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Topics of the Week.

Devadhar Day.

THE first anniversary of Mr. Devadhar's death fell on the 17th inst. Public meetings were held on that day in different parts of the country at which glowing tributes were paid to his memory and his services to the nation eulogised. The meeting in Bombay City had for its president the Mayor, Mr. Jamnadas Mehta, who pointed out that the secret of Mr. Devadhar's life was his silent and indomitable devotion to national service. References were also made to his work in the co-operative field and to that for the relief of suffering due to fire, famine, cyclone, epidemic, etc.

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SPEAKERS at the Bombay meeting naturally made prominent mention of Mr. Devadhar's ceaseless endeavours for the uplift of Indian women, which had really given him a unique position among Indian public workers. Many persons and public bodies were working, before he appeared on the scene, for the spread of education among women, while others were striving to secure a better social status for them. While in no way neglecting the social and educational side of the movement for the uplift of Indian womanhood, Mr. Devadhar was the first to turn his attention in real earnest to the problem of making them economically independent. And he carried out this purpose of his through the Seva Sadan founded by him at Poona. At the financial stress through which the institution had been recently passing great anxiety was expressed. In Mr. Jamnadas Mehta's words, the Seva Sadan had created a new life for the women of the presidency. As such it would be a pity if it were allowed to languish for want of funds. We hope Mr. Mehta's appeal will evoke a sympathetic response from the philanthropically-minded and wealthy public of Bombay City.

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It is not intended, here to make a reference, however brief, to the other meetings. But a reference to

the one held at Calicut will not be out of place. At this meeting Mr. Devadhar's services to the Malabar public during the Mopla rebellion were gratefully recalled and support was offered to the scheme for the construction of a hall to be named after him, which is sponsored by the Malabar District Co-operative Bank. It was also decided to place a portrait of Mr. Devadhar in the local town hall as a mark of public regard for his memory. The local municipality was also requested to name a road after Mr. Devadhar.

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THE Seva Sadan of Poona will have its observance of the Devadhar Day on December 5, on which day falls his death anniversary according to the Hindu calendar. A memorial meeting to be addressed amongst others by Mr. N. C. Kelkar is being arranged for the occasion. This will be followed by a private dinner at the Seva Sadan to which Mr. Devadhar's more intimate friends will receive invitations.

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S. I. S. Rural Centre, Shendurjana.

THE opening by Mrs. Trivedi, wife of the Commissioner of Berar, of the building for the Infant and Maternity Welfare Centre at Shendurjana marks a further stage in the development of the rural uplift activities conducted by the C. P. Branch of the Servants of India Society. It was Mr. N. A. Dravid, the senior member of the Branch, who was responsible for initiating this rural activity and his own exertions have been very largely instrumental in giving it its present shape much to the practical benefit of the villagers. His work moreover is widely appreciated by those for whom it is intended.

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BUT Mr. Dravid feels that in the interest of the work itself and also in view of his advancing years it would be well if some younger member of the Society were in due course to undertake the responsibility of carrying on the work and developing it. Mr. R. S. Gupte was selected by him for the purpose and put through a course of training under his own personal supervision. Mr. Dravid took the opportunity of this function to introduce Mr. Gupte as his future successor at Shendurjana, the headquarters of his rural work.

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ON this occasion the duty of formally requesting Mrs. Trivedi to perform the opening ceremony fell to Mr. Gupte's lot. And from the speech that he made it is clear that he will devote himself to the work with his customary enthusiasm and single-minded devotion. Thanks to the good offices of the Commissioner of Berar Mr. Trivedi, this rural centre will soon have a radio set presented to it. There can be little doubt

that this will considerably facilitate the work of the centre. Mrs. Trivedi donated Rs. 10 for a cot in the Maternity Home and Rs. 5 for health posters in the centre.

The Maharashtra Security.

A SECURITY of Rs. 3,000 has been demanded from the *Maharashtra* press of Nagpur. We are sure this action on the part of the C. P. Government will evoke wide-spread and indignant protest. The Indian public cannot of course pretend to feel shocked or even surprised by this order, demands for security from newspaper editors and proprietors of printing presses being fairly frequent. This order is, however, to be distinguished from the generality of such orders in one respect. While the reason for their issue is generally some so-called disloyal or anti-Government publication or writing, in the present case it is some writings criticising the attitude of the British Government's faithful ally, the Nizam, towards Hindu culture.

