

# CIVIL LIBERTIES IN INDIA

Being Papers submitted to  
the Indian Civil Liberties  
Conference held in Madras  
on 16th and 17th July 1949

*Part I. Provinces and  
States other than Madras*

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Names and addresses of organisations and persons  
interested in Civil Liberties in India and  
co-operating with the Indian Civil  
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## P R E F A C E

The executive committee of the conference decided in April last that all persons and institutions interested in civil liberties should be requested to write notes on the condition of civil liberties in their different areas and the collected material should be printed as papers of the conference. In addition to these notes we have published extracts from the *Hindu*, *Hitavada*, *Independent India*, socialist party news letters (which is indicated as N.S.), and the *Janata* weekly, with our kind acknowledgments to these journals. All these articles and extracts we are now issuing in two parts, the first part dealing with provinces and states other than Madras, and the second part with Madras. The reader may kindly refer to the contents of Part II at the end of Part I. Matter received late for incorporation in this volume has been separately issued as Part III.

13-7-49.

K. G. SIVASWAMY,  
*Chairman,*  
*Conference Committee.*

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## CHAPTER I

### CIVIL LIBERTIES IN WEST BENGAL

(Extracts from the Report of the Civil Liberties Committee)

*Twelve years ago, in 1936, Pandit Jawaharlal Nehru, said this from the Congress platform :—*

“Of one thing I must say a few words ; for me it is one of the most vital things I value: That is the tremendous deprivation of Civil Liberties in India. A Government that has to rely on the Criminal Law Amendment Act and similar laws, that suppresses the Press and Literature, that bans hundreds of organisations, that keeps people in prison without trial.....is a Government that has ceased to have even a shadow of justification of its existence.”  
(Presidential Address, Lucknow Session, 1936).

To-day, a year after the transfer of power to the Indian National Congress, we have to judge by these tests how far the Government of Prime Minister Jawaharlal Nehru, and his followers in the Provinces have started to build up a democratic state safeguarding the civil liberties of the people. In this short note we shall restrict ourselves to the conditions in Bengal, as this is the limit of activities of our Committee.

#### The Security Act

A demonstration of students who picketed the Assembly gates as a protest against the Security Bill, was met not by non-violence but with lathi charges, tear gas shells and an indiscriminate rain of bullets by his Police. An ambulance worker sitting in his jeep at some distance from the actual scene of disturbance was killed by a police bullet, several of which struck the cars and buildings in the neighbourhood. A lawyer in one of these buildings was also wounded. The Relief Welfare Ambulance Corps issued a statement after enquiry from witnesses present on the spot, making it clear that Sri Sisir Mondol, the deceased R.W.A.C. official had been sitting in a stationary jeep for at least half an hour prior to the occurrence and had been shot dead in the car which was then not in motion at all. Enquiries of Red Cross officials waiting near by in their ambulance cars fully confirmed this fact. Nevertheless Premier Ghosh stated in his defence of the Police that Sisir Mondol had lost his life by

“rushing recklessly into the firing zone.” The whole of Calcutta turned up in the streets next day to offer homage to the martyr as his last remains were carried along to the cremation place, and threw the lie back to the officials who sought to whitewash the incident.

The black bill was passed into law inspite of public opposition, due to the overwhelming majority of the Congress in the Assembly. The electorate was sought to be conciliated by statements and broadcasts.

On 8th December, 1947, Premier Ghosh broadcasted on the AIR the following statement :

“The West Bengal Security Bill is not intended to suppress any political organisation or party or trade Unionism. The object of the Bill is to give the Government necessary power for preventing events leading to communal disorders, checking illegal acquisition and possession of arms and ammunition, [suppression of goondaism, maintenance of the security of the newly formed State and the maintenanece of essential supplies and services.”

The discontent against the Security Bi'l was voiced by Sri Kiran-sankar Roy (statement of 8th December, 1947 published in all dailies in Calcutta) who was then not a member of the Cabinet :

“History records that it is in the nature of all Governments to mistake the Security of the Ministry as security of the People. Let us not forget that absolute power will absolutely corrupt.....I also fail to understand why the provisions of the bill should be so drastic and sweeping.”

• Sri K. S. Roy's somersault three months later when he joined the Cabinet and fully utilised this repressive law is too well-known to need comment.

### Attack on Trade Unions . . .

The pledge given that the powers will not be used “to suppress any political organisation or party or trade unionism” has been honoured by its breach.

Trade Unions which participated in a one-day strike to protest against the Black Bill (as the Security Bill was termed) were subjected to ruthless terror and eventual suppression. Prominent workers were deliberately beaten up by hooligans, and then made over to the Police on charges of rioting or assault. The President of the Benga

Provincial Trade Union Congress issued statements after enquiry pointing out that the Police were taking sides with the men who were thus assaulting Trade Union Workers and raiding their offices. At his request Prof. K. P. Chattopadhyay of the Civil Liberties Committee went to conduct enquiries at two meetings held on 7th February, 1948. One of these meetings was held in the open land known as Burmah Shell maidan, opposite the Oriental Gas Works. About three dozen workers and organisers came peacefully to the open land, which was guarded on one side by a dozen armed police and an equal number of ordinary constables. Another truck of armed police was patrolling the road beyond. Sri Mrinal Kanti Basu, Prof. K. P. C., Sri Jyoti Basu, M.L.A., Sri Indrajit Gupta and a delegate from Indonesia were present. Barely had the persons assembled when over a dozen hooligans armed with sticks and iron rods suddenly rushed in and attacked the organisers, and seriously wounded two of them. The police instead of arresting them, hit out at the assembled persons from behind. Sri Mrinal Kanti Basu and Prof. Chattopadhyay protested but the Sub-Inspector in charge paid no heed and himself struck Sri Indrajit Gupta who was defending himself against a goonda who had attacked him with an iron rod. The arrival of a Senior police officer who realised that the shameless siding of police with hooligans in beating up Trade Union men was going on in presence of witnesses of position, put an end to the assault. It recurred again a few minutes later when the assembled workers were leaving and although the assailants were standing between two police patrols no arrests were made. Actually one of the assaulted persons was taken into custody. The Indonesian delegate—a lady—was injured by a stone thrown by the assailants. In the Pottery area, a visit paid on the same day by Prof. K. P. Chattopadhyay along with Sri Mrinal Kanti Basu and others revealed similar organised assaults on Trade Union Workers. Here the office of the Union was found razed to the ground.

Sharp police repression has followed strikes everywhere, as in the case of the Basanti Cotton Mills and the Sree Durga Cotton Mills, to mention two outstanding examples. Strike breakers have openly indulged in assault and worse with impunity. In the Sree Durga Cotton Mill one of the strikers was murdered and the dead body thrown into a canal. The culprits have not so far been brought to justice.

In other instances union offices have been attacked, and protest-meetings of Trade Unionists broken up by hooligans with the police looking on or even interfering to help the assailants.

This is what the "Swaraj" the Bangalee daily of the former dominant group of the Bengal Provincial Congress Committee, reported in its issue of May 23, 1948, about a meeting on 27th May by Railway Workers held at Wellington Square opposite the Premier's residence, protesting against the arrest of their representative in the Assembly, Sri Jyoti Basu, M.L.A.

"At about 5 P.M. the meeting started but barely had it commenced when a band of persons attacked it, broke the microphone and hurled soda water bottles and handgrenades and struck people with lathis. Even the ladies present were not spared. The police who were waiting did not stop them. When the situation deteriorated, the police interfered; but they did not pay any attention to the assailants. They charged the assembled workers and arrested some of them."

The incident in front of the Tramway Union was reported by telephone early to Prof. Chattopadhyay who proceeded to the place of occurrence and found one tramway worker in hospital, suffering from a bullet wound and two others from injuries from other weapons. None of the assailants were taken into custody but nearly two dozen tramway workers and Union organisers were arrested.

A couple of months later the men arrested were tried in a Court of Law but had to be discharged as there was no evidence against them.

### **Treatment of Security Prisoners and Political Prisoners**

Even before the Security Bill became law, political prisoners arrested under the ordinance still in force at the time and also on various charges, for opposition to the Bill, were denied amenities which had been won after many hard battles under British rule.

Sri Soumyendranath Tagore was detained on the charge of illegal collection of arms presumatly for armed revolt. Sri Devnath Das of the Azad Hind Fouj, and a large number of students and others—mostly members of the Forward Block and Students' Congress (B.C.P.I.) were arrested for opposing the Black Bill. In all these

cases, the prisoners found it impossible to get change of clothing or interviews with relatives.

The Civil Liberties Committee have received complaints that many security prisoners are treated as Class III convicts in jail although under the law they have higher status. Sri Sarasi Chowdhury who was in jail for a number of years for having joined the rising in Midnapore in August, 1942, and is a prominent worker of the Krisak Sava but not a Communist has been put in jail on various charges and is said to be treated as a Class III prisoner in Midnapore jail. The Forward Block leader Sri Satyaranjan Bera was arrested while sick in hospital and is also stated to be treated as a Class III prisoner in the same jail.

The arrangements for medical attendance in this place are said to be very meagre. Sm. Geeta Mukherji, Secretary Bengal Provincias Students' Federation is reported to be kept in the same dormitory with common women criminals including two homicidal convicts, in Presidency Jail. Sri Panchugopal Bhaduri, formerly Assistant Secretary, B. P. C. C. and a well-known Communist party leader, was arrested when seriously ill. Owing to an attack of Polynuritis he had been partially paralysed in the limbs and was under the treatment.

The charge-sheet, which was examined by Prof. P. K. C. on behalf of the Civil Liberties Committee, revealed that Sri Bhaduri was accused of having been selected for training in fire arms and military drill. This was the charge against a man who had been a semi-paralytic for months before his arrest. ||

On 26th May a body of women, who were mostly mothers, wives or sisters of such prisoners or of persons hunted by the police for offences like those enumerated above, approached the Home Minister with a list of their grievances. The Minister Sri Kiransankar Roy refused to see them or even to meet a small deputation. The ladies sat down and refused to move. It is alleged by them that the Anglo-Indian sergeants of ill repute were let loose on them and that they pushed and hustled them.

The only charge which the Police officials could make against the women, when Prof. P. K. C., Sri Premode Sen and others went to the spot in the evening to mediate, was that they had used abusive

language towards them. The report published in the "Swaraj" on 27th May, 1948 makes it clear that the ladies were absolutely non-violent.

Public opinion was moved by these incidents and in their editorial, the "Swaraj" commented sharply on the extraordinary display of armed force when a few mothers and wives of political prisoners came to represent their grievances anent the treatment accorded in jail to their near and dear ones.

### The Charge against Communists.

A statement was issued on behalf of the Civil Liberties Committee by its Working President summarising the actual facts and exposing the utter hollowness of the charges of Sri Kiran Sankar Roy. It ended with the following statement (translated from Bangalee);—

"This kind of attack on political meetings by armed hooligans and thereafter of arrests of the persons assaulted is not unknown either in our past history, or elsewhere. It was in this way that from 1934 onwards first the Communists and then the Socialists were crushed in Germany. While such measures may bring temporary success to the political party which organises them, they bring ruin to the entire State and Nation in the long run. We have to note with great regret that the ideals promulgated by the Indian National Congress over decades, have been deviated from by the present methods of Government. Repression of protest movements in this fashion, without solving the acute problems of food, clothing, habitation and other essentials, can only harm the country. The manner in which repressive steps are being taken will make people conclude that constitutional political agitation, valid criticism of the party in power, and lawful organisation aimed at securing a majority in the next elections, are impossible. The anarchy and revolution of which the Home Minister talks repeatedly will assuredly find its most potent allies in the measures he is himself adopting.

"We appeal to all who believe in the ideals of the Congress, to come together and turn those in power from this wrong path and to work together for the real welfare of the people. Unless there is a change—and early too—our land, only half-freed from the clutches of British Imperialism will sink like the so-called independent States of South America into the dark morass of want, ignorance and anarchy."

(Letter of Prof. K. P. C. published in "Paschim Banga Patrika" on 8th June, 1948)

### **Suppression of Armed Gangs**

While the Communists who formed the sole political opposition in legislature were being crushed in this way, without any evidence in support of the allegations against them, the armed gangs operated with impunity.

On May 11, 1948, (referring to these robberies) the Police Commissioner said "that the police had prepared a list of these suspects ! but the police could not arrest them...because you cannot take away the liberty of men whom you merely suspect to be members of robber gangs" (Report in "Statesman").

It will seem that nowadays arrests can be made only when there is no evidence of possession of arms provided the persons in question are critics of the Ministry in power. Undoubtedly the Cabinet are honouring in a curious manner the pledge given by the sponsor of the Security Act that it was "not intended to suppress any political organisation" and the object was "to give the Government necessary power for preventing illegal acquisition and possession of arms and ammunition", and "suppression of goondaism."

### **Black-marketing of Food.**

Two special committees—one for Calcutta proper and another for Industrial concerns were set up. The Food Commissioner Mr. K. C. Basak, stated at a meeting of the Industrial Concerns Special Committee held in October, 1947 that he was aware that there were large unauthorised stocks of food in certain godowns of Big Employers. The members of the Committee pointed out that ration was often drawn for workers on leave as well as for substitutes taken in their place. Definite recommendations were made to put an end to such practices.

Curiously enough, no further meeting of this Special Committee has so far been called by the Government Department concerned.

### **Food Adulteration**

The Minister of Civil Supplies and the Premier Dr. P. C. Ghosh had personally been present at a raid by Enforcement officers on a flour mill. Numerous bags of china clay or stuff like that were seized.

At this time flour supplied in ration shops was largely being adulterated with soapstone powder, tamarind seed flour etc. This particular mill ground Government wheat into flour for supply to ration shops. Similar other cases were detected, owing to the vigilance of the Shantisena Committees set up originally to prevent riots but later collaborating to prevent black-marketing. Convictions in court, or detention under the Security Act did not however take place in any of these cases, except where the offender was a petty vendor of a few seers of rice.

### Black-marketing of Yarn

On the contrary, the Shantisena Committees were criticised for their enthusiasm, and a Police Sub-Inspector who detected a case of black-marketing of yarn apparently involving certain high officials was dismissed summarily on the plea that he had seen the Minister of Civil Supplies about the case without the permission of his superior officers.

This particular matter was taken up by Prof. K. P. Chattopadhyay and placed before the Home Dept., then in charge of Dr. P. C. Ghosh. The Sub-Inspector was finally reinstated when the papers started an agitation.

Although a written assurance was given to Prof. Chattopadhyay in December 1947 that the case against the offenders was ready for the Court, nothing further seems to have been done to bring the culprits to book.

### Cloth.

On April 12, 1948, the Commissioner of Police

“ confessed that he could take no action against profiteers in cloth because there was no law permitting such action ” (Report in “ Hindusthan Standard ”).

On May 10, the Premier Dr. B. C. Roy stated at a Press Conference—

“ Nor could Government invoke the aid of the Security Act because of certain assurances given by them during the passage of the bill during the Assembly. ”

Obviously the profiteers know how to put pressure on Government to secure their pound of flesh while pledges given to trade

Unions and the public are broken, in the absence of organised pressure on the part of these bodies.

### Housing Shortage.

The "Swaraj" commented on this and other such incidents in the editorial on 27th June:

"The bosses in charge of the State have done nothing to promote the well-being of the bustee people. On the contrary, when landlords of these bustee lands have put inhuman pressure on these poor people and repressed them and evicted them by force, the Governmental authorities have remained indifferent and thus lent indirect support to the landlords...To evict and turn out into the streets these poor tenants is an act of barbarism."

"Occasionally such barbarous incidents find their way into print in newspapers. Many of them never get this publicity...Recently in Cossipore a news item appeared in the papers, of forcible eviction of bustee tenants. Eleven families were turned out on the streets by the zemindar after beating up the men as well as women, with the help of the police. When the women sat down as a protest against such zoolum, the police roughhanded them, beat them up and failing even then to move them, teargassed them...In Beliaghata a well-known zemindar has increased his annual rent from rupees four only, to rupees one hundred and forty four in some cases and filed a suit for eviction on the failure of tenants to pay rent at this enhanced rate. It is probable that soon this landlord also, with the help of the police will turn out into the streets, the helpless tenants."

A couple of years before 15th August, 1947 an agitation against landlords resulted in the issue of an ordinance against such high-handed action by landowners. No doubt the latter have technically the right to evict even when there is housing shortage. It is also true that by profiteering in land at the expense of refugees they can make a lot of money. But these are the things that a democratic Government in a free country does not allow to take place. It is understood that a tenancy bill was drawn up sometime ago with a few safeguards for these unfortunate bustee tenants, as a result of public agitation, in which many Congressmen also joined. The Bill has not however formally been enacted into law, and remains without effect.

## Rights of the Peasantry

Careful investigation under the Council of Agricultural Research (Government of India) have revealed that nearly a fourth of the gross harvest goes to meet the cost of cultivation. A sharing of crop on fifty fifty basis therefore leaves the actual grower with only a fourth of his harvest which barely covers his own wages for work in the field. A fair division would be one fourth to the landowner and three-fourths to the grower. The peasantry as a measure of compromise have for some years past been pressing for a division on the basis of one-third for the landlord and two-thirds for the cultivators. Various assurances have been given at elections that the Assembly Members would, on being returned, work for a Kisan and Mazdoor Raj. Very naturally the peasantry concluded that their just demands would be met—the more so as certain specific assurances had been given by the would-be legislators.

On the day on which the Assembly met for the first time in Calcutta, after 15th August, hopeful Kisans from neighbouring districts marched peacefully along Dhurrumtollah, with the avowed intention of conveying their greetings to their representatives, in the Assembly and placing their demands before them. They were however stopped at Esplanade and when they adopted peaceful Satyagraha tactics, they were teargassed and driven away.

Arrests of Kisan leaders on various charges (which have mostly failed for lack of any evidence), destruction of their property and in case of even a mild show of resistance, indiscriminate shootings have become common. Complaints regarding such treatment of present leaders in Midnapore, 24-Parganas, and Hooghly have appeared in many of the dailies. The terrible repression in Bora Kamalapur Union in Hooghly district has drawn a good deal of public attention. An Enquiry Committee was sent by the Civil Liberties Committee as soon as the police cordon round it was withdrawn and outsiders allowed to enter the area.

The report of this Committee states that on 22nd February the zamindar's men assaulted a worker of the Kisan Sabha. Thereupon, local peasants assembled round the zamindar's house and clamoured for redress. They were met with brick-bats. Some time later the police came and a charge was preferred against the men (who had

dispersed by them) of robbery and house-breaking. The peasants claim that there was no house-breaking or robbery.

In any case "a large body of armed police came and arrested practically all adult grown up persons connected with the Kisan movement on this charge.....No search warrants were shown and household utensils were reported to have been thrown out or taken away...After mid-night a curfew was declared till seven o'clock next morning. Since in the morning, in villages, people have to go out to answer calls of nature and very few people knew of the curfew, large scale arrests were made. A week later another curfew of 36 hours was declared. More arrests were made when people had to go out in order not to soil the living rooms, and also to get drinking water. The local fair fell within the curfew and all perishable goods (fruits, curds, etc.) were spoilt in consequence. The police plucked, ate and destroyed the fruit that remained on the trees."

Over a hundred arrests were made, several persons were shot dead and others wounded, and a large quantity of immovable property destroyed, all for that single incident reported by the zemindar.

A signed statement of a number of local Congress supporters was printed in the "Paschim Banga Patrika" of 21st June. They point out that the leader of the Kisan movement is Sri Ajit Basu who is an M. A. of the Calcutta University, a scion of the local zemindar family who gave up his property for the Kisan movement and went to jail in the different Congress movements. He was also Head Master of the local High School. Failing to arrest him at first (he was arrested when seriously ill later on), the Police carried out repressive measures in revenge. The writers point out the depredation of the police and have given names of persons whose property has thus been looted. Cattle died as a result of the long curfew when the animals could not be watered, or fed. Milk, betel leaves, and curds worth thousands of rupees were spoilt.

"An old man named Netai Dhara of age 72 went to cremate the body of his wife on 8th Falgun and returned next day from the cremation place in Chatra Ghat. The police arrested him the same day on charge of robbery. It is hard to believe that an old man 72 years of age committed a dacoity the day after the cremation and the police want the public to accept it as a fact. A local teacher

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Over a hundred arrests were made, several persons were shot dead and others wounded, and a large quantity of immovable property destroyed, all for that single incident reported by the zemindar.

A signed statement of a number of local Congress supporters was printed in the "Paschim Banga Patrika" of 21st June. They point out that the leader of the Kisan movement is Sri Ajit Basu who is an M. A. of the Calcutta University, a scion of the local zemindar family who gave up his property for the Kisan movement and went to jail in the different Congress movements. He was also Head Master of the local High School. Failing to arrest him at first (he was arrested when seriously ill later on), the Police carried out repressive measures in revenge. The writers point out the depredation of the police and have given names of persons whose property has thus been looted. Cattle died as a result of the long curfew when the animals could not be watered, or fed. Milk, betel leaves, and curds worth thousands of rupees were spoilt.

"An old man named Netai Dhara of age 72 went to cremate the body of his wife on 8th Falgun and returned next day from the cremation place in Chatra Ghat. The police arrested him the same day on charge of robbery. It is hard to believe that an old man 72 years of age committed a dacoity the day after the cremation and the police want the public to accept it as a fact. A local teacher

named Netai Som is a devoted Congress worker. The police took him into custody and beat him mercilessly. When he said " I am a Congress worker " the police taunted him " You? a peasant and Congress worker ? "

The letter continues with details of arrests on plea of curfew and other harassments and concludes with a request to end these repressions, pointing out that the Congress will thereby gain in prestige and lose nothing.

Reports of similar repression in Dongajore in 24-Parganas have appeared in the papers.

All accounts agree that the peasants stopped some paddy which was being removed illegally by a jotedar, and stored it quite openly in a school. They wrote to the local Government officer for permission to distribute the grain at controlled price, as there was need of it in the area. The Police officials insisted on removing the paddy. The peasants apprehended that the grain would go the way it was previously moving and opposed such action. The police opened fire killing several persons and injuring many. Further repressive measures were undertaken later but exact details are lacking. There is no evidence that any action was taken against the black-marketer.

### Students' Organisation

Provincial Secretary Sreemati Geeta Mukherji has been detained and the period of incarceration extended by another six months. Warrants are also out against the Provincial President Gautam Chattopadhyay, and the General Secretary of the All India Students' Federation, Annada Bhattacharya.

The major charge against the students is that they were important members of the International Committee which organised the South-East Asian Conference. This series of meetings in Calcutta passed resolutions condemning Imperialist rule in various parts of South-East Asia and called upon the people of India to help them in their struggle for freedom.

So far as we are aware such a call has been given in the past by Pandit Jawaharlal Nehru and some of his colleagues. The Indian National Congress also is pledged to support such battles of the freedom-loving people of South-East Asia.

### Free Elections

In the Hooghly bye-election two of the prospective candidates were put in jail. Their nomination papers were rejected. Regarding the third candidate, Prof. Jyotish Ghosh, the following statement by Sri Devnath Das of the Azad Hind Govt. was published in the dailies on 26th June :

“The bye-elections in West Bengal Constituencies have been reduced to a farce. In Maldah, Kisan leaders and workers have been subjected to wholesale arrests to enable a particular candidate to be returned uncontested.\*

“In Hooghly, even despicable tactics were adopted.....On 21st June, which was the last date, we went as representatives of Prof. Ghosh. But on various pretexts the Treasury Officials refused to accept the security deposit, and to issue necessary forms—until the due time was over.....As only one name thus remained, he was declared elected.”\*

Pointing to the dangers of assumption of arbitrary powers by Government, the Chief Justice of the Calcutta High Court remarked—

“If that be so then nobody could oppose the Government at elections as the Government will put all the opponents in prison during the elections, detaining them without their getting any redress from the Court” (Hearing of Arun Bose’s Habeas Corpus application reported in many of the papers).

### Strictures of the High Court

According to the Act, within a fortnight of arrest, detenus have to be presented with a charge sheet. Within three months, the papers (without showing the alleged evidence to the accused) have to be placed before a judge for review. There is also a clause of showing reasonable grounds for arrest.

Recently, in consequence of examination of the papers by a judge in camera a fair number of detenus have had to be released. But this provision in the Security Act is being sought to be nullified by the imposition of restrictions which keep a released detenu practically a prisoner in all but name. Specially glaring and unjust is the restriction imposed on Labour Leaders from attending and addressing any meeting directly or indirectly. Since one of the major charges against

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\* In Maldah the Home Minister Sri Kiran Sankar Roy is contesting the seat. In Hooghly, the Civil Supplies Minister Sri Profulla Sen was elected uncontested recently.

these men have been that they were stirring up industrial trouble and the evidence of the same was lacking, this fresh imposition of restrictions against Trade Union work is tantamount to a reversal of the secret judicial finding provided as a meagre safeguard in the Security Act.

The grounds on which a person is detained can be challenged and an appeal made to the High Court. This was the interpretation put on the words "reasonable ground" inserted in the Security Act as a result of the pressure of public opinion. Regarding the grounds put forward for arrest in a certain case, and the plea that there was a state of emergency the Chief Justice, of the Calcutta High Court remarked in the course of a judgement delivered on June 30, 1948:

"We cannot presume that the existence of a number of Communists in the province gave rise to a grave emergency."

Again, in the case of Sri Arun Bose's Habeas Corpus application, when the charge-sheet was shown, the Chief Justice remarked—

"Well if, these are reasonable grounds then I suppose you can arrest any one at any time any where in India."

The Government of West Bengal was not prepared to leave even this remnant of Civil Liberties intact. By an ordinance promulgated on July 4, 1948, they

(a) deleted the words "reasonable grounds" with retrospective effect.

(b) extended the period for preferring charges to a month (i.e., detention without giving reasons, at the whim of a police officer, for this duration).

(c) Increased the period of incarceration prior to review of papers by a judge to six months.

As the Calcutta Weekly Notes, the reputed law journal remarked in its issue of 12th July 1948:

"This ordinance has flouted the authority of legislature—the peoples' representatives and has struck at the root of responsible parliamentary Government."

Public feeling with regard to such dictatorial action of the Ministers and their utter disregard of public grievances can be gauged from the following resolutions passed unanimously at an All Parties' Convention held at the Indian Association Hall on July 24, 1948.

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## EXTRACTS OF RESOLUTIONS

### The Security Act

2. Due to the efforts of some members of the Legislative Assembly, and under pressure of public opinion a few safeguards were left in the Security Act with regard to arrest and detention. These limited safeguards have been brushed aside under the new Ordinance that has been promulgated (on 4th July). Under the Security Act, the Government has to prefer charge-sheets against the detainees within a fortnight of their arrest, and their replies, and other papers have to be placed before a judge within three months which is the limit of detention without such action. For such arrest and incarceration "reasonable grounds" have to be shown. In the new Ordinance, all these clauses are modified or deleted. The time for submitting a charge sheet is extended to one month, and detention without enquiry to six months. The right of a Court of Law (High Court) to decide what are "reasonable grounds" is taken away and this is made the prerogative of the Home Department. The people of this country have condemned the promulgation of this ordinance at various meetings. We associate ourselves with them and sharply condemn this retrograde measure.

3. Various restrictions have been imposed even on those who as a result of examination (albeit in camera) of the evidence by a judge have had to be released from prison. The imposition of restriction in those cases where the accusations have been proved even in the privacy of the Government Departments, to be utterly baseless, is an act of repression, which we condemn. We consider it to be a complete abolition of democratic rights when such restrictions extend to the length of preventing members of the Assembly, and candidates for election to the same, from addressing their constituents.

5. Attempts have been made in Calcutta and the districts to break up meetings and to curb the agitation for civil liberties and against repressive measures. In many areas restrictions under Section 144 have been made operative. This meeting protests against such attempts to curtail civil liberties.

### Resolution on Trade Unions

One of the principal targets of the terrible repressive measures that have been applied throughout Bengal is the Trade Union

movement. The Secretary of the B. P. T. U. C., M. Abdul Momin, and many other trade union leaders have been arrested and detained without trial. Many trade union offices are still locked up by Police. Inside factories and at the gate trade union workers and supporters are being regularly terrorised by supporters of the owners and by the police. Even those trade union leaders who have been released have been by police order restricted from attending meetings of workers.

This meeting demands that all leaders and workers of Trade Unions be released forthwith, that all trade union offices be unsealed, that all repressive restrictions be withdrawn and all ordinance and laws which curtail civil liberties (of workers) be repealed. This meeting calls upon the public to support the labourers in their fight for their lawful rights.

### **Some extracts about the state of Civil Liberty in W. Bengal**

This is to supplement the above-printed report. In the Bengali pamphlet entitled "Where is Civil Liberty?" and another pamphlet entitled "Why the Security Prisoners are going on Hunger Strike?" a large number of instances were given of the bad treatment of such prisoners. The instances noted revealed that:—

- (a) Jails intended to hold 50 or 60 prisoners are made to accommodate several hundreds of prisoners. Example—Barrackpore and Baraset Sub-Jail, vide letter of Gour Bannerjee published in news papers 17th June, 1948.
- (b) Allowances to families of persons detained are not granted until 3 or 4 months after arrest. Example—Monoranjan Hazra & Kali Kumar Sen Gupta. Letters printed on 1st June and 20th June, '48 in papers. Another case is of Dr. Kalidas Mitra, a Congressman arrested in February, 1949. Allowance to family has not yet been granted (up to 26-4-49).
- (c) Prisoners after arrest cannot get clothing from relations nor do jail authorities supply them until after 8 or 10 days or more after arrest.
- (d) Security prisoners who are Trade Union or Kisan Sava workers are not classified even in Class II, but put in Class III and kept with common criminal convicts. In

January, 1949, the Security Prisoners after repeated representations to Government and failing to obtain redress went on Hunger Strike from 21st January or there-about. It was withdrawn after five days as Government promised to remove the grievances.

A meeting was organised by the Civil Liberties Committee West Bengal at the Indian Association Hall on 22nd January, '49. The Hall was packed with representatives from over 80 organisations including Clubs, Trade Unions, Kisan Savas, Mahila Samitis and Students' organisations besides representatives of all important political parties. Resolutions condemning the treatment of security prisoners and immediate redress of their grievances was passed. Other resolutions were passed condemning the repressive measures adopted by Government when (a) a body of students demonstrated against the Dutch Govt. for their conduct in Indonesia, and wanted to shout condemnatory slogans in front of the Dutch Consulate, (b) a procession of East Bengal Refugees consisting mainly of women and children who wanted to wait on Pandit Nehru when he came to Calcutta in January, 1949, to place before him their grievances.

In both instances the police ruthlessly used lathi-charges and tear-gas shells to disperse the procession. A further protest demonstration of students and citizens was indiscriminately fired upon by the police resulting in several deaths and over 50 cases of wounded, mainly with bullet wounds.

Recently the police fired on villagers of Dubirbheri in the District of Hooghly in connection with the Tebhaga Movement killing several and wounding a number of others with rifle shot. A medical practitioner Dr. Uma Pati Bannerji who went to render medical help was arrested on a charge of dacoity or something like that. When the Civil Liberties Committee took up the case he was detained under the Security Act.

Reports have been received from Tamluk of wide-spread arrest and barbarous repression including destruction of houses and molestation of women. Several hundred armed police are concentrating in a single thana where the Tebhaga Movement is active. A newspaper report states that 600 persons have been put under arrest. As out-

siders are not allowed to go into the area the Civil Liberties Committee has not been able to conduct any enquiry.

The Civil Liberties Committee has also been hampered in its work by the arrest (some released subsequently) of a number of its members. Sri Deb Nath Das of the Azad Hind Fouz who is not a Communist but was an active member of the Civil Liberties Committee was arrested on a charge of murder which was proved in a court of law to be utterly baseless. Another member who was connected with the Forward Bloc had a warrant issued against him for reasons unknown. The Secretary was arrested and interrogated but was released as there was no evidence against him. He is however debarred from attending meetings or leaving his house after sun-set until sun-rise.

Several hundred security prisoners have again gone on Hunger Strike from 23rd April, as the promises made earlier on the basis of which the hunger strike of January was withdrawn have not been mostly fulfilled. The press seems to have been instructed not to print any reports of the Hunger Strike, as they have so far refused to print any statement. Some Editors have verbally informed us of a Government instruction to that effect.

#### **Firing on a procession of women by the police on 27th April 1949.**

The procession consisted of about 200 women who had held a meeting at the Indian Association Hall to protest against the treatment of security prisoners in jail. Some of the women had sons, husbands, brothers or relations either in jail or on hunger-strike or with warrant issued against them. After the meeting was over a peaceful procession was formed and the women moved eastwards along Bowbazar Street. The Nation makes the following report in a special edition on 28th May 1949.

