

THE Servant of India

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TOPICS OF THE WEEK.

THE announcement that the Egyptian Legislative Assembly has by 44 votes to 3 expressed its approval of the principles of the agreement arrived at a few weeks ago in London between Lord Milner on the one hand and Saïd Zaghloul Pasha and his friends on the other will be received with a sigh of relief. Zaghloul Pasha's refusal to express any opinion on the scheme till he returned to Egypt had created the impression that the agreement was likely to encounter opposition in some quarters. The voting shows he was not wrong. It also shows that the party claiming unqualified independence for their mother-land is in a hopeless minority. With the operation of the present scheme, their numbers will perhaps grow still less. It should be remembered that the agreement is still to go before the National Assembly for confirmation, after which the British Parliament will ratify the same by its own Act.

If the idea of non-co-operation had not seized the imagination of the public, the considerable liberalisation which the Select Committee have effected in the Territorial Force Bill would have been properly appreciated by the public. The glaring contrast between the provisions of this Bill and those of the Auxilliary Force Bill, to which we adverted in a recent issue, has been greatly reduced, and in regard to most of the points we mentioned, the former Bill is brought into line with the latter. There will be only the infantry branch, to begin with, but the Government has given the assurance to open the other arms as soon as it is found practicable. By an amendment of Mr.

Sastri which was accepted by the Council, an opportunity will be afforded to the non-official members to raise the question of the necessity of such a step, the Government being put upon their defence every time. Although the final decision will naturally rest with the Government, it is clear that non-official members will, by Mr. Sastri's amendment, be enabled to give a considerable impulse in the desired direction. It is to be fervently hoped that the great opportunity opened by this measure will soon come to be realised and utilised to the utmost by our youths after the reaction has set in which is bound to follow on the non-co-operation movement.

THE belated announcement has at last been made that the imprisonments suffered by the Punjab leaders in connection with the disorders of last year shall not bar their way to the councils. Nearly two months after Col. Wedgwood failed, by means of amendments to the rules, to get this disqualification removed, the Government of India hasten to assure the world that they "have always contemplated action that would remove the disabilities imposed under the rules regarding election to the new councils." If so, they could have saved themselves from some unpleasant criticism on this score by an opportune announcement of their benevolent intentions. As it is, we are afraid the removal of the disability will fail to ease the tension of feeling between the Government and the people in the Punjab. The agitation in favour of a boycott of councils bearing the imprimatur of the Congress has been taken up in right earnest in that province and seems to be making headway. It is doubtful in the circumstances if any of the Punjab leaders will care to avail themselves of this grudging concession which has been made too late to check the spread of the feeling against the new councils.

IT seems to be imagined in Nationalist circles that the only item in the non-co-operation resolution to which they are bound to give immediate effect is the one regarding the boycott of elections to the councils. Even Mr. Patel, who occupies the position of the Congress Secretary, appears to labour under the mistaken idea. Probably the introduction of the word "gradual" in the clauses relating to the withdrawal of students from schools and colleges and the boycott of courts of law gave rise to such an erroneous impression. Mr. Gandhi

has, however, explained that the word does not lend justification to the postponement of action on these matters, and that the Congress resolution calls for the boycott of schools and law courts as urgently and imperatively as that of the councils. Those who do not withdraw their children from educational institutions receiving Government's support and those who do not taboo law courts either as litigants or as pleaders are as disloyal to the Congress as those who exercise their franchise or offer themselves for election. But it is dead certain that the Congress mandate will not be widely followed in regard to the former pair of items. Will at any rate the Congress executive be composed entirely of men who are prepared to carry out the whole of the clauses of the Congress resolution? We are clear that those who have not taken action or do not propose to take action (after the little interval for thinking allowed by the Congress) in pursuance of the two limbs of the resolution in question have no place as office-bearers on any of the executive bodies, whether the all-India Committee or provincial committees.

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THE conflict that ensued between the head and the heart of Lala Lajpat Rai on the question of abstention from the council elections seems to have ended in a triumph of the heart, for he now definitely advises all Congressmen to abide by the Congress decision on it, whatever their private convictions may be. He has in fact accepted the mandate theory in regard to this particular matter; but he also counsels the rejection of some other parts of the Congress resolution which he regards with entire disapprobation, viz. the withdrawal of children from schools and the withdrawal from practice by lawyers. This eclectic adherence to the Congress verdict we cannot understand; the Congress resolutions must either be binding as a whole or purely advisory as a whole. You cannot pick and choose between them, investing some with a mandatory character and treating the others as merely precatory. Lala Lajpat Rai regards the boycott of schools, e. g., as gravely injurious to the country's interests and therefore wishes the people to abstain from taking action on that part of the resolution. But it would be equally open to those who feel certain that the attainment of self-government would, instead of being brought nearer, be rendered more remote by the boycott of councils to treat this recommendation of the Congress as the Lala would have them treat the boycott of schools recommendation. If one is to be guided in this matter by one's opinion as to whether a particular item in the Congress resolution is or is not conducive to the best interests of the country, the mandate theory falls to the ground.

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IT is, however, satisfactory that Lala Lajpat Rai does not suggest that the introduction of the word "gradual" into the Congress recommendation regarding the boycott of schools and law courts so tterly transforms its character that it is changed

from a mandatory into an advisory resolution. This would be sheer quibbling after the authoritative interpretation given by Mr. Gandhi of that word. But we are not left solely to Mr. Gandhi's interpretation. Since the Congress has sanctioned a programme of progressive non-co-operation and has mentioned a few items constituting the first step for immediate action, a "gradual" boycott of schools and law courts could, in the meaning of the Congress resolution, only give a few weeks' grace at the utmost to those who may for the moment be mentally unready for this course of action. One can well understand the reluctance of Congressmen to give effect to a recommendation which, they feel, is either utterly unpractical or wholly suicidal. The reluctance is justified by the view they take of the resolution, but not by the insertion of the word "gradual" in it. To such a make-believe Lala Lajpat Rai cannot and does not lend the weight of his authority. If loyalty to the Congress leaves no room for private judgment in the matter of the council elections, it cannot similarly leave any room for judgment in the matter of the boycott of schools and law courts. We notice that the Muslim League's resolution is free from the complication introduced by the word "gradual," for it contains no such word; but the intention of even the Congress resolution is perfectly plain to all but those who for their own private ends choose to construe it in a sense favourable to themselves.

