

# The Indian Civil Liberties Bulletin

[ A MONTHLY REVIEW ]

Edited by R. G. KAKADE, M. A., LL. B., PH. D.,  
Assistant Secretary, All-India Civil Liberties Council  
Office: Servants of India Society, Poona

**Editorial Committee:**

N. M. JOSHI,  
S. G. VAZE,

Vice-President and  
Secretary respectively of  
the All-India Civil  
Liberties Council

Annual  
Subscription : Rs. 5  
Per issue : annas 8  
including postage

No 56-57

May-June 1954

## Fifth Session of the Conference

The Fifth Session of the All-India Civil Liberties Conference, held in Cuttuck last month, was as great a success, as from the experience of the last four years the promoters could dare to expect. It did great work in a most efficient way, but the number of people attending the Conference was small. The Reception Committee was able to enrol a little over 150 delegates, among whom were a good few of the prominent lawyers of the State, members of the Opposition parties in the Orissa Legislative Assembly, and a number of local publicists and public workers. The attendance of delegates from outside the State was thin, as it always is, but it was particularly thin this year, possibly because of the hot season in which the Conference was held. The season made it difficult even for our workers in Bengal to attend, as in milder weather they might have been expected to do.

But in spite of the poor attendance, with which we have to reckon every year, this year's session may well be pronounced a success, to judge it from the quality of the work accomplished. The President of the Conference was Mr. Jayaprakash Narayan, the Socialist leader, and his election to this office served to show, as did that of the late Dr. Syama Prasad Mookerjee, the leader of the Jan Sangh Party, in Nagpur, that the civil liberties movement which the Conference represents does not take into account the political affiliations of those who are called upon to guide it, being itself a non-party or an all-party movement. If the Congress, which is the most numerous political party in the country to-day, does not take its due share in the movement, it is only because that is the choice of that party. This aloofness of the Congress from the Conference or any of its units is very much regretted by those who take part in the movement but the aloofness will be broken down only when Congress leaders will realise that it is the duty of even the party which constitutes the government in most of the States to do all that is within their power to promote civil liberties, although this may occasionally involve them in a criticism of the

*There will be no separate issue of the Bulletin for June this year as in the past four years, the present being treated as a joint issue for May-June. The Bulletin will now appear in July 1954.*

government formed by themselves. The odium which is thought to attach to such a proceeding will disappear only when the ruling party, like the rest, will come to regard civil liberties, as it should, as an entirely non-party matter.

Mr. Jayaprakash Narayan in his presidential speech stated briefly the philosophical background of civil liberties and then dwelt in a trenchant style (as did the Chairman of the Reception Committee, Mr. Shradhnakar Supakar, Leader of the Opposition in the Orissa Legislative Assembly) on the policy of the Government of India as reflected in the Detention Law and the Press Act. These measures were criticized in some detail in two separate resolutions on the subject, and another resolution in which the two matters were brought together showed in a most striking manner how grievous the state of civil liberties in India was when the two most basic freedoms—Freedom of Person and Freedom of Expression—were denied. Freedom of Person is the very foundation on which depends exercise of all civil rights, even the most elementary; and Freedom of Expression is at the core of a democratic society. As the U. S. Commission on Freedom of the Press has said :

Where freedom of expression exists, the beginnings of a free society and a means for every expression of liberty are already present. Free expression is therefore unique among liberties: it promotes and protects all the rest.

But these two most vital freedoms are statutorily denied in India, and until the statutes in question are repealed in toto, we cannot justly claim to be a democratically governed people.

But the Conference has further pointed out that even the repeal of the Detention Act and the Press Act will not make these two freedoms secure; they will still lie under the constant threat of abridgment as long as the Constitution permits the legislatures to adopt legislation curtailing these rights. Amendment of Art. 22 and Art. 19(2) is therefore called for. Such amendment may seem wholly impracticable while the Congress party remains in the unchallengeable position it enjoys at present. But the Conference did well to remind at least civil liberties workers what was required in the interest of these most fundamental of human freedoms. The Conference is no doubt fighting, as the President put it, alone and even a losing battle, but the very justification of the movement consists in its continuing to fight that battle though in the most discouraging circumstances.

---

## NOTES

---

### Admissibility of Illegally Seized Evidence IN CERTAIN CIRCUMSTANCES

A case of a novel kind came on before the U. S. Supreme Court involving the question of admitting evidence obtained by unlawful search.

Sam Walder was prosecuted in 1952 for sale of narcotics in violation of a law on the subject. In the prosecution he offered to give evidence on his behalf, and in his direct examination he not only denied complicity in the offence with which he was charged, but further asserted that he had never possessed any narcotics. Then in his cross-examination he was asked whether two years earlier he had not purchased heroin. The defendant stoutly denied that any narcotics were taken from him at that time, and the Government thereupon produced evidence to show that a heroin capsule was seized from him.

The fact about this capsule seized on the earlier occasion was that it had been obtained by an unlawful search and seizure and on that ground the case against Walder had been dismissed. But on the present occasion that fact was used by the prosecution in rebutting the evidence volunteered by him. The trial judge admitted this evidence, but in doing so, he warned the jury that it was not to be used to determine whether the defendant had committed the crime with which he was charged in this case, "but solely for the purpose of impeaching the defendant's credibility." The judge convicted the defendant and the Court of Appeals affirmed.

In the appeal filed in the Supreme Court the question was whether evidence, unlawfully seized in connection with an earlier proceeding, could be admitted solely for the purpose of discrediting the defendant's testimony in the present proceedings. The Court ruled that it could be. It said:

The Government cannot violate the Fourth Amendment ( outlawing unreasonable searches and seizures ) ...through its agents and use the fruits of such unlawful conduct to secure a conviction—*Weeks v. United States*, 232 U. S. 383 (1914). Nor can the Government make indirect use of such evidence in order to secure a conviction—*Silverthorne Lumber Co. v. United States*, 251 U. S. 385 (1920), or support a conviction on evidence obtained through leads from the unlawfully obtained evidence—*Nardonne v. United States*, 308 U. S. 338 (1939). All these methods are outlawed, and convictions obtained by means of them are invalidated, because they encourage the kind of society that is obnoxious to free men.

It is one thing to say that the Government cannot make an affirmative use of evidence unlawfully obtained. It is quite another to say that the defendant can turn the existence of such evidence to his own advantage by using it as a shield against contradic-

tion of untruth. Such an extension of the *Weeks* doctrine would be a perversion of the Fourth Amendment.

