

THE Servant of India

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TOPICS OF THE WEEK.

THE accounts of the Moplah outbreak in Malabar that have so far appeared in the Press are so unconnected and scanty that it is difficult to make out the proper sequence of events. But the immediate cause seems to have been the District Magistrate's decision to arrest troublesome ringleaders (it is now announced that he merely wanted to search the mosque for arms and ammunition)—a decision forced upon him by the systematic defiance offered by the Moplahs in recent days to the authority of the Government. On the 20th August he went to Tirur with a small party of the military and surrounded the mosque, in which a large number of Moplahs had assembled, for the purpose of carrying out his object. He evidently succeeded in arresting 41 of them; but the result was the conflagration we are now witnessing. The force accompanying the Magistrate is said to have been overwhelmed by superior numbers of the Moplahs and the fight that ensued seems to have resulted in a large number of casualties. The news that has since been coming from the disturbed area, which has been estimated to cover 2,000 square miles, is very serious. All excesses which are generally associated with such occurrences have taken place—telegraph wires cut; means of communications interrupted; Government records burnt; treasuries and post offices looted; and men—both Indian and European—engaged in the discharge of their lawful, though unpleasant, duties obstructed and killed! Serious as the situation in Malabar is, it has been made far more complicated by the forced conversions of Hindus to Mahomedanism. Not that it has taken place on a wholesale scale; but even the very few cases of conversion that are actually reported are sufficient to show that not only was the security of life and property in danger but

even the religious liberty of the people was entirely at the mercy of the fanatical Moplahs, during the progress of the disorders.

* * *

THE National Home Rule League seized the opportunity of Mrs. Besant's return home to arrange a second Reforms Conference in Bombay on Monday and Tuesday last, in which the Liberals of Bombay and Poona whole-heartedly joined. Stress was laid in the resolutions passed and the speeches delivered on the need for offering strenuous opposition to the non-co-operation movement and for urging constitutional co-operation, the results of which since the Reform Act came into operation the country is entitled to view with satisfaction. The most notable feature of the Conference was of course the speech of President. The leading place in Mrs. Besant's address was given to reforms—how they could be expanded so as to culminate in full home rule, both in the provinces and at the centre, and she fittingly called her address by the title of "Winning Home Rule." Mrs. Besant conceives it to be improbable if not impossible—and her information is derived at first hand—that another Government of India Act will be passed now in the near future, widening India's charter as all of us desire. She therefore suggests that our efforts had better be directed to persuading Government here to concede to us all the power that they have reserved to themselves, and this they can do within the limits of the present constitution. In the existing constitution itself, and without any statutory changes, the Government can, if they are so minded, immediately confer upon India the status of a self-governing Dominion, and Mrs. Besant thinks that, in view of the changes that must inevitably follow upon the creation of legislatures with elected majorities, Government may be persuaded to do so.

* * *

THAT the present Act gives enough power, if well used, to wrest the remaining power from Government, must be obvious to everyone who has any knowledge of the working of constitutions, and yet it is exactly what is so often ignored by our publicists. In fact, far more important than "what the Reform Act gives" is "what it leaves us free to take," and if we ask Government to give away what in any case we are determined to take and will take, it is only because we wish to avoid the friction to which the taking of power necessarily gives rise. A wise statesman will see the inevitable consequence of creating a constitution like that of

India and will himself prepare for it by such means as Mrs. Besant has suggested, so that there may not be any unnecessary strife. That the popular will must ultimately prevail if a conflict arises is shown in the following forcible passage, in which Mrs. Besant supposes that both the Houses of the Central Legislature throw out an unpopular bill like the Rowlatt Bill :—

What can the Government do (in such a contingency) ? It can dissolve the Legislature. The country is at once ablaze. The members return to their constituents and perambulate among them, calling on the voters to rally round them and to defend their liberties. An agitation springs up, unparalleled in the history of the country, headed by the Central Legislature of India arrayed against the Government. The movement is no longer led by private citizens, but by an insulted Parliament. The electors send back to Delhi the legislators dismissed by the Government, and they return, stronger and more united, at the head of an angry Nation and resenting its refusal to consent to the confiscation of its Freedom. The Government of Great Britain is aroused; it promised responsible Government in answer to a comparatively feeble agitation; the Legislature had used its powers with discretion and good sense; it was now at the head of an indignant people, aroused in a just cause. The inevitable result would be that the Governor-General would be compelled to yield, or would resign, or be re-called.

The power of withholding the supply rests with the Legislature, and also the power, in extreme cases, of obstruction, which must bring any Government, however autocratic, on its knees, eventually.

MRS. BESANT claims that, on the whole, both the Provincial Governments and the Central Government have in fact acted as if they were wholly responsible to their respective legislatures, and therefore all that is necessary is that Government should make a formal declaration that it is their settled policy to conduct the administration as would be conducted in full grown constitutions. We know Mrs. Besant's claim will be hotly disputed, but it will be well if one makes out a catalogue of all the demands made by the Legislature which were refused by the executive Government by resorting to the reserve power which the Reform Act leaves with them. In some provinces at any rate Mrs. Besant's description is very nearly true—that the diarchical Government there is, in fact, a unitary Government. No more convincing proof of this statement could be adduced than the following testimony of the Hon'ble Mr. Chintamani. Referring to a sentence in the Finance Member's speech, that " the Government of this province can justly boast that ' reserved ' and ' transferred ' are mere labels of no practical importance, " he said :

These words of the Hon'ble Finance Member are no more than the truth, not merely in determining the financial dispositions with reference to the various branches of the administration, but in the day to day administration of the province, in the consideration of every important subject that comes up before one or the other half of the Government, reserved or transferred. The administration is being conducted in the manner indicated by His Excellency in his speech in opening this Council in January, that dyarchy is merely a term on paper and that members of the Executive Council as well as Ministers have to make a mental effort to remember that this is a dyarchical

system of Government, but we should try to work as far as possible as one Government in complete accord of heart and mind on all questions of policy.