* * *

LALA LAJPAT RAI hopes that at the next session of the Congress the resolution adopted in Calcutta would be modified. Several Nationalists, it is well known, have accepted the present decision only in the hope that they would get it reversed on a future occasion. No one would deny them the right to make an attempt in that direction, but to allow such a right to the dissentient minority necessarily implies that they must retain the freedom to preach their view in the interval. To be free to do so means to decline to follow the majority. Thus no one who adopts the mandate theory can ever hope to modify the Congress resolution. The position of some of the Nationalists therefore it is somewhat difficult to understand. They accept the Congress decision only because they think that loyalty to the Congress requires it; but even while accepting the decision they proclaim that they continue to be of the opinion that the decision is wrong and that they look forward to its being modified. How can anyone work for its modification unless he is free to carry on an active propaganda against it? To do so, however, would be rank heresy. No one would certainly desire the stagnation which would necessarily result if every Congressman should regard himself bound to cast aside his own opinions and abide by the Congress decision, whatever it is. The theory of the mandate has therefore to be rejected. It is not the Liberals alone who have expounded such a view. Such an ardent Nationalist as Mr. Pal

has also given his support to it. We cannot therefore appreciate the announcement made by many Nationalist leaders of their intention not to contest the elections, although in their own view it is the best way to serve the country.

IT is cynically remarked by some Nationalists that their decision to retire from the election contest should gladden the hearts of the Liberals. Mr. Kelkar says in the *Mahratta* that the Liberals are in high glee because the entire field would now be left open to them. Such an allegation coming from the Nationalists is quite in character, but it is wholly unfounded. As Mr. Sastri observed on Monday last in Poona, the Liberals never desired, and do not now desire, to be in monopolistic possession of political power. They are content to take their chance at the hustings and invite the Nationalists to put forth their best efforts and carry as many seats as they can. The Nationalists at one time had cherished the ambition of a monopoly of seats, and they had hoped that the mantram of the Amritsar resolution would be an open sesame to the portals of the Councils. The Liberals firmly believe now when the Nationalists are projecting a general boycott of Councils, as they believed some months ago when the Nationalists talked of sweeping the country, that our legislative bodies, to perform their proper function, must be truly representative. It was on this ground that Mr. Sastri, in his Poona speech, made an earnest appeal to those of the Congress Democratic Party and other Nationalist organisations who had decided to withdraw from their candidature to reconsider their decision. The Liberals for their part would prefer being in a minority, if that is their lot in a fair fight at the elections, and trying to convert the minority into a majority to occupying the position which rightfully belongs to the majority. But no party can be kept up to the mark unless it is confronted by watchful, though friendly, criticism.

FAR from thinking of the Nationalists in the light of a good riddance, the Liberals feel that their absence from the Councils would be a great loss to the country. No large party could retire from the legislative and administrative business of a nation without inflicting on it serious injury; the injury consists in the omission to contribute the peculiar habits of mind which are associated with that party to the solution of national questions. The line of action proposed by the Nationalists would also immensely strengthen the conservative forces. Having adopted the plan of non-cooperation, perhaps they welcome such a result in the hope that it will ultimately lead to a paralysis of the Government machinery. The fact, however, is that, without bringing the administration to a standstill, it will only close to the Nationalists the avenues of doing national service opened by the reforms and deprive the country of the valuable help which otherwise they could surely render. We are yet in hopes that, from a false sense of

what is required by loyalty to the Congress, they will not deny to the country that which it has a right to expect of them.

RULE 44 of the Election Rules authorises the Governor to decide doubtful points in regard to the interpretation of the rules in question. The requirements of the residential qualification not being clearly defined in the Rules, several representations seem to have been recently addressed both to the Governor and the Reforms Commissioner, praying for an authoritative interpretation on the point. The Governor is understood to have expressed his inability to issue such an unequivocal statement, adding that it was not he, but the Election Commissioners, when confronted with an election petition on the point, that could give a ruling in clear and unmistakable terms. This means that those who want to stand for election but are not quite clear about the possession of the qualification in their own case can only do so at their own risk—a thing which no practical-minded person would obviously like to do. It is unfair to ask people to risk a good deal of their time and money on elections which stand even a very slight chance of being declared void a little later, for no other reason than that the Government have failed to frame a well-defined rule. We hope the Governor will yet see his way to issue the necessary statement.

THE grievances of the Indian student in England are many and have often been ventilated in the public Press. The Government maintains, at considerable cost to the Indian taxpayer, an establishment at 21, Cromwell Road, London, of which he is expected to avail himself. But, owing to the suspicion which is gathering strength every day that political motives contributed to its foundation, its utility as a shelter for fresh arrivals from India receives a great set-back. Those who have stopped at 21, Cromwell Road for some time complain that the food is far from satisfactory and the behaviour of the servants leaves much to be desired. The agitation set up by the inmates of the house to mend matters resulted in the inclusion in the Committee of management consisting of nearly a dozen members of only one of their number! Cheapness was at one time the special feature of this establishment; but recent increases in its rates have removed even that attraction. The consequent dissatisfaction is reported to have found expression in the withdrawal by the students of their only representative from the Committee! It is to be hoped that the Government will set matters right at an early date by the removal of the causes of suspicion which restrict its scope of usefulness and by affording such other reasonable relief as the Indian student stands in need of. A non-official committee, enjoying the full confidence of the student community and associated with the management, might go a long way in inspiring confidence among students.

