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Topics of the Week.

The "Unabashed" Minister.

IF it is the ambition of the Congress Ministry in Bombay to show the world that they can be as ruthless in applying repression and as rude and provocative in defending themselves from public criticism, it must be admitted that they have left very little to be desired. At Dharavi the police fired shots in the middle of October. The apparent reason for this action was a scuffle between the tanners who refused to give up the recent increase in wages and those who were inclined to agree. But the police came to a quarter inhabited by people who had nothing to do with tanneries and who were not concerned with the scuffle at all and fired. Then they went to another quarter where tannery workers live, but the workers had locked themselves in. The police fired another shot and effected arrests of workers and assaulted them. Such is the account given.

A DEPUTATION on behalf of the workers headed by no less persons than Mr. N. M. Joshi and Mr. Jamnadas Mehta waited on the Hon'ble Minister, Mr. Munshi. He roundly censured the deputationists for going to him at all. "If there is a genuine grievance it is always open to the aggrieved party to make out a case for going to a court of law," he said. Mr. Munshi at any rate should have known what he is talking about. But this is not the end. He went on: The deputationists merely indulge in reckless allegations and, in doing so, their action "can have no other effect than that of encouraging the forces of disorder and making the work of Government more difficult than ever." Did a bureaucrat ever speak more offensively?

HE also trotted out the excuse that the matter was sub judice before the Presidency Magistrate's Court at Dadar. Mr. Joshi told him bluntly that firing by the police was not even a remote issue in the cases now pending in the court. The court was to decide only whether the persons produced before it as the accused did take part in the riot, which was an entirely different matter. To Mr. Munshi's plea that a departmental inquiry had been held, Mr. Joshi retorted that in such a grave matter a departmental inquiry was not enough, but that a public inquiry was required. In all cases of firing, Mr. Joshi added, a public enquiry should be held as a matter of course. This was in fact the view put forward, it should be remembered, by the late Sir Ibrahim Rahimtulla. But Mr. Munshi not only turned a deaf ear, but offered an insult to the deputationists by telling them that by their irresponsible conduct they were giving incitement to the forces of disorder.

ADEQUATE comment on Mr. Munshi's reply it is hard for us to make. We will content ourselves with quoting a passage from a Congress journal from Madras, the *Indian Express*, which has yet been able to maintain its concern for civil liberty and its hatred of bureaucratic ways :

The Minister's reply to the deputationists might well have been made by any of the bureaucrats of earlier regimes addicted to the glorification of police wisdom. Mr. Munshi deplored the fact that within a few hours of the firing at Dharavi there were demands for an enquiry and expressed the fear that such an attitude "would have no other effect than that of encouraging disorder and making Government's work more difficult than ever." These sentiments proclaimed unabashedly from the seat of a Congress Government simply take one's breath away. Why should not the public be concerned when the police resort to firing? What is the impropriety involved in making a demand for public enquiry with all possible promptitude in the wake of a case of police firing? The popular aversion to police firings is fortified by years of moral support under Congress auspices prior to office-acceptance, and it is futile for any holder of authority to hope to exercise it now by violent denunciation. On the other hand, wedded to non-violence as they are, Congress Ministries are under a special obligation to justify resort to violence by the police controlled by them and a public enquiry affords them the simplest opportunity for this kind of justification. The deputationists ought to have been thanked: it is a pity their demands should have been scoffed at by Mr. Munshi.

Sholapur.

THE Secretary of the Sholapur Congress Committee, who issued a flaming protest against the policy of relentless repression pursued by the Congress Ministry of Bombay in Sholapur has, as was only to be expected, been compelled to resign his

office. The Congress Committee met, condemned the Secretary's action and passed a vote of confidence in the Ministry, but while doing so, insisted that the Ministry must withdraw its coercive orders! What is the value of the Committee's condemnation of the Secretary and its vote of confidence in the Ministry, if it ends by asking the Ministry to do just that which the Secretary had asked it to do and for failure of which he had censured the Ministry? But such is Congress politics! Anyhow we are glad that even loyal Congressmen are not prepared to give a *carte blanche* to Mr. Munshi.

Mysore Repression.

MAHATMA GANDHI has censured the whole lot of Congressmen with bell, book and candle for their naughtiness towards the Mysore Government, and the Congressmen have taken all this censure with the meekness and submission of penitents. President Nehru, it is said, has privately expressed surprise at Mahatmaji's chastisement, but, so far as the public are concerned, the position is that the A.I.C.C. has put a black mark against Mysore and Gandhiji has rubbed it off. The Congress leaders in Mysore have questioned the validity of the grounds on which the Mahatma has issued his pronouncement and have challenged an inquiry. The Mahatma takes no note of this, and the other Congressmen—or rather the Congressmen (for the Mahatma is not one)—are powerless either to maintain the position which they took up in solemnly passing a resolution condemnatory of the Mysore Government's repression or to accept the Mysore leaders' challenge and institute an inquiry.

THE Mahatma censured the A.I.C.C. for condemning the Mysore Government without giving a proper hearing to the Government. This action, he said, was opposed to Truth. But apparently it is in consonance with Truth to condemn the A.I.C.C. and the Congress leaders in Mysore, upon the information supplied by whom the A.I.C.C. resolution was based, without giving a hearing to either. The Mysore Government are not known to be willing to put in their defence; the Mysore leaders ask for an opportunity to defend themselves. But, no. Truth requires that repression must not be condemned unless a previous inquiry has clearly established the fact of repression. This one can understand. But Truth further requires that no such inquiry should be held. It all amounts to this: the people can be condemned without inquiry, but a Government—of course only a State Government—must be placed beyond the pale of any possible condemnation by suppressing all inquiry.

IN the meantime repression is growing apace in Mysore. No doubt encouraged by the snub administered by Mahatma Gandhi to the whole A.I.C.C., the Mysore Government have been arresting still more men, feeling certain that, with Gandhiji on their side, they will incur no obloquy if they carried their relentless repression further. On the other hand, the Congress members of the Mysore legislature have in a body resigned in protest against the repressive policy. And the Madras Premier, C. R., as if to assure the Mysore Government that the Mahatma has wiped the A.I.C.C.'s condemnatory resolution off the slate, has accepted the Government's invitation to be their guest. This should leave no doubt in the mind of anyone where the Congress stands, in spite of its resolutions and in spite of Pandit Jawaharlal's objurgations against the States as a whole, *vis a vis* the States in general and Mysore in particular.

PRESIDENT NEHRU has a clear duty in this respect. He is dazed by the action of the Mahatma, but

his personal feelings do not count for much. The A.I.C.C. resolution still stands on the Congress record; it has not yet been repealed. It must either be endorsed and kept alive or it must be erased formally. On the one hand, Mahatma Gandhi makes it null and void by his *ex cathedra* pronouncements; on the other hand, the Congress leaders in Mysore stick to it and carry it out. Either the one or the other are acting in defiance of the Congress. Disciplinary action is obviously called for against the one or the other. The Congress must declare either that there is not much repression in Mysore to worry about, in which case the Congress members of the Mysore Legislative Council must be told to retract their resignations, or it must declare that repression in Mysore is causing anxiety, in which case Mahatma Gandhi must be asked to take a holiday in so far as his pleasant pastime of giving in effect a charter to the States for unbridled coercion is concerned.

