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Topics of the Week.

Why not Call the Bluff ?

WHENEVER the Assembly or other representative bodies take a decision that runs counter to the wishes of the Government, it is said that the decision is due to the fact that these bodies have not to shoulder responsibility for what they decide.

When the Assembly passed a resolution accepting the Ottawa Agreement, it was truly representative of Indian opinion. Now it rejects the Supplementary Agreement, the decision is due to cussedness born of irresponsibility.

A convenient doctrine this ! The *Times* went the length of saying that if only the Assembly had thought that the adverse decision would be given effect to, it would have endorsed the Supplementary Agreement.

When the Assembly passes Ordinance Acts, it becomes obvious that the country supports repression. Now the Assembly turns down the J. P. C. Report and the Constitution Bill, it becomes equally obvious that it is merely bluffing.

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IF only, it is said, the Assembly is now told that, as a result of its vote, the Bill would be dropped, the members would tumble upon one another to beg the Home Member to bring up the matter again so that they might have a chance of rectifying their mistake and securing the blessings of federation.

Such a thing, it appears, happened before Sir A. Steel-Maitland related a story in the House of Commons It is as follows :—

> "In one of the Indian provinces a great question arose about the opium traffic, and it was agreed among the Indians that they ought to make a demonstration against what was being done with regard to opium, so that they threw out the Vote for the whole of the local provincial Excise, including the salaries of the Excise officers. They were confident that, as the existence of these Excise officers was necessary, the Governor would reinstate their salaries.
>
> Then they heard, what was perfectly true, that the Governor had said that in the circumstances he was not going to reinstate them, and that caused a flutter in the dovecots. They had a second meeting, and when they found what was going to be the real consequence of their action, they passed the Budget, reinstating the salaries, and all went well afterwards. That is the kind of thing that occurs. In that case the bluff happened to be called; they had to face the consequences of their own action, and they took an entirely different line from that which had been embodied in their impossible demands."

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WE rather think this was a clever Governor. This is exactly what should have been done in this particular case and should be done in all such cases. We knew how the Assembly would vote on the reforms and what the Government and the papers which derive their inspiration from them would say in depreciating the vote. We have, therefore, been suggesting for several weeks past that, in order to eliminate all make-believe from the Assembly decision, the Government should declare in advance that the Bill would be proceeded with only if the Assembly desired it, but that the Bill should be dropped if there was any doubt about the acceptability of the principal features of the Bill's policy to the Assembly.

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WE asked the Government to prevent the Assembly from playing the dangerous game of bluff with them. We asked the papers which are now certain that the Assembly's vote does not represent public opinion to support our suggestion. But neither the Government, nor the *Times of India* or *Statesman* or *Pioneer* fell in with our suggestion.

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WE have reason to believe that the Government considered the matter very carefully and came to the conclusion that the prudent course would be to leave things vague. They only made up their mind to one thing : to say that the Assembly's vote was the country's real verdict if it went in favour of the Bill and to say that it was not the country's verdict if it went against the Bill. Heads we win, tails you lose ! The Anglo-Indian papers also thought that it would be impolitic to embarrass the Government by suggesting that the Bill be put aside in certain well-defined circumstances.

The *Times of India* says that Mr. Jinnah inveigled the Assembly into opposing federation because the Muslims fear that under federation their communal representation in the central legislature would be less than one-third that is guaranteed to them in British India. The Hindus must therefore support federation. We may have our communal differences, but we have left them too far behind to make the

Hindus give their support to a scheme which they consider ruinous in the general interests merely because the Muslims oppose it, even if it be for selfish reasons. The Government and the Anglo-Indian papers have long been at this game of setting one community against another, and if, in spite of all their incessant attempts at sowing divisions, in our ranks, we have risen superior to this communal feeling, the country has reason to congratulate it self upon it.

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THE Government have very often in the past carried things their own way by appeals to the self-interest of this community or that. The *Times of India* never had a word to say then against the community which, on account of communal feeling, yielded to the Government's blandishments. But now that the Government's plans are foiled, it is very wroth with the Mussulman community for being sectional in its outlook. This, we believe, is the first time when our contemporary had ever to regret communalism in Indian politics.

The Muslims' motive being unrighteous, the Assembly's vote, the *Times of India* says, cannot be taken at its face value. Will it take only the vote of the Hindus. who were not, according to it, influenced by separatist interests? We don't mind. Let it tell us how the country's verdict can best be ascertained; the country will be quite ready to accept the test that it prescribes.

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Europeanisation of the Services.

MERIT is no longer to be the sole test of admission into the services. It was the test only so long as thereby the Indian proportion could be kept low. Only the other day Mr. Godfrey Nicholson expressed himself in the House of Commons against Indianisation at the sacrifice of efficiency. "The sound way of maintaining the efficiency of a civil administration is to see that the best men are appointed, by which I mean that, if the necessity for the non-political nature of the administration is accepted, the efficiency of the service must take precedence over such theoretical matters such as Indianisation."

* * *

POOR Mr. Nicholson. He was not aware that Sir Samuel Hoare had already decided to change what was supposed to be the existing law and practice in order to make room for less efficient Europeans over the heads of more efficient Indians. Merit is no longer to be the test. The services are no longer to be non-political. Indianisation was never the theory and will never be so. Europeanisation is now to be the avowed policy as it was so long the unavowed one. The Reforms Bill makes a change in the letter of the law, but really it only consecrates an age-long practice.

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Services under the Bill.

SECTION 233 (1) of the Government of India Bill governing recruitment to the Indian Services (Medical, Police and Civil) runs thus:

> "As and from the commencement of Part III of this Act appointments to the Civil Services known as the Indian Civil Service, the Indian Medical Service (Civil) and the Indian Police Service (which last mentioned Service shall thereafter be known as "the Indian Police") shall be made by the Secretary of State."

The retrograde character of the measure will be evident on a reading of the relevant section in the present Government of India Act where Section 97, Clauses 4 and 5, run as follows:

> (4) "The candidates certified to be entitled under the rules (for examination) shall be recommended for appointment according to the order of their proficiency as shown by their examination.
>
> (5) Such persons only as are so certified may be appointed or admitted by the Secretary of State in Council."

The reason of the change is not far to seek. Replying to Sir Charles Oman, Sir Samuel Hoare admitted the fall in the number of Englishmen recruited to the Services as due "not so much to the lack of suitable European candidates as to the increased number and *quality* of the Indian candidates", and pointed a triumphant finger to provisions of the Bill which would enable the Secretary of State to override the recommendations of the Services Commission to admit Europeans over Indians, however proficient the Commission may consider the latter to be. Efficiency, supposed so far to be the gospel of British administration in India, is to bow its head to racial and political considerations.

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J. P. C. Report in the Upper House.

LIKE other legislative bodies in the land, the Council of State too considered the J. P. C. Report. As expected, its view of the Report widely differs from that expressed by the more popular part of the central legislature. The Council regards the scheme as an advance on present conditions and wants it to be given a fair trial. Need it be stated that the Council could not have given a more convincing proof of its utter lack of contact with public opinion? Sir Phiroze Sethna, who is never given to exaggeration, stated but the bare truth when he said that the J. P. C. scheme was not supported by any thinking section in this country.

* * *

THE temptation of claiming the Council's favourable view of the J. P. C. Report as a feather in their cap must indeed be irresistible to the Government, seeing that nobody outside the very limited circle of officials and their hangers-on has a good word for it. But it is clear as noonday sun that the upper house can never be looked upon as a faithful reflector of public opinion. Its very constitution belies such a claim if it is made for it. And nobody who wants to know the Indian view of the J. P. C. scheme is likely to turn to the Council of Elder Statesmen for guidance.

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THE opinion of even such an unrepresentative organ of public opinion as the Council itself would have carried greater weight if it could be said that it had the backing of a majority of its elected strength. Its opinion on the J. P. C. scheme does not satisfy even this test. The proposition describing the scheme as an improvement on the existing order of things was carried by 32 to 14 votes. The supporters of the resolution included not more than 8 elected members, two of whom were Europeans, who in such matters cannot be expected to vote against Government policy. One-half of the balance of 24 consisted of officials and the other half of nominated non-officials. Thus, it is clear that even in the Council of State the Government could not get a majority of elected members to stand by the scheme, which is doubtless a very significant fact.

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Bombay Council & J. P. C. Report.

IN his speech opening the budget session of the Bombay Legislative Council Lord Brabourne did not

follow the example of the heads of some other provinces who attempted an elaborate defence of the J. P. C. scheme. Perhaps he thought that nothing that he might at this time of day urge in its favour would make public opinion think the better of it. He seems to set great store by Sir Samuel Hoare's recent declaration about Dominion Status being the ultimate goal of Indian policy; but must have been convinced by now that Indian public men do not see eye to eye with him on the point.

