

K. M. Munshi

WARNINGS OF HISTORY

TRENDS IN MODERN INDIA

954.025
M 927 W



M 927 W

भारतीय विद्या भवन

CHAUPATTY ROAD BOMBAY 7



Library IAS, Shimla



00003050

**INDIAN INSTITUTE OF
ADVANCED STUDY
SIMLA**

WARNINGS OF HISTORY TRENDS IN MODERN INDIA

BY
K. M. MUNSHI



1963

BHARATIYA VIDYA BHAVAN
CHAUPATTY ROAD, BOMBAY.

Copyright and rights of translation and reproduction reserved
by the Publishers.

1st Edition - July 1959

2nd Edition - March 1963



Price: Re. 1.00; Sh. 1/9; \$ 0.50

9-4-25
M927 W



Library

1145, Shimla



00003050

PRINTED IN INDIA

By P. A. Raman at Inland Printers, Victoria Mills
Buildings, 55, Gamdevi Road, Bombay 7, and Published
by S. Ramakrishnan, Executive Secretary, Bharatiya
Vidya Bhavan, Bombay 7.

A NOTE

For some considerable time I could not help feeling that India is drifting towards a situation which might become dangerous any day, if the lessons of history have any meaning. I therefore tried to study, off and on, the trends in our country in the background of historical experience. I thought that, if these studies were brought out in the form of a single volume, perhaps it could give to the reader a connected view about the dangers towards which we are heading.

K. M. MUNSHI

Bombay :
24th July 1959

CONTENTS

	PAGE
I. WARNINGS OF HISTORY	7
II. ARE WE FAILING GANDHIJI ?	18
III. DESPOTISM—OLD AND NEW	24
IV. CONGRESS OBJECTIVE AND CO-OPERATIVES	36
V. ROLE OF LEGAL ORDER IN A DEMOCRACY	49
VI. CRISIS IN DEMOCRACY	56
VII. DEMOCRACY IN DANGER	66
VIII. INDIAN UNITY AT CROSS-ROADS	77
IX. WHITHER FUNDAMENTAL RIGHTS ?	83

WARNINGS OF HISTORY

In our anxiety to attain economic self-sufficiency we often forget the warnings of history. Impatient souls are apt to do it; in fact, they delight to do it, or obsessed by slogans they have no eyes to see and no ears to hear them.

We have won freedom; we have so far a stable government. This is therefore just the time to pause and heed the warnings.

What are the forces which lead to the rise or fall of nations? How do nations rise and fall? That implies another enquiry: What are the factors which go to make a virile nation? When do they run amuck?

These factors, though often derived from geographical compactness or the unity of language, are not necessarily dependent on them. Men living in the same geographical area do not necessarily make a nation. Men speaking the same language or following the same religion do not always make a nation. Switzerland and Canada are multilingual nations. U.K. and U.S.A., India and Pakistan, though speaking the same language, are different nations.

Three such factors are invariably found in virile nations: common memory of achievements, will to unity, and habitual urge to collective action.

First, the people constituting a nation have a common memory of great heroes and exploits, of great adventures and triumphs in the past. Japan, perhaps, represents the

finest example of ancient memories, tenaciously preserved. The same could be said of Hindus, but I wonder whether the same would be said about them two decades hence.

Historic forces often have not given a common memory to communities living in a single country ; they often look upon their past from different angles, and, in consequence, cannot form a nation. Hindus looked up to Rana Pratap and Shivaji as their heroes ; the Muslims admired Mahamud Ghazni and Aurangazeb ; in this antagonistic outlook lay the seed of Pakistan. The common memory, though limited, which we now share in India is that of mutual influence in the past, and of freedom struggled for and won in the present.

The British and the French in Canada, and the French, the Germans and the Italians in Switzerland, have short but living memories of common adventures and triumphs sufficiently vital to make them a nation.

The U.S.A. has solved the problem in a characteristic way. Every year foreign emigrants pour into the country, fleeing from oppression or seeking wealth. However, due to its educational system, in the third generation if not in the second, their descendants acquire, as if they were their own, the memories of Washington and Abraham Lincoln and of the colossal achievements for which U.S.A. stands.

In India, eleven years have been wasted by a sterile educational policy. Many things could have been done in this interval to give to young men and women a common memory of our struggle. But it was not done. A generation has now grown up which takes freedom for granted but draws no inspiration from the way it was won.

The second factor which plays a great part in the birth and growth of a nation is the will to national unity in a

people. Nationalism implies a sustained effort on the part of the people to *will* themselves into a nation.

But who are the people? In all collective affairs of men, we should remember, it is what Toynbee calls the dominant minority which speaks, creates and leads that counts. The masses are passive, following its lead or submitting to its influence or coercive power. When I speak of the will to unity, therefore, it is primarily the will of the dominant minority that I mean.

The will to national unity is hard to develop, but easy to be dissipated. Generally it is dissipated under certain conditions :

First, if the dominant minority has no sense of mission as regards the future of the nation ;

Secondly, if its will to unity is fragmented by contradictory loyalties ;

Thirdly, if it becomes psychologically alien to the masses.

All nations which have risen to greatness have been characterised by a sense of mission.

In Japan we found a deep sense of mission. Its people cannot think of themselves as a lost people ; they have faith in their culture and destiny ; they have no regrets and no frustration.

The dominant minority in U.S.A. has also a sense of mission to spread its free way of life throughout the world, to combat totalitarianism and to be in the forefront of material achievements. It is this Pillar of Fire which leads them on and leaves them no rest.

This sense of mission we found very highly developed in Germany. In course of three decades the land twice came under the heels of foreign armies and its people

were desiccated as never before in history. And yet their sense of destiny never dimmed ; they reconstructed their life long before their conquerors could repair the ravages inflicted by victory.

The strength of Communism is not in the validity of dialectical materialism, not in its armies and collectives, not even in Sputniks. It lies in its intellectuals who, intensively indoctrinated for two generations, have but one mission in life : to fulfil what they consider to be the predestined role of Soviet Russia in communising the world and dominating it. The fundamental problem of the world therefore is whether what is called the 'Free World' can produce a matching sense of mission.

The Arabs under President Nasser seem to have developed a sense of mission. Does it arise out of just xenophobia or are its roots imbedded in the Arab Collective Unconscious remains to be seen.

This sense is perhaps at its white heat in little Israel. Men and women come there from different parts of the world. Often they do not know any common language. Israel itself is suspended precariously over the mouth of a volcano—Arab hatred. And yet they are convinced that this little patch of a desert is their 'Promised Land' ; that their race is pre-destined to an honoured place among the nations. Their passionate faith in the Jewish nation therefore is a burning flame welding them together. It drives them to perform the superhuman task of making ancient Hebrew a modern bond of unity and face the potential disasters with the indomitable calmness of a God-inspired mystic.

During the last hundred years when we were struggling for freedom, the dominant minority of India had developed a sense of mission. We believed in our right to be true to our own culture ; in our duty to suffer and, if need be, die for freedom ; in our destiny to be free in order that, with the aid of our spiritual heritage, we could redeem mankind.

If our sense of mission weakens,—as it has been of late—that is, if we cease to be true to ourselves and our culture ; if we lose confidence that we have a great role to play in history ; if we come to look upon ourselves as a miserable, weak and poor people with no pride in our past and no faith in our future—our outlook will cease to be positive. Frustration, disappointment or despair will seize us. Disintegration will follow.

However, the Indian mind through the ages had a deep sense of mission, and sooner than we realize, the younger generation will recapture it.

Take the second condition. If a large section of the dominant minority prefers caste, region, linguism or religion as the object of paramount loyalty, the will to unity will be fragmented. In all countries, most people who constitute the dominant minority have a variety of loyalties : loyalty to one's family, to one's caste or class, to one's region or language, to one's religion and to one's nation. In a properly inter-related scheme of loyalties, the loyalty to the nation should dominate all other loyalties. That has been so in Germany and Japan, and that is the cause of their rise even after their catastrophic collapse in World War II.

In U.S.A., as in India, a large number of cultural groups seek their own life. There is also a very strong state loyalty. But all claim to live the American way of life. Cultural diversity only adds to its richness of life but does not undermine the sense of national unity. Even the acute difference between the South and the North and between the Whites and the Negroes, though often bitter, never affects their loyalty to the Union, nor makes them less proud of what they call the American way of life.

The process going on in our country for the moment deserves serious attention. In the past, the Hindus had a superior loyalty to their religion, to Aryavarta—the *Karma Bhoomi*—in which they were born. But this group loyalty

is being displaced by Indian nationalism and almost in the hour of victory, it, as well as the new nationalism, are being undermined by loyalty to the caste or the region. Prophets of disintegration are talking about nationalities in India, not the Indian nation. In search of regional selfishness we are also apt to forget our paramount loyalty to the country as a whole.

If my loyalty to my caste or to the Gujarati-speaking group or Gujarat is more paramount than my loyalty to India, the springs of national vitality would be poisoned.

A pessimist would think that we are reverting to the pre-Akbar period, when region warred with region and all of them opened the gates to slavery. However, this is a passing phase ; but it will pass only if the fundamental devotion of the average Indian to the Motherland is so strengthened that it will sweep away the caste or regional loyalties. We will have to go through distressing trials if this does not happen in the immediate future.

The third condition arises from an impact of a conquering culture upon another. It raises no problems in U.S.A. and the countries of Europe, for there basically the outlook of the dominating minority and the masses is the same, for the leaders have drawn inspiration from the soil.

In India and in several countries in Asia, however, the outlook of the dominant minority which has grown up under the influence of an alien culture tends to differ from that of the masses. As a result, the minority is no longer emotionally responsive to the urges which characterise them, as it speaks, thinks and acts under the influence of an alien outlook ; the masses also do not feel a sense of identity with it. Once this situation arises, the dominant minority, however active, is looked upon as alien and the will to unity becomes weak.

In the pre-Gandhian period, to take our own case, the English-educated minority was Westernized in thought

and outlook and the leaders often found it difficult to think in terms of the urges of the masses. Gandhiji could establish a complete identity between the minority and the people, because in his fundamental outlook he was one with them. He was to them not a Westernized political leader, but the sage, the saint and the saviour, of whom they had dreamt throughout the ages.

It was expected that, after freedom, our dominant minority, following the Gandhian lead, would maintain this sense of identity with the Indian masses. Unfortunately, a new class has sprung up which again speaks in Western terms—I include Soviet countries in the West—and seeks to force Western experiments on our people. While this class complains that the masses do not respond to its call, it does not see that the fault is its own. It has not learnt to reflect the mind of the masses. It does not know the idiom of their life. It is too deeply engrossed in leading, directing and organising from a higher pedestal. It does not realise that the aliens, though they may not be in blood and religion but only in feeling and thought, could only enforce a change, they could never inspire it.

That is why the ruling class in many countries finds the Communist technique of coercing the masses to their way of living so handy.

The last factor of great importance which goes to make a vigorous nation is the capacity of the people for collective action.

The will to national unity is sustained only when the people are led, time and again, by the dominant minority to act with a common motive. The will when untranslated into action is only a morbid sentiment. Lurid examples of such sentiment having dominated us in the past can be easily found in our history.

In the past, for instance, we dreamt of an Aryavarta and a Vikramaditya for centuries but it did not generate

power to take collective action. When Prithviraj Chauhan fought Mahamed Ghorī on the North-West Frontier, the rest of Hindu India looked on, and some of his Hindu neighbours nibbled at his home territory.

I have never seen such a spontaneous urge for collective activity as in U.S.A. Given a cause, however trivial, the people, even the children, organise themselves for collective effort. Even forward planning in industries is done by voluntarily organised groups or universities. Members of the Bar, generally the most individualistic of professions, are collectively working for constructive work. They neither look for initiative nor help to the Government. Herein lies the greatest strength of American democracy.

If any man knew the secret of inspiring collective action, it was Gandhiji. Not only he gave us a sense of mission but led us to spin in a mass, to learn Hindi and to invite Harijans into our temples, to break laws and go and herd ourselves in jails.

In recent years, the dominant minority in India, with its sense of mission weakened, has failed to inspire us to collective action. At one time I thought that tree planting would become a spontaneous national movement as in Japan; our officers, too superior to care for mass reaction, saw to it that it just lapsed back into a forest department activity.

Shramdan again, looked upon in U.P., for some time at any rate, as a new religion had the seed of a dynamic collective action to reconstruct rural life. It inspired the will to work together for a time. But our development projects, in spite of their high potential for releasing collective action, are just official activities imposed from above; they have allowed *Shramdan* to peter off.

You will see from what I have stated that common memories of achievements, will to unity and urge to collective action, play a great part in the rise of nations,

If these factors do not exist, there is no nation. If they are weak, the nation is weak too. If they are fragmented, the nation tends to disintegrate. It is equally true that if they run amuck, nationalism explodes through sheer exuberance.

When these factors become very powerfully inspired by an active sense of mission, they often lead to expansionism as in the case of Hitlerite Germany, or to exhausting wars as in the case of the wars which Napoleon and Aurangzeb waged. They may also lead to an inflated ambition to dominate the world or to enrich themselves at the cost of others as in the case of the Colonial Powers of the recent past.

The process appears to be something like this: When nationalism runs riot, it acquires great strength and collects enormous wealth. Then material prosperity and hunger for power obsess its dominant minority to the exclusion of higher values. Once this phase sets in, national resurgence passes its zenith and begins to decline.

Several dangers then face a prosperous and powerful nation. It may invite the wrath or jealousy of rival nations and go down before them in disastrous wars. It may also play up to its reputation and embark on suicidal conflicts, as in the case of the late Empire of Austria.

Another danger, though insidious, is more potent. With great material prosperity and unlimited power, a nation loses its capacity for distinguishing between the true and the false, the right and the wrong, the beautiful and the ugly. The sense of mission disappears and men sink into sensual and material beings stripped of a sense of divinity. At this stage they lose their sense of imperishable spiritual values.

The dominant minorities in several countries which are prosperous and powerful today seem to be developing symptoms of decay. They have come to look upon all values as biological, economic or materialistic. This has

been leading to the growth of unscrupulous factions and pressure groups. Force and fraud have become the arbiter between all values. Human dignity no longer commands respect. Governments have become or are becoming tyrannical or callous. Quantitative greatness is substituted for qualitative greatness. Family life has begun to disintegrate, men and women wallowing in 'good time.'

I observed a very curious phenomenon in U.S.A. Superficially it looked as if all values have become materialistic and the family life is all but dissolving. At the same time, there are large sections which, with a rare sense of mission and powerful collective urge, combine to combat it. The law of polarisation is operating, and if these forces of the spirit win, U.S.A. will be saved.

Curiously enough, the world having shrunk, the ineffective influence of nations is destroying the fibre of weaker nations or nations in the making. We see the dominant minorities of such struggling nations hankering after glittering externals.

Herein lies the peril. When struggling nations set material prosperity as their supreme goal, they become obsessed with the greed to secure higher and still higher standards of living. Not having the will or the means in sufficient measure, nor the length of time to achieve them, they become restive, angry and frustrated. Out of sheer frustration, they then lose their sense of mission and in consequence their will to work. Then follows the collapse of the higher values which made them tenacious and self-respecting even in poverty and weakness.

There is, however, a difference between the fortunes of powerful nations and those of struggling nations when they are attacked by this *malaise*. The powerful nations may for a time struggle on in spite of decaying values and have a chance to recapture them. On the other hand, the weaker nations, having lost the tenacity which abiding values give them, disintegrate, and soon invite misery, anarchy and foreign domination.

It is, therefore, essential that struggling nations like India, when embarking on a programme of material advance, should maintain their inner strength which their spiritual outlook has given them. For, spirituality is a necessary element in every creative culture, without which no nation can grow.

Spirituality is not an antithesis of material advance ; it only negatives the materialistic outlook which hungers for the 'good things of life' which higher standards of living provide, as the end of existence.

When we claim a spiritual heritage, it is not suggested that every Indian is spiritually-minded. Most of us do seek material gain. What is claimed is that the higher values of spirituality—call it idealism, its pale version, if you are too arrogant to think of God—are looked upon by a very large number of members of the dominant minority in India as an essential element in our existence.

