WHAT AILS INDIA.

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PREFACE.

The cordial reception which we got for our first publication "Non-Co-operation in Congress Week" encouraged us to take in hand this our second publication. Our object in compiling this booklet is to place before the reader in suitable book-form the main grievances under which India is suffering.

The book contains literature on five of the most important problems which are agitating the minds of India at the present moment. First and foremost of them is the mal-administration of Martial Law in the Punjab which has endangered the security of life and property which is the primary duty of Government. It is no wonder that every Indian heart is stirred to its inmost depth by the tragic instances of Dyerism. The pronouncements on this question given in this book by four eminent publicists who were closely connected with the investigations will furnish the reader with a fair idea of what Indians feel on that question. The next problem before the country is that concerning the repressive laws, chief among them being the Press and Rowlatt Acts, popularly called the Black Acts. The views on the Indian Press Act by Mr. B. G. Horniman, a working journalist and a friend of India and that on the Rowlatt Act by a great constitutional lawyer, Sir Narayan Chandavarkar will, we hope, be widely appreciated by the reading public. The Seditious Meetings Act and some of the sections of the Criminal Procedure Code are by no means insignificant as will be seen from the daily Press. The pronouncements on the former by an eminent jurist, the

of the Congress Committee. The evidence collected by it shows what Lord Hunter's committee purposely denied itself.

The minority report stands out like an oasis in a desert. The Indian members deserve the congratulation of their countrymen for having dared to do their duty in the face of heavy odds. I wish that they had refused to associate themselves even in a modified manner with the condemnation of the civil disobedience form of Satyagrah. The defiant spirit of the Delhi mob on the 30th March can hardly be used for condemning a great spiritual movement which is admittedly and manifestly intended to restrain the violent tendencies of mobs and to replace criminal lawlessness by civil disobedience of authority, when it has forfeited all title to respect. On the 30th March civil disobedience had not even been started. Almost every great popular demonstration has been hitherto attended all the world over by a certain amount of lawlessness. The demonstration of 30th March and 6th April could have been held under any other aegis as under that of Satyagrah. I hold that without the advent of the spirit of civility and orderliness, the disobedience would have taken a much more violent form than it did even at Delhi. It was only the wonderfully quick acceptance by the people, of the principle of Satyagrah that effectively checked the spread of violence throughout the length and breadth of India. And even to-day it is not the memory of the black barbarity of General Dyer that is keeping the undoubted restlessness among the people from breaking forth into violence. The hold that Satyagrah has gained on the people—it may be even against their will—is curbing

the forces of disorder and violence. But I must not detain the reader on a defence of Satyagrah against unjust attacks. If it has gained a foothold in India, it will survive much fiercer attacks than the one made by the majority of the Hunter Committee and somewhat supported by the minority. Had the majority report been defective only in this direction and correct in every other there would have been nothing but praise for it. After all Satyagrah is a new experiment in political field. And a hasty attributing to it of any popular disorder would have been pardonable.

The universally pronounced adverse judgment upon the report and the despatches rests upon far more painful revelations. Look at the manifestly laboured defence of every official act of inhumanity except where condemnation could not be avoided through the impudent admissions made by the actors themselves; look at the special pleading introduced to defend General Dyer even against himself; look at the vain glorification of Sir Michael O'Dwyer although it was his spirit that actuated every act of criminality on the part of the subordinates; look at the deliberate refusal to examine his wild career before the events of April. His acts were an open book of which the committee ought to have taken judicial notice. Instead of accepting everything that the officials had to say, the Committee's obvious duty was to tax itself to find out the real cause of the disorders. It ought to have gone out of its way to search out the inwardness of the events. Instead of patiently going behind the hard crust of official documents, the Committee allowed itself to be guided with criminal laziness by mere official evidence. The report and the despatches, in my humble opinion,

constitute an attempt to condone official lawlessness. The cautious and half-hearted condemnation pronounced upon General Dyer's massacre and the notorious crawling order only deepens the disappointment of the reader as he goes through page after page of thinly disguised official whitewash. I need, however, scarcely attempt any elaborate examination of the report or the despatches which have been so justly censured by the whole national press whether of the moderate or the extremist hue. The point to consider is how to break down this secret—be the secrecy ever so unconscious—conspiracy to uphold official iniquity. A scandal of this magnitude cannot be tolerated by the nation, if it is to preserve its self-respect and become a free partner in the Empire. The All India Congress Committee has resolved upon convening a special session of the Congress for the purpose of considering, among other things, the situation arising from the report. In my opinion the time has arrived when we must cease to rely upon mere petitions to Parliament for effective action. Petitions will have value, when the nation has behind it the power to enforce its will. What power then have we? When we are firmly of opinion that grave wrong has been done us and when after an appeal to a highest authority we fail to secure redress, there must be some power available to us for undoing the wrong. It is true that in the vast majority of cases it is the duty of a subject to submit to wrongs on failure of the usual procedure, so long as they do not affect his vital being. But every nation and every individual has the right, and it is their duty, to rise against an intolerable wrong. I do not believe in armed risings. They are a remedy worse than the disease sought to be

cured. They are a token of the spirit of revenge and impatience and anger. The method of violence cannot do good in the long run. Witness the effect of the armed rising of the allied powers against Germany. Have they not become even like the Germans; as the latter have been depicted to us by them?

We have a better method. Unlike that of violence it certainly involves the exercise of restraint and patience, but it requires also resoluteness of will. This method is to refuse to be party to the wrong. No tyrant has ever yet succeeded in his purpose without carrying the victim with him, it may be, as it often is, by force. Most people choose rather to yield to the will of the tyrant than to suffer for the consequence of resistance. Hence does terrorism form part of the stock-in-trade of the tyrant. But we have instances in history where terrorism has failed to impose the terrorist's will upon his victim. India has the choice before her now. If then the acts of the Punjab Government be an insufferable wrong, if the report of Lord Hunter's committee and the two despatches be a greater wrong by reason of their grievous condonation of these acts, it is clear that we must refuse to submit to this official violence. Appeal the Parliament by all means if necessary, but if the Parliament fails us and if we are worthy to call ourselves a nation, we must refuse to uphold the Government by withdrawing co-operation from it.

II.

The Army Council has found General Dyer guilty of error of judgment and advised that he should not receive any office under the Crown. Mr. Montagu has been unsparing in his criticism of General Dyer's con-

duct. And yet somehow or other I cannot help feeling that General Dyer is by no means the worst offender. His brutality is unmistakable. His object and unsoldier-like cowardice is apparent in every line of his amazing defence before the Army Council. He has called an unarmed crowd of men and children-mostly holiday-makers 'a rebel army.' He believes himself to be the saviour of the Punjab in that he was able to shoot down like rabbits men who were penned in an inclosure. Such a man is unworthy of being considered a soldier. There was no bravery in his action. He ran no risk. He shot without the slightest opposition and without warning. This is not an 'error of judgment'. It is paralysis of it in the face of fancied danger. It is proof of criminal incapacity and heartlessness. But the fury that has been spent upon General Dyer is, I am sure, largely misdirected. No doubt the shooting was 'frightful', the loss of innocent life deplorable. But the slow torture, degradation, and emasculation that followed was much worse, more calculated, malicious and soul-killing, and the actors who performed the deeds deserve greater condemnation than General Dyer for the Jallianwalla Bagh massacre. The latter merely destroyed a few bodies but the others tried to kill the soul of a nation. Who ever talks of Col. Frank Johnson who was by far the worst offender? He terrorised guiltless Lahore, and by his merciless orders set the tone to the whole of the Martial Law officers. But what I am concerned with is not even Col. Johnson. The first business of the people of the Punjab and of India is to rid the service of Col. O'Brien, Mr. Bosworth Smith, Rai Shri Ram and Mr. Malik Khan. They are still retained in the service. Their guilt is as much

proved as that of General Dyer. We shall have failed in our duty if the condemnation pronounced upon General Dyer produces a sense of satisfaction and the obvious duty of purging the administration in the Punjab is neglected. That task will not be performed by platform rhetoric or resolutions merely. Stern action is required on our part if we are to make any headway with ourselves and make any impression upon the officials that they are not to consider themselves as masters of the people but as their trustees and servants who cannot hold office if they misbehave themselves and prove unworthy of the trust reposed in them.*

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* The two articles of Mahatma Gandhi have been reproduced from "Young India," and the following is an extract from the Presidential Address of Lalaji who presided over the special sessions of the Indian National Congress held at Calcutta in 1920.

THE AGONY OF THE PUNJAB.

[By Lala Lajpat Rai]

The root cause of all this evil is the Prussian conception of Government which dominates the minds of so many of our Anglo-Indian rulers of whom Sir Michael O'Dwyer was the type and which places the State as something above and beyond the people. It was that conception of Government which made it possible for Lord Chelmsford's Government to pass the Rowlatt Bill into law; it was the same conception which made it possible for Sir Michael O'Dwyer to deport Drs. Kitchlew and Satyapal and subsequently to have Martial Law declared in the Punjab. Every official who has had anything to do with this lamentable affair was filled with the same idea, namely, of making an example, 'teaching a lesson', 'creating moral effect' and 'restoring the prestige of Government' by terrorism and frightfulness. General Dyer boasted that he had acted with that motive. Colonel O'Brien, Capt. Doveton, Lieutenant Colonel Macræ, Lieutenant Col. Johnson, Mr. Bosworth Smith, and even some of the Judges who presided at the trial of Martial Law offenders were all inspired by the same ideal, which made many of them inhuman in their dealings with the Punjabees during the terrible days of the Martial Law. We had the sad spectacle of a Government and its high officials neglecting to take the most essential precautions for preventing unnecessary sacrifice of life and property in the carrying out of their plans. They admit that in no cases, where they resorted to firing and shooting, did they make any provision for first-aid

to the wounded. In some cases they even refused to make over the bodies of the dead to their relatives. In others they took no notice of the dead. We have also evidence of the fact that troops destroyed property wholesale in the districts through which they passed, that even high officials of the standing of Deputy Commissioners exacted all kinds of contributions from the people within their respective jurisdictions; that they obtained articles of food and other necessities of life without paying for them, and in addition realised levies and fines and penalties from whole populations. We have also evidence of the fact that in giving effect to the orders of Martial Law Tribunals about the forfeiture of property inhuman cruelties were practised on the women and children of the 'offenders'. In some cases they were thrown on the streets and were not even allowed to take sufficient clothing for the night and this was done not by subordinate officials but by high officers.

I have narrated the events of Sir Michael O'Dwyer's administration at some length in order to show that it was all through, a regime of terrorism and frightfulness in the literal sense of these words and that it was only carried to its logical conclusion in the months of April and May, 1919. In the words used by Mr. Montagu with reference to the action of General Dyer, the ideals which Sir Michael O'Dwyer had set before himself were 'terrorism, humiliation and subordination' and they reached their climax in the promulgation and administration of Martial Law. Witness after witness has appeared before the Hunter Committee and has practically boasted of his acts of cruelty and oppression. General Dyer himself has justified all that he did. Col.

Frank Johnson is proud of everything that was done by him. He said in one case that that was one of the few brain waves, he had in his life. Captain Doveton, Col. O'Brien, Major Bosworth Smith all testify in the same spirit. There was only one incident for which Col. Frank Johnson expressed his regret, and that was the flogging of the marriage party. Others were not sorry for anything, and said that they would do the same thing if ever there was a chance of doing so. Here then we have the tragedy of the situation.

We believe that the principles and conduct of these men are entirely opposed to the traditions and the policy of the British Government, particularly the policy that underlies the Reform Scheme. We are afraid, however, that in the Punjab the majority of the bureaucracy are of the same mentality. The vast majority of the non-official European community is also of the same mind and so are a good many of the European and American Missionaries. If such is the mentality of so many members of the Indian Civil Service, who, after all, are the real rulers of the country and in whom is vested the task of administration, what is the remedy. In the face of the statements made before the Hunter Committee by European witnesses, the wholesale defence of General Dyer and others by the Anglo-Indian Press and the Anglo-Indian community, the raising of memorial funds for him and in his honour, and last but not the least, the resolution passed by the House of Lords, how can we Indians, possibly, assume that the British in England and the European community in India generally have accepted, in sincerity, the Reform Scheme and the principles that underlie it? These principles imply that if not at once

at least in a short time we must be free in our own country, with power to make and unmake our Government, subject only to the maintenance of the Imperial tie, it being our interest and right to shorten the period of transition as much as possible. The Indian Civil Service and the European community of India and the House of Lords evidently think otherwise. They conceive it to be in their interest to prolong the period of transition by all the methods open to them and many of them are frankly anxious to defeat the Reform Scheme and revert to the old system of Government. If then the struggle between these two interests is to be conducted on the lines that were in evidence in the Martial Law regime, it seem to be absolutely futile to think of friendly co-operation between the two interests. It is all very well for those who are still in power to ask us to drop the matter and let by-gones be by-gones. I wish I could ask you to do the same. I am not actuated by any vindictive and revengeful motive, and I fully believe that my people are not; but how can we sit silent and let the matter drop in the face of all that has happened in India and in England, in connection with events of last year until full and complete justice has been done and until steps have been taken to prevent a recurrence of the tragic state of things. The Government of India and the British Cabinet have gone out of their way to praise and belaud a man whom we consider to be the chief culprit in this whole drama of oppression and tyranny. If that praise is justified, and if we acquiesce in it by our silence then surely we deserve all that was done to us. If not, then, it is our duty to press for the punishment and prosecution of Sir Michael O'Dwyer.

The Punjab tragedy was not a provincial affair, but a national one. Our manhood, our self-respect, our national dignity, nay, our very existence as a nation, depends on our having the principles and practices of Sir Michael O'Dwyer condemned and once for all abrogated. We owe it to ourselves, to our women, to our children and also to those unborn, to fight it out and not let the matter drop without obtaining full and unqualified redress, and without obtaining effective guarantees that it will not be possible for any one, however high his position in the Government of the country, to enact such like tragedies again. It is our duty also to repudiate as emphatically as we can the fundamentaly erroneous, I was going to say, vicious and Prussian conception which found frequent expression in Sir Michael O'Dwyer's speeches, that the security of life and property is only a means to an end. What is the end? The uplifting of the human race and its progress towards the fullness of freedom, which means towards divinity. PEACE IS A GOOD THING, BUT LIFE IS STILL BETTER, says Rabindranath Tagore in one of his essays on Nationalism.

If the British rulers of India propose to give us mere security of life and property by denying us honour and liberty we must refuse to have them. THERE IS NO LIFE WITHOUT FREEDOM AND THERE IS NO FREEDOM WITHOUT "SWARAJYA" OR SELF-GOVERNMENT.

I believe I give expression to your sentiments when I say to our rulers, that although the British Government is mighty enough to crush all our efforts by their military power, any success they achieved

by military efforts would be a very expensive one. The British *Raj* is no longer synonymous with justice and fair-play in the mind of the average citizen and the more it is dragged into the mire by men like Sir Michael O'Dwyer, the more it will lose in what has hitherto constituted its boast.

We, on our part, are determined not to let our *morale* go under, to fight only a clean fight. We shall continue to condemn unhesitatingly and unequivocally all those who commit violence, or insult or humiliate women, irrespective of their nationality, or who commit such acts of inhumanity as characterised the Dyers, Dovetons, Johnsons, O'Briens and others of the Punjab tragedy. If all this fails to bring us the necessary relief, I for one hope and believe that it will not, well, then the future is in the lap of the gods. I want in your name and in the name of the country which we have the honour to represent to tell Mr. Montagu and through him the British Cabinet, that we accept in full the principles that he has laid down in the speech which he made in the course of the Dyer Debate in the House of Commons. For our part we are fully prepared to act on those principles, and to cherish the connection with the British Commonwealth as a desirable privilege; but we shall be deceiving ourselves as well as Mr. Montagu if we do not tell him also that in the light of the events that happened in the Punjab last year, the people of this country require something more than speeches and resolutions and despatches to prove that the British Cabinet and the British people are equally sincere and equally earnest for the principles laid down by Mr. Montagu. Here let me make one thing clear. If partnership in the Common-wealth means full free-

dom to us in India, with responsibility for the burden of the Common-wealth to the extent of our interest in it, we accept that ideal of partnership but if partnership in the Empire means and includes the permanance of racial or alien domination in any shape, form or degree in the Government of India, then we do not accept that ideal. We are determined at no distant date to be entirely free in our country, in the same sense as South Africans are free in South Africa, Canadians in Canada, Australians in Australia and the British at home. Any qualification of that ideal we will not admit. All those Europeans who are domiciled in this country are our countrymen, and it shall be our duty to respect their rights in the same way as we shall respect the rights of any other community in India. But beyond this we are not prepared to go. Further we are also determined not to let ourselves be used as willing tools to crush the liberties of the rest of the world. We of the Indian National Congress have declared that we are quite fit for complete autonomy even now, yet we did accept, however inadequate and unsatisfactory, the instalment given to us, as evidence of the *bona fides* of the British statesmen. We were prepared to work out the Reform Scheme to the best of our ability as a stepping stone to full responsible Government, but we must frankly tell Mr. Montagu that the events of the Punjab have shaken our faith in the motives of those who seek our co-operation in the ostensible working out of the Reform Scheme.

