

not so much because of overt opposition as because of delays, lack of materials, inertia, red-tape and routine, he usually ends by joining the ranks of those who pass on similar advice to the next generation of the zealous.

By the nature of the case the system is traditional, and it is of the nature of the traditional system to resist change; to perpetuate itself intact. Otherwise it would not be the traditional system. And a scheme of indifference, of yielding in details, and protective colorations of language and outward forms, has been found by long experience to be much more effective in self-perpetuation than is active antagonism to change. Fire is best extinguished by smothering; other methods let in air, and fan the flames. Energy is soon diverted to lines of least resistance. Schools are in many respects more open to change than most human institutions. Every two or three years there is a wave of something new which sweeps across the country, from methods of teaching penmanship, spelling and percentage to addition of new studies to the curriculum. Teachers are honestly perplexed when accused of over-conservatism; many of them know that things are already changing altogether too rapidly for them to do their best. But most of this change is in effect simply a direction of energy into channels where it will keep "reformers" busy on side-tracks. The forms of academic bookkeeping are altered while the substance of the business goes on unchanged. They relieve the conscience of conscientious teachers by giving them something to do which is novel and to which great expectations may be attached. Some of the most touted of present reforms are hardly more than devices for reconciling educators to the absence of thought by giving them new things to do.

A survey of educational literature, including contributions to educational conferences and conventions, will reveal that the contributions of the classroom teacher are insignificant, and in the case of primary education, virtually negligible. This fact is a register of the existing separation of educational ideas and educational practice. When the situation changes, there is a sure means of detecting the alteration. *Teachers in class-rooms out of the experience of the class-rooms will write the bulk of educational contributions.* Then we shall have a condition like that in the natural sciences where workers in laboratories as a matter of course furnish the bulk of scientific literature. But as long as the thinking is done at arm's length from actual teaching, the results of the thinking handed over ready-made to the teacher, the latter will not by the very nature of the case be engaged in thinking, and consequently the thought itself, the ideas, will largely evaporate in the process of so-called application. Reforms in theories taught to teachers and in administration and organization of schools will remain remote and ineffectual for the most part, or

simply mark new styles in vocabulary, until classroom teachers are freed, and all thereby given a chance to become the authors and not simply the executors of educational ideas and principles. For that reason we look with growing scepticism on all plans of educational improvement which do not centre in the liberation of the teacher in the place where teaching is carried on: the class-room.

The British Elections

THE only surprise in the British elections was the exaggeration of tendencies whose operation had been visible to every one. Hardly any one had doubted that the Conservatives would win a clear majority in the House of Commons, but a majority of over 200 members exceeds all reasonable expectations. Even the more sanguine Liberals had expected their party to lose ground, but a shrinkage to one-fifth of the popular vote and a negligible fragment in Parliament was a staggering surprise. Labor had counted on profiting from the failure of the Liberals to hold their ranks. The million and a half gained by Labor in the popular vote must have included many Liberals of the Left. But Labor could hardly have foreseen the drastic reduction in its own Parliamentary representation. The more sanguine Labor men had hoped to come so near the Conservative strength as to build themselves up to power in the by-elections of the next two years. They have been disappointed. Nothing but a return of the Black Death could whittle down such a huge majority as the Conservatives have. In all human probability they will hold office until the Parliament just elected has completed its full term.

Now that the extent of the Conservative victory has been measured, what are we to think of the strategy of MacDonald in forcing the battle? For there can be no question that he did force it. The Liberals did not want to fight. More than any one else, they saw clearly what was coming. MacDonald did not need to let himself be unhorsed by a silly little incident like the proposed inquiry into the dropping of the case against a Communist editor. True, the Russian treaty loomed as an inevitable occasion for Liberal defection, but MacDonald need not have negotiated a treaty wholly unacceptable to the Liberals. If he had treated the Liberals as co-partners in the government he could have put through some legislation on which both Labor and the Liberals agreed. It is conceivable that with Liberal coöperation he might have made as good a showing in domestic legislation as he had made in foreign policy. And those students of politics who do not care how a thing is done nor by whom so long as it is a good thing, are very bitter just now in their criticism of MacDonald's rashness and obstinacy.

