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The Indian Civil Liberties Bulletin

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"I charge you that, under our system of law, guilt is purely personal and that you may not find any of the defendants guilty merely by reason of the fact that he is a member of the Communist Party of the United States of America, no matter what you find were the principles and doctrines which were taught or advocated by that Party during the period defined in the indictment."—Judge Medina's charge to the Jury at the Trial of the Communist Leaders.

"We shall smash Communism not by banning it but by beating it in the open."—Mr. A. A. Calwell, Minister in the Government of the Commonwealth of Australia.

"The fight (for freedom) is never won, and the truth must never be forgotten that the price we pay for liberty is, indeed, the price of eternal vigilance."—The "New York Times," 27th October.

ARTICLES

PREVENTIVE DETENTION AND ADVISORY COUNCILS

In all provinces there is now provided, either by amendment of the Public Safety Acts or by executive decision, some machinery for giving advice to the Governments concerned in respect to their orders for detention. The initial responsibility for arresting suspected persons and holding them in detention is that of the Governments; and the final responsibility for continuing the detention is also theirs. But in between the two stages some advice is now taken. The scheme of the Public Safety Acts in respect to detention (and in respect to all other restrictions like externment, internment, etc., on the movements of suspected persons) is as follows. The provincial Governments or other authorities on whom this power is conferred first make the detention order. But this order is of an interim nature. The Governments inform the detained person of the reasons for his detention and give him an opportunity to make a representation against the order. Then, the Governments look into the matter again in the light of the representation received and either confirm, revoke or

vary the order; the order thereafter becomes final. But in this reconsideration of the order the Governments now consult with an Advisory Council consisting usually of three persons (or consult with one person as in Bombay) as to the necessity or expediency of continuing the detention. The Councils have of course only advisory powers. They are meant only to help Governments arrive at a correct decision. The power of taking a decision belongs solely to the respective Governments who first made the detention order. It is proposed in this article to consider the possible usefulness of this new machinery in providing a safeguard against arbitrary imprisonment. Sufficient experience of its actual working has not yet been gained in any province to enable one to form a confident estimate of the working. In Bombay the officer appointed for the purpose has, it appears, since his appointment in March last, submitted recommendations in regard to some of the cases referred to him (and all cases of detention are not referred to him), but Government has not considered them so far. In Madras, where the machinery of an Advisory Council has been in operation ever since the enactment of the Public Safety Act in March 1947, public opinion at any rate pronounces this body as anything but successful in giving some kind of assurance that the innocent will not suffer. But we do not base the remarks that we make below on the actual working of these bodies, of which not enough is known. We shall rather attempt to show that from their very nature they are incapable of affording any worthwhile protection to the citizen.

Unlimited Discretion of the Executive

It should first be stated that the Public Safety Acts in all the provinces vest in the executive a plenary discretion as regards detention; the power that they confide to the executive is wholly uncontrolled. A mere recital that the Government is satisfied that a particular person should be detained in the interest of public safety is sufficient to give the order for his detention complete validity in law. No extrinsic justification of any kind is needed. The form of words used in the provision giving this power is, it should be noted, modelled on the earlier version of Regulation 18B of the Defence (General) Regulations issued under the Emergency Powers (Defence) Act, 1939, in England. It ran: "The Secretary of State, if satisfied with

respect to a particular person that... it is necessary so to do, may make an order directing that he be detained." Even Lord Atkin, who in regard to the later version of the Regulation took a different stand, admitted that a Regulation in these terms gave the Secretary of State unlimited discretion. Only a subjective test was applicable, and the existence of a state of mind in the Home Secretary was the only determining factor. But this Regulation, originally issued in September, 1939, was later withdrawn and another substituted two months later, which adopted another phraseology: "If the Secretary of State has reasonable cause to believe... that it is necessary to exercise control over" any person, etc. This change in the form of words in the Regulation, it was contended by Lord Atkin in *Liversidge v. Sir John Anderson* (1942) A. C. 237, made it necessary to prove an external fact as to reasonable cause of the Home Secretary's belief and thus imposed an objective condition which could be examined. Our Public Safety Acts, however, leave no room for such a contention. (The earlier West Bengal Act—Act 3 of 1948—required the provincial Government to be satisfied "on reasonable grounds" that detention was necessary, but the words "on reasonable grounds" were removed within a few months from the revised Act—Act 19 of 1948.) The Acts clothe the executive with absolute power to exercise preventive detention which cannot be questioned at all. A number of petitions are made by detained persons for a writ of habeas corpus and some of them are successful too. But this should not lead anyone to infer that detention orders are in any province subject to judicial review. What is raised on such petitions is usually infractions of provisions laid down in the Acts concerning some minor points. Such infractions were so common in the early stages resulting in the detenus being set at liberty by order of the High Court that some people seem to entertain the entirely wrong notion that the High Court can look into the reasonable and probable cause for suspicion on which a detention order was founded. It is not so. The executive decides in the forum of its own conscience whom it should detain, and its decision is final and unimpeachable. The Acts authorise the abrogation, finally and decisively, of the citizen's ordinary right to immunity from arrest and imprisonment save by due process of law.

Insufficiency of Material

Such being the basic structure of the Acts, the question is whether the Advisory Council procedure gives some measure of protection to the public that their personal liberty will not be interfered with without sufficient cause. Now it is obvious that in order that the second thoughts which may be induced in the detaining authority on consideration of a detenu's representation with the help of an Advisory Council may have full play, the detenu must be supplied with all the facts which may

have led to his detention. It is only if he knows the reasons in full that he will perhaps be able to offer rebutting evidence (not of course in the strictly legal sense) to show that the suspicions on which action against him was taken were unfounded. But the insufficiency of the material furnished to the detenu is such as in itself to defeat the purpose of any kind of quasi-judicial investigation. The contrast in this respect between our country and England both in law and practice is very striking. The material consists of "grounds," which are of a general nature, and of "particulars," which are really important as giving a clue to the working of the detaining authority's mind. All the Public Safety Acts in this country provide that such particulars be disclosed to the person detained as are in the opinion of Government sufficient to enable him to make a representation for cancelling his detention. In England, however, Regulation 18B provided that the Chairman of the Advisory Committee furnish the detenu with such particulars as are in the opinion of the Chairman sufficient to enable the detenu to present his case. No person would consent to perform the thankless task of becoming the Chairman of an Advisory Committee if he felt that the detenu was not being told in full of the reasons for which he had been deprived of his liberty. Not only is the law different in India; but so is the practice. The information given to a detenu is exceedingly scrappy. It is generally of the kind that was given to Mr. D. R. Paranjpe (vide p. 2 of the BULLETIN). On the other hand, in England, detailed information is given. From the case of *Greene v. Secretary of State for Home Affairs* (1942) A. C. 284, it is known that the particulars supplied to the detenu ranged over six paragraphs. Says Lord Atkin on this point:

