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TOPICS OF THE WEEK.

THE Committee on the Press Act have recommended the repeal of both the laws, referred to them, which are restrictive of the liberty of the Press. Only one provision of the Act of 1910 is proposed to be retained as part of the ordinary law, viz. the one empowering Government to seize and confiscate seditious books, newspapers, etc. Government is to be given power to take executive action first, and the person who may feel aggrieved is to be given the right afterwards to challenge the action in the High Court, the onus of proving that the publication in question is of a seditious character lying on the Government. Without minimising the value of the safeguard in any way, we may say that the proper procedure is to require the Government first to prove the publication to be seditious and then to take action in the ordinary way. The Committee have refused protection to the Indian princes against seditious writings in the British Indian Press. This conclusion, we make no doubt, will meet with general approval, and is in consonance with the so-called non-intervention policy of Government. If the British Government are unable, in pursuance of that policy, to exert any pressure on the Indian States in the matter of introducing constitutional reforms, they must, as a matter of reciprocity, be unwilling to give protection to the States against British Indian subjects. Some eminent publicists who wish for a reversal of this non-intervention policy and are anxious to bind British India and Native State India into a close nexus, are prepared to give legitimate protection to the princes, if in return the latter will submit to a relaxation of the policy that has, in theory at any rate, governed the relations of the suzerain power with its feudato-

ries. In fact the theory is honoured more in the breach than in the observance, and those persons whose view we have given above only hope that the British intervention which is already a matter of common occurrence should come in the interest of reform and progress instead of conservatism and reaction. However, no one need regret the decision of the Committee.

* * *

WHAT is the Government's attitude to the picketing movement which is now in progress throughout the country under the inspiration of Mr. Gandhi—we mean the movement of peaceful picketing? For no one can allow picketing to go on if it is attended with violence. But peaceful picketing must be given fullest scope. Are the popular ministers prepared to give every possible chance to it? We should have had no reason to doubt, and we do not doubt, that they are determined to give all reasonable facilities for everything that promotes temperance; but a definite declaration has now become necessary in view of the impression left on the public mind, due to police measures taken in certain circumstances arising out of picketing, that the Government are bent upon putting down the movement of picketing at any cost. Mr. Gandhi even anticipates that "rivers of blood" may flow in the next few months. For our part we feel that, into whatever excesses certain overzealous officials might have been betrayed on occasion, any such inference as the public are disposed to draw as to the Government's temperance policy, is unwarrantable. Still, in view of the misunderstanding that prevails, it is up to the ministers to announce their policy in unmistakable terms and also to exert a restraining influence on the guardians of law and order so that it should be rendered impossible for the public even to misconstrue Government's attitude towards temperance movements.

* * *

WHILE we will jealously safeguard the right of the public to carry on picketing, we cannot help saying that picketing by itself cannot take us very far towards the solution of the problem of intemperance. Mr. Gandhi himself realises that picketing is but a temporary expedient, and that a permanent remedy is to be found in legislative action. To himself and to his brother non-co-operators this door is barred, but he is anxious that the members of the legislative councils in the different provinces should enact a law of prohibition. However,

beyond insisting that prohibition should be brought about, and brought about immediately, Mr. Gandhi makes no practical suggestion as how it could be done. How is something like one-third of the provincial revenue which will cease to accrue by the adoption of prohibition to be raised immediately? Mr. Gandhi has no suggestions to make on that score—or no suggestions which will be acceptable even to non-co-operators. It is no use dismissing this question as a mere matter of detail, for it is just this matter of detail on which there is any difference of opinion. On the goal to be reached there is complete unanimity. Is it too much to ask that Mr. Gandhi will lay aside the rôle of the agitator, so far as temperance is concerned, and play the rôle of the constructive statesman. For, without such constructive statesmanship, picketing may bring confusion to the machinery of government, but will not help in the solution of the problem which Mr. Gandhi wishes so ardently to tackle. The responsibility of putting forward definite proposals for raising revenue is more particularly his, as we believe the ministers probably feel that it is not practicable to give effect to prohibition forthwith.

* * *

MUCH concern is felt at present at the way in which business is being transacted in certain provinces by the executive Government. While in some provinces, notably the U. P., all questions of general policy are reported to be fully discussed at joint meetings of the two halves of Government, in some others such a joint meeting is a rare phenomenon. Complaints are rife for a long time in the Bombay Presidency that Cabinet meetings are few and far between; that even important matters in which collective deliberation is obviously necessary are left to the discretion of the particular department concerned; and that, not to speak of a joint deliberation of the two wings of Government, even the meetings of the executive council alone are seldom held. We do not vouch for the truth of these reports; but that they are current cannot be doubted. Mr. Gupte, desirous of ascertaining the truth in regard to them, gave notice of a question in the following terms in the Bombay Legislative Council:

(a) Will the Government be pleased to state as to how many meetings of the Executive Council of His Excellency the Governor of Bombay were held and how many meetings of His Excellency with his Ministers were held? How many meetings for the joint deliberation of the two halves of Government were held?

(b) Will the Government be pleased to state what steps they have taken to give practical effect to the Joint Committee's recommendation to promote joint deliberation among the two halves of Government?