OFFICIAL IMPUNITY.

THE action which the Government of India has taken against the Punjab officials proved to have been guilty of excesses while suppressing last year's disturbances only serves to show its unbounded faith in the doctrine of official impunity; it seems to think that officers of Government, whatever their crime, must be maintained in undiminished prestige and power, if they are to rule Asiatics with something like success. The Government of India's record throughout this episode is wholly black. While the disturbances were in progress, it did not stir its little finger to keep in check the rigours of the militarist régime established in the province; after the restoration of peace and order, its representatives sought to justify in the Imperial Council every manner of barbarity practised by the Punjab officials, not excluding the Jallianwala Bagh slaughter and the crawling order; and now when there is a pronouncement by its own Committee upon official misdeeds, it gave no sign of taking any punitive action against the peccant officers, notwithstanding the Cabinet's orders contained in the Secretary of State's dispatch, until goaded thereto by the non-official members of Council, and ultimately it takes such ridiculously inadequate action as to amount in practice to no action. All this is of a piece with the Viceroy's action in stifling discussion in his Council in the vain hope that the suppression of debate would help in restoring good understanding between the Indians and the Europeans. If the Government of India had intended to award suitable punishment to officers who had misused their power, they would certainly have welcomed the opportunity afforded by Mr. Sastri's resolution to satisfy the public that they had no desire to screen any tyrannical and cruel exercise of power. But apparently it had no intention of taking any action publicly, and there is no wonder that it considered the resolution to be greatly embarrassing.

And, after all, what is the action which it was ultimately forced to take? It does not rise above the level of censure in any case where excessive power was used. The utmost blame which the India Government thinks fit to pass upon any of the official acts is that they were "injudicious and improper," acts, which, in the Imperial Government's judgment, were "calculated, if not intended, to humiliate Indians as a race, . . . and to flout the standards of propriety and humanity, which the inhabitants not only of India in particular but of the civilised world in general have a right to demand of those set in authority over them." It is such acts which His Majesty's Government ordered the Government of India to punish and in doing so warned it that the majority report of the Hunter Committee had taken too lenient a view of the gravity of the oppression practised by some of the officials. "There is one question," said the dispatch, "with regard to which it is impossible to avoid the conclusion that the majority

of Lord Hunter's Committee have failed to express themselves in terms which, unfortunately, the facts not only justify but necessitate." While the Committee's verdict sadly errs on the side of leniency, the Government of India's action falls short of what that verdict requires by at least as much as the condemnation by the Committee falls short of that pronounced by the Cabinet. In the first place, Col. Frank Johnson escapes even the mild censure of which some of the other officials are the recipients, and it is pleaded by Government that it has no hold over him, now that he no longer belongs to the Territorial Force in which he had held a commission. But could it not deprive him of his rank and did he not deserve such a severe punishment? This officer was in charge of Lahore where the majority Commissioners themselves say "the administration of martial law was more intensive than elsewhere." He was responsible (1) for floggings in public, (2) for requiring students to attend roll call four times a day, (3) for the arrest and internment of all male persons domiciled in the Sanatana Dharma College Hostel on the ground that a martial law notice pasted on its wall was defaced, (4) for requiring the attendance of ward representatives from morning to evening to receive orders, (5) for flogging a marriage party, (6) for threatening to inflict reprisals, etc. etc. His administration of martial law was throughout marked by calculated cruelty and a desire to humiliate the Indians. If such an officer is to go scot-free, the Government may as well cease to pretend that it desires to punish the guilty officers.

The only punishment which has been awarded to Mr. Bosworth Smith is that his request to remain on active duty, as he would be otherwise entitled to remain till the spring of 1921, has been refused. Has he been told that the reprisals on property which he exacted and his project of erecting a *toba ghar* show a diseased mind unfit to be entrusted with official duty of any kind? And the indignities he heaped on women which are related with much particularity in the evidence collected by Mr. Gandhi's Committee cannot be left out of account. Col. O'Brien was responsible for the outrageous salaaming order, requiring a roll call of students, exacting reprisals on property, and imposing restrictions on travelling by railway as a punishment for diminished respect towards Europeans; Captain Doveton for inflicting all sorts of fancy punishments; General Campbell for issuing the salaaming order whereby all Indians of whatever station were made to show respect in fantastic ways to all commissioned officers; and so on; but these officers receive no more than formal censure. Look at the way in which Major Carberry and Lieut. Dodkins have been dealt with for using bombs. Of the former the majority report says: "The element of immediate and manifest urgency is lacking as a justification for these bombs, particularly so in the case of Gharjakh, where a party of 50 people were apparently returning from

Gujranwalla." The minority report adds: "His action in firing from the machine gun into crowds in the street of the city (Gujranwalla) we consider excessive." Of Lieut. Dodkins the majority Commissioners say: "Lt. Dodkins dropped a bomb which hit the adjoining house and blew in the side. . . . We have no sufficient explanation given to us to justify the use of this aeroplane for purposes of offensive action." The minority say: "If Lt. Dodkins was acting under these instructions, it is obvious he exceeded them. If, on the other hand, his orders were 'to disperse any crowd' without reference to the place where it was and what it was and what it was engaged in doing, the authority who gave such an order was wrong in giving such orders." But neither the authority who issued nor the one who obeyed the order is thought worthy of blame by the Government of India, and both of them go uncensured. That such an episode should have such a finale only shows how little weight the Government attaches to public opinion. There is no wonder that the people should lose faith in the Government and take to methods of agitation which would have been impossible, had the Government of India discharged its duty firmly in the matter of the Punjab.

THE BOYCOTT OF COUNCILS.