To this criticism we can not subscribe. We do not ignore the value of the ameliorations that might

have been brought about by Labor-Liberal coöperation. The unemployment acts would have been administered more generously; education would have been supported more liberally; real progress might have been made toward housing reform. Besides, certain economic measures looking in the direction of imperialism which the Conservatives are likely to put through would have been circumvented. These are important considerations. But we have to weigh against them the effect of a policy of compromise upon the position of the Labor party and its organic cohesion.

It is a common notion that Labor and the Conservatives are the two extremes, while the Liberals occupy the middle ground. If this notion were valid, no objection could be brought against the continuous coöperation of either extreme with the middle party. As we see it, however, the Conservatives and the Liberals stand on the common ground of the existing economic order. They differ in their views of the best methods for conserving and developing this order. The Conservatives rely more on force, the Liberals more on persuasion. The Conservatives are more inclined to resist new social forces at the inception, the Liberals to work them into the prevailing scheme of things. Besides the two parties differ in the importance they assign to the several interests that make up the capitalistic system. Both are, however, essentially and incorrigibly capitalistic. The Labor party on the other hand presses forward to political recognition the claims of a class which has never yet had a fair share in government. It seeks to realize a new social order, in which private capital, if it has any place, must be woven into the general social system. Labor cannot consistently coöperate with either of the other parties. It could form a permanent alliance with either only at the cost of repudiating its essential principles.

MacDonald has been charged with a bitter hatred of the Liberals. We do not know whether the charge is valid or not. What is clear to us, however, is that the Liberals may properly be regarded as more redoubtable foes of the Labor party, as a party, than the Conservatives. All those fuzzy minded persons who assume that when there are three parties two must be the extremes and the third midway between are delivered by the Liberal party from the necessity of making a choice between the old social order and the new. As a clear-sighted strategist MacDonald must have regarded the Liberal party as an obstruction to any progress toward closing battle on the real issues. Whatever his personal feelings toward the Liberal leaders may have been, MacDonald must have desired above all things the destruction of the Liberal party. Of this the Liberals must have been fully aware. Accordingly continued coöperation between the two parties would have rested upon the most disloyal of foundations. Each would have been on the watch for the occasion for a rupture that would have

been most disadvantageous for the other party.

In the recent elections Labor suffered heavy losses in Parliamentary representation, but the Liberals suffered far more heavily. It is conceivable that if MacDonald had been more patient he might have picked an occasion less costly to Labor and even more disastrous to the Liberals. He had his own following, however, to consider. How many of them would have realized that he was playing a waiting game, not compromising away his principles for the sake of holding office? Seats in Parliament are important to Labor, but the loyalty and enthusiasm of the rank and file are far more important. And there were many signs that the policy of compromise was producing restlessness and discontent among the trade unions, the most important part of Labor's forces.

The Liberal party, though badly shattered, is not dead. It still controls the allegiance of one-fifth of the British electors. The Conservatives may well conduct the government in such a fashion as to produce a Liberal revival in the next five years. But the days of the party appear to be numbered. The Labor party, under whatever leadership, will inevitably strike the Liberals whenever it gets a chance and the Conservative party will be no more merciful. In the circumstances the Liberal party may be expected to disintegrate, the Right joining the Conservatives, while the Left is absorbed by Labor.

The Liberal tradition in England is an honorable one, and few students of history will witness the demise of the party without regret. But Liberalism is not essentially a party principle. It implies a method, an approach to political problems, irrespective of ultimate objectives. The true liberal is distinguished by serene reasonableness, respect for the facts. If in distributing themselves between the Conservatives and Labor the Liberals retain the liberal point of view, they will be in a position to perform a great service for the nation. They will not reason the conflict of interest out of existence, but they will help to abate the bitterness of the struggle and to reduce to a minimum the waste of human energy that attends it.