* * *

IN Mysore compulsion in regard to primary education is being enforced in 240 centres and its extension to 10 additional centres for the present appears to be under contemplation. That the Mysore Government cannot move more rapidly is owing evidently to financial difficulties. With a view to supplement local resources, the Government have allowed municipalities to levy " an education cess of two annas in the rupee in cities and one anna in the rupee in towns on all items of municipal revenue which may be subject to the imposition of this cess." As regards the control over primary education, it will be transferred to such of the municipalities as come forward to bear one-third of the cost of primary education with the help of the above cess. It may in passing be noted that the compulsory age in Mysore is 7 to 11, and not 6 to 11 as in Bombay. The minimum starting salary for a primary school teacher is also a little less than in Bombay, viz. Rs. 20, head masters of primary schools with a strength of 200 pupils being given an allowance of Rs. 5 p. m. over and above their pay. In middle schools the medium of instruction should, it has been directed, be the vernacular, English being taught only as a compulsory second language. The programme of the expansion of female education in the State includes the opening of 500 new schools for girls within the next five years at the rate of 100 every year.

* * *

MR. DEVADHAR'S exhaustive statement at the opening ceremony of the Sir Vithaldas Thackersey Hall and Srimati Nathibai Damodhar Thackersey Ashram in connection with the Poona Seva Sadan last Thursday made prominent mention of the need of further accommodation. It is a matter of common knowledge that the institution has now arrived at a stage in its remarkable career, when additional housing facilities must be made available to it in the near future if its further development is not to be crippled in any way. Sir Vithaldas's well-known generosity could therefore have hardly flown in a more useful direction and he deserves praise for his timely help to the Seva Sadan by the gift of the Hall and the Ashram. The fact that the Governor came down to open it when his health was not of the best indicates the deep interest Sir George and Lady Lloyd take in all problems affecting women's education, and in the Minister of Education the Seva Sadan has found a staunch friend, who may be trusted to do all he can to help the institution. We hope that when the Government are approached for further support, it will be ungrudgingly forthcoming.

* * *

AS we are going to the press, news of a serious Moplah fight at Pookatour (a few miles from Mallapuram) has been received. The Government casualties were two British soldiers killed and an Officer and five men wounded; while those of the Moplahs four hundred killed!

PENAL LAWS AGAINST LABOUR.

MR. N. M. JOSHI, India's labour representative in the Legislative Assembly, has given notice of his intention to move in the ensuing session of the Assembly a resolution asking for the repeal of laws providing for the punishment of a breach of contract on the part of labourers as a criminal offence. The laws which he wishes to see repealed immediately are: the Workman's Breach of Contract Act of 1859, and sections 490 and 492 of the Indian Penal Code, and his object is to secure that no criminal character shall attach to such a breach, and that contracts of service shall be treated like all other contracts—their breach incurring civil damages and not constituting a crime. The system of criminal punishment of workmen is a relic of barbarous times, when, in England, it was considered a crime for a labourer to enter into any contract whatever with his employer. As has been explained on high authority, the law under which a workman was punished criminally for a breach of contract was looked upon in that country as "not a harshness but relaxation, since it enabled men to enter into contracts respecting their labour, which before they had been unable to do."* It was under the influence of such ideas that these laws were enacted in India; but the age of serfdom is long past, and it is time that we swept away laws reminiscent of that age.

Little need be said respecting section 490, I. P. C. The conditions in India, which seemed to Macaulay† to supply a justification for such a law, have changed completely; it will be agreed on all hands that now the country is "well inhabited," "the roads are secure," "the means of conveyance can be easily obtained," and altogether the circumstances are such that a default on the part of the labourer, in cases contemplated by this section, may safely be made a subject of civil action, without rendering the party criminally responsible. Section 492 stands on a different footing; it refers to engagements made by workmen "to serve at distant place to which servant is conveyed at master's expense." It was thus framed for the purpose, mainly, of protecting the employer from the pecuniary loss to which he would be subjected if, in the absence of an exceptional penal sanction, he was unable to recover the money he had already expended on recruiting his labour. This section bears a close resemblance to the Workman's Breach of Contract Act, which was similarly intended to ensure the employer, chiefly, against the loss he might otherwise sustain on account of the advances of money made by him to his workmen. This law was passed, as was explained by Mr. Currie in introducing the Bill, at the instance of some European traders who complained that one of their firms had incurred a loss "within a year or two of Rs. 3,527," because of the utter inefficacy of the civil remedies which alone were then open to them. The Government had no difficulty in per-

* Lord Esher, in the House of Lords, April 2, 1867.

† Vide his minutes, reproduced on page 371.

suading themselves that although ordinary breaches of contract even on the part of labourers ought to be dealt with civilly, breaches in which advances were involved, might well be made the subject of a criminal charge. Their position was thus explained by Mr. Grant: "He thought it contrary to sound principle to punish a man criminally for a simple breach of contract. When (however) a workman took an advance for doing of certain work, and then without good cause refused to do it, there was a tinge of fraud in the transaction to justify its being criminally dealt with, as proposed by the Bill." The language was well chosen by this exponent of Government's policy; there is but a tinge of fraud in this transaction ‡ and that is just the reason why we claim that such a breach of contract like any other must be viewed as a civil and not as a criminal offence. Workmen are apt to suffer loss at the hands of the employer just as much as the employer at the hands of the workmen; and yet the legislature visits the employer with but a light punishment, acting presumably on the principle that more severe punishment is needed by the former than by the latter. On this point we will quote the remarks made by Mr. Fawcett when this subject was under discussion in Parliament:

It seemed to him a fallacy to urge that a heavier scale of penalties should attach to offences committed by the men, on the ground that more serious losses were thereby entailed. No doubt the pecuniary loss was great; but consequences as severe frequently devolved upon the men through the acts of the masters. Men who were brought from distant parts of the country, say from the North to the South, on a promise of twelve months' regular work and at the end of three months were discarded, owing to fluctuations in the trade, suffered hardships as great as any capable of being entailed upon the masters. (June 4, 1867.)

It may perhaps be said that in such cases the civil remedy is open to the men, and that it will be effective as against the masters, whereas it must be infructuous as against the men. But the men are generally too poor to afford the expenses of a civil action and too ignorant and shiftless to resort to such "a tedious and expensive process."§ Besides if it is a fraud for men to break their contract of service in this way, it is equally a fraud for masters to break their contract of employment, and if the commission of the former offence is followed by penal consequences, so must the commission of the latter. The existing law is thus unequal in its incidence on masters and men, and in asking for

‡ Cf. the opinion of Mr. G. F. S. Christie, I. O. S., Commissioner of the Tenasserim Division, expressed in his letter dated November 25, 1919: "We assume (in awarding punishment under the Workman's Breach of Contract Act) that, if a man accepts a sum of money for a certain work, and does not do that work, his acceptance is fraudulent, either immediately or subsequently. If logically carried out, we ought to penalise with imprisonment any one who fails to carry out his contract and the British Government, to begin with, for its failure to buy wolfram at 65 shillings a unit." His point is that the assumption on which the Act is based is not always warranted by facts.

