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## Topics of the Week.

### Where is Jawaharlalji ?

ELSEWHERE will be found an authoritative statement by the Secretary of the Indian Civil Liberties Union giving details of violations of civil liberty on the part of the responsible Provincial Governments, including the Congress Governments. We hope it will attract wide attention, and particularly the attention of Pandit Jawaharlal Nehru, who some time ago showed very great solicitude for civil liberty and created this organisation of the Civil Liberties Union for the purpose of preventing onslaughts on individual freedom. His quiescence now seems wholly inexplicable. Surely he cannot be one of those, unfortunately too many, who believe that with the advent of responsible government, and particularly with the Congress in power, there is not only no need for watchfulness in the matter of safeguarding civil liberty, but that on the contrary such an attitude of watchfulness should now be dropped because it is likely to be embarrassing to the Congress. Pandit Jawaharlal, although very accommodating to the Congress Governments, cannot be so temporizing where deep moral questions are involved. The Civil Liberties Union was formed on the eve of the inauguration of provincial autonomy and at a time when the Congress was expected to wield power in several provinces. It would have been most impolitic for Panditji to launch such a body into existence if it was to turn a blind eye to encroachments on civil

liberty in all these provinces. We are certain that Panditji caused the Union to be formed at the time because his loyalty to the principle of civil liberty was greater than his loyalty to the Congress and because he believed that the Congress Governments, like all other Governments, must be kept under a close watch. But we detect an unpardonable laxity and passivity on his part in this respect at present. Will the statement now published induce him to show his former indomitable resolve to defend civil liberty, no matter from which Government?

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### The Problem of Talcher.

THE acute distress of the people of Talcher, who, unable to bear the oppression of their Ruler, have left the State and taken shelter in the Angul district of Orissa, has long been agitating the public mind. Leaders of India and humanitarians like Messrs. Thakkar, Ranga, C. F. Andrews and Miss Agatha Harrison have testified to the sufferings of these unfortunate people, and the Congress leaders of Orissa and the Orissa Government have been trying their very best to find out a solution of the problem. But until now, no solution of the problem has become possible because of the obstinacy of the State authorities. From the happenings that have come to light, it appears that the petty State of Talcher is standing out not only against the wishes of the State people but also against the wishes of the Paramount Power. It appears from a contribution of Mr. H. K. Mehtab to the *Harijan* that the representative of the Paramount Power, Major Hennessey, the Assistant Political Agent of the Orissa States (North) came to an agreement with Mr. Mehtab and the other leaders of the State's people regarding the terms on which the refugees should be asked to go back to their State. The terms of the agreement received wide publicity and it was expected that the Raja of Talcher would give his assent to the agreement. But instead of doing so, the Raja announced certain concessions on the 1st of May which strangely enough differed widely from the agreement and could not therefore satisfy the State's people. Consequently the refugees of Talche could not go back to their State.

IT is a moot point whether the Political Department went back on its promise or the Ruler of Talcher refused to implement the agreement arrived at between Mr. Mehtab and Major Hennessey. We cannot believe that the Ruler can act against the wishes of the Paramount Power. The terms of the *Sanad* under which he enjoys his present powers expressly enjoin on him the duty to "act in accordance with such advice as may be given to you by the Agent to the Governor General,

Eastern States, or such other political officer as may be vested with authority in this behalf by H. E. the Viceroy." Thus, in the words of Mahatma Gandhi, "the Raja has, therefore, no option but to carry out the wishes of the Assistant Political Agent." As the Raja has not done so and on the other hand has announced concessions which have very little relation to the promises given by Major Hennessey, there is every reason to blame the Paramount Power, if not for a breach of its own promise, for a dereliction of its duty.

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### The Gangpur Tragedy.

THOUGH nearly a month has passed since the tragic firing in the Gangpur State, still the authorities of the State have not thought it necessary to institute a judicial enquiry into the matter. It is true that the State itself conducted an enquiry through one of its officials and published the findings of the same in the Press. But everybody will agree that an enquiry conducted by a State official cannot carry conviction with the public. In the case of the Viduraswatha firing in the Mysore State, the committee that was appointed to investigate into the firing did not consist of a single State official, but of independent judicial dignitaries like Sir Vepa Ramesam, Mr. Justice A. R. Nageswar Iyer and a retired I. C. S. in the person of Dr. F. X. De Sousa. The public of Gangpur as well as of India naturally expected that the Gangpur Durbar would appoint a similar committee to enquire into the causes of firing in Gangpur. In fact, Pandit Jawaharlal Nehru, President of the All-India States Peoples' Conference, in a telegram to the Gangpur Durbar, had suggested the names of Dr. De Sousa, Mr. Harekrishna Mehtab, and Mr. Belleti, an ex-president of the All-India Catholic Conference, to form the personnel of the enquiry committee. But the Gangpur Durbar paid no heed to this salutary suggestion and instead carried out only a departmental enquiry.

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EVEN the State enquiry which cannot impress one with its impartial character, reveals the fact that there was no justification for firing at all. The Gangpur State police and the military headed by the Assistant Political Agent of the Orissa States had gone to Simko to effect the arrest of Mr. Nirmal Munda, the leader of the Lutheran Mundas of Gangpur. This was resented by the local Mundas who, numbering about 800, surrounded the house of Nirmal Munda and refused to disperse at the bidding of the Political Agent. Seeing the gravity of the situation, the Political Agent ought to have retired from the place and waited for a better opportunity of effecting the arrest of Nirmal Munda. But his judgment was clouded with anger at the moment and he ordered firing on the crowd, with the result that to effect the arrest of only one man, thirty people had to be shot down dead. The Viduraswatha enquiry committee to which we have made reference above clearly lays down that in cases of such grave emergency the authorities ought to exercise restraint on themselves and ought not to be carried away by the heat of the moment. It says :

If persons defy law they cannot escape punishment, but the penalty of death in such cases is too severe a punishment. . . . Shooting ought not to be resorted to unless there is grave danger to life or

property and it would be safer, under those circumstances, (when the Crowd is defiant) to have the proceedings watched and then to institute action against the leading offenders, under the penal laws of the state.

