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CONTENTS.

	Page
TOPICS OF THE WEEK	329
ARTICLES :	
C. P. Tenancy Act Amendment Bill — Sub-Tenants and Ex-Proprietors	333
Indians in South Africa. — Legislating a Prejudice : By P. Kodanda Rao.	334
Bombay Agricultural Debtors Relief Bill.—II. By D. R. Gadgil	336
Transferability of Occupancy Holdings. — Speech by the late Sir B. K. Bose	338
CORRESPONDENCE :	
Agricultural Debtors Relief Bill. By P. J. Taleyarkhan	340

Topics of the Week.

India and Ceylon.

IF the news published by the *Times of Ceylon* is well-founded, as we hope it is, it indicates a welcome change in the attitude of the Board of Ministers in Ceylon, on which it deserves to be congratulated. It will be recalled that the Board, with a view to reducing unemployment among the Ceylonese, had decided to dismiss from service and repatriate to India all those daily-paid non-Ceylonese Indians in the employ of the Government. We have shown in these columns how harsh and tyrannical the decision was which at one fell stroke would throw out of employment employees whose only crime was that they were Indians and snap the ties which bound them to Ceylon. The *Times* reports that the Board of Ministers has modified its original order to the extent that those Indians who have no homes in India or who have Sinhalese wives will not be dismissed and repatriated.

ACCORDING to the *Times*, those Indians who declare that they have no homes in India will be permitted to remain, but, if subsequently it is discovered that their declarations were false, they would be summarily dismissed and repatriated without gratuity. It remains to be seen how this will operate in practice. A few abuses on either side may aggravate the agitation from either side. Nevertheless, it must be admitted that, considering the uncompromising attitude publicly taken up by the Board of Ministers already on the question, it has

shown courage in making this concession to humane considerations. We hope the Board will go one step further and realise what we have more than once urged in these columns, that the dismissal and repatriation of Indians from Ceylon is no permanent or wise solution of the unemployment problem among the Ceylonese. Apart from purely economic considerations, this policy of the Ceylon Government is offensive to the national self-respect of India, provoking, in certain quarters, suggestions for retaliatory measures. It is hoped that the minor issue of the employment of a few Ceylonese, which can be solved better in other ways, will not be allowed to override the major issue of the mutual friendly relations between two such neighbouring countries like Ceylon and India, which are both struggling for political freedom and emancipation from the same British imperialism.

WE are glad that Pandit Jawaharlal Nehru has been deputed by the Indian National Congress to seek a friendly settlement with the Ceylonese Government, and that he will be in Ceylon in the next few days for the purpose. We wish him every success in his great mission. We trust that, should there be any points about which complete agreement is not possible at present, negotiations will not be terminated, but referred to a round table conference between India and Ceylon, as was suggested by the Rt. Hon. V. S. Srinivasa Sastri when he was in Ceylon.

Goal of the States' People.

THE Standing Committee of the All-India States' People's Conference adopted in Bombay a new constitution, which declares the goal of the States' people's movement to be "the attainment by peaceful and legitimate means of full responsible government by the people of the States as integral parts of a free and federal India." The changes successively made in this respect are worth noting. When the movement was not allied to the Congress, the goal was merely responsible government under the ægis of the rulers. This was a wise definition, taking into account what practical politicians in the States need consider but deliberately leaving out of account all that belongs to the remote future. The definition also suited everybody in the movement, Congressmen as well as non-Congressmen.

BUT when prominent Congressmen who had neglected it so far came into the movement, they thought it necessary to change the goal. In order that it should approximate as nearly as possible

to the Congress goal of purna swaraj or independence, the goal was defined as membership of a federation of independent India. The question then arose whether the States' people were to endeavour to rid their rulers of their obligation towards the suzerain power. That question was left vague, and in the meantime the States' people were rewarded, for their coming closer to the Congress, by the Congress refusing to give them any active assistance in their struggle. At the same time preaching of independence such as is implied by the changed creed of the States' People's Conference was declared in some States to constitute sedition, and the people of the States were in a quandary.

* * *

To add to their confusion, Sardar Vallabhbhai Patel went to Mysore and roundly told the workers there that they had nothing to do with independence which was the goal of the Congress, although they might be members of the Congress themselves; and that they should limit their ambition to the achievement of responsible government in their State under their Maharaja. In face of such an interpretation by one of the most influential leaders of the Congress, those who changed the creed or allowed their creed to be changed looked almost foolish. We should have liked the States' People's Conference to define their working ideal to be as before, the attainment of responsible government under the ægis of their rulers, leaving the future to shape their final destiny as it would. It has not helped the Congress itself first to embrace the goal of independence and then to interpret independence to mean only dominion status after making a deliberate change from dominion status to independence. There may be some merit, though we do not see it, in proclaiming complete independence instead of dominion status to be British India's goal, but there can be none in saying one thing and meaning another. Similarly, the States' people will gain nothing by interpreting their goal in one way to their rulers and in another way to themselves and to British Indian Congressmen.

* * *

ANOTHER article in the constitution of the All-India States' People's Conference merits attention. It reads:

No person shall be entitled to be on the constituent committees of the Conference if he or she is a member of any communal or other organisation, the object and programme of which involve political activities which are, in the opinion of the Standing Committee, in conflict with those of the Conference.

It will be observed that a similar rule was proposed to be enacted for the Congress, but had to be dropped, at least for the time being, on account of the opposition of a large number of Congressmen, including Pandit Jawaharlal Nehru. In the Congress the ban already exists on membership of a communal organisation, but it was sought to be extended to non-communal organisations also, with the object, it was believed, of shutting the Congress door on the Leftists. The chief complaint of these Leftists is that the Congress is gradually lowering its flag in the States, and their main line of attack consists in intensifying the States' people's movement. While the Rightists were foiled, at any rate temporarily, in banishing the left-wingers from the Congress, they have succeeded in barring the entry of the Leftists into the All-India States' People's Conference, through the latter they might have hoped to

give an edge to the struggle in the States. We wonder if Pandit Jawaharlal Nehru explained the implications of what the Conference was doing.

* * *

The New Technique in the States.

IT WAS a matter of some amount of curiosity to many whether the States' people would approve of the new technique that has been evolved by Mahatma Gandhi for solving the States question. The technique consists in lowering the demands to be made on the rulers, soft-peddalling the agitation going on in the States and trying the method of compromise rather than of struggle. The States' People's Conference thought it best to express its opinion of the technique in a statement rather than in a resolution, and this procedure naturally excited hopes that the States' people's opinion would be fully known. The statement, however, drawn up by Pandit Jawaharlal Nehru and altered in some respects by the Standing Committee of the Conference, disappoints these hopes.