* * *

THE Governor of Bombay concluded his address by complimenting the local legislature on its sobriety of thought and judgment. One does not know whether he would give it such a flattering certificate after the manner it has dealt with the J.P.C. Report. The Report was due for consideration by the Council on Friday last and was expected to occupy its attention for one or two days more. And if the Council wanted to be true to its record of dutifully registering Government decrees it would have engaged itself in what is undoubtedly a useless discussion of the report, ending with the passage of a resolution thanking the British Government for its magnanimous offer of these very generous reforms. But on this occasion, be it said to its credit, it chose to adopt a new line of conduct by summarily and without even a show of consideration turning down the official motion for its consideration—an unparalleled happening in India.

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THE fact that even the non-Brahmins whose support is generally relied upon by Government joined the forces of the Opposition is a measure of the public hostility aroused by the hated document. The unceremonious disposal of the official motion without any speeches by non-official members means that they regard the J. P. C. scheme as being worthless beyond words. The Council deserves congratulations on its exemplary behaviour on this occasion.

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AN APPEAL TO THE PRINCES.

THE rulers of Indian States, like the people in British India, are at the cross-roads. Time has come for them to take the fateful decision, whether they will accept the federal scheme embodied in the India Bill and join the proposed federation or whether they will decide that the conditions stipulated by them have not been fulfilled and that therefore, they will stand out of federation, for the present at any rate. The people in British India for their part have taken the decision; it is an unambiguous decision—against federation. It may be a right decision or a wrong decision, but they have taken it. But, unfortunately, it is a decision that cannot be operative unless their rulers, deferring to popular opinion, bring it into operation, and the rulers show no inclination to do so. But the Princes stand on a different footing. They can take an operative decision, and their responsibility is thus immensely greater. What shall the decision be?

So far as we can judge, it must be the same as that of the British Indian people. For some of the vital conditions stipulated by them have not been fulfilled. For one thing, they said: they can enter federation only if the federal government is a responsible government. This condition is flagrantly violated. As Mr. Jinnah put it in the Assembly, the scheme proposed by the British Government consists of 98 per cent. safeguards and 2 per cent. responsibility. On this point British Indian opinion is united. The Princes' estimate may possibly be different; they may discover a little more of responsibility and a little less of safeguards. But the proportion cannot vary very much. But, by no stretch of imagination, can they call it a scheme of responsible government. Nor does the scheme contain any machinery for automatic development, so that the area of responsibility, initially circumscribed, can later be enlarged without having to wait upon the pleasure of the British Government and the British Parliament.

But the second condition stipulated by the Princes is of far greater importance and does even greater credit to their spirit of nationalism. It is that they will enter federation only if the British Indian people—and not merely the British Government—agrees to it wholeheartedly. There cannot be the smallest doubt that this condition is utterly unsatisfied. There is not even a small section of Indian opinion but has repudiated the scheme in the most explicit terms. The Congress, the Liberals, the Muslims, the non-Brahmins, the commercial classes—all have expressed an uncompromising and implacable hostility to it. We are sure the Princes will not, like the British Government, put all this down to attitudinising on the part of British India. It suits British politicians to explain away the burst of feeling on this question in this easy manner. Earl Winterton, for instance, asked in the House of Commons: "Is it really surprising that keen and ambitious men, prominent in the public life of their own country, should press for a greater scheme, even though most of us in this House think that they are not wise to do so?" It is not surprising that ambitious men should ask for wider and more liberal reforms but it *is* surprising that these men should not only press for more extensive reforms, but should actually prefer the present constitution to the one offered to them. Is this not a very rare phenomenon in politics? Did it happen in India ever before?

When the Montagu-Chelmsford reforms were enacted—and all British Indian leaders acknowledged with gratitude the debt which they owe to the Princes for the very great assistance that they received at the time—the Liberal Party, for instance, expressed their dissatisfaction with the Bill and suggested various improvements in it, but did they say then, as they are doing now, "Take back your Bill; we don't want your reforms; we would rather like to be under the existing constitution"? No; on the contrary, they publicly acknowledged that the reforms, then proposed though not fully satisfactory, would still make a notable advance on the

then existing situation and offered in advance to give their discriminating support to the Bill. "We want further reforms," they said; "but if an extension and further liberalisation of the measure be not possible, well, we'll have the measure as it is and work it to the best advantage." Was there the least desire on their part at the time just to strike up an attitude or to pursue devious tactics in order to extort larger concessions that is now attributed to them so unjustly by British politicians?

Or take the Morley-Minto reforms. At that time Indian leaders did not even propose any modifications. They accepted the proffered reforms without reserve and without even expressing a desire that they should go further. They were all ambitious men who accepted the reforms, their ambition being to see their country placed at the earliest possible moment among the comity of free nations. But they fully realised that their progress could only be gradual, and that their country would only come to grief by forcing its pace. These very men or men brought up in their traditions now go on their knees to His Majesty's Government begging them only to let them alone and not to foist upon them a hateful constitution. The Princes must understand the full significance of this. It is a writing on the wall, of which they must not minimise the import, as the British Government and the British politicians are doing. Sir Arthur Steel-Maitland said in the House of Commons: "The great fact" in Indian politics is that there is "a considerable measure of make-belief" in India's repudiation of the Hoare scheme, and he added that "it is true of politicians in all countries." It may be true of politicians in all countries, but it is not true of Indian politicians with regard to this scheme.

There is another way in which the unanimity of opposition among British Indians of all schools of thought, among go-ahead politicians and among politicians who are rather backward, is belittled in England. "They all cry out against the constitution," it is said; "but they all say at the same time that they will work it. And, after all, we want nothing more than that it should be worked." In the first place, it is not true to say that all parties are pledged to co-operation, as Britishers in their ostrich policy affect to believe. The danger of boycott still hangs over the country. Some of the opponents of the federal scheme will not lend their support to such boycott, it is true; but no one can confidently assert that their counsels will prevail. And the Princes know it only too well. Moreover, what will be the mental attitude even of those who will go into the legislatures to work the new constitution? The constitution will be worked perhaps, but, as Mr. Sastri observed, it will not be worked in peace, it will not be worked with good-will, a necessary ingredient of success; but it will be worked so as to produce deadlocks and to demonstrate the failure of the reforms. British statesmen may choose to treat this as an empty threat, but Indian Princes are conversant enough with the present tendencies in the country's politics to know that this is a grave warning earnestly uttered. Need the Princes get themselves involved in such an undesirable denouement?

They offered to come into the federation at British India's request partly, at any rate, to promote British Indian progress. They felt that their own difficulties would be solved to a certain extent by federation, but federation entails upon them many sacrifices. They are now, in constitutional theory, sovereign in their own States, but with federation their sovereignty will pass away from them even if they retain internal autonomy in domestic matters. When independent States come together in a federal union, the union becomes the sovereign State, the federating States losing their sovereignty. This is the theory accepted by all constitutional writers. To quote from one such writer:

> "The central government of a federal State, being conceived of as the organ of a true central State, is not to be regarded as the common organ through which the member states of the union realise certain of their individual ends. Rather is the reverse the case, for the central State, being admittedly sovereign, and the member states not sovereign, their governments may properly be regarded as organs through which the central State exercises its sovereign will in the several areas of the non-sovereign member states."

The loss of sovereignty is a tremendous sacrifice which the Indian States have offered to make in order to bring about federation. The sacrifice no doubt conduces to their own individual interests in a certain degree, but we have to admit that the Princes conceive of federation as a duty which they owe primarily to their common country, the Greater India. Commander Marsden remarked in the House of Commons: "To say that anyone is coming into the federation apart from the preservation of his own rights for the sake of the good of the whole of India, well, if hon. Members believe that they will believe anything." For our own part we are credulous enough to believe—and we have never wavered in that belief—that the Princes are motivated at least partly by altruism in wishing to enter the federation. Not all Princes are blessed with the broad vision of a United India. Those who supported the federal idea did so at the cost of much personal unpopularity. They are entitled to British India's grateful thanks for popularising an ideal which is capable of conferring a great boon upon India as a whole, though it involves the States in severe loss.

All British Indians hope that they will continue to cherish this high ideal; for though they are opposed to the particular scheme which is now before the country they remain true to federation and wish to bring it about at an early date. But, immediately, they hope to obtain the support of the Princes in putting the scheme of federation which the British Government has placed before them out of the way, and the Princes should find it easy to give them the help they need. If the scheme were entirely in the interests of the States, if it had proposed to inflict no sacrifices upon them, and if the Princes had not British Indian interests also in view in favouring it, then it would have been hard for them to give up federation. It is not so, however. They will only escape, by taking this line, from the opprobrium of a large section of the

Princely order which would otherwise be their share and also escape from the sacrifices required of them. They can easily find other means of obtaining redress from the injustices, particularly in the economic sphere, of which they complain, and which actuate them, so far as self-interest is considered, to join federation. With British India it is different. By rejecting federation British Indians may lose central responsibility; they may lose provincial autonomy too. Yet they are prepared sooner to face these heavy losses than to accept this kind of federation. How much more ready then should the Princes be to reject federation?