Some amongst us, who want us to worship at the shrine of higher standards of living, scoff at spirituality. 'Are we spiritual?' they ask. In other words, they imply that spirituality has no cash value for us. If Truth, Love and Beauty, that is God, are useful, they are good ; if not, they are not. Conversely, whatever is useful, we will accept it as God ; if not, we will reject Him.

If ever the dominant minority in this country comes to develop this attitude, its sense of identity with the masses, deeply imbued with a sense of values however crudely understood, will snap. If it cannot conceive of our future as inspired by self-restraint and austerity, by faith in unselfish work, and by aspiration to realise something above and beyond sense enjoyment, it will take the next step ; it will adopt totalitarianism and coerce the masses to do its will with the aid of fear and coercion. But I know it will not, it dare not. Spirituality is woven into the pattern of our life, and the modern *Charvaks* will fail as their ancient forerunners did.

II

ARE WE FAILING GANDHIJI ?

Before we consider "What Gandhiji would have expected us to do to-day," we must clear our mind of one thing : Gandhiji's fundamental approach to all situations which was dictated by Truth, Non-violence and faith in God.

Such was Gandhiji's allegiance to Truth that once he wrote to me : "I once thought that God was Truth. Now I know that Truth is God." His faith in God also was unshakable. "I believe in God much more than I believe in the fact that you and I are alive and I am speaking to you," he once said.

At the same time, Gandhiji's was a fresh and receptive mind till the end. In his appraisal of a situation, he never allowed pre-conceptions to overshadow his judgment. Never did he deal with a situation except with great responsiveness. Again, never did he allow his reactions to swerve from the orbit of his fundamentals.

With this approach of Gandhiji as a starting point, let us try to discover how he would have reacted to the present situation ; or rather how he would have dealt with the factors which predominate the present situation.

These factors, so far as I can see, are two : external and internal.

The external factor is a disquieting one. The world is being progressively overshadowed by dictatorships. All our frontiers have come to be dominated by dictators, by whatever name they are called. In so far as they are purely

military dictatorships, they are a potential menace to our national existence and our infant democracy. In so far as they are totalitarian, i.e., dictatorship based on a total ideology, they, in addition, threaten all the human values which we hold as sacred and the fundamentals for which Gandhiji lived.

If Gandhiji had been alive to-day, he would have expected each one of us to face this aspect of the situation with faith in freedom, with determination to live by, and if need be, to die for it. He would have expected us to join in a movement of the spirit which would give us a new vigour to combat the forces like linguism, regionalism, communalism and group conflicts which disintegrate our national unity. For, these forces weaken our will to resist dictatorship.

In Gandhiji's scheme of things, individual initiative and the free moral development of individual life had always a primary place. He would, therefore, have expected us to resist every bureaucratic or governmental dictate as to how we live and what we are to do. However, the fact is patent that increasing control over many individual and most social activities is passing under governmental control or direction : over universities, over the press, over literary, educational and even religious bodies. Popular leaders strike an air of infallibility and, not to be outdone, we accept the assumption and rush forward to burn incense.

The very basis of freedom is a multi-central life regulated by self-imposed discipline. If we want freedom, most sections of life must function independently of Government ; if freedom is not to destroy stability—so essential for freedom itself—it must be tempered by self-restraint. But if freedom leads to mass coercion of individuals or authorities—may be by miscalling it as Satyagraha—national existence will be in jeopardy, and to preserve it, Governments will be forced to play an increasingly authoritarian role.

In this hour of potential danger, therefore, Gandhiji

would have expected us to sink our differences and, above all things, preserve national stability. If we don't, the situation, like a Greek tragedy, would unfold itself to a catastrophic end.

I now come to the next factor of the situation, what I call the internal one. It can be shortly described as deterioration in the quality of our individual and social life. During the last hundred years of our struggle for freedom since 1857, our great leaders have emphasised the supreme importance of the moral and spiritual values of our heritage to maintain the quality of our individual and social life. They emphasised in us a sense of mission to dedicate ourselves to secure the freedom of our country and to make Free India not only great but spiritually armed to redeem mankind.

Has the class which sets the pace of public thinking any sense of mission left? I am afraid not, in any appreciable degree anyhow. On the contrary, we are insistently thinking in negative terms of poverty, unemployment, frustration, complaints and failures. We live in dreams of greed which, as a great political thinker once described, masquerade in these days as 'the cult of a higher standard of living.' We are a poor country. We will never reach the level of material comforts of the West. And yet we are losing, if we have not already lost, the capacity to admire, appreciate or lead an austere life.

We sometimes live in sentiments, sometimes in dreams, sometimes on promises. We have lost the courage to face unpleasant truths; to take but a few instances, like large-scale illicit distillation in this city with an ostensible facade of prohibition, like the flamboyant feasts and parties in Delhi, Bombay and Calcutta when Parliament rings with cries of food scarcity; like indiscipline in educational institutions and the mad scramble for power in public life.

Why have we thus lost faith in the values which are inherent in our culture and which Gandhiji insisted

upon? Because we have been divorcing spirituality from politics and economics, which Gandhiji would have never dreamt of doing. Gandhiji's deep spirituality influenced all around him. Why? Because his was a religious attitude on life. "My politics and all other activities of mine are derived from religion," he once said. His first demand on us was to 'beautify our mind' and 'purify ourselves.' He laid the greatest stress on the purity of means "above everything else." He emphasised the futility of "external activity" and the need for "intensive internal development." He wanted the Congress to become "primarily a self-purification association designed to achieve its goal by developing internal strength."

What do we find around us? I do not say this in a spirit of criticism; I say it with grief.

We are told all about the Bhakra Dams and the steel mills. We have yet to hear Truth and Non-violence referred to as of equal importance.

We hear of higher and still higher wages. No one tells us that, for a poor country like ours, we cannot afford to give up the austere way of life.

We make plans with vast physical targets. We have yet to develop any collective effort to infuse an enthusiastic will to work, work hard. Is it not a fact that by all standards we are the laziest, most holiday-ridden country in the world?

We found new universities. So far so good. But we have yet to develop a spiritual revolution which would inspire our students to study hard and lead a disciplined life and prevent them from growing up as materialistic barbarians.

We read in the morning papers, of higher incomes, higher production, higher tax collection, higher expenditure on our projects. We have yet to hear what we are to do about rooting out corruption whose pestilential breath

poisons our business, official and political life. We have yet to think of heightening our religious fervour for a dedicated life of simplicity and hard work.

Why are we not able to do so? Why? Because we are taught to pitch our faith on the new gospel: "Change the externals and men will change." Let more police pursue bootleggers and people will give up the habit of drinking. Pass laws to curb urban income and people will cease to be greedy. Increase penalties and men would become incorruptible. Provide higher wages and salaries; raise hopes of higher standard of living; and men will, by the miracle of money, become truthful and honest, incorruptible and hard-working, living dedicated lives.

We want to follow in the footsteps of those nations to whom materialism—successful, theoretical or dialectical—is the only reality, which have for their goal the improving of external conditions without regard for the spiritual transformation of the human personality. Is there any wonder that the sense of God-given mission which filled our hearts during the last century has begun to fade even from the hearts of those who once had it?

We are blind to the fact that the people who have hitched their wagon to external change may be rich in material comforts. They are not happy; they have no faith in man or his destiny. Frightened by the prospects of destruction, they are craving for life, peace and love. They want to survive, but know not how. That is why the sane amongst them expect that something in the nature of redemption will come out of India's heritage of spiritual values.

But what do we do? When we go abroad, we talk of our spiritual heritage, we publicise the heritage which Gandhiji left behind us. But at home we keep them in a frigidaire, possibly as a dollar-earning exportable commodity.

The false prophets of the modern world have been

promising paradise through democracy, through science, through economics, through total social changes, through Communism, through scientific materialism and in doing so, have destroyed faith in human values. All their promises have been belied. All their plans for changing men and life have been failing and will fail. Selfishness has not been eliminated and destruction has not been averted. Egoism has entrenched itself in all spheres of life, in politics, in religion, in educational system, in family life.

Yet with the means of mass propaganda in their hands, these false prophets continue their call to untruth. They invite us to follow every new promise of a paradise, but without leading us to love and to have faith in God.

If Gandhiji had been amongst us, he would have demanded that the spiritual strength of Truth, Love and Faith be replanted not only in individuals but in social and institutional life; that selfish urges should be progressively eliminated from every sphere of life; that religion should be transformed into a living spiritual force, translating truth and beauty in daily conduct.

Gandhiji would have expected us not to follow the false prophets, not to give up humility, nor to disregard the paramountcy of spiritual values in life. I know that what I am saying now would sound heresy to some of you. But I confess I am no secularist—I do not want to be one, if by secularism is meant forswearing spiritual values and running away from godliness. For, I know Gandhiji would have expected us to harken to great modern thinkers like Toynbee and Sorokin, who see no salvation for humanity unless spiritual motives in life are resurrected. And in any situation, I would do what I would be expected to do only in the light of what was taught us by Buddha and Jesus among the ancients and Sri Ramakrishna and Gandhiji among the moderns.

III

DESPOTISM—OLD AND NEW

We are in a curious age ; human dignity, and freedom in which it can only be maintained, are challenged, undermined, encroached upon, or sought to be crushed in several parts of the world not only by the course of events but by human beings themselves. We in India are in a happy position ; we still stand for it ; we, I hope, are ready to defend it. However, in view of the world situation and the situation which prevails in some countries surrounding India, we have to study the forces and the ways in which it is being circumvented.

The greatest danger to human dignity, and therefore to freedom, comes through not knowing its value and not knowing the disguise under which the danger appears. Its greatest enemy today is modern despotism which is creeping over the world under different names and different guises.

Everyone knows what despotism is. It implies the concentration of complete coercive power in the hands of a despot, who may be an individual, a party or a group. The coercive power may be physical, monetary, social or psychological, that is, over the thought and belief of the people. It derives and accepts no authority other than the will and convenience of the despot.

The types of old despotism are found from the Egypt of the Ptolemys and Peru of the Incas to the Austria under Maria Theresa and France under Napoleon.

None of these despotisms were absolute. Their power of physical coercion was restrained by the military and the feudal chiefs and the religious heads. They could not

exercise unlimited power of monetary coercion. A despot could loot, expropriate, tax, even extract money by torture; but, he could never annihilate the monetary resources of all the feudal chiefs, the financiers, the trading houses, the monasteries, the shrines and the farmers.

The old despot had no power whatsoever to control the thoughts and beliefs of his subjects. Nor could he indoctrinate his subjects in any way he liked. The thinkers, the saints, the religious leaders, the homes of learning which radiated ideas had the control of the thoughts and beliefs of men. He could only induce men by court patronage, corruption or coercion, to accept his views ostensibly. He had no mass media of communication at his disposal to hypnotise people by manipulating the pressure of public opinion.

The old despot had very limited power of social coercion. He could cut people to pieces; he could convert them to his religion and absorb them in the ruling society at the point of the sword. But the large masses of men continued to follow their scriptural or customary ways and could successfully offer social resistance. The whole stiffening process of the caste system during our medieval period was the result of a challenge given by the people to the murderous or proselytising zeal of foreign conquerors.

In Hindu India despotism had a very limited scope. *Dharma* was the universal law; the kings were no more than its protectors. *Danda* (Sovereignty), as prescribed by the *Shastras*, was superior to kingly power. The shrines, the monasteries, the universities and men of learning who followed scriptural authorities or ancient customs, were the depositaries, the instruments and the interpreters of *Dharma*. Personal law, though changing in its nature, derived sanction from the *Dharma Shastras*. A Brahman could bend his knee to the despot or could be bought by presents, but his authority was derived from a higher source. The moral sanctions came from the

Shastras and their interpreters were pundits, sadhus and family priests.

The power of monetary coercion could not also be exercised by the despot except in a restricted manner. The Vaishya Mahajans were autonomous guilds. They acquired wealth, often used it for charitable purposes, and when occasions arose could buy peace and autonomy from the worst of despots.

Even the power of physical coercion exercised by the kingly despot was limited. He could cut the throat of people on the battle-field, but outside it, he was restrained by the canons of *Dharma*, as also by the opinion of the pundits who expounded it, and his own kshatriya feudatories who also looked to the pundits for scriptural sanction. The castes were social, moral and psychological fortresses in themselves; Hindu despots, pledged to *Varnashrama Dharma*, simply could not think of overriding it. The Muslim despots found it impossible to break its walls.

In this way, in the past, even under the worst of despots life was multi-central. However great was his power, he had to make terms with independent centres of power in society arising from learning, money, popular goodwill, and social and economic organizations.

Modern despotism, which came into existence after World War I, is increasingly uni-central. It flourishes on destroying all bases of multicentral life; it is totalitarian inasmuch as it seeks total power. Under it, all essential fields of life are prescribed by the rulers: What kind of occupation an individual may enter; what, where, and when to work; where to live, what to eat, to wear, to use; what to believe; what rank or position to hold; what to think and to say; what to approve or disapprove; what to learn; whether to marry or not, and if to marry, whom, where, and at what age; how many children to have; which of these children to allow to live and which to expose to death.

Briefly, the network of the state system is so closely woven that an individual can hardly take any step without touching it and bringing it into action. This form of despotism has been exemplified in Communist State systems, in pre-war Fascist Italy and Nazi Germany. As we know from experience, it recognises no law, human or divine, higher than its will.

The modern despotism exercises the power of physical coercion through military and police action unrestricted by the rights of the individual or the Rule of Law. Its power of monetary coercion is equally unrestricted because it assumes control over production, distribution and consumption of wealth. Its power of social coercion controls families, marriages and family relations. It exercises the power of psychological coercion by manipulating and regimenting education and recreation; by controlling the press and other media of mass education. It stifles religious activities by propagating the supremacy of materialistic aims and by taking away independent monetary resources from the people through taxation, so that religious charities might be crippled.

The totalitarian State, being unicentral in its ambition, thus permits no authority which functions independently of it. Many and various are the slogans, like nationalisation and planned economy, which are intended completely to annihilate private property, trade, enterprise and initiative.

Its psychological control over the masses depends upon suppressing, directly or indirectly, every belief or expression which goes contrary to its own ideology. Therefore, by lavish patronage, it harnesses literary men and men of learning to its chariot wheel, rendering freedom of thought and expression almost treasonable. In the name of secularism, it tries to kill religion; it wants no deity above its will; it hampers religious freedom by favouring those who are irreligious and by frowning on those who exercise it. It assumes control of the economic life by octopus devices like controls and ration cards.

And once the State obtains complete control of services, jobs, benefactions and opportunities, few, perhaps not a single sector of life, can withstand its dictates.

The basic theory which it directly or indirectly favours is that the people are the owners of all wealth. Ownership being the right of disposal, distribution and accumulation, in practice, it means the State ; the State belongs to those who run it ; and those who run it through such wealth acquire such power as to be able to extinguish all independent initiative and resources.

Independent judiciary also becomes a hindrance to the exercise of 'popular will.' Fundamental Rights therefore do not count, nor human dignity. The rule of law is a myth. A new doctrine of legality justifies suppression of all opponents. With the army and police and a vast army of officials and bureaucrats, the despotic State system holds the whole society in its grip.

This despotism is the complete antithesis of the *laissez-faire* State ; in fact it is a revulsion from the *laissez-faire* statism, which, as it developed in Europe in the 20th century, became individualistic, utilitarian and hedonistic.

Under such a State everything had to be enjoyable and to give 'good time,' family, marriage, religious service, even executions and murders. To be rich and to have all that money could buy became the only absolute value. Naturally, successful money-makers became the prophets of the age. Free enterprise was no longer the little empire of an individual trader or farmer ; it came to mean the concentration of colossal money power in the hands of a few through joint-stock companies and combines. Such a *laissez-faire* statism is simply played out in this generation.

Most of the States in modern times, fluctuate between quasi-*laissez-faire* and quasi-totalitarian statism. Even Soviet Russia has failed to become completely total-

itarian, in spite of its efforts to destroy the religion and the family. China had recently to give up its policy of establishing communes ; it could not destroy the family, the basic centre of multi-central life.

Between the two extremes, parliamentary democracy provides a safe compromise. It leaves the life multi-central, while giving to the State the power to enlarge unicentral activities just sufficient to make the State invulnerable to disruptive forces.