* * *

FOR it merely says in effect: "Our ideal can only remain what it has always been. We cannot lower this ideal. As for the practical programme, it should be what is within the power of the people. Satyagraha is difficult, but it cannot be ruled out; where practicable, it can be tried." There is nothing that is open to exception in these sentiments. But they do not supply an answer to the questions that were stirring in the minds of the public. The questions were: Has anything happened recently which would justify a change in the general attitude of the States' people? Should they now seek the path of reconciliation rather than that of agitation? And, in order that they may attain success in their attempts at reconciliation, should they of set purpose pitch their demands low, even lowering them where necessary? To these questions the statement furnishes no answer.

* * *

THE statement rightly condemns the Punjab Government's application of the Princes Protection Act, but turns a blind eye to similar action taken by other Provincial, and to boot, Congress Governments. These Governments, it is true, have proceeded against the Hyderabad satyagrahis in other ways, but the result is the same, viz. "to help the Princes in their attempt to repress the popular movement." The Congress Governments will no doubt stoutly deny that this was either the object or the effect of their action. But so will, we have no doubt, the Punjab Government. The pretext under which the Punjab Government issued prohibitory orders is no other than that under which the Congress Governments did likewise, and the pretext is no more plausible in the latter case than in the former. The Congress journals are making the welkin ring with shouts against the Punjab Government, but they do not utter a word against the Congress Governments. If it be due to sheer puzzlement, we don't mind. But if it be due (as is asserted in the case of the Punjab Government) to a real desire to help the Nizam to abridge civil liberty where it is mostly non-existent, as Pandit Jawaharlal says, "even in the most attenuated form," we shall have to revise drastically our opinion of Congressmen's devotion to principle.

* * *

Hyderabad Memorial.

AN influentially signed memorial has been submitted to the Viceroy on behalf of the Arya Samajists and Hindus in general, protesting against the denial by the Nizam's Government of the elementary right of citizens to religious and cultural freedom. It makes no mention of any political disabilities of the Hindus, though they are of the gravest. The omission of these disabilities only adds point to the civil and religious disabilities under which they labour, for, after all is said and done, civil and religious freedom is far more important than and constitutes the foundation of political freedom. The disabilities are mentioned with a clearness and a restraint which compel admiration, but because they are denied by the Nizam's Government a demand is made for an inquiry by a Royal Commission. A similar inquiry is asked for by the Muslim League into the grievances of the Muslims under the Congress Governments. We wish both inquiries are sanctioned and started at the same time, so that the world will know of what infinitely greater significance are the complaints of the Hindus in Hyderabad State, which have impelled 6,500 men to court imprisonment, than those of the Muslims in British India, whose agitation consists only in rending the skies with interested cries.

THE above-mentioned memorial is signed, among others, by Sir P. C. Ray, Sir C. Y. Chintamani, Mr. Ramananda Chatterji and Sir Nilratan Sarkar. It is noteworthy that no active Congressman is among the signatories. It could have been said, before the development of the new technique, that it was inverted communalism that made Congressmen abstain from agitation in a Moslem State. But, with the suspension of agitation in all the States, this charge cannot be preferred against the Congress. Nonetheless, it should be consistent with the new technique of arriving at an understanding with the States and avoiding friction to join in a memorial asking for the appointment of a fact-finding commission. Nor does the Congress now seem to hold to its former taboo on the Paramount Power's interference. It is known itself to ask for interference when it suits its purpose. The present ostentatious aloofness on its part, therefore, from an attempt to secure fundamental rights appears wholly unjustifiable.

WE for our part do not blame the Congress for not participating in the satyagraha that is going on in Hyderabad. Such a decision must rest on its own view of the expediency and timeliness of the struggle. But no one can help viewing with dismay and indignation the brutal and inhuman sentences passed on leaders of such high calibre as Mr. Bhopatkar. These leaders have of course deliberately chosen the path of self-suffering, and the heavier the sentences the better pleased they will be. But no one who values civil liberty can refrain from protesting against a Government which imposes such sentences upon worthy citizens. Why are Congressmen silent? Pandit Jawaharlal Nehru said some time ago: "The Liberals might not have approved of the satyagraha of 1930 and they might be justified in keeping away from it. But why did they not protest against repression?" As a matter of fact, they did. But

we may now ask Pandit Jawaharlal: "Why do not Congressmen protest against the repression in Hyderabad?" Is it because the satyagraha movement is not being carried on by them? Do they feel unconcerned about any movement in which they do not take part? Nothing shows the totalitarian character of the Congress Party more than the attitude of apparent acquiescence and thus indirect encouragement of the Nizam's Government's repression, so long as this repression is directed not against itself but against others.

Bengal Moneylenders Bill.

The Bengal Legislative Assembly passed the Moneylenders Bill last week and the Council is likely to consider it in the autumn. What is perhaps the most contentious clause in the Bill (clause 34) came up for consideration on the last day. It permits courts to reopen transactions in connection with moneylending unreasonably closed or adjusted previous to the passing of the Act and also to reopen decrees already passed, so that the provisions regarding the maximum rate of interest and the maximum amount of interest allowable under the Bill can be made applicable to such transactions or such decrees, even ordering refund of the excess amount paid. This clause was opposed by some members on the ground the such reopening was unjustifiable in principle and by some others on the ground that the range of transactions and decrees that would thus be opened up was too wide.

SO far as principle is concerned, the clause merely follows section 3 of the Usurious Loans Act, 1918, but only in relation to transactions previously closed and not in relation to a decree of a court. The section gives power to a court, "notwithstanding any agreement purporting to close previous dealings and to create a new obligation, (to) reopen any account already taken between them (the parties) and relieve the debtor of all liability in respect of any excessive interest, and if anything has been paid or allowed in account in respect of such liability, order the creditor to repay any sum which it considers to be repayable in respect thereof." The court's power, under the Usurious Loans Act, so to reopen transactions is limited only to transactions entered into not more than six years from the date of the transaction. The Bengal Moneylenders Bill, as originally framed, limited the power of the court to reopen transactions, though purporting to be closed, that were entered into at a date not more than three years from the date of the suit. The Select Committee, however, altered this date, allowing the court to reopen transactions supposed to be closed twelve years prior to the suit, on the ground that "a period of three years as originally provided would not meet the ends of justice." The Congress members of the Assembly pressed for the retention of the three-year period but were defeated, and the twelve-year period was finally retained.

THE original Bill, following the Usurious Loans Act, gave no power to the court to do anything which affects a decree of any court. But the Select Committee added a provision permitting the reopening of a court's decree, and the provision thus added has been adopted by the Assembly. The court's power of reopening decrees

is, however, restricted only to such decrees as were passed between 1st January, 1939, and the date when the Bill will pass into law. In respect of these decrees the court is given power to order refund in cases of payments made in excess of the rates provided in the Bill when such payments are made after 1st January, 1939. The Congress members opposed this provision altogether, although in the Congress province of Orissa the courts are given power to reopen decrees passed, not since 1st January, 1939, but since 1st April, 1936!