We must not disguise from the rulers of Indian States the feeling entertained by British India that their demands in regard to it are unreasonable. Mr. Jinnah voiced the general opinion when he said that their terms are "impossible", that these terms are "detrimental to the vital interests of British India", and that the resulting federation would be "devoid of all basic and essential elements and the fundamental requirements which are necessary to form any federation"; that it involves "absolute sacrifice of all that British India has stood for and developed during the last fifty years in the matter of progress in the representative form of government." If the present federal scheme is laid aside, as desired by the public, and an alternative scheme brought up for consideration later, as Mr. Jinnah hopes will be the case, the Princes will be requested to bring their demands into accord with popular sentiments. But they will not be committing themselves to any such course by turning down federation now. They will remain entirely free and unfettered by what they now do either to accept or to reject the proposals that may be put forward on behalf of British India. Their liberty to form an independent judgment on the proposals will remain entirely intact. All that they are asked to do now is to say to the British Government that since the people with whom they are to enter into a federal union are decidedly and definitively opposed to federation, they cannot think of joining it. In doing so, they will also place the responsibility for their refusal on British Indians. It is certain, as Mr. Jinnah said, that federation, if forced into being, will lead to ill-will, bitterness and strife, and it seems to us highly inexpedient of the Princes to embroil themselves unnecessarily with British India.

If the Princes cannot give a direct and final negative to the British Government's offer, they should at least play the part of a second chamber in this matter. They should say: "Give British Indians some time; let their resentment which seems now to be at white heat cool down. In order that this should happen, we shall have to say 'no' to the federal proposal for the present. We regret it very much, but there is no help. Bring up the question again, either in the present form or in an altered form some time later. It may be that by that time British India will be in a better frame of mind to consider the question dispassionately. After all we have to work with them, and we cannot be parties to forcing on them a constitution which by its very theory is incapable of being abrogated at any later time, if the experience obtained from it turn out to be unhappy. Negotiations about federation are in all countries of a protracted character just because a federation, when once brought into existence, cannot be ended at any time in future. Let it be so in India too. But it is necessary that British India should give its willing consent." The Princes must at least perform this delaying function. And we have no doubt that they will be quite willing to do so. If to oblige British India they were ready to join federation at the sacrifice of their sovereignty, will they not, in order to avoid conflict with British India, temporarily refuse to join federation and keep their sovereignty? Will they thrust themselves upon British India when the original invitation tendered to them has been definitely withdrawn?

The Right Hon'ble J. C. Davidson, Chancellor of the Duchy of Lancaster, claimed in the House of Commons that the Viceroy was the guide, friend and philosopher to the Princes, that he alone had the right to offer them advice, and that it would be impertinent in anyone else to tell them even in a friendly way what they should or should not do. But we think we can say, without being presumptuous, what course of action on their part would be in our interest. Besides, the Princes have themselves been saying that one of the things which will guide their conduct is the opinion of British India on federation. We have thus acquired a right to make our submission. We make it humbly and sincerely. For them to keep out of federation at present would be very much to our advantage, and to force a federal union, an interminable federal union, upon British India in face of unanimous and vehement opposition would be nothing short of committing a rape.

SPARKS FROM THE COMMONS' ANVIL.

NOT "BETTER," BUT "FURTHER."

IT is a good little point that Mr. Lennox Boyd made. He pointed out that the object of the Government of India Bills so far introduced was "to make provision for the better government of India." His Majesty's Government are conscious, however, that this Bill has no claim to be so described. Recognising this fact, they are very humble about their present Bill. They merely call it a Bill "to make further provision for the government of India." Right they are!

SECESSION.

SIR B. PETO pleaded hard for more rights being conferred upon India! Now that the Government had gone so far in meeting popular wishes, why should they not go a little farther and make "provision for getting out of the federation?" he asked. This

right of secession was demanded only for the States. Not for British India, of course. If federation is to be forced upon British India, it follows that British India must be forced to remain under it for all time. It is faultless logic.

LIBERAL PHILOSOPHY.

BRITISH Liberals are with Conservatives in complimenting the National Government on the courage which they have shown in bringing forward a liberal, a generous measure of reform for India. Safeguards? Well, they will lie unused in the statute book. Nobody will probably ever hear of them after they are given the force of law. Mr. Bernays delivered himself of this sentiment in the Debate :

> "I submit that the safeguards in the Bill are in the interests of India and will never become operative as long as Indian politicians show they are able to work self-government. Self-government is a certainty; the safeguards are mere contingencies.

We can appreciate this reasoning; but may we in all humility ask the Liberal Party why then it attacked the same benign National Government's Sedition Bill so bitterly? That Bill sought to impose restrictions only on the activities of those who made attempts to seduce the loyalty of the troops. The Government had given solemn assurances that none but sedition-mongers would come within the mischief of the law. Why did the Liberal Party then oppose the Bill? Is the Indian (i. e. an English) Viceroy or Governor more to be trusted than the British Home Secretary?

"THE PRINCES, OUR BACKBONE."

IT is not without a considerable amount of reluctance that Conservatives agree to central responsibility. They recognise that risk is involved in this course, but they urge that the adhesion of the States will go far to lessen it. Mr. Boulton said :

> "If we are to take a risk—and whichever method we adopt we shall have to take a risk—I prefer to take a risk with our friends rather than without them.... Who are our friends in India? I look upon the Princes as our backbone in India. Apart from their loyalty it is in their own selfish interests that our presence in India should be strongly felt.... (Rather than stand where we are I would consent to go forward,) having at our side a great solid block of conservative opinion which, if necessary, could act with salutary effect."

THE PRINCES ARE A MAGICIAN'S WAND!

VICE-ADMIRAL TAYLOR made a very cogent and powerful speech on the right side of the Tory Party. He said :

> "The Government have frequently argued that the accession of the Princes makes all the difference; that, immediately the Princes said they would federate, everything was changed, as by a magician's wand; the whole conditions in India were altered. I see that the right hon. Gentlemen (Sir Samuel Hoare) nods his head. Let me put this to him : What has changed? ... How can the accession of the Princes possibly accelerate by one minute the time when the Provinces are fitted and ready to enter a federation at all?"

The Princes will supply the brake when the British Indian part of the federation will go wrong. They form the best safeguard for Britain. That is clearly the answer to Vice-Admiral Taylor's question.

CORRUPTION.

AN evil which will surely flow from the admission of the Princes into the constitution—an evil that everyone recognises but no one dares give expression to—was boldly pointed out by Mr. Gordon MacDonald, the evil, namely, of corruption.

> "It was suggested in an earlier Debate in December," he said, "that there was the possibility of bribes being accepted in India. I do not know whether Indians are more likely than Britishers to accept bribes, but I know that if the Princes can use a form of bribery in either assembly, they can, with the power they already possess, influence and determine legislation. Does any one think they will allow the federal Assembly to improve condition in British India to such an extent as to compel them to improve conditions in their own States? That tremendous sweep of power is an indication that there is no hope of progressive legislation either in the federal or provincial assemblies".

The resources of the States are almost inexhaustible, and with no audit control in most of them the resources can be so used as to keep half of the Assembly and the Council of State in the pockets of the Princes.

The last point was developed by Mr. Rhys Davies too in his speech. He said :

> "With regard to the Princes coming into federation, we conceive that this might very well prevent the onward march of the masses of the people to a higher standard of life. The Princes, in a federal Parliament, would naturally not desire to see a higher standard of life among the working people in the Provinces lest they might be compelled to do something to uplift their own people within their own States."

A MULTI-MILLIONAIRES' CLUB.

MR. COCKS' description of the Council of State in the new constitution will live in history. He said, "it will be the most reactionary body that will exist in the whole world." Mr. Joshi called it a multi-millionaires' club, compared to the Assembly which he likened to a millionaires' club. Mr. Cocks might have usefully said one thing more. The Council of State is not merely the worst, but the largest and mightiest body in the world. It has functions and powers which no other similar body has, and, compared to the members in the first house, it has more members than any other second chamber has, so that in a joint session it becomes a proportionately larger and more powerful body than any other second chamber.

DEMOCRACY TEMPERED TO THE SHORN LAMB.

A UNIQUE federation! A mixture of autocracy and democracy! Some supporters of Government in the House appeared to be rather ashamed of this curious amalgam, but some others were rather proud of it. These latter did not see the need for being apologetic about it; on the contrary they claimed that they had discovered a method whereby they could now safely introduce democracy in a country

which had not yet matured for its use. They felt indeed that democracy had now been made safe for the world! Mr. Godfrey Nicholson's remarks on this question are well worth quoting. He said:

> "Before leaving the purely theoretical side of this Bill I should like to ask the House a question. Is it not possible that this Bill indicates the future type of government for all countries where the application of democracy is, for whatever reason, difficult? May it not be that we in this Bill have stumbled on what will be the future line of development in all countries where democracy is difficult of application?"

