

Appendix

Documents

Copy of Nehru's 'Rashtrapati' article, 5 October 1937 reprinted in Gopal, S. (ed.) *Selected Works of Jawaharlal Nehru*, Series One, Volume 8, Orient Longman, New Delhi, 1972, pp. 520 – 522

Example of Nehru Congress President speech: Presidential Address, Lahore, December 29, 1929 in Zaidi, A.M. (ed.) *The Encyclopaedia of Indian National Congress*, Volume 11, S. Chand & Co. Ltd., New Delhi, 1980, pp. 601 - 618

Documents from which extracts were used to analyse cognitive maps in chapter three.

1. Nehru on Religion and Secularism:

Nehru, J. Presidential Address at Punjab Provincial Conference, April 11, 1928, reprinted in Gopal, S. (ed.) *Selected Works of Jawaharlal Nehru*, Series One, Volume 3, Orient Longman, New Delhi, 1972, pp. 219 – 230

2. Nehru on Economic Development and Socialism

Nehru's Presidential Address at Lucknow, 12 April, 1936 in Zaidi, A.M. (ed.) *The Encyclopaedia of Indian National Congress*, Volume 11, S. Chand & Co. Ltd., New Delhi, 1980, pp. 83 -112

3. Nehru on Foreign policy and Internationalism

Nehru, J. *Glimpses of World History*, chapter 195 Oxford University Press, New Delhi, 1982, 'The Shadow of War', pp. 941 - 948

Selected provisions from 1947 Constitution of India from *The Constitution of India*, India Law House, New Delhi, 2004, pp. 4 – 19

Copy of Panchasheela Treaty in Appadorai, A. *Select Documents on India's Foreign Policy and Relations*, Oxford University Press, New Delhi, 1982, pp. 459 – 465

Extract from Hindu Marriage Act, 1955 from Gangrade, K.D. *Social Legislation in India*, Concept Publishing House, New Delhi, 1978, pp. 33 – 37

Extract from the Special Marriage Act, 1954 from Gangrade, K.D. *Social Legislation in India*, Concept Publishing House, New Delhi, 1978, pp. 71 - 76

Table depicting 'Structure, Process and power in planning under Nehru.'

2. The Rashtrapati¹ by Chanakya

*Rashtrapati Jawaharlal ki Jai.*² The Rashtrapati looked up as he passed swiftly through the waiting crowds, his hands went up and were joined together in salute, and his pale hard face was lit up by a smile. It was a warm personal smile and the people who saw it responded to it immediately and smiled and cheered in return.

The smile passed away and again the face became stern and sad, impassive in the midst of the emotion that it had roused in the multitude. Almost it seemed that the smile and the gesture accompanying it had little reality behind them; they were just tricks of the trade to gain the goodwill of the crowds whose darling he had become. Was it so?

Watch him again. There is a great procession and tens of thousands of persons surround his car and cheer him in an ecstasy of abandonment. He stands on the seat of the car, balancing himself rather well, straight and seemingly tall, like a god, serene and unmoved by the seething multitude. Suddenly there is that smile again, or even a merry laugh, and the tension seems to break and the crowd laughs with him, not knowing what it is laughing at. He is godlike no longer but a human being claiming kinship and comradeship with the thousands who surround him, and the crowd feels happy and friendly and takes him to its heart. But the smile is gone and the pale stern face is there again.

Is all this natural or the carefully thought-out trickery of the public man? Perhaps it is both and long habit has become second nature now. The most effective pose is one in which there seems to be least of posing, and Jawaharlal has learnt well to act without the paint and powder of the actor. With his seeming carelessness and insouciance, he performs on the public stage with consummate artistry. Whither is this going to lead him and the country? What is he aiming at with all his apparent want of aim? What lies behind that mask of his, what desires, what will to power, what insatiate longings?

1. 5 October 1937. J.N. Papers, N.M.M.L. Jawaharlal later appended the following note to this article: "This article was written by Jawaharlal Nehru, but it was published anonymously in *The Modern Review* of Calcutta, November 1937. 'Rashtrapati' is a Sanskrit word meaning Head of the State. The title is popularly used for President of the Indian National Congress. Chanakya was a famous Minister of Chandragupta, who built an empire in north India in the fourth century B.C., soon after Alexander's raid on India. Chanakya is the prototype of Machiavelli."

2. Victory to President Jawaharlal.

These questions would be interesting in any event, for Jawaharlal is a personality which compels interest and attention. But they have a vital significance for us, for he is bound up with the present in India, and probably the future, and he has the power in him to do great good to India or great injury. We must therefore seek answers to these questions.

For nearly two years now he has been President of the Congress and some people imagine that he is just a camp-follower in the Working Committee of the Congress, suppressed or kept in check by others. And yet steadily and persistently he goes on increasing his personal prestige and influence both with the masses and with all manner of groups and people. He goes to the peasant and the worker, to the zamindar and the capitalist, to the merchant and the peddler, to the Brahmin and the untouchable, to the Muslim, the Sikh, the Christian and the Jew, to all who make up the great variety of Indian life. To all these he speaks in a slightly different language, ever seeking to win them over to his side. With an energy that is astonishing at his age, he has rushed about across this vast land of India, and everywhere he has received the most extraordinary of popular welcomes. From the far north to Cape Comorin he has gone like some triumphant Caesar passing by, leaving a trail of glory and a legend behind him. Is all this for him just a passing fancy which amuses him, or some deep design, or the play of some force which he himself does not know? Is it his will to power, of which he speaks in his *Autobiography*, that is driving him from crowd to crowd and making him whisper to himself:

"I drew these tides of men into my hands
and wrote my will across the sky in stars."

What if the fancy turn? Men like Jawaharlal, with all their capacity for great and good work, are unsafe in democracy. He calls himself a democrat and a socialist, and no doubt he does so in all earnestness, but every psychologist knows that the mind is ultimately a slave to the heart and logic can always be made to fit in with the desires and irrepressible urges of a person. A little twist and Jawaharlal might turn a dictator sweeping aside the paraphernalia of a slow-moving democracy. He might still use the language and slogans of democracy and socialism, but we all know how fascism has fattened on this language and then cast it away as useless lumber.

Jawaharlal is certainly not a fascist, not only by conviction but by temperament. He is far too much of an aristocrat for the crudity and vulgarity of fascism. His very face and voice tell us that:

"Private faces in public places
are better and nicer than
public faces in private places."

The fascist face is a public face and it is not a pleasant face in public or private. Jawaharlal's face as well as his voice are definitely private. There is no mistaking that even in a crowd, and his voice at public meetings is an intimate voice which seems to speak to individuals separately in a matter-of-fact homely way. One wonders as one hears it or sees that sensitive face what lies behind them, what thoughts and desires, what strange complexes and repressions, what passions suppressed and turned to energy, what longings which he dare not acknowledge even to himself. The train of thought holds him in public speech, but at other times his looks betray him, for his mind wanders away to strange fields and fancies, and he forgets for a moment his companion and holds inaudible converse with the creatures of his brain. Does he think of the human contacts he has missed in his life's journey, hard and tempestuous as it has been; does he long for them? Or does he dream of the future of his fashioning and of the conflicts and triumphs that he would fain have? He must know well that there is no resting by the way in the path he has chosen, and even triumph itself means greater burdens. As Lawrence said to the Arabs: "There could be no rest-houses for revolt, no dividend of joy paid out." Joy may not be for him, but something greater than joy may be his, if fate and fortune are kind—the fulfilment of a life purpose.

Jawaharlal cannot become a fascist. And yet he has all the makings of a dictator in him—vast popularity, a strong will directed to a well-defined purpose, energy, pride, organisational capacity, ability, hardness, and, with all his love of the crowd, an intolerance of others and a certain contempt for the weak and the inefficient. His flashes of temper are well known and even when they are controlled, the curling of the lips betrays him. His over-mastering desire to get things done, to sweep away what he dislikes and build anew, will hardly brook for long the slow processes of democracy. He may keep the husk but he will see to it that it bends to his will. In normal times he would be just an efficient and successful executive, but in this revolutionary epoch, Caesarism is always at the door, and is it not possible that Jawaharlal might fancy himself as a Caesar?

Therein lies danger for Jawaharlal and for India. For it is not through Caesarism that India will attain freedom, and though she may prosper a little under a benevolent and efficient despotism, she will remain stunted and the day of the emancipation of her people will be delayed.

For two consecutive years Jawaharlal has been President of the Congress and in some ways he has made himself so indispensable that there are many who suggest that he should be elected for a third term. But a greater disservice to India and even to Jawaharlal can hardly be done. By electing him a third time we shall exalt one man at the cost of the Congress and make the people think in terms of Caesarism. We shall encourage in Jawaharlal the wrong tendencies and increase his conceit and pride. He will become convinced that only he can bear this burden or tackle India's problems. Let us remember that, in spite of his apparent indifference to office, he has managed to hold important offices in the Congress for the last seventeen years. He must imagine that he is indispensable, and no man must be allowed to think so. India cannot afford to have him as President of the Congress for a third year in succession.

There is a personal reason also for this. In spite of his brave talk, Jawaharlal is obviously tired and stale and he will progressively deteriorate if he continues as President. He cannot rest, for he who rides a tiger cannot dismount. But we can at least prevent him from going astray and from mental deterioration under too heavy burdens and responsibilities. We have a right to expect good work from him in the future. Let us not spoil that and spoil him by too much adulation and praise. His conceit is already formidable. It must be checked. We want no Caesars.

Presidential Address by Pandit Jawaharlal Nehru

Following is the text of the Presidential Address delivered by Pandit Jawaharlal Nehru :

Comrades—For four and forty years this National Congress has laboured for the freedom of India. During this period it has somewhat slowly, but surely, awakened national consciousness from its long stupor and built up the national movement. If, today we are gathered here at a crisis of our destiny, conscious of our strength as well as of our weakness, and looking with hope and apprehension to the future, it is well that we give first thought to those who have gone before us and who spent out their lives with little hope of reward, so that those that followed them may have the joy of achievement. Many of the giants of old are not with us and we of a later day, standing on an eminence of their creation, may often decry their efforts. That is the way of the world. But none of you can forget them or the great work they did in laying the foundations of a free India. And none of us can ever forget that glorious band of men and women who, without recking the consequences, have laid down their young lives or spent their bright youth in suffering and torment in utter protest against a foreign domination.

Many of their names even are not known to us. They laboured and suffered in silence without any expectation of public applause, and by their heart's blood they nursed the tender plant of India's freedom. While many of us temporised and compromised, they stood up and proclaimed a people's right to freedom and declared to the world that India, even in her degradation, had the spark of life in her, because she refused to submit to tyranny and serfdom. Brick by brick has our national movement been built up, and often on the prostrate bodies of her martyred sons has India advanced. The giants of old may not be with us, but the courage of old is with us still and India can yet produce

martyrs like Jatindas and Wizaya.

This is the glorious heritage that we have inherited and you wish to put me in charge of it. I know well that I occupy this honoured place by chance more than by your deliberate design. Your desire was to choose another—one who towers above all others in this present day world of ours—and there could have been no wiser choice. But fate and he conspired together and thrust me against your will and mine into this terrible seat of responsibility. Should I express my gratitude to you for having placed me in this dilemma? But I am grateful indeed for your confidence in one who strangely lacks it himself.

Changing World

You will discuss many vital national problems that face us today and your decisions may change the course of Indian history. But you are not the only people that are faced with problems. The whole world today is one vast question-mark and every country and every people is in the melting pot. The age of faith, with the comfort and stability it brings, is past, and there is questioning about everything, however permanent or sacred it might have appeared to our forefathers. Everywhere there is doubt and restlessness and the foundations of the State and Society are in process of transformation. Old established ideas of liberty, justice, property and even the family are being attacked and the outcome hangs in the balance. We appear to be in a dissolving period of history when the world is in labour and out of her travail will give birth to a new order.

India's part

No one can say what the future will bring, but we may assert with some confidence that Asia and even India, will play a determining part in future world policy. The brief day of European domination is already approaching its end. Europe has ceased to be the centre of activity and interest. The future lies with America and Asia. Owing to false and incomplete history many of us have been led to think that Europe has always dominated over the rest of the world, and Asia

has always let the legions of the West thunder past and had plunged in thought again. We have forgotten that for millenia the legions of Asia overran Europe and modern Europe itself largely consists of the descendants of these invaders from Asia. We have forgotten that it was India that finally broke the military power of Alexander. Thought has undoubtedly been the glory of Asia and specially of India, but in the field of action the record of Asia has been equally great. But none of us desires that the legions of Asia or Europe should overrun the continents again. We have all had enough of them.

India today is a part of a world movement. Not only China, Turkey, Persia and Egypt but also Russia and the countries of the West are taking part in this movement, and India cannot isolate herself from it. We have our own problems—difficult and intricate—and we cannot run away from them and take shelter in the wider problems that affect world. But if we ignore the world, we do so at our peril. Civilisation today, such as it is, is not the creation or monopoly of one people or nation. It is a composite fabric to which all countries have contributed and then have adapted to suit their particular needs. And if India has a message to give to the world as I hope she has, she has also to receive and learn much from the messages of other peoples.

Social Adjustment

When everything is changing it is well to remember the long course of Indian history. Few things in history are more amazing than the wonderful stability of the social structure in India which withstood the impact of numerous alien influences and thousands of years of change and conflict. It withstood them because it always sought to absorb them and tolerate them. Its aim was not to exterminate, but to establish an equilibrium between different cultures. Aryans and non-Aryans settled down together recognising each other's right to their culture, and outsiders who came, like the Persis, found a welcome and a place in the social order. With the coming of the Muslims, the equilibrium was disturbed, but India sought to restore it,

and largely succeeded. Unhappily for us before we could adjust our differences, the political structure broke down, the British came and we fell.

Great as was the success of India in evolving a stable society she failed and in a vital particular, and because she failed in this, she fell and remains fallen. No solution was found for the problem of equality. India deliberately ignored this and built up her social structure on inequality and we have the tragic consequences of this policy in the millions of our people who till yesterday were suppressed and had little opportunity for growth.

Religious Liberty

And yet when Europe fought her wars of religion and Christians massacred each other in the name of their Saviour, India was tolerant, although alas, there is little of this toleration today. Having attained some measure of religious liberty, Europe sought after political liberty, and political and legal equality. Having attained these also, she finds that they mean very little without economic liberty and equality. And so today politics have ceased to have much meaning and the most vital question is that of social and economic equality.

India also will have to find a solution to this problem and until she does so her political and social structure cannot have stability. That solution need not necessarily follow the example of any other country. It must, if it has to endure, be based on the genius of her people and be an outcome of her thought and culture. And when it is found, the unhappy differences between various communities, which trouble us today and keep back our freedom, will automatically disappear.

Indeed, the real differences have already largely gone, but fear of each other and distrust and suspicion remain and sow seeds of discord. The problem is how to remove fear and suspicion and, being intangible, they are hard to get at. An earnest attempt was made to do so last year by the All-Parties' Committee and much progress was made towards the goal. But we must admit with sorrow that success has not wholly crowned its efforts. Many of our Muslim and

Sikh friends have strenuously opposed the solutions suggested and passions have been roused over mathematical figures and percentages. Logic and cold reasons are poor weapons to fight fear and distrust. Only faith and generosity can overcome them. I can only hope that the leaders of various communities will have this faith and generosity in ample measure. What shall we gain for ourselves or for our community, if all of us are slaves in a slave country? And what can we lose if once we remove the shackles from India and can breathe the air of freedom again? Do we want outsiders who are not of us and who have kept us in bondage, to be the protectors of our little rights and privileges, when they deny us the very right to freedom? No majority can crush a determined minority and no minority can be protected by a little addition to its seats in a legislature. Let us remember that in the world today, almost everywhere a very small minority holds wealth and power and dominates over the great majority.

Plea for Generosity

I have no love for bigotry and dogmatism in religion and I am glad that they are weakening. Nor do I love communalism in any shape or form. I find it difficult to appreciate why political or economic rights should depend on the membership of a religious group or community. I can fully understand the right to freedom in a religion and the right to one's culture, and in India specially, which has always acknowledged and granted these rights, it should be no difficult matter to ensure their continuance. We have only to find out some way whereby we may root out the fear and distrust that darken our horizon today. The politics of a subject race are largely based on fear and hatred and we have been too long under subjection to get rid of them easily.

I was born a Hindu but I do not know how far I am justified in calling myself one or in speaking on behalf of Hindus. But birth still counts in this country and by right of birth I shall venture to submit to the leaders of the Hindus that it should be their privilege to take the lead in generosity. Generosity is not only good morals, but is often good politics and sound expediency. And it is inconceivable to me that in a free India,

the Hindus can ever be powerless. So far as I am concerned, I would gladly ask our Muslim and Sikh friends to take what they will without protest or argument from me. I know that the time is coming soon when these labels and appellations will have little meaning and when our struggle will be on an economic basis. Meanwhile, it matters little what our mutual arrangements are, provided only that we do not build up barriers which will come in the way of our future progress.

Towards the Goal

The time has indeed already come when the All Parties' Report has to be put aside and we march forward unfettered to our goal. You will remember that the resolution of the last Congress fixed a year of grace for the adoption of the All-Parties scheme. That year is nearly over and the natural issue of that decision is for this Congress to declare in favour of independence and devise sanctions to achieve it.

Viceroy's Announcement

Recently, there has been a seeming offer of peace. The Viceroy has stated on behalf of the British Government that the leaders of Indian opinion will be invited to confer with the Government on the subject of India's future constitution. The Viceroy meant well and his language was the language of peace. But even a Viceroy's goodwill and courteous phrases are poor substitutes for the hard facts that confront us. We have sufficient experience of the devious ways of British diplomacy to beware of it. The offer which the British Government made was vague and there was no commitment or promise of performance. Only by the greatest stretch of imagination could it be interpreted as a possible response to the Calcutta resolution. Many leaders of various political parties met together soon after and considered it. They gave it the most favourable interpretation, for they desired peace and were willing to go half-way to meet it. But in courteous language they made it clear what the vital conditions for its acceptance were.

Many of us who believed in independence and were convinced that the offer was only a device to lead us astray and

create division in our ranks, suffered bitter anguish and were torn with doubt. Were we justified in precipitating a terrible national struggle with all its inevitable consequences of suffering for many, when there was even an outside chance of honourable peace? With much searching of heart we signed that manifesto and I know not today if we did right or wrong. Later came the explanations and amplifications in the British Parliament and elsewhere and all doubt, if doubt there was, was removed as to the true significance of the offer. Even so your Working Committee chose to keep open the door of negotiation and left it to this Congress to take the final decision.

During the last few days there has been another discussion of this subject in the British House of Commons and the Secretary of State for India has endeavoured to point out that successive Governments have tried to prove, not only by words but by deeds also, the sincerity of their faith in regard to India. We must recognise Mr. Wedgwood Benn's desire to do something for India and his anxiety to secure the goodwill of the Indian people. But his speech and other speeches made in Parliament carry us no further. "Dominion Status in action", to which he has drawn attention has been a snare for us and has certainly not reduced the exploitation of India.

The burdens on the Indian masses are even greater today, because of this "Dominion Status in action" and the so-called constitutional reforms of ten years ago. High Commissioners in London and representatives of the League of Nations, and the purchase of stores, and Indian Governors and high officials are no parts of our demand. We want to put an end to the exploitation of India's poor and to get the reality of power and not merely the livery of office. Mr. Wedgwood Benn has given us a record of the achievements of the past decade. He could have added to it by referring to Martial Law in the Punjab and the Jallianwala Bagh shooting and the repression and exploitation that have gone on continually during this period of "Dominion Status in action." He has given us some insight into what more of Dominion Status may mean for us. It will mean the shadow of authority to a handful of Indians and more repression and exploitation of the masses.

What will this Congress do? The conditions for cooperation remain unfulfilled. Can we cooperate so long as there is no guarantee that real freedom will come to us? Can we cooperate when our comrades lie in prison and repression continues? Can we cooperate until we are assured that real peace is sought after and not merely a tactical advantage over us? Peace cannot come at the point of the bayonet, and if we are to continue to be dominated over by an alien people, let us at least be no consenting parties to it.

If the Calcutta resolution holds, we have but one goal today, that of independence. Independence is not a happy word in the world today; for it means exclusiveness and isolation. Civilisation has had enough of narrow nationalism and gropes towards a wider cooperation and inter-dependence. And if we use the word 'independence', we do so in no sense hostile to the larger ideal. Independence for us means complete freedom from British domination and British imperialism. Having attained our freedom, I have no doubt that India will welcome all attempts at world-cooperation and federation, and will even agree to give up part of her own independence to a larger group of which she is an equal member.

British Imperialism

The British Empire today is not such a group and cannot be so long as it dominates over millions of people and holds large areas of the world's surface despite the will of their inhabitants. It cannot be a true commonwealth so long as imperialism is its basis and the exploitation of other races its chief means of sustenance. The British Empire today is indeed gradually undergoing a process of political dissolution. It is in a state of unstable equilibrium. The Union of S. Africa is not a happy member of the family, nor is the Irish Free State, a willing one. Egypt drifts away. India could never be an equal member of the Commonwealth unless imperialism and all it implies is discarded. So long as this is not done, India's position in the Empire must be one of subservience and her exploitation will continue.

There is talk of world-peace and pacts have been signed by the nations of the world. But despite pacts armaments grow and beautiful language is the only homage that is paid to the goddess of peace. Peace can only come when the causes of war are removed. So long as there is the domination of one country over another, or the exploitation of one class by another, there will always be attempts to subvert the existing order and no stable equilibrium can endure. Out of imperialism and capitalism peace can never come. And it is because the British Empire stands for these and bases itself on the exploitation of the masses that we can find no willing place in it. No gain that may come to us is worth anything unless it helps in removing the grievous burdens on our masses. The weight of a great Empire is heavy to carry and long our people have endured it. Their backs are bent down and their spirit has almost broken. How will they share in the Commonwealth partnership if the burden of exploitation continues? Many of the problems we have to face are the problems of vested interests mostly created or encouraged by the British Government. The interests of the Rulers of Indian States, of British Officials and British Capital and Indian Capital and of the owners of big *Zamindaris* are ever thrust before us, and they clamour for protection. The unhappy millions who really need protection are almost voiceless and have few advocates,

A Test

We have had much controversy about Independence and Dominion Status and we have quarrelled about words. But the real thing is the conquest of power by whatever name it may be called. I do not think that any form of Dominion Status applicable to India will give us real power. A test of this power would be the entire withdrawal of the alien army of occupation and economic control. Let us, therefore, concentrate on these and the rest will follow easily.