( Under the Constitution a defendant is ) free to deny all the elements of the case against him without thereby giving leave to the Government to introduce by way of rebuttal evidence illegally secured by it, and therefore not available for the case in chief. Beyond that, however, there is hardly justification for letting the defendant affirmatively resort to perjurious testimony in reliance on the Government's disability to challenge his credibility—cf. *Michelson v. United States*, 335 U. S. 469 (1948).

Mr. Justice Frankfurter delivered the judgment of the Court in this appeal ( *Walder v. United States* ) on 1st February.

---

### Libellous Statements about a Judge's Conduct

"PRESENT AND CLEAR DANGER" TEST TO BE APPLIED.

In May 1952, Rev. Rose Alan Weston, pastor of a church in Arlington, preached a sermon criticizing the decision of a local court judge that certain federal employees were disqualified to hold office on the local county board. Rev. Weston claimed that the decision was an encroachment on freedom, based on an antiquated statute, and in criticizing the decision, said that the judge himself could fill vacancies on the local board which his own decision would create, though he had prefaced this criticism by the remark that he thought the judge was an "honourable man."

The criticism, which cast personal aspersions on the judge, was objected to and the pastor was prosecuted, under a Virginia statute, for contempt of court, being charged with having publicly uttered certain "defamatory statements consisting of contemptuous and insulting language addressed to" the judge. The minister, being convicted appealed to the supreme court of the state, saying that he had made the statements, but that there was no attempt on his part to bring either the court or the judge into disrepute or to attack the judge's integrity.

The supreme court reversed the conviction. In its judgment, it said that "most courts hold that libellous statements about a judge's conduct are not subject to contempt," and that "the U. S. Supreme Court has three times reversed convictions for contempt in state courts based upon criticisms of trial judges." But, it continued, in these cases there were not local laws making such conduct punishable, as here.

However, the court said that false and libellous utterances as to the judge's conduct may be punishable only if they "present a clear and present danger to the administration of justice," and that "guilt must be established beyond a reasonable doubt." The court found that Rev. Weston's language had been obscene, insulting, or libellous. Rev. Weston's expressed confidence in the judge's integrity and honesty, the court said, meant that the statement did not present a clear and present danger. The court warned that the language here might be on the "border-line."

---

CIVIL LIBERTIES CONFERENCE

## J. P.'S PRESIDENTIAL ADDRESS

### CUTTACK SESSION: 24TH AND 25TH APRIL

*Following is the full text of the speech which Shri Jayaprakash Narayan delivered as President of the Fifth Session of the All-India Civil Liberties Conference on 24th April.*

#### Nehru's Civil Liberties Union

I am grateful to the All-India Civil Liberties Union for inviting me to preside over this Conference. I have been deeply interested in the question of civil liberties and it was early in 1936 that I had suggested in my presidential address at the inaugural conference of the Bengal Branch of the Congress Socialist Party that a civil liberties union should be organised to fight against the suppression of these liberties by the British power. A few months later the All-India Civil Liberties Union was founded by Pandit Jawaharlal Nehru, who was then President of the Congress. The Congress soon after came into office and the interest of Congressmen in the subject of civil liberties dwindled considerably. The war intervened then and transfer of power took place in 1947. Throughout all this period the Union was in a state of hybernation, so to say. The Congress Party having once again come into office, its interest in the liberties of the people was never revived. But the All-India Civil Liberties Union was revived mainly on the initiative of certain eminent Liberals, of whom mention must be made of Shri N. M. Joshi, and the eminent lawyer and jurist Shri P. R. Das, who lent his powerful support to the revival of the Union.

#### Its Successor has to Contend Against Apathy

It must be admitted that the Civil Liberties Union has yet to become a powerful body. But it is the only organised body in the country which has fought a lone but brave battle for the liberties and freedom of the people. The annual sessions of the Union, its monthly Bulletin, its periodical memoranda, have rendered invaluable service to the cause of Indian democracy. It is regrettable that the State branches of the Union, except for one or two, have become defunct. They should be revived if possible.

In this valiant fight it would seem that the Union has been fighting a losing battle. There seem to be four reasons for this. The most important is that the people of this country have little traditional appreciation of the value of civil liberties. British rule, and before it centuries of feudal regimes, have made the people apathetic to such things as personal liberty and freedom of expression, etc. These are, for the vast majority of our people, abstract concepts which have little meaning in their daily lives. For instance, there are millions of Harijans who, in spite of constitutional guarantees, are daily being deprived of such elementary rights as those of drawing of water from the village well or worshiping in the temples. It is a common occurrence of every-day rural life for high-

caste men of substance to throw Harijan families out of their homes, to belabour them and sometimes even to shut them up. The village community, which is dominated today by the people of the so-called higher castes and the substantial land-owners, seldom reacts against these doods of tyranny. The conscience of the "caste" Hindus does not seem to revolt, except in a feeble measure, against this wholesale suppression of the most elementary freedom of man. Even amongst the caste Hindus themselves there are privileges guaranteed by custom which militate violently against the principle of equality of man, which is the basis of the concept of personal freedom. In view of this moral torpor of present society, it must be an uphill task for anyone to fight for the freedom and dignity of man.

The second reason for the neglect of civil liberties is the complete apathy of the ruling party to this question. The Congress obviously feels that having fought for the freedom of the country it was entitled to do whatever it liked and it was presumptuous for anyone to question its good intentions. It regards itself as the champion of the freedom of the people and therefore feels that it can never do any wrong to that freedom. This self-righteousness, I am sorry to say, makes an attack on the liberties of the people appear in the eyes of the Congress as a defence of those very liberties.

The third reason is the weakness of the Opposition and the overwhelming majorities that the ruling party has at the Centre and in most of the States. In the present political set-up the growth of a powerful and responsible Opposition is essential for the protection of the freedoms and rights of the people. In the absence of such an Opposition, the ruling party shows utter irresponsiveness to public criticism and the weak voice of those who do not agree with it.

Last, but not the least, civil liberties in this country, as everywhere else, are being threatened and their foundations shaken by the deliberate disregard shown by certain elements for orderly and peaceful conduct. Political assassinations, such as that of Mahatma Gandhi; organised attempts at large-scale sabotage, loot, arson and murder with political motives by underground political movements have considerably weakened the case of civil liberties, and given a convenient handle to the Government to suppress these liberties on the plea that it could not deal with such serious threats to national security through the normal processes of law. Underground political movements cannot but rot the roots of democracy. Lovers

of democracy cannot but follow democratic methods. It should be obvious that in the face of violent revolutionary movements, irrespective of their spread or strength, it would be difficult to protect the liberties of the people.