THE Nationalists, especially in the Deccan, are saying that the resolution of the Congress incorporating the boycott of councils as the first item in the programme of non-co-operation must have given great joy to the Liberals who are likely to find their way now clear to the seats in the councils. Perhaps it is true that the boycott is likely to make the path of some Liberals easier; but it is simply cruel to say that they will welcome this result. The Liberals have consistently advocated the policy of making the reforms a success and they know but too well that for this purpose the councils have to be representative of the whole country and not merely of a party. The whole country is on a kind of trial for the next few years. The new councils have to show that the responsibility thrown on them for the good administration of the country, such as it is, is properly borne and that a distinct and visible amount of progress is made in the country during the next few years as a result of the reforms. For this purpose they know but too well that all the available ability in the country should be enlisted on the popular side and they painfully realise that the quantum of this ability at present is not very great. Whatever some of the rabid organs of extremism may say, nobody in his saner moments doubts that the Liberals have the good of the country at heart, though their methods may perhaps differ from those of their rivals. Their policy of working the reforms so as to get the utmost out of them requires the co-operation of all popular forces. It is only thus, they believe, that the permanent steady progress of the country can be

assured, and not by any insane revolutionary methods.

For the last few months in the Deccan the Nationalists have been organising themselves as a party, and, making the Amritsar resolution a shibboleth, have tried to discredit the Liberals, as they refuse to accept the opinion of the Congress on the reforms. At Sholapur they in opposition to the Liberals got the Provincial Conference to pass a resolution to this effect. The Liberals there contended, and they still feel that it is for the present the best policy, that whatever one's views on the nature of the reforms may be, this policy is the soundest. The party machinery, however, continued to be manufactured. The Liberals in mere self-defence had to do the same. The contest for seats in the councils bade fair to be very acrimonious and to be conducted on purely party lines. Many non-party men thought—and many saner party men on both sides agreed with them in their heart of hearts—that it would have been for the good of the country if a round table conference had been privately arranged to select the best candidates in the interests of the country and not in that of a party. The questions that are likely to crop up in the immediate future are such that both the Liberals and the Nationalists would have generally agreed upon them. This does not imply that there are, or will be, no differences. These differences are mainly of mental attitude, though, to a certain extent, they are due to personalities. As years roll on, the differences will crystallise the two parties. But crystallisation takes time. If the process is hastened, we shall have a large number of small crystals, while if time were allowed, larger crystals may be formed. This is what is happening now. In the Deccan several groups are manifesting themselves. The hand of everybody is against everybody else. If we had some actual experience of the new councils to guide us, we should have seen where the vital differences, so far as council work is concerned, lie and what will be the natural lines of cleavage and on what principles the public in the country will be divided into parties.

The Liberals were, and are, frankly out to work the reforms to the utmost. The attitude of the Nationalists who pronounce them unsatisfactory can be one out of the four following kinds. First, the attitude of taking the reforms as they are, sending the best men of the country irrespective of party to the councils and then working them whole-heartedly so as to be able to show the greatest amount of actual successful work; secondly, contesting the elections on a purely party ticket, but after the elections are over, then working in co-operation with everybody who is on the side of the people; thirdly, contesting elections on the party ticket, refusing to co-operate with any one who is not of their own party and in fact following the methods roughly called obstructionist; fourthly, boycotting the councils altogether. While the Liberals would have enthusiastically

welcomed the first attitude, the second would not have left any bad after-effects except a rather less efficient personnel in the elected portion of the councils. Before the Congress met, the saner Nationalists were in favour of this attitude; while the others were in favour of the third kind of attitude. The Congress has changed all this. It has given its orders to follow the fourth part. From the point of view of the successful working of the reformed councils, it is obvious that this is less harmful than the purely obstructionist tactics. Even if the Nationalists had followed the second line, then Liberals who might come into the councils would have been found on the whole working with them; the alliance—conspiracy as some Nationalists are pleased to call it—between the Liberals and the bureaucracy is a myth of the Extremist imagination. If the bureaucracy offers to co-operate, it will be suicidal to refuse the proffered hand; but the cause of the people, as against the party ought to be paramount both with the Liberals and the Nationalists; while therefore as practical men perhaps willing to accept compromise on current questions which involve no sacrifice of principle, the Liberals will be firm as a rock on the main issues. We therefore again cordially exhort the Nationalists to reconsider their position and send their best men to the councils so that the popular side may have strength, not only of numbers, but capacity and ability and a fully representative character.

It appears, however, that in this Presidency, the Nationalists have decided to follow the Congress lead and boycott the council elections. The Liberals will feel their strength reduced by this abstention. But may we appeal to the Nationalists to let the councils work their own way and not to hamper their work? The Nationalists under the lead of Mr. Gandhi have chosen the path which they feel will lead them to the goal; is it too much to hope that they will allow others who believe in the other path but who are not the less patriotic to do their best in their own way without unnecessary hindrance?

R. P. PARANJPYE.

A BETTER WAY.

I POINTED out last week that the Congress had chosen to "enter on the path of Revolution," instead of walking 'with accelerated pace on the path of Reform which had gained the Reform Act, inaugurating Responsible Government." There is no doubt that during its thirty-five years of life, the Congress has trodden the latter path, and the awakened political consciousness of the country had only quickened the rate of progress; it had not changed the method. The Reform Act of 1919 is the legitimate child of the Minto-Morley Reforms, although it took a distinct step far in advance of its predecessor. But the Special Congress of 1920 has made a new departure; it has discarded political methods, declared its intention to paralyse

the Government, and has created a "Council of Action," with Mr. Gandhi at its head. Under an impulse similar in kind to that which threatens to bring into conflict Labour and the Government in Great Britain, it has exchanged the Parliamentary method for that of Direct Action, alluring to the short-sighted with its promise of quick results. The sinister fact that Non-Co-operation can only succeed by violence is veiled from the myopic gaze. What cares the Government for the dropping of titles, the surrender of honorary posts, the abstinence from Councils, the withdrawal of children from schools, of lawyers from practice? All this will leave the withers of the Government unwrung. In fact the path will be the smoother for its feet. All the detail given is merely an expansion of the *first step* of Mr. Gandhi's four-fold programme, *the whole of which* was accepted in a previous paragraph on which no one laid any stress. It slipped through without notice. It is the three latter steps, that, if successful, would paralyse the Government. It can look on smiling—though alert for the hidden danger; while the preliminary drill is going on.