But with the best of intentions, parliamentary democracies are exposed to the necessity of using the powers of the police State under the pressure of the cold war and external aggression, as well as internal sabotage and coercive demonstrations. Not a few of them have been swinging towards all-embracing planned economy, progressive elimination of private property and trade, and coercive co-operativism, if not collectivism. Education in most of them has been losing its spontaneous vitality through governmental regimentation on the one hand and materialistic and communistic thinking on the other. Contractual relations, even between subjects and subjects, are slowly being replaced by compulsory relationships enforced by the State. Moral standards have been decaying. Family is again under fire from two sides ; companionate marriages and teen-age crimes on the one hand and the pressure of social atomization through government action on the other.

The old despot claimed to derive his power from God or the Divine Right of Kings. The new despot derives his authority from 'the will of the people,' 'secularism,' 'welfare statism,' 'proletarian dictates,' which in substance is nothing but the will of the State, which again is no more than the will of the junta which has the State in their hands.

When the old despot claimed to derive his power from God, there was some chance of a man of God claiming to know better. Under the new dispensation, the despot's

will only gives content and form to the so-called will of the people and to welfare, and the mass media of communication in his hands gives it the power to paralyse independent thinking.

Parliamentary democracy is also facing an internal danger. Democratic elections on a large scale mean money. This necessarily implies a regimented party in and out of parliament to face oppositions or win elections. This tends, in practice, to give concentrated power in the hands of a few individuals. They win the elections. They have got the mass media at their disposal. They can keep the people hypnotised. By power and promises they can make the masses believe that what they say is the truth. They select the candidates for the parliament and appoint party agents. Without their favour, position, power and influence in public life become impossible.

In this way, individual initiative tends to be choked. Religious influences are undermined. Step by step, the multicentral set-up of society is transformed into a unicentral one. Totalitarianism follows.

Parliamentary democracy has the highest chance of survival in England. Its people, even the poorest, have a keen and effective sense of freedom. The leaders, by tradition, brook no superman, except during a war. The Judiciary, the Church, free universities and a free press are very well entrenched in sacred tradition. No one in England would dream of crippling the rule of law or starving out religion.

In U.S.A., individual enterprise, and therefore multicentralism, is the blood of the people. To run organisations independent of the Government is a very highly-prized virtue. The universities are independent. The churches are powerful and well-organised. The press is free.

The third most important parliamentary democracy is ours. Today we have a free press, Fundamental Rights,

Rule of Law, private property and industries, some tradition of free university life, a strong social group life, a deep tolerant religious sense and freely functioning religious orders and social organisation. But it would be foolish to ignore that the forces of new despotism are at work, often without our knowing it.

Coercive demonstrations are breaking down law and order, forcing the Government to rely on police power. The corruption among the richer classes makes us blind to the increasing bureaucratic control of our economy and its abuses. Private property is practically at the mercy of the Government. In the name of secularism, which though in India is not intended to mean anti-religiosity, we are helping to eliminate religious influence from education and starving religious organisations by levying a gift tax on benefaction.

Our elections are getting very costly; our political parties are well regimented. More and more politicians lean upon towering leaders, earning dividends on docility.

All democratic countries, not excluding ourselves, should therefore be vigilant, lest despotism enter our life on padded feet. We must guard against plans and programmes which, by their very nature, create conditions in which it might become inevitable. The recent Congress resolution on co-operative farming is likely to be one such.

First, the programme, without substantial modifications, simply cannot be carried out successfully. We have not enough resources, or trained personnel. Most of the societies are credit societies, financed largely by the State Bank; the members are putting in sacrceely 1/10th of the money. We cannot turn landless labour into skilful farmers either by resolutions or by legislative enactments. And to expect the programme to be worked out smoothly is to raise idle hopes which are sure to lead to frustration, paving the way for a demand for drastic action by those who do not relish democracy.

Secondly, co-operative farming has failed in India ; it was tried, if I mistake not, in Madras, Punjab and several other places but had to be given up. The Governor of U.P. even could not get the ex-soldier colonies, financed by the Ex-Soldiers' Fund, to undertake it. Every farmer holds his little patch of land dearer than life ; he will not pool it of his free will.

Thirdly, if increased agricultural production is the aim, attempts at co-operative farming will be disastrous. Nowhere in the world has co-operative farming stimulated production. The only two countries which in recent years phenomenally increased production are Japan and Israel. There the success has been due to individual farming, profit incentive and abundant facilities of fertilisers, improved seeds, storage and marketing provided by the co-operatives. And in a poor country like ours, for a long time to come, the family unit working for all it is worth will remain the most economic agency for accelerating the rate of production. And growing more food regardless of slogans and ideological devices is the demand of the hour, if the country wants to avoid the totalitarian devices of food controls and ration cards.

Co-operative farming introduced in Yugoslavia by coercion collapsed. The production was reduced by 15 to 20 per cent under the 1930-40 level. It had to go back to 'general' co-operatives which mainly provide fertilisers, marketing and other services.

I visited a Yugoslav village in which there was one general (service) co-operative and another what they call 'a work co-operative,' to which lands were voluntarily leased by the owners. Out of 630 families in the village, 45 landowners—mostly old or absentee persons,—had leased out their lands to this co-operative for a period upto three years, and 45 families of landless farmers had joined. The rest of the village was left to individual farming, with such service aid from the general co-operative as was found necessary.

In Russia and China, collectivism has been introduced at an enormous cost of human life and complete destruction of human values. The object of it was to break the backbone of the peasantry. It was part of the totalitarian programme.

The Planning Commission has accepted the 'anomaly of compulsory co-operation.' The Prime Minister and other leaders have equally rejected compulsion in matters of farming co-operatives. If this pledge is observed, farming co-operatives on any appreciable scale will not be possible. If the legislatures, the ministers, the politicians and the bureaucrats, in their zeal to be 'more royal than the King himself,' go back on the pledge, we would have broken the back of our farm structure which has stabilised the country for centuries. If farmers owning economic holding are kept out of the co-operatives, as appears to be the intention, instead of the spirit of harmony we would have introduced the element of class conflict between those with land and those without it. We would then have set in motion processes which will lead us, through hatred and violence, to naked totalitarianism.

Let us be vigilant while our tradition of freedom is unimpaired and our faith in multilateral life well-founded, while our free constitution stands firm and our free press is unmuzzled. It is only by avoiding any drift towards coercive organisation of life, and by refusing to join a race to secure 'Get-rich-quick Welfare' by totalitarian methods that we can maintain our freedom and successfully arrest the progress of modern despotism.

• • •

It is scarcely a pleasure for any one, much less for me, to enter into a controversy with so eminent a man and so valued and esteemed a leader and friend as the Prime

Minister. However, in his Martyrdom Day Speech, he has so pointedly referred to what I said about farming co-operatives in my address before the Delhi Historical Society that I am constrained to say that in his remarks he has either missed the points which I made or made no attempt to meet them.

These points are : First, co-operative farming, wherever tried in India, has failed ; this is a question of fact and requires an objective and dispassionate enquiry by experts before the contrary is accepted.

Secondly, nowhere in the world has co-operative farming on a voluntary basis worked. Even when coercion has been used, as in the case of collective farming in totalitarian countries, food production has not increased. This again is a matter for objective study and not for polemics.

Thirdly, in the absence of adequate and enforceable safeguards, which have not so far been authoritatively foreshadowed, zealous legislators, ministers and bureaucrats, impelled by vague slogans, are sure to drive farmers into joining farming co-operatives against their will. This is nothing new : every politician is or should be familiar with this tendency on the part of party and bureaucratic machines.

One need not necessarily be a pessimist if he cannot take the assurance of the Prime Minister at its face value that the food problem of India would be solved within two years. It is not a human possibility. Even a substantial advance towards that goal cannot be achieved by methods which have succeeded nowhere, but by taking steps, first to eliminate departmental fragmentation of responsibility in the matter of increasing agricultural production now obtaining in the Centre and the States, and secondly, by vitalising the family farming by providing incentives and service facilities.

Again, it is an exaggeration to call 'enemies of land

reform' all those who are of the view that, before any campaign for introducing collective farming is undertaken, the Government and the Congress should make an objective scrutiny of the problem and the conditions under which it can be solved, as also provide guarantees against any form of coercion.

The central problem is : Will the Congress and the Government use coercion in one form or the other against a farmer if he declines to give up his land and convert himself into a farm labourer ? If any such coercion is practised, it would be despotism by whatever name it is called or by whomsoever sponsored. It is therefore the bounden duty of every lover of freedom ready for 'sharfiroshi'—and the Prime Minister is the first and foremost of them—to see that such despotism does not creep into our life by the backdoor.

IV

CONGRESS OBJECTIVE AND CO-OPERATIVES

According to the Congress Objective we have to achieve a Socialist Co-operative Commonwealth by 'peaceful and legitimate means.' In a Commonwealth, power vests not in a group or class, but in the people as a whole, where all men are equal, and where equal opportunities are afforded to every one. This rules out class domination as much as class conflict.

The Commonwealth, however, has to be Co-operative, that is, the order in the body politic has to be built on the free collective activity of each member, in which every member helps, stimulates and heartens the others ; in which conflicts of interests are harmonised by merging the individual and group interests in the creative 'we', so that common comforts, joys and sorrows are shared by all in a well-knit family. If it were not so, well-regimented soldiers of an army bent on war, the slaves building the Pyramids under the fear of the lash, or the farmers herded in collectives under pressure of the bullet or the slave camp, would constitute Co-operative Commonwealths.

This Commonwealth has to be achieved 'by peaceful and legitimate means.' The means employed must be morally, mentally and spiritually positive. If violence, compulsion or any form of coercion is resorted to, it would negative the Congress Objective. If the means disregard paramount considerations of human values, liberty, equality and fraternity and above all, human dignity, readiness to search and stand for truth, and a readiness to learn by and correct mistakes, the Congress Objective would have been equally denied. To be

covered by the Congress Objective, co-operative activity has to be freely chosen and freely embarked upon. It is, therefore, the right and duty of every Congressman to speak freely and fearlessly, when he feels that anything is likely to lead to a deviation from the Objective.

We have to judge the Nagpur Resolution from two points of view : First, whether it will substantially increase food production and secondly, whether co-operative farming will be introduced by peaceful and legitimate means.

One thing I must say about the Nagpur Resolution : it has been in a sense a sort of blessing. The major leaders of the country have been awakened to the need of fighting for our 'freedom from foreign food.' So long as we have to depend upon foreign food for our sustenance, no industrial advancement, no redistribution of poverty, no well-acclaimed welfare projects can save us from ultimate ruin.

Ours is a food grains economy. Agriculture accounts for about 50% of our national income. Food grains represents about 67% of our agricultural production and 50% of our wholesale trade in all commodities. Again, food represents 53 to 64 per cent. of the components of the working class cost of living index. Any major change in the economy affecting production or prices of food grains, therefore, will be transmitted to the entire national economy. If the proposed reforms do not lead to increase in food production, they would lead to disaster.

It would not be correct to say that there has not been a fair increase in food production since 1940. If official figures mean anything, about 8 million tons of additional cereals have been grown since, that is, an increase of about 16 per cent. It is equally undeniable that a number of large farms have been intensively developed by some well-to-do farmers during this period. And if the responsibility for food production had not been fragmented

by being left to different Ministries and Departments, if minor irrigation had received greater attention in this period, if the development projects had not subordinated the agricultural production to other activities, if the Second Plan had not fixed too low a target for food production, we certainly would have made better progress.

Those who blame family farming as not capable of catching up with the needs of the country ignore the overwhelming expert opinion that family farming on small plots, given service aid, is more productive than co-operative farming on large plots.

Recent studies undertaken by the Institute of Agriculture at Anand establish that five-acre family farming has intense possibilities so far as increase of food production and greater volume in employment are concerned. The Government of India's studies in Meerut and Muzzafarpur farming prove the same thing. The prize competitions have also proved that, given incentive and aid in the shape of credit, seed, fertilizer and water, family farming can easily double the agricultural production.

During the Second Plan period, the so-called Japanese method of paddy cultivation will cover one-third of the total irrigated area under paddy cultivation, leading to an additional production of four million tons of paddy : if a greater effort is made, the whole area could be covered, bringing in additional twelve million tons.

Crop competition schemes, perfunctorily encouraged so far, have shown that wheat production, normally 5 to 10 maunds, can be raised to anything between 52 to 72 maunds ; paddy production, normally 15 to 16 maunds, can be raised from 73 to 136 maunds, and potato production, from 79 to 80 maunds, to 754 maunds. And yet, if I remember right, in 1955-56 the Ministry of Agriculture had no funds to organise crop competitions at the all-India level !

What is really wanted is—

First, agricultural production to be placed under one control and direction, with the Director of Agriculture in command at the State administrative level.

Secondly, the Development Projects to be spread all over the country, to be geared up for giving concentrated attention to food production with agricultural officers in direction.

Thirdly, minor irrigation to be concentrated upon on a swift, countrywide scale, by enlisting village co-operation.

Fourthly, prize competitions to be introduced in every village for higher production.

Fifthly, existing service co-operatives to be re-organised on an effective basis; training personnel for service co-operatives to be taken on hand; new and competently-managed ones to be set up.

Sixthly, ample credit, seeds and fertilisers to be placed within easy reach of the farmer.

This will look a drab alternative and may not appeal to the party men who want a programme for setting the Ganga on fire to enthuse them. But it is the only feasible one.

But if this programme is followed with enthusiasm, 6,00,00,000 acres of irrigated land at the end of the Second Plan period would be able to produce not less than an additional 2,00,00,000 tons of food without the uncertainty and tension which co-operative farming will involve.

According to the Year Book of Agricultural Co-operation (1943), Northern Europe has proved to the hilt that "the highest degree of technical excellence is en-

tirely compatible with family farming, but only on two conditions ; first, that the land unit is the special subject of State guardianship, (i.e., by maintaining economic unit from 3.25 acres to 25 acres) ; and secondly, that individual effort on land is supplemented by great effort in purchase, processing and sale."

The efficacy of service Co-operatives in producing this result has been proved all over the world—in Switzerland, Netherlands, Western Germany, Italy, Norway, Belgium and France, where an average arable holding varies from 7 to 16 acres.

In Japan, the land of small farms and intensive production, the average holding is roughly 2 acres. Farmers cultivating less than 1.25 acres represent 41 per cent ; those cultivating less than 2.50 acres represent 73 per cent. An average farm household in Japan is 6.0 while in India it is 5.1 and in U.S.A. only 4.5. There are no co-operative farming societies, and yet, according to the Patil Delegation, Japan has a highly co-operative structure in the field of credit, marketing and supply. What Japan can do, we can do as well.

Everyone in the country, so far as I know, wants the organisation of service co-operatives, though the recent propaganda that they are working well has to be taken with more than a pinch of salt. Steady groundwork will be needed to make efficient personnel and necessary resources available to existing service co-operatives. Shri Dhebarbhai, the former President of the Congress, envisaged 550,000 Service Co-operatives in three years, which means, establishing 550 co-operatives every day—a very grandiose idea ! Attempts substantially to implement this target will strain the energy and resources of the country. It will mean training over a few million of men to completely manage them : this itself is a colossal human problem which cannot be solved in a day. However, if we can do it, even during the Third Plan period, it would be one of the most wonderful achievements in history. Anyway, here the Nagpur Resolution fills a needed gap in our programme.

The valuable part of the Nagpur Resolution, however, is lost in the ideological attractions of co-operative farming which leave wide scope for political drum-beating.

We are told that the practicability of the co-operative farming programme has been considered in all its aspects by a very important group of people. An humble learner as I am, I would like to know something more about this authoritative source, for most of the public literature including Evaluation Report of the Planning Commission, the Reports of the Reserve Bank of India and of the Indian Delegation to China on Agricultural Co-operation, as well as the State Ministers' conference at Mussoorie, have given a very cautious verdict on co-operative farming.

The great difficulty in the way of considering the proposal for co-operative farming is the faith evinced by its protagonists not only in the idea but in its being a panacea for all ills. We would all like to know the estimates on which this suddenly acquired faith is based.