Separation of Powers.

THE division in the Madras Ministry on the question of separation of functions is now well-known. Dr. Subbaroyan, who is with the Premier on this matter, himself let the secret out. The other Ministers who are in favour of separation are naturally trying to put a gloss on the difference of opinion that has been disclosed and to make out that the difference relates only to the time when the principle should be introduced rather than to the principle itself. Mr. K. Raman Menon, Minister for Courts and Prisons, was presented at Trichinopoly on the 1st inst. with a memorandum by local lawyers taking exception to the Premier's pronouncements on the subject. In replying to the memorandum, the Minister said:

You have pointedly brought to my notice that the attitude taken by some members of the Cabinet is not in keeping with the aims and objects which have been uttered from the Congress platforms from time to time and that it is not at any rate in the best interests of the country. I claim I have also had occasion to give expression to my views in more than one place. The principle of the separation of the judiciary and executive can never be disputed by any person but the question will be as to its exigency. The Premier first made a statement about it and I am sure that the impression that has been created about this statement is that this Cabinet is not going to tackle that problem at all. I do not understand the Prime Minister's statement in that light. What had been stated and what he intended to say was that this is a matter which, for certain reasons, cannot be taken up at this moment. We are not against the separation of the judicial and executive functions. To-day we are confronted with very many big problems and it is not always easy to take up all these matters together. Such of those matters as are most important had to be taken up first. In the opinion of the Government the matter does not appear to be of urgent importance. When we concur with you that it is a matter of vital necessity, then this matter would be taken up and solved satisfactorily to all persons concerned.

THE Cabinets in all provinces are faced with many vital questions, all of which it would be unreasonable to expect that they could solve simultaneously. They must, therefore, take questions in hand in a certain order of priority, and even some of the urgent questions may have to be allowed to stand over for some time. On this order of priority there may be a divergence of view, but it is at any rate quite an intelligible position. The Madras Premier, however, does not argue merely that his hands are full with other important matters, and that the separation of functions, though agreed to, has to be left over till more urgent matters are disposed of. He objects to

separation on principle. He said in opening the Malabar Lawyers' Conference that separation of functions would undermine unity of government, and that with the advent of the Congress in power, it would be wrong to separate the functions "as we shall lose much by such separation and shall be slower in our march forward." To both these arguments, Professor Naresh Chandra Roy has given a fitting answer in the *Modern Review*. He says:

The fact that the judiciary is not controlled by the executive has nowhere (in no democratic country) adversely affected the principle that government is ultimately one and is run with one motive and one aim. If Mr. Rajagopalachariar believes in the despotic system, he may make a fetish of the unity of government. If, however, he has still some respect for the liberty of the individual and the fundamental rights of the citizens, his Cabinet ought to follow a policy which democratic governments in other States have found it necessary and desirable to pursue.

Even the Congress Government is the government by a party. . . . Consequently when this party is in power and happens to control the executive machinery, people belonging to a minority group may become perturbed. They may find their rights encroached upon by the executive agents. If the judiciary is not separate from the executive, they may not have any justice rendered to them against this invasion.

A Plea for the Independence of Autocrats.

OUR good friend, *United India and Indian States*, has returned to the argument dear to its heart, which in effect is that the only thing that is required to make the federal scheme, thrice cursed by British Indians, acceptable to them and indeed perfect in every respect is to free the rulers of the Indian States, who of course can have everything their own way in their dominions but are unfortunately subject to the humiliating overlordship of the British Government, from the only control which in theory at least can be exercised over them and thus to make them thoroughly independent, in law and practice, of man and God.

WE all know that the chief motive which made the Princes turn towards federation was the hope that they would thereby release themselves from paramountcy. This hope has been belied. They find that, on account of their unwillingness to give over to federation control over matters which have not already passed out of their hands and on account of paramountcy remaining intact over other matters, their internal administration is still subject to the oversight of the Paramount Power. They know that this paramountcy is not very exacting; but, however feeble it is, it will remain. And they wish to get rid of it, *de jure* as well as *de facto*.

LORD MESTON in the *Fortnightly* for April says that one of the causes which made the Princes enthusiastic about federation "was a long-cherished discontent with the control which the central government had from time to time asserted the right to exercise; let them only get a hand in the supreme government, we can imagine them saying, and there would soon be an end to all the irritating interference by Viceroys and their underlings in the name of the Paramount Power." But if such a motive were avowed, British Indians would become even more suspicious than before, and, realising this, *United India* goes about the business more cleverly. It pleads in substance for the same thing, but uses arguments which it thinks would bamboozle the simple-minded British Indians into agreeing to the Princes' demand.

AFTER all, what is British Indians' strongest objection to federation? That democracy is to be married to autocracy. Here *United India* comes forward to point out that autocracy, by remaining autocratic, can be turned into democracy or as good as democracy; only for such conversion it is required that autocracy be made still more autocratic! Let our contemporary speak in its own sly manner:

The Congress objections to federation are to a great extent now shaped on the alleged radical defect of the federation scheme consisting of its constitution being based on the attempt to bring together two such incongruous political divisions as Indian India and British provinces. It is pointed out that there can be no lasting understanding or working arrangement between a democratic British India and an autocratic Indian India.

Back of this constitutional objection—which is of course a plausible one on the face of it—is the deep-rooted suspicion of a conspiracy between the British Government and the Princes, whose terms are the protection of their mutual interests as against a democratic British India.

If on behalf of the Indian Princes it is urged that a man may be a patriot in spite of being a Prince, we get the answer—Well, even if the Prince is well-meaning, he is not free so long as paramountcy remains paramount in non-federal affairs. So long as the Indian Prince finds that his power and prestige depend on the good-will of the British Government the Indian politicians argue that his vote in the Legislature is bound to be wire-pulled according to the exigencies of non-Indian as against Indian (vested) interests.

One way of avoiding this is to make the delegate from the Indian State not merely the nominee of the Prince but the elected representative of the popular legislature in the State. We realise of course that this claim is constitutionally untenable. In the scheme of federation now contemplated the recognition of the autonomy of State administration is inherent as *sine qua non* and it seems unconstitutional to suggest compulsory reforms in the internal autonomy of the States as a condition precedent to the admission of the State as a unit of the federation.

The only way, therefore, according to *United India*, by which as good a result as elective representation of the States can be secured is to sweep away paramountcy which alone makes good Princes appear bad!

It is hardly necessary to consider our contemporary's reasoning in detail. We would only like to point out that British Indians oppose Princely nomination, not merely because it will be nomination *via* the British Government, but in itself and for itself. It is only those who want to establish Indian in the place of foreign rule that may possibly be hoodwinked by *United India's* plea; those who want to establish a democracy in the place of a bureaucracy or an autocracy would object to the power given to the Princes to nominate their own representatives in the federal legislature, even if the Princes were free from all shackles in the matter.

SECONDLY, federation is incompatible with complete retention of internal autonomy by any unit; sacrifice in common interest is the basis of it. Why is it unconstitutional to ask that the States' representatives shall be elected? In other federations the component units were fully sovereign; their sovereignty was not bogus like that of the Princes. And yet they submitted to this restriction; why should not the Indian States? Anyhow, how is it unconstitutional to make it an essential condition of federation?

