

Weekly Notes

Change in Kashmir

THE impression has been created that in the decision to release Sheikh Abdullah, the initiative was the Kashmir Government's. This has been strengthened by Lal Bahadur Shastri's statement in the Lok Sabha that the actual announcement, its timing and manner, had come as a surprise to New Delhi. However, the Home Minister also told the House that the question had been under consideration for a fairly long time, even a year and a half ago when Bakshi Ghulam Mohammed was Prime Minister of Kashmir and when certainly the initiative could not have come from the State Government. Sheikh Abdullah's release makes sense only as the centre-piece of a major change in the Government of India's Kashmir policy and to make it appear that it was merely stringing along with the State Government is to deliberately underplay the very important issues involved.

Sheikh Abdullah's release could be treated as a political decision of the garden variety which could be left to the State Government if it were a fact either that the Sheikh's views on the status of Kashmir, which made him a security risk and compelled his decade-long incarceration, had undergone a complete change or that his following in the State had so dwindled as to make him a relatively inconsequential factor in Kashmir politics. Neither of these is true, unfortunately. There is nothing to indicate that the Sheikh is any less devoted to the goal of an independent Kashmir today than he was when he was first arrested. And as for his popularity, the years in jail have inevitably made him something of a martyr. In recent months leaders like Maulana Masoodi and others have found it useful to use the demand for his release as a cloak for propaganda for a plebiscite and for going back on the accession to India.

The fact has to be faced that Sheikh Abdullah's release must ultimately lead to the growth in the State of a strong political movement opposed to the integration of the State with India and demand-

ing that much of what has been done so far be undone. How will the Government of G M Sadiq, who has repeatedly affirmed his determination to rapidly advance the integration process, meet the challenge? It has to be considered that the new Government in Kashmir is barely a few months old and has yet to find its feet; that it has taken over in the wake of widespread agitation and lawlessness; and that it does not enjoy the undivided support of even the National Conference. This last disadvantage may not be very material since the National Conference itself has not much standing among the people.

Hopes that G M Sadiq's Government will be able to check-mate Sheikh Abdullah on the political plane, therefore, can hardly be regarded as realistic. And to suggest that if the situation threatens to get out of hand the Sheikh can be re-arrested and his following forcibly suppressed is to make nonsense of the present decision to release him.

Alternatively, and this appears to be the only sensible course consistent with his release. Sheikh Abdullah may be closely associated with our Kashmir policy. Such association will necessarily lie largely on his terms and will therefore, be with a policy which in essentials will be totally the opposite of the one which has been pursued so far. Why has the Government of India resigned itself to putting paid to the hopes and efforts of sixteen years? Was it external pressure, of which there has been no lack ever, or a realistic appraisal of the political situation in Kashmir? Probably both, as the events which must inevitably follow Sheikh Abdullah's re-entrance into political life will perhaps show.

Public Loans

AS in the last year, the first instalment of the Government's borrowing programme for 1964-65, announced on Monday, consists of two conversion loans: a 4.75 per cent 1989 loan to be issued at par and a 4 per cent 1970 loan to be issued at Rs 99. These loans will be open for subscription from April 15 by holders of the 3.50 per cent National Plan Loan of Rs 158.18

crores which matures on the 19th of this month and the 3 per cent 1964- loan of Rs 30.33 crores which matures on June 15.

The Budget takes credit for market loans of Rs 295 crores in 1964-65. As against this, loans falling due for repayment during the year amount to about Rs 192 crores so that, after conversion and cash repayments, the net receipts from market borrowing during the year will be about Rs 103 crores. The present conversion offer, therefore, will be followed by cash loans a few months later when conditions in the money market will be more propitious.

Two features of the conversion offer have attracted attention. First, the 1989 loan, with a maturity of 25 years, will be the longest public loan in the market. Support for such a long-dated loan will necessarily be very narrow, coming mainly from the Life Insurance Corporation and provident funds. For these categories of investors, this loan will be welcome, as the relative lack of long-dated paper compels them to hold a fairly large part of their investments in short maturities.

Second, at 4.19 per cent and 4.75 per cent the short and long conversion loans show an increase in yield of 0.10 per cent and 0.25 per cent respectively over comparable Government paper. Along with the recent increase in the rates on Reserve Bank lending to scheduled banks and the prospect of a revision of the banks' deposit and advance rates, the higher rates on the Government loans have been described as a move towards "realistic interest rates which reflect adequately the real cost of capital to the economy" the case for which the Finance Minister has pleaded more than once.