I will conclude this part of my address by stating in brief what we want. (*a*) We want complete and unequivocal repudiation and condemnation of Sir Michael O'Dwyer and if possible his prosecution and punishment. We also want that an open enquiry be held into the methods adopted by Sir Michael O'Dwyer in the

recruiting campaign and in raising war loans and war funds. (*b*) We want equal condemnation and punishment of the Dovetons, Johnsons, O'Briens and Smiths as well as of all those Indians, who helped them in enacting the outrages of the last year. The compulsory retirement of men like Bosworth Smith does not satisfy us. (*c*) We want the release of the remaining Martial Law prisoners and all the men that are still *rotting in jails under convictions of the Special Tribunals and the Martial Law Courts.* We shall be quite ready to have such of them retried by ordinary courts as were accused of murders or other charges of that nature; but we refuse to accept the judgments of the Special and the Martial Law Courts as good judicial pronouncements. (*d*) We insist that all the loss incurred by the people of the Punjab by the vagaries of the troops and the officials in the course of the Martial Law administration be made good and that all punitive fines and penalties imposed and recovered be remitted and returned. (*e*) We demand that all the disqualifications that are involved in the conviction of men by the Martial Law Tribunals be set aside, either by law or by a general order of the Government. (*f*) We further require that an open enquiry be held into the charges of bribery, corruption, extortion and torture that have been made by the witnesses before the Congress Commissioners against Police Officers of whatever rank, and other officials. (*g*) We also insist that if the authors of the Reform Scheme want a fair trial for it, they must remove from the Punjab all such officers as were connected with the outrages, as a proof of their *bona fides.* (*h*) If there be any others in the Punjab or elsewhere who do not accept the principles of the Reform Scheme they also must go, even if they have to be retired on suitable pensions,

They should not be there to defeat the Reform Scheme by the exercise of powers that are still left to them to a very great extent by the Reform Scheme itself. The Department of Law and the control of the Police is entirely in their hands and unless the people of India get control of these Departments they cannot effectively prevent the higher officials from exercising these powers high-handedly and arbitrarily as they did in the Punjab and as, to our knowledge and regret, they are doing even now in some places. (*i*) The Government of India too must shoulder their share of the responsibility for the Punjab tragedy. Their decision on the Hunter Committee's Report was a foregone conclusion. All the credit which they were entitled to, for their efforts to shorten the period of Martial Law has been discounted by their present jurisdiction of its continuance. If the view which the British Cabinet has taken of General Dyer's action and of the excesses of the Martial Law administration is correct (and it is much below the reality), then I submit the least that Lord Chelmsford can do with honour to himself is to retire from his high office. If Mr. Austan Chamberlain thought it his duty to resign his office on account of the verdict of the Mesopotamia Commission, I submit there is enough in the Hunter Committee's Report (of both the Majority and the Minority) which should induce Lord Chelmsford to take the same honourable course. The Viceroy and his Cabinet have been guilty of gross dereliction of duty in failing to check the vagaries of Sir Michael O'Dwyer, and in failing to exercise that power of control which law and tradition vested in them. They let the people of the Punjab sulk and suffer under the impression that there was no one to hear their cries.

THE PUNJAB DISTURBANCES.

[By Sir P. S. Sivaswami Iyer.]

The disturbances in the Punjab in April last and the measures taken by the authorities to deal with them attracted the keenest and most wide-spread interest at the time. While the acts of lawlessness committed by the mobs were duly published at the time, the public were not kept equally informed of the doings of the authorities and the nature and the extent of the measures adopted by them in the restoration of order. The movements of people to and from the Punjab were prohibited or restricted. Accused persons were deprived of the services of counsel from outside the province. A rigorous censorship was exercised over the press and security was demanded from papers which had the temerity to publish accounts of the manner in which martial law was administered. Such information, however, as leaked out and was published sent a thrill of horror over the land. While all political organisations expressed their detestation of the wanton destruction of life and property and communications and all the other outrages committed by the mobs and their approval of all measures reasonably necessary for the suppression of disorder, they felt it their duty to condemn the excesses of the authorities administering martial law and press for the prompt withdrawal of martial law. After a delay of several months, the promised Committee of Enquiry has been appointed and the inquiry has been going on for two months. It is to be deeply regretted that the Government should not have seen their way to suspend sentences of the leading citizens who were convicted in Lahore and Amritsar and enable

them to be present when evidence affecting them was being given at the inquiry and to give instructions to counsel for the cross-examination of the witnesses. It is also unfortunate that for this reason the Congress Committee to whose patriotic labours we owe an ungrudging tribute of praise should have decided to withhold their assistance from the Committee and let in no evidence on behalf of the people. Notwithstanding these disadvantages, the evidence tendered by the Government and especially the evidence of the European Officers who were charged with the duty of restoring order, has thrown a flood of light upon the administration of the Punjab during those eventful months. The disclosures now made have confirmed the worst suspicions of the public as to the ruthless and inexcusable barbarity of the administration and have created a feeling of intense indignation throughout the country. In view of the fact that the inquiry is not yet concluded, a considerable measure of reserve is called for in expressing an opinion on the matters pending before them. It is neither possible, nor desirable at this stage to express any opinion as to the causes of the disturbances or as to the necessity for employment of military force or for the introduction of martial law; but the evidence of the European officers which has been already taken has made it abundantly clear that martial law was continued long after the necessity for it, if any, had ceased, that the means adopted by the military authorities to put them down were far in excess of the requirements of the situation and that the proceedings of the officers concerned were not guided by any considerations of common sense, humanity or decency. Whether the disturbances in the various localities

amounted only to riots or rebellion is a matter which may be left, for the present, to the decision of the Committee. It is well settled that necessity is the sole measure of the duration and extent of the force to be employed for putting down an insurrection and restoring order and that it is only when it is impossible for the ordinary courts of law to sit or enforce the execution of their judgments, that martial law can be indulged. There is nothing to show that except perhaps during the few days immediately following the disturbances the ordinary civil courts could not sit. Apart from any question of the legality of the ordinance providing for the trial of offences by special or martial law tribunals, there was no moral justification for the continuance of martial law or for the continuance of special tribunals after the disturbances had been put down. The fact that trial by court-martial is bound to be quicker or would serve as an example of terror to others and help to keep them in due awe and obedience is no justification whatever for the establishment or continuance of martial law. It is also clear that the martial law officers had no right to treat contraventions of their own orders as offences and proceed to try and punish people for infringement of their orders. Let us turn our eyes to some of the facts disclosed in the evidence of the principal European witnesses. The wholesale slaughter of hundreds of unarmed men at Jallian Walla Bagh without giving the crowd an opportunity to disperse, the indifference of General Dyer to the conditions of the hundreds of people who were wounded in the firing, the firing of machine-guns into crowds who had dispersed and taken to their heels, the flogging of men in public, the order compelling thousands of stu-

dents to walk 16 miles a day for roll-calls, the arrest and detention of 500 students and professors, the compelling of school children of 5 to 7 to attend on parade to salute the flag, the order imposing upon owners of property the responsibility for the safty of martial law posters stuck on their properties, the flogging of a marriage party, the censorship of mails, the closure of the Badshahi mosque for six weeks, the arrest and detention of people without any substantial reason and especially of people who had rendered services to the State in connection with the War Fund or otherwise, the flogging of six of the biggest boys in the Islamiah school simply because they happened to be school boys and to be big boys, the construction of an open cage for the confinement of arrested persons, the invention of novel punishments like the crawling order, the skipping order and others unknown to any system of law, civil or military, the hand-cuffing and roping together of persons and keeping them in open trucks for 15 hours, the use of aeroplanes and Lewis guns and the latest paraphernalia of scientific warfare against unarmed citizens, the taking of hostages and the confiscation and destruction of property for the purpose of securing the attendance of absentees, the hand-cuffing of Hindoos and Muhammadans in pairs with the object of demonstrating the consequences of Hindu-Musalman unity, the cutting off of electric and water supplies from Indian houses, the removal of fans from Indian houses and giving them for use by Europeans, the commandeering of all vehicles owned by Indians and giving them to Europeans for use, the feverish disposal of cases with the object of forestalling the termination of martial law, are some of the many incidents

of the administration of martial law, which created a reign of terror in the Punjab and have shocked the public. It is a strange feature of the mental constitution of those military officers that they should have imagined that the steps they took were a remedy for the sullenness of the people and a means for promoting the popularity of the government. We are naively told by General Sir William Benyon that instead of being unduly severe, the administration erred on the side of leniency and that he and Sir Michael O'dwyer approved of General Dyer's exploit. It is inconceivable that such things can ever happen under the name of martial law in England or even in Ireland. That they could have happened in India shows the ineptitude of the present system of government. It is obvious that the Government of India must have regarded the opposition to the Rowlatt Bill as a direct challenge of their authority and as a trial of strength between the people and the government and that having given their promise of support to the local authorities, they were prevented by panic and love of prestige from listening to the representations of Indian leaders, or making any attempt to see things for themselves. It is no wonder that the hearts of our people have been stirred by these doings to their inmost depths. The indecent haste with which the Indemnity Bill was rushed through the Imperial Council is now intelligible. It will also be clear how well-founded the objection of the people was to the provisions of the Rowlatt Bill which entrust the liberties of the subject to the mercies of the executive.

We do not know what the findings of the Enquiry Committee may be; but if we may be allowed to voice

the wishes of the people we should ask, (1) for reparation for all serious hardship and suffering caused by unwarranted acts of severity, (2) for steps being taken to bring to justice any officials, high or low, civil or military, who may be found to have acted unreasonably and in excess of their powers or authorised such acts, (3) for the provision of safeguards against the recurrence of such things in the future and (4) for the abolition of flogging in the Indian Army. Let us see what reasonable safeguards it is possible to suggest. One remedy which may perhaps be thought of is that in dealing with internal outbreaks the civil authorities should only invoke the aid of military forces, but should not allow the introduction of martial law. This suggestion raises a very large issue and in view of the incidents of the martial law regime in Ireland, Egypt, India and Ceylon may deserve consideration, but it seems to me doubtful whether it is likely to be entertained as a practical proposition. No enactment of any declaration of rights as suggested by our friends in the Congress can avert the possibility of the introduction of martial law; for, by the very nature of the case martial law is a creature of necessity and transcends all law. Martial law is a state of no law where the will of the General who commands the army prevails; but if, as is only too likely, the abolition of martial law for the purpose of suppressing internal outbreaks is put aside as an impracticable suggestion, we are entitled to ask that the constitutional limitations to which its exercise and duration are subject according to the opinions of eminent English jurists shall be authoritatively set forth either in a statute or in a memorandum of instructions to be issued to the Governor-General.

It should be made clear that martial law should not be introduced, unless it is impossible for the civil courts to sit and exercise their functions. It is further necessary that the power of creating new offences for breach of regulations and providing penalties therefor should not be delegated to Military Officers and that if courts-martial and civil courts are both sitting, any person not subject to the Naval Discipline Act or to Military law, who is alleged to be guilty of the contravention of any regulation should be allowed to claim to be tried by a Civil Court instead of by a Court-Martial.

The happenings in the Punjab have emphasised the necessity for providing that the Indian element in the Executive Council of the Viceroy shall be at least equal to the European element. They point to the urgent need for the cheapening and quickening of cable communications with England. They have also demonstrated the evil effects of a prolonged exodus to the hills and the consequent isolation of the government from the world of humanity beneath.*

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* From his presidential address at the All-India Moderate conference at Calcutta.

TRAGIC EVENTS IN THE PUNJAB.

[By Mr. M. R. Jayakar.]

(At a public meeting held in Bombay to protest against the findings of the Hunter Committee, Mahatma Gandhi moved a resolution which was seconded by Mr. Jayakar. The text of his speech ran as follows).

I have very great pleasure in supporting the resolution moved by Mahatma Gandhi. I would have preferred to restrict myself to simply according my support to this resolution without being drawn into making a speech, for I agree with the president that it is difficult to speak on the Punjab affairs with moderation and restraint. My difficulty is, however, greater than his, because I have spent some time in looking into the affairs at first hand and have realised very painfully the humiliation and degradation which it was the deliberate intention of Sir Michael O'Dwyer and his officials to inflict on the Indian people. In my opinion, one thing that stands pre-eminently out of the bloodshed and slaughter, for which the Punjab tragedy has become a synonym, is the deliberate attempt, which the officials there, hardened in the school of hatred initiated by Sir Michael O'Dwyer, made to strike a blow—and a deadly blow, at the rising aspirations and patriotism of the people of the Punjab. It had been, for a long time, the boast of Sir Michael O'Dwyer that the Punjab knew no political discontent, and when, therefore, he realised, to his extreme surprise, that the Punjab was being affected with the national sentiment and the courage and self-expression it occasions, he made a supreme effort, almost diabolical, to crush that feeling even with bloodshed, and in that desire took advantage of the circumstances created by the situa-

tion. That is how some of us interprete the Punjab situation, and I find ample evidence of it which has since attracted the attention of the Country. Through all the orgies of brutality and excesses to which the officials descended, one design runs as a common feature, and that was the desire to use on plausible pretexts the long and powerful arm of the British Government to inflict a cowardly blow on the honour and self-respect of the literate classes, by humiliating them personally, by intimidating their women and children and lastly by shedding the blood of their poorer countrymen. These are no doubt strong words and I am using them with a feeling of the fullest responsibility, because, I am sure, they are amply justified by the evidence led before the Congress Committee and even before the Hunter Committee. That is why crawling orders were invented; that is why the Martial Law order prevented two Indians walking side by side along the foot-path of the Lahore Mall. That is why school boys were flogged and made to bow to the British flag after a wearisome journey of several miles more than twice a day from their hostels. That is why the leaders of the several cities were hand-cuffed, paraded through the streets and sometimes openly flogged. That is why the professors, who had the teaching of the young in their hands, were subjected to humiliation. If you read the evidence, you will find that the educated classes came in for a special share of the attention of Sir Michael O'Dwyer and his myrmidons. You will recall the episode recorded in the Congress Committee's Report where Sir Michael O'Dwyer meeting the Hon'ble Raizada Bhagat Ram and learning that Mahatma Gandhi's soul force had secured a successful hartal

without disturbances, raised his fist and said "Raizada Sahib, remember, there is another force greater than Gandhi's soul-force". That 'another force' was the might and power of the British Government and his ingenuity so successfully utilised it as to raise an overpowering shadow of a seeming rebellion, which has even clouded the deliberations of the majority of the Hunter Committee. It is a most painful feature, disclosed by the Punjab tragedy, to realise what little respect most official Englishmen feel for the educated classes in this country, their equals by birth, culture and training. In normal times their hatred appears to be cloaked under a well-practised courtesy and well-kept distance, but the least disturbance of the normal times is apt to open the flood gates of this concealed hatred and find a vent in brutality and excesses. This is the most curious feature of the Punjab situation, and if this attitude of the official mind, so well disclosed by the Punjab affairs, is to be taken as an indication of the average Englishman's mentality in this country, then, I say, there is not much hope for the future comradeship of the two races, however much solitary individuals here and there may try to approximate to a common ideal of Indian citizenship.

To my mind, therefore, this struggle in the Punjab indicates the beginning of a greater struggle—greater than any known to this country before—between the power and the pomp of an omnipotent bureaucracy determined to crush the rising aspirations of young India and the growing force of public opinion in this country. Which will win in the long run, depends on our efforts. For the present, the bureaucracy have a long and powerful arm, helped by a system of administration perpetuating racial supremacy. On the other

hand, the force of public opinion is just growing and has to be guided into channels of strength and firmness. What we contribute towards the success of these struggling forces will depend upon the firmness and courage which we bestow on our efforts.

At present, the whole country is full of a deep and subdued resentment, resentment against the practices of Sir Michael O'Dwyer and his creatures, resentment against the callous supineness of Lord Chelmsford and his government, resentment against the majority in Lord Hunter's Committee, which, prompted by race *hauteur*, deliberately exonerates the brutal excesses of the British officials, and lastly resentment against the attitude adopted by the Anglo-Indian community in this country. To my mind the problem is, how will this resentment take a practical shape so as to increase the volume and strength of public opinion in this country and force the hands of the official world to yield to the demands of the Indian people. Our intellect has to be utilised for the purpose of finding the most suitable means whereby this resentment will not be dissipated in sudden or iconoclastic efforts but will be utilized for swaying the current of public sentiment into proper channels of strength and firmness. The whole country is waiting to adopt the lead of the man who will suggest some suitable means whereby this resentment will find a practical shape and be utilised for raising the country into sublimer heights of unselfish exertion. Our faith in British justice and statesmanship has been completely destroyed and a crisis has been reached such as was never known in the history of this country before. How shall we avert it, is the anxious thought of every lover of this country.