THIRDLY, who will ever agree to have the few external controls that are at least nominally in existence removed from the Princes, on whom no internal controls operate? *United India*, clever as it is, may give some credit to British Indians for understanding; they cannot be taken in by a kind of reasoning which—well, we shrink from giving it its proper name. The only way to get rid of external controls is to substitute internal controls for them; the only way to shake off paramountcy is to give up autocracy. British India is not going to help the Princes—in spite of their advocates' seductive arguments—to entrench autocracy by removing paramountcy. British India will rather have paramountcy strengthened in order to keep the autocrats in terror. Autocracy never goes straight, but there is a possibility of its going in not too crooked ways if it is kept in wholesome fear.

* * *

Cochin Legislative Council.

AS a result of the report of the Inquiry Committee appointed by the Cochin Government for the purpose of making recommendations on the lowering of the electoral franchise for the Legislative Council of the State, the franchise for the general constituencies has been broadened so far as to cover three times the number of voters that were so far entitled to vote. The property qualification that obtained till now was land assessment of Rs. 5 and a municipal tax of Rs. 2, and the Committee proposed instead (and the recommendation has been accepted by Government) that a vote should be given to all people who pay any tax to the State or to a municipality. Similarly, the educational qualification too will be lowered by extending the franchise to all those who have passed the School Final examination or its equivalents. The qualifications for special constituencies also will be lowered. In the case of the landholders the requirement of land revenue assessment of Rs. 500 has been reduced to Rs. 250. To the planters' constituency will now be admitted holders of 75 acres of land.

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COMMUNAL representation proved, naturally, a tough job for the Committee. They record the opinion that "the tendencies of special communal representation are always inimical to the growth of a healthy national outlook which is, or should be, of the essence of sound citizenship," but practical considerations compel them to recommend continuance of this vicious system "for some time until the rising tide of nationalism and a more extended use of the franchise sweeps away all vestiges of communal feelings and prejudices." They recommend the adoption of communal electorates in the case of three communities: the Ezhavas, Muslims and Latin Christians. The Committee recommend a certain number of seats being allotted to these communities on condition that they are not given the right of voting or standing in the general constituencies. The Muslims, however, held out for the additional privilege of being allowed to take part in the elections for the general constituency as well. "In view of the desire of the Muslim community to remain in the general constituency," Government have ordered abolition of the special constituencies for that community and reservation of the seats allotted to them in suitable general constituencies.

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THE Legislative Council will hereafter be composed of 57 members, of whom 38 will be elected and 19 nominated by Government. Of the elected 38, 23 will be returned by as many general constituencies, one member by each constituency, 3 will be returned by the landholders, planters and Commerce and Industry constituencies, one by each, 5 by the Ezhavas, 3

by the Latin Christians, and 2 by the Muslims in separate communal electorates, and 2 women will be elected by two general constituencies. The Ezhavas, "a fairly advanced and progressive community," form 20% of the population; and 5 seats are assigned to them; the Muslims form 6.25% and are given two seats; the Latin Christians are more numerous than the Muslims, forming about 9% and they are given three seats. The depressed classes account for nearly 13%, but the Committee say in their report, "they are in the nature of an infant community or as a community which has not emerged from the stage of State protection. They are for the most part illiterate and without any political consciousness." It is proposed to safeguard their interests by a system of nomination. The State has no doubt taken a big forward step in extending the franchise, and one wishes that the powers of the Council also were similarly enlarged.

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Sugar Factory in Hyderabad.

IN Hyderabad State a Sugar Factory has recently been floated and given the monopoly of sugar manufacture. It has a share capital of Rs. 35 lakhs, half of which is furnished by the State and Rs. 5 lakhs by the managing agent. Rs. 7½ lakhs have been offered to the public and Rs. 5 lakhs to sugar-cane cultivators. The area irrigable under the Nizam Sagar project is 275,000 acres, though the sugar technologist's opinion is that a sugar factory can be worked successfully with 5,000 acres under sugar-cane. Complaints have reached us about the harsh way in which canal rules are worked. The Government has declared a certain percentage of land, say 50%, as wet land and in the Sugar Factory area it has declared the land in practically all the villages as wet, levying on it the irrigation charge of Rs. 15 an acre. Even if the whole land declared irrigable is wet and can be profitably cultivated, the poor farmer may be unable to afford the capital outlay that is required for sugar-cane cultivation. Wet cultivation requires ten times more capital than dry cultivation, and if heavy canal rates are exacted from farmers who, being unequal to increased capital expenditure, stick to, say, jowar or bajri, they have simply to part with their land. As a matter of fact, we are told, the compulsory payment of Rs. 15 per acre as canal dues has forced the farmers in Nizamabad district to give in *rajinama* for 10,000 acres of land. If adequate compensation were to be paid to those who would thus be deprived of their lands it would be a different matter, but, according to the information received by us, no compensation is paid, and lands are being bought by capitalists, some of them being officials, for a song. If the facts are as they are represented to us, we cannot but say that a grave injustice is being done to the cultivators by the Hyderabad Government.

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A States' Complaint.

ALL the Indian States have now been transferred for supervision and control by the Paramount Power from the Provincial Governments to the Government of India. The direct relation thus established between the States, small and great, with the supreme Government has no doubt added to the dignity of the States, but it has at the same time resulted in making the Paramount Power's oversight nominal and in making the rulers of Indian States practically independent in internal administration. This was of course the objective of the policy. But its reaction on the States has not been altogether favourable and the States are regretting the indirect and somewhat unexpected effect it has had. When the States were under the Provincial Governments, the rulers and

officers of the States had free access to them and could generally count on a patient hearing being given to the States' grievances, which were looked into by officers who had had judicial experience and experience of British Indian administration. But now the Central Government's Political Department which deals with these matters, apart from its being more or less inaccessible at least to the smaller States, is manned to a large extent by military

officers who are generally strangers to law and dispose of cases that come before them more by considerations of political expediency than by requirements of strict justice. The States too thus suffer. The Government will not of course be moved to change its present policy by the recital of injustice done to the States' people, but will it be equally deaf to the complaints that the rulers of smaller States have themselves to make?

THE MADRAS DEBT RELIEF BILL.

THE Madras Agriculturists' Relief Bill which was published during the course of last week is a remarkable production. In the simplicity of its design and the thoroughness of its provisions it transcends all legislation previously attempted by Indian provincial legislatures. Its approach to the problem of the reduction of agricultural debt is also novel. Hitherto, with the exception perhaps of U. P., the method followed everywhere for scaling down the debt of the agriculturist has been that of conciliation. In most provinces boards have been set up by law to effect a reduction of debts. These Boards make an attempt to bring the debt burden within the repaying capacity of the debtor, by bringing the debtor and creditor together. The process has been eminently that of voluntary conciliation. Little pressure except of an informal character has been put on the creditor; but a definite inducement—that of collection of his arrears as land revenue later on—has been held out to him to moderate his demands and bring them down within the repaying capacity of the debtor. It is only in the U. P. Agriculturists' Relief Act that an attempt was made to scale down the debts in a certain proportion directly by law.