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IN view of these clear injunctions of the Viduraswatha committee, the Assistant Political Agent was obviously wrong in ordering firing on a defiant crowd. Human life is not so insignificant that it can be sacrificed recklessly to enforce obedience to the authorities' orders. We trust that this inhuman conduct of the Assistant Political Agent of the Orissa States would be severely censured by the Political Department and the Agent forced to pay the price of his folly. In several Orissa States the head of the civil administration is not only the head of the police and the chief magistrate but also the chief judicial officer. Whatever pleases the Ruling Chiefs becomes for the time being the law of the land. Again new taxes are imposed overnight by these States and their immediate payment demanded. Thus there is no rule of law in these States. Time has come when the anarchy in these petty States should be ended once and for all and the administration of these States placed on a sound footing. The demand for the reform of the smaller States of India has been a persistent and long-standing one ; still the Paramount Power continues to behave as if it is unaware of the matter. As the Indian States owe their very existence to the Paramount Power, and as without its military support, they cannot continue for a long time, it is the duty of the Paramount Power to see that these States are administered well. Otherwise the continuous misrule in these States will give rise to such forces of discontent and desperation that not only will the existence of the States be in jeopardy, but the Paramount Power itself will find its position shaken on their account.

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### Muslim League in Kashmir.

MR. S. M. ABDULLAH, the leader of the popular movement in Kashmir, in the course of a statement recently issued, rightly characterises the policy of the Muslim League towards the Indian States as being harmful to the people of the States as its aim practically appears to be to "maintain and support the reactionary and despotic spirit prevailing in the Indian States." It will be recalled that over a period of some years past Mr. Abdullah has been putting forth efforts to nationalise the popular movement in Kashmir and, as a result of these efforts supported also by the Hindus of Kashmir, what was once a Kashmir Muslim Conference is today a political organization of the people of Kashmir as a whole striving for political and economic emancipation of the Kashmir State subjects irrespective of their religious affiliations.

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It was really strange that, in spite of this salutary turn that the movement in Kashmir had taken, no less a Muslim leader than Mr. Jinnah should have characterised the policy of Mr. Abdullah as detrimental to the interests of the Kashmir Muslim community. It is reported that attempts are being made by some of the British Indian Muslims to set up a sort of Kashmir State Muslim League as a rival body to the existing Conference which embraces all the communities in the State. Nothing could be more detrimental to the people

of Kashmir than sectional and communal organizations set up against each other. The State authorities in Kashmir, who are known to be none too sympathetic towards the legitimate political aspirations of the State subjects, will find a very handy excuse to trample ruthlessly the political movement under foot if what should be genuine political organizations take a communal turn or a religious bias.

IT is to be hoped that this new move on the part of communalists in British India will not take root in Kashmir. It is unfortunate that some of the Kashmir Muslims themselves should have given support to this movement. We agree with Mr. Abdullah when, in the statement referred to above, he says that "those of the Kashmir Muslims who are opposing the lead given by the (erstwhile) Muslim Conference to convert the body into a National Conference with a broader programme for all castes and communities living in the State are blindly following the British Indian politics." We hope Mr. Abdullah's appeal to Muslim Leaguers in Kashmir "to profit by the events in British India" will not fall on deaf ears.

#### Reorganisation of education in U. P.

AFTER the formulation of the Wardha Scheme by the Zakir Hussain Committee with a view to giving a new orientation to our system of education, the Congress-governed provinces set up committees of their own to find out how far they could implement the recommendations of the Wardha Scheme. The Bombay Government appointed the Joshi Committee in this connection whose report has already been reviewed in our columns. We propose to review to-day the report submitted by the U. P. Committee in this connection.

THE two salient features of the Wardha Scheme that have attracted great attention are the self-supporting aspect of the scheme and education through a basic craft. We have already criticised at length the first feature of the Scheme and we are, therefore, very glad to learn that both the Bombay and the U. P. Committees have discarded the self-supporting aspect of the Wardha Scheme. There is not a single word in either of these reports to show that they expect the children to earn the cost of their education. The self-supporting aspect of the Wardha Scheme was both indefensible in theory and unrealisable in practice and with its disappearance much that was objectionable in the Wardha Scheme goes automatically out of the picture. The next problem that demands attention is education through a basic craft. In this connection also we had expressed the opinion that no craft is so comprehensive that all education could be centred round it. The U. P. Committee has taken note of such criticism, for besides providing for education through a basic craft, it also provides that in the basic schools education should be imparted in the following subjects, viz. Hindusthani, mathematics, social studies (history, civics and geography), physical culture, art and general science. The Committee recommends that "the time given to crafts with correlated studies should be about half the total time." Thus, though

education through a basic craft will take up half of the working hours of the pupils, it will be tried only as an experimental measure.

THE next important change recommended by the U. P. Committee is the entire overhauling of both Primary and Secondary education. It recommends that the Basic Schools should replace the Primary Schools and Colleges, the High Schools and intermediate classes. A pupil will enter the Basic School at the age of seven and in the ordinary course will receive instruction for seven years. But if he so likes, he may join the College after putting in five years' attendance in the Basic School. The College course will continue for six years and will deal predominantly with (a) Language, Literature and Social Studies, (b) Natural Sciences and Mathematics, (c) Arts, (d) Commerce, (e) Technical or Professional Subjects, (f) Domestic Science (for girls). The teaching of English will not form part of the curriculum in the Basic Schools, but in the colleges it will be made compulsory though, both in the Basic Schools and the Colleges, the medium of instruction will be Hindusthani.

EXAMINATIONS will no more be necessary to secure promotions from class to class. This will be decided by the teachers concerned. At the end of the fifth year of the Basic School an intelligence, attainment and aptitude test will be conducted by the teachers under the direction of the supervisory staff. On the results of the test, advice should be given to students to help them in the choice of the studies in the higher classes in the Colleges. Similarly, at the end of the seventh year of the Basic School, another examination will be held and certificates on the results of the examinations will be given. Besides the Colleges, the Committee recommends the establishment of a large number of vocational institutions which will cater to the different aptitudes of the pupils. Denominational institutions are discouraged because they "tend to create a feeling of estrangement among the different sections of the population."

BUT the most regrettable omission of the Committee from our point of view is its absence of policy with regard to the universities of the Province. If "the system of secondary education should be a complete and integrated whole and not regarded as subsidiary to university education" then how will the products of the secondary institutions make themselves fit for university education? It is a well-known fact that universities specialise in higher studies. How will the entrants to the universities make themselves useful if their studies are not closely correlated to the subjects taught in the universities? We do not know whether the U. P. Committee wants the abolition of the universities altogether. But if the universities are allowed to exist, then the course of studies in the secondary institutions must be closely correlated to the subjects taught in the universities.