The Better Way is to lay hold of the political power placed within our reach, to utilise it to the full with a clear objective, definitely stated and strenuously worked for—Full Responsible Government, Self-Government within the Commonwealth, Home Rule. The Premier said lately: "Britain is pledged to give India Home Rule." Mr. Montagu declared, "India will have Home Rule as soon as she is determined to have it." The determination must be proven by hard and efficient work within the Councils, producing and passing well-considered measures for the lessening of poverty by the improvement of agriculture and increase of irrigation, the stimulation of industrial undertakings, and also the spread of cottage industries, aided by co-operative societies, the uplift of the people by education, the lessening of disease by sanitation and instruction in hygiene. These and similar measures should be explained to the masses, pointed to as the results of power coming into Indian hands, so that they may feel the reaction on their own lives of even partial Home Rule. Local Self-government must be boldly established, with elected Village Taluq and District Councils, and the village panchayat must control village affairs, with its Committees of Education, Water-Supply, Justice, Revenue, etc., as needed according to the size of the village, as in former days. The Taluq Council will control roads outside villages, Secondary Schools, larger irrigation, will have its model Farm and Dairy, and act as a distributing centre for stud animals, seeds, manures, disposal of surplus products, etc. The District Council will have its colleges, its Technical Institute, its Agricultural Institute with experts, making experiments, testing soils and suitable manures, suitable crops, supplying seeds, rendering available to every village through the Taluq Board the best scientific knowledge of the

day. The whole rural life of the people may thus be transformed, and they will become politically educated by the use of power in their villages, by the inevitable discussion and growing sense of responsibility. Village self-government is our new basis, it being remembered that the village officers must be elected, not appointed. Some very successful experiments have been made in Bengal and Lord Ronaldshay lately pointed with great satisfaction to the fact that the villagers were very ready to tax themselves for village improvements when they controlled the work and the expenditure; they found that they could do the work more cheaply than the Public Works Department.

The Provincial Councils will pass the legislation necessary for Local Self-government: they will deal with hours of Labour, Arbitration Courts, Provincial Taxation and Expenditure, Town Planning, Housing Schemes, and all matters of larger organisation concerning the Province as a whole. Surely the great vistas opening before us may well call out the best brains and hearts to work for India, and to build up every story of the great edifice of Home Rule, carrying the people with them by knowledge worked out in practice, uplifting and transforming their lives. We shall not need to ask for Home Rule; we shall create it, rendering it inevitable. We shall mould the Government and make it ours, carrying out Mr. Gokhale's famous maxim; "Co-operation where possible, opposition where necessary," but we shall co-operate and resist with power, not in weakness as of yore.

Is not this a Better Way than Mr. Gandhi's dreary, quarrelsome way of Non-Co-operation, raising racial hatred, making cleavage after cleavage, our enemies ever those who are of our own household. Surely we can thus better serve the motherland, better help our brethren, crown our India with Home Rule, winning it by work which in itself is joyous and will gladden the homes of the land. Co-operation is our watchword; co-operation with each other, co-operation with the Government, co-operation in every good and great and noble work. We will not stand aside in dull and sullen, resentful and idle Non-Co-operation, but will take hands and work, knowing that the future is our own.

ANNIE BESANT.

THE KHILAFAT AND THE TURKISH TREATY.

V. *

IN a series of articles such as these, which have been written at a distance from full sources of information, it is almost certain that minor inaccuracies will occur. One such inaccuracy appears to be the information, which I received from more than one home paper, that the Oil at Mosul had been

* Previous articles in this series appeared in the issues of July 1 and 22, August 5 and 19.

already divided up between Britain and France in the proportion of three shares to one. We are now told that matters have not proceeded so far as that, but the Arab State, over which Britain holds the Mandate, will be bound to give 25% of any contract which may be made concerning the Oil to France, 75% remaining with Britain. This deal with France has been made so that France should not claim the Mosul Oil as lying within her Mandate. While this later explanation of Mr. Lloyd George slightly alters the complexion of the compact about the Oil, it hardly makes the morality of the whole affair any the less offensive. It is a clear confession, out of the mouths of leading statesmen themselves, that 'Mandates' are not regarded as trusteeships at all, but are the exact equivalent of what used to be called 'Protectorates.' It has well been pointed out, that there has been no willingness to take the 'Mandate' of Armenia, where there appears to be no Oil.

Since my last article was published, there has been one ray of light to illumine the darkness. If the *Times* report can be trusted, the independence of Egypt has at last been definitely acknowledged by Great Britain. The united strength of all parties,—Arabs and Copts, Musalmans and Christians,—in refusing the Protectorate, which was previously proclaimed, has been rewarded. In this case the words of Mahatma Gandhi have already proved themselves true in a remarkable manner. It is only *strength*, he wrote, that Great Britain respects.

We have yet to see the actual terms of the agreement, before we can judge whether mere diplomacy has been practised, or whether the independence is complete. If it is the latter, then we may hope that Mesopotamian independence will follow and what shall we say about India?

Some further facts concerning the situation in the Middle East have come to light. I wish to place them in their true setting in relation to the Khilafat. They refer to Syria and Mesopotamia.