To integrate fragmented units into farms of 200 to 300 acres, 100 or more farmers will have to be brought together. The organisational problem of achieving this without compulsion may involve the efforts of the administration for a generation if not more. The next step will have to be to find the necessary capital equipment and personnel with requisite technical knowledge to man the integrated farms. The capital requirements have been broadly placed at a minimum of Rs. 100 per acre; they will be of the order of Rs. 200 crores in inferior lands. It is just not possible for the Government to raise the aggregate capital resources required for the purpose. I would like the "very important group of people" to throw some light on this topic.

Again, I would like to know : Who would assign tasks among the members of village co-operative farms ? Who would ensure that the tasks so assigned are satisfactorily carried out ? Who again would decide on the methods of

evaluating work done? How are we to guarantee that the manager or the supervisor, who is elected by a majority vote, will not look to retaining his majority support at the cost of efficiency?

And, if there is no collective evaluation, where is the guarantee against inefficiency and light work being over-paid? If there is incorrect evaluation, how and by whom would the personal relations between individual members of the farming co-operative be adjusted? How is the agricultural labour, thrown out of employment by mechanisation, to be absorbed?

And, is it supposed that a family will work as enthusiastically over the ownership of a plot represented by a piece of paper as when the family is in actual possession of it? And if the government officers step in to solve this problem, what would be left of free co-operation, or for that matter, of freedom itself?

These are serious difficulties. We cannot brush them aside lightly. And during the interval—which is bound to be fairly long—when these adjustments will have to be made by trial and error, what is to happen to food production?

The Nagpur Resolution links Service Co-operatives as a 'first step' to Co-operative Farming; that is, even within this period, joint cultivation could be started where farmers are 'generally agreed.' This would, to an ordinary mind, imply: first, that no choice would be left to the farmer not to take the next step; secondly, that family farming will be discouraged; lastly, that even within the three-year period, if there is 'general agreement' by legislative coercion, the minority will be coerced into joining farming co-operatives.

The words of the Nagpur Resolution, therefore, naturally create an impression that the States and the Congress will take every conceivable means—legitimate or otherwise—to implement the Resolution.

In my Delhi address I stressed that the Prime Minister and other leaders had rejected compulsion in matters of farming co-operatives. As I had anticipated, the Prime Minister has unequivocally fulfilled this expectation. This is what he has said :

(a) "For the next three years, we should concentrate on service co-operatives," and

(b) "Business of co-operative is in the nature of voluntary business. The spirit of co-operation must come from willing assent from the people concerned. There is no question of coercion, no question of new law of Parliament. It would be introduced with the approval and consent of the farmer."

No one ever doubted how the Prime Minister would react on the question of coercion. For him the means are as important as the goal.

But if this pledge is observed, farming co-operatives on any appreciable scale will not be possible. Dr. Otto Schiller, after a survey of co-operative farming in most lands, has said ; "It is hardly possible to show any example that peasants in an existing old village have voluntarily given up their individual use of land and have pooled their land for joint utilisation. This seems to be true also for India."

However, what about those 'more royal than the king himself? Will the freedom of choice assured by the Prime Minister be faithfully translated at all the lower levels? Will the farmers be free in choosing to join or not to join farm co-operatives? Will their freedom to choose only service co-operative or withdraw from farming co-operative remain? Would different experiments in co-operatives be permitted as in Israel?

And a question of all questions : while exercising the choice to keep to family farming, will the farmers get equal facilities to increase production or will they be

discriminated against in the matter of facilities of taccavi, credits, seeds, fertilizer and water? And if discriminative economic coercion is used, will it be non-compulsion, will it be 'legitimate'?

Already some protagonists have discovered from hidden sources of knowledge that co-operative farming has succeeded in this country. Already the man who wants to learn about the validity of this claim is being treated as almost guilty of high treason. Will these leaders permit truth to be discussed and to prevail? Will they give real choice to the farmer?

In this sense, the Nagpur Resolution has been far from a blessing. It has kindled the fire of holy wrath in the hearts of some of its supporters; for, if this fire continues to scorch the search for truth, 'democratic centralism' will enter our life, and 'legitimacy' will disappear from the means we employ. There is, therefore, much more involved in the Nagpur Resolution than what it says or what it is claimed to mean.

It is, therefore, the duty of every Congressman to see that at all stages the means employed to carry out the Nagpur Resolution are peaceful and legitimate; that the legislatures, ministers, politicians and bureaucrats in their zeal do not go back on the pledge of non-compulsion given by the Prime Minister, and that the back of our farm structure which has stabilised the country for centuries is not broken.

These results will surely follow if the Trojan Horse Co-operation proffered by the Communists is accepted; for, by their very creed, they are wedded to eliminating the free and independent farmer by violence to make way for their brand of despotism. To understand the dangers of a precipitate campaign for co-operative farming in the hands of those who set no store by peaceful and legitimate means, let us examine what has happened in Communist China.

The Communists came into power in China by the

insurrectionary efforts of the peasants. The Constitution, given by the Common Programme of October 1, 1949, guaranteed protection of the property rights to the peasants through land reform. In the same way, we promised land to the tiller till the Nagpur Resolution.

In China, the Agrarian Law of June 1950 initiated land reforms through bloodshed and violence, liquidated the landlords, expropriated their property and deprived them of civic rights. The officers of the State took charge of the villages, 'granted' land to the tillers and enrolled them into organisations, which did not serve their interests but only the interests of the State. All peasants were registered; taxes were imposed and collected by terror. Soon the 'land-to-the-tiller' slogan disappeared. Attempts were made to convert the State into a monopolistic proprietor of land.

From 1951 to 1955, the peasants resisted the attempts of the State to nullify their gains through so-called "mutual aid teams" and "agricultural producers' co-operatives." In this way, co-operatives became the instrument of the State to coerce the peasants.

Strikes, sabotage and violence followed. Farmers fled to the cities. Agricultural production was impeded. Till 1954, according to *Jen-min jih-pao*: "In certain regions, the phenomenon of the blind afflux of peasants to the cities has continued without diminution. In numerous places the situation has even become very serious."

In the conflict which followed, at first the State ostensibly gave in. On February 15, 1953, the 'Decision on Agricultural Co-operatives' enjoined that the individual economy of the peasants must continue to exist and expand for a still longer period of time. The party cadres were admonished for their 'too great haste in the agricultural co-operativization movement' and were exhorted to 'explain to the peasants that their individual property will be protected.'

The State was only biding its time. In November 1953,

the State decreed the complete control of the purchase and distribution of grains by the State. Whoever violated the decree was treated a counter-revolutionary. On December 16, party leaders were called upon to extend "agricultural producers' co-operatives" to all parts of the country.

However, by 1956, it was evident that, in spite of the party activity, agricultural co-operatives had failed to produce the crop output. In fact, the co-operative movement had failed. But Mao and his party would not confess failure; they had become prisoners of their own actions and policies. They decided to enforce forced labour on a nation-wide scale and strengthen the State monopoly of the means of production and distribution.

The Party felt frustrated. The peasant remained unconverted to Communism. Everywhere, the bureaucracy, frightfully ponderous and inefficient, had a strangle-hold on the productive forces. Further, the farming co-operatives, organised apart from State administration, had developed their own economic and administrative machinery, which was coming in conflict with the State.

Jen-min jih-pao declared: "Now that the majority of the peasants have joined the agricultural production co-operatives of the superior category, the local *kanpu* (village officers) have at their disposal not only political but also economic means to terrorize the people."

The State-inspired press started slogans to enforce more and more pressing work on the peasants. Once forced labour dominated the entire economy, it required a permanent militia to control it: this was organised. The obedient press waxed enthusiastic over this militia, which was no more nor less than the State's coercive agency to universalize forced labour.

Then the communes were organized and the administrative area of every one was placed under the absolute control of the party. Wages were paid only if the

members of the communes satisfied the 'main requirements' dictated by the Party.

A party magazine triumphantly declared: "All the ties that bind the peasants are broken. The frames of individual families which had existed for thousands of years have been completely smashed. Individualism has absolutely no market here."

Now, in some of the advanced communes, children see their parents twice a month. Wives see their husbands only at their meal-times. Grand-parents are isolated in "Happiness Homes."

"We cannot even bury our dead," one refugee is reported to have said. "The party has ordered every one in our commune to participate in a fertilizer-collection campaign and bring in his monthly quota of ten pounds of human bones."

Now, men and women have no rights. There are no human values. There is complete universalization of forced labour.

All this points to one terrible lesson. Once the politicians go mad over co-operative farming and consider it the be-all-and-end-all of political existence, search for truth or human values becomes anti-social or anti-democratic in the eyes of those in power. Then the country begins to slide down an inclined plane to reach a position where there is no common-wealth, no co-operation, no freedom, no human rights, and where peaceful and legitimate means are forsworn.

Since the country is practically agreed on establishing service co-operatives in the country, let all Congressmen join to make this major issue a success. Let us keep our minds open. Let free discussion take place at every stage on the alternatives before us. Let us, above everything else, adhere to the sanctity of "peaceful and legitimate means."

In the three years we would have learnt that the best solution is that every type of co-operative freely chosen should stand side by side with family farming if we have to achieve the goal of doubling our food production without throwing human values overboard.

ROLE OF LEGAL ORDER IN A DEMOCRACY

Of late, legal education has come in for critical attention, and deservedly. In India, when started during the British regime, it was intended to provide training for the would-be practitioners ; higher study and research in the theories and principles of law was and even at present is, possible only in foreign countries. Things have to change now. Free India has its own Constitution, its own courts, its own legal outlook and its own social needs which demand adjustment in law through research. Our judicial system, though largely based on the British and the American, is different in scope and function, and has to be related to our judicial and juristic experience. In the matter of legal studies, therefore, India cannot afford to be 'colonial' any longer.

This objective can be fulfilled only if the law schools, in point of accommodation and library, are adequately equipped and further, service conditions for law teachers are so altered as to attract the best talents in the Universities to that vocation and enable the law teacher, in comfort and security, to specialise in one or the other branches. In this case, the University Grants Commission can, I feel, render great assistance.

In this connection I may place before you certain problems, which deserve attention :

First, how to resist the urge to displace English from our Universities, which in a large measure has made imparting and receiving education in law difficult.

Secondly, how to prevent education imparted by part-

time law teachers, whose main interest lies in the profession, from continuing to be perfunctory.

Thirdly, how to overcome the general impression that education and training in law is just a passport to start a practice and, unlike every other professional training, need not be thorough. This attitude is based on a curious confusion of thought that law studies need not be theoretical, for the aim is to practise, and they need not be practical, for that could only be done when one starts the practice.

Fourthly, how to prevent the best students of the Universities from being lured away from the law studies and the profession to highly-paid Government services which provide security of tenure and the certainty of promotion. As things are at present, by and large, the left-overs of the Universities only take to law studies for want of anything better to do.

Fifthly, how to change the teaching and the examination system, so as to ensure a thorough grounding in the principles of law and to develop the necessary capacity to apply them to facts sifted and ascertained according to the law of evidence. Prescribing large textbooks and throwing immature minds in the arms of guide-makers is scarcely the right way to develop a grounding in law or legal skill.

A Bar Association for the whole of India is, in my opinion, necessary to give shape and direction to professional activities ; to unify and maintain the ethics of the profession ; to strengthen the independence of the bar and the judiciary ; to educate the public as to the value of 'government under law' ; and to contribute, as a group independent of the Government, its vitality to the free life of a democracy.

Besides this, there are other questions, viz., whether such an Association should be federal, or federal-cum-unitary, or unitary ; what should be the nature and

scope of its activities ; and how are the resources necessary for setting up an effective machinery to be raised. The satisfactory solution to all these problems depends upon whether the lawyers in this country have developed an urgent need for unification and realised their role and mission as lawyers in our society.

Often enough we have heard diatribes against the lawyers and we will surely hear them in the future. Whether they are justified or not will depend upon whether lawyers have a role to play and a mission to fulfil in the context of the modern world ; or whether the sphere of law is no more than a market wherein the lawyer's brain is to be traded for money to secure monetary gain for some person or to save him from penalties.

In spite of the diatribes, lawyers are indispensable to civilised community, more so when it is free and democratic. Every change in the social and economic order, every scientific discovery, every movement of men and things and every act of Government involves the aid, guidance and the decision of a lawyer. So do all agencies of the government, all corporations, companies and institutions. All occupations also need the lawyer, for their members have to be licensed, protected and governed by law.

I realise that the work of the lawyers is scarcely appreciated, but those who fail to do so do not realise that if they were not there, we may have to revert to the days of Chenghis Khan when the will of the tyrant was the law of the slave.

Here I may refer to the fundamental concept of law which determines the role and the mission of the lawyers in a civilised society. In this concept, law is not the same as 'a law,' which may conceivably include the edict of an arbitrary power. As Dean Pound recently pointed out, when we talk of 'law,' it means 'legal order' (*rechtsordnung, ordre juridique*), which supports social control through legal institutions of justice. It is only in

such an order that the individual citizen reaches an all-round development and the authorities function in well-regulated orbits. Of this 'law,' the lawyers are the guardians, interpreters and defenders.

This concept of 'law' is as old as the oldest system of jurisprudence. In the opinion of the ancient Hindu jurists, 'law'—which they call *Dharma*—is supreme in its own right. The sovereign—whoever or whatever is included in the term—is not its source, but its instrument. Its sanction arises from the fact that the moral order is ineluctable, that whoever conforms to it finds happiness and self-fulfilment and whoever does not, cannot. It is in this sense that the *Narayaniya Upanishad* says: 'Law is the foundation of the society.' *Brihadaranyaka* asserts the same when it says: 'Law is the mightier than the mighty.' Manu is still more explicit when he says: 'God first created from his own lustre his son *Dharma*,' the same as *Danda*—the protector of all creatures.

Continental jurists took a similar view. Grotius, one of the greatest of them, says: 'Law is a rule of moral action obliging to do that which is right.'

Anglo-Saxon jurisprudence, in its Austinian attitude, however, inculcated that 'law' is nothing but a rule issued by the sovereign and which attaches definite consequence to proved facts. This, as I said before, can conceivably be the instrument of arbitrary power.

This theory, though it clouded the real concept of law, did not do harm to the juristic and social thinking in England, for the English people had an abiding respect for law as distinct from 'laws.'

In the field of jurisprudence, Coke, the great authority on common law, supplied the appropriate corrective when he said: 'Reason is the life of the law, nay the common law itself is nothing else but reason.' As a result, derived from a nebulous concept of common law, we

have in modern jurisprudence certain principles well accepted like the 'Rule of Law', 'the rules of natural justice,' 'equal protection of law' and 'Fundamental Rights'. These, with the juristic heritage of the French Revolution, have found a place in many Constitutions of the world and find a prominent place in the Preamble and Part III of our Constitution. They are all intended, as stated in the Preamble of our Constitution, to protect human dignity, or to use the words of the United Nations Charter, 'to protect the dignity and worth of the human person.'

The role and mission of the lawyer, therefore, is determined by a special responsibility to uphold this legal order and guard it against hostile inroads: for, such an order is the only constructive alternative to the tyrannous misuse of power and the suppression of human dignity.

This responsibility becomes all the greater as life changes fast and with it the outlook and purpose of society. In these days, the government operates and regulates the economic system. It furthers the production of the material resources of the community; it also secures their wide distribution. Naturally, therefore, the interests of the community as a whole as understood by those in power, are considered as the supreme goal and the individual important only as an instrument of their will.

Another factor has been the increase of anti-social activities in intensity and scope on account of the advance in technical knowledge and an increasing neglect of moral and religious standards. Governments, therefore, often unwillingly, have to exercise their police power on a large scale.

Though, in view of both these factors, laws must change from time to time, to say that the legal order should also change with the social needs is to deprive it of its sanctity. On the contrary, the laws have to be

framed, controlled and interpreted in the light of the legal order so as to contribute an element of stability and certainty to society. As our Constitution has wisely envisaged, it can be maintained only if its provisions are strictly maintained and liberally interpreted through justice administered by an independent judicial agency.