Therefore, it seems to me that it is as much essential for our movement, that is, the civil liberties movement, to fight against popular apathy and popular tyranny and secretive and underground subversive philosophies and movements as against the onslaughts of the government upon the freedoms of the people.

#### Deterioration in Civil Liberties

I said before that the Union has been fighting a losing battle. I said so because of the growing deterioration in the state of the people's rights and liberties. Shri Naresh Chandra Sen Gupta, who presided at the last Conference, dealt ably with this process of decline, particularly with the provision made in the Constitution itself for detention without trial, which Justice Patanjali Sastri described as being "so strangely out of place in a democratic constitution which envisages personal liberty with the sacrosanctity of a fundamental right and so incompatible with the promises of its preamble."

There is no need for me to go over the same ground again. I shall confine myself to the developments since the last Conference. Two important developments have taken place since then :

- (1) the extension of the Detention Act ; and
- (2) the extension of the Press Act, first by ordinance and then by statute.

#### Detention Without Trial

It must be a matter of deep anxiety to all lovers of freedom that the Home Minister, Dr. K. N. Katju, showed such flippancy and, if I may be pardoned for saying so, such a spirit of irresponsibility in dealing with a matter of such grave import. Dr. Katju said that detention without trial, apart from being beneficial to society, was good even for the detenu himself; and he brushed aside comparisons with the practice in other democratic countries by the plea that India was not England and that we were not as disciplined a people as the British. As the Council of the Civil Liberties Union pointed out in its memorandum on the subject, the Indian people could not be expected to reach the level of national discipline of, say, the British people within the life of the Detention Act, which would mean according to Dr. Katju's way of thinking that the Act would become a permanent feature of our democracy. In other words, there could never be true democracy established in India.

It is universally recognised that the Rule of Law is the basis of democracy and the test of civilisation. In Dicey's famous words the Rule of Law means that "no man is punishable or can be lawfully made to suffer in body or goods except for a distinct breach of law established in the ordinary legal manner before the ordinary courts of the land." It is universally agreed that this rule may be suspended only in times of war or of internal

rebellion. In our country, however, it has been provided by the Constitution that the Rule of Law can be suspended in peace time at the sweet will of Authority and the liberties of the citizen suppressed without due process of law. Any citizen can be imprisoned in the interest not only of defence and security of the State, but also of maintenance of "public order" and of supplies and services essential to the community. He can also be deprived of his freedom in the interest of "the relations of India with foreign powers." "Public order" is a vague term and when its definition is left to the Administration, the scope of mischief and the danger to the people's liberties cannot be exaggerated. As for the phrase "relations of India with foreign powers," Pandit Kunzru rightly pointed out that it will enable the Executive "to detain a person because of his criticism of Indian foreign policy."

In view of such wide powers given to the Executive to deprive citizens of their freedom, the people of this country cannot be considered to be free. India cannot regard herself a democracy as long as the Detention Act and the constitutional provisions permitting imprisonment without trial remain.

What I have said above applies with equal force to the Public Safety Acts which defile the statute books in most of the States, Uttar Pradesh and Orissa being the honourable exceptions.

#### Sheikh Abdullah's Detention

In connection with detention without trial, I cannot but refer to a painful incident, even though of a rather delicate nature. I refer to the continued detention of Sheikh Abdullah of Kashmir. As far as I have been able to understand, the Sidar-i-Riyasat was justified in dismissing Abdullah, but no convincing case has yet been made for his arrest and continued imprisonment. Whatever may be the political consequences of setting Abdullah free, I have no doubt that justice requires that he should either be tried in an ordinary court of law or be set at liberty without delay. We would be encouraging totalitarian methods and undermining our democracy if, for the sake of expediency and political convenience, we deprive any individual of his right to personal liberty and freedom of expression. Abdullah should be set free to preach his views to the people of Kashmir and he could be denied that freedom only when his activities endangered the security of the State.

#### The Press Act

The position with regard to freedom of expression, including freedom of the press, is no less regrettable. The old Press Act was first extended by ordinance and then by re-enactment.

Before dealing with the Press Act let me remark upon the policy of legislation by ordinance. In other democratic countries this right is never given to the Executive, or given only under extraordinary circumstances, such as when essential supplies are threatened

or when a state of seige is declared. But even in such cases the legislature is convened within the shortest possible time, ranging from a couple of days to a week. In our country ordinances are promulgated sometimes merely for the sake of administrative convenience, and weeks pass before the legislature meets. This obnoxious practice must stop. In the States there should be no difficulty, if an emergency arises, in convening the Assembly at the shortest possible notice. For the Centre, it should be clearly laid down in the Constitution that the ordinance-making power is to be used only in clearly defined cases of emergency. And, in any case, Parliament must be convened within seven days.

In the case of the Press Act, not only was its life extended by ordinance, but there were also several reactionary amendments introduced. No words strong enough can be found to condemn this cynical attempt by the Executive to arrogate to itself legislative powers only because of the assurance of a vast majority at its back. No matter how large a majority it may command, the Executive is not and cannot become the Legislature.

The Press Act has been denounced universally by the responsible press in the country and by public men who do not happen to belong to the ruling party. I am not aware of any democratic country in which the practice exists of asking for security money and providing for its forfeiture in case of official displeasure. It has been generally agreed that the stringent measures of the Press Act have failed to curb those for whom they were meant and the yellow press flourishes today as ever before. It seems to me that the vices of this type of press can be less removed by legislative restrictions and more by the cultivation of public taste and the decencies of public life. It is only when lying, scandal-mongering, sensational sheets, were treated by the educated public as the plague that this section of the press could be made to go out of existence. I should add that it would also help in developing the tone of the press if those in authority acted properly and devoted themselves ardently to the public good. Corruption and nepotism and bad faith in high quarters have made no little contribution to the scurrilousness of the more irresponsible sections of the press.

I am of the firm opinion therefore that the press should be dealt with under the ordinary law and there should be no special law for the purpose. It is obvious that with the Press Act should also go the amendment to Article 19 of the Constitution which made the Act *intra vires*. The indecent manner in which the amendment was made when a wrong judgment of the Patna High Court was yet pending for review before the Supreme Court strengthens further the demand for its repeal.