Then follow six paragraphs of particulars referring to his (the detenu's) being concerned in the management and control of two named organizations; and of the nature of speeches and writings of his, and stating that he was privy to the activities of a named person in the publication of pro-German propaganda in a named periodical, that he was subsequently to the outbreak of war communicating with persons in Germany concerned in the government of Germany, that he was desirous of establishing a national socialist regime in Great Britain with the assistance, if received, of German armed forces, that he freely associated with persons of German nationality who he had reason to believe were agents of the German government, and that there was reasonable cause to believe that he desired and intended to continue the actions aforesaid.

Such details, Lord Atkin has said, it was "compulsory" for the Home Secretary to give to the Chairman of the Advisory Committee so that he might transmit them to the detained person. Both our law and practice are different. In this country too it is provided in some provinces that the Advisory Council may call for more information than what the Government chose to supply.

but no obligation rests on the Government to supply all such information as the Council would consider adequate to the purpose. Adverting to this aspect of the matter, the Bombay High Court, speaking through Mr. Justice Bavdekar, was impelled to say in *In re Jayantilal Nathubhai Parekh* (decided on 22nd July 1948):

Inasmuch as it is ultimately left to the discretion of the detaining authority to supply such particulars and grounds as are in the opinion of the detaining authority sufficient to enable the detenu to make a representation, we are afraid it is not possible to subject the particulars to any objective test of sufficiency.

And, because of the discretion left to the executive even in the matter of supplying information, it will not be possible for an Advisory Council as for a court to exercise any kind of effective scrutiny over cases of invasion of personal liberty that will be placed before it. We mention, towards the end of the article, the fact that in the Rowlatt Act any Local Government exercising the power of detention was required "to place all the materials in its possession relating to his (the detenu's) case before a judicial officer" appointed for the purpose of giving opinion on the exercise of the power.

Legal Help not Allowed

Some other points of difference in the Indian and English practice may be noted. Under Regulation 18B a detenu was allowed to take the help of a solicitor in making his objections and stating his case and also to call witnesses with a view to refuting the evidence brought by Government. And although proceedings before the Advisory Committee were not of a judicial nature one can well understand what considerable help these facilities must have afforded to the detenus in securing a proper hearing in the Committee. No such facilities are known to have been provided or meant to be provided in India. Indeed in the West Bengal Act it is specifically laid down that the detenu "shall not be entitled to be defended or represented by any lawyer or other person." In that province a High Court Judge to whom the case of a detenu goes if the period of his detention is to be extended beyond nine months (and it is only in cases in which the period of detention is to be extended that judicial review is provided) makes a binding decision. But there is no reason to suppose that even where an advisory opinion is given legal help will be permitted or witnesses will be allowed to be called. Some diversities discernible in the scope of the Advisory Councils in the provinces of India may also be briefly referred to. In the C. P., which province is the latest to adopt legislation constituting an Advisory Council (it became law on 11th October), only those cases of detention are to go to the Council in regard to which a representation has been received from the detenu. This practice betrays a petty mentality: the Government had first undertaken an

obligation to communicate the grounds to the detenu of its own accord; of this obligation it has, like all other Governments, now relieved itself. If the Advisory Council is now given power to consider only those cases in which a representation has been received, the intention obviously is to restrict the Council's scope as much as possible. On the other hand, it was intended in England that every case of detention would go to the Advisory Committee almost automatically. The italicised words in the clause relating to this matter in Regulation 18B would make it clear:

It shall be the duty of the Secretary of State to secure that any person against whom an order is made under this Regulation should be afforded the earliest practical opportunity of making to the Secretary of State representations in writing with respect thereto and that he shall be informed of his right, *whether or not such representations are made*, to make his objections to such an Advisory Committee as aforesaid.

In Bombay province the cases of even those detenus who make representations will not all go to the judicial officer, but only such of them as the Government will choose to send to him.

Extension of Detention

One other point may be noted. In Madras, Orissa and Assam where Advisory Councils are statutorily provided the Governments are required, when they consider it necessary to extend the duration of the order for detention beyond the six months to which it is originally limited, to consult with the Advisory Council which also gives an opportunity to the detenu to make a representation on the subject. Every time six-monthly terms of extension are proposed by the Madras and Orissa Governments and yearly terms of extension are proposed by the Assam Government, the Advisory Council's advice has to be sought, though of course Governments are at liberty to prolong the detention of a person beyond the initial period of six months by issuing a fresh order for detention against a detenu instead of renewing the old order. But it might be expected that in the ordinary course of events a detenu's case would come up again before an Advisory Council if his period of detention is to last longer than six months. The judicial review provided for in the West Bengal Act becomes available only when the period of detention limited to nine months is intended to be extended, but within the initial period it is not available. The Public Safety Act in C. P. puts no limit on the period for which a person may be detained, and therefore, there being no need for "extending" the period of detention of any detenu, the new Act providing for the constitution of an Advisory Council makes no provision for consultation with the Council in the case of "extensions." The East Punjab Act, which came into force on 29th March, is in this respect similar to the C. P. Act. There being no limit to the period of detention in the

first instance, the Advisory Tribunal, as it is called in that province, is not called upon to advise on the duration of detention. In Bombay Province also there is no limit to the duration of a detention order, and no occasion can therefore ever arise for consulting the judicial officer as to the period for which the order may remain in force.

Grounds for Detention Intangible

But, beyond and above all such comparatively small points, there is one fact which, in our opinion, is bound to reduce the Advisory Councils or similar bodies to a state of almost utter inefficiency, and that fact is connected with the nature of the reasons for which Public Safety Acts in all the provinces authorise detention. It is obvious that only when Governments are empowered to detain persons for reasons which are definite and concrete and are required to produce them before the inquiring authority, can the authority, after an examination of the reasons, form an opinion as to whether the detention was warranted by the facts of the case. But in what circumstances do Public Safety Acts allow detention? The Assam, Bihar, Orissa and East Punjab Acts provide :

The provincial Government, if satisfied with respect to any particular person that, with a view to preventing him from acting in any manner prejudicial to the public safety and the maintenance of public order, it is necessary so to do, may make an order directing that he be detained.