## CONSCRIPTION IN ENGLAND.

ON 26th April Premier Chamberlain made an announcement in the House of Commons concerning the Government's intention to introduce a system of compulsory military training; a resolution approving of the introduction of the system was passed by the House the following day by 346 votes to 145; and now a Bill giving effect to the system has been adopted by Parliament by a similar majority. It is proposed under this plan to call up for military training all men between the ages of 20 and 21; to give them intensive military training for six months; and then to ask them to enter the Territorial Army for three years and a half, during which period they will be called upon to do thirty drills and two weeks' camp every year. Or, if they so prefer, they may join the special reserve of the Regular Army, in which case they will be in camp for three weeks. Conscientious objectors are to be exempted. There will be no further obligation on the trainees except in war; but when war breaks out they will be liable to serve abroad. And as the measure is adopted in view of the imminence of war or at any rate under conditions of a serious threat of war, it is naturally looked upon not only as a mere measure of compulsory military training, but as a measure of compulsory military service or conscription.

Such a revolutionary departure from the cherished traditions of England provoked a warm debate in the House of Commons on 27th April on the merits of conscription, and the debate deserves our careful study. The general notion that is now current, viz. that conscription is associated with totalitarian countries and that, when once introduced in a democratic country, it is sure to lead to dictatorship, was easily disposed of. Sir Archibald Sinclair, the leader of the Liberal Opposition Party in the House of Commons (and it must be remembered that the Liberal Party, which stands for individualism and *laissez faire*, is far more strongly opposed in principle to the interference with individual liberty which conscription involves than the Labour Party, which stands for State action in a large part of its social policy) anticipated this objection and summarily dismissed it. "I would not argue," he said, "that it is impossible for a country to adopt compulsory service and remain a democracy. When I look at France, at Belgium and Switzerland, that argument to me does not seem to make sense." In France the principle of conscription was adopted at the time of the French Revolution; it was abandoned by the French Government under Napoleon III, the least democratic Government the French have ever had; and it was restored again by the Third Republic. In Switzerland, surely a democratic country, the obligation to serve is far more severe than

any now contemplated in England; it continues to the age of 60, and nearly all other European nations carry the obligation on into middle life. Conscription cannot thus be said to be in any particular way a mark of totalitarian States; it is also adopted in democratic States. And in fact the principle of calling on every man to do his duty in defence of the State, being based upon equality and opposed to privilege, may be regarded as a democratic principle. If totalitarian States think in terms of total effort, so do democratic States. The theoretical argument in favour of compulsory military training was forcibly expressed by Mr. Amery as follows: "If you want a trained nation, just as if you want an educated nation, you can bring it about only by a national law. Parents would never have been able to afford to send children to school against the competition of parents who sent them to the factories, without the compulsion of a national law. It is compulsion which alone has given us an educated nation; it is only some measure of compulsion, by a national law, voted by a free people, which will give us a trained nation, trained and fit at the outbreak of war." And he could not understand why the Labour Party, as distinguished from the Liberal Party, should be opposed to compulsory training or service. "Their whole political philosophy," he said, "has always been on the side of compulsion, in all social reforms and in all other measures. Why should they object to compulsion in training for service to the country for a cause with which they agree? ... The men who come forward in a free country, in accordance with the laws of their country, freely voted by themselves, are not pressed men. Ask the free burghers of Switzerland whether they are pressed men. Ask the Austrians and New Zealanders, who before the late War had been trained under an obligatory system, whether they considered themselves to be pressed men."

The opposition of the Labour and Liberal Parties was based, of course, to some extent on grounds of principle, but even more on other grounds: (1) that the Government were introducing conscription in disregard of the pledge given and often renewed; (2) that the voluntary system has proved eminently successful; (3) that the system to be introduced will not yield a large supply of men but will only cause a division in the country at a time when unity is essential; (4) that the system would only be a gesture to the countries in alliance, and it is wrong to base the national defence policy on what other countries would desire. On one point all parties were agreed, viz. that nothing should be left undone which is required to resist fascist aggression. Mr. Attlee said:

We are as determined as anybody else to see that the defences of this country are in every way

adequate and that Britain is in a position of sufficient strength to fulfil all her obligations, to prevent war and to defeat aggression if it should arise. The Labour movement has consistently stood against the rule of force in the world—far more consistently than the Government. No section of the country is more firmly resolved to resist any domination, whether by Herr Hitler or by anybody else, and we have been far more conscious of that menace than have the Government. There is no question of the readiness of our people to make sacrifices for the cause of freedom and democracy, but we are opposed to the introduction of conscription because we believe that, so far from strengthening this country, it will weaken it and divide it, at a time when it should be strong and united.

Col. Wedgwood observed: "I would warn those people who are our enemies, and who will rejoice to see that it (this Bill) does not go through without opposition—I would warn them that that opposition is rather to the tactics, rather to the methods adopted, and that it does not indicate for one moment any hesitation in our determination to break the rule of the dictators and to establish once more in the world the rule of law. Sir Archibald Sinclair spoke in the same sense. He said the Liberal Party was opposed to the proposal; "but, at the same time, any foreigner who believes that there is any real difference in the attitude of Members of all parties in this House on the question of the defence of this country and of peace, freedom and order in the world will be making a profound mistake." His main point was that the introduction of compulsory service would not be justifiable unless and until the resources of the voluntary system had been exhausted. Britain has already raised 2,000,000 men for anti-aircraft precautions and 1,250,000 men for the fighting services, and as many more could be raised as are required by an effective voluntary recruiting drive based on an appeal to the deep moral instincts of the people. After all, the new system will not add materially to the fighting forces as there are only 310,000 men in the age group between 20 and 21 years and of these 33,000 are already in the Army. If the measure is put into operation for six months, it will give nearly 200,000 men. The number is not negligible, but the advocates of conscription value the measure more because the system will give better trained men than are to be found in the Territorial Army. As a military adjunct it would be of some service, but after all it would remain, as Mr. Churchill said, "a symbol" which will show to France and to the countries to which guarantees are given that Britain's help would in fact be forthcoming. For fascist propaganda was being carried on especially in France casting doubt upon Britain's determination to build up an anti-aggression bloc. The gibe is common in that country that Britain is "ready to fight to the last French soldier."