“Four women and 3 men were killed bringing the total number of dead to 7—after the police had opened fire on Wednesday evening on a procession consisting mostly of women, near the junction of Chittaranjan Avenue and Bowbazar Street. The dead at the Medical College Hospital, woman (1) Latika Sen of 3/1, Landsdowne Road, aged about 30, lower abdomen bullet injury, died after admission; woman (2) Prativa Ganguly of 129, Dharamtolla Street, aged about 25, multiple bullet injuries, brought dead, Woman (3) Gita Sarkar, a nurse of R. G. Kar Medical College Hospital, aged about 25, bullet

injury on right hip, died after admission; Woman (4) Amiya Datta of 3, Maharshi, Debendranath Road, aged about 32, bullet injury on head, died, after admission. (5) An unidentified male, aged about 40, bullet injury on head, died after admission. (6) Santos Biswas, brought dead to B. G. Kar Hospital and (7) Jamnadas Mahato, died after admission to Medical College Hospital. The injured are: women (1) Mrinalini Debi, aged 22, injured on abdomen, condition uncertain; (2) an unidentified male, aged about 40, condition uncertain. Both of these injured are at Medical College Hospital."

*Sri Sarat Chandra Bose*, Calcutta, writes:—

"What happened in the streets of Calcutta last evening was nothing short of an outrage. A Government which cannot function except by shooting down unarmed women had no right to exist. The demand which is on the lips of every decent citizen to-day is that 'DR. BIDHAN ROY'S MINISTRY MUST QUIT BENGAL'. I give expression to that demand."

*Srimati Monjusree Devi (Mrs. K. P. Chattopadhyay)* writes:—

"A report has appeared in the newspapers obviously inspired by the Government of West Bengal to the effect that the women processionists yesterday were asked to disperse and teargassed and thereafter when bombs and soda-water bottles were thrown at the police they opened fire. I was present in the meeting and also on Bowbazar Street near the scene of firing and can characterise the above report as a shameless distortion of facts. After the meeting was over, the women came out and formed a procession only a few deep so as not to obstruct the traffic. A few young men who acted probably as volunteers also joined the procession. Barely had the procession started when a police truck carrying men with rifles rushed past us towards the head of the procession. Immediately afterwards they opened fire. At the first there was a single sharp crack followed immediately afterwards by several other explosions. As soon as the firing began, many of the processionists sat down expecting lathi charge and tear gas. To their horror they found several of their members drop down dead and dying bleeding from numerous wounds. The processionists did not carry any arms and did not throw any bombs. If any bombs were thrown it must have been by the pet hooligans of this area. We may mention that last year on 27th May such hooligans threw bombs on a meeting at Wellington Square in the presence of the police without any interference from them. On 28th

May bombs were thrown on a procession near Bowbazar. There was without any interference by the police. Soda-water bottles were hurled near Medical College. On the same date hooligans attacked the office of the Tram Workers' Union with bombs, soda-water bottles etc. The police stood by without arresting any of them. Reports regarding these incidents in May 1948 were printed with correct details in the 'Swaraj', 'Paschim Banga Patrika' and other papers. At present the newspapers seem to have been gagged by the Government and are printing only one-sided statements by the Government. Only your daily has shown courage by deviation from this practice."

*Sri K. P. Chattopadhyay* writes:—

"On behalf of the Civil Liberties Committee (West Bengal) we condemn this atrocity perpetrated by the police and the Government and call upon the public to condemn the outrage. A demand for an enquiry committee was voiced by:—

1. Sri Atul Gupta, Advocate (leader of High Court Bar and well-known Congressman.
2. Dr. R. B. Pal, Advocate and former Judge, International Court, formed in Tokio, Japan.
3. Sri D. N. Mookerjee, former Mayor of Calcutta.
4. Sri Mrinalkanti Bose, Trade Union Leader and Journalist.
5. Sri Sarat Chandra Bose, Well known political leader and Advocate.
6. Dr. D. N. Sen, formerly Joint Editor, "Amritabazar Patrika", and others.

But no meeting could be held immediately as all managements of halls were ordered by the police not to let them out without their permission. Prof. K. T. Chattopadhyay went round all the halls personally without success (report in "Nation)" (3rd May 1949).

The Government of Bengal in a communique published in "The Statesman" and other papers on 28th April 1949 stated that the police had "opened fire in self-defence and threw a number of gas shells and grenades to disperse the crowd." It was alleged that bombs had been thrown at the police. The Government had however to admit that no policeman was killed or seriously injured by the alleged bombs.

In the issue of "Hindustan Standard" of 18th May 1949, there is a statement by the Police Commissioner that all the crackers were thrown from the roof of a dilapidated house in Bowbazar street. This statement makes it clear that the police fired "seven rounds" (Vide Statesman 28th April) at the processionists who had not thrown any crackers at them and there was therefore no question of firing in "self-defence" at them as alleged by the Government.

K. P. CHATTOPADHYAY,  
Working President,  
Bengal Civil Liberties Committee

### Chief Justice of Bengal on Personal Liberty

The following is from a report about the hearing of the *habeas corpus* application moved on behalf of several communists detained by the Bengal Government which came up before the full bench of the Bengal High Court of five judges:—

"When the Government side insisted that the detention had been made in view of a state of emergency in the country, the Chief Justice himself butted in saying that there was no emergency in Bengal compared to the emergency in Britain during the war." Referring to the Advocate-General's claim that the Government alone need be satisfied that the detention was on reasonable grounds, he said: "If that be so then nobody could oppose the Government at elections, as the Government will put all the opponents in prison during the elections, detaining them without their getting any redress from the Court." He added: "Personal liberty is one of the most sacred rights possessed by citizens in any civilised state. There can be no doubt that by a clear and unambiguous legislation such rights can be seriously curtailed or even taken away from the subject altogether. The Courts, however, would require the clearest words before they would take away the liberty of the subject." Referring to the Government's lurid picture of the Communists, the Chief Justice observed, "The Communists are quite strong in other countries. For instance, in France they might any day constitute the Government. But nowhere similar measures have been taken as in this country."

The report adds: "The Full Bench was due to meet on Monday, July 5th. On Saturday, July 3rd, the Bengal Ministry hurriedly

issued a Special Ordinance omitting the words 'reasonable grounds from the clause empowering the Government to detain persons without trial and thereby sought to take away the competency of the Court to go into the matter. The Ordinance was, moreover, promulgated with retrospective effect!'"--

Independent India (1-8-1948).

### **Externment of Gian Singh Khalsi**

Gian Singh Khalsi was an employee of the Steel Corporation of Bengal in Burnpur. He was a member of the Iron and Steel Workers' Union in Burnpur which was affiliated to the INTUC. On July 12 he went on a hunger-strike alleging corruption in the conduct of the union. Two days later he gave up the fast on receipt of an assurance from the President of the West Bengal Provincial National Trade Union Congress that the affairs of the Union would be looked into. Gian Singh later wrote to the President reminding him of his assurance and urging him to hold his enquiries soon.

On November 15, the Government of West Bengal served an order on Gian Singh and three of his comrades prohibiting them from remaining within the areas of Calcutta city, the districts of Hooghly, Howrah or 24 Paraganas or Burdwan after forty-eight hours. The three comrades were Samundar Khan, Jiv Jha, and Lachman. All of them were active members of the Union and worked hard to make it strong.

A conscientious member of the Union, Gian Singh, felt gravely perturbed by the way the affairs of the Union were being run. His hunger-strike was a sincere attempt to remedy them.

Gian Singh broke his fast after two days on receipt of a telegram from Sri Suresh Benerjee promising his intervention.

Gian Singh did not receive any satisfactory reply to his complaints till the time when the order of externment was served on him.

J., Dec. 12. 1948.

### **Kisan Satyagraha in Nadia**

The kisans of Haringhata (district Nadia) have launched a peaceful satyagraha from January 19 under the leadership of the local Kisan Sangh against the forced acquisition of arable land and homesteads belonging to the peasants by the Government of West

Bengal. Over 300 acres of land in Haringhata P. S. were acquired by the Government of Bengal in 1945 with a view to start a cattle breeding research station. The peasant families who were driven out were not given any compensation. Neither were any arrangements made to resettle them.

The working of tractors has been brought to a standstill by the satyagrahis. Several persons have been arrested including Com. Asim Majumdar, President of the District Kisan Sangh. Satyagrahis have been lathi-charged on several occasions. Demonstrations have been prohibited by an order under Section 144 Cr. P. C. But the people including a large number of women are continuing the Satyagraha in defiance of Section 144.

### Peasant Unity in Garia

The peasants from about 15 villages assembled on January 14 in Garia (Dist. 24 Parganas) to express their determination to fight against the Government repression in Garia Kisan Mazdoor Bazaar. This bazar was started in 1947 through the joint efforts of the peasants and small traders as a protest against the methods adopted by the zamindar in the other market belonging to him. Garia being an important centre for marketing of agricultural produce, the zamindar used to extract money from the peasants and small traders. This market was boycotted by the latter in 1947 and a Panchayat bazar was established at the instance of the District Kisan Sangh. The West Bengal Government have now come to the rescue of the zamindar. The Government has declared the Kisan Mazdoor Bazar as an unlawful assembly under Section 144 Cr. P. C. and are trying to break it by police action.

(Janata, Jan, 1949)

## KISAN MOVEMENT IN JALPAIGURI

### Demand for Ending Illegal Exactions

Under the leadership of the local Kisan Sangh some eight months ago the landless peasants of Mainaguri in the Jalpaiguri district began to resist illegal exactions of interest on account of loans of paddy given by the *jotedars*. Since December last the kisans have refused to pay the interest as they claim to have paid in the form of interest sums of money whose total far exceeded what they had received as loans. They also now demand two-thirds of the produce as their share of annual yields.

These landless peasants were very active in checking smuggling of paddy from the district to the adjacent areas in Pakistan. Recently they seized large stocks of rice and gram, hoarded by the *jotedars*, which would otherwise have found their way into the black market. The *jotedars* have found an opportunity in the peasants' action to implicate them on false charges.

On representations made by the peasants the government ordered the Bhag Chasi Committee to be formed under the Sub-Divisional Officer to settle these disputes. The lines on which the Government expected this committee to function however did not satisfy the *jotedars*. They found that they would stand to lose if they kept quiet. They had however the support of the local Congress bosses. The Congressmen formed a united front with the *jotedars*. The S. D. O of the division was transferred to another district and a new Bhag Chasi Committee was formed. The new committee under the joint control of the reactionaries took a different form and the peasants soon saw through the game. They had to begin their resistance again.

On trumped-up charges several Kisan Sangh and Socialist Party workers have been arrested and efforts made to weaken the movement. The kisans are continuing their resistance undaunted.

### Restrictions on Released Socialists

Badal Sarkar, Rabindranath Ghose, Nirmal Sarkar, Ghanshyam Misra and Jogesh Jha, socialist workers arrested in December 1948 in connection with the kisan movement in Jalpaiguri district were released on February 15. Four of them have been ordered to restrict their movements within the municipal limit of Jalpaiguri. Jogesh Chandra Jha has been served with an order of internment in his home village Jorpakri in the Mainaguri thana. Ghanshyam Misra, Secretary, District Mezdoor Panchayat, has been ordered to discontinue his trade union activities. The local Congress workers are trying their best to bring into the INTUC fold the workers organised by these Socialist Party members. Their efforts, however, have proved unsuccessful. (*Janata*, March, 1949).

### Sec. 144 To Smother Opposition

Calcutta, May 2—Mr. Sarat Chandra Bose and three others today demanded the lifting of orders under section 144 now in force in Calcutta.

In an open letter addressed to Dr. B. C. Roy, West Bengal Premier, Mr. Sarat Chandra Bose (President of the Socialist Republican Party), Mr. Mrinal Kanti Bose (General Secretary of the newly formed United Trades Union Congress) Mr. Jogesh Chatterjer, (General Secretary of the Revolutionary Socialist Party) and M-Soumyendranath Tagore, (leader of the Revolutionary Communist Party) declared that they were determined to challenge the Calcutta Police Commissioner's right to impose section 144 in Calcutta "at his sweet will and pleasure".

They urged the Premier "to lift section 144 and other restrictions robbing the people of the elementary rights of free expression" and added "otherwise you will compel us to take necessary steps for ending this state of affairs, which no self-respecting person in a civilised country can endure."

#### **Flimsy Excuses**

After referring to last week's disturbance in Calcutta, the signatories say that they had hoped that "the present Government of West Bengal would cease using every flimsy incident to rob the people of their civil liberties" but their hopes had been belied and their patience was exhausted.

#### **Crushing Opposition**

"We differ very fundamentally with the policy that your Government is pursuing in certain matters", says the letter. "Regarding these fundamental issues we wanted to educate the people, to put before the people the state of affairs in the country and the solution of the same as we visualise. Here again your Government has stepped in to rob us of the democratic right of free speech and free assembly. The experience of the last few months has convinced us that your Government are determined to crush political opposition in Bengal and to smother all political forces which are not to your liking."--A. P. I.

## CHAPTER II

### CIVIL LIBERTY IN EAST PUNJAB

#### I

#### DETENTIONS WITHOUT TRIAL

*by Prem Bhasin*

#### Arrest of Comrade Balbir Singh—abuse of power

Comrade Balbir Singh, District Secretary, Hoshiarpur Socialist party, was detained on insufficient grounds. His Lordship Justice Achru Ram of East Punjab High Court, ordered his release and his judgment will rank as the most impartial, independent, and historical judgment.

The following are extracts from the judgment.

#### Justice Achru Ram's Judgment

Finding that the action taken against Balbir Singh was an abuse of the legal powers conferred on the arresting and the detaining authorities and that the original order for his arrest and detention was actuated by considerations of personal vendetta and, therefore, malicious I hold his present detention to be illegal and direct that he shall be released forthwith.

I do not believe that even a gentleman of S. Kapur Singh's temperament would, while holding a high office under the Government, even think of contributing an article like this, and that under his own signature, to an avowedly communal paper.....In all probability he intended to use the sentiments expressed in the article for giving impetus to the agitation that had been started against his transfer from the district by preventing him as a very devout Sikh and as a fearless exponent of the doctrine of Sikh domination to the Sikh public. He possibly felt quite sure that in view of the threats already held out by him and by Master Tara Singh, the Punjab Government would not dare take any disciplinary action against S. Kapur Singh for any breach of rules governing official conduct that may otherwise appear to be involved in his contributing such an article to the public press.

It was his misfortune that he was posted to a district like Hoshiarpur which at all times has been a most difficult district by reasons of the cliques and factions that have always corrupted the public life there. It was still more unfortunate that he came to Hoshiarpur evidently with a feeling of having been subjected to unnecessary humiliation by the Provincial Congress workers. This is amply borne out by the following passage in the evidence given by him in which he sought to reproduce what he had told the members of the deputation which had waited on him on the day following the

first arrest of Balbir Singh while explaining the circumstances under which he had been transferred from Kulu :

“I told them that the real facts were that I had received reports that there was a clique in Kulu consisting of several persons who had participated in loot and massacres including two local lawyers who were also members of the Congress and that whenever any attempt was made to take action against members of that clique all of them combined and tried to suppress the evidence. I said that on receipt of these reports and after satisfying myself as to the correctness of those reports I had issued orders for the arrest of the entire gang. Some of the members of this gang were local officials. One of these officers was the Tahsildar of Kulu. The orders that I passed in relation to him were that he should forthwith leave Kulu and should be interned in his village Dadasiba. Against the other members of the gang I passed orders for their detention under Section 3 of the Punjab Public Safety Act. Two or three members of the gang only could be arrested including a lawyer who was a member of the Congress. The others on getting information about their impending arrest fled from Kulu to Jullundur where the Provincial Government was there stationed. All these people stayed at Jullundur for about a fortnight and were being granted free interviews by the officers and members of the Cabinet although they had full knowledge that warrants for their arrests had been issued. In the meanwhile, I told the deputationists, that orders for my transfer were received. After my transfer from Kulu, I understand, warrants for the arrest of those persons were cancelled and they were able to go back to Kulu where they started the agitation against me. I also told the deputationists that I was not aware of any law or principle of public policy on which orders made for arrest of such people could be cancelled but that no action was being taken either against the Tahsildar who was infringing orders for his internment or against any member of the gang whose arrest I had ordered. I also told them that the only reward that I had got for performing my duties fearlessly and conscientiously was that I was being defamed throughout the province and that it was generally believed that there must have been something ‘mala fides’ about the action taken by me inasmuch as the same had been reversed by the Provincial Government.”

After giving the matter my very careful thought, I have not the slightest hesitation in saying that the order for the arrests and detention of Balbir Singh under section 3 of the Punjab Public Safety Act was a glaring abuse of his legal powers by the S. P. It may well be that the latter was forced to pass such an order against his own better judgment by reason of the obsession which Sardar Kapur Singh seems to have had for Balbir Singh's arrest and detention.

The affidavit of Sarar Harkishen Singh, Additional District Magistrate, hardly deserves the name of an affidavit. As I have had occasion to observe before, it is more like a pamphlet or a newspaper

article written for purposes of propaganda. That a Magistrate of experience and standing should not be able to discriminate between what is legal evidence and what is not legal evidence and should introduce what he ought to have known could never be regarded as evidence in any Court of law in an affidavit sworn by him is, to say the least, extremely regrettable. Almost the whole of the affidavit is full of tirades against Balbir Singh and other Congress workers of the district, and for anybody reading this affidavit it is quite easy to discover that at least this gentleman, out of the district officers in Hoshiarpur, entertains feelings of extreme bitterness and hatred against the Congress workers of the district generally. I have already referred to a statement contained in the affidavit which I have definitely held to be false and in view of that finding it should be hardly necessary for me to examine this affidavit at any length.

In order to justify action under Section 3 of the Punjab Public Safety Act, the arresting authority must have before it material on which it can form its opinion as to whether the person against whom action is proposed to be taken is likely to indulge in activities prejudicial to public safety or public peace and order. The opinion expressed by any other officer however highly placed cannot be regarded as such material. The arresting authority may certainly take into consideration, in coming to decision, the material on which such officer has formed the opinion but the responsibility for taking the decision must necessarily be its own and it will be a negation of all well-recognised principles of criminal jurisprudence if, in doing so, it allows its judgment to be influenced by the conclusions drawn by some other authority. (With acknowledgments to the *Tribune*).

### Other Acts of Repression

In east Punjab there are about 260 communist detenus who have obviously been detained on account of their communistic activities. It is very difficult to secure a complete list of these detenus.

After Gandhiji's assassination hundreds of R. S. S. workers were arrested and detained but practically all of them were released after short terms of detention. Since two days ago R. S. S. workers are again being rounded up. According to latest information about 90 have already been apprehended. These arrests have been effected on account of the R. S. S. plan to launch a Satyagraha Campaign.

Besides these, a few Socialist and genuine Trade Union workers have been arrested and detained. I am giving below a list of Socialist and genuine Trade Unionist detenus.

1. *Jagjit Singh, of Village Jandiala, District Jullundur.* He was at one time an active member of the Communist Party but due to honest differences after their Calcutta convention he resigned from the C. P. I. and joined the Socialist Party. Before joining the Socialist Party, warrants of arrest had been issued against him and he had successfully evaded arrest for months together. But after joining the Socialist Party and accepting its policy wholeheartedly, he surrendered

himself to the Police after informing the local Deputy Commissioner and Superintendent of Police. Before he surrendered, Socialist Party (East Punjab) had announced it to the press that he had joined the Party. After his surrender and arrest the Provincial Secretary of the Socialist Party addressed an official letter to the Home Minister in which all these details were given. But more than two months have elapsed since then and Jagjit Singh is still under detention.

2. Benarsi Dass, District Secretary, Socialist Party, Ferozepur.
3. Mohinder Sahai, General Secretary, Ordnance Workers Union, Ferozepur.
4. Hari Kishen Khosla, Socialist and Labour worker of FZR.
5. Hukam Singh, a prominent worker of MES Union.

Of these last four, Benarsi Dass and Mohinder Sahai were first arrested on August 4, 1948. Both of them were connected with the Ordnance Workers' Union, Ferozepur. In July, 1948, the Government decided to close their Ordnance Depot at Ferozepur Cantt. rendering about 3000 workers unemployed. The Union made certain demands about a compensatory grant and a general meeting of the workers was called when Benarsi Dass and Mohinder Sahai were suddenly arrested under Punjab Public Safety Act. The Government went ahead with their scheme and finally closed the Depot by the end of August, 1948. In early September both of them were released, which clearly proves that they had been arrested on account of their genuine and legal trade union activities.

Hukam Singh is an employee in the M. E. S. Dept. and was organising M. E. S. workers on the question of Trade Test and other grievances of the workers. He was first served with a charge-sheet on the plea that he had participated in a labor rally on May Day and finally arrested on September 20, 1948.

On Nov. 14, 1948, Benarsi Dass and Mohinder Sahai were again arrested along with Hari Krishen Khosla, an active Socialist and trade union worker of F. Z. R. Banarsi Dass, along with Mohinder Sahai and Hari Krishen had been organising Railway labour under the Eastern Punjab Railwaymen's Union, which is affiliated to the All India Railwaymen's Federation and is registered and recognised by the Government. Benarsi Dass is the Divisional Secretary of this Union and was able to enlist a large number of members. The Railway authorities became panicky and it was at their instance that these workers were arrested. They are still under detention. Recently their terms of detention have been extended by two months.

## II

### EAST PUNJAB PUBLIC SAFETY ACT

*By Tilak Raj Bhasin*

Detention without trial is not unknown to the Indian Statute Book. The Bengal State Prisoners Regulations 1818, the Madras

Regulation ii of 1891, the Bombay Regulation XXV of 1827, State Prisoners Act 1850, continue to be maintained although it was nearly a century ago that they were first enacted. These statutes are a shade grimmer in purpose than what is styled 'preventive detention,' a term peculiar to present-day provincial public safety legislation. The prerogative process of the celebrated writ of habeas corpus for securing the liberty of the subject by affording effective means of immediate release from unlawful or unjustifiable detention is denied to the detenu detained under these statutes. But the prerogative is not denied to a detenu "preventively detained."

Preventive detention is a creation of the Government of India Act 1935. The prefix "preventive" is however a misnomer, as the effect of such detention is definitely punitive. It constitutes detention without trial, and is essentially a measure of chastisement.

Under the Public Safety Act the period of detention is one month unless directed otherwise by the Provincial Government but the detention can in no case exceed one year. The Select Committee of the Punjab Assembly *inter alia* recommended furnishing of grounds of detention and particulars to the detenu within a reasonable time in order to enable him to make a representation to the detaining authority against his detention. The recommendation having been adopted forms part of the Act now, thus bringing the East Punjab Public Safety Act in line with similar Acts in other provinces which have all along provided these safety valves in the interests of detainees. People in the Punjab (Now East Punjab) have for long been deprived of the obvious advantages of the furnishing of grounds and particulars of detention. It has been judicially held that these reflect the "processes of thought" behind the detention and as such afford opportunity to the courts to prevent abuse. Many habeas corpus petitions have been allowed in various High Courts on account of the want or vagueness of grounds.

A study of the report of the *habeas corpus* petitions before the various High Courts in respect of detentions arising out of the Public Safety Acts, reveals many instances of abuse of power.

In the famous case of Balbir Singh, a socialist from Hoshiarpur, Mr. Justice Achru Ram of the East Punjab High Court made significant observations. His Lordship observed; "After having given the most careful and anxious thought to this case and the facts disclosed on the record I am quite clearly of the opinion that no facts or circumstances have been proved to have existed at the material time on which any reasonable and unbiassed man could feel satisfied that the arrest and detention of Balbir Singh was necessary with a view to preventing him from acting in any manner prejudicial to public safety or the maintenance of public order. I am also of the opinion that there were no materials on which the existence of such facts could have been reasonably assumed. I must find in the circumstances that the orders for the arrest of Balbir Singh and therefore the subsequent orders for his

detention constituted an abuse of the powers conferred by section 3 of the Punjab Public Safety Act or the arresting and the detaining authority, and must subsequently be held to be in excess of these powers, and therefore *ultra vires*”.

In the case of Pandurang Govind Phatak, Mr. Justice Sen while delivering the judgment of a Division Bench of the Bombay High Court observed thus: “When under statute (Bombay Public Security Measures Act) enacted in *peaceful and normal times* (itals. mine) an executive officer of the status of a District Magistrate has been given the authority to interfere with the liberty of a subject, and he has been often proved to be careless, arbitrary and mechanical, and even to act *mala fide* or with an ulterior object in making use of the power of detention conferred on him the court would not be justified in relying upon the principle *omnia esse rite*. In such circumstances it becomes the duty of the Court to scrutinise the order made and the grounds given therefore with utmost care and anxiety and to make every legitimate inference in favour of the subject.

The Punjab Public Safety Act did not contain the safeguard, *viz.* the furnishing of the grounds and particulars of detention to the detenu and the task of the High Court, under it, became obviously difficult. The following observations of two eminent judges of the Lahore High Court explain the position lucidly :

Mr. Justice Mohd. Munir in *Suraj Parkash & Ram Lal vs. Emperor* (A. I. R. 1948. Lah. 84) observed: “The short but difficult task that the Court has to perform in such cases is to read the mind of the arresting officer and if keeping in view the attendant facts, the Court can accept the arresting officer’s averments that he effected the arrest because he was satisfied that it was necessary to do so with a view to preventing the man concerned from acting in a manner prejudicial to the public safety, it must discharge the rule, however poor, illogical or absurd the grounds on which the officer acted may be, it not being a condition precedent to such arrest that the arresting officer had reasonable grounds to believe or reasonable suspicion against the person arrested that unless arrested he would act in a prejudicial manner.”

Mr. Justice Bhandari in *Faiz Ahmad Faiz, Editor, “Pakistan Times” vs. Emperor* (A. I. R. 1948, Lahore 87) in the concluding portion of his judgment has made significant observations: “The pressing necessities of the moment have placed a most formidable weapon in the hands of the Government, for the powers conferred on the Crown by the Punjab Safety Act 1947, are so wide and extensive that almost any kind of official action can be justified. Section 3 empowers the Provincial Government to arrest a suspected person if the Provincial Government (not the Court) is satisfied that his arrest is necessary. In the absence of very strong and convincing evidence of *malafides* how is it possible ever to show that the Provincial Government was not satisfied . . . It is the duty of the Executive to make

certain that even in these difficult times emergency measures do not exceed the necessities of the situation."

### Other Methods

The idea behind preventive detention is to intercept a person from acting in any manner prejudicial to the public safety or the maintenance of public order. The words used in the relevant section of the Act are "that with a view to preventing him from acting in any manner prejudicial to," etc. In certain other similar Provincial Acts, *e.g.*, the Bombay Act, the word used is "is acting in any manner etc." In the case of the latter therefore some overt act towards subversion of public order is indicated while in the case of the former all that is indicated is a mere apprehension. The words "with a view to preventing him from acting in any manner prejudicial to public safety or the maintenance of public order" clearly signify that the contemplated act has not been consummated. Therefore when a prejudicial act has not been actually executed and all that is necessary is to prevent him from doing so, one may legitimately ask whether incarceration is the only means. Such a situation is not unprecedented. Precisely to gain this end other methods are not only known to normal penal law but are actually in vogue and employed by the Executive. Section 149 Criminal Procedure Code gives power to every Police Officer to interfere for preventing the commission of any cognisable offences. Section 151 of the code empowers a police officer who knows of a design to commit any cognizable offence, to arrest without orders from a Magistrate and without a warrant, the person so designing, if it appears to the officer that the commission of the offence cannot be otherwise prevented. Under Section 152 of the Code a police officer on his own authority can intervene to prevent any injury attempted to be committed in his view to any public property, movable or immovable, etc. In respect of a breach of peace (which is synonymous with breach of "Public Order") the provisions of Section 107 Cr. P. Code are also of a preventive nature. The Section states:

Whenever a Presidency Magistrate, District Magistrate, Sub-Divisional Magistrate or Magistrate of the First Class is informed that any person is likely to commit a breach of peace or disturb the public tranquillity or to do any wrongful act, that may probably occasion a breach of the peace, or disturb the public tranquillity, the Magistrate if in his opinion there is sufficient ground for proceeding may, in the manner hereinafter provided, require such person to show cause why he should not be ordered to execute a bond, with or without sureties, for keeping the peace for such period not exceeding one year as the Magistrate thinks fit to fix." Persons disseminating seditious matter can be dealt with under the provisions of Section 108, Criminal Procedure Code, also a preventive section. Under Section 117 (3) of the Code, pending the completion of enquiry, *inter alia* under Sections 107 and 108 referred to above, the Magistrate, if he considers that immediate measures are necessary

for the prevention of a breach of the peace or disturbance of the public tranquility or the commission of any offence or for the public safety, may for reasons to be recorded in writing, direct the person in respect of whom the order under Section 112 has been made to execute a bond with or without sureties, for keeping the peace or maintaining good behaviour until the conclusion of the enquiry and may detain him in custody until such bond is executed, or in default of execution, until the enquiry is concluded.

It will be realised that these provisions constitute an interim security against misbehaviour during the pendency of the proceedings.

It should, therefore, be appreciated that only two courses are open to the person proceeded against, both in the interim period and at the final stage (1) to execute a bond with or without sureties for keeping the peace or maintaining good behaviour. If he does so he is prevented from disrupting public peace; if he does not, he is liable to be detained for a specified period. This is, of course, if the Magistrate has reasonable ground to believe that there is due apprehension of a breach of the peace. Such a detention, i.e., for failure to execute a bond to keep the peace may truly be regarded as preventive detention. Detention envisaged in the Safety Act is arbitrary and punitive.

If "public order" as used in the Safety Act, and "peace" and "tranquility" as used in Section 107 of the Criminal Procedure Code mean the same thing, then particular persons can be prevented from acting in a manner prejudicial to public safety or maintenance of public order in most cases without the so-called preventive detention of the Safety Act.

In providing for the so-called "preventive detention," the only motive can be to screen executive action from judicial examination so that public liberty can be suppressed without criticism or protest from the judiciary.. The Legislature has in doing so ignored the right of *habeas corpus*. With the liberalising of the judicial view on account of the increasing consciousness of the anomaly of emergency legislation in times of comparative quietitude, the object of the legislature will be frustrated. It would be an act of good grace to withdraw the legislation rather than elicit judicial condemnation (with kind acknowledgments to Janatha).

### Provisions in Emergency Legislation Covered by Normal Law in East Punjab

<i>East Punjab Legislation.</i>	<i>Provisions of Normal Law.</i>
Control of suspected persons.	Sections, 107, 44, 151, 42 of the Cr. Procedure Code.
Power to require assistance of certain persons.	Sections 42 Cr. P. Code.

<i>East Punjab Legislation.</i>	<i>Provisions of Normal Law.</i>
Appointment of special Police Officers.	Section 144 Cr. P. C
Control of Educational Institutions.	Section 144 Cr. P. C.
Control of Publication.	Provisions of the Indian. Press (Emergency) Powers Act No. XXIII of 1931.
Prohibition of entry into the Punjab of newspapers, etc.	Provisions of Press (Emergency Powers) Act; Section 144 Cr. P.
Securing of reports of public meetings.	Section 2 of the Prevention of Seditious Meetings Act, No. X of 1911.
Prohibition of meetings or processions, demonstrations.	Section 144, 141, 142, 146, 147, 151, 127 to 132 Cr. P. C. Sections 30 to 33 Police Act. Provisions of the Prevention of Seditious Meetings Act (also includes public tranquility).
Removal of obstruction which impedes the working of the police and fire brigades.	Section 133 Cr. P. C. Police Act and Section 144 Cr. P. C.
Photographs of persons, obtainment of thumb impression or specimen of handwriting.	Section 4, 5 & 6 of the Identification of Prisoners Act.
Dissemination of rumours, seditious speech, etc.	Except defaming Government or a minister or any servant of the Crown—Sec. 124 of I. P. C. Section 505 I. P. C.
Possession or conveyance of prescribed or prohibited documents-	Sec. 5 Criminal Law Amendment Act No. XXIII of 1932. Sec. 21, 22 and 23 Press (Emergency Powers) Act.
Molestation.	Sec. 7 Criminal Law Amendment Act.
Membership of quasi-military organization.	Sec. 144 Cr. P. C.; can be declared unlawful under Section 17 Cr. Law Amendment Act.
Wearing or display of uniforms or emblems.	Sec. 144 Cr. P. C. Section 140 I. P. C.
Tampering with public servants.	New offence; in case of policemen, the Police (Incitement to Disaffection) Act No. XXII of 1922.
Sabotage.	Most of it is covered by sections 425 to 440 I. P. C. Criminal conspiracy Section 120-B I. P. C.

*East Punjab Legislation.**Provisions of Normal Law.*

Imposition of collective fine in dangerously disturbed areas.	Punitive police can be stationed in the disturbed districts at the cost of the inhabitants under Section 15 Police Act; the District can be declared as disturbed or dangerous under this section. This can be a substitute for imposition of collective fines.
Awards of compensation to sufferers in dangerously disturbed areas.	Section 15-A Police Act.