REPRESSIVE LAWS IN INDIA.

THE SEDITIOUS MEETINGS ACT.

[By Dr. Sir Rash Behari Ghose.]

I am not using a mere phrase of course when I say that I was never oppressed by a sense of responsibility so deep or so solemn as on the present occasion. I am well aware that one of the first duties of the State, is to preserve law and order, and if I thought that either law or order or property was menaced, or that public tranquillity could not be maintained unless the Government were armed with power which they now propose to take, I would be the first to vote in favour of the Bill, and to vote for it with all my heart. But we have been assured on the highest authority that the present situation is not at all dangerous and that the heart of India is quite sound. The so-called unrest, we have been also told by one who ought to be a competent judge, is only skin deep, a cutaneous affection which will readily yield to judicious treatment. Again only in June last Mr. Morley said that the disturbances were only local and sporadic. Now what has happened since? Is the condition of the country now worse than it was in June and would not the passing of the present Bill be taken as a sign of that very nervousness, trepidation and fear which Mr. Morley thought would be not only unworthy of, but extremely perilous to, the Indian Government?

I am not in the confidence of the police or of special correspondents of the English press and cannot, therefore, speak with papal infallibility, but I can

solemnly affirm that there is discontent which may possibly by injudicious measures be turned into sedition, the people of India are thoroughly loyal. If anybody doubts it, let him recall the manifestations of loyalty and of the deep attachment to the throne which followed the Prince of Wales everywhere, when he visited this country. Calcutta was at the time in a fever of agitation and excitement, as Bengal was weeping for her children and would not be comforted because they were not and yet the prince was received with demonstrative enthusiasm, which showed beyond all cavil or controversy our devotion to the Crown. Do not be misled by the foolish speeches of a few irresponsible men, but remember what Burke says about the noise that a few grasshoppers can make in a field. Do not, I pray you, by exaggerating the danger, play into the hands of the seditious agitator. Yet, this is precisely the thing that Sir Harvey Adamson's Bill which casts an undeserved slur on the loyalty of three hundred millions of men, is calculated to do, for it is nothing more, nothing less, than an indictment against the whole nation. And I am confident that this measure if carried would have a serious effect on the good people in England, who are daily fed with stories of Indian unrest, which would make one's flesh creep, by men who, though they may have grown fat in this 'land of regrets,' cannot certainly plead the excuse of youth. These 'literary assassins,' to use a phrase made canonical by Cobden, and their abettors would now be able to say that they were right, and would have the doubtful satisfaction of seeing our financial credit crippled. As regards the people of this country, there is only one very small section to whom the Bill would be welcome,—I

mean the extremists, for it would enable them to adorn their perorations with references, to Russian methods of Government. For whatever precautions you may take speeches will conitnue to be delivered. You cannot effectually gag one sixth of the population of the world.

I do not wish to indulge in well-worn common places about the futility of coercion;—the danger of sitting on the safty-valve, for instance, which must be familiar even to men less gifted than Macaulay's forward school boy. But I must remind Hon'ble Members that the Irish question yet remains to be solved. It has certainly not been solved by the numerous Coercion Acts, fifty in number, which bulk so largely in the Statute book. In that unhappy country, the 'Isle of Destiny' agitation has led to coercion and coercion in its turn a greater and more dangerous agitation. But I am perhaps forgetting that Ireland is a cold country where a fur coat might be useful and therefore the analogy may not quite hold good. One thing, however, I may safely assert, and that is that in Ireland as well as in India the application of drastic remedies to skin diseases which rapidly disappear under mild treatment always leads to serious complications. Is there any reason for thinking that this is not true of the body politic? The measure now before the Council may secure for a time outward quiet, and drive sedition underground, but its inevitable fruits will be growing discontent and distrust, which may under repression readily slide into disaffection. It will thus create more evils than it can possibly cure. And this reminds me that the movement in the Punjab was mainly agrariam and was arrested by your Lordship's

refusal to give your assent to the Colonisation Act, and not by the Ordinance; the powerlessness of which to keep down unrest is shown by the fact that there are no signs of improvement in East Bengal.

We have no doubt whatever that in devising the present measure the Government have only the interests of peace and order at heart. But authority which is compelled to be severe is liable to be suspected and when it seizes the rude weapons of coercion, its motives are liable to be misconstrued. People are everywhere asking, in fear and trepidation, what next and next, What is to be the end of this new policy? For the spirit of coercion is not likely to die for lack of nourishment, as it makes the meat it feeds on, and trifles light as air are to it confirmations strong, shall I say as an Indian police report or a scare telegram from our own correspondent?

I repeat that the situation is not in the least dangerous, and an over-readiness to scent danger is not one of the notes of true statesmanship. But suppose I am wrong and the position is really critical, what does it prove? It proves, unless we are afflicted, not merely with a double or even a trible, but with a quadruple dose of original sin, that the Government of the country is not the most perfect system of administration that some people imagine.

I began by saying that this Bill is an indictment of the whole nation. If, however, it is true, and this can be the only justification of the measure, that India is growing more and more disloyal, this Bill is really an indictment of the administration. The positions will then be reversed. The Government, and not the

people, will then be put on their defence. There is no escape from the dilemma. If there is no general disaffection, you do not want this drastic measure. The prairie cannot be set on fire in the absence of inflammable materials to feed it. If, on the other hand, a spirit of disloyalty is really abroad, it must be based on some substantial grievance which will not be redressed by Coercion Acts. You may stifle the complaints of the people, but beware of that dreary and ominous silence which is not peace, but the reverse of peace. Even immunity from public seditious meetings may be purchased too dearly.

And this leads me to remark that the present Bill which the Member in charge of it frankly admits is a repressive measure of considerable potency, does not seem to be modelled on any law of which I am aware. It may possibly be based on some ukase though the definition clause seems to be original, but I cannot speak with confidence because I never had occasion during the last forty years to study the jurisprudence of Russia, and I sincerely trust I shall not now be called upon to do so. There is no such law in Italy or Belgium, France or Switzerland, though the seditious agitator is not an unknown figure in Europe, which is honey combed with secret societies of anarchists and socialists. Riots, too, which the soldier is often called upon to quell, are not infrequent; and yet there is no such drastic law in any of these countries for the suppression of public meetings. In America, the right of public meeting is safeguarded by the very constitution of the United States, which provides that Congress shall make no law 'abridging the freedom of speech or of the press, or of the right of the people'

peaceably to assemble and to petition the Government for a redress of grievances. And this has also been the wise policy of the English law which was interrupted only for a short time in the Georgian period when the public mind was much excited by the events in France, but Lord Sidmouth's Act, which did not prohibit but merely forbade any meeting of more than fifty persons to be held, unless six days' notice was given by seven householders to a magistrate, almost fell dead born, and is now remembered only on account of the Cato Street conspiracy which was its immediate outcome.

It has been said by a very high authority that, in view of the activity of the extremists, it would be the height of folly not to try to rally the moderates to the side of the Government, but surely, surely, repressive measures are not the best method of attracting their loyalty. The right of personal freedom and of meeting in public has always been regarded by us as an inalienable privilege of every subject of the British Crown. But we were painfully reminded only the other day that we may be deported without a trial and now that the right of public meeting is going to be taken away from us, with what face can an Indian subject of His Majesty say '*Civis Romanus Sum*' which was at one time his proud boast. We must speak our convictions and that in no hesitating or diffident notes, as our dearest interests are at stake, for this Act, if passed—we know how it would be administered—would, I fear, prove the grave of all our political aspirations. You are taking away from us who have not even that which we have. Put down disorder by all means, the civil sword is at present strong enough for that

purpose; but do not kill the free play of thought or the free expression of it. In the organ tones of Milton, which may still be heard across the centuries, 'that would be the slaying of an immortality rather than a life.' In pleading in those impassioned words, which no body who has read them can ever forget, for the liberty to know, to utter and to argue freely according to conscience as a liberty above all other liberties, the great protagonist in the area of free discussion points out that England 'needs no policies, no stratagems, no licensings to make her victorious,' neither I should add, at home nor abroad. And it is to this freedom of discussion that England owes, among other blessings, the abolition of the slave trade and slavery, Catholic emancipation, parliamentary reform and the repeal of the Corn Laws. It may be, we have been so long in the house of bondage, that the blaze of liberty has dazzled and bewildered some weak eyes. But in time we shall become accustomed to the light and able to bear it. Before that time arrives violent opinions may be sometimes expresed but folly, if treated with forbearance, has generally a short life.

It is said that we are intoxicated with the new wine of freedom, that Locke and Milton, Fox and Burke, Bright and Macaulay, have unsettled our minds. But those who say so take no account of the Time Spirit against which even the Olympian gods must fight in vain. I trust I am no dreamer of dreams, but I see that what is passing before us is a social and political evolution. You may guide it, but you cannot arrest it, any more than you can make to day like yesterday. Silent and as yet half conscious forces are at work, which a wise statesman would harness to law and

order by timely concessions. But a reactionary policy would only make the last state of the country worse than the first; for angry passions, which under milder measures would have died away, would stiffen into deep and lasting hatred and the infection is sure to spread with time.

Is the Government I ask, afraid of the rant of a few agitators? Is the police unable to preserve public order, and has the Magistrate ceased to be a reality or the Statute-book a dead-letter? If the free right of public meeting is abused, is the ordinary law incapable of punishing such abuse? The question really comes to this—is the right to meet in public for the discussion of political matters to be taken away from us simply because it is liable to abuse? There was no attempt to interfere with the right in England after the "No Popery" riots when London was held by the mob for two days together or even after the Reform riots when, Bristol was sacked and the magistrates were powerless. It is true public meetings have been sometimes suspended in Ireland, but does the condition of India in any way resemble that of Ireland? Are there any cattle maimers, incendiaries or agrarian or Phœnix park assasins in India; is there any association which openly preaches that killing is no murder? Thousands of mass meetings have been held in Bengal, every one of which was orderly except on a recent occasion where the police were sent to keep order. And here I may mention that our experience is that the custodians of the public peace themselves require a custodian, but if the salt hath lost its savour where with shall it be salted?

We do not however object to the admission of the police to meetings which are really public; but what

is the justification, and where is the necessity, for clause 5 of the Bill. It is true, Sir Harvey Adamson reminded us that public meetings can be prohibited only by officers of high standing and of large experience. But his assurance will hardly satisfy those who have read Bentham's Book of Fallacies.

It has been said that a loyal community has no more reason to apprehend the application of these powers than the imposition of the British death duties. This I venture to think is the reasoning of men who live in closets, and are unacquainted with practical affairs. The answer to this sort of argument is to be found in the speech of Sir Charles (after-wards Lord) Russel, Chief Justice of England, on the Irish Crimes Bill. As to public meetings, he said, they would be told with sincerety and truth that the only object of the clause was to prevent meetings which were treasonable or seditious, or openly hostile to the peace. Such professions, added the distinguished speaker, might be made in perfect good faith, as they had been on previous occasions; but he feared the public meetings clauses would be so applied as to put down the free expression of public opinion in Ireland, and the people would believe them to be directed to that object.

Now if such things can take place in a green tree, what may not happen in the dry. It is notorious that in this country we have even less to fear from a bad law than from its administration by the machinery entrusted with the task. And I have no hesitation in saying that if this Bill is passed, it will make the police, who are the eye and the ear of Government, the absolute masters of the people,

who will be handed over to the tender mercies of a body of public servants who are not the most efficient of the most immaculate; and their domiciliary visits, which I take it, will not be few or far between, are sure to lead to breaches of the peace among a people to whom the sanctity of their homes is something more than a mere phrase. I wish to speak with all reserve, but I am bound to say that even the action of our magistrates, who are part of the executive, will be regarded with distrust as not possessing either adequate knowledge of the law or that Judicial temper which is so essential to the discharge of those delicate duties which will now be entrusted to them. If any Honourable member is inclined to think that my misgivings are unfounded, let him study the comments in the Irish press on the cases, and their name is legion, decided under the Coercion Acts.

Not only is the measure in my humble judgment uncalled for and impolitic, but it is also superfluous; as the Indian Statute-book gives the Government ample power to put down sedition. You will find the iron hand concealed in the velvet glove in section 108 and also in section 144 of the Code of Criminal Procedure, which enabled the Magistrate of Calcutta only the other day to prohibit public meetings. Unlawful assemblies again may be dispersed under sections 127 to 132 of the Criminal Procedure Code; while open sedition may be punished under sections 124A, 153A and 505 of the Indian Penal Code. We have, however, been told that the object of this Bill is to insure the free admission of the police to all public meetings for the purpose of taking notes of any seditious speeches that may be made, but does any body seriously believe that the Indian Police are equal to the task? It may be easy

to provoke a riot, it is sure to be provoked if private houses are invaded, but it is not quite so easy to report a speech correctly.

I wish to speak with that loyal frankness which the best proof of true loyalty, and I repeat that repressive measures like the present would put a severe strain on the loyalty of the educated classes who have been considerably exercised in their minds by the resurrection of Regulation III of 1818 and by the Ordinance of May last. I am well aware that we are spoken of as a microscopic minority, an alliterative phrase which seems to have the same soothing effect on certain minds as that sweet word Mesapotamia. But though numerically not very large, the influence of the educated classes is not to be measured by their numbers. One of the effects of the Bill, it is my duty to warn you, would be to drive some of them into the camp of the extremists.

It has been said that this Bill is a measure of great potency. I agree,—but potency for what purpose? For putting down sedition? I say, no. It will be potent for one purpose and one purpose only, for the purpose of propagating the bacillus of secret sedition. The short title of the Bill is—A Bill for the Prevention of Seditious Meetings,—but I venture to think the title requires a slight addition. It ought to be amended by the addition of the words 'and the Promotion of Secret Sedition.' Order may be kept, peace may reign in India, but this measure will produce the greatest disappointment among those by whom, though they are not the natural leaders of the people, public opinion is created and controlled. The logic of coercion, we all know, is charming in its simplicity but its authors forget that they cannot coerce thought—they cannot

make men loyal by a legislative enactment. It is true, a policy of thorough may be successful, but no Englishman at the present day except possibly some of the oracles of the press, would counsel anything of the kind.

I am sorry to find that the Hon'ble Home Member's mind is filled with dispair on account of the coldness with which the recent reform proposals, which I may mention in passing are merely tentative, have been received by a section of the irreconcileables. But this is not the feeling with which the English statesmen have approached the Irish question. They have never lost heart because they were unable by the most generous concessions—they were bread and not something else, to win the affections, I do not say of the irreconcileables, but even of the most reasonable and intelligent among the Irish people. Their motto has always been 'Be just and fear not.'

For the first time in the history of the world, as Mr. Morley said not long ago, a strong and effective administration has been found not only compatible with free institutions, but has been all the more effective by their side; and he recommended this noble though arduous policy to the country; because it is noble, and because it is arduous. Let it not be said that Your Excellency's Government found this noble and glorious task too arduous.

And now I find I must stop. I trust I have said enough to justify, my vote. I do not oppose this Bill in a party spirit, for there are no parties in this council; nor have I any desire to embarrass the Government. I oppose this Bill because I am fully persuaded that it is foredoomed to failure. I oppose this Bill, it is no paradox, because it will intensify and not mitigate the

evil which you are seeking to guard against. I oppose this Bill because I am a friend of law and order, both of which are menaced by it. I oppose this Bill because the Government already possess all the power they can reasonably want in the armoury of the Penal and the Criminal Procedure Codes. I oppose this Bill because it violates all the liberal traditions which have up to this time guided the Government. I oppose this Bill because I wish to see the English rule broad based on the peoples' will and not resting merely on the sword, whether Indian or British. And lastly, I oppose this Bill because it will kill all political life in this country.

We are conscious we are fighting a losing battle. We know we shall be defeated, but we shall not be dejected. For there are some defeats which are more glorious than victories, and we shall count this among their number. We have been taught and have learnt to value the right of public meeting as one of our dearest rights, and we should have been unworthy of ourselves, unworthy of the trust reposed in us, if we quietly submitted to a measure which is aimed at it and which would be so fatal to all national growth. In our defeat, however, we shall be sustained by one great consolation, the consolation of having endeavoured, according to our lights, to do our duty to the Government and to the country.

One word more. It is unfortunate that the 1st of November should have been fixed for this meeting. That day has always been associated in our minds with the gracious Proclamation of Queen Victoria. It will now be associated with the loss of one of our most cherished rights.

THE INDIAN PRESS ACT.

