

Indian Civil Liberties Union, Patna Branch.

Presidential address of

Dr. Sachchidanand Sinha

at a meeting

held to inaugurate the Patna Branch.

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*Presidential Address*

OF

Dhananjayrao Gadgil I

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**Dr. SACHCHIDANANDA SINHA**

at a meeting held at the

**Wheeler Senate Hall, Patna**

ON

*The 18th September, 1949,*

*to inaugurate*

**The Bihar Branch**

OF THE

**Indian Civil Liberties Union.**

## LADIES AND GENTLEMEN.

Some of you must have heard, or read, of impetuous young men getting into trouble by writing hastily to some young lady with the result that they got involved in difficulties—ending either in compulsory marriage, or by being cast in damages for breach of promise. I find myself this afternoon in more or less the same predicament, owing to my having written in haste a letter to my esteemed friend, Mr. P. R. Das. Having seen it announced in the papers that he and some other public workers were going to hold a meeting to decide the question of the formation of a Bihar branch of the Indian Civil Liberties Union, and over the first session of the Conference of which Mr. Das recently presided at Madras, I wrote to say that in case it was decided that the Bihar branch be established, he might kindly enrol me as a member of it. Mr. Das; as one of the great champions of civil liberties, turned up at my house, and pressed me to preside over the meeting; and, accordingly, I am here at his call, for better or for worse—to quote the words of the Christian marriage formula.

Many of you have, I dare say, read, with the care and attention it deserved, the remarkably learned yet lucid presidential address delivered by Mr. Das at the Madras Civil Liberties Conference. I have already expressed my genuine appreciation, and high opinion, of its rich and stimulating contents in the course of an article which I contributed to the first issue of our friend Shri Murali Manohar Prasad's new weekly, the "Spark", which has already become sparkling enough to attract considerable attention throughout the Province. I told Mr. Das that I would agree to preside over today's Conference on my own terms which were that we should assume that all that could be said in favour of civil liberties organisation had already been said by him in his Madras address, and that nothing further was to be added to it by anyone here. Mr. Das, with that loving regard which he has ever shown for me, for now more than thirty years, since he came to Patna, readily agreed to my

proposal, and I am accordingly here to carry out my promise to preside over the business of this meeting.

Some friends have, however, told me that on an occasion like this I am expected to add a few words of my own, and if I do so, it is only to supplement the observations of Mr. Das, by referring to matters which had become available since he delivered his presidential address. But I would like to say that I am greatly surprised that even on a question of civil liberties there should be any difference of opinion among people, or presumed to be so. I should have thought that no sensible person, man or woman, who understands what civil liberties mean, would ever waste his valuable time in a discussion of the subject, as the right included in the group of civil liberties are as essential for the stability of the State, and the safety of individuals composing it, in a peaceful condition in society, as are regular breathing and sound sleep to every human being, if he is to live in good health and spirits. The only limitation I would impose is that a demand for civil liberties should not be made a pretext (in times of economic emergencies, or disruptive political upheavals) for the disintegration of the State itself.

I feel sure that with all his zeal and ardour in the cause of civil liberties Mr. Das and his co-adjutors, who are organisers of the movement, are not political workers of the type who would ever cherish the ideal of bringing about the disruption by the use of force or violence, in methods other than strictly constitutional, of Government established by law in the Indian Union, under the guise of pressing their demand for civil liberties at a time when it may become dangerous or disruptive. It is equally incumbent on the Central, Provincial, and the Indian States Governments not to make much—not to say too much—of petty emergencies, and thereby continue to keep the people cribbed, cabined and confined as they were under British rule, on the frivolous or fallacious ground that the least departure from the now departed British-Indian traditions would jeopardise the safety and the stability of the State.

These, ladies and gentlemen, are the few general observations which I feel I should make in support of the resolution for the establishment of the Bihar branch of the civil liberties organization

at our provincial head-quarters at Patna. Civil liberties include many rights and privileges for the citizens of a State, especially for that of a Republican and Democratic State as ours will shortly be. But I am not ashamed to confess that more than in any other civil right I am deeply interested in the right to speak out one's thoughts, whether on the platform, or through the medium of the press. I shall, therefore, make some observations only to this great right of a citizen of the State, as the right of criticism in a secular democracy is essential and vital, and it should not be misconstrued or misinterpreted by Government, as is being done even now by ours.