Declaration of Independence

We stand therefore today, for the fullest freedom of India. This Congress has not acknowledged and will not acknowledge the right of the British Parliament to dictate to us in

any way. To it we make no appeal. But we do appeal to the Parliament and the conscience of the world, and to them we shall declare, I hope, that India submits no longer to any foreign domination. Today or tomorrow, who may not be strong enough to assert our will. We are very conscious of our weakness, and there is no boasting in us or pride of strength. But let no one, least of all England, mistake or under-rate the meaning or strength of our resolve. Solemnly, with full knowledge of consequences, I hope, we shall take it and there will be no turning back. A great nation cannot be thwarted for long when once its mind is clear and resolved. If today we fail and tomorrow brings no success, the day after will follow and bring achievement.

No Surrender

We are weary of strife and hunger for peace and opportunity to work constructively for our country. Do we enjoy the breaking up of our homes and the sight of our brave young men going to prison or facing the halter? Does the worker like going on strike to lose even his miserable pittance and starve? He does so by sheer compulsion when there is no other way for him. And we who take this perilous path of national strife do so because there is no other way to an honourable peace. But we long for peace, and the hand of fellowship will always be stretched out to all who may care to grasp it. But behind the hand will be a body which will not bend to injustice and a mind that will not surrender on any vital point.

With the struggle before us, the time for determining our future constitution is not yet. For two years or more we have drawn up constitutions and finally the All-Parties' Committee put a crown to these efforts by drawing up a scheme of its own which the Congress adopted for a year. The labour that went to the making of this scheme was not wasted and India has profited by it. But the year is past and we have to face new circumstances which require action rather than constitution-making. Yet we cannot ignore the problems that beset us and that will make or mar our struggle and our future constitution. We have to aim at social adjustment and equilibrium

and to overcome the forces of disruption that have been the bane of India.

Socialist Ideal

I must frankly confess that I am a socialist and a republican and am no believer in kings and princes, or in the order which produces the modern kings of industry, who have greater power over the lives and fortunes of men than even kings of old, and whose methods are as predatory as those of the old feudal aristocracy. I recognise, however, that it may not be possible for a body constituted as in this National Congress and in the present circumstances of the country to adopt a full socialistic programme. But we must realise that the philosophy of socialism has gradually permeated the entire structure of society the world over and almost the only points in dispute are the pace and methods of advance to its full realisation. India will have to go that way too if she seeks to end her poverty and inequality, though she may evolve her own methods and may adapt the ideal to the genuine of her race.

We have three major problems, the minorities, the Indian States, and labour and peasantry. I have dealt already with the question of minorities. I shall only repeat that we must give the fullest assurance by our words and our needs that their culture and traditions will be safe.

The Indian States cannot live apart from the rest of India and their rulers must, unless they accept their inevitable limitations, go the way of others who thought like them. And the only people who have a right to determine the future of the States must be the people of these states, including the rulers. This Congress which claims self-determination cannot deny it to the people of the States. Meanwhile, the Congress is perfectly willing to confer with such rulers as are prepared to do so and to devise means whereby the transition may not be too sudden. But in no event can the people of the States be ignored.

Labour

Our third major problem is the biggest of all. For India

means the peasantry and labour and to the extent that we raise them and satisfy their wants will we succeed in our task. And the measure of the strength of our national movement will be the measure of their adherence to it. We can only gain them to our side by our espousing their cause which is really the country's cause. The Congress has often expressed its good will towards them; but beyond that it has not gone. The Congress, it is said, must hold the balance fairly between capital and labour and *zamindar* and tenant.

But the balance has been and is terribly weighed on one side and to maintain the status quo is to maintain injustice and exploitation. The only way to right it is to do away with the domination of any one class over another. The All-India Congress Committee accepted this ideal of social and economic change in a resolution it passed some months ago in Bombay. I hope the Congress will also set its seal on it and will further draw up a programme of such changes as can be immediately put in operation.

In this programme perhaps the Congress as a whole cannot go very far today. But it must keep the ultimate ideal in view and work for it. The question is not one merely of wages and charity doled out by an employer or landlord. Paternalism in industry or in the land is but a form of charity with all its sting and its utter incapacity to root out the evil. The new theory of trusteeship, which some advocate, is equally barren. For trusteeship means that the power for good or evil remains with the self-appointed trustee and he may exercise it as he will. The sole trusteeship that can be fair is the trusteeship of the nation and not of one individual or a group. Many Englishmen honestly consider themselves the trustees for India, and yet to what a condition they have reduced our country.

Human Interests First

We must decide for whose benefit industry must be run and the land produce food. Today the abundance that the land produces is not for the peasant or the labourer who works on it; and industry's chief function is supposed to be to produce millionaires. However golden the harvest and

heavy the dividends, the mud-huts and hovels and nakedness of our people testify to the glory of the British Empire and of our present social system.

Our economic programme must therefore be based on a human outlook and must not sacrifice man to money. If an industry cannot be run without starving its workers, then the industry must be closed down. If the workers on the land have not enough to eat, then the intermediaries who deprive them of their full share must go. The least that every worker in the field or factory is entitled to is a minimum wage which will enable him to live in moderate comfort, and human hours of labour which do not break his strength and spirit. The All-Parties' Committee accepted the principle and included it in their recommendations. I hope the Congress will also do so and will in addition be prepared to accept its natural consequences. Further that, it will adopt the well known demands of labour for a better life, and will give every assistance to organise itself and prepare itself for the day when it can control industry on a cooperative basis.

Our Peasant Class

But industrial labour is only a small part of India, although it is rapidly becoming a force that cannot be ignored. It is the peasantry that cry loudly and piteously for relief and our programme must deal with their present condition. Real relief can only come by a great change in the land-laws and the basis of the present system of land tenure. We have among us many big landowners and we welcome them. But they must realise that the ownership of large estates by individuals, which is the outcome of a State resembling the old feudalism of Europe, is a rapidly disappearing phenomenon all over the world. Even in countries which are the strongholds of capitalism, the large estates are being split up and given to the peasantry who work on them. In India also we have large areas where the system of peasant proprietorship prevails and we shall have to extend this all over the country. I hope that in doing so, we may have the cooperation of some at least of the big landowners.

It is not possible for this Congress at its annual session

to draw up any detailed economic programme. It can only lay down some general principles and call upon the All India Congress Committee to fill in the details in cooperation with the representatives of the Trade Union Congress and other organisations which are vitally interested in this matter. Indeed, I hope that the cooperation between this Congress and the Trade Union Congress will grow and the two organisations will fight side by side in future struggles.

Conquest of Power

All these are pious hopes till we gain power, and the real problem therefore before us is the conquest of power. We shall not do so by subtle reasoning or argument or lawyers' quibbles, but by the forging of sanction to enforce the nation's will. To that end, this Congress must address itself.

The past year has been one of preparation for us and we have made every effort to reorganise and strengthen the Congress organisation. The results have been considerable and our organisation is in a better state today than at any time since the reaction which followed the non-cooperation movement. But our weaknesses are many and are apparent enough. Mutual strife, even within Congress Committees, is unhappily too common and election squabbles drain all our strength and energy. How can we fight a great fight if we cannot get over this ancient weakness of ours and rise above our petty selves? I earnestly hope that with a strong programme of action before the country, our perspective will improve and we will not tolerate this barren and demoralising strife.

Violence or Non-Violence

What can this programme be? Our choice is limited, not by our own constitution, which we can change at our will but by facts and circumstances. Article one of our constitution lays down that our methods must be legitimate and peaceful. Legitimate I hope they will always be, for we must not sully the great cause for which we stand by any deed that will bring dishonour to it and that we may ourselves

regret later. Peaceful I should like them to be, for the methods of peace are more desirable and more enduring than those of violence. Violence too often brings reaction and demoralisation in its train, and in our country especially it may lead to disruption. It is perfectly true that organised violence rules the world today and it may be that we could profit by its use. But we have not the material or the training for organised violence and individual or sporadic violence is a confession of despair. The great majority of us, I take it, judge the issue not on moral but on practical grounds, and if we reject the way of violence it is because it promises no substantial results.

Any great movement for liberation today must necessarily be a mass movement and mass movements must essentially be peaceful, except in times of organised revolt. Whether we have the non-cooperation of a decade ago or the modern industrial weapon of the general strike, the basis is peaceful organisation and peaceful action. And if the principal movement is a peaceful one, contemporaneous attempts at sporadic violence can only distract attention and weaken it. It is not possible to carry on at one and the same time the two movements, side by side. We have to choose and strictly to abide by our choice. What the choice of this Congress is likely to be I have no doubt. It can only choose a peaceful mass movement.

Should we repeat the programme and tactics of the non-cooperation movement? Not necessarily, but the basic idea must remain. Programmes and tactics must be made to fit in with circumstances and it is neither easy nor desirable for this Congress at this stage to determine them in detail. That should be the work of its executive, the All-India Congress Committee. But the principles have to be fixed.

The old programme was one of the three boycotts—Councils, law courts and schools—leading up to refusal of service in the army and non-payment of taxes. When the national struggle is at its height, I fail to see how it will be possible for any person engaged in it to continue in the courts or the schools. But still I think that it will be unwise to declare a boycott of the courts and schools at this stage.

Boycott of Legislatures

The boycott of the Legislative Councils has led to much heated debate in the past and this Congress itself has been rent in twain over it. We need not revive that controversy, for the circumstances today are entirely different. I feel that the step the Congress took some years ago to permit Congressmen to enter the Councils was an inevitable step and I am not prepared to say that some good has not resulted from it. But we have exhausted that good and there is no middle course left today between boycott and non-cooperation. All of us know the demoralisation that these sham legislatures have brought in our ranks and how many of our good men, their committees and commissions lure away. Our workers are limited in number and we can have no mass movement unless they concentrate on it and turn their backs to the palatial Council Chambers of our Legislatures. And if we declare for independence, how can we enter the Councils and carry on our humdrum and profitless activities there? No programme or policy can be laid down for ever, nor can this Congress bind the country or even itself to pursue one line of action indefinitely. But today I would respectfully urge the Congress that the only policy in regard to the Councils is a complete boycott of them. The All-India Congress Committee recommended this course in July last and the time has come to give effect to it.

This boycott will only be a means to an end. It will release energy and divert attention to the real struggle which must take the shape of the non-payment of taxes, where possible, with the cooperation of the labour movement, general strikes. But non-payment of taxes must be well organised in specific areas, and for this purpose the Congress should authorise the All India Congress Committee to take the necessary action, wherever and whenever it considers desirable.

I have not so far referred to the constructive programme of the Congress. This should certainly continue but the experience of the last few years shows us that by itself it does not carry us swiftly enough. It prepares the ground for future action and ten years' silent work is bearing fruit today.

In particular we shall, I hope, continue our boycott of foreign cloth and the boycott of British goods.

Question of Debts

Our programme must, therefore, be one of political and economic boycott. It is not possible for us, so long as we are actually independent, and even then completely, to boycott another country wholly or to sever all connection with it. But our endeavour must be to reduce all points of contact with the British Government and to rely on ourselves. We must also make it clear that India will not accept responsibility for all the debts that England has piled on her. The Gaya Congress repudiated liability to pay that debts and we must repeat this repudiation and stand by it. Such of India's public debt as has been used for purposes beneficial to India we are prepared to admit and pay back. But we wholly deny all liability to pay back the vast sums which have been raised, so that India may be held in subjection and her burdens may be increased. In particular the poverty-stricken people of India cannot agree to shoulder the burden of the wars fought by England to extend her domain consolidate her position in India. Nor can they accept the many concessions lavishly bestowed without any proper compensation on foreign exploiters.

I have not referred so far to the Indians overseas and I do not propose to say much about them. This is not from any want of fellow-feeling with our brethren in East Africa or South Africa or Fiji or elsewhere, who are bravely struggling against great odds. But their fate will be decided in the plains of India and the struggle we are launching into is as much for them as for ourselves.

Efficient Machinery Necessary.

For this struggle, we want efficient machinery. Our Congress constitution and organisation have become too archaic and slow moving and are ill-suited to times of crisis. The times of great demonstrations are past. We want quiet and irresistible action now and this can only be brought

about by the strictest discipline in our ranks. Our resolutions must be passed in order to be acted upon. The Congress will gain in strength, however small its actual membership may become, if it acts in a disciplined way. Small determined minorities have changed the fate of nations. Mobs and crowds can do little. Freedom itself involves restraint and discipline and each one of us will have to subordinate himself to the larger good.

Ever Supreme Endeavour

The Congress represents no small minority in the country and though many may be too weak to join it or to work for it, they look to it with hope and longing to bring them deliverance. Ever since the Calcutta resolution, the country has waited with anxious expectation for this great day when this Congress meets. None of us can say what and when we can achieve. We cannot command success. But success often comes to those who dare and act; it seldom goes to the timid who are ever afraid of the consequences. We play for high stakes; and if we seek to achieve great things it can only be through great dangers. Whether we succeed soon or late, none but ourselves can stop us from high endeavour and from high writing a noble page in our country's long and splendid history.

We have conspiracy cases going on in various parts of the country. They are ever with us. But the time has gone for secret conspiracy. We have now an open conspiracy to free this country from foreign rule, and you comrades, and all our countrymen and countrywomen are invited to join it. But the rewards that are in store for you are suffering and prison and it may be death. But you shall also have the satisfaction that you have done your little bit for India, the ancient, but ever young, and have helped a little in the liberation of Humanity from its present bondage.

2. Presidential Address at Punjab Provincial Conference¹

I am deeply grateful for the honour you have done me. But few of you, I fancy, will envy me my position here today. It has become customary at our congresses and conferences to refer to the crisis which continually confronts us and every year we are told that the situation is more critical than before. Too frequent reminders have made the warning lose some of its meaning and the cry of wolf often passes unheeded. But crisis or no crisis, it may be said without exaggeration that we are rapidly approaching the cross-roads of our destiny and whether we will like it or not, we shall have to make a vital choice. I do not refer to the seven uninvited gentlemen from England who have recently visited us and threaten to come again despite all protestation. Their comings and goings do not vastly excite me. But greater things are happening than the Simon Commission, vaster changes are afoot. The world is in ferment and strange forces are at work. The gods of yesterday are neglected and lie almost forgotten and new ideas and new myths convulse the people. Even from India with its immemorial and crushing weight of tradition and its fear of change, the challenge to the dead past has gone forth and increases in volume. Brave indeed must be the person who will don the role of prophet and point out with certainty the path to be pursued by us. I claim no such role and hence my hesitation in accepting the presidency of this conference.

If the framing of a policy for India as a whole offers difficulties, the Punjab has her own problems which, small in themselves, have gradually overshadowed the larger issue and effectively prevent a solution. This province has earned a most unenviable reputation.

1. Amritsar, 11 April 1928. *The Tribune*, 18 April 1928. The speech was delivered in Hindi.

The Punjab has been described as a pitfall in the way of Swaraj, as an obstacle in the onward march of those who were fighting for India's freedom. The Punjab has undoubtedly earned a bad reputation. I have, however, an affection for the Punjab. I always remember the Punjab as the Punjab of 1919, when it suffered for the whole country and gave birth to the noncooperation movement. It was due to the suffering of the Punjab that the battle for freedom acquired a fresh momentum. The place where this conference is meeting has been sanctified by the blood of our national martyrs. Your present communal dissensions will soon be forgotten; but no one can forget the memorable events of 1919. With all its defects, the Punjab is a province of action. In other provinces we can get eloquent speakers, good writers, able lawyers, but few men of action. The Punjab is the province of practical men; and we can never despair of a province or a people who have the courage of their convictions and are prepared to make all sacrifices for what they hold dear. Even if the Punjab is now treading the wrong path, there is hope that it will one day return to the right path, because it cannot be said of the Punjab that it is stagnant or lifeless. It is and has always been full of life and vigour.

The industrial revolution has not affected India as much as other countries. Without going into all these changes in detail, some aspects of them might be worthy of consideration here. Industrialism has resulted in greater production and greater wealth, in the concentration of wealth in a few countries and a few individuals and a more unequal distribution of wealth. It has resulted in a struggle for raw material and markets, and has thus brought into existence the imperialism of the last century. It has caused wars and has given rise to the colonial empires of today. It has laid the seed of future wars. And recently it has taken the shape of an economic imperialism which, without the possession of territory, is as efficient and potent in exploiting other countries as any colonial empire of yesterday. All this is well known but what is perhaps not sufficiently realised is the international character of industrialism. It has broken down national boundaries and has made each nation, however powerful it may be, dependent on other countries. The idea of nationalism is almost as strong today as it was and in its holy name wars are fought and millions slaughtered. But it is a myth which is not in keeping with reality. The world has become internationalised; production is international, markets are international and transport is international, only men's ideas continue to be governed by a dogma which has no real meaning today. No nation is really independent, they are all interdependent. The world of reality has changed utterly but our ideas continue in the old rut and thus conflicts arise and

society is ever in a ferment.

And if there is a conflict between facts and ideas in the West, how much more do we see it in India? Many of us, regardless of what is happening all around us still live in the ancient past, and imagine that we can have it back again. Some want the Vedic age, others a reproduction of the early democratic days of Islam. But

“The moving finger writes;
And having writ, moves on:
Not all thy piety nor wit
Shall lure it back to cancel half a line.”

We forget that our ancient civilisations, great as they are, were meant for different ages and different conditions. We cannot have today, in an industrial age, an early agrarian economy such as we had in Vedic times; much less can we have in our country a civilisation meant for a desert country more than 1,300 years ago. And many of our traditions and habits and customs, our social laws, our caste system, the position we give to women, and the dogmas which religion has imposed on us, are the relics of a past, suitable in those far-off days but utterly out of joint with modern conditions. They are shibboleths today, in conflict with reality. Men's ideas may lag behind but it is not possible to arrest the course of time and the evolution of life.

Where there is conflict between the two, there is friction, and stagnation and progress is slow. Where ideas come into line with realities, then that fortunate country advances with a bound. Thus we have the instance of defeated, backward, disorganised and dogma-ridden Turkey changing suddenly, almost overnight, into a great and rapidly progressing country under the inspiring leadership of Kemal Pasha. We have also the instance of Russia, where a demoralised, illiterate and disunited people were changed into men of heroic mould, who faced and conquered war, famine and disease and a world of enemies. So also will India progress when she discards the myths and dogmas in favour of the reality of today.

We thus see that the world has now become a delicate and complicated organism, each part depending on the other, and none wholly capable of standing apart. How then can India ignore the rest of the world or keep herself in splendid isolation? India must understand world forces and take her proper share in the shaping of them. India must also get her ideas in line with facts and realities. The day she does so, her progress will be stupendous.

I have referred to industrialism and its effects on the modern world. Its evils are obvious and many of us dislike them intensely. But whether we like them or not we must realise that the spread of indus-

trialism cannot be checked. Even in India it is taking giant strides and no country can stop its onward march. Must we also succumb to all the evils which come in its train or is it fruitful for us to adopt industrialism without its major evils? We must remember that industrialism means the big machine and the machine is but a tool to be used for good or ill. Let us not blame the tool if the man who holds it misuses it and causes injury thereby.

In the West industrialism has led to large scale capitalism and imperialism. Many of us who denounce British imperialism in India do not realise that it is not a phenomenon peculiar to the British race or to India, or that it is the necessary consequence of industrial development on capitalist lines. For capitalism necessarily leads to exploitation of one man by another, one group by another, and one country by another. Therefore we are opposed to this imperialism and exploitation. We must also be opposed to capitalism as a system and to the domination of one country over another. The only alternative that is offered to us is some form of socialism, that is the state ownership of the means of production and distribution. We cannot escape the choice and if we really care for a better order of society and for ending the exploitation of man by man, we cannot but cast our weight on the side of socialism.

And if we so decide, what consequences follow? The necessary result is that we must not only fight British dominion in India on nationalistic ground but also on social and industrial grounds. This is all the more necessary as the modern form of imperial domination is not the old crude method of possession of territory, but the subtler way of economic imperialism. England may well permit us to have a larger measure of political liberty but this will be worth little if she holds economic dominion over us. And no Indian, capitalist or socialist, if he appreciates the full significance of this new slavery, can willingly submit to it.

Another consequence that must follow the adoption of the socialistic viewpoint is over changing all such customs as are based on privilege and birth, and caste and the like. From our future society we must cast out all parasites, so that the many who lack utterly the good things of life may also share in them to some extent. We must remember that poverty and want are no longer economic necessities; although under the present anarchic capitalist system they may be inevitable. The world and our country produce enough or can produce enough for the masses to attain a high standard of well-being, but unhappily the good things are cornered by a few and millions live in utter want. In India, the classic land of famine, famines are not caused by want of food but by the want of money to buy food. We have famines of money, not food.

The third consequence will affect our international contact and our international outlook. If we are opposed to imperialism and know that this is a phase of capitalism we must oppose the latter wherever we may meet it. England as a premier capitalistic and imperialistic power becomes our chief opponent in this field also, and there can be no effective cooperation between India and England so long as she does not come into line with modern progressive thought.

In the light of these considerations let us briefly examine the question of independence for India. Even if the National Congress had not pronounced in its favour, I am sure none of you would require to be converted to it. But some of our elders and friends suffer strangely from various complexes and delusions and the British Empire is one of them. They cannot get out of the professions and habits of a lifetime, nor can they rid themselves of the chains of their own fashioning. What is the British Empire today—"The third British Empire"—as an ardent advocate has called it? If we leave out India and the dependencies, it is like the famous Cheshire cat in *Alice in Wonderland* whose body has entirely disappeared and only the grin has remained. How long can this disembodied grin remain, I leave it to you to judge. The world has judged already and few imagine that it will endure long. The empire is fast approaching dissolution and a world crisis may end it. The British people have shown extraordinary ability in adapting themselves to changing circumstances and to this they owe their strength and the long lease of power that they have enjoyed. But the world is moving too fast for them and recent events, specially in relation to India, indicate that their old skill is gone. But whether the empire endures or not, how can India find a place in it when her national and international and economic interests conflict with it in almost every vital matter? We must recognise internationalism of today and act internationally if we are to face realities. We cannot be independent in the narrow sense. When we talk of independence we mean the severance of the British connection. Afterwards we can develop the friendliest contact with other countries including England. The British Commonwealth, in spite of its high-sounding name, does not stand for this international cooperation, and in its world policy has consistently stood for a narrow and selfish ideal and against the peace of the world.

If independence is our only and inevitable goal, we cannot in logic, in decency, ask the British to protect us from other foreign countries. I am wholly prepared to accept the argument that if we want British help to defend our frontiers, we are not fit for independence. But I wholly deny that we cannot face the risk of foreign invasion without British aid. No country is strong enough today, with the possible ex-

ception of the United States of America, to withstand a group of hostile countries. England certainly is not. But no one will say that England should, therefore, be deprived of her independence and put under alien control. The security of a country depends on many factors, on its relations with its neighbours and on the world situation generally. If the problem of Indian defence is examined in the light of these factors, the strength of India becomes obvious. She has no great dangers to face and in a military sense she is by no means weak. But even if there were danger, it is shameful and cowardly to seek for help from a nation which was in the past and is today oppressing us and preventing all growth. Whatever independence may or may not mean and whether we use that word or another, the one thing that we must keep in the forefront of our programme is the immediate withdrawal of the British army of occupation from this country. That is the real meaning of freedom. Unless that takes place, all other talk is merely moonshine.