This sentiment is not confined to private members of Parliament unencumbered with responsibility. It extends also to responsible Ministers of His Majesty's Government. For Under-Secretary Butler said:

> "I believe that in this constitution are the features of the strong executive known to the East and of the democratic form known to the West; and I sincerely hope that we have found a future form of government that will not only provide a possible modification of democracy which may work satisfactorily, but may also tie together the best in the East and the West."

Sir Samuel Hoare may indeed take out a patent for this new discovery, but before it is proved to be of world-wide application, has he made sure that there are Princes to be found all over the world behind whose rather attenuated sovereignty an authoritarian Government may take shelter?

INDIGENOUS GOVERNMENT!

MR. DAVIDSON very much resents British politicians, both Labourite and Conservative, superciliously calling the Indian States backward. He considers it "an extremely offensive and impertinent thing to do." Backward they may be and perhaps they are, but they are native to the soil. That is the more important thing. "When critics outside and inside this House," he said, "refer to the fact that the Indian States are backward and that their civilisation is not up to the level of British India, they must not forget that they have an indigenous form of government." When a Government is indigenous, why need it also be civilised?

Well, let us apply this test. The Reserve Bank and the Statutory Railway Authority, to name only two things, are not indigenous to India. Why does the British Government then force them upon her, so much so that no amendment can be introduced into their constitution without the Governor-General's previous consent? Why not let India carry on these things as they are carried on in our dear old Indian States?

But we wonder if the indigenous form of government would have had so much attraction for Mr. Davidson and his likes if Indian autocracy were not in fact a mere screen for British autocracy. They want the Princes with their autocracy to be in the Indian constitution because they know that behind the Princes stand the Britishers, and that under the disguise of Indian rule British rule would be perpetuated.

AN ALL-IN SAFEGUARD FOR THE ARMY.

LIEUT.-COLONEL MOORE had some doubt as to whether the Bill sufficiently safeguards British control over the Army. He asked:

> "Suppose he (the Governor-General) finds it necessary to discharge these special responsibilities in regard to a particular Province and he is forced as a last resort to the Army. We all hope, of course, that he will not, but he may find that the Minister in charge of some particular Department on which the Army depends is hostile to his Government. What then? He can of course dismiss and replace them, but he cannot go on doing that indefinitely. Then he himself takes over the appropriate Departments, but he can only move the Army to the disaffected Province if the railwaymen operate the railways, if the clothing factories turn out the clothing and equipment, and if the commissariat and ordnance departments shell out stores and ammunition. What is the safeguard here?"

The Government's scheme leaves nothing to chance. Everything is beautifully provided for. Mr. Butler, Under-Secretary, had no difficulty in setting the doubt at rest. He said:

> "I would remind hon. Members that in Clauses 177 (4) and 178 (2) of the Bill there is provision for the Governor intervening and giving directions to the Railway Authority in cases of necessity (in the matter of communication)."

Clause 177 (4) provides that the Governor-General may take over from the Ministers their powers and functions in respect to the Railway Authority and

> "May issue to the Authority such directions as he may deem necessary as regards any matter which appears to him to involve any of his special responsibilities, or as regards which he is by or under this Act required to act in his discretion or to exercise his individual judgment and the Authority shall give effect to any directions so issued to them."

SAFEGUARDS NOT OF PAPER, BUT OF STEEL.

INDEED, all the safeguards in the Bill are compounded of steel, not paper. Mr. Richard Law said:

> "In previous debates on this subject we have heard a great deal about paper safeguards. We have not heard nearly so much about paper safeguards to-day. Indeed, anyone who reads the Bill must come to the conclusion that the safeguards are made rather of steel than of paper. I may not be a mathematician, but if I were I should have tried to have counted how many times the phrase 'in his discretion' applying to the Governor or Governor-General occurred in the Bill. Whatever safeguards there are, they are not paper; they are pretty solid and severe."

SAFEGUARDED RESPONSIBILITY.

SAFEGUARDED responsibility is no worse than full responsibility; it is better. This is the Conservative opinion in general. Diehard opinion is slightly different; according to it, safeguarded responsibility is a negation of responsibility. Commander Marsden said:

> "My suggestion would be to restrict, if necessary, the sphere of the Minister's duties, and when you have done that, to give him real responsibility, not cloaked responsibility, when every moment other people may step in and override what he is doing. It is rather like a man learning to fly and having alongside him a pilot who has charge of the controls, and he goes all through his life knowing that at any stage the other person can take charge. That is not responsibility."

CURING IRRESPONSIBILITY !

SIR SAMUEL HOARE'S chief argument in recommending the measure of reforms to the Conservatives was that the present irresponsibility of the Assembly was a great danger, that it must somehow be ended, and that it is best ended by associating in an all-India federation the Princes who would check the popular elements as sternly as any British Government could hope to do. The diehards, however, in their speeches, neatly turned the tables on him. The Princes are no doubt a good set of fellows, they said ; but would not their introduction and the addition of meticulous safeguards, not of paper but of steel, only egg on the popular elements to more irresponsibility? Sir A. Boyd-Carpenter said :

> "I would ask hon. Members seriously to consider whether it would not be wise to think before they endorse a policy based upon fear, surrounded by so-called safeguards which must only militate against success, antagonising the very people whom it is proposed to enfranchise and creating in India itself, that great dependency of the Crown, an innate hostility which will increase the sense of irresponsibility to which the Secretary of State referred yesterday. Of course, it will. Irresponsibility will be shown in a greater degree in so far as this measure, with its restrictions, its antipathies and its ordinances, militates aganist the welfare of those submerged millions in India whom it is our first duty to protect and for whose interests many of us feel and speak."

WILL THE CONSTITUTION BE WORKED ?

EARL WINTERTON appealed to the House to attach no exaggerated importance to the fierce denunciation which Indian politicians have showered on the Bill. The more important thing to note, he said, was the fact that all were prepared to work the constitution when passed. And his ground of attack against the die-hard Opposition was that the scheme proposed by them—he called it the Salisbury scheme—would not even be looked at by Indians. "No one in India," he declared, "is prepared to work it." How did he find it out? Who has ever said in India that while the Hoare scheme would be worked, the Salisbury scheme would not be? If the Hoare scheme would be worked, so would the Salisbury scheme —and in the same sense. It would be worked, to be completely wrecked. But, just as likely, it might be boycotted as the Hoare scheme might yet be, in spite of all the self-complacence of Earl Winterton.

UNPARALLELED IN HISTORY.

BOTH Labour and Tory Oppositions are united on two things: first, in thinking that India is solidly against the Bill, and, secondly, in holding that the measure must not be forced on India aginst her declared wishes. The resolutions of the Servants of India Society, the Liberal Federation and the Assembly were again and again referred to by prominent members of both parties and all said that the Bill, good or bad, must be promptly withdrawn, since Indians were unanimous in opposing it. Sir Henry Page-Croft said:

> "Congress swept the board at the general election, and now, this evening (7th February), we have this momentous information, that the Legislative Assembly, by a surprising vote— 74 to 58—has carried an amendment which makes the pursuance of this policy in this country, unless we are out against India's will, one which is really ridiculous . . . Hon. Members see that that is an overwhelming vote of the elected members in the Indian Legislative Assembly. They have said, 'We do not want this policy,' which we here are so obligingly deciding to confer upon India. There has never been anything like this in history : a Parliament endeavouring to force a measure of reform upon a people who have rejected the reforms by the electoral machinery set up by that Parliament."

DON'T REJECT !

THERE are many amiable and estimable people who toll us : "The present reforms scheme may not be fully satisfactory ; it might have been better. Nevertheless accept the scheme as it is. You will not have a better one for years and decades to come. The Labour Party will not have a large enough majority in the near future and it will not do even then what you want. If you let go this chance, irresponsibility at the centre and dyarchy in the provinces will continue for many a long day. Don't be so foolish. What do you depend upon for a subsequent change ?" An answer to the question was provided by Sir Arthur Steel-Maitland (quite unconsciously of course, for he said the following in answer to the die-hards who oppose the Bill, but his words have a wider application).

> "If one tries to stand by things as they are, what does it really mean ? Dyarchy was not a success, and it will increasingly be not a success, as time goes on. If we try to maintain it now we shall begin to alienate the best friends we have out there, people who are not always vocal but who exercise an influence, and we may in the end begin to affect the very services by which we can carry out our administration. We have a loyal police and a loyal Indian Army, and yet we cannot prevent the feelings that are spreading right throughout the whole people from, in the end, having an effect upon them too. I say the other alternative seems to me to be unthinkable when one studies the real facts of the case.

