

## Civil Liberties for Totalitarians ?

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**T**HOUGH four years have passed since the inauguration of the Constitution, the words, " Preventive Detention", still continue to deface it. Legislation taking advantage of the relevant clauses in the Constitution still exists on the statute book and only last December Parliament approved the continuance of the Central Government's Preventive Detention Act till the end of 1954. When Shri Sadhan Gupta, the blind advocate from Calcutta and the newest member of Parliament, argued that, " This Act puts our country to shame before the conscience of civilised society", he was undoubtedly conveying only the undiluted truth.

Nevertheless, some interesting problems facing democratic societies were raised by the debate in Parliament. Shri Sadhan Gupta, whose statement I have quoted is a member of the Communist Party. It is obvious, therefore, that he does not believe in democracy or in civil liberties as such. When he spoke of the " conscience of civilised society " he could not be speaking of countries like the Soviet Union, which he and the members of his party admire so much, for it hardly needs to be argued that civil liberties, as they are understood by democrats, do not exist within the Soviet Union.

The Communist Party's opposition to the Preventive Detention Act can, however, be easily explained. Totalitarian elements all over the world have always posed as champions of civil liberties wherever they have formed a minority in a democratic system. Claiming for themselves the rights and privileges of free citizens, they have used the opportunities thus provided to them for the destruction of those very rights.

It is this fact which leads many erstwhile believers in civil liberties to defend the Preventive Detention Act. They believe that the failure of democracy has been due to its inability to defend itself against totalitarian elements who have used its processes to destroy it. Unfortunately, they forget that suppression of civil liberties is a weapon which is essentially alien to democracy, that it is in fact an instrument in the normal armoury of totalitarianism of every school. Therefore, the questions which every democrat must ask himself are: Can

totalitarianism be fought with the weapons of totalitarianism? Does the end justify the means?

The experience of history suggests that it can never be so, that corrupt means must necessarily corrupt the end, that though one form of totalitarianism may be destroyed by the use of totalitarian weapons, yet its success must mean not the success of democracy but rather that of totalitarianism itself, though this may be of another form or may be constituted by another group.

Communism then can never be fought with the weapons of Communism. It must be fought rather by placing an even greater emphasis on democracy, by encouraging the growth of democratic values among the people, by exposing the true character of Communism and divesting it of the democratic pretensions which it sometimes finds useful to assume. Such an approach to the problem lays emphasis on the democratic atmosphere, for in that atmosphere Communism will find it difficult to thrive. It lays emphasis on the assimilation of the democratic values in the very core of the people's beings so that they will be able to reject outright any party that does not respect them. Finally, by an effective solution of the people's economic problems through organised, co-operative action on the part of the people themselves, it must be able to convince them of the superiority of democracy even in this sphere of activity. The social basis of Communism must be destroyed so that Communism cannot survive.

This path towards the defeat of Communism is long and arduous, but it is the only path that can reach the goal, whereas, though the use of measures like Preventive Detention and suppression of civil liberties may be easier and quicker, they do not in fact lead to the defence of democracy at all, but rather to its very negation. While constant vigilance is the price of liberty, that vigilance must be exerted as much against its erstwhile defenders as against its staunch and recognised enemies. In too many cases—witness what is happening in the USA—democracy might well say, save me from my friends.

The task of distinguishing the genuine friends from the false is by

no means easy. Besides, too often even genuine friends are misled into the camp of their opponents, for the problems to be solved are subtle and the task of keeping to the straight path is difficult.

During the debate in Parliament, for example, Acharya Kripalani and other members of the Praja Socialist Party also opposed the continuation of the Preventive Detention Act on the statute book. It is generally known also that, unlike the Communists, the Socialists do believe in democracy and the civil liberties as such, and not merely when it suits them to do so.

Nevertheless, their record in this respect is not entirely clear. Early in 1951, the Civil Liberties Conference which met in Bombay passed a Socialist-sponsored amendment to the principal resolution before the conference, which raised doubts about the Socialist attitude on this question. The main resolution opposed the imposition of a ban on any political organisation and the placing of restrictions on persons associated with them. While supporting this resolution in general the Socialists attending the conference moved an amendment that organisations acting " contrary to the broad principles of law and order in a democratic society or against national interests and the security of the country should be outlawed ". In support of this amendment Asoka Mehta referred particularly to the Communist Party's indulgence in violence and terrorism, and asserted that so long as this continued and the Communist Party did not accept a democratic programme, it was not entitled to the benefits of civil liberties.

If this line of thought is correct, then the Preventive Detention Act can hardly be opposed on principle by members of the Socialist Party, for this Act could then be described as a realistic recognition of the fact that whether the Communist Party nominally accepts a democratic programme or not at any given moment is entirely irrelevant to the question of its fundamental character. Besides, who is to decide which organisation is acting contrary to the broad principles of law and order in a democratic society, or against national interests and the security of the country, except the Government formed

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of representatives of the majority party itself?