It has already been stated above that the words here used and also in the other Acts enthrone subjective satisfaction of Governments. The Governments are to satisfy themselves that detention of a person is necessary in order to prevent any possible prejudicial acts on his part, and the decision can only be questioned if it is shown to its satisfaction that there is no possibility of his engaging in such activities, an almost impossible requirement. The Bombay and Madras Acts, in their original editions, were worded differently, which might have left some room for some kind of investigation. The Bombay Act provided that the Government should be satisfied that any person "is acting" and the Madras Act that he "is acting or about to act" in a prejudicial manner. Under these forms a detenu's present acts or his immediate plans which formed the ground for detention might have been capable of some examination on the strength of evidence. But these forms were quickly changed. Now the ground provided in the Bombay Act is that a person "was acting, is acting or is likely to act," and, in the Madras Act, "is acting or about to act or likely to act" in a prejudicial manner. Now the final opinion as to whether a person is likely to act in this way is of course that of the provincial Government, but how can any investigating authority, limited as its power is, at all to form an estimate of what he is likely to do? What can possibly be the objective facts on which such an estimate can be based? How is the authority to judge

even for itself whether the Government's suspicions against him are well or ill founded, when what it has to consider is what by any possibility, he may do in future? The C. P. Act also makes what a person is likely to do the criterion of his detention. Another reason justifying detention, according to that Act, is that a person is "fomenting or inciting strikes with intent to cause or prolong unrest among any group or groups of employees." This is more definite, but it is alternate to the other ones which are much too general. Our contention is that when power is conferred upon the executive to detain persons for reasons so intangible and impalpable as the above, there is little likelihood of the investigating authority itself forming any confident opinion about the sufficiency of the reasons to warrant detention and much less of its being able to impress such opinion on the Government which makes the final decision.

Contrast with Rowlatt Act

The Rowlatt Act (No. 21 of 1919) of evil fame, in one of its most drastic provisions, endowed the executive with power of arrest without warrant and of confinement in prison without trial. The exercise of this power was limited to those parts of the country which were notified as being areas in which anarchical or revolutionary crime was prevalent. The section dealing with detention 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 area in any scheduled offence [a grave offence which must be connected with an anarchical or revolutionary movement], 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 make in respect of such person [an order for detention].

Under this Act the judicial officer was to give his opinion (and it may be noted that this opinion had to be taken before detention and not after) on quite a specific matter, viz., whether a person whom it was intended to deprive of his liberty " has been or is concerned " in a revolutionary crime in such manner as to give Government reasonable grounds for its belief that he deserved to be detained. When opinion is sought on such a clear issue, the judicial officer concerned is in a position to weigh the objective facts on which the detention order is based and can arrive at an opinion of his own, whether eventually Government agrees or declines to follow that opinion. This would be some kind of safeguard which is however lacking in the Public Safety Acts because of the utter vagueness of the reasons for which the Acts authorise detention. Note also the expressions in the

above-quoted section of the Rowlatt Act: "reasonable grounds for believing" (on the import of which words Lord Atkin has laid so much stress); Government to place "all the materials in its possession." Note also the fact of pre-detention (and not post-detention) consultation with the judicial officer, which at least ensures examination of every case of detention by him. All this will show that the Rowlatt Act compares very much to the advantage of the Public Safety Acts. Yet it was so excoriated everywhere that it remained a dead letter. The prevalence of anarchical and revolutionary movements in some areas at the time was admitted universally, but the mode of checking such movements which the Act proposed was opposed by everyone, not the least by Mahatma Gandhi. Who would like that, when danger to the public security is in any case very much less severe, Mahatma Gandhi's followers should adopt legislation far more stringent?

Contrast with Regulation 18B

We may now take a glance at the provision in British Regulation 18B empowering detention. It requires two things. First, the Home Secretary must be satisfied about certain circumstances, viz., that the person to be detained (a) is of hostile origin or associations, (b) has been recently concerned in acts prejudicial to the public safety or the defence of the realm, or in the preparation or instigation of such acts, (c) has been or is a member of, or has been or is active in the furtherance of the objects of, organizations which are subject to foreign influence or control, etc. These are the preconditions which must be satisfied before an order for detention can at all be considered. After these are satisfied, the Home Secretary must further be satisfied that "by reason thereof it is necessary to exercise control over him." Now even Lord Atkin admitted that the Home Secretary's belief about the necessity of detention can most successfully be challenged on the preconditions because they refer to certain objective facts. "When once this is established," he says, "it is very unlikely that a court would not in most cases accept as reasonable the Home Secretary's decision to detain" (p. 243). What is true of a court is also true of a judicial officer or an Advisory Council. In the Public Safety Acts such preconditions either do not exist at all or are couched in such exceedingly vague terms as to amount to their non-existence, with the result that practically the only material that the investigating authority has before it is what corresponds to the second factor in the British Regulation, which becomes relevant only after the first has been satisfactorily disposed of. And when the second factor is such that with regard to it any authority must normally defer to the opinion of the Home Secretary and the first is the one on which the Home Secretary can be narrowly questioned and the objective facts relied on by him can be closely scrutinized, it is obvious that no kind of inquiry will

yield any substantial results when the inquiring authority has only the second factor to go upon. It is our conviction that Advisory Councils constituted by the Public Safety Acts will do little to soften the rigours of executive discretion which is supreme in this matter and will produce little ameliorative effect. On the other hand they may work positive evil in the sense that because they merely put up a façade leading common men to believe that our Public Safety Acts provide the safeguards of Regulation 18B public opinion in the country is in danger of becoming much too quiescent about preventive detention than it should be.

THE COMMUNIST TRIAL IN U. S.

Its Significance to India

In the trial of eleven topmost Communist leaders in the Federal District Court in New York (to which we referred at p. 6 in our last issue), the jury returned a unanimous verdict of guilty on 13th October and the Judge sentenced all the accused except one to the maximum sentence permitted under the law. Because this trial will constantly be referred to in the next few years in the United States and elsewhere in discussions on the right of free association and because this subject is of paramount importance to us in India, we believe it will not be out of place to give some details of the trial to our readers.