#### Sec. 144, Cr. P. C.

As a political worker, it has been my experience that generous use of Section 144 of the Cr. P. C. by the party in power has seriously interfered with the work of the Opposi-

tion parties. Freedom of assembly and association has been seriously jeopardised by this hated legal invention of the British Indian Government. Speaking for my State of Bihar, for many years since the war no meetings could be held without specific permission from the district authority. After a great deal of agitation this restriction was removed, but there is still a ban on processions, which can be taken out only after obtaining special permission. As a result of this, political opponents of the Congress Party are seriously handicapped in their work. Even during election time this ban has been imposed and, while the ruling party has no difficulty, other parties have often found it difficult to obtain permission. Only recently three leading members of the Praja Socialist Party were convicted in Bihar for being members of an election procession. I cannot desist here from mentioning the arrest of Shri Atulchandra Ghosh of Manbhum, a universally respected and lifelong servant of the people, for breaking a Sec. 144 order. Such foolish use of this repressive device exposes its true obnoxious character. This Section must be repealed or its use restricted to clearly defined situations involving violence.

Political opponents of the Congress Party are faced with another serious difficulty. Though this matter does not fall within the province of civil liberty I wish to draw attention to it in the hope that the eminent persons gathered here would be able to find a solution. It happens sometimes that when the ruling party finds that workers of the Opposition parties are gaining influence in a particular field, such as a labour area, they attempt to eliminate them by implicating them in false cases under fabricated charges. This, I am sure, is not approved of by the top leaders, but the evil practice does not stop for that reason. In one district in Madhyabharat, for instance, over 300 cases were started against workers of the Hind Kisan Panchayat and the Praja Socialist Party. Not in one case, as far as I know, was conviction obtained from the courts. But in the result the workers were subjected to severe harassment and the activities of the Kisan Panchayat and the P. S. P. were dislocated. Recently, in a colliery area in Bihar, a prominent worker has been arrested under a false charge of murder, and the usual fabrication of evidence, I am afraid, is in progress. I happen to know this labour worker who is a first-class law graduate of the Bombay University and is one of the mildest of men who would hesitate to touch even a fly. I know that this case is sub judice, and yet I have deliberately made this statement because I am sure of the injustice of the case. I would be happy to face the consequences for saying so.

I must also mention here the practice of censoring correspondence. During the British regime this was part of the imperialist's attack on the people's freedom. Its continuation after the achievement of freedom is unpardonable. The practice smacks of totalitarianism and is indicative of a low standard of culture and disregard for the decencies of human life.

### Conclusion

In conclusion, let me point out that the question of civil liberties is linked up with the entire social and economic structure and cannot be viewed in isolation from them. For instance, unless hunger and starvation and unemployment are removed and the standard of living of the people is raised, the dignity of man, without the acceptance of which civil liberties cannot be conceived of, must remain an empty ideal. Again, unless Government is brought nearer to the people and they are enabled to practise direct democracy in villages, local communes and municipalities, there will always be the danger of too much government from above and the consequent all-pervasive control over the lives of the people—a situation in which civil liberties will have a precarious career. Finally, unless man learns the art of self-restraint, there will always be the danger of men riding over the neck of other men. Thus a right system of education and of government and a right social and economic way of living are necessary before man can really be free. No need would be felt then for constitutional guarantees for the rights and liberties of man: they would be the natural fruits of the good society.

---

## RESOLUTIONS ADOPTED

### 1. — Obituary

#### DR. SYAMA PRASAD MOOKERJEE

This Conference gratefully recalls the eminent service which the late Dr. Syama Prasad Mookerjee, who presided over the Third Session of the All-India Civil Liberties Conference and who was one of the Vice-Presidents of the All-India Civil Liberties Council since then, rendered to the cause of civil liberties in India, and places on record its sense of profound grief at the loss which the cause has suffered by his untimely death while he was held in detention in Kashmir. The part he played in organizing opposition to the Preventive Detention (Second Amendment) Bill in Parliament by combining all political elements, not excluding the Communist Party, from whose politics he differed radically, was especially notable as providing a shining example to all workers in the movement that they should regard civil liberties as above all politics and that they should make an attempt to secure to every person the civil rights due to him, irrespective of what his views on political questions might be.

#### MR. R. S. RUIKAR

This Conference mourns the death last month of Mr. R. S. Ruikar, the well-known labour leader of Nagpur, who was a member of the All-India Civil Liberties Council and a prominent worker of the Madhya Pradesh Civil Liberties Union. He played a useful part in the Nagpur session of the All-India Civil Liberties Conference.

*Moved from the Chair.*

### 2.—State of Civil Liberties

This Conference notes with extreme regret and alarm the grievous state to which the basic rights to Freedom of Person and Freedom of Expression are reduced in this country, as is illustrated by the continuance in operation of the Preventive Detention Act and the extension of the duration of the Press Act, first by ordinance and afterwards by statute. That these coercive laws received the sanction of Parliament within one year after the Conference met last will, it is hoped, bring home to all who are interested in civil liberties how powerful are the forces at work in the seats of power with which they have to contend in order to make secure the rights of personal liberty and the liberty of the Press (and speech), which are the life-breath of democracy everywhere.

*Moved by Shri R. V. S. Mani (Nagpur).*

*Seconded by Shri Narayanpati, M. L. A.*

### 3.—Preventive Detention

(1) This Conference reaffirms the stand it has consistently taken up in its previous sessions that Personal Freedom must remain inviolate in all circumstances which are not of so grave a nature as to constitute an emergency such as is contemplated in Article 352 of the Constitution, as in fact it is held to be inviolate in the U. S. A. by virtue of a constitutional provision and by traditional policy in Britain and France and all other democratic countries. That in India this elementary right, upon which depends exercise of all other civil rights, is capable of being statutorily denied in peace-time and in similar non-emergency situations is a blot on our Constitution, which requires to be wiped out if India is ever to rise to the dignity of a real democracy.

(2) Nor is resort to the use of this weapon of detention without trial limited in the Preventive Detention Act to exigencies offering a serious threat to the security of any State in India or the State as a whole, but the weapon is capable of being ruthlessly employed even when "public order"—a term of the widest amplitude—is supposed to be in some danger, in the opinion of executive officials which cannot be challenged, and even when activities of suspected criminals and hoarders of essential commodities, etc., have to be checked. This necessarily leaves the utmost latitude for a misuse of the powers of detention which cannot be prevented unless the scope of the detention law is narrowly circumscribed. The Conference would very much wish for such narrowing of the scope of the law until the Constitution itself comes to be suitably amended in this respect.

(3) Another interim reform that requires to be immediately introduced in the Preventive Detention Act is the incorporation therein of all those safeguards which surrounded detentions in England in World War II and which are essential for a proper and full investigation of the cases of detention by the Advisory Boards.

(4) That the Home Minister should have declared in piloting the Preventive Detention Act that it

was a "most beneficent" measure, beneficial as well to the suspected subversives and other anti-social elements as to the Executive, thus preferring prevention to punishment, is the height of flippancy and callousness which cannot be too strongly condemned. It augurs ill for the restoration of personal liberty, of which all workers in the field of civil liberty must take due note.