OBJECTIONABLE passages—the worst from the Government point of view—are appended to the order. Whatever one may think of the language used for expressing those thoughts, it is impossible to believe that any reasonable objection can be taken to the thoughts themselves. And it is with the substance of these thoughts that we are mainly concerned. In plain language, this is nothing but a complaint against undue favouritism shown to Muslim culture in Hyderabad by encouragement of the use of Urdu joined to a plea for greater consideration being shown to Hindu culture by the Nizam's Government by such means as encouragement to Marathi and Telugu, the Hindus forming a very large majority of His Exalted Highness's subjects. There is nothing novel or extraordinary about this reasoning. It has been pressed on the Nizam's attention times out of number by his own subjects and by the British Indian press. Why he should be so touchy about the *Maharashtra* writings we are at a loss to know. But even more unintelligible to most people is the C. P. Government's anxiety to pamper to his prejudices and whims.

'Third Class Passengers' Hardships.

PROMINENT attention needs to be drawn to a point in the Viceroy's speech at the annual meeting of the Railway Conference Association at Delhi last week. The question he was dealing with was how to rehabilitate and improve railway finance. There are two ways of doing so: (1) economy and (2) better earnings. He was by no means behindhand in recognising the need of economising railway expenditure as much as possible. Indeed he tried his best to impress on his hearers the need of reducing the working expenses of railways to the minimum.

OUR object, however, in referring to his speech is not for the purpose of echoing the emphasis he laid on the need of reduction in expenditure. It is for the purpose of making the Viceroy's plea for the provision of better facilities for railway journeys as a means of attracting traffic so as to lead to a betterment of railway receipts more widely known. What is specially noteworthy about his utterance is that he does not think merely of the higher class travellers but of the humblest. He advised railway administrations to study the needs of the travelling public and to provide for their satisfaction. "The services, both for passengers

and freight", said he, "must be speeded up and passenger amenities must be improved, especially those provided for the humblest class of traveller who forms the bulk of India's travelling public."

THE Railway Member too, amplifying the same point, showed himself to be fully alive to the difficulties of the third class traveller. The third class passenger is generally treated by the railway staff with lack of consideration and courtesy. And though he contributes so much to railway earnings his convenience fails to receive sufficient attention at its hands when framing time-tables. This task, the Railway Member rightly said, is approached in "too mechanical a spirit." As a means of ascertaining the wishes of the travelling public, Sir Mahomed Zafrullah suggested consultation of the local civil authorities on the part of the railway administrations.

Indian Labour in Malaya.

THE proposal to send a deputation to Malaya to inquire into the conditions of life and work of Indian labourers there which had been hanging fire all these months has at last materialised. The sole delegate will be Mr. Srinivasa Sastri who will be assisted by Mr. G. S. Bozman in an advisory capacity. It will be remembered that Mr. Bozman recently visited Zanzibar to help the local Indian community to present its case against the clove legislation to the Binder inquiry.

THE principal question that will engage Mr. Sastri's attention is whether the scheme of assisted emigration of Indian labour to Malaya is to be continued and if so, under what conditions. The emigration rules prescribe a definite sex ratio to be maintained among Indians emigrating to Malaya under the auspices of the Government. The Malay Government has for years past been exempted from the operation of this salutary rule. It will be for Mr. Sastri to find out how far this exemption is warranted by conditions in Malaya and how much longer it is to be tolerated. The question of the restoration of the wage cut in the standard rates of wages will also have to be gone into by him.

SUGGESTIONS are sometimes made about the settlement of Indian labour on agricultural land as a means of obviating the necessity of Malaya's dependence upon India for labour supply. How far will their effectuation be beneficial to Indian interests? If Indians are to form part of the permanent population of Malaya, it is but fair that they should enjoy complete equality in political as well as in other matters. What are the prospects of this happening? These and similar problems will demand Mr. Sastri's close attention and any recommendations made by him will have a far-reaching effect on the future of the Indian population in Malaya, which numbers nearly 6½ lakhs. Seeing that Mr. Sastri's report will form the basis of such action on India's part as may be deemed needful for the protection of the large Indian interests in Malaya, everyone will wish god-speed to him in his none too easy an undertaking.

Bahawalpur.

POLITICAL atmosphere in Bahawalpur seems to be in a troubled state. Four persons, all of them Hindus, were recently tried for sedition and sentenced to varying terms of imprisonment. One of them was subse-

quently set free on tendering an unconditional apology. The trial took place before a special tribunal appointed by the ruler and whatever one may think of the purity of justice in an Indian State, there is nothing for it but to submit to it.

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BUT sedition, whether in British India or in Indian States, often means nothing more than a keen dissatisfaction with the present order of things. And we for our part should not be surprised if the offence of the four convicted persons was found to be just a participation in some public agitation for a reform of the existing form of government. This view derives support from the report that certain well-known loyalists in the State are trying to induce the Nawab to exercise his prerogative of mercy in their case. If the convicted persons had really been guilty of entertaining feelings of personal ill will to the ruler it is unthinkable that any loyal subject of His Highness would have dared to interest himself in their cases.