The leaders of the Communist Party were charged, under sec. 2 of the Smith Act of 1940, with conspiracy to teach and advocate the use of force and violence for the overthrow of government. The prosecution adduced evidence, from text books admitted to have been used in the secret schools of the Communist Party, to show that it was taught in these schools that the smashing of governmental machinery was a precondition of proletarian revolution and of the establishment of a Communist State. Only two quotations from this evidence will be given here:

The law of violent proletarian revolution, the law of the smashing of the bourgeois state machine, as a preliminary condition for such a revolution, is an inevitable law of the revolutionary movement in the imperialist countries of the world.—Stalin's "Foundations of Leninism."

Revolution is an act in which one section of the population imposes its will on the other by rifles, bayonets, cannon, etc., and the victorious party is inevitably forced to maintain its supremacy by means of that fear which its arms inspire in the reactionaries.—Lenin's "State and Revolution."

Evidence was also introduced to prove that the teaching was meant as a guide to action and that the methods used by the Bolsheviks in Russia in the 1917 revolution were intended to be followed as a blue-print of a revolution in the United States when the time for it arrived. And till that hour struck, the Party members were to

promote strikes and sabotage. So it was not a matter of mere ideology. The Judge in his charge to the jury said:

Books are not on trial here nor are you concerned with the philosophical validity of any mere theories. It is not your function to pass upon the relative merits of communism or capitalism or any other "isms." You are concerned with the intent of these defendants and what these defendants, and any other persons with whom you may find they conspired, in accordance with the rules stated, did and said. The books, pamphlets and so on come into the case only to the extent that you may be satisfied beyond a reasonable doubt that these books and pamphlets were used by the defendants and those conspiring with them, if there be any such, as instruments, apparatus or paraphernalia for the propagation of teaching and advocacy of the overthrow or destruction of the Government by force and violence.

In further construction and interpretation of the statute I charge you that it is not the abstract doctrine of overthrowing or destroying organized government by unlawful means which is denounced by this law, but the teaching and advocacy of action for the accomplishment of that purpose, by language reasonably and ordinarily calculated to incite persons to such action.

"Clear and Present" Test

The Supreme Court has for the last twenty-five years consistently held that it is not enough to prove advocacy of sedition, but such advocacy must really be "a clear and present danger" to the Government, in the sense of Mr. Justice Holmes's dictum in the case of *Schenck v. United States* (1919) 249 U. S. 47, viz.:

The question in every case is whether the words used are used in such circumstances and are of such a nature as to create a clear and present danger that they will bring about the substantive evils that Congress has a right to prevent. It is a question of proximity and degree.

It is only where such a danger is imminent that freedom of speech can be abridged, and then only to the extent of the danger. The Judge had to give a ruling in the present case on this issue, and he gave it as follows in his charge to the jury:

If you are satisfied that the evidence establishes beyond a reasonable doubt that the defendants, or any of them, are guilty of a violation of the statute (Smith Act), as I have interpreted it to you, I find as matter of law that there is sufficient danger of a substantive evil that the Congress has a right to prevent to justify the application of the statute under the First Amendment of the Constitution.

This will be the crucial issue on which mainly the two appeals in the Circuit Court of Appeals and the Supreme Court that are yet open to the defendants will be decided, viz., whether or not the Smith Act, as applied

to the Communist leaders, violates the First Amendment guaranteeing freedom of speech or of press and is thus unconstitutional.

Guilt is Purely Personal

The whole Communist Party was not charged in this case with criminal conspiracy. The Judge emphasized this point to the jury. He said: "The crime charged is not . . . that the Communist Party as such advocates or teaches such violent overthrow and destruction. The charge is that the defendants conspired with each other . . . to advocate and to teach . . . overthrow and destruction." And he added:

I charge you that, under our system of law, guilt is purely personal and that you may not find any of the defendants guilty merely by reason of the fact that he is a member of the Communist Party of the United States of America, no matter what you find were the principles and doctrines which were taught or advocated by that Party during the period defined in the indictment.

It was believed when the trial opened that because the accused in the case were the chiefs of the Communist Party, the Party itself was in effect being tried and that if the accused were found guilty the fate of the Party as a lawful body would be sealed, prohibiting all activities on its part. But this is hardly so. It might be that people would be deterred by the conviction to step into the places of those now adjudged guilty to conduct the affairs of the Party, and to the extent that this happens a check would be put upon the Party. But as the "New York Times," writing on the verdict, remarks: "The (Communist) Party as such was not on trial, and therefore cannot be outlawed by this verdict. If new leaders took over the Party and did what the old leaders did, they would have to be tried for their actions, and not because they were Communists." For it is the fundamental principle of the United States law that guilt cannot be fixed by association. And it is this principle which we wish to impress upon our readers.

Judicial Decision Essential

Professor Harold Laski has said in the "Encyclopedia of the Social Sciences," vol. 6, p. 449, that it would be right in certain circumstances to interfere with an organization actively engaged in an effort to overthrow the Government by violence. But, while justifying such action, he added a reservation of supreme importance, viz., that "Government should have no power to judge the validity of their case." "To confuse executive and judiciary in these crucial matters," he said, "is to destroy the possibility of freedom." So far as one can see, the U. S. Government is closely adhering to this principle. It regards the Communist Party as a subversive organization, secretly preparing for a violent revolution. It frames charges against the Party leaders and obtains a conviction. The

conviction has yet to stand two further tests. If these tests are satisfied and the conviction is upheld, the Government will be entitled, according to the principle laid down by Professor Laski, to proceed against the Party. Even so there is another principle which will conflict with action to be taken against the Party as a whole, and that is that no one should be condemned merely because of "association." What the final outcome will be remains to be seen.

Australian Example

But contrast this with the position in India. The Madras Government says it has come into possession of a number of pamphlets incriminating the Communist Party. These pamphlets do not see the light of day; their authorship is not known. The allegations are not judicially tested. But on the basis of these allegations the Communist Party is declared illegal. In Australia similar literature was revealed recently, laying bare the Communist Party's subversive plans. It bears, as the "Statesman" says, "illuminating resemblance" to the Government of India's pamphlet, "Communist Violence in India" and to the material to which the Madras Government now makes reference. The Australian material was disclosed by an ex-Communist, Mr. Cecil Sharpley. "Most of his charges, however," ("The Statesman" remarks,) "unlike those made in Delhi (or in Madras) have been proved in open court, during the sittings of the Royal Commission now sitting in Victoria." The Communist threat is being met "by recognised democratic emergency measures. Unjustified repression has not been practised, and no Communist is detained without prompt trial." And the Commonwealth Government's policy in regard to Communist activities even now seems to be the same as was expressed by Mr. Calwell at the end of the coal strike which did so much to damage Australian industry: "We will smash Communism not by banning it but by beating it in the open."