The Madras Bill goes, however, a great deal further than all this. It rejects the costly and time-consuming method of voluntary conciliation; it also does not try to enter into the detail of the chronological history of the debt which is commonly attempted by most European legislation and which one finds partially incorporated in the U. P. Act. It scales down debts by directly abolishing all dues by way of interest outstanding on 1st October, 1937, in favour of any creditor of an agriculturist. It further provides that in cases where any debt of an agriculturist bore simple interest at a rate higher than 9 per cent. or bore compound interest and the agriculturist has paid to the creditor twice the amount of the principal, whether by way of principal or of interest, the entire debt will be deemed to have been discharged. Where the total repayment falls short of twice the amount of the principal, only such amount as would make up this shortage or the principal, whichever is smaller, would be repayable. These are the main provisions regarding the scaling down of debt claims. Undoubtedly the provisions are simple. No complicated calculations have to be made. The main work involved in administering the Act would be the determination of the principal and the total amounts paid hitherto in respect of any debt. What is the extent of the relief that it will afford? This is undoubtedly a difficult question to

answer. One presumes that under this Act a court will not be empowered to enquire into the nature of the original transaction, i. e., not to any extent greater than the ordinary civil courts. The power possessed by the courts under the Dacca Agriculturists' Relief Act or given to them by some of the recent laws of the various provinces would not be enjoyed by the Madras courts. The Act does not, for example, provide for enquiry by court as to whether the principal entered, say, in a bond was actually paid over to the debtor or not. Whatever the character of the original transaction, the creditor can get no less than the principal as determinable under the ordinary civil law unless, of course, repayments amounting altogether to more than the amount of the principal have been made in the past in respect of that debt.

The provisions regarding taking into account past repayments apply, of course, only to transactions which bear interest above 9 per cent. The limit thus laid down seems to be fair. The large majority of the debts, however, do bear, according to such information as is available as for example in Mr. Satyanathan's report, interest higher than 9 per cent. simple. The advantage of these provisions will, therefore, be obtained by a large majority of agriculturist debtors. But this is all that could be said. It is not possible to say what the extent of such relief would be. At least a first reading of the bill suggests that its working will differentiate in the following way between debtors. There may be two debtors with equally ancient debt burdens on which they have paid almost equal sums by way of repayments. In one case the creditor may have replaced the old transaction by a new bond or note incorporating any arrears of interest into the principal of the new bond or note just before 1st October, 1937; in the other case this may not have been done and the account drags on its old course. Under the provisions of the bill the former debtor will get no relief whatsoever, whereas the latter debtor will most probably find himself entirely free of all obligations. This illustration is given not to criticise the provisions, but rather to arrive at an understanding of the way in which they will most probably work. Looking at it from the creditors' side, those creditors who have stringently enforced payments of interest and who have at frequent intervals got fresh bonds or notes executed by the debtors will lose the least, while those who have not pressed keenly for interest repayments and who are in the habit of carrying forward continuously old transactions in their books will be the heaviest

losers. From this point of view it is clear that the relief given by the provisions of the bill will be very capriciously distributed. If, however, one disregards this wayward character of the incidence of the relief and presumes that the methods and operations of all creditors are similar, then the provisions of the bill seem to be roughly just. The bill merely presumes that arrears of interest have mostly accumulated owing to the lack of paying capacity on the part of the debtor and that the old Indian rule of *damdupat* should be worked in a sort of retrospective way.

The actual extent of the relief will depend on the average age of all living debt transactions and the average amount of repayments effected in respect of them. If this age is considerable, then the relief will be substantial; if not, it will be small. Supposing, however, that the main object of the bill—that of relieving to a substantial extent the agriculturists of their debt—is achieved, what of the other effects that it will have? In what way will this relief be distributed? It is usually supposed that a scaling down of debts may have reference to two factors. In most continental legislation the point of view of the state was that debts incurred before the depression when a certain relation obtained between agricultural costs and prices could not fairly be recovered in full when the prices of agricultural products had slumped heavily. Hence an attempt was made to scale down the debts in proportion of the extent of the price-fall. If the scaling down is attempted as a purely depression measure this is no doubt the proper point of view. But when, as in the case of India to-day, it is not so much as a depression measure but as a preliminary to the rehabilitation of agriculture that scaling down is attempted, we have to adopt an entirely different criterion for the extent of the scaling down. The only criterion under such circumstances can be the capacity of the agriculturist to pay. Voluntary conciliation methods devised in most Indian provinces have indeed worked along these lines. The aim of the conciliation boards has always been to scale down the amounts due and to fix the repayment instalments in such a manner as to be within the paying capacity of the debtor within not too long a period of years. Ordinarily the creditors can also be made to see by the conciliation boards the wisdom of limiting their claims to the extent of the repaying capacity of the debtor. For the only alternative to doing this would be to force the debtor to turn insolvent. Provisions for summary insolvency procedure, when coupled with the operations of the conciliation boards, can thus have, if operated properly, the effect of adjusting the entire debt burden of the agriculturists to their paying capacity. The method of the Madras bill, as we have pointed out above, is both more simple and thorough-going than the cumbrous, dilatory and sometimes uncertain procedure of conciliation boards. But what guarantee is there that it will give relief in the cases and in the proportions in which it is needed? Just because it operates a simple universal rule, the working of the bill cannot be adapted to the requirements of individual cases. While the principle of the bill looking merely

to the past history of debt transactions may be roughly just, its operation from the point of view of giving relief where it is due would be uncertain. It may well happen that, in spite of a general and considerable scaling down of debts, a number of agriculturists may still find themselves with burdens too heavy for them to carry. The need for looking into individual cases would still not be dispensed with.

One of the main grounds on which voluntary conciliation is advocated in preference to any arbitrary scaling down of the debts by law is that it creates the least disturbance in the existing credit machinery. Even so, the working of voluntary conciliation in, for example, the Central Provinces, taken together with other legislation controlling the operations of moneylenders, has had the effect, it is said, of considerably contracting credit supply. So that any efforts, however moderate, in the direction of scaling down seem bound under the present circumstances to disturb the mechanism of agricultural credit. A certain degree of disturbance could, however, be tolerated and some contraction of credit may actually be welcomed. Conciliation after all works along the grain of the existing arrangements; a scaling down as attempted by the Madras bill acts directly counter it. And it is not to be supposed that the credit machinery could work after this shock has been administered to it. It is clear that after the publication of this bill rural moneylenders will be chary of granting any credit and would certainly not consent to let any interest payments fall in arrear. So that credit will be available in the ordinary way only to those whose capacity for prompt repayment is unexceptionable. These would form a very small proportion of the total number of agriculturists requiring credit. To the large majority, whatever credit is available would only be by way of usufructuary mortgages, conditional sales or outright bogus sales of the type bred by the Deccan Agriculturists' Relief Act. To those who have no proprietary rights to part with in such ways we can hardly imagine any credit being granted. There is the additional effect of the 6 per cent. rate of interest which the bill also statutorily lays down. No moneylender in the future can charge any higher rate to an agriculturist. We do not know how the figure of 6 per cent. has been arrived at. To-day the primary co-operative credit societies—who have been exempted entirely from the working of the Act, so that debtors within the co-operative fold are likely to find themselves much worse off than debtors outside it—are nowhere able to grant loans at a rate as low as 6 per cent. in spite of the considerable amount of honorary service and state help at the disposal of the co-operative movement. The rural moneylending business as conducted at present is a notoriously costly and risky business. With 6 per cent. as the maximum rate of interest chargeable, it is clear that any rural moneylender would find it much more worth his while to invest his money in G. P. notes than to put it in the lending business.