* * *

THIS question was, however, disallowed by the President, Sir N. G. Chandavarkar, on two grounds:

(1) It is not primarily the concern of the local Government inasmuch as it is a matter entirely within the discretion of H. E. the Governor, Sec. 49 (2) Government of India Act, and

(2) It is not "a matter of public concern" under rule 44 (1) (Manual, p. 205) inasmuch as it being within the pro-

vince of H. E. the Governor entirely to rule how business in his Executive Council and with his Ministers shall be conducted, it is a matter of internal arrangement with which the public are not concerned.

But neither of these grounds is a valid one. In the first place, it is *not* a matter entirely "within the discretion of H. E. the Governor" "to rule how business in his executive council and with his ministers shall be conducted" For, as Mr. Gupte himself said in this very question, the Joint Select Committee has thus enjoined upon the Governors the duty of joint deliberation:

They (the Committee) regard it as of the highest importance that the Governor should foster the habit of free consultation between both halves of his Government, and indeed that he should insist upon it in all important matters of common interest.

* * *

THE Joint Committee's recommendations are quite as binding as the provisions of the Act itself. On this point Lord Islington remarked as follows:—

The Report (of the Joint Committee) I regard—and I hope it will be regarded—as an integral and as an essential part of the whole scheme. The Bill without the Report is really inoperative, and I hope that it may be made clear now and onwards that several proposals in the Report will be given effect to and adhered to by all successive Secretaries of State and Viceroy's in the years to come, and that the Report will be regarded as a document as authoritative as the Bill itself.

The Governor is thus expressly required to have joint deliberation, and is not given discretion to do without it, as the President imagines. In the second place, it is not a matter of domestic arrangement between the Governor and his ministers, whether official or unofficial; but it is a matter of public concern. There are necessary evils in a dyarchic form of government; those evils will be considerably aggravated if every minister, without consultation with his colleagues and without having a unified policy of the Government as a whole, decided large questions for himself. In order to minimise the evils of dyarchy, the Joint Committee sought to establish a convention.

* * *

To use Lord Islington's words again, the convention is:

That every subject, whether a reserved subject or a transferred subject, should be discussed in the united Cabinet; that there should be no secrets between the two wings of the Government, whether the official or the ministerial wing; that no subject should be isolated from one or the other; that that relationship, in so far as deliberation and discussion and all the preliminary stages of the subject are concerned, should prevail as far as possible in the same way as it prevails in this country in an ordinary harmonious Cabinet; and that only when the final decision is reached, and when that decision is a divergent decision, as between one wing and the other should there be duality of decision. I hope (Lord Islington went on to say) that in every province in India, from the very start, the rule will be established and strictly abided by, that there shall be always unity in deliberation and only duality in decision.

Mr. Gupte and the general public are entitled to know whether in the Bombay Government there is always "unity in deliberation," but the mistaken ruling of the President has prevented light being thrown on this important question.

THE DHARWAR FIRING.

AFTER the Punjab disturbances of April, 1919, Lord Chelmsford declared in the Imperial Legislative Council that, on the occurrence of such a burst-up, an independent investigation into the circumstances which led to the taking of abnormal measures by the officials was "an inevitable consequence;" and the Government of India consequently appointed a Commission of inquiry on that occasion. The firing that took place at Dharwar on the 1st inst., though not on the same scale, has undoubtedly some very ugly features about it, and requires close scrutiny by an impartial Committee. The official and popular versions of that incident are as poles asunder, and the popular version in which the police authorities are held guilty of cold-blooded murder of the people who were shot down on the occasion finds most influential support, both of local men and outsiders. This fact should have decided the Government, even if they were hesitating before, to institute an inquiry into the circumstances in which the firing occurred. But the Bombay Government was unmoved; all that they did was to send down the Home Member to the scene of the disturbance, who, instead of ascertaining by a preliminary inquiry whether there was need for a formal elaborate investigation by an outside committee, merely attempted, it would appear, to restore the public confidence by using some soft words.

It was hoped that, if the Government did not appoint a committee promptly of their own motion, they would be persuaded to do so on a resolution to that effect being passed by the Legislative Council. Such an opportunity was afforded by the motion for adjournment brought forward on the opening day of the Council by Mr. Chitale; but the President, Sir N. G. Chandavarkar, ruled it out of order, on the ground that the matter which it was the object of the motion to discuss was "under adjudication in a court of law" and that the motion was thus contrary to the rules. This ruling which has the effect of choking off the discussion of a subject that has aroused the utmost interest throughout the Deccan and Karnatak is, in our opinion, as wrong as it is unfortunate. For, what is under adjudication is the conduct of several persons who are alleged to have committed certain offences; Mr. Chitale, however, moved for an adjournment of the House with a view to discussing the conduct of the police—not the same thing. What the general public is interested to know is, first, whether there was any need for firing at all, and, secondly, if so, whether there was necessity for *all* the firing that took place, i. e. whether there was no excess of firing. Neither of these two subjects forms part of the judicial trial that has commenced. The court will find in this case whether A committed arson, B threw stones, C caused obstruction, and so forth; but it is not its business to find whether there was justification for the firing that occurred. This question will not come up before the court at all, except only indirectly;

and what is required is a finding of an impartial tribunal on this one definite issue—whether, on this occasion, no more force was used than was absolutely necessary. It is quite possible that the accused might be convicted of the offences and yet the firing might have been unnecessary or excessive; it is equally possible that the particular persons charged with offences might be innocent, and yet the firing might have been necessary. And if the magistrate draws an inference from facts which he is called upon to investigate and records a finding on a matter which does not properly lie within his sphere, such a finding will obviously be regarded as an *obiter dictum*, without any authority which attaches to a conclusion arrived at in regard to a matter directly under investigation.