We may demand freedom for our country on many grounds. Ultimately it is the economic problem that matters. Our educated classes have so far taken the lead in the fight for Swaraj. The economic pressure on them was considerable and others were only vocal elements; and so the demand has taken the form occasionally of Indianisation of services, of higher posts being thrown open to Indians. They are to blame for these demands. They have acted as every class conscious of its interests acts. But in doing so they have seldom paid heed to deeds of the masses. Whenever vital questions affecting the masses have arisen, they have been shelved, they have been asked to stand over till Swaraj has been attained! Why confuse the issues now, it has been said, we can settle our problems later. Like all class conscious groups, they have considered themselves the most vital elements in the nation and in the name of freedom have really sought to advance their own interests and many of our intellectuals have become the staunchest defenders of the privileges of empire as soon as they had their share of the titles and power. What shall it profit the masses of this country — the peasantry, the landless labourers, the workers, the shopkeepers, the artisans — if every one of the offices held by Englishmen in India is held by Indians? It may benefit them a little as they can bring more pressure to bear on their own people than on alien government. But fundamentally this condition cannot improve until the social fabric is changed, and I think that the only effective change can be the formation of a democratic socialistic state. But even from the narrow point of view of our intellectuals, it is now well recognised that no effective pressure can be brought to bear on the British Government without mass support. But in spite of recognition there is the fear of

the masses and little is done. Mass support cannot come for a vague ideal of Swaraj. It can only come when the masses realise what Swaraj means for them. Therefore it is essential that we must clearly lay down an economic programme, must have an ultimate ideal in view and must also provide for the immediate steps to be taken to bring them relief.

Our ideals thus can only be an independent democratic state, and I would add a socialistic state; and for this we must work. What can be our methods? This is a revolutionary change from present conditions and revolutionary changes cannot be brought about by reformist tactics and methods. The reformer who is afraid of radical change or of overthrowing an oppressive regime and seeks merely to eliminate some of its abuses, becomes in reality one of its defenders. We must, therefore, cultivate a revolutionary outlook, one that devises a radical and far-reaching change, and not merely that halting outlook of the half-hearted reformer. The way of violence not being open to us in our present conditions, the only other course is some form of non-cooperation. Everything that goes towards creating a revolutionary atmosphere helps everything that lessens its hindrances. I use the word 'revolutionary' in its proper sense without any necessary connection with violence. Indeed, violence may be, and I think this is today in India the very reverse of revolution. Acts of terrorism of a hero have counter-revolutionary effect and for this reason alone, apart from any other reasons, are injurious to the national cause. No nation has yet been built upon such individual acts of terrorism.

There was a great controversy in this country some years ago on the merits of Council entry and the echoes of it still linger. It almost became a creed, a religious issue, a matter of faith. But the sole test of this, as of others, is the reaction it produces on the national mind. I can quite conceive work in the councils helping us to produce the right atmosphere in some measure. But it will only do so if it is carried on in the right spirit and with the ideal always in view, not with the desire to pursue better reformist tactics. I must confess, however, that the able and decorous parliamentarians who throng our councils cannot be mistaken for revolutionaries anywhere.

But you will tell me that all this may be very good but it is very vague. The real problem before you is how to exorcise communalism. I have already indicated to you the kind of India that I should like to build up. There is no place for communalism or dogma-ridden people in it. Communalism, of course, has to be fought ruthlessly and suppressed. But I really do not think that it is such a power as it is made out to be. It may be a giant today, but it has feet of clay. It is the outcome largely of anger and passion and when we regain our

tempers it will fade into nothingness. It is a myth with no connection with reality and it cannot endure. It is really the creation of our educated classes in search of office and employment. How does the economic interest of a Hindu or Muslim or Sikh differ from each other? Certainly not because they have to profess different faiths. It may be that if there is a vacancy for a judgeship of a High Court, or a like occasion, the raising of the communal issue may profit an individual. But how does it generally profit his community? What does it matter to the Muslim peasant whether a Hindu or Muslim is a judge in Lahore? Economic interests run along different lines. There is a great deal in common between the Muslim and Sikh and Hindu zamindars; and a great deal in common between the Muslim and Sikh and Hindu peasantry; and very little in common between a Muslim peasant and a Muslim zamindar. We must, therefore, begin to think of and act on common economic issues. If we do so, the myth of communalism will automatically disappear. Conflict there may be, but it will be between different classes and not different religions.

What communal interests are sought to be protected? I think fundamentally they are cultural. Every country in the world has cultural minorities and it is a well-recognised principle that such minorities should have the fullest autonomy so far as their culture is concerned. So also in India every considerable cultural group should be given freedom and, indeed, should be encouraged to preserve and cultivate its culture. Only thus can we build up a rich and varied and yet common culture for India. Culture would include the question of language, education and schools.

If this question of culture is settled satisfactorily, and sufficient safeguards are provided for the interests of minorities and groups which may be in danger of suppression, what remains of communalism? If in addition we replace our present system of territorial election by some method of selection by economic units, we not only introduce a more efficient and progressive system, but also do away with the problem of joint and separate electorates and the reservation of seats. It is generally recognised now, or it ought to be, that separate electorates, which are meant to protect the interests of minorities, really injure them and reduce their effective power in the State. If anybody should be against that, it is the minority. But such is the power of a myth that many of us have come to believe that separate electorates are a "valued privilege" to which we must cling on. I think a little clear thinking will convince any person who is not a bigot on the subject that separate electorates are not only a danger to the State but specially to the minority community. Personally, I am not in favour of territorial election at all,

but if it is retained I am wholly opposed to separate electorates.

I do not fancy reservation of seats on a communal basis either, but if this solution pleases people I would agree to it. We have to face realities, and the fact remains that many people feel strongly on these subjects. I am quite certain that any arrangement that may be arrived at will be of a provisional nature only. A few of us cannot bind down future generations and I trust that those who come after us will look upon all problems entirely free from all religious and communal taints. It is necessary, however, for such of us as do not believe in communalism and religion interfering with political and economic matters, to take up a strong attitude now and not permit the extremists to have it all their own way.

In the course of this fairly long address, I have referred very little to the Simon Commission. I have done so partly because the problem we have to face is a much bigger one and partly because none of you here want any convincing from me to boycott it. That boycott is going to continue in spite of the dejection of weak-hearted individuals and of well-meant attempts to "bridge the gulf."

The gulf will not be so easily bridged. And it is a folly to deceive ourselves that it can be easily bridged. Before a new bridge is built on the basis of friendship and cooperation, the present chains which tie us to England must be severed. Only then can real cooperation take place. It may be that a few of us are over-keen even now to find a way to lead them to the pleasant and sheltered paths of cooperation. If so they are welcome to them but they will be to none of us. We shall carry on this boycott regardless of back-sliders. But a boycott of the commission confined to public meetings and resolutions is the feeblest of methods. How can we make it really effective?

A boycott of British goods has been suggested and we are fully entitled to have it. I hope we shall carry it on to the best of our ability. But we must know that such a general boycott, justified as it is on sentimental grounds, cannot take us far. The only real thing that can be boycotted is British cloth. Can we bring about an effective boycott of British cloth? The present position stated roughly is, I believe, as follows: our mills in India produce one-third of the cloth consumed by us; our handloom weavers produce another third and we import from foreign countries the remaining third, of this over 90 per cent being English.

There is a strong movement in the country today to boycott British cloth only. This is perfectly justified and if we could do so we would force the hands of England. But there is the serious danger of our failing to do so. If we permit other foreign cloth to come in, British cloth will then creep in the guise of Japanese or some other foreign

cloth and it will be impossible both for the ordinary purchaser or the retailer to distinguish between the two. This practical difficulty seems to be inseparable and it would thus appear that in order to boycott British cloth we must boycott all foreign cloth. Another advantage this would bring us would be that *khadi* and mill cloth in India would cooperate with each other for the boycott. If we favour other foreign cloth, there can be no cooperation between the mills and the *khadi* producers in India. We must therefore concentrate on the boycott of all foreign cloth, thereby also helping tremendously our manufacture. A boycott of foreign cloth today really means boycott of British cloth. It means our displacing one-third of the cloth we consume and which comes from foreign countries by cloth manufactured by us. This should offer no great difficulty, if our *khadi* organisation and our cotton mills cooperate in the task instead of competing with each other. It is well known that *khadi* can be produced in almost unlimited quantities at short notice if there is demand for it. Our mills even with their existing machinery can also greatly increase their output. Thus there is no doubt that we are in a position to produce enough to boycott foreign cloth totally and in the near future, provided only the will to do so is present. It is for the public to express this will. If they do so, all other difficulties will disappear. We cannot expect those who profit by the import of foreign cloth to feel enthusiastic over the boycott; it must cause loss to the importers and others in the trade. But are we to sacrifice the interests of India and her millions for the sake of a handful of importers? Most of our millowners also have not a good record. They have in the past sought to profit by national sentiment in India, they have collected enormous dividends and yet have treated piteously the poor workers who were the foundations of their fortunes. Today instead of combating foreign cloth, many of them are competing with coarse *khadi* and are thus profiting even by the *khadi* sentiment of the people. If they could see far enough and knew their real interest, they would realise that their progress is bound up with the goodwill of the people, and their whole-hearted cooperation in the boycott would benefit them even more than it would the nation as a whole. But this cooperation can only be based on full justice to the workers in their mills and the minimum of profit.

An effective boycott is clearly possible with *khadi* and Indian mill cloth cooperating. Even if only a few millowners are agreeable to our conditions we can work with them, and I am sure that others will be drawn into our movement later. But if there is to be no cooperation with the mills, what can we do then? Our duty is clear. We must, by concentrating on *khadi* only, bring these misguided owners to reason

and make this boycott of cloth as effective as we can.

I have in an earlier part of this address referred to the coming industrialism in India and have stated that I believe it to be an inevitable process. I have no objection to the big or small machine and I think that properly used they can be made to serve man and not to dominate over him. And yet I have advocated the use of *khadi* also. I have done so, because I am convinced that in our present conditions and in the future for some time, *khadi* is a boon to the poverty-stricken millions of India. I cannot say if *khadi* will be necessary for us in the distant future. But I can say that today it supplies a very real want and wherever it has been produced, it has brought a measure of well-being in its train. The theory of its being an ideal auxiliary to agriculture would prove this; but if there was any doubt, our experience and the evidence of our eyes has removed it utterly. To bring immediate relief to our long-suffering peasantry and to make India more self-sufficient in the matter of cloth, *khadi* today is essential. The necessity for *khadi* is even greater in case of war or crisis, when automatically foreign imports will cease. How can we satisfy our needs then; our mills will make vast profits, prices of cloth will soar up and our poor folk will practically have to go naked. Only *khadi* will meet the situation then. It will supply the growing demand and will force the mills to keep their prices down. So even from the point of view of war, *khadi* is a necessity.

But if war comes, and everything indicates that it will come before long, we shall have to face other and more vital problems than that of boycott of foreign cloth. The Madras Congress has given us a lead in this matter and it is for this province to ponder over this lead, for the real burden of action will fall on the Punjab. You and your gallant soldiers have been exploited enough in the past, not in India only, but in the four quarters of the world. Even today they are made to do the dirty work of British imperialism in China, in Persia and in Mesopotamia, and they are used to suppress people who are our friends and neighbours and who have done us no harm. It is time that we put an end to this shameful exploitation of the courage of our manhood. We are told that we are not capable of defending our country against the foreign invasion, but our soldiers are capable enough of defending the British Empire, in Europe, in Asia and in Africa. You know how our man-power and our wealth were exploited by the British during the last war. You know also the measure of return that we got for our help; it was the Rowlatt Act and Martial Law in the Punjab. Are you prepared to be deluded again, to be exploited again and to be thrown into the scrap-heap again? Wise men, they say, profit by the failures

and experience of others, ordinary men by their own experience, and fools by neither. We may not be very wise, but let us not be fools either. Let us make up our mind now what we shall do when a crisis comes. Let us decide that whatever else we may or may not do, we shall not permit ourselves to be exploited by British imperialism. Let us say with the Madras Congress that, if the British Government embarks on any warlike adventure and endeavours to exploit India, it will be our duty to refuse to take any part in such a war or to cooperate with them in any way whatsoever. This will be no easy matter. It will mean our having to face and endure fines and hardship, but if we have the courage to face them and the capacity to endure them to the end and the statesmanship not to compromise, we shall emerge triumphant from this ordeal and our dear country which has so long suffered alien domination will be free again.

Presidential Address by Pt. Jawaharlal Nehru

The following is the English rendering of the Presidential Address delivered by Pt. Jawaharlal Nehru :

Comrades,

After many years I face you again from this tribune, many weary years of strife and turmoil and common suffering. It is good for us to meet again, it is good for me to see this great host of old comrades and friends, linked together by strong bonds that cannot break, to sense the old brave spirit yet again, to feel your overwhelming kindness and goodwill to one whose greatest privilege it is to have been a comrade and a soldier with all of you in a mighty struggle for freedom. I am heartened and strengthened by you, though even in this great gathering I feel a little lonely. Many a dear comrade and friend has left us, worn out, long before the normal length of our earthly days, by the stress and strain of conflict. One by one they go, leaving a void in our hearts and a dull misery in our minds. They find peace from this turmoil perhaps, and it is well, for they deserved it. They rest after their labours.

But what of us who remain behind with a heavier burden to carry? There is no rest for us or for those who languish in prison or in detention camp. We cannot rest, for rest is betrayal of those who have gone and in going handed the torch of freedom to us to keep alight; it is betrayal of the cause we have espoused and the pledge we have taken; it is betrayal of the millions who never rest.

I am weary and I have come back like a tired child yearning for solace in the bosom of our common mother, India. That solace has come to me in overflowing measure, thousands of hands have been stretched out to me in love and sympathy, millions of silent voices have carried their message of affection to my heart. How can I thank you, men and women of India? How can I express in words feelings that are too deep for utterance?

For many years now I have been a distant looker-on on this Indian scene where once I was an actor, and many a thing has

happened that has filled me with distress and anguish. I do not wish to survey this recent past of ours, which must be fresh in your memory, and which has left a sorry trail behind and many knots which are difficult to unravel. But we may not ignore it for out of that past as well as the present, we have to build our future. We have followed high ideals and we have taken pride in the fact that our means are worthy of those ideals.

We have been witnesses of many a miracle in this old and battered land of ours and yet our very success has been followed by failure and disillusion. Temporary failure has little significance when the aim is high and the struggle bound to be a long one; it is but the incentive to further effort. Often it teaches us more than a victory easily won and becomes a prelude to a greater success. But we profit by it only if we learn its lesson and search our minds for an explanation of that failure. Only by constant self-questioning, individual and national, can we keep on the right path. An easy and unthinking confidence is almost as bad as a weak submission to helpless dejection. Real failure comes only when we forget our ideals and objectives and principles and begin to wander away from the road which leads to their realization.

In this crisis of our history, therefore, let us look into ourselves and examine, without pity or prejudice, what we have done and what others have done to us, and seek to find out where we stand today. We dare not delude ourselves or evade real issues for fear of offending others, even though some of these others are comrades whom we respect. That is the way of self-deception which none who seek great and vital changes can follow except at their peril.

Sixteen years ago, under the inspiration of our leader, we took a new and long step converting this Congress from an ineffective body, feebly functioning amongst the upper classes, into a powerful democratic organization with its roots in the Indian soil and the vast masses who live on it. A handful of our old friends, representing an age and a class which had had its day, left us, fearful of this democratic upsurge, and preferring the shelter and protection of British imperialism to joining hands with the new vital forces which convulsed the country and struggled for freedom.

Historically, they lapsed into the past. But we heard the rumbling of those forces and for the moment, lined up with them and played a not unworthy part in current history. We sensed the new spirit of mass release, of psychological escape from the cramping effects of long subjection; we gloried in the breaking of the mental bonds that encompassed us. And because our minds became free we felt that political freedom could not be far, for it is often harder to break the bonds of the spirit than physical bonds and chains of iron and steel. We represented the Spirit of the Age and were marching step by step with countless others in our country and outside. The exhilaration of being in tune with the masses and with world forces came upon us and the feeling that we were the agents of historic destiny.

We were engrossed in our national struggle and the turn it took bore the powerful impress of our great leader and of our national genius. We were hardly conscious then of what was happening outside. And yet our struggle was but part of a far wider struggle for freedom, and the forces that moved us were moving millions of people all over the world and driving them into action. All Asia was astir from the Mediterranean to the Far East, from the Islamic West to the Buddhist East; Africa responded to the new spirit; Europe, broken up by the war, was struggling to find a new equilibrium. And right across a vast area in Europe and Asia, in the Soviet territories, a new conception of human freedom and social equality fought desperately against a host of enemies. There were great differences in the many aspects of this freedom struggle all over the world and we were misled by them and did not see the common background.

Yet if we are to understand these varied phenomena, and derive a lesson from them for our national struggle, we must try to see and understand the whole picture. And if we do so we cannot fail to observe an organic connection between them which endures through changing situations. If once we grasp this organic bond, the world situation becomes easier to understand and our own national problems take their proper places in the wider picture. We realise then that we cannot isolate India or the Indian problem from that of the rest of the world. To do so is to ignore the real forces that are shaping events

and to cut ourselves adrift from the vital energy that flows from them. To do so, again, is to fail to understand the significance of our own problems, and if we do not understand this how can we solve them? We are apt to lose ourselves, as we have indeed done, in petty conflicts and minor questions, like the communal problem, and forget the major issues; we are apt to waste our energy (like our moderate friends do) in interminable discussions over legal quibbles and constitutional questions.

During the troubled aftermath of the Great War came revolutionary changes in Europe and Asia, and the intensification of the struggle for social freedom in Europe, and a new aggressive nationalism in the countries of Asia. There were ups and downs, and sometimes it appeared as if the revolutionary urge had exhausted itself and things were settling down. But economic and political conditions were such that there could be no settling down, the existing structure could no longer cope with these new conditions, and all its efforts to do so were vain and fruitless. Everywhere conflicts grew and a great depression overwhelmed the world and there was a progressive deterioration, everywhere except in the wide-flung Soviet territories of the U.S.S.R., where, in marked contrast with the rest of the world, astonishing progress was made in every direction.

Two rival economic and political systems faced each other in the world and, though they tolerated each other for a while, there was an inherent antagonism between them, and they played for mastery on the stage of the world. One of them was the capitalist order which had inevitably developed into vast imperialisms, which, having swallowed the colonial world, were intent on eating each other up. Powerful still and fearful of war, which might endanger their possessions, yet they came into inevitable conflict with each other and prepared feverishly for war. They were quite unable to solve the problems that threatened them and helplessly they submitted to slow decay. The other was the new socialist order of the U.S.S.R. which went from progress to progress, though often at terrible cost, and where the problems of the capitalist world had ceased to exist.

Capitalism, in its difficulties, took to fascism with all its

brutal suppression of what western civilization had apparently stood for ; it became, even in some of its homelands, what its imperialist counterpart had long been in the subject colonial countries. Fascism and imperialism thus stood out as the two faces of the new decaying capitalism, and though they varied in different countries according to national characteristics and economic and political conditions, they represented the same forces of reaction and supported each other, and at the same time came into conflict with each other, for such conflict was inherent in their very nature. Socialism in the west and the rising nationalisms of the eastern and other dependent countries opposed this combination of fascism and imperialism. Nationalism in the East, it must be remembered, was essentially different from the new and terribly narrow nationalism of fascist countries ; the former was the historical urge to freedom, the latter the last refuge of reaction.

Thus we see the world divided up into two vast groups today—the imperialist and fascist on one side, the socialist and nationalist on the other. There is some overlapping of the two and the line between them is difficult to draw, for there is mutual conflict between the fascist and imperialist power and the nationalism of subject countries has sometimes a tendency to fascism. But the main division holds and if we keep it in mind it will be easier for us to understand world conditions and our own place in them.

Where do we stand then, we who labour for a free India ? Inevitably we take our stand with progressive forces of world which are ranged against fascism and imperialism. We have to deal with one imperialism in particular, the oldest and the most far-reaching of the modern world, but powerful as it is, it is but one aspect of world-imperialism. And that is the final argument for Indian independence and for the severance of our connection with the British Empire. Between Indian nationalism, Indian freedom and British imperialism there can be no common ground, and if we remain within the imperialist fold, whatever our name or status, whatever outward semblance, of political power we might have, we remain cribbed and confined and allied to and dominated by the capitalist world. The exploitation of our masses will still continue and all the vital social problems that face us will remain unsolved. Even real

political freedom will be out of our reach, much more so radical social changes.

With the development of the great struggle all over the world we have seen the progressive deterioration of many of the capitalist imperialist countries and an attempt at consolidation of the reactionary force under fascism or Nazism or so called 'national' governments. In India the same process has been evident to us during these past years, and stronger the nationalist movement has grown, the more have efforts been made by our imperialist rulers to break our ranks and to gather under their banner the reactionary elements in the country. The Round Table Conferences were such attempts and, though they helped our rulers in some measure, they served a useful purpose by showing us clearly the division between the imperialist and the anti-imperialist forces in the country. Unhappily we did not fully profit by this lesson and we still imagine that we can win over some of these imperialist groups to the side of Indian freedom and anti-imperialism, and in a vain attempt to do so, we suppress our ideals, blush for our objectives and tone down our activities.

Meanwhile the decay of British imperialism in India becomes ever more apparent. It cannot, by its very nature, solve our economic problems and rid us of our terrible poverty, which it has largely itself created. It subsists on a normal fare of the fiercest repression and a denial of civil and even personal liberty. It surrounds us with a wide network of spies and among the pillars of its administration, are the tribes of informers and agents provocateurs and the like. Its services try to seek comfort for their obvious deterioration and incompetence by perpetually singing songs of mutual adulation. Argument gives place to the policeman's baton and the soldier's bayonet and prison and detention camp, and even our extraordinary finances are justified by the methods of the bully. It is astonishing to find to what depths of vulgarity our rulers have descended in their ardent desire to hold on to what they have got and it is depressing, though perhaps inevitable that some of our own countrymen, more interested in British Imperialism than the British themselves, should excel at this deplorable game. So wanting in mental equilibrium are they, so obsessed by fear of the Congress and the national movement it repre-

sent that their wishes become thoughts, their thoughts inferences, and their inferences facts, solemnly stated in official publications, and on which the majesty of the British Government rests in India, and people are kept in prison and detention camp without charge or trial.

