

THE 44th—AND THE LAST ?

M. R. Masani

ON April 3 and 4, 1975, I was invited by Bangalore University to give two lectures endowed by the Janmabhoomi Press Trust on 'The Constitution: Twenty-five Years Later'. This I did with the distinguished Vice-Chancellor in the Chair. He described my lectures as 'educative in nature' in the volume that was published later by Bangalore University.

In those talks, I had referred to three aspects of the Constitution of our Republic (in the drafting of which I had played my own small part) which I considered to be basic, namely, the Federal Structure and States Rights; the rule of the President and Governors and their right to dismiss the Cabinet and dissolve the Legislatures; and the Fundamental rights of the Citizen.

Dealing with the Federal Structure, I had observed: "If there is any one country that needs a federal structure more than others, it is India with its size, population and wide diversities of race, religion caste and ways of life. Even the maintenance of a free and plural society cannot be assured in such conditions except on the basis of genuine federalism. Already, the concentration of power in a few hands in Delhi has contributed towards the erosion of our democracy and democratic institutions and threatens to end up, as in Bangla Desh, in one-party authoritarian rule."

Dealing with the controversial subject of whether or not the President at the Centre and the Governors in the States were bound in all cases by the advice of their ministers, I had quoted Dr. Rajendra Prasad, the President of the Constituent Assembly, who had given expression to the view on May 23, 1949, that the relevant Article 'does not lay down that the President is bound to accept the advice'

I had gone on to express the view that the language of the Constitution was perfectly clear and that since, according to the dictionary, the essence of advice is that it leaves the person advised free to accept or reject it, the President and Governors were not bound to accept such advice and that, the Cabinet or the legislature had lost the confidence of the electorate, they had the right to dissolve the Legislature and order fresh General Elections to ascertain the wishes of the electorate.

I had pointed out that, on this point Mrs. Gandhi, the then Congress President, and the Union Government then led by Jawaharlal Nehru had agreed with my view by advising the Governor of Kerala in 1959 to dismiss the Namboodripad Government and call for

fresh elections and that, in doing so, they were vindicated by the people of Kerala.

Last but not least I had dealt with the Fundamental Rights which the Constitution had endowed on the Citizen. I had referred to the fact that Sir B. N. Rau's suggestion that the Fundamental Rights should be



Courtesy: *Indian Express*

subordinated to the Directive Principles of Policy had not been accepted by the Constituent Assembly of India and had gone on to quote Pandit Jawaharlal Nehru who on 30th April 1967 had told the Constituent Assembly:

"A Fundamental Right should be looked upon, not from the point of view of any particular difficulty of the moment, but as something that you want to make permanent in the Constitution."

Explaining the reasons which had actuated the Subcommittee on Fundamental Rights, of which I was a

Bill is no so much a legal as a philosophical one as to kind of way of life in which one believes. There is a distinct clash here between two ways of life—the Liberal Democratic one embodied in the Constitution of the Republic which was drafted in 1950 and the collectivist authoritarian one.

Rajaji and some of us had throughout the sixties urged that the comprehensive and centralised system of Planning and State Capitalism mis-called Socialism is not compatible for long with the maintenance of democratic institutions and the Rule of Law. It would seem that our warnings were not misplaced.

The best answer to those who are seeking to lay the axe at the root of the tree of liberty was given by Lord Hailsham, the then British Lord Chancellor, at the Fourth Commonwealth Law Conference held in Delhi in January 1971:

"It is only in conditions produced by law that freedom can grow. It is only in conditions where freedom can grow that human dignity can be achieved. It is only free human beings who have attained human dignity who will be ultimately secure in the possession of food, homes and jobs and the security that goes to make life....."

"Constitutional liberties — freedom of the person and of association, equality before the law and liberty of expression—precede and are the conditions of economic advance and social security, both of which are largely the result of constitutional freedoms and cannot be obtained without them. This is why those who throw away constitutional safeguards—elected governments, freedom to oppose, independent courts—in the name of economic advance, are ultimately betraying the common man, and depriving him of the chance of social progress and the very things they promise him in their party manifestoes. They are the real class traitors because, in the end, they impose themselves as masters on those before whom they parade themselves as liberators".

If the 44th Amendment Bill in its present form is enacted by Parliament, the President does not veto it and the Supreme Court does not strike it down as *ultra-vires* of the Constitution, as would follow from the terms of its own judgement in the Kesavananda Bharati case, the 44th Amendment may for all practicable purposes be the last as there would be precious little left of the Constitution to amend further, and that little the President as told by the Cabinet will have to do.