Sir Archibald Sinclair's answer to the French, who believes in conscription, would be: "We want to make the greatest contribution of which we are capable. Our first contribution is the greatest

fleet in the world; our second, one of the world's most formidable air forces now rapidly growing in strength (and which is now incomparably greater than that of France); and our third, an expeditionary force of 500,000 men as soon as we can equip them, and behind that force, as the equipment comes in, we must build up reserves, making 10,00,000 men. Besides, you would want to draw on the products of our munition factories, and you would require our assistance in financing your war efforts. Let us examine together whether there are untapped resources which Great Britain can contribute either in military effort or in any other way to the common cause; but having decided what our contribution is to be, the method of making it is a matter for us to decide, and for nobody else." Great Britain's contribution in land forces must be small, but there is nothing to show that whatever is required cannot come from the voluntary system. To Poland, Rumania and Greece Col. Wedgwood would say: "We will adopt conscription in England, we will abolish our age-old habit of voluntary service, on one condition—to get from you a pledge that you will help us. We know that we have a bilateral agreement with Poland, but what is the use of that to us if Poland refuses to allow Russia to co-operate with us or to use its territory? If we are taking this step to please our allies, we might have forced Poland to accept the assistance of Russia, and made it a condition that no British Army would go to Poland unless the Russians were allowed to go there too... If we are attacked, say, in Holland, could we really expect the Polish Army to attack unaided on the Eastern Front? And yet our safeguard is that there should be attacks on the Eastern Front, to occupy the German Army on that side. I am afraid that, unsupported by Russia, it is too much to expect that either Poland, or Bulgaria, or Rumania, or any of these countries will spring to arms if we alone are attacked". If any gesture is required, the best gesture would be that Mr. Chamberlain who initiated the fatal policy of appeasement and his colleagues who supported should give place to others who are known to be strong for collective security and for the construction of a firm bulwark against aggression. Col. Wedgwood said:

How can you expect support from the Opposition benches for this or any measure when the Government are perpetually showing their own instability on the questions which are exercising our attention at the present moment? Only the other day Sir Neville Henderson was sent back to Berlin, nobody knows why. The other day there was the question of recognition of the Italian conquest of Albania. To-day, no one, however anxious he may be to preserve unity and achieve collective security and a united front against the dictators, can be sure that the Prime Minister of England, the leader of this country as he should be, knows which way he is going or has made up his mind to go in any particular direction whatever. These are the difficulties with which we are faced. If we had the right hon. Gentleman the Member for Epping (Mr. Churchill),

if we had Mr. Asquith, if we had any of the great leaders of the past in this crisis in which we live to-day, we should be a united House, determined to win for our country and for freedom. Instead of that, we are wandering about not knowing whether we ought to recruit for Territorial Army, whether we ought to do this or not, or what we shall see when we open our papers every morning. The position was well expressed the other day when someone said that people were feeling alternately sick and relieved at what is being done by the present Government.

This measure of conscription is accompanied by a promise, in the event of war, for some amount of conscription of wealth. Measures will be taken to prevent "increases in fortunes being made out of the conditions created by war." "Along with measures which are designed to check and control rises in prices of necessities such as have accompanied all past wars, we intend that a system shall be introduced to deal with all profits arising out of war, and not merely

with profits arising out of armaments. Such measures should be effective in preventing the accumulation of individual fortunes." A levy on war-time increases of wealth is contemplated. But while compulsory service is for the present, conscription of wealth is for the future. Mr. Attlee said on this point: "It is characteristic that he (the Prime Minister) tries to gild the pill of conscription merely with an offer in the future of a promissory note to legislate at an undefined date. There has been a great deal of deterioration in the value of the Government's promissory notes." It is this general suspicion about the Government's intentions which makes the British people think that not only other measures than those adopted but other men than those in power are required to enable England to build up a solid front of resistance to aggression.

## A LAND POLICY AND AGRICULTURAL INDEBTEDNESS.

*Following is the summary of a lecture delivered by Mr. K. G. Sivaswamy, member, Servants of India Society, to the Kisan Institute, Nidabrolu, on the 5th inst.*

LIKE every other industry, agriculture requires State protection so as to prevent exploitation by those who can supply funds to cultivators. Land is the most essential requirement of agriculture. So long as the proprietor retains the right of leasing his land and taking a competitive rent for its use, and so long as the margin of income from land assures a clear profit to an investor, two results are bound to ensue. One is constant borrowing by cultivators in proportion to the amount which investors in land are willing to invest, and the consequent conversion of indebted cultivators into tenants or labourers when, owing to their inability to repay their debts, their lands pass into the hands of investors; and the second is the growth of a tenant class who, for want of credit, can hardly repay their accumulated debts. The former evil can be stopped by restricting sale of land only to those with whom agriculture is the main occupation and a primary source of livelihood. Such a restriction will prevent the thrusting of credit on landowners by the class of money-lenders whose sole object is to profiteer out of rents. Even if we define agriculturists in a precise manner by excluding rent-receivers and holders of land engaged in occupations other than agriculture, a person who is an agriculturist on the date of purchase of land may later become a rent-receiver.

Any legislation which provides for restrictions on transfers of land should comprehensively tackle the problem of land policy. If the land law will assure to every user of the land, be he

an owner or temporary tenant, full rights of cultivating and making improvements in the land, and of receiving a legitimate share in its produce in exchange for the labour expended by him, then no rentier will be interested in letting the land to a tenant.

But while such a policy of granting all rights of cultivating occupancy to a tenant as against his landlord may be justifiable in the case of future purchasers of land, the adoption of such a policy in the case of existing holders who lease out lands may not be feasible. The alternative would be that these holders should be given a definite period within which they should take to cultivation, failing which permanent rights of occupancy at a fair rent should be granted to the dispossessed tenants. When once the existing tenures have been thus regulated by law, it ought to be easy to prevent letting in the future by according the same status and rights to the tenants-at-will as against their superior holder who sublets the land.

A corollary to the prevention of sub-letting is the enactment of necessary provisions allowing legitimate sub-leases which are the normal incidents of agricultural practice. Another corollary is a proper definition of tenants so that prohibition of sub-letting may not be evaded by glorifying a tenant into a partner in cultivation, and the rent into a division of profits.