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THERE can be no question that if the Nawab were to accede to their request in a spirit of magnanimity and large-heartedness, nothing would raise him higher in public estimation. Clemency, to be real and to evoke feelings of gratitude on the part of those who benefit by it, must be spontaneous and unconditional. If it is sought to be coupled with conditions, it loses all its grace and assumes the form of a bargain entered into in a huckstering spirit. In this case the conditions suggested are such as no person can accept without loss of self-respect. We fail to see how the peace and tranquillity of the State would come in jeopardy if the Nawab were to restore them to liberty, trusting to their good sense not to create further trouble. Surely by doing so he does not sign away his right of proceeding against them if and when they make themselves liable for such action.

* * *

Kashmir's Inadequate Constitution.

PUBLIC dissatisfaction with the Kashmir constitution is apparently on the increase. It may be recalled that when the State budget was recently under discussion in the legislature a number of members felt constrained to stage a walk-out by way of protest against the inadequacy of funds for the nation-building departments due to the high scale of salaries paid to superior grades of the services. The walk-out is now followed by the resignation of twelve members who in a joint statement explain the reason for the step.

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It will be within the recollection of the reader that the problem of constitutional revision was forced on the Maharaja's attention a few years ago by the serious public disorders that occurred in Kashmir. A committee with Sir B. J. Glancey as President was charged with the duty of framing a scheme of political reform for the State. Two assumptions were implicit in its appointment: (1) that the scheme to be framed by the committee would be framed not as a boon which the ruler out of the fullness of his heart was pleased to confer on his beloved subjects but with a view to the appeasement of the political discontent in the State, and (2) that the scheme being so designed would be adopted wholesale by the State authorities for practical action.

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THE committee recommended a legislative body with an elected majority. But those to whom fell the

the task of working out the details so fashioned its composition that this recommendation was actually turned down. And in place of a house with an elected majority one with a nominated majority was devised. The present Assembly consequently consists of 33 elected and 42 nominated members. This was a very serious departure from the committee's well thought-out scheme and naturally gave rise to a storm of public protest at the time.

* * *

BUT even such a constitution, unsatisfactory and inadequate as it was, could have been worked in a sympathetic and generous spirit by the authorities. This would have gone some way to cover its inadequacy and to stem the tide of public discontent against it. But it is the complaint of the signatories to this statement that even tact, not to speak of generosity and sympathy, failed to mark the Government's dealings with the popular representatives with the consequence that the present rupture followed.

* * *

BUT let us hope the Maharaja will not be so unwise as to let the breach widen. That the present constitution has failed to meet the needs of the situation must by now have become patent to all concerned. That public dissatisfaction with it is pretty universal can also be seen from the request made to the Maharaja some time ago by almost all elected members of the Assembly belonging to the three important communities in the State, a request for the revision of the constitution with a view to the introduction of a responsible form of government. Real statesmanship lies in listening to such advice before public dissatisfaction expresses itself in unpleasant forms.

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Wise Counsel.

AN all India Shahidganj Conference was recently organised in Lahore. Mr. Shaukat Ali, who presided, gave to his co-religionists advice which, though occasioned by the Shahidganj dispute, really merits wider application. He strongly disapproved of the use of coercive methods for getting back the piece of land on which the demolished mosque stood. Proceeding, he said:

There is only one method left and that alone can be effective, and I personally believe in it and it is that we should cultivate brotherly and neighbourly feelings with all communities who count this fair land as their home and by trying to respect each other's convictions and feelings we ought to be in a position to accommodate each other and assuage the bitterness that is ruining the future of our motherland. The Muslims of Lahore gave a very fine demonstration of their courage, but it was of no avail and only created further ill-feeling between the Muslims and the Sikhs. My advice to my Muslim brethren here is that under no circumstances can they as God-fearing Muslims give up their claim to that land which after all is not of any great sanctity to our Sikh brethren. The Shahidganj Gurudwara is there. If it wants room for expansion it can do so in directions other than towards the mosque and I do hope that sooner or later, much sooner than later, this excitement and bitterness would give way and the Sikhs themselves, not through fear or threats, would realise that they could win the hearts of their Muslim brethren by giving solace to their wounded hearts.

We have no doubt that this advice, coming from the quarter it does, will have great weight with the Muslims.

* * *

TANTALISING.