(*Janatha, April, 24th*).

## III

## REPRESSION OF THE PEASANTRY

*Patiala*

For more than ten years discontent against an illegal form of tenancy has been spreading among the tenants of Kishengarh and the nearby villages, where for generations a handful of biswedars (landlords) have been ruling over the destinies of the people. The muzaras (peasants) have been resisting the demands of the biswedars to part with the produce of the land which was the result of their labour. The tenants of some villages of Tehsil Mansa (district Bhatinda) had forged a united front against the biswedars on the question of batai crop share. The biswedars sought the help of the police more than once to deprive the muzaras of the fruits of their toil.

**Arrests of Peasants**

With the Congress, which till recently was the champion of the *muzaras*, now in office under the Rajpramukh, the *biswedars* again tried to force a decision. Two months ago a posse of police proceeded to Kishengarh at the request of the *biswedars*, but had to return in face of the determined opposition of thousands of *muzaras*. After this the police started arresting the leading *muzaras* on one pretext or other. About 15 persons were clapped in jail. Some of the peasants were declared absconding dacoits though they were all the time in the village going about their work.

Disappointed with the attitude of the Congress ministry the *muzaras* became easy tools in the hands of Communists who were out to create chaos and disorder in the Union. The Communists followed their usual line of action. Preparations were made to stage a "revoution" and the peasants egged on to violence.

On the night of March 15, a police party under an assistant superintendent of police proceeded to Kishengarh. The police encircled

some of the houses when the inmates refused to allow the police in, fearing molestation of their womenfolk. Terror-stricken women and children gathered together and surrounded the police. The police opened fire. This was followed by brickbats from the housetops. A head-constable was slightly injured. There was an exchange of fire. A sub-inspector was injured who later succumbed to the injury. A tenant was injured by a bullet on his knee. The police sent an S. O. S. message to Patiala for reinforcements. A detachment of the Patiala military with armoured cars arrived soon and encircled the village.

### Reign of Terror

Reports trickling through the iron curtain say that more than a dozen tenants died in the firing, a number of houses were burnt and that women isolated from their menfolk were molested. On the pretext of search for arms, houses were being ransacked and property looted. More than 150 arrests were made including that of a Communist leader.—(*Janata*, April 3, 1949).

### Lawlessness in Una Tehsil

The *malguzars* and *muzaras* of Una Tehsil (Dist. Hoshiarpur) in East Punjab have been restive for some months. The so-called popular Government in power has done nothing to alleviate their suffering. Backing the vested interests and the communal reactionaries, the Ministry is merely interested in keeping itself in office.

Recently Pandit Gian Chand, a Party comrade, was deputed to visit the Tehsil and report the situation to the provincial Party. He went to V. Andura in Una Tehsil and had preliminary talks with the people and their leaders about the unrest prevailing in those parts. He explained the Party standpoint and appealed to them to join the All-India movement for the abolition of landlordism. He was to address another meeting the next day but before he could do it, he was swooped upon by the Police. He and his host were dubbed as Communists and whisked off in a lorry to Hoshiarpur where they were let off. On the way the police lorry is said to have picked up passengers on a fabulous payment. This is the way Police rule East Punjab.

(27-6-1948 N. S.).

### Sakti

Judgment has been delivered in the cases of a number of Kisans and Socialist workers who were arrested in connection with the Kisan Movement in Sakti. Their cases were pending in the courts for a long time. Shrimati Nandurani Jain was acquitted, while the others were sentenced to various terms of imprisonment ranging from one year to 8 years.—*J.*, Oct. 17, 1948.

## Warrant against Kisan Leader

Warrants have been issued against Com. Pritam Singh, President Kisan Panchayat, for an alleged objectionable speech delivered by him in December. Hissar police raided his house at Khanna with the help of Ludhiana police.

### Hissar

After petitioning a number of times and waiting for months, the kissar of Hissar finally launched a satyagraha, as decided, on May 16. Five thousand kisans from all over the district assembled on that day at Hissar prepared for satyagraha. They had come to protest against the Government policy because it had failed to put an end to ejectments. The District Magistrate, Hissar, had enforced Section 14 of the East Punjab Public Safety Act throughout the district banning public processions or meeting of two or more persons. The police force had also been considerably reinforced to meet all eventualities. Out of the five thousand, the Satyagraha Committee allowed a thousand kisans to parade the streets and demonstrate, under the leadership of Choudhri Net Ram, convenor of the Satyagraha Committee, and four other kisans. When the procession neared the office of the Hissar Socialist Party the leaders of the procession were taken into custody. The arrested kisans were sentenced to a week's rigorous imprisonment by the Additional District Magistrate, Hissar, on May 18. The court room was packed to capacity by the local people. All the accused pleaded guilty to the charge and said that they were constrained to resort to satyagraha to draw the attention of the East Punjab Government to the miserable plight of the tenants in the district. Choudhri Net Ram said that they had no intention of harassing the Government, but after having waited for over a year and a half for implementation of the pledges of the Congress, they had now taken to the path laid down by Mahatma Gandhi. He hoped that by their suffering, the ministers and other Congress leaders would be made to face the realities and fulfil the pledges held out to the tenants. Every day more and more kisans are volunteering themselves as satyagrahis. The Hissar peasants are not alone in the struggle. A number of socialist and kisan workers from outside the district have also volunteered to offer satyagraha. Volunteers are keeping themselves in readiness in Hoshiarpur, Ferozepore, Karnal and Gurgaon. In Ferozepur unrest among the tenants of the Mamdot estate and Guruharshai is mounting under the oppression of the landlords. Shrimati Vidya Puri who is in charge of the Women's Section of the Provincial Socialist Party has toured a score of villages and the response to her appeal has been tremendous.

Choudhri Krishan Gopal Dutt, former Finance Minister of the East Punjab, has issued a statement in connection with the Hissar satyagraha in which he has urged the Government to come to an amicable settlement with the tenants and avoid conflict with the socialists. Meharohand Ahuja, Secretary of the Provincial Party, has wel-

comed this statement and expressed the hope that the Congressmen of the province would heed the voice of Choudhri Krishan Gopal Dutt and throw in their weight with the tenants. Meharchand Ahuja has pointed out that the problem of the tenants is not confined to Hissar only. It extends to other districts as well, i.e., Hoshiarpur, Ferozepore, Karnal, Ambala and Gurgaon.—*Janata (12-5-1948)*.

(*Note.*—Hissar Satyagraha has since been withdrawn as the Premier has promised to bring a bill granting security of tenure to tenants.)

#### IV JAILS IN EAST PUNJAB

Com. Jagjit Singh, Kisan worker of Jandiala, is keeping indifferent health in Jullundur Jail. He stayed in the jail hospital for 14 days. Treatment to political detenus in Punjab jails puts British jail administration into shame. Political detenus have been deprived of even the facilities to which they were entitled under the British regime. Beds, better clothes, family allowance, books and the like are totally denied to them. The detention period of Com. Hukam Singh, labour leader of Ferozepore, has been further extended by five months.—(*N. S. Oct. 31, 1948*)

Com. Jagjit Singh of Jullunder District, a Party worker and detenu in Ambala Central Jail has been on hunger strike since 25th October. He took that drastic step after his memorandum to the East Punjab Government to either release him or try him in a court of law was not heeded by the Government. Originally ill, his position has further deteriorated after the hunger-strike.—(*N. S. Nov. 21, 1948*)

Com. Banarsi Dass, Divisional Organiser, E. P. Railwaymen's Union, Ferozepur; Com. Hukam Singh, Secretary, M. E. S. Workers Union; Com. Mohinder Sahai and Com. Hari Krishnan Khosla who were detained without trial at Ferozepur for no other apparent reason than organising trade unions were transferred to the Ludhiana jail recently. They were taken to Ludhiana handcuffed and were accompanied by a posse of police. No one was allowed to see them en route. These trade unionists were classified as 'c' class prisoners and were accorded the treatment meted out to ordinary criminals. It is understood the authorities are bent on detaining them indefinitely taking advantage of the recent enactment by the provincial legislature providing for the extension of detention periods.—(*Janatha Dec. 12, 1948*)

#### V SAME ACTS OF REFRESSION

1. At Narnaul the Superintendent of Police locked six potter women under Sec. 107 and Sec. 151. When it was condemned at a public meeting, the president of the meeting was proceeded against under a three month old case. There was a hartal when groups of people were charged with the butt end of rifles and shops and buildings were fired at. An official enquiry has been promised.—(*Janatha, May 1, 1949*)

2. Comrade Banarsi Dass was arrested at Ferozepore on June 1, under the Public Safety Act. This is the third time that Comrade Banarsi Dass has been arrested and detained during the last twelve months. The notice served on Comrade Banarsi Dass by the Superintendent of Police, Ferozepore, stating the reason of his arrest and detention says :—

“In pursuance of the provision of sub-section (5) of section 3 of the East Punjab Public Safety Act 1949, You Banarsi Dass are hereby informed that the grounds of your detention are as follows :—

You have indulged in the Socialist activities.

Your detention has therefore been ordered to ensure Public Safety and the Maintenance of Public order.”

There have been other victims of this high-handedness on the part of Ferozepore District Officials during the recent months. Besides Comrade Banarsi Dass, Comrade Mohinder Sahai, Natha Singh, Krishnan Thakar, Hari Krishan Khosa were in detention for various periods till the first week of April, 49.

Recently the local police at Ferozepore started taking down the names of all those who buy “SOCIALIST” Weekly organ of the Socialist Party, East Punjab Branch, “JANATA” and other Socialist Party literature from party comrades.

3. Pandit Satara Lal was arrested at Ludhiana on May 10, under the Public Safety Act and has been in detention ever since. Pandit Satara is one of the founder members of the Socialist Party in the Punjab and has been connected with the Party for the last fifteen years. His only fault seems to be that he went on an inspection tour of the Party units in the Hoshiarpur district in accordance with a decision of the Provincial Executive which under instructions from the Central Party decided at its Amritsar meeting on April 15, 16 & 17 to arrange periodic inspections of all the units in the province.

4. Nine Socialist workers of Rupar were arrested at Rupar on April 13, 1949, the Jallianwala Bagh Day. A prohibitory order under the newly enacted Public Safety Act was served on them while their meeting was in progress but a Congress meeting at the same place, was allowed to proceed unhindered. In jail these Socialists were treated as “C” class prisoners, while it is the declared policy of the East Punjab Government to accord better class treatment to all matrioulates and all those who earn Rs. 100 or more per month. Three of our friends are graduates and all earn more than Rs. 100 but the East Punjab Government in spite of our many representations did not see its way to give them the facilities due to them.

a. Arm licenses of Socialists are being cancelled on the only plea that they are Socialists. Two recent victims of this discriminatory treatment are Sathi Jaswant Singh Deol of village Valtoha, a town on the border of India and Sathi Bajinder Singh Panchi of Jullundur Cantt. A similar news has come from the Hoshiarpur district where Congressmen who are joining the Socialist Party are being threatened

by the local police that their arm licenses would be cancelled and they would be arrested as Communists.

6. Permission to celebrate Bhagat Singh Day on March 23, was refused to many Socialist Party Units in the East Punjab while the local Congress Committees had no difficulty in securing the necessary permission for the celebration of the same day.

7. Similarly, the Socialists were not allowed to hold public meetings on April 13, the National Day. The Congress Committees again did not experience any difficulty and celebrated the Day throughout the province. Permission to hold meetings on May Day and Anti Ejection Day on May 1 & May 22, respectively was refused almost at all the places.

8. An instance of police harassment has been brought to our notice by the Secretary, Jullundur Cantt. unit of the Socialist Party. The Party comrades there were pasting Anti-Ejection posters the other day. A policeman in white clothes came and snatched away a poster from the hands of our local secretary.

Similar reports have reached us from Hoshiarpur where our posters were torn by the police people. May be in their view the Socialist Party has no right to exist.

The latest instance of the misuse of the powers under the Public Safety Act is the promulgation of Section 14 Public Safety Act in almost all the districts of the province under which even two persons cannot move together. This has established semi-Martilal Law in the province.—(*Tilak Rajchadha*).

## VI

### FREEDOM OF THE PRESS

While the Governor-General, Shri Rajagopalachari was expatiating on the liberty enjoyed by the Indian press in his inaugural address to the All India Newspapers Editors Conference the Full Bench of the East Punjab High Court was deploring the unsatisfactory and insecure position of the press in India. The occasion was an appeal filed by the "Daily Pratap" of Delhi against an order of the Chief Commissioner of Delhi forfeiting its security and demanding a fresh security of Rs. 5,000. In the course of their judgment the Full Bench observed that the authorities "are still prone to stifle legitimate comments and criticism." They added: "The outpourings of aggrieved persons, who pray for redress, instead of being appeased, are sought to be smothered with the hardy weapon of the law of sedition.....We do feel that the law of sedition should no longer be left in the nebulous state in which it is.....It is desirable that the safeguards let in by the Federal Court in its judgment in Niharendu Dutt Muzumdar's case should be incorporated in our law of sedition and our Press Act for these very proceedings clearly demonstrate, to our mind, that people still require protection against the Executive

even if it is our National Government." The Full Bench said that 'it would be an evil day for the country if Section 4(1) (D) of the Indian Press (Emergency Powers) Act could be made use of for stifling legitimate criticisms or comments or for preventing ventilation of genuinely felt grievances on the pretext that they inevitably give rise to some resentment and disapprobation.' Unfortunately for the country such a use is being made by the Executive of the section referred to and many other equally oppressive provisions of law. And it is still more unfortunate that, completely oblivious of those facts, the Governor-General should go about talking of the liberty enjoyed by the Indian press. We invite his attention to the remarks of the Full Bench and request him to look a little more carefully into the working of the emergency legislation in the country.—(*Radical Humanist*, 29-5-49)

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### CHAPTER III

## CIVIL LIBERTIES IN THE PROVINCE OF BOMBAY

### I

#### BOMBAY PUBLIC SECURITY ACT

*Asoka mehta*

The Government of Bombay, through the Public Security Act, have assumed powers that no government claiming to be democratic have assumed anywhere. In Britain, for instance, even in the worst days of war and threat of invasion such drastic powers against individual's liberty and the fundamental freedoms were never asked for. It is tragic to discover that even the alien British rulers never needed such a plenitude of power against the people.

In the hated Rowlatt Act there was the provision for reference of the case of a person detained by the Government to a tribunal of persons of the status of High Court Judges. Not even this elementary safeguard is now retained. Even last year, when the situation in the country was disturbed, the Government sought powers to detain or restrict a person only when some continuous course of prejudicial conduct could be definitely attributed to him. This year, however, notwithstanding the improvement in the national situation, mere suspicion, that too in the opinion of a police subordinate, is enough to forfeit a person's liberty.

The armoury of ordinary law is well-stocked with restrictive and repressive measures against the press by the British rulers. Powers that were deemed adequate by the enemies of Indian freedom against Lokamanya Tilak's *Kesari* and Arvind Ghosh's *Bande Mataram* are considered woefully inadequate by the first Government of free India! The powers recently assumed by the Government enable them virtually to decide not only what the press shall not publish but what it shall write.

Such powers lead towards a monopoly of propaganda. Where such a monopoly exists, as in the A. I. R. and the news services, the Government have not scrupled to use it for unashamedly partisan ends. Film censorship, too, is fast becoming a vehicle of the Government's narrowness of heart and vision. Independent and critical views are denounced as subversive.

This temper of mind becomes dangerous when it is realised that the Government has an obedient legislature, as that body was elected for a wholly different purpose than what it serves to-day. The absence of opposition in the legislature demands vigilant criticism outside.

The Government's vast powers are characteristically reserved only for its critics and opponents. Its *Bhats* and *charans* feel not the reins at all, for neither their tongue or their pen is bridled. Even the Congress Dab is left free of all hindrance.

The members of the Government pride in being thin-skinned. They have illusions of infallibility and no hesitation, moral or intellectual, in equating their puny selves with the State itself. All criticisms, all expressions of opposition to their senile administration, is forthwith construed as *lese majesty*.

The whole gamut of special powers has, however, failed over and again when confronted by a real emergency. Godhra is a monument of Government's folly and not its wisdom.

A repressive government that is also panicky and hypersensitive that has no qualms in being partisan and is at once inefficient and corrupt is a danger to peace. It cannot maintain order or ensure progress for it is itself the progenitor of discontent. Against what the Government arms itself is in reality the limitations of its own vision and virtue. The Government, through its thoughtless lust for power, its senseless megalomania, is creating conditions where men will refuse to be law-abiding. It is against that peril that we sound a note of warning.—(N. S. 25-4-1948)

## II

### THE PUBLIC SECURITY MEASURES AMENDMENT BILL, APRIL 1948

(*Memorandum of the Council of the Deccan Sabha, Poona*)

The Bombay Government is seeking, by an amending Bill, to extend the life and scope of the Public Safety Measures Act, 1947.

2. This Act itself was a panicky measure, not justified by compelling reasons of any untoward happenings at that time in this Province. And complaints have been made that this measure, avowedly intended to be used against bad characters, was in fact grossly misapplied.

3. Now it is proposed to extend the duration of this emergency legislation by one more year when the necessity for extension is far from obvious. But what is far more objectionable in the amending

Bill is the dangerous extension of its scope calculated to sap the very foundations of all independent public life in the Province,

4. Government wishes under the amendment to take wider power in respect of detention of suspected persons than is conferred by the original Act. As the law stands at present, an order of detention can be made against a person only if Government is satisfied that he "is acting" in a prejudicial manner. But if the Bill passes into law, it will be competent to a police officer to detain a person in custody if he is satisfied that the person concerned "is likely to act" in a prejudicial manner. Further, Government now desires to relieve itself of the obligation which it had assumed under the present Act of furnishing the detained person with the grounds on which the detention order was made. It is obvious that the effect of these changes would be practically to deprive the aggrieved person of even such meagre opportunities as he now enjoys of having his case judicially investigated.

In this connection the provisions of the Rowlatt Act (Act No. XI of 1919) may be cited. This Act empowered the Local Government in any area where the Governor-General was satisfied that revolutionary crime was being committed to such an extent as to threaten public safety to arrest and hold in detention persons believed to be connected with such crime. Section 34 (1) of that Act, which provided for the two matters which are now being considered here, ran as follows.

"Where, in the opinion of the Local Government, there are reasonable grounds for believing that any person *has been or is concerned* in such an area in any scheduled offence, the Local Government may place *all the materials in its possession* relating to his case before a judicial officer who is qualified for appointment to a High Court and take his opinion thereon. If after considering such opinion the Local Government is satisfied that such action is necessary, it may direct (a) the arrest of any such person without warrant; (b) the confinement of any such person."

It will be seen how in several respects the provisions of this Section are far less repressive than the provisions in the Public Security Measures Act. But even the slender safeguards afforded by the Act as it stands at present are now being removed. It is surely unnecessary to emphasise the reactionary nature of the amendments further than to say that they would render the legislation far more repressive than an Act of evil memory enacted by a foreign government nearly thirty years ago when anarchical offences were being committed on a large scale in parts of the country, an Act which all the political parties in the country had united to oppose and in offering mass resistance to which Mahatma Gandhi had taken a leading part.

5. But the new restraints sought to be imposed upon the freedom of the Press are a culmination in the Government's present

policy of repression. If the Bill is allowed by the Congress party in the legislature to reach the statute book, and the Legislative Assembly has already passed it, Government will be empowered to forbid any newspaper or periodical to publish news or comment upon any particular subject or subjects, to clamp down pre-censorship upon any such organ of public opinion, or to stop its publication altogether. Contravention of any such order may be visited with imprisonment for a year.

6. All these are obnoxious provisions; only, some more than others. But all demand a stern and uncompromising opposition on the part of legislators and the general public. The prohibition of publication of news or comment on specified matters is in itself a grave breach of the freedom of the Press. But if it be meant for the purpose of suppressing news of the uniform ill-success with which the Bombay Government is meeting in the High Court in the habeas corpus applications, the action of the Government is deplorable in the extreme. It is known that in another Province Government, fearing that it will be unable to face the High Court in the matter of habeas corpus applications, is releasing of its own accord such applicants one by one, before their applications come on for hearing, but at the same time word is being passed round to the local press to suppress the news of release, hoping that if such news is not broadcast those who have not yet preferred applications for habeas corpus will not be encouraged to do so and Government's policy of mass arrests may not consequently be nullified. It is to be hoped that the Bombay Government is not prompted by such an unworthy motive in taking this new power to itself.

7. Pre-publication restraints on the Press are recognised everywhere to be totally at variance with that liberty of the Press which Blackstone declared, in 4 Bl. Com., to be "essential to the nature of a free State." And in saying that liberty of the Press consists "in laying no previous restraints upon publications" Blackstone was giving only a minimal expression to the scope of the freedom of the Press, as is clear from the observations of Chief Justice Hughes of the United States Supreme Court in the case of *Near v. Minnesota* (1931) 283 U. S. 697, in which the notorious Minnesota "gag law" was declared invalid. And the stoppage of a journal, not for anything that is judicially proved to be illegal or mischievous, but for what the executive might choose to regard as showing a bad tendency, is an utter denial of the freedom of the Press.

8. The Indian Press cannot be accused of showing an overzealous spirit of independence in criticising the new regime; if anything, it is far too pliable to the wishes of the all-powerful Congress Governments. On such a Press the Bombay Government is intent upon putting heavy fetters! Justice Brandeis of the United States Supreme Court, said in his concurring opinion in *Whitney v. California* (1927) 274 U. S. 357, "Fear of serious injury cannot alone justify suppression of free speech and assembly and free Press." And a warning

may be given to the Bombay Government that if it is moved by fear in adopting the present repressive policy, such a policy would not be effective in the long run either. For, in the words of Justice Brandeis in the above case, "fear breeds repression; repression breeds hate; and hate menaces stable government."

9. The Bombay Government shows itself culpably backward in punishing those who in recent disturbances committed pillage and arson on a large scale: but it wants to go headlong in annihilating the freedom of the Press. In doing so, it cannot be said with certainty to be proceeding (to judge from its recent trends) merely from an alarmist view of the situation. The indications rather are that it is actuated by a desire to put an end to all possible elements of opposition and to establish authoritarian rule.

10. The Council of the Deccan Sabha, viewing these tendencies with the most profound apprehension for the future, appeals to all those whose appointed duty it will be to consider the proposed odious measure in the legislature, and it is now possible to address this appeal only to the upper chamber, to reject it out of hand, and, should the measure pass, appeals to the Press of the Province to mobilise public opinion for its early repeal, remembering always that on the maintenance of the privileges of a free press, free speech and free assembly independent public life is founded. As Justice Black of the Supreme Court of the United States said in *Milk Wagon Drivers Union v. Meadow-moor Dairies* (1941) 312 U. S. 287. "Freedom to speak and write upon public questions is as important to the life of our (free and democratic) government as is the heart to the human body. In fact, this privilege is the heart of our government. If that heart be weakened, the result is debilitation; if it be stilled, it is death."

### III

#### REVIEW OF THE CASES OF DETAINEES

*N. M. Joshi*

On 17th March 1949 the Hon'ble the Home Minister of the Bombay Government announced in the provincial Legislative Assembly, presumably in pursuance of a policy decided upon by the Central Government for all provinces, the appointment of an authority to review the cases of persons held in detention under the Bombay Public Security Measures Act, 1947. The announcement is welcome as a recognition on the part of the Government of the possibility of the preventive detention of innocent persons when such detention is ordered on the basis of "subjective satisfaction" by the Government that the persons to be detained are guilty of subversive acts. But it is very doubtful how far, under the procedure of review now contemplated, persons wrongfully detained will be assured of justice being done to them.

While considering this point, it should first be noted that the area of "subjective" discretion, i.e. the mere opinion and *ipse dixit* of the Executive in regard to the necessity of detention is very much wider under the Bombay Act than, for instance, was the case under the Emergency Powers Act, 1939, of England, where also an Advisory Committee of judges was appointed to review the cases of those detained without trial. In England such action could be taken only against persons falling either into the class of persons who are of hostile origin or into the class of persons who had been "recently concerned" in acts prejudicial to the public safety. Apart from the fact that such action was permissible only in war time, the limitations imposed as to the class of persons who could be deprived of personal liberty without due process of law afforded a very substantial safeguard. In our province, however, such action can be taken even against persons who, in the opinion of the Government, are just "likely to act" in a manner prejudicial to the public safety. Where the discretion allowed to the Executive is so much more extensive the possibility of innocent persons having to suffer is correspondingly greater, when on the other hand, the need for taking any such drastic action contrary to the principle of the liberty of the citizen is far more open to question in any emergency lesser than war.

The quasi-judicial review provided for in England could also be more searching than seems to be the case in the Bombay Province. Under the Bombay Act a detained person is, on application from him, supplied with such grounds for his detention as may seem to the detaining authority to be sufficient to enable him to make a representation to Government. Now it would appear from the *communiqué* of the Director of Publicity that the same material would be placed before the official appointed to review the cases of detainees and his advice sought on the action taken. If this is the procedure that is to be followed, very little good can be expected to flow from the proposed review. In England the procedure was different. The detained person was first served with an order giving briefly the grounds of his detention. Then he was supplied with a further statement giving more details of these grounds. The Home Office did not wait for an application to be received from the detainee; it supplied the information automatically in all cases. And when the person detained went to the Advisory Committee, the Committee saw to it that all the facts known against him were put to him as explicitly as possible; that he was put in possession of all the detailed evidence upon which he was being held in detention. The detainee could call witnesses, and in many of the cases considered by the Committee, witnesses were in fact called. Similarly it was always within the competence of the Committee to decide that a detainee should be assisted by a solicitor to help him in presenting his case. The proposed review in this province does not seem to be surrounded with any of these safeguards.

- If the reviewing authority is to have before it only those bare particulars which are supplied to the detained person, if it cannot call for full details of evidence from the Home Office and undertake to

place them all before the person concerned; if it cannot give him opportunity to rebut such evidence by calling witnesses if necessary and with the help of a solicitor or at least "a prisoner's friend," the review is bound to be ineffective and infructuous because the reviewing authority is to examine whether the "subjective" discretion of the Government was properly or improperly exercised in judging of the allegations, not merely to the effect that the detainee was acting, but was "likely to act" in a manner that the Government thought to be prejudicial to the public safety. Even with as strong safeguards as in England, a review of such discretionary powers cannot be of any great value. In the absence of these safeguards, its value would be little indeed.

The Director of Publicity has mentioned that a habeas corpus writ is available to the detained person, under which the High Court decides whether or not the order of detention passed against him was "rightly and properly" made. This is nothing short of disingenuous. All that the High Court can look into in such cases is whether the terms of the Act are observed or not. Into the truth or falsehood of the grounds alleged it has no power to go. It was only where the allegations made against the detainee were too vague for the purpose of enabling him to make a representation to Government that the High Court was in a position to set aside the order. But when this was the case, it did so not on the merits of the reasons adduced but on the ground of their insufficiency even according to the wide terms of the Act. The remedy of the habeas corpus is to all intents and purposes non-existent for those unfortunate people who are selected by the Government for deprivation of their personal liberty.

#### IV

### TRADE UNION RIGHTS AND GOVERNMENT OF INDIA

*By Dinkar Desai*

The question of trade union rights came up for consideration in the United Nations Economic and Social Council on March 8, when the representative of the Soviet Union proposed a motion condemning Indian Government and a number of Middle Eastern and Latin American Governments for infringement of various trade union rights in these countries. Although the Soviet motion was not adopted, the Council referred the whole question to the International Labour Organisation.

The charge of the Soviet Union was that India, among the countries mentioned above, had taken various legislative, administrative and other measures in violation of the United Nations Charter. Refuting this charge, the representative of Indian Government stated that his government "*had done nothing which can be even remotely construed as a violation of these rights.*"

## The Human Rights and Fundamental Freedoms

The purpose of this article is to examine objectively the real position in India in regard to trade union rights and to show the extent to which the allegations made by the Soviet Union are justified.

The Charter of the United Nations to which the Soviet spokesman made a pointed reference affirms "*faith in fundamental human rights, in the dignity and worth of the human person*". Dealing with the functions and powers of the Economic and Social Council, the Charter says that the Council "*may make recommendations for the purpose of promoting respect for, and observance of, human rights and fundamental freedoms for all*".

It is thus obvious that the United Nations Charter guarantees human rights and fundamental freedoms. One of these rights is *the right of personal liberty, by which we mean that no person should be detained without trial. But under the provisions of the Public Security Measures Acts adopted by our Provincial Governments, hundreds of trade union and kisan workers have been detained in jail without trial or have been externed from their areas.*

The usual argument advanced by our Governments for justifying this action was also repeated at the United Nations Economic and Social Council. The spokesman of the Government of India stated: "*We cannot allow fomenters of trouble, irrespective of the organisation to which they belong, to indulge in activities designed to overthrow by violent and unconstitutional means the Government established by law.*"

The reasoning is dangerous. I myself do not approve of violent methods to overthrow the Government, but I do strongly object to the procedure of detaining a person without trial, on the plea that be advocated violence.

### Jail Without Proper Judicial Trial

The proper procedure should be to prosecute such persons before the courts of law. While even the alleged murderer of Mahatma Gandhi is given a judicial trial, one fails to understand as to why a trade union or kisan worker, who is alleged to have indulged in violence, is not given a judicial trial before he is condemned to jail life. *The real reason is that our Governments are out to destroy the trade union movement by trampling under foot the freedom of personal liberty which is one of the fundamental rights contained in the United Nations Charter.*

It is often believed that our Governments are confining their action, under the Public Security Measures Act, to Communists only. This belief has no foundation in fact. A large number of non-Communist trade union and kisan workers are also rotting in jails today under the lawless law of 'public security' enacted by the Congress raj.

Numerous examples can be cited to prove this. A typical instance is the continued detention of Mr. P. D'MELLOW, General Secretary of the Bombay Dock Workers' Union. This trade union leader was arrested on December 6, 1948, under the Public Security Measures Act and has been detained in jail since then. Although Mr. D'MELLOW is a member, representing workers, of the Board of Conciliation appointed by the Government of India for the purpose of settling the dispute in the Bombay docks, Government had not the decency to release him and thus to facilitate the settlement of the dispute. Let it also be noted that Mr. D'MELLOW is not a Communist. Again, he was arrested at a time when the docks were working peacefully and when there was not even a threat of strike in the docks.

### **Socialists, Communists : All Terrorized**

Let me also cite a typical example from the kisan field. Mr. HONNAPPA NAIK, the kisan leader from North Kanara district, was arrested and detained in jail without trial, in spite of his poor health at the time of his arrest. His health deteriorated in jail and he died a few months after his release on grounds of health. Let it be noted that there was not a single incidence of violence anywhere in the district before his arrest. His only fault was that he presided over a huge mass rally of kisans a few days before his arrest. Let it be noted that Mr. HONNAPPA NAIK was a member of the Socialist Party when he was arrested.

### **Congress Repression Worse Than British**

Both the examples cited above are very significant in the sense that the Public Security Measures Act was used during normal and peaceful times. There was neither violence nor even a threat of strike. Making use of an objectionable piece of legislation, like the Public Security Measures Act by the Congress Government for putting down legitimate trade union activities, should be clearly distinguished from the measures undertaken by the British rulers in the past to smash the Indian nationalist movement.

The British rulers generally used such laws during an emergency when, for instance, civil disobedience movement was launched, while the Congress rulers used such laws even during normal times. The use of repressive legislation has become more common now under the Congress Raj than under the British rule in so far as the trade union and kisan movements are concerned. In fact, repression on the trade union and kisan front has now become a regular feature of our administration.

### **No Freedom of Association**

Freedom of association, which includes the right of public meeting, is also severely curtailed under the Congress Raj. Often the trade union meetings and processions are banned. There are instances wherein even the ordinary private meetings of the executive of a trade union are not allowed to be held. Sometimes, permission to

hold a trade union meeting is given after putting such undemocratic and humiliating conditions as confining the speeches to a given subject, providing a list of speakers deemed satisfactory by the police, and agreeing not to adopt a particular resolution which may be embarrassing to the authorities.

This infringement of the right of association cuts at the very root of the trade union movement. In the words of Prof. Harold Laski, "the realisation of the right of association is the very essence of liberty in any society. Without it no other freedom can have very much content."

### **Police Firings on Mass Meetings**

Resort to firing by the police on mass meetings or processions at the slightest provocation is not ruled out. In this respect, the position under the Congress Raj is in no way better than what we had experienced under the British rule in the past.

The universally accepted principle that every firing should be followed by an independent judicial enquiry is ignored and consequently the police are without any healthy check on their misdeeds. Human life is considered too cheap; and the assurance to promote "the dignity and worth of the human person," loudly proclaimed in the United Nation Charter, is thrown to the winds.