[By Mr. B. G. Horniman.]

I take it that it is not necessary to offer any argument on behalf of the principle of a free press. And I take it therefore, that the people of India are against any sort of Act or measure which in any way infringes that principle and which deprives the Press in any degree of its freedom of expression. Therefore, I only propose to put before you as a working journalist and as the President of the Press Association of India a few facts with regard to the reasons or alleged reasons for which this Act is retained on the statute book and a few facts in regard to the way in which this Act is being administered.

We know that when this Act was brought before the Imperial Legislative Council the reason for its enactment given to the Council, given to the country, was the existence, chiefly in Bengal, of a phase of revolutionary activity which the Government had confessed itself unable to cope with. That was the reason for the enactment of this measure. I have followed the history of this Act since its very inception, and I am one of those who maintained at the time and I maintain it now, that that reason for the enactment of this measure did not even exist at the time it was enacted. I tell you why. Because the phase of revolutionary activity which it was enacted to deal with,—the existence of a certain class of newspapers which were supposed to be and were no doubt conducting seditious agitation by veiled means—that particular class of papers had already, I think I may safely say, ceased to exist, partly by the opera-

tions of the ordinary laws of human nature, by the operation of the economic factors of business by which you cannot attempt to keep up a supply if there is no demand, and partly because the ordinary law of the land had already extinguished the chief exponents of that particular phase of journalism in Bengal. I think Bengal will bear me out when I say that papers like *Bande Mataram* and others had already come to grief by the prosecutions brought against them under the ordinary clauses of the Indian Penal Code. Therefore, I maintain that when this Act was passed it was unnecessary for the purpose which were put forward as the justification of its enactment, and it was passed really for very different reasons—not to suppress real revolutionary activity in the Press, but in order to put into the hands of the executive a convenient weapon for repressing inconvenient criticisms which they could not bring under the operation of the clauses of the Indian Penal Code. Well, then, if the justification that was put forward did not exist at the time, very much less does it exist now. And I say deliberately that I defy the Government of India or any provincial Government in this country to lay before the country any sort of a reasoned case in justification of the alleged existence of these reasons at the present day. Very well, then, that is point No. 1—that the reasons for the existence of the Act either never existed or have disappeared.

Two other points which I want to put before you are these. The first one is that the safeguards that were promised—the promises that were solemnly made in the Imperial Legislative Council—have not been kept and the safeguards do not exist. We were most

solemnly assured that there were such safeguards—appeal to the High Court, etc.—as would effectually prevent any sort of arbitrary treatment of the Press under this Act. We have the deliberate judgments of two High Courts of the country that those safeguards are really entirely illusory. One of the fears expressed by the non-official members of the Council at the time of the passing of the Act—that it would put a fresh weapon of repression in the hands of the police—was a well-grounded fear because the police possess so many extraordinary powers in this country that it must always be a matter of great care and caution before you put into their hands any fresh weapon. But in reply to that, Sir Herbert Risley or some one on behalf of the Government of India promised us that the police would not come in at any step in the administration of the Act. I say—I am prepared to justify it—I say that the police come in at every step in the administration of the Act. The whole question of the respectability, if I may put it so, of the proprietors of a newspaper, or the proprietors of a Press, rests in the hands of the Criminal Investigation Deartment. And it is unnecessary for me to elaborate what that means to the character of any man in this country. Those two solemn promises, I say emphatically and deliberately, have been broken by the administration. Solemn promises made on behalf of the Government have been broken and are being broken in the operation of the Act from day to day and from week to week. I ask whether we are to regard the solemn promises made on behalf of the Government as absolutely nothing. That is the second point which I want to put before you.

The third point is the unfair manner in which this Act is being administered as between certain

classes of journals. Anglo-Indian papers in this country with one exception, are allowed to write as they like any sort of villification of the people of this country. They are allowed to use any sort of language bringing the people of this country into hatred and contempt of the Empire and nothing is done. But we know, and it is not necessary for me to enlarge upon what happens to the Indian journals that indulge in any sort of criticism of the behaviour of either race inhabiting this country. I will just give you one instance of the hundreds I could give, in order that you may realise the contrast between the treatment of these two classes of journals in India. Mrs. Besant in her paper *New India* is not allowed to agitate the case of the Indian people in regard to the question of reserved compartments for Europeans and Erasians, but an Anglo-Indian paper published in Bombay is allowed to publish an article, without a word of remonstrance from the Government, advocating the use of physical violence as an ordinary factor in the treatment of Indian labour. That is a pretty bad example of the way in which this Act is administered and I can assure you it is not the worst case. I could give you in addition to that many instances of the way in which perfectly honestly conducted newspapers, perfectly honest, perfectly loyal publications, have been suppressed and have been wiped out of existence under the operation of this Act, either for some unknown reason—reasons not given out by the Government—or because they have published some sort of criticism that has been found inconvenient—not by the Government but by the local District officer in whose hands the administration of the Act lies in the first instance. There, again, we have a great

contrast in the treatment of one kind of publication, and in the treatment of another. In Bombay, a very talented Gujrati novelist published a novel, in which, in the scheme of the novel, there was the character of an Indian returned from Europe who attempted—I think I am giving the correct version—to introduce into his community all sorts of western culture which they did not want. In the course of the novel, various characters indulged in a good deal of criticism of western ways of living and western ways of thinking. That novel—I do not know whether it was on that account—was suppressed, and I think, we may fairly presume that it was suppressed not because the writer expressed his opinions but because certain characters in his book expressed the opinions that Western culture was not desirable in an oriental land. To-day, at the present moment, there is appearing in certain Anglo-Indian journals a serial story, a novel written by an Englishman, written by a member of the Educational Service of Bombay, the whole tone of which from beginning to end is, if not a villification of the people of this country, of such a nature as to imbue the readers, ignorant readers, with hatred and contempt of the people of this country. The one book is promptly suppressed and the other is enjoying a flourishing existence in the columns of European journals in this country.

Apart from the general principle of the freedom of the Press, these are the reasons for which we ask for the repeal of the Press Act,—first of all, because the reasons which were put forward at the time it was passed to justify it did not exist and do not exist now; secondly, because the promises that were made in

regard to the safeguards in the Act have been broken; and thirdly, because it is demonstrably being administered in an unfair and invidious way as between one class of journals and another, as between one race and another. If I have said enough to justify us in asking the Government of India to repeal this iniquitous Act, if I have done that, I am satisfied.

THE ROWLATT LEGISLATION.

[By Sir Narayan Chandavarkar.]

The proposal of the Government of India to introduce into the Imperial Legislative Council at this juncture of the Indian political situation two Bills, one to amend the law of criminal procedure relating to sedition, other to deal with revolutionary conspiracies on the lines of the Defence of India Act, will not fail to suggest at first sight to a careful student of politics something of a parallel between the year 1877-78 and the present year. In 1877, the Queen was proclaimed Empress with the avowed object of drawing the people of India closer to the British Empire as a valued member of it. The Viceroy (Lord Lytton) declared in March 1877, at a meeting of his Legislative Council that Government had resolved to try by every means to win the confidence of the people, shunning (to use his own language borrowed from a Latin maxim) the half-light of administration, and seeking instead the day-light. Both he and the Prime Minister (Lord Beaconsfield) proclaimed in gratifying terms and glorified the loyalty of India; and in demonstration of it, Indian soldiers were sent to Malta to overawe Russia. Then followed the contrast. In 1878, the Press Act, seriously curtailing the liberty of the vernacular press, and the Arms Act were passed. While Indian publicists and the Indian Press deplored that contrast between what they termed the liberal words and the reactionary acts of Government, it was two distinguished members of the Indian Civil Service of that time who protested strongly against the breach of faith with the people. Sir William Robinson, when

a member of the Government of Madras, regarded the Arms Act as a libel on that Indian loyalty, which had been shortly before glorified to overawe Russia and strike the imagination of the world as to the might and justice of the British Empire. Sir Alexander Arbuthnot, then a member of the Government of India, saw in the Vernacular Press Act the germs of a policy to stifle the expression of the independent public opinion and leave the executive at large to do with the people as seemed to them expedient.

India has moved considerably forward since then. We are living under the liberal-minded viceroyalty of Lord Chelmsford and have cast behind the shreds of Lytton policy. But Indian publicists of all shades of political opinion are now asking just as their forbears of 1877-78 asked, whether after all has been proclaimed during these four years of war about Indian loyalty it is a fair and wise policy to propose a legislation which is a libel on that loyalty.

One may admit that upon the facts and in point of logic the proposed legislation is not a libel on the loyalty of the people of India as a whole, because (it may be urged) the Bills are aimed at and against a very small fraction of revolutionaries and anarchists for the peace and protection of the people who are loyal.

But human affairs are not arranged, particularly in politics, on the lines of logic and Indian leaders are not without the warrant of highest authority, when they regard the proposed law with grave apprehension. According to them, the worst evil of that law lies in the power it gives to the Executive to deal with

persons suspected by it of revolutionary crime. And of such powers eminent jurists led by Blackstone have said:—

"To bereave a man of life, or by violence to confiscate his estate, without accusation or trial, would be so gross and notorious an act of despotism as must at once convey the alarm of a tyranny throughout the whole kingdom. But confinement of the person, by secretly hurrying him to gaol, where his sufferings are unknown or forgotten, is a less public, a less striking, and, therefore, a more dangerous engine of arbitrary government."

It is from that point of view that Indian publicists regard this Bill as a libel on Indian loyalty. Its innate character and perilous tendency towards arbitrary government affect the whole people potentially, however, in actual operation it may affect only a small fraction of revolutionaries.

That being the real nature of these Bills, they can be justified only under extraordinary circumstances as temporary measures. In the words of Blackstone, again:

"And yet, *sometimes*, when the State is in real danger, even this may be a necessary measure."

I have italicised the word *sometimes*, because that, from the constitutional aspect of the case, governs the whole principle, practice and expediency of such laws. Blackstone brings that out in these words:—

"The happiness of our Constitution is that it is not left to the Executive power to determine when the State is so great as to render this measure expedient.

For it is the Parliament only, or legislative power, that, *whenever it sees proper*, can authorise the Crown, by suspending the *Habeas Corpus* Act *for a short and limited time*, to imprison persons without giving any reason for so doing."

Mark the words I have italicised—"whenever it sees proper" and "for a short and limited time"—which make it clear that such legislation, being contrary to the letter and spirit of constitutional government, must be undertaken by the Legislature not as a permanent law figuring on the State Book like any ordinary law of the land made for all times, but only and always as a temporary expedient devised as exigencies arise from time to time.

And the principle and practice of the Constitution was followed by Parliament in 1861, when it armed the Governor-General of India, with the power-making ordinances having the force of law for the peace and good government of the country "for the space of not more than six months from its promulgation." Had Parliament intended to depart from that principle and practice in the case of India, it would have done so by enacting itself a law of the kind now proposed and it might have done that with some justification with the lessons of the Mutiny just then ended before it. But it did not do that.

It is true that Parliament enacted also in 1861 that the Governor-General's Ordinance, made for six months "shall be controlled or superseded by some law" made at a meeting of his Legislative Council.

But even that Council has hitherto adhered to the constitutional principle and practice of such laws.

For instance, when war was declared in August 1914, and the Governor-General exercised his power of Ordinance to endure for six months, the Government of India came to the Legislative Council and asked for and obtained the Defence of India Act as an emergency measure to last only during the period of the war and for six months from the date of the declaration of Peace. That was why the Indian members of the Council loyally supported the Act and why Indian opinion backed them up.

Given those conditions—an emergency of grave danger and a law to meet it for a limited period—the Legislature is justified in arming the Executive with the power, as a preventive measure, to intern any person whom it suspects of revolutionary crime, without the formalities and safeguards of a judicial trial, because in the words of Lord Finlay, the late Lord Chancellor of England, followed by some eminent Law Lords of this day, "no tribunal for investigating the question whether circumstances of suspicion exist to warrant some restraint can be imagined less appropriate than a Court of law."

The first root objection, then, and a serious one, to these Bills is that they propose a law on the lines of the Defence of India Act as a permanent measure, contrary to the principle and practice of constitutional government and of Parliament and of the Legislature in India itself. It will not do to argue that the principle and practice have not hitherto received statutory sanction either from Parliament or the Imperial Legislative Council and that the Council is therefore not debarred legally from departing on the present occasion from that principle and practice. The principle

and practice are among the unwritten parts of the Constitution, which as the special safeguards of public opinion are regarded as more sacred than its written laws and which have made the British Government and British principles even in India the envy of, and a model for, the civilised world.

In discussing the question of the character and necessity for these Bills with reference to sedition and revolutionary conspiracies, it is of importance to trace, however briefly, the conditions which have gone to create that crime in India, so as to sense to the mind of the Legislature those pressures which make the proposed legislation at this juncture inexpedient as contrasted with the pressures that seem to justify it.

To anyone who, like myself, has had the opportunity of studying the official literature of revolutionary crime in Bengal, and discerning its inner mind in its social and political aspects, it must be clear that the revolutionaries have copied the methods of secret crime as it prevailed in that Province in the beginning of the nineteenth century. The conditions and facts of that crime have been set forth in the Parliamentary Report of 1812, on the Affairs of the East India Company. That the object of that secret and widespread crime was not revolutionary is immaterial; what is relevant is that for some years it seriously disturbed the peace of the Province and created terrorism among the people. We gather from the Report that very severe measures were adopted in the form of new regulations rendering the criminal law more drastic and the Police more vigilant than before; but "the disorders which they were intended to subdue still increased." The state

of things that then prevailed was described in 1884 by the *Hindu Patriot*, then edited by the well-known Kristo Das Pal, in these words:—"We heard in our childhood thrilling stories of men and women being burnt alive by the dacoits and property to the last shred of cloth being carried away by them. Many of our readers may remember how in Calcutta itself dacoities were committed in broad daylight. There were large tracts of land in Bengal known as 'the robber's domain'. Dacoits levying backmail were seen in many large villages. Letters were sent by them to rich people intimating their intention of paying a visit and robbing them on a certain day. Many otherwise respectable persons were leaders of gangs of robbers." Where drastic criminal laws failed, good government winning the confidence of the people succeeded. After the Mutiny, no one heard in India of revolutionary or other secret crime disturbing the peace of the land from the day of the Queen's Proclamation of 1858 down to 1878-79.

Lord Lytton's policy of reaction and repression was the first signal for revolutionary conspiracy in India, started in the Deccan in 1878 by the notorious Vasudeo Balwant Fadke. Fadke's political dacoities in the Deccan and Konkan are now forgotten history and find no place in the Rowlatt Report. But they form the first link in the chain of the history of present day revolutionary movements in this country. Fadke's conspiracy quieted with his arrest in 1880, and with distinct change of policy in the administration initiated by the advent of Lord Ripon as Viceroy. But it is a notable coincidence that whereas the fierce controversy over what is known as the Ilbert Bill, which

threw the country, especially Bengal, into furious excitement, began in 1883, there was in 1884 a revival of the kind of dacoities that had prevailed in Bengal in the beginning of the century. Wrote the *Hindu Patriot* in that year: "We were all along under the pleasant belief that dacoits were numbered with the dead. But like phœnix of old they are arising from their ashes again." They were, however, short-lived. It may be that they had nothing to do with the Ilbert Bill controversy—they may have had nothing of revolutionary purpose about them; but the fact that they were *bhadralok* dacoities as in the case of the present revolutionary crime and that they ceased soon after the settlement of the Ilbert Bill controversy is significant. The appearance of the National Congress is 1885, and the assurance of some prominent British statesmen to give effect to the legitimate aspirations of the people of India turned political activity into a fresh channel of constitutional agitation for those rights. People believed in that agitation and hoped until the policy that followed after 1898 treated the Queen's Proclamation as an "impracticable" document and the Viceroy of the time declared that he would not accord to the people any political rights lest any political concessions on the part of his Government should embarrass his successors and he partitioned Bengal against the wishes of its people. All that history is recent and well known and need not be recounted here. But its result was that revolutionary conspiracies stepped in.

The psycology of the situation was summed up by the London *Times* but a few months ago as follows:— "The Prussian is the latest Jacobin; but it may disturb

some English readers to find, in Tagore's *Nationalism;* for instance that the British Raj presents to the Indian mind those features which appeal us in the Prussian state—its efficiency, its octopus-like embrace, its ruthless indifference to other casts of *kulture*, and its consuming jealousy of every loyalty that binds men to other objects of affection than itself."