WHY do the rulers of Indian States keep on feeding British India with the hope that there is still a possibility of their staying away from federation? We know for our part that the hope thus excited in the bosoms of the more simple-minded of our politicians is certain to be cruelly disappointed, and it would be a mercy if the Princes ceased this game. If the Princely mind is correctly portrayed in *United India and Indian States*, it would almost appear that the rulers were about to say to the British Government: "No, thanks; we can have none of this sort of federation," for all the arguments advanced by the journal as justifying the Princes' hesitation to enter the federation are conclusive against their entry. *United India* protests, with a trifle too much emphasis, that the Princes had never irrevocably committed themselves to accept the federal constitution and that they would not be guilty of any breach of faith if in the end they came to decide in favour of rejection. We quite agree; they would be committing no breach of faith if they did not join the federation. On the contrary, they would be committing a serious breach of faith if they did join. For, as *United India* says, the Princes laid down three conditions on the fulfilment of which their coming into the federation was to depend, and none of these conditions is anywhere near fulfilment.

The conditions were, in our contemporary's words: "In the first place, as the Maharaja of Bikaner told the Bombay Conference, India must retain the British connexion, being an equal member of the British Commonwealth; secondly, an equitable agreement should be reached between the parties to cover the relations between the two Indias; and, thirdly, sufficient safeguards were to be provided to protect and safeguard the rulers' sovereignty." *United India* then examines these conditions which the Princes had stipulated and shows that the British Government has broken each one of them in the most contemptuous manner imaginable. The first condition would be satisfied only if India was either made a self-governing Dominion or placed on the sure road of becoming a self-governing Dominion in the near future. India is held firmly within the folds of British imperialism, and in this sense no doubt the British connexion is preserved beyond the possibility of peaceful severance. But the sort of British connexion which Indians would favour and even Mahatma Gandhi would tolerate has receded farther than ever from the horizon as a result of the new constitution. This is not only our view, but the Princes', if *United India* speaks for them. On this point the paper says: "There is no gainsaying the fact that the British connexion is abundantly protected in the safeguards and other provisions contained in the Act, but not even Sir Samuel Hoare will claim that the Act makes India an equal partner of the British Commonwealth." There is no vestige of responsibility in the Act; "the proposed dyarchy of the Central Government under the new constitution makes for small responsibility and large burdens." If the Princes' declaration made

at the commencement of the Round Table Conference that they would enter only that kind of federation which was endowed with self-governing powers was not mere rhetorical bombast but represented genuinely entertained sober intentions, they must decline to have anything to do with the federation that is proposed. They need not wait for the completing of the picture; the picture is completed enough to compel them, if they have any sense of self-respect and any concern for the good of the country, to return a firm negative answer.

The other two conditions remain equally unfulfilled. *United India* thinks that the arrangements proposed between British India and the Indian States are not equitable. We entirely agree, though not in the sense intended by our contemporary. But we would beseech the Princes not to entangle themselves in an association which they feel does scant justice to their legitimate rights and interests. The association, if once formed, would be permanent, and let not the Princes practise so much self-effacement as to place themselves under what they regard as an unjust domination of British India. As regards the third condition about their sovereignty, their position is becoming more and more unsatisfactory. "While the Act protects the Indian States from interference in non-federal matters from the federation, they are still subject to the autocratic dictum that paramountcy must remain paramount." The Princes' autocracy is insulated against the influence of British India's progressivism, but not against the despotism of the Governor-General and his minions. What is autocracy worth if it is subjected to a despotic domination of a higher power? Perhaps the two other conditions may be waived. If India is not a Dominion but a dependency, it is a disgrace common to British India and the States. If the balance is not held even between the two Indias what the States will lose British India will gain. But if the Princes' autocracy is curbed, it will be a loss not to the States alone but to the whole of India and in fact to the entire world. The sum of world autocracy will be diminished, and we hope that the Princes, true blue autocrats as they are, will not put up with this. It is no doubt the case that if they did not join federation paramountcy would remain, but they must refuse to join if only to punish the British Government which seeks to restrain their autocracy in the interests of its imperialism. British paramountcy must remain paramount is the British Government's formula; to this the Princes must oppose the nobler formula: Indian autocracy must ever remain autocratic.

Nor have the Princes any illusions that British India will hail their accession to federation with acclamation. *United India* has gauged the situation accurately. "It is unhappily true," it says in a dolorous vein, "that from the non-official British Indian side, and particularly from the Congress party, the Princes have received in this proposal of federation neither welcome nor encouragement. On the contrary, talks of non-co-operation from within the councils are in the air, a position which makes the