Sir Athur or men like him would be voicing the same sentiments, say, a year or two later if, having put away the proffered constitution, we proposed a new one then. We don't bank upon Labour coming into power ; we bank upon Sir Arthur Steel-Maitlands in British politics being guided by the inexorable logic of events.

THESE Sir A. Steel-Maitlands would of course be supported then by all Liberals, though their liberalism is very much in eclipse now. Sir Herbert Samuel said, in refuting Churchillian arguments:

> The only alternative to proposals such as are embodied in the Bill is coercion, and I firmly believe that the general policy advocated by my right hon. Friend the Member for Epping (Mr. Churchill) and those associated with him must inevitably lead to a regime of coercion in India. If this Bill is rejected, there must be a revival in India of the movement of civil disobedience. So far from assisting British trade, it would almost inevitably lead to a renewed commercial boycott. It would produce hostility and antagonism on the part of large sections of the Indian people towards this country would be immensely increased and embittered by the feeling that we had now definitely broken the pledges that we had given.

> All coercion is bad, but coercion to cover betrayal is the very worst of all. After all, you have in India 340,000,000 people, and concerned in their ranks of the Government of India only 800 British people with another 500 in the police forces. It is utterly impossible in such circumstances to maintain a stable, permanent, successful government without a full measure of co-operation on the part of the Indians. The right hon. Gentleman the Member for Epping and his friends plead for a strong government at the Centre in India. But can any Government in any country be strong which has to work in the face of a hostile population? This Bill seems to me to be dictated by plain common sense.

Sir Herbert Samuel would say the same thing later when it becomes necessary to offer a larger measure of reform, with or without federation, to India. That is India's real hope, and it only depends upon India's strength to bring it to fruition, not upon the wishes of Liberal or even Labour politicians in Britain.

WHEN AND HOW?

MR. DAVIDSON, who it will be recalled, presided over the Committee appointed to consider how the financial burden should be distributed between British India and the Indian States, told the House of Commons that the dice were loaded against the States. He said:

> "I repudiate the suggestion, which has been too often made, that it is a bad bargain for British India if the States come into the federation. It is not, even financially. This is something that the House ought to remember. Many States now are paying for their forces which are available for internal security and also, through the customs, for the general defence of India. They are paying twice over."

We challenge this statement most emphatically. Let him prove it to British India. He seems to think that the States are as a matter of right entitled to a share of customs revenue. Let Mr. Davidson refer on this subject to the Butler Committee's report.

But Mr. Davidson is not content to give his own opinion on the matter. He says that the recommendations of the report of his own Committee "were fortunately accepted both by British India, by the States, by the Round Table Conference and by the Joint Select Committee and now find themselves in this Bill." When did this fortunate event of British India accepting his report happen and how? We should like to know. We are entirely in the dark about it. Why was his Committee then confined to Britishers and States' representatives? Will Government be prepared to have the question investigated by a body on which there are some representatives of British India like Sir Sivaswami Aiyer, who has thought deeply on the subject?

SELF-GOVERNMENT AND POPULAR GOVERNMENT.

The burthen of the Labour Party's song throughout the debate was Popular Government and not Self-Government. Mr. David Grenfell put it in one sentence: "Self-Government for India does not mean the transfer of authority to the rich landed interests and the ruling classes of India." Mr. Charles Brown expanded it somewhat when he said:

> "The right Hon. Member for Epping (Mr. Churchill) says: 'Push them (the Indian capitalists and the Princes) out of the picture and keep control yourselves.' The Government are more subtle than that. They say: 'Oh, no, do not keep them out of the picture. Let us have co-operation with the Indian capitalists.' That is really the basis of this Bill. It is meant to cement co-operation between the British exploiter, the Indian capitalist and the Indian Princes, who between them hold in subjection the mass of the Indian people, and there is no real intention to give a form of government or set up a machine of government through which the Indian masses will be able to liberate themselves. For my part I shall have no hesitation at all in voting against the Bill when the time comes."

Our Delhi Letter.

THE NEW ASSEMBLY.

(FROM OUR SPECIAL CORRESPONDENT.)

New Delhi, 16th February.

IT is now slightly over three weeks since the new Assembly commenced its sittings, and the first impressions obtained of the new Opposition are definitely favourable so far as results go. As one who has observed almost throughout the doings of the previous Opposition, this, the present, is by far the more able and thoroughly solid.

Already the Opposition has scored no less than half a dozen victories over the Government. A very convincing verdict was given over the adjournment motion to withdraw the ban on the Red Shirts. No less brilliant was the result of the Indo-British Trade Pact. The adjournment motion on the confidential circular issued by the Government engendered much heat, but as anticipated it was talked out. A mistake, however, was made by the Opposition who were ignorant of the rules on the first day. For when the closure was moved, the Chairman, Sir Henry Gidney, replied to the Opposition that he knew his responsibilities. The truth was that he did not know them so well as he thought he did, for had the Opposition persisted it could have compelled him to respect the wishes of the House. However, this mistake was not repeated on the second day when the adjournment motion re: prevention of Mr. Sarat Chandra Bose from attending to his duties as a member of the Central Legislature was adopted. Twenty minutes after the motion had been moved, Mr. Fuzlul Huq moved for a closure and he was seconded by Mr. Satyamurthi. The Law Member came to the rescue of the Government and raised a couple of legal points which resulted in a legal battle of wits between two ex-Advocate Generals, Mr. Bhulabhai Desai being the other.

A good deal has been said and written both for and against the Congress attitude during the J. P. C. discussion over the Communal Award. It appears that Congress neutrality over this question has been seriously questioned by Hindu sections in various parts of the country, and one journal has gone to the length of asserting that the Congress has sold the Hindus, "done the Hindus in the eye", to use the

exact phrase. It is urged that Congress ought to have opposed the motion.

Those inside the fold are inclined to think differently. It is held that Congress had all along been definite on this question so that a neutral attitude was clearly indicated before the discussion. There were of course various last minute consultations, earnest conversations and confidential talks between Mr. Bhulabhai Desai and Mr. Jinnah, the Leader of the Independent Party, a couple of hours before the motion was put to the vote on the third day before a packed Chamber, and a highly excited Opposition. One gathers that the men on the spot were no fools and that they acted with a full knowledge of their responsibilities. It is believed that efforts are still being made to compose the difference between the Muslims and the Hindus over this vexed question and developments are expected.

It will be remembered that the Communal Award is accepted for such time as a new one is agreed upon by the two major communities and substituted for the present one. In the circumstances it would be little use blaming Congress for what it has done, for it is far better to have an united Opposition than to see a Government scoring victory after victory as the result of winning over the party that holds the balance in the House.

There is little doubt that Congress has acted wisely in the matter of the other two amendments of Mr. Jinnah advocating sweeping changes in, if not total rejection of, the J. P. C. scheme. This was done after Mr. Bhulabhai Desai's amendment for summary rejection of the scheme had been turned down. There was another minor victory on a Government resolution seeking that the draft convention for the regulation of hours of work in automatic sheet-glass works passed at the 18th session of the International Labour Conference be not ratified.

In spite of all these victories Government appear to ignore the wishes of the House and a straight question put by Mr. Satyamurti to Sir Joseph Bhore served to elicit the irresponsible retort that Government did not consider it was in their interests to terminate the Indo-British Trade Pact. Since then, various Congressmen have created opportunities in their speeches to ask Government what was the use of having a Central Legislature at all, if the wishes of the House, and incidentally of the whole country, are not going to be respected.

Such behaviour only serves to weaken the hands of Government and helps to create an unfavourable impression in the minds of millions of Indians all over the country. It goes further and brings closer the various parties of the House towards a common view-point.

RACIALISM IN KENYA.

The Economic Develooment Committee appointed by the Government of Kenya in Mar ch 1934 has submitted its report. The Committee was composed of three officials, all Europeans of course, five non-official Europeans and one non-official Indian. The Report of the Committee is not unanimous; three among the five European settlers submit a separate Minority Report and so does the Indian member, Mr. D. D. Puri.

Mr. Puri has in his Report entered his strong protest against a policy of racial favouritism that is being pursued by the Kenya Government to the advantage of Europeans and to the common detriment of Indians and Africans. Passages from this Report bearing upon the general lines of policy are quoted below.

THE necessity of assisting producers and taxing all classes of the community so as to keep the producing classes solvent and affluent is emphasized and in this connection attention may be drawn to the reservation of the Highlands for European settlers only and the reservation of other arable land for the African natives of the country. The Indian has been debarred for all practical purposes from owning any arable land and has thus been precluded from developing into a producing class.

The agricultural census frankly admits that the agricultural settlement of Indians is negligible. The whole Indian community occupies merely the position of small traders and merchants, having been forced into it by the economic policy of the Imperial Government.