These laws would enable the preservation of the land for use for the occupation of agriculture and prevent its exploitation by leasing it for rent. To the extent to which sub-infeudation is prevented, the credit position of the tenant class will be improved. The second evil we have referred to is the growth of debts of the tenant class. When the rights of the latter are enlarged and

protected in law, their credit position will naturally improve; and consequently debts resulting from the payment of high rates of interest, due to want of security for their loans, will also get reduced.

Earlier legislation approached the problem of land alienation from two points of view. It aimed at preserving the estates of the landed gentry, particularly big landholders who were the collecting agents of land revenue on behalf of Government. Temporary management of these estates and settlement of the debts of landholders by the Government, and the creation of certain inalienable tenures were the devices adopted in the earlier legislation to protect this class. The need for special laws to protect the landed gentry has disappeared, and any relief or protection for them may be on the same level as that provided for other agriculturists.

The second type of earlier legislation was with the object of prohibiting transfer of land by agriculturist tribes to non-agriculturists except with the sanction of revenue officers. Laws of this type have not prevented the dispossession of the small peasant-proprietor by rent-receiving big holders among the tribes. Legislation at the present day ought to make a different approach to the problem and prevent the growth of a rentier class on the land.

If the sale of land is to be restricted to agriculturists, necessary modifications should also be made in the civil law to prevent transfers of land to non-agriculturists. Consequently, lands should be sold in execution of decrees only to agriculturists. When lands are temporarily alienated in execution of decrees, they should only be to agriculturists. When usufructuary mortgages are made, they should only be to agriculturists.

The need for a second series of laws for protecting the agriculturist from the consequence of his indebtedness arises from existence of a large class of peasant proprietors in India. Protection of these peasants requires that their holdings and their house should be exempt from sale in execution of decrees. The smallness of their resources by way of equipment for their occupation requires that their materials of husbandry, animals kept for agricultural purposes, raw materials and implements of trade or domestic industry and some portion of their produce and cattle fodder necessary for their subsistence and that of their cattle respectively should be exempt from attachment and sale.

The existing forms of mortgages too should be regulated so that their purpose will only be to secure a loan and not to facilitate transfer of land to the creditor. If the purpose of a usufructuary mortgage is to raise credit, then its period should be restricted to the maximum number of years within which a debt should be repaid out of the profits of land. Intermittent mortgages which are tantamount to sale ought not to be allowed. If the object of a mortgage is only to

secure a loan, there can be no conditional sale or mortgage which gives a right to the mortgagor to foreclose a mortgage and demand possession of the property. If sale of land is prohibited to non-agriculturists, then the latter should not be permitted to buy land mortgaged to them in simple mortgage in public auction owing to default in the repayment of the mortgage money. If again the object of mortgages is only to secure a loan, there should be no bar for redemption of the mortgage on repayment of the mortgage money even though the due date has not arrived.

The civil law should be modified in respect of the facilities it gives to a creditor for the recovery of loans so as to suit our agricultural economy. Agricultural loans are not all for short-term purposes. They are also incurred to meet long-term charges. They can naturally be repaid only in a number of instalments. They cannot be repaid in years of scarcity. They should be revisable by a court owing to the special circumstances of a debtor. And if the maximum number of instalments which the court can grant be fixed, it will have an indirect reaction on the total credit which a money-lender would be prepared to advance. Some check on the total borrowings of an agriculturist so as to prevent sale of lands for debts without at the same time in any way restricting his necessary credit will protect the peasant proprietor from getting over-indebted and consequently losing his land. The restriction of the period of usufructuary mortgages will also tend to some restriction in borrowing. The time limit for suits in simple mortgages so as not to exceed the period for which instalments can be granted by the court under these proposals will also have an indirect reaction on the total credit of an agriculturist. The restriction of the recovery of mortgage money to the mortgaged property only, barring thereby its realisation from the other properties of the debtor, will be another device to restrict borrowing.

The civil law should also take due note of the difficulties in recovering the loans of an agriculturist by the sale of his land. Agricultural land is not an easily marketable commodity. The fixation of a fair price in sales and the limiting of the sale of land to the minimum necessary on the basis of the fair price will minimise the extent of transfer of land to creditors for debts due to them.

Legislation, then, for preventing transfer of lands owing to indebtedness should be guided by these three main principles. It should prevent letting of lands for rent. It should protect the peasant proprietor from losing his land and the raw materials and implements of his industry in the execution of decrees by a court. It should modify the civil law regarding forms of mortgages and provide for the granting of instalments and sale of land at a fair price.

# CIVIL LIBERTIES UNDER POPULAR GOVERNMENTS.

By DR. K. B. MENON, Ph. D.

Secretary, Indian Civil Liberties Union.

## I CIVIL LIBERTIES AND THE GOVERNMENT OF INDIA ACT, 1935.

IT was in an atmosphere tense with suspicion and scepticism engendered by the civil disobedience days that the new constitutional reforms were inaugurated on April 1st, 1937. The most significant change that they have brought about is "autonomy" in the provinces. Although this has indirectly influenced the position of civil liberties the Government of India Act of 1935 itself has not made any positive contribution in this respect. The absence of a declaration of "fundamental rights" does not in itself detract from its value. It is, however, significant that the exclusion of any such declaration was made an essential condition to any plan to which the accession of the Princes could be obtained. But this is a negative aspect of the Constitution which calls for no further comment.

On the positive side the liabilities far exceed the assets. In the first place Section 110 of the Act vests sovereign power with the British Government and they can legislate as they will during the life time of the new Constitution. The Constitution is further made inflexible by taking away from the Indian people the right to change it.

Provincial autonomy becomes a myth when Provincial Governors have absolute powers to veto legislation, to promulgate ordinances, and to certify bills that are rejected by the assembly. They have further "special responsibilities" in regard to "law and order" which they are enjoined to exercise at their own discretion and not on ministerial advice. Their actions are not subject to judicial process and cannot therefore be challenged in any court of law. The liberty of the subject under these circumstances reduces itself to what he is allowed to enjoy by sufferance by a benevolent executive.

In the sphere of the Central Government the Constitution confers on the Viceroy powers which are even wider. There are situations when he can assume all the powers of the Constitution and become a dictator. Further the central executive has control of the secret police which function in the Provinces through the Governors and the Services and are strictly outside ministerial control. The real vice of the Constitution is that it can be used as a most powerful instrument of oppression.