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Compulsory Confessions

RECENT plans for limiting the powers of the United States Supreme Court face the vigorous objection that the Court's ability to insure protection to personal liberty as guaranteed by the Constitution would be seriously curtailed. In reply, attention is called to the rarity of decisions upholding personal liberty in comparison with those guarding property. This may be due to the relative infrequency of appeals to the Court for enforcement of the guarantees of personal liberty rather than to any superior regard for property rights, although the whittling away of freedom of speech in the Espionage Act cases is not reassuring. At all events, a refreshing attitude is displayed by the opinion in *Ziang Sung Wan v. United States*, reprinted elsewhere in this issue,* in which the unanimous Court, speaking through Mr. Justice Brandeis, protected a lone Chinaman against the District of Columbia police.

Apart from the questions of law involved, the opinion is valuable for the powerful light which it casts upon the working of the so-called "third degree." (The "first degree" is the arrest, the "second degree" the taking of the prisoner to a place of confinement.) The charge that the police in our cities extort information from persons accused of crime by protracted questioning combined with deprivation of food and sleep is frequently made, but the truth is naturally hard to discover. The few prisoners who venture to report the practice are accused of gross exaggeration and too often lack a reputation for veracity. The officials concerned are silent, or minimize and defend the process.

Thus, at the 1910 meeting of the International Association of Chiefs of Police, Chief Corrison, of Minneapolis, said:

The "third degree" as understood by the public, is a very different thing from the "third degree" as known by a police official . . . This body of men should by every means in their power refute the sensational idea the public has of the so-called "third degree" . . . In making an investigation as to who is responsible for committing an offence, it is often necessary to have several talks with the persons suspected, and their statements as to their whereabouts and conduct at the time in question are important links in unravelling a mystery. These investigations by the police have no doubt cleared the record of many an innocent suspect. The object is to ascertain the truth, not, as the public seems to think, fasten the commission of a crime upon someone—whether guilty or innocent.

And Major Sylvester, of Washington, President of the Association, said:

Volunteer confessions and admissions made after a prisoner has been cautioned that what he states may

be used against him, are all that there is to the so-called "third degree."

Fortunately, we are not altogether without reliable information on the details of the practice. A paper on *Methods of Obtaining Confessions and Information from Persons Accused of Crime*, presented by B. O. Chisolm and H. H. Hart to the American Prison Association and published by the Russell Sage Foundation in March, 1922, summarizes the answers to questionnaires sent to prosecuting attorneys and chiefs of police in the larger cities of the United States. We also have a few accounts of the process by judges, but none has approached Judge Brandeis's opinion in fullness of detail. The extreme methods he describes may be exceptional and contrary to the custom in most cities, but it is disturbing to find them used, not in a remote frontier town, but in the capital of the nation.

This brings us to the legal problem,—should the courts endeavor to check this method of investigation into crime where no actual violence is used, by excluding confessions thus obtained from the evidence submitted by the prosecution against the prisoner? That this question is not always answered by reputable and thoughtful men in the affirmative, is shown by the fact that the Chinaman's confession in the case under discussion was admitted by both the trial court and the Court of Appeals of the District of Columbia, and by the well considered opinion of John H. Wigmore (*Treatise on Evidence*, 2 ed., §851), that "The attempts, legislative and judicial, to exclude confessions obtained by police questioning of persons arrested and in seclusion represent simply a misguided solution of the problem."

The contrary opinion of the *Ziang Sung Wan* case, that such confessions should be excluded, does not rest upon any clause of the Constitution, but upon a well-established principle of the common law, originating in England where there is no written constitution, that confessions secured by improper methods must not be used as evidence against a person on trial for crime. The test of this impropriety is commonly phrased as the extraction of the confession by threats of harm or by promises of benefit, such as a pardon or light sentence. This test may fairly be criticized as wooden, and it is more rational to require that the threat or promise shall have placed the prisoner in a situation where an untrue statement of guilt became more desirable to him than the alternative courses of silence or a truthful avowal of innocence. Historically, the courts have gone very far in excluding confessions, influenced at the start by the harshness of the old criminal law which forbade the prisoner to be represented by a lawyer or to testify on his own behalf

* On page 272.