*Moved by Shri Sraddhakar Supakar, M. L. A.*  
*Seconded by Shri Latifur Rahman.*

#### 4.—Press Act

(1) Equally with the right of personal liberty, Parliament has very gravely curtailed the next most essential right, viz., that of liberty of the press, not only by prolonging the operation of the Press Act, but by introducing in it reactionary changes depriving the jury before which offences under the Act are tried of some of the vital powers which it enjoyed under the old Act.

(2) The most serious objection which the Conference takes to this measure as well as its predecessor is not so much that "objectionable matter" is too widely defined therein as that it keeps alive the system which was in force under the British regime of visiting press offences with the special punishment of deposit and forfeiture of security, which is a system that is not in vogue in any country in the world.

(3) The Conference desires that this system, which has been maintained by the Government in spite of a unanimous recommendation of the Press Laws Enquiry Committee of 1948 to the contrary, be abolished, the Press Act be repealed in toto, and the press be dealt with under the ordinary law of the land.

*Moved by Shri K. N. Acharya.*  
*Seconded by Shri Nityananda Mahapatra.*

#### 5.—Amendment of Art. 19(2)

This Conference reiterates its conviction that even after the repeal of the Press Act, the right to Freedom of Expression will not be secure until the amendment made to clause (2) of Article 19 in 1951 be cancelled and the clause restored to its old form, making it impossible for the legislatures validly to impose upon freedom of speech and freedom of the press the additional sweeping restrictions which the amendment sanctions and which would reduce these freedoms to a mockery. In the opinion of experts the Press Act of 1951 would have been declared unconstitutional but for this amendment having been previously introduced into the Constitution, which shows that even if the Press Act is now repealed, it can be revived later or a similar repressive measure enacted and brought into force unless the amendment is cancelled.

*Moved by Shri S. G. Vaze (Poona).*  
*Seconded by Shri Ashok Das.*

#### 6.—The Kashmir Constitution

The Conference draws the attention of the public to the fact that in the Constitution of the Jammu and Kashmir State exercise of the rights enumerated in Article 19 of

the Constitution of India has been made subject to the imposition of any restrictions which the Legislature of the State may deem to be reasonable. The result of incorporating this provision in the Constitution is that these rights become non-justiciable and cease in effect to be fundamental rights. The recognition by the Kashmir State of the Supreme Court of India as the final judicial authority in respect of fundamental rights will therefore have no significance in so far as these rights, which in the Indian Constitution are compendiously called the "right to freedom," are concerned.

*Moved by Shri Shyam Sunder Misra.*  
*Seconded by Shri Hrudandan Tripathy.*

#### 7.—Public Security Acts

Except in a few States like Orissa and in Uttar Pradesh, there are in force in every part of India Public Security Acts conferring the widest power on the Executive to curtail the civil rights of citizens in various fields of activity. In only some of these fields extraordinary power of this kind was assumed by the Government of Britain during the last World War, but it was surrendered immediately the War came to an end. That Public Security Acts of this nature should have been enacted in India after the termination of the War and should have been kept in operation for six or seven years without any prospect of their being repealed demonstrates the manner in which the present Government deals with civil liberties. The Conference demands that all these special laws be done away with and the country be put back once again under the ordinary law immediately.

*Moved by Shri R. G. Kakade (Poona).*  
*Seconded by Shri C. Vamanamurthy.*

---

## GLEANINGS

---

### Civil Liberties

*The "Hindustan Standard" of Calcutta wrote as follows in its issue of 28th April on the All-India Civil Liberties Conference.*

In the deliberations at the Fifth All-India Civil Liberties Conference, just held in Cuttack, the Preventive Detention Act and the Press (Objectionable Matter) Act naturally figured prominently. Sri Jayaprakash Narayan, in his presidential address, made pointed critical references to both these Acts. And there is no denying the fact that from the point of view of civil liberties, these two Acts are most odious. They are definitely oppressive in character because they impose unreasonable restrictions on two of the most vital freedoms, namely, freedom of the person and freedom of speech and expression. These two freedoms, everybody knows, constitute the very corner-stone of the entire structure of civil liberties.

A measure like the Preventive Detention Act can be justified, if at all, only in an emergency. In India during the past four years, what emergency was there that could justify the Act? Yet the Act has been on the statute

book all these years and had been freely used by the Executive authorities to put people, including political workers and leaders, behind the bars. Some of the cases of detention that were challenged in the courts revealed how unjustly the powers granted by it to the authorities have sometimes been used and how great is the scope for its misuse by authorities acting from vindictive motives. Although the Government have been compelled by the pressure of public opinion to liberalise the Act by successive amendments, the Act even in its present form is, so to say, a loaded gun which no Executive ought to be allowed to use in a normal situation. Under the Act, the Executive can arrest and keep behind the bars any person for at least a few weeks on mere suspicion. And even actual suspicion is not necessary. All that the Executive is required to do is to prepare certain documents stating that the exercise of the power granted by the Act was necessary to prevent the person in question from committing some prejudicial acts prohibited by the Preventive Detention Act.

As for the Press (Objectionable Matter) Act, it is a special law for which there is no justification at all. It imposes on the Press certain restrictions unknown to the ordinary law of the land. The Government are never tired of emphasising that the Press cannot claim any special right not enjoyed by an ordinary citizen. But, strangely, they believe that the Press must be subjected to special liabilities from which the ordinary citizens are immune. The Press Act is a law which would have been invalid under the Constitution as originally enacted. This is why the Government first amended the Constitution greatly circumscribing the fundamental right of speech and expression, and thereafter passed the Press Act in the teeth of vehement public opposition.

Recently the life of the Press Act has been extended by two years by passing an amending measure. The amending Act has also reduced the powers which the jury enjoyed under the original Act. The law has thus been made more oppressive than before. Dr. Katju who sponsored the measure flippantly described it as the mildest measure imaginable. He also made a cynical offer to the Press: "Do you want to be prosecuted under the ordinary law or do you want to take this lenient law?" Actually, however, no real choice was offered to the Press which had already made it clear that it wanted to be under the ordinary law. Dr. Katju also remarked that if harsh penal measures were laid down by ordinary law for offences with which the Press Act was concerned, the law would not cease to be the ordinary law of the land. Will the Press like such ordinary law? The reply is that if the ordinary law lays down unreasonable punishments for any offence, it would cease to be a democratic law and would be thrown aside by the people. Dr. Katju's offer was also meaningless because the Press law does not supersede the ordinary law of the land, and the Government have perfect freedom to take proceedings under either of the two in any case. The provision in the amending Act which gives the Government the right of appeal against the jury is something that does not

exist in any democratic country. In England the law relating to the Press is that "a man may publish anything which twelve of his countrymen think is not blamable."