We must, however, recognise that we cannot rely merely on the lawyers, either in the profession or the judiciary, to guarantee free government. As Judge Learned Hand once said: "Liberty lies in the hearts of men and women; when it dies there, no constitution, no law, no court can save it."

At the same time, if the lawyer loses his sense of mission and the Courts take a deferential attitude towards the legislature, the citizen will be left unprotected against the violations of human dignity and the government will cease to function 'under law.'

Apart from this consideration, if the lawyers are imbued with an active consciousness of their role and mission, even the process of studying, expounding and interpreting law would become a highly educative influence. For, it would encourage the average citizen to appreciate the heritage of freedom; to have greater regard for the protection of individual rights; to appreciate and strengthen the principles of a stable legal order; and to inculcate an active desire for a peaceful existence as members of a civilised society.

This is the great mission to which we are called. If it is fulfilled, it will not only bring about a passionate love of freedom and induce respect for law, but also maintain and develop our democratic institutions and, in a wider context, influence international relations which, if the human society is to exist in freedom, should look forward to a world ruled by law.

It would not be inappropriate for me to look back to trace how well and wisely the traditions of legal order

have been built up in India. It is a most fascinating story highlighted by outstanding events.

The great lawyers and judges—both Indian and foreign—during the last century, created the great traditions of our bar and the bench. Step by step we absorbed the technique and traditions of constitutional freedom and the Rule of Law. The people learnt to assert their rights through courts of law. During the 'Quit India' movement, when several of us throughout the country went from Province to Province defending civil liberties, judges—again both Indian and foreign—vindicated them.

The Varadachari Committee in drawing from the best in Anglo-Saxon judicial tradition, which had found a root in the land, devised our system of integrated judiciary as the vital centre of our constitutional freedom. The fighters for Indian freedom enshrined a firm legal order in our Constitution.

The first Chief Justice of Free India, Shri Justice Kania—and I remember it with pride—while inaugurating the Supreme Court, described in stirring words the independent role of the judiciary. Our Supreme Court in less than ten years has become the guardian of our constitutional ark and secured the respect and confidence of the country.

The Law Commission, through its findings, has recently passed mature judgment on the deficiencies of our legal system and pointed out ways and means to correct them. And if I may be permitted to strike a personal note—my old friend, the Attorney-General, has given us the shining example of forensic fearlessness, even while occupying an office under the Government.

All these form an accumulated heritage, of which we are all proud and of which the coming generations will reap the benefit in freedom and order.

VI

CRISIS IN DEMOCRACY

I propose to speak on the new world phenomenon: the crisis through which democracy is passing. Freedom is faced with certain extinction unless democracies develop the eye to see the danger in its magnitude and the courage to face it with determination.

The danger to democracies everywhere arises through pressure from without and weakness from within. In France the strong arm of De Gaulle has saved it. In Germany it has escaped destruction because of the vigorous strength of the Christian Democratic Party and the anti-Communist unity of the people. In Italy it is in the balance.

In Malaya, Ceylon, Burma, Indonesia and the Philippines, it is tottering. From Yugoslavia to Indonesia, circumstances, largely created by Communist pressure from without or within, have forced each government to assume a politically un-orthodox pattern to preserve national independence.

This is largely the result of the unrelenting campaign of the U.S.S.R. and China to extend the frontiers of their monolithic empires.

The policy adopted by the Communist monolithic empires has three aspects:

First, it has a double-faced attitude towards nationalism. Externally, it is favourable to nationalism wherever Western influence has to be undermined—to use Khrushchev's words, 'as an instrument of struggle against imperialism.' But if the nationalism, as in Japan, wants to

preserve its own independence and integrity, 'nationalism', according to Pravda, 'is the well-tried weapon of people's enemies.' At the same time, within its monolithic empires, in the words of Stalin, nationalism should be 'stamped with hot irons.'

The pattern of expansion followed by the U.S.S.R. combines the features both of imperialism and colonialism. Imperialism took the shape of absorbing the republics of Georgia, Azerbezdyn, Estonia, Latvia and Lithuania. In name and theory, these States are autonomous, but the police power, budget, the government and the party leadership, for all practical purposes, are with Kremlin. As a result of the colonial policy, white Russians and Ukrainians have been taking over Asian lands. The Tartars of Crimea and some of the Asian people of the Caucasus have been deported *en masse*, the Russians and Ukrainians taking their place. In Kazastan, the colonising Russians and Ukrainians are now in a majority.

Red China is not far behind. For instance, it has a State-sponsored movement to settle the Hans by race and language in the outlying parts of the Red China, displacing and expropriating non-Hans. The Mongols of Inner Mongolia, the Muslims of Kamsu and the Ulghars of Sakiang, now incorporated in Szechwan, have lost their lands and autonomy, subjected as they are to organised Han migration from China proper. In most of these colonies there are revolts of non-Han peoples and 'liberation' campaigns, as in Tibet. The complete military subjugation of Tibet also appears a precursor to a planned settlement of Hans in Tibet. On the occasion of the Preparatory Committee for the Regional Autonomy of Tibet on April 26, 1956, the Chinese General Chang Kuo-hara is reported in Peking papers to have quoted Mao Tse-Tung as saying: 'In a few years the population of Tibet must be raised from two or three millions to over ten millions.' We now know from Dalai Lama that the colonisation of Tibet is an accomplished fact.

The second aspect of considerable efficacy is International Communism, whose sole guiding motive is to serve the self-interest of the Communist State, either Russia or China. The foreign Communist parties, for instance, are no longer independent parties pledged to the Marxian world revolution *per se*. In fact, as we see in India, all of them have been integrated into an international Communist apparatus under the direct and exclusive control of the Kremlin.

These Communist instruments would not prove so dangerous in foreign democratic lands but for the stupidity of the democrats of the world. Was it not Lenin who called them 'useful idiots?' As world experience shows, nationalists of the democratic variety, compared with Communists, have little ideological tenacity. When the Communists are weak and search for opportunities to gather power, the democrats are foolish enough to think that they are small fries and do not matter and the risk involved in collaborating with them is negligible. They are unaware of the fact that the Communists, whatever the colour they assume, have a well-defined technique and aim, and in such collaboration they are only Trojan horses. When the balance of power is tipped in their favour, the democrats prefer a lingering death through co-operation with the Communists rather than risk extinction or victory by bold fight.

Why are the democrats so weak? Because the Communists have faith; the democrats' faith in their own aims and ideals is weak and wobbly. And the Communists, by verbal conjuring tricks, have been successful in undermining their faith in democracy.

The Communists create the impression that, if the Soviet technique of foreign trade monopoly, sweeping economic planning, break-neck industrial programmes and the elimination of private property and family farming is accepted, the democrats of the underdeveloped countries will catch up with the West. Devoid of faith in their own aims and ideals, the democrats, like

us, are hypnotised into the belief that we can adopt this technique and yet remain free. We forget that each of these devices requires for its successful execution a totalitarian State, that is the apotheosis of the State at the expense of human dignity and human values; that democracies are inherently incapable of parting company with such dignity and values; that our attempts to take to Communist ways will only pave the way for the Communists to come and walk over our dead bodies.

If we, the democrats, lead dedicated lives and offer to the antagonists the resistance of higher ideals and aims at all risks to ourselves, then and then only will democracy live, not otherwise.

There are two States which still function as democracies: one is Japan and the other is India.

Parliamentary democracy continues to flourish in Japan because the people are staunch nationalists both by tradition and enlightened self-interest. They have preserved the family as well as the religious tradition which are the reservoirs of moral and spiritual strength. Family farming is maintained intact, enriched by service co-operatives. It is a most progressive, energetic and vigorous nation. It is dynamic in the real sense, not in the socialistic sense of the term.

Japan's national democratic structure is sought to be undermined in diverse ways. As the internal Communist strength is weak, external pressure is being brought on it to give up its friends and render it weak and helpless, so that it might be sucked into the Communist orbit. Red China is bringing economic pressure on Japan to coerce her into withdrawing recognition to Taiwan, with which it has a flourishing commercial intercourse. Even during the few days that we were in Japan, USSR also addressed angry, threatening and dictatorial notes to Japan insisting on its breaking off its alliance with the West, as if Japan was no better than a vassal State. It has forced Japan to accept this year only 85,000

tons haul of salmon fishery when it wanted very much more for its subsistence. And of course, there is the small but determined Communist party which plays the game for internal disruption.

In India, the crisis is of a different nature. We have a democratic Constitution, a tradition of freedom born during our long struggle with the foreign rule and a fairly powerful party in power. Yet we are being hustled out of nationalism and democracy. I use the words advisedly; for I feel distressed to have to confess that, year after year, month after month, we are being pushed out of the free and democratic set-up of our Constitution.

This crisis in India is created partly because our democracy is becoming weak on account of the verbal hypnotism of the Communists; partly because of the moral decay amongst our thinking people.

For instance, every one seems to have been enamoured of 'socialism,' a Western concept uncongenial to our tradition, outlook and culture. It is forgotten that it covers a multitude of meanings. There is the socialism of Gaitskell, of Mao, of Khrushchev; the socialism of Dange, Ajoy Ghosh; of Nehru and Jayaprakash; recently the one sponsored by Dhebarbhai at a Bombay meeting. We have Gandhian socialism too rooted in the soil.

The use of such a nebulous word is but a verbal trick to read into it any meaning which one wants to read into it. Its negative effect, however, is most dangerous. It destroys faith in democracy. It weakens the mind. It paves the way for the infiltration of ideas which run counter to the fundamental concept of freedom and democracy.

We are all familiar with the misuse of words by the Communists. The most authoritarian government in the world is a 'people's democracy.' Destruction of the liberties of nations like Hungary and Tibet is 'liberation.' Whoever opposes any Communist activity is a

'reactionary,' 'counter-revolutionary,' a 'stooge of an imperial power.' No party member has a right to discuss any imposed solution from above because of the sanctity of 'democratic centralism.' This jugglery creates a double hallucination: that everything is to be judged from the Communist point of view; that everything is all right with the Communist world so well screened by the veil of words.

The next step is easy to take, as we find in a recent case. The people of Kerala, say the Communists, have no right to demand that the State Government should be a democratic one because those who resist are Roman Catholics or Nairs, as if in a democracy, religious or social communities have no right to lead a free life. It is equally maintained that a democratically installed government cannot be displaced even if it is driving a nail in the coffin of democracy!

The crisis of democracy in India is principally created by semantic jugglery. Take an instance. Suddenly, co-operative farming universally to be enforced has become the last word in economic success, political wisdom and democratic triumph. Those who doubt its wisdom, its success or its possibility, or see in it an encroachment on democracy, are 'cheats'; they are 'unthinking'; they are 'incorrigible,' 'anti-social' and 'anti-democratic'; they 'represent vested interests'; they 'lack quality'! These phrases have been coined to hypnotise or frighten independent thinking into submission. The underlying assumption, highly undemocratic, is that co-operative farming is a self-authoritative doctrine—a doctrine which, in fact, spells death to the farm, the family and the Indian social structure, as also universal bureaucratic control of life.

It is only when we get rid of this hypnotic influence that we can see the true nature of what is happening in India. Unicity or totalitarianism is being forced on India, by the Government taking over sectors of life which so far have been run and financed by private

individuals; by its depriving the society of all independent sources of money to allow organizations to be free of government control; by its assuming control over the means of production and distribution; by its undermining the sanctity of private property; by expropriation being rendered unjusticiable; by its undermining the independence of the judiciary, if necessary, even by dubbing ex-Judges of the Supreme Court as 'lacking in thinking.' The octopus control of a self-increasing and self-generating bureaucracy is being increased over every sphere of life. The self-interest of the State and the bureaucracy at the cost of human dignity and freedom is being held up as the only good.

If the paper, sponsored by Dhebarbhai, drawn up by some one who was floating in the upper ether of Marxian verbiage and placed before a small gathering in Bombay, reflects even a little of the minds of some leaders of the Congress, the society is to be levelled down, regimented and coerced into submission; education is to be 'socialised'; human dignity is to be crushed; regimentation and indoctrination has to become the foundation of Indian life! How so wise and dedicated a person as Dhebarbhai, with his Gandhian background, could sponsor it, has been a mystery to me. To say that I am shocked is to say too little.

If I may revert again to the theme of co-operative farming, it would mean the complete destruction of democracy in this country. When we liquidated zamindari, minister after minister went round the country pledging the Congress that the farmer would for ever own the land he cultivated. The intermediaries are now gone. Now his farm is to be substituted by a piece of paper; in reality, he will be converted into a wage-earner.

The same thing has happened in China where, step by step, totalitarianism has established its ruthless control over the rural area. The landlords were liquidated in the name of the farmer. Later, the farmer was elimi-

nated in the name of production co-operatives. Then the paper ownership was liquidated. The rural structure was destroyed. Through the communes, rural China has been placed under the bureaucrats.

The editorial in the *Jen-min jih-pao* has borne testimony to the complete extinction of individuality in China:

“Before collectivization, while the peasants were still working independently, the tyranny of the *kanpu* could only be exercised by means of political pressure. Now that the majority of the peasants have joined the agricultural production co-operatives of the superior category, the local *kanpu* have at their disposal not only political but also economic means to terrorize the people. They say, ‘Since the land belongs to the co-operatives, we have the peasants by the throat and they will do what we want them to.’ He who disobeys the *kanpu* has his wages cut or his right to work suspended. They employ this double method of pressure during meetings and even during cultural gatherings.”

Imagine what will happen to the poor, helpless Indian farmer under the new gospel of co-operative farming! He is already under the thumb of the revenue official. However, he has a little farm he calls his own; his bullocks and his cows, his little home, his right to treat his land as he likes, his pride and dignity as a free man. All these will have to go, because a few leaders have fallen in love with co-operative farming. And what about the cows and bullocks which in their millions are integral parts of the farm family and which will become superfluous? Perhaps the socialists might show them the way to the slaughter house!

I know of a case which illustrates the dangers of co-operative farming. Some time ago, a man with the foolish faith in co-operative farming, induced some farmers to give up their land and under his guidance formed a farming co-operative. Money was borrowed

from the banks. However, not enough was produced on the land, for the farmers felt that it was somebody else's business to do the farming. The banks foreclosed the farm for non-payment of money, and the farmers, who cultivated their own farms as owners, are now wage-earners of the banks. I have little doubt that soon the government officials will replace the bank clerks.

This whole co-operative farming business is a vast make-believe. In order to secure more and more government aid, some families or some people have set up nominal co-operative farming, a motive which even the Planning Commission has disapproved.

If the Congress goes about setting farm co-operatives to please the leaders, the make-believe will grow into country-wide dimensions, and ultimately new and totalitarian methods will have to be adopted to rescue the reputation of the leaders.

We are, however, told that democracy will still remain with us, that the Congress will use 'peaceful and legitimate means' and that no coercion is going to be used. We know what is happening now. Already by several Acts of legislatures, the minority of the farmers in a village are being coerced into co-operative farming. Ministers and politicians are busy showing their faith in the new gospel at the cost of the poor farmers.

Some leaders of the Congress disclaim that they are going to use coercion, but the Prime Minister has stated in clear words that economic discrimination is going to be used against the farmer if he refuses to give up his family farming. It means that the State engine will use economic discrimination to coerce the farmer into joining the co-operatives. If these are 'peaceful and legitimate means' to which we, Congressmen, are pledged, what will be left of freedom and democracy and of Gandhism?

The fact of the matter is, let us confess, that the democrats in this country have no clarity of mind to resist this semantic hypnotism. And if Congressmen have lost

their prestige in the country, it is because they have lost courage to stand up for the principles enshrined in the Constitution.

I had discussions with several leading Congress friends, including highly-placed ones, on co-operative farming. Some of them say that they are in office only to help the Prime Minister and will do as he wants. Some say that at this critical hour they do not want to differ from the Prime Minister. Some others say : why worry, the thing is not going to succeed. I have met some who have never had any contact with farming or co-operative society, never studied their working and are full of rosy illusions. Of course, there are some who feel that, if they disagree with the Prime Minister, they may not get an election ticket. That is how totalitarianism enters on padded feet.