The feeling which is at the root of revolutionary crime cannot be put to the account of any deliberate intention on the part of British statesmanship to Prussianise the system of administration in India as a subject country. From the day of Germany's victory over France in 1870, down to 1914, Germany came all over the world to be the ideal state in politics, education and efficiency. All European nations, consciously or unconciously, looked up to Germany—her sovereignty of State. The political phrase "His Majesty's Government must somehow be carried on" acquired a new meaning with the State theory in Europe. And no wonder British statesmen in India, became to some extent pervaded by that theory just as British statesmen of the time of George III were pervaded in their government of the American colonies by the politico-economic theroy and practice known as the Mercantalism, which prevailed in all the countries of Europe at that time as the soundest for regulating the relations between the mother country and its colonies. Sir Rabindranath Tagore's *Nationalism*, is the educated and constitutionally inclined Indian's challenge to the practice of that State theory in India which ruled the administration till the announcement of responsible government for India, made by Mr. Montagu in Parliament in August 1917. Revolutionary crime, on the

other hand, is the Indian anarchist's challenge to that theory. That announcement of responsible government has promised to alter the political conditions and policy, which, as briefly pointed out above, have led to the creation and fostering of revolutionary crime. Under these circumstances are not Indian leaders and publicists, and particularly the Indian Members of the Imperial Legislative Council, justified in opposing the Rowlatt Bills on the ground that the political conditions and policy which have created that crime should be first actually altered and the confidence of the people won by the new forms promised before they as representing the people can be parties to a legislation which empowers the Executive with the power to restrain a subject's liberty on suspicion, however well-grounded, of either sedition or of revolutionary conspirary? Revolutionaries, who are anarchists, are indeed not only wrong but wicked in the remedies they seek and the methods they pursue for what they in their perverse ignorance conceive to be the good and the liberty of their country; but if, as has been held and said by sound statesmen, anarchism is a challenge, however diabolical, to "traditional assumptions in politics" and what Mill terms, the deep slumber of decided opinion, and therefore the true remedy against it is a persistently progressive policy of reform in the direction of responsible government, that policy must come first and hold the ground of administration in fact before the Legislature as the exponent of public opinion can sanction a law which is a restraint on personal liberty and is a departure from constiutional government.

The crucial and preliminary point raised by these Bills is: Should the Legislature sanction the law

proposed by them in the present state of its constitution and Indian feeling?

Were there no remedy or power in any member of India's present constitution as effective as the Defence of India Act, that crucial and preliminary question should inevitably lead to an affirmative answer. But there is a remedy in the power given to the Governor-General by Section 23 of the Indian Council's Act enacted by Parliament "In cases of emergency, to make and promulgate from time to time ordinances for the peace and good government" of His Majesty's Indian territories.

The responsibility of making laws for the peace and good government of the country no doubt rests on the Legislature. That is its peculiar function. The primary end of all laws is order, and they must have force behind them to compel obedience to them. That is where the anarchist and revolutionary makes his grievous mistake about Government. He thinks that because Government compels obedience to its laws by the use of force in the form of the Police and the Military, therefore, all Government is physical force—the force of what he calls legalised violence and the negation of all soul. And so he concludes that he is justified in meeting that force by his own force and violence. That is the delusion shared by all the interned revolutionaries with whose cases I have had to deal. And all anarchical literature that I have come across shows that it forms the creed of anarchism and revolutionaries. They do not know and if they know they do not believe in the constitutional principle and practice of Government that its laws to which

obedience is compelled by the show of force in the form of the police and the military rest ultimately on another force, the force of public opinion and sentiment. There must be, therefore, the force of that opinion and sentiment behind the law and its machinery which the Rowlatt Bills propose to warrant their passage through the Legislative Council.

That brings me to the question—Is the force of public opinion and sentiment behind and at the back of these Bills? That public opinion and sentiment may be divided, for the sake of a clear understanding of the point, into two classes—one, the public opinion and sentiment of the educated Indians, the class known as the *intelligentsia* of India, the other, of the rest of the people known as the masses.

As to the opinion of educated classes, I believe it is by now clear that as a whole, sinking all their political differences in other respects, they have arrayed themselves against the Bills. And the best proof of it is the opposition of at least a majority of the Indian members of Imperial Legislative Council. The question is—Is the opposition reasonable? I venture to think it is, when the position occupied by those members is borne in mind. It is true that like all of us outside the Council and more as the members of the Legislative they are bound to consult the interests of peace and good order and legislate accordingly. So they did when they assented to the passing of the Defence of of India Act as an emergency and temporary measure in the time of war. But when in and for times of peace the same law is sought to be perpetuated they may well take their stand as follows :—

"The responsibility for administration is not yet ours. We are still outside the administration. We

know and admit that there is revolutionary conspiracy; but when we are asked to assent to a law of an exceptional character dealing with it and empower the Executive to restrain a person's liberty on suspicion, we can assent to it only when we have the power of control over that Executive. The responsibility of peace and good government rests primarily on the Government as it is as present constituted and Parliament has given it through the Governor-General power to secure that by means of Ordinances."

But the Indian members of the Council being in a minority may be outvoted by the official majority. And if the official majority outvotes them and sanctions the Bills in their collective capacity as the Legislative Council, it may do so on one of two grounds, either because the proposed law is necessary as having behind it the force of public opinion and sentiment and thus fulfilling the essential condition of all law and constitutional government, or because, though the law is not backed by public opinion the official members feel convinced that such a law is needed. If the official majority sanctions the law on the second of these two alternatives, they will fall in with the anarchist's view that law and government are based on physical force and violence, not on public opinion and unconsciously play into his hands. It would be doing injustice to the official majority to think that they may or will act on that anarchist's view. So it is the other alternative that should prevail—that this law has the support of public opinion; and it should prevail all the more because Legislative Council according to theory, if not in actual practice, are representative of that opinion.

Our whole political and social policy is at the root of this revolutionary crime. Let it be changed first as it is going to be changed and till then the Legislature as representing the public opinion—at least the Indian public opinion which ought to count above all in the matter—should decline to pass any law on the lines of the Defence of India Act but should leave it to the Governor-General to exercise his power of Ordinance until the new policy of reform has taken concrete effect and India has felt assured of the new life of progress vouchsafed to her.*

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* The above articles appeared in the columns of *The Times of India* in the month of February 1919.

CODE OF CRIMINAL PROCEDURE.

[By the Hon'ble Mr. V. S. Srinivas Sastri].

(The following is the text of the speech of Mr. Sastri made in reply to the debate on the resolution regarding the use of fire arms moved by him in the Council of State. The resolution ran as follows:—

This Council recommends to the Governor-General in Council that the Code of Criminal Procedure and, if necessary, other enactments be so amended as to secure the following points in the suppression of riots and unlawful assemblies:—

(i) No firearms should be used except on the written authority of a Magistrate of the highest class that may be available on the spot.

(ii) In cases of grave emergency when no Magistrate is available in the neighbourhood, the chief police or military officer present on the spot may if he considers that the riot or unlawful assembly cannot be suppressed otherwise, employ firearms, but the onus of proving the emergency and the impossibility of securing the presence of a Magistrate within the proper time shall lie on the officer so acting.

(iii) Before resorting to firearms, the Magistrate or other civil or military officer responsible shall read or cause to be read a proclamation, both in English and in the local vernacular, similar to that contained in the English Riot Act.

(iv) Firearms shall not be used for one hour after such proclamation has been read unless, in the meantime, the assembly or crowd actually causes serious damage to person or property.

(v) Before the crowd is actually fired upon the fullest warning shall be given.

(vi) The Magistrate or other civil or military officer responsible shall take all reasonable precautions to see that no more injury is inflicted on the crowd or assembly than is absolutely necessary.

(vii) The sanction of the Governor-General in Council should not be a condition precedent to the institution of a criminal

prosecution against officers or other persons who have acted illegally in the suppression of riots. . . .

(viii) Every such prosecution shall be instituted in and triable by the Sessions Court having territorial jurisdiction, with the previous leave of such Courts or the High Court of the province.)

I am rather saddened that the Government seem to have made up their minds to resist this attempt of mine to give them an opportunity of showing that their executive officers in the exercise of the severest powers that they have will be allowed to come under the domain of law. It is extraordinary that this resistance should be offered to an attempt to place the Indian law on a level with that system of jurisprudence which it is the pride of the British race to have evolved, after a struggle of centuries, after sacrifices made of an unparalleled character on the part of the people, after heroic defences conducted by the Bar and manful deliverances from the judges. It is extraordinary that an attempt should be made to resist this desire of mine to place the Indian law on an equal footing with that magnificent system of English law under which it is our privilege to have come. His Excellency the Commander-in-Chief, whose intervention in this debate I welcome for various reasons, told us that there were regulations already in existence and more regulations were being framed. I knew of these regulations. I knew there was no dearth of regulations. Our Police Manuals are quite full of them; our Drill Manuals are quite full of them. I have no objection to them at all. But they are not law and an aggrieved subject cannot make them the ground of an action at law. If the provisions were in a legal code, they could be made the ground of action.

Besides, an appeal was made to our sympathy—an appeal, strangely enough, on the part of the officer who shoots, not on behalf of the victims who suffer. But let that pass. I am not without sympathy for the officers concerned. Their duties are extraordinarily difficult; but those duties are difficult, not here only, but in England as well. Lord Haldane describes the condition of such an officer as that of "a man compelled to walk on the edge of two precipices." But he adds, law is a sensible institution after all. In 99 cases out of 100 the thing works out somehow well. People do not apply the rigour of the law, but they take into account all the attendant circumstances of the case, and where a concrete consideration is given, however, a theoretical study might raise difficulties, they somehow or other square out well in the end.

Now, let me read to you one extract from the Manual of Military law which cannot be unfamiliar to the officers of Government. This point, that the officers called upon to exercise military force in the suppression of riots are placed in an extraordinarily difficult situation, has been allowed. The point was raised by no less a person than Sir Charles Napier. The answer is given in the summing up of Mr. Justice Littledale in the case *Rex.* v. *Pinney*:—

> "Now a person, whether a magistrate or a police officer, who has the duty of suppressing a riot, is placed in a difficult situation, for if by his acts he causes death, he is liable to be indicted for manslaughter or murder, and if he does not act he is liable to an indictment or information for neglect. He is therefore bound to hit the precise line of his duty, and how difficult it is to hit that precise line

> will be a matter for your consideration; but that, difficult as it may be, he is bound to do. Whether a man had sought a public situation, as is often the case with mayors and magistrates, or whether as a peace officer he has been compelled to take the office that he holds, the same rule applies, and *if persons were not compelled to act according to law, there would be an end of society.*"

And then this Manual proceeds to say:—

> "At the same time the law has made liberal allowances for the difficulties of persons so circumstanced and persons whose intention is honest and upright and who act with firmness to the best of their judgment need seldom fear the results of inquiry into their conduct."

Now, that is the law that I seek to embody. I ask, is it fair to wish to have it all in favour of the officer who takes life, no doubt under a sense of duty? The Hon. Sir William Vincent made much capital of the fact that I asked for an hour before shooting should begin. I made it clear, I thought, at that time; even if I did not incorporate it here as I have, I made it clear that there may be cases where even during that hour a mob should get out of control and it may be necessary for the officers to start firing, that I did not object to it at all. In fact that is the English law; and as I seek to reproduce only the English law he need not have objected to it; and as I say the Hon. the Home Member made some capital out of the circumstance that I had failed to provide for it.

Now, there is one little circumstance which I might point out. The Hon. the Home Member and several

others who spoke thought that I was demanding an extravagant requirement when I said that the permission of the magistrate should be in writing. This is from Odger's Common Law :—

> "It is primarily the duty of the magistrate, if one be present, to decide whether the time has arrived to use deadly weapons ; if he decides that it has, it is for him to instruct the officer 'to take action,' and he generally does so in writing."

I did not say it was the English law; I only said at that time that it was the English practice. I quite remember, because I knew it definitely. Now let me read another thing which may be interesting. There is a King's Regulation—I have not been able to verify it—to which Mr. Odgers refers : that is King's Regulation No. 963. Apparently this requirement of a written order is there, but I have not been able to verify it. The Police Code in England, however, has this provision :—

> "If after the Riots Act has been read and an hour has been allowed the mob to disperse it is found necessary to adopt more forcible measures, to prevent further damage to property or danger to life, either by firing on the people or charging them either with drawn swords, fixed bayonets or drawn truncheons, the written order of the principal magistrate present should be *invariably* first obtained either by an entry in the pocket book of the officer in command of the police or troops, or the signature of a pencil memorandum to this effect :—

"I authorise you to charge the mob with drawn swords or truncheons (or fixed bayonets) or to fire on the mob."

(Date and hour.) (Signature.)

The very form of the written order is given. It was not then an extravagant thing that I was asking for. It was not an unimaginable thing.

Then about that important matter. The Hon. the Home Member said that if the Governor-General's sanction was required, it would be given in proper cases. I do not know what is the present state of law; whatever it is, let us consider a little. A grave occurrence is the subject of a communication to the Governor in Council or the Governor-General in Council. His police officers, his magistrates, are accused of having used unnecessary force. His sanction is sought for a prosecution. We know how these things go in such cases. The Governor in Council has hitherto tried every means, even of avoiding a public inquiry. Is he likely to afford the sanction for a criminal prosecution? Is that the way in which things go on in England? When one officer errs and you wish to bring him to book, do you go and ask the permission of his immediate superior? Or do you go and sue him in a court of law? It is something that the Indian law cannot be proud of. It belongs, if I may say so, to a barbarous age. It ought to go out of the statute book. To require the sanction of the Governor-General in Council or the local Government to prosecute an officer for what would be murder or man slaughter is to ask, I think, for the impossible. The executive hang together, high and low. When an officer is accused, the whole of his department with all

its moral force comes down, whether in a court of law or in the public or anywhere, to prove that the officer is in the right and the complainant is in the wrong. To make a prosecution conditional on that superior giving his previous sanction to it is effectually to close the jurisdiction of the court. Now I object to all legislation which shuts courts out of their natural and proper jurisdiction. There is too many a law on the Indian statute book of this character vesting the executive themselves with powers which ought properly to belong to a well-constituted and independent judiciary. I beseech Government not to stand by this requirement of the Governor-General's or the local Government's previous sanction. That is really, as H. E. the Commander-in-Chief pointed out, my principal complaint, the head and front of the offence of that chapter in the Criminal Procedure Code. That sanction has never been given. If you let it stand, it means you want for the executive in this country far greater powers than the executive in England possess. There they do not want *altogether* to be shielded from all prosecution. They are quite prepared to go and stand their trial. As I said before, not only every officer but every individual citizen stands in a difficult position. If I am called upon by a magistrate to help him in suppressing a riot and I do not assist him, I stand liable in law. If I assist him to do things which he ought not to have done, I stand liable also. This difficulty does not exist peculiarly in the case of the officer for whom so many piteous appeals are made, but it exists in everybody's case. The officer has abundant facilities to protect himself from frivolous or vexatious prosecutions. The whole of his Government is behind

him, the best legal talent will be engaged for him. Is he to be pitied or the private citizen who has been shot down or who has been maimed? Really, I am amazed that people should seriously sustain a provision which throws him entirely out of the protection of courts which are constituted for the protection of the poor and the needy just as well as for the protection of high-placed officers. It appears to me, that the Government will be well-advised to produce an impression by accepting my resolution, or at least by accepting my resolution in substance if not literally, and establishing the hope that future legislation will go on healthy and wholesome lines. At least I hope that this particular provision, which gives the executive in this country illegitimate protection—protection to which they are not entitled in any enlightened system of jurisprudence,—that this provision will disappear.

PLIGHT OF INDIANS ABROAD.

INDENTURED LABOUR IN FIJI.

[By Mr. C. F. Andrews.]

Immediately on my arrival in Fiji, in June 1917, I was faced with the question of a direct breach of contract which the Fiji Government had committed on a large scale in relation to those under indenture. This breach of contract was admitted, but it was put down to the exigencies of the War. I received great help from Mr. Manilal, of Rewa, in dealing with the legal aspects of this case. He pointed out to me that there could probably be no remedy obtained in a Court of Law; but, as a case for equity, some action should immediately be taken,—if possible by the Indian Government,—in order to aim at getting terms more favourable to the interests of the Indian labourers than those now obtaining.

The issue may be explained very briefly as follows:—

The Fiji Government gave a definite undertaking to each Indian labourer before embarkation for Fiji that his passage back to India should be provided for him free of cost. There are now already many thousands, whose claims for a free return passage cannot be met on account of the shortage of shipping. The Fiji Government and the Sugar Companies have taken advantage of the labour of the Indians during the War to make immense profits out of the sugar, but they have themselves appropriated that part of the labourers' earnings which was to pay for their return

passages. The Indian labourer notes that the great 'Sugar' steamers ply their trade as usual, but not one of these steamers can be spared to repatriate the labourers who have helped to grow the sugar. The funds go on accumulating in the Fiji Government treasury, while the distress is growing among the labourers. Thus the Government engagement with the Indian labourers has been directly and papaply broken, and the profits remain in the hands of the Fiji Administration.