It should be noted that there are in fact two criteria laid down in this amendment. About the undesirability of any organisation acting "contrary to the broad principles of law and order" there could not be the slightest dispute. But the fact of violence and terrorism must be irrefutably proved in a court of law in accordance with the normal law of the land. Besides this, the connection between the individuals and the organisation" must again be established clearly in a court of law, supported if possible by proof of official decisions of the Party to follow that particular policy.

But the Socialist amendment speaks also of organisations "working against national interests and the security of the country". The delightful vagueness of these phrases would warm the heart of any person interested in the destruction of democracy and all that it stands for. For, under Communism, all those who oppose the Communist Party are held to be guilty of acting against the national interests, and if therefore they are deprived of their liberty, the Socialists should have nothing to complain.

It may be that the Socialists no longer stand by the opinions expressed by them so vehemently and clearly at that time, but they have never repudiated them at any time subsequently. It may be that they never realised their full implications. In that case, there is all the more reason to reconsider the problem at this stage, when they are still out of power.

A word of warning must be uttered in another direction. During the debate, Acharya Kripalani made a remarkable statement. Making a "sporting offer" to the Government in exchange for the release of all persons detained under the Preventive Detention Act, he asked the Government, "to put us on our trial, I say, and *I hope I am also speaking for the Communists*, that we will try our best to see that so far as the members of our parties are concerned, they neither participate in nor encourage violence as long as democratic form and procedure are observed by the Treasury Benches". (italics mine.)

Let the Socialists have no illusions on this point. The Communists will 'participate in and encourage violence' whenever it is in their interest to do so. It is not because they will not do so that Preventive Detention

should be given up, but because Preventive Detention itself is as much a threat to liberty as the Communist Party. On this point there must be no confusion of thought. Communism is anti-democratic, but the way

to fight it is to encourage democracy itself and not those attitudes and ideas which are antipathic to it. There must be no illusions about the Communists, nor about Preventive Detention.

## MARTIN BURN LIMITED

NOTICE is hereby given that an Extraordinary General Meeting of the members of the abovenamed Company will be held at the Registered Office of the Company, 12, Mission Row, Calcutta, on Monday, the 1st day of March 1954, at 11 A.M. to consider and if thought fit to pass, with or without modification, the following resolutions, namely:—

1. (As an Extraordinary Resolution)—That the Authorised Capital of the Company be increased from Rs. 70,00,000 to Rs. 1,20,00,000 by the creation of 50,000 Ordinary Shares of Rs. 100 each.

2. (As a Special Resolution)—That the Articles of Association of the Company be altered in manner following:—

In Article 4, the words "at the date of adoption of these articles" shall be deleted and in the same article the figures "70,00,000" and "42,000" shall be deleted and the figures "1,20,00,000" and "92,000" substituted therefor respectively.

3. (a) That it is desirable to capitalise a sum of Rs. 42,00,000 being part of the undivided profits of the Company standing at the credit of the General Reserves and accordingly that the said sum of Rs. 42,00,000 be capitalised and that this amount be used as a capital bonus which shall be applied on behalf of the persons who are on the 1st day of March 1954, holders of the 42,000 issued Ordinary Shares of Rs 100 each in payment in full for 42,000 new Ordinary Shares of Rs 100 each and that such 42,000 new Ordinary Shares credited as fully paid, shall be accordingly allotted to such persons respectively in the proportion of one new Ordinary Share for every issued Ordinary Share held on the 1st day of March 1954, by such persons respectively and that the said new Ordinary Shares so distributed shall rank in all respects *pari passu* with the existing Ordinary Shares save and except that they will not participate in dividends declared in respect of any period ending on or before 30th April, 1953 and shall also be treated for all purposes as an increase of the nominal amount of the capital of the Company held by each such Ordinary Shareholder and not as income.

(b) That pursuant to the above resolution and in satisfaction of the said special capital bonus the Directors be and they are hereby directed to allot and distribute 42,000 new Ordinary Shares credited as fully paid up amongst the persons who are on the 1st day of March 1954, holders of the 42,000 issued Ordinary Shares of the Company in proportion to the issued Ordinary Shares held by them.

(c) That the draft of the Agreement providing for the allotment of the said new Ordinary Shares in satisfaction of the said capital bonus submitted to this Meeting and signed in the margin by the Chairman thereof by way of identification be and the same is hereby approved and that the Directors be authorised to affix the Seal of the Company to duplicate engrossments of such Agreement as and when the same shall have been signed on behalf of the members holding Ordinary Shares in the Company on the 1st day of March 1954, by some persons to be appointed by the Directors in that behalf under Article 168 of the Articles of Association of the Company.

The Share Registers of the Company will be closed from 19th February, 1954 to 1st March, 1954, inclusive.

By Order of the Board,  
MARTIN BURN LTD,  
Managing Agents.

Calcutta, 30th January, 1954.