We say all this not because of any anxiety to maintain the present structure of rural credit un-

changed. On the contrary, we would welcome any bold move on the part of the provincial Governments to reconstruct it. But we cannot think it wise to upset the present arrangements when there is no alternative available to replace them. A programme of debt adjustments of the sort contemplated by the Madras bill is justifiable only as a part of a larger programme of credit reconstruction. Has the Madras Government any such programme under consideration? If it has, it would have done well to publish this bill and the details of that programme simultaneously. If it has not, we do not find it possible to approve of the bill even in the abstract. We have already had too much experience (all of it adverse) of the working of one-sided attempts at relief of this character. They have all meant a little relief

haphazardly distributed in the earlier stages but always a worsening ultimately of the terms on which credit is available to the needy agriculturist. Such legislation by itself can only result in a crop of evasive practices and legal subterfuges, a further deterioration in the character of the moneylending class and the morale of the debtors. We are sorry to have to write in such terms of efforts so obviously informed with a radical intent, but we do so because we feel keenly the setback received by all progressive efforts by the launching of such partial and hastily conceived measures. The fate of the moratorium bill has already damaged the cause of reformers; in default of a really sound and far-reaching programme of credit reconstruction we are afraid this bill is going to work in the same way.

A Steel Ring Round the Princes.

A RING-FENCE is being rapidly put up round the Princes with a view to the protection of the ruler of one State against any seditious movement carried on by the people of other States. The Government of British India was the first to afford protection to the Princes. It passed what is popularly called the Princes' Protection Act in 1922 with this object in the teeth of the determined opposition of the people's representatives in the legislature. Now the Princes are engaged in enacting legislation for the purpose of giving mutual protection. The Government of Travancore has introduced a Criminal Law Amendment Bill in its Legislative Council "intended to penalise sedition against any recognised Indian Prince." It seeks to extend the law of sedition, which now applies in each State with reference to the Paramount Power and to the ruler of that State, to all other States as well. The law, when passed, will say in effect to the people of Travancore: "You owe allegiance, not only to the Paramount Power and to the Maharaja of this State, but to the Maharajas of all the other 600 odd States too, or at any rate to such of them as we shall select." The relevant section in the criminal law, when amended, will stand as follows:

Whoever by words, either spoken or written, or by signs or visible representations, or otherwise, brings or attempts to bring into hatred or contempt or excites or attempts to excite disaffection towards the Sovereign of this Kingdom or His Government, or Her Majesty the Queen Empress of India or the Government established by law in British India, or any Indian Prince recognised for the purpose of this section by a notification by Our Government in our Government Gazette or the Government of any such Indian Prince, shall be punished with imprisonment for life, or for any shorter term to which fine may be added, or with fine.

The words italicised in the above quotation are proposed to be added by the Bill before the Travancore Legislature. The Bill naturally evoked criticism from non-official members, but, in spite of the criticism offered by them, it has been referred to a Select Committee and will no doubt be eventually passed.

For the present the Travancore Bill, when it passes into law, will come into force only with reference to Cochin "to prevent sedition against the Cochin Gov-

ernment," though it is drawn in wide terms so that its benefit may be extended to any other Government. Cochin has been selected first because that State, on a previous understanding with the Travancore Government, passed in 1935 a similar law for the prevention of sedition against the Government of Travancore. These two States are thus on a basis of reciprocity, Cochin putting down disaffection against the Maharaja of Travancore, and Travancore returning the compliment. But wherever such reciprocal advantage is given and taken, the people always offer vigorous opposition. When a Penal Code Amendment Bill was before the Legislative Council of Cochin in 1934, the non-official members not only opposed a provision of like effect in the Bill but even succeeded in throwing it out. Their arguments ran thus: "We are the subjects of the Maharaja of Cochin and of the Paramount Power. We are not the subjects of any other Maharaja or any other Government; we owe no allegiance to them. Why should our liberty be restricted in criticising these other Maharajas and these other Governments? They have no claim on us. The Cochin Government makes so much of reciprocity; our Maharaja will be immune from attacks in other States, it says, only if we give these States immunity from attacks in our State. But we do not need such reciprocity. Our Maharaja lives such a life and carries on such a government that there is not the slightest ground for fear that he will be attacked anywhere. But other Maharajas often need strong criticism, though of course they do not want it. However, they will be all the better for this criticism; don't close the door to it."

Some quotations from the speeches made on the occasion may be given here:

Mr. George Chakymuri:—Certainly I owe allegiance to my Maharaja and the Paramount Power. I should not be restrained from talking of things done in other parts of the world. That is my fundamental right. I do not owe any allegiance to the Maharaja of Travancore or to the Maharaja of Pithapuram or the Maharaja of Chattrapur. If they misbehave I must be at perfect liberty to criticise their actions. That liberty is now proposed to be taken away from my hands. The only reason for that is reciprocity. We do not understand the need for any reciprocity. Nobody will talk ill of our Maharaja. Our Maharaja is leading a pious

ascetic life and he always bestows attention on the welfare of his people. Who has abused our Maharaja till now? There may be Maharajas and Maharajas who deserve to be abused. That is no reason why we should protect them. For (the benefit of) all these 600 Governments, varied Governments with questionable character and nature, I ask: Why should my liberty be taken away? If a Maharaja in a Northern State spends all his State's money in the race course, I must be allowed to say he is misusing or abusing himself. (We do not require reciprocity.) No sensible man on the face of the earth will ever dare to abuse our Maharaja. Nobody has done it till now. There may be Maharajas who deserve condemnation. We are entitled to condemn them. Why should that right be taken away? It will be taking away the fundamental rights and liberties of subjects if such a measure is introduced.

Mr. A. Sankara Poduval.—Everybody in Cochin has got a right of making legitimate criticism upon rulers of adjoining Native States or far-off Native States. An outside ruler's position here is only that of a respectable man. He may be a ruler of another State but, so far as the Cochinites are concerned, he is only a very high personage, a noble man. . . . So far as our Royal family is concerned, I have never heard a case in which our Maharaja and the members of the Royal family have been either insulted or vilified anywhere, in any other Indian State.

Dr. A. R. Menon.—When a person commits rape, when a person hangs a pregnant woman by her neck and when a person does not allow a virgin to live within 20 or 30 miles around his residence, are you surprised when people attack such a person, no matter what position they occupy? Are human beings reduced to a level below that of animals? It is only when people do like that that outsiders take note of them. It is only when humanity is outraged by such actions that men forget geographical restrictions and consider that they are human beings and human sympathies are broadcast, no matter who the man is. That was the reason why some gentlemen living outside were subjected to attack. In order to protect such people law was enacted (in 1922). . . . To such Governments as I have enumerated protection is necessary. Why do we want to disgrace ourselves that our Princes should be protected from such things? (The Cochin Royalty does not need protection.) Is there a single family consisting of more than 300 members where every one behaves with decency, decorum and gentlemanly qualities as our Royal family? For such a family it is nothing but impudence to come forward and say that we want to protect them. You have insulted the Royal family.