§ Mr. Harington in the Imperial Council, April 16, 1859.

the repeal of the laws which form the subject of Mr. Joshi's resolution, he merely seeks to remove this glaring inequality.

We freely acknowledge the very considerable improvements introduced into the Workman's Breach of Contract Act last year; but a law based on fundamentally wrong principles cannot be mended in full except by ending it altogether. As Sir H. J. Maynard, now senior member of the Executive Council in the Punjab, put it in the opinion expressed by him in 1919, "that principle (embodied in the Act) is of such a character that, if the delicate questions connected with it are to be raised at all, it would probably be wiser to repeal the Act altogether in so far as it authorises imprisonment for breach of a civil contract." The traders themselves expressed the view, when the amending Bill was circulated to Local Governments, that if the original Act was to undergo such sweeping modifications as it has done in actual fact, it had better be abolished altogether. For instance, the Bombay-Burma Trading Corporation recorded the following opinion on the Bill:

Our contention is, that it will be found that the Act has been properly used, and that from the point of view of actual abuse of it there is no justification for the amendment proposed. If, however, after careful examination the verdict of Government is that the past records of proceedings under the Act prove it to be a dangerous one leading to an oppression of the working classes [as is Government's verdict], we would suggest that the Government go further than they now propose and cancel the Act altogether. As it is proposed to be amended, it will be useless to anybody, and no good purpose will be served by its retention on the statute book.

Similarly, in many quarters opinion favourable to repeal was expressed; e. g. Mr. Justice Piggot said (and Mr. Justice Ryves agreed with him):

The real question to my mind is whether it is worth while to continue to impose upon magistrates the duty of interfering in matters which, under modern conditions, might well be left to the jurisdiction of the civil courts.

Mr. Harrison, Offg. Legal Remembrancer to the Punjab Government, wrote:

I think the amendments are all for the good, but at the same time I am very strongly of opinion that the Bill (? Act) should be repealed altogether. The Indian father of the artisan class is only too ready to sell his son into what practically amounts to slavery, and the Act or rather the threat of its use assists the employer in exacting his very heavy pound of flesh.

Sir T. Sadasiva Aiyar and the Advocate General of Madras, among others, also strongly recommended the repeal of the Act *in toto*. The following excerpt from the Advocate General's opinion may be usefully made:

The principle underlying the Act of 1859 is not that there should be exceptional sanctions to compel the performance of services absolutely essential to helpless sections of the community which may not be performed without such sanctions, but that a master who advances money to a servant should be enabled, through a criminal court, to get his work done by his servant or should get repayment of the money and that in default the servant should be put in prison. This is quite opposed to all principles of modern jurisprudence.

The Act of 1859 has the additional defect, that it provides for a summary trial, whereas section 492,

I. P. C., contemplates an ordinary trial. This Act is frequently used by Indian as well as European employers, but if the employing class really understood their interests, it would never put it into effect. We quote below in proof of our statement a remark made by Mr. Mundella, the author of the Education Act of 1880, who, speaking as an employer of 30 years' standing, said:—

As to the prosecution of workmen for failing to perform their contracts, his experience was that a generous or even a successful employer did not prosecute in those cases, and that the penal laws to enforce such contracts were not only unnecessary but utterly mischievous, and from an economical point of view *injurious to the employers even more than to the workmen*. (House of Commons, June 10, 1875.)

FACTORY LEGISLATION IN INDIA.—IV.*

"The amount of protection given to the labouring class is determined not by the number of labour laws upon the statute book, but by the number of such laws which are properly administered, and by the extent to which their provisions are actually enforced."—*U. S. A. Labour Bulletin*.

JUDGED by this test, the Indian Factories Act of 1891, in spite of the radical improvements that it effected in the previous Act, cannot but be pronounced to be a failure. The administrative machinery that was set up for the enforcement of the legislative enactments, was too imperfect to remove the abuses in the factories; on the contrary it was such that it helped to a certain extent to increase such abuses. For example, the result of the provision of allowing women to do night work under the shift system was that infants were invariably brought into the smoky and unhealthy atmosphere of factories. The older ones of these infants were often made to work and the younger ones often received serious injuries. The other provisions for the protection of women were generally evaded; and, what was worse, there was a systematic overworking on the part of women in the ginning factories, few of which fell within the definition of the Act. The position was no better in the case of children. The employment of under-age children was general, if not universal. No doubt the Act provided for the certification of children's age. But the provision was not compulsory. Moreover, the Act did not contain a provision by which a certifying surgeon could refuse an age-certificate to a child if he found that it was physically unfit to work in the factory. In the earlier years of the Act, consistent efforts were made by children in certain districts to do double work for double pay by taking employment in two different mills. It was also seen that the provisions regarding ventilation and health of operatives presented as much difficulty in the matter of administration as the other provisions did.

These grave defects in the Act coupled with the fact that after its passing the factory conditions underwent vast changes necessitated the revision of

* Previous articles in this series appeared in the issues of July 21, August 4 and 25.

the Act. The most important and marked change that wholly altered the factory system and greatly nullified a number of provisions of the Act, was the installation of electric light in the factories. Its use considerably increased after 1895; and before the end of the century, became universal. The immediate result of the electrification of factories was a great increase in the working hours. Investigations then conducted have proved that many factories had actually worked sixteen hours and even more. The evils resulting from such excessive working naturally increased. The advent of plague in Bombay in 1896 and in other parts of the country in the subsequent years was another factor responsible for the change in the factory conditions in India. Labour in those old days was so migratory as to be almost casual; and this fell disease made it more so. Labour soon became scarce and wages increased enormously. "It is safe to say," says Mr. A. G. Clow, "that the outstanding feature of the last twenty years (1891-1911) has been a general scarcity of labour and the increase of wages first caused by the plague in Bombay was maintained afterwards."