If Mr. Gokhale and others who agree with him that the Indian Parliament is sovereign are right—which they are not—then why have a written constitution at all? What remains of the sanctity of such a constitution? The answer is provided by the cavalier manner in which the Bill authorises the President, on the advice of the Cabinet, to adopt and modify the amended Constitution for the next two years with a view to "removing difficulties in giving effect to the provisions".

A Blow At Stability

The saddest part of the story is the way in which

the Constitutional Amendment Bill strikes a blow at the political stability of our Republic. Stability is lent to a Constitution when there is a popular consensus behind it. For the new Constitution by which it is proposed to replace the existing one in the abnormal conditions of the current Emergency there can hardly be the kind of consensus that was enjoyed for the last quarter century by the Constitution of 1950.

A. V. Dicey in his *Introduction to the Study of the Constitution* discusses the nature of sovereignty of the British Parliament. He points out that the actual exercise of authority of any sovereign whatsoever, including Parliament, is "bounded or controlled by two limitations. Of these the one is an external, the other is an internal limitations". The internal limit to the exercise of sovereignty arises from the nature of the sovereign power itself. "The external limit to the real power of a sovereign consists of the possibility or certainty that his subjects, or a large number of them, will disobey or resist his laws". To illustrate this point, Dicey quotes with approval an extreme example from Leslie Stephen's *Science of Ethics*:

"If a legislature decided that all blue-eyed babies should be murdered, the preservation of blue-eyed babies would be illegal; but legislators must go mad before they could pass such a law, and subjects be idiotic before they could submit to it."

By removing from the Constitution the checks and balances embodied in the Constitution of the Republic though distribution of power between the Union and the States, between the Executive, Legislature and Judiciary, the 44th Amendment Bill opens the flood-gates to the dangers of instability which accompany absolute sovereignty of any kind, particularly when located in a limited number of hands.

It is because the implications of these dangers both to the liberties of the citizen and the stability of Britain's political institutions are increasingly understood that an influential movement cutting across party lines is taking shape in Britain which urges that Britain too should have a Bill of Rights which should be beyond the purview of Parliament and which should be enforced by the Judiciary.

It is a tragedy that, at this very time, there should be in India forces at work seeking to undermine the Bill of Rights enshrined in our own Constitution and the consensus behind it which has given the Republic of India twenty-five years of stability in freedom. Cry, the Beloved Country!

IN THIS ISSUE

This issue is strong on biographies. We have two reviews, one by Professor S. P. Aiyer of a biography of Jayaprakash Narayan and the other by Mr. V. B. Karnik of a biography of Jawaharlal Nehru. The first page is naturally occupied by the Editor's comments on the topic of the day—the highly controversial 44th Constitution Amendment Bill now before Parliament.

management, they were not taking any proceedings.

Many in India, who are used in most homes not only to one cockroach but an army of them, may wonder what all this pother is about. To such it might be mentioned that cockroaches are responsible for a high incidence of disease causing bacteria. "Not to put too fine a gloss on it", writes Anthony Tucker in *The Guardian* of August 27, "the faecal droppings of cockroaches, not too easily noticed by the time the food is served, are rich in bacteriological hazards which can lie about for weeks and infect any food which touches it or over which the cockroach climbs". Also, infectious hepatitis or jaundice is known to be caused by cockroaches.

While we are about the task of developing discipline in our national life, could health authorities and housewives perhaps be educated to raise the anti-cockroach flag?

Substitutes For a Free Press

IN recent weeks heavy artillery from *Pravda* and *Izvestia* has been blazing at Radio Free Europe and Radio Liberty which are obviously causing great concern to the Kremlin by their thorough coverage of events in Russia and Eastern Europe and their large audiences. It is estimated that between 35 and 40 million people listen to Radio Liberty and half of Eastern Europe's captive population listen to Radio Free Europe, both of which operate from Munich.

The renewal of the Soviet attack on these broadcasting systems appears to follow the decision of the U.S. Congress to increase its contributions to these systems for the coming year to \$ 60 million. They have also received a shot in the arm from Jimmy Carter, the Democratic Party's Presidential candidate, who has aptly described them as "indispensable substitutes for a free press in Russia and Eastern Europe".