It is difficult to overrate the disappointment which will be felt by the people of Dharwar, and which will be shared to the full by the whole of Maharashtra and Karnatak, at the President's ruling. The conviction of the public is that the whole firing was unnecessary and that the police story is inherently improbable. The leaders of Dharwar are quite prepared to produce evidence to that effect before an independent committee; to fob them off with a trial of something else is not the way to satisfy public opinion. It is yet open to the Bombay Government to appoint such a committee. We have given on another page the opinion which the senior member of that Government held as an unofficial person—and which we have no reason to suppose he has changed on his acceptance of office—that whenever any firing on an unarmed mob occurs in India, an independent committee should be charged with the duty of examining the circumstances with a view to finding out whether the firing was justifiable or not. Sir Ibrahim insists that a definite rule should be laid down requiring Government on every occasion of firing to set up an inquiry. We can assure Sir Ibrahim that he cannot better illustrate the need for such a rule than by citing this particular instance of firing. Though not in charge of the Home Department, he must be able to exert his influence in regard to a matter which, we believe, will not be decided by the Home Member on his own individual responsibility, but will form the subject of collective deliberation. The extent to which he succeeds in influencing the Government's decision on this matter will indeed be regarded as the test of the power which Indian members wield in the new Government outside their own sphere.

THE NEAR EAST.

THE Official Report has now reached India of the Debate in the House of Commons of June 14th, 1921, on the "Middle Eastern Services Vote," though why a stretch of country which includes Palestine should be called "Middle" Eastern, is a little difficult to understand. If that term is so applied, what does represent the "Near East," unless perhaps it is Whitechapel? I am old-fashioned enough to call China and its cultural dependants "the Far

gible since they assumed office. We put in a demurer and emphatically protest against such hasty and unwarranted criticism. While considerable time is required to acquaint themselves with details of administration, the task of infusing new spirit into a machinery that has become too inelastic, antediluvian and wooden is by no means an easy one. So we have to congratulate ourselves on the fact that during the short period they have been in office they have been able to work up schemes for the promotion of national well-being.

Let us first of all see what the minister for development who is in charge of what he rightly calls the nation-building departments hopes to do in the near future. In his recent speeches he spoke enthusiastically of the work carried on by the agricultural department and predicted that if the successful results of the experiments that are being carried on by experts are utilised, great results would follow. He instanced the discovery of a seed which would produce one-sixteenth as much more per acre than was produced before. An agricultural school in each district wherein up-to-date instruction is imparted is another item of the programme he put forward. In the field of co-operation he hoped that with the introduction of the new scheme, a great expansion would be achieved within two or three years so that there would be one society for every area within a radius of five square miles. We are not quite sure if the increase in the number of co-operative credit societies would bring about the results he is anxious to produce. Other forms of co-operative efforts such as productive societies will, we hope, also receive his best attention. His debt redemption scheme by which he proposes to save the ryot from the rapacity of unscrupulous money-lenders who lend always with an eye on the prospect of acquiring the property mortgaged deserves best consideration. Very few ryots can successfully counteract the wily influence of the *soukar*. For this he hopes to secure Rs. 10 or Rs. 15 lakhs and lend the same to ryots who have mortgaged their properties for Rs. 500 and less. It is hoped he will have the support of the Council in his well-meaning efforts to save the ryots from their indebtedness. Believing as he does in the need for scientific research as a necessary aid to industrial development he has increased the number and amount of scholarships available to young men of the presidency to get scientific training in the Bangalore Institute and is making arrangements for sending young men to England to get trained in the industries of the West. "When these students come back," said the Hon. Mr. Reddi Naidu, "let us hope that they will be able to benefit this country and that factories will soon rise and manufactures will be produced so that India may not long continue to be the dumping ground for foreign imports." Who can lay his hand on his heart and say that Mr. Reddi Naidu is not as patriotic as the author of the *Charkha* creed? Certainly it is not by fighting with the help of the *Charkha* but by fighting with their own machines that foreigners can be

driven out of the country. Mr. Reddi Naidu believes that it is the duty of the State to build up industries by helping the organisers with long-term loans on easy terms. He gave in a recent speech particulars in regard to which Government could render sufficient help.

- (i) Expert advice in
 - (a) Selection of sub-soil.
 - (b) Preparations of plans and estimates.
 - (c) Selection of machinery.
 - (d) Purchase of materials.
 - (e) Obtaining suitable men to supervise.
- (ii) Establishment of industrial banks.
- (iii) Long-term loans at moderate interest.
- (iv) Free grant of land upto a certain extent.
- (v) Cheap fuel for a certain period of years.
- (vi) Exemption from tax for water-supply required for humidification.
- (vii) Exemption from super income-tax.
- (viii) Guaranteeing a certain proportion of profits.
- (ix) Agreeing to purchase a portion of the finished products.
- (x) Help in finding markets.
- (xi) Export duty on raw materials.
- (xii) Import duty on improved manufactured goods.

The minister is drafting a Bill covering all these except the last two which can only be given by the Government of India. He pleaded at the end of the speech for sufficient co-operation and organisation on the part of our countrymen to come forward and utilise to the fullest extent the assistance the Government are prepared to give.