The English capitalists too had not a little to do with the revision of the Factories Act. But Dundee, and not Lancashire, was then the field of their operations, because Dundee was pre-eminently a jute-producing tract. Pressure was brought to bear upon the Government of India by the usual methods which have been mentioned in my previous articles.

The Government of India introduced their Factories Bill in 1905. Soon after, English politics underwent a big change; and with the return of a strong Liberal Government, considerable attention was again drawn to factory legislation in India. Mr. (now Lord) Morley, Secretary of State, was naturally most anxious to move cautiously and see that full investigations into the factory conditions were made before the Factories Bill was proceeded with. His anxiety can best be seen by the following extract from a private letter which he wrote to Lord Minto, the Governor-General of India:

I am naturally anxious not to irritate Bombay employers, but you can hardly realise the strength—I might say the violence—of the currents now racing in the House of Commons on all labour questions, and if anybody were to bethink himself of moving a vote of censure on the Secretary of State and Governor-General in Council for their callous inhumanity to children in Bombay, the said vote might easily be carried by, say, 5 to 1. Pray, rescue me from this black catastrophe if you can, and agree to invite an inspector for a week or two.

The result of this appeal was the appointment in 1906 of the Textile Factories Labour Committee under the presidency of Sir H. P. Freer-Smith, late Superintending Inspector for Dangerous Trades in England. It was then announced that if the investigations of this Committee brought to light any abuses, a representative commission would be appointed to consider the whole question again. The important definite suggestions of the Freer-Smith Committee were these:—(1) The homes and home surroundings of mill-hands should be improved without delay. (2) The systems of inspection, the

strength and composition of the staff of Inspectors should be such as to secure efficiency. (3) Whole time Medical Inspectors should be appointed. (4) The certificates of age and physical fitness should be required prior to half-time employment, and prior to employment as an adult. (5) Elementary teachers to be paid by the mill-owners should be appointed for the instruction of half-time children in suitable places on the mill premises. (6) Clear and definite laws should be made, requiring that half-time children shall be employed only in sets. (7) Night work of women should be prohibited. (8) By suitable administrative regulations young children should be prevented from accompanying their parents in rooms in which they incur risk from running machinery or the inhalation of dust or impure vapours. (9) Actual period of employment for male adults should not exceed twelve hours per day—a suggestion which was a departure from the old theory that male adults should be left untouched in the matter of their hours of work. In addition, the Committee proposed a few suggestions regarding sanitation, ventilation, humidification, and prevention of fire and accidents. To the question whether the minimum age of children should be raised above nine, the Committee replied that in the absence of educational facilities for school attendance, it did not feel that any useful purpose would be served by raising the minimum age for employment of children. It disapproved of the creation of the "young persons" class which would only cause serious administrative difficulties without attaining the object, viz. improvement in the physical conditions of the operatives.

The report of the Committee led to the appointment of the Factory Labour Commission in 1907. It was presided over by the Hon'ble Mr. Morrison, and contained seven members of whom Mr. S. M. Chitnavis, the late Dr. T. M. Nair and Sir Vithaldas Thackersey were Indians. The report of the Commission is very exhaustive and is written after very close and careful inquiries into the factory conditions. It is not unanimous; Sir Vithaldas signed it subject to his small minute of dissent and Dr. Nair did not sign it at all, but wrote a separate note which is very able and learned. He disagreed from most of the recommendations of the majority report and convincingly proved his case. It is not possible within the scope of a short article to give even a short summary of the Commission's recommendations. However, the following points are worth nothing. (1) The Commission was strongly opposed to any direct limitation of adult working hours. They thought that by the formation of the "young persons" class, the reduction of working hours of children from 7 to 6 hours, the prohibition of the employment of the protected classes at night, the substitution of a compulsory interval after six hours' continuous work, in place of the present mid-day interval, and the assimilation of the restrictions placed upon the employment of women to those proposed for the "young persons" class, the

working hours of the adult males could be indirectly restricted. Dr. Nair was convinced that nothing but legislative restrictions of the hours of adult labour within reasonable limits would effectively prevent these long hours from being worked. (2) The "young persons" class should be created and it should include all workers from 14 to 17 years of age, and its hours of work should be limited to 12. (3) The children's hours of work should be brought down from 7 to 6 hours. (4) Women should be allowed to work 12 hours per day with half an hour's rest. This was a retrograde proposal and Dr. Nair characterised it as one which "evidently was based on a new discovery and an old argument." The Commission made a number of minor recommendations, and most of them were approved of by Dr. Nair.

The next year after the publication of the Commission's report, the Government of India first withdrew the old Factories Bill of 1905 and then introduced quite a new Bill in July 1909. It divided for the first time the textile from the non-textile factories, provisions with regard to which were less stringent than those relating to the textile factories. The report of the Commission made it clear that such abuses as had prevailed had occurred in the textile factories only. The changes as regards the hours of employment in the non-textile factories were concerned with the mid-day stoppage and the weekly holidays. In all textile factories, the hours of work of all operatives were limited to 12. This provision made it unnecessary to create a separate class of "young persons." The children's hours were restricted to 6 in the textile factories and to 7 in the non-textile ones. The employment of all operatives in factories, where the shift system was not in force, was prohibited except between 5-30 a. m. and 7 p. m. A few sections were also added to make the enforcement of the Act more efficient and to improve the sanitary conditions in factories.

Both outside and inside the Imperial Council, the bill, especially its provision of restricting the hours for male adults, was most severely criticised. It was referred to the Select Committee after six months of its introduction. No alterations were made in the essential provisions of Chapter V of the bill which fixed the working hours for male adults. The amended bill was considered in March 1911. A number of amendments were made which tried to remove the contentious clauses from the bill; but most of them were either withdrawn or negatived and the essential provisions remained unaffected. It is necessary to mention one of the important amendments moved by the late Hon'ble Mr. Gokhale which attempted to require every factory, in which more than twenty children between 9 and 12 were employed, to maintain an elementary school where these children should receive instruction for not less than three hours per day without any fees. Much sympathy was poured over this amendment even from the Government side. But the Government could not see their way to accept it.