We are firmly of opinion that the P. D. Act and the Press Act are both highly obnoxious and are inconsistent with democracy in the true sense of the term. At least the present situation in the country does not at all justify either of them. Public opinion must never accept these two measures as a settled fact and must constantly maintain pressure on the Government for their repeal. Also, there have been of late numerous instances of misuse of powers granted to the authorities by the public security measures as well as by the Criminal Procedure Code. Misuse of Sec. 144 of the Code has been disquietingly frequent. All this underlines the need for maintaining constant vigilance on the front of civil liberties. We, however, fully agree with Shri Jayaprakash Narayan that "it is as important to fight popular apathy towards underground subversive philosophies and movements as to fight Government onslaughts on people's freedom."

---

## PUBLIC SAFETY ACTS

---

### Sec. 3 of the Trav.-Coc. Act Declared Invalid

#### ISSUE OF FREEDOM OF TRADE

In *George v. State of Travancore-Cochin* (A. I. R. 1954 Trav.-Coc. 34) Sankaran and Kumara Pillai JJ. of the Travancore-Cochin High Court declared sec. 3 of the Public Safety Measures Act, 1950, invalid and quashed the order of conviction and the sentence passed against George by the Special First Class Magistrate's Court for having contravened the provisions of the Paddy Control Order issued by the Government in exercise of the powers conferred on them by sec. 3 of the Public Safety Act.

This section regulating trade and commerce in essential articles was impugned on the ground that its enactment was not in conformity with the provisions prescribed by cl. (b) of Art. 304 of the Constitution. Art. 304 defines the power of the legislature of a State to enact laws regulating trade, commerce and intercourse among States. It was contended on behalf of the Government that sec. 3 of the Public Safety Act did not come within the ambit of Art. 304, because the latter controlled State legislation with respect only to inter-state trade but not with respect to trade within the State itself. This contention was rejected by the Court. Sankaran J. delivering the judgment, said:

There is no warrant for construing the expression "trade, commerce or intercourse within the territory of India" (occurring in Art. 301 which guarantees freedom of trade) as being restricted to trade, commerce or intercourse between one State and another within the Indian Union. The expression is comprehensive enough to bring within its ambit trade, commerce or intercourse between such States as also trade, commerce or intercourse between different places within any one State alone. In other words, the freedom of trade, commerce or intercourse referred



to in Art. 301 covers freedom of inter-state trade commerce or intercourse as well as freedom of intra-state trade, commerce or intercourse.

His Lordship pointed out that, notwithstanding the freedom of trade guaranteed by Art. 301, cl. (b) of Art. 304 empowered a State legislature to make laws imposing such reasonable restrictions on the freedom of trade with or within that state as might be required in the public interest; only this power conferred on the legislature of a state was subject to a proviso, viz., "Provided that no Bill or amendment for the purposes of cl. (b) shall be introduced or moved in the legislature of a state without the previous sanction of the President." The Public Safety Act imposing restrictions on trade was vitiated by the fact that the requirements of this proviso had not been complied with before enacting the Act, though the Act was passed after the coming into force of the Constitution.

It was then contended by the Government that as the subjects dealt with by sec. 3 of the Act were subjects in respect of which the State legislature had exclusive power (recognized in cl. 3 of Art. 246) to make laws (coming as they did within items 26 and 27 of the State Legislative list), it could not be said that the exercise of that power was controlled by cl. (b) of Art. 304 or the proviso contained therein. But the Court rejected this contention also, His Lordship said :

The exclusive power conferred by cl. (3) of Art. 246 is not taken away by the proviso to cl. (2) of Art. 304. This proviso has merely imposed a condition on the exercise of such exclusive powers by the State legislature in the matter of enacting a law imposing reasonable restrictions on the freedom of trade, commerce or intercourse with or within the State, as may be required in the public interest.

Exclusive power is not the same as absolute power. There is a clear distinction between the two. The expression "exclusive power" has been used in cl. 3 of Art. 246 in contradistinction with similar exclusive powers enumerated in the Union List and also the power which the Parliament or the state Legislature may exercise in respect of matters enumerated in the Concurrent List. The proviso to cl. (b) of Art. 304 has only specified the manner in which the exclusive power of legislation conferred on the State legislature under cl. (3) of Art. 246 in the matter of enacting the particular law as contemplated by these clauses should be exercised. Art. 304 merely supplements, qualifies and controls the power conferred by cl. (3) of Art. 246. These two Articles have to be read and construed together for the purpose of determining the validity of the impugned section of the Public Safety Measures Act, 1950 (Act 5 of 1950).

It was conceded by the Government that the requirements of the proviso to cl. (b) of Art. 304 were not complied with, and the direction contained in the proviso

being mandatory and not optional or discretionary, His Lordship said :

Contravening of this proviso must be fatal to the validity and legality of the section. The result is that sec. 3 has to be declared illegal and void. . . (The Paddy Control Order issued under the section) is also devoid of legal sanction behind it and accordingly it is also declared to be void.

---

## CROSSWORD PRIZE COMPETITIONS

---

### Bombay Lotteries Act, 1948

#### AMENDMENT MADE IN 1952 HELD ILLEGAL

Mr. Justice Desai at the Bombay High Court on 22nd April held the Bombay Lotteries and Prize Competitions (Control and Tax) Act, as amended in 1952 (extending the application of the Act to prize competitions contained in any newspaper printed and published outside Bombay State), to be ultra vires of the State legislature and issued a writ of mandamus restraining the State Government from enforcing the provisions of the Act against R. M. D. C. and three other petitioner organizations which were conducting prize competitions in Mysore State.

The petitions were opposed by the Bombay Government, one of their main contentions being that prize competitions were opposed to public policy; that there could be no question of conducting a business in promoting such competitions; and that the petitioners were not entitled to invoke the fundamental right under Art. 19 (1) (g) of the Constitution; and furthermore, that a prize competition was a lottery in disguise and therefore there was also no question of the violation of the provisions of Art. 301, which gave protection in regard to inter-State trade, commerce and intercourse.

His Lordship observed that any distribution of prizes depending upon chance by any contrivance or device would be a lottery. If after an examination of the scheme (competition) as a whole, and the way in which it was conducted, it appeared that chance was the predominant factor and was its real feature, then the scheme must fall within the definition of "lottery."