In the course of an interview to a representative of a Madras paper, the Minister for Local Self-Government indicated the projects of reform he proposed to undertake. It is a well-known fact that the health and sanitation of the rural parts have been woefully neglected. The Government have shown greater anxiety to afford better facilities to people in towns, though it is the poor ryot that pays most of the taxes necessary for carrying on the administration. It is proposed to train up a handful of young men and women, 'preferably with some knowledge of the indigenous practice of medicine and industry, in the hospitals at headquarters through vernaculars with a view to enable them to treat ordinary complaints and cases of child-birth. How many people die of diseases which, if proper precautions are taken in the initial stage, would have been cured? Sufficient inducements should be offered to attract capable young men and women. The success of the scheme will largely depend on the earnestness and enthusiasm of those workers who are sent out to work among the villagers. Mr. Rama Rayanagar also believes in the urgent need for improved village communications. Roads are a great civilising influence and help to bring the village into closer contact with the town. Better means of communications would also help in the quick despatch of medical aid by means of itinerant dispensaries. The minis-

ter is well aware of the fact that local bodies have not been able to tackle the question of rural sanitation on account of limited resources at their disposal. He is anxious to increase their sources of income which would enable them to undertake this reform. His ways of increasing funds are really interesting: (1) Extension of local and municipal productive works such as cart-stands, markets, local railways, etc. Those who have some intimate knowledge of the working of our local bodies will have no hesitation in saying that these and other sources of revenue are suffering for want of proper and efficient management. It is not understood why instead of accepting tenders or putting to auction the collection of fees in the markets etc., the local bodies should not undertake that work themselves thereby gaining the middleman's profits also. (2) Abandonment of the construction of costly buildings. We have no doubt the Minister will have the hearty support of the Council in this matter. (3) Funds of the endowed trusts. Everyone who has visited a place of pilgrimage will agree with the Honourable minister that these are the hot-beds of all epidemics. It is but right that the State should make the trusts contribute some reasonable portion of their earnings towards sanitary schemes and primary education. But one need not wonder if there will be opposition from the interested quarters for utilising trust funds for such purposes. Enlightened public opinion must certainly favour such innocuous legislation especially when the money is intended for purposes which are in the best interests of all.

The Hon'ble Mr. A. P. Patro took charge of his office only recently. The retired minister owing to continued ill-health could not do much. The public were allowed to have a glimpse of the new minister's policy in his recent Tinnevely Conference address. Mr. Patro is of opinion that radical and far-reaching improvements in the system of University and secondary education should be carried out. "The secondary education is extremely inefficient, sound education has become a rarity, and development of tendencies for original work and research work have become inconspicuous." He believes in the reorganisation of education on the German model where vocational education and training are of primary importance. We hope we will very soon have occasion to know how he proposes to work these out in practice.

This imperfect summary of the programmes of the Madras ministers must certainly impress every one with the stupendous character of the task they have undertaken. The measures they propose to put into effect must command the support of all, irrespective of party differences. In matters affecting the general mass of the population party considerations should not be allowed to interfere. So it is not too much to hope that the Madras ministers will receive the active support of all well-wishers in their endeavours to ameliorate the lot of the masses of the population.

AN OBSERVER.

IMPERIAL SERVICE TROOPS.

EVER since the foundation of British rule in India, the paramount Government was anxious to exploit the resources of the Indian States for the defence of the country. They were however extremely suspicious about the intentions of the Native States towards British rule and the fidelity of the princes to their sovereignty. The first effort at the solution of the problem of exploiting the resources of Indian States consistently with the security of British Rule in India was made in the direction of introducing the subsidiary system and the policy of maintaining contingents for some states. This system proved a huge failure and was ultimately abandoned. The second device was that of imposing, by means of treaties and engagements, harassing and humiliating terms on the Indian States. The effect of these treaties and engagements was to bring about a complete demoralisation of the Indian States. The third device was the creation of Imperial service troops. Lord Dufferin, who started this movement, adumbrated the policy of Government in a speech at Patiala in 1888. The policy of the then Government of India in regard to the military resources of native states was to ask such of them as had specially good fighting material in their armies to raise a portion of them to such a pitch of general efficiency as would make them fit to go into action side by side with the Imperial troops. Accordingly some of the bigger states which were maintaining large standing armies were ordered, or rather advised to bifurcate their troops into two classes: Imperial and Irregular. Even then the Government did not desire to give the fullest latitude to Indian States willing to abide by this advice. They were to separate only a portion of their armies and raise them to a pitch of general efficiency. Lord Curzon eloquently described the principles which were essential to the vitality of these forces.

"The Imperial service troops must remain the forces of the Chiefs controlled and managed by them under the supervision of the Viceroy. They must not be swept into the Indian army or treated as though they were the mercenaries of the Crown. They are nothing of the sort. They are the free and the voluntary contributions of the princes and the prince's troops they must remain."

One cannot but laugh at the emphasis laid on the words free and voluntary contributions! Thus came into existence the invidious distinction in the armies of Indian States of Imperial Service and other troops. At present twenty-seven Indian States maintain an aggregate force of 21,000 men. The defects of this system were quite obvious to those who gave any thought to this subject. Mr. Lovat Fraser, the biographer of Lord Curzon, has very frankly admitted them.