This is the main factor in the breach of contract which has been committed. But there are other circumstances which must be explained, in some detail, in order to make them quite clear:—

(1) *Commutation.* One of the very few privilleges, which Indians had obtained in recent years, was the right of buying off a part of their five years' indenture by payment of a sum of money. This was called "commutation," and the right was very highly valued, especially in certain 'hard cases.' But one clause was inserted, in the planters' interests, which is now being used against the labourers. The Planters had insisted, when the Bill was framed, that no commutation should take place, *until the employer could replace the labourer from a new emigrant vessel.* But now, as no ships are arriving with new labourers, this commutation law has become a dead letter.

In order to show the extreme tenacity with which the employers are taking advantage of the Indian labourers' helplessness, the following incident is significant: When the Planters insisted that all commutation rights were null and void, I tried to obtain relief from the Fiji Government in the hardest case of all,—

the case of a legitimate wife being *forced* to remain on under indenture, amid the frightful moral evils of the coolie 'lines,' after her husband's indenture had expired. I asked that, in this case, at least, the right of commutation (the husband paying the money due) should be absolute and immediate. There was strong opposition to this among some of the Planters. [One of them actually told me, face to face, that he was against it, as it would increase the disproportion of men to women in his 'lines'!] His Excellency the Governor appointed a Committee on which four leading officials (Heads of Departments), seven members of the Fiji Legislative Council, and four Planters' representatives, sat together to consider this and following resolution was unanimously adopted:

"That in the opinion of this Committee, commutation of indenture should be allowed (when desired by a female immigrant legally married to an immigrant whose indenture has expired) provided that the husband and wife, if required by the employer, first *by combined effort*, work off the number of days to complete the wife's indenture." (The italics are in the copy given to me by the Colonial Secretary.)

Thus according to these gentlemen, including among their number the most responsible members of the Fiji Government, the wife's position of extreme moral danger is to be exploited in order to induce the husband to work off half her time and thus give the employer the advantage of a man's work instead of a a woman's. There are certain public actions which speak volumes as to the general level of opinion reached in any small community, and this appears to be one of them.

I am tempted to go still further in the way of illustration and relate the facts with regard to an Indian child, which came under my own personal observation. The child, a boy of twelve, had been taken from India in charge of some nominal guardian or 'parent.' When he reached Fiji, his 'father' would have nothing more to do with him, and for some months he hung about the coolie 'lines' in a filthy, half-starved condition. At last he went to one of the free Indians and worked in his shop for a small wage; but for this act of kindness, the free Indian was prosecuted by the Planter, on the charge of "harbouring a deserter", and fined £18. The child was taken back to the 'lines' and again became half-starved. This time the boy went to the Missionary for protection. The Inspector of immigrants finding no other way out of the difficulty appointed the Missionary as the legal guardian of the child, and when I saw the boy under his new guardian's care he was the picture of health and receiving a good education. But, by the laws of indenture, as soon as the child reached the age of fifteen, he could be forced to go back into the coolie 'lines', to live in a small compartment with two grown-up men (probably steeped in vice) and to go out as an indentured 'coolie' in the field gangs,—and all this would take place, though he had never in all his life signed any indenture agreement. There was one of those 'hard cases' where the right of commutation would make all the difference. I was able personally to commute two such cases on my previous visit, (where the greatest moral danger threatened the young,) but I was told that in this instance the Planter would refuse to commute and the law could not make him to do so.

I had to appeal direct to the Governor over the Planter's head. It will be seen from such examples as these, (which might be multiplied from my own personal experience) how vital to the Indian labourers this right of commutation is, which has now been taken away. While there is no actual breach of contract here, as there is concerning the refusal of the return passage, still a very grave of new situation has arisen.

(2) High cost of living.—Here again there is no actual breach of contract; but, from all that I have said above and need not repeat, it will be seen that there is a clear case for equity.

The war has changed the whole aspect of affairs since the time the contract was made and now in the fourth and fifth years of the war the original contract has become altogether one-sided,—in *favour* of the employer, who is making enormous profits, and *against* the employee,whose small daily pittanse is becoming ever less and less in value. The mere 25 per cent. rise in wages does not by any means cover the whole difference of expenditure. It has been but a palliative, not a real sharing of profits.

(3) *The immorality of coolie 'lines'.* By far the strongest ground, in my opinion, for the immediate closing down of the present indentures,—thus making all Indians free,—is the moral one. Here higher considerations of statesmanship come in, rather than legal rights or money payments. It has been proved up to the hilt that the coolie 'lines' of Fiji lead directly to the prostitution of the Indian women, and also that there is no possible remedy while women are forced

by law to remain against their will in what are, for all practical purposes, brothels. This condition of things should surely not be allowed to go on. The statement definitely made, in the Fiji Government Medical Report, and published by Fiji Government itself, that, "one indentured Indian woman has to serve three indentured men as well as various outsiders" is so completely final, coming as it does officially along with the Government of India's own Despatch of October, 1915, that no Administration worthy of the name should tolerate for a moment such a state of things, whatever financial inducements might be held out for their continuance.

This moral argument is further strengthened by the fact, that the Indian community in Fiji, owing to the long years of past indenture, has reached a demoralised condition. The cancellation of the remaining indentures will bring relief, not only to the indentured labourers themselves, but to the Indian community generally, whose recovery of self-respect is the most vital factor to be considered. I have seen with my own eyes the depression which has come to the Indians in Fiji and how they have despised even by the Fijians themselves on account of their semi-servile status. This outlook of subjection and depression which is so often apparent in spite of prosperous natural conditions, would vanish and a new attitude of recovered dignity would supervene, if once it were understood by all in the islands,—Fijians, Europeans and Indians themselves,—that not one single Indian was any longer under the bondage of indenture, but that every Indian in Fiji was free.

The planters on the North Side of the main Island were ready to meet me in order to consider together,

as one question, the commutation and the closing down of all indentures. They had already agreed to the advance in wages of 25 per cent. and the moment seemed favourable for setting the larger issue. I put before them the proposition that they should agree to close down the whole system in Fiji at the end of the year 1919 and allow the commutation of all 'hard cases' during the interval. These Planters of the North represented about two-thirds of the whole Sugar industry. After several meetings and discussions among themselves to advocate the above terms, and this was ratified unanimously by an executive committee at which I was invited to be present. It should be understood that I had no official authority and they had a perfect right to change their opinion afterwards if they chose. What did happen was that, for the time being, the Planters on the North Side agreed to the reasonableness of this demand that indenture should close in 1919 instead of in 1921.

The first obstruction to this agreement came from the Colonial Sugar Refining Company. Though not directly refusing to participate in these discussions, there was a warning note sounded by them and it became fairly clear on which side the Company would throw its weight, if the scale began to swing back. Then came the Governor's Committee, in Suva, mentioned above, on which the Planters of the South were strongly represented. The subject was warmly debated. In the end an entirely new Resolution was passed which served the purpose of blocking all further efforts at negotiation. The Resolution was in the form of a bait to the Indian public, and ran as follows:—

"That this Committee considers that all indentures should be commuted *as soon as a new system of free*

emigration be satisfactorily established, public funds being employed to meet the cost of commutation." [The italics are mine.]

The resolution was carried,—the hope being that it might induce the Indian public to allow recruiting for Fiji to be reopened in India. I assured everyone that such a hope was ridiculously vain and futile. But from the time of the meeting of the Governor's Committee and the transference of the seat of discussion to the South of the Island, no further informal progress was possible. Indeed, towards the end of my visit, after I had published a preliminary statement of my findings, as to the state of the coolie 'lines' and the immorality that prevailed there, I could not help but notice a change of attitude even in the North and an unwillingness to discuss things further. This was due in a great measure to the influence of the Planter's Association in the South, which had refused all along to meet me. But it appeared to be due also to the fact, that I had taken what the Northern Planters held to be a far too pessimistic view of the moral conditions.

I would not wish to end the personal narrative of these informal negotiations (which at one time seemed so very nearly successful) without expressing my sincere respect for the Planters on the North side of the Island, and my appreciation of the genuine efforts they made to consider fairly, and even generously, the Indian labourers' difficulties, when they were placed clearly before them. I have also very warm recollections of personal acts of kindness on their part which touched me deeply. I would add that I met with individual cases of the same kind in the South though the Planters' Association there was hostile throughout.

SOUTH AFRICAN PROBLEM.

[By Mr. Henry S. L. Polak.]

Time passes so rapidly and events follow each other in such quick succession that it is difficult to-day to remember that, in the latter days of 1913 and the early days of 1914, the South African Indian controversy threatened the solidarity of the Empire.

What are the main factors of the Indian problem in South Africa? The white population, with a slight Dutch preponderance, does not exceed 1¼ million souls. As against this, the South African natives number over five millions, the Eurafrican population is over half a million, and there are 150,000 Indians. Whilst the Indian population is relatively small, it complicates an already difficult ethnical and economic problem in a number of ways. In Natal, the Indian community outnumbers the white population by about 50 per cent. Here, however, it is mainly agricultural, being immigrants (and their descendants) brought under indenture from Madras, the United Provinces, and Bihar. An increasing proportion of these Indians from what, in South Africa, is called the Colonial-born Indian community, who tend to become European in their dress and habits of life, and who have no immediate knowledge of the Indian Motherland. Their attachment to India, however, is strong and sentimental, but their patriotism is tending to resemble in many respects that of the educated classes in India; and they are becoming increasingly amenable to Western political and economic doctrines. In the future they will form, if not the more stable, at any rate the most hopeful, section of the Indian population. At the present time, how-

ever, they have not come into their own, and the most influential, if conservative, elements in the community are the Gujarati traders and their clerks from Western India. These form a small but substantial part of the Natal Indian population, and they enormously preponderate in the Transvaal and the Cape Provinces.

Before the Union, in 1910, there were four separate self-governing Colonies in South Africa, the fourth being the Orange Free State, which is close preserve (a kind of white Tibet) against Asiatic immigration, settlement and trade. We may, therefore, leave it out of consideration. Each of the Colonies had its separate Parliament, legislation and colour policy. After the Union, the South African Parliament controlled colour policy and major legislation, in terms of the Act of Union, but the existing Colonial (or provincial as they are now known) franchises and laws were maintained, subject, in the case of the last, to subsequent legislative change by the Union Parliament. Thus, in the old days, Indians possessing the necessary qualifications were eligible to vote for and to be members of the Cape Parliament. To-day they are eligible to vote at provincial elections and to be members of the Provincial Council, and may also vote, in Cape constituencies, at the Union Assembly elections; but they are no longer eligible for membership of Parliament. In addition they enjoy the municipal franchise. In Natal, Indians have, since 1894, been disfranchised politically, but they enjoy (at any rate for the present, since it is being threatened) the municipal franchise. The Transvaal Indians enjoy no franchise rights of any kind. They are aliens in a British territory, which applies the maxim, "No taxation without representation," to white persons only.

The Indian problem in South Africa would, probably, not have reached its present complexity but for the introduction into Natal, by the European planters there, of many thousands of labourers from India under indenture. The white population became exceedingly nervous of being swamped by unrestricted Indian immigration. The indentured Indian immigration resulted in three unfortunate directions for India. It reduced the status of all Indians proceeding to South Africa to that of the coolie-immigrant, and India became known as a coolie-country; it virtually closed South Africa to independent individual Indian trading enterprise, and it offered an excuse to the white South Africans to endeavour to reduce the existing Indian population by the imposition of various laws of a differential and oppressive character.

In the Cape and Natal, trade licences were and still are systematically refused to Indians, though Colonial-born, when they were freely granted even to aliens who subsequently became the enemies of the British Empire. In Natal, until the Act was repealed after the revival of the great Indian Passive Resistance movement in 1913, ex-indentured Indians, boys over 16 and girls over 13 years of age, were obliged if they desired to remain in the Province after the expiry of their or their parents' contracts, to pay an annual poll-tax of £ 3 as the price of freedom. No inter-provincial migration of Indians was possible, save under certain specified conditions. Thus, no Transvaal or Cape Indian could enter Natal, except by passing an education test in the English language. No Transvaal or Natal Indian could enter the Cape unless he could pass such a test or was born in South Africa. And to-

this day no Indian may obtain residential rights in the Transvaal unless he is the minor child of a statutorily resident Asiatic, or is specially exempted by the Minister from the administrative provisions of the Immigration Law which forbid immigration into the Union or any Province thereof by Asiatics who are, by private instructions to immigration officers, declared to be prohibited immigrants and legal undesirables.

It is, however, in the Transvaal that the worst excesses have occurred, upon the initiative, in the first instance, of the old Boer Republican Government, which, by law 3 of 1885 deprived all Asiatics of the franchise and the right to own immovable property and required them to reside in locations. After the Boer war, an unsuccessful attempt was made to compel Indians to limit their trade to these locations also. The residential requirement has, however, proved to be dead letter. But other means have been adopted to bring about the same result. Private townships have been enabled to include among the conditions of land transfer a clause forbidding residence by coloured people save as "servants" or "domestic servants". Similar conditions have been introduced into the title-deeds of Government townships. The Gold Laws of 1908 made it compulsory for Asiatics in proclaimed mining areas to reside only in location and not elsewhere, save as "servants".

These disabilities, however, did not directly affect trading rights, save in so far as it is difficult to trade where one cannot reside or protect one's goods. But in 1912 municipalities were given the right to impose special licences for the sale of food-stuffs for human consumption, and as practically all trade in South

Africa is carried on under a general dealer's licence, and almost all general dealers sell foodstuffs as well as other foods, some of the municipalities have tried to impede the development of Indian trade by refusing the issue to Indians of these municipal licences; against this there is no redress.

The difficulty as to ownership of immovable property was not insurmountable. The old Boer Government had suggested a way out, by the registration of title in the name of European nominee. Later, in order to protect themselves against their trustees' insolvency or intestacy, the Indian virtual owners had registered mortgage bonds in their own favour against title. In recent years, a second legal means had been devised to overcome the original legal difficulty. This was by the registration of private Indian limited liability companies, which were legally entitled to take transfer of immovable property. These companies were publicly registered in the official registers.

The settlement of 1914 disposed of the outstanding points of dispute during the Passive Resistance struggle. It was confined to matters arising out of the administration of the Immigration Law and the repeal of the £ 3 tax. The disabilities as to the rights of trade, residence and land ownership in the Transvaal were not touched upon, though in an official letter Mr. Gandhi made it plain that these grievances would sooner or later come up for adjustment, and that the Indian community would not rest content until the fullest citizenship rights had been accorded to them.

During the war, matters remained more or less quiescent, and India was led to hope, by the declarations of General Smuts at the Imperial Conference in 1917, and of Mr. H. Burton, at that of 1918, that the Indian representation on these various disabilities would be sympathetically considered and favourably dealt with.

Surprise and indignation are not unnatural, therefore, when we find that, so far from this being done, fresh and hitherto unknown disabilities are being imposed upon the Transvaal Indians by the Asiatics Trading and Land Act, which renders it illegal in future for Indians to acquire immovable property through Indian companies, to register mortgage bonds over immovable property that may be registered in the names of European trustees, or to acquire new trading licences in proclaimed mining areas. This was in answer to an appeal to the Union Parliament by Transvaal Indians for redress of grievances. It seems a mockery after all that has happened during the last few years and all that we have vaunted ourselves to stand for on behalf of subject races and oppressed minorities, and it is not to be wondered at, therefore, that South American Indians, alarmed at the promise to the Union Parliament by the Acting Prime Minister to appoint a Commission to enquire into the Indian position throughout South America, appealed to the Government of India to appoint representatives on that Commission for the protection of Indian interests. That is how the matter now stands.

INDIANS IN EAST AFRICA.

(The following are extracts from the memorandum that was submitted to the Secretary of State for India and the Secretary of State for Colonies by a deputation under the auspices of the Indian overseas Association in the year 1920.)

Indian trade connection with Zanzibar and the East African territories is almost pre-historic. It is, at any rate, upwards of three centuries old, and it is notorious that since the middle of last century, from the time of Lord Canning, British Indians and the Government of India have taken a very active part in extending British influence in East Africa. It was admitted before the Sanderson Committee, in 1910, by Sir John Kirk, with probably an unequalled knowledge of the Protectorate that "but for the Indians we (the British) should not be there now. It was entirely through being in possession of the influence of these Indian merchants that we were enabled to build up the influence that eventually resulted in our position." The earliest transport facilities in the Protectorate were provided by Indian contractors and labour. The main factor in opening up the interior of the country was the construction of the Uganda railway, entirely by Indian labour, and subordinate staff, under the most trying conditions and with considerable loss of life. Since then very large numbers of Indian traders, merchants, agriculturists, artisans, and labourers have migrated to the country at the express invitation of the local Government, and relying on justice and equal treatment under British rule. This enterprising, loyal, simple-living, and law-abiding Indian population has rendered invaluable service to the country in its industrial and commercial development, and has introduced into and invested in it very

large sums of money in the erection of large numbers of substantial and permanent buildings, comprising several streets and bazaars entirely owned by Indians in the chief towns of the Protectorate and also in Uganda.