anxiety of the Princes *vis a vis* a federation more accentuated." Whether the policy advocated by the Maharaja Rana of Dholpur and the Maharaja of Panna of forming of set purpose an aristocratic and plutocratic party in the federal legislature prevails or that advocated by the Maharaja of Patiala of leaving it to the natural process to make such alignments as seem expedient prevails, it is certain that if a federation is established and the federal constitution gets going, the Princes will find themselves opposed by all the political elements in British India that count for anything, and the only way of saving themselves from being dragged into the maelstrom of British Indian politics is to keep aloof from federation altogether. *United India* is convinced, to judge from what it has said on the subject, that it would be the height of unwisdom on the part of the Princes to allow themselves to be drawn into this tangle which the wit of no man can straighten out. Our contemporary has not half an argument to urge on the other side, but, strangely enough, instead of asking the Princes in decisive tones to keep away from federation, it is content to take the lower ground that if the Princes decide to keep away there is enough justification in the circumstances of the moment. "Faced with the alternative of making a decision committing their personal dynasties and their States for all time," the Princes may well shrink from such a fateful decision—is the lame conclusion of *United India*. On the contrary, the inevitable conclusion to which its arguments lead is: "Your Highnesses would be putting your heads through a noose which might well prove fatal, if you went near the federation." "Can we blame them," it asks, if, before joining the federation, "they wish to make themselves sure that they will not prejudice the various interests which an Indian Prince represents." This is an anti-climax to the powerful arguments adduced by the paper in the earlier portion of the article in a high key. The Princes will not be blamed if they remain at an arm's length from the federation, but they will be severely blamed if, disregarding warnings from all quarters, they decide to throw themselves into the arms of the British Government by entering federation. In spite of all this we do not entertain the slightest hope that they will show either courage or wisdom enough to resist the British Government's invitation, and we can only hope, therefore, that they will have enough consideration not to torment British India with hopes which we know are sure to be dashed to the ground.

THE CASE OF MR. K. N. PHADKE.

WE had hoped that the lifting of the ban on the Red Shirt movement in the North-West Frontier Province in order that adherents of this movement be enabled to take part in the coming elections represented a general policy to be brought into force in all India. But apparently it is isolated action on the part of the Governor of the Province, and the Governors of other Provinces are not going to follow his good example. There is no indication anywhere else of the existing restrictions on what the Government regards as undesirable politicians being re-

moved or relaxed. Those who are interned or externed will remain interned or externed; those who are forbidden to engage in politics will still remain under taboo. We are not concerned at the present moment to examine whether these restraints on their movements or on their political activity are justified or not. We are only concerned to point out that the continuance of such preventive action at the time of elections would be grossly unjust not only to those against whom action is taken but to the constituencies in general. That the elections require a change in the normal policy is proved by what the Governor of the North-West Frontier Province has done. He does not think that the Red Shirts have now become so changed in their hearts and methods as to offer no menace to the public peace. But he evidently feels that preventive action must be suspended till the elections are over. If the Red Shirts do anything actually to disturb peace they can be punished, but they need not be under restraint in order that they may do nothing which is likely to disturb peace. The object is to give the Red Shirts an equal opportunity with others to seek the suffrages of the electors and to give the electors an opportunity to return the Red Shirts in preference to others if they so choose. It is clear from this that to continue the restraints at the time of the elections and before the elections is not only to do a wrong to the restrained persons but also to the voters whose choice of their deputies must be perfectly free.

We see no reason why what is done in the North-West Frontier Province should not be done in other Provinces. We have in this connexion to bring a particularly hard case to the notice of the Bombay Government, the case, namely, of Mr. K. N. Phadke of Poona. He has been placed under a prohibition to address and even to attend any political meetings. He has been labouring under this disability for several years. We frankly confess that we cannot imagine any circumstances which would justify such an order of extraordinary severity being issued against him. But we do not wish to press this objection on this particular occasion. Our concern at present is to lodge a protest against his being debarred from offering himself for election and for canvassing his electors as a consequence of the order. The order is couched in such wide terms that it would be possible for Government so to interpret it as to make his candidature and election campaign illegal. In order that no doubt be left on the point it is the Government's plain duty to inform him that he would be at liberty to make his suit to his voters. Government cannot be unaware that he intends to run for the Poona City seat in the Bombay Legislative Assembly election. They have no moral right, whatever complaint they may have against him on other scores, to deny him an opportunity of representing Poona in the Assembly or to deny Poona an opportunity of returning him. Mr. Phadke holds Marxist views, but a Marxist has just as much right to contest the elections as anyone else. We are no Marxists ourselves, and just for that reason we believe we can voice our protest with greater claim to be heard than those who are Marxists. We wish to say to the Bombay Government with all

the emphasis we can command that if they deprive Mr. Phadke of freedom of speech and freedom of assembly at this crucial moment it will not be Mr. Phadke alone or Marxists merely that will be legitimately disaffected, but all the people, whether Marxists or non-Marxists, who cherish these as elementary rights of citizenship. It would be an attack on the liberties of the citizenry as a whole.

