

All-India Civil Liberties Conference

3RD SESSION, NAGPUR

PRESIDENTIAL SPEECH

BY

SYAMA PRASAD MOOKERJEE

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I am grateful to you for asking me to preside over this Conference. The Civil Liberties Union has rendered conspicuous service in upholding the cause of civil liberty and in attempting to mobilise public opinion against recent encroachments made thereon by Government. It is indeed tragic that the very leaders of the country, who were most outspoken against the arbitrary exercise of executive power and suppression of civil rights during British regime in India, themselves forgot their previous pledges and protestations soon after they came to exercise governmental authority over their own people. At previous sessions of the Conference detailed references were made to the manner in which Government had interfered more and more with the exercise of civil rights in respect of Press laws, detention without trial and holding of public meetings and processions. I do not, therefore, wish to make a detailed reference to such instances of suppression of civil rights which have disfigured the administration of India during the last four years.

I cannot, however, refrain from referring to the manner in which the Constitution was recently amended by Parliament, curbing the fundamental rights which were guaranteed under the Constitution and were not even given a fair trial. Public opinion in this behalf was ruthlessly ignored and the changes were passed into law according to party mandates. Whenever such encroachment upon the rights and liberties of the people are to be justified, reference is made to possible developments which may arise within the country affecting the safety and security of the State. Our Constitution makes ample provision for meeting such emergencies if and when they may arise, but changes are sought to be made and normal legal procedures are attempted to be set at naught even when there is no sign of any emergency and ordinary laws are amply capable of meeting the situation. Bogies of upheaval and perilous consequences

are raised to justify the arbitrary exercise of power by Government.

Ever since the first War of Indian Independence of 1857, successive generations of brave leaders and soldiers declared their staunch faith in democracy and rule of law. They wanted to see established in their motherland a system of government which would accept the sovereignty of the people and not be founded on autocracy or dictatorship. For historical reasons it was given to the Indian National Congress to play the role of the major political party, which claimed to voice the will of the people anxious to overthrow the yoke of foreign domination. During British rule in India obnoxious laws were promulgated to crush the rights and liberties of the people and an organised Police State was established to suit the purposes of an alien rule. When the new Constitution was framed, these lawless laws were still in operation. The old traditions of bureaucratic administration and espionage which, however efficient, entirely ignored the human aspect and curbed nationalist sentiments, still held their sway. Meanwhile, the new Constitution was enacted and a deliberate decision was taken to incorporate within its framework a chapter dealing with fundamental rights. Obviously, many of the laws encroaching upon civil liberty, which were already in existence, were inconsistent with the Articles of the new Constitution. What Government should have done was to have remodelled the laws or sections thereof in accordance with the letter and spirit of the provisions of the Constitution. Instead of this, their mental equilibrium was upset by popular discontent and by reason of judicial pronouncements challenging the validity of these laws, and they proceeded to amend the Constitution and narrow the scope of the fundamental rights. They took shelter under the plea that the amendments only gave wider enabling powers to Parliament, ignoring that what was thus done was but the first inevitable step towards the ultimate diminution of the rights and liberties

of the people, which would then remain at the mercy of power-intoxicated leaders and of legislatures controlled by party whips.

One silver lining amidst the darkening clouds of governmental interference with civil rights has been the remarkable independence generally shown by the judiciary of India. We have deliberately taken the decision to have a written Constitution which acts as a check on possible tyrannies of the majority over the minority. The sanctity of that Constitution can be preserved worthily, only if it is backed by a competent and independent judiciary which alone can interpret its provisions in an atmosphere of impartiality, fully consistent with national welfare and progress. Persons in high quarters have sometimes forgotten their position and adversely criticised the attitude of the judiciary. This is indeed unfortunate. We hope and trust that the judiciary of Free India will not be cowed by frowns or favours and continue to establish precedents and traditions, which can be comparable to the best of their kind in any part of the civilised world.