* * *

THE relevant section (section 11, sub-section 2) in the Orissa Moneylenders Act runs as follows:

Where a decree passed by a court on 1st April, 1936, or thereafter, on the basis of a loan, remains unsatisfied in whole or in part on the date on which this Act comes into force, the court which passed the decree or the court or other authority to which a decree is sent for execution may, on the application of the judgment debtor, exercise all or any of the powers specified in sub-section (1),

i.e., powers of reducing the rate of interest, appropriating excess interest paid towards the satisfaction of the loan, etc.; but the court is not competent to order the creditor to refund any amount received by him, for the proviso to section 11, sub-section 1 reads: "Provided that nothing contained in this sub-section shall be deemed to require the creditor to refund any sum which has been paid to him." Thus, the Orissa Act at once goes farther than the Usurious Loans Act and the Bengal Moneylenders Bill in some respects and lags behind them in some other respects.

* * *

THE Congress Party in the Assembly did not oppose (and indeed no party did) the third reading of the Bengal Moneylenders Bill, though it opposed certain clauses. The Leader of the European Group remarked that "in most respects the Bill was a reasonably workable measure." The gravamen of the complaint of Congress members appeared to be, from the speech of Babu Sarat Chandra Bose, that while the Bill did well to reduce the rate of interest, enforce the *damdupal* rule, etc., and thus to lower the burden of debt, it would still fail of its effect inasmuch as it did nothing to provide cheap credit, as was the duty of the State to do. In this connection, Mr. Bose quoted from the Congress Election Manifesto, which said: "The question of indebtedness requires urgent consideration and the formulation of a scheme including the declaration of a moratorium and an inquiry into the scaling down of debts and provision for cheap credit facilities by the State". And Mr. Bose asserted that the supply of alternative credit on easy terms was a far more important duty of the State than reducing the amount of debt by an arbitrary method. Mr. Bose, however, cannot be unaware of the fact that no Congress Government which has tried to tackle this problem of indebtedness has so far done anything in the nature of providing cheap credit. Our chief objection to the Madras Bill was in fact this, that while existing credit was being restrained, Government was doing nothing to see that another credit machinery would be built up to take the place of the existing machinery. It is only the Bombay Agricultural Debtors Relief Bill which envisages the problem of current finance at all. Thus the Bengal Ministry is not to blame in this

respect any more than most of the Congress Ministries.

* * *

Prohibition in Bombay.

WE must greatly deplore the lengths to which some of the anti-prohibitionists in Bombay are carrying their agitation. We have long and consistently been advocates of prohibition, and nothing that the anti-prohibitionists have urged in their favour has altered our opinion. Our only criticism of the Government's policy was that prohibition was not a problem of mere restriction, but much more complex; and that the pace should have been slower, the programme more spread out. Now that the popularly elected legislature has by a large majority endorsed the policy of the present Government, it is but right that all law-abiding people should uphold the law, rather than threaten to sabotage or defy it in various ways. We go further and ask even those who are opposed to prohibition cheerfully to submit to the law of the land and help to make it a success.

* * *

THE example of the U. S. A. has often been quoted both for and against prohibition in India. All the arguments of every kind, economic, social, and political, have been exhaustively canvassed on both sides here as they were in the U. S. A. It is unnecessary to deal with them again at this juncture. It must be remembered that the determining factor is public opinion as expressed in the legislature. In the U. S. A. public opinion at one time favoured prohibition and at another its repeal. It may also be noted that the principal reason for the repeal was, not the undesirability of prohibition, but its defeat in practice. It was not condemned on its merits, but it failed in operation. But there is no reason to suppose that the reform, good in itself, should every time and in every country be a failure in practice. Our legislature is free to modify its policy in regard to prohibition and devote greater attention to social and economic improvement upon which the success of real temperance depends at least as much as on restrictions. But, whatever that be, no State can allow selfish considerations to defeat its policy.

* * *

IT is but natural that vested interests should suffer dislocation. But such dislocation of existing interests is inevitable to all change. In Poona, for instance, the *tongawallas* have protested against the introduction of a motor bus service as it would adversely affect their vested interests. So did the *bhangis* when the under-ground drainage system was introduced. But progress will be impossible unless wholesome change is permitted even at the sacrifice of existing vested interests. Those who are adversely affected by prohibition will do better to devise ways and means to adjust themselves to the new conditions rather than seek to defeat the law. They will evoke the sympathy and helpfulness of the public and the Government by the former alternative, and the reverse by the latter. In their own interest, they will do well to bend all their energies to seeking alternative vocations.

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C. P. TENANCY ACT AMENDMENT BILL

SUB-TENANTS AND EX-PROPRIETORS

WHILE the Central Provinces Tenancy Act Amendment Bill confers upon occupancy tenants unrestricted power of transferring their tenancy rights by sale, it also tightens up the check placed by the present Act on the transfer of their tenancies to non-cultivating middlemen who purchase tenancies merely as a commercial proposition. Such a check was first applied by the Act of 1898 which accorded valuable privileges to tenants generally, making their holdings a tempting investment for moneylenders. Section 61 of this Act was reproduced in section 40 of the Act of 1920, which provides that "a sub-tenant holding land from a tenant may, if it is proved to the satisfaction of a Revenue officer that land is habitually sub-let or managed solely with a view to obtaining rent, be declared by such Revenue officer... to have all the rights of an occupancy tenant, and shall thereupon be deemed to have such rights in such land both as against the tenant and as against the landlord from whom the tenant holds." The section was violently opposed by landlord interests when it was first enacted in 1898, and in defending it Sir Charles Rivaz said:

It promises to be the most effective of the checks imposed by the Bill on the transfer of tenants' holdings, which it is the policy of the Government to prevent, inasmuch as, by enabling the Government to deny to a purchaser the right to manage by rack-renting, it will deprive investments in land of the principal attraction which they offer to the non-cultivating classes. ... The section has been so worded as to make it clear that interference will not be warranted in cases where a tenant sub-lets to meet special or merely temporary emergencies, and that the conditions which it is intended to prevent are those in which a person who has obtained the status of a tenant makes use of it simply as a means of gaining interest on his purchase-money by extorting a rack-rent from the actual cultivator. ... I consider that the section is the most valuable of those provisions of the Bill which have for their object the prevention of the exploitation of the cultivating by the commercial classes.