We find now from first-rate documentary evidence that there were four different agreements entered into by responsible statesmen with the Arabs and Syrians who revolted from Turkey.

(1) The original agreement signed on Oct. 24, 1915, by Sir Henry MacMahon, recognising the "independence of the Arabs, south of latitude 37°." This includes Aleppo, Damascus, Homs, and Mosul; and the country to the South of these important places. But two qualifying clauses are added. Great Britain is given certain rights over the Bagdad-Busra section. France is regarded as having claims in North Syria.

(2) The Anglo-French Agreement was made in May, 1916. It is called the Sykes-Picot Treaty and it is signed on behalf of Britain by Sir Mark Sykes. This treaty portions out definitely the North Coast of Syria and Cilicia as the French sphere of occupation, and the Gulf province of Mesopotamia as far as Tekrit, as the British sphere of occupation. Haifa, on the Palestine Coast, is

to be ceded to Britain. Palestine is to be internationalised. The great importance of the Treaty is that the whole of the interior, including Aleppo, Damascus, Mosul, etc. is recognised by France, as well as Britain, as "an independent Arab State." It is true that, on the Western side it is agreed that France may supply "such advisers as the Arabs may desire": and Britain may supply the same on the east side. But independence is wholly guaranteed.

(3) A third document was signed in the presence of seven Syrian Chiefs, at Cairo, by Sir Mark Sykes on June 11, 1917. This pledged to the Arabs that (a) all the Arab pre-War States and (b) all Arabian areas set free by the military action of their inhabitants, should have their independence guaranteed after the war.

[This would certainly include the area of Aleppo and Damascus, in Syria, which have been recently occupied and 'conquered' by the French.]

(4) Two days before the German Armistice, namely on November 9, 1918, Lord Robert Cecil authorised the following term in a second Anglo-French Agreement: "That Great Britain and France agree to encourage Native Governments in Syria and Mesopotamia, and to ensure, without imposition, the normal working of such Governments as the people themselves may desire."

It is quite certain that his final agreement of November 9, 1918,—signed in the flush of victory over Germany, while the generous impulse of the conquerors was fresh and new,—was regarded as widening the scope of the Sykes-Picot Treaty of May, 1916. It was taken universally in the East to mean that the saving clauses concerning North Syria and Mesopotamia were abandoned, and that an independent Arab State was contemplated, which should include the whole of Syria and Mesopotamia.

This fact, therefore, can now be proved by documentary evidence of quite first-rate importance,—that the Arabs and the Syrians, as the war progressed, were led on more and more to believe that the whole Arab-speaking race was to be set free from foreign control of any kind whatsoever. It was not only to be set free from the task; it was to be free from the control of the French and the English.

This was the position taken up by the Emir Feisul at Versailles and after. He was the most striking figure of all those who came from the East to the Peace Conference. His ability in uniting the Arabs and Syrians in one Arabic-speaking people was acknowledged. His personal magnetism was as remarkable as his intellectual power. He was the one accepted spokesman and he had a full hearing for his claims from the greatest statesmen of America and Britain, France and Italy. Mr. Balfour was especially impressed by his personality and his intellect.

Furthermore, the Emir Feisul had the unanimous voice of the Syrians and Arabs in his favour.

He was the people's choice at Damascus. It was his authority which maintained the peace all over the Middle East, from Aleppo to Mosul, for more than a year after the War, while the question of independence was being decided. He proved himself a ruler, who could keep the Arabs united and controlled.

At Versailles and after, Emir Feisul never wavered. He claimed the full independence of Syria, Palestine and Mesopotamia. He went back from Versailles, having made his case as clear as his great intellect and ability could make it, basing it on the four documents already quoted. He hoped against hope that he had carried his point against the selfishnesses of Great Britain and France.

He went back. He took once more the reins of Government. Then came the disillusionment. The Turkish Treaty has now been signed. It has sliced the Middle East into bits and handed over the pieces to the separate Allies. Greece, which was never actually at war with Turkey, obtains the most important slices in Thrace and Asia Minor. Great Britain occupies Constantinople. Palestine and Mesopotamia are made 'Mandates' of Britain, and a vast new modern harbour at Haifa has been begun with British money. Syria is made a 'Mandate' of France. The process of the subjugation of the Middle East under Europe has already begun. What has happened in North Africa seems destined to be repeated in Western Asia.

What has occurred since the terms of the Treaty were declared may be given in figures that are roughly accurate. Thrace is being held down by some 30,000 British and Indian troops. Asia Minor is being held down along the Northern and Western coast by over 50,000 Greek troops, financed and munitioned chiefly by Great Britain. Syria is being held down by 80,000 French troops, including, it is believed, Senegalese troops from West Africa. Mesopotamia is being held down by 83,000 British and Indian troops. The cost of all this, to a bankrupt Europe, must reach nearly £100,000,000 a year. This expense will go on increasing as revolt gathers to a head. Emir Feisul is now a fugitive. To the last he resisted the French invasion of his country. His army was defeated by the trained troops of France, fresh from the Western Front and supplied with the latest war munitions and equipment. The Arab Commander-in-Chief was killed in action. Feisul himself fought bravely to the end.

The greatest defeat has not been that of Emir Feisul. He has done all that a brave man could do,—a brave man who hated bloodshed and desired peace. His *soul* has not been defeated.

But what can be said to-day of the honour of England and France?

C. F. ANDREWS.

(To be concluded.)

HINDU LAW IN THE NEW ERA.