The Law Member of the Cochin State might have answered, though curiously enough he did not, that the extension of the sedition law would not prevent legitimate criticism, but only seditious and abusive attacks. For from the operation of the new law legitimate criticism is saved by exceptions such as we are familiar with in British India: "Comments expressing disapprobation of the measures of the Princes or their Governments with a view to obtain their alteration by lawful means without exciting or attempting to excite hatred, contempt or disaffection do not constitute an offence under this section." Similarly, "Comments expressing disapprobation of the administrative or other action of the Princes or their Governments without exciting or attempting to excite hatred, contempt or disaffection, do not constitute an offence under this section." With these savings, what could be, the Law Member might have asked, the objection to these provisions? No one would say that criticism which could not by any stretch of interpretation be regarded as legitimate criticism should be allowed in any State, no matter

whether such criticism was directed against one's own ruler or the ruler of any other State. This argument sounds very reasonable. But if it is advanced, the question that will have to be answered may be put as follows: "If sedition is evil like theft, murder and other heinous offences, why does the Cochin Government penalise seditious attacks only on the basis of reciprocity? Why not penalise such attacks, against whomsoever Indian Prince they may be directed? And why stop at the Indian Princes? Why not extend the benefit to the Kings, Presidents and dictators of all the countries in the world? Virtue should know of no geographical barriers. Why does Cochin select just one or two Princes and throw its shield round them? And why does Travancore? If we wish to promote loyalty to the government established by law in general, why should not every State penalise sedition against every other State and every other country? It deserves to be a world movement. Since, however, you do not propose to pass such an ubiquitous law, and no country proposes to do it, there must be some reason for restricting its scope. The reason obviously is that the scope of loyalty itself is restricted. It would be an offence for the citizen of a State to be disloyal to the head of that State, but disloyalty to the heads of other States, even if improper, cannot be an offence. One is not bound by any legal or even moral code to give allegiance where it is not due. To one country other countries are foreign territories; to one Indian State other Indian States are foreign territories, owing no obligations and enjoying no rights or privileges.

But this argument is not conclusive, in so far as Indian States are concerned. Cochin or Travancore may argue further in this way. Ordinarily this is no doubt so, but the advent of federation which is imminent surely puts a different complexion on these matters. Federation establishes a new unity in India. British India is no longer a foreign territory to Indian India, and Indian India is no longer a foreign territory to British India. Nor is one Indian State a foreign territory to another Indian State. They must all be recognised as forming a union. If federation is to be a reality there must be inter-state comity between all the component parts of the federation. Dual allegiance is an essential characteristic of federation. An inhabitant of one part owes allegiance to the Government of that part and also to the Government of the federation, which is a common government of all the parts. The ruler of one State, therefore, is entitled to the allegiance and respect not only of the citizens of his State, but of all the other States as well. To this reasoning, however, an answer can be made, and it will be decisive. If under federation all the Princes form a bloc, the peoples in all the States also must form a solid bloc. If every Prince can command the homage of the peoples of the other States, surely the people of one State must enjoy civil liberty in all the other States: they must have freedom of speech, writing, press, association, movement. The Princes cannot say: "We shall retain for ourselves liberty to curtail these fundamental rights of citizenship according to our individual will, but shall demand from the peoples of all States the loyalty that our own people

are under an obligation to pay to ourselves." If there is one feature common to all known federations, it is the rights of common citizenship. Provided the Princes grant them, they are entitled to restrain the right of their subjects in criticising other Princes and they are entitled to have the right of the subjects of

other Princes in criticising themselves restrained. If they do not grant rights of common citizenship, they are not entitled to give or receive immunity from criticism. If one State is a foreign territory to the other States for the people, it is so for the Princes too.

INDIANS AND LABOUR TROUBLES IN TRINIDAD.

I.

AN Associated Special Service message which emanated from New Delhi on 5th November last stated that no Indian seemed to be involved in the recent labour troubles in Trinidad, and that riots occurred in the oil-fields, while Indians were mostly employed in the sugar-cane industry. This information seems to need some revision and further elucidation. It is hoped that the Government of India will soon issue an authoritative and full statement on the subject.

According to the report, apparently verbatim published in the *Trinidad Guardian* of July 10, 1937, the Governor, in his opening speech to the Legislative Council on 9th July last, stated that he was definitely informed that "these people (East Indians) did not want to strike. They were driven out by agitators. They were perfectly happy in their conditions." It would seem then that some East Indians did go on strike, if only at the instigation of "agitators." It is not clear from the Governor's speech whether any Indians participated in the riots or if any innocent Indians were injured in the disturbances. Earlier in his speech the Governor said that Fyzabad was the "legitimate home of a large number of genuine oil-field workers." It may be added that Fyzabad, as its name indicates, is largely an Indian village.

It is significant that the Commission of Enquiry into the labour disturbances examined Indian witnesses and, in particular, the East Indian National Congress. According to the report published in the *Trinidad Guardian* of 18th July last, the representatives of the Congress stated before the Commission that the general strike began on the oil-fields where few Indians were employed, but that eventually it spread to the agricultural areas where, on the sugar estates, Indians stopped work. They admitted that Indians did participate in the strike, and thought that "almost all the sugar estate labourers went on strike." They added that the Indian strikers indulged in "very little disorderly or riotous behaviour", and that there were "very few instances where the police had to fire on these crowds" and that there was no "aggressive action" on the part of the Indians.

From these extracts it would seem that Indians participated in the strike, that they were peaceful on the whole, and that some of them might have suffered notwithstanding their passivity.

II.

In the discussion of the underlying causes of the labour troubles, the Governor referred to Indians as

well as to other peoples in the Colony. Regarding Indians, he said:

When I arrived in Trinidad I was very painfully impressed by the effect of the poverty here, particularly by the physical appearance of the East Indian population. I have come from the South Seas where East Indians were introduced in exactly similar circumstances, brought in for the sugar estates, but the men there are of definitely finer physical figure.

A Dutch doctor, who had twenty years' experience of the Dutch East Indies and who had examined the East Indians in Trinidad, had reported to the Governor that "he had never seen such distressing conditions as existed here among the East Indian labouring population who were apparently—men and women—suffering from the absence of all the known vitamins."

It has been maintained in certain official quarters in Trinidad that the deficiency diseases which afflicted a large proportion of East Indian labourers in Trinidad were due to the national and racial habits of the East Indians themselves. It will be interesting to enquire if the national and racial habits of the East Indians in the South Seas and the Dutch East Indies are materially different from those of the East Indians in Trinidad, and if such differences account for the differences in the physical well-being of the East Indians in these countries. In the absence of specific investigation on the point, it may be permissible for the layman to assume that the national and racial habits of the East Indians in Trinidad do not materially differ from those of the East Indians in the Pacific, and that the causes of the physical poverty of the former have other reasons than racial habits.

The Governor traced the deeper causes of the unrest. He said:

Agriculture has been depressed over a number of years. I am in entire sympathy with the estate proprietors for the difficulties which have confronted them, but at the same time it is true that agriculture has been partly responsible for the present condition of affairs.