Mr. Gokhale at the close of the debate withdrew it. The bill, as finally passed, was considered by Sir Vithaldas Thackersey as a more mild measure inasmuch as a number of improvements were made in the minor clauses and a liberal attitude was shown towards giving to certain factories exemptions from the more stringent provisions of the bill. Sir Vithaldas considered it "a satisfactory measure." With this support from a fair-minded mill-owner, the third Factories Bill was passed and placed on the statute book.

R. R. BAKHALE.

A LETTER FROM LONDON.

(FROM OUR OWN CORRESPONDENT.)

LONDON, AUGUST 9.

DROUGHT AND THE ECONOMIC SITUATION.

FOR most people, the summer holidays have commenced, and London is rapidly emptying. It has been a very difficult season this year, owing to the prolonged drought and the torrid heat. At a time when we had hopes that the economic situation would improve and the cost of living would fall with the resumption of work following the termination of the coal strike, the extraordinary weather, with its unwelcome influence upon food crops, has kept up the cost of living, with the result that unemployment has become more slowly diminished than would otherwise have been the case, whilst the burden of taxation, which would have been less unbearable had the cost of living fallen, is well nigh intolerable. I was talking with a banking friend the other day, who is exceptionally close in touch with finance and industry. He speaks in most pessimistic terms of the economic future of this country. He does not complain so much of the rise in manufacturing costs, for he regards this as inevitable with the new and right demands for better conditions of employment. But he does complain very bitterly of industrial immorality on the part of the workers. He gave me two instances to prove his case. One was that of an old established business, engaged in the output of a certain produce requiring in all its stages most delicate technical processes, specially skilled labour in every process, and the use of specially delicate machinery. The business was a source of technical and family pride to him. In the past it had been very remunerative, and in his factory he had employed upwards of three hundred skilled workers, whom he had paid well. But the microbe of industrial unrest had infected his employees badly, and they had adopted the "go-slow" policy. This might have been endurable within limits, but no limits were placed upon the experiments in this policy, which went even so far as to put sand into the most delicate parts of some of the machinery, rendering it permanently useless. The result of the policy has been to ruin the manufacturer, to destroy the highly technical industry, to close the factory, and permanently to throw out of employment more than three hundred skilled workers and their families. The other case was that of a city manufacturer of woollen goods,

employing over four hundred workers. In spite of greatly increased pay and improved conditions of labour, the work done was so inefficient and the "go-slow" policy so thoroughly enforced, that he has been obliged to close down his factory, after having previously warned his employees, and as employment is very slack, doubtless these work-people have now joined the army of the unemployed, whilst, at the same time drawing unemployment pay from the State. There are doubtless several possible economic remedies, into which, however, it is not necessary to go at the moment. But at a time when this country is much poorer than she was before the war, whilst the cost of living has increased tremendously, she finds herself once more in competition with Germany, who, on account of the rate of exchange, and with her workmen working not six or eight, but often twelve and sixteen hours a day, is determined, by cheap production, to reorganize her State life and resume her place among the industrial nations of the world. Nor is Germany alone. The process of national reconstruction is making rapid progress in Belgium, too. And with the cheaper cost of living relatively to this country, there, as well as in Switzerland and Italy, there is a growing demand for the cheaper products of foreign countries, instead of the more expensive products of this country. The London County Council the other day, desiring to obtain an electrical machine of a particular type have given a contract to a Swiss firm, whose quotation was some £8,000 cheaper than the lowest acceptable British tender. This has only to be repeated from a sufficiently big scale to throw a number of British factories and workpeople out of employment, and prevent the resumption of trade and industry in this country. This entirely leaves out of consideration, of course, the enormously powerful competition of the United States, whose workmen are extensively paid, but who are thoroughly efficient, and pride themselves in the volume and standard of their output, and who are not handicapped any longer, as we are here by a Drink Bill of some ten million sterling per annum.

INDIANS IN THE COLONIES.

Mr. Sastri is about to leave, with the Maharao of Kutch, on a few days' visit to Belgium, where they will be the guests of the Belgian Government. Thereafter, in all likelihood, he will return to London for a few days longer, before proceeding to Paris and Geneva, in which latter city he has to be by September 5, when the Assembly of the League of Nations opens its sittings. I think that most impartial people will agree that the resolution of the Imperial Conference, whose terms must by now be public property in India, dealing with the status of Indians in the Overseas Empire is a real triumph for Indian statesmanship. It was, of course, impossible to go back upon the Sinha resolution and its main provisions are therefore referred to in terms of approval. But the Dominions as a whole unite with His Majesty's Government in recognising the principle of equal citizenship for

Indians in all parts of the Empire, with the exception that South Africa does not regard herself as bound to this principle so far as concerns the greater part of the Union. In the Cape, of course, Indians enjoy the rights of citizenship as regards the political and municipal franchises. It is noteworthy that the Indian representatives do not accept the exceptional position that the South African delegates sought to maintain for their country as a preserve against equality of citizenship. A special correspondent in the *Times* rightly describes the result of the Conference as a step forward. The Indian representatives rightly regard with great satisfaction the conclusions reached by the Conference as a step forward. The correspondent carefully analyses the resolution, which, he says, contains an explicit recognition by the Imperial Conference in the first authoritative document of India's equal status as a member of the Empire. Secondly, the fact that the Whitehall authorities have joined in the expression of the desirability, in the interests of Imperial solidarity, that the rights of citizenship of Indians lawfully domiciled in other parts of the Empire should be recognised means that the British Government is pledged to apply this principle in parts of the Empire under the control of the Colonial Office, and notably in East Africa. The Secretary of State for the Colonies, who received informally this week a deputation composed of the two Indian delegates from East Africa, Messrs. A. M. Jeevanjee and B. S. Varma, Col. J. C. Wedgwood, Mr. Alex. S. Folkes, the European Manager of the East African firms in which the Hon. Mr. Parshottamas Thakurdas is interested, the Hon. Mr. Parshottamas himself, the Hon. Dewan Bahadur Ramachandra Rao, and Mr. H. S. L. Polak, on behalf of the Indians Overseas Association, has publicly admitted the strength of the principle of equality of status which was first laid down by the Government of India. But not only has South Africa been isolated as the only reactionary part of the Empire, as to its greater part, but the Conference and the relations that have been brought about by reason of it between the Indian and South African delegates have not been without their direct effects upon South African public opinion. The Natal Provincial Ordinance restricting the municipal franchise to Indians already on the voters' roll, had proved a very awkward morsel for the Union Government to swallow, at a time when General Smuts, their principal spokesman in England, was endeavouring to make the British people believe that he, at any rate, was a man of foresight and liberal instincts. It is not without its special significance that the Union Government, taking advantage of the advice that they have received from their legal advisers that the Ordinance was *ultra vires* of the Provincial Council, have disallowed it. So that the moral effects of the Conference are not by any means unimportant even in South Africa. It is useful to notice, too, that the resolution contemplates direct diplomatic relations between the Union and Indian Governments, without the necessity of the round-