If democracy is to function in India, freedom of thought and expression, whether exercised by the public or by the Press, and the right to assemble and hold meetings must be preserved with as little interference from Government as possible. No responsible citizen of India will claim that there can be any absolute exercise of civil rights in any well-ordered and composite society. Certain restrictions are inevitable, and they are justifiable on the main ground that the healthy progress of the society and the security of the State, both internal and external, are thereby ensured and protected. Detention without trial is, however, one of the most obnoxious provisions known to any civilised country that claims to uphold freedom and democracy. Such detentions may be justifiable during a period of grave emergency, but in normal times no Government should hesitate to place before a Court for trial any citizen against

whom it may have specific charges for violating the provisions of the law. Recent amendments made to the detention laws no doubt indicate a slight improvement, but fundamentally, they still continue to be a blot on the fair name and reputation of Free India. Advocacy of changes, even though they may appear to be revolutionary in character, whether in social or economic fields, should not be restricted. So long as the normal laws regarding defamation or morality are respected, so long as violence is not preached, so long as the security of the State is not imperilled, there need be no fear in the mind of any authority as to the result of free and unfettered expression of thought or opinion, specially affecting Governmental measures. The ultimate will that must prevail is that of the people themselves. If a person or a group of persons preaches certain ideologies or opinions which may appear to be improper or absurd to others, the only remedy for the latter is to carry on counter propaganda and persuade the people to come to their viewpoint by exposing the follies or frivolities of their opponents.

In our country the existence of one-party rule has been responsible, more than anything else, for the suppression of civil rights by the party in power. The last four years have witnessed tragic failure of Government in serving the interest of the common people or in fulfilling the pledges and promises given by the Congress Party before assumption of office. It is not for me on this occasion to dilate upon the reasons for this gigantic failure, for, after all, in many instances it is not the Congress alone that has failed, but there has been something wrong or weak in our national character, which has stood in the way of ample fulfilment of our political freedom. In any case, the truth remains that governmental failure has led to widespread discontent amongst all classes of people throughout the length and breadth of the country. The gap between Government and the people has become wider and wider every day. The tragedy has been heightened by the fact that instead of trying to

understand the fundamental causes of this national discontent and rectifying them to the best of their ability, Government have tried to gag the people and the Press, thereby hoping to crush the opposition. Here they have followed a line of policy which their predecessors in office, foreigners as they were, used to adopt. Just as the British authority failed to suppress popular opposition by means of repression, so also will the present Government fail to achieve their objective. The inevitable happens in such circumstances. Frustration deepens and discontent tends to go underground which ultimately causes suffering to the people and even ends autocratic rule. In their anxiety to stick to power at any cost, they have taken recourse to methods and procedures which, although they may sometimes be clothed with so-called legal sanction, are utterly unjustifiable.

In any democratic country public opinion is effectively moulded both through the platform and the Press. The Press in India today has a great responsibility to discharge. Much depends on the manner in which it functions. The record of the Indian Press during the last one century has been on the whole a proud one. It will fail in its duty if it hesitates to exercise its great influence without fear and expectation of favour, simply because Governmental power has passed into Indian hands. Sometimes doubts are freely expressed that the Indian Press may not always be capable of rising equal to the occasion, especially where the controlling authority lies in the hands of powerful groups or magnates. I do not wish to deal with this point exhaustively, but I would earnestly hope that these fears will prove groundless. In any event independent and self-respecting editors of newspapers can play a very useful role, if on crucial occasions they refuse to surrender their judgments to the mere dictates of their employers. If they adopt a code of honour of their own, remaining united especially for upholding civil right and liberty against any inroad that may be made from any quarter,

Governmental or otherwise, they are bound to be ultimately sustained by enlightened public opinion which will be roused in their favour in spite of all powerful obstruction.

There is another form of danger which may prevent the exercise of free expression of opinion. A direct attack by governmental agency is understandable; arrest or detention naturally attracts public notice. There may, however, be other kinds of unconscious restraint arising out of distribution or expectation of favours or patronage, of demoralising influence of official frowns or disfavour. Today we witness indifference and despair in many spheres of public activities and subtle pressures for prevention of ventilation of grievances relating to matters of public welfare. There is one other danger against which we have to guard ourselves in the interest of honest and efficient administration. Permanent officials, high or low, should not be brought within the purview of party politics in any manner whatsoever. They must be encouraged to function in an atmosphere of impartiality and independence, their loyalty being confined not to the party in power but to the Government of the country for the time being. If we succeed in creating in them this tradition of loyalty to the State and not to the party machine, we will be serving the real interest of the country.

We should not forget that concentrated economic power also acts as a restraint on free expression and corrodes public life. When we therefore talk of civil rights, we should not think of political rights alone but also of economic rights of the citizens of Free India. No Government can function in India with the willing consent of her people unless the inherent right of the Indian citizen to live a decent economic and social life is amply protected and implemented. Today India is groaning under the stress and strain of a deep-rooted economic malady. It is a case of both mal-production and mal-distribution of our wealth and resources. Our Constitution includes a chapter on

the directive policy of the State where some indication is given about the right of Indian citizens in respect of social and material equality and security, of health, education, housing and employment. Unfortunately, in respect of none of these and not even of the basic demand of minimum food have the rights of the people been even partially met. We must not forget that freedom of speech, even political freedom, is a function of economic power. No institution of political democracy can become safe if the economic rights and interests of citizens are at cross-purposes.