I would still beg of the great leaders of the Congress to consider this question : Do you want democracy or totalitarianism? If you want democracy, leave the farmer the freedom to join or not to join the co-operatives, as in Israel and Yugoslavia and in democratic countries. If once he joins a co-operative, let him be free to withdraw from it. Leave him the freedom to choose. Let him, if he likes, remain independent. Do not use coercion—physical, legislative, executive or economic coercion, nor let him be subjected to economic discrimination. Concentrate on food production at all costs. The world's experience proves that it is only in family farming, duly serviced and financed, that food production goes up. It is the family farming that has raised our output from about 48 million tons in 1950-51 to 73 million tons in 1958-59. And it is only in an independent peasantry that you will find the greatest reservoir of strength for a free and democratic society.

Socialism, Capitalism, and Communism are slogans. There is only one forthright question. Do we want freedom and human dignity, individual initiative and the rule of law, or do we want to be cogs in an all-powerful State machine run by despots?

VII

DEMOCRACY IN DANGER

[This was written at a time when the democratic machinery was being misused and being set at naught by the Communist Ministry which ruled Kerala for 28 months (April 1957 – July 1959). Though the situation has happily changed since, the facts then found are significant as pointers.]

I decided to study the situation in Kerala for myself, for I sensed that the Constitution was passing through a crisis which might prove almost fatal.

I spent four days in Kerala. I discussed the situation with representatives of all sections of people excepting the Communists: Party Leaders, Public men, Ex-Judges, Lawyers of eminence, Clergymen, Trade-Unionists, Women Workers, Sarvodaya Workers, Ex-Officers and Students. I had hoped to see Sri E. M. S. Namboodiripad but he had left by the same plane by which I arrived in Trivandrum. However, I studied the Government case in the literature which the Kerala Government Public Relations Officer was good enough to furnish me.

I travelled through the countryside on a 180-mile road; met and discussed the situation with many leading men in the villages; saw volunteers picketing Government offices—very peacefully and with great dignity; saw the picketers being arrested, cheered by very large crowds—peaceful and orderly, consisting mostly of villagers. I also saw processions and demonstrations totalling about 50,000 which included a former Ambassador and Member of Parliament, former Judges

of the High Court and District Courts, leading Lawyers, Businessmen, Social Workers and others.

I also visited some villages where the Police had run amuck, saw the bullet marks and discussed the events with the villagers.

The Prime Minister has rightly called it a "mass upsurge." I have never seen such a popular upheaval even when our struggle for independence was at its height. To say that it is inspired by vested interests or communal narrow-mindedness, I am constrained to say, is a deliberate propaganda lie. It is the Kerala Peoples' non-violent resistance, in the best Gandhian tradition, to misrule and tyranny.

The problem that I had set myself to study was whether the Government of Kerala can be carried on in accordance with the provisions of the Constitution as provided by Article 356. On the facts which I gathered and which, if given an opportunity, can be established before any impartial tribunal, I am convinced that the present Kerala Government is not so carried on and cannot possibly be so carried on. For behind the facade of a Government under our Constitution, the Communist Party has established a State (barring the Judiciary), run by it for its own benefit and maintained by bribery, corruption and terror. All non-Communists in the State are, for all practical purposes, treated as instruments to be used if they are willing, hostiles to be terrorised into submission if unwilling.

This conclusion is drawn from the incidents I have seen and the facts I have gathered, some of which only I shall summarise.

23 out of the 28 Municipalities, a large majority out of the 894 Panchayats, 26 out of the 32 Daily Newspapers, all the Bar Associations, all the Political Parties and Trade Unions excepting those few which are set up

by the Communist Party, are behind the Liberation Movement.

In the hartal observed on the 29th June, over two lakhs workers, representing 90% of labour, participated. The trade union of the biggest industrial unit in the State—Fertilisers and Chemicals Ltd., which was Communist-controlled till eight years back, supports the movement; in the recent elections to the co-operatives of the said factory, all Communist-supported candidates were ousted. The Dock Workers Union (Thuramukha Thozhilali Union) with a membership of 13,000 wholeheartedly supports the movement.

Out of the 43 College Unions, only one union has been captured by Communist students, on the strength of 700 votes, the remaining 1100 students having boycotted the union election. The bulk of the students are taking part in the movement.

Thousands of men and women are being arrested everyday. The total number so far reported in the daily Malayalam Press is 64,000. As the jails are packed full, cashewnut factories are converted into temporary jails, one of which I visited. Women, some of them of the highest families, are actively taking part in the movement. Over 7000 women have already courted arrest so far, about 1000 having done so on the 11th.

As is well-known, the Communist Ministry is supported in power by a majority of two non-Communists. They are lucky ones who hold two Ministerships. Comment is needless.

With the Chief Minister at the head, the Party runs an effective extra-constitutional Communist State machinery financed by Government funds. The funds are channelled through mushroom labour co-operative societies of contract labour, toddy-tappers, etc., all controlled by active Communists and brought into existence solely for the purpose; through industrial loans and subsidies

under the Five Year Plan given to individuals (even Ayurvedic physicians), newspapers and institutions manned or controlled by Communists even before the schemes are approved by the labour contract co-operative without tenders and without permitting competition, the societies themselves getting the work done by private contractors ; and through the sale of timber in reserved forests without auction and at low prices.

The affair of toddy-tapping contracts is an instance in point. Unknown to the public, the Government and the Communist Party decided that *abkari* contracts for toddy tapping should be given to co-operative societies and gave contracts to co-operative societies promptly formed and got registered by the Communist Party without any competition or auction. When the proposals were publicised, the non-Communists had no chance to compete for the contracts because their registration was deliberately delayed on some pretext or the other. The profits from these societies form the source from which a large body of goondas are maintained and an election fund is built up by the Party.

New co-operative societies are generally registered only if formed and manned by Communists. In the case of co-operative societies which existed before the advent of the Ministry, "Rectification Committees" consisting of Communists are appointed in the exercise of arbitrary powers vested in the Registrar and thus the non-Communist societies are taken over by the Communists.

An interesting case came to my notice. In Adur rubber plantations, there are two workers' co-operative societies, one controlled by AITUC and the other by INTUC and both being equal in membership, the officer concerned recommended that the new contract for planting 300 acres be equally divided between them. This recommendation was brushed aside by the Minister and the AITUC was awarded 250 acres and the INTUC 50 acres. The gross discrimination resulted in serious clashes between the members of the rival unions.

Funds are being lavishly spent to form Communist Cells and to introduce them in the services and the police.

Communist Party men are placed in charge of administration. The Party Cells are all-powerful. No officer of any department can grant relief unless it is supported by the Cell Secretary. All investigation and inspection is done by officers with their aid. Even Government contract work given to Communist Unions is supervised by the Party workers and if any conscientious officer ventures to find fault with it, he is promptly transferred, very often on telephonic suggestion by the Cell Secretaries.

Postings and transfers of Government officers are often done for Party convenience ; even such transfers are announced by the Party first.

Even in the field of organised labour, the Government and the Party are making it impossible for any other union to function. The machinery for settling industrial disputes moves promptly only at the behest of the Communist unions so that the non-Communist unions are displaced. Even the State Khadi Board has been practically taken over.

There are Communist Cell Courts which issue summons, impose punishments, extract penalties by terror, in disputes between one citizen and another. Recently, however, these activities have been slowed down. The machinery of law is also exploited by instituting false cases against those who are opposed to the Communist Government.

Considerable trouble would have been avoided had the President withheld his approval to the Education Act which evoked wide-spread resistance. In substance the new Act and Rules are intended to take over educational institutions from private hands, so that the Communist Party can indirectly control them.

What is termed as nationalisation of text books is a step in Communist indoctrination. Some of the text books look like text books of Communism, the Communist Countries being portrayed as paradise on earth. Mahatma Gandhi and the post-freedom achievements of India have been completely by-passed. India has no place in the chapter on the Rise of Asia. Jesus Christ is only the son of a carpenter. Garuda, whom Hindus venerate, is only a kite hunting chicken. God himself is ridiculed. The following passage is a typical example : "The temple does not check it; the Church does not check it; the Creator is now abroad."

Even the Committee appointed by the Communist Government referred to the omission of lessons giving the lives of great religious leaders and stories from sacred books and condemned certain passages which tend to offend the religious sentiments of people.

Sri Namboodiripad's recent statement, that only 700 out of 7700 schools are closed, bears no relation to facts. The total number of schools in Kerala is 10,404. The number of schools in areas where the Government have decided to have the schools opened is only 6000. Out of 3817 private-management schools in these areas, 2854 remain closed. Besides, even the Government have been forced to close down many of their own schools for lack of attendance and in the rest which are kept open the attendance ranges from 5% to 30%. In Mattancherry Division, on the authority of the President of the Municipality, Sri Raghavan, only 2 schools out of 83 are working. Government schools in Districts like Kottayam and major parts of Ernakulam, Alleppey and Trichur still remain closed.

The Law and Order machinery works only for the benefit of the Communists. The crimes recorded have shot up to double the usual number.

There have been more than twenty political assassinations during the twenty-seven months the Ministry has been in office.

Criminal Law is made to operate for the Communists and at the instance of the Cell Secretary. In one district, a leading criminal lawyer reported to me that if a cognisable offence is committed against a non-Communist, no F.I.R. is to be on file. An official frankly confessed to him that he has instructions not to take cognisance of any offence, except in cases of death. In the same district, a Communist Party witness giving evidence in court stated to the effect : "Under our Party instructions, if any offence is committed against a Communist, we immediately contact the D.S.P. directly and not the Station Officer ; the D.S.P. will then contact the Communist Cell Secretary, both of them will then put their heads together and prepare the F.I.R."

Communists guilty of cognisable offences go unpunished. If by some chance they are tried, the prosecution is often withdrawn ; if sentenced by Court, it is remitted by the Government. One lawyer was stabbed inside the District Court premises by a Communist worker. The Communist worker was released by the Police under higher orders ; the lawyer is being prosecuted. Cognisable offences against Communists under the guise of being labour disputes are sent to Labour Officers for settlement.

Though the judiciary is acting with independence, I came across numerous cases of the Communist Party interfering with the administration of justice. A few typical cases may be cited :—

- (a) In Pathanamthitta a body of 18 Communists wrote to the Munsiff to the effect that he should decide a case before him in favour of the party who was a Communist. The Munsiff reported to the High Court which took action in contempt against them. They tendered apologies which were accepted ;
- (b) In Attingal, there was a case of serious nature against certain Communists which came up before the City Magistrate, one Sri Paraman, with First-

Class powers. The Public Prosecutor, under instructions from Government, moved for withdrawal of the case against the accused. The Magistrate refused the prayer, as a result his First-Class powers were immediately taken away. The Magistrate, however, committed the case to the Sessions Court which, while convicting the accused, imposed nominal fines in spite of the serious nature of the offence. At the instance of the complainant, *not* of the Government, the matter is pending before the High Court for enhancement of the sentence ;

- (c) Sri Raghavan, a Communist and brother-in-law of Sri C. Achuta Menon, Home Minister, approached the First-Class Magistrate at Trichur, Sri Korathu, to drop a case against a Communist. He refused the prayer and told him that he should not interfere with the course of justice. He was told on the spot by Sri Raghavan that he would be transferred if he did not accede to the wishes of Government. Next morning Sri Korathu was deprived of his magisterial powers and transferred as a Revenue official in some other town telegraphically.

The Police firings are intended not for the prevention of crime but to strike terror or inflict reprisals on non-Communists. Party agents travel with the Police in Police vans to attack non-Communist villages, particularly those with predominant Christian population.

A typical case will illustrate the point. On the morning of 3rd July, some women from the village of Cheria-thura, about three miles from Trivandrum, went to picket the Trivandrum Collectorate Office. About mid-day, led by a Communist, the Police arrived in the village and ran amuck, shooting in all directions at whatever target was available in an area of one furlong square. Bullets hit even Church walls. The Police, apparently running in all directions, shot down a pregnant woman who was

drawing water from a well ; some fishermen who were near the sea distributing the fish-catch of the day. One newly-married man who was sleeping in his hut was shot through the window. Another person who was sleeping inside his hut was dragged out and also shot.

Recently however a change has taken place in the technique of terrorism. Instead of taking the aid of the Police, which leads to adverse impressions outside the State, hired goondas of the Party are spreading terror in the villages. During the four days that I had been in Kerala, I learnt of incidents in the villages adjoining the road I travelled. Fighting has been raging for several days in Kallada, a village near Quilon. The Collector visited the place under heavy Police escort and disappeared after a short exhortation to the people to be peaceful. In another village, several people have been stabbed, including a venerable old priest who appeared to be in the village, and one of the victims died on the spot. In a third village, fighting is still going on. The situation has entered the stage of a miniature civil war between the Communist goondas and the rest of the people.

The non-Communist papers say that the 'Communist goondas' have been spreading terror and the Police do not interfere. I was told that in the local Communist papers, it is said that the 'Congress goondas' are harassing people and the Police do not take any notice. Both are agreed that the Police is taking no preventive action. And by far, the casualties of the dead and wounded is overwhelmingly from the ranks of the non-Communists.

However, the Police do resort to frequent lathi charges. At one or two places, enquiries showed that men were pursued to long distances in order to belabour them. In Quilon, I came across the case of a volunteer who was given lathi blows after he was arrested and put in the Police van.

The whole attempt is to terrorise the people into submission. The toddy-tappers, for instance, who are members of the Communist-controlled societies are the Party agents for terrorising the people. In some areas they go about brandishing their tapping choppers, hitting persons who show resistance; while, on the other hand, non-Communists are disarmed by the Police, even domestic knives being taken away from them.

Sri Namboodiripad recently stated with pride that Section 144 has been applied in Kerala only in 2 or 3 places. He is right; Section 144 is applied as preventive action and the Communists are not interested in prevention. The work of striking terror is now being left to the goondas.

Even the Liberation Movement leaders go about at considerable risk. Several of them, including some former Chief Ministers of the State, told me that often on their way from one place to another, their cars are surrounded, sometimes they are stoned; they cannot move about without someone or other to protect them.

A large number of hooligans have enlisted themselves as members of the Communist Party and they belabour villagers, often robbing them, from private motive, with impunity. A lawyer travelling in car from one District to another was relieved of money by Communist workers. Even in the city of Ernakulam ladies complained that while going about on social work they are openly insulted by Communists.

One thing was clear to me; the issue in Kerala is whether democracy is to exist in Kerala or not and I was glad to find that amongst the vast majority of the people, from the highest to the lowest, there was a strong conviction that they are fighting to save democracy.

The voters' lists in many cases have been inflated to absurd proportions. Besides, the non-Communists are under fear of, and subjected to, such terrorism that no

free and fair elections are possible so long as the present Ministry continues in office, the paid anti-social elements are not eliminated and the extra-constitutional machinery of the Communist Party operating as administration is not broken up.

There is a universal feeling that non-Communists have no security in the State. Normal help of the Police is not available to non-Communist citizens ; even leaders find it difficult to get it. Non-Communists are made to feel that they cannot exercise any right of citizenship ; that they have no right to protection ; that those who are not Communists have no place in the State. A former Minister put it succinctly : " I have lost my citizenship ; I can only regain it if I take the Communist Party membership ; the sole purpose of the Kerala Government is to build up the Communist Party of India."

Under these conditions, there can only be one answer to the question I had come to study ; that the Government of the State cannot be carried on according to the provisions of the Constitution.

VIII

INDIAN UNITY AT CROSS-ROADS

Till 1947, we were united in securing freedom. On August 15, 1947, we looked forward to a glorious destiny by welding ourselves into a powerful nation. In 1948, Sardar Vallabhbhai Patel, mostly by willing surrender of separatist tendencies, united the country as never before. On November 26, 1949, when the people of this country gave unto themselves the Constitution, we were one in unity of purpose and mission to build a great democratic Republic.

Of late disintegration has been growing apace, and not a day passes without our receiving a rude reminder of it.

The symptoms are many and varied.

The Cachar incidents, the tension between Assam and Bengal, the unmistakable recrudescence of communalism, the bid for new separate States and the growth of linguism and the militant regional Chauvinism which it has given birth to, the attempts to harness linguism to religion and casteism are symptoms of a disease in the national mind, which, if not checked without further delay, will place our very national existence in jeopardy. Something, therefore, has to be done promptly to find an effective remedy for the malady, irrespective of party alignments and the countering of political manoeuvres.