about intervention of Whitehall. It may, I think, be legitimately claimed that this, in itself, is an indication of the advance in status, in the eyes of the other Dominions, on the part of India to *de facto*, if not *de jure*, Dominion status in respect of external relations. That Mr. Sastri has made the best kind of personal impression upon his Dominion colleagues is evidenced by the cordial invitations that he has received from the Dominion Premiers to visit their countries at an early date and confer with themselves and their Ministers and other public men as to the methods of application of the principle of equal citizenship. After the Assembly of the League has concluded its business, Mr. Sastri intends to make a start with Canada, from where he will go to Australia and possibly also to New Zealand, prior to undertaking his inquiry into the Indian situation in Fiji. Whilst in Australia, Mr. Hughes has given him a cordial invitation to address the Commonwealth Parliament on India's position in the Empire. The moral effect of the visit on Indian sentiment and an increased knowledge of the changed conditions in several of the Dominions partly as a consequence of the war ought not to be small. One thing is very clear. There is very little comparison between the attitude of most of the Dominions towards Indians and things Indian to-day with that which prevailed at the time when the Maharaja of Navanagar met with certain well-known difficulties upon a historic visit to Australia in the days before his accession to the gadi. I think that it is of the essence of the situation to recognise this change of attitude on the part of most of the Dominions in this respect. In the first place they are being made to realise, as they have never done before, that if partnership in the British Empire is a privilege to India as to themselves, so is the assumption of the Empire's responsibilities on their own part, and one of these responsibilities is the clear recognition of the need to differentiate between British and non-British Asiatics. Whilst the latter are not entitled to citizenship as of right, the former undoubtedly are, and this view has at length been conceded, so far as domiciled Indians are concerned. Another point to be noted is that the utmost sympathy and help of the Dominions ought to be sought by India in order to bring moral pressure to bear upon South Africa to comply with the requirements of British citizenship and Dominionhood. Whilst it is true that a Dominion has the right to go wrong if it so chooses, it is under no obligation to do so, and every mistake that it makes reverberates as it never did before throughout the Empire and helps to loosen the bonds of common interest that binds its various parts together. Yet a third point is the undoubted sympathy of all the Dominions without exception for India's endeavour to reach with the least possible delay the achievement of complete internal Self-Government. This is not a mere matter of words. I believe that it is a genuine and universal expression of opinion. India can count upon Dominion support in her

appeal to Great Britain not to put obstacles in the way of self-realisation within the British Commonwealth.

THE WORLD OUTSIDE.

THAT a purely literary education is no complete education in the full sense of the word, is becoming a commonplace. To counteract the one-sidedness of developing memory at the expense of judgment and imagination, many devices have been resorted to: school laboratories, workshops, and gardens; drawing and dancing lessons; and so forth. The leading idea throughout has been to make manual toil a means of eliciting mental powers which otherwise would remain underdeveloped; to stimulate a capacity for initiative and responsibility, which purely intellectual training fails to impart. It is subhuman, only to remember; but if to think is the crown of man, thinking alone without doing is apt to go wrong. If that much is now generally recognised, it remains true to say that manual work treated thus is apt to foster in the pupil a tendency of merely playing at toil. Yet, as the world is constituted to-day, manual labour is an indispensable ingredient of it, and to relegate such labour to manual specialists is not only wrong, because it arbitrarily limits the human scope of the toiling millions, but also because it makes the life of the non-toiler artificial and unnatural, and deprives it of a vital necessity, for which apparently there is no substitute. One may be sure that the modern division of mankind into people who do no manual work and people who do no mental work is not healthy. One man may be best fitted to spend most of his time at a lathe, another most of his at a desk: but to deprive either of *all* opportunity for the work the other man specialises in, is to deprive them both of the fullness of life.

THIS principle has been brilliantly worked out by Walter Rathenau, the famous German Socialist millionaire and present Minister of Economy, in such books of his as "In Days to Come" (of which an English translation has recently been published), the principle being that of an "Interchange of Labour," whereby intellectual work and manual work is being made to alternate in the life of every individual. The first instance of translating this principle into actual fact is reported from America, where Antioch College is understood to have decided on a new programme, according to which students will alternate five weeks of school and five weeks at work in neighbouring factories, with whom special arrangements for the purpose have been made. Previously there have been schools carried on by applying the principle of self-support, where masters and pupils take their share in the work to do which no servants are engaged—such notably is Kent School belonging to the Fathers of the American Community of the Holy Cross, and Kelham College of the English Fathers of the Sacred Mission. Such examples, however, are necessarily restricted to the monastic order whose members are pledged to personal

poverty. The Antioch experiment proceeds on a wider principle ; it teaches manual toil, not only to save money or as a means of fuller education but as a human duty. Dr. Rathenau advocates one year's labour service for the entire youth of Germany, and thereby brings out well the principle of duty owed to society by the individual: no longer the militarist duty of serving one year with the colours but of serving in Labour battalions devoted to productive work. Apart from this one year, the German reformer would regulate the proportion to be devoted to intellectual and mental employment respectively by public tests of the individual's capacity. What strikes one as a little wooden about the Antioch plan is the two shift system of five weeks. Besides if the students go for five weeks to the factory, will the factory workers, during that period, frequent University Extension Lectures in the auditoria of the College? Yet that alone would produce a genuine equality of opportunity and fraternity of toil, which, universally applied, could but result in a regeneration of Western society, as a whole, by making all its members to see life as a whole. Nothing better has ever been said about industrialism, than the motto of the Antioch programme: "The best cultural values are gained, not when we escape from industry, but when we make it express our highest purpose."