II.*

IT is remarkable that the first onslaught made upon the citadel of Hindu law proceeded not from a sense of any patent defect or inconsistency in that law, but from the sheer desire of making it easy for Christian missionaries to carry on their propaganda of Christianity. Under the Hindu law an apostate from Hinduism was visited with very dire consequences in the form of deprivation of all property and proprietary rights—indeed apostacy was tantamount to civil death in the eye of Hindu law. Such extreme punishments naturally were thought to be the chief hindrances in the path of the rapid spread of the Gospel among the masses of Hindus, and the missionaries probably pressed strongly for the early removal of those condign punishments. We thus find that the first deliberate breach of faith was committed for proselytising purposes, and critics may well be pardoned for thinking that such should not have been attempted. The results also show that the breach of faith did not, as usual, bear the fruit expected from it, for no great expansion of Christianity followed in the wake of the passing of the Freedom of Religion Regulation of 1832 in Bengal. The same regulation was repeated for the whole of British India in 1850. It is known as the "Caste Disabilities Removal Act" of 1850 and enacts as follows:—

"So much of any law or usage now in force within the territories subject to the Government of the East India Company as inflicts on any person forfeiture of *rights or property*, or may be held *in any way to impair or affect any right of inheritance*, by reason of his or her renouncing or having been excluded from the communion of any religion, or being deprived of caste shall cease to be enforced as law in the Courts of the East India Company and in the Courts established by Royal Charter within the said territories." (The italics are ours.)

The effect of this Act is to remove all disabilities imposed by Hindu law of the Shastras on an outcaste Hindu, whatever be the reason or manner in which the man has ceased to belong to his caste. A man may defy his caste and get rid of his caste either voluntarily or involuntarily, and he has now the power to set at nought the shastric punishments so far as his rights, his property and his inheritance or rights of future succession are concerned. It has been repeatedly further held that such an outcaste does not even lose his right of guardianship of his own children. In a word the effect of that Act is absolutely to wipe off the considerations as regards caste from the Hindu law as regards all civil rights to property or otherwise.

We particularly wish to draw the attention of our readers to the extremely wide language used

* The first article in this series appeared in the issue of September 9.

in this Act. Social reformers and the non-Brahmans have not, we are afraid, clearly grasped the far-reaching effects of the wide language used therein. In contrast with the use of such general words, the apologetic and timorous language used by the official members on the occasion of the Inter-caste Marriage Bill of Mr. Patel or that of Mr. Basu, naturally gave rise to suspicions in the minds of the social reformers that the main-spring from which the broad language of the Act of 1850 proceeded was more the missionaries' zeal for proselytising than the academic official zeal for freedom of religion.

Our reactionist friends also appear to be always living in blissful ignorance of the legal effect of this Act of 1850. Their frantic appeals to the people at large to oppose the Patel Bill on the ground of its tendency to interfere with shastric rights of succession to property are matched only with their equally frantic appeals to the Government to throw out the Patel Bill on the strength of their repeatedly-given pledges to keep the ancient Hindu law intact! This, however, by-the-by.

The social reformers of Bengal very probably believed that the Caste Disabilities Removal Act proceeded from the innate love of the British Government for liberty of conscience in matters of religious and social conduct. They therefore approached Government with a prayer to extend the same liberty to individual subjects in another detail of shastric Hindu law which prohibited Hindu widows from remarriage under the same penalties as those meted out to an outcaste. They prayed for a Widow Marriage Act and got their prayer granted in the Widow Remarriage Act XV of 1856. But those of them that carefully examined the wording of their own Act must have been sadly disillusioned on noticing the contrast in the treatment meted out to the remarrying widow and that meted out to the convert. Whereas the Christian convert is authorised to continue to enjoy and exercise all his rights and thus live in peace of mind, the remarrying widow is expressly directed to sign her own death warrant and get herself executed forthwith—the moment she gets herself remarried. Thus the convert is to continue *to live* in Hindu society after his apostacy from the strict rules of shastric Hindu law, but the poor meek widow, who dares to break the shastric injunction against remarriage is permitted by the Government legislature to treat her remarriage as legal only on the express condition that she is to be considered and treated as absolutely *non est*—as dead in the family to which she belonged. *As soon as she remarried, she died*, and the next heirs stepped in to claim the property! One is simply amazed to see the contrast thus exhibited, and it is no wonder that reactionists and reformers equally came to suppose that Government was at heart really against Social Reform!

Nor was this all. A further disillusionment awaited the social reformers. The zeal of the missionaries for the benefit of their converts wanted

still further facilities to be given to the convert. Under the shastric Hindu law a marriage was a sacrament and could not be nullified or cancelled by a man or woman accepting Christianity. As the former marriage continued thus to be in force, the convert was disabled from taking to himself a Christian wife by the fear of the criminal law about bigamy. So the convert wanted further relief, in the form of his previous marriage being declared null and void as soon as he took to Christianity. Here again the Government indulgently ran to his help and laid ruthless hands on the old Hindu law and passed the Native Converts Marriage Dissolution Act, XXI of 1866, which enabled a Hindu convert to Christianity to obtain a dissolution of his or her marriage if in consequence of his conversion, either party deserted or repudiated the other. The only consideration shown to Hindu law was that conversion did not *ipso facto* dissolve the Hindu marriage, the explanation probably being that they wanted to provide for the contingency of both husband and wife simultaneously taking to Christianity, in which case *ipso facto* dissolution would have been rather inconvenient!

LEX.

CORRESPONDENCE.

TRIAL BY JURY.

TO THE EDITOR OF THE SERVANT OF INDIA.