It is being forgotten or ignored that India, as a nation, is a mixture of races, creeds and language-groups and that, in the interests of national solidarity, the component States should conform to this pattern as far as possible.

Linguism, which many people once thought was a transient and harmless phenomenon, has emerged as the most powerful group sentiment which is being used both as a weapon and protecting cover for Chauvinism creating in most of the States serious problems affecting peace and progress.

Whereas before freedom we had two or three minorities in the whole country, linguism has been responsible for creating minorities and serious grievances in almost every State. In each State, the linguistic majorities have been developing the attitudes and techniques of a ruling race towards the minorities, and legislation, executive authority and State patronage are brought into play to place the minorities in the position of permanent aliens.

In such States, at the State level, the linguistic majorities have been developing an aggressively possessive attitude towards their State, coming to look upon it as their own exclusive property to be defended against other States and the Centre. This finds expression in diverse ways.

Almost all States have been developing as against neighbouring States an attitude of mutually distrustful nation-States running a cold war against one another rather than functioning as administrative units of the same national union. Sometimes they become warring States engaged in a hot battle, as in the recent case of Assam and Bengal.

Each State insists upon education being given in its own language, forcing it on unwilling linguistic minorities, with the result that a situation is developing in which our national consciousness, which in the past has been the product of English education, and a long common struggle for freedom, is fast growing dim and is often entirely lost.

Efforts at thus forcing English out before Hindi is

accepted by the whole country as an all-India substitute has already led to a North-South feeling and if this feeling is permitted to become more articulate, it will add to the disintegration already developing.

The introduction of regional languages for higher administrative and educational purposes and the demand for the acceleration of this process are leading to a regional isolation of the higher services, and naturally the institutional unity of the country which the British gave through the all-India services is rapidly getting weaker.

Each of these States is developing an insular regional outlook on all Plans which, instead of being looked upon as a national effort, has led to the rise of regional pressures on the Centre: to inter-regional jealousies; to attempts of each State to be at once industrially self-sufficient by having a steel mill, a refinery, a fertiliser plant, an atomic reactor and the like, regardless of natural facilities and in complete indifference to wastage. This is paving the way to a claim to autarchy which is likely to affect the national economy as a whole.

Several universities in the States are switching over from English to the regional language with the result that the psychological and social unity of the elite in the country, which during the last hundred years had led to the rise of Indian nationalism and a common Indian guiding class, is slowly being undermined under the pressure of emotions infused by regional linguism working for the glory of the particular region.

One of the results of this tendency has been that professors and teachers from outside the region are weeded out, restricting the scope of inter-regional contacts between the intellectuals of the country. In fact, regional compartmentalism in the sphere of education and intellect is already very much in evidence.

Linguistic isolationism is taking the place of healthy

all-India competition. The consequent difficulties in comparing and pooling the results of scientific, technological and other research activities will be a major nullifying factor in the nation's scientific and technological progress.

In some of the States, there is already in evidence a tendency to subordinate the memory and achievements of the national heroes by resurrecting the memory of hitherto unknown or little known regional heroes of the days of medieval particularism. If this process gathers strength, the new generation will be deprived of a living national heritage of common heroic achievements without which the general will to nationhood is sure to wither away.

The Assam-Bengal tension which has made each linguistic State a guardian of its linguistic minorities in other States is a logical outcome of the new development. In such conflicts, the Centre is sure to become the common target, eventually weakening its authority.

Due to aggressive regionalism, movements are already developing in several States to look upon the Centre with suspicion, and views are often expressed in favour of reducing the plenary powers vested in the Centre by the Constitution and thereby invite the fate which has overtaken all weak central governments in world history, particularly in Indian history.

A secessionist outlook, though somewhat inarticulate, is already developing among politicians in some parts of the country. This attitude is being fostered by the Communist Party of India which is openly working for the Balkanisation of the country so that it may more easily achieve its purposes.

The time has come to drive home in unmistakable terms that the administration and education of the country as a whole is a national concern and in admini-

stration and education language is only *one* element, not the most *important*, much less the *sole* one.

Communalism has been another unfortunate factor which has come to the fore in recent years. The implications of democratic freedom require that while religious communities should be free to organize themselves to the fullest extent for religious and social purposes, any attempt on their part to enter the field of politics is dangerous. If any such community as a religious group attempts to develop separate political consciousness, it will only preclude its members from the opportunity of being absorbed into the body politic as common citizens of a free country. No realist can ignore the possible reaction to such an attempt.

We therefore need to think afresh on these problems, if democracy is not to fail in India. We have bitter experience of such action and the reaction which it evoked in pre-partition days and could never forget the heavy price we have had to pay for that folly. We must avoid it at all costs.

The situation in the country as a whole makes prompt action necessary on the part of the Central and State Governments, political parties and voluntary associations to release positive forces of integration. Among such forces the most important, in the nature of things, are : (a) more and more all-India Services ; (b) zonal implementation of the Plan ; (c) statutory safeguards for the minorities in all States ; and (d) all-India Universities with English and Hindi as media, and *above all, the building up of an atmosphere in which regionalism is looked upon as anti-national.*

What is needed immediately, above everything else, is an agreement on an all-India basis between political parties on the problems of unity and solidarity which would keep these out of election manoeuvre. It will mobilise public opinion ; it will prevent national parties from seeking party advantages on issues likely to weak-

en national solidarity ; it will enable national parties to resist the attempts of parties owing no such allegiance to disrupt the country.

Unless the psychology of unity is firmly re-established, our will to unity will always remain weak. But that involves the restoration of the moral fibre among public-men and particularly in those in power. It can be restored only by the leaders of all the parties developing it and agreeing to accept certain solutions as above party strife. This is the only way to restore strength and vigour to the fundamental issues of national unity and independence.

In the country's interest, therefore, it is high time that the issue of integration is placed as a national platform by the leaders who are pledged to preserve the stability and integrity of the nation. Then only can the elections be fought on clear-cut political and economic issues, strengthening the national basis of our life.

It may be that, in order to implement such a programme of integration, difficulties—constitutional, administrative and political—may have to be surmounted. But the preservation of national solidarity demands concerted action well ahead of the ensuing General Elections. It may not be an exaggeration to say that it is a question of now or never.

I would, therefore, suggest the possibility of taking steps to convene a National Convention for the purpose. The report of the Integration Committee of the Congress has not effectively halted the disintegrating forces. It has suggested certain measures which do not go far enough, nor can they achieve anything effective, knowing as we do that not a few leading Congressmen in some States are ardent in their advocacy of regionalism.

A national platform of integration is, therefore, clearly indicated.

IX

WHITHER FUNDAMENTAL RIGHTS?

I was invited to preside over the Symposium on "Whither Fundamental Rights" held under the auspices of the Third All-India Law Conference in New Delhi on August 12, 13 and 14, 1962. I read a paper from the chair of this Symposium, giving my views on the subject.

The paper is full of technical details which would be appreciated only by a lawyer. However, every citizen is interested in Fundamental Rights, for our free democracy rests on their paramountcy being upheld by the Parliament, the Courts, and in the last instance, by the general public opinion in the country.

When we consider the question 'Whither Fundamental Rights', the point from where the journey forward or backward begins has to be measured. That point can only be the 26th January 1950 when the People of India as a whole organised in the Constituent Assembly established a Sovereign Democratic Republic and gave the Constitution to the country.

My active interest in Fundamental Rights began in August 1946 when I began drafting the Constitution for India as an exercise for myself. It grew from one stage of the Constituent Assembly to another till Part III emerged as a part of the Constitution finally adopted. Now, having watched their fortunes with anxious care, I am constrained to confess that during the last few years the scope of several Rights has been considerably narrowed down by judicial decisions in several respects.

This process can be traced to recent trends in judicial decisions which, apart from individual cases, fight shy

of firmly upholding the paramountcy of Fundamental Rights. This can be attributed *inter alia* to:

- (a) a growing decline in that sensitive concern for the constitutional paramountcy of Fundamental Rights which characterized the judiciary in the early post-freedom years ;
- (b) an increasing, though unconscious, bias in favour of legislative wisdom, if not supremacy, possibly resulting from our close association with British Constitutional Law ; and
- (c) an inability to resist the influence of economic theories marketed by politicians in tabloid slogans of vague implications.

The Constitution, founded on the concept of free democracy, embodies in specific terms of precise content what is loosely termed "the Rule of Law". It rests on inalienable rights of the individuals as the firm pillars of the structure. Its inspiration is drawn, through the American Bills of Rights, from the constitutional doctrine that there is a natural law paramount and superior both over the Executive and the Legislature.

The philosophers and jurists who developed the fundamental aspects of this doctrine in England were as much concerned with the supremacy of the Parliament against the arbitrariness of the Executive, as with the vindication of the rights of man against Parliament itself.¹ In *Calvin's Case*, Lord Coke stated *inter alia* that "the law of nature is before any judicial or municipal law in the world ; (and) . . . that the law of nature is immutable and cannot be changed."² In recent times Fundamental Rights are traced not to natural law, but, as stated in the Declaration of Delhi adopted by the International Commission of Jurists in 1959,³ through history in the age-old struggle of the mankind. This doctrine in one shape or the other came to be adopted by most of the written constitutions of the world and

culminated finally in the adoption of the Universal Declaration of Human Rights.⁴

• • •

By the Preamble of the Constitution, the people of India, while solemnly resolving to constitute India into a Sovereign Democratic Republic, reserved to all its citizens—

“LIBERTY of thought, expression, belief, faith and worship ;

EQUALITY of status and of opportunity”

to secure a firm base for the free democracy they were founding.

The other objectives in the Preamble have no relation to democracy. They could be attained in a measure even under a form of government which denies freedom to the individual.

The right to freedom of speech and expression, including that of the press, lies “at the foundation of all democratic organisations, for without free political discussion, no public education so essential for the proper functioning of the process of popular Government is possible”.⁵

Liberty of belief, faith and worship are closely associated with liberty of thought and expression. The central idea is that a healthy democratic system can only survive if the citizens are at liberty, and in fact invited, to scrutinize and re-examine currently accepted opinions. Regimentation of belief or of religious attitudes through State-controlled education or indoctrination or indirectly through suppression of freedom of conscience, is a negation of basic freedoms.

The Preamble also clearly indicates that the object

of the Constitution was to maintain the dignity of man, thereby accepting the concept of the sanctity of human personality. It is by virtue of this acceptance that certain Fundamental Rights are vested in all persons within the Union regardless of whether they are citizens or not.

• • •

Another vital aspect dealt with by the Preamble and Article I is that the Republic, a Union of States, is based on national unity, that is, on the organic unity of all its citizens. The Union is the National Government of India, to which all citizens in the country are related not only by a common allegiance, but by common Fundamental Rights vested in each one of them, together with the Right directly to approach the Supreme Court for their enforcement.

The ultimate sovereignty, however, rests in the people. To adopt the words of Chief Justice Marshall, "we are one people" and because "the people made the Constitution, they can unmake it", but then he added: "the whole body of the people and not any sub-division".⁶

Under our Constitution, the Union is a national, sovereign State with the character of nationality and possessing plenary powers. The States are merely subordinate political bodies which, juristically speaking, act as agents of the Union without any right to perpetual existence. Their formation and boundaries depend upon the will of the Parliament (Article 3). Their powers and functions can be seriously affected by Parliamentary action under certain circumstances (Articles 248, 249, 250 and 251), and in emergencies, suspended under Part XVIII. To quote Dr. Alladi, "though the country and the people may be divided into different States for convenience of administration, the country is one integral whole, its people a single people living under a single *imperium* derived from a single source".⁷

Article 15 prohibits discrimination *inter alia* on the

ground of place of birth. Article 19(1)(d) guarantees free movement throughout the territory of India. Article 19(1)(e) opens up the whole of the territory of India for residence and settlement. These guarantees have been given to ensure that the country is not fragmented into regional jurisdictions by State action.

Indians, therefore, like the residents of U.K. or any other sovereign country, can have only one domicile. Yet in *Joshi v. Madhya Bharat State*,⁸ the Court leaned towards, what I have called, an unconscious bias for English law when it approved the principle entirely inconsistent with the Constitution that a State in India is entitled to impose discriminatory regulation of its own on the basis of regional domicile.

Differing with the majority view, Justice Jagannadhas held—and, in my opinion, in conformity both with the spirit and the letter of our Constitution—that “the recognition, expressed or implied, of regional domicile by a decision of this Court would be contrary to the intentment of the Constitution”.⁹

The majority decision, as it stands, narrows down the scope of both Article 15 and Article 19(1)(b) and (d), and thereby affects the basic concept of our Constitution that India is a single country in which all citizens can move in and settle freely and enjoy the privileges and facilities available to every citizen without discrimination.

The Union of India is ‘indestructible’, ‘perpetual’, ‘indissoluble’,¹⁰ with even much greater force than can be said of the U.S.A. In this connection a moot question may arise any day whether a citizen can constitutionally claim the rights of free expression, free assembly and free association in order to destroy the Union and thereby repudiate the very citizenship through which he enjoys these rights.

• • •

Among the basic freedoms mentioned before, liberty of thought and expression is the most important, but it can only be effectively exercised when there is ability to do so. This ability is derived from the exercise of the Rights mentioned in Article 19(1)(b) to (g). While each of them has an intrinsic validity and an importance of its own, all of them are in a way inter-related and inter-dependent, so as to form an integrated scheme for promoting and strengthening the basic freedoms.

Without the right to assemble and form associations and unions, free expression would be ineffective, as it would be restricted to activities of isolated individuals. The right to free movement and residence throughout the country is calculated to maintain national unity as well as to keep alive the consciousness of a common citizenship through the enjoyment of common rights throughout the country.

Effective, organised public opinion can never come into existence if the rights in Article 19(1)(f) and (g) are not enjoyed by the citizens in a substantial measure; for, without them, the financial support from non-governmental resources would not be available to sustain organised public opinion of an independent character.

Whereas the rights in Article (19) (1) (b), (c), (d) and (e) provide the organisational base for the exercise of the basic freedoms, the right to carry on trade, business and industrial operations, and the right to own and dispose of property, provide their economic base. Without such organisational and economic bases, the basic freedoms would be illusory; there would then be no parties, unions, associations, newspapers and no religious denominations or associations with sufficient means to create a free public opinion on any vital concern of individual or collective life.

The right to free speech and expression guaranteed under Article (19) (1) (a) is likely to be considerably whittled down by the principle enunciated in *Hamdard's*

case,¹¹ in which it was laid down that the Right cannot be extended "where there is an element of trade or commerce". It must not be forgotten that under modern conditions most of the organised activities indispensable to the exercise of the basic freedoms through media of books, journals, newspapers, cinema, drama and the press, owe their existence in some way or the other to trade or commerce, which would cease to be protected if this principle stands accepted. The door would then be opened to the Legislature to cripple the Right by imposing restrictions on the essential commercial activities connected with it.

The correct position in this matter would appear to be that if speech and expression *prima facie* attracts Article (19) (1) (a), protection should not be denied because it also falls under Article (19) (1) (g). In *Sakal Paper's case*,¹² there has been considerable improvement on the position, at any rate so far as the press is concerned. However, it is difficult to see any distinction in principle between the press and other media of expression, all of which have an element of trade or commerce.

Under the Constitution as amended, the right to property is available to the citizen only in a very attenuated form. Justice Douglas of the American Supreme Court, in his review of the Indian Constitution, summarises the position as follows :

"Whatever the cause, the 1955 Amendment casts a shadow over every private factory, plant, or other individual enterprise in India. The Legislature may now appropriate it at any price it desires, substantial or nominal. There is no review of the reasonableness of the amount of compensation. The result can be just compensation or confiscation—dependent wholly on the mood of the Parliament . . . If the Parliament appropriates private property for only nominal compensation, the spectre of confiscation would have entered

into India contrary to the teaching of her outstanding jurists.”¹³

Luckily, in *Kochuni v. States of Madras and Kerala*,¹⁴ the Supreme Court has held that the laws relating to deprivation of property must conform to Articles 31 and 19 (1) (f). In some respects, therefore, the restrictions on the right to property have come under judicial review, without which the basic freedoms are sure to wither away in course of time for want of economic nourishment.