His Lordship then referred to the evidence led on behalf of the petitioners and the rules and regulations governing the competitions and said that there was no evidence before the Court that the competition was not bona fide or was conducted in an unfair manner.

His Lordship said that after considering all the features of the R. M. D. C. competition, and the facts and the legal principles, he was of the opinion that it was not a lottery but a competition in which skill, knowledge and judgment on the part of the competitor was the real ingredient in the distribution of prizes.

In His Lordship's opinion, although there was a feature of the competition which must be regarded as intro-

ducing some element of chance in the scheme, it was an element which was inherent in every such competition, however fairly it might be conducted.

Dealing with the question of the levy of a tax, His Lordship said he had already assumed that competitions were not a lottery and he had to consider whether the State legislature—indubitably enjoying sovereign and plenary powers in its own domain—could tax inter-State commerce by levying a tax upon the receipts derived by the petitioners from the entries collected from within Bombay State.

Inter-State trade and commerce being on the Union List, it was within the power of Parliament to legislate on that subject. Consequently, His Lordship held section 12-A of the Act which provided for such tax as ultra vires.

His Lordship then referred to the restrictions imposed by the rules framed under the Act, namely, restrictions in regard to the number of competitions, prize amounts and the number of entries and held that these restrictions were unreasonable and were not justified under Article 304-B.

The State had disputed the claims of companies (corporations) to exercise fundamental rights under the Constitution which were guaranteed to citizens.

His Lordship examined the provisions of Article 19 (1) and said that there was nothing in it which suggested that the rights could be exercised only by individuals and not by citizens in combinations.

In His Lordship's opinion, the words "all citizens" at the beginning of this Article should be given a wide meaning, and the framers of the Constitution could not have intended that a combination of citizens would be denied the fundamental rights.

His Lordship said that some regulations were necessary to control inter-State business and intercourse in respect of prize competitions of the nature of crosswords in which thousands of persons of moderate means must be participating, because there was present an element of skill and judgment as well as of chance. It would be for Parliament which had the power of taxation to impose effective restrictions on competitions which were conducted in different States and attracted participants from various States.

---

## CONTEMPT OF COURT

---

### Illegitimate Use of Contempt Proceedings GOVERNMENT'S PETITION DISMISSED

No less than four complaints were by filed by the Government of Mysore against the "Deccan Herald" and one against the "Praja-vani" under the Contempt of Courts Act in respect of certain editorials in these papers on proceedings pending before the High Court, and all of these were dismissed by P. Medapa C. J. and T. N. Mallappa J. of the Mysore High Court on 17th April.

In regard to the "Deccan Herald" article, Their Lordships held that no contempt of court had been committed, and indeed the Advocate-General had submitted to Government that the article complained against did not amount to contempt of court. Their Lordships said:

The Press has its rights and responsibilities. It had a right to publish news of what takes place in the country; nay, it is even its duty to do so. People are entitled to be aware of what is happening in the country and it is the duty of the Press to keep the public in touch with the incidents of every day before they become stale. The proceedings of the courts are no exception to this rule. But the rule has its exception and in case there is any misrepresentation or any statement likely to prejudice any party to the decision, the courts have ample power to punish for contempt. This does not, however, mean that courts will interfere with respect to every small infringement when no substantial prejudice is intended or caused and make exception swallow the rule. It must be remembered that the independence of the Press is essential for the success of democracy; freedom of speech is a valuable right, though its restrictions must be reasonable.

The article for which proceedings were taken against the "Praja-vani," a Kannada daily, was but a Kannada translation of the article in respect of which complaints had been filed against the "Deccan Herald" and therefore this complaint was also dismissed along with the rest. Their Lordships observed:

It is very curious, to say the least, why the application against the respondents for contempt should have been filed at all by the Chief Secretary to the Government, when the Advocate-General submitted that there was nothing in the article complained against, which could be said to be amounting to contempt of court. The petition has to fail. The submission of the counsel for the respondents in the circumstances receives considerable support. The contention of the counsel for the respondents that the institution of as many as five cases under the Contempt of Courts Act against the Editor of the "Deccan Herald" and other respondents, fully warrants and justifies his argument that the several proceedings against his clients have been instituted, not with a view to protecting the dignity of the court or for ensuring a fair hearing and trial of any proceedings pending in this court, but solely with a view to muzzle the Press, which is critical of the actions of the present Ministry and to coerce them to assume the role of drummer boys, cannot in the circumstances of the case be discarded as entirely unfounded. The temptation to make use of the provisions of the Contempt of Courts Act for purposes other than those for which they are intended should not be countenanced.

---

---

## DENIAL OF EQUAL PROTECTION OF LAWS

---

### Conviction Set Aside

The Government of West Bengal prosecuted Mr. Dhirdendra Kumar Mandal and six others for conspiring to cheat the District Board of Burdwan in connection with the relief operations carried on in 1943 during the Bengal famine. The Government decided that these cases were not fit for trial by jury and issued a notification authorizing their trial by the Court of Sessions with the aid of assessors. Mr. Mandal was convicted by the Sessions Judge of forgery and the conviction was upheld by the High Court. He thereafter went in appeal to the Supreme Court urging that the notification under which he was tried with the aid of assessors was in excess of the powers conferred on the State Government under sec. 269 (8) Cr. P. C. and that it denied him equal protection of laws guaranteed by Art. 14 of the Constitution.

The Constitution Bench of the Supreme Court on 20th April allowed the appeal, holding that both the contentions of the appellant were well-founded. It ruled that the trial of the appellant after January 26, 1950, by the Sessions Judge with the aid of assessors was bad. The Chief Justice said, sec. 269 did not empower the State Government to direct that the trial of a particular case or of a particular accused person should be by jury, while the trial of other persons accused of the same offence should not be by jury.

The Chief Justice said the notification was also bad as it contravened the provisions of Art. 14.

It is well settled that though Article 14 is designed to prevent any person or class of persons being singled out as a special subject for discriminatory legislation, it is not implied that every law must have universal application to all persons who are not by nature, attainment or circumstance, in the same position and that by process of classification the State has power of determining who should be regarded as a class for purposes of legislation and in relation to a law enacted on a particular subject. But the classification must be based on some real and substantial distinction bearing a just and reasonable relation to the objects sought to be attained and cannot be made arbitrarily and without any substantial basis. The notification, in express terms, has not indicated the grounds on which this set of cases has been segregated from other sets of cases falling under the same sections of the Indian Penal Code.

---

## COMMENTS

---

### Abdullah's Continued Detention

Resounding Protest by J. P.