What rates will realistically reflect the cost of capital and how far the nominal increase in the rates on the Government loans approaches such rates are moot points. The response to public loans is largely institutional, the bulk of it in fulfilment of statutory obligations. The position is not likely to be different in the case of the present offer. A wider response can be expected only for short and medi-

um loans at very much more attractive rates.

income-tax Appeals

A Correspondent Writes :

INAUGURATING the conference of the Members of the Income-tax Appellate Tribunal on Sunday last, the Chief Justice of India, Mr Justice I^J B Gajendragadkar, expressed the opinion that the administration of income-tax law should be taken off the Appellate Tribunal, a quasi-judicial body, and entrusted to a full-fledged judicial authority. The Chief Justice invited the members of the Tribunal to shed their quasi-judicial robe and join "the parent body and share its glory".

It is good that the Chief Justice's suggestion has provoked thinking on the working of the Income-tax Appellate Tribunal and its future. For a long time Civil Courts were debarred from interfering in any matter relating to the collection of revenue. The power of Chartered High Courts to issue writs was not exercisable in revenue matters. It was only in 1911 that, in deference to strong public opinion, the Income-tax Appellate Tribunal was set up. It was at first placed under the Central Board of Revenue: but soon it was transferred to the control of the (then) Legislative Department with the idea that justice should not only be done but should appear to be done.

The expectations entertained at the time of setting up the Income-tax Appellate Tribunal have been more than fulfilled. By and large the tax-payers look upon the Tribunal as their saviour from unjust or illegal tax demands. This is evident from the figures given by the Tribunal President at the Members' conference. In fact, the demands on the Tribunal have been so heavy that arrears of pending appeals have steadily increased during recent years. It is true that at times (though not very frequently) there have been complaints about the Tribunal's working. However, against any wrong decision of the Tribunal there is the safeguard of a reference (*albeit* only on questions of law) to the High Courts with a further appeal to the Supreme Court, it is as a result of such references to the High Courts and appeals to the Supreme Court that these Courts have

been able to throw light on difficult questions relating to the interpretation of income-tax law.

Suggestions for abolishing the Tribunal and making the High Courts the appellate body in income-tax matters have been made from time to time, but they could not, in the nature of things, be considered, having regard to the large volume of work that would be thrown on the High Courts and the large number of additional judges that would have to be appointed. Even now income-tax references remain pending for long periods before the High Courts, some of them for as long as three years. Such delay in the disposal of tax matters is most undesirable both from the point of view of the tax-payer and the Income-tax Department since subsequent assessments are often held up and a good deal of uncertainty and confusion result.

That the strength of the High Courts will have to be increased very substantially they are to take over the Tribunal's work goes without saying. The expenditure on the Income-tax Tribunal is met by the Centre whereas High Court Judges are paid by the States. The question arises how far the State Governments would be prepared to shoulder the additional financial responsibility. Further, the present difficulty in getting suitable persons to serve as High Court Judges will be accentuated if there is to be a large increase in the strength of the Courts. At the same time, as the Law Minister, who presided over the Conference, pointed out, transfer of the work of the Appellate Tribunal to the High Court will also raise the problem of absorbing the accountant-Members of the Tribunal who would not be eligible for appointment as High Court judges, though most of the judicial members may be.

There may be something to be said in favour of a judicial approach to disputes between the Government and the tax-payer but it is also a fact that income-tax law and practice, as also problems arising out of accounts, are highly specialised and complicated. Without meaning any disrespect to the honourable judges it needs to be said that it has been found in practice that only very few High Court Judges are able to deal

satisfactorily with income-tax cases. If, to this handicap, we add the responsibility of looking into matters of accounting and all other questions of fact relating to income-tax assessments, it would be placing too heavy a burden on the High Courts. Of course, this assumes that with the abolition of the Appellate Tribunal, the High Courts would deal both with facts and law in income-tax appeals. It cannot be otherwise, since the Appellate Assistant Commissioner can never be the final judge of facts.

In the light of these considerations, the assurance by the Law Minister that there will be no radical change in the composition of the Income-tax Tribunal is welcome. In fact, as suggested by the Law Minister, there should be administrative tribunals for all matters that require to be dealt with quasi-judicially, with an appellate authority in each State. It is to be hoped that the Law Minister will implement his suggestion at an early date.

STC in Unflattering Light

THE picture of the S T C that one gets from the Estimates Committee's latest report is certainly not one which would enhance its prestige. Even allowing for the Committee's usual rambling approach and the uneven nature of its analysis, the fact remains that for an institution of some 8 years' standing, the Corporation is far too vulnerable to criticism. Frequently in the Report the length of the Corporation's experience is referred to and surprise expressed that so little has been learned in the time.

True, the Corporation is absolved of an allegation made against it often, both inside and outside Parliament — that it is outstepping its original objective of supplementing private trade and is supplanting it instead. The Estimates Committee points out that the Corporation's share of the country's total trade amounts to no more than 4.8 per cent; this could hardly affect the opportunities of the private sector.

The Committee's conclusions and recommendations are sometimes tinged with more than a touch of ambivalence. For instance, there would seem to be a slight statistical incompatibility between the suggestion that the Corporation