The erection of buildings throughout the country is carried on by Indian contractors and artisans, and about 80 per cent of the trade and commerce of the Protectorate is carried on by Indians. The present European population of the Protectorate is said to be approximately six thousand, and includes a considerable proportion of officials, military, and missionaries. The present Indian population of the Protectorate is certainly not less than 25 thousand, and it is estimated that it is between 30 and 35 thousand.

It is thus clear that, apart from the pioneer character of Indian enterprise in East Africa, the Indian population of the Protectorate is considerably greater than the European. Its invested capital is far greater, its hold upon the trade and commerce of the Protectorate is four-fifth of the whole, and it pays a very much larger proportion of the taxation of the country than does the European population. No impartial observer could fail to come to the conclusion that in all essentials including those of climate, the Protectorate is, in fact, apart from the native population, an Indian and not a European colony. Indeed, Indian law is, and was as a matter of course, administered in East Africa.

In the early days of the British administration of the Protectorate, the relations between the Indian community and the Administration were of a very

friendly character. The Foreign office, which at that time controlled the Administration, fully recognised the invaluable and indispensable services rendered by India and the Indian settlers. Shortly after the Boer War, a number of malcontent Dutch settlers from South Africa, dissatisfied with the conditions in the neighbouring German territory, migrated to the Protectorate, and eventually settled in the area known as the "Highlands." These settlers brought with them the bitter South African racial prejudice directed rgainst coloured people, and together with other white settlers, with experience of conditions in South Africa and other self governing portions of His Majesty's Domnions, but entirely ignorant of Indian traditions and customs and of the earlier history of the Potectorate, commenced an agitation against the Indian settlers with the object eventually of reducing them to the same position of inferiority as has been the unhappy fate of their countrymen in South Africa. In August 1907 the Land Board of the Protectorate recommended that Government land in certain specified areas should not be reserved for European settlement. In a dispatch to the Governor, Lord Elgin said "With regard to the granting of land to Indians, it is not consonant with the views of His Majesty's Government to impose legal restrictions on any section of the Indian Community, but as a matter of administrative covenience, grants should not be made to Indians in the upland areas". The departure from principle on the flimsy ground advanced by His Majesty's Government was disastrous, and from that time the Indian position has gradually gone from bad to worse.

It is no longer possible for the people of India and the Indian settlers in British East Africa to tolerate or recognise anything in the nature of racial differentiation whether as a matter of "administrative convenience" or by statutary enactment. If the European settlers could not content themselves with equality of treatment with their Indian fellow-subjects, they need not have come to or stayed in a country already widely populated by Indians, and in which Indians had preceded them by many generations; and had His Majesty's Government done their duty towards the Indian population, the disabilities to-day complained of would never have been imposed. The Imperial Government have never justified and cannot possibly justify to the people of India the anti-Indian policy that has been tacitly and officially adopted for the past thirteen years. The Indian communities in the neighbouring territories of Zanzibar, Uganda and Tanganyika have watched with alarm the growth of anti-Indian feeling in the Protectorate, whose effects they are already beginning to feel. The policy of racial differentiation as regards ownership of land in townships has already been put into operation in Uganda, where it has hitherto been absent. Yet the Uganda Economic commission says of the Indian settler: "The country owes much to the Indian trader, and we consider a broad policy of toleration should be adopted towards him. He has shown energy and enterprise, and has assisted in the opening-up of the more remote districts. He is also of value as an agriculturist and his activities in this direction might be well encouraged." It would be disastrous, and it would be regarded as a breach of faith on the part of the British Government, if the history of the South African Indians were repeated

in the East Africa Protectorate and the adjacent territories. India is proud of the results of her efforts of her colonists settled for centuries in East Africa, and she cannot possibly look with equanimity upon a movement calculated to injure fatally a most important portion of her foreign trade. It is felt by all classes of the Indian people that, when the temperate parts of the Empire, controlled by self-governing European communities, are, for all practical purposes closed to Indian immigration, it would be inequitable and unpardonable if, as is now being attempted in the East Africa Protectorate, the same policy of exclusion were adopted. Therefore, Indians deem it essential, in the interests of all the elements of the mixed population of the country, that an absolutely open door, as regards immigration, should be maintained. Immigrants of both European and Indian origin should be equally welcome and given equal opportunities for the development of individual enterprise, and no special privileges should be given to any section of the population.

The political, as well as the municipal, franchise, which are at present confined to Europeans, should be equally conferred upon Indians. It is absurd to hold that Indians, who, in large numbers, in their own country, in British Guiana, Trinidad, Fiji and even in the Cape Colony, have been enfranchised, should, when settled in East Africa, where the average is higher, be incapable of exercising the franchise. It is not even disguised that the European community have opposed an extension of the franchise to Indians because they wish, in a colony that owes its very existence to Indian foresight, courage and enterprise, to enjoy a monopoly of political power in the pretended interests of the Native inhabitants.

The people of India naturally look to His Majesty's Government to remove all racial checks, bars, and differentiations: such, for example, as the exclusion of Indians from the Executive Council; the practical municipal disfranchisement of Indians in Nairobi; the preferential grants of land to Europeans; the encouragement of settlement by European ex-soldiers without corresponding encouragement of settlement by Indian ex-soldiers; the sale of Crown lands by auction at which Indians are forbidden to bid, to the detriment of the finances of the Colony; the power granted to the Governor, under the Crown Land Ordinance (1915), enabling him to veto (as he has invariably done in practice) the transfer of European-owned land to Indian purchasers; the policy of racial segregation in townsips and extra-municipal areas; and the introduction of legislation, ostensibly of a general character, but capable of special administration for political purposes against Indians, by an Executive controlled by a hostile white minority.

The East African Indian community has placed its views on the various matters of complaint and disability upon record in a series of moderate and constructive resolutions passed unanimously at the recent session of the East African Indian National Congress, to which reference is hereby made, in the earnest hope, that in so far as they fall within the competence of His Majesty's Government, full relief will be granted. And here it may be added that the local Indian community is much alarmed at the prospect of ruin resulting from the adoption by the Colonial Office of a new policy of currency and exchange, without consultation with the East African Indians or reference to the India office,

and which it believes to have been adopted mainly in the interests of a small section of the European settlers.

India is to-day entering upon a new path, as a free Nation, on the road to Dominionhood within the British Empire. The susceptibilities of her people can no longer be ignored, as they have, in the matter of the welfare of her colonists, been only too often in the past. In South Africa, the existence of an independent Dominion Government has been held by the Imperial Government to excuse them for non-intervention on behalf of the unhappy and ill-used Indian population. The same considerations do not apply to East Africa, where the Imperial Government are solely responsible for policy and administration, a responsibility which they cannot share and have no right to delegate. As to the Tanganyika Territory, which will be governed under a mandate from the League of Nations, the British Government will be responsible to the international conscience of the world. But India too, is an original member of the League of Nations, and is entitled to demand not only that all peoples alike should be treated equally in the mandated area, but that in the neighbouring British Territory equal treatment should be adopted, lest the evil results of the opposite policy react adversely upon the peoples on the other side of a vague and artificial boundary. In the eyes of the Indian public, the sincerity of Great Britain's attitude towards India on Imperial questions will be tested to a great extent by the policy enforced in East Africa.

Indians look upon the British East Africa Protectorate, Uganda, Zanzibar, and Tanganyika as one

territory which was for centuries settled and developed by Indians residing under the jurisdiction of Asiatic sovereigns, and who brought with them large amounts of capital whose investment in the country accounts for its present prosperity. Throughout this vast area there was no European settlement whatever until the mushroom growth of the last twenty years. If the Indian population were to leave East Africa to-morrow the entire territory would immediately fall into ruin and decay, and its Native population relapse into barbarism. It is believed in India that, when reminded of all the facts, the British people and the British Government will not allow judgment to go by default, but will respond generously to India's claim to the equal treatment of her colonists in East Africa, and the reversal of the present prevalent anti-Indian policy.

THE KHILAFAT AND INDIAN MUSLIMS.

ISLAM AND THE KHILAFAT.

[By Mr. Mahomed Ali.]

(For the following article of Mr. Mohamed Ali we are indebted to the special supplement to the July 1920, number of "Foreign Affairs".)

Although one hears every now and then faint whispers of Internationalism, Europe and America are still too National to understand why people in India should be so agitated over the settlement to be made with Turkey, and the case of Mussulmans of India does not generally improve by the explanation that the question is a religious one. The moment it is urged that the Khilafat is an essential institution of Islam which must be maintained intact, and that it must always possess adequate temporal power, the "modern" mind goes back to the struggle of Papacy and Empire of Church and State. At best our appeal is regarded as a pathetic cry, and our arguments are characterised as the advocacy of a lost cause.

How much more rational and how much more human would be the grouping of people, not according to their colour and language, domicile or descent, social rank or occupation, but according to their outlook on life and the purpose with which they have set out on life's long journey. The pity of it is that nobody seems to care to push the matter to its logical conclusion, which would make all mankind one family. But if we recognise, as we must do, the general identity of human reason and intellect throughout the world, surely, a common outlook on life is not only

possible, but with our modern means of communication, it should be one easy of accomplishment. *Such a common bond does unite the Mussulmans of the world in spite of differences of colour and language, country and race*; and, since Mussulmans are not born, but made, the door is open for all to enter their brotherhood, and there is no artificial barrier to the freest human intercourse and the widest human sympathies. Its organisation is designed to unite men of all countries, all races, and all colours, men having different occupations and speaking different languages; and the embodiment of Islam's common outlook on life and its identity of purpose is the Khalifa, or Successor of the Prophet, and Amir-ul-Momineen or Commander of the Faithful.

The very fact that seventy millions of people living at a distance of several thousands of miles of land and sea from the Turks in Constantinople should be so agitated over a matter that, according to all canons of the West, should concern the Turks alone, is sufficient proof even in these degenerate days of the strength of the bond that unites Muslim and Muslim. Our ideal has only to be understood to be accepted, and after the last bloody war, with its unprecedented holocausts and horrors, in which an irrational basis of nationalism and an unethical basis of industry culminated, we make no apology for addressing our appeal to Western nations.

The main claim of the Mussulmans is that the Empire of the Khilafat should not be dismembered. The moment this claim is put forward we are told that the West has outgrown this stage of human development, and that people who relieved the Head of a

Christian Church of all temporal power are not prepared to maintain the temporal power of the head of the Muslim Church. Others suggested that the Khalifa should be "vaticanised" even if he is to retain Constantinople, while the Government of India, who should certainly have known better, say that they cannot acquiesce in Muslim statements which imply temporal allegiance to the Khilafat on the part of Indian Muslims, or suggest that temporal power is of the essence of Khilafat. Where such criticisms and suggestions go astray is in misunderstanding the very nature and ideal of Islam and the Khilafat, and in relying on analogies from faiths which, whatever their original ideals, have, for all practical purposes, ceased to interpret life as Islam seeks to do.

Islam is not a set of doctrines and dogmas, but a way of life, a moral code and a social polity. It looks upon life as one unit, one indivisible synthesis, and it purports to provide devine guidance on a rationalistic basis for all the affairs of mankind. Muslims regard themselves as created to serve the one divine purpose that runs through the ages, owing allegiance to God in the first place and acknowledging His authority alone in the last resort. Theirs is a federation of faith, a cosmopolitan brotherhood, of which the personal centre is the Khalifa. He is the head of Islam's Republic, and it is a mere accident, and an unfortunate accident at that, that he happens to be a king. He is the Commander of the Faithful, the President of their Theocratic Commonwealth, and the Leader of all Mussalmans in all matters for which the Koran and the Traditions of the Prophet, whose successor he is, provide guidance.

There is no such theory of "divided allegiance" here, as the Government of India consider to be "subversive of the constitutional basis on which all Governments are established," "There is no government but God's," says the Koran ".and Him alone is a Mussulman to serve," and since He is the Sole Sovereign of all mankind, there can be no divided allegiance. All Governments can demand the obedience of the Muslims in the same way, as they can command the obedience of other people, but they can do so, only so far as they command it, as Mr. H. G. Wells would say, in the name of God and for God, and certainly no Christian Sovereign could expect to exercise unquestioned authority over a Muslim against the clear commandments of his faith when no Muslim Sovereign could dream of doing it. Mussalmans are required to obey God and His Prophet and "the men in authority from amongst themselves," which include the Khalifa; but they are also required, in case of every dispute, to refer back to the Holy Koran and to the Traditions of the Prophet, which are to act as arbitrator. Thus the Khalifa himself will be disobeyed if he orders that which the faith forbids, and if he persists in such unauthorised conduct he may not only be disobeyed, but also be deposed.

But whatever he could or could not do, the Khalifa was certainly not a pious old gentleman whose only function in life was to mumble his prayers and repeat his beads.

The best way to understand what he is and what he is not, is to go back to the Prophet whose Khalifa or Successor he is. The Koran regards man as the viceregent of God on earth, and Adam was the first Khalifa of God, and free-willed instrument of divine will.

This succession continued from prophet to prophet, and they were the guides of the people in all the affairs of life. The fuller and final revelation came with Mohamed, and since then the Commanders of the Faithful have been his Khalifas or Successors. But as religion is not a part of life but the whole of it, and since it is not an affair of the next world but of this, which it teaches us to make better, cleaner, and happier, so every Muslim religious authority has laid it down unequivocally and emphatically that the allegiance which Muslims owe to the Khalifa is both temporal and spiritual. The only limits recognised to his authority are the Commandments of God, which he is not allowed to disobey or defy.

The Mussulmans, therefore, do not believe that Christ, for instance, could have said that His was the kingdom not of this earth but of Heaven alone; or that men were to render to Cæsar what was due to Cæsar, and to God what was due to God. At any rate the Pope has always claimed to be the successor of St. Peter and the inheritor of *his* prerogatives. As such he has been looked upon as the door-keeper of the kingdom of heaven, his office being strictly and avowedly limited to the spiritual domain. A study of history makes it only too apparent that the doctrine of Papacy grew in Christianity by the application to the Popes of the epithets which are applied to St. Peter in the Gospels. Just as St. Peter never had any temporal authority, so the Papacy also remained, in the first stages of its growth, devoid of temporal power for long centuries. It was only by a very slow development that the Popes aspired to temporal power. Thus, without meaning any offence, it may be said that

the acquisition of temporal power by the Popes was a mere accident, and they have certainly been divested of it without doing the least violence to the religious feelings of one half of the Christian world.

On the contrary, the temporal power of the Khilafat in Islam is of the very essence of it, and is traceable not only to the earliest Khalifas, but to the Prophet himself. Islam is to the Muslim, not only his faith, in the modern acceptation of the term, but also his culture and his polity; and although no compulsion must be exercised in matters of faith so long as people still resort to force for compelling others to their way of thinking or acting, Mussalmans cannot divest themselves of temporal power. Men still fight men to secure domination over others or exploit them, and even after the creation of a nebulous League of nations, which is to keep peace among them, the nations of Europe and America have not ceased to arm themselves. How then can Islam dispense with temporal power? Others maintain armies and navies and air forces for the defence of their territories or their commerce, because they love these more than they hate armaments. To Islam, its culture and ethics are dearer than territory, and it regards faith as greater than finance. It needs no army or navy to advance its boundaries or extend its influence; but it certainly needs them to prevent the aggression of others. Christianity may not attack Islam; but materialism and irreligion are forces that seek to encroach on *every* faith, and they do not disdain to use material weapons of offence which they would deny to spiritualism and religion even for their defence.

All this must suffice to explain that the Khilafat is of the very essence of Islam, and that so long as people still resort to force for settlement of the world's affairs, the Khilafat cannot dispense with force, which must be adequate and effective for the defence of faith. No Mussulman denies the allegiance he owes to his government; but it is a subordinate allegiance that he owes to temporal sovereigns, whether Muslim or non-Muslim, his primary allegiance being due to God. This is clearly summed up in a tradition of the Prophet that "No obedience is due to a creature of God which involves disobedience to the Creator," and Indian Mussulmans take their stand on this clear commandment.

WHY I JOIN THE KHILAFAT MOVEMENT

[By Mr. M. K. Gandhi].