I have watched this process of moral and intellectual decay and realized, even more than I did previously, how autocratic power corrupts and degrades and vulgarizes. I have read some times the reports of the recent Assembly meetings and noted the great difference in tone and content between them and the Assembly of ten years ago. I have observed forced attempts made to discredit the Congress by a reference to the Tilak Swaraj Fund with which I was connected for many years as Secretary of the Congress. But prepared as I was for much, even I was surprised at the insinuations made against our much loved chief Rajendra Babu, and the charges brought against the Bihar Relief Fund. A mild criticism by me of official incompetence soon after the Bihar earthquake was deeply resented probably because the truth of it was realized. Newspapers that criticized the official arrangements at a subsequent earthquake were heavily penalized or suppressed. All criticism hurts the sensitive skin of the Government and its reactions are quick and far reaching. The more incompetent it grows the less it likes being told so. But this does not prevent it from indulging in reckless allegations about others.

This psychological aspect interests me even more than the more aggressive manifestations of British authority in India, for it throws light on much that has happened. It shows us how a clear and definite fascist mentality has developed among our rulers and how closely allied is imperialism to fascism. How this fascist mentality has functioned in the recent past and is functioning today, I shall not go into now. You know well the horror of these years and of the nightmare that we have all experienced. We shall not easily forget it and if there are some who have been cowed down by it, there are who have steeled themselves to a greater resolve to end this infamy in India.

But of one thing I must say a few words for to me it is one of the most vital things that I value. That is the tremendous deprivation of civil liberties in India. A government that has

to rely on the Criminal Law Amendment Act and similar laws that suppresses the press and literature, that bans hundreds of organisations, that keeps people in prison without trial and that does so many other things that are happening in India is a government that has ceased to have even a shadow of a justification for its existence. I can never adjust myself to those conditions, I find them intolerable. And yet I find many of my own countrymen complacent about them, some even supporting them, some, who have made the practice of sitting on a fence into a fine art, being neutral when such questions are discussed. And I have wondered what there was in common between them and me and those who think like I do. We in the Congress welcome all cooperation in the struggle for Indian freedom ; our doors are ever open to all who stand for that freedom and are against imperialism. But they are not open to the allies of imperialism and the supporters of repression and those who stand by the British Government in its suppression of civil liberty. We belong to opposite camps.

Recently, as you know, we have had a typical example of the way Government functions in India in the warning issued to a dear and valued comrade of ours, Subhas Chandra Bose. We who know him also know how frivolous are the charges brought against him. But even if there was substance in them we could not tolerate willingly the treatment to which he has long been subjected. He did me the honour to ask me for advice and I was puzzled and perplexed for it is no easy thing to advise another in such a matter, when such advice might mean prison. Subhas Bose has suffered enough at the cost of his health. Was I justified in adding to this mental and physical agony ? I hesitated and at first suggested to him to postpone his departure. But this advice made me unhappy and I consulted other friends and then advised him differently. I suggested that he should return to his homeland as soon as he could. But, it appears, that even before my advice reached him, he had started on his journey back to India.

This instance leads us to think of the larger problem, of the way the bogey of terrorism has been exploited by the Government to crush political activity and to cripple physically and mentally the fair province of Bengal. You know that terrorism as such is practically non-existent now in Bengal or

any part of India. Terrorism is always a sign of political immaturity in a people, just as so-called constitutionalism, where there is no democratic constitution, is a sign of political senility. Our national movement has long outgrown that immature stage, and even the odd individuals who have in the past indulged in terrorist acts have apparently given up that tragic and futile philosophy. The Congress, by its stress on peaceful and effective action, has drawn the youth of the country into its fold and all traces of terroristic activity would long have vanished but for the policy of the Government which feeds the roots out of which a helpless violence grows. But terrorism or no terrorism, government which adopts the methods which have long prevailed in Midnapore and elsewhere in Bengal stands self-condemned. Similar methods have also long prevailed in the Frontier Province, although there is no hint of terroristic activity there, and that fine man and true beloved of millions, Abdul Ghaffar Khan, still lies in prison. Excuses differ, but the real reason is the ever growing fascist mentality of our rulers.

That is one side of the picture. What of us ? I have found a spirit of disunion spreading over the land, a strange *malaise*, and petty conflicts amongst old comrades growing ever bigger and interfering with all activity. We have forgotten for the moment the larger ideals we stood for and we quarrel over petty issues. We have largely lost touch with the masses and, deprived of the life-giving energy that flows from them, we dry up and weaken and our organization shrinks and loses the power it had. First things must always come first and because we have forgotten this and argue and dispute over secondary matters, we are in danger of losing our bearings.

Every great struggle has its ups and downs and temporary failures. When such a setback occurs there is a reaction when fund of national energy is exhausted and has to be recharged. That happens again and again, and yet that is not an adequate explanation of all that has taken place. Our direct action struggles in the past were based on the masses, and especially the peasantry, but the backbone and leadership were always supplied by the middle classes, and this, under the circumstances, was inevitable. The middle classes are a group or groups; at the top, a handful of them are closely allied

to British imperialism; at the bottom are the dispossessed and other groups who have been progressively crushed by economic circumstances and out of whose ranks come the advanced political workers and revolutionaries; in between are the centre groups, which tend often to side with the advanced elements, but which also have alliances with the upper groups and live in the hope of joining their superior ranks.

A middle class leadership is thus often a distracted leadership, looking in two directions at the same time. In times of crisis and struggle, when unity of aim and activity is essential, this two-faced leadership is bound to injure the cause and to hold back when a forward move is called for. Being too much tied up with property and the goods of this world, it is fearful of losing them, and it is easier to bring pressure on it and to exhaust its stamina. And yet, paradoxically, it is only from the middle class intellectuals that revolutionary leadership comes, and we in India know that our bravest leaders and our stoutest comrades have come from the ranks of the middle classes. But by the very nature of our struggle, these front-rank leaders are taken away and the others who take their place tire and are influenced more by the static element of their class. That has been very evident during our recent struggle when our propertied classes were hit hard by the Government's drastic policy of seizure and confiscation of monies and properties, and were thus induced to bring pressure for the suspension of the struggle.

How is this problem to be solved then? Inevitably we must have middle class leadership but this must look more and more towards the masses and draw strength and inspiration from them. The Congress must be not only *for* the masses, as it claims to be, but *of* the masses; only then will it really be for the masses. I have a feeling that our relative weakness to-day is due to a certain decay of our middle class elements and our divorce from the people at large. Our policies and ideas are governed far more by this middle class outlook than by a consideration of the needs of the great majority of the population. Even the problems that trouble us are essentially middle class problems, like the communal problem, which have no significance for the masses.

This is partly due, I think, to a certain historical growth

during the last fifteen years to which we have failed to adapt ourselves, to a growing urgency of economic problems affecting the masses, and to a rising mass consciousness which does not find sufficient outlet through the Congress. This was not so in 1920 and later when there was an organic link between Congress and the masses, and their needs and desires, vague as they were, found expression in the Congress. But as those needs and desires have taken more definite shape, they have not been so welcome to other elements in the Congress and that organic connection has gone. That, though regrettable, is really a sign of growth and, instead of lamenting it, we must find a new link and a new connection on a fresh basis which allows for growth of mass consciousness within the Congress. The middle class claim to represent the masses had some justification in 1920; it has much less today, though the lower middle classes have still a great deal in common with the masses.

Partly also our divorce from the people at large is due to a certain narrowness of our Congress constitution. The radical changes made in it fifteen years ago brought it in line with existing conditions then and it drew in large numbers and became an effective instrument of national activity. Though the control and background were essentially middle-class and city, it reached the remotest village and brought with it political and economic consciousness to the masses and there was widespread discussion of national issues in city and village alike. One could feel the new life pulsating through this vast land of ours and, as we were in harmony with it, we drew strength from it. The intense repression by the Government during later years broke many of our physical and outward bonds with our countryside. But something more than that happened. The vague appeal of earlier days no longer sufficed, and on the new economic issues that were forcing themselves on us, we hesitated to give a definite opinion. Worse even than the physical divorce, there was a mental divorce between the middle class elements and the mass elements.

Our constitution no longer fitted in with changing conditions; it lost its roots in the soil and became a matter of small committees functioning in the air. It still had the mighty prestige of the Congress name behind it and this carried it a long

way, but it had lost the living democratic touch. It became a prey to authoritarianism and a battleground for rival cliques fighting for control, and, in doing so, stooping to the lowest and most objectionable tactics. Idealism disappeared and in its place there came opportunism and corruption. The constitutional structure of the Congress was unequal to facing the new situation; it could be shaken up anywhere almost by a handful of unscrupulous individuals. Only a broad democratic basis could have saved it and this was lacking.

Last year an attempt was made to revise the constitution in order to get rid of some of these evils. How far the attempt has succeeded or not, I am not competent to judge. Perhaps it has made the organization more efficient, but efficiency means little if it has no strength behind it, and strength, for us, can only come from the masses. The present constitution stresses still further the authoritarian side of the organization, and in spite of stressing rural representation does not provide effective links with the masses.

The real problem for us is, how in our struggle for independence we can join together all the anti-imperialist forces in the country, how we can make a broad front of our mass elements with the great majority of the middle classes which stands for independence. There has been some talk of a joint front but, so far as I can gather, this refers to some alliance among the upper classes probably at the expense of the masses. That surely can never be the idea of the Congress and if it favours it, it betrays the interests it has claimed to represent, and loses the very reason for its existence. The essence of a joint popular front must be uncompromising opposition to imperialism, and the strength of it must inevitably come from the active participation of the peasantry and workers.

Perhaps you have wondered at the way I have dealt at some length with the background of international affairs and not touched so far the immediate problems that fill your minds. You may have grown impatient. But I am convinced that the only right way of looking at our own problems is to see them in their proper place in a world setting. I am convinced that there is intimate connection between world events, and our national problem is but a part of the world problem of capitalist-imperialism. To look at each event apart from the others

and without understanding the connection between them must lead us to the formation of erratic and erroneous views.

Look at the vast panorama of world change today, where mighty forces are at grips with each other and dreadful war darkens the horizon. Subject peoples struggling for freedom and imperialism crushing them down; exploited classes facing their exploiters and seeking freedom and equality. Italian imperialism bombing and killing the brave Ethiopians; Japanese imperialism continuing its aggression in North China and Mongolia; British imperialism piously objecting to other countries misbehaving, yet carrying on in much the same way in India and the Frontier; and behind it all a decaying economic order which intensifies all these conflicts. Can we not see an organic connection in all these various phenomena? Let us try to develop the historic sense so that we can view current events in proper perspective and understand their real significance. Only then can we appreciate the march of history and keep step with it.

I realize that in this address I am going a little beyond the usual beat of the Congress president. But I do not want you to have me under any false pretences and we must have perfect frankness with each other. Most of you must know my views on social and economic matters for I have often given expression to them. Yet you chose me as President. I do not take that choice to mean an endorsement by you all, or by a majority, of those views, but I take it that this does mean that those views are spreading in India and that most of you will be indulgent in considering them at least.

I am convinced that the only key to the solution of the world's problems and of India's problems lies in socialism, and when I use this word I do so not in a vague humanitarian way but in the scientific, economic sense. Socialism is, however, something even more than an economic doctrine; it is a philosophy of life and as such also it appeals to me. I see no way of ending the poverty, the vast unemployment, the degradation and the subjection of the Indian people except through socialism. That involves vast and revolutionary changes in our political and social structure, the ending of vested interests in land and industry, as well as the feudal and autocratic Indian States system.

That means the ending of private property, except in a restricted sense, and the replacement of the present profit system by a higher ideal of cooperative service. It means ultimately a change in our instincts and habits and desires. In short, it means a new civilization, radically different from the present capitalist order. Some glimpse we can have of this new civilization in the territories of the U.S.S R. Much has happened there which has pained me greatly and with which I disagree, but I look upon that great and fascinating unfolding of a new order and a new civilization as the most promising feature of our dismal age. If the future is full of hope it is largely because of Soviet Russia and what it has done, and I am convinced that, if some world catastrophe does not intervene, this new civilization will spread to other lands and put an end to the wars and conflicts which capitalism feeds.

I do not know how or when this new order will come to India. I imagine that every country will fashion it after its own way and fit it in with its national genius. But the essential basis of that order must remain and be a link in the world order that will emerge out of the present chaos.

Socialism is thus for me not merely an economic doctrine which I favour; it is a vital creed which I hold with all my head and heart. I work for Indian independence because the nationalist in me cannot tolerate alien domination; I work for it even more because for me it is the inevitable step to social and economic change. I should like the Congress to become a socialist organization and to join hands with the other forces in the world who are working for the new civilization. But I realize that the majority in the Congress, as it is constituted today, may not be prepared to go thus far. We are a nationalist organization and we think and work on the nationalist plane. It is evident enough now that this is too narrow even for the limited objective of political independence, and so we talk of the masses and their economic needs. But still most of us hesitate, because of our nationalist backgrounds, to take a step which might frighten away some vested interests. Most of those interests are already ranged against us and we can expect little from them except opposition even in political struggle.

Much as I wish for the advancement of socialism in this country, I have no desire to force the issue in the Congress

and thereby create difficulties in the way of our struggle for independence. I shall cooperate gladly and with all the strength in me with all those who work for independence even though they do not agree with the socialist solution. But I shall do so stating my position frankly and hoping in course of time to convert the Congress and the country to it, for only thus can I see it achieving independence. It should surely be possible for all of us who believe in independence to join our ranks together even though we might differ on the social issue. The Congress has been in the past a broad front representing various opinions joined together by that common bond. It must continue as such even though the difference of those opinions becomes more marked.

How does socialism fit in with the present ideology of the Congress? I do not think it does. I believe in the rapid industrialization of the country and only thus I think will the standards of the people rise substantially and poverty be combated. Yet I have cooperated whole-heartedly in the past with the *khadi* programme and I hope to do so in the future because I believe that *khadi* and village industries have a definite place in our present economy. They have a social, a political and an economic value which is difficult to measure but which is apparent enough to those who have studied their effects. But I look upon them more as temporary expedients of a transition stage rather than as solutions of our vital problems. That transition stage might be a long one, and in a country like India, village industries might well play an important, though subsidiary role even after the development of industrialism. But though I cooperate in the village industries programme my ideological approach to it differs considerably from that of many others in the Congress who are opposed to industrialization and socialism.

The problem of untouchability and the *Harijans* again can be approached in different ways. For a socialist it presents no difficulty for under socialism there can be no such differentiation or victimization. Economically speaking, the *Harijans* have constituted the landless proletariat and an economic solution removes the social barriers that custom and tradition have raised.

I come now to a question which is probably occupying

your minds—the new Act passed by the British Parliament and our policy in regard to it. This Act has come into being since the last Congress met, but even at that time we had had a foretaste of it in the shape of the White Paper, and I know of no abler analysis of those provisions than that contained in the presidential address of my predecessor in this high office. The Congress rejected that proposed constitution and resolved to have nothing to do with it. The new Act, as is well known, is an even more retrograde measure and has been condemned by even the most moderate and cautious of our politicians. If we rejected the White Paper, what then are we to do with this new charter of slavery to strengthen the bonds of imperialist domination and to intensify the exploitation of our masses? And even if we forget its content for a while, can we forget the insult and injury that have accompanied it, the contemptuous defiance of our wishes, the suppression of civil liberties and the widespread repression that has been our normal lot? If they had offered to us the crown of heaven with this accompaniment and with dishonour, would we not have spurned it as inconsistent with our national honour and self-respect? What then of this?

A charter of slavery is no law for the slave, and though we may perforce submit for a while to it and to the humiliation of ordinances and the like, inherent in that enforced submission the right and the desire to rebel against it and to end it.

Our lawyers have examined this new constitution and have condemned it. But constitutions are something much more than legal documents. “The real constitution” said Ferdinand Lassalle, consists of “the actual relationships of power,” and the working of this power we see even today, after the Act has been passed. That is the constitution we have to face, not the fine phrases which are sometimes presented to us, and we can only deal with it with the strength and power generated by the people of the country.

To this Act our attitude can only be one of uncompromising hostility and a constant endeavour to end it. How can we do this?

Since my return from Europe I have had the advantage of full and frank discussion with my colleagues of the Working Committee. All of us have agreed that the Act has to be rejected

and combatted, but all of us have not been able to agree to the manner of doing so. We have pulled together in the past and I earnestly hope that we shall do so in the future, but in order to do so effectively we must recognize that there are marked differences in our outlooks. I do not yet know, as I write, what the final recommendation of the Working Committee will be on this issue. I can only, therefore, venture to put before you my own personal view on the subject, not knowing how far they represent the views of the Congressmen. I should like to make it clear, however, in fairness to my old colleagues of the Working Committee, that the majority of them do not agree with all the views I am going to express. But whether we agree or disagree, or whether we agree to differ, there is a strong desire on our part to continue to cooperate together, laying stress on our many points of agreement rather than on the differences. That is the right course for us and, as a democratic organisation that is the only course open to us.

I think that, under the circumstances, we have no choice but to contest the election to the new provincial legislatures, in the event of their taking place. We should seek election on the basis of a detailed political and economic programme, with our demand for a Constituent Assembly in the fore front. I am convinced that the only solution of our political and communal problems will come through such an Assembly, provided it is elected on an adult franchise and a mass basis. That Assembly will not come into existence till at least a semi-revolutionary situation has been created in this country and actual relationships of power, apart from paper constitutions, are such that the people of India can make their will felt. When that will happen I cannot say, but the world is too much in the grip of dynamic force today to admit of static conditions in India or elsewhere for long. We may thus have to face this issue sooner than we might expect. But, obviously, a Constituent Assembly will not come through the new Act or the new legislatures. Yet we must press this demand and keep it before our country and the world, so that when the time comes we may be ripe for it.

A Constituent Assembly is the only proper and democratic method for the framing of our constitution, and for its delegates then to negotiate a treaty with the representatives of the

British Government. But we cannot go to it with blank minds in the hope that something good will emerge out of it. Such an Assembly, in order to be fruitful, must have previous thought behind it and a definite scheme put forwards by an organised group. The actual details, as to how the Assembly is to be convened, must depend on the circumstances then existing and need not trouble us now. But it will be our function as the Congress to know exactly what we are after, to place this clearly and definitely before the Assembly, and to press for its acceptance.

One of the principal reasons for our seeking election will be to carry the message of the Congress to the millions of voters and to the scores of millions of the disfranchised, to acquaint them with our future programme and policy, to make the masses realize that we not only stand for them but that we are of them and seek to cooperate with them in removing their social and economic burdens. Our appeal and message will not be limited to the voters, for we must remember that hundreds of millions are disfranchised and they need our help most for they are at the bottom of the social ladder and suffer most from exploitation. We have seen in the past wide-spread official interference in the elections; we shall have to face that, as well as the serried and monied ranks of the reactionaries. But the real danger will come from our toning down our programme and policy in order to win over the hesitating and compromising groups and individuals. If we compromise on principles, we shall fall between two stools and deserve our fall. The only right way and the only safe way is to stand four square on our own programme and to compromise with no one who has opposed the national struggle for freedom in the past, or who is in any way giving support to British imperialism.

When we have survived the election, what then are we to do? Office or no office? A secondary matter perhaps, and yet behind that issue lie deep questions of principle and vital differences of outlook, and a decision on that either way, has far-reaching consequences. Behind it lies, somewhat hidden, the question of independence and whether we seek revolutionary changes in India or are working for party reforms under the aegis of British imperialism. We go back again in thought to the clash of ideas which preceded the changes in the Con-

gress in 1920. We made a choice then deliberately and with determination and discarded the old sterile creed of reformism. Are we to go back again to that blind and suffocating lane after all these years of brave endeavour, and to wipe out the memory of what we have done and achieved and suffered ? That is the issue and let none of us forget it when we have to give our decision. In this India, crying aloud for radical and fundamental change, in this world pregnant with revolutionary and dynamic possibility, are we to forget our mission and our historic destiny, and slide back to static futility ? And if some of us feel tired and hunger for rest and quiet, do we imagine that India's masses will follow our lead, when elemental forces and economic necessity are driving them to their inevitable goal ? If we enter the back waters, others will take our place on the bosom of the flowing stream and will dare to take the rapids and ride the torrent.

How has this question arisen ? If we express our hostility to the Act and reject the entire scheme, does it not follow logically that we should have nothing to do with the working of it and should prevent its functioning, insofar as we can ? To accept office and ministry, under the conditions of the Act, is to negate our rejection of it and to stand self condemned. National honour and self-respect cannot accept this position, for it would inevitably mean our cooperation in some measure with the repressive apparatus of imperialism, and we would become partners in this repression and in the exploitation of our people. Of course we would try to champion the rights of the people and would protest against repression, but as ministers under the Act, we could do very little to give relief, and we would have to share responsibility for the administration with the apparatus of imperialism, for the deficit budgets, for the suppression of labour and the peasantry.

It is always dangerous to assume responsibility without power, even in democratic countries ; it will be far worse with this undemocratic constitution, hedged in with safeguards and reserved powers and mortgaged funds, where we have to follow the rules and regulations of our opponents' making. Imperialism sometimes talks of cooperation but the kind of cooperation it wants is usually known as surrender and the ministers who accept office will have to do so at the price of

surrender of much that they might have stood for in public. That is a humiliating position which self-respect itself should prevent one from accepting. For our great national organisation to be party to it is to give up the very basis and background of our existence.

Self respect apart, common sense tells us that we can lose much and gain little by acceptance of office in terms of the Act. We cannot get much out of it, or else our criticism of the Act itself is wrong, and we know that it is not so. The big things for which we stand will fade into the background and petty issues will absorb our attention, and we shall lose ourselves in compromises and communal tangles, and disillusion with us will spread over the land. If we have a majority, and only then can the question of acceptance of office arise, we shall be in a position to dominate the situation and to prevent reactionaries and imperialists from profitting by it. Office will not add to our real strength, it will only weaken us by making us responsible for many things that we utterly dislike.

Again, if we are in a minority, the question of office does not arise. It may be, however, that we are on the verge of a majority and with the cooperation of other individuals and groups we can obtain office. There is nothing inherently wrong in our acting together with others on specific issues of civil liberty or economic or other demands, provided we do not compromise on any principle. But I can imagine few things more dangerous and more likely to injure us than the acceptance of office on the sufferance of others. That would be an intolerable position.

It is said that our chances at the elections would increase if we announced that we were prepared to accept offices and ministries. Perhaps that might be so for all manner of other people, eager for the spoils and patronage that office gives, would then hurry to join us. Does any Congressman imagine that this would be desirable development or that we would gain strength thereby? Again it is said that more voters would vote for us if they knew that we were going to form ministries. That might happen if we deluded them with, false promises of what we might do for them within the Act, but a quick nemesis would follow our failure to give effect to those promises, and failure would be inevitable if the promises were worth while.