It may be urged that the Constitution in actual practice would be very different and that political and civil rights which are not conferred

on the people by statute may develop under it as a matter of constitutional usage. However true this may be with regard to British India, it is definite and positive that the Constitution confers no rights, affords no protection and allows no opportunity to the 120 millions in the Indian States, to establish any civil rights. The Constitution goes a step further. While it denies the States' peoples any opportunity to win or establish their civil rights through the machinery established by the Constitution, definite guarantees are vouchsafed to the Princes in their authority. The Government of India Act then props up and perpetuates feudal autocracy in its worst form in the States while it at the same time makes the States an integral part of Federal India. This review of liberties in the State calls for independent treatment in a separate article.

## FREEDOM OF THE PRESS.

The Indian Press (Emergency Powers) Act passed during the civil disobedience days of 1931 still remains on the Statute Book. That the Act has been the cause of considerable hardship is a patent truth which calls for no further proof. Resolutions which call for the repeal of this repressive law have invariably been passed at all Press conferences ever since its passage. Provincial legislatures under the new Constitution have no power to repeal the Press Act or sections of the Criminal Law Amendment Act which are made use of to extend the life of the Press Act. It is possible, however, for the Ministers of the Provinces to nullify them by refusing to make use of them at all or by repealing Acts applicable to each individual province. This has not been done. Since the introduction of the Government of India Act of 1935 and the inauguration of provincial autonomy almost all provinces—Congress and non-Congress—have made use of this Act. The Punjab Government, since April 1937, have demanded security from no less than 49 presses. In 1937 they demanded Rs. 20,750 as securities and forfeited Rs. 18,850. In 1938 Rs. 18,850 were demanded as security and Rs. 5,000 forfeited. During the three months of 1939 ending in March, they demanded Rs. 6,000 as security and forfeited Rs. 6,000. The Punjab leads both in the demand and forfeiture of press securities as she does in many other provinces.

Bengal takes second place in suppressing the liberty of the press. The Bengal Government demanded Rs. 17,000 as security in 1937 and Rs. 2,000 in 1938 and forfeited Rs. 5,000 in the course of the same year.



In the case of the Congress provinces the Interim Ministries functioned during the first four months of the new Constitution. The Madras Congress Ministry demanded in 1937 Ra. 1,500 as security from two presses and in 1938 Ra. 250 from another. The Bombay Government in 1938 demanded Ra. 6,000 in securities from four and in 1939 Ra. 12,000 from four papers and from four presses where they are printed. The securities demanded and forfeited by the rest of the provincial governments are given in a tabulated form elsewhere.

The figures quoted above well warrant the conclusion that there is no free press in India to-day. Though the popular governments have displaced the bureaucratic governments in the provinces, there appears to be no basic change in the attitude of the governments towards the press. Much more disquieting is the growing tendency towards a more liberal use of the Press (Emergency Powers) Act against alleged offending newspapers. There is general resentment against the use of emergency powers in preference to the ordinary press law which in India is rather repressive. The Indian Press (Emergency Powers) Act is a complete negation of the liberty of the press which in its essence means that "no man is punishable except for a distinct breach of the law." The demand or forfeiture of security under the Act is a purely executive order and is contradictory to all the known and accepted principles of democratic law. It is interesting to note that in three recent cases where the governments chose to prosecute the papers for allegedly objectionable articles, the provincial High Courts invariably acquitted them. The three cases referred to are the *Viduthalai* of Madras, the *Star* of Allahabad and the *Istaql* of Calcutta.

The Congress governments have been demanding securities from presses on the ground that they foment communal discord. This is not sufficient justification for denying the citizen the rights guaranteed by law. If the governments are convinced of the guilt of the parties and have reason to believe that they are a standing menace to public peace, the proper course to pursue is to proceed against them in a court of law under the ordinary law of the land, and not under a law which the Congress itself stands pledged to repeal and which it ought to have repealed soon after the acceptance of office. The Executive Committee of the Journalists Association have, on more occasions than one, protested against this abuse. "The Committee," said a resolution passed in September 1938, "views with regret the Bombay Government's demand of security from certain newspapers and presses under the Press (Emergency Powers) Act and urges the Congress Ministry not to resort to this legislation which is a standing menace to the freedom of the press, but, when necessary, to take action against the offending newspapers under the ordinary law." Even as late as last February, the Congress Government of Bombay called upon four

newspapers one each from Barai, Poona, Ahmedabad and Sholapur to deposit securities of Ra. 3,000 each under the Indian Press (Emergency Powers) Act of 1931. The Madras Congress Government have not hesitated to use the emergency powers even to demand advance securities from persons who declared their intention to publish papers. The maximum of Ra. 1,000 allowed by the law was demanded on October 13, 1937, by the Chief Presidency Magistrate, Madras, from Mr. P. Srinivasa Rao, Secretary, Madras Congress Socialist Party, who filed a declaration before the said Magistrate for publishing a Tamil weekly entitled *The Socialist*. The same Magistrate demanded a security of Ra. 500 from Mrs. P. Ragavadivelu who applied for being declared keeper of the Darling Press, Triplicane, Madras. The *Tribune*, a pro-Congress daily of Lahore, in its editorial comment (November 11, 1938) on an adjournment motion to censure the Congress Government in the North-West Frontier Province for its alleged curtailment of the liberty of the press had this to say: "The Premier put forward a characteristically spirited defence of the Government's policy, but while there is much in that defence which you can both understand and appreciate, we are constrained to say that on the main issue it leaves us cold." On the 3rd of this month Rai Bahadur Mehr Chand Khanna introduced in the N. W. F. Province Assembly an Indian Press (Emergency Powers) N. W. F. P. Repealing Bill. This was opposed by the Premier and it was lost.

While it might be conceded that the Congress Governments are restrained in the use of the Press (Emergency Powers) Act, the Punjab and Bengal Governments behave even worse than the old bureaucratic Governments used to do. The figures quoted of securities demanded and forfeited by these Governments are conservative, for they are gathered from newspapers and omissions are likely. Both these governments are obviously dissatisfied even with the existing Emergency Law and are clamouring for new laws calculated further to gag the Press. The Punjab Government introduced a Bill last July to penalise the publication of news which may be interpreted as "creating fear and alarm in the public, causing hatred and contempt towards any community or class and defaming public servants in the discharge of their duties." Section 505 of the Indian Penal Code, penalises the dissemination of rumours, etc., with the intent to cause any of the mischiefs enumerated above. But the Punjab Government takes away the salutary safeguard provided in the Code, namely, that "it does not amount to an offence when the person making, publishing or circulating the rumour has reasonable grounds for believing that it is true." No newspaper can be absolutely sure of news before publishing it. Sensing the strength of opposition in the land against the proposed measure, the Premier did not immediately

proceed with the Bill. He has allowed the Press six months respite.