Right to strike, which is a fundamental right of labour, is also taken away either wholly or partly under the various provisions of the industrial disputes legislation adopted at the Centre and in the provinces. The solemn obligation to promote "the effective recognition of the right of collective bargaining," contained in the Philadelphia Declaration of the I.L.O., is thus violated by depriving the workers of the right to strike which alone can make collective bargaining effective in the real sense of the term.

### **I. L. O. Must Send a Commission to India**

What has been stated above clearly proves the allegation that trade union rights have been violated in India. The statement made by the Indian Government's spokesman on the floor of the United Nations Economic and Social Council that his Government "had done nothing which can be even remotely construed as a violation of these rights" is a gross lie. Such lies cannot deceive the world any longer.

Since the whole question of trade union rights has been referred to the International Labour Organisation for investigation and for report, I do not wish to say anything more on this occasion. But I would request the I. L. O. not to draw their conclusions by basing their study only on the official memorandum that may be submitted to them by the Government of India.

The I. L. O. should send a Commission to India to study the question on the spot after undertaking a tour throughout the country and after giving the trade unions adequate opportunities for present-

ing their case. Such a procedure alone can inspire confidence among the workers. Otherwise, the I. L. O. investigation will be treated as a huge joke—(With Kind acknowledgement to Blitz, 26-3-1949)

## V

## CIVIL LIBERTIES IN NASIK DISTRICT

(M. R. Dalvi, Secretary, Civil Liberties Union, Nasik.)

In Nasik District, Civil Liberties are in no conceivable manner in a safer position than in any other part of India but are actually in greater jeopardy than ever before in the past. People cared little for the civil liberties as such except as a strategic position from which to launch an attack on the foreign rule in India. The wickedness of the Foreign Imperialistic rule could be proved by instances of curtailment and infringement of civil liberties and to that extent alone civil liberties had any place in the daily life of the people.

Curtailment of civil liberties or their infringement was so much associated with the Foreign rule that it came as a rude shock when the National Government itself gave new lease of life to the laws and enactments curtailing the civic rights of the people and infringing upon their fundamental notions of human liberty.

But the shock was easily sustained and readily absorbed by the Indian people and no serious opposition could take shape to oppose the Government on the issue of civil liberties for two reasons.

Firstly the common people had actually no idea that there existed any such conception as civil liberties. Never before in the annals of this great country had common people or the men in the street exercised their right of free speech, free expression of opinion and free association for the attainment of common and legitimate objects as against their own country men. Whatever rights they exercised were but a part of the greater struggle for the overthrow of the foreign rule. Struggle for freedom from the Foreign rule was the chief object and everything else was subordinated to that object. This peculiar circumstance in our national life and history is partly responsible for the unawareness on the people's part of the fundamental human rights and their importance in the growth and development and progress of the individual in the direction towards greater freedom.

Secondly the National Government could always take advantage of the blind faith of the people in the national leaders who formed the national Government. How could the national leaders who fought the battle of national freedom even deprive the people of their liberties? Where was the necessity of unrestrained civil liberties with the National Government in power? Those and similar ideas have taken hold of the common people and are nourished by the clever propagandist activities of the Government as well as the party in power.

The National leaders who formed the National Government at the centre could also produce an illusion of emergency before the eyes of

the people. Military action in Kashmir or police action against Hyderabad, revolt of the Karens in Burma or the advance of the Communist Army in China were always handy for a make-believe of insecurity and of emergency.

In fact the idea of fundamental human rights and their free and unhampered enjoyment had never penetrated deeper through the venter of the intelligentsia to the common mass of people. It only remained at the periphery and never out through it towards the centre.

This constitutes one of the gravest dangers to the free enjoyment of Civil Liberties in India. The movement for civil liberties in this country will have therefore to be primarily an educational movement to make the people conscious of their freedoms and liberties, their rights and responsibilities. The first encounter in the battle for the charter of human rights will be with the people themselves and the progress of the movement will depend upon how the campaign is conducted in this eventuality. The Government will come later and it would be possible to subdue the Government only if the people are on the side of the movement and not in the opposite camp.

This is as much true in Nasik District as in any other part of India. With the advent of freedom and National Government people took everything done by the Government in the name of emergency to curtail the liberties of the people as something which was necessary to safeguard and preserve the hard-won national freedom.

Apart from the continuance of the various repressive measures and also apart from the forging of new weapons to curtail civil liberties, the real blow was dealt after the sad assassination of Mahatma Gandhi when several people were taken into custody which was later called protective custody. No reasons were assigned for their arrest and it was only after there was an exhibition of strength by the High Court in dealing with Habeus Corpus applications that Government gave in and released a number of people who were detained without trial.

The arrests of the R. S. S. people and the ban on their organisation followed immediately.

Recently a number of Communists in the District were rounded up and kept in the prison and some genuine trade union workers were also taken into custody.

In one part of the District, the local peasantry is organised to oppose the procurement scheme of the Government. The cultivators have been demanding adequate prices for paddy, rice and other agricultural produce. They contend that the prices fixed by the Government are inadequate and do not cover the cost of production. They further point out a disparity between prices fixed in one part of the Province and those fixed in another part. The cultivators refuse to sell paddy and other agricultural produce till adequate prices are fixed by the Government.

The Shetkari Kamgar Party or the Bahujan Samaj Wadi Paksh as it is elsewhere popularly known has organised the peasantry. The leaders issued statements demanding better prices. Government replied by issuing counter-statements. Holding of meetings and procession was banned and the top leaders were externed.

Recently the District Magistrate has issued an order under Section 144 of the Criminal Procedure Code prohibiting any person to speak against the procurement scheme. I sent letters of protest against this order to the daily papers. The Government have ordered the withdrawal of this order.

The District Magistrate and the Police Officers wield wide powers. There is no security against the enjoyment of the fundamental human rights and freedom of the person. The voice of the people is stifled. Freedom has lost all its value and human dignity stands in shame outstripped of its human values.

## VI

### THE NEED FOR A STRONG AND INDEPENDENT JUDICIARY

BY

*Hon'ble Mr. M. C. Chagla, Chief Justice of Bombay*

Extracts from the Presidential Address on the occasion of the Silver Jubilee of the Indian Law Society on 11-7-48)

We have just achieved freedom and independence through, on the whole, a peaceful revolution. But we cannot ignore the fact that there has been a revolution and the revolutionary process is not yet over. Revolution has an inevitable tendency of creating dictatorship. Those in power wish to achieve things, and achieve them as quickly as possible. The democratic method is a slow and tedious method and while democratic slogans are oft repeated the spirit underlying democracy is apt to be forgotten. The revolution which was out to achieve liberty in the abstract in its zeal and enthusiasm tends to overlook the liberty of the individual. It is at times like these that the majesty of the law should become manifest. It should point out to the Executive what is its rightful domain, and like the angel with flaming swords prevent it from over-stepping it. There is an age-long conflict between the security of the state and the liberty of the subject. It is for law to see that in the name of security there is no unjustifiable invasion on the liberty of the subject.

Democracy without a strong and independent judiciary is impossible. Democracy does not merely mean the rule of the majority. It also means the respect of the majority for the rule of law—its readiness to respect the decisions of the Courts when they go against their wishes and dictates. The democratic nature of the State is not to be judged so much from influence and power that a popular Executive wields as from the independence of the Judges and the respect in which they are held. The rule of law can only prevail provided the judiciary fearlessly compels the executive to function within the law.

You may say that what I have been telling you is axiomatic—almost elementary. But there are times and occasions when elementary things must be repeated and reiterated. . . . There is a dangerous tendency abroad to minimise the importance of the judiciary, and undermine the position of the Judges.—(*Law College Magazine, Poona, October, 1948*).

## VII

### SOME FACTS ABOUT REPRESSION

#### *Ban on R. S. D.*

Imitating its sister Government of Madras, the Bombay Congress Ministry has come down with a ban on a number of volunteer organisations including the Rashtra Seva Dal, but excluding the Congress Seva Dal. The Government action is openly undemocratic and discriminating. If it wants to do away with all volunteer bodies, it must have included the Congress Seva Dal also. Otherwise the action should have been restricted only to private armies of the communalists and such dangerous elements. The Rashtra Seva Dal being a pure, open volunteer organisation with a distinguished record of public service, has not even a trace of private army. It is ridiculous to class it among organisations dangerous to public safety. Some Ministers and staunch Congressmen are in its board of management. The ban of our Congress Governments is that, like Louis XIV of France, they equate the State with the Governments, and the Governments with the party in power, that is, themselves. The banning of non-communal volunteer force which is functioning above-ground, and which the Congress itself wanted to capture only a few months ago in Maharashtra and other parts, for the reason that it is often helpful to the Socialist Party, does not become a democratic Government. More so when the R. S. S. was allowed to carry on its nefarious activities till their culmination in the cold-blooded murder of the Father of the Nation.

It is becoming more and more evident that if these choking restrictions continue to deny the fundamental rights of the people, the Socialist Party will have to mobilise public opinion for the defence of civil liberties—(*N. S. 11-4-48*).

#### **Police Raj in Sugar Centres**

The promulgation of Sec. 144 for months in Rawalgaon, the reluctance of the Government to take cognisance of the owners' refusal to implement decisions of the courts, not to mention the fact of the local Government officials obeying the dictates of the owners and suppressing the civil liberties of the workers, all these things prove the complicity of the Government and the encouragement given by them to the capitalists—(*Maharashtra Party resolution—20-6-48, N. S.*)

#### **Police firing on Bombay Sweepers**

The Bombay Corporation discussed last week a resolution sponsored by the Socialist Party demanding an impartial enquiry into the

indiscriminate police firing on a small mob of unarmed sweepers, mostly women, on the first of July in the city.

Moving the resolution, Com. Moinuddin Harris recalled the circumstances under which firing was resorted to. "Even as we were discussing the Sweepers' Strike, here in this very hall on July 1", he began, "and forming an unofficial committee to devise means of ending the strike hardly two miles away, the police were firing on an unarmed mob of sweepers. The victims of this firing were an old woman of 70, who died of a bullet wound, and three others who received injuries. The Government Press Note on the incident that the old woman was among the crowd of demonstrators on the road is not correct at all. She was hit by a bullet when standing on the verandah of her house along with a 14 year-old girl who received injuries. The Police had acted in a rash manner in this case. Had all steps been taken to disperse the crowd before opening the fire? To find an answer to this question an impartial judicial enquiry was necessary.

The habit of firing on crowds at the slightest provocation had become more frequent with the Police since the advent of freedom, and should be checked." Com. Harris concluded. Com. Dinkar Desai pointed out the discrepancies in the Government statements issued from time to time and exposed the game of Khadi-clad bureaucrats in shielding the actions of their power-proud subordinates—(N. S., 25-7-48)

### **"Anti-Inflation" week in Bombay**

Sunday the 29th was decided to be observed as "Anti-inflation Day" by the Socialist Party and a programme was chalked out for the day.

Permission which was originally granted by the Police Commissioner for the procession as well as the meeting was later rescinded on no pretext whatsoever. Com. Asoka Mehta issued a statement which read:

This is not the first occasion when the Commissioner of Police has functioned in this manner. We had sought permission for a series of meetings to be held from 10th to 14th August to review the various aspects of first year of freedom. The permission was sent to us through post on 11th August by letter No. B171/312 of 1948 and it reached us on 12th August. The series scheduled to come off from 10th instant had therefore to be cancelled.

The whims and vagaries of the Commissioner of Police cannot be tolerated. To register our protest we are cancelling our entire programme—(N. S., 29-8-48)

### **Trade Union Rights**

The socialist union in the textile mill in Chalisgaon came in for discriminatory treatment at the hands of the local authorities.

The union is of many years' standing and is both representative and approved.

Two prominent members of the socialist union were put under arrest by the local authorities. Warrants for the arrest of the President and another member of the union were believed to be pending. Numerous instances of harassment of workers belonging to the socialist unions have been reported.

The union led by socialist workers in the sugar industry in Ahmednagar has an established membership. Local Congressmen decided to raise an INTUC union among the workers. The socialist union which used to be free to hold meetings was served with orders forbidding meetings on the estate of the sugar company. Similar orders were served on a trade union in Walchandnagar which was also organized by socialist trade union workers. In the Rawalgaon sugar factory area Sec. 14<sup>1</sup> was enforced in order to prevent genuine trade union work by the socialist workers' union. The order was enforced following unsuccessful efforts by Congressmen to win over labour to their side to form an INTUC union.—(*N. S.*, 26-12-48)

### **Kisan Workers Threatened with Public Security Act**

Kisan workers in Palghar taluka of the Thana district have evoked considerable support from the peasants in that area. Last year these workers helped the peasants so reduce their rents in conformity with recent Bombay legislation. This year they have advised the peasants not to pay rent as the Bombay Government has promised remissions on account of the ravages of the recent cyclone. Announcement regarding food control has pushed up the black market prices for the peasant's rice. The kisan's postponement of rent payment robs the zamindar of the high prices he was hoping to secure. Their machinations seem to have influenced the local magistrate who has warned socialist workers to discontinue their propaganda—(*J.*, 9-1-1949).

### **Police Raj in Ahmedabad**

The District Magistrate of Ahmedabad has passed two orders denying the elementary civil liberties of the people. One of them extends the limit of the security orders passed by him regarding restrictions on carrying of arms etc., for two months. The other is the most ridiculous one. It says that no programme of any sort, which attracts a crowd of people can be organised anywhere, whether in public places or in the private places, even if the function is meant for limited invitees. Every such programme, including the Bhajan or musical parties should send a written application for permission along with annas eight. The order further directs the organisers of any programme to submit the items of programme including the wording of songs, out of which the District Magistrate will decide what songs should be sung—(*N. S.*, 10-8-1948).

### Law Outlawed by Bombay Legislature

Under the auspices of the Mill Mazdoor Sabha a mammoth rally of textile workers of Bombay was held at Kamgar Maidan on 14th November 1948. Com. N. G. Goray presided. It was in pursuance of the decision arrived at a meeting of the Representative Board held recently to mobilise and voice the opinion of the working class on the new amendments to the Bombay Industrial Relations Act 1946, passed by the Bombay Legislature last month. The Act as amended seeks to outlaw not only industrial strikes but even political and sympathetic strikes from the labour movement. Even stoppages for some time would be treated as illegal acts. Besides, the new Act is aimed to disrupt the labour movement by limiting the rights of registration to only those unions which follow in the foot-steps of the Government's labour policy. Any union, if it helps, or encourages illegal strike six months before it applies for registration under the Act, would not be entitled to acquire the requisite registration. To discriminate between unions which seek registration is an act which can properly be described as "favouritism legalised". Therefore the Mill Mazdoor Sabha appealed to the workers to record their protest against such an anti-democratic measure of the Government—(N. S., 14-11-1948)

### Security Act Used for Election

The postponed Ahmedabad Municipality Elections are due in the middle of February and the local Congress and the Government are trying all means of crushing the opposition. Since last week, a number of persons having socialist leanings, have been externed from Ahmedabad, under the Security Act. The local police, it is reliably learnt, are very busy preparing grounds, on which they can extern two more socialist workers who are very influential with textile labour—(N. S., 19-11-1948).

### Arrest of Nana Purohit

The arrest of prominent socialists like Nana Purohit and their indefinite detention without trial evoked genuine protests—(J., 16-1-1948).

### Public Safety and Freedom

Sri V. R. Helekar, a social worker as well as an active worker of the Socialist Party (Bombay) was arrested under the pretext that he was an R.S.S. worker. This is not the first time that he has been arrested, but whenever there happens to be any disorder in the locality in which he resides, the police arrest him without troubling to make any proper enquiries, while allowing the goondas who are actually responsible for the trouble to go free.

Helekar, who is an active worker of the Socialist Party, had on several occasions been to jail during the British Raj under the then

existing Public Security Act, and now under the public Security Act promulgated by our popular government. The application of the so-called Public Security Act, under the regime of the popular Congress Ministry snatches away the freedom of the people. This sort of harassment makes a man desperate and serves as a check on any social service work that he may be doing. This can be avoided only if the police take pains to find out the real persons who are responsible for the disorders—(J., 9-1-1949).

### R. S. S. and Bombay Government

Some R.S.S. workers in Bombay Province "were involved in a conspiracy to murder top-ranking national leaders" and some others "in a conspiracy to smuggle arms from Goa for subversive activities", Bombay Home Minister Mr. Morarji Desai stated in the Legislative Council in reply to a question to-day. The questioner had asked for "a few instances of the anti-national, subversive and violent activities of the R.S.S. in the Province.

The Home Minister did not specify the periods of the two "conspiracies" nor did he give any further details, stating that it would not be in public interest to do so. Giving further "instances" he mentioned "violent clashes" at Shahpur in July 1948, and a dacoity.

Asked to give instances of the "persistent attempts" made by the R.S.S. to revive an atmosphere "productive of disastrous consequences", Mr. Desai said, "it will not be in the public interest to do so."

The Home Minister said that on December 31, 1948, there were 8,004 R.S.S. convicts, 353 R.S.S. under-trial prisoners, and 332 R.S.S. detenus in thirty prisons all over the Province—(A.P.I., 8-4-1949).

## VIII

### THE BOMBAY PROVINCIAL CIVIL LIBERTIES CONFERENCE RESOLUTIONS

*(Passed at the Bombay Provincial Civil Liberties Conference held at  
Bombay on 1st and 2nd January and 20th February 1949)*

#### 1. Fundamental Rights

In the considered opinion of this Conference, the following Fundamental Rights should be guaranteed to every citizen by the Constitution without any qualification:—

- (1) Freedom of Thought, Speech and Expression ;
- (2) Right of Assembly ;
- (3) Freedom of Association ;
- (4) Freedom to move freely, to reside and to settle in any part of the Indian territory and the right to emigrate ;

- (5) Freedom to practise any profession, trade or calling ;
- (6) Freedom of Person and right to the writ of Habeas Corpus;
- (7) Right to work or maintenance ; and
- (8) Right to strike and peaceful picketing ;
- (9) Freedom of Conscience.

2. The Conference regrets that the present draft Constitution including the part so far adopted, does not guarantee these fundamental rights but has virtually rendered them nugatory by various restrictive qualifications and provisions regarding emergency measures and so the Conference urges that anything in the draft Constitution repugnant to or inconsistent with the enjoyment of these Fundamental Rights by the citizens should be deleted.

## 2. Public Security Measures Act

This Conference places on record its strong protest against the policy followed by the Provincial Governments in India in undertaking legislation of a reactionary and undemocratic nature such as the Bombay Public Security Measures Act, 1947, although the Executive is already armed under the ordinary law with adequate and even excessive powers to meet any threat of a subversive nature to peace, which is necessary for ordered Government. The Conference feels that such assumption of drastic powers was uncalled for by the situation in the country, for it cannot be claimed that any emergency of a grave character exists at present. This Conference is justifiably apprehensive that these wide and sweeping powers may be used by the executive to weaken organisations and institutions which do not see eye to eye with Government, to annihilate independent political opinion and parties and to strengthen its own position. While this Conference is not concerned with and does not espouse the cause of any political opinion or party, it would fail in its duty if it did not voice its protest against measures which unduly curtail the liberty of the people. Whatever may be the real object of the legislation, the measures actually on the Statute Book drastically curtail the civil liberties of the individual as never before ; what is more, the day-to-day measures taken under such obnoxious legislation only brings into relief the irresponsible manner in which the powers are abused by those entrusted with wide powers under such Acts. This Conference, in particular, notes with alarm that the Government has failed to introduce even proper safeguards against such abuse of power with the result that citizens have had to resort to courts of law and justice and prerogative writs all over the country as a matter of course.

The Conference notes with regret that the Provincial Governments have indeed vied with each other in their zeal to put on the Statute Book, Acts directed to curtailing civil liberties and stifling the expression of independent opinion and just criticism of the Government. This Conference warns the Government that no.

Government can maintain itself, at least for long, in the seat of power by recourse to such authoritarian measures.

This Conference places on record its condemnation of the Bombay Public Security Measures Act, 1947, as modified upto 15th June 1948. This obnoxious piece of legislation defended by only a comparison with a similar piece of legislation in Madras, contains many objectionable features, such as—

- (i) Arrest and detention by a subordinate Police Officer for fifteen days on his own judgement.
- (ii) Internment and Externment of persons ;
- (iii) Impositions of Collective Fines ; and
- (iv) Indefinite and arbitrary detention by the District Magistrate and the Commissioner of Police.

Even the last shadow of civil liberties, in the form of the right to invoke writs of 'Habeas Corpus' is being destroyed by the legislation of various Provincial Governments, which virtually nullifies this right. This Conference strongly condemns these highly undemocratic acts of the Government.

This Conference demands that all Provincial Governments do take immediate steps to remove from the Statute Book, Acts and Regulations calculated to curtail the liberties of the people. This Conference wishes to emphasise that it is even the duty of the Government in office now to pave the way for the introduction of the Fundamental Rights of the new Constitution of India.

### 3. Detenues

(a) This Conference is of the opinion that persons who have been detained without trial should either be unconditionally released or brought to trial on specific charges before the ordinary tribunals of the land. This Conference is likewise of the opinion that restrictions on movements of persons of the nature of externment and internment imposed under the Public Security Measures Act and such similar legislation should be removed.

(b) This Conference strongly recommends to Government that provision should immediately be made for the maintenance of the families of detenues and persons on whose movements restrictions are imposed and who are rendered unable to earn their living by reason of the detention under the Public Security Measures Act or by their internment or externment.

### 4. Treatment of Political Prisoners

This Conference notes with regret that the facilities which were until recently given to political prisoners, should have been withdrawn by the present Government when such facilities were enjoyed by men

and women during the Civil Disobedience Movement and under Foreign domination. This Conference is strongly of the opinion that persons who have been detained without trial and who have been convicted of offences should be treated as a class entitled to receive special treatment in prison.

### 5. Habeas Corpus

This Conference deplors that occasion should have arisen for citizens all over the country to resort to the Courts of Justice for the issue of prerogative writs like the writ of Habeas Corpus and calls upon Government to take all steps necessary to ensure in future the avoidance of giving cause for the issue of such writs by taking serious note of the grounds on which the Courts of Justice have issued and sustained such writs.

### 6. Emergency Legislation

This conference notes with regret that neither the Central nor Provincial Governments have so far taken any steps to repeal all repressive Ordinances, Acts and Regulations investing the Central and Provincial Governments with extraordinary powers although the emergency which could justify such measures has long since ceased to exist and the ordinary law of the land is more than adequate. Indeed this Conference is of the opinion that the time has come for revising the ordinary law of the land so as to reduce all unjustifiable interference with the liberty of the subjects. This Conference, therefore, recommends that early steps should be taken by the Central and Provincial Governments to set up a Committee to revise the Criminal Law Amendment Act and the Police and other Acts.

### 7. Banning of Meetings and Processions

The Conference is of the opinion that to ban meetings and processions, to be held to ventilate public opinion on economic, cultural and political subjects is a restriction on the civil liberty of the citizens which is not justifiable. To ban or stop meetings for views expressed there, is an unjustifiable-attack on the freedom of assembly and also an attack on the freedom of speech. The Conference recommends that the present law should be suitably amended.

This Conference notes with apprehension that the authorities in the Province of Bombay should have time and again banned public meetings and processions including such meetings and conferences as of secondary teachers and students and even meetings of the Managing Committees of Trade Unions and places on record its resentment against the failure of the Government to protect legitimate trade union and political activities. This Conference feels that the Government of Bombay has sought to stifle expression of independent opinion in a manner unworthy of any democratic state. This Conference, therefore, calls upon the Government to issue a directive to all officers not to use their powers for the purpose of stifling public opinion. This Conference calls upon the Government to desist from requiring any prior permission for a public meeting or assembly.

### 8. Freedom of Press

The Conference is of opinion that for the promotion and protection of democracy, a free and independent press is absolutely necessary. Unfortunately during the British Rule permanent legislation has been put on the Statute Book imposing various kinds of drastic restrictions on the press such as permitting Government to require the Press and the Publishers, without any judicial procedure, to keep deposits of money. The amount of deposit can also be forfeited without judicial procedure, only permitting the victim to seek redress by an appeal to High Court. The Government of India have also recently passed legislation assuming very wide and drastic powers to deal with the Press in the Central Territories. The Provincial Governments in their Public Security Acts recently passed, assumed complete control over the Press in their respective Provinces. The Conference regrets that at present the Press in criticising Governments measures, has to work under grave risk to its freedom and recommend that the legislation restricting the freedom of the Press be immediately revised so as to establish full freedom of the Press. The Conference demands that bans at present imposed on papers should be immediately removed and amounts of security taken should be refunded.

The Conference also protests against the laws and action taken by Government prohibiting the import and circulation of books and other literature and the censoring of plays to be acted on the stage. The Conference holds that these measures hinder the freedom of thought and freedom of expression and healthy growth of literature.

### 9. Judicial Inquiry in Cases of Firing by Police

This Conference notes with grave concern instances of Police firing occurring in the country with alarming frequency. The Conference reiterates its demand that early steps should be taken to provide by appropriate steps a judicial enquiry in every case of firing by the police with or without association of the military where such firing is resorted to, to disperse public assemblies or public demonstrations as a part of trade union or political activities.

An illustrative list of recent firing consists of the firing on textile workers at Amalner on August 27, 1946, resulting in the death of nine workers, the firing on Warli peasants in 1947 resulting in the death of six Warli peasants, the firing on Kamgar Maidan against students on December 31, 1947, the firing on Civil Supplies Department workers on January 29, 1947, in a meeting addressed by the Deputy Prime Minister for India, resulting in the death of Hira Narain, the firing on sweepers in the Mazgaon area, on June 31, resulting in the death of 70 years old Bhani Hatha.

### 10. Separation of Judiciary from the Executive

This Conference notes that the Constituent Assembly has now accepted the principle of the separation of the judiciary from the

executive and urges the immediate implementation of this salutary principle by the Central and Provincial Governments.

This Conference, however, finds that the independence of the Judiciary is being turned into a mockery by the executive and arbitrary powers conferred on the executive authorities, often depriving the courts of the power of even going into the truth or falsity of charges levelled against persons, against whom the executive authorities have taken action as in the case of the Public Security Acts and by virtually nullifying the right to invoke a writ of habeas corpus.

This Conference believes that independence of the Judiciary can become a reality only when such legislation is repealed.

### 11. Collective Fines

This Conference reiterates its disapproval of the system of collective fines upon citizens in as much as it involves punishment of the innocent as well as the guilty and notwithstanding that the innocent person may have exerted to the utmost to prevent the occasion for the levy of collective fine. This Conference also reiterates its condemnation of the practice of giving exemption from payment of such fines for communal reasons. This Conference calls upon the Government of Bombay forthwith to remove from the Public Safety Measures Act the provision relating to collective fines.

### 12. Free Legal Aid to the Poor

This Conference draws attention to high cost and delay of litigation, civil and criminal, which result in denial of justice to poor litigants. The Conference also requests Government to undertake legislation to provide for free legal defence in all cases where the liberty of the individual or the fundamental rights of the citizens are in issue and the individual concerned cannot afford the cost of proper defence of his liberty or fundamental rights. The Conference is of the opinion that it is one of the primary duties of the State to ensure at Government expense to place the poor and rich on equal footing in seeking justice through the Courts of Law.

### 13. Formation of Civil Liberties Unions

This Conference recommends to the citizens, in all such towns and districts where there are at present no Civil Liberties Unions, to form such Unions or their Branches with the object, viz.:—

- (1) To consider, from the point of view of the promotion of civil liberties, all such legislation, ordinance and regulations as may be proposed to be brought forward from time to time.
- (2) To maintain continuous vigilance in respect of encroachment and infringements of the rights of the individuals and of the public :

- (3) To enlist and strengthen public opinion on civil liberties by information and education ; and
- (4) To organise the people to campaign and fight for the preservation of their democratic rights and civil liberties.

#### **14. Immunity for Members of the Legislature**

This Conference invites the attention of the Constituent Assembly to Articles 85 and 169 of the Draft Constitution and urges it to make express provision for enabling members of the legislatures concerned to attend the meetings of the legislature before they are convicted for an offence by a court, under the ordinary law of the land. This is a condition precedent to the people's representatives being able to discharge their public duties as members of the legislature, and interference with the liberty of person or movement of such representatives, before their conviction, is a violation of the right of the electorate to be represented in the legislatures.

#### **15. Right to Appoint Representatives**

This Conference disapproves of the present policy of the Government of Bombay of disallowing pleaders to appear on behalf of their clients before courts or authorities in the proceedings under various Acts as such a policy deprives a citizen of his valuable right to get his case represented through a qualified representative of his choice. This Conference, therefore, urges upon the Government the necessity of removing the restrictions so put and give the citizen full liberty to engage the services of any qualified representative on his behalf.

#### **16. Wrong Delegation of Powers**

This Conference draws the attention of the Government of Bombay to the fact that the delegation of powers for deciding cases of possession and rent under the Bombay Tenancy Act is against the accepted principle of the separation of Judiciary and Executive and requests the Government to amend the said Act and confer the powers of deciding cases regarding possession and rent on the civil courts under the general provisions.

#### **17. Bans of Cultural Shows**

This Conference condemns the arbitrary bans and censorship imposed on the show of plays, films, tamashas and other cultural shows.

#### **18. Firing at Erandgaon—Need for Judicial Inquiry**

The Bombay Provincial Civil Liberties Council views with grave concern the recent firing by the police on a crowd of peasants at Erandgaon in Ahmednagar District which resulted in the death of

7 persons. The Council after having carefully studied the various official and non-official statements published in the Press notes firstly, that the situation under which the police resorted to firing which resulted in the death of 7 and injuries to 26 persons did not develop suddenly but the Magistracy and the police were fully aware of the discontent and of the determined opposition to their proposal to remove the grain stock from the village. The magistracy and the police had also fully prepared themselves to meet the opposition by bringing on the spot more than 20 policemen and homeguards, some of whom were armed with fire-arms and some with lathis.

Secondly, as Government was aware of the opposition of a section of the village to their proposed action, Government officers could have enlisted the co-operation of at least a portion of the inhabitants of the village in favour of their proposal.

Thirdly, the police had time to be equipped with teargas for the dispersal of the crowd.

Fourthly, the police force at the disposal of the Government authorities was large enough to control and secure the dispersal of the crowd and if necessary could have brought a larger police force.

On account of the circumstances noted above, the Committee is not satisfied that the firing was absolutely unavoidable and the Committee feels that an open and impartial judicial inquiry is called for to investigate whether the circumstances justified firing, whether the amount of force used was not excessive and whether the manner of using force was humane or otherwise.

Besides, the fact that the circumstances of this particular case of firing calls for an open inquiry, the Executive Committee takes the view which view was supported by Mahatma Gandhi that in the case of firing by the police on a crowd of citizens gathered together with a political or economic objective, the Government should institute an open and judicial inquiry to satisfy themselves and the public that the lives of citizens are ensured with due care and safety.

The Council regrets that the Government of Bombay have rejected the proposal made by some members in the Bombay Legislative Assembly for an impartial inquiry but requests the Government to reconsider their decision and agree to the inquiry.

The Council hopes that the Bombay Government will comply with its request and immediately take steps to institute the inquiry as suggested by it.

### 19. Refusal and Confiscation of Passports

The Bombay Provincial Civil Liberties Council strongly protests against the action of the Bombay Government in refusing to give passports to Messrs. M. S. Bakshi, Annabhau Sathe, T. N. Govankar, Amar Sheikh and Kishan Chandra to go to Paris to attend the World

Peace Congress. The Council also protests against the confiscation of passports of Mr. Muluk Raj Anand, Miss Vidya Kanuga and Mr. Sultan Vivaju who were also proceeding to Paris to attend the Peace Conference.

## CHAPTER IV

### CIVIL LIBERTIES IN SAURASHTRA

#### Misuse of Security Act in Saurashtra

Recently the Government of Saurashtra, issued warrants against the editor and printer of *Avi Kal*, a weekly Gujarati paper (edited by a Socialist) for one of its editorials which said that the treasury of the Saurashtra Government is empty, since the public servants and the teachers have not been paid their salaries for the last two months. A case is instituted against them in a court of law. The Government of Saurashtra is today run by ordinances and the Public Security Acts. Immediately an order was issued by the Home Minister of Saurashtra that all the articles and editorials by all the newspapers must be submitted to the Government Special Department for pre-censorship—(N.S., Oct. 10, 1948)

#### Saurashtra Mills Dispute

For a period of more than ten weeks the workers of a small factory at Wadhwan camp (Saurashtra), manufacturing mill spindles have been on strike. The owner of the factory, on the ground of sole-proprietary right is not in a mood to tolerate any interference from outside by way of negotiation or adjudication. The Saurashtra Government instead of referring the dispute to the industrial tribunal is adopting an attitude of apathy and negligence. When the strikers protested against the entry of black legs, the proprietor sought police help and Anup Chand Shah, the Socialist Party organizer, was arrested. He was released two days later as a result of intense agitation. The strike is still on and it seems that the proprietor may climb down—(N.S.)