Not being a producing community, the injustice of taxing the Indians to assist the European producer is obvious. An equal incidence of taxation presupposes equal opportunities for contributing to the production of the wealth of the country. These opportunities have been denied to the Indian. The contribution of the section of the community that thus labours under a definite economic disability to the taxation revenues of the Colony must be proportionately less. Such a section can only be called upon to pay for the social and protective services rendered by the Government and for nothing more.

If this section is called upon to contribute an equal taxation for revenue, it becomes the duty and obligation of the Government receiving this revenue or enforcing this contribution to see that all economic disabilities are removed. I would go further and say that the section will be entitled to a special subsidy in order that it should be compensated for the loss sustained over a continuous period of years during which the disability has existed.

In view of this any subsidies or other forms of assistance to European settlers should not form a charge on the revenues of the country, which include revenue received from the Indians and there should be no distinction in the social and protective services rendered to the latter by the Government.

If this just principle in distributing the incidence of taxation is not accepted, the economic policy of the Government must be revised so that the Indians as such should not suffer under any disability whatsoever and may be enabled to produce

wealth for the betterment, prosperity and economic well-being of the country as a whole.

Only 12½ per cent. of the land alienated to the Europeans has so far been brought under cultivation. Put into other words the European section settled in the Highlands are permitted to hold away from all prospects of cultivation and development 88 per cent. of the finest and most productive of the agricultural land of the Colony, and for this service of hoarding land and withholding it from economic exploitation and use it receives bounties, subsidies, loans and freedom from taxation. This state of affairs in Kenya ought to be remedied at the earliest possible moment. As a first measure of reconstruction all the land that cannot be handled by European settlers should be given up by them to the Crown, the productive capacity of such land should be assessed in its potential money value and a tax on all uncultivated land on the basis of the assessment indicated above should be levied. Such a tax has been suggested by Europeans themselves and justified by arguments.

All subsidies, loans, bounties, reductions in railway freights and assistance from State revenues taking the form of a charge on it, definitely intended for developing European agriculture, should form a special accounts head and should be a charge on a special fund formed from the proceeds of a land tax levied on European agriculturists.

In this connection it may be pointed out that the Land Bank has been of no help to the Indian agriculturists of Kibos or of the Coast. It has also been of no use to African producers. For the same reasons all loan charges including sinking fund relating to loans expended for the purpose of assisting European agriculture should not be met from general revenues, but from the contribution of European farmers to taxation specially designed to meet those charges.

As not being producers, the Indian community are opposed to the present Railway policy and the lay out of the branch lines. While the main railways serve European agricultural areas intensively and the branch railways almost exclusively, important African areas are left without any service.

The rating schedule of the Railway is unjust and unfair. It transfers the legitimate burden of the European agriculturist to the shoulder of the Indian and African consumer and penalizes attempts at comfortable and civilized living by a heavy goods rate on imported articles. The producers must pay the legitimate cost of transport of their goods to the Coast, that is to say, the real cost of maintaining the Railway and running it. The high cost of using imported articles of every-day use impedes the progress of the African and imposes an intolerable burden on the Indian.

So long as the policy of the Government continues to be that of restraining the Indian from being a producer in Kenya, any sound reconstruction is impossible. In order that the uneconomic European agriculture should be just kept alive, both the Indian and the African must be taxed heavily and unjustly.

I am, therefore, opposed to any measures that are proposed for the reconstruction of the economic life of the Colony on the assumption that the present-day economic organization will be maintained intact. I am opposed to the inclusion of Indians in the general scheme of taxation, the greater portion of which goes to subsidise only one section of the community.

I am also opposed to the continuance of the whole system of agricultural finance adopted in this Colony. Even if it is admitted that Kenya is an agricultural country, it must be conceded that more men are needed to exploit agriculture in this Colony and that the required number of men are not available from the policy of making Kenya a white man's land. In order to be profitable, the development of land in this country has to be intensive and not extensive. There is neither the requisite number of exploiters nor of labourers. All development policies based on extensive experiments must therefore fail. Any support lent to the present-day policy of development is support given to a policy of waste and ultimate bankruptcy.

The only way to reconstruct the economic life of Kenya is to universalize agriculture and productiton. A landowning class maintaining itself on subsidies, African labour and the exploitation of the consuming sections of the community can never ultimately succeed. The world depression, and absence of industries in the Colony leave no surplus that could be utilized for the maintenance of a landed community. The measures that restrict Indians to trade and the Africans to the cultivation of inferior crops cannot last long and as consciousness amongst the Africans people grows, labour must always be deficient. In order to maintain the European agriculturist in his position of predominance the administration must continue to work in a circle: heavy and unjustly distributed taxation, exclusion of the non-European races from competitive opportunities of production, breakdown, and more unfair taxation.

It is therefore essential that real statesmanship should see the impossibility of the task of reconstruction so long as the present order of things continues. Either all races should be brought into the sphere of production and assisted in the varying degrees of their capacity to produce in their work or those who enjoy the monopoly of production should be specially taxed.

The latter can be achieved by resuming all land in the possession of private owners which has no prospect of being developed within a reasonable period, by taxing all the residue of undeveloped land continuing to be under private ownership, and by imposing a special tax on landowners for the creation of a fund that could be utilised for rendering assistance to agriculturists in distress.

The former can be achieved by repudiating the policy of maintaining the Highlands reserved for Europeans and by settling Indian communities on fertile land by encouraging the small farmer. An additional measure is to open up areas adjoining the Coast and between the Coast and Nairobi to agricultural enterprise and to subsidize all attempts towards that end. The geographical position of the Highlands must always operate as a detriment to their being profitable.

"FUNDAMENTALLY FAULTY".

Professor K. T. Shah agrees wholly with Mr. Jinnah's resolution carried in the Legislative Assembly condemning the federal scheme as wholly bad and past all hope of possible amendment. Prof. Shah's gravest charge against the scheme is that it belies and betrays the principle of popular government to which we are all attached. He writes in the course of an article in the Bombay Chronicle :—

THE very structure of the proposed federation is noteworthy. On the platitudinous excuse, repeated *ad nauseam*, that Indian conditions are peculiar, they envisage a federation in which each State would join as and when the ruler likes,—there is no mention of either the State as a political unit or of the people of the State—and to the extent that the ruler by his Instrument of Accession specifies. The (J.P.C.) Report does, no doubt, add some

highsounding remarks about the advisability of uniformity in the terms of accession of each ruler to the federation; but the right is unquestioned and unfettered of each ruler to dictate his own terms,—if such an expression could be in order when speaking of such a helpless lot of people, 'vis-a-vis' the Foreign and Political Department of the Government of India, as the Indian Princes—for joining the federation, and remaining in it. That they would have, if and when they join, and for such of them as join, their own mode of selecting or nominating their representatives (?) in the federal chambers of the legislature, totally different from, if not radically opposed to, the principle governing the election of the corresponding representatives of the Indian Provinces; that they will have their own concessions, indemnities and immunities in regard to finance for joining the federation; that they will have their own special relations with the personal representative of the Sovereign in matters which embody the indescribable perquisites of paramountcy—these are all concessions to the Princes which fundamentally vitiate the scheme of these so-called constitutional reforms for India.

The place of these Princes or their nominees in the federal Cabinet; their rights or obligations in respect of collective consultation and responsibility of the federal Ministry; their powers of blocking any advance on democratic lines—these can be more easily imagined than described if only one takes the trouble to go through this amazing document. There is thus, both reason and wisdom and political sagacity in Mr. Jinnah's amendment in the Assembly condemning outright the entire portion of the Report dealing with the central structure, its powers and functions. British India cannot consent to have a federation—much as all ardent patriots and nationalists might desire the complete unity and solidarity of this country's political structure—in which every accepted principle of popular government is to be belied and betrayed; in which every ideal of true democracy is to be sacrificed to the demands of British Imperialism; in which every opportunity for distributive justice to the masses of this country—starved in body and stunted in mind—is to be scientifically excluded. The Princes are, it is an open secret, only made the excuse of these retrograde and reactionary recommendations: it is British Imperialism and British Capitalism which have inspired the present proposals, dictated the Safeguards contained therein, and demanded the "special responsibilities" of the executive chiefs that are unparalleled in any constitution all the world over. As a speaker in the Assembly put it to the members of the Government of India: "Would Britain herself have accepted such a constitution at the hands of Germany, supposing that country had been victorious in the war of 1914–1918?" The answer cannot be in doubt for a moment.

THE STATES' PEOPLE AND FEDERATION.

A Sub-Committee of the Travancore State People's Association appointed to consider the J. P. C. Report has recommended to the Association the following opinion on points of general application to all the States:

DOMINION STATUS.