"An unforeseen difficulty is that Lord Dufferin's provisions are incompatible with modern military experience. Isolated units scattered over the face of the land can never be fully trained for the requirements of war. They need concentration in large garrisons. On the other hand the original estimate of the cost of the states has been considerably exceeded because well equipped troops are more expensive than they used to be."

Lord Curzon saw that the Imperial service scheme

was unsatisfactory. He therefore addressed a confidential letter to the Indian princes to elicit their opinion on the reduction of their irregular forces and their replacement by the Imperial service troops. A considerable number of chiefs were in reality frankly unfavourable. Mr. Fraser has very humourously summarised the arguments of these chiefs in the following words :

"The essence of Lord Dufferin's scheme was that it should be voluntary. We were to give what we liked and only if we chose to do so. Now you want us to give a fixed proportion of our revenues; but still you call it voluntary. In time another Viceroy will appear and say it ought to be compulsory. In the end therefore our loyal desire to help the Government will be made the excuse for a tax for defence. A fixed proportion of revenue will operate unequally. A rich state could pay a tenth with ease; but to a poor state heavily in debt that tenth would be a grave matter. We do not like to send our troops out of our states except for war. But we like to see our troops in our own capitals and feel that they are ours. There will be another Commander-in-Chief who will forget what Lord Kitchener has said and we shall never see our troops any more. We shall hear a great deal about the requirements of the army staff and the end of it all will be that our share in the Imperial service movement will be the writing of an annual cheque in return for an annual compliment."

How truly these sentiments reflect the real opinion of the Indian rulers on this matter! No commentary is needed on the free and voluntary character of these troops. And the history of the last thirty years has fully demonstrated the truth of that prophesy.

The princes who have maintained the Imperial Service Troops are thoroughly dissatisfied with this system. They hate the distinction in the body of their own troops. They are anxious to place all their man-power at the disposal of the British Government for Imperial defence. They chafe under the restraints and disabilities which are imposed upon them in improving the quality of their forces. These troops are not well trained, well disciplined or well equipped with arms and weapons. Unless there are good officers the troops could never be well trained. There are no educational institutions established to train officers for the Imperial service troops. No uniform standard exists as to age limit, education, mental culture, military training, pay and allowances of these officers. The experience of the recent war in which these troops were employed in active service has been very deplorable. To entrust the lives of innocent people to the command of such ill-trained and inefficient officers has been found to be very dangerous. The fault is not certainly of the officers but of the British Government. The Indian princes, during the time of Lord Curzon responded very enthusiastically to the proposal of establishing military schools for the training of these officers. But the paramount power did not care to start these schools. The Imperial Cadet Corps which was intended to give military training to younger members of the Indian aristocracy and to provide officers for the Imperial troops was abolished without any reason. Lord Curzon distinctly stated that the object of the Imperial Cadet Corps was to

provide for the pick of the Indian aristocracy a military career and to train an adequate number of officers for the Imperial service troops. Why the Government disbanded this corps is more than a mystery. These troops are not allowed by the British Government the use of effective and serviceable arms and weapons. The fire-arms which they are privileged to use are worse than gas pipes. During the time of the war they were equipped with Lewis and Hotchkiss guns. But these weapons were withdrawn as soon as these troops ceased to be employed on active service. This feeling of distrust has offended their warlike susceptibilities and honour. The officers of these troops were not treated with proper courtesy and dignity by the officers of the British Army. They were not allowed to mess or live with officers of the same rank in the Indian army. They were not allowed on the same deck with British officers! When even lascars were permitted to remain on the same deck, officers of the imperial service troops were not given this privilege. This differential treatment has wounded the feeling of many veteran officers of these troops. In short the system has not been able to ensure any military co-operation which was the principal object in establishing the same. The paramount power wants to make use of this system for subsidiary purposes of war. They would very well like Indian princes to maintain remount depots, labour corps and transport units under the name of Imperial service troops to be serviceable to the Imperial army in time of war. The Indian states are not allowed to keep any guns and the question of maintaining modern artillery is beyond the pale of practical politics. The whole system, even as it is, is looked upon with utmost suspicion by the paramount power and the inevitable result has been that these troops have not in the past been of any real help to the Imperial army. If there is a sincere desire on the part of the Government to exploit the resources of the Indian states and to make effective use of this system it is absolutely necessary to adopt the following measures:—

(1) The distinction of Imperial service troops and other troops should be at once abolished and each state should be allowed without any restriction to maintain in an efficient condition such forces as its resources may permit.

(2) Facilities for training officers for these troops should be provided by establishing military schools and an Indian Sandhurst which even the Princes themselves might come forward to support with monetary grants. The vexatious age limit for entrance to Sandhurst or Woolwich should be at once removed in the case of Indian cadets.

(3) These troops should be permitted the use of effective weapons such as those provided to the Indian army.

(4) There should be a uniform standard of education, mental culture, physical fitness, age limit, pay and privileges for the officers employed in the Imperial Service Troops.

(5) The treatment given to officers of these

forces should be the same as that accorded to officers of the same rank of the Indian army.

(6) These Imperial service units scattered over the face of this continent should be periodically brought together and concentrated in large garrisons. If they are trained in military manoeuvres and field operations and the *technique* of modern warfare, they could be efficiently used in active service side by side with the Indian army. If it is possible to secure harmony in work and action of the Dominion units with the units of the Imperial army, we fail to see why the various units of Imperial service troops could not be equally successfully used.