This provision in the existing law is proposed to be strengthened in two respects. At present it does not apply to the whole of the province; it applies only to those parts circumstances in which, according to Government, call for its application by reason of the interposition on a large scale of a tenant as a middleman between the proprietor and the real cultivators of the land. Thus, the section is made applicable by notification to two districts and four tahsils of four other districts. But if the proposal in the Bill is adopted, the section will apply in all tracts. The other change that the Bill contemplates is as follows. Under the present law a sub-tenant, when declared an occupancy tenant, is held directly responsible for the payment to the proprietor of the rent which the original tenant was paying and has to pay the balance of the rent to the tenant from whom he

holds the land. Under the Bill, however, "it has been provided that on the conferral of occupancy right on the sub-tenant the right of the original tenant will be extinguished, and he will not, as heretofore, be entitled to get the difference between the rent assessed on the holding and that paid by him under the sub-lease. The object of this is: (i) to prevent the growth of another anomalous class of persons having interest in the land, and (ii) to discourage habitual sub-letting by making the penalty more severe." It may, therefore, be asked: If transfer of tenancies to non-agriculturists is thus rigorously checked and, in fact, almost prohibited by eliminating the profit to be made by the transfer, what reasonable objection can be taken to the power of transfer that the Bill gives? Transfers will hereafter be possible only from one agriculturist to another, and presumably from a penurious to a solvent agriculturist, and in the general interest of the country such transfers should be encouraged and welcomed. The answer is two-fold. First, the burden of proof that the tenant is a mere rent-receiver lies on the sub-tenant when the Revenue officer makes an inquiry either on the application of the sub-tenant or on his own motion; and it is not always easy to prove that the tenant has no interest in the land except to obtain rent. Secondly, we have to provide as much against land passing into the hands of agriculturist moneylenders as into those of non-agriculturist money-lenders, and while the second evil may be counteracted by the provision the first may not. If the tenant is a town-dweller carrying on moneylending transactions away from the village, it will be easy to bring him within the mischief of the section. But if he lives in the village and pretends to work the farm with the help of hired labour or on a crop-sharing basis, then he may continue to hold on to his tenancy for a long time without being regarded as a rent-receiver. And the extension of the period of sub-lease from one year to five will distinctly help him escape through the meshes of law. The strengthening of the provision relating to sub-tenants will thus only mitigate to a certain extent but not entirely remove the injury likely to be caused to the cultivators by conferring upon tenants the right of transferring their holdings.

A change is also proposed in the provision of the present Act which secures a cultivating occupancy right to the proprietor, when he transfers his proprietary interest in his sir or home farm. This right has been gradually strengthened since it was first conceded in 1883 and is now to be made absolute. Sir John Woodburn, in moving the amending Bill in 1897, said:

The Act of 1891 provided that when a landowner sold his village he was entitled to reserve for his

subsistence the lands of his home farm; but it has been proved by the experience of the last fourteen years that the pressure of the usurer, into whose hands the right of the landholder was departing, was so great that the landholders, as a rule, were compelled to divest themselves of the privileges which the law intended them to retain. In village after village the landholder has been sold out and left absolutely without the means of subsistence. We propose in the Bill, which I have the honour to place on the table, to prevent the possibility of the landholder losing his home farm in future, and, by formally rendering void any contracts to the contrary, to preserve to him the means of subsistence.

The alteration in the law then existing that was made by the Act of 1898 was that, instead of the proprietor being permitted to transfer his proprietary right without expressly agreeing to transfer his right to cultivate his sir land, in which case he became an occupancy tenant, he was prevented, except when specially permitted to do so, from parting with his right to remain in occupation of his sir while parting with his proprietary right. The special sanction that was required was not to be refused to the transfer on the part of a proprietor of his sir land without reservation of a right of occupancy, in cases when the transferor was not wholly or mainly an agriculturist, or when the property was self-acquired or had been acquired by transfer or otherwise than by inheritance within the past twenty years. Sanction could, however, be given in other cases, and the sole question that the sub-divisional officers are asked to consider when granting sanction is whether the transfer would be for the proprietor's benefit. Now the Bill removes this power of giving sanction to the transfer of sir land without the right of occupancy therein, "with the result," as the statement of objects and reasons has it, "that the accrual of occupancy tenant right in sir land in favour of the ex-proprietor will henceforth be absolute." We wonder whether this would be a desirable alteration on the whole. In all the legislation that we may pass in future

we must keep in mind the need of enlarging the size of holdings which are uneconomic at present so that they will become economic holdings. And if every malguzar who sells his sir land is compelled to retain an occupancy tenant's right in it, however unprofitable it may be for him to do so, then it would mean that all chance of progress in such tracts is permanently shut out. The present restrictions are sufficiently drastic, and to replace them by an absolutely water-tight prohibition is hardly desirable either in the interest of the proprietor or of the Province generally.

There is only one other change proposed in the Bill which needs to be considered. Under the present law an occupancy tenant is liable to be ejected from his holding for arrears of rent. It is now proposed to omit this section and substitute for it another providing, as in the case of an absolute occupancy tenant, for the sale of the holding. "Ejectment of occupancy tenants for arrears," Government think, "causes in several cases a great deal of hardship. Sometimes tenants are deprived of valuable fields for the recovery of comparatively small amounts". The new section is considered preferable inasmuch as it permits of the sale of a part of the holding if, in the opinion of the Revenue officer, the total amount due will be satisfied by part sale. The requirement in the existing Act that sale of an absolute occupancy tenant's holding or ejectment of an occupancy tenant will follow upon the tenant obtaining a decree in a civil court is proposed to be done away with, and a speedier method of recovery of rent permitted. The landlord will under this procedure be able to make an application to a Revenue officer for recovering arrears of rent due to him as if they were arrears of land revenue, only such landlords being eligible for this privilege as have in turn paid up the land revenue due from them.

INDIANS IN SOUTH AFRICA

LEGISLATING A PREJUDICE

I

THE most contentious and anti-Indian part of the Asiatics (Transvaal Land and Trading) Bill which was recently passed in the South African House of Assembly is the one meant to prevent any further "penetration" of European areas in the Transvaal by Asiatics, and among them, Indians. When a measure is proposed, restricting, however temporarily, the elementary rights of a section of the permanent population of South Africa to which is denied the political franchise, it stands to reason that the facts of the case justifying such restriction should be thoroughly investigated and established beyond doubt. In the present instance the South African Government seems to have shirked facts in order to

legislate a prejudice. The anti-Asiatics among the members of Parliament invoked the findings of the Asiatic Land Laws Commission presided over by the Hon. Mr. J. M. Murray to justify their belief that Asiatics had invaded European areas. Even the Minister of the Interior, the Hon. Mr. R. Stuttaford, quoted the Murray Report to justify his charge of penetration. In opposing an amendment moved by his predecessor in office, Mr. J. H. Hofmeyr, who appointed the Murray Commission and gave it its terms of reference, the Minister of the Interior said on 9th May:

Hon. members who have spoken insist on saying that there is no penetration. This amendment is to make penetration very, very easy.... The hon. member has only to read the Murray Commission's report and he will see how they (Indians) buy sites-

They have only got to acquire sites anywhere they like in the town and build and they can be allowed to occupy.... I am not going to accept this amendment. The Asiatics are not going to penetrate.

The Minister and his supporters have assumed penetration, which they wish to control. They have been asked and challenged to produce facts in support of the presumption. The Minister himself naively admitted that he had no facts. All that he did was to quote the Murray Report, which, on the Minister's own admission, was not asked to and did not go into the question of penetration! Speaking on Mr. Hofmeyr's amendment referred to above, Mrs. V. M. L. Ballinger said:

I wish, Sir, that we could get some of the facts that we have asked for on several occasions in the course of this debate. We have had a repetition in this House of this statement about penetration; yet we can get no facts about it whatsoever. The Minister stated yesterday in his reply to the second reading debate that he had not the facts.