THE Sub-Committee at the outset observe that one fundamental factor that would strike even a casual reader of the J. P. C. Report, is the unwillingness shown for the transference of political power and responsibility to the people of India. The exclusion of the people of Indian States from any consideration whatsoever, the provision to have the formidable bloc of the nominees of the Princes in both the Houses as a bulwark against the rising tide of democracy, the numerous safeguards and powers in the hands of Governors and the Governor-General, are all designed to put off the day, in the Committee's opinion, of the solution of the real problem, viz., transference of political power and responsibility from the people of England to the people of India.

STATES AND BRITISH INDIA.

The Sub-Committee further observe that, despite all protestations of British Indian politicians, the people of Indian States are not convinced that the British Indian politicians have realised that full responsible government for India will be an idle dream so long as one-fourth of the population of India living in 600 odd States are not enabled to have full federal citizenship and responsible government in their territories.

The Sub-Committee join the people of British India in their demand of Dominion Status as defined in the resolution of the Imperial Conference of 1926.

The Sub-Committee object to the principle of nomination of States' representatives by the rulers. The Committee take strong exception to the attitude of the British Indian politicians in the matter and remark that the Joint Parliamentary Committee apprehends that the elected representatives of the Indian States in the federal legislatures would make common cause with British Indian representatives.

PARAMOUNTCY—ITS EXTENT AND LIMITATION.

The Sub-Committee next discussed the question of paramountcy in all its bearings. It arrived at the conclusion that, in regard to the complaint of the Princes with reference to the interference of the paramount power arising out of its obligations to preserve internal peace, it is to be stated that so long as the paramount power guarantees protection to the rulers from internal rebellion, the exercise of paramountcy, the only safeguard against misrule, should not in any way be limited. The relaxation of interference by the paramount power in the affairs of the States should be in proportion to the transfer of responsibility to the people by the rulers.

The Travancore Ruler should be willing to allow the representatives to be elected by the people to the Assembly (Lower House) and by the Travancore Legislature to the Council. The State Rulers should allow the declaration of fundamental rights to be embodied in the Constitution Act. Disputes between States and British India on other than those included in federal subjects must be referred to a tribunal of experts whose opinion must be accepted by the Governor-General. In cases of conflict between British India and Travancore, in economic and financial matters, provision must be made to the effect that the exercise of paramount power would never be invoked to coerce the State into submission. The exercise of paramountcy in pursuance of the discharge of the obligation of the Crown to preserve internal peace in Travancore is not to be hampered by any restriction or restraint till responsible government is established in Travancore in which case the exercise of paramountcy should automatically cease.

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THE RIGHT OF ADOPTION.

MR. H. R. DESAI, member of the Bombay Legislative Council representing the Deccan Sardars and Inamdars, has proposed a Bill regarding the adoption by a Hindu widow, the pertinent portion of which runs thus :—

> "No Hindu widow, who has not the family estate vested in her and whose husband was not separated at the time of his death, shall be deemed competent to adopt a son to her husband without his authority or the consent of his undivided co-parceners."

Rao Bahadur Kale of the same Council has tabled an amendment which is as follows :—

> "Provided such adoption shall not divest the estate already vested in another person at the time of the adoption."

The Bill would invalidate the adoption by a widow of a joint family made without the consent of the undivided co-parceners. Rao Bahadur Kale's amendment is intended to limit the restriction to those cases where the estate has vested in another person at the time of adoption. A close scrutiny of the Bill and the proposed amendment leaves, however, an impression of obscurity about the two. In the statement of objects and reasons the learned mover begins by stating that in the Bombay Presidency the widow's power of adoption has been greater than in other parts of India and, referring to the case of *Ramji* vs. *Ghamav* (1879) I.L.R. 6 Bom. 498, says that the rule of law then initiated has been disturbed by the decision of the Privy Council in the case of *Yadav* vs. *Namdev* (48 Indian Appeals, 573). But the effect of this decision was considerably wiped out by the full Bench case of *Ishwar* vs. *Gajabai* (I.L.R. 50 Bombay page 468) in which the High Court at Bombay declared that the decision in *Yadav* vs. *Namdev* did not affect the rule that prevailed in this Presidency and which was initiated by the case of *Ramji* vs. *Ghamav*. The Bombay High Court also held that the observations of the Privy Council in *Yadav* vs. *Namdev* were obiter and that these need not be considered as binding upon the High Court. In the recent case of *Bhimabai* vs. *Gurunath Goudha* (60 Indian Appeals 25) their Lordships of the Privy Council affirmed the decision in *Yadav* vs. *Namdev* and asserted that their remarks in that case were by no means obiter but were the result of a deliberate decision given at the desire of the parties. In the case of *Bhimabai* vs. *Gurunath Goudha* their Lordships very clearly declared the right of adoption of a Hindu widow in a joint family in Maharashtra to be of an inherent character.

The two decisions of *Yadav* vs. *Namdev* and *Bhimabai* vs. *Gurunath Goudha* have come in for a notice, both adverse and favourable, in the legal journals as well as in the newspapers.

Mr. Kulkarni, a writer assuming the nom de plume of "Inter Temple" and Mr. Kane have criticised the case adversely. Mr. Desai, who has moved the Bill in the Council, has subjected the cases to a detailed criticism. Rao Bahadur Kale in the Bombay Council, while giving his support to the Bill, as stated above, has proposed an amendment. The correspondents in the papers have also some of them supported the Bill and others opposed it.

Apart from the criticisms in the papers and journals, lawyers and practitioners have also exposed their views at meetings and conversations.

The argument of those who have criticised the case adversely is somewhat as follows :—

(1) The effect of the two cases would be to disturb the property law which has been established for a long time ever since 1879. What is called *stare decisis* requires a firm adherence to the principle of stability of decisions, which alone can secure properties from sudden and unjustifiable disturbance.

(2) Giving the widow an unrestrained power of adoption would result in disturbing the peace of the family and would ultimately lead to its destruction.

(3) This liberty given to the widow would widen the scope of the activity of mischievous persons and deepen the misery that would be the necessary result of such activities against the joint family.

(4) It would defeat the estates which would otherwise go to the surviving members of the family upon the death of the widow's husband.

(5) It is against the textual authorities.

(6) Other arguments based on social considerations are that the widow would be used as an instrument of mischief.

(7) Another and a somewhat curious position that appears to have been recently taken is couched in the form of advice to the women. It is this:

The women of India are asking for full rights on a footing of equality with men. The right of adoption is only a portion of the full right of ownership. The women therefore, are advised by this section that they would be prejudicing their chances of getting the rights in their entirety if they did not support the Bill which is now pending before the Bombay Legislative Council.

The arguments of those who are opposed to the Bill and who welcomed the decision of the Privy Council may be summarised somewhat as follows:—

The position of the Hindu widow has been rendered anomalous, not so much by the Shastras or texts, but to a large extent by what is known as the Anglo-Hindu law. For be it remembered, they say that the limitations and restrictions which are now so familiar a feature to lawyers with regard to the Hindu widow's estate had not acquired acuteness in olden times.

In short, their position is that the cases decided by the British Courts, whether in India or in England, have considerably curtailed the power of the widow, and whenever any decision on broad principles, boldly considered and declared, is given by their Lordships, it should by all means be welcomed and never opposed.

The next position is that when adoption by a widow in a joint family is made with the authority of the husband even when his co-parceners do not agree or are positively opposed that adoption is held to be valid. With the validity given to such adoptions it is difficult to appreciate the apprehension entertained by those who oppose them in regard to an adoption made by the widow without the husband's authority. In either case the widow introduces an outsider into the family and it is difficult to appreciate how the authority of the husband would prevent all the disaster which is apprehended in regard to an adoption made without the husband's consent or authority.

Subsequently at the first reading of the Bill several speeches were delivered including those of the mover of the Bill and of the Amendment, and further consideration of the subject has been adjourned to the present Session of the Council. In the meanwhile opinions were invited from Government officers and others interested in the subject or expected to be able to give their views. These opinions are now available in print. A collected view of these presents three points which survive from the many which have been so far ventilated. The supporters of the Bill, say, in short

(1) that the adoption by a widow in a joint family would be against textual law; (2) that such an adoption has not been permitted so long by the case law and the principle of stability decisions is appealed to; and that, lastly, (3) it would bring about disruption of the joint family which would be a disaster. Taking these in their order, the religious and textual consideration when subjected to scrutiny and examination would not survive the test. Shortly stated, the position is this. The oft-quoted text atributed to Narad or Manu is taken as the starting point. The burden of that text is that a woman can never be without dependence; while a virgin, the father protects her; during married life, the husband; and in old age, the son. At no stage therefore can she be independent. To this text is coupled another, where the question of consent is brought in and a cumulative argument on the basis of these is that, in whatever condition a woman may be, she must have somebody whose authority or consent alone can give validity to the adoption. Now the Bombay High Court long before the decision in *Ramji* vs. *Ghamav* had declared that in the Bombay Presidency, the widow of a separated Hindu has the inherent right of adopting a son to her decesed husband. This declaration has not been challenged so far. It is more than ten years older than the subsequent case of *Ramji* vs. *Ghamav*. When the question came before the Privy Council in the case of *Yadav* vs. *Namdeo* the Privy Council considered the broad fact whether the position that a woman can never be independent was sustainable according to the sentiment in the Bombay Presidency and in the light of that consideration the two cases of *Rakhamabai* vs. *Radhabai*, the earlier decision and of *Ramji* vs. *Ghamav*, the later decision were taken into consideration and their Lordships, after an examination of these cases, came to the conclusion that "if the widow when her husband was separated could without dependence on the authority of any one else make an adoption there seems to be no reason why she should not be competent to equally do so, when the husband died a member of a joint family, her sole reason for the adoption being to secure to the husband a continuity of representation in this world and the next."