There is only one straight course open to us, to go to the people with our programme and make it clear to them that we cannot give effect to the major items in it under present conditions, and therefore, while we use the platform of the legislatures to press that programme, we seek to end these imperialist bodies by creating deadlocks in them whenever we are in a position to do so. Those deadlocks should preferably take place on those programmes so that the masses might learn how ineffective for their purposes are these legislatures.

One fact is sometimes forgotten—the provision for second chambers in many of the provinces. These chambers will be reactionary and will be exploited by the Governor to check any forward tendencies in the lower house. They will make the position of a minister, who seeks advance, even more difficult and unenviable.

Some people have suggested, though their voices are hushed now, that provincial autonomy might be given on this office issue and Provincial Congress Committee should be empowered to decide it for its own province. An astonishing and fatal suggestion playing into the hands of our imperialist rulers. We who have laboured for Indian unity can never be parties to any proposal which tends to lessen that unity. That way lies disaster and a disruption of the forces working for freedom. If we agree to this, why then should we also not agree to the communal issue being decided provincially, or many other issues, where individual provinces might think differently? First issues will sink into the background, independence itself will fade away, and the narrowest provincialism raise its ugly head. Our policy must be uniform for the whole of India, and its must place first things first, and independence is the first thing of all.

So that I am convinced that for the Congress to favour the acceptance of office, or even to hesitate and waver about it, would be a vital error. It will be a pit from which it would be difficult for us to come out. Practical statemanship is against it, as well as the traditions of the Congress and the mentality we have sought to develop in the people. Psychologically, any such lead might have disastrous consequences. If we stand for revolutionary changes, as we do, we have to cultivate a revolutionary mentality among our people, and anything that goes

against it is harmful to our cause.

This psychological aspect is important. For we must never forget, and never delude our masses into imagining, that we can get any real power or real freedom through working these legislatures. We may use them certainly to advance our cause to some extent, but the burden of the struggle for freedom must fall on the masses, and primarily, therefore, our effective work must lie outside these legislatures. Strength will come from the masses and from our work among them and our organization of them.

Of secondary importance though the work in the legislatures is, we may not treat it casually and allow it to become a hindrance to our other work. Therefore it is necessary for the Congress, through its executive, to have direct control over the elections and the programme placed before the country, as well as the activity in the legislatures. Such control will inevitably, be exercised through committees and boards appointed for the purpose, but the continued existence of semi-autonomous parliamentary boards seems to be undesirable. Provision should also be made for a periodical review of all such activities so that Congressmen in general and the country should keep in touch with them and should influence them.

We have considered the provincial elections which, it is said, may take place early next year. The time is far off yet and it is by no means impossible that these elections may not take place for a much longer time, or may not take place at all, and the new Act may take its rightful place in oblivion. Much may happen in the course of the next year, and war is ever on the horizon, to upset the schemes and time-tables of our rulers. But we cannot speculate on this and we have to make provision for contingencies. The decision might even have been delayed, but dangerous and compromising tendencies seek to influence Congress policy, and the Congress cannot remain silent when the issue is raised and its whole future is in the balance.

The provincial legislatures may come, but few persons, I imagine, are confident about the coming of the federal part of this unholy structure. So far as we are concerned we shall fight against it to our utmost strength, and the primary object of our creating deadlock in the provinces and making the new

Act difficult of functioning, is to kill the Federation. With the Federation dead, the provincial end of the Act will also go and leave the slate clean for the people of India to write on. That writing, whatever it be, can never admit the right of the Indian States to continue as feudal and autocratic monarchies. They have long survived their day, propped up by an alien power, and have become the strangest anomalies in a changing world. The future has no place for autocracy or feudalism; a free India cannot tolerate the subjection of many of her children and their deprivation of human rights, nor can it ever agree to a dissection of its body and a cutting up of its limbs. If we stand for any human, political, social or economic rights for ourselves, we stand for those identical rights for the people of the states.

I have referred to the terrible suppression of civil liberties by the British Government in India. But in the states matters are even worse, and though we know that the real power behind those states is that of British imperialism, the tragic suppression of our brothers by their own countrymen is of painful significance. Indian Rulers and their ministers have spoken and acted increasingly in the approved fascist manner, and their record during the past few years especially has been one of aggressive opposition to our national demands. States which are considered advanced ban the Congress organization and offer insult to our national flag, and decree new laws to suppress the Press. What shall we say of the more backward and primitive states ?

There is one more matter concerning the Constitution Act which has given rise to much controversy. This is the communal decision. Many people have condemned it strongly and, I think, rightly; few have a good word for it. My own viewpoint is, however, somewhat different from that of others. I am not concerned so much with what it gives of this group or that but more so with the basic idea behind it. It seeks to divide India into numerous separate compartments, chiefly on a religious basis, and thus makes the development of democracy and economic policy very difficult. Indeed the communal decision and democracy can never go together. We have to admit that, under present circumstances, and so long as our politics are dominated by middle class elements, we cannot do away

with communalism altogether.

But to make a necessary exception in favour of our Muslim or Sikh friends is one thing, to spread this evil principle to numerous other groups and thus to divide up the electoral machinery and the legislature into many compartments, is a far more dangerous proposition. If we wish to function democratically the proposed communal arrangement will have to go, and I have no doubt that it will go. But it will not go by the methods adopted by the aggressive opponents of the decision. These methods result inevitably in perpetuating the decision for they help in continuing a situation which prevents any reconsideration.

I have not been enamoured of the past Congress policy in regard to the communal question and its attempts to make pacts and compromises. Yet essentially I think it was based on a sound instinct. First of all the Congress always put independence first and other questions, including the communal one, second, and refused to allow any of those other questions to take place of pride. Secondly, it argued that the communal problem had arisen from a certain set of circumstances which enabled the third party to exploit the other two. In order to solve it, one had either to get rid of the third party (and that meant independence), or get rid of that set of circumstances, which meant a friendly approach by the parties concerned and an attempt to soften the prejudice and fear that filled them. Thirdly, that the majority community must show generosity in the matter to allay the fear and suspicion that minorities, even though unreasonably, might have.

That analysis is, I think, perfectly sound. I would add that, in my opinion, a real solution of the problem will only come when economic issues, affecting all religious groups and cutting across communal boundaries, arise. Apart from the upper middle classes, who live in hopes of office and patronage, the masses and the lower middle classes have to face identical political and economic problems. It is odd and significant that all the communal demands of any group, of which so much is heard, have nothing whatever to do with these problems of the masses and the lower middle classes.

It is also significant that the principal communal leaders, Hindu or Moslem or others, are political reactionaries, quite

apart from the communal question. It is sad to think how they have sided with British imperialism in vital matters, how they have given their approval to the suppression of civil liberty, how during these years of agony they have sought to gain narrow profit for their group at the expense of the larger cause of freedom. With them there can be no cooperation, for that would mean cooperation with reaction. But I am sure that with the larger masses and the middle classes, who may have temporarily been led away by the specious claims of their communal leaders, there must be the fullest cooperation, and out of that cooperation will come a fairer solution of this problem.

I am afraid I cannot get excited over this communal issue, important as it is temporarily. It is after all a side issue and it can have no real importance in the larger scheme of things. Those who think of it as the major issue, think in terms of British imperialism continuing permanently in this country. Without that basis of thought, they would not attach so much importance to one of its inevitable off-shoots. I have no such fear and so my vision of a future India contains neither imperialism nor communalism.

Yet the present difficulty remains and has to be faced. Especially our sympathy must go to the people of Bengal who have suffered most from these communal decisions, as well as from the heavy hand of the Government. Whenever opportunity offers to improve their situation in a friendly way, we must seize it. But always the background of our action must be the national struggle for independence and the social freedom of the masses.

I have referred previously to the growing divorce between our organization and the masses. Individually many of us still have influence with the masses and our word carries weight with them, and who can measure the love and reverence of India's millions for our leader, Gandhiji? And yet organizationally we have lost that intimate touch that we had. The social reform activities of the Khadi and village industries and Harijan organizations keep large numbers of our comrades in touch with the masses and those contacts bear fruit. But they are essentially non-political and so, politically, we have largely lost touch. There are many reasons for this and some are

beyond our control. Our present Congress constitution is, I feel, not helpful in developing these contacts or in encouraging enough the democratic spirit in its primary committees. These committees are practically rolls of voters who meet only to elect delegates or representatives, and take no part in discussion or the formation of policy.

It is interesting to read in that monumental and impressive record, the Webbs' new book on Russia, how the whole Soviet structure is based on a wide and living democratic foundation. Russia is not supposed to be a democratic country after the Western pattern, and yet we find the essentials of democracy present in far greater degree amongst the masses there than anywhere else. The six hundred thousand towns and villages there have a vast democratic organization, each with its own soviet, constantly discussing, debating, criticizing, helping in the formulation of policy, electing representatives to higher committees. This organization as citizens covers the entire population over 18 years of age. There is yet another vast organization of the people as producers, and a third, equally vast, as consumers. And thus scores of millions of men and women are constantly taking part in the discussion of public affairs and actually in the administration of the country. There has been no such practical application of the democratic process in history.

All this is of course utterly beyond us, for it requires a change in the political and economic structure and much else before we can experiment that way. But we can profit by that example still and try in our own limited way to develop democracy in the lowest rungs of the Congress ladder and make the primary committee a living organization.

An additional method for us to increase our contacts with the masses is to organize them as producers and then affiliate such organizations to the Congress or have full cooperation between the two. Such organizations of producers as exist to-day, such as trade unions and peasant unions, as well as other anti-imperialist organizations could also be brought within this sphere of mutual cooperation for the good of the masses and for the struggle for national freedom. Thus Congress could have an individual as well as a corporate membership, and retaining its individual character, could influence, and be influenced by,

other mass elements.

These are big changes that I have hinted at, and I am by no means sure how they can be brought about, or whether it is possible to go far in this direction in the near future. Still we must move to some extent at least if we are to have our roots in the soil of India and draw life and strength from its millions. The subject is fascinating but complicated and can only be tackled by an expert committee which I trust will be appointed on behalf of the Congress. The report of that committee must be freely discussed so as to get the widest backing for it.

All this will take us to the next Congress. Meanwhile perhaps some urgent changes are needed in our constitution to remove anomalies and avoid difficulties. Owing to my absence I have had little experience of the working of the new constitution and cannot make any concrete suggestions. The reduction in the numbers of delegates and A.I.C.C. members would be, to some extent, desirable if there was a background of widespread activity in the primary and secondary committees. Without it, it makes us even less responsive to mass opinion, and, therefore, an increase seems desirable. But the real solution is to increase the interest and day to day activity of the lower committees.

I have been told that the manual labour franchise has not been a success and has led to a great deal of evasion. If that is so, a change is desirable for a constitution must be such as can be worked easily and without subterfuge.

The Congress is an all-inclusive body and represents many interests, but essentially it is a political organization with various subsidiary and allied organizations, like the Spinners' Association and the Village Industries Association. These allied organizations work in the economic field but they do not seek directly to remove the burdens of the peasantry under the present system of land tenure. Nor can the Congress, situated as it is, wholly function as a peasant organization, although in many provinces it has espoused the cause of the peasantry and brought them much relief. It seems to me necessary that the Congress should encourage the formation of peasant unions as well as workers' unions, and cooperate with such as already exist, so that the day to day struggle of the masses might be carried on, on the basis of their economic demands and

other grievances. This identification of the Congress with the economic struggle of the masses will bring us nearer to freedom than anything else. I would welcome also the organization of other special interests, like those of the women, in the general framework of our national struggle for freedom. The Congress would be in a position to coordinate all these vital activities and thus to base itself on the widest possible mass foundation.

There has been some talk of a militant programme and militant action. I do not know what exactly is meant, but if direct action on a national scale of civil disobedience are meant, then I would say that I see no near prospect of them. Let us not indulge in tall talk before we are ready for action. Our business today is to put our house in order, to sweep away the defeatist mentality of some people, and to build up our organisation with its mass affiliations, as well as to work amongst the masses. The time may come, and that sooner perhaps than we expect, when we might be put to the test. Let us get ready for that test. Civil disobedience and the like cannot be switched on and off when we feel like doing so. It depends on many things, some of which are beyond our control, but in these days of revolutionary change and constantly recurring crises in the world, events often move faster than we do. We shall not look for opportunities.

The major problem of India today is that of the land—of rural poverty and unemployment and a thoroughly out-of-date land system. A curious combination of circumstances has held back India during the past few generations and the political and economic garments it wears no longer fit and are torn and tattered. In some ways our agrarian conditions are not unlike those of France a hundred and fifty years ago, prior to the great revolution. They cannot continue so for long. At the same time we have become parts of international capitalism and we suffer the pains and crises which afflict this decaying system. As a result of these elemental urges and conflicts of world forces what will emerge in India none can say. But we can say with confidence that the present order has reached the evening of its day, and it is up to us to try to mould the future as we would like it to be.

The world is filled with rumours and alarms of war. In

Abyssinia bloody and cruel war has already gone on for many months and we have watched anew how hungry and predatory imperialism behaves in its mad search for colonial domains. We have watched also with admiration the brave fight of the Ethiopians for their freedom against heavy odds. You will permit me, I feel sure, to greet them on your behalf and express our deep sympathy for them. Their struggle is something more than a local struggle. It is one of the first effective checks by an African people on an advancing imperialism and already it has had far-reaching consequences.

In the Far East also war hovers on the horizon and we see an eastern imperialism advancing methodically and pitilessly over ancient China and dreaming of world empire. Imperialism shows its claws wherever it may be, in the West or in the East.

In Europe an aggressive fascism or Nazism steps continuously on the brink of war and vast armed camps arise in preparation for what seems to be the inevitable end of all this. Nations join hands to fight other nations, and progressive forces in each country ally themselves to fight the fascist menace.

Where do we come in this awful game? What part shall we play in this approaching tragedy? It is difficult to say. But we must not permit ourselves to be passive tools exploited for imperialist ends. It must be our right to say whether we join a war or not, and without that consent there should be no co-operation from us. When the time comes we may have little say in the matter, and so it becomes necessary for the Congress to declare clearly now its opposition to India's participation in any imperialist war, and every war that will be waged by imperialist Powers will be an imperialist war, whatever the excuses put forward might be. Therefore we must keep out of it and not allow Indian lives and Indian money to be sacrificed.

To the progressive forces of the world, to those who stand for human freedom and the breaking of political and social bonds, we offer our full cooperation in their struggle against imperialism and fascist reaction, for we realize that our struggle is a common one. Our grievance is not against any people or any country as such, and we know that even in imperialist England, which throttles us, there are many who do not love

imperialism and who stand for freedom.

During this period of difficulty and storm and stress, inevitably our minds and hearts turn to our great leader who has guided us and inspired us by his dynamic personality these many years. Physical illhealth prevents him now from taking his full share in public activities. Our good wishes go out to him for his rapid and complete recovery, and with those wishes is the selfish desire to have him back again amongst us. We have differed from him in the past and we shall differ from him in future about many things, and it is right that each one of us should act up to his convictions. But the bonds that hold us together are stronger and more vital than our differences, and the pledges we took together still ring in our ears. How many of us have that passionate desire for Indian independence and the raising of our poverty-stricken masses which consumes him? Many things he taught us long years ago it seem now—fearlessness and discipline and the will to sacrifice ourselves for the larger cause. That lesson may have grown dim but we have not forgotten it, nor can we ever forget him who has made us what we are and raised India again from the depths. The pledge of independence that we took together still remains to be redeemed, and we await again for him to guide us with his wise counsel.

But no leader, however great he be, can shoulder the burden single handed ; we must all share it to the best of our ability and not seek helplessly to rely on others to perform miracles. Leaders come and go ; many of our best loved captains and comrades have left us all too soon, but India goes on and so does India's struggle for freedom. It may be that many of us must suffer still and die so that India may live and be free. The promised land may yet be far from us and we may have to march wearily through the deserts, but who will take away from us that deathless hope which has survived the scaffold and immeasurable suffering and sorrow; who will dare to crush the spirit of India which has found re-birth again and after so many crucifixions ?

THE SHADOW OF WAR

August 8, 1933

IN our last letter we surveyed rapidly the continents of Asia, Africa, and the Americas. Europe remains, troublesome and quarrelsome Europe, and yet possessing many virtues.

England, so long the leading world Power, has lost her old supremacy and is trying hard to hold on to what remains. Her sea-power, which gave her security and dominance over others and enabled her to build up her empire, is no longer what it was. There was a time, not so long ago, when her navy was bigger and more powerful than that of any other two great Powers. To-day it claims equality only with that of the United States and, in case of need, the United States have the resources to outbuild England rapidly. Even more important than sea-power is air-power to-day,

and in this respect England is weaker still ; there are several Powers which have more fighting aeroplanes than she has. Her trade supremacy is also gone without hope of recovery, and her great export trade progressively declines. By means of high tariffs and preferences she is trying to preserve the Empire market for her goods. This in itself means a giving up of ambitious ideas of world trade outside the Empire. Even if success comes to her in this more limited sphere, it does not bring back to her the old supremacy. That is gone for ever. Even the limited success within the Empire is of doubtful extent and duration.

England is still, after her fierce duel with America, the financial centre of world trade, and the City of London is the central exchange for it. But this prize is losing all its lustre and value as world trade shrinks and disappears. England and other countries, by their policies of economic nationalism, tariffs, etc., are themselves helping in this shrinkage of world trade. Even if a large measure of world trade continues and the present capitalist system endures, there can be no doubt that the financial leadership of it will eventually shift to New York from London. But very probably before that happens vast changes will have taken place in the capitalist system.

England has a reputation of adapting herself to changing circumstances. The reputation is justified so long as her social basis receives no shock and her possessing classes retain their privileged position. Whether this capacity for adaptation will carry her through fundamental social changes has still to be seen. It is highly unlikely that such a change will be quietly and peacefully effected. Those who have power and privilege do not give them up willingly.

Meanwhile England is shrinking from the bigger world to her Empire, and to preserve this Empire she has agreed to great changes in its structure. The Dominions have a measure of independence, though they are tied in many ways to the British financial system. England has sacrificed much to please her growing Dominions, and yet conflicts arise between them. Australia is bound hand and foot to the Bank of England, and fear of Japanese invasion keeps her closely tied to England ; Canada's growing industries compete with some of England's and refuse to give in to them, and Canada has also numerous associations with her great neighbour, the United States ; in South Africa there is no great sentiment in favour of the Empire, though the old bitterness has now gone. Ireland stands by herself, and the Anglo-Irish trade war is still going on. The English duties on Irish goods, which were meant to frighten and coerce Ireland into submission, have had a contrary effect. They have given a tremendous push to Irish industries and agriculture, and Ireland is succeeding in becoming to a large extent a self-reliant and self-sufficient nation. Fresh factories have sprung up and grass-land is again becoming corn-land. The food that used to be exported to England is now consumed by the people, and their standards are rising. De Valera has thus triumphantly vindicated

his policy, and Ireland to-day is a thorn in British Imperial policy, aggressive, defiant, and not fitting in at all with the Ottawa deals.

England thus does not stand to gain much by her trade associations with her Dominions. She could gain much from India, for India still offers a vast market. But political conditions in India, as well as economic distress, are not favourable to British trade. By sending people to gaol one cannot force them to buy British goods. Mr. Stanley Baldwin said recently in Manchester :

“The day when we could dictate to India and tell her when and where to buy her goods was gone. The safeguard for trade was good will. We should never sell goods to India by cotton streamers on the end of a bayonet.”

Apart from internal conditions in India, England has to face fierce Japanese competition here and elsewhere in the East and in some of the Dominions.

So England is trying hard to hold on to what she has got by making of her Empire an economic unit, and adding to this such other small countries as come to terms with her, such as Denmark or the Scandinavian countries. This policy is being forced on her by the very logic of events ; there is no other way. Even to protect herself in times of war she must be more self-contained. She is therefore developing her agriculture now also. How far this imperial policy of economic nationalism will succeed no one can say now. I have suggested many difficulties which will come in the way of success. If failure comes, then the whole structure of Empire must collapse, and the English people will have to face a much lower standard of living, unless they change over to a socialist economy. But even the success of the policy is full of dangers, for it may result in the ruin of many European countries, whose trade will thus not have a sufficient outlet, and the bankruptcy of England's debtors will in its turn do harm to England's position.

Economic conflicts are also bound to arise against Japan and America. With the United States there is rivalry in many fields, and, as the world stands to-day, the United States, with her vast resources, must go ahead while England declines. This process can only lead to a quiet acceptance of defeat in the struggle by England, or to the risk of war to make a final effort to save what she has before that too goes and she is too weak to challenge her rivals.

Yet another great rival of England is the Soviet Union. They stand for diametrically opposite policies, and they glare at each other and intrigue against each other all over Europe and Asia. The two Powers may live at peace with each other for a while, but it is quite impossible to reconcile the two, for they stand for wholly different ideals.

England is a satisfied Power to-day because she has got all she wants. Her fear is that she will lose this, and the fear is justified. She tries hard to maintain the *status quo*, and thereby her present position, by using the League of Nations for this purpose. But events are too strong for her or for any Power. Undoubtedly she

is strong to-day but equally undoubtedly she weakens and declines as an imperialist Power, and we are witnessing the evening of her great Empire.

Crossing over to the continent of Europe, there is France, also an imperialist Power with a great empire in Africa and Asia. In a military sense she is the most powerful nation in Europe.¹ She has a mighty army, and she is the leader of a group of other nations : Poland, Czechoslovakia, Belgium, Rumania, Yugoslavia. And yet she fears the militant spirit of Germany, especially since the Hitler régime. Hitler has indeed succeeded in bringing about a remarkable change of feelings between capitalist France and Soviet Russia. A common enemy has made them quite friendly to each other.

In Germany the Nazi Terror still continues, and reports of new cruelties and atrocities come daily. How long this brutality will continue it is impossible to say ; it has already lasted many months, and there is no abatement of it. Such repression can never be the sign of a stable government. Probably if Germany had been strong enough in a military sense there would have been a war already in Europe. This war may yet come. Hitler is fond of saying that he is the last refuge from communism, and this may be true, for the only alternative to Hitlerism in Germany now is communism.

Italy, under Mussolini, takes a very cold, matter-of-fact, and selfish view of international politics, and does not indulge in pious phrases about peace and good will, as other nations do. She prepares for war strenuously, for she is convinced that war is bound to come before long, and meanwhile she manoeuvres for position. Being fascist, she welcomes fascism in Germany, and keeps on friendly terms with the Hitlerites ; and yet she opposes the great aim of German policy—the union with Austria. Such a union would bring the German frontier right up to the Italian, and Mussolini does not fancy this nearness of his brother fascist of Germany.²

Central Europe is a heaving mass of petty nations suffering in the grip of the slump and from the after-effects of the World War, and now thoroughly upset and frightened by Hitler and his Nazis. In all these Central European countries, and especially where there are Germans, as in Austria, Nazi parties are growing. But anti-Nazi feeling is also growing, and the result is conflict. Austria is at present the chief field for this conflict.