The above suggestions, if carried out, will not only effect a substantial retrenchment in the military budget of the Government of India, but will bring appreciable relief to the poor Indian taxpayer.

G. R. ABHYANKAR.

CODIFICATION IN OTHER COUNTRIES.

"The object of a code is that everyone may consult the law of which he stands in need, in the least possible time, and a code should be complete and self-sufficing and should not be developed, supplemented or modified except by legislative enactment."

—*Bentham.*

As the question of the codification of Hindu Law is at present engaging the attention of the Government and lawyers in India, it is hoped it will not be out of place to take a bird's-eye-view of the history of codification in the civilised countries of the West. The term codification means the systematic collection or digest of laws as they are existing or as one writer on jurisprudence has put it, it means "the changing of unwritten or badly written law into law well written;" but the word further conveys the idea of introducing modifications in the law to suit the growing requirements of a progressive community. Let us see how this was done in France, Germany, England and the United States of America.

The history of the codification of the French Law is similar to that of the law in several important and material respects. In France, as in most other countries of the West, Roman Law gradually prevailed and ultimately became the integral part of the French judicial system. Louis IX ordered the law to be translated into French. Originally each of the Provinces had its innumerable customs and different sets of Law. Voltaire has rightly said that a traveller in France was as often required to change laws as he was to change his horse. Berri, Anjou, Brittany and Normandy had their various usages and traditions having the force of law. However, there was one unifying influence, which was to be sought in the fact that the Crown had the right to hear appeals from the feudal courts and the Parliament of Paris was the supreme court of the realm. The Jurists there, who practically decided the cases, were trained and well-versed in Roman Law and they invariably admitted Roman principles into all their decisions and supplied to

the king Roman maxims when he sat in judgment on the various cases, with the result that as the king's jurisdiction grew, the principles of jurisprudence gained wider acceptance and greater supremacy. It was however necessary that the stray decisions and the heterogeneous mass of legal opinions should be collected and analysed and they should be ultimately reduced to a systematic code. Jurists like Pothier had already made a beginning in that direction; but it was not until the beginning of the 19th century, that France witnessed the final codification of its law in the celebrated code of Napoleon. This monumental work is one of the richest legacies left by Napoleon to posterity which has been further enriched and elucidated by the vast commentaries of men like Duranton and Troplong. However in connection with the development of French Law and its codification two points must be borne in mind: (i) that "the Roman Law was introduced, not by legislation, but by adjudication, by the decision of cases in the Royal courts" and (ii) in matters of inheritance and succession, in the rules which govern the family relations and in the law of marriage, the customs and traditions of France find a predominant place in French Law.

Though French people pride themselves upon having the most accomplished and perfect code which was promulgated on the 31st of March 1804, still writers on jurisprudence find fault with it as lacking logic and method. Austin and Savigny have declared the code to be defective in certain respects. In 1904, a commission was appointed to revise and remodel it to minimise and if possible to do away with its defects and drawbacks and to bring it in a line with the requirements of the present age. Yet Napoleon's code occupies a conspicuous place in the vast firmament of legal systems of the world.

In Germany which is composed of small and independent states, there was a variety of legal systems prevailing in each of the districts. Until the beginning of the 16th century, local customs and usages constituted the bulwark of German law, although imperial courts and lawyers being the administrators and advocates of the principles and precepts of Roman Law, tried to expand it. But as society advanced, the old order changed, law based on custom decayed and gave place to the scientific law of Rome. In spite of the prevalence and influence of Roman Law, each of the districts enjoyed a separate legal system and as the boundaries of these districts seldom coincided with the boundaries of the state, there was much chaos and confusion as to the application and administration of law. Everywhere the original source was the old German common law vastly superseded by codes, by text-books, and by statutes founded on Roman Law. But this legislation was not applicable to the whole nation. The result was that every free city and even an imperial village has its own laws and these exist down to the present age. In the 18th century Frederick The Great had prepared and published the Prussian

Code to supersede the foreign subsidiary laws and statutes and to maintain the provincial laws as before; but one school of legal thought made an insistent demand to shipshape and systematize the various laws prevalent in the states and to prepare a common code. Such a code was agreed upon in 1861 by the states included in the German Federation. Six years later, it was adopted by the new federation; being found defective and unable to meet the commercial requirements of the day, it was replaced by the new code in the year 1897. Similarly in 1871, a commission was appointed to draw up regulations and simplify and systematize the civil and criminal procedures.

It is pertinent to note that by the original German constitution, imperial authorities were only qualified to deal with the commercial and criminal laws of the land. Just as the British Government is pledged to adhere to a policy of non-intervention in matters of religion and religious susceptibilities of their subjects, so the imperial authorities in Germany had no jurisdiction to deal with and legislate upon private laws. Everywhere private law is the cherished possession of the people who cannot brook inroads on their peculiar heritage and legacy of the past. In the German private law "variety was the greatest." The really difficult test consisted in handling that problem with a gentle hand but with a bold touch. It was Laskeir who proved equal to the test: he proposed and carried an amendment to the constitution which invested the German Government with the right to take cognizance of the personal law of the land. After the Bundesrath accepted the change, a commission was appointed to prepare the draft, which was completed in 1887. That draft was however severely criticised and in accordance with the popular will, a fresh commission was appointed to revise and modify the bill. The report was published in 1895. The Reichstag accepted the amended draft in 1896 and finally on the 1st of January 1900, the new code was promulgated in the German Empire after receiving the imperial sanction. Thus the German Code which is supposed to be the most finished document produced during the last two hundred years took more than fifty years for its compilation and promulgation.