In this connexion we would call the reader's attention to two incidents that occurred recently in the United States and the outburst of public indignation they created there. "Earl Browder, candidate for Presidentship on the communist ticket, was jailed as a vagrant when he appeared to address the citizens of Terre Haute. In an Arkansas county, a court injunction was granted against two communists on the ground that what they intended to say would probably disturb the public peace." We will proceed to quote below the comments evoked by these incidents in a Catholic journal which is as convinced an opponent of communism as any can be, viz. *America*. The paper says :

Even admitting that a breach of the public peace was intended by these communists, it seems to us that a better means of dealing with disorderly conduct, not actual but prospective, could be found than a breach of the right of free speech by public officials. Arkansas and Indiana have adopted the precise method of Soviet Russia, except that in Russia no political tickets and no speakers are allowed, and the death penalty follows any attempt to establish political freedom. . . .

It must be remembered, however, that under our ideals of justice, the courts do not review a man's intentions or

ideals, but only the overt acts which give them expression. For the first, he cannot be punished. The citizen may think that bullets alone will reform our political evils, and that ballots are futile; but as long as he confines his operations to thinking, the civil authority cannot touch him. Only when by speech or the printed word he incites others to take up arms against the Government can the courts take cognisance of his activities.

Hence any policy of suppressing speakers, even communists, on the ground that they may offend, is highly dangerous, not to the communists, who make capital of it, but to all of us. A violation of a constitutional right by an individual is bad, but a violation of that same right by public officials is infinitely worse, since it sets up a precedent that can be used against any citizen whose ideals and policies may happen to be at variance with those of the Government. Communists cannot be forbidden to speak or to write, but they can be punished, as often as they abuse the right by the due process of law.

We vindicate this right of free speech for ourselves, and we cannot deny it to others without cutting the ground from under our feet. It is merely a retort, not an answer, to reply that, as a political philosophy, communism bans free speech. We are not living under a communistic regime, but under a constitutional form of government, and we are ruled by law, not by men. The adoption of communistic methods of suppressing communists is a furtive admission that, after all, the communists, at least in this respect, are right. . . .

We must assert the right (of free speech), and communists must be suffered to exercise it unmolested, until they abuse it. At that point, let the due process of law be invoked. When communism, with its destruction of every human right, threatens to wipe out our natural and constitutional liberties, we must fight it with something more effective than hysteria.

CLEARANCE OF AGRICULTURISTS' DEBT.

TRAVANCORE STATE, unlike the provinces in British India which have set up debt conciliation boards, is prepared to make financial provision for the liquidation of debts to be conciliated by similar boards which the State intends to establish after the passing of the Agriculturists' Relief Bill which was recently given a second reading by the State's legislature. The boards are to attempt conciliation on a voluntary basis, but the State expects that there will be a considerable reduction in the total amount of debt if the creditors are not left to recover the compounded debt from the debtors but are paid in cash or in bonds. The Agricultural Debt Redemption Committee which the State appointed expressed its opinion that no scheme of debt conciliation would succeed—

unless some agency like the Government or the co-operative credit societies or land mortgage banks where they exist were forthcoming to make cash advances to the debtors in order to enable them to pay the compounded debt, at least in part, to the creditor. . . . It is from this point of view that we have considered it necessary to recommend the expansion and reconstitution of the Land Mortgage Bank as an essential complement and counterpart of debt conciliation. The Bank should be provided with adequate funds to meet the large demands that may be made on it in consequence of the operation of the boards. The funds that would be required may be placed at the disposal of the Bank, to some extent in cash, but mainly by issuing debentures. Debentures may be issued to the creditors to the extent of

the conciliated amounts, provided the security offered by the debtor is adequate for the purpose.

This recommendation the Government is prepared to carry out. The debt conciliation boards will work hand in hand with the Land Mortgage Bank: the boards will, if possible, bring about an amicable settlement of the debt, and the Bank will provide the wherewithal for carrying the settlement into effect. A Press communique issued before the publication of the Bill made the announcement :

Government are further pleased to direct the Land Mortgage Bank to advance money whenever a debtor and all his creditors have agreed to bring down the total debt to the amount that may, according to the rules of the Bank, be advanced upon the security of the immovable property that is offered by the debtor. Preference will generally be given by the Land Mortgage Bank to applications for loans consequent on such conciliation.

Government does not give a statutory guarantee that the Bank will make loans to all the debtors whose debts will be compounded by the boards, but it feels confident that the Bank will be able to do so. Asked if the Bank can meet all the demands that will be made upon it, the Law Member replied: "If the security is ample the Bank can, I believe; and the Bank may raise money by issuing debentures or issue debentures to the creditors themselves." The Law Member was further asked: "Suppose the Bank is not able to meet the demand?" and he said: "It is hoped