## CHAPTER V

### CIVIL LIBERTIES IN DELHI

#### Com. Jayaprakash Condemns Delhi Administration

Com. Jayaprakash Narayan has issued the following statement to the Press before he left New Delhi, last week.

“The token strike called by labour unions in Delhi on November 13 has only been a partial success. This does not mean that the Delhi workers are not behind their unions and the Socialist Party that leads them, but only that labour has not as yet learned how to fight under conditions of fascism. We function in this country on the assumption that we are doing so under a democracy and are therefore,

surprised and confounded when we are baulked by methods of fascism.

“The average man in the country is not conscious of the paradox that achievement of national freedom has coincided with the eclipse of individual and civic freedom. The result is the deadening of the social conscience. It is a tragedy that in free India when a leader and patriot of the standing of Achyut Patwardhan is arrested, the people treat it as a common affair. Our present rulers no doubt justify everything on the ground that law and order must be maintained; but they should remember, if power has not dulled their memory, that there is such a thing as a lawless law. A law, which a person like Achyut Patwardhan felt compelled to defy, is a law of this kind, and has no justification to be. The present indifference of the public to such vital matters provides a fertile soil for the growth of a nascent Indian fascism over which strangely enough a democrat like Pandit Nehru presides.

“The Prime Minister, during his recent European tour, gave expression to high idealism, but right under his eyes, in his own capital things have happened apparently with his full approval that are an eloquent repudiation of all his idealistic talk. Here was a one-day token strike based on purely trade union demands and here were the authorities of free India who met the strike as if it were a call to revolution. Military was called out, indiscriminate arrests were made, trade union offices were raided at dead of night, and almost the entire executive of the local Socialist Party, Hind Mazdoor Panchayat and the Kisan panchayat was put under arrest. Socialist workers who had no concern with labour work and had confined themselves to the peasantry alone were also rounded up. Congressmen worked not only as strike-breakers but also as police agents.

“Fascism has not succeeded elsewhere and it cannot succeed here. But it will cause untold suffering to the people in the course of its attempt to rule their destiny. I wonder if there are enough people in this country who can unite to save the people from this suffering”.—(*N. S., November. 21, 1948*).

### Government's Discriminatory Labour Policy

Registration was not granted to the East Punjab Railwaymen's Union even as late as two months after the application had been made while the parallel Railway union formed by the INTUC was recognised and registered on the day it submitted its application.

The Delhi Transport Workers' Union (in the nationalised motor transport service in the city), another organization led by the Hind Mazdoor Panchayat, applied for registration. When the office Secretary of the Union and the Secretary of the Provincial Branch of the HMP approached the Registrar of Trade Unions in the matter, they are reported to have been told that unless the clauses in the

constitution of the Union relating to the right to strike and the objective of establishing a democratic socialist republic were deleted, registration could not be granted.

An application made to the authorities for permission to hold a meeting on November 13 sent on November 11 by the Hind Mazdoor Panchayat was not answered till Nov. 14, a day after the date fixed for the meeting. Another meeting proposed to be addressed by Asoka Mehta in June was not allowed while permission was readily given to the INTUC to hold a meeting to be addressed by one of its leaders Mr. Gulzarilal Nanda.

Even strike notices served by HMP-led unions are not sometimes taken note of. The notice served on behalf of the Delhi Chemical and Banaspati Mazdoor Union was thus not officially noticed.

But an official of the Mills issued a handbill on Nov. 25 telling the workers that their demands would be conceded if they formed another union under the leadership of the INTUC.—(*J. Dec. 26, 1948*).

## DR. LOHIA REMANDED TO CUSTODY

### Bail Bond Cancelled by Court

The New Delhi Resident Magistrate cancelled to-day the bail bonds of Dr. Ram Manohar Lohia and 46 Socialists and remanded them to jail custody.

Dr. Lohia and the other Socialists were arrested in New Delhi on May 25 on a charge of demonstrating in front of the Nepalese Embassy and thereby defying the Delhi District Magistrate's ban on public meetings and demonstrations. They were let off after their arrest on executing personal bonds for Rs. 200 each and directed to appear before the court to-day.

Before the commencement of the proceedings, the Magistrate told Dr. Lohia and the 46 other Socialists that the Prosecution had moved for cancellation of their bail bonds. "The move for cancellation of the bail bonds," he remarked, "is based on information in the possession of the Government that the accused were engaged in dissemination of literature calculated to involve defiance of the law and that they were going to hold a public meeting in New Delhi to-day (Thursday) without permission."

The Magistrate added that the prosecution had also stated in its application that the Socialist Party had made clear its intention to defy the Delhi District Magistrate's ban by issuing pamphlets exhorting people to demonstrate in front of Parliament.

Dr. Lohia denied the allegation that the Socialist Party was exhorting people to demonstrate before the Parliament building.

Referring to the cancellation of the bail bonds, he said: "We were not very keen for release. We were asked to accept release on

the execution of personal bonds. We shall be glad to go back to jail."

Asked by the Magistrate to show cause why he and other Socialists should not be sent to jail custody "in view of their activities apprehended to be detrimental to public peace" Dr. Lohia said, he could not see why the Government had released them. "We were a party to one condition in the bail bond, namely that we would present ourselves in the court when directed."

The ban on public meetings and demonstrations, he added, "is a curtailment of our civil liberties. We are not prepared to submit to any degrading restriction which strikes at the very root of our fundamental rights."

The Magistrate, accepting the prayer contained in the petition of the prosecution, ordered that the bail bonds of Dr. Ram Manohar Lohia and 46 Socialists be cancelled and that they be remanded to jail custody.

The case against Dr. Lohia and the other Socialists will be taken up on June 6.—(*API, June 2*).

They have since been convicted each to pay a fine of Rs. 100 and undergo simple imprisonment for two months.

### Socialist Demonstration

The Delhi Socialist Party staged a demonstration in Connaught Place this evening to mobilise public opinion against the ban recently imposed by the Government on holding public meetings in the New Delhi area.

It is stated that on failing to get permission from the local authorities to hold a public meeting to-day in the New Delhi area, the Delhi Socialist Party decided to defy the ban by holding the scheduled meeting in the area. Armed police squads had, however, been posted round the Nehru Park to check any defiance of the Public Order regulations.

The demonstrators assembled at the scheduled time this evening and in spite of police request to refrain from staging any demonstration, two Socialist workers, Mir Mushta Ahmad and Mr. Bam Saran Chauhan, addressed the gathering for a few minutes. Both the speakers later offered themselves to the police for arrest. The police however, did not arrest them but asked the demonstrators to disperse peacefully which the latter did.—(*API June 2*).

## CHAPTER VI

### CIVIL LIBERTIES IN THE U. P.

#### I

#### U. P. PUBLIC SAFETY ACT

#### Allahabad High Courts Observations

The U. P. Maintenance of Public Order (Temporary) Act makes an encroachment on the liberties of the subject and empowers the

Executive to keep a man in custody without trial. The provisions of the Act, have therefore, to be strictly interpreted and must be fully complied with. When the detaining authority has not complied with any mandatory provisions of the Act, further detention becomes illegal or improper. Thus observed the Chief Justice of the Allahabad High Court delivering the judgment of the Full Bench on certain points of general importance connected with *Habeas Corpus* applications filed by some detenus.

These points were referred to the Full Bench for an authoritative decision by Justice Raghbir Dayal and Justice Kailasnath Wanchoo in connection with a number of *Habeas Corpus* applications which came before them challenging the validity of the applicants' detention.

The first point referred to the Full Bench by Justice Dayal was whether it was open to the High Court to question the satisfaction of the District Magistrate contemplated in Section 3 of the Act with respect to its being arrived at reasonably or otherwise. The Chief Justice observed the High Court had the right to see whether the detaining authority was in fact satisfied.

As regards the points raised by Justice Wanchoo, the Full Bench was of the opinion that the provisions of Section 5 were mandatory. They gave a detenu the valuable right to know why action had been taken against him. The detention became illegal if Section 5 was not complied with. The grounds for detention which weighed with the detaining authority must all be conveyed to a detenu though he was not entitled to know the evidence or the source of information. The detaining authority was expected to apply its mind to the particulars supplied and see that they were sufficient to enable a detenu to make representation.

The Full Bench further pointed out that Section 5 had cast a duty on the detaining authority and if it had not done its duty and had thereby incurred a liability, there was no reason why a detenu should not come to this court and ask for his release because his detention had become illegal, a mandatory provision of the statute not having been fulfilled.

It will be recalled that arguments were heard twice by the Full Bench. On the first occasion, the Government Advocate argued on behalf of the Government and the Advocate-General on the second occasion.—(*Hindu*, September 1948).

## U. P. COMMUNISTS IN DETENTION

### Order Set Aside By High Court

The detention of three Communists, Dr. Rashid Jehan, Mrs. Hajria Begum and Mr. Laiq Ahmed Khan—under the U. P. Maintenance of Public Order (Temporary) Act, 1947, was declared "illegal" today by Mr. Justice M. C. Desai of the Allahabad High Court.

The Judge, who pronounced judgement on a *Habeas Corpus* application on behalf of four Communist detenues, however, held that the detention of the fourth detenu, Miss Khadija Ansari, was "legal".

Mr. Justice H. C. Desai observed : "I am not at all satisfied that in the present case, Mr. Harpal Singh, who committed the three detenues to prison, acted as a criminal court. Mr. Harpal Singh committed the detenus as an agent of the Governor. He did not act more judicially than the Governor himself would have acted. The Governor could have delegated his power of accepting security to any authority. He was not bound to delegate it only to a Magistrate. An executive power delegated to a Magistrate does not thereby become a judicial power."

As regards Miss Ansari, the Judge observed : "The grounds and particulars supplied to the detenus were that she was detained because she was an active member of the Communist Party which had decided to promote an illegal strike of railway workers and because she did various acts of violence. It was stated that she was jeopardising the public tranquillity and maintenance of public order."

"The railway strike was to be promoted by the Communist Party on March 9. The order was served a week before that date. But that is no ground for declaring the detention of Miss Khadija Ansari as unlawful."

Miss Khadija Ansari, who was detained on March 2 by a Government order, had submitted that her detention was "illegal and *ultra vires* because there was no truth in the allegations against her."

Dr. Rashid Jehan, Mrs. Hajira Begum and Mr. Laiq Ahmed Khan, who were arrested on February 19 last under the Public Order Act, were released on March 4 and re-arrested the same day. They were asked to furnish personal bonds of Rs. 500 each together with a surety for a like sum, undertaking to reside within the limits of the Lucknow Municipality after release and not take part in any activities subversive of law and order. They, however, refused to execute the bond.—(API. June 3).

## II

### GOVERNMENT CUM-CAPITALIST UNIONS IN U.P.

BY

*Professor Shibban Lal Saksena, Member, Constituent Assembly.*

Many of the workers have been ordered by the Courts of Adjudication to be re-instated, but the mill-owners have flouted these orders with impunity all these two years. The classical case is that of Mr. B. D. Shukla, pan-man, Hargaon, who is the General Secretary of the Mazdoor Sangh, Hargaon, and whom, even though the Adjudicator who was no other than the District and Sessions Judge, Sitapur, ordered to be re-instated, but who has not been re-instated so far.

Mr. Therani who is the Manager of the Oudh Sugar Mill, Hargaoon, which belongs to the Birlas, has himself stated to me that he would rather sell the mill than re-instate Mr. B. D. Shukla, whose only crime is that he would not leave trade union work. I have represented the case several times to the Labour secretary, who at last plainly told me that he was helpless against the Birlas. Does this not amount to a confession that Law is not meant for the Birlas, and they are above it? I charge your whole Labour Deptt. with partiality of Birlas: otherwise how can you explain that the order of the Sessions Judge Sitapur, which was passed a year back, after one month of thorough investigation in his Court, should have been flouted by the Birlas for over a year with impunity? Similar things have happened in other mills too. In the Dewan Sugar Mills at Sakhauti Tanda, Shri Gur Dayal Singh, Shri Mulk Raj Dhandra, and Shri J. M. Petre, who have been active trade unionists, who were ordered to be re-instated by the order of the adjudicator, have been dismissed on flimsy pretexts. In Baheri, some 20 leading Trade Union workers have been dismissed. In Sardarnagar, when the workers marched 19 miles on foot to Gorakhpur to express their resentment to the then District Magistrate against the beating of one of their leaders Shri S. N. Pandey, 24 of the most active workers and office-bearers of their Union were dismissed from service for the crime of being absent on the day on which they marched to Gorakhpur, even though the District Magistrate, Thakur Dwarka Prasad Singh, who with great tact sent them back to work, had assured them that they would not be victimised for having come to Gorakhpur for making the complaint. The present standing orders whose revision we demand, give such power to mill owners. When Sardar Sahib refused to re-instate the workers, a formal strike notice was given, and about 400 workers are still on strike. I have personally visited the factory and addressed the workers. I am sorry to have to say that I had to hang my head in shame when I heard what the police had done to curb the spirit of these workers. I deputed one of my Congress workers to make an inquiry into the allegation and his report has substantiated it. And on the top of this, the District Magistrate, Gorakhpur, imposed the condition that those amongst them who would apologise before him would alone be taken back on work. Some poor and distressed men, about 25 in number, apologised, but the humiliation that they had to undergo is unspeakable. Why should our Government insist on extorting apologies which destroy the moral personality of our nationals? So great was the resentment among the surrounding villages of Saraya Sugar Factory in Sardarnagar against the inhuman treatment meted out to these workers by the Congress Government that in two hundred surrounding villages the villagers themselves pulled down the Congress flags as a protest against the repression of the Congress Government.

The story of Dalmianagar is an epic in itself. Here, there was a very strong Union and some one took it into his head to destroy that Union, and in its place to set up a Union affiliated to the INTUC. Mr. Shanti Prasad Jain, the son-in-law of Dalmiaji, was forced to give

recognition to this bogus Union even though he protested that this would cause trouble in his factory, but he was assured of full Governmental protection. The workers are on strike now for over a couple of months. The entire Rohtas Industries at Dalmianagar are at a stand-still. This is how "uninterrupted and expanding production" as desired by the Jaipur Congress Resolution is being encouraged. The repression against the workers there is reported to be inhuman. Then news came that the paper-mill there had been completely burnt down by fire which spread from the godown. One of the biggest paper-mills in India is no more. The papers report that it is strongly suspected that some workers have set fire to the factory in desperation against inhuman repression. I ask you, is that in accordance with the Jaipur Resolution on Labour? Has the INTUC gained any strength in this manner? Will not each one of the 10,000 workers in Dalmianagar regard the Congress as Labour's sworn enemy? Is that how your propose to increase production in the country? You may say Dalmianagar is not under our province, but worse things are happening in our province. The Industrial Disputes Act framed by the U. P. Government is a black act, and is unique. Nowhere else in the country do we find such an Act on the Statute book. According to this Act, only that Union in any concern will receive recognition which is affiliated to the INTUC, which the Government have declared to be the most representative labour organisation of the province. The result has been that in about a dozen factories in the U. P. the management have sponsored bogus rival unions against the genuine representative trade unions in their concerns, and have got them affiliated to the INTUC. What has been the result? The labourers there have become convinced that the INTUC is a capitalist sponsored organisation, and its only function is to disrupt their unity and to destroy their unions. In the Oudh Sugar Mills, Hargaon, the Government is flouting the decision of its own High Court. The High Court declared the Mazdoor Sangh, Hargaon, to be far the most representative union. But the Government does not accept the High Court's verdict. It recognises Birlaji's bogus yellow Union to be the most representative Union in that concern and the Labour representatives on the Works Committee have been allowed to be nominated by this bogus Union. The U. P. law is thus unique. It is against the law of the Central Government as well as against the laws in Bombay and other provinces. Even in Bihar, the Government recognises those Unions which are the most representative, and allows them to send their representatives on the Works Committees.

I think the rule of the INTUC to have only homogenous federations composed of unions formed by Congressmen only will isolate it, and stop its growth. My own experience of labour work during the last twenty years has been, that workers are workers. They are neither Communists, nor Socialists, nor Congressmen.

That the Congressmen in the province in general did not support the disciplinary action taken against me was proved by the fact that within a month after the period of disciplinary action was over, I was

re-elected president of the Gorakhpur District Congress Committee and a Member of U.P. Congress Committee and a member of the All India Congress Committee.

The choice before me was that either I should allow the workers in the sugar factories to defy your order, declaring the strike illegal, and to plunge headlong into it: or to persuade them to stop and take the whole burden of fighting for their demands on my own shoulders. I chose the latter course, which I thought would best serve the interests of the Congress, as well as the Nation. I have explained my position to you in full detail. I am satisfied that my fast will add prestige to the Congress, which I have had the proud privilege to serve ever since my childhood during the last 30 years. I hope you will bless me and approve of my action. (Extracts from a pamphlet as why we fasted being an open letter to the Premier of U.P.).

### III

#### GOVERNMENT'S DISCRIMINATORY LABOUR POLICY

In the Kesor Sugar Mills indiscriminate arrests took place after the workers boycotted the Works Committee formed by the INTUC union. The Secretary of the U.P. and Bihar Sugar Mills Federation was arrested in June last year. Trade union offices in Deoria were sealed and workers prosecuted for not affiliating the union with the Congress-sponsored Sugar Mills Workers' Federation.

The Labour Minister in U. P. admitted (according to a statement by Seth Damodar Swarup) in a letter to the Secretary of the Socialist Sugar Workers Federation that District officials would prefer organizations which stood for order and production to one which endeavoured to bring about strikes.—(*J.*, December 26, 1948).

The workers of the Surya Sugar Mills, Sardarnagar, have been on a peaceful and legal strike for more than a month and about two dozen workers have been convicted under Section 118 Cr. P.C. and two prominent workers detained under the Public Safety Act. This is in spite of the fact that the Allahabad High Court has ruled in many cases that to rouse class consciousness and to preach a legal strike do not come under the purview of the Public Safety Act.—(*J.*, January 9, 1949).

### IV

#### U. P. TEACHERS LATHI-CHARGED : PEACEFUL STRIKE ENTERS 23RD DAY

The peaceful strike of 40,000 U. P. teachers demanding a living wage entered the 23rd day. In spite of all the back-stride tactics employed by the Government, the teachers are determined to fight to a finish. Their demand which amounts to only "equal pay with Minister's peons" is the most reasonable and legitimate demand and yet the Government is reluctant to concede it.

The hungry district board teachers of U. P. got lathis, instead of relief, from the Government. A procession of teachers and students which started from Aminuddaulla Park in Lucknow after a joint meeting of teachers and students was brutally lathi-charged by the police at Hazratgunj, in front of the Police Station. "As the lathi charge started some policemen were seen pushing, dragging and slapping the girls. Two of the girls who received lathi blows fainted on the street. An aged teacher fell on the ground with a wound on the head."

After the lathi charge, 20 students and three teachers were arrested. In the words of Mr. Radhey Shyam, Chief Whip of the Congress Party in the Assembly, "it was a scene familiar in the pre-Congress regime. The processionists were non-violent and they were lathi-charged mercilessly."

While such was the testimony of a Congress MLA himself, the District Magistrate of Lucknow had the audacity to deny the lathi-charge altogether.

The Executive Committee of the U. P. Socialist Party in a resolution condemning the police lathi-charge on the teachers' and students' procession said: "Such ugly incidents are the result of callousness on the part of the Government with regard to the reasonable demands of primarily school teachers."—(*J. January, 23, 1949*).

## V

### U. P. ELECTION FRAUD

The most glaring injustice was the so-called "laziness" of the polling officers. Thousands of votes from almost every constituency were declared invalid because the voting papers were not stamped, due to the "laziness of the polling officers." It is widely believed that most of these votes were cast for the Socialist Party. In the case of illiterate peasants, the polling officers asked them whether they would vote for Gandhiji or others. When they said "Gandhiji," they were taken as in favour of Congress. When the Party workers protested against this bringing in the revered name of the Mahatma, they were silenced with force. In villages, the village officers acted as canvassing agents for the Congress and employed their official *zoolum* on the people, especially on the womenfolk, in favour of Congress candidates.

Besides these, instances of brutal and open attacks on party workers and the employment of *goondas* to harass the voters are not rare. In Gorakhpur, a party worker, Rishidev, lost his life as a result of injuries received from Congress agents. Patwaris, constables and police officers brought the voters, under compulsion and made them vote for the Congress.

Section 144, Cr. P. C. was promulgated in areas of 200 yards round the polling stations but it was enforced only in the case of

Party workers. Government publicity vans and buses were freely used for Congress propaganda. That the Government staff attached to the Congress Ministers and Parliamentary Secretaries had despatched the copies of Ministers' electioneering speeches on H.M.S. papers as part of Government business is confirmed by the *National Herald* of Lucknow.

In a village called Kandiram, elections were held in the open, without any enclosure or shed and the police and the Government officials watched the peasants vote. This was because the authorities expected the peasants to back the Party.

At Bijnore, nominations of both the Congress and the Party candidates were at first rejected because of certain omissions. Later, only the Congress nomination was accepted and not the Party one. At Sarkada, the polling station at first fixed was later changed. In places like Dampur, Keshavkote and Kulsanda, the polling stations were shifted more than six miles away for no purpose except that of causing trouble to the people who would vote for the party.

At Kolsagar, Congress workers created trouble at the polling booths and seized some 350 voting papers. Later 192 voting papers were actually torn to pieces by the Congress agents. Yet the authorities never interfered. Here the polling officer reduced the number of booths from four to one, as a result of which 500 Party voters had to go away without casting votes.

At Ittawa, the police literally forced the people to vote for the Congress candidate. This went on so openly that the Party candidate was disgusted with it and had withdrawn his candidates.

The Raja of Oudh stationed himself at one of the polling booths with a revolver in hand. Backed by 50 goondas, he challenged any one to vote for the socialists. In spite of this, the polling for the party candidate was brisk. So the goondas started assaulting the people. Then the polling was peremptorily stopped and the injured voters removed to the hospital.

At Gonda a party worker was manhandled and severely assaulted by the Congress agents.—(*N. S.*, 12-6-1948).

## VI

### A REPORT FROM THE SECRETARY OF U.P. SOCIALIST PARTY

The U. P. Government has promulgated Sec. 144 in most of the districts of U.P. continuously since 6 to 8 months. Information about continuous promulgation of Sec. 144 has been received in our office from the district of Agra, Barabanki, Hardoi, Mainpuri, Unnao, Badaun, Gonda, Alighrah, Gazipur, Kanpur.

2. The Socialist Party of Gonda district wanted permission from the district magistrate for taking out a procession on 2nd March 49.

in observance of the funeral ceremony of late Shrimati Sarojini Naidu, Governor of the province, which was refused and thereupon the procession was taken out. Shree Krishna Kumar, Gaya Pd. Azad, Sheo Chaitaraya, Bhawani Pd. and Narendra Bahadur, five socialist workers, were arrested and have been sentenced for 3 months R. I. with a fine of Rs. 50 each.

We are receiving complaints from the districts that permission for holding meetings etc. when sought for is either granted or refused one day before the fixed date, thereby defeating the holding of any meeting.

The U.P. Government is taking repressive action against villagers when procuring food grains. They are being forced to buy at higher rates and then sell to government at control rates which is too low in comparison to the open market rates. In this connection some villagers of Raibareilly, Aligarh, and Kanpur district have been killed and injured by police firing. False notices are being issued to individual kisans threatening prosecution in default of non-payment of grains.

## CHAPTER VII

### CIVIL LIBERTY IN MADHYA BHARAT

Since July last till now with the interval of hardly a few days Section 144 was in force. The Gwalior Party was not permitted to hold meetings against R. S. S. movement.

At one time the grounds for promulgating Sec. 144 in Kasbhan city shown by the city Kotwal to the District Magistrate were that due to the arrest of Golwalker, there was possibility of disturbance of peace and tranquillity and irresponsible organisations like communists and socialists would take advantage of the disturbed conditions.

Blackboards on which local grievances were written were seized by the police and a prohibitory order was passed not to write on blackboards.

There is a ban imposed on all local papers not to publish any matter concerning labour without the formal approval by the District Magistrate for the last three or four months.

At Indore, one of the strong textile labour centres posters of Mazdoor Congress (Socialist Union) were defaced under orders of Mr. Dravid who is one of the few I.N.T.U.C. leaders of India fame, who once happened to be labour minister in the Congress Ministry in Indore State.

Com. Kanhayyalal Ugra, a party member, was detained in the month of November and his period of detention is being extended. He is still under detention. Com. Ugra went on hunger strike on certain labour problems at Ratlam and that was why he was detained. Charges against him as shown were that he instigated the labour to strike and his means were violent.

At Bind where the party is strong Com. Deepchand was attacked by sticks as a no-confidence motion was moved against the ad-hoc municipal committee headed by a rich Congressman, Hari Krishna Bhutta. The police, on the other hand, filed a chalan against many party members and sympathisers under Sections 134, 135. The cases are yet undecided.

The above facts will indicate the state of civil liberties in Madhya Bharat.

*Swami Suren*  
*Secretary, Socialist Party*  
*Madhya Bharat*

## I

### SOME ILLUSTRATIVE INCIDENTS

#### Udaipur Socialists' Memorandum to Governor-General

On the occasion of the Governor-General's visit to Udaipur, the Socialist Party submitted a memorandum to him drawing the attention of the Central Government to the repression and other mal-practices in the Rajastan administration and demanding abolition of the Jagirdari Pratha, nationalisation of industries, and formation of one Greater Rajastan, composed of all the Central Indian States.—(November 21, 1948).

#### Marwar Comrades Arrested

Com. Amar Krishna Vyas, General Secretary, Marwar Socialist Party, and Gopal Krishna, a member of the Party, have been arrested last week under Sec. 144 Cr. P. C. They were to speak at a public meeting on the existing food shortage and the remedies, as also on the United Rajasthan movement. The police resorted to a lathi-charge to disperse the gathering at the meeting.—(December 12, 1948).

#### Bikaner Govt. Servant's Strike

Reports from various parts of the country go to show that the considered policy of those in power towards the socialist-led agrarian and labour movement is coercion and repression. Capitalists and the supporters of *status quo* use the Congress and its units as levers to overturn social and political progress.

In Bikaner fifteen thousand government and quasi-government servants struck work. The strike is three weeks old. Their grievances are long-standing and real and cannot justify the indictment of the state government that they are only socialist-fomented. The total failure of the 1946 strike and the chaos and confusion among the rank and file made the employees keenly alive to the imperative need of efficient organisation. Subsequently at a conference held in Ganganagar they brought about substantial co-ordination among themselves and decided that they should demand the redress of their grievances with one voice.

With the seeming intention of effecting a settlement favourable to the strikers the State Congress leaders went on shilly-shallying with the government, with something up their sleeves. The Prime Minister persuaded the employees to call off the strike on the written assurance that the wage rate would be fixed strictly in accordance with the report of a Committee appointed by him. But there was some tampering with the report and when the secret of this meddling leaked out the employees resumed the strike. Alarmed at the growth of the movement the government promulgated Section 144, and banned all meetings. Nineteen employees were arrested.

## CHAPTER VIII

### CIVIL LIBERTY IN THE VINDHYA PRADESH

BY

*Shri Lalit Kishore Tandon, B.A. (Hons.), M.A., LL.B.*

*Vakil Satna, V.P.*

Vindhya Pradesh is formed of 35 Native States of Central India Agency. Among these 35 states Rewa State is the biggest and is almost equal to all the other 34 states combined. But as in almost all the Native States of India so in these States also, the history of Civil Liberty has been very dark indeed. There are many reasons for it. Firstly, the people were not educated and therefore they are not conscious of their elementary political rights, and never tried to exercise them. Secondly, even if in some states people either by education or by coming in contact with British India, became aware of their rights, and endeavoured to exercise them by taking some part in political activities, in early days they were everywhere not tolerated but crushed. In Maihar State, for example, the Ruler was so unscrupulous till recently, that he could not tolerate a person in his state clad in Khaddar or wearing Gandhi Cap. He got such persons manhandled. There are instances of even getting persons killed for taking part in political activities. Such examples in Native States are not lacking during the British Rule of India as the foreign imperialist power always encouraged such reactionary forces, they being the backbone of foreign rule. The only requirement from these feudal reactionaries was their perpetual slavery and subordination to the Political Department. Whatever Civil Liberty these rulers tolerated or granted, was not their generosity but a part of the all-India policy of the Paramount Power.

But now when the political department has given place to the States Ministry, which is headed by our nationalist veteran Leader Sardar Vallabhbhai Patel, we began to think that there would be full scope for the exercise of civil liberty in the newly formed Unions of the states, governed by the so-called popular governments and in some unions by the nominees of the States Ministry. In Vindhya-pradesh itself, the Provincial ministry is nominated by the States Ministry and draws its inspiration from the Overlord in Delhi. The working of the so-called Congress Government has shown that civil

liberty instead of having full scope of functioning, is now at stake and democracy has been set at naught. The provincial executive is responsible to no legislature and has strengthened its hands with several ordinances so much so that the rule is in practice worse than governor's rule, during the British regime, according to Sec. 93 of the Government of India Act of 1935. Now let us examine the present Congress Government's Ordinances and their application and see how civil liberty is at stake, in Vindhya Pradesh.

The Vindhya Pradesh Government has fallen in line with her sister governments in other provinces, the difference only being that in other provinces, the *acts are passed and the* ordinances ratified by the legislature, while here, all ordinances and acts are promulgated in the name of the *Rajpramukh*, that is the Cabinet. The majority in the cabinet consists of big Taluqdars and thus the Government is purely an oligarchy, responsible to no legislature but to the States Ministry in New Delhi.

The Vindhya Pradesh Government, in order to curtail individual liberty, has promulgated two ordinances namely: The Vindhya Pradesh Goonda Ordinance, July 1948 (2 of 1948). Secondly the Vindhya Pradesh Maintenance of Public Order (Temporary, Ordinance 1948) Vindhya Pradesh Ordinance No. 10 of December 1948. The V.P. Govt. has used these ordinances off and on to crush legitimate public opposition of government policy. Specially the Socialist party workers and sympathisers have been harassed with the help of these ordinances. The Goonda Ordinance was applied to Pandit Baijnath Dube, president of V. P. Kisan Panchayat affiliated to the socialist party. He was ordered not to enter Rewa Dist. for three months. His only fault was that he exposed before the public the selfish game played by the cabinet members.

He deplored the corrupt and undemocratic practices of the Provincial Government of Vindhya Pradesh. He cited instances when relatives and friends of Ministers and highly placed officers were appointed to responsible posts, without proper test or qualifications, when ministers and Congressmen indulged in money-making activities by floating bogus companies and swindling public money and wondered whether those were the fruits of freedom and the much boosted integration of States. He exhorted the people to organise themselves under the banner of the Socialist Party and put an end to all such malpractices.

Similarly under the Rewa State Maintenance of Public Order (Temporary) Ordinance, eight peasants were interned and sixteen peasants were externed from Sidhi District, because they led the movement against mass ejection of tenants with the help of police, by Rao Sahib of Churhat, a big landlord of Rewa and a Minister of the Province. Further ten socialist party workers were interned in Rewa town for three months. Five persons were prosecuted for attending the public meeting on 15th August 1948, three arrests were made in connection with the Gandhi Jayanti celebration

and earlier 25 socialist workers were detained for 15 days with the help of the V.P. Maintenance of Public Order (Temporary) Ordinance, which had expired and was not in force at the time of detention order. Besides the socialist party workers were badly beaten in connection with Tikamgarh Galla Andolan and several dozens of them were kept under detention for several months without trial and ultimately they were tried for heinous offences of dacoity and rioting. Similarly criminal cases were launched against socialist party workers and sympathisers under section 107 Cr. P. C. or under section 447 I. P. C. and they were harassed for several months. Now with the transfer of magisterial work to Tahsildars, now called Revenue Officers, who are no more under the Chief Justice as in the past, there is little hope of justice being done to the socialist workers from the hands of these agents and subordinates of the Executive. The two Ordinances mentioned above give arbitrary power to the Provincial Government and the District Magistrate whose orders are not open to appeal or revision and their validity cannot be questioned in any Court of law. Thus all the political workers, specially socialist party workers, are put at the mercy of the Executive.

*Freedom of press.* In the name of newspapers there were only four Hindi weeklies published in V. P. namely PRAKASH, VINDEHYAVANI, BHASKAR, & BANDHVA BANDHU. Prakash and Vindhya Vani are almost semi-official papers. Bandhav Bandhu was a paper of Pawaidar Sangh and has of its own accord ceased to function. The remaining paper Bhaskar had a short life. It was formerly a paper of Azad Praja Mandal and later on was under the influence of the Haves-not group of the Congress. This group used to oppose bitterly the present Congress Government, who in order to finish this solitary opposition promulgated the Vindhya Pradesh Registration of News Paper Ordinance 3 of July 1948. With the help of this ordinance a security of Rs. 10,000 was demanded from Bhaskar, which had to stop its publication as it could not afford to furnish such a heavy security. Thus the only weekly paper which wrote against government policy was gagged and freedom of the Press was set at naught.