The Bengal Government published in the *Calcutta Gazette* last July an equally malignant press bill known as the Official Records Bill. It seeks to penalise the editors of newspapers who may publish "any unpublished official record relating to any affairs of state" or "make any comments on any matter relating to any affairs of state or derived therefrom except with the previous permission of the provincial government or any authority empowered in that behalf." The scope of mischief of these sections is so wide, says the *Amrita Bazaar Patrika*, that when the Bill will be passed, it will be impossible for the Press, without being liable for prosecution, to criticise any intended action of the government, even when it has managed to get information of it before such criticism is too late. The Bengal Bill would, if passed, be an outrageous interference with the elementary rights of the Press and would make the existence of a free Press impossible.

#### CRIMINAL LAW AMENDMENT ACT.

A nation-wide agitation was started immediately after the popular ministries assumed office for the repeal of all repressive laws installed in the Statute Books by the retiring bureaucratic governments. One would have expected the provincial ministers under conditions under which they came into office eagerly to respond to this reasonable public demand. It was not however forthcoming. Public agitation continued and the Congress Ministers after some time began to show signs of responding to public pressure. Bombay repealed the Emergency Powers Act, but soon armed itself with additional powers by an amendment to the City Police Act. Madras repealed the Moplah Outrages Act of 1859. Forced labour was done away with in Bihar and Orissa and some similar social and economic amenities were granted to the people. It must, however, be asserted that the major repressive laws, some of them enacted and enforced by the previous governments through the exercise of special emergency powers, still remain on the Statute Books. The Criminal Law Amendment Act is one such.

The Punjab Government has been the worst sinner in the use of this Act. In 1937 there were 24 prosecutions under this Act in the Punjab. In 1938 the number went down to 18 and during the four months of this year there were seven prosecutions. Bengal comes next.

Both these provinces, however, are beaten in sheer numbers in the use of this Act by the Congress Government of Madras. The decision of the Government of Madras to make Hindi compulsory in the first, second and third forms of secondary schools met with strenuous opposition from a section of the public. Protest failing public agitation was resorted to accompanied by

picketing and demonstrations. The Government unfortunately decided to arrest the demonstrators under section 7 of the Criminal Law Amendment Act. Total arrests and convictions have reached fabulous figures. Over 600 persons were convicted up to the end of 1938 and over 200, have been convicted during the current year. The term of imprisonment for the offence of picketing and demonstration has gone up to one year's rigorous imprisonment plus fine. The agitation is still going on. Mr. T. T. Krishnamachari introduced a bill known as the Criminal Law Amendment Act Repeal Bill last year in the Madras Assembly. The Premier, Mr. C. Rajagopalachari opposed even the consideration of the Bill and the motion was thrown out by a majority vote.

The Bombay Government promulgated the Criminal Law Amendment Act at Ahmedabad (Bombay Government Gazette Extraordinary November, 1937) in connection with the strike in the textile industry in that city. The Act was used at Sholapur also. The section of the Act that was put into force rendered the offence of intimidation cognizable and non-bailable thus depriving citizens of their important safeguards which are available against the infringement of their civil liberties under the ordinary laws. Recently, in connection with the trouble with the Seamen's Union, the Bombay Government resorted to the use of the same Act. A member of the Union, Antone Fernandez, was arrested on 31st January 1939 for disorderly behaviour in a public place and was released the next day on bail. The very next day, the original charge was withdrawn but he was re-arrested for the same offence under section 506 of the Indian Penal Code read with Criminal Law Amendment Act which made the offence of criminal intimidation non-bailable and cognizable. Eight other members of the Union were subsequently arrested under similar circumstances under the same section. The use of the Criminal Law Amendment Act for trade disputes is rather unusual.

( To be continued. )

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## Review.

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### STATES AND FEDERATION.

**THE INDIAN STATES AND THE FEDERATION.** By M. K. VARADARAJAN. (Oxford University Press.) 1939. 21cm. 292p. 12/6.

MR. VARADARAJAN'S book "The Indian States and the Federation" is indeed a masterly exposition of the Government of India Act, 1935, and it is a very valuable contribution to the literature already published on the subject. In accuracy and detailed examination of the various provisions of the Act relating to the States, it surpasses most other books hitherto published.

The Chapters on "Federal Subjects", "The Federal Centre in Relation to the States", "Federal Finance", "Tributes and Cash Contributions",

and "Ceded Territories" are as lucid as they are illuminating and throw a flood of light on those complicated questions.

The last Chapter on "Paramountcy" sums up in a nut-shell all that one would like to know about paramountcy and its implications.

It must however be said that Mr. Varadarajan appears to be a stout advocate of the rights and privileges of the States with special bias for Mysore to which State he presumably belongs and it is impossible to avoid the impression that he holds a brief for Mysore.

In Chapter II, "Accession of the States to the Federation", one misses the important discussion on the question of "Smaller States and Estates" collectively grouped under Division No. 17, Part II, Schedule I to the Act and, having regard to the detailed examination of the principles of allocation of seats in the Federal Legislatures to be found in the book, one would naturally expect an examination of the position of the "Smaller States and Estates" which are included in the definition of the expressions "Indian States" and "Ruler" given in Sec. 311 of the Act.

Another subject which is the most important of all namely, amendment of certain provisions of the Act without affecting the accession of a State, and which is the subject-matter of the second Schedule to the Act has not been discussed from the point of view of critics who say that these provisions make it impossible for India to obtain "Dominion Status" at any time.

These important omissions do not, detract from the great merits of the book but if these subjects had been examined as ably as the other subjects, the value of the book would certainly have been considerably enhanced.

The book will be of great help to the students of the constitution and to the States and their Ministers it is invaluable.

The price is rather prohibitive and if a cheaper edition is brought out, it can be much more widely read.