The Minister of the Interior interjected: "Because the Indians asked me not to get them." If he did so to please the Indians, he might have gone a step further and deleted the sections of his Bill to which the Indians were bitterly opposed. No wonder Mrs. Ballinger retorted:

That is not an answer. He should have known when that request was put to him that he intended to legislate on this matter; and if he had been taking his own position seriously and had intended to legislate, it did not matter what anybody asked him. The reasonable thing was to find out the facts upon which he was going to legislate. I cannot see how the Minister can shelve his responsibility in this matter by simply stating that the Indians asked him not to investigate. We are dealing with a Bill to prevent the continuance of Indian penetration into European areas, but the facts have not been made clear.

During the debate on the previous day on the same Bill, the Minister of the Interior, replying to the assertions of Messrs. Hofmeyr and Morris Alexander that the Murray Commission had not reported that there was Indian penetration of European areas, said:

Of course, there is no proof of penetration in the Murray Commission report. They were not asked to deal with that matter, and the whole of the Indian case in that regard is based on some irrelevant statements of certain witnesses which were not subjected to any criticism.

Whereupon Dr. D. F. Malan, the former Minister of the Interior and now the Leader of the Opposition, asked: "How do you know that there has been penetration?" And the Minister admitted: "I did not say there had been. I said there has been no enquiry." Further comment is unnecessary.

II

The Minister of the Interior explained his failure to institute an enquiry and get at the facts before proposing restrictive legislation on the ground, among others, that Indians themselves had urged him, prayed him, not to do so. In the debate on the 9th May he said:

The hon. members for Johannesburg (North) (Mr. Hofmeyr) knows that right up to the very time

that the terms of reference were published I was being urged on one side to include this question of penetration and, on the other side, not to do so. I agreed to accept the view of the Indians for other reasons too.

He then went on to complain:

The very Indians who asked me not to deal with the question of segregation and penetration are now using that as an argument that there has been no proof of it. They have turned round on me for doing the very thing they asked me to do, and are now raising strong objections.

If the Indians asked the Minister not to enquire into penetration, was it because they admitted it and thereby rendered an investigation unnecessary to prove it? The Minister has nowhere stated that Indians themselves had admitted penetration, and that was why he did not order an investigation.

III

It has been stated above that the findings of the Murray Commission have been invoked in support of the cry of Asiatic penetration. It will be interesting to examine the scope and the findings of the Commission. A Select Committee of the South African Parliament appointed in 1937 reported, among other matters, that Indians were evading on a large scale the restrictions on land ownership and occupation by acquiring land in the name of what were nominally non-Asiatic, but really Asiatic companies and also in the names of European or Malay wives of Indians. The Murray Commission was appointed on the 3rd February 1938 by Mr. Hofmeyr, the then Minister of the Interior, to investigate and report upon these matters. The terms of reference were: "Whether, and if so, to what extent, the letter and the spirit of any law restricting or prohibiting the ownership, the use or occupation by Asiatics of land is being evaded and to make recommendations in regard thereto." The Murray Commission was not to go over the ground covered by the Feetham Commission. On the 12th April 1938 the Commission, in reply to a specific enquiry, was informed by the Minister of the Interior that the general question of segregation was not to be considered by it. The present Minister of the Interior, Mr. Stuttaford, took the same view and declined, as has been stated above, to extend the scope of the Commission to a consideration of the general question of segregation, though just four months after he had done so, he brought in the present Bill to stop further penetration by law.

Before coming to the findings of the Commission, the procedure adopted by it may be noted. The most comprehensive current law restricting the rights of Indians in the Transvaal—and that is the only province in which such legal restrictions exist, apart from certain northern districts of Natal which were formerly part of the Transvaal—is Act 35 of 1932. The Commission observed:

It will be borne in mind that the Act of 1932 endeavoured to provide a comprehensive and effective prohibition of the various expedients deemed to

constitute evasions of the spirit of the law, and, in addition to creating a number of special criminal offences, contained a general provision in section 7 (substituting a new section 10 to Act No. 37 of 1919) to the effect that any person committing an offence under, or contravening any provision of, the amended Act, No. 37 of 1919, should be liable to fine or imprisonment or both. (Para. 61.)

The Commission enquired of the officials concerned if any prosecutions or investigations had taken place. The result of the enquiry was as follows:

The reports furnished by the officials in question were to the effect that no such prosecutions have been instituted throughout the Transvaal Province, and only one case of alleged acquisition in 1936 by an Asiatic of fixed property in the name of a fictitious nominee had been investigated. (Para. 61.)

On this the Commission commented:

In view of the various instances of actual contravention which the Commission has discovered during a short period and without special police machinery, the absence of any prosecutions can be attributed, it is thought, only to the non-existence of any department or officer specially concerned with the enforcement of the law. (Para. 61.)

It, therefore, suggested that such a department should be created if the law is to be enforced. Is it not more likely that the absence of prosecutions is due to the fact that anti-Indian feeling is not so general as certain anti-Indian agitators make out? Is it conceivable that the police and the private parties concerned would ignore the contraventions of the law if the anti-Indian feeling were as strong and pervasive as a few malcontents make out?

The Commission itself confessed that much of its work was of a "police character." (Para. 57.) The Commission circularised City Councils, Town Councils and Village Councils as well as Magistrates and Health Committees and all kinds of officials to collect and forward information regarding Asiatic occupation and ownership and trade licenses, and regarding the non-Asiatic wives of such Asiatics; in fact, it took a regular and inquisitorial census of Indians and their doings. The actual number of contraventions of the law that the Commission discovered after such elaborate enumeration and police detective investigation was, as will be referred to later, ridiculously small.

Of the evidence volunteered to the Commission, at its general invitation, it observed as follows:

It was found impossible rigorously to exclude certain evidence tendered to the Committee upon matters which, in regard to use and occupation of fixed property by Asiatics, fell outside the terms of reference as construed by the Commissioners. Such evidence has, however, been considered only in so far as it was of assistance in the determination of the specific problems referred for the Commission's consideration. (Para. 57.)

As to the nature of much of such evidence the Commission said:

With the exception of a few instances, the evidence of suspected evasions and contraventions volunteered to the Commission was of a vague general character. This may be due to the fact that those persons or public authorities who had any interest at all in the matter appeared to be concerned more with the question of segregation (a matter not covered by your Commissioners' terms of reference) than to deal with evasions of the existing law. (Para. 57.)

Even when the evidence referred only to evasions, it was not largely to the point. Said the Commission:

Finally, it appeared to your Commissioners that much of the evidence directed to support the allegations of wholesale evasion of the law was explicable on the basis of the witnesses' inability to discriminate between the position prior to Act No. 35 of 1932 and the position subsequent thereto. . . . In consequence, figures which at first sight appeared to be impressive turned out on examination to be valueless. (Para. 57.)