*Freedom of Association.* On account of general discontentment among Government employees because of very low salaries a SUBORDINATE SERVICES ASSOCIATION was formed in order to press the Government for increasing the pay. The President of the Association was one Mr. Keshava Prasad and Vice-President was Mr. Ram Behari. The Association had no connection with any political party, yet it had quite a good membership. Once this Association threatened a general strike of all sub-ordinate servants of the provincial government but the strike was averted by the announcement of the setting up of a Pay Commission by the then Provincial Government. The present Congress Government after coming into office dealt with the ring leaders with a strong hand in order to finish all chances of strike of Government employees. The President of the subordinate services Association had to sit in home for several

months without any orders and has been now transferred to some other department. Mr. Ram Behari has been dismissed and Government aid which was being given to him for Accountant General's training has been withheld. Further all Government employees have been warned by written order not to attend any public meeting. Thus freedom of association also has been set at naught.

## CHAPTER IX

### CIVIL LIBERTIES IN BIHAR

#### Jai Prakash, Protests Against Repression

Patna Feb. 21.—Mr. Jai Prakash Narayan, General Secretary of the Socialist Party, at a Press Conference here this evening referred to a number of cases of what he described to be suppression of civil liberties in the province and said that he hoped public opinion in Bihar would assert itself on the side of civil liberties in the absence of which freedom was a meaningless term.

"I am not asking for freedom for the disturber of the peace," Mr. Narayan said, "but am only insisting on the principles that no citizen should be deprived of his liberties unless found guilty of a proved charge. Under the law, emergency measures may be justified during war or large-scale rioting such as we had on the advent of freedom. But to take advantage of the emergency powers to crush political opponents as legitimate movements of the people is an injustice unworthy of an enlightened and democratic Government."

"It will be recalled," Mr. Narayan added, "that some weeks ago the well-known Socialist leader, Munshi Ahmed Din, was arrested at Jamshedpur under the Security Act. He was released a few days ago and has returned to Jamshedpur. With Munshiji there were eleven other detenus in Purulia Jail from Jamshedpur. They too have been released but they were all served at the jail gate with externment orders, externing some of them from Chota Nagpur and others from the two districts of Singhbhum and Manbhum. The public perhaps do not realise the enormity of such punishment. Among the persons externed there are many who were employed in the Tata Iron and Steel Company or some of the other companies there. They had worked there for years—one had a service of eighteen years, for instance. The externment order at one stroke deprives them of their employment. It is a very serious affair to deprive men of their livelihood. The Security Act does not require Government to give any reasons for their action, and the men concerned have been rendered jobless and homeless for no offence that they know of.—*A.P.I., Feb. 49.*

#### Sec. 144 against Jai Prakash Narain

Mr. Jai Prakash Narain, the Socialist leader has been summoned by the Third Officer of Sasaram in Arrah district to answer a charge under the Bihar Maintenance of Public Order Act for holding a public meeting at Dalmianagar in December 23 in contravention of the Government's order prohibiting meetings.

Mr. Narain has been asked to appear in person on through an advocate on June 22, A.P.I.—(*Hindu*, 4th June 49).

The summons served on Mr. Narain has since been withdrawn.

### Repression in Dalmianagar

In Dalmianagar where there is only one representative union of the labourers known as the Rohtas Industries Mazdoor Sangh the INTUC formed a parallel union with no following at all.

The Government served externment order on the most active socialist trade union worker, Bhagwat Tripathi, from Jharla. It was obvious that the intention behind this decision was to weaken socialist influence among the workers and to enable the INTUC to build up its own union. These hopes were belied when the workers refused to accept the INTUC's leadership.—(*J.*, December 26th 1948).

What can correctly be called the struggle for survival of genuine independent trade unions is taking place in Rohtas Industries in Dalmianagar. The industries include cement, sugar, paper, vegetable ghee and chemicals. Nearly 10,000 workers employed in the industries have been on a strike from December 4, 1948, to get recognition for their trade union—an elementary right in every democratic country. The Government have done nothing to persuade the employers to concede that elementary right of the workers, obviously with the intention of breaking the genuine trade union by repression and boosting up the INTUC bogus union into recognition. "The strike in Dalmianagar will decide not only the future of Dalmianagar labour but the fate of genuine and independent trade unionism in the country. The Government, the Company and the local Congress Party have all combined to crush us out of existence" said Basawan Sinha, Labour Secretary of the Bihar Socialist Party, in a circular letter to fellow trade unionists.

December 21, 1948, was observed as "Protest Day" throughout the Province of Bihar when sympathetic strikes, meetings and processions were held. Resolutions condemning the indifference of the Government and urging immediate recognition of the Union were passed and sent to the Government. Latest reports from Dalmianagar say that two prominent workers of the Mazdoor Sangh have been arrested. *Over 3,000 workers of Dalmianagar followed their arrested leaders in a procession to the police station. The peaceful procession was dispersed by lathi charge by mounted police. So far fifty-three workers have been arrested in this connection.*—(*N.S.*, Jan. 9, 1949).

### Basawan Singh on fast-sequel to mass victimization of workers

Following the alleged refusal by the employers to reinstate over 2,500 workers of the Rohtas Industries in Dalmianagar, Bihar, dismissed for participation in an "illegal" strike, Com. Basawan Singh, the well-known socialist leader of Bihar and the president of the Rohtas Industries Mazdoor Sangh, has undertaken a fast unto death from March 8.

Over ten thousand workers of the Rohtas Industries went on strike on December 4 for securing recognition of their Union by the employers. The strike was a protest against the management's effort to build up a rival union sponsored by the INTUC which did not have even a fraction of the following of the Mazdoor Sangh. The workers hoped the Government would intervene to protect the rights of independent trade unionism. But far from trying to secure for the workers the right to free association the government chose to play a role as unfriendly as the employers. The strike was declared illegal. Jayprakash Narayan subsequently visited the area. On his advice the strike was called off and the dispute was referred to arbitration.

Even after the dispute was referred to arbitration, over 2,500 workers were sent out of employment without any reason being given for their dismissal. The workers were once again agitated. Com. Basawan Singh met the management on behalf of the Union and demanded that the victimised workers be reinstated.

Finding all avenues for a settlement closed, Com. Basawan Singh decided to go on a fast unto death from March 8. In an open letter addressed to the management, he explained: "I have taken the decision to go on fast not in haste or in anger, but after carefully considering the issues involved in the dispute. Had there been any other way open for me to redress this injustice and get the victimised workers a fair deal, I would have tried that instead of undertaking this fast unto death. Com. Basawan Singh defended the workers' action and stated that the management was "responsible for the strike and the circumstances that led the workers to it".

"A puppet union" he said, "was established and recognised in the teeth of spontaneous opposition from the workers." Wages were withheld and workers starved out with a view to demoralise them. But the Union had all along followed the right path and therefore should he die as a result of this fast, the entire responsibility for it would rest with the management.

### Labour in Jamshedpur

The failure of the INTUC to fight for the demands of the workers made the workers themselves take action and the machine shop served a strike notice on January 30, but once more the Divisional Commissioner intervened and asked for another month's time. But the next day the workers of the Electric and General Maintenance Department struck work. This paralysed the whole plant. The leaders of the INTUC failed in their efforts to persuade the workers to resume duty. At this stage the authorities in consultation with the management and the INTUC took charge of the situation and armed forces were brought into the plant, but this only strengthened the workers' determination to carry on the strike. The authorities at this stage precipitated the situation by refusing the president of the Central Mazdoor Committee, Munshi Ahmed Din, to hold a meeting or

contact the workers so as to prevent any violent outburst. On the contrary, in the early hours of February 2, police arrived and after interrogation detained some workers as suspects and arrested socialists and the office-bearers of the Central Committee. The arrests of the socialists did not demoralise the workers, and so military and armed police were requisitioned to Jamshedpur and paraded before the workers. The authorities and the management failed to realise that the workers' action was a token of their resentment against the compromising attitude of the INTUC leadership. (*Janatha*, 6th March 1949).

### Government Backs Zamindars

The Government and the Congress organisation have entered into an unholy alliance with the Zamindars to perpetrate such atrocities. We have already mentioned the cold-blooded murder of Com. Ishwar Kayal Singh. In Barbighah the Zamindars mustered strong against the innocent Kisans and fired upon them ruthlessly for no fault of theirs. Bakast disputes are all being decided in favour of the Zamindars. With the passage of the Zamindari Abolition Bill, Zamindars are trying by hook or by crook to acquire the public tanks and 'garmajara' lands and thereby deprive the Kisans of their legitimate right to use them in common. Darbhanga Maharaja is settling the common lands in the Kosi area to those who have amassed vast wealth in black-marketing. In Monghyr district the Chowdhary of Bhaktiarpur (a personal friend of the Premier) has let loose his goondas and lathis on the Party workers. Coms. Ramchandra Prasad and Shrinarayan have become sore in their eyes. Kisan struggle is going on in every nook and corner of the province in some form or other. Trouble arose in the Zamindari of B. Shyam Prasad Singh, the Congress Deputy President of the Bihar Council. The matter has now been referred to the Bakast Dispute board. The longstanding Kisan struggle of Piparia, in the Premier's own district, in which several Kisan workers are involved, is now under adjudication. Com. Ram Bhajan Dutta, the General Secretary of the Bihar Provincial Kisan Sabha, is now working in the Chotanagpur Division with Ranchi as his headquarters.—(4-7-48, N. S.)

### Inside Bihar Congress Jails

The following cases of prisoners in the Monghyr District Jail, in the home district of Srikrishna Sinha, the Bihar Premier, provide vivid examples of the Government's jail administration.

Com. Ramchandra Prasad, Secretary of the Hospital Mazdoor Union, Monghyr, is being detained here. He can have no interviews, no letters. Shivakumar Singh, the jail clerk, regularly visits his cell and tries to intimidate him by every possible means. Formerly he was kept as C. division prisoner. Now he has been transferred to B. division. But this is only on paper and actual facilities of B. division are completely absent.

Com. Bibhishan Singh, Socialist worker of Lakkhisera (Monghyr), was kept in C division. Now he has been given B division. But what

comforts have come to him as a B division prisoner? He is suffering from gout, but the authorities have not thought it fit to make any arrangements for his treatment.

Com. Rameshwar Yadav, Kisan leader of Monghyr, has been given B division. But his old father of 80 has been considered fit to be kept as a C division prisoner. Probably because of old age, he is expected to have more enduring capacity.

While Com. Geeta Prasad Singh, Assistant Secretary of the Socialist Party (Bihar) was entering the District Jail, on the 27th July, 1948, to interview a political prisoner, the policemen at the gate wanted to put the jail stamps on his body. When this is the treatment meted out to a political worker of Geeta Prasad Singh's standing, the fate of ordinary interviewers can be very easily imagined.—(N. S., 8-8-1948).

### Resolutions of the Socialist Party

Com. Ganga Sharan Sinha moved a resolution condemning the inhuman treatment meted out to Com. Surya Narayah Sinha inside the jail. The resolution further demanded an impartial enquiry into the matter by the Government. It was unanimously adopted by the Council.

By another resolution moved from the dais, strong condemnation of the Government's attempts to encroach on the civil liberties of the people by Public Safety Acts and ordinances was registered. It was demanded that the Government should restore the liberties without any delay.—(Oct. 10, 1948).

### Freedom of Courts

The Patna High Court has again found it necessary to pass severe strictures against attempts at interference with the course of justice. A merchant, one Rai Saheb K. N. Chachan, was being prosecuted at Muzaffarpur on the charge of giving a bribe to a Government servant. A Congress M.L.A., Mr. Mahesh Prasad Sinha, wrote to the District Magistrate that the charge was false and asked for the withdrawal of the case. The case was accordingly withdrawn. When the matter came to their notice, the High Court set aside the withdrawal and ordered the prosecution to continue. In the course of their judgment the High Court said:—

“It is highly improper for anyone to communicate to the District Magistrate with reference to a pending case any matter which may have the effect of prejudicing his mind. If that legal proposition was not known to Mr. Mahesh Prasad Sinha, the legislator, it should have been known to Mr. Mahesh Prasad Sinha the advocate. Mr. Mahesh Prasad Sinha categorically informed the District Magistrate that the case pending against Chachan was a false one and he requested the District Magistrate to get the matter thoroughly examined by competent persons, thereby implying that the Magistrate before whom the matter was pending was not a competent person. It is most

regrettable that anyone and more particularly an advocate should thus intervene in a pending case and endeavour to influence the mind of a superior magistrate by ex-parte statements and by casting aspersions on the capacity of the presiding officer of the court in session of the case."

Disapproving the refusal of the Government to produce the letter that Mr. Sinha had written to the District Magistrate the High Court said that a claim of privilege on behalf of the Government in respect of the production of the letter was most extraordinary.

### **Habeas Corpus Petitions in Bihar**

*By P. R. Das, Barrister, Patna*

The High Court has very restricted powers to interfere under the Bihar Public Safety Act. The Bihar Act provides that the detinue has to be served with the reasons for his detention with a view that he may make representation to Government. The Patna High Court has held that the reasons must be such as will enable a detinue to deny the charges and that therefore vague allegations are not sufficient. Even under the restricted power which the High Court has it has interfered in a large number of cases. A list of cases in which these applications were allowed or rejected is enclosed.

**Cr. Misc. Cases of 1947 u/s 491 Cr. P. C.**

105	Murat Patwa detained u/s 2 (2) of B.M.P.O. Ordinance, 1946....	Reuben J. & Roy J.	Allowed.
118	} Murat Patwa detained u/s 2 (1) of Act ...	Do.	Rejected.
&			
119			
125	D. Singh	Do. ... Do.	Allowed.
139	Tetar Ram	Do. ... Shearer & Roy JJ.	Allowed.
158	} Kali Gope (for friends)	Do. ... Do.	Rejected.
&			
159			
176	Bhuneshwar Tewari	Do. ... Do.	Allowed.
194	Murat Patwa (F.B-) (Over ruling 118, 119, 158, 159)	Do. ... Agarwala A.C.J. & Reuben & Bennet JJ	Do.
196	Hakim Singh	Do. ... Shearer & Ray JJ.	Rejected
218	Tetar Ram	Do. ... C. J. & Sinha J.	Do.
221	Jamuna Gope	Do. ... Shearer & Mukherji	Allowed
234	Ramachandra Singh	Do. ... Bennet & Ramswami JJ	Do.
235	Badri Prasad	Do. ... A. C. J. & Mukherji J	Do.
246	Jogeshwar Singh	Do. ... Withdrawn	
248	Ramlagan Rai & others	Do. ... A. C. J. & Mukherji J	Rejected
256	Deokinandan Prasad	Do. ... Withdrawn	
267	Jogeshwar Singh	Do. ... Bennet & Ramswami JJ	Do.
269	Hardeo Singh	Do. ... Do.	Do.
272	Abdul Kayum & 18 others	Do. ... Sinha & Ray JJ	Allowed
280	Ramavatar Teli	Do. ... A. C. J. & Ayyar J	Rejected
294	Rangali Gope	Do. ... A. C. J. & Mukerji J	Do.
295	Basdeo Nunia	Do. ... Bennet & Ramswami JJ	Do.
312	Biharilal Gope	Do. ... Sinha & Mukherji	Infructuous
319	Nawal Kishore Kahar	Do. ... Do.	Allowed

325	Ramobaritar Sinha	Do.	...	Do.	Infructuous
349	Dr. Ahmad Keshari	Do.	...	Already Released	
361	Md. Izhar Alam	Do.	...	A. C. J. & Shearer J	Allowed
382	Noor Mohammad	Do.	...	A. C. J. & Ayyar J.	Do.
383	Mahrudin Mian	Do.	...	Do.	Do.
390	Ramohandra Gope	Do.	...	A. C. J. & Shearer J	Rejected
404	Babu Bhat	Do.	...	C. J. & Ramswami J	Do.
432	Surja Narain Singh & 2 others	Do.	...	Imam & Narayan JJ	Do.
442	Muhammad Hanif	Do.	...	Das & Narayan JJ	Do.

**Cr. Cases of 1948 u/s 491 Cr. P. C.**

57/48	Badri Prasad & 10 others	...	Imam & Narayan JJ	Rejected
77	Bhabani Prasad Chodhury	...	Do.	Do.
81/48	Hiralal Mahajan	...	Do.	
87	Janak K. Deo Arya	...	Do.	Rejected
112	Kailash Chandra Verma	...	Do.	Do.
113	Suraj Narain Singh	...	Do.	Do.
116	Kapildeo Thakur	...	Do.	Do.
118	Lilabati Choudhury for husband	...	Withdrawn being released	
131	Ganga Prasad Sao	...	Imam & Narayan JJ	Rejected
148	Jogeshwar Pd. Sharma	...	Sinha & Mahabir Pd. JJ	Do.
149	Ramaasis Prasad	...	Do.	Do.
150	Ramakant Jha	...	Do.	Do.
153	Nek Mhd., Nizamuddin Ahmad	...		
170	Gulam Ashraf, Md. Jan.	...	Meredith, Sinha	Allowed
180	Md. Mohiuddin, Bhaskar	...	& Das JJJ	
181	Krishna Rao Zingade.	...	F. B.	
185	Bandu Panse, Nardeo Gupta.	...		
188	Sahidhar Dwivedi, Dr. K. P. Rode	...		
193	Pandit Thakur Pd. Tewari	...		
224	& Ramrajib Singh	...		

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171	Dharam Lal	...	C. J. & Mahabir Pd. J	Rejected
194	Md. Kassim	...	Sinha & Do. JJ	Do.
195	Govind Purushottam Sahdeo	...	Do.	Do.
196	Radhika Dube	...	Do.	Do.
222	Md. Afzal Quassim	...	Sinha and Das JJ	Do.
225	Chandrama Singh	...	Sinha & Mahabir Prasad JJ	Do.
226	Ramakant Jha	...	Do.	Do.
227	Indarsan Tripathi	...	C. J. & Narayan J	Allowed
228	Radha Kant Gupta	...	C. J. & Imam J	Do.
229	Umakant Shukla	...	Sinha & Mahabir Pd. JJ	Rejected
231	Syed Nasar Hussain	...	Imam & Reuben JJ	
234	Maneeruddin	...	Sinha & Das JJ	Rejected
242	Md. Sulaiman	...	Sinha & Mahabir Pd. JJ	Withdrawn
249	Kesho Narayan Sinha	...	C. J. & Narayan J	Rejected
250	B. P. Agarwala	...	Do.	Do.
251	Harihar Pd.	...	Sinha & Das JJ	Do.
253	G. N. Joshi	...	Sinha & Reuben JJ	Do.
262	Damodar G. Bhawe	...	C. J. & Imam J	Do.
263	Balwant Joshi and five others	...	Released before hearing	
277	Abdul Malik Fardi	...	C. J. & Imam J	Allowed
281	Indradeo Bhagat	...	Do.	
282	Sashdhar Dwivedi	...	Reuben & Imam JJ	
285	M. N. Kholey	...	C. J. & Imam J	
286	Kedar Nath Das	...	Do.	Rejected
287	Jnan Bikash Maitra	...	Do.	Do.
288	Sailendra N. Adhikari	...	Do.	Do.
292	Gangadhar Govind Chatterji	...	Do.	
293	Anant Kishore Patrokar	...	Do.	
294	Basdev Prasad	...	Do.	

295	Amareshwar Prasad	...	Do	
298	P. Yadav	...	C. J. & Narayan J	Allowed
304	Pdt. G. N. Joshi	...	Do.	Rejected
305	Umakant Kesho	...	Das & Narayan JJ	Do.
309	Nakschetra Malakar	...	C. J. & Imam J	
310	Harihar Saran Singh	...	Do.	Allowed
311	Sheo Bachan Singh	..	Do.	Do.
312	Pradhan Sharma	...	Do.	
313	Chandrama Singh	...	Do.	Rejected
314	Janki Prasad	...	Do.	
317	Om Prakash Gupta	...	Das & Narayan JJ	Allowed
320	Shree Bholanath Jha	...	C. J. & Imam J	
321	Anjani Kumar Sinha	...	Do.	
324	Sheonandan	...	Do.	
325	Durga Pd. Gupta	...	Do.	
326	Shridhar Kushal Pandey	...	Do.	
327	Harbans Lal	...	Do.	
335	With—Tarakant Jha	...	Released before	
318				
336	S. N. Shriram Bhave	...	C. J. & Narayan J	
337	Banshidar Agarwala	...	C. J. & Imam JJ	
338	Umakant Jha	...	Do.	
352	Md. Zakaria	...	C. J. & Narayan J	Rejected
358	Bachan Prasad	...	Das & Narayan JJ	Allowed
359	Zaihur Rahman	...	Do.	Do.
361	Chhedi Lal	...	C. J. & Imam J	Rejected
362	R. Yadav	...	Do.	Do.
363	Gan Pd.	...	Do.	Do.
364	Ramjee Yadav	...	C. J. & Imam J.	Rejected
365	Sadhan Gupta	...	C. J. & Narayan J.	Do.

366	Abdul Rashid & another	...	C. J. & Narayan J.	Rejected
368	Dr. Abdul Hafeez & Fakhruddin	...	Do.	Do.
376	Basdev Rai	...	Das & Narayan J.	Allowed
377	Bara Singh	...	Do.	Do.
378	Gulam Samuddin	...	C. J. & Narayan J.	Rejected
379	Md. Elians and another	...	Das & Narayan J.	Allowed
381	Umesh Jha	...	Do.	
382	Deoprasan Ram	...	Do.	
383	Ganga Prasad	...	C. J. & Narayan J.	Not pressed
384	Ramchandra Yadav	...	Do.	Allowed
385	Ramjee Yadav	...	Do.	Rejected
386	Raghunandan Yadav	...	Do.*	Do.
387	Pravakar Joglekar	...	Das & Narayan JJ	Allowed
388	Sobhakant Missir	...	Do.	Do.
389	Kashinath Upadhaya	...	Do.	Do.
392	Kansai Lal Singh	...	Mahabir Pd. & Ana J.	Allowed
397	Abdul Rahman	...	Das & Narayan JJ	Do.
404	H. C. Jain	...	C. J. & Narayan J	Rejected
405	Md. Hussain & others	...	C. J. & Imam J	Allowed
406	Fauzdar Sing	...	Das & Narayan JJ	Do.
408	Raghunandan Lal Das	...	C. J. & Imam J	Do.
410	Dinesh Das	...	Das & Narayan JJ	Do.
411	Ramavatar Sharma	...	C. J. & Narayan J	Rejected
414	Anil Das Gupta	...	Das & Narayan JJ	Allowed
415	Sashi Shekhar Varma	...	Do.	Do.
416	Prabir Mallik	...		
	Chinmoy Mukherjee	...	Do.	Rejected
	Mohan Ram	...		
420	Chhedi Lal	...	C. J. & Narayan J	Do.
421	Sushilkumar Das Gupta	...	Das & Narayan JJ	Allowed

423	Amar Trigunant for friend	...	Do.	Rejected
424	Bidhu Bhusan Bhownic	...	Do.	Do.
425	Subodh Singh	...	Do.	Allowed
426	Nripen Banerjee	...	C. J. & Narayan J	Do.
427	Kushu Ram	...	Do.	Rejected
428	Arjun Kahar	...	Do.	Do.
429	Harilal Kamgar	...	Das & Narayan JJ	Do.
433	Sadhan Gupta	...	Das & Narayan JJ	Rejected
434	Arun Kant Sab	...	C. J. & Narayan J	Allowed
446	Siddique Ali	...	Das & Narayan JJ	Rejected
450	Bishwanath Prasad	...	C. J. & Narayan J	Do.
451	Jamuna Pd. Jha	...	Do.	Do.
452	Jogendra Nath Gayen	...	Das and Narayan JJ	Do.
453	Arun Kumar Sinha	...	Do.	Allowed
456	Krishna Chandra Choudhury	...	Do.	
457	Sk Sulaimen	...	C. J. & Narayan JJ	Allowed
464	Abdul Aziz	...	Infructuous	
465	Anwar Karim	...	Das & Narayan JJ	Rejected
466	Abdul Hakim	...	Do.	Do.
467	Abdul Rahman	...	Do.	Do.
468	Raghunandan Yadav & Chhedilab	...	Do.	Do.
472	Ashrafi Sabai	...	Do.	Do.
473	Nachalkar Malkar	...	Do.	Allowed
474	Syed Habib	...	Do.	
475	Jamuna Pd. Jha	...	Do.	Rejected
481	Chandra Sao	...	Do.	Allowed
482	Talo Choudhury	...	C. J. & Narayan J	Do.
483	Saki Chand Sao	...	Das & Narayan JJ	Rejected
503	Amar Trigunait for friend	...	Do.	Rejected
512	Md. Waisul Rahman	...	Do.	Allowed

519	Lalu Gope	...	Shearer & Reuben JJ	Allowed.
523	Chandrama Singh	...	Infructuous	
529	Syed Habib and another	...	Das & Narayan JJ	Allowed
551	Ramavatar	...	Shearer & Das JJ	Rejected
561	Wazir Mian	...	Shearer & Reuben JJ	Do.
564	Rambriksh & Jwala Pd..	...	Do.	Do.
565	Bijoy Krishna Mitra	...	Do.	Do.
568	Bhogendra Jha	...	Do.	Do.
569	Tejnarayan Jha	...	Do.	Do.
570	Mahura Singh	...	Do.	Do.
575	Brahmadev Kurmi	...	Do.	Do.
579	Khalsa Khatna	...	Do.	Do.
587	Chapalendu Bhattacharya	...	Manoharlal & Ramswami JJ	Allowed
588	Shk Khoda Buksh	...	Shearer & Das JJ	Allowed
589	Sk. Azimuddin	...	Shearer & Das JJ	
597	Abdul Kalam	...	Shearer & Reuben JJ	Allowed
608	Md. Zakaria	...		Withdrawn
615	Md. Tahid	...	Shearer & Das JJ	Allowed
617	Shib Chand Tanti	...	Do.	
630	Jai Ram Sundi	...	Do.	

**Cases of 1949 u/s 491 Cr. P. C.**

3/49	Baldep Gop	...	C. J. & Nageshwar Pd. J	Allowed
19/49	Shahzeda Khan	...	do.	Do.
37/49	Ramrattan Singh	...	Do.	Rejected
38/49	Madhusudan Kumar	...	Do.	Do.
39/49	Brij Behari Kumar	...	Do.	Allowed
46/49	Bidhu Bhusan Bhowmie	...	Shearer & Das JJ	Rejected

## BIHAR PUBLIC SAFETY ACT

### Eleven Detenus ordered to be Released

The Federal Court gave judgment to-day accepting the appeals of eleven political prisoners of Bihar against their detention under the Bihar Public Safety Act.

The Court ordered the release of the appellants reversing the decision of the Patna High Court and declared *ultra vires* the extension of Bihar Public Safety Act, 1947, by resolutions of the two Houses of the Provincial Legislature.

The appellants who belong to Chota Nagpur, a partially excluded area of Bihar, challenged the right of the Bihar Governor to apply by notification the Bihar Public Safety Act to that area with retrospective effect.

It may be stated that the Bihar Public Safety Act became law on March 16, 1947, for a period of one year, but with a proviso that the Governor of the Province could, if a resolution was passed by both houses of the Provincial Legislature, extend the life of the Act. Under Section 92 of the Government of India Act, the Governor by notification applied the Act to the excluded and partially excluded areas of Chota Nagpur.

While in 1948, the Act was extended by a resolution of the Legislature, on March 16, 1949, the Bihar Assembly passed a new amending Act extending the life of the previous Act by a year. The new Act, however, was not accompanied by a notification issued simultaneously applying it to Chota Nagpur. The notification was issued a few days later extending the Act to the excluded areas with retrospective effect. The appellants were detained on February 12 of the same year.

The eleven *habeas corpus* petitions of the detenus were considered by the Federal Court jointly as they involved identical questions. Jatindranath Gupta was the principal appellant. The Government of Bihar were the respondents.—*API*.

Twice the powers of the legislature were set at naught by the Bihar Government with a view to detain persons without trial. In the first instance they delegated powers to the Governor to extend the Act if a resolution was passed by both houses of the legislature. The Federal Court held it *ultra vires*. The Bihar Government thereafter promulgated an ordinance by the Governor. This was also held on 21st June *ultra vires* by their Lordships Mr. Justice Ramaswami and Mr. Justice Narayan on the ground that the Governor of Bihar had no authority to promulgate the ordinance on June 3, 1949, when the legislature was in session and was prorogued three days later on June 6, 1949.

Their Lordships ordered that all the 58 detenus detained under the ordinance be released forthwith.

## CHAPTER X

**CIVIL LIBERTY IN ASSAM****Resolutions of the Socialist Party**

The Government of Assam under the cover of internal security is adopting fascist methods against democratic parties and individuals functioning under their aegis and thereby it has endangered the fundamental democratic rights of free India. It has therefore become a bounden duty of the people of Assam to see that the basis of a free state, i.e. the fundamental democratic principles are not endangered. It is the considered opinion of the Council that with the successful solution of the Hyderabad problem the ordinances promulgated by the Government to meet the extraordinary situation should be forthwith withdrawn. The Council demands the immediate withdrawal of the anti-democratic clauses in the Assam Public Safety Maintenance Act, 1947, which gives extraordinary powers to the Government, in view of the fact that this Act is even worse than similar Acts promulgated in other provinces of India.

The General Council gives its due attention to the economic problems facing the country today. Without paying due attention to the rights and privileges of labour, the Government unduly emphasises the responsibility of labour. On the other hand, due to the Government's weak policy towards the capitalists, the capitalists have not only non-cooperated with it but have forced the Government to maintain the capitalist status quo. To add insult to injury, Government has adopted repressive measures against the democratic movements of labour and labour workers. As a result of this, chaotic conditions loom large in the country at present.

## CHAPTER XI

**CIVIL LIBERTIES IN ORISSA: A REVIEW**

**S. S. Misra, Secretary, Civil Liberties Union, Orissa**

According to the provisions of the Orissa Maintenance of Public Order Act which received the assent of the Governor-General on 7th April, 1948, the Orissa Government has acquired the powers to provide for preventive detention, imposition of collective fines, control of meetings and processions and of essential services, imposition of censorship, requisition and acquisition of properties and prevention of unlawful drilling and the wearing of unofficial uniforms in connection with the public safety and maintenance of public order and of services and supplies essential to the life of the community.

There are two types of workers against whom preventive detention has been put into force. The first are the workers of the Communist Party and such others who act in close co-operation with them. The second type of workers are those who advocate that the Orissa States should not merge with the province of Orissa but should form a separate Union of their own. In both these cases, there has

been preventive detention and all attempts by the detained persons to apply for a writ of the Habeas Corpus have not, so far, resulted in their being produced before a Court of Law.

Collective fines have been imposed in the Shergarh Estate of the Ganjam District, where the villagers in large numbers prevented the Police from arresting some of the Kisan workers belonging to the Communist Party.

Section 144 has been promulgated in the whole of the Ganjam District, and meetings and processions without the previous permission of the District Magistrate have been banned. This virtually makes it impossible to carry on Kisan Sabha work in the District. Section 144 has also been promulgated in the whole of the Balasore District, the home District of the Premier of Orissa, and in many areas where active Kisan Sabha work is in progress. Section 144 is promulgated to throttle the movement.

In many cases it has been found that while Congress workers are allowed to organise meetings and even get Police help for organising their meetings, meetings organised by the Socialist Party are banned. This was the case in the Textile Mill Labour Union at Chowdwar where the Union Workers because they are socialist-minded were not allowed to hold their meetings, but the President of the District Congress Committee was allowed to organise a meeting of the Mill workers to form a branch of the I. N. T. U. C.

The Premier and the other ministers of Orissa visit the areas where Section 144 is in force. They freely address meetings and do propaganda for their Government; but no meetings are allowed organised by the Socialist Party where it is apprehended that the activities of Government would be criticised.

## **The Orissa Maintenance of Public order Act and Civil Liberties**

BY

*(Surendra Dwivedi, Secretary, Socialist Party, Orissa)*

The Orissa Maintenance of Public Order Act came into force on 7-4-48 with its sweeping provisions to reduce civil liberties to a shadow, and in its train came the arrests and detentions. Unlike its central predecessor the Defence of India Act of 1939 and the rules, made thereunder, the Orissa Maintenance of Public Order Act openly declares in its preamble that the enactment is meant to provide for "preventive detention, imposition of collective fines, control of meetings and processions and of essential services, imposition of censorship etc."

The press is sought to be muzzled by the reproduction of rule 41 of the D. I. Rules. There are also provisions for general search by any Police officer and the power to force people to serve in a firm of employment declared by the provincial Government to be essential, with the power to impose collective fines.