While I have emphasised the paramount need for preventing Government from acting arbitrarily, it is equally important that representatives of the public, while claiming to exercise their fundamental rights, should act with a full sense of responsibility. Rights entail duties as well. We have to protect ourselves against both possible excesses of Government and the excesses of those amongst us who, though outside Government, may be equally intolerant of differences of opinion. Criticisms may be unsparing and fearless. Propagation of ideas and ideologies may be made vigorously and elaborately. But we must strive to maintain a basic standard of public behaviour, so that the atmosphere may not degenerate into petty squabbles or scandalous and personal vituperations. Public opinion has to be so moulded as to lead it along constructive lines, based on a proper appreciation of divergent points of view.

Vigilant care must be taken to ensure that civil liberties are not interfered with so as to disturb the holding of free and fair elections during the coming general elections. In many ways, directly and indirectly, the party in power in whose hands governmental authority today rests, can manipulate matters in its favour. We must therefore demand that the official machinery must not be made to move in any way whatsoever to discriminate in favour of the party in power. This is essential not only in the interest of contesting parties in the forthcoming elections but for

the ultimate peace and safety of the country as a whole. The more we allow discontent to grow underground, the lesser the chance of our achieving peaceful adjustment of India's national problems, consistent with the needs and aspirations of her people.

I have talked about civil liberty at length as there is real danger in India today of democracy withering away if its sacredness is not preserved. Bryce described civil liberty as oxygen in the air, a life-giving spirit. Indeed it is an utter folly to assert that while Indians could claim civil liberty when India was under British rule, a different standard should be adopted after the attainment of freedom. The great remembered martyrs, the significant wars of the past are records of man's battle against Statedom in pursuit of Freedom. The Magna Charta and the Bill of Rights are landmarks in the liberation of man from the hands of his own rulers. Eternal vigilance is the price of liberty. Men have died singly or collectively so that others may live in a state of freedom. The sharp tendencies towards dictatorship and intolerance of criticisms or honest differences of opinion, which are sometimes evident in the administration of Free India today, are dangerous symptoms; they are to be boldly resisted and checked by the united efforts of all freedom-loving citizens of India, irrespective of party affiliation.

Today our country is passing through a critical period, especially on account of the tension between India and Pakistan. However much we may feel the need for upholding the rights and privileges of the people, so that through free and frank exchange of ideas and ideologies, democracy may successfully thrive and people may prosper, we can never allow anything to be done which may destroy the stability of our State. We must distinguish the sacredness and sanctity of our State from the functioning of a particular Government that may be in power for the time being. Parties may rise and fall. Ministries may come and go. But the freedom that has come to us

after nearly 1,000 years must be eternally cherished with our life-blood. If we criticize governmental policy, we commit no treason but only discharge a duty. We do so, not for any other purpose than to ensure its efficiency and improvement, or, if necessary, to secure its ultimate replacement, for safeguarding the interest of the masses of the people. Patriotism is not the monopoly of any individual or party, nor is anybody indispensable for all time to come. Yet let us declare unequivocally that if an emergency comes, internal differences must be put in cold storage. I have not the least doubt that if the security of India is endangered in any form, all classes and sections of the Indian people will rally together for the vindication of our national rights and honour. The maintenance of civil rights and liberties is not an end in itself; it is but a means to an end, the end being the development of a strong, prosperous and happy United India. I fervently hope and pray that your association will continue to play its part worthily in shaping the destiny of our motherland and making her one of the strongest upholders of democracy and rule of law. Let our country's watchword be the noble ideals so beautifully expressed by Rabindranath Tagore in the following immortal words :

Where the mind is without fear and the head
is held high ;

Where knowledge is free ;

Where the world has not been broken up into
fragments by narrow domestic walls ;

Where words come out from the depth of truth ;

Where tireless striving stretches its arms to-
wards perfection ;

Where the clear stream of reason has not lost its
way into the dreary desert sand of dead
habit ;

Where the mind is led forward by thee into
ever-widening thought and action ;

Into that heaven of freedom, my Father, let my
country awake.

Bande Mataram.