Some time back, in 1932, I think, the three pro-French States of Central Europe and the Danube area—Czechoslovakia, Rumania, and Yugoslavia—formed a union or alliance. All these three States had profited by the World War settlement, and they wanted to keep what they had got. For this purpose they joined together and formed what was in reality an alliance for war. This is called the “ Little *Entente* ”. This Little *Entente* comprising the three

¹ This is no longer so since German rearmament. After the Munich Pact of September 1938, France has almost become a second-class Power. Her group of alliances in Central Europe has also broken up.

² Austria was invaded and absorbed by Germany in March 1938. Mussolini was compelled by circumstances to agree to it, but Italy strongly disapproved of the change.

States practically forms a new Power in Europe, which is pro-French and anti-German and opposed to Italian policy also.

The triumph of the Nazis in Germany was a danger signal to the Little Entente as well as to Poland, for the Nazis not only wanted a revision of the Versailles Peace Treaty (all Germans wanted this), but talked in terms which seemed to bring war near. So aggressive and violent were the Nazi language and other tactics that even such States as wanted a treaty revision, like Austria and Hungary, got frightened. As a result of Hitlerism and in fear of it, all the States of Central Europe and the East which had so far bitterly hated each other drew nearer to one another—the Little Entente, Poland, Austria, Hungary, and the Balkan States. There has even been talk of an economic union between them. These countries, and notably Poland and Czechoslovakia, have also become more friendly towards Soviet Russia since the Nazi eruption in Germany. A consequence of this was the general non-aggression pact signed between them and Russia some weeks ago.

Spain, as I have told you, has recently had a revolution. It cannot settle down, and seems to hover on the brink of another change.

So you see what a curious chequer-board Europe is at present, with its conflicts and hatreds, and rival groups of nations glaring at each other. There is interminable talk of disarmament, and yet everywhere there is arming going on and new and terrible weapons of war and destruction are being invented. There is also plenty of talk of international co-operation, and conferences without number have been held. All to little purpose. The League of Nations itself is a pitiful failure, and the last effort to pull together at the World Economic Conference has also come and gone with no success. There is a proposal that the various countries of Europe, or rather Europe without Russia, should join together to form a kind of United States of Europe. The "Pan-Europe" movement this is called, and it is really an effort to form an anti-Soviet *bloc*, as well as to get over the innumerable difficulties and tangles due to there being such a large number of little nations. But national hatreds are far too powerful for any one to pay attention to such a proposal.

In reality each country is drifting farther apart from the others. The slump and world crisis have quickened this process by pushing all countries along the lines of economic nationalism. Each sits behind high tariff barriers and tries to keep out as far as possible foreign goods. It cannot, of course, keep out all foreign goods, because no country is self-sufficient—that is, capable of producing everything it requires. But the tendency is for it to grow or manufacture everything it needs. Some essential articles it may not be able to grow because of its climate. For instance, England cannot grow cotton or jute or tea or coffee and many other articles which require a warmer climate. This means that in future trade will be largely confined between countries having different climates, and therefore growing and making different articles. Countries manufacturing the same type of articles will have little use for each other's

goods. Thus trade will go north and south, and not east and west, for climates vary north and south. A tropical country may deal with a temperate or cold country, but not two tropical countries with each other, or two temperate countries. Of course there may be other considerations also, such as the mineral resources of a country. But in the main the north and south considerations will apply to international trade. All other trade will be stopped by tariff barriers.

This seems to be an inevitable tendency to-day. It is called the final phase in the industrial revolution when each country is sufficiently industrialized. It is true that Asia and Africa are far from industrialized yet. Africa is too backward and too poor to absorb manufactured goods in any quantity. The three large areas which might continue to absorb such foreign goods are India, China, and Siberia. Foreign industrial countries are looking eagerly towards these three huge potential markets. Having been cut off from many of their usual markets, they are thinking of this "push towards Asia" in order to dispose of their surplus goods, and thus prop up their tottering capitalism. But it is not so easy to exploit Asia now, partly because of the development of Asiatic industries, and partly because of international rivalry. England wants to keep India as a market for her own goods, but Japan and the United States and Germany want a look in also. So also in China; and to add to this is her present disturbed state and want of proper communications, which make trade difficult. Soviet Russia is prepared to take quite a lot of manufactured goods from abroad if she is given credit and not asked to pay for them immediately. But very soon the Soviet Union will make almost everything it requires.

The whole past tendency has been towards greater interdependence between nations, a greater internationalism. Even though separate independent national States remained, an enormous and intricate structure of international relations and trade grew up. This process went so far as to conflict with the national States and with nationalism itself. The next natural step was a socialized international structure. Capitalism, having had its day, had reached the stage when it was time for it to retire in favour of socialism. But unhappily such a voluntary retirement never takes place. Because crisis and collapse threatened it, it has withdrawn into its shell and tried to reverse the past tendency towards interdependence. Hence economic nationalism. The question is if this can succeed, and even if it does so, for how long?

The whole world is a strange mix-up, a terrible tangle of conflicts and jealousies, and the new tendencies but increase the field of these conflicts. In every continent, in every country, the weak and the oppressed want to share in the good things of life which they themselves help to produce. They claim payment of their debt, long overdue to them. In some places they are doing so loudly and harshly and aggressively; in other places more quietly. Can we blame them if, angry and bitter at the treatment and exploitation

they have been subjected to for so long, they act in a manner we do not like? They were ignored and looked down upon; no one took the trouble to teach them drawing-room manners.

This upheaval of the weak and the oppressed frightens the possessing classes everywhere, and they band themselves together to suppress it. And thus fascism grows and imperialism crushes all opposition. The fine phrases about democracy and the people's good and trusteeship retire into the background, and the naked rule of the possessing classes and vested interests becomes more obvious, and in many places it seems to meet with triumph. A harsher age appears, an age of iron and aggressive violence, for everywhere the fight is one of life and death between the old order and the new. Everywhere, whether it is in Europe or America or India, the stakes are high and the fate of the old régime hangs in the balance, even though for the moment it may be strongly entrenched. Partial reform does not meet or solve the problems of the day when the whole imperialist-capitalist system is shaken to its foundation and cannot even meet its liabilities or the demands made upon it.

All these innumerable conflicts, political, economic, racial, darken the world to-day, and carry the shadow of war with them. It is said that the greatest of these conflicts, the most fundamental of them, is the one between imperialism and fascism on the one side and communism on the other. These face each other all over the world, and between them there is no room for compromise.

Feudalism, capitalism, socialism, syndicalism, anarchism, communism—so many isms! And behind them all stalks opportunism! But there is also idealism for those who care to have it; not the idealism of empty fancies and an imagination run riot, but the idealism of working for a great human purpose, a great ideal which we seek to make real. Somewhere George Bernard Shaw has said :—

“This is the true joy in life, the being used for a purpose recognized by yourself as a mighty one; the being thoroughly worn out before you are thrown on the scrap heap; the being a force of nature, instead of a feverish, selfish little clod of ailments and grievances, complaining that the world will not devote itself to making you happy.”

Our incursions into history have shown us how the world has grown more and more compact, how different parts have come together and become interdependent. The world has indeed become one single inseparable whole, each part influencing, and being influenced by, the other. It is quite impossible now to have a separate history of nations. We have outgrown that stage, and only a single world history, connecting the different threads from all the nations, and seeking to find the real forces that move them, can now be written with any useful purpose.

Even in past times, when nations were cut off from each other by many physical and other barriers, we have seen how common international and inter-continental forces shaped them. Great individuals have always counted in history, for the human factor is important in every crisis of destiny; but greater than any individual

are the mighty forces at work which, almost blindly and sometimes cruelly, forge ahead, pushing us hither and thither.

So it is to-day with us. Mighty forces are at work moving the hundreds of millions of human beings, and they go ahead like an earthquake or some other upheaval of Nature. We cannot stop them, however much we may try, and yet we may, in our own little corner of the world, make some slight difference to them in speed or direction. According to our different temperaments we meet them—some frightened by them, others welcoming them, some trying to combat them, others submitting helplessly to the heavy hand of fate, while still others try to ride the tempest and control it a little and direct it, willingly facing the perils that this involves for the joy of helping actively in a mighty process.

There is no peace for us in this turbulent twentieth century, a third of which has already passed with its full complement of war and revolution. "The whole world is in revolution," says the great fascist, Mussolini. "Events themselves are a tremendous force pushing us on like some implacable will." And the great Communist, Trotsky, also warns us of this century not to expect too much of peace and comfort. "It is clear," he says, "that the twentieth century is the most disturbed century within the memory of humanity. Any contemporary of ours who wants peace and comfort before everything else has chosen a bad time to be born."

The whole world is in labour, and the shadow of war and revolution lies heavy everywhere. If we cannot escape from this inevitable destiny of ours, how shall we face it? Ostrich-like, shall we hide our heads from it? Or shall we play a brave part in the shaping of events and, facing risks and perils if need be, have the joy of great and noble adventure, and the feeling that our "steps are merging with those of history"?

All of us, or at any rate those who think, are looking forward expectantly to the future as it unrolls itself and becomes the present. Some await the outcome with hope, others with fear. Will it be a fairer and a happier world, where the good things of life will not be reserved for a few, but are freely enjoyed by the masses. Or a harsher world than even to-day, from which many of the amenities of present-day civilization have gone after fierce and destructive wars? These are two extremes. Either may occur, it seems improbable that a middle course will prevail.

While we wait and watch, we work for the kind of world we would like to have. Man has not progressed from his brute stage by helpless submission to the ways of Nature, but often by a defiance of them and a desire to dominate them for human advantage.

Such is To-day. The making of To-morrow lies with you and your generation, the millions of girls and boys all over the world who are growing up and training themselves to take part in this To-morrow.

PART III
FUNDAMENTAL RIGHTS

General

12. Definition.—In this Part, unless the context otherwise requires, "the State" includes the Government and Parliament of India and the Government and the Legislature of each of the States and all local or other authorities within the territory of India or under the control of the Government of India.

13. Laws inconsistent with or in derogation of the fundamental rights.—(1) All laws in force in the territory of India immediately before the commencement of this Constitution, in so far as they are inconsistent with the provisions of this Part, shall, to the extent of such inconsistency, be void.

(2) The State shall not make any law which takes away or abridges the rights conferred by this Part and any law made in contravention of this clause shall, to the extent of the contravention, be void.

(3) In this article, unless the context otherwise requires,—

- (a) "law" includes any Ordinance, order, bye-law, rule, regulation, notification, custom or usage having in the territory of India the force of law;
- (b) "laws in force" includes laws passed or made by a Legislature or other competent authority in the territory of India before the commencement of this Constitution and not previously repealed notwithstanding that any such law or any part

thereof may not be then in operation either at all or in particular areas.

¹[(4) Nothing in this article shall apply to any amendment of this Constitution made under article 368.]

Right to Equality

14. Equality before law.—The State shall not deny to any person equality before the law or the equal protection of the laws within the territory of India.

15. Prohibition of discrimination on grounds of religion, race, caste, sex or place of birth.—(1) The State shall not discriminate against any citizen on grounds only of religion, race, caste, sex, place of birth or any of them.

(2) No citizen shall, on grounds only of religion, race, caste, sex, place of birth or any of them, be subject to any disability, liability, restriction or condition with regard to—

(a) access to shops, public restaurants, hotels and places of public entertainment; or

(b) the use of wells, tanks, bathing ghats, roads and places of public resort maintained wholly or partly out of State funds or dedicated to the use of the general public.

(3) Nothing in this article shall prevent the State from making any special provision for women and children.

²[(4) Nothing in this article or in clause (2) of article 29 shall prevent the State from making any special provision for the advancement of any socially and educationally backward classes of citizens or for the Scheduled Castes and the Scheduled Tribes.]

16. Equality of opportunity in matters of public employment.—(1) There shall be equality of opportunity for all citizens in matters relating to employment or appointment to any office under the State.

(2) No citizen shall, on grounds only of religion, race, caste, sex, descent, place of birth, residence or any of them, be ineligible for, or discriminated against in respect of, any employment or office under the State.

(3) Nothing in this article shall prevent Parliament from making any law prescribing, in regard to a class or classes of employment or appointment to an office ³[under the Government of, or any local or other authority within, a State or Union territory, any requirement as to

-
1. Ins. by the Constitution (Twenty-fourth Amendment) Act, 1971, Section 2.
 2. Added by the Constitution (First Amendment) Act, 1951, Section 2.
 3. Subs. by the Constitution (Seventh Amendment) Act, 1956, Section 29 and Schedule, for "under any State specified in the First Schedule or any local or other authority within its territory, any requirement as to residence within that State".

residence within that State or Union territory] prior to such employment or appointment.

(4) Nothing in this article shall prevent the State from making any provision for the reservation of appointments or posts in favour of any backward class of citizens which, in the opinion of the State, is not adequately represented in the services under the State.

¹[(4A) Nothing in this article shall prevent the State from making any provision for reservation in matters of promotion to any class or classes of posts in the services under the State in favour of the Scheduled Castes and the Scheduled Tribes which, in the opinion of the State, are not adequately represented in the services under the State.]

²[(4B) Nothing in this article shall prevent the State from considering any unfilled vacancies of a year which are reserved or being filled up in that year in accordance with any provision for reservation made under clause (4) or clause (4-A) as a separate class of vacancies to be filled up in any succeeding year or years and such class of vacancies shall not be considered together with the vacancies of the year in which they are being filled up for determining the ceiling of fifty per cent reservation on total number of vacancies of that year.]

(5) Nothing in this article shall affect the operation of any law which provides that the incumbent of an office in connection with the affairs of any religious or denominational institution or any member of the governing body thereof shall be a person professing a particular religion or belonging to a particular denomination.

17. Abolition of Untouchability.—"Untouchability" is abolished and its practice in any form is forbidden. The enforcement of any disability arising out of "Untouchability" shall be an offence punishable in accordance with law.

18. Abolition of titles.—(1) No title, not being a military or academic distinction, shall be conferred by the State.

(2) No citizen of India shall accept any title from any foreign State.

(3) No person who is not a citizen of India shall, while he holds any office of profit or trust under the State, accept without the consent of the President any title from any foreign State.

(4) No person holding any office of profit or trust under the State shall, without the consent of the President, accept any present, emolument, or office of any kind from or under any foreign State.

Right to Freedom

19. Protection of certain rights regarding freedom of speech, etc.—(1) All citizens shall have the right—

(a) to freedom of speech and expression;

1. Ins. by the Constitution (Seventy-seventh Amendment) Act, 1995, Section 2

- (b) to assemble peaceably and without arms;
- (c) to form associations or unions;
- (d) to move freely throughout the territory of India;
- (e) to reside and settle in any part of the territory of India; ¹[and]

2* * * * *

- (g) to practise any profession, or to carry on any occupation, trade or business.

³[(2) Nothing in sub-clause (a) of clause (1) shall affect the operation of any existing law, or prevent the State from making any law, in so far as such law imposes reasonable restrictions on the exercise of the right conferred by the said sub-clause in the interests of ⁴[the sovereignty and integrity of India], the security of the State, friendly relations with foreign States, public order, decency or morality, or in relation to contempt of court, defamation or incitement to an offence.]

(3) Nothing in sub-clause (b) of the said clause shall affect the operation of any existing law in so far as it imposes, or prevent the State from making any law imposing, in the interests of ⁵[the sovereignty and integrity of India or] public order, reasonable restrictions on the exercise of the right conferred by the said sub-clause.

(4) Nothing in sub-clause (c) of the said clause shall affect the operation of any existing law in so far as it imposes, or prevent the State from making any law imposing, in the interests of the ⁶[the sovereignty and integrity of India or] public order or morality, reasonable restrictions on the exercise of the right conferred by the said sub-clause.

(5) Nothing in ⁷[sub-clauses (d) and (e)] of the said clause shall affect the operation of any existing law in so far as it imposes, or prevent the State from making any law imposing, reasonable restrictions on the exercise of any of the rights conferred by the said sub-clauses either in the interests of the general public or for the protection of the interests of any Scheduled Tribe.

(6) Nothing in sub-clause (g) of the said clause shall affect the operation of any existing law in so far as it imposes, or prevent the State from making any law imposing, in the interests of the general public, reasonable restrictions on the exercise of the right conferred by the said sub-clause, and, in particular, ⁸[nothing in the said sub-clause shall

-
1. Ins. by the Constitution (Forty-fourth Amendment) Act, 1978, Section 2 (w.e.f. 20.6.1979).
 2. Sub-clause (f) omitted by Section 2, *ibid.*, (w.e.f. 20.6.1979).
 3. Subs. by the Constitution (First Amendment) Act, 1951, Section 3, for clause (2) (with retrospective effect).
 4. Ins. by the Constitution (Sixteenth Amendment) Act, 1963, Section 2.
 5. Ins. by the Constitution (Sixteenth Amendment) Act, 1963, Section 2.
 6. Ins. by the Constitution (Sixteenth Amendment) Act, 1963, Section 2.
 7. Subs. by the Constitution (Forty-fourth Amendment) Act, 1978, Section 2, for "sub-clauses (d), (e) and (f)" (w.e.f. 20.6.1979).
 8. Subs. by the Constitution (Forty-fourth Amendment) Act, 1978, Section 2, for "nothing in the said sub-clause shall"

affect the operation of any existing law in so far as it relates to, or prevent the State from making any law relating to,—

- (i) the professional or technical qualifications necessary for practising any profession or carrying on any occupation, trade or business, or
- (ii) the carrying on by the State, or by a corporation owned or controlled by the State, of any trade, business, industry or service, whether to the exclusion, complete or partial, of citizens or otherwise].

20. Protection in respect of conviction for offences.—(1) No person shall be convicted of any offence except for violation of a law in force at the time of the commission of the act charged as an offence, nor be subjected to a penalty greater than that which might have been inflicted under the law in force at the time of the commission of the offence.

(2) No person shall be prosecuted and punished for the same offence more than once.

(3) No person accused of any offence shall be compelled to be a witness against himself.

21. Protection of life and personal liberty.—No person shall be deprived of his life or personal liberty except according to procedure established by law.

22. Protection against arrest and detention in certain cases.—(1) No person who is arrested shall be detained in custody without being informed, as soon as may be, of the grounds for such arrest nor shall he be denied the right to consult, and to be defended by, a legal practitioner of his choice.

(2) Every person who is arrested and detained in custody shall be produced before the nearest magistrate within a period of twenty-four hours of such arrest excluding the time necessary for the journey from the place of arrest to the court of the magistrate and no such person shall be detained in custody beyond the said period without the authority of a magistrate.

(3) Nothing in clauses (1) and (2) shall apply—

- (a) to any person who for the time being is an enemy alien; or
- (b) to any person who is arrested or detained under any law providing for preventive detention.

(4) No law providing for preventive detention shall authorise the detention of a person for a longer period than three months unless—

- (a) an Advisory Board consisting of persons who are, or have been, or are qualified to be appointed as, Judges of a High

1. On the enforcement of Section 3 of the Constitution (Forty-fourth Amendment) Act, 1978, art. 22 shall stand amended as directed in Section 3 of that Act. For the text of Section 3 of that Act, see Appendix III.

Court has reported before the expiration of the said period of three months that there is in its opinion sufficient cause for such detention :

Provided that nothing in this sub-clause shall authorise the detention of any person beyond the maximum period prescribed by any law made by Parliament under sub-clause (b) of clause (7); or

(b) such person is detained in accordance with the provisions of any law made by Parliament under sub-clauses (a) and (b) of clause (7).

(5) When any person is detained in pursuance of an order made under any law providing for preventive detention, the authority making the order shall, as soon as may be, communicate to such person the grounds on which the order has been made and shall afford him the earliest opportunity of making a representation against the order.

(6) Nothing in clause (5) shall require the authority making any such order as is referred to in that clause to disclose facts which such authority considers to be against the public interest to disclose.

(7) Parliament may by law prescribe—

(a) the circumstances under which, and the class or classes of cases in which, a person may be detained for a period longer than three months under any law providing for preventive detention without obtaining the opinion of an Advisory Board in accordance with the provisions of sub-clause (a) of clause (4);

(b) the maximum period for which any person may in any class or classes of cases be detained under any law providing for preventive detention; and

(c) the procedure to be followed by an Advisory Board in an inquiry under sub-clause (a) of clause (4).

Right against Exploitation

23. Prohibition of traffic in human beings and forced labour.—(1) Traffic in human beings and *begar* and other similar forms of forced labour are prohibited and any contravention of this provision shall be an offence punishable in accordance with law.

(2) Nothing in this article shall prevent the State from imposing compulsory service for public purposes, and in imposing such service the State shall not make any discrimination on grounds only of religion, race, caste or class or any of them.

24. Prohibition of employment of children in factories, etc.—No child below the age of fourteen years shall be employed to work in any factory or mine or engaged in any other hazardous employment.

Right to Freedom of Religion

25. Freedom of conscience and free profession, practice and propagation of religion.—(1) Subject to public order, morality and

health and to the other provisions of this Part, all persons are equally entitled to freedom of conscience and the right freely to profess, practise and propagate religion. .

(2) Nothing in this article shall affect the operation of any existing law or prevent the State from making any law—

(a) regulating or restricting any economic, financial, political or other secular activity which may be associated with religious practice;

(b) providing for social welfare and reform or the throwing open of Hindu religious institutions of a public character to all classes and sections of Hindus.

Explanation I—The wearing and carrying of kirpans shall be deemed to be included in the profession of the Sikh religion.

Explanation II—In sub-clause (b) of clause (2), the reference to Hindus shall be construed as including a reference to persons professing the Sikh, Jaina or Buddhist religion, and the reference to Hindu religious institutions shall be construed accordingly.

26. Freedom to manage religious affairs.—Subject to public order, morality and health, every religious denomination or any section thereof shall have the right—

(a) to establish and maintain institutions for religious and charitable purposes;

(b) to manage its own affairs in matters of religion;

(c) to own and acquire movable and immovable property; and

(d) to administer such property in accordance with law.

27. Freedom as to payment of taxes for promotion of any particular religion.—No person shall be compelled to pay any taxes, the proceeds of which are specifically appropriated in payment of expenses for the promotion or maintenance of any particular religion or religious denomination.

28. Freedom as to attendance at religious instruction or religious worship in certain educational institutions.—(1) No religious instruction shall be provided in any educational institution wholly maintained out of State funds.