The fears expressed by the Socialist Party that the Orissa Maintenance of Public Order Act would mainly be used in curtailing ordinary peaceful activities of the people and suppressing activities of rival political parties, have come true. Com. Rabindramohan Das, a well-known socialist and labour leader of the Province and Com. Baishnab Charan Naik, a member of the Working Committee of the Socialist Party, were arrested under the M. P. O. Act. No disturbances of peace were reported. They were holding meetings in Dhamnagar P. S. to ventilate the grievances of the people. Only a few months back protection was given by the authorities to a merchant in Balasore who was indulging in anti-social activities such as black-marketing and public resentment against him was suppressed under the M. P. O. Act. In the district of Ganjam even debating societies of students have been stopped in some of the schools by the promulgation of Section 144. This is the over all situation under which our so called democracy works and about which Sri Harekrishna Mahtab, the Premier of Orissa, and his colleagues go about the country haranging to the people.

Some of the provisions of the M. P. U. Act have been made use of by the Orissa Government on different occasions. Collective fines have been imposed and detentions without trial on fantastic reasons shown have been made.

But the executive of the Orissa Government have thought it expedient to misuse the provisions of the criminal procedure Code to serve their purpose rather than to resort to the Maintenance of Public Order Act on every occasion. Provisions of the Criminal procedure Code, such as S. 144, S. 107, S. 110 are being freely used to rob the populace of their civil liberties and to put a stop to all reasonable expression of opinion in a gathering. Even so, in circumstances where amicable feeling prevails they find apprehension of breach of peace to use their favourite weapon. 144 has been enforced in many places of Cuttack District to curb the kisan movement carried on by the Socialist Party and throughout the district of Ganjam on the pretext of Communist activities, though the Communist activity is limited to one or two areas only. Thereby the peasants have been debarred from getting the benefit from the Tenant's protection Act by the Government.

Besides these cases under 144 and 107, Police Act 30 restrictini any assembly of people has been enforced in some towns of Pur district, Balasore district and Sundargarh district.

It is difficult to collect statistics of the people who have been sufferers under the Maintenance of Public Order Act and the misuse of the provisions of the criminal procedure code. But this attack on the parties has also affected our Party as will be evident from the number of cases 144 Cr. P. C. in Tirtol P. S., Cuttack district.

Section 107 Cr. P. C. is widely used in areas where Kisan move ment is strong. In Mangalpur in Puri district higher officers have conspired, in spite of the fact that the lower officers are satisfied about

the oppression of the Mukadams, and Sec. 107 Cr. P. C. has been used to restrict the activities of the Provincial Kisan Sangh. Even prominent outsiders who were never connected in these cases have been accused of offences.

Wherever any labour strike occurs, Government comes down with a heavy hand to curb it. I may cite a specific instance of Orissa Textile Mills workers at Chowdwar in Cuttack district. There with the commencement of strike, 144 was enforced to prevent meetings of the labourers. Socialist workers were arrested without any specific charge. A camp court was established to try cases locally, so that heavy punishment can be given to the workers. Heavy fines were imposed and property attached within four hours of the issue of judgment by the court. The oppressive machinery was let loose with such a speed on the people that it even surpassed the oppression of the British days. A force of military paraded the streets and a contingent of armed constables were posted. All these were done though not a single case of violence from the side of the people has been reported by the Government.

Simultaneous with this repression an attempt was made by the I. N. T. U. C. men to start a rival union. They imagined that with the help of the management a parallel union could be brought into being. But this move was foiled by the workers.

The Mayurbhanj Praja Mandal Ministry has started repression against the Party. Com. Girish Chandra Roy, organiser of the Mayurbhanj Socialist Party, has been arrested on a charge of sedition and is now released on a bail of Rs. 1000. All Socialist workers are haunted and followed by police men., wherever they go inside the State, just like wild animals. In spite of this, the Party is getting good popular support. Hundreds of people greeted Com. Roy when he was released.

In a nut shell, civil liberty is curbed to prop the administration in power, and opposition parties and popular and progressive movements have come in as victims.

## CHAPTER XII

### CIVIL LIBERTY IN KARNATAK

1. Com. C. Garuda Sharma was organising kisans in Dharwar District for about 6 years. He was externed from Bombay Province as per Order No. S. D. II 457 VI dated 24-12-47 on a vague charge that he was acting in a manner prejudicial to the maintenance of public order and tranquility of the Province of Bombay. The order is under Clause (b) of Sub Section (1) of Section 2 of the Bombay Public Security Measures Act 1947 (Bom. VI of 1947). His appeals to the Government of Bombay against this order were not respected. He requested the Government of Bombay to allow him to attend the annual Conference of our Provincial Branch which was held at

Khanapur of Belgaum District on 27th and 28th May 48. This request was also rejected by the Government.

2. Several active workers of Mysore State Railway Employees Association were detained during April and May 48 under the Mysore Public Safety Act.

3. Six of our party comrades were detained by the Mysore Government under Mysore Public Safety Act. It was in connection with a strike by the workers of Mysore City Electrical department. All these persons were released after a month.

4. Shri H. D. Raghavaraj, President of Mysore State Railway Employees' Association, K. N. S. Murthy, General Secretary, and Krishnamurthy and Pushpam, active workers of the association, were detained under the Mysore Public Safety Act from 15-7-48 to 15-8-48. Messrs. Raghavaraj and Krishnamurthy who were still railway employees were dismissed from service.

5. Com. Honnappa, a leader of the Kisan Sabha of North Kanara District, was detained under Public Safety Act in August and was released a few days later.

6. The Mysore Government detained the following persons under Mysore Public Safety Act for the periods noted against their names.

- |  |                            |
|--|----------------------------|
| (1) M. Ananthan, President of Vehicle Depot<br>Civilian Workers' Association, Bangalore                    | } 12-9-48 to<br>} 6-16-48  |
| (2) K. Kannan, President of I. E. M. E. Civilian<br>Workers' Association, Bangalore                        | } 13-9-48 to<br>} 29-10-48 |
| (3) M. Govindraj, President, Youth Congress,<br>Bangalore Cantt.   | } 13-9-48 to<br>} 29-10-48 |
| (4) Jagannathan, Working Committee member of<br>Vehicle Depot Civilian Workers' Association,<br>Bangalore. | } do.                      |
| (5) V. D. George, Secretary, I. E. M. E. Civilian<br>Workers' Association, Bangalore.                      | } do.                      |
| (6) Patrick, Working Committee member of Vehicle<br>Depot Civilian Workers' Association Bangalore.         | } do.                      |
| (7) Muniswamy, Working Committee member of<br>Vehicle Depot Civilian Workers' Association,<br>Bangalore.   | } do.                      |
| (8) Nagabhushana, Provincial Secretary, Socialist<br>Party (Karnatak)                                      | } 29-9-48 to<br>} 6-10-48  |
| (9) T. N. Mani, A prominent Socialist Party worker<br>of Bangalore City.                                   | } do.                      |
| (10) P. Sheshappa, Editor, Swatantrodaya, (Kannada<br>Bi-weekly) Bangalore City.                           | } 16-9-48 to<br>} 5-1-48   |

The arrests were in connection with a police strike in Bangalore Civil Station. All the above detentions were without trial.

7. The Bangalore City Unit of the party had called a labour rally under the presidentship of Com. Peter Alvares on 14-12-48. The Government banned the meeting at the eleventh hour and lathi-charged the crowd which cheered Com. Peter Alvares. Peter Alvares and S. Nagabhushana, the Provincial Secretary of the Party, and five others were taken to custody and released after an hour.

8. Com. Nagabhushana, Provincial Secretary of the party, and Com. H. Ramaswamy, a prominent Socialist Party worker of Bangalore City and Secretary of Vegetable Oil Products Labour Association, were arrested on 12-1-49 under Section 3 of Mysore Public Safety Act. They are detained without trial in Bangalore Central Jail.

9. Messrs. Muniratnam, Secretary, Mysore Mills Labour Association, and four other executive committee members of the same association are detained in Bangalore Central Jail without trial since 24-1-49 under Mysore Public Safety Act—*Secretary, Socialist Party, Bangalore City.*

## II

### SOME ILLUSTRATIVE INCIDENTS

#### Peasantry and Repression

The city unit of the Bangalore Socialist Party organised 'Chinnikatte Prisoners' Day' on November 21.

The five kisan workers who were arrested during the last people's movement in Mysore, eighteen months ago, are still rotting behind the bars. Theirs are household names in Chinnikatte where they organized resistance against the powerful Sahukar who was a constant terror to the villagers. These men were arrested by military pickets and were charged for arson and loot. In the trial that followed they were sentenced to a total period of 27 years, the sentences ranging from 5 to 7 years R. I.—(*J., Dec. 5, 1948*).

#### Mysore Press Muzzled

The Government of Mysore have issued a "warning and notice" to the Publisher of 'Jagriti,' Organ of the Socialist Party in Kannada. It is said to be in connection with an article published in 'Jagriti,' of 21st November 1948 entitled "Let the Karnatak Province of two crores of Kannadigas be formed by liquidation of the Mysore throne." The reactionary policy of the Congress in trying to foist the Mysore Maharaja on the whole of Karnatak was severely condemned in the article.—(*January 23, 1949*)

## Freedom Struggle

Channabasappa and four others who had participated in the struggle for responsible Government launched by the Mysore Congress last year were convicted for a period of imprisonment ranging from 5 to 7 years, on a false charge of dacoity and violence. All efforts made by the Party for their release have failed. The Bangalore City Unit of the Socialist Party also observed the day on 21st November last.

### Repression in Mysore State Railway

Com. M. C. S. Iyengar, Ex. General Secretary of the Mysore State Railway Employees' Association and one of the important leaders of the Association, has been dismissed from service with effect from 30th November 1943 by the Mysore Government, without assigning any reason. He has put in a service of 20 years in the department.—(*J.*, December, 12, 1948).

## CHAPTER XIII

### CIVIL LIBERTY IN TRAVANCORE

#### Motor Bus Workers' Struggle

Inhuman treatment is being meted out to Com. T. S. Ramaswami, Organiser, Travancore Socialist Party, in the Puthenchanthai lock-up. He was arrested in connection with the State Transport Porters' Strike which has been going on since the last one week. He has been lodged in an ill-ventilated cell along with criminals and T. B. patients. None of the facilities due to a political prisoner are allowed to him.—(*December 12, 1948*).

The Government and the Department adopted a hostile attitude from the very beginning. On the first day of the strike forty-seven porters were arrested when a peaceful procession of workers was taken out by the Union. The Secretary of the Union, Com. Gopinathan Nayar and Com. Ramachandran Nair and K. K. Nair, Members of the Socialist Party, were arrested and Com. T. S. Ramaswamy, Organiser of the Travancore Socialist Party, was arrested the next day for offering Satyagraha before the Bus station. The Municipal workers, of the City went on strike in support of the porters. A huge workers' rally and meeting were held to protest against the repressive measures of the Government.

A compromise was arrived at after a conference between Com. Wilson, President of the Union, and the authorities. It was agreed that the District Magistrate be requested to enquire into the charges alleged against the dismissed workers. If the Magistrate found them innocent they were to be taken back, not otherwise. But the authorities repudiated the agreement, by refusing to discharge the blacklegs recruited by them during the strike. The workers were forced to renew the struggle.

Six workers of the Party, Coms. Krishnaswamy, K. K. Nair, Madhavan, Mahomed Kunju and Veerabhadran were arrested and convicted during the struggle. Finally Com. P. P. Wilson, President of the Trade Union and Member of the Travancore State Constituent Assembly, and Com. S. M. Noohu were arrested together with 51 labourers and Socialist Party workers.

All efforts to crush the struggle having failed the Government was forced to come to terms. All the arrested persons were released and the struggle has been withdrawn.

### Estate Labour

As a sequel to the strike of the estate workers of Pathanapuram Taluq, the capitalists and the Police have unleashed violence against the Party. Com. P. O. Thomas, Secretary of the Quilon District Committee of the Socialist Party, was arrested, marched through the streets, handcuffed, abused in public and assaulted by the Inspector of Police. His only crime was that he fought to end the injustice done to the estate workers. The poor estate labourers are terrorised with the vindictiveness reminiscent of Sir C.P.'s regime. The Inspector of Police—a sadist notorious for unparalleled cruelty to prisoners—has been sent there on purpose by the Congress Ministry to break up all independent trade unions. Two trade unionists had their front row teeth knocked down by the Inspector. Arrest warrants have been issued against 20 persons including the President of the local Students' Congress. It is believed that Mr. Kesavan, President of the State Congress, Mr. Verghese, Deputy Leader of the Congress Party, and Mr. Marcose, Minister for Forests, are directly responsible for this fascist gangsterism. It may be of interest to know that Mr. Marcose is intimately connected with the estates in Pathanapuram.

### Travancore under Congress Raj

1. *Emergency Powers Act to remain*:—A resolution moved by Com. Wilson, M.L.A., recommending withdrawal of the Emergency Powers Act enforced by the feudal dictatorship was disallowed in the State Assembly during its present session.

2. *Transport workers denied freedom of organisation*:—The workers of the Transport Department have been refused the right to organise themselves in Trade Union. Representations by the workers have not borne fruit. The Ministry which claims to be popular is following in the footsteps of the feudal rulers.

3. *Well-known Malayalam Scholar prosecuted*:—Dr. Joseph Mundasseri, well-known Malayali scholar and Cochin M.L.A., has been prosecuted by police for allegedly seditious and anti-Government speeches delivered by him during the Quilon Students' Congress Conference. So too, Com. Wilson, M.L.A., was arrested during the porters' strike.

That is the extent to which civil liberties are suppressed under the auspices of the Congress Government in Travancore.—(Jan. 9, 1949).

## CHAPTER XIV

### CIVIL LIBERTIES IN C. P. AND BERAR

#### I

#### LIBERTIES OF THE CITIZEN

BY

**Dr. T. J. Kedar, Advocate, Nagpur.**

(Extracts from the address of Dr. T. J. Kedar, chairman of Reception Committee, at the All-India Lawyers' Conference on 25th June 1949).

Lawyers as a class are vitally interested in the administration of justice. Justice in truth is almost wholly regulated by the existing law. Law is being turned out nowadays from the workshops of the legislatures of the country on the analogy of mass production.

Half a dozen Bills can be easily passed into law in half an hour. The reason is not far to seek. The legislatures are packed bodies. They are manned mostly by members of one party only. These members were, however, returned at a time when the lone question before the country was how to give the best fight to the British Power. There was then no question of electing efficient rulers and administrators. All that was needed was a body of men who would willingly, without question, carry out the commands of the leaders. Nobody dreamt at that time that independence would come to India so soon. After August 1947, the status of India underwent a radical change and problems of great complexity covering the numerous activities of a free State came into existence for the first time. This required new men of better calibre, better attainments, better experience of public life and above all, of great integrity."

#### Administrative Courts Suggested

They should consider whether administrative courts should not be set up in our country on the lines of those obtaining in France. The need for such courts arises from the fact that large special powers are being vested in the administrative authorities on account of the special functions which they have to perform. It is obvious that the nature and extent of these powers puts them in a position to injure a private person far more seriously than a private person can do. The individual therefore needs larger rights and different remedies against the administration than against his fellow-citizen. In our country, the need for such courts is greater than ever to-day as there is a tendency even among the greatest men to confuse party Government with the State or the nation. It is forgotten that the party in power, whatever be its influence, cannot be the State or the nation. It is, of course, essential that the administrative courts should be staffed by judges who are completely independent of the executive.

## Liberties of Citizens

This brings me to the question of liberties of the citizen. As observed by the learned Chief Justice of India, lawyers all over the world have always defended the liberties of the citizen. There has been a difference of opinion among jurists as to the extent to which a modern State can go in curtailing the liberties of the citizen. It is pointed out by the critics of Dicey that his view is influenced by the principle of '*Laissez faire*' which was a cardinal feature of Whig philosophy. History of modern conditions shows that men living in society have a number of collective needs and that it is the duty of the State to provide for the satisfaction of these needs. Society also desires to utilise taxation as a means of the redistribution of wealth of the Nation or to provide public social services. Jurists like Dr. Wade and Dr. Jennings differ from Dicey and recommend the curtailment of liberties of the citizen to a certain extent. But in respect of the fundamental civil liberties which are liberty of person, liberty of discussion and liberty of association, there is no difference of opinion at all. Dr. Wade points out that the change of emphasis in the function of the State has not destroyed the older principles which are protected by the rule of law as Dicey interpreted it, in the field of personal liberty.

## Public Safety Act

India is a democracy with a parliamentary form of government. What the lawyers have to consider is whether the Public Safety Act and other acts adopted by the Provincial Governments are consistent with democracy or parliamentary government. The Public Safety Acts sanction detention of person without trial. The C. P. & Berar Public Safety Act authorises the District Magistrates and Sub-Divisional Magistrates to detain persons in custody without trial for one month. Why should these members of the Judiciary be invested with executive authority? They are permitted to act on information, given to them very likely by policemen or interested persons. There is no judicial investigation prescribed for testing the correctness of these reports. Straightaway, the unfortunate man is arrested and cast into prison.

After the lapse of one month, the executive government authorises further detention possibly on the reports of the same officers who had originally passed the detention orders. The Executive Government uses the formula that it is satisfied that the detention is necessary. In the ultimate analysis, it is the satisfaction of the policeman or the interested person, which finally becomes the satisfaction of the Provincial Government.

Our political leaders are unnecessarily resentful of critics. They should themselves welcome opposition, nay, they should strive to give an opportunity for opposition to come into existence. Some of the leaders justify their attitude by saying that though the intelligentsia is against them, the masses are with them. There is nothing new in

this. Every dictator has said the same thing. Is it to be supposed that the intelligentsia and the masses think and feel alike at least so far as the daily needs of life are concerned?

Criticism is an unpleasant thing. It ought to be more unpleasant to the person who offers it than to the person against whom it is directed. But if the interests of the country demand it, if those who are in power depart from the basic principles of parliamentary government and democracy, who but the lawyers should undertake the unpleasant task? Their experience, training and equipment entitle them to say unpleasant things without fear or favour. If they do not do so, they will fail in their duty to their country.

India is a democracy with a parliamentary form of government. What the lawyers have to consider is whether the Public Safety Acts and other measures adopted by the Provincial Governments are consistent with democracy or parliamentary Government. Are our leaders trying to-day to lay the foundations of a true and stable democracy by such measures? Or are they converting our state into an Absolutist State?

## II

### THE MAINTENANCE OF PUBLIC ORDER ACT, C. P. AND BERAR

BY

R. V. S. MANI, *Advocate, Nagpur*

The idea of preventive detention of an individual who is a potential danger to public safety, order or tranquillity, during emergency times, is of course accepted on all hands. What the Jurists however, insist upon is, that the detention should be bonafide, should follow certain axioms of natural justice and should not be a fraud on the prevailing laws.

During the days of the Defence of India Rules, it may be recalled, this power of preventive detention, was conferred upon a Police Officer, not below the rank of a Head Constable, by D.I.R. 129, whereunder, a Police Officer could detain any person whom he "reasonably suspects of having acted, of acting or of being about to act, in a manner prejudicial to public safety etc."

Quite a sensational argument, it may be remembered, raged around the phrase "reasonably suspects" in the *Habeas Corpus* Case of Shri P. Y. Deshpande in 1944, and Their Lordships Shri Justice Bose and Shri Justice Sen laid down that the onus lay on the Police Officer making an arrest under D.I.R. 129, to prove his bonafides to the satisfaction of the High Court, in that he has reasonable grounds of suspicion, our High Court's decision was upheld by Their Lordships of the Privy Council (See I.L.R. 1946 Nag. 651.)

Our Provincial Government however, had noted the trouble that was caused by the phrase "reasonably suspects" and so they first

enacted the "C.P. and Berar Maintenance of Public Order Ordinance" and later the "C.P. and Berar Maintenance of Public Order Act 15 of 1946" and section 2 of the Act read as follows—

"The Provincial Government if *satisfied* that any person is acting in a manner prejudicial to the public safety, order or tranquillity may, if it considers such orders necessary, make an order directing that he be detained etc."

### The First Round

The High Court as the sole Protector of the individual's Freedom met the Provincial Government for the first time under the C.P. and Berar Maintenance of Public Order Act of 1946, in the case of Om-Prakash Mehta and eleven other detenus (See I.L.R. 1947 N. 579—1947 N.L.J. 326) This was to be the first round in a series of encounters between the High Court and the Provincial Government.

The Government's satisfaction having become unquestionable, the arguments of the council centered round the word "is acting". These words were compared with those in D.I.R. 129 to show that the Defence of India Rule clearly spoke of past actions also, and so the Act must be held applicable only to the present activities.

Their Lordships indicated that the Provincial Government must be satisfied that not only the detenu was acting but that he would be "likely to go on acting" in a manner prejudicial to public safety, order or tranquillity. The Provincial Government however knew how to make such compliance unnecessary and promptly added "and likely to act" after "is acting" in Section 2 when the C.P. and Berar Public Safety Act No. 38 of 1947, came into force on the 17th of November 1947.

### The Second Round

Then came the Second Round in the case of the Akola advocate Shri W. A. Sohoni (Mis. Criminal Case No. 27 of 1948 decided on 31.3.1948). In the detention order Sohoni was told "whereas the Provincial Government are satisfied that W. A. Sohoni of Akola has been acting and is *likely* to act in a manner prejudicial to the public safety, order and tranquillity etc....." Shri M. R. Bobde, the counsel who argued the case for the detenu brought to the notice of Their Lordships, certain cases in which the Bombay High Court had released a number of detenus. Their Lordships however missed the phrase "*Likely to Act*" in the Bombay Public Safety Act and so the Bombay cases could not cut any ice, with their Lordships.

Then their Lordships turned to the grounds of detention. "We know from the return", Their Lordships said, "that the Government satisfied itself and the settled law in this country does not allow us in such circumstances to ask the Provincial Government to disclose to us all the materials and information on which the action was taken. The petitioner cannot shift the onus from himself by merely asserting in a

*general way that there are no grounds; nor is such assertion proof of fraud or indirect motive."*

The detenu could not make a general complaint that there are no grounds! But could he not even make a complaint that there were no particulars of the alleged grounds? Section 5 of the Act 38 of 1947 said that the authority concerned shall communicate to the detenu the grounds of detention, "and such other particulars as are in its opinion sufficient to enable him to make a representation to the Provincial Government." Was not then the detenu to have "sufficient particulars" (in addition to the grounds) of his offensive activities to enable him to make a representation to the Provincial Government? With due apologies to Their Lordships for once, it appeared to me, the High Court went wrong and gave a bad decision. So also I am sure, did the discerning members of the Bar feel. But the High Court had bound itself hands and feet by its own fatal verdict, and our learned advocates had to hack away with all their might at the High Court's own tight-bound ropes before they could make it wriggle out of them and breathe fresh air again. For the moment, however the Government scored and more than a dozen *habeas corpus* cases failed on the footing of the verdict in Sohoni's Case.

### The Third Round

Now as the Third Round begins, imagine the Provincial Govt. and the High Court standing face to face in the ring, the High Court tight-bound by its own ropes and the Provincial Govt. delightfully grinning and the members of the Bar, trying to cut away the ropes in order to free the hand of the High Court to fight back.

### "Grounds" Defective

The case of Shri V. N. Kelkar, Malguzar of Kumbhari, is on boards (Mis. Cr. Case No. 79/48 decided on 31-3-1948). The battle is spotlighted on the concept of "grounds". The High Court gets one hand freed. "As his (detenu's) abnegation of membership of R.S.S. is supported by an affidavit", their Lordships Hemeon and Hidayatulla observed, "and as the Provincial Govt. was not in a position to aver that he was a member of the R.S.S. it is clear that the grounds of his detention were *defective* and that his detention is "unwarranted". And Shri Kelkar was set at liberty. That was really a good punch at the Provincial Govt.

### "Grounds" Vague

The second important case to come on boards is that of Shri D.G. Deshpande (Mis. Cr. Case No. 32/48 decided on 31-3-48). The High Court found its other hand also free. "The grounds of detention are "Vague", Their Lordships Shri Justice Hemeon and Hidayatulla pointed out, "and significantly omit reference to the claims that he was the counsel, a propagandist or even a member of the Sangh..... It is plain that if his detention was due to the facts that he was a member, counsel and propagandist of the R.S.S. there would have

been a reference to them in the grounds and indeed should have been in order to constitute a reasonable compliance with the provisions of Section 5 of the C.P. and Berar Public Safety Act of 1947" Result: Govt. was directed to release Deshpande also. That was another lovely punch at the Provincial Govt.

### "Particulars" Wanting

Now the fight is warming up and so prepare yourself for a very close and exiting encounter. The case of Shri G. L. Bedekar (Mis Cr. Case No. 154 of 1948 decided on 8-4-48) a lawyer of Khandwa, comes on boards.

The Chief Secretary in his return states that the "applicant had been a prominent and influential organiser of the R.S.S. and in that capacity, he was given to openly preaching violence and communal hatred". When Their Lordships Hemeon and Hidayatulla JJ ask the Govt. to file an affidavit giving particulars of the "open preaching of violence and communal hatred", the Govt. points out S. 5 of the Act and says that it is precluded by that section from disclosing facts that would be in their opinion against public interest.

"Our Order" Their Lordship's Judgment said "was not meant to ascertain the facts but the particulars. Let us give an example. A person makes open speeches at say Bhandara, Nagpur and Wardha, which imperil public order. In stating the grounds one will say that he is detained because he is making the speeches imperilling the public order. The particulars will be that he made speeches openly at Bhandara, Nagpur, and Wardha on such and such dates. This, in our opinion, is the least that should be stated under S. 5 of the Act..... We are of opinion that the detention of the present applicant is improper because he has not been afforded a fair chance of making a representation against all the grounds of his detention as required by Section 5 of the Act". That was another splendid punch on the nose of the Provl. Govt.

### "Particulars" Insufficient

Next follows Bimalchandra Banerjee's Case (Mis Cr. Case No. 237 of 1948 decided on 23-4-48, Judges C. R. Hemeon and T. L. Sheode delivered the Judgment. "It is clear that the ground of the applicant's detention was that he was an active member of the R. S. S. and the Provincial Government had complied with the provisions of S. 5 of the Act, to the extent that it had duly communicated that ground to him. The section also requires, however, that 'such other particulars as are in its opinion sufficient to enable him to make a representation to the Provincial Government against the order of detention must be supplied to the detenué..... The particulars in the present case would "ex facie" be those or some of those which were revealed for the first time in the return. Their non-appearance in the grounds of detention and particulars signified that that was not a real but a perfunctory compliance with section 5 of the Act",

And Banerjee also was set at Liberty. The High Court's score was rising high and fine!

### **Evasion of the Act**

But now watch how the High Court comes to grips with the Government on the point of "grounds" in the case of Harikrishna Joshi (Mis. Cr. Case No. 235 of 1948 decided on 18-5-1948).

"If the order of the Government" Their Lordships Justice Bose and Justice Sen say in their judgment, "is based on say 5 grounds and the detenu is told only about two, then clearly he can only make a representation in respect of these two. It may be that he could convince Government that these two grounds are not well-founded that they are based on misapprehension of facts and so forth. In that case he would be entitled to release.

"But Government could not tell him—

'It is true you have convinced us that these two grounds were wrong but we have also three other grounds which we did not disclose to you and so we are going to detain you all the same.'

"That would be a clear evasion of the Act and would render illusory the safeguards which the Legislature has imposed. Therefore, If the order is in truth and in fact based on five grounds and detenu is furnished with particulars of only about two, he is, in our opinion entitled to immediate release".

### **Strange Echoes of Sohoni's Case**

We then hear a strange echo of the encounters in Sohoni's Case—Madnao Bapat of Betul, Mis. Cr. Case No. 253/48 decided on 25-5-1948 a detenu was furnished with a memorandum of grounds that he had been acting and was likely to act in future in a manner prejudicial to the public safety order, and tranquillity and the particulars stated "You, as a paid District Pracharak of the R.S.S, an unlawful association, took active part in the meetings of the organisation and assisted in its management."

Did not the counsel in Sohoni's case complain that there were no grounds and no particulars? And now listen to what Justices Bose and Sen pronounced. "The difficulty, however, in the memorandum and the return is that no particulars are furnished. All that is said is that the applicant was a paid promoter of the association and assisted in its management. This association came into existence many years ago and it is impossible for anyone fairly to meet an accusation of this kind. The words 'particulars' is well-known. It is explained in the Civil Procedure-Code in respect of many different kinds of suits, such as for example: those based on contracts, torts, frauds, undue influence and the like. It is also well-known in the original field because the charge in a criminal case requires particulars sufficient to enable the accused to defend himself. A mere general accusation of this kind, would not be accepted either in the Criminal or the Civil

field as sufficient compliance with the law which requires particulars to be furnished."

Remind yourself also of the argument in Sohoni's case—how does the discovery of R. S. S. to be an unlawful organisation make the persons who were members of it when it was lawful, dangerous to public safety?

Listen again to what Justices Bose and Sen said in the case of Shyam Govind and three other detenus (Mis. Cr. Case No. 250/48 decided on 17-6-1948):

The association was not declared unlawful till 4-2-1948. The detenus with whom we are concerned were arrested on the 3rd, 5th and 9th Feb. 1948. They are not said to have done anything prejudicial after the association was declared unlawful and as regards the period prior to 4-2-1948, there is no allegation that though the association appeared to be lawful on the surface, its underlying object was of an unlawful or objectionable character.....It is not pretended that these detentions are made because these persons were members of a lawful and unobjectionable association but because the association was discovered to be unlawful. In that case it is necessary to furnish particulars of the objectionable nature of its activities and/or objectives and to indicate with particulars that the detenu knew of these objectionable objects and activities."

The rejected arguments in Sohoni's case were rendered back to us with all their majesty and the Judgments in cases of Madhar Bapat and Shyam Govind restored to the detenus their beloved freedom. And in restoring freedom to the detenus, the Judgments restored the High Court back to itself.

In the wake of these judgments a number of communists, members of the Muslim National Guards, besides R. S. S. men were directed to be released by the High Court. Was the Government down and out? Oh No! Not our Provl. Government. They were preparing themselves to by-pass the High Court, by altogether banning *habeas corpus* petitions under Sec. 491 Cr. P. C. and brought into force the C. P. & Berar Public Safety (Amendment) ordinance 11 of 1948. But there was an uproar all over India, on a similar enactment in Madras and the Ordinance had to be withdrawn on account of a directive from the Central Government.

But why ban *habeas corpus* petitions altogether? The same object could be achieved by making the High Court powerless to find fault with the Government's order on grounds of detention! The Government knew fully well how to do it and promptly got the Legislature to enact the C. P. and Berar Public Safety Act 62 of 1948 and brought it into force on the 16th October 1948 with the addition of a proviso to S. 4 "Provided that neither the said order (of detention) nor the detention of the said person thereunder, shall be deemed to be invalid or unlawful or improper on the ground of any defect, vagueness or insufficiency of the communication to such person under this section."

Bravo! What a stunning knock out blow to the Nagpur High Court, to the Bar of the Province and to the Articles of the India's Constitution in the making! I am tempted to declaim like Mark Antony:

"Then the High Court and with it Freedom fell. What a fall there was my countrymen! Then I and you and all of us fell down, while bloody treason flourished over us. Oh Judgment! Thou art fled to brutish beasts! And men have lost their reason! Bear with me, for my heart is in the coffin there, where your and mine and all Humanity's sweet-heart. Freedom lies dead, and I must pause till it come back to me."

I do not hold any brief for the R. S. S. or the Communists or the Muslim National Guards but I want to assess the spectacle of this finale only as a lawyer should. Technically the Legislature of our Province in its blindness but in fact the Government in its proud possession of this Legislature has said that no more shall the High Court point out any defect or vagueness or insufficiency in the Govt's orders of detention or grounds or particulars however foolish or perverse they may be! What impudence to snuff out the most fundamental, juristic, life-breath principle of Freedom that an accused person must know exactly what he is charged with! What shameless audacity to kill Freedom like that and to see her lying dead!! Is not this spectacle scandalous enough to put a tongue of flame into the heart of every lawyer and Jurist?

The third round is over. And now, I would love to see the members of the Bar and their Lordships scratch their heads to reclaim to life the dead Freedom lying in the coffin, before it is buried.—(*With kind acknowledgments to Hitavada.*)

## II

### HIGH COURT UPHOLDS HABEAS CORPUS

Com. Ambika Prasad, a Socialist leader of Central Provinces, was ordered to be released by the Nagpur High Court, which upheld the habeas corpus application preferred on his behalf by his wife Shrimati Indumati under Sec. 491 Cr. P.C. Com. Ambikaprasad was detained by the Government of C.P. and Berar on 1st October 1948 under S 2 (1) of the C.P. & Berar Public Safety Act 1947 and on the same date, he was issued in accordance with S. 5 of the Act, a memorandum containing the following baseless charges:

Their Lordships concluded:

The order of detention was passed under the Act of 1947 when Central Provinces and Berar Public Safety Act, 1948, was not in force; and as was held by a Division Bench of which one of us was a member in Miscellaneous Criminal Case No. 349 of 1948, decided on the 8th November 1948, the proviso to section 4 of the Act of 1948 cannot be invoked. It is therefore, open to us to order the detenu's release

if we consider that the grounds of detention and particulars are *defective* by reason of vagueness.