He said the same thing over again, only more emphatically:

I return to the agricultural industry which, I am afraid, is at the base of our troubles.

It may be added here that the sugar industry is the largest agricultural industry in Trinidad. And "the estate proprietors" to whom the Governor referred are sugar estate proprietors who employ mostly Indians.

Regarding the nature of the troubles, the Governor stated:

Things move in a vicious circle. Agriculture has been depressed. The unskilled labour market has been overstocked. When a man is not getting a living wage, he cannot possibly be efficient.

And agricultural wages had affected industrial wages as well. Said the Governor:

I have definite instances of pressure being brought to bear to prevent industries from paying higher wages because, thereby, it was embarrassing to the estate owners.

The oil industry was not depressed and could afford to pay higher wages, but the agricultural industry prevented it. Said the Governor :

In the oilfields it is a different matter. . . .

The workers know that the Companies have had an exceedingly prosperous year, that their dividends have been largely increased and they claim that they should get some share of that increase as a further reward for their labour.

The grievance of the workers in the oilfields was further aggravated by the rise in the cost of living, which the Governor estimated at 17 per cent. It is not surprising that the Governor said that the agricultural industry or, in other words, the sugar industry, was at the base of the recent troubles.

He admitted that the sugar industry suffered from depression for some years and expressed his sympathy for the estate owners. But he added :

The sugar industry, due to the action of His Majesty's Government, has been placed in a position of prosperous stability. It has a five year contract beginning from September.

Prosperity had already arrived to the sugar industry. Even with respect to "last year" the dividends of certain companies varied from 5.5 to 7.5 per cent. And the Governor was justified when he said :

I do appeal to that industry to examine themselves and see whether they cannot spare something more for labour. And he suggested that "they might fix no dividend until labour conditions are better or a minimum dividend to improve present conditions."

And he pleaded for a "decent wage" and significantly added that "these men could recover their health and live in a proper manner." In saying which, he supplied the chief, if not the whole, cause of the physically poor condition of the East Indian labourers.

III.

In moving the resolution for the appointment of a Commission of Enquiry into the causes of the labour troubles, the Colonial Secretary spoke of the sugar industry in terms which, coming from one in his position, amount to an indictment of the industry. In the course of his speech he said :

The sugar industry, on the other hand, is hesitating. They are not convinced that they could afford to put their house in order and the duty of the Government, as I see it, is to convince the sugar industry that they could afford to do it.

Further on he said :

I will remind the sugar industry, as they know very well, that they are a subsidized industry. They are subsidized by the Imperial Government and by the local Government, and this being the case, those who subsidized them have a right to intervene to a certain extent in their affairs.

I would remind the sugar industry also that the sugar industry was not subsidized in order to enable them to pay dividends to their shareholders. It was subsidized because the sugar industry is the largest employer of labour in this Colony, and the industry is a very important part of the economic life of Trinidad.

As regards the conditions of employment, he said :

Not only must the people be kept employed but must be employed under decent conditions and not under conditions of economic slavery.

A more severe indictment of the sugar industry which employs mostly Indian labour, is hard to imagine.

P. KODANDA RAO.

Review.

HERBERT SPENCER.

HERBERT SPENCER'S THEORY OF SOCIAL JUSTICE. By E. ASIRVATHAM. (Upper India Publishing House, Lucknow.) 1936. 20cm. 306p. Rs. 5.

THE book was originally written as a thesis for the Ph. D. degree of the Edinburgh University and is a conscientious, careful and thorough piece of work. A secure logic—not merely an appearance of it as in the case of Herbert Spencer—pervades the whole thesis and the Theory of Social Justice or the Law of Equal Freedom of Herbert Spencer has been subjected to comprehensive criticism, both in its theoretical and practical aspects, in the light of later utilitarian and idealistic thought.

The book is divided into two parts. Part I is expository or descriptive. It states the Theory of Social Justice and its applications to the practical questions of life largely in the words of Herbert Spencer himself. The whole of Part I covers 62 pages of the book, and the remaining 238 pages are taken up by Part II, which is purely critical, but it also contains a summary of conclusions. Part II subjects Herbert Spencer's theory and its practical applications to a detailed criticism and exposes its logical weaknesses as well as its inadequacies from both the theoretical and practical standpoints. The critical portion is both able and exhaustive but, apart from its value as a piece of conscientious and scientific work, it is of little practical utility. It appears to me to be a case of slaying the dead. The inconsistencies of Herbert Spencer, his contradictory doctrines, the unrelated parts of his elaborate system, the incompatibility of his Natural Right individualism with evolutionary biology, his futile and detailed analogies between the social and the natural organism, his conception of biological freedom devoid of any quality of mercy, his misapplication of the biological doctrine of the survival of the fittest to human society, and the general inadequacy of his law of equal freedom are already too well-known to all students of political theory. Dr. Asirvatham's criticism, comprehensive and scientific as it is, hardly adds anything new to our knowledge. Moreover, the work of Dr. Asirvatham is of a purely negative character, as he himself is fully aware, but his defence is "that, in following carefully, from step to step, the argument of a great thinker like Spencer, and in examining critically the many claims made by him in support of his universal and abstract formula of justice, we are able to discover where *not* to look for a solution of the problem of the individual in his relation to society."

If Dr. Asirvatham is content with such a limited task, it must be readily granted that he has carried it out successfully. But, for my own part, I cannot help thinking that he would have served a much more useful purpose if he had made a contribution of his own towards the solution of the fundamental problem of all ages and times—the relation of the individual to society and groups, and other individuals within society.

It must also be remembered, as pointed out by Ivor Brown, that with all his blunders, inconsistencies and inadequacies, Herbert Spencer had given proof of

two fundamental truths—that the State functions through finite individuals, who are no wiser or better than ourselves, and that the price of self-government, even of good government, is eternal vigilance by the individual. As pointed out by Professor Laski, the idealists very often forget these important truths. To return to Herbert Spencer, it must be finally added that, in spite of his ruthlessness in misapplying the biological doctrine of the survival of the fittest, “there was nonetheless implanted in his radicalism the seeds of a genuine humanism.”

GURMUKH NIHAL SINGH.

SHORT NOTICE.

THE DEVALUATION OF THE RUPEE.

By BHASKAR N. ADARKAR. (Author, 152, Hindu Colony, Dadar, Bombay.) 1937. 25cm. 34p.

THIS monograph is a critical essay on the vexed problem of the rupee-sterling ratio. Ever since the recommendation of the Hilton Young Commission the critics of 1s. 6d. ratio have persistently maintained that the rupee has been overvalued and should be brought back to its natural level though none defines clearly what this natural level is. The controversy seemed to have abated a little when in 1929, prices, wages and other costs seemed to have adjusted themselves to this rate, but it has again become important since 1931 when England went off gold and the rupee became linked automatically to sterling depreciated to the extent of 29 per cent. The period afterwards is marked by an unprecedented depression in trade and prices and an enormous exodus of gold from India, which still continues. These events seem to strengthen the views of those critics who attribute all evils to the policy of keeping the ratio rigidly fixed at 1s. 6d. There are others again, who maintain that even though the rupee may not be overvalued, devaluation of the rupee is a prime necessity to stimulate a rise in prices. But they do not mention what the new level should be. The monograph makes a searching analysis of these claims of the critics, both from theoretical and practical points of view.