P. L. CHUDAGAR.

### SHORT NOTICES

**THE DOCTOR'S VIEW OF WAR.** Ed. By H. JOULES. (Allen and Unwin.) 1938. 20cm. 122p. 3/6.

THE world is anxious to avoid war. This book is written by the representatives of the medical world stating their view point about the war in general. It is edited by Dr. Horace Joules and written by nine doctors with the collaboration of several others. All the authors are pacifist in nature and each one of them is endeavouring to suggest measures to avoid war. They have described the dangers of war in different chapters such as 'diseases of war,' 'shell shock,' 'food and famine,' and so on. In the last war, the east and the west had different tales to tell from the doctor's point of view. In the east the old enemies dysentery, typhus, malaria and several other diseases were endemic. The west could boast of less infectious diseases. But the war neurosis were everywhere the same.

We find in recent wars a very deplorable practice of disregarding the Red Cross. In the Abyssinian war the Red Cross attracted the hostile

bombing and hospitals such as at Dessie were bombed and several patients and nurses were either killed or wounded. Even in Spain and China the same disregard is shown. If these things happen daily one does not know whether another age of barbarism will be far off.

What are the methods which the medical profession should adopt to avert this calamity? The authors say that they should refrain from assisting their government in times of war.

R. A. RAIRKAR.

**LAW OF INCOME-TAX IN INDIA AND BURMA.** By R. N. SRIVASTAVA. (Newal Kishore Book Depot, Lucknow.) 1937. 25cm. 925p. Rs. 10.

IT is a great pleasure to read and review Mr. Shrivastava's book on the Law of Income-tax in India and Burma, specially as it is a fruit of masterly study of a terse subject and official experience combined. The method in which the author has explained some of the important sections by giving the history and scope of such sections, is certainly very instructive; by this method he prepares our minds for grasping all the subtleties of these sections, which he has explained immediately below. Almost all the important rulings of the Indian High Courts as well as those of the Privy Council are appropriately quoted and their implications explained under proper sections; important rulings in many English cases are also given in details. He has treated the difficult section on business (Section 10) as well as on agricultural income (Section 2(1)) with so copious notes and lucid explanations that one would hardly have any difficulty left after reading them; the same thing can be said about many other important sections too. The book has the advantage of being complete in itself without being too voluminous. It is indeed praiseworthy for Mr. Shrivastava to bring forth such an able treatise on this important subject during the course of his strenuous official duties. The law of Income-tax has now been considerably changed and we would be glad if Mr. Shrivastava will make it convenient to explain it by producing a similar book. Judging him from his present work he appears to be ably fitted for the purpose and we hope he will soon undertake the difficult job for the benefit of several taxpayers and persons connected with the administration of the Act.

CRITIC.

### BOOKS RECEIVED.

**REPLIES OF THE BRITISH INDIAN ASSOCIATION TO THE QUESTIONNAIRE ISSUED BY THE LAND REVENUE COMMISSION, BENGAL.** (British Indian Association, 18, British Indian Street, Calcutta.) 1939. 24cm. 373p. Rs. 5.

**PICTURESQUE MYSORE.** (Government Book Depot, Bangalore.) 1938. 24cm. 24p. 184 Plates.

**INDICTMENT OF PATIALA.** (All India States' People's Conference, 138, Medows Street, Fort, Bombay.) 1939. 24cm. 126p. Rs. 5.

**THE WORLD MISSION OF THE CHURCH.** Findings and Recommendations of the Meeting of the International Missionary Council, Tambaram, Madras, Dec. 12-29, 1938. (International Missionary Council, London.) 1939. 23cm. 208p. 1/6.

**DIRECTORY OF CHRISTIAN MISSIONS AND CHURCHES IN INDIA, BURMA AND CEYLON, 1938-39.** (National Christian Council, Nagpur.) 1938. 20cm. 512p. Rs. 2-8

Statement showing the cases of infringement of civil liberties during the first two years of  
Provincial Autonomy, 1937 and 1938.

Province	SEDITION		PRESS SECURITY						CRIMINAL LAW AMENDMENT ACT		RESTRAINT				HOUSE- SEARCH		BENGAL PUBLIC SECURITY ACT		BENGAL SUPPRESSION OF TERRORIST OUTRAGES ACT	
			No. of Presses affected		Amount demanded		Amount forfeited				General		Labour and Kisan							
	1937	1938	1937	1938	1937	1938	1937	1938	1937	1938	1937	1938	1937	1938	1937	1938	1937	1938	1937	1938
					Rs.	Rs.	Rs.	Rs.												
Punjab ...	23	36	24	18	20,750	18,850	13,000	5,000	10	28	2	168	5	23	26	18	...	...	...	...
Bengal ...	5	15	3	1	17,000	2,000	5,000	...	5	9	7	81	7	35	41	9	1	1	21	...
Bombay ...	1	...	3	4	3,200	6,000†	...	...	††	††	1	...	...	...	3	...	...	...	...	...
Madras ...	1	1	3	1	2,500	250	...	...	...	600	1	...	...	17	2	...	...	...	...	...
Bihar ...	...	...	3	...	1,250	...	250	...	...	...	...	...	...	6	4	2	...	...	...	...
N. W. F. Prov.	3	...	...	3	...	1,500	...	...	...	...	...	1	...	20	...	8	...	...	...	...
U. P. ...	6	2	2	...	4,000	...	...	...	...	...	...	22	4	13	2	...	...	...	...	...
C. P. ...	...	...	2	1	5,000	4,000	5,000	...	...	...	...	2	...	2	...	...	...	...	...	...
Orissa ...	2	...	...	...	...	...	...	...	...	...	...	1	...	...	...	...	...	...	...	...
Delhi ...	...	2	...	2	...	2,000	...	...	1	...	10	3	...	1	12	1	...	...	...	...
Sind ...	...	...	2	...	900	...	...	...	...	...	...	2	...	...	...	...	...	...	...	...
Ajmere ...	...	...	...	1	...	3,000	...	...	...	...	...	1	...	...	...	...	...	...	...	...

†The Bombay Government, as pointed out in the text of the article, demanded in 1939 a security of Rs. 12,000 in all from four papers and four presses in which they were printed.

††The Criminal Law Amendment Act was used at Ahmedabad in November 1937 during the textile general strike; it was used in Sholapur during the same year and in Bombay in 1938 and 1939 on many occasions during the Seamen's strike. The number of cases under the Act at Ahmedabad and Sholapur together is estimated to be 20.