FRITZ KREISLER is to-day probably the world's greatest violinist. A concert tour of his in the United States would ordinarily have been a wild success, both from a financial point of view and as rousing musical enthusiasm. But Kreisler also happens to be a German—and so the organised patriots of America have done their best to disgrace their country by preventing such performances. This same "American Legion" is responsible for having recently kidnapped a Mrs. O'Hare, a Socialist speaker, in a small Idaho City and driven her in the middle of the night, half-dressed, fifteen miles into desert country, where she was left stranded to meditate on the enormity of intending to address a meeting the next day. The American "Civil Liberties Union" has recently published a list of fifty cases in different States, in which members of the American Legion tarred and feathered "radicals" and raided and wrecked their halls, or suppressed their newspapers, or ran them out of town, or blocked their meetings. Such is the (alas, not) rare and refreshing fruit of patriotism. The Fascisti in Italy, the American Legion in America—do they not all bring it home, how impossible it is for War purposes to rouse mob passions on the principle of force as an argument and as a remedy, and at the same time to expect that for peace purposes, the mentality can be immediately exorcised, when the troops come home again?

AND force is being still relied upon pretty well in every country now-a-days, to counteract ideas obnoxious to the ruling class—be that country Russia or England. In the latter country there has

been going on for many months past a regular "Communist" hunt. When "business" was brisk and labour in such demand as to be able to raise its standard of existence, the propertied class was much put out by the general intractability and 'insolence' of Labour—and the cry of "Bolshevism" was raised in every quarter. It so happens, however, that British Labour is conservative to the core and the history of the past year has shown that the average British working man has not the slightest use for any kind of advanced Socialism. For one thing, he suspects thought, as every good Britisher does; and like him, he lacks imagination. As a result, abstractions and vistas of a regenerated society do not appeal to him. As for revolutionary enthusiasm, no people are probably less inclined to risk anarchy and are more devoted to do things by way of law, decently and in order, than the inhabitants of England (and Scotland), be they of the upper, middle or lower classes. "Communists" properly speaking, i. e. adherents of the Moscow ideal of a "Dictatorship of the Proletariat," are therefore *rare aves* in the British Labour movement, and as for the influence they have on their fellows, it may be put down as altogether negligible.

IN the face of this, the British Government have spent a great deal of energy, time and money, not only on prosecuting, but more properly speaking persecuting, all the little there is of Communists in the kingdom—with no little advertisement to them, and no good to anybody else. A deputation recently waited on the Home Secretary to represent to him the very serious curtailment in the rights of free speech which this whole policy still entails: a position which has become even more accentuated by a decision of the Recorder at recent Quarter Sessions. In this case not a little hole-and-corner Communist conventicle, but the National Labour Press was convicted of issuing a pamphlet, whose author appealed to the workers to repudiate their leaders and institute unoffussil strike in support of the miners. The incriminated passage clearly is protected by that clause in "Dora" which excepts the right of persons "peacefully to persuade any other person to take part in a strike": and yet the Recorder upheld the conviction by the lower court. This case well illustrates the extent to which the ruling classes everywhere are still suffering from a "fear-complex," where the working classes are concerned, even when, as in England, there has just been a strike involving millions of the population without a single serious breach of the peace. For surely nothing proves the inherent orderliness and self-discipline of the English masses better than the recent Coal Strike: yet this sort of scare administration of the Law cannot be indulged in without rousing a powerful reaction in the ranks of the British workers, who for one thing are tenacious of the practice of fair play and for another will be led to suspect that there is apparently more to be said for Communism than appears on the surface. Truth

has nothing to fear from Liberty—and the sooner a Government will rid itself of the propaganda-mentality (that hateful war legacy!), the better will the interests of orderly progress be served.

"COMMUNISM" apparently is now to take the place of "Bolshevism"—that hard worked word, which hitherto has had to stand for the superlative degree of expressing one's disagreement for any opinion. The terror of the Have's of the awakening of the Have-not's,—that of course is the real explanation of "the cocaine-doped women commissaries," of "the fiendish tortures of Mongolian executioners," of "the nationalization of women," and of all the rest of the grotesque rumours, that propaganda so zealously feeds upon. Fear; just frenzied fear, which distorts, because it can no longer judge clearly, and which in turn uses its own mind's distortions to stimulate further paroxysms of hate by way of self-defence. A good example was the nauseating story of the corpse-fat factory of the sub-human Hun during the War. A correlative of the same psychosis is that a subconscious wish becomes elevated into an accomplished fact. The Western Capitalist fervently hopes for the success of the Kolchaks, Yudenichs, Wrangels, Denikins: and so the papers are full of reports that Kolchak is sweeping everything before him, that in another day Yudenich may be expected in Petrograd or Denikin in Moscow; that Wrangel is different from all the rest and is bound to succeed. Then there are hopes of internal dissensions. The *New York Nation* has an amusing analysis of one year's news of the relationship between Lenin and Trotsky: how often the one or the other has fled from, been imprisoned or assassinated by the other. Again the one sentence that has been published more often and more assiduously from the very moment of the Soviet revolution until this very morning is that "the Bolshevik rule is tottering." Mind you, it never succumbs or is superseded, or falls—no, it always "totters." However false the news has been in the past, hope springs eternal—and so it is being repeated again. To-day it is the terrible famine which threatens a quarter of Russia's population, which, once more, results in the "tottering" of the Soviet. True, there has been an unprecedented drought which would have burnt up the growing crops even in a Tsarist Russia: still, somehow it is insinuated that it's all really the fault of these Bolshevik hounds. One therefore is ready to believe that now, at last, they will "totter." And if they did, is there one sane person who believes that any other Government is possible at the moment in Russia? It is either Bolshevik Government there or no Government.