After a brief and illuminating discussion of the theory and principles underlying such a study, the author prefers, in the absence of any other reliable data, to apply two tests, viz. (i) the changes in the cost of living parity and its relation with the ratio as explained on pages 12-13 and (ii) the trend of wholesale prices and of exports and imports as indicating changes in the terms of trade. These are, however, not regarded as an infallible guide, but they are a sufficient index of the general trend. It is then emphatically argued that “viewed from any angle, the rupee does not appear to be suffering from any serious state of overvaluation at the present moment” (p. 24). Our difficulties are primarily due to the existence of tariffs in foreign markets, for which currency depreciation is a risky remedy.

Regarding the export of gold to the tune of Rs. 292 crores during the last few years, the author holds that there is nothing in this that should alarm us at all. “Gold is flowing out as a commodity not merely for settling our deficit on international account, but also to take advantage of the rising price of gold in the outside world.” Any lowering of the ratio would not succeed in checking such a flow, and it is therefore advisable to take the fullest advantage of the present international situation so long as the scramble for gold continues.

The case for devaluation is then examined. It is quite pertinently pointed out that devaluation involves an irrational procedure of tampering with our monetary standard, and such a drastic remedy which spends its force by use should be applied only in great emergencies. India is at present not in such a plight.

The views thus summed up above might seem unconventional, but we entirely agree with them. The lucid treatment of the whole problem merits attention of all students of economics.

S. G. PURANIK.

Miscellaneous.

THE JUDICIAL AND THE EXECUTIVE.

In his presidential speech at the South Arcot Lawyers' Conference held at Cuddalore on 22nd November, Mr. T. R. Venkatarama Sastri examined the arguments adduced by Premier C. Rajagopalachariar against the separation of judicial and executive functions. Mr. Sastri, in doing so, said :

HIS (C. R.'s) speech in the course of the budget debate and his subsequent elucidation of his point of view have raised a controversy. We have long agitated for the separation of functions in many congresses and conferences. We have agitated for it on grounds long accepted as of unimpeachable validity. Those very grounds are now controverted as not possessing validity. Such validity as they ever possessed has ceased on the acceptance of office by the Congress under the Government of India Act, 1935. It is this attitude that makes one question whether the grounds on which the separation was desired are at all correctly grasped or appreciated by those who now express themselves against the separation. A few days ago we had a Minister telling us that it was “inconvenient” and “inexpedient.” It is obvious that we do not fully understand each other's point of view. Even the perspicacious editor of the “Indian Social Reformer” has mixed up the Indian problem with the peculiarly American difficulty in the relation between the executive and the judiciary. In America the Court can rule out legislation as unconstitutional. Of precise basis the doctrine of unconstitutionality has very little, but by judicial interpretation it has acquired a very wide scope for operation. The Court often got rid of legislation as being against the spirit of the constitution or as transcending the limitations implied in it. The result was that the executive, even when it had legislative backing, was balked of its objectives by the obstructive decision of the Court, and had to fight with the threat of appointing more judges to get rid of their obstruction. In countries where the legislature is supreme there is no question of the Court resisting the legislature, or the executive when it is duly armed with legislative authority. The legislature being supreme, the judiciary were always subject to law. But in their administration of law they ought not to be overawed by the executive.

In our country, on the civil side the judiciary have achieved independence. The superior character of the recruits has slowly rid civil justice of any suspicion of executive influence. Very, very rarely does one hear of difficulties in the way of fearless administration of justice. Nor has the executive shown any desire to curb this independence for any of its purposes. It is in the subordinate criminal courts that one hears of the need for the separation of the executive and judicial functions so as to free the magistrate from the influence of those on whom he is dependent for his prospects and promotion, in the fearless performance of his duty. The principle, on analysis, will be found to be that the prosecutor should not be the judge nor be in a position to exercise authority over the judge.

The District Magistrate is the head of the district. He is the supreme revenue officer. He is the head of

the magistracy. He is the head of the police. He is responsible for the peace of the district. The subordination of the trying magistrate to the District Magistrate is a weakness in the administration of criminal justice. The position is not intolerable because the District Magistrate is not out to secure a particular result in each criminal case. Sensational cases, political or other, stand on a different footing. It requires courage in a magistrate to decide uninfluenced by the known views of his superiors. Decision of such sensational cases or political cases against the view prevalent in Government circles may have consequences which a subordinate may very naturally desire to avoid. A general reputation among the policemen that a magistrate has an acquitting tendency may be the undoing of his career. The judicial correction of a higher tribunal is one thing. The overawing effect of subordination to the head of the district administration is another. There may be nothing in it at all, but the public will never get rid of its suspicions, well or ill founded. The separation is everywhere accepted as just in principle because it is right to avoid a situation in which such influence may be exercised, or the exercise of such influence suspected.

As against this simple plea for separation what is the argument? I think all the arguments merely support a conclusion otherwise arrived at. That the State is one and that there cannot be or ought not to be a separation in functions is, to my mind, neither right nor do I think it a serious argument. The real point in Mr. C. Rajagopalachariar's mind is that so long as the judicial service are not wholly subordinate to us but are appointed by the Secretary of State and are subordinate to him and hold a privileged position, the independence of the judiciary is against the interests of popular freedom. When the executive was fighting the popular cause, the independence of the judiciary was for people's good. When the executive has become popular, it has become more interested in people's good than even the judiciary. The dependence of the judiciary on the executive is for the greater good of the people in the present changed situation. Why agitate for separation now? As far as I can grasp the argument, the above represents the

reasoning against separation. To my mind it proceeds upon a mistaken study of the situation.

The judiciary subordinate to the Secretary of State can protect us against the executive subordinate to the Secretary of State, and we asked for the separation of functions notwithstanding the subordination of both to an autocratic Secretary of State. The judiciary that we then relied on for justice against the executive is not likely to fail us now. The changed circumstances must make them, in the presence of popular elements, even more anxious to keep the judicial balance. There is no fear that the judiciary subordinate to the Secretary of State will combine to thwart the executive and produce again a situation like that of Warren Hastings and Sir Elijah Impey. Nor need the magistracy in the district be taken out of their subordination to the Minister of Justice and put under the control of the High Court. Except as to judicial subordination, there need be no question of the magistracy being taken out of their subordination of Government. Their appointment, pay, prospect and promotion may all be with Government. Their subordination to the officer who is responsible for the peace of the district and practically the prosecutor in every case is the only thing objected to.

The Government can always withdraw prosecutions or other proceedings and can undo convictions in their executive capacity. It is difficult fully to grasp the apprehension in the separation of functions under the regime of the Government of India Act, 1935. If a non-Congress executive Government or Governor in a non-Congress province can release all detenus to please the Congress authorities, it is inconceivable that a Congress Government should not wield the utmost influence in their own Province. Where in the present circumstances the High Court's decision had the effect of resisting anything that the executive Government felt desirous of doing, the probabilities are either that the executive Government are in the wrong or that the High Court cannot conscientiously decide in any other way than they have decided, however inconvenient it may be to themselves in the opinion of the executive Government.

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