by Government that such a contingency may not arise." The fact is that Government is willing to raise a sufficient loan for the purpose (the estimate of the bankers is Rs. 50 lakhs) not directly, but indirectly through the Bank, and after all the Land Mortgage Bank is a State bank. The debtor mortgages his entire property to the Bank, and there is no reason why, if the conciliation of debt proceeds on proper lines, the Bank should come to grief. Mysore State also undertakes to provide for the supply of money required for debt conciliation. Government's order on the subject dated 30th October, 1935, states: "When a settlement is arrived at, the (Debt Conciliation) Board will attempt to arrange payment to the creditors of the amounts of their debts as settled through a land mortgage bank or a co-operative society, and where this is not possible the amount due will be recovered by the Deputy Commissioner as an arrear of land revenue." Thus, both in Travancore and Mysore payment will follow immediately upon settlement and the States will practically take over the conciliated debts, and will not, after reducing the debts, leave the creditor to his own devices. In these States, therefore, it may be confidently expected that, as in Bhavnagar, the debts will be reduced as a result of conciliation, though it be voluntary, to about a quarter of the computed debts.

What are the principles on which debts can be equitably reduced? It is perhaps not necessary to lay down these principles where conciliation is on a purely voluntary basis. Since both the debtor and the creditor agree on a particular figure, it may be presumed that the figure is not unjust to either party. But no legislation that has so far been passed or is about to be passed is altogether free from an element of compulsion, and where compulsion is resorted to it is but proper that the criteria of a fair settlement should be stated with as great an approach to precision as possible. The Debt Conciliation Acts of the Central Provinces, the Punjab and Bengal, though they provide mainly for voluntary conciliation, have also a small element of compulsion in them, for it is provided in them all that if the creditor does not agree to a debtor's "fair offer which the creditor ought reasonably to accept," certain penalties are imposed upon him. When he will file a suit for the recovery of his debt, the court will not allow him any costs or any interest in excess of simple interest at 6 per cent. and, further, if the suit is in respect of an unsecured debt, the execution of the decree passed in the suit will be postponed till all the debts in regard to which the creditors agree to conciliate are paid off. In spite of such provisions which must exert a strong coercive effect no definite principles on which conciliation should be effected are embodied in the Acts of these provinces. This is a lacuna which needs to be filled up in order that every one should understand how a settlement will be attempted by the debt conciliation boards and what offer of the debtor they will consider fair. The Agriculturists' Relief Committee in Mysore made a recommendation on this point. It said:

We consider the debt conciliation boards should be guided by certain definite principles in arriving at the amounts for which debts should be compounded. We,

therefore, suggest that the following aspects should be considered by the boards in arriving at a decision:—

- (i) The amount of consideration actually received;
- (ii) The reasonableness or otherwise of the rates of interest contracted for;
- (iii) The amount of interest that has been allowed to accumulate;
- (iv) Onerous conditions, if any, that have been coupled with the grant of loans; and, lastly,
- (v) The repaying capacity of the debtor.

If we consider that the function of debt conciliation boards is twofold: (1) to ascertain what the amount of the debt properly is and (2) at which figure it should be compounded in view of all the surrounding circumstances, it will be seen that the first four tests mentioned above relate to the first part of the boards' function and the fifth relates to the second part, and it is this fifth test which is the most important. An officer appointed by the Madras Government to inquire into agricultural indebtedness, Mr. Sathyanathan, in his report accepted these as the correct tests but added two more of his own, viz.

- (vi) Whether at any time the creditor was offered settlement of the debt in full or part and the offer was refused;
- (vii) The difference in value of the debtor's property and of staple food crops between the time when the debt was incurred and the time of settlement by the board.

The Madras Debt Conciliation Act based upon this report accepts most of these tests, for the section dealing with this point is as follows:

The board, in coming to a decision whether the offer made is fair or not, may take into consideration—

- (i) The fall or rise in the value of land and its produce, in the locality;
- (ii) The amount of consideration actually received;
- (iii) The reasonableness of the rates of interest;
- (iv) The onerous conditions, if any, subject to which the loan was granted;
- (v) Whether at any time, the creditor or the debtor was offered settlement of the debt in full or part and if so what the terms were; and
- (vi) Any other particulars which the board thinks it desirable to take into account.

But it will be seen that the Madras Act omits the most important test, viz. the ability of the debtor to pay off the debt. The report of the Select Committee on the Cochin Debt Conciliation Bill, which is to come on for debate in the Legislative Council this week, accepts *in toto* the tests laid down in the Madras Act. The Travancore Agriculturists' Relief Bill has the following clause in this connection:

In proposing and making the conciliation, the board may take into consideration the following, *inter alia*, namely:

- (a) the equities of debt transactions concerned,
- (b) the amount of each of the debts,
- (c) the amount of interest already paid, particularly after the year 1105 M. E. (1929-30, the year of the onset of depression),
- (d) the amount of the interest that has been allowed to accumulate,
- (e) the duration of the transactions,
- (f) the character of the debt, as for example, whether it is secured or unsecured,
- (g) the ability of the debtor to pay,
- (h) the availability of assets out of which the debts may be realised,
- (i) the occupation, needs and other economic conditions of the creditor.