The rights guaranteed by the sub-clauses of Article 19 (1) can be subjected to “reasonable restrictions” referred in clauses (2) to (6). This enables the Court to strike a balance between the rights and permitted social control,¹⁵ by exercising the power on the one hand to “play the role of the sentinel”, and on the other, to accommodate the just claims of public interest to the paramountcy of the Fundamental Rights. Reasonableness, it is obvious, has in the first instance to be related to the right, that is to the necessity of maintaining it substantially unimpaired, except in extraordinary or emergent circumstances of a passing nature. As Mr. Justice Vivian Bose laid down, it is the “Rights that are fundamental and not the restrictions.”

The test was specifically laid down in *State of Madras v. Row*,¹⁶ where it was held that for construing “reasonableness” under clauses (2) to (6), the nature of the right, the underlying purpose of the restrictions imposed, the extent and urgency of the evil sought to be remedied thereby, the disproportion of the imposition, the prevailing conditions at the time, should all enter into the judicial verdict. The restriction on the guaranteed rights, according to the test so laid down, should be within the narrowest limits and “not to curtail a right like the freedom of association, in the absence of any emergent or extraordinary circumstances.”

Soon thereafter, there was a trend in judicial decisions

to reduce the importance of the right as guaranteed by the Constitution and to give greater importance to public interest as envisaged by the Legislature. Reasonable restriction, it was laid down, must have a reasonable relation to the object which the Legislature seeks to achieve and must not go in excess of that object.¹⁷

This trend soon gained momentum and the view of the Legislature in the main was accepted as the measure by which to judge the reasonableness of the restriction. Emphasis on the other elements, namely the necessity of maintaining the right substantially unimpaired, the extent and urgency of the evil sought to be remedied and the disproportion of the imposition, receded in the background.

The trend was further strengthened in *Hanif Quareshi's case*, where it was laid down that the restriction has to be determined in an objective manner and from the standpoint of the interests of the general public, and *not from the point of view of persons upon whom the restrictions are imposed or upon abstract considerations*.¹⁸ (Italics mine). This principle, as it reads, would imply that the Courts, while assessing reasonableness, need not take into account how the restriction affects the right of the citizen concerned nor the broad constitutional grounds on which the paramountcy of the Fundamental Rights has to be maintained. This is a reversal of the express provisions of the Constitution.

The scope for discovering "the reasonableness of a law" was rendered limitless when in *Krishna Sugar Mills*,¹⁹ it was held that the Court, in judging the reasonableness of a law, should necessarily see, not only the surrounding circumstances, but also the contemporaneous legislation passed as part of a single scheme. According to this test, reasonableness is not to be judged from the object which the impugned legislation seeks to achieve, but the Court must embark on a microscopic scrutiny of related legislations and notifications passed

totalitarian millennium of universal State trading by notification, which by the way is rarely known to have brought down prices. The fact remains that the restriction has been construed as authorising "prohibition" or "extinction"; the "role of the sentinel" has been extended to putting the unfortunate victim out of existence altogether.

If this judicial trend is not arrested, most of the rights in Article 19(1) would be placed at the mercy of the Legislature.

• • •

The Fundamental Rights are justiciable ; the Directive Principles are not. The Directive Principles are only intended to show the directions in which political, social and economic justice mentioned in the Preamble is to travel,²³ but never so as to break through the barrier of Fundamental Rights. Any legislation implementing them has, therefore, to "conform to and run as subsidiary to the Chapter of Fundamental Rights."²³

Then a process of elevating the Directive Principles to the level of Fundamental Rights began. In the *Kerala Education Bill*,²⁴ the principle of harmonious construction between Fundamental Rights and Directive Principles was accepted. That implies that the Fundamental Rights have to be read in the light of the Directive Principles.

Coming trends, like events, had cast their shadows before. The dissenting judgment of Mr. Justice Das (as he then was) in *Subodh Gopal's case* may be mentioned here:

"We cannot overlook that the avowed purpose of our Constitution is to set up a welfare state by *subordinating the social interest in individual liberty or property to the larger social interest in the rights of the community.*"²⁵ (Italics mine).

When confronted with the express words of Article 31 (5) (b) (ii), Mr. Justice Das declined to circumscribe the limits of social control to be exercised by the State. The State was to be considered the final judge as to "when and how and *to what extent* the social control should be exercised."²⁶ (*Italics mine*).

Though Fundamental Rights are given priority in words, one can see a systematic trend towards Directive Principles gaining paramountcy. In more than one case they were allowed to override the Rights.

The Preamble aims at securing justice, political, social and economic, to the citizens, and to achieve it, it is laid down in Article 38 of the Directive Principles that the "State shall try to promote the welfare of the people". For promoting such welfare, the Legislature is naturally the most effective instrument. However, the Courts, in discharge of their high function, cannot depart from judicial detachment; they should realise that justice, political, social and economic, has many ways of fulfilling itself.

Slogans like "social trends", "socialism" and "socialistic pattern of society" are based on varying economic theories; their connotations are difficult to define with judicial certainty and vary from one exponent to the other. "A constitution", to use the words of Justice Holmes, "is not intended to embody a particular economic theory, whether of paternalism... or of *laissez faire*".

But in India, according to some judgments, the firm foundation of guaranteed Fundamental Rights can be dislodged by currently accredited theories sponsored by the Legislature.

Where there are competing demands of social control allegedly exercised for the welfare of the people and of liberty, there should be reasonable accommodation between them, it is true, but it is the function of the

Courts to see that such accommodation does not imply surrendering the liberty of the individual.

. . .

The other basic freedom contained in the Preamble is Equality of Status and of Opportunity. To secure this objective, Article 14 guarantees equality before law and equal protection of the laws within the territory of India. This clause is absolute in terms. Our Supreme Court, following the decisions of the U.S. Supreme Court, has laid down that "while Article 14 forbids class legislation, it does not forbid reasonable classification for the purposes of legislation. . . . What is necessary is that there must be a nexus between the basis of classification and the object of the Act under consideration."²⁷

This principle of constitutionality, first enunciated in *Chiranjitlal's case*,²⁸ is wholesome, but in actual application it is difficult to recognise its limits. Any conceivable state of facts is held to provide a nexus between the classification and the object of the Act ascertained from as wide a field as ingenuity can permit (vide *Krishna Sugar Mills' case*²⁹).

Classification has been upheld on grounds, geographical, social and even historical, in terms of size or time. This has discharged the State from the duty of making an honest and serious attempt at just and reasonable classification in providing for differential treatments to persons, areas or subject-matter. To that extent the State has been relieved from scrupulously conforming to Article 14 in its law making.

In *Pannalal's case*,³⁰ the constitutionality was presumed by looking at the Preamble of the predecessor of the Income-tax Act in question which only recited that "its object was the collection of income-tax"! The presumption that a power is not susceptible of abuse has been drawn by the circumstance that the power to transfer cases is reposed in high authorities. In *K. L. Arora's*

"Now, Sir, I am very glad that the majority of those who spoke on this article have realised the importance and the significance of this article. If I was asked to name any particular article in this Constitution as the most important—an article without which this Constitution would be a nullity—I could not refer to any other article except this one. It is the very soul of the Constitution and the very heart of it and I am glad that the House has realised its importance."³³

In *Daryao v. State of U. P.*,³⁴ the Supreme Court held that the general rule of *res judicata* is founded on and embodies principles of public policy and so, is an essential part of the Rule of Law; that the binding character of judgments pronounced by Courts of competent jurisdiction is an essential part of the Rule of Law, which obviously is the basis of the administration of justice on which the Constitution lays so much emphasis; and that therefore a person who had recourse to the High Court under Article 226 cannot have direct access to the Supreme Court under Article 32, if the matter is decided on merits.

The Court evidently was led to this conclusion relying on English precedents, which, for want of a fundamental and paramount law, are known to draw upon public policy as part of that country's law, though according to a dictum endorsed by Lord Halsbury, "it should not be relied upon to prevent a party from availing himself of an indisputable principle of law in a court of justice".³⁵

Lord Atkin in *Fender v. St. John-Mildmay*,³⁰ also laid down that "public policy should only be invoked in clear cases in which the harm to the public is substantially incontestable." It is, therefore, open to doubt whether judicial opinion in England would have fared forth on this "unruly horse"—as Hobert C. J. picturesquely calls public policy—to chop a limb off an express constitutional guarantee so helpful to the citizen.

Resort to American authorities in this behalf is, it is submitted, of little assistance, for the right to approach the Supreme Court in U.S.A. directly is not a guaranteed right under its fundamental law. The Supreme Court of U.S.A. is very zealous of maintaining guaranteed rights, and in a recent case went to the length of striking down a law imposing \$ 4.00 fees, on a *habeas corpus* petition. It held that "there can be no equal justice where the kind of trial a man gets depends upon the amount of money he has."³⁷ By the way, I may mention that in India, a petitioner claiming guaranteed rights under Article 32, has to be rich enough to pay Rs. 2500/- before he can get his rights vindicated.

Further, there is no specific authority that the binding character of judgments is an integral feature of the Rule of Law ; the world jurists are still struggling to define its implications with some sort of precision. In fact, in India, the Rule of Law is enshrined in the Constitution itself ; there can, therefore, be no public policy nor any Rule of Law which could bar a citizen from availing himself of a Fundamental Right in the nature of a remedy expressly guaranteed in Part III, which is a complete code in itself.

Another case which has made a more serious encroachment upon Article 32 is *Ujjam Bai's* case,³⁸ where it was held that an order of assessment made by a competent authority under taxation-statute, which is *intra vires*, cannot be called in question on a petition under Article 32, even if the order is violative of a Fundamental Right, unless it offends the rules of natural justice.

As I understand the decision, an assessee, against whom an order of the nature referred to and which is violative of the Fundamental Right has been made, must first suffer the disadvantage of paying or securing the assessment ; go through all the appellate processes prescribed by the Salestax Act to secure departmental relief ; pass through the portals of the High Court under Article 226—and then only approach the Supreme Court to

vindicate what would have been his Fundamental Right had it not been restricted by this decision—if he lives long enough and is not “broke” in the meantime!

I cannot state my view better than in the clear words in the dissenting judgment of Mr. Justice Subba Rao:³⁰

“It must be borne in mind that our Constitution in effect promises to usher in a welfare State for our country; and in such a state the Legislature has necessarily to create innumerable administrative tribunals, and entrust them with multifarious functions. They will have powers to interfere with every aspect of human activity. If their existence is necessary for the progress of our country, the abuse of power by them may bring about an authoritarian or totalitarian state. The existence of the aforesaid power in this Court and the exercise of the same effectively when the occasion arises is a necessary safeguard against the abuse of the power by the administrative tribunals. . . . In *Romesh Thappar v. State of Madras* (4), this Court declared that under the Constitution the Supreme Court is constituted as the protector and guarantor of fundamental rights, and it cannot, consistently with the responsibility so laid upon it, refuse to entertain applications seeking protection against infringement of such rights, although such applications are made to the Court in the first instance without resort to a High Court having concurrent jurisdiction in the matter.”

(4)—1950 S.C.R. 594.

In this case an attempt was made on behalf of the State to restrict the Fundamental Rights under Article 32 in certain matters of taxation, and it succeeded!

Before closing my remarks, I may be permitted to strike a personal note, particularly as I happen to be the survivor of the small group in the Constituent Assembly who, from the first day and day after day, saw phrase

by phrase, Article by Article taking shape in the Constitution, with loving tenderness.

Our Constitution is reckoned as one of the most remarkable of modern Constitutions, giving stability and unity to a nation newly emerged in freedom, yet flexible enough to enable a welfare State to be built on the firm foundations of basic freedoms. The lawyers of this generation, both on the Bench and at the Bar, have, therefore, a duty to pass on the basic freedoms to posterity in their undiminished plenitude. If, however, the trends which I have mentioned are not halted or reversed in their cumulative effect, history will not acquit us of failing to carry out our sacred trust.

NOTES

¹ H. Lauterpacht, *International Law and Human Rights*, London, 1950, 135.

² (1608), 7 Co. Reports 1. See Lauterpacht, footnote 24, *ibid.*

³ *Journal of the International Commission of Jurists*, Geneva, Vol. II, No. 1, 17.

⁴ See Kelsen, *The Law of the United Nations*, 1950, 33-39.

⁵ Per Patanjali Sastri J. (as he then was), in *Romesh Thappar v. The State of Madras*, 1950 S.C.R. 594; A.I.R. 1950 S.C. 128, 129.

⁶ Willis, *Constitutional Law of the United States*, (1936), 61.

⁷ Constituent Assembly Debates of 23-11-1949, 836.

⁸ *Joshi v. Madhya Bharat State*, 1955 (1) S.C.R. 1215; A.I.R. 1955, S.C. 334.

⁹ *Ibid.*, 346.

¹⁰ Constituent Assembly Debates of 4-11-48, 43. As to U.S.A. see—*Texas v. White* 7 Wall (U.S.) 700, *Knox v. Lee* 12 Wall (U.S.) 457; 20 L. ed. 287, Willoughby, *The Constitutional Law of the United States*, Vol. I, 2nd ed., New York, 1929, 137.

¹¹ *Hamdard Dawakhana v. Union of India*, (1960) 2 S.C.R. 671; A.I.R. 1960 S.C. 554.

¹² A.I.R. 1962 S.C. 305.

- ¹³ See William O. Douglas, *From Marshall to Mukherjee*, Studies in American and Indian Constitutional Law, Calcutta, 1956, 224.
- ¹⁴ 1960 (3) S.C.R. 887; A.I.R. 1960 S.C. 1080.
- ¹⁵ *Dwarka Prasad v. State of U. P.*, 1954 S.C.R. 803; A.I.R. 1954 S.C. 224.
- ¹⁶ *State of Madras v. V. G. Row*, 1952 S.C.R. 597, 607; A.I.R. 1952 S.C. 196.
- ¹⁷ *Chintamanrao v. State of M. P.*, 1952 S.C.R. 759; A.I.R. 1951 S.C. 118; *Arunachala v. State of Madras*, A.I.R. 1959 S.C. 300 (303).
- ¹⁸ 1959 S.C.R. 629; A.I.R. 1958 S.C. 731, 733, 744.
- ¹⁹ *The Lord Krishna Sugar Mills v. Union of India*, 1960 (1) S.C.R. 39; A.I.R. 1959, S.C. 1124, at p. 1132.
- ²⁰ *Ibid*, p. 1137.
- ²¹ 1960 (2) S.C.R. 375; A.I.R. 1960 S.C. 430, 436.
- ²² Vide Article 38.
- ²³ Vide *The State of Madras v. Champakam Dorairajan*, A.I.R. 1951, S.C. 226, at p. 228.
Also see *Hanif Quareshi's case* A.I.R. 1958, S.C. 739.
- ²⁴ *In re Kerala Education Bill*, A.I.R. 1958 S.C. 956.
- ²⁵ A.I.R. 1954 S.C. 92 at 113.
- ²⁶ *Ibid*.
- ²⁷ *Budhan Choudhry v. State of Bihar*, 1955 (1) S.C.R. 1045, 1048; A.I.R. 1955 S.C. 191, 193.
- ²⁸ 1950 S.C.R. 869.
- ²⁹ 1960 (1) S.C.R. 39; A.I.R. 1959 S.C. 1124.
- ³⁰ 1957 S.C.R. 233; A.I.R. 1957 S.C. 397.
- ³¹ 1961 (3) S.C.R. 135.
- ³² Document CAF No. 3 in *Munshi Collection of Constitutional Papers* (Bharatiya Vidya Bhavan).
- ³³ Constituent Assembly Debates of 9-12-1948, p. 953.
- ³⁴ (1962) S.C.J. 702.
- ³⁵ *Janson v. Driefontein Consolidated Mines*, (1902) A.C. 484.
- ³⁶ L.R. 1938, A.C. 1.
- ³⁷ *Smith v. Bennett*, U.S. Reports, 6 L ed. 2d. p. 40.
- ³⁸ and ³⁹ Unreported Petition No. 79 of 1959, decided on April 10, 1962.



Library

IIAS, Shimla



00003050