Our Governments, however, not only imprison Communists without trial under Public Safety Acts, but also put Communist organizations outside the pale of law. A statute of 1908 gives power to declare any association to be unlawful which in the opinion of the Government constitutes a danger to the public peace. The statute was passed forty years ago for the suppression of anarchical societies carrying on assassination and territorisation in Bengal, and it remains in force with unabated vigour even today. The British administration of the time at least contented itself with this Act. It did not invoke the help of even a sharper weapon of a Public Safety Act. Our Governments now require both the weapons! The Criminal Law Amendment Act was not repealed when the anarchical movement subsided, and it now comes handy to our National Governments. Nor is it a statute like the British Emergency Powers Act, 1920, which, while empowering Government to issue regulations giving extra-legal powers, also requires Government to take

Parliamentary sanction within a week for the regulations every time it issues them. Our statute gives final power to the executive, irrespective of the legislatures, to outlaw any organization it chooses. It need hardly be said that if such action, being covered by a forty-year old statute once and for all, does not require Parliamentary sanction every time action is taken, it does not require judicial sanction at any stage, sanction which Professor Laski predicates as a necessary condition before any organization is deprived of its legal status.

"Moral Erosion"

While this is the state of the existing law, the climate of public opinion that prevails is even more deplorable. The general public just does not care what happens to the Communists; it looks as if it is glad that the Communists are locked up and does not mind if for this purpose resort is to be had to an outmoded Coercion Law of the British régime. To us this "moral erosion" of the mass of people gives far more poignant pain than the existence of the Criminal Law Amendment Act, 1908, on the statute book and the over-readiness of our panicky Governments to apply it.

COMMENTS

Roger N. Baldwin

We read in the "New York Times" of 23th October that Mr. Roger N. Baldwin, one of the founders and the chief organizer of the American Civil Liberties Union, after giving 30 years' most devoted and competent service to that institution, will leave its directorship at the end of this year, but he will do so only to work in a wider sphere. He will now concentrate on the international phase of the civil liberties question. One of the questions to which he will now give special attention is the International Covenant on Human Rights, which is still before the Human Rights Commission of the U. N. The A. C. L. U. makes a great appeal to us, as the All-India Civil Liberties Council, formed in Madras in July last by the first Indian Civil Liberties Conference, takes that organization as its model, and aspires to carry on its work, not of course on anything like the scale on which the A. C. L. U. has been doing, but with the same objectivity in its methods and the same non-partisanship in politics. In spite of this non-party basis clearly enunciated, the "New York Times" says that in the United States the A. C. L. U.'s "defence of a minority's right to voice its opinion is frequently confused with defence of the opinion itself." It is inevitable that in India too civil liberty unions will meet with the same difficulty, but if they are to accomplish anything effective they must be prepared, like the A. C. L. U., to go on in the way mapped out by them, undeterred by misunderstandings and sometimes even calumny that will

attach to their activities because of their espousal of minority causes.

Now that Mr. Baldwin has relieved himself of his local responsibilities, we earnestly hope that he will apply his mind to the Bill of Rights in India's new constitution to be proclaimed on 26th January of next year and see for himself how little of personal freedom will be left to Indian citizens by Art. 15 A of the constitution when this article is considered along with the provisions (such as the suspension of habeas corpus) that will come into operation in an executive-proclaimed emergency. It is a pity that outside opinion like that of Mr. Baldwin was not available when the constitution was still on the anvil and that local opinion was not heeded. But world moral opinion will even now be of some help. In India civil liberty has no doubt been a shibboleth for a long time, but it was popular only as a means of working up feeling against the British regime. Now that civil liberty has lost this utility, very few really care what restraints are put on it. In such a situation we honestly think that civil liberty will become a reality in this country only to the extent to which world opinion, and particularly the opinion of the U. S. (because that is the only country in which effective constitutional guarantees for civil liberty are provided), is in a position to exert pressure.

Gagging the High Court

Clause 4 A of the Madras Government's new Public Safety Bill, which would have the effect of prohibiting the High Court from declaring invalid, as it used to do before, an order for detention if the grounds for the order as supplied to the detenu were vague or insufficient, was, after a slight verbal amendment which did not affect the sense, passed by the Legislative Assembly on 11th October. The clause was passed, but only after a good deal of strong and reasoned opposition was offered to it. Mr. T. Viswanathan moved outright rejection of the clause and several members supported him.

Begum Amiruddin characterised the clause as a gag on the High Court and a *carte blanche* to the officialdom to commit mistakes; "to detain a person without trial," she said, "is bad enough; to have a clause like this is worse." Another member said that the clause amounted to abrogation of all principles of civilised jurisprudence. When this motion failed Mr. K. Bashyam moved an amendment seeking to restrict the immunity provided under the clause only to two types of cases: one where the defect in the grounds of the detention order was not material and the other where the delay in the supply of grounds was not unreasonable. "The Government should not nullify," he pleaded, "the only safeguard available to the detenu." Mr. A. Vaidyanatha Aiyar and some other members made the same point. But this amendment too was rejected.

The Minister for Law disclosed the fact that a communication had been received from the Central Gov-

ernment in February 1947 stating that the Public Safety Acts in all the provinces should as far as possible be uniform, and stated that the C. P. Government having adopted a provision corresponding to clause 4 A, the Madras Government was only following suit. (It looks, as we had suspected, as if the power of the High Court is being curtailed and in fact abolished in response to a directive from the Central Government.) He stated that the purpose of the clause was, as long as there was no mala fide intention on the part of the Government to detain a person, the order for detention should not be capable of being questioned in a court of law.

This is the blunt truth; no order for detention in regard to which the bona fides of the detaining authority cannot be disproved can hereafter be challenged in Madras province or any other province. And as the detenu has no chance with the High Court, similarly he can hope to have none with the Advisory Council because of the vagueness of the suspicions which he is called upon to clear up. We are glad to see that the "Hindu" emphasises the disability which this entails on the person detained. Noting that the amendment adopted in the clause which the "Hindu" apparently thinks has some substance (though in our opinion it has none), the paper says:

Even so, we wish that clause 4 A had not been added to a type of legislation which was drastic enough in all conscience and had been found comprehensive enough by the British Government during the War emergency. After all, there is no purpose in calling on a detenu to answer vague charges, seeing that an equally (and necessarily) vague protestation of innocence would not get the detenu very far before the Advisory Committee, or any tribunal for that matter. Surely, the least that he can expect is that the charge-sheet should contain specific charges, by refuting which he could establish his innocence.