The common law is the corner-stone of the superstructure of English jurisprudence. In England up to the middle of the last century there was little of regular legislation that affected the rights and liabilities of the parties concerned. In other words law was developed and reached its present stage not by Parliamentary enactments but by the adjudication of cases that came up for hearing before the judiciary. Even a question like the enfranchisement of women and taking them within the pale of citizenship was at first decided not by regular enactment, but test cases had to be taken before the judges, and to determine the issue whether the word 'person' would include a woman as well. In the words of distinguished lawyers it

is "the glory of English law, that it has reached its present stage, not by codification but by the exposition of judges and commentators of law.

But it is wrong to suppose that England was never alive to the question of codification of its laws. True, English judiciary depended mainly on the unwritten law which, together with its exposition by judges, grew in bulk and volume to an almost incalculable proportion. It is also true that up to the beginning of the 15th century there was scarcely an eminent jurist who entertained the idea of classifying the legal literature and putting forth the common law in a digested and well-arranged form. It was Jeremy Bentham (1748-1830) who was keenly sensible of the chaotic character of the laws of England and of the need of sifting them, 'weeding out the obsolete, discarding the useless and classifying the remainder.' He held that if the sovereign power expects every subject to obey the laws of the land and if the plea of ignorance does not save the transgressor from the penalty prescribed by law it was incumbent on Government to see that laws were within the reach of the populace and that they were expressed in plain terms and in clear cut and easily followed sentences, and in his opinion codification was the only means of achieving this object. But as he found few supporters for his cause, he did not undertake the task and Bentham's teachings did not result in the codification of English Laws. It is true that during the last few years some laws and statutes have been enacted; but the incorporating of the laws in a code is confined only to a few branches. Thus the Bills of Exchange Act was passed in 1882, the Partnership Act in 1890, the Trusts Act in 1893, and certain other Acts may be on the legislative anvil. But neither the Government nor any important jurist hopes to translate into an accomplished fact Bentham's dream "to set forth a body of law clearly expounded, arranged in order of their logical connection, exhibiting their own *rationale* and excluding other laws."

In the United States of America, there is a growing tendency for codification though men like T. C. Carter have advocated the contrary view. Instances may be quoted to show definite stages in the history of legal development of many other countries, but we have to confine our attention to the systematic digest of the 'personal' law of the realm alone.

N. V. BHONDE.

SELECTIONS.

FIRING UPON THE PEOPLE.

WE make the following extract from the speech which Sir Ibrahim Rahimtoola, now senior member of the executive council of the Bombay Government, delivered as president of the all-India Mualim League in 1913. It deals with firing on the mob and is very appropriate now, in view of the recent firing at Dharwar and the attitude taken by Government towards it:—

Following the wise suggestion made by H. E. the Viceroy when he visited Cawnpore and brought about a settlement of

the question, I do not wish to say anything more in regard to this matter. There is however one aspect of the question which calls for a few remarks. I would not have mentioned the subject if the incident had been confined to the Cawnpore Mosque affair only, but as it has a grave bearing on the future, I cannot restrain from speaking about it. I wish to invite your attention to the fact that under the existing law the power of firing upon the people under given circumstances has been deliberately given to Government officials and there have been several instances during the past few years when this power has been exercised, resulting in serious loss of life. That the power of controlling an excited mob by firing upon them under given circumstances should remain with the officials in the interests of peace and order must be readily admitted. At the same time adequate precautions are essentially necessary when the question is one of taking life. No ordinary circumstances could possibly justify the use of firearms against the people. We have to remember that whatever the crowd in India, it is unarmed and its power of injuring the police and other people is very limited indeed. It will readily be conceded that this power should only be exercised on occasions when the position is so grave as to leave no other alternative for controlling and dispersing the crowd. There is bound to be considerable difference of opinion on this point, and I therefore think that it is necessary both in the interests of the official granting the order to fire and the general public that some provision should be made by which the exact facts of the case may be authoritatively investigated. I would therefore advocate that the Government of India should lay down as a standing order that an independent Commission of enquiry on which the Indian element shall be amply represented shall be appointed to institute an inquiry within a reasonable time after firing had taken place. This Commission should be authorised to take evidence and to report upon the circumstances under which the order to fire was given. The very fact that such a Commission would be appointed on each and every occasion when firing had to be resorted to will have a wholesome restraining effect upon the official charged by law with the responsibility of taking life, and it will create a feeling of confidence among the general public that careful and independent enquiry will be made after the exercise of such power. It is therefore in the interests of both the officials and the general public that such a procedure should be laid down. Such an enquiry would save the official from serious adverse criticism to which in the nature of things he is open when life is actually taken. In Great Britain, in consequence of the greater development of the democratic principle, firing is under serious control. During the recent Dublin riots, several members of the police were seriously injured to the extent of being obliged to be taken to hospital. Be it remembered that the British people are not subject to the severe restrictions imposed under the Indian Arms Act, and many men amongst a British crowd may be actually armed. Even then firing is only resorted to after all other alternatives have been absolutely exhausted.