The Commission could have acted more wisely. It was aware that it was because of charges of wholesale evasions of the law by Indians that it was constituted in order to investigate the truth of the charges; it was aware that the anti-Asiatics were bent on segregation; it specifically referred the matter to the Minister of the Interior and was told to exclude the subject from its purview. It might have known that the evidence, which it received and which was irrelevant to its terms of reference, was likely, if published, to prejudice the case of the Indians enormously. And yet it failed rigorously to exclude all irrelevant evidence. If the Commission, having admitted such irrelevant evidence, had at least tested it and condemned it, it would have done better. As it is, it permitted publicity to be given to evidence which the Minister of the Interior himself condemned as "irrelevant statements of certain witnesses which were not subjected to any criticism."

Nevertheless, the Minister invoked the Murray Report to justify his anti-Indian measure.

P. KODANDA RAO.

BOMBAY AGRICULTURAL DEBTORS RELIEF BILL PAYING CAPACITY OF THE DEBTOR

II*

THE clause defining the paying capacity of the debtor is one of the most important clauses in this Bill. This is so because of the fundamentally different structure of this measure

* The first article on this subject appeared in the issue of 6th June.

from other measures of scaling down debts. While in other cases the extent of scaling down has depended on a conciliation effort made by a Board as between the debtor and the creditor, this Bill provides for an automatic scaling down. Of course, in a conciliation effort the extent of scaling down is naturally dependent on estimates of the

total paying capacity of each individual made by the creditor and the Board, and equally, of course, there is no definite limit of the scaling down laid down. Thus while in this voluntary effort there are likely to obtain differences in the extent of the relief provided from case to case, each case is at least considered on its individual merits. The main difficulty in the way of providing for a general rule of scaling down debts automatically is that of finding a suitable measure. In considering the clause defining paying capacity in this place we must examine the question from two points of view: (i) whether the measure of paying capacity laid down is suitable for the purpose, and (ii) whether the limits laid down for the operation of that measure are such as to give adequate relief. The measure of paying capacity laid down is the value of all property—moveable or immovable—of the debtor. So far as we understand the aim of the Bill, it is to adjust the burden of the cultivator's debt in such a manner as to enable him to repay without losing his land. It is not, we suppose, the intention of the Bill to sell out the peasant, but to enable him to pay back in a series of instalments extended over a period of years. If this is so, the measure of paying capacity seems obviously unsuitable. For, while the paying capacity of the debtor will really depend on the surplus element in his *annual income*, the Bill seeks to measure it by the *capital value* of his property. It may, however, be urged that in case the capital value bears some comparatively fixed relation to annual income this objection could not hold good. Two replies may be made to this contention. First, in actual fact such a constant relation between the value of the property and the income it yields cannot be proved, specially as the property will include not only all types of land—garden, dry, rice, etc.—but will also include other items such as houses and the capitalised value of certain current incomes. Secondly, and this is much more important, such a measure of capital value cannot make the proper differentiation between the various grades of income as regards paying capacity. It should be remembered that we are here trying to discover paying capacity in respect mostly of old accumulated debts. The provision for current future finance has to be considered independently. There are obvious ranges of income where cultivators have no paying capacity in these terms. We may, for example, tentatively put forward the income limit of Rs. 150 p. a. below which no cultivator can be supposed to have any paying capacity. The actual figure may be disputed, but the idea must be agreed to on all sides. Now, in the dry districts a cultivator whose income is about Rs. 150 p. a. may well have lands worth about Rs. 1,000. His paying capacity under the Bill would be measured at Rs. 800, and he would thus be expected to pay an instalment which may amount up to about Rs. 50

p. a. over a period of 20 years! This hypothetical example would show how the value of property is an extremely unsuitable measure of paying capacity, especially in lower income ranges. There are two ways of avoiding this grave injustice to the poorer debtors by the operation of this clause. One is that of entirely changing the basis of the definition and adopting some more elaborate measure of paying capacity on methods pursued by the Land Mortgage Banks. If, however, the present measure is to be retained, clause 50 (2) (h) should be suitably modified. A second provision should be added here and the Board should be directed to fix the annual instalment *after providing out of the annual income for the support of the debtor and the members of his family.*

The second question to be raised is as to whether the limit of paying capacity provided gives adequate relief. Paying capacity in the Bill is placed at 80 p. c. of the value of all property of the debtor, and this amount has to be repaid with interest in annual instalments not exceeding 25. We have already seen how the limit will operate in the case of the poorer cultivators. But even in the case of those who are somewhat better off we believe the limit to be placed too high. Consider a cultivator whose total property is worth Rs. 5,000. His paying capacity would be placed at Rs. 4,000 and his annual instalment would come up to about Rs. 200. One has merely to ask oneself how many cultivators could repay Rs. 200 annually in respect of old debts to judge the high level of this limit. There is another way also of looking at this question. We may enquire as to how many cultivators will get relief under this definition of paying capacity. Unfortunately, the data necessary for an adequate discussion of this question is lacking. We have, however, some evidence to indicate that the 80 p. c. limit will give relief in only very few cases. Consider, in the first instance, the data presented by the Bombay Provincial Banking Enquiry Committee. The information, of course, relates to pre-depression years. The Committee nowhere gives the relation of the debt to the value of property, but it gives figures of the average debt in terms of the multiple of land assessment. The following are the main figures: *Broach* (i) inland tract 7.2; (ii) coastal tract 18.7; *famine tract* (cotton-growing) 20; *transitional tract* 15; *Konkan* 12. The relation between land assessment and land values is far from uniform from tract to tract in this province. It is, however, safe to say that land value is almost never less than 50 times the assessment. This will show that on the figures of the Banking Committee average debt is much less than even half of the value of the land. Again, the Dharwar enquiries of the Provincial Banking Enquiry Committee put the highest figure of average debt per owned area at Rs. 27.8. All these figures, it should be remembered, take account of the value

of no property of the debtor other than land. It may be urged that the movement of debts and of land values during the last decade makes the above data useless. We do not believe that these movements have seriously upset the proportions indicated. We, however, present below some more recent information. The Gokhale Institute of Politics and Economics has conducted, as part of an enquiry into the profitability of farming, an enquiry into the indebtedness of farmer-cultivators in the Wai Taluka of the Satara District. The provisional results of this enquiry are to hand, and a summary of the results for a representative group is given below.

