neuve Chapelle, where he showed great dash in command of a party which advanced over the open and captured many prisoners and a machine gun."

In the House of Commons on the 5th ultimo, Sir J. D. REES asked the Secretary of State for the Colonies whether any change was at the present time contemplated in the position of Fiji in regard to its relations with the Imperial Government and Commonwealth Governments. Mr. LEWIS HARCOURT: No, Sir.—*India.*

Colonel Edwards, Commissioner of Police in Rhodesia, in his annual report, says:—"There is no doubt that the increase of crime is, to a certain extent, due to the fact that natives arrested and convicted of trivial offences, and under Pass, Hut Tax, Native Marriage and Masters and Servants Ordinances, are herded in gaol with habitual criminals."

A bid for distinction (says the Maritzburg correspondent of the *Natal Mercury*) has been made by the St. Helenas of the City who have approached the Hospital Board with a request to be treated separately from natives and Indians. They object to having to use the same wards and the same furniture, and to be classed in the same category. Their aim is for a better social status, and they pleaded that they were endeavouring to live the European code, and asked to be assisted in their effort along the upward path. The Board expressed the utmost sympathy with their aspirations, and promised to do all that was possible in the future in the desired direction, but at the same time pointed out that the accommodation was exceedingly limited. The Board, however, agreed to meet the men in the matter of furniture.