“ Here, the grounds of detention and particulars, although set out at length, do not specify the dates or places on and at which the detenu is supposed to have carried on subversive propaganda or to have incited villagers and labourers of the Janakpur tahsil not to work under the Public Works Department or for Government servants. So far as Changbhakar is concerned, no dates are given to enable the detenu to make a representation to the Provincial Government against the order of detention and he, as adumbrated, has denied that he ever acted in the manner stated. Moreover, the Provincial Government has not in its turn traversed the contents of paragraphs 13 to 16 of his affidavit.

“ In the circumstances, the application succeeds and we direct the release of the detenu ”—(20-2-49, N.S.)

### III

#### SEC. 144 IN THE C. P.

The C.P. and Berar Socialist Party Conference which was to be held at Burhanpur on 21, 22 and 23 of this month was not permitted by the District Magistrate. An order under Section 144 Cr. P.C. has been in force in the town almost permanently, as in other places in India since the assumption of power by the Congress Party and so no procession or public meeting can be held without the permission of the district authorities —(N.S., Jan. 23, 1949).

#### Maganlal Bagdi's call to the people

Maganlal Bagdi has issued the following statement on the disallowing of the Gandhi Day meeting in Nagpur:—

The act of the Deputy Commissioner, Nagpur, in not permitting Socialist Party to hold a public meeting in order to pay homage to the Father of the Nation in his First Death Anniversary is a glaring instance of the abuse of power. I, for one, do not believe that the Deputy Commissioner has taken this step by himself. This must be the result of a definite policy of the Government to crush all Opposition to the Party in power by ruthless repression. The Government has set up this policy as soon as it came into power. Section 93 of the British regime was replaced by Section 144 and this section has been promulgated in almost all the big towns in the province.

This perpetual restriction on public activities is a disgrace for the so-called popular Government. It may be recalled that Com. Jayaprakash Narayan was not allowed to address a public meeting in Nagpur in November last at the time of the All India Railwaymen's Federation's meeting and the Socialist Party in this province was not allowed to hold its annual session in Burhanpur. The Government might find out some excuse for banning these public functions, but refusal of permission to hold a public meeting to observe the first anniversary of Gandhiji's assassination cannot be explained.

The Socialist Party (C.P. & Berar) at its Burhanpur session deplored the attitude of the Government in suppressing civil liberties and decided to launch a Province-wide movement against this misuse of Section 144. I appeal to the Public to help the Socialist Party in the execution of the programme chalked by the Party.—(6.2.49, N.S.)

Nagpur, May 31. The Provincial Government, have through a notification, dated 21st May 1949, extended till the 28th November 1949 their previous order under Section 144 Cr. P.C. prohibiting the holding of meetings and the taking out of processions in public places, public streets, thoroughfares and the use of loud speakers or the distribution of leaflets or any printed matter for convening meetings or processions, within the limits of the Nagpur City Municipality the the Civil Station Sub-Committee, Nagpur, and within a zone, five miles wide, around these limits. (*This order has since been rescinded.*)

#### IV

### VIOLETION OF TRADE UNION RIGHTS IN THE C. P. AND BERAR

The Premier of C.P. delivered a speech on December 6 before the members of the Works Committee and other labour representatives in the Empress Mills No. 4 openly admitting Government's partiality to the INTUC. He is believed to have said "Rashtriya Mill Majdoor Sang (a union affiliated to the INTUC) hamara hai: apko iska kahana manana chahiye." (The Rashtriya Mill Majdoor Sangh is ours: you must obey its dictate.)

Members of non-Congress unions are arrested by the Government on false charges. They are asked to join the INTUC to get their release. Baburao Mohite, a person thus arrested, was released only on giving an assurance of joining the INTUC.

A notice of strike by textile workers from December 15 on the question of payment of three month's Bonus was issued by the Hind Mazdoor Panchayat. The workers unanimously voted in favour of this strike. The INTUC opposed this move. The Provincial Government helped them with men and material to oppose the Panchayat Government police lorries with loudspeakers were placed at the disposal of the INTUC on the 14th to oppose the strike move. The Government Printing Press printed the leaflets of the INTUC on Government paper opposing the workers demands. (With acknowledgements to *Janata*)

#### Police methods to Break Trade Union

The scavengers of Balaghat (C.P.) have organised themselves into a trade union to redress certain grievances from which they are suffering. But even such an innocuous step enraged the authorities. All sorts of methods were employed to break the union and strike terror into the workers' hearts. Most of the workers were dragged to the court, without any reason whatsoever, and harassed; some of them, especially womenfolk, insulted, others given extra work and punish-

ment for joining the union, and 3 to 4 rupees in the wages of the individual members have been cut without any reason. All these added to the difficulties of the workers. So the scavengers have unanimously decided to resign their posts voluntarily.—(20-2-49, N.S.)

## V

## SOME ACTS OF REPRESSION

## Police "Zoolum" in Raigarh Town

For three days successively in last week the Raigarh police made indiscriminate arrests of the street howkers, the bullock-cart-wallas and cobblers and subsequently charge-sheeted them under Section 34 Cr. P.C. The accused were awarded fines ranging from Rs. 5 to Rs 25. A Punjabi refugee was jailed for not paying the fine.—(6-2-49, N.S.)

**Illegal detention followed by detention under  
Public Safety Act**

The Joshi brothers were kept in lock-up for more than 34 hours in spite of representations to concerned authorities. They were remanded to custody for investigation of an offence under 17 (1) of the Cr. L. A. Act. Bail was applied for on 18th May. The case was adjourned till 20th.

On 20th the friends of Joshi Brothers were wonderstruck to see the absence of Joshi Brothers in the lock-up of the district courts. On enquiry the pleaders of Joshi Brothers learnt that neither any challan has been put up nor a remand was sought for but were detained under 2 (a) of the Public Safety, at on 19th May 1949!

When the executive cannot make out a case either for trial or lawful detention they resort to the provisions of the Public Safety Act.—(With acknowledgments to the *Hitavada*).

## VI

## THE R. S. S. IN THE C. P.

## Veer Harkare's Appeal to Government

Veer Baburao Harkare, a prominent Congressman, wellknown in the province for sacrifice and suffering in the cause of the Congress for the last two decades, has issued the following statement to the Press:

'The R. S. S. riddle is continuing since 15 months and, in my view, deserves immediate attention. Shri M. S. Golwalkar, with the consent of R. S. S. workers, has already submitted a written constitution to the Central Government, so as to honour the advice of some prominent leaders and the repeated declarations of the Government. Months have passed since, but Government's reaction is not known. It is, no doubt, a good augury that the Government is by and by releasing R. S. S. detenus and prisoners; still, nothing positive is being yet done to end the stalemate.

"The country-wide Satyagraha was started by R. S. S. in order to seek justice. Thousands of citizens willingly courted jail within a short period of one and a half months without a single incident disturbing the peace and tranquillity of the country. It is really creditable to the organisation to have manifested such unique example of discipline and self-restraint in the face of many provocations and humiliations.

"However, matters now stand in different context. Shri Golwalkar, on the advice of third party leaders, suspended the movement. The Government wanted a written constitution from the R. S. S. with an assurance of loyalty to the state flag and the secular democracy; and it was submitted accordingly. From what has appeared in the Press, I find that the Draft Constitution should satisfy the Government in all respects.

Under these circumstances one fails to see what stands in the way of quick settlement. Shri T. R. V. Shastri, who had an opportunity to contact both the R. S. S. and the Government spokesmen, and who so boldly endeavoured to bring about an understanding, should now enlighten the public on this much-vexed question. The problem is long overdue. At the present juncture our country needs every unifying factor in the national life for its solidarity which, I think, the R. S. S. has been always endeavouring for since its inception.

"I appeal to the Government to release all R. S. S. detenus and prisoners including the top-ranking leaders and lift the ban immediately in the interest of the country in general and the youth in particular." (1st June, 49, *Hitavada*)

## ALLEGED DENIAL OF FACILITIES TO MR. GOLWALKER

### How Regulation Prisoner is Treated

Considerable public interest has arisen over the report that unlike other regulation 1818 prisoners, Mr. Golwalker, the Chief of the R.S.S., is not receiving the treatment usually given to such prisoners. It appears that the practice of Government is to give as many facilities as possible to State Prisoners detained under the Regulation, as they are in a special category. They are supplied with newspapers and allowed to make arrangements for having their own food cooked and served. When Mr. Golwalker was brought to Seoni, he was supplied with three local newspapers, two English and one Marathi but when he asked for the *Hindu*, the *Hindustan Times* and the *Amrit Bazar Patrika*, Government are reported not to have complied with his request and after sometime owing to the misunderstanding caused by the application, these papers were also discontinued. Some of the books which Mr. Golwalker wanted are still to be delivered to him because they have been caught up for scrutiny in Nagpur. Further there is also complaint about the quality of the food supplied to him. During the summer montus, Mr. Golwalker was not allowed to sleep in the open and it is only three weeks ago that permission was granted

to him to sleep in the open. Inquiries in knowledgeable circles go to show that officialdom is not prepared to make any statement on the allegations. (1st June, 49, *Hitavada*)

## VII

AN ABSTRACT OF EXECUTIVE ENCROACHMENTS ON  
CIVIL LIBERTY IN THE C. P. AND BERAR

(The figures opposite each item indicate date, page number and column of the *Hitavada*; thus the first item in February 1948 would mean that it can be traced in the fourth column of page 6 of the *Hitavada* issue of February 19).

*February* 1948.

Correspondence with security prisoners: privilege withdrawn  
19: 6: 4.

*March* 1948.

Habeas Corpus cases before high court 30: 8: 2  
Detenus handcuffed 29: 6: 5  
Communist round up 20: 5: 4  
Communist arrested 17: 5: 3  
Government has no labour policy 14: 8: 1

*April* 1948.

Section 144 in Betul 2: 3: 3  
Procession and meetings banned in Betul 7: 5: 3  
Goonda Act in Raipur 24: 3: 3  
Editor Tirpude Released 20: 2: 6  
Amraoti Communist released 28: 5: 2

*May* 1948.

Section 144 in Pulgaon 18: 6: 6  
Section 144 in Jubbulpore 16: 8: 1  
Order served on Mehta 16: 8: 2  
Goonda Act in Buldana 14: 6: 1  
Goonda Act re-imposed in Akola 11: 6: 4

*June* 1948.

Goonda Act enforced in Jubbulpore 17: 5: 1  
Section 144 in Damoh 18: 3: 5  
Emergency declared in Nagpur 19: 6: 7  
Goonda Act in Saugor, Katni, Damoh 20: 3: 4  
Omprakash Gupta arrested 27: 8: 2

*July* 1948.

Emergency in Khandwa and Burhanpur 2: 8: 1  
Kamla Press, Raipur, searched 7: 3: 4

Emergency in Raipur 8 : 6 : 6  
 Four communists arrested 9 : 2 : 4  
 Goonda Act applied to Chhindwara 11 : 8 : 1  
 Emergency declared in Yeotmal district 14 : 8 : 5  
 Public Safety Act applied to integrated states 18 : 6 : 1  
 Emergency declared in Betul villages 23 : 6 : 2  
 Goonda Act extended for 6th time in Raipur 28 : 5 : 1

*August* 1948.

Seven socialists arrested at Gondia 5 : 6 : 1  
 Students observe anti-repression day at Amraoti 6 : 2 : 3  
 Golwarkar released and detained 7 : 8 : 3  
 Akola communist released 6 : 5 : 4  
 Propaganda to join Razakars ; Habeas application dismissed  
 17 : 5 : 3  
 Goonda Act extended in Nagpur 19 : 8 : 3  
 Objection to the suspension of Habeas Corpus. Instructions  
 from Delhi 21 : 6 : 3

*September* 1948.

Goonda Act applied to Chanda 3 : 8 : 5  
 Security prisoners on fast 10 : 8 : 5  
 Public Safety Bill moved in C. P. Assembly 15 : 1 : 1  
 Textile Union office searched 25 : 5 : 7  
 Communist offices searched 28 : 3 : 4

*October* 1948.

Emergency extended in Raigarh 9 : 8 : 1  
 Public Safety Act applied to integrated states 22 : 6 : 2  
 Changbhakar socialist arrested 24 : 5 : 1  
 Rajnandgaon Labour secretaries arrested 31 : 5 : 5

*November* 1948.

Communist detenus in Jubbulpore 7 : 5 : 3  
 Offensive against Vindhya Socialists 9 : 6 : 4  
 Section 144 in Saugor 11 : 6 : 2  
 Section 144 in Raigarh 11 : 6 : 7  
 Socialist dismissed from employment 13 : 5 : 2  
 Golwalkar detained 15 : 4 : 3  
 Communist taken into custody 17 : 3 : 3  
 Ban on Godse's statement 17 : 5 : 4  
 Goonda Act extended to Nagpur district 17 : 5 : 4  
 Labour leaders demand repeal of Safety Act 18 : 5 : 4

Labour "Moreha" detained at Raipur 18 : 5 : 3  
 Kulkarni taken into custody 20 : 2 : 4  
 Goonda Act extended in Jubbulpore 23 : 6 : 2  
 Round up of Rewa socialists 25 : 2 : 4  
 D. A. G. P. T. Clerks served with notice 26 : 6 : 1

*December 1948.*

Public Safety Act Proviso (R.V.S. Mani) 31 : 3  
 Public Safety Act (R.V.S. Mani) 30 : 3  
 Section 144 in Betul 22 : 5  
 Disciplinary action against Congressmen 21 : 5  
 Section 144 in Narsinghpur 20 : 5  
 Copies of *Yugadharma* confiscated 20  
 Socialist party convention 19  
 Detenu on hunger strike 13  
 Section 144 in Khandwa 12  
 R. S. S. Arrests 10  
 Ban on R. S. S. News 11  
 Socialist convention in Nagpur 8  
 Emergency declared in Berar 1

*March 1949.*

T. U. Leaders in Rajnandgaon 10 : 6 : 7—(With kind acknowledgments to *Hitavada*).

## VIII

### SAFETY OF THE STATE AND PERSONAL LIBERTY

#### (C. P. Government's Policy)

In a circular to district officials, the Provincial Government have emphasised the need to use powers given them under the Public Safety Act with care and discretion. The Government say:

"While not in any way desiring to fetter the discretion of the District Magistrates or to weaken their hands, Government wish to impress on all concerned with the administration of the Public Safety Act that the powers contained therein are exceptional and should be employed with due care and attention."

After pointing out that reports from the Police should be carefully verified and considered instead of being blindly accepted, the circular goes on to say: "In the interests of democracy and freedom of person it is essential that no person not indulging in activity which falls within the mischief of the Public Safety Act is proceeded against."

Another circular recently issued to District Magistrates in this connection says:

"The Deputy Commissioners should also remember that India is a democratic country and everybody has the right to propagate his views and to carry on propaganda in support thereof, provided that the views themselves are not illegal or opposed to public morality or decency and do not constitute violation of any law. So long as these conditions are fulfilled in a democratic country, there cannot be any let or hindrance in the exercise of free speech or expression, even though the views propounded may run counter to the accepted policy of Government. Therefore, so long as there is no violation of law or danger of breach of peace, there can be no justification for interference with the legitimate activities of the various political parties; but on the other hand any attempt to preach violence, disobedience of law, resort to unconstitutional or illegal methods, or to create discord between various classes or communities must be immediately dealt with, with due regard to the necessities of the moment." (26-6-49 *The Hindu*)

### Reply of the Communist Party

Since August 15th, 47, our province is ruled by section 144, almost continuously. During this period, 40 thousands of textile workers of our province fought bravely against the offensive of the millowners, against retrenchment, against increased work load, for adequate wages and trade union rights. Our Provincial Government immediately ran to the help of Tatas and Mohtas. Hundreds of workers were arrested, locked up, and sent to jail. In Rajnandgaon, textile workers were fired at point-blank and two workers were killed by Mishraji's freedom-loving police. Even the impartial enquiry committee demand was rejected by the 'democratic Government.' Thanks to Mishraji, his 'Brave' police arrested a score of textile workers who have been convicted to different terms of imprisonment for the 'Golikand'! It is reported that 'loyal' police officials were rewarded! This is a 'crude' example how "in accordance with law and democratic traditions in which Ministers constituting the present Government have been nurtured and for which they have laboured for the best part of their lives, act in real day-to-day life.

On 15th December 47, the Provincial Trade Union Congress observed one day protest strike against the decontrol policy of the Government regarding food and cloth. Again, a number of the working class, students, and communist leaders were put inside bars. Later on as it is evident that from the masses in less than three months due to decontrol policy of the Government, the Indian capitalists looted more than 100 crores of rupees. The Government was forced to 'admit' their blunder. But no one who voiced so boldly was released from the jail.

The 16th March 48, is a historic day in the history of our province, when a province-wide strike of working class enveloping more than two lakhs of workers was observed by the P. T. U. C. against the repressive policy of the Government. Again many were sent to the jails. Again on the 10th May 49, there was an unique demonstration.

by working class women and their brethren despite Mishraji's beloved section 144, in support of the hunger strike of the political and communist prisoners of the province.

This is how the real story in brief runs of the Police regime of section 144.

### Why?

Just a month back "through a notification of the Provincial Government dated 21st May 49, section 144 was extended in Nagpur till the 20th November 49." (From *Hitavada* 1-6-49) Then why section 144 was withdrawn so soon?

Withdrawal of section 144 is nothing more than an effort to open the safety valve, and to hoodwink the people regarding their 'democratic' character. The working class and the progressive forces must not allow again the imposition of the mischievous section 144 by the police regime.

### Why Afraid of Open Trial?

Much has been coined out of 'seized documents,' we challenge Mishraji, to publish all documents in toto, let people judge themselves. Why do you not dare to put the Communist leaders in an open trial? The lover of 'democracy' relies only on the D.S. P.'s and C. I. D. friends! How in the name of public peace the Public Safety Act is being practiced by the police regime can be judged by simply one instance. Judge Amraoti. "They were arrested in connection with the strike in the Vidharbha Mills, Ltd. in December last, and were prosecuted under the Public Safety Act. In lower courts they were convicted and sentenced to undergo four months rigorous imprisonment each. On this order they filed an appeal in the Court of Sessions Judge, Amraoti, who acquitted all the accused." (From *Nagpur Times* 26-5-49). This is the real reason, why Government is afraid of open trials. In practice it is not the Public Safety Act but is really a Capitalist Safety Act to safeguard the capitalist peace and tranquillity so that poor masses can be fleeced to the last pie.

Regarding the hunger strike Mishraji states, "Much noise has been made by the detenues regarding denial of facilities to them inside the jails; but there is no doubt that the agitation was planned outside the jails." Does Mishraji try to establish by the above statement that the present-day condition of political prisoners inside jails is even satisfactory? Will Hon. Minister dare to answer? Why on 5th April 49 lathi charge was done in Nagpur Jail? Why an impartial inquiry committee was not set up? Why the news of hunger strike in Raipur, Mandla, Damoh, and Hoshangabad jails was suppressed? Why the political prisoners in summer hot days were locked in the cells when the ministers required cold breezes of Pachmarhy? Why in spite of Provincial Government assurance—two years back, to abolish the British heritage of classification of political prisoners, is not put into practice? Why even newspapers like the *Hitavada* are censored

(by cutting the news items) before being given to political prisoners in Akola jail? Is it that in Home Minister's list the *Hitavada* too was considered a subversive paper?—*Hitavada 27th June 1949*.

## IX

## 75 R. S. S. MEN STILL IN C. P. JAILS

## Pt. Mishra's Figure "Grossly Inaccurate"

(From a Correspondent)

Apropos of the information given by the Hon'ble Pt. Mishra in the course of reply to a query regarding the exact number of R.S.S. prisoners still behind the bars in the whole of the province, a closer inquiry reveals that the figure given out by the Home Minister is grossly inaccurate. He is reported to have put the total number of R. S. S. prisoners now in jails of the province at 43, while actually the number is much more than what the pressmen were asked to believe. To be precise, according to knowledgeable circles, there are at present 75 R. S. S. prisoners, including both detenues and convicts, in C. P. jails—13 in Nagpur, 27 at Raipur, nine at Akola, 25 at Jabulpore (which includes 10 convicted Satyagrahis) and last but not the least, one at Betul.

It passes one's comprehension why the Home Minister who must be fully posted with every information, should deem it fit to put out incorrect figures even in trivial and harmless cases. The public is naturally not inclined to take official statements at face value, when they find that they are not supplied with correct information whenever it is sought only with a view to allay rumours.—(*Hitavada, 27-6-49*).

## X

## THE ALL-INDIA LAWYERS' CONFERENCE RESOLUTIONS

(25th and 26th June, 1949)

## Independence of Judiciary

This Conference is of opinion that Government should maintain the independence of the Judiciary and as a step in the attainment of the goal, should recruit members of the Bar exclusively for judicial posts.

## Habeas Corpus

This Conference views with alarm the recent legislations giving powers to Provincial Governments to imprison persons without trial and ousting or restricting the jurisdiction of high courts in such matters. This Conference is of opinion that these enactments are retrograde and reactionary and are an encroachment on the fundamental rights of the subjects and totally contrary to natural justice.

## Repeal of Regulation III

This conference strongly urges Government to repeal immediately the Regulation III of 1818 (Bengal Regulation) and to release detenues under Regulation III.—(*Hitavada, 25-6-1949*).

## CHAPTER XV CIVIL LIBERTIES IN NEPAL

### Some facts about Nepal

[Area 56,900 sq. miles. Population 10 millions. Length 450 miles. Breadth varies from 90—130 miles. Bound on the East by river Mechi and on the West by river Mahakali. No natural boundary in the south separating it from India.]

**Government:** The administrative authority is in the hands of a ruling family called Ranas, with King as a veritable puppet. The Prime Ministership is hereditary, passing from cousin to cousin, preference being given according to seniority. In political parlance it can be defined as medieval oligarchal military despotism.

**The People:** They are veritable helots in their own land. Migrate in tens of thousands from Nepal to save themselves from penury and starvation and from servile serfdom and do menial jobs of bearers and watchmen in India or join British or Indian Army. Though no statistics is available in Nepal, it is said that during the last war people flocked to join the army in such a large number that not a single youngman was available in most of the villages of the mountainous zone round about 15 lakhs of Nepalese in India.

**Foreign relations:—**Nepal had no ambassador in any country before 15th August, 1947. She had one Minister at the Court of St. James, one Counsel-General in New Delhi and one Wakil at Lahsa.

First American contact with Nepal was made in April 1947 when an American mission headed by Satterth Waite, personal envoy of President Truman, visited Kathmandu, and the first memorandum of political and commercial agreement between Nepal and America was signed on the 25th April 1947. The United States Secretary of States in his remark on April 30 declared that the agreement with Nepal would be the basis for America's relations with India as a whole. Rather, from this time onward, Nepal abandoned monopoly friendship with Britain. After 15th of August the Nepalese legation in London and Consulate in New Delhi were changed to embassies and there was a diplomatic exchange between Nepal and America on Ministerial level. Recently in the Conference held at Lapstone in Australia Nepal was admitted as associate member of UNECAFE. Nepal has also applied for U. N. Membership.

Approximate number of political prisoners at present: 550

**Finance & Budget:** Income Tax on Government servants; taxable minimum 180 per annum. Nominal tax of 10 or less on the Ranas.

Approximate Budget:—

Income: Land Revenue, forests, customs etc.—5 crores 30 lacs 6 thousands.

Cigarette monopoly tax—18 lacs.

From the Road cess, court income, electricity, railway etc. 49 lacs.

Rana members property of extensive rent freeland termed as Birta—3 crores.

India Government grant Rs 10 lacs. Tibet Governments 10,000.

#### EXPENDITURE:

Military 36 lacs. Civil 32 lacs, Education and Hospitals 3 lacs Service 2,50,000.

Roads, Postal Service etc. 36,000 and the rest pocketed by the Ranas.

#### Fight for Democracy in Nepal

The Nepal National Congress came into existence in Calcutta in January 1947. The fact that an organisation of the people of Nepal had to be formed outside its territories was proof that the ruling family would not tolerate any such thing inside the country. Just after two months of its coming into being there was a big strike in the jute and cotton mills of Biratanagar in Nepal. Shri B. P. Koirala, the working president of the NNC, threw himself into this struggle of the workers. The Government of Nepal instead of trying to effect a compromise arrested the whole Koirala family—Koirala, his mother, two brothers and two sisters—and a number of others. The women were released after about five months of imprisonment, but his two brothers continued to be in detention even after the release of Shri Koirala later on for reasons of health. In face of this wholesale arrest of the leaders of the movement the NNC was compelled to launch a mass satyagraha. Processions were taken out throughout Nepal demanding the release of the political prisoners and the granting of civil liberties. This upsurge of popular feeling took the rulers of Nepal by surprise.—*With acknowledgments to N. S.*

#### Repression Again

At the request of the then Prime Minister of Nepal, Pandit Nehru sent Sjt. Shri Prakasa, the present Governor of Assam, to Nepal to work out a scheme of reforms. On the advice of Pandit Nehru the NNC called off the satyagraha. The Nepal Government reacted to this gesture by further extending the period of detention of the political prisoners. None of the schemes prepared by Shri Prakasa would commend itself to the rulers of Nepal. Disgusted with the whole affair Shri Prakasa finally left Khatmandu after drawing up one more scheme which practically meant very little curtailment of the powers of the ruling family. Even this scheme did not meet with the approval of the Ranas. In January this year the Prime Minister announced a scheme of reforms which was extremely inadequate. This however, was considered to be too great an advance by other members of the ruling family and they compelled the Prime Minister to resign.

The NNC passed a resolution offering its co-operation in the working of the scheme although it was considered to be inadequate. The Congress also demanded the release of the political prisoners detained indefinitely and without trial. But the rulers were determined to crush the Nepal Congress and the Nepal Government declared it illegal.

Shri Koirala was released from detention later on due to insistent public demand when his illness took a serious turn. After release his constant endeavour was to offer the co-operation of the NNC in the working of the reforms. But his efforts only met with failure. Conditions in Nepal had by this time reached such a stage that the people were in a mood to revolt. Disregarding the ban on his entry, Koirala went to Nepal. Just about this time a satyagraha was launched in Khatmandu under the auspices of the Praja Panchayat, an organisation that had come into being with the granting of civil liberties by the former Prime Minister. The aim of this organisation was the education of the public by holding meetings and functioning within the limits of law. But even this Panchayat was not allowed to function freely and it was forced to launch a satyagraha. Koirala extended his support to the satyagraha and exhorted the politically conscious Nepalis to prepare for a struggle on a wider basis, under the leadership of the NNC and with the co-operation of other organisations of the people. He worked ceaselessly in Khatmandu and its neighbouring areas for a month and a half until he was betrayed into capture on February 13.

Reports emanating from Nepal speak of inhuman conditions under which Koirala and other fighters for democracy are being treated in prison. Denied the elementary privileges extended to political prisoners elsewhere and bound hand and foot, they are said to be confined to condemned cells.

The British, more than the rulers of Nepal, were responsible for the backwardness of the country. We in India cannot be silent spectators of this struggle for elementary citizenship rights by the Nepalis. Champion of democracy in Asia, India must and should insist on a civilised and representative form of government in this sister country which has strong cultural, economic and physical ties with her.

### The Clash of Forces

The Gurkha has earned the highest respect and admiration of the world as one of the bravest and toughest of soldiers. The British Army still retains some Gurkha regiments. America has recently been showing considerable interest in this region. It is prudent to presume that the recent visit of an American meteorological mission to Nepal is connected with larger plans for a strategical study of the area as base for long-range aircraft. The Communist Party has also been trying for many months past to build its cells in the soil of Nepali discontent. It would be a pity if these beautiful valleys were to be the

cockpit of international power politics and intrigue in which the sons of the soil have absolutely no stake. This is the most eloquent reason why the Nepal National Congress cannot accept the counsel of indefinite action. The Indian Congress Party is weighed down with the responsibility of office. Its anxiety not to put itself in the wrong box with a friendly government by interfering in the internal affairs of Nepal is understandable.

The Socialist Party has always supported the Nepali people. During the historic "Quit India" revolt the people of Nepal gave shelter to Jayaprakash Narayan and Ram Manohar Lohia and hundreds of other fighters hounded by the British. The people of India extend their moral support to the people of Nepal in their just demand for popular government and rule of law.— 27-3-49, *Janata*).

*(Mr. Koirala who was on hunger strike from 1st May was released and deported to India on 29th May)*

#### CHAPTER XVI

### STRUGGLE FOR CIVIL LIBERTIES IN GOA

Today a large part of the country is held down by Martial Law. The latest was the great movement for civil liberties which began on the 18th of June 1946 and swept the land from end to end.

This latest struggle is still going on and has widened from a demand for civil liberties to one requiring that the Portuguese shall quit Goa.

Our struggle has met with repression more savage and more barbarous than is known in any civilised country. The early leaders of the movement were either arrested or had to flee. Tristao Braganca-Cunha has been deported for 8 years, Parshottam Kakodkar for 9 years, Laxmikant Bembre for 8 years. Six hundred satyagrahis went to jail and scores of others suffered humiliation and barbarous ill-treatment at the hands of the police. The authorities are still unabashed at their own savagery and have recently sentenced Dr. Mayenkar P. Shiralkar, N. Karapurkar, G. Tiolo and E. George to 15 years deportation. Their sacrifice shall not be in vain.

Training camps for workers were established at the frontiers and batches of Satyagrahis braved the wrath of the authorities. Branches were located in Bombay, Belgaum and elsewhere to rouse the Goan emigrants. Food supply for the people of villages suffering from the inhumanity of the rulers was organised. Remittances were sent to the prisoners to help alleviate their hard lot.

Our labour has already had two concrete results. The Portuguese authorities in Lisbon hastily published a decree declaring Goa to be a province of Portugal equal in status with the provinces of the Metropolis. Furthermore a new political status for the administration of Goa was promulgated promising the people a greater share in the responsibilities of Government. The first measure, fantastic as it appears, is designed to make Goa by law a piece of foreign territory in

India so that any sympathy or assistance the People or the Government of the Indian Union may give to our struggle may be made to appear to be a breach of international law and an interference in the domestic affairs of a foreign power; the second was a sop to the rising nationalism of the Goan people and as such has been rightly rejected even by supporters of the Portuguese India.

The deadly inertia generated in our people by four hundred years of foreign domination is yet to be overcome, re-inforced, as it is, by fear of the repressive measure of the authorities who have now brought foreign troops, both European and African, to overawe the country. The local press is gagged. Newspapers from the neighbouring territory which publish nationalist views are banned from circulation in Goa. Official propaganda alone floods the land.

Official propaganda also seeks to alarm the officials and employees of Government with regard to their employment and future prospects. We have pointed out above that 81 per cent of the annual revenue is earmarked for official salaries and a further 13 per cent for travelling expenses. The bulk of this bill does not, as it might be supposed, provide fat salaries to the rank and file of Government employees. These indeed receive a mere pittance compared to which the income of the mill-hand in India is princely. The fat salaries and allowances go to the European higher officials, civil and military, and to the heads of departments most of whom in addition to a civil position hold a military rank and draw the emoluments of both. (*National Congress, Goa*).

### Resolutions

This Conference of the National Congress strongly condemns the barbarous methods of the Portuguese Government of flogging the Satyagrahis, sentencing them to long-term deportations, violating all canons of law and morality with a view to suffering the legitimate rights of the people to demand their fundamental civil liberties. (National Congress, plenary session, 4th and 5th June, Belgaum, under the presidency of Mr. D. Silva).

### Beaten to Death

Mr. Waman Desai, General Secretary of the National Congress of Goa, today called upon the Government of India to institute an inquiry immediately into the death of Mr. Deshpande, an Indian citizen who was under detention in Goa. Mr. Desai alleged that Mr. Deshpande had been beaten to death by the police in Panjim Jail, Goa.

In a statement issued here to-day, Mr. Desai said: Mr. Deshpande who was detained without trial in Goa for the last one year in connection with the Mapuca Treasury Raid Case, was removed two weeks ago from Margo prison to Panjim jail, where the police tried to extract from him information regarding the raid on Canacona military post on June 6. Failing to get any information out of him, the police beat him so severely, that he died on the spot. Police have been maintaining complete secrecy about it and the body has not yet been handed over to the parents of the deceased." (*Hitavada*)