These remarks, it would be seen, fully endorse our comments in the paragraph on the vagueness of the material in our article on preventive detention.

Nehru and Communists

Questions asked of Pandit Jawaharlal Nehru at a press conference in London showed some concern at the banning of the Communist Party of India and large numbers of its members being confined in gaol without having been brought to trial. In answer Mr. Nehru said that the Party was outlawed only in two provinces. The question was viewed not from the point of Communism but from the point of view of violent activities of the Communists in certain areas. It was an exaggeration that thousands of Communists had been detained without trial; the number of such men was probably between two and three thousand.

Mr. Nehru pleaded that Communists had behaved like rebels against the State and that no Government in

the world could have been more generous to them than the Indian Government. As an instance of their activities, he pointed to the instructions, issued by some Communist controlled unions when the Federation of Railwaymen decided against a strike, for sabotage and for the blowing up of railway installations and stations, and he added: "We have these documents in our possession." On this one is certainly impelled to ask: "Why did not Government put these incriminating documents before a court of law and have the offenders punished in the ordinary way instead of taking the extra-legal course that it did, which necessarily arouses suspicions in the minds of the people?" Government often enough speaks of such documents, but never once does it think of submitting them to a judicial test. If it were to do so, no one would ever be able to accuse it of repression, and the doubts in the minds of law-abiding citizens would be set at rest. The Government may or may not be generous; it is a matter of its choice. But above all it must be just, and just in such a way that every one would be able to see for himself that justice has been done. The Premier may at least do one thing: he may have the figures of detenus, both Communist and non-Communist, authentically published every month, so that any wild stories about numbers of men in detention might not gain currency.

If there is an exaggeration about the number of Communist detenus in prison, Pandit Jawaharlal for his part has without a doubt drawn too bright a picture of the safeguards surrounding detentions. He said at this conference that a bench of judges of the High Court were shown all the papers concerning each detenu, and that if they decided that there was not sufficient evidence against a prisoner he was released. So far as we know, each of these statements suffers from overcolouring. There are no doubt Advisory Councils. But (1) all the detenus cannot go before them; (2) all the members of these bodies are not High Court judges; (3) all the material is not placed before the Councils; and (4) their advice is not invariably followed.

The Councils are no doubt a well-meant device to prevent gross injustice being done. But we have shown at considerable length in another column how far they fall short, and must necessarily fall short, of affording any real protection to the innocent. And the way in which Mr. Nehru boasts them lends justification to the fear we have expressed lest, instead of doing any substantial good, the Councils should only create a false impression that everything short of a judicial trial was being provided for the detenus and that at any rate we were doing in India whatever the British Government did in war time.

Two Urdu dailies of Pakistan—"Zamindar" of Lahore and "Khurshed" of Karachi—have been prohibited entry into Delhi province under the East Punjab Public Safety Act.

PRESS ACT, 1931

Worse than Sedition Law

Confirmation (in September) on appeal by the Madras High Court of the conviction of Mr. C. V. Rajagopalachari, Secretary, Madras Civil Liberties Union, under the Press (Emergency Powers) Act, 1931, constitutes indirectly the most scathing criticism of the drastic character of the Act. Mr. Rajagopalachari, who was a staunch member of the Congress from 1921 to 1945, published a four-page tract entitled "Save the Country from Totalitarianism" severely criticising the present-day Congress and the Congress Administrations. His object in doing so was, he explained, by speaking out his mind as some Congressmen were doing at present and as Mahatma Gandhi himself used to do, to reform the Congress and the Governments formed by it. But the Chief Presidency Magistrate held, among other things, that the pamphlet contained matter which came within the scope of sec. 4 (1) (d) of the Press Act and convicted its author. The conviction was upheld by the High Court.

The section penalises newspapers, etc., containing words "which tend, directly or indirectly," to bring the Government into hatred or contempt, and thus introduces as it were the law of sedition into the Act. But the law of sedition as administered through the Press Act is found in effect to be worse than the substantive law of sedition. For Mr. Justice A. S. Panchapakesa Ayyar, in delivering the judgment, said:

The intention or motive in publishing matters in such pamphlets is immaterial, provided the matter . . . tends directly or indirectly to bring into hatred or contempt the Government of the day. Sedition is a major offence and has to be proved strictly . . . and I may freely admit that if this was a prosecution for sedition, the evidence on record may be inadequate to convict the appellant. . . . In other words, it is the effect of the contents of the document, 'the objective aspect,' that is covered by sec. 4 (1) (d), and not the intention or motive or 'the subjective aspect,' in uttering or publishing those words which would be material for sedition under sec. 124 A, I. P.C. It is significant that sec. 4 (1) (d) omits all the provisions found in sec. 124 A.

It obviously means that conviction is easier under this section incorporating as it does the law of sedition into the Press Act than under the law of sedition, because the evidence required under it need not be so strict. But how wide-embracing is the law of sedition itself! Chief Justice Gwyer, speaking for the Federal Court, said in *Niharendu Dutt Majumdar v. King Emperor* (1942) F. L. R. 55: "The language of sec. 124 A of the Penal Code, if read literally, even with the Explanations attached to it' would suffice to make a surprising number of

persons in the country guilty of sedition; no one, however, supposes that it is to be read in this literal sense." But if this law which requires more meticulous proof is so far-reaching, one can imagine what will be the fate of those who are prosecuted under sec. 4 (1)(d) of the Press Act, which apparently has to be literally interpreted. From the offending pamphlet of Mr. Rajagopalachari Mr. Justice Ayyar's judgment gives several quotations to show that the words used come within the mischief of sec. 4 (1)(d) of the Press Act. One such may be given here:

Congress Governments have passed emergency laws to detain without trial people who agitate to better the lot of the poor. If anybody protests against the repressive acts of the Government, he is dubbed a Communist or "fellow-traveller."

Of this passage the Judge says:

In these times, when undoubtedly there are some people who agitate not to better the lot of the poor but to better their own lot, this passage will tend directly or indirectly to bring the Government into hatred or contempt.