(j) the needs of the debtor and the necessity for leaving, as far as possible, a margin of property for the debtor's subsistence.

Here the most important items to note are (a) and (j), the first and the last. The last takes account of the debtor's right to live and admits the need for leaving enough for his maintenance, and the first makes a clear distinction between law and equity. This brings very prominently to our attention the fact that a debt conciliation board is not a court of law adjudicating upon the question of debt according to the letter of the law; it is concerned with equity and may on occasions set aside the law in view of exceptional circumstances to which, however, it is outside the province of a court of law to pay any heed. Seeing that a board is given all the powers which the courts possess of summoning parties and witnesses with the production of necessary documents, &c., one is likely to think that boards are merely a reproduction of law courts. In fact, in the Travancore Sri Mulam Assembly, a member asked what the difference was between the functions of the boards and law courts, and the Law Member said: "The court is not a conciliation board. The court is a court to decide according to strict law.... (But the boards) apply their own sense of equity and fairness having regard to the peculiar circumstances of each case and come to a conclusion as to what shall be the conciliation applicable to each case." This is a point of great importance which is often lost sight of by those who are considering this question.

The Travancore Bill is in some respects more advanced than legislation adopted elsewhere, but in some other respects it is more backward. No maximum limit of debt which is to be subject to conciliation is fixed in the Travancore Bill, but on the other hand in order that conciliation on a voluntary basis can take effect all the creditors of a debtor must agree. In the C. P. Act it is enough if creditors to whom 40 per cent. of the total debts are due come to a mutual agreement with the debtor, the rest of the creditors being subjected to the penalties of loss of costs, interest of more than 6 per cent, &c. Such a limit is put in legislation of a voluntary character in order to prevent collusive action on the part of the debtors, but even this comparatively low limit of 40 per cent. embodied in the C. P. Act is found in practice to be too high. For instance, the Chairman of the Narsinghpur Board reports :

The 40 per cent. limit prescribed by section 12 has disabled the board in some cases from giving relief to a debtor who could easily pay off his debt within a reasonably short space. The creditors in such cases being sure of recovering every pie of their claim through the civil court were found to have made a common cause to ruin the debtor by putting up a joint front. The section may be made more useful in serving the object of the Act if amended so as to reduce the limit to 10 per cent., if not done away with altogether.

Mr. Darling, an eminent authority, supports this view. In commenting on the Chindwara Board, he says :

Section 12 of the Act provides that the creditors to an amicable settlement must not have less than 40 per cent. of the total debts due to them. There should be no limit as it leads to abuses, moneylenders combining collusively or perhaps one moneylender persuading another not to agree.

A provision meant to prevent collusion on the part of debtors is actually found to encourage collusion on the part of the creditors, although the limit laid down in the C. P. Act is only 40 per cent. Imagine the effect if it is provided that cent. per centum of the creditors must agree. It must be said, nevertheless, on the other hand that even if no creditor agrees the conciliation board in Travancore may certify that a debtor had made a fair offer and that the creditors had refused it, and the Court will have to take this fact into consideration when it considers a suit in respect of such a debt.

A very useful provision in the Travancore Bill is the one relating to a heavily indebted debtor who has not enough security to offer to the Land Mortgage Bank. For the benefit of such debtors the following method of conciliation is provided in clause 15 (b) :

That a portion, say, one-fourth, of the assets of the debtor be left to the debtor free from all liability for his debts, and the balance left to the creditor or creditors to be appropriated by them or to be sold and the sale proceeds distributed amongst them, it being also laid down how the property or the sale proceeds, as the case may be, shall be distributed amongst the creditors, if there are more creditors than one.

This is a sort of insolvency measure adapted to rural conditions: if the debtor has assets on the security of which the Land Mortgage Bank can lend to wipe off his debts, the Bank advances money to him; otherwise he is sold up, leaving however one-fourth of his property to him for his own and his family's maintenance. No debt conciliation law can be complete unless it is accompanied by a provision for the relief of such debtors as are not solvent and cannot be rendered solvent even after a large-scale reduction of their debts.

IN THE COURT OF THE DISTRICT
MUNSIFF, MARKAPUR.

SMALL CAUSE No. 81 of 1936.

RACHAPUDI KRISHTAMMA

Versus

MANGALCHAND and JAIDEV.

Notice is hereby given that the above suit is filed against Mangalchand Jaidev for a sum of Rs. 86-3-3 due on dealings in the above court. The suit stands posted to 12-12-1936 for defendant's appearance.

S. PARVOTESHA,

Vakil for Plaintiff.