No. of Farmers having	Total No. of Farmers	Farmers who did not give information	Farmers with no debt	Farmers whose total debt is					above 100%
				below 20%	20% to 50%	50% to 75%	75% to 100%	above 100%	
1 No land	7	0	3	0	0	0	0	4	
2 Land valued below Rs. 100	12	1	6	0	1	1	0	3	
3 " bet. Rs. 500 and Rs. 1,500	71	6	27	13	12	9	2	2	
4 " between Rs. 1,500 and Rs. 3,000	80	6	24	34	14	2	0	0	
5 " above Rs. 3,000	55	7	21	23	4	0	0	0	
Total ...	225	20	81	70	31	12	2	9	
Percentage of the Total ...	100	8.9	36.0	31.1	13.8	5.3	0.9	4.0	

It is not claimed that the results of the enquiry are exact. The number of those free from debt is perhaps put too high. But they are accurate enough for the purpose in hand. Those possessing no land get no relief under the Bill; so that of the 117 debtors from the above table who would come under the operation of the Bill only 7 would get some relief because of the application of the paying capacity definition. The vast majority would be unaffected. Another source of information tapped by us in order to test the results of the 80 p. c. limit was the information contained in the returns made by the primary co-operative credit societies. In these returns information is available about the secured debts of creditors other than co-operative societies, but no information is given as to the unsecured debts of other creditors. This is, of course, an important defect of these figures. We give below figures prepared from the returns made by four village societies in the Haveli Taluka (Poona Dist.), chosen at random. The figures show the relation of the total outstanding debt of each debtor member to the value of his property minus the value of the secured debt.

No. of debtor members owing land—95
No. whose debt is less than 20 p. c. of the value of property—51
" between 20 p. c. and 50 p. c. 35
" " 50 p. c. and 75 p. c. 4
" " 75 p. c. and 100 p. c. 3
" above 100 p. c. 2

Making all allowances for inaccuracies or lack of information, the statistics given above, we believe, make out a strong case for holding that the 80 p. c. limit will give relief to only a very small proportion of the debtors who come under the purview of the Bill.

It may be urged that if only a few holders have debts over 80 p. c. of the value of their property the majority do not require any relief. This would be a valid argument only if the 80 p. c. limit had been arrived at after some enquiry or deliberation. So far as we are aware, it is not based on any factual data and there is no ground for believing that it represents a proper standard of paying capacity. The hypothetical cases and the data we have cited above seem to support an opposite conclusion. It is further commonly agreed that a majority of debtor cultivators to-day find the burden of their debts insupportable and they will get no relief by the operation of the 80 p. c. limit. Again, it should be remembered that the scaling down is accepted by a creditor for two reasons. First, because the paying capacity of the debtor would not warrant sticking out for a higher claim and, secondly, because the conciliation or adjustment process provides a much greater security of repayment. So that all debtors, whether their paying capacity fell or did not fall short of their debt, have been able to obtain a considerable scaling down of their debts under the conciliation machinery in the other provinces. Because of the rigid definition of paying capacity under the Bombay Bill no relief on this latter count will be given to the debtors.

We thus conclude that both the measure and the limit of paying capacity are inappropriate. It would in our opinion be far better if the basis of the measure is changed. If it is not so changed, we have already suggested providing for a basic subsistence income level in clause 50(2)(h). It is not equally easy to suggest the change necessary in the limit laid down. We do not believe that the same limit could be properly applied to all ranges of income, neither are there adequate data for fixing the limit. But if a single rigid percentage of the value of property has to be laid down in the Act, we would favour the figure of 50 p. c. instead of the present 80 p. c.

D. R. GADGIL

(To be continued)

TRANSFERABILITY OF OCCUPANCY HOLDINGS

Occupancy right is proposed to be made transferable as well as heritable by the C. P. Tenancy Act Amendment Bill, and this will result, according to the Government of the Central Provinces, in the "liberalisation" of the existing law, under which occupancy holdings are inalienable. The reason given by the Government for the change is: "One result of the inalienable character of occupancy holdings has been

that their holders have gradually lost credit. This has hampered the investment of capital in lands and come in the way of improvement of cultivation." The question was fully discussed in the C. P. Legislative Council when the 1920 Act was passed, and we think that for cogency of argument the following speech delivered by the late Sir B. K. Bose on 7th March 1919 cannot be improved upon.

AS far as I can see, the standpoint from which it should be examined are mainly two: (1) is it (transferability of tenant rights) for their ultimate good that the tenants should have power to transfer their holdings, and (2) will an unrestricted flow of agricultural land from those who actually till it with their own hand and by their own labour to those who are mere rent-receivers advance public interests? I put the second point in this way as the outcome of the adoption of the Hon'ble Member's (Mr. N. K. Kelkar's) proposal will, as I shall presently explain, operate to bring about this state of things.

Now the argument that it will do the tenant good to give him the power of transfer is principally founded on the assumption that he cannot without it raise enough money to meet all his needs. Now what are these needs? I do not agree with those who hold the opinion that our agriculturists are as a class extravagant. This theory was exploded as far back as 1878 by the Deccan Riots Commission, which then sat to enquire into the question of agricultural indebtedness in the Deccan. They are, to be sure, slaves to certain customs. Under the inexorable thralldom of their hide-bound caste-rules and social amenities, they are every now and then driven to run into expenditure which they can ill afford and which they would be much better without having to incur. But this is more their misfortune than their fault. And I do not suppose any friend of the ryot will advocate his running into debt on onerous terms, for the terms must be onerous under the existing conditions of the village money market for purposes like these. There remain then the legitimate demands of agriculture. As matters stand at present, the cultivator has often to go to a capitalist, be he his landlord or the village sowkar, for his seed-grain, for weeding and similar expenses. I concede that the number of tenants who are able to rely on their own resources in these matters is lamentably small. But it has yet to be established that the security of crops which they are able to offer now is not enough to enable them to raise money for these objects. In 1897, just before the present Act was passed, an enquiry was made, and it was stated in an official communication by Sir Reginald Craddock, I need hardly say a very great authority in this matter, that quite 90 per cent. of ordinary and occupancy tenants were able to procure seed-grain and cultivate their lands without mortgaging their holdings. It has further to be established that the situation has become worse since the tenant-right was made inalienable except to the next heir or to a co-tenant by the Act of 1898. It may well be that in times of acute depression resulting from severe crop failure tenants are hard put to procure a supply of seed-grain. But such exceptional situations must be grappled with by exceptional measures of relief, such as *taccaw* advances and help through charitable funds. Upon their occasional occurrence cannot be founded any general rule which is to govern ordinary times. What, therefore, has to be

considered is, whether in season of normal crop-returns, the ryot is unable to provide himself with seed and other necessary expenses of cultivation either from his own resources or by means of a loan raised on the security of his crops. Of course, where he is weak or prone to extravagance, no legislation can save him from the effects of his own imbecility or improvidence. But with the knowledge of his own rights which is rapidly spreading and which process can be largely accelerated, as I hope it will soon be, by diffusion of primary education, and in view of the great rise in the level of prices of agricultural produce, which, however much it may injuriously affect other classes, is certainly benefitting the tillers of the soil, the tenants may well be left to utilise to the best advantage the security of their crops which they now have.