The following extracts from Reuter's telegrams will clearly show what happens in Great Britain under circumstances decidedly more grave:—

London, 31st August.—Two hundred civilians and thirty police were injured in last night's rioting. One has succumbed in Hospital.

London, 31st September.—The riots continued in Dublin yesterday and two hundred cases are in Hospital for injuries received. It is stated that during the police charge following upon the arrest of Larkin, a number of old men and women and children who were returning from church were struck with police batons. *The Mayor announced his intention of moving that an inquiry be held into the conduct of the Police.*

London, 22nd September.—Serious rioting took place in Dublin last evening, in connection with the procession of strikers. *The crowd attacked and wrecked tramcars, and pitched battles with the police ensued in which batons, stones and bottles were freely used. A number of rioters were taken to Hospital and several police were injured.*

And still there was no firing upon the crowd. In India the circumstances are entirely different. An excited mob has no weapons of an offensive character beyond brick-bats and sticks. The people of India are as a rule highly amenable to the requirements of peace and order. In such a country the taking of life by firing upon the crowd is a more serious matter than in England. It is, therefore, doubly necessary to provide for an independent enquiry in all cases which lead to the taking of life. I can appeal with confidence to the British people and the British Government to support and to give effect to the suggestion which I have made in the interests of everyone concerned, and I do so with confidence, especially because the whole trend of British policy is humanitarian. Government have never hesitated to take measures even when they may be regarded as unpopular, if the object is to save life. The policy of Government in organising large camps for the relief of famine-stricken people and thereby saving thousands of lives which otherwise would be lost, is beyond all praise. The great impetus to sanitary measures throughout the length and breadth of this country, in spite of the opposition in some quarters, has been studiously adopted with the object of preserving health and life. Nay, Gentlemen, the fundamental principle on which British rule in India is based, namely, absolute non-interference with religious rites, privileges and liberties of the people of India, has been deliberately departed from with a view to saving life. I refer to the law which has been enacted prohibiting the immolation of widows on the funeral pyre of their husbands. Suttees who under a high sense of religious sentiment voluntarily offer to sacrifice their lives by a hedious death are prohibited by law from doing so. No amount of religious sanctity attaching to this practice has deterred the British Government from enforcing by legislation that lives should not be sacrificed in this way. Is it too much to ask the same Government to provide adequate and suitable safeguards against the taking of the lives of the people who may have congregated together under some exciting cause, however trivial, and had disobeyed the command to disperse in some cases because they could not do so, however willing they may have been to comply? Is it too much to ask that every official, however well-placed he may be, and whatever his status in the service of Government, should always have before his eyes the knowledge that far from receiving the unqualified support of the higher authorities in such a matter he will have to satisfy an independent tribunal of the circumstances which justified him in taking the lives of unarmed people? As I have already pointed out, it is necessary in the interests of the good name of the British Government, in the interests of officials, upon whom the grave responsibility of giving the order to fire is imposed by law, and in the interest of the general public that the safeguard I have indicated should be provided.

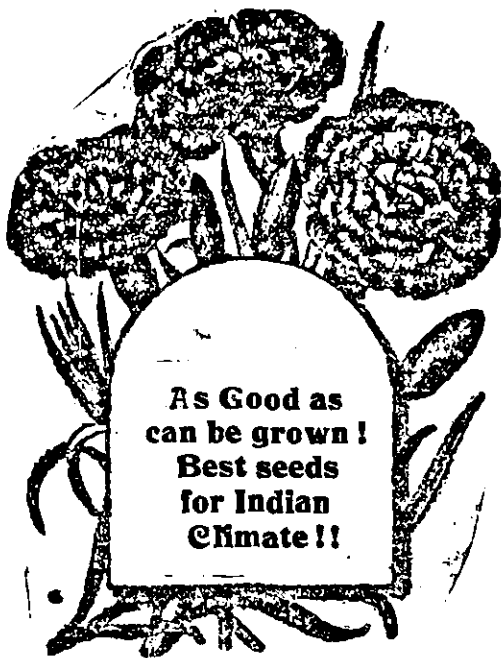
TOPICS OF THE WEEK.

THERE are committees and committees; some are intended only to shelve business, and some to devise means for its despatch in the most suitable manner. The Primary Education Committee appointed by the Hon'ble Mr. Paranjpye belongs emphatically to the second category. On educational ideals there is general agreement; but our publicists must now descend to particulars and must discuss practical schemes of giving effect to those ideals. They have hardly commenced doing that as yet on a large scale. The question of educational diffusion is largely a question of ways and means. While there is undoubtedly much enthusiasm among the public for compulsion, the question for consideration is how best this enthusiasm can be turned into a readiness to find additional resources which will finance large schemes of educational expansion.

It is no good saying that even the leaders of thought amongst different communities cannot render help in formulating feasible schemes. To suppose that even they lack the art of constructive planning is to take a pessimistic view of the matter. At any rate one can infer fairly correctly from their statements how far we can reasonably go in the near future in our progress towards universal education. Even if the Committee succeeds is nothing else, it will, by the evidence it will take—and we hope it will take evidence from all who have anything to say on the question—arouse general interest by making people think about it and thus create a volume of public opinion, which by itself will go far to promote the cause of education. But we have no doubt that the Committee will be generally regarded as a challenge to our constructive statesmanship, and that the challenge will be successfully answered.

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