In this connection "Inter Temple" in the B. L, R. observes that according to him a text is yet to appear which lays an obligation upon the widow to adopt—rather a bold challenge to the Hindu society."

It is common knowledge that the first duty of a Hindu wife during the life-time of her husband is to attend to his comforts, and her highest duty towards him after his death is to secure to him the utmost possible religious benefit. The best way to secure religious benefit is through a son. The Smṛti of Manu will be found to be overflowing with sentiments of this nature and a fairly representative position has been exhibited by Sir George Lowndes delivering the judgment of the Privy Council in 60 I. A. 248. "The 9th chapter of Manu's Code, which has always been regarded as of paramount authority, is instinct with this doctrine. The father by the birth of a son discharges his debt to his progenitors (v. 106); through him he attains immortality (v. 107); by a son a man obtains victory over all people, by a son's son he enjoys immortality, and afterwards by the son of that grandson he reaches the solar abode (v. 137); a son is called "putra" because he delivers his father from "put" (v. 138). In the Dharma Sutra of Baudhayana, which is probably older than the Christian era, the formula prescribed for adoption is: "I take thee for the fulfilment of my religious duties: I take thee to continue the line of my ancestors" (Bau. vii. 11. *Sacred Books of the East*, Vol. XIV, 335).

It is clear therefore, that the foundation "of the doctrine of adoption" is the duty which every Hindu owes to his ancestors to provide for the continuance of the line and the solemnisation of the necessary rites. In the face of this, it is difficult to appreciate the challenge of the writer under the nom de plume of "Inner temple" for a textual authority on the point. In fact every Hindu knows that the first duty of a widow is to secure religious comfort for her departed lord.

The third point in connexion with the religious argument has been recently brought out by Rao Bahadur Kale in his peech in the Bombay Legislative Council. In that speech, he urges that adoptions have ceased to have any religious

significance, that they have become purely a secular affair. It is difficult to appreciate this expression of opinion without a proper analysis of the idea of adoption. For, if Rao Bahadur Kale was giving expression to a fact—a reality—as one is bound to concede for any expression of opinion coming from such a quarter—it must be entirely one-sided. If, according to the Rao Bahadur, adoption is a purely secular matter, it can only be so for those whose secular interest stands affected, either by way of appreciation or depreciation. The members of a joint family who, suppressing the religious duty they owe to their departed brother, decline to give their consent to an adoption by his widow, are obviously obsessed by one idea, and that is the secular advantage that would be theirs if the gap caused by the death of the brother was not supplied by the admission of another in his stead. From their point of view therefore Rao Bahadur Kale may be right in characterising adoption as a purely secular matter.

But what of the widow? Her only point is to secure the religious welfare of her husband and through him of herself. Whether the adopted son discharges, after adoption, the duties expected of him or not, is a different matter. How many of the *auras a* sons attend to that duty? Yet no argument has ever been advanced that for that reason the *auras a* son is not expected to perform any religious duty. It is not the function of law to look to facts; it bases calculations upon probabilities.

It is within the experience of everyone that great men have left directions to their widows to adopt. It could not be said that these directions were actuated purely by secular motives. Take for example the will of the late Mr. Justice Ranade. It was not that he was actuated by any secular consideration when he left directions to his wife for taking a boy in adoption. Mrs. Ranade was quite competent to take care of her own affairs as also of those of others. It could not be any other but religious considerations which must have been in the mind of the learned jurist which resulted in his leaving directions to his widow to adopt. It is therefore difficult to appreciate the remark, although it happens to fall from an eminent person like Rao Bahadur Kale, that adoption is purely induced by secular and not by religious motives. On the other hand, it may be asserted without much fear that the person taking in adoption always had religious motives; although it may perhaps be that the person who is taken in adoption or those interested in him are guided by secular considerations.

The last position under the religious argument is the conflict or variation among texts. But these have long been settled and brought within the very small compass under which the dependence of a woman was made to rest upon the divided or undivided state of her husband. This has been dealt with above.

The second group of arguments advanced in support of the Bill is based on social considerations. It is alleged that allowing such a wide latitude to a widow of a joint family would be permitting mischief-mongers to make use of the privilege given to the widow which might cause unhappiness in the family, thus ultimately bringing about its disruption. In the first place a family where the widow has been put to the extreme step of taking a boy in adoption must necessarily be deemed to have lost its character as a joint family possessing a joint family mentality. The index of such mentality may be found in the behaviour of the members towards each other and towards persons dependant upon the family. Another test of the existence of the joint family mentality is to be found in the willingness or unwillingness of the members to allow the widow of a deceased member to take a boy in adoption. It is really an inconsistent position for a member to say that he has a joint family mentality and at the same time take objection to the widow of a deceased brother taking orders with the other-worldly bliss of her husband. The most important point therefore to be noticed in this connection is that where there is no joint family mentality, and therefore really no joint family but a mere semblance or an outward show of it, its disruption or its continuance should be a matter of no concern.

Moreover what little could be found as a survival of the joint family has been already considerably shaken by the Indian Statute passed in 1930 known as the Hindu Gains of Learning Act (XXX of 30). This measure completely breaks the spine of the joint family. A measure which in effect tolerates the inequitable appropriation of gains made at the expense of the family and sacrifice of its members is tolerated because it benefits a male member. A comparatively innocuous declaration of the position of a widow by the highest judicial tribunal is bowled against as unjust and detrimental of the joint family interests!

The next argument is that it would devest interests already vested. This should not present much difficulty as what is called the doctrine of "relating back" has its own orbit of extensions and limitations. To the objection that there would be an anomalous position if after a partition is already made the widow takes a boy in adoption, the answer would be that in such a case there is no joint family and all that the widow is entitled to, she gets. There was a dissolution of the joint family and the same consequences will follow as in the case of an alienation before birth or conception of a member at the time of the alienation.

The third and the last argument which has been very recently put forth is that the women of India have been asking for equality of rights and status with men. That being the case, if they ask for a smaller right they would be jeopardising the higher right by being satisfied with this little. In the first place, in opposing Mr. Desai's Bill women are not asking for any actual grant to them. The women have already been given a privilege by the Privy Council by its declaration in the two cases in 48 and 60 Indian Appeals. Mr. Desai's Bill aims at taking away the right which the women have got. Therefore

there is no privilege which they are asking for. To ask the women to give up what they have already got in the hope of possibly getting something more would be an unacceptable suggestion, no matter howsoever high the quarter it may come from. Secondly, under similar circumstances on a different platform the earnest recommendation is being made for the people to accept what is given and to try for the rest. If such a recipe is good for political workers it is inconceivable how it may not be equally good for workers in the social cause. Indeed it may be asserted that society and its progress are evidently dependent upon evolution more than on any revolutionary change, as there is a necessary link between the past and the present in all the happenings in society. Therefore gradual acquisition of privileges is more in keeping with social changes than political ones.

If a divesting of estate can be tolerated in the case of an adoption by a widow of a separated Hindu there is no reason why the same mentality should not exist in the case of an adoption by a widow of an unseparated family.

The argument of stability of decisions is set up; but the doctrine of *stare decisis* has its own limitations and use. No doubt it is not advisable, nor is it a healthy sign for society, that its judicial decisions should constantly vary from time to time affecting estates in lands. But where any decision is based upon a fundamental misconception of principles resulting in a mistaken view of the right, it should be the business of the judiciary to stop all perpetuation of such a mistake and the principle of *stare decisis* would have no application to such a state of things. It is within the memory of every lawyer that such has been the case with most important topics arising under Hindu Law. For example, in regard to an adoption of an only son, it was only in the year 1890 that a Full Bench of the Bombay High Court decided that an only son cannot be adopted. Scarcely, however, ten years had passed when as a result of the Privy Council decision in two appeals from Madras and Allahabad, the Bombay High Court Full Bench decided that the adoption of an only son was unobjectionable under Hindu Law. In doing so it never felt that the rule of *stare decisis* was being overlooked. In fact it has no application where the decisions are based on an obviously mistaken view of law. In such a case it is the duty of the Court to correct it at the first opportunity after the mistake is discovered.

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