(2) Nothing in clause (1) shall apply to an educational institution which is administered by the State but has been established under any endowment or trust which requires that religious instruction shall be imparted in such institution.

(3) No person attending any educational institution recognised by the State or receiving aid out of State funds shall be required to take part in any religious instruction that may be imparted in such institution or to attend any religious worship that may be conducted in such institution or in any premises attached thereto unless such person or, if

Cultural and Educational Rights

29. Protection of interests of minorities.—(1) Any section of the citizens residing in the territory of India or any part thereof having a distinct language, script or culture of its own shall have the right to conserve the same.

(2) No citizen shall be denied admission into any educational institution maintained by the State or receiving aid out of State funds on grounds only of religion, race, caste, language or any of them.

30. Right of minorities to establish and administer educational institutions.—(1) All minorities, whether based on religion or language, shall have the right to establish and administer educational institutions of their choice.

¹[(1A) In making any law providing for the compulsory acquisition of any property of any educational institution established and administered by a minority, referred to in clause (1), the State shall ensure that the amount fixed by or determined under such law for the acquisition of such property is such as would not restrict or abrogate the right guaranteed under that clause.]

(2) The State shall not, in granting aid to educational institutions, discriminate against any educational institution on the ground that it is under the management of a minority, whether based on religion or language.

2* * *

31. [Compulsory acquisition of property]. *Repealed by the Constitution (Forty-fourth Amendment) Act, 1978, Section 6 (w.e.f. 20.6.1979).*

³[Saving of Certain Laws]

⁴[31-A. Saving of laws providing for acquisition of estates, etc.]—⁵[(1) Notwithstanding anything contained in article 13, no law providing for—

- (a) the acquisition by the State of any estate or of any rights therein or the extinguishment or modification of any such rights, or
- (b) the taking over of the management of any property by the State for a limited period either in the public interest or in order to secure the proper management of the property, or

-
1. Ins. by the Constitution (Forty-fourth Amendment) Act, 1978, Section 4 (w.e.f. 20.6.1979).
 2. The sub-heading "*Right to Property*" omitted by the Constitution (Forty-fourth Amendment) Act, 1978, Section 5. (w.e.f. 20.6.1979).
 3. Ins. by the Constitution (Forty-second Amendment) Act, 1976, Section 3 (w.e.f. 3.1.1977).
 4. Ins. by the Constitution (First Amendment) Act, 1951, Section 4 (with retrospective effect).
 5. Subs. by the Constitution (Fourth Amendment) Act 1955 Section 3 for

- (c) the amalgamation of two or more corporations either in the public interest or in order to secure the proper management of any of the corporations, or
- (d) the extinguishment or modification of any rights of managing agents, secretaries and treasurers, managing directors, directors or managers of corporations, or of any voting rights of shareholders thereof, or
- (e) the extinguishment or modification of any rights accruing by virtue of any agreement, lease or licence for the purpose of searching for, or winning, any mineral or mineral oil, or the premature termination or cancellation of any such agreement, lease or licence,

shall be deemed to be void on the ground that it is inconsistent with or takes away or abridges any of the rights conferred by ¹[article 14 or article 19:]

Provided that where such law is a law made by the Legislature of a State, the provisions of this article shall not apply thereto unless such law, having been reserved for the consideration of the President, has received his assent] :

²[Provided further that where any law makes any provision for the acquisition by the State of any estate and where any land comprised therein is held by a person under his personal cultivation, it shall not be lawful for the State to acquire any portion of such land as is within the ceiling limit applicable to him under any law for the time being in force or any building or structure standing thereon or appurtenant thereto, unless the law relating to the acquisition of such land, building or structure, provides for payment of compensation at a rate which shall not be less than the market value thereof].

(2) In this article,—

- ³[(a) the expression "estate" shall, in relation to any local area, have the same meaning as that expression or its local equivalent has in the existing law relating to land tenures in force in that area and shall also include—
 - (i) any *jagir*, *inam* or *muqfi* or other similar grant and in the States of ⁴[Tamil Nadu] and Kerala, any *janmam* right;
 - (ii) any land held under ryotwari settlement;
 - (iii) any land held or let for purposes of agriculture or for purposes ancillary thereto, including waste land, forest land, land for pasture or sites of buildings and other

1. Subs. by the Constitution (Forty-fourth Amendment) Act, 1978, Section 7, for "article 14, article 19 or article 31" (w.e.f. 20.6.1979).

2. Ins. by the Constitution (Seventeenth Amendment) Act 1964, Section 2.

3. Subs. by Section 2, *ibid.*, for sub-clause (a) (with retrospective effect).

4. Subs. by the Madras State (Alteration of Name) Act, 1968 (53 of 1968)

structures occupied by cultivators of land, agricultural labourers and village artisans];

- (b) the expression "rights", in relation to an estate, shall include any rights vesting in a proprietor, sub-proprietor, under-proprietor, tenure-holder, ¹[*raiyat, under-raiyat*] or other intermediary and any rights or privileges in respect of land revenue.]

²**[31-B. Validation of certain Acts and Regulations.]**—Without prejudice to the generality of the provisions contained in article 31A, none of the Acts and Regulations specified in the Ninth Schedule nor any of the provisions thereof shall be deemed to be void, or ever to have become void, on the ground that such Act, Regulation or provision is inconsistent with, or takes away or abridges any of the rights conferred by, any provisions of this Part, and notwithstanding any judgment, decree or order of any court or Tribunal to the contrary, each of the said Acts and Regulations shall, subject to the power of any competent Legislature to repeal or amend it, continue in force.]

³**[31-C. Saving of laws giving effect to certain directive principles.]**—Notwithstanding anything contained in article 13, no law giving effect to the policy of the State towards securing ⁴[all or any of the principles laid down in Part IV] shall be deemed to be void on the ground that it is inconsistent with, or takes away or abridges any of the rights conferred by ⁵[article 14 or article 19]; ⁶*and no law containing a declaration that it is for giving effect to such policy shall be called in question in any court on the ground that it does not give effect to such policy :*

Provided that where such law is made by the Legislature of a State, the provisions of this article shall not apply thereto unless such law, having been reserved for the consideration of the President, has received his assent.]

⁷**[31-D. *[Saving of laws in respect of anti-national activities].***
Repealed by the Constitution (Forty-third Amendment) Act, 1977, Section 2 (w.e.f. 13.4.1978).

-
1. Ins. by the Constitution (Fourth Amendment) Act, 1955, Section 3 (with retrospective effect).
 2. Ins. by the Constitution (First Amendment) Act, 1951, Section 5.
 3. Ins. by the Constitution (Twenty-fifth Amendment) Act, 1971, Section 3 (w.e.f. 20.4.1972).
 4. Subs. by the Constitution (Forty-second Amendment) Act, 1976, Section 4, for "the principles specified in clause (b) or clause (c) of article 39" (w.e.f. 3.1.1977). Section 4 has been declared invalid by the Supreme Court in *Minerva Mills Ltd. and Others v. Union of India and Others*, (1980) 2 S.C.C. 591.
 5. Subs. by the Constitution (Forty-fourth Amendment) Act, 1978, Section 8, for "article 14, article 19 or article 31" (w.e.f. 20.6.1979).
 6. In *Kesavananda Bharati v. The State of Kerala*, (1973), Supp. S.C.R. I, the Supreme Court held the provision in italics to be invalid.

Right to Constitutional Remedies

32. Remedies for enforcement of rights conferred by this Part.—(1) The right to move the Supreme Court by appropriate proceedings for the enforcement of the rights conferred by this Part is guaranteed.

(2) The Supreme Court shall have power to issue directions or orders or writs, including writs in the nature of *habeas corpus*, *mandamus*, prohibition, *quo warranto* and *certiorari*, whichever may be appropriate, for the enforcement of any of the rights conferred by this Part.

(3) Without prejudice to the powers conferred on the Supreme Court by clauses (1) and (2), Parliament may by law empower any other court to exercise within the local limits of its jurisdiction all or any of the powers exercisable by the Supreme Court under clause (2).

(4) The right guaranteed by this article shall not be suspended except as otherwise provided for by this Constitution.

¹**32-A. [Constitutional validity of State laws not to be considered in proceedings under article 32].** Repealed by the Constitution (Forty-third Amendment) Act, 1977, Section 3 (w.e.f. 13.4.1978).

²**[33. Power of Parliament to modify the rights conferred by this Part in their application to Forces, etc.]**—Parliament may, by law, determine to what extent any of the rights conferred by this Part shall, in their application to,—

- (a) the members of the Armed Forces; or
- (b) the members of the Forces charged with the maintenance of public order; or
- (c) persons employed in any bureau or other organisation established by the State for purposes of intelligence or counter intelligence; or
- (d) persons employed in, or in connection with, the telecommunication systems set up for the purposes of any Force, bureau or organisation referred to in clauses (a) to (c).

be restricted or abrogated so as to ensure the proper discharge of their duties and the maintenance of discipline among them.]

34. Restriction on rights conferred by this Part while martial law is in force in any area.—Notwithstanding anything in the foregoing provisions of this Part, Parliament may by law indemnify any person in the service of the Union or of a State or any other person in respect of any act done by him in connection with the maintenance or restoration of order in any area within the territory of India where martial law was in

1. Ins. by Section 6, *ibid.* (w.e.f. 1.2.1977).

2. Subs. by the Constitution (Fiftieth Amendment) Act 1984 Section 3.

force or validate any sentence passed, punishment inflicted, forfeiture ordered or other act done under martial law in such area.

35. Legislation to give effect to the provisions of this Part.—Notwithstanding anything in this Constitution,—

(a) Parliament shall have, and the Legislature of a State shall not have, power to make laws—

(i) with respect to any of the matters which under clause (3) of article 16, clause (3) of article 32, articles 33 and 34 may be provided for by law made by Parliament; and

(ii) for prescribing punishment for those acts which are declared to be offences under this part;

and Parliament shall, as soon as may be after the commencement of this Constitution, make laws for prescribing punishment for the acts referred to in sub-clause (i);

(b) any law in force immediately before the commencement of this Constitution in the territory of India with respect to any of the matters referred to in sub-clause (i) of clause (a) or providing for punishment for any act referred to in sub-clause (ii) of that clause shall, subject to the terms thereof and to any adaptations and modifications that may be made therein under article 372, continue in force until altered or repealed or amended by Parliament.

Explanation—In this article, the expression "law in force" has the same meaning as in article 372.

PART IV

DIRECTIVE PRINCIPLES OF STATE POLICY

36. Definition.—In this Part, unless the context otherwise requires, "the State" has the same meaning as in Part III.

37. Application of the principles contained in this Part.—The provisions contained in this Part shall not be enforceable by any court, but the principles therein laid down are nevertheless fundamental in the governance of the country and it shall be the duty of the State to apply these principles in making laws.

38. State to secure a social order for the promotion of welfare of the people.—¹[(1)] The State shall strive to promote the welfare of the people by securing and protecting as effectively as it may a social order in which justice, social, economic and political, shall inform all the institutions of the national life.

²[(2)] The State shall, in particular, strive to minimise the inequalities in income, and endeavour to eliminate inequalities in status,

1. Art. 38 renumbered as clause (i) thereof by the C. P. S. Act, 1950.

facilities and opportunities, not only amongst individuals but also amongst groups of people residing in different areas or engaged in different vocations.]

39. Certain principles of policy to be followed by the State.—The State shall, in particular, direct its policy towards securing—

- (a) that the citizens, men and women equally, have the right to an adequate means of livelihood;
- (b) that the ownership and control of the material resources of the community are so distributed as best to subserve the common good;
- (c) that the operation of the economic system does not result in the concentration of wealth and means of production to the common detriment;
- (d) that there is equal pay for equal work for both men and women;
- (e) that the health and strength of workers, men and women, and the tender age of children are not abused and that citizens are not forced by economic necessity to enter avocations unsuited to their age or strength;
- ¹(f) that children are given opportunities and facilities to develop in a healthy manner and in conditions of freedom and dignity and that childhood and youth are protected against exploitation and against moral and material abandonment.]

²[**39-A. Equal justice and free legal aid.**—The State shall secure that the operation of the legal system promotes justice, on a basis of equal opportunity, and shall, in particular, provide free legal aid, by suitable legislation or schemes or in any other way, to ensure that opportunities for securing justice are not denied to any citizen by reason of economic or other disabilities.]

40. Organisation of village panchayats.—The State shall take steps to organise village panchayats and endow them with such powers and authority as may be necessary to enable them to function as units of self-government.

41. Right to work, to education and to public assistance in certain cases.—The State shall, within the limits of its economic capacity and development, make effective provision for securing the right to work, to education and to public assistance in cases of unemployment, old age, sickness and disablement, and in other cases of undeserved want.

42. Provision for just and humane conditions of work and maternity relief.—The State shall make provision for securing just and humane conditions of work and for maternity relief.

1. Subs. by the Constitution (Forty-second Amendment) Act, 1976 Section 7

43. Living wage, etc., for workers.—The State shall endeavour to secure, by suitable legislation or economic organisation or in any other way, to all workers, agricultural, industrial or otherwise, work, a living wage conditions of work ensuring a decent standard of life and full enjoyment of leisure and social and cultural opportunities and, in particular, the State shall endeavour to promote cottage industries on an individual or co-operative basis in rural areas.

¹**[43-A. Participation of workers in management of industries.**—The State shall take steps, by suitable legislation or in any other way, to secure the participation of workers in the management of undertakings, establishments or other organisations engaged in any industry.]

44. Uniform civil code for the citizens.—The State shall endeavour to secure for the citizens a uniform civil code throughout the territory of India.

45. Provision for free and compulsory education for children.—The State shall endeavour to provide, within a period of ten years from the commencement of this Constitution, for free and compulsory education for all children until they complete the age of fourteen years.

46. Promotion of educational and economic interests of Scheduled Castes, Scheduled Tribes and other weaker sections.—The State shall promote with special care the educational and economic interests of the weaker sections of the people, and, in particular, of the Scheduled Castes and the Scheduled Tribes, and shall protect them from social injustice and all forms of exploitation.

47. Duty of the State to raise the level of nutrition and the standard of living and to improve public health.—The State shall regard the raising of the level of nutrition and the standard of living of its people and the improvement of public health as among its primary duties and, in particular, the State shall endeavour to bring about prohibition of the consumption except for medicinal purposes of intoxicating drinks and of drugs which are injurious to health.

48. Organisation of agriculture and animal husbandry.—The State shall endeavour to organise agriculture and animal husbandry on modern and scientific lines and shall, in particular, take steps for preserving and improving the breeds, and prohibiting the slaughter, of cows and calves and other milch and draught cattle.

²**[48-A. Protection and improvement of environment and safeguarding of forests and wild life.**—The State shall endeavour to protect and improve the environment and to safeguard the forests and wild life of the country.]

1. Ins. by the Constitution (Forty-second Amendment) Act 1976 Section 2

49. Protection of monuments and places and objects of national importance.—It shall be the obligation of the State to protect every monument or place or object of artistic or historic interest, ¹[declared by or under law made by Parliament] to be of national importance, from spoliation, disfigurement, destruction, removal, disposal or export, as the case may be.

50. Separation of judiciary from executive.—The State shall take steps to separate the judiciary from the executive in the public services of the State.

51. Promotion of international peace and security.—The State shall endeavour to—

- (a) promote international peace and security;
- (b) maintain just and honourable relations between nations;
- (c) foster respect for international law and treaty obligations in the dealings of organised people, with one another; and
- (d) encourage settlement of international disputes by arbitration.

²[PART IV-A

FUNDAMENTAL DUTIES

51-A. Fundamental duties.—It shall be the duty of every citizen of India—

- (a) to abide by the Constitution and respect its ideals and institutions, the National Flag and the National Anthem;
- (b) to cherish and follow the noble ideals which inspired our national struggle for freedom;
- (c) to uphold and protect the sovereignty, unity and integrity of India;
- (d) to defend the country and render national service when called upon to do so;
- (e) to promote harmony and the spirit of common brotherhood amongst all the people of India transcending religious, linguistic and regional or sectional diversities; to renounce practices derogatory to the dignity of women;
- (f) to value and preserve the rich heritage of our composite culture;
- (g) to protect and improve the natural environment including forests, lakes, rivers and wild life, and to have compassion for living creatures;
- (h) to develop the scientific temper, humanism and the spirit of inquiry and reform;

¹ Subs. by the Constitution (Seventh Amendment) Act, 1956, Section 27, for

- (i) to safeguard public property and to abjure violence;
- (j) to strive towards excellence in all spheres of individual and collective activity so that the nation constantly rises to higher levels of endeavour and achievement !

142. TEXT OF INDIA-CHINA AGREEMENT ON TRADE AND INTER-
COURSE BETWEEN TIBET REGION OF CHINA AND INDIA,
29 APRIL 1954

Negotiations were held at Peking from 31 December 1953 to 29 April 1954 between the delegation of the Government of India and the delegation of the Central People's Republic of China on relations between India and the Tibet Region of China; an Agreement was signed on 29 April 1954.

The Agreement is important as it contained the five famous principles, now known as Panchsheel, viz., the principles of peaceful coexistence: mutual respect for each other's territorial integrity and sovereignty, mutual non-aggression, mutual non-interference in each other's internal affairs, equality and mutual benefit and peaceful co-existence.

There was also an exchange of notes along with the Agreement between the (Chinese) Vice-Foreign Minister Chang Han-fu and the (Indian) Ambassador Raghavan who signed the Agreement on behalf of their respective Governments. This exchange of notes is also important: India gave up the extra-territorial privileges in Tibet which she had inherited from Britain such as keeping a military escort at Yatung and Gyantse in Tibet, maintaining some postal, telegraphic and public telephone services, etc.

The Government of the Republic of India and the Central People's Government of the People's Republic of China:

Being desirous of promoting trade and cultural intercourse between the Tibet region of China and India and of facilitating pilgrimage and travel by the people of China and India;

Have resolved to enter into the present agreement based on the following principles:

- (1) Mutual respect for each other's territorial integrity and sovereignty;
- (2) Mutual non-aggression;
- (3) Mutual non-interference in each other's internal affairs;
- (4) Equality and mutual benefit; and
- (5) Peaceful co-existence;

and for this purpose have appointed as their respective plenipotentiaries:

The Government of the Republic of India:

H. E. Nedyam Raghavan, Ambassador Extraordinary and Plenipotentiary of India accredited to the People's Republic of China,

The Central People's Government of the
People's Republic of China:

H. E. Chang Han-Fu, Vice-Minister of Foreign Affairs of the Central People's Government,
who, having examined each other's credentials and finding them in good and due form, have agreed upon the following:

Article 1

The High Contracting Parties mutually agree to establish trade agencies:

(I) The Government of India agree that the Government of China may establish trade agencies at New Delhi, Calcutta and Kalimpong.

(II) The Government of China agree that the Government of India may establish trade agencies at Yatung, Gyantse and Gartok.

The Trade Agencies of both parties shall be accorded the same status and same treatment. The Trade Agents of both parties shall enjoy freedom from arrest while exercising their functions, and shall enjoy in respect of themselves, their wives and children who are dependent on them for their livelihood freedom from search.

The Trade Agencies of both parties shall enjoy the privileges and immunities for couriers, mail bags and communications in code.

Article II

The High Contracting Parties agree that traders of both countries known to be customarily and specifically engaged in trade between the Tibet region of China and India may trade at the following places:

- (1) The Government of India agree to specify (1) Yatung, (2) Gyantse and (3) Phari as markets for trade; the Government of India agree that trade may be carried on in India including places like (1) Kalimpong, (2) Siliguri and (3) Calcutta, according to customary practice.

- (2) The Government of China agree to specify (1) Gartok, (2) Pulanchung (Taklakot), (3) Gyalima-Khargo, (4) Gyanima-Chakra, (5) Ranura, (6) Dongbra, (7) Pulling-Sumdo, (8) Nabra, (9) Shangtse and (10) Tashigong as markets for trade; the Government of India agree that in future when in accordance with the development and need of trade between the Ari district of the Tibet region of China and India, it has become necessary to specify markets for trade in the corresponding district in India adjacent to the Ari district of the Tibet region of China, it will be prepared to consider on the basis of equality and reciprocity to do so.

Article III

The High Contracting Parties agree that pilgrimages by religious believers of the two countries shall be carried on in accordance with the following provisions:

- (1) Pilgrims from India of Lamaist, Hindu and Buddhist faith may visit Kang Rimpoche (Kailash) and Mavam Tse (Manasarowar) in the Tibet region of China in accordance with custom.
- (2) Pilgrims from the Tibet region of China of Lamaist and Buddhist faiths may visit Banaras, Sarnath, Gaya and Sanchi in India in accordance with custom.
- (3) Pilgrims customarily visiting Lhasa may continue to do so in accordance with custom.

Article IV

Traders and pilgrims of both countries may travel by the following passes and routes:

- (1) Shipki La Pass
- (2) Mana Pass
- (3) Niti Pass
- (4) Kungri Bingri Pass
- (5) Darma Pass, and
- (6) Lipu Lekh Pass.

Also the customary route leading to Tashigong along the valley of Elek Gatasangpu (Indus river) may continue to be traversed in accordance with custom.

Article V

For travelling across borders, the High Contracting Parties agree that diplomatic personnel, officials and nationals of the two countries shall hold passports issued by their own respective countries and visaed by the other party except as provided in paragraphs 1, 2, 3 and 4 of this article.

- (1) Traders of both countries known to be customarily and specifically engaged in trade between the Tibet region of China and India, their wives and children, who are dependent on them for livelihood and their attendants will be allowed entry for purposes of trade into India or the Tibet region of China, as the case may be, in accordance with custom on the production of certificates duly issued by the local Government of their own country by its duly authorized agents and examined by the border check posts of the other party.
- (2) Inhabitants of the border districts of the two countries, who cross borders to carry on petty trade or to visit friends and relatives, may proceed to the border districts of the other party as they have customarily done heretofore and need not be restricted to the passes and route specified in Article IV above and shall not be required to hold passports, visas or permits.
- (3) Porters and mule-team drivers of the two countries who cross the border to perform necessary transportation services need not hold passports issued by their own country, but shall only hold certificates good for a definite period of time (good for three months, half a year or one year) duly issued by the local Government of their own country or by its duly authorized agents and produce them for registration at the border checkpoint of the other party.
- (4) Pilgrims of both countries need not carry documents of certification but shall register at the border checkpoint of the other party and receive a permit for pilgrimage.
- (5) Notwithstanding the provisions of the foregoing paragraph of this article, either Government may refuse entry to any particular person.
- (6) Persons who enter the territory of the other party in accordance with the foregoing paragraphs of this article

may stay within its territory only after complying with the procedures specified by the other party.

Article VI

The present agreement shall come into effect upon ratification by both Governments and shall remain in force for eight years. Extension of the present agreement may be negotiated by the two parties if either party requests for it six months prior to the expiry of the agreement and the request is agreed to by the other party.