We think it advisable to draw pointed attention to the protest which Mr. Jayaprakash Narayan made in his

presidential speech against the continued detention to which Sheikh Abdullah, the former Prime Minister of Kashmir State, has been subjected by the Kashmir Government with the apparent acquiescence and approval of the Nehru Government. He said:

As far as I have been able to understand, the Sadar-i-Riyasat was justified in dismissing Abdullah, but no convincing case has yet been made for his arrest and continued imprisonment. Whatever may be the political consequences of setting Abdullah free, I have no doubt that justice requires that he should either be tried in an ordinary court of law or be set at liberty without delay. We would be encouraging totalitarian methods and undermining our democracy if, for the sake of expediency and political convenience, we deprived any individual of his right to personal liberty and freedom of expression. Abdullah should be set free to preach his views to the people of Kashmir and he could be denied that freedom only when his activities endangered the security of the State.

We think it was very necessary that a protest should go out from the platform of the Civil Liberties Conference against this arbitrary action, just because those who consider the matter as a purely political problem with a sole eye to the expediencies of the moment would refrain, as politicians in general have refrained, from raising their voice against it. And it was well that a leader of J. P.'s calibre made the protest on this occasion. He is not a mere academician, devoted in the abstract to civil liberties. But he is above all a politician mindful of the practical consequences to which his advocacy of civil liberties principles will lead. He is no doubt aware that the imprisonment of Sheikh Abdullah, known to favour a solution of the Kashmir problem which is thought by the Kashmir and Indian Governments to be injurious to Kashmir's and India's interests, will temporarily ease the situation for these Governments. But he is not oblivious on that account of the far-reaching consequences sure to follow such action in the end, the consequence, viz. of encouragement of totalitarian methods and undermining of democracy. We are proud that a resounding protest has been raised and under such high auspices: the Conference was well worth convening if only to raise this protest.

---

### Congress Ban on Civil Liberties Bodies AN APPEAL TO NEHRU

Emphasizing the non-partisan and indeed the non-political character of the civil liberties movement, Mr. Jayaprakash Narayan, in his concluding address to the Civil Liberties Conference, adjured all the delegates to enlist to the maximum possible extent the co-operation of Congressmen, who during recent years are so conspicuous by their absence in the movement. In this connection he recalled the ban which the then President of the Congress, Dr. Pattabhi Sitaramayya, imposed upon Congressmen by:

a special directive in which he forbade them to associate themselves with the Civil Liberties Conference ushered into existence by Mr. P. R. Das or with any of its units. Dr. Pattabhi is of course known to have no use for such bodies (whose function it is to criticize curtailment of civil liberties) after Congress became the ruling party, since it is now this party which may have occasion to put a curb on civil liberties. But the position in this respect has become particularly incongruous because the mantle of the Congress President has now fallen on Pandit Jawaharlal Nehru who established a Civil Liberties Union in India at first, and the present movement is but carrying on the work which his Union had meant to do. J. P. therefore asked now whether Mr. Nehru is at all aware of the ban which his predecessor imposed, and if so, whether he does not think that time has now arrived for lifting it.

What response J. P.'s appeal will evoke from Mr. Nehru is not known, but if Mr. Nehru wishes to do himself justice, he must not only remove the ban formally but in order to do away with the inhibition in reality, must ask Congressmen to play their part in the work of civil liberties bodies, bringing a non-party and independent spirit to bear on the work. He, if anyone, must realize how utterly inaccurate and indeed dangerous the common notion is that if any infringements of civil liberties take place, it is the task solely of non-Governmental bodies and of parties other than that which wields political power to bring them to light and if possible to have them redressed. Proof of this is afforded by the institution in the United States of a special Civil Rights Section in the Department of Justice for the purpose of employing adequate means for effective enforcement of the rights of citizens. Mr. Justice Murphy, when Attorney General, was responsible for creating this Section in 1939, and in the judgment of those competent to form an opinion the Section's record is a remarkable one. Attempts are however being constantly made to improve the machinery of the Section. If the U. S. Government takes upon itself the chief responsibility for securing to the people the fundamental liberties the Constitution has given them, our Prime Minister may at least as President of the ruling party put an end to the scandalous dissociation to which the Congress party organization has compulsorily subjected Congressmen from bodies whose object it is to defend these liberties by constitutional means.

#### Kashmir's Detention Law

Within three weeks of the passing of the Preventive Detention Act, the Kashmir State Assembly has introduced three amendments into it. By the first the life of the Act has been limited to five years, which only means that if the Act is to be subsequently revived, legislative sanction will have to be sought, but for the next five years the Act will continue to be enforced without any further ado. The

second amendment is very important. It provides that if a person be detained for infringing the security of the State, he need not be provided with the grounds of detention, "as it would be against the public interest to communicate to him the grounds on which the detention order has been made." This means that in the case of a person like Sheikh Abdullah all that he and the public will know is that, in the opinion of the Government, he is plotting against the security of the State, but no one will know in what precise way that individual's activities may be said to have created a peril to the State's security. This further means that the individual must continue to suffer incarceration as long as the Government remains suspicious about him. The third amendment provides those detained under the Public Security Act (which has now been repealed) will be deemed to be validly detained for six months, this period being capable of being extended, every six months, to a total of five years. Those who have the misfortune of having been detained under the older Act, like Sheikh Abdullah, will not have the benefit of an investigation of their case by the Advisory Board. They can be subjected to an uninterrupted term of five years in prison, the only obligation that will rest on the Government in respect of such persons is to have consultation with a person qualified to be appointed a High Court Judge.

#### Communism and Nehru

After some initial objection on the part of Mr. Nehru to the adoption of a Pakistani resolution pointing up the threat of communist aggression in non-communistic countries, the Asian Prime Ministers eventually put on record at Colombo, Mr. Nehru agreeing, their determination to resist interference by external communist agencies. In order to show that the Nehru Government is not following a "soft" policy towards internal communism, a correspondant points out in the "Times of India":

Swift action is always taken to curb communist activities. Even a fundamental principle of democracy has been compromised by making the Detention Act a normal law of the land and although it is not a purely anti-communist measure, it is used freely against the Communists. All pro-communist organizations are closely watched, passports are withheld from many persons intending to attend communist gatherings and visas are refused to foreign Communists wanting to attend communist or pro-communist conferences in this country. Communist literature is banned from the railway book-stalls.

All that the Nehru Government has omitted to do in containing communism at home, this writer says, is to outlaw the Communist party, because it is against the democratic principles which the Government is following. But it should be mentioned in this connexion that if the Communist party has not been banned in India, it is not because of the democratic instincts of the Government, but because the law authorizing such banning was declared unconstitutional by the Supreme Court after its being put into operation in some States.