SIR,—The recent debate in Parliament on Ireland's Rowlett Bill strikingly brings home to our minds the great importance which Englishmen attach to the system of trial by jury. I know a good many of our prominent men have little faith in the system; they think that possibly it may have some political value as a means of diffusing a knowledge of law and inducing a reverence for law in the general public, but that it has no value as a judicial system. They also believe that Englishmen have come to look upon it as an outworn system, which has outlived its usefulness. That this is an entirely wrong impression will be clear to everyone who glances at the speeches that were delivered in the House of Commons when the Irish Coercion Act was under discussion. I will presently make brief extracts from those speeches, but before I do so let me refer for one moment to the debate which arose in the Bombay Legislative Council on December 7, 1917, on Mr. Patel's resolution asking for the extension of the jury system to all the districts in the presidency. That resolution was voted against by such non-official members as Mr. Sathé, Mr. Lalubhai Samaldas and Mr. C. V. Mehta, while Mr. Gokuldas Parekh remained neutral. They were apparently much impressed by the arguments which were advanced by the Advocate-General, Mr. Strangman. The latter said on the occasion that it was a mere sentiment, and a fallacious one at that, which was behind the demand for a trial by jury—that a man must be tried by his peers. Really there was no sense in that demand, for it meant the handing of questions of fact to a body of inexpert persons unversed in the appreciation of evidence and it also meant the restriction of the right of appeal, both of which considerably militated against the proper administration of justice. It was an unsound system on these *a priori* grounds, and experience amply confirmed one's anticipations. The Advocate-General thus delivered an assault upon the very principle of the system, and Principal Paranjpye then made a neat answer to him.

But to return to the Irish Act. One of its provisions authorises the setting up of courts-martial to adjudicate upon cases of murder or other cases involving the death penalty, in districts where the system of trial by jury has broken down on account of the non-attendance of jurors. Jurymen find it

impossible to obey the summons because of the reign of terror that is established in Ireland. The proposal to replace civilian by military courts was violently opposed by members from all parts of the House. Radical members vied with Conservative ones in condemning it out of hand as a barbarous procedure. But the point which is relevant to my purpose is not so much the condemnation of courts-martial, but the exaltation of the system of jury which was a leading feature of the speeches of most of the members who took part in the decision. Instead of setting up military courts and thus importing into Ireland the machinery of militarism, why not rather have the cases tried by judges merely without the assistance of the jury if the latter was not forthcoming? Such was the question put by many. But so much importance was given to the help which jurors could render in deciding the cases that there was a distinct tendency in the House to prefer courts-martial if the alternative to it was the hearing of cases by judges without juries. I will quote the opinions of two members. Mr. Inskip, whose authority on matters of law is unquestioned, observed:

"It seems to me that, having suspended that valuable institution, trial by jury, judges who ought to maintain the respect of all whom they serve should not be subjected to the obloquy under which, undoubtedly, they would come if they were to give decisions which, when given by juries, were not objected to by the people. Imagine the position of any judge in Ireland if he were to go round the country giving verdicts of 'guilty' or 'not guilty,' acting perfectly honestly and with a sense of responsibility and duty. . . . I think that judges who, after all, will have to perform their duties after this Act has ceased to be upon the Statute Book, will better preserve their independence and dignity if, while they are not allowed the assistance of juries, they retire to this extent from the administration of criminal justice."

The Chief Secretary, Sir Hamar Greenwood, spoke in the same strain:

"Take the case of the use of judges. . . . I take the view myself that it is not fair to ask the judges of the High Court in Ireland to undertake a duty in criminal affairs, and to come to decisions involving the life or death of a fellow-countryman, without the assistance of a jury. These judges . . . now stand on a high pedestal of universal respect, and I do not myself feel justified. . . . in asking one of these high judicial officers of the Crown to run the risk of losing his prestige or the esteem of his fellow-countrymen for his stern sense of justice either now or in happier years to come."

In 1833 the identical difficulty arose in Ireland and the identical solution was adopted. Juries could not be empanelled owing to terrorism, and it was thought best that "courts-martial should intervene in restoring law and order in Ireland, rather than judges unassisted by juries." Lord Spencer, in introducing the Coercion Bill of the time, remarked:

"It will be suggested among other things that a judge of Assize might be sent down to try offenders without the aid of a jury, but in my opinion to habituate the minds of the people to a new species of trial by a judge without the intervention of a jury would be more dangerous in itself and more unconstitutional and detrimental than the plan which we propose." (Italics mine in this and the former quotations.)

This opinion as to the comparative merits of trying cases by judges without juries or by courts-martial may not be regarded as conclusive; yet it is clear that when courts-martial are preferred by at least some amongst competent lawyers it may be safely presumed that there cannot in any case be much difference between the two to the disadvantage of courts-martial; that is to say, the necessary evils of courts-martial, if superior, are at any rate not much inferior to those of judges deciding cases unassisted by juries; and the evils of the former alternative are patent to all. I need not point the moral which this debate presents to us Indians.—Yours, etc.

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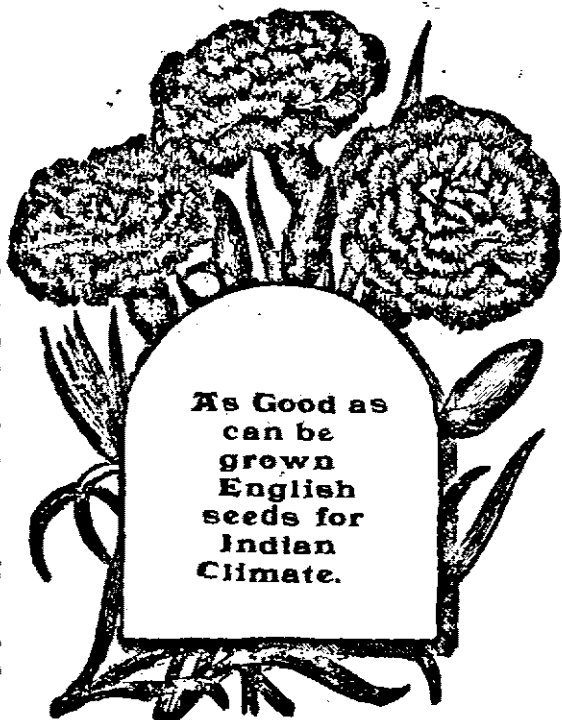
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