Done in duplicate in Peking on April 29 1954, in Hindi, Chinese and English languages, all texts being equally valid.

Plenipotentiary of the Central People's Government of the People's Republic of China — CHANG HAN-FU.

Plenipotentiary of the Government of the Republic of India — N. RAGHAVAN.

Text of Notes exchanged between the Delegations of India and China

Peking, April 29 1954

Your Excellency, Mr Vice-Foreign Minister,

In the course of our discussion regarding the agreement on trade and intercourse between the Tibet region of China and India, which has happily concluded on Thursday (April 29) the delegation of the Government of the Republic of India and the delegation of the Government of the People's Republic of China agreed that certain matters be regulated by an exchange of notes. In pursuance of this understanding, it is hereby agreed between the two Governments as follows:

(1) The Government of India will be pleased to withdraw completely within six months from date of exchange of the present notes the military escort now stationed at Yatung and Gyantse in the Tibet region of China. The Government of China will render facilities and assistance in such withdrawal.

(2) The Government of India will be pleased to hand over to the Government of China at a reasonable price the post, telegraph and public telephone services together with their equipment operated by the Government of India in the Tibet region of China. The concrete measures in this regard will be decided

upon through further negotiations between the Indian Embassy in China and the Foreign Ministry of China, which shall start immediately after the exchange of the present notes.

(3) The Government of India will be pleased to hand over to the Government of China at a reasonable price the twelve rest-houses of the Government of India in the Tibet region of China. The concrete measures in this regard will be decided upon through further negotiations between the Indian Embassy in China and the Foreign Ministry of China which will start immediately after the exchange of the present notes. The Government of China agree that they shall continue as rest-houses.

(4) The Government of China agree that all buildings within the compound wall of the Trade Agencies of the Government of India at Yatung and Gyantse in the Tibet region of China may be retained by the Government of India; and the Government of India may continue to lease the land within its agency compound wall from the Chinese side. And the Government of India agree that the Trade Agencies of the Government of China at Kalimpong and Calcutta may lease lands from the Indian side for the use of the Agencies and construct buildings thereon. The Government of China will render every possible assistance for housing the Indian Trade Agency at Gartok. The Government of India will also render every possible assistance for housing the Chinese Trade Agency at New Delhi.

(5) The Government of India will be pleased to return to the Government of China all land used or occupied by the Government of India other than the lands within its Trade Agency compound wall at Yatung.

If there are godowns and buildings of the Government of India on the above-mentioned land used or occupied and to be returned by the Government of India and if Indian traders have stores or godowns or buildings on the above-mentioned land so that there is a need to continue leasing land, the Government of China agree to sign a contract with the Government of India or Indian traders, as the case may be, for leasing to them those parts of the land occupied by the said godowns, buildings or stores and pertaining thereto.

(6) The Trade Agents of both parties may, in accordance with the laws and regulations of the local government, have access to their nationals involved in civil or criminal cases.

(7) The Trade Agents and traders of both countries may hire employees in the locality.

(8) The hospitals of the Indian Trade Agencies at Gyantse and Yatung will continue to serve personnel of the Indian Trade Agencies.

(9) Each Government shall protect the person and property of the traders and pilgrims of the other country.

(10) The Government of China agree, so far as possible, to construct rest-houses for use of pilgrims along the route from Pulanchung (Taklakot) to Kang Rimpoche (Kailash) and Mavam Tse (Manasarowar), and the Government of India agree to place all possible facilities in India at the disposal of pilgrims.

(11) Traders and pilgrims of both countries shall have the facilities of hiring means of transportation at normal and reasonable rates.

(12) The three Trade Agencies of each party may function throughout the year.

(13) Traders of each country may rent buildings and godowns in accordance with local regulations in places under the jurisdiction of the other party.

(14) Traders of both countries may carry on normal trade in accordance with local regulations at places as provided in Article II of the agreement.

(15) Disputes between traders of both countries over debts and claims shall be handled in accordance with local laws and regulations.

On behalf of the Government of the Republic of India I hereby agree that the present note, along with your reply, shall become an agreement between our two Governments which shall come into force upon the exchange of the present notes.

I avail myself of this opportunity to express to you the assurances of my highest consideration.

N. Raghavan

*Ambassador Extraordinary and
Plenipotentiary of the Republic
of India*

29 April 1954

CONDITIONS ESSENTIAL FOR A MARRIAGE (Section 5)

A marriage may be solemnized between any two Hindus,¹¹ if the following conditions are fulfilled, namely:—

- (i) neither party has a spouse living at the time of the marriage;
- (ii) at the time of the marriage, neither party—
 - (a) is incapable of giving a valid consent to it in consequence of unsoundness of mind; or
 - (b) though capable of giving a valid consent, has been suffering from mental disorder of such a kind and to such an extent as to be unfit for marriage and the procreation of children; or
 - (c) has been subject to recurrent attacks of insanity or epilepsy;
- (iii) the bridegroom has completed the age of eighteen years¹² and the bride the age of fifteen years at the time of marriage;
- (iv) the parties are not within the degree of prohibited relationship,¹³ unless the custom or usage governing

11. The HMA is applicable only to Hindus. The term Hindu is defined in Section 2 of the HMA. The definition of a Hindu is very wide and it includes not only those who are Hindus by religion but also includes any person who is a Buddhist, Jain or Sikh by religion. It also includes persons not only those who are Hindus by birth but also who are converts to Hindu religion etc. But it does not include those persons who are the members of any Scheduled Tribe, as defined under the Indian Constitution, unless the Central Government by notification directs otherwise.

12. Now in case a female gets married before the completion of 18 years she will have the right to repudiate the marriage on completion of eighteen years under the amendment of the HMA in 1976.

13. Section 3(g) of the HMA—two persons are said to be within the “degree of prohibited relationship”—(i) if one is a lineal ascendant of the other, or (ii) if one was the wife or husband of a lineal ascendant or descendant of the other, or (iii) if one was the wife of the

- each of them permits of a marriage between the two;
- (v) the parties are not *sapindas*¹⁴ of each other, unless the custom or usage governing each of them permits of a marriage between the two;
 - (vi) where the bride has not completed the age of eighteen years, the consent of her guardian in marriage, if any, has been obtained for the marriage.

The above section of the Act lays down the requisites of a valid marriage between any two Hindus. Now with the passing of the HMA inter-castes or sub-castes marriages are valid which were not permitted under the old Hindu law. Even inter-religious marriages between Hindus, Jains, Sikhs, and Buddhists are valid which is a radical departure from the past.¹⁵

The word 'solemnize' in the section means, to celebrate the marriage with proper ceremonies and due form. And, therefore, unless the marriage is celebrated or performed with proper ceremonies and due form it cannot be said to be 'solemnized'. In the case of *Bhaurao v. State of Maharashtra*¹⁶ *Bhaurao* married another woman during the life time of his previous wife. But proper ceremonies were not performed for marriage with the second wife. *Bhaurao* was prosecuted for the violation of Section 17 of the HMA and 494 of the Indian Penal Code. The Supreme Court in this case held that no valid marriage could

brother or of the father's or mother's brother or of the grandfather's or grandmother's brother of the other; or (iv) if the two are brother and sister, uncle and niece, aunt and nephew, or children of brother and sister or of two brothers or of two sisters.

14. Section 3(f) (i) "*sapinda*—relationship" with reference to any person extends as far as the third generation (inclusive) in the line of ascent through the father, the line being traced upwards in each case from the person concerned, who is to be counted as the first generation; (ii) two persons are said to be "*sapindas*" of each other if one is lineal ascendant of the other within the limits of *sapinda* relationship or if they have a common lineal ascendant who is within the limits of *sapinda* relationship with reference to each of them.

For the purposes of prohibited degrees *sapinda* relationship includes: (i) relationship by half or uterine as well as by full blood; (ii) illegitimate blood relationship as well as legitimate; (iii) relationship by adoption as well as by blood. Full blood, half blood and uterine blood are defined in Section 3(c) and (d).

15. See also Section 29(1) of the HMA.

16. A.I.R. 1965 S.C. 1564.

take place without proper ceremonies and due form and therefore Bhaurao did not contract a valid marriage and consequently he could not be prosecuted for the offence of bigamy under section 494 of the Indian Penal Code. The Supreme Court also held that the bare fact of a man and the woman living as husband and wife does not give them the status of husband and wife even though they may hold themselves out before society as husband and wife and the society treats them as husband and wife.

The expression 'spouse' in sub-clause (i) of the section means a lawfully married husband or wife. So, for a valid marriage the parties should be either unmarried or divorcees or widowed. If condition (i) is violated by any party then the second marriage is a bigamous marriage. And a bigamous is void *ab-initio* i.e. the second marriage is no marriage at all in the eyes of law. However, either party can go to the court and get the bigamous marriage declared as null and void for proof and record, and for legitimacy of a child of such marriage, if any.

If a marriage has been solemnized there is always a strong presumption that the parties had the mental capacity unless proved otherwise. The marriage without mental capacity is only voidable under Section 12(1)(b) of the Act.

Clause (iii) of the section does not clearly state that there must be a consent of the parties to the marriage. What it requires that the bridegroom must have completed the age of 18 years and the bride the age of fifteen years. But if we read Section 12(1)(c) of the Act we would come to the conclusion that there should be a consent of the parties to the marriage. In case the consent of the party is obtained by force or fraud then the party can get the marriage annulled by a petition before the court.

In the case of *Babui Panmato v. Ram Agya Singh*¹⁷ the wife was only 18 years of age and she was married to a man of about 60 years. In this case the question of the consent of the petitioner to the marriage came up before the court. The facts were that no direct consent from the wife was taken at the time of marriage. The wife had only overheard her father telling her mother that he had fixed her marriage with an

17. A.I.R. 1968 Patna 190.

affluent husband and he was about 30 years of age. The wife kept quiet and she did not raise any objection to marry. Later on when the wife went to the husband's house she found that the husband was about 60 years. On the petition of the wife the High Court of Patna found it a sufficient ground to annul the marriage on the ground of fraud and the case was decided under Section 12(1)(c) of the HMA.

Under clauses (iii) and (iv) of the section the general rule is that the parties to the marriage are not within the degree of prohibited relationship and are also not *sapindas* of each other. But if there is a custom or usage in a community which permits both of them to marry within such a relationship then that would be a valid marriage.

Under clause (vi) the absence of the consent of the guardian does not make the marriage invalid. But the contravention of the provision is punishable under section 18 of the Act. The marriage can also be annulled by a petition of the party whose guardian's consent was obtained either by a fraud or force under section 12(1)(c) of the Act.

CEREMONIES FOR MARRIAGE (Section 7)

(1) A Hindu marriage may be solemnized in accordance with the customary rites and ceremonies of either party thereto.

(2) Where such rites and ceremonies include the *saptapadi* (that is, the taking of seven steps by the bridegroom and the bride jointly before the sacred fire), the marriage becomes complete and binding when the seventh step is taken.

Apart from Section 5 this section deals with what is necessary to constitute a valid marriage. Under sub-section (1) the old Hindu law is still alive for the purposes of ceremonies required for the validity of a marriage. Under the old law ordinarily two ceremonies were essential. Firstly invocation before the sacred fire, and secondly *saptapadi*, that is, the taking of seven steps by the bridegroom and the bride jointly before the sacred fire. The marriage could also be solemnized even without these two ceremonies wherever the custom allowed. Similarly now if *saptapadi* is not required the marriage can be performed according to the customary rites and ceremonies of either party. But ceremony there must be. If no proper cere-

monies are performed in due form then the marriage is invalid.¹⁸ Many people take the advantage of the requirement of ceremonies to make a marriage invalid under Section 7 of the Act. They marry for the second time without the performance of the ceremonies so that they cannot be prosecuted for the offence of bigamy under Section 17 of the Act and Section 494 of the Indian Penal Code.

For facilitating the proof of Hindu marriages the State Governments have been empowered to make rules for the registration of the marriage. If such rules are framed, which have been in all the States, the parties may get the marriage registered under the Act. So far the registration is optional and the parties may get the marriage registered for the purpose of proof and evidence. But the State Governments are empowered under the HMA to make the registration compulsory.¹⁹

RESTITUTION OF CONJUGAL RIGHTS (Section 9)

When either the husband or the wife has, without reasonable excuse, withdrawn from the society of the other, the aggrieved party may apply, by petition to the District Court, for restitution of conjugal rights and the court, on being satisfied of the truth of the statements made in such petition and that there is no legal ground why the application should not be granted, may decree restitution of conjugal rights accordingly.

Explanation: Where a question arises whether there has been reasonable excuse for withdrawal from the society, the burden of proving reasonable excuse shall be on the person who has withdrawn from the society.

The remedy of restitution of conjugal rights was not available under the old Hindu law. The remedy of such a decree has come from the English law and British Indian Courts started entertaining suits for restitution of conjugal rights. Now the HMA provides for the remedy to a spouse if the other party has withdrawn from its society. The remedy presupposes that there is a valid and subsisting marriage between the parties. If the parties are not validly married then this remedy is not available. The word 'society' in this section has the same sense

18. See the case of *Bhaurao v. State of Maharashtra*, A.I.R. 1965 S.C. 1564 (*op. cit.*).

19. See Section 8 of the HMA.

SPECIAL MARRIAGE ACT, 1954

The various communities living in India are governed by their personal laws in the matter of marriage and divorce.¹⁰⁶ According to these laws inter-religious marriages are not permitted. For example, according to Islamic law a Muslim cannot marry a non-muslim. Likewise, a Hindu cannot contract a valid marriage with a person professing different faith.

In order to facilitate marriage among persons, professing different faiths, the Special Marriage Act was passed in 1954. The Act is a step forward toward secularising and socializing marriage laws in India. It enables persons belonging

106. *Ibid.*, Section 20.

107. *Ibid.*, Section 29.

108. Muslims are governed by the traditional Islamic law as applied in India. Hindus are governed by the Hindu Marriage Act, 1955; Christians by the Christian Marriage Act, 1872 and the Indian Divorce Act, 1869. Parsis are governed by the Parsi Marriage Act, 1936.

to different religions to enter into a legally valid marriage provided certain conditions envisaged under the Act are complied with.

CONDITIONS FOR THE SOLEMNIZATION OF MARRIAGE

A marriage between any two persons may be solemnized if neither party has a spouse living at the time of the marriage;¹⁰⁹ neither party is an idiot or lunatic.¹¹⁰ The male must have completed the age of twenty one years and the female the age of eighteen years.¹¹¹ It is also laid down under the Act that the parties should not be within the degrees of prohibited relationship.¹¹²

Persons who are already married according to their respective personal laws may also register their marriages under the Act, if they so desire, if certain conditions are satisfied.¹¹³ The first condition requires that a ceremony of marriage must have been performed between the parties. Secondly, neither party should have a spouse living at the time of registration of the marriage under the Act. The Act further lays down that neither party is an idiot or lunatic and that the parties have completed the age of twenty one years at the time of registration. They should not also be within the degree of prohibited relationship.

109. Section 4(a) of the Special Marriage Act, 1954. This Act has been recently amended by the Marriage Laws (Amendment) Act, 1976. The substantive changes effected by the amendment have been pointed out wherever necessary.

110. Section 4(b) of the Special Marriage Act, 1954. This change has been amended by the Marriage Laws (Amendment) Act, 1976. Under the amendment the condition for solemnizing the marriage is that neither party is incapable of giving a valid consent due to unsoundness of mind or though capable of giving a valid consent, has been suffering from mental disorder as to be unfit for marriage and the procreation of children. Further neither party has been subject to recurrent attacks of insanity or epilepsy. See Ch. III, Section 21 of the amending Act of 1976.

111. Section 4(c) of the Special Marriage Act, 1954.

112. *Ibid.*, Section 4(d).

113. See Section 15 of the Special Marriage Act, 1954.

CONSEQUENCES OF SOLEMNIZING A MARRIAGE

Some important consequences flow out of the marriage contracted under the Act. First, the effect of such marriage upon the member of a Hindu Joint Family is that the undivided member will cease to be the member of the Joint Hindu Family.¹¹⁴ Secondly, succession to the property of the persons marrying under the provisions of the Special Marriage Act, as well as succession to the property of the issues of such marriage will be governed by the Indian Succession Act, 1925.¹¹⁵ Thus, Hindus or Muslims or other persons whose marriages are celebrated under this law will not be governed by their respective personal laws in the matter of succession. Further, the rights and obligations of the parties marrying under the Special Marriage Act will be determined according to this Act and not according to their respective personal laws. For example, a Muslim who marries under the Act cannot dissolve his marriage by pronouncing *Talaq* upon his wife. Nor can a Hindu divorce his wife according to customary law.¹¹⁶

VOID AND VOIDABLE MARRIAGE

The Special Marriage Act classified marriages into two categories—void and voidable marriage. A void marriage is void both in fact as well as in law. It is null and void *ab initio*; whereas a voidable marriage is valid until it is avoided by the parties and the court declares it to be void. A marriage can be declared null and void under the Act on any one of the following grounds :¹¹⁷

- (1) if either party has a spouse living;
- (2) if either party is an idiot or lunatic;
- (3) if the male has not completed the age of twenty one

114. Section 19 of the Special Marriage Act, 1954.

115. *Ibid.*, Section 21. Under the Amendment of 1976 the law which operates to serve the status as a member of the joint family of a person, marrying under the Special Marriage Act has been done away with. Similarly, the law regulating the succession to the property of persons marrying under the Special Marriage Act, 1954 has been made obsolete.

116. The Hindu Marriage Act, 1955 recognises the right of a Hindu to obtain divorce according to custom. See Section 29(2) of the Act.

117. Section 24 of the Special Marriage Act, 1954.

years and the female has not completed the age of eighteen years;

(4) if the parties are within the degree of prohibited relationship,

(5) if the respondent was impotent at the time of the marriage and at the time of the institution of the suit.

Any person who contracts a marriage during the subsistence of a valid marriage commits bigamy¹¹⁸ and is liable for punishment under the Indian Penal Code.¹¹⁹ The second marriage so contracted is also null and void.

Any marriage solemnized under the Act is voidable on any of the following:¹²⁰

(1) if the marriage has been consummated owing to the wilful refusal of the respondent to consummate the marriage;

(2) the respondent was at the time of the marriage pregnant by some person other than the petitioner;

(3) the consent of either party to the marriage was obtained by coercion or fraud.

The court will not grant a decree of nullity on the ground of the wife's pregnancy, unless:

(a) the petitioner was ignorant of the fact of pregnancy at the time of the marriage,

(b) that proceedings were instituted within a year from the date of the marriage, and

(c) the marital intercourse with the consent of the petitioner has not taken place since the discovery by him of the existence of the grounds for a decree.

Similarly, the court will not grant a decree on the ground of having obtained the consent of the parties by coercion and fraud unless the proceedings are instituted within one year after the coercion has ceased or the fraud had been discovered. The court will also see before granting the decree that both the husband and the wife have not cohabited with each other after the coercion has ceased or fraud has been discovered.

Generally, the children born of void marriage are illegitimate. The Act protects the children born of void and voidable

118. See Section 44 of the Special Marriage Act, 1954.

119. Sections 494 and 495 of the Indian Penal Code.

120. See Section 25 of the Special Marriage Act, 1954.

marriages from becoming illegitimate. It is provided under the Act that when a decree of nullity is granted in respect of both void and voidable marriage children begotten before the decree is made will be deemed to be the legitimate children of the parties despite the decree of nullity.¹²¹ The children are entitled to inherit the property of their parents. But it must be pointed out that the children are entitled to the property of their parents only and have no right to the property of any other person.

REMEDIES UNDER THE ACT

Various remedies, such as divorce, judicial separation, restitution of conjugal rights are made available to the spouses whose marriage is solemnized under the provisions of this enactment.

I. Restitution of Conjugal Rights: Marriage creates certain rights among the spouses and at the same time imposes upon them certain obligations. One such obligation is that each spouse is entitled to the company and society of the other. It is this obligation that the court seeks to enforce between the spouses by a decree known as Restitution of Conjugal Rights. Thus, when either the husband or the wife has, without reasonable exercise withdrawn from the society of the other, the aggrieved party can use for restitution of conjugal rights.¹²² A decree for restitution of conjugal rights cannot be specially enforced in the sense that the court cannot compel the respondent to live or cohabit with the petitioner. Non-compliance of the decree results in the attachment of the property.¹²³ The importance of the remedy lies in the fact that the petitioner will get some maintenance so long as the decree is not obeyed. The other practical and important effect of such a decree is that it gives a right to the petitioner, if the decree is not complied with for two years or upwards, to apply for divorce against the respondent under the law.¹²⁴

II. Divorce: Under the Act, either the husband or the wife can seek dissolution of the marriage on any one or more of the following grounds.¹²⁵

121. Section 26 of the Special Marriage Act, 1954.

122. Section 22 of the Special Marriage Act, 1954.

123. The Civil Procedure Code, 1908 provides in Order 21, Rules 32 and 33 for the execution of a decree for restitution of conjugal rights.

124. See Section 27(J) of the Special Marriage Act, 1954.

125. *Ibid.*, Section 27.

- (a) that the respondent has committed adultery;
- (b) that the respondent has deserted the petitioner for a period of three years;
- (c) that the respondent is undergoing a sentence of imprisonment for seven years;
- (d) that the respondent has treated the petitioner with cruelty;
- (e) that the respondent has been incurably of unsound mind for a continuous period of three years;
- (f) that the respondent has for a period of not less than three years suffering from venereal disease in a communicable form, the disease not having been contracted from the petitioner;
- (g) that the respondent has been suffering from leprosy;
- (h) that the respondent has not been heard of as being alive for seven years;
- (i) that the respondent has not resumed cohabitation for a period of two years or more after the passing of the decree of judicial separation;
- (j) that the respondent has failed to comply with a decree of restitution of conjugal rights for a period of two years or more.

In addition to the grounds mentioned above, a wife is entitled to obtain divorce if her husband has, since solemnization of the marriage, been guilty of rape, sodomy and bestiality. The Act also provides for divorce by mutual consent.¹²⁶ Under the law, both the husband and the wife can jointly apply to the court for the dissolution of their marriage on the ground that they have been living separately for a period of one year or more and that they have not been able to live together.

The Marriage Laws (Amendment) Act, 1976 has now made some substantial changes in the law of divorce.¹²⁷ Previously the period of desertion was for three years which has been reduced to two years.¹²⁸ Unsoundness of mind for three years was made a ground for divorce. Now the law provides that either party can obtain divorce on the ground that the respon-

126. *Ibid.*, Section 28.

127. See Ch. III, Section 27 of the Marriage Laws (Amendment) Act 1976.

128. *Ibid.*, Section 27 clause (b).