The question of questions to-day is the Khilafat question, otherwise known as that of the Turkish peace terms. His Excellency the Viceroy deserves our thanks for receiving the joint deputation especially when he was busy preparing to receive the heads of the different provinces. His Excellency must be thanked for the unfailing courtesy with which he received the deputation and the courteous language in which his reply was couched. But mere courtesy, valuable as it is at all times, never so valuable as at this, is not enough at this critical moment. 'Sweet words butter no parsnips' is a proverb more applicable to-day than ever before. Behind the courtesy there was the determination to punish Turkey. Punishment of Turkey is a thing which Muslim sentiment cannot tolerate for a moment. Muslim soldiers are as responsible for the result of the war as any others. It was to appease them that Mr. Asquith said when Turkey decided to join the Central Powers that the British Government had no designs on Turkey and that His Majesty's Government would never think of punishing the Sultan for the misdeeds of the Turkish Committee. Examined by that standard the Viceregal reply is not only disappointing but it is a fall from truth and justice.

What is this British Empire? It is as much Mahomedan and Hindu as is Christian. Its religious neutrality is not a virtue, or if it is, it is a virtue of necessity. Such a mighty Empire could not be held together

on any other terms. British ministers are therefore bound to protect Mahomedan interests as any other. Indeed as the Muslim rejoinder says, they are bound to make the cause their own. What is the use of His Excellency having presented the Muslim claim before the Conference? If the cause is lost, the Mahomedans will be entitled to think that Britain did not do her duty by them. And the Viceregal reply confirms the view. When His Excellency says that Turkey must suffer for her having joined the Central Powers he but expresses the opinion of the British ministers. We hope, therefore, with the framers of the Muslim rejoinder that His Majesty's ministers will mend the mistakes if any have been committed and secure a settlement that would satisfy Mahomedan sentiment.

What does the sentiment demand? The preservation of the Khilafat with such guarantees as may be necessary for the protection of the interests of the non-Muslim races living under Turkish rule and the Khalif's control over Arabia and the Holy Places with such arrangement as may be required for guaranteeing Arab self-rule, should the Arabs desire it. It is hardly possible to state the claim more fairly than has been done. It is a claim backed by justice, by the declarations of British ministers and by the unanimous Hindu and Muslim opinion. It would be midsummer madness to reject or whittle down a claim so backed.

It is just my sense of moral responsibilities which has made me take up the Khilafat question and to identify myself entirely with the Mahomedans. It is perfectly true that I am assisting and countenancing

the union between Hindus and Muslims, but certainly not with "a view of embarrassing England and the Allied Powers in the matter of the dismemberment of the Ottoman Empire." It is contary to my creed to embarrass governments or anybody else. This does not however mean that certain acts of mine may not result in embarrassment. But I should not hold myself responsible for having caused embarrassment when I resist the wrong of a wrong-doer by refusing assistance in his wrong-doing. On the Khilafat question I refuse to be party to a broken pledge. Mr. Lloyd George's solemn declaration is practically the whole of the case for Indian Mahomedans, and when that case is forfeited by scriptural authority it becomes unanswerable. Moreover, it is incorrect to say that I have "allied myself to one of the prevailing anarchies" or that I have "wrongly countenanced the movement to place the cruel and unjust despotism of the Stamboul Government above the interests of humanity." In the whole of the Mahomedan demand there is no insistance on the retention of the so-called unjust despotism of the Stamboul Government; on the contrary the Mahomedans have accepted the principle of taking full guarantees from that Government for the protection of non-Muslim minorites. I do not know how far the condition of Armenia and Syria may be considered an 'anarchy', and how far the Turkish Government may be held responsible for it. I much suspect that the reports from these quarters are much exaggerated and that the European powers are themselves in a measure responsible for what misrule there may be in Armenia and Syria. But I am in no way interested in supporting Turkish or any other anarchy.

The Allied Powers can easily prevent it by means other than that of ending Turkish rule or dismembering and weakening the Ottoman Empire. The Allied Powers are not dealing with a new situation. If Turkey was to be partitioned, the position should have been made clear at the commencement of the war. There would then have been no question of a broken pledge. As it is, no Indian Mahomedan has any regard for the promises of British Ministers. In his opinion, the cry against Turkey is that of Christianity *vs.* Islam with England as the leader in the cry.

Thus, if it is true, as I hold it is true, that the Indian Mussalmans have a cause that is just and is supported by scriptural authority, then for the Hindus not to support them to the utmost would be a cowardly breach of brotherhood and they would forfeit all claim to consideration from their Mahomedan countrymen. As a public-server, therefore, I would be unworthy of the position I claim, if I did not support Indian Mussalmans in their struggle to maintain the Khilafat in accordance with their religious belief. I believe that in supporting them I am rendering a service to the Empire, because by assisting my Mahomedan countrymen to give a disciplined expression to their sentiment it becomes possible to make the agitation thoroughly orderly and even successful.

THE PROBLEM OF NATIONAL DEFENCE.

THE ARMY QUESTION IN INDIA.

[By Sir Krishna G. Gupta.]

It is well worth considering whether the goal adumbrated in the memorable declaration of policy made in Parliament in August, 1917, eventually to grant full autonomy to India, can ever to attained without a complete change in the Army policy of the Government.

When the English first secured the sovereignty of India there was a National Army in all the provinces, officered by Indians who usually came from the land-holding and middle classes, whose interest it was to keep up the martial spirit among their tenants and neighbours. But the British policy has from the very commencement been to deprive Indians of all authority in the Army, and recriutment has been confined to the ranks and non-commissioned officers.

As the British power and territories increased, even this limited recruitment for the Army was taken away from province after province, until at present it consists of Sikhs and a few other tribes; but a very considerable part of it is made up of Pathans who come from beyond the N. W. frontier, and of Gurkhas who inhabit Nepal, and are thus not even British subjects and are mere mercenaries.

Yet when Clive won the Battle of Plassy, and Wellesley vanquished the Marathas, no Sikhs or Gurkhas entered the composition of the Army. The absolute exclusion of the middle classes from all positions of command has taken away all incentive to

foster the martial spirit, with the result that the field for recruitment has been gradually narrowing down, so much so that the Indian Army must needs seek for recruits outside the boundaries of British India. One may almost exclaim, and with perfect truth, that the Pax Britannica, of which so much is made in certain quarters, has been the greatest drawback of British rule in India, for it has effectually emasculated the whole nation and has made it incapable of doing anything in self-defence.

Imagine for one moment what would have happened to India if, in the recent great War, Japan, instead of being our Ally, had sided with Germany. Helpless India would have fallen a prey to Japan, and England, pre-occupied as she was with the great task before her in Europe, would have for certain lost her Indian Empire.

The creation of a National Army, in which not merely the rank and file but the officers also should be mainly Indians, is necessary alike for the defence and security of India as for the maintenance of the British connection, and as it grows in numbers and efficiency the composition of the present Indian Army may be gradually modified. The new Army may be on the lines of the Territorial Forces here, or may be regarded at first as a second line of defence. The people must be taught and be prepared to undertake the defence of their country and to maintain peace and order within.

The schools and colleges should be the nursery-grounds of the new Army, and the training of Boy Scouts, and Cadets should be as general in India as it is in England. The boys will thus learn discipline and

self-help, will be early imbued with a spirit of true patriotism, and will not fall an easy prey to a feeling of vague unrest which seems at present to dominate Young India.

India must have the means of supplying herself with munitions, and must also have her own share in the Navy and Air Service of the Empire. India can never be expected to be wholly autonomous and self-governing without having her own Naval, Air and Land Forces to act in co-operation with the corresponding Services of the Empire. In the early part of the late War, Mr. Churchill drew prominent attention to the available man power of India, but nothing was done to utilise it till towards the close of the War, and even then only in a half-hearted and perfunctory manner.

One hears a great deal of martial races; but no people are born martial; it is training and environment that make a Nation what it is.

It is not intended that India should become a great military Nation, but it is obvious that she cannot be self-governing and autonomous like the Dominions or secure her future existence, unless she is allowed to form a National Army, which could also be of service to meet Imperial needs.

If the British Government is really sincere in educating India to become Self-governing, if the goal of British rule is really to confer on India the right of Self-Government, it is as necessary to follow a liberal and sympathetic policy on the question of the Army as it is to improve the constitution of the civil Government. The two things must go together, otherwise the desired result will never be attained.

One might as well be expected to walk steadily on one leg, while the other is chained and weighted, as to think that responsible and representative Government is attainable only by popularising the civil administration, while the defensive forces remain wholly under alien control.

Is the British Government prepared to adopt a generous policy in regard to the Army in India? Is it prepared to substitute a policy of trust and confidence for one of distrust and suspicion? Is England really prepared to grant to India the measure of independence which it has already accorded so freely to the Self-governing Dominions?

Whatever concessions may be made, whatever improvement may be effected, in the civil Government of the country, there will be no real autonomy, no really Responsible Government in India, unless England approaches the solution of the Army question in a spirit of trust in the Indian peoples.

The changes in the Army will no doubt be gradual, but what is essential is that they should march on parallel lines with the improvements in civil Government. Otherwise the attainment of the goal which is professed to be in view will be indefinitely deferred.

It is an unpleasant fact that the intentions of the Government are often mistrusted by the people, and that even apparently good measures are looked upon with suspicion; and the belief is by no means uncommon that even the present scheme of reform is merely intended as a sop to beguile the people, that England never intends to part with any portion of real power. But that suspicion will never disappear so long as the Indians are rigorously excluded from any participation in the control of the Army.

THE ESHER COMMITTEE REPORT.

[By Sir P. S. Sivaswami Aiyar.]

The report of the Esher Committee on the Army in India which has just been published seems to have been submitted to the Imperial Government in two instalments. Though the first instalment was submitted to the Secretary of State in November last, it has been made available to the public only after the lapse of about a year. There may have been some advantage in submitting a report on the general principles and obtaining the approval of the Government thereto, before proceeding to consider questions of comparative detail; but the practice of postponing the publication of reports till they have been considered and disposed of more or less by the Government is becoming too common and is a matter to be deplored. We can conceive of no adequate reasons for withholding the publication of the first part of the report till it obtained, and in this case long after it obtained, the general approval of the Government. This procedure deprives the public of the opportunity of timely criticism of the proposals and has the disadvantage of more or less definitely committing the Government to views which in the light of subsequent public criticism may require modification or abandonment. The Government have no doubt published a communique to the effect that the extent of the approval accorded to the first part of the report was only a general favourable disposal and that no final decision was intended to be given in part I as a whole till the remaining portion was submitted to the Government. The public must be thankful for this assurance as well as for the declaration that there is

no intention to part with the constitutional supremacy of the civil power or to transfer the control of the Army in India from the Government of India to the War Office.

The want of knowledge of military affairs is, of course a serious disadvantage in forming an opinion on questions of a technical character, but even a lay citizen has to form an opinion for himself on matters of such vital importance in the administration of the country and I shall endeavour to present a layman's view of the recommendations of the Committee.

The three objects which the Committee claim to have kept in view in formulating their proposals are:—

1. the control by the Government of India of Indian Military affairs,

2. the giving of a voice to the Government of India in questions of Imperial defence, and

3. enabling the Imperial General Staff through its Chief to exercise a considerable influence on the military policy of the Government of India.

The first two objects will meet with general approval; the third is of a very questionable character. The reasons which seem to have commended the third object are the desirability of a unity of conception throughout the Empire on broad lines of military policy. That a co-ordination between the different parts of the Empire is desirable in matters of organization may be admitted, but the best way of bringing about such co-ordination would be by

assigning a permanent position to the institution of an Imperial War Cabinet and Imperial Conferences and making them a regular feature of the Imperial administration. At meetings of the Imperial Cabinet or Council, representation should be accorded to India similar to that accorded to the self-governing dominions. It is difficult to conceive any of the self-governing dominions agreeing to the exercise of the control which under the report of the Committee, is proposed to be indirectly vested in the Imperial General Staff. In this as in various other respects it would be difficult to uphold the claim of the Committee that they have kept in view the necessity of making no recommendation inconsistent with the gradual approach of India towards a dominion status. The proposals for freedom of direct communication of a military nature between the Commander-in-Chief in India and the Imperial General Staff and for keeping the India Office merely informed of such communications through the Secretary in the military department of the India Office are of doubtful expediency from this point of view. The proposal that this Secretary should be deputy chief of the Imperial General Staff and that the Secretary of State should look for advice solely to the Chief of the Imperial General Staff seems also calculated to tighten the grip of the War Office upon the Secretary of State and the Government of India.

The question of the inclusion of a civilian member of the Executive Council of the Viceroy responsible for the Army is dealt with by the Committee on lines which indicate their wholehearted approval of the views of Lord Kitchener in the famous controversy between him and Lord Curzon. The

controversy was conducted with great ability and animation on both sides. And public opinion was generally in favour of the view advocated by Lord Curzon. The victory lay with Lord Kitchener. But whether the system which was advocated by him and which has been in operation since the abolition of the Supply Department in 1909 has worked successfully, we do not know. In coming to a decision on this important question, it is necessary for the public to have the evidence of competent civil and military authorities. The view of the Committee that the Commander-in-Chief ought to have no military colleague or competition in his administration of the Army is not carried to its full logical length in the proposal of the majority for the creation of a department of Munitions and Marine under the charge of a civilian member of the Governor-General's Executive Council. Inconsistent as it may be, the proposal seems sound for the reason advanced in support of it that the responsibility for the expenditure of nearly half of the total revenues would otherwise rest on the shoulders of the Commander-in-Chief. If the Commander-in-Chief sits in the Executive Council and do as the sole military adviser of the Government of India, his proposals for expenditure or in matters of administration will be pressed with irresistible weight. Failing an acceptance of his proposals he may threaten resignation and though it might be constitutionally open to the members of the Executive Council to over-rule him, the necessity for procuring the concurrence of the Chief of the Imperial General Staff to the appointment of a Commander-in-Chief will prove an effective check on the temerity of the Council. It is not clear by what

means the Imperial Government propose to secure the effective supremacy of the civil power over the military administration.

" Of the defects in the report of the Army in India Committee some were the result of the constitution of the Committee and others were due to the procedure followed by them. The Committee decided at the very outset of their inquiry to dispense with the taking of any formal evidence. They were content merely to take counsel in an informal way with certain high officers and certain independent persons. In consequence of this procedure the Committee deprived themselves of the benefit of outside opinion and formed their conclusions on data of questionable accuracy. To illustrate this observation, it is only necessary to refer to the section of the report which deals with the Territorial Froce. In paragraph 6 of their report in this section they comment upon the disappointing response to the appeal for recruitment in the first two months after the passing of the Indian Defence Force Act. In my narrative of the Indian Defence Force movement in the Madras Presidency I have proved that the strictures of the Government of India were not warranted with regard to the Madras presidency. It is admitted by the committee that up to the 15th of June 1919, 1621 out of a total of 3,694 for all India had been enrolled in the Madras Presidency alone. Taking the whole of India, however, there is no doubt that the response in the other presidencies was by no means satisfactory. As to the causes of this poor recruitment the Committee are of opinion that, while the condition of three months' continuous training might have been an impediment, the main cause was probably that the

urban classes were wanting in keenness to serve in the Defence Force. This view cannot be accepted as quite correct in view of the various defects in the organization and administration of the Indian Defence Force which contributed to this result and which have been pointed out in my narrative. While we do not grudge the compliment paid to the Calcutta University Corps as the strongest in numbers and most forward in training it is permissible to point out that no inquiry seems to have been made by the Committee as to why no University company was formed in Madras. In truth a large proportion of the units in Madras consisted of men belonging to the educated classes. The progress of the Madras recruits under training and their efficiency do not seem to have been brought to the notice of the Committee at all. There is no doubt, however, that the classes who would most appreciate the opportunity for serving in a Territorial Force are primarily the educated classes. The recommendation of the Committee to encourage the formation of University Companies is quite sound, but their proposals for the constitution of the University companies proceed on too narrow a basis and do not take sufficient account of the desire of men who have left the University after taking a course nor of the desire of other persons belonging to the English-educated classes, who have not passed through the University. While there may be administrative reasons in favour of a separate organization of students actually in the University it is equally necessary to form separate companies consisting of men who have passed out of the University and companies of those who have gone through a course of High School instruction. A more democratic

organization of the Defence Force should no doubt be the ultimate ideal, but the creation of companies consisting of members of the educated classes would be the most hopeful method of ensuring the success of the movement.

The Committee have made no attempt to tackle with the question of King's Commissions for the Indian Defence Force. The plea that Indian officers holding the Viceroy's Commission would resent the grant of King's Commissions to officers in the Territorial Force will not be accepted by the public as a satisfactory answer to the demand for equality of treatment between the Territorial and the Auxiliary Forces. The plea is easily met by the suggestion that in the Regular Indian Army also the Viceroy's Commissions might be abolished and King's Commissions introduced throughout. The real explanation would probably be the feeling of resentment which would be created in the minds of European officers of the Indian Army by the abolition of the racial distinctions and privileges now enjoyed by them. So long as these invidious distinctions are maintained, it will be idle for the government to contend that racial considerations do not play an important part in the administration of the country or that they do not still treat India as a conquered country kept in subjection by a foreign garrison.