The conviction was upheld but the sentence reduced in view of the fact that "several people, Congressmen and others, have written pamphlets and books containing criticisms similar to the document now before me and have not been prosecuted."

High Court Recommends Repeal of Press Act

In the "Daily Pratap" case decided on 5th April, the East Punjab High Court recommended a change in the law of sedition. "We do feel," it said, "that the law of sedition in our country should no longer be left in the nebulous state in which it is by reason of the judicial decisions based on the true but nevertheless narrow principle of construction. It is desirable that the safeguards let in by the Federal Court in its judgment in Niharendu Dutt Majumdar's case should be incorporated in our law of sedition and our Press Act." It is not surprising, therefore, to find that, because the Press Act requires even less rigorous proof than the sedition law, there is a cry from the High Courts in the interest of justice for a total repeal of the Press Act.

Such a suggestion was made in the Calcutta High Court when deciding the case of the "Saptaha," a Bengali bi-weekly newspaper. A security deposit of Rs. 1,000 taken from the printer and publisher of the paper was forfeited by the Government of West Bengal, and when a petition was made against the order of forfeiture, the High Court rejected it, all the three judges holding that the article in the newspaper which brought on the order fell within the provisions of sec. 4(1)(d) of the Press Act. It is unnecessary to discuss the merits of the offending article. "In view of the statute as it stands," says Mr. Justice Chatterjee in his concurring judgment, "I am constrained to hold that the impugned article falls within the scope of section 4 of the Press Act." The criticism of the Act itself

and the recommendation for its repeal which Mr. Chatterjee's judgment contains are of far greater importance. Excerpts from this judgment follow:

It is difficult to reconcile sec. 4 of the Indian Press (Emergency Powers) Act with the working of responsible government in free and democratic India.... If the words of the Press Act are to be taken literally, Opposition newspapers would come within the mischief of that section almost every day. The attention of the legislature should be drawn to the incompatibility of the Press Act with the present democratic constitution in India.

It is true that a particular political party commands a majority in the provinces as well as at the Centre, and thus it formed the ministries functioning in the country. But another party may get into power and office in a particular province in the future. Supposing that the ministry formed by that party is extremely inefficient or connives at corruption, and the Press which reflects the Opposition states that the ministry is inefficient or abets corruption and wants its immediate removal, it would be publishing matters which would tend to bring into hatred or contempt the Government established by law and would excite disaffection towards that Government. To have an Act on the statute book which penalises such publication would make the working of responsible government or any democratic constitution in India fraught with the gravest peril.

It is for the Legislature or Parliament to determine whether the law in democratic India should be brought into line with the law of seditious libel so as to make punishable writings maliciously and designedly intended to subvert the constitution and to excite rebellion or disorder.

Chief Justice Sir Trevor Harris commented on the Press Act in this case in very similar terms. While the High Courts go out of their way to make an earnest plea for the reform of the law of sedition and for the abolition of the Press Act, the Governments at present are using in addition the even more sweeping powers of the Public Safety Acts to curb and suppress the Press.

HABEAS CORPUS APPLICATIONS

Action under Special Acts not Bona Fide

When Charge Under Ordinary Law is Pending

One Mr. Devat Lakshminarayana of Kistna was arrested and was served with a charge-sheet for an offence under the Explosive Substances Act, but instead of bringing him to trial under that Act, the Madras Government later detained him under the Public Safety Act, the grounds for detention being the same as those on which it had originally intended to prosecute him. It was alleged against him that he was clandestinely purchasing sulphur and other explosive substances and smuggling them into

Communist camps in Hyderabad State, thus endangering the peace and security of the province.

His habeas corpus application first came up for disposal (1st August) before Mr. Justice Horwill and Mr. Justice Balakrishna Aiyar, who differed on one point and gave different judgments. Mr. Justice Horwill could not see, even if all the allegations were true, the purpose of supplying Communist camps in Hyderabad State with explosives for use in Kistna district. Mr. Justice Balakrishna Aiyar, however, thought that the conditions in Hyderabad State to which area the explosive articles would be sent in the first instance could not be assumed to have no effect on the public safety of the Madras province. On another point on which the fate of the application ultimately turned both the Judges agreed. Mr. Justice Horwill said: If it was true that the activities of the detenu were dangerous he could have been prosecuted under the Explosive Substances Act, under which the maximum sentence was transportation for life. But it was said on behalf of Government that the prosecution that had already been started was not going to be proceeded with. It meant that the Government had no trustworthy evidence on which to base their allegations. In setting the Public Safety Act into motion against him, the Government did not act bona fide. Mr. Justice Balakrishna Aiyar said: "When there was a substantive charge against the individual he had to be prosecuted under the ordinary law, and it would be a dangerous practice to keep a charge under the ordinary law pending over his head and then proceed against him under these special Acts. Very often such a procedure might itself be evidence of want of good faith."

Because of the differing judgments, the case was referred to a third Judge, Mr. Justice Satyanarayana, who ordered (17th October) the petitioner to be released. His Lordship pointed out that the fact that the Government had abandoned the intention of prosecuting the petitioner was an undoubted proof that the Government did not believe in the truth of the allegations made in the grounds of the detention order. The conduct of the Government afforded in this case a basis for inferring lack of good faith on the part of the Government. The Madras Public Safety Act was not intended to enable the Government to deprive the liberty of a subject by putting forward cases which they knew fully well could not be established in a court of law.

Habeas corpus applications can now succeed only in such cases as these, in which Governments by their crudely maladroit action bring their bona fides themselves into question. If they are just a little circumspect they can go on arresting and imprisoning persons without trial, however unjust their suspicions against them might be. Their action would in that case be, wholly invulnerable.

Insufficiency of Material

No ground for validating detention order

Because the High Court decided (10th October) that the ordinance (No. 1 of 1949) extending the duration of the Madras Public Safety Act by notification was not valid, a fresh ordinance (No. 4 of 1949) was issued on 15th October re-enacting all the provisions of the Act with the modifications that the earlier ordinance had sought to introduce. The validity of this later ordinance was challenged on habeas corpus petitions presented on behalf of thirty persons detained after the original Act, according to the petitioners, had lapsed and there was none to take its place. It was the contention of the petitioners that even if Government could be held to have power to detain persons under the new ordinance, their detention must be held to be unlawful because of the insufficiency and other defects in the grounds supplied to them. The ordinance had no doubt introduced a new section (4 A), saying:

No order of detention made in respect of any person in pursuance of any of the foregoing provisions shall be deemed to be invalid or unlawful or improper on the ground of any defect, vagueness or insufficiency, or any delay in any communication made to such person under this ordinance.