The views of the Calcutta High Court on this important subject, as recently expressed by a Special Bench, merit serious consideration. They were not available to Mr. Das when he prepared his presidential address. The difficulty of reconciling Section 4 of the Indian Press (Emergency Powers) Act, 1931, in the present set-up of the country was emphasised by that Special Bench consisting of Chief Justice Harris and Mr. Justice Chatterjee, while delivering their judgments on the application of the petitioner named Beni Kumar Chattopadhyay (printer and publisher of a defunct Bengal bi-weekly newspaper) against an order of the Government of West Bengal, forfeiting the security deposit furnished by the said paper. In that case the petitioner contended that the article was published *bona fide* with intent to express disapprobation of the measures and administrative acts of different provincial governments with a view to obtain their redress by lawful means, and to criticise the policy of the Indian National Congress in the various Governments established under its influence.

Delivering judgment His Lordship the Chief Justice remarked that it was a matter of considerable difficulties to apply that particular section to criticism of measures of Government before India obtained Independence, as it appeared to him that since Independence and the adoption of a democratic form of government it was practically impossible to place a construction on Section 4 which would not stifle a good deal of legitimate criticism of Government. The right to criticise was, said the Chief Justice, inherent in a democracy. The opposition were entitled to, and indeed it was their

duty in proper cases to expose the misdeeds, or acts of omission, of the Government in power and this they were entitled to do with a view to win over the electorate so that the Government in power would be thrown out and the opposition placed in power after securing a majority in an election. Continuing his observations His Lordship remarked that if the words in section 4 of the Indian Press Act were strictly applied then newspapers supporting the opposition to the Government in power would be muzzled, and the opposition newspapers might find it difficult to publish facts concerning the acts of Government which were true, because the publication of such facts might well tend to bring the Government into hatred or contempt:

His Lordship said further that the truer the criticism of the acts of Government the greater the likelihood of frequently exciting disaffection towards Government. Assume—said Sir Trevor Harris—a Provincial Government to be guilty of something worse than inefficiency, namely, nepotism or dishonesty or corruption. Such a Government would lay itself open to criticism, and indeed very severe criticism would be justifiable. Nevertheless, such criticism might bring the writer within the mischief of the section, because exposing Government and showing that it had been guilty of a serious act of nepotism would inevitably excite the readers to hold the Government in contempt. The truer the charge made against a Government, the surer it would inevitably excite hatred and contempt. The truth was wholly immaterial in considering what effect an article might have upon the minds of its readers, was the concluding remark of His Lordship the Chief Justice.

In a fairly long concurrent judgment Mr. Justice Chatterjee *inter alia* said that it was difficult to reconcile Section 4 of the Act with the working of responsible government in free and democratic India. If the words of the Press Act were to be taken literally, opposition newspapers would come within the mischief of the section almost every day. The attention of the Legislature, said His Lordship, should be drawn to the incompatibility of the Press Act with the present democratic constitution in India. The Press had the right to discuss grievances, and it was the right and duty of the opposition

press to do its best to overthrow the party in power by all constitutional means. To have an Act on the Statute Book which penalised such publications would make the working of responsible government or any democratic constitution in India fraught with the greatest peril.

These, ladies and gentlemen, are the latest observations made on the subject of freedom of speaking out one's mind (whether in speech or writing) by a Special Bench of the premier High Court in the Indian Union. In old days the tradition of the Bar was that juniors followed seniors, but in these days of topsy-turveydom, I have followed Mr. Das's lead to quote the highest legal authority available, since he delivered his address at Madras, on what is not so much a matter of law as of common sense, which is the basis of sound law and no less sound administration. I learnt the soundness of the principle of the right of free speech and writing not from Marx or Lenin, but from the great English poet of the nineteenth century—Tennyson, who praised his country for being:—

“The land where gilt with friends or foes,

A man may speak the thing he will.”

But if it be considered that for the maintenance and preservation of a legal right like freedom in speech and writing not the authority a poet but a legal authority, other than the Calcutta High Court decision I have referred to, be necessary, I would commend alike to the Government and the people the following strikingly sound and wholesome observations of the present Attorney-General, the highest Law Officer of the Crown. Speaking the other day on this very subject Sir Hartley Shaw-Cross had made the following remarks: “Britain certainly had a free press and broadcasting system. Newspapers ought not to be, nor were they in Britain, fettered either by Government control or by unduly strict liberal laws from giving expression to criticism, for complete freedom of the organs of information and criticism is vital to a healthy and enduring democracy which thrives on criticism. And whether the criticism of Parliamentary and Governmental action represents a

serious public view or merely the opinion, however, unfair, of some newspaper owner, or editor, it is far better to have that than, as in some countries, no possibility of criticism at all". With these few desultory remarks that I have permitted myself to make, I shall now formally move that a Behar Branch of the Indian Civil Liberties Union, recently established, be founded at Patna, and that the following persons do constitute its first Executive Council:—