"One result of the withdrawal of the power of transfer, no doubt, has been that money-lenders are reluctant to give large loans for the purpose of, say, weddings and similar rites and ceremonies, when the only security the tenant can give is, besides his personal credit, the security of his crops. But this is just the kind of borrowing that every well-wisher of the tenant will like to see restricted. There is another point which must not be overlooked in this discussion. It may well be, as I hinted at the beginning, that in great commercial and advanced countries there should exist no limitation on one's power to deal with his own property as he pleases. But the doctrine of freedom of contract wears a different aspect in rural India, especially in a backward part of the country like our Province. Equality of intelligence and knowledge of business which the law ordinarily assumes unfortunately does not exist here. Were it so, there would be no justification for the various enactments for the special protection of the land-holding classes that are in force in different parts of the country. Even here we have the provision for the automatic growth of ex-proprietary tenant-right in sir on transfer of proprietary right in it without sanction of the Revenue officer. And only the other day, this Council without a dissentient voice passed a Land Alienation Act. I may also mention that non-alienability of family property is one of the essential characteristics of the Hindu legal system. *Mitakshara*, which gives the law here, provides that except "during a season of distress," or to use the language of English Judges except under pressure of legal necessity, there could be no mortgage or sale of immovable property. This law is not a relic of a forgotten past, but is living law which is applied and enforced every day in our courts and which the people are only too eager to take advantage of.

Judging by what one sees taking place in the case of tenants with right of transfer, I mean absolute occupancy tenants, once a holding is mortgaged, there will be scant chance of the tenant freeing himself from the meshes of his debt. He may exchange one creditor for another, but sooner or later he will be relieved of his land. It will pass into the hands of the creditor. Surely this is a consummation which you will not like to see brought about. It is certainly not good for the tenant that he should be driven to seek his living as a labourer. Unfortunately, this is exactly what has largely happened in the case of this highly prized class of tenancy. Absolute occupancy tenant-right was the only valuable right conferred at the first settlement on the tenants as against

the proprietary right given to the malguzars, the Patels of the Bhonsla revenue system. And, if I mistake not, three-fourths of these tenants have, under the operation of the law of transfer, been wiped out of existence. Here I may take the liberty to mention a personal incident. In the first Tenancy Bill prepared in 1880 by Mr. Jones, in derogation of the supplementary *Wajib-ul-arz* of the settlement of the sixties, the qualified right of transfer, which the absolute occupancy tenants then enjoyed, was entirely taken away. There was a great commotion against this among the malguzars. It was condemned as a breach of faith. I had the honour of being entrusted with the task of preparing the memorial on the subject. With my then new-fangled ideas of property as learnt from a study of English systems of law, I readily did so. I also personally submitted a note to my Judicial Commissioner, Sir Charles Crosthwaite. The Government gave in, and the right of transfer was maintained practically in the shape in which it now exists. Judged by what has transpired since, I deeply regret the part I took in opposing the withdrawal of the power of transfer. I trust my Hon'ble friends will not have a similar experience some years hence.

As regards the general welfare of the country, some may say that it is an advantage to have a solvent agriculturist possessed of means to effect improvements taking the place of one who is broken down. But this is exactly what will not happen. Money-lending business is, under existing conditions, much too paying to be exchanged for agriculture. The creditor after he steps into the place of the debtor as the recorded tenant, will not take to cultivating the land himself. He will simply place on it either the old tenant or some one else as his sub-tenant or *bataidar*. The conditions of the sub-tenancy or the *batai* will necessarily be such as to give the actual cultivator just a pittance to keep body and soul together. Such a person will neither have the means nor the incentive to do anything for the improvement of the land. Thus there will be created a middleman, a mere rent-receiver, between the actual tiller of the soil and the proprietor-malguzar. I wonder how my Hon'ble friend, Mr. Raghubeer Sinha, will like to see a body of powerful men intervening between him and his real tenantry. It goes without saying, under such a system, agriculture cannot improve and the country benefit. And agriculture, as has been rightly pointed out, is the greatest of our industries.

Correspondence.

AGRICULTURAL DEBTORS RELIEF BILL.

TO THE EDITOR OF THE SERVANT OF INDIA.

SIR,—I agree with Mr. S. V. Parulekar that the provisions of the Bill relating to the scaling down of debts will, as they stand, generally fail of their purpose so far as small holders, who form the bulk of our peasantry, are concerned. It is true that holders of uneconomic holdings, who eke out a bare living from them, will not be able to pay their debts, however much they may be scaled down and however small may be the instalments allowed for their pay-

ment. The only relief that can be given in such cases would be by way of compulsory insolvency proceedings, and the Bill provides for it. But small holders of economic holdings ought to have their debts scaled down to the level of their real paying capacity; otherwise the most noticeable result of this much longed-for legislation will be that the bulk of our peasantry will have been taken into insolvency—a result which the peasantry will very much resent, whatever Government may think of it. Besides, since this legislation has adopted as its basic principle the scaling down of debts to the level of the debtor's paying capacity where he has any, it is but right that the provisions for scaling down debts should be such as are capable of achieving this result not only in the case of large landholders but also in the case of small holders of economic holdings. Speaking generally, however, the provisions in question are incapable of achieving this result in the latter class of cases, at any rate in cases of secured debts—and most debts are secured. Secured debts are to be scaled down to 80 per cent. of the current market-value of the mortgaged lands where they exceed this limit, and even then the creditors will have the right to recover anything up to 80 per cent. of the remaining portion of the debts in the manner provided for unsecured debts. Now, lands, when brought to sale under mortgage decrees, rarely fetch as much as 80 per cent. of their market-value, and more often than not, they fetch much less. So that, in scaling down secured debts to 80 per cent. of the market-value of the mortgaged lands and giving the creditors the right to recover anything up to 80 per cent. of the remaining portion of their dues from other assets of the debtor, the Bill will have left things very much where they are at present and will not really have imposed any sacrifice on creditors for the benefit of their debtors. To put this somewhat differently, all that this scaling down will have done will be to bring about an approximate adjustment between the debt to be paid and the value of the land on which it is secured, and this may in a sense mean an adjustment of the debtor's paying capacity, taking the land to be the measure of that capacity. But Government are not proposing that he should hand over four-fifths of his holding to his creditors and be quits with them. They are proposing that he should pay to his creditors four-fifths of his debts in 25 annual instalments, with running interest at a certain rate, out of his annual income. Large landholders may be able to do that, but small holders even of thoroughly economic holdings will generally not be able to do so as they will want much more than one-fifth of their annual income to maintain themselves and their families. This will be apparent to the Debt Adjustment Boards when they come to fix instalments, and all small holders of economic as well as uneconomic holdings, except only those whose debts are much below 80 per cent. of the value of their holdings, will be adjudged to be insolvents. Unless Government want this to happen, they should prescribe a graduated scale for scaling down debts according to the market-values of holdings. The scale may begin at 80 per cent. for holdings valued at Rs. 10,000 or above, but should gradually be brought down to 50 per cent. for holdings of smaller values.—Yours, etc.

P. J. TALEYARKHAN.