But the petitioners maintained that it would be wrong to give Government the benefit of this section which was not in existence at the time they were detained but had only been latterly inserted.

On the question of the Governor's competency in issuing the ordinance, the High Court held that the Governor had the power. "A really serious objection urged on behalf of the petitioners," said Mr. Justice Govinda Menon, one of the two judges, "was that Ordinance 4 of 1949 was ultra vires because of its retrospective nature and in the field of criminal law such *ex post facto* legislation was prohibited." But on this question also His Lordship held (and the other judge concurred), relying on the decision of the Privy Council in *King-Emperor v. Benorilal Sarma* and of the Calcutta High Court in *Jnan Prosanna v. the Province of West Bengal*, that the power of a Governor to make ordinance was as wide as the power of the legislature and that there was no reason why the Governor should not be at liberty to promulgate a retrospective ordinance. The petitions were thus dismissed (November 3).

But such technical points need not arise hereafter, for the provisions of the ordinance (including sec. 4 A) have been put into the form of a Bill and will no doubt be duly passed by the legislature, no kind of defect in the material supplied to the detenu having hereafter the effect of invalidating his detention. In justification of sec. 4 A the Minister for Law said, while moving the Bill: "A number of detenues were recently released as it was held that the grounds of detention were vague. He was informed that some of the crimes reported recently had been traced to Communists so released." In order

to bring such people into the net, even vague grounds must be treated as sufficient! And Government must have at its disposal the twin engines of a highly tightened-up Public Safety Act and a ban on the Communists!

EMERGENCY PROVISIONS

"The Statesman's" Criticism

In the next issue of the BULLETIN we intend to examine the emergency provisions in the new constitution and art. 15 A dealing with preventive detention because by the time that issue will appear the provisions will have been finalised. But in the meantime we offer to our readers the very restrained but significant comments of "The Statesman," which they will surely welcome. The reproduction of these comments will also serve the purpose of proving that, if our criticism is adverse, it is not without very strong support. In its issue of 24th October, "The Statesman" writes:

"No doubt circumstances, rather than inclination, prevented Dr. Ambedkar from playing the role of a contemporary Jefferson. With recent examples before its eyes, the public can quite easily imagine situations in which there is no alternative but to suspend a provincial Administration. In time of war, or threat of war, rapid action may be needed for the safety of the State, equally so if civil commotion arises. Yet in most other democratic lands no such extensive powers as envisaged in India are considered requisite. In Britain, emergency legislation must be laid before Parliament within five days, if necessary by calling a special session. In the USA, provided Congress is not in session, the President may in case of actual (not threatened) invasion or civil commotion declare martial law in areas where civil authority has broken down, as may Governors of States during such catastrophes as floods; but the jurisdiction of the courts is not ousted, and according to the best U. S. legal opinion only Congress can suspend habeas corpus.

"Misgivings over this very point were evident in the Indian Constituent Assembly's debates. In deference to them, the articles covering the President's emergency powers were withdrawn for redrafting; but the amended version merely added the pious aspiration that their exercise should be submitted to Parliament 'as soon as may be.' Under certain circumstances that may permit delay up to six months. While India's vast distances doubtless prevent any such prompt democratic safeguard as Britain's, it should be possible to summon the Legislature within (say) thirty days instead of five, or at any rate to propose some specific alternative.

"This may appear carping criticism; a popular Administration may seem entitled to—and in fact frequently claims—public trust. But, apart from the essentially transient nature of particular Ministries, even the best, unhappily, need watching from time to time. Use of Ordinances as convenience rather than last-resort necessities; frequent conflict between the Executive and the Courts; persistence on the Statute Book not merely of current security legislation but of older laws potentially circumscribing the freedom of individuals and of the Press—all these, perhaps, are symptoms for vigilant democrats."

PROHIBITION OF MEETINGS

Restrictions in Madras Province

Inquiries are often made as to how and to what extent public meetings, demonstrations, etc., are prohibited. The conditions in this respect are similar in most provinces, and therefore the following report received from the Madras Civil Liberties Union on the state of things in that province may be taken as typical of other provinces also.

"In the City of Madras under sec. 41 of the Madras City Police Act, the Commissioner of Police has to grant permission for holding public meetings or taking processions. Such permission is not easily available to trade union workers.

"Outside the City, sec. 144 of the Cr. P. C. is applied whenever there is agitation by agricultural or industrial labour. In Tanjore district this section has been in force almost continuously from 1947 except for a few breaks. It is in force in the district now. In Kistna district the section has been continuously enforced for long periods. This entails outright prohibition unlike in Madras City where meetings may be held with the permission of the Commissioner of Police. Further, loud speakers cannot be used anywhere in the province without a payment of Rs. 2 and without taking out a licence from the nearest police station."

Firings and Press Restraints in Bombay Province

It was stated in answer to a question in the Legislative Assembly that from April, 1946, up to the end of June, 1949, firing was resorted to on 444 occasions in Greater Bombay and on 72 occasions in the districts. As a result of these firings, 106 persons were killed and 406 wounded. No judicial or quasi-judicial inquiry was held in regard to any of these firings. Nor was an enquiry committee appointed as Government was satisfied that there was sufficient justification for the firings and that they were not excessive.

It was also stated that in two years from 15th August 1947, action was taken against 62 newspapers under the Public Safety Act. Publication of 12 newspapers was banned for three to four months and of one indefinitely. Pre-censorship was imposed for two or three months on 3 newspapers and restraint orders were issued against 46 newspapers, most of which were in force for a month. Security of Rs. 3,000 was demanded from two newspapers under the Press Act of 1931.

Detenus in Madras

In replying to a debate on the Public Safety Bill in the Legislative Assembly, the Minister for Law in the Madras Government stated that in the province of Madras there were 744 detenus in November, 1948. The number went up to 1,169 on the eve of the proposed railway strike in April, 1949. The releases up to November, 1949, under orders of the High Court amounted to 69. The number released by the Government on examination of the cases, and sometimes even against the recommendations of the district authorities, came to 609. At present they had under detention 665 persons, a hundred less than the number last year.

"Ajit," an Akali paper of Delhi, was ordered on 13th November to cease publication for three months.