MEANWHILE, the profound changes that are slowly making in the West for a complete reconstruction of Society on a new basis go unheralded. It is, of course, a little difficult to be melodramatic about English Building Guilds: yet the revolution in the Western economic system, which they help

to bring about, is none the less real for not being spectacular. Only two years ago or so, a small "Guild" was started in a Manchester suburb to help in building the many houses that were being clamoured for. This Guild consisted of workmen belonging to the building trades who got together and offered to build a house without the intervention of any building contractor or other middleman. One can imagine the opposition of the latter: yet, fortunately there were such demands for new houses, that there was enough work for all existing contractors, even though additional work went to this Guild, and others which gradually were formed elsewhere. To-day these Building Guilds have been put on a national basis: 115 Guild Committees in all parts of England have already completed £300,000 worth of work to the satisfaction of all concerned, at a saving of about 10 per cent. of the cost to the consumer. The chief point is the change in the workers' status: they are no longer "employees" of anybody, but determine themselves, their remuneration, their mode of work, etc. On the other hand, Government surveyors and architects have been unanimous in testifying to the excellence of workmanship, and the treasurers of all public bodies concerned to the saving of money by this method. And if such is possible in the building trade, what theoretical objection is there to the possibility of extending it to other trades? We repeat, the success of these first Guilds is nothing less than the beginning of a new economic system. In England, these revolutions take a long time; they are slow, peaceful, based on persuasion rather than on force. They necessarily recommend themselves, therefore, and make the crudities of the same revolution *à la Russe* look rather savage an affair. But, it is as well to recognise the fact, that "Guild Committee" is but the Englishing of "Soviet."

SELECTIONS.

CRIMINAL BREACH OF CONTRACTS.

SECTIONS 490 AND 492 OF THE I. P. C.

490. Whoever, being bound by a lawful contract to render his personal service in conveying or conducting any person or any property from one place to another place, or to act as servant to any person during a voyage or journey, or to guard any person or property during a voyage or journey, voluntarily omits so to do, except in the case of illness or ill-treatment shall be punished with imprisonment of either description for a term which may extend to one month, or with fine which may extend to one hundred rupees, or with both.

492. Whoever, being bound by lawful contract in writing to work for another person as an artificer, workman, or labourer, for a period not more than three years, at any place within British India, to which, by virtue of the contract, he has been or is to be conveyed at the expense of such other, voluntarily deserts the service of that other during the continuance of his contract, or without reasonable cause refuse to perform the service which he has contracted to perform, such service being reasonable and proper service, shall be punished with imprisonment of either description for a term not exceeding one month, or with fine not exceeding double the amount of such expense, or with both; unless the employer has ill-treated him, or neglected to perform the contract on his part.

MACULAY'S MINUTE ON THE ABOVE.

THE Indian Law Commissioners give the following reasons for inserting sections 490, 491 and 492 in the Indian Penal Code:—

We agree with the great body of jurists in thinking that in general a mere breach of contract ought not to be an offence, but only to be the subject of a civil action.

To this general rule there are, however, some exceptions. Some breaches of contracts are very likely to cause evil such as no damages or only very high damages can repair and are also very likely to be committed by persons from whom it is exceedingly improbable that any damages can be obtained. Such breaches of contracts are, we conceive, proper subjects for penal legislation.

In England it would be necessary to provide a punishment for a stage-coachman who should, however maliciously or dishonestly, drive on, leaving behind a passenger whom he is bound to carry. The evil inflicted is seldom very serious. The country is everywhere well inhabited. The roads are secure. The means of conveyance can easily be obtained, and damages sufficient to compensate for any inconvenience or expense which may have been suffered can easily be recovered from the coach proprietors. But the mode of performing journeys and the state of society in this country are widely different. It is often necessary for travellers of the upper classes, even for English ladies, ignorant perhaps of the native languages, and with young children at their breasts, to perform journeys of many miles over uninhabited wastes, and through jungles in which it is dangerous to linger for a moment, in palanquins borne by persons, of the lowest classes. If, as sometimes happens, these persons should, in a solitary place, set down the palanquin and run away, it is difficult to conceive a more distressing situation than that in which their employer would be left. None but very high damages would be any reparation for such a wrong. But the class of people by whom alone such wrong is at all likely to be committed can pay no damages. The whole property of all the delinquents would not probably cover the expense of prosecuting them civilly. It, therefore, appears to us that breaches of contracts of this description may, with strict propriety, be treated as crimes.

The law which we have framed on this subject applies, it will be perceived, only to the cases in which the contract with the bearers is lawful. The traveller, therefore, who resorts to the highly culpable, though we fear too common, practice of unlawfully compelling persons against their will to carry his palanquin or his luggage will not be protected by it. If they quit him, it is what they have a legal right to do, nor will they be punishable, whatever may be the consequence of their desertion.

Another species of contract which ought, we conceive, to be guarded by a penal sanction is that by which seamen are bound to their employers. The insubordination of seamen during a voyage often produces fatal consequences. Their desertion in part may cause evils such as very large damages for which it would be worth while to sue. If a ship in Hooghly, at a critical time of the year, is compelled by the desertion of some of the crew to put off its voyage for a fortnight, it would be mere mockery to tell the owners that they may sue the runaways for damages in the Supreme Court.

We also think that persons who contract to take care of infants and the sick and of the helpless lay themselves under an obligation of a very peculiar kind, and may with propriety be punished if they omit to discharge their duty. The misery and distress which their neglect may cause is such as the largest pecuniary payment would not repair. They generally come from the lower ranks of life, and would be unable to pay anything. We therefore propose to add to this class of contracts the sanction of the penal law.

Here we are inclined to stop. We have indeed been urged to go further, and to punish as a criminal every menial servant who, before the expiration of the term for which he is hired, quits his employer. But it does not appear to us that in the existing state of the market for that description of labour in India good masters are in much danger of being voluntarily

deserted by their menial servants or that the loss or inconvenience occasioned by the sudden departure of a cook, a groom, a karkun, or a khidmatdar would often be of a very serious description. We are greatly apprehensive that by making these petty breaches of contracts offences, we should give no protection to good masters but means of oppression to bad ones.

TOPICS OF THE WEEK.

THE revision of Standing Orders of the C. P. Legislative Council has resulted in arranging the budgetary procedure so as to enable members time for the study of the budget before the voting of grants begins. Provision is made for the lapse of fourteen days between the day of posting of the budget to the members and that on which the discussion on demands for grants starts. Allowing two days for the copies to reach their destinations, the period of twelve days should enable members to master the details and thus offer informed criticism on the same. To leave no room for complaints on the ground of want of time to study the budget so loudly expressed this year in Bombay, it is necessary that our Standing Orders also should contain a similar provision, the advantages of which, we are sure, will not be altogether lost on the Committee engaged at present on a revision of the same. If members are expected to discharge their duties in a responsible manner, it is up to the Government to allow them the necessary time to do so.

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