The West German Government too have turned down the protest made by the Soviets, and have proclaimed that the work of these two broadcasting systems is fully in keeping with the letter and spirit of the Helsinki agreements.

It is just too bad, but the unhappy men in the Kremlin will have to put up with Radio Liberty and Radio Free Europe and continue to content themselves with their ineffective efforts to jam them.—

National Association for Freedom

IN recent months the National Association for Freedom, which was formed quietly in December 1975 in Britain, has made remarkable progress and came to the fore under the direction of Mr. Robert Moss, who is the editor of the confidential newsletter of *The Economist* entitled *Foreign Report*.

The NAF is largely a middle class group dedicated to the protection of individual liberty against threats

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from whatever quarter they may come. It has a membership of 10,000 and a full time staff of 10 and a fortnightly paper, *The Free Nation*, of which 30,000 copies are printed.

One of the tasks in which the NAF is engaged is to fight for those workers who are oppressed and victimised by the closed shop. Not only is the Association helping British Railwayman and others victims of Trade Union monopoly but it has also lodged an appeal to the Court of Human Rights in Strasbourg for employees sacked by British Rail in conformity with the Labour Government's closed shop legislation. On the other hand, the NAF also takes a stand against racialism and the National Front which it describes as "gutter fascism".

Assuming that, in current conditions, such an organization could function in this country, can there be any doubt as to the crying need for its establishment at this end?

WORLD NEWS

PAK M.P.'S WALKOUT

THE Pakistani National Assembly accepted the fifth Constitutional amendment Bill today which curtailed the powers of superior courts to grant bail to people held on charges of subversion and bomb explosions or under the Defence of Pakistan rules.

During an acrimonious debate Mr. Mahmud Ali Qasuri, an opposition MP and a constitutional lawyer, said that the Bill was dictatorial and would strike a blow at the independence of the judiciary.

Mr. Bhutto, the Prime Minister, said the Bill was the result of trespassing by superior courts into the competence of the legislature and executive in allowing bail to people involved in delicate cases of national security. Some High Court judgments reflected a tendency on the part of the judiciary to consider itself superior to the legislature.

Mufti Mahmud, the acting leader of the Opposition, said that the constitution which had been framed with an all-party agreement had been amended in the past three years to the extent of one fifth of its total provisions giving it a partisan character.

Opposition members staged a walk-out in protest against rejection of amendments moved by them to the Assembly which was prorogued sine die.

FIRST TANGO IN COLOMBO

IT is not inappropriate, perhaps, that the security code word should be 'Tango' at the burnished marble

hall here where Government leaders from 85 countries will gather for tomorrow's summit meeting of the non-aligned countries.

This first tango in Colombo, set to heady music but played in differing keys and with any number of variations in the steps, has already revealed how far non-alignment has travelled since the first 25-nation meeting in Belgrade in 1961.

The oldest representative here is the 84-year-old Yugoslav President, Josip Broz Tito, who flew in on Friday morning to ride in his own bullet-proof limousine, which had been flown in two days earlier. The youngest, King Jigme Singye Wangchuck, of Bhutan, who will be 21 in November, is due today in a chartered Indian plane.

The range between them covers two-thirds of the world's population, possibly explaining the conference's self-defeating anxiety to function like a miniature United Nations.

Its interests certainly range far beyond the constructive proposals for economic co-operation made by Mrs. Srimavo Bandaranaike's host Government and endorsed last week by the conference's co-ordinating committee.

The 150-member Libyan team, for instance, is insisting that non-aligned countries should resolve to deprive permanent members of the United Nations Security Council of their veto rights.

Conference work is, as a consequence, lagging far behind schedule, and with much of the agenda still

TO THE SOVIET CITIZEN: SOLZHENITSYN'S COMMANDMENT

(Continued from page 6)

not completely share the idea . . . or if it does not accurately reflect the matter at issue will not allow himself to be compelled to attend demonstrations and meetings . . . will immediately walk out of a meeting, session, lecture, performance or film if he hears a speaker tell lies, or purvey ideological nonsense or shameless propaganda . . . will not subscribe to or buy a newspaper or magazine in which information is distorted and primary facts are concealed.

In that roll-call of honour rests a definition of Soviet life; as Solzhenitsyn says: "On any given day, any one of us . . . will be confronted with at least one of the above choices. Either truth or falsehood: towards spiritual independence or towards spiritual servitude."

It will not be easy, he warns his countrymen—and who has a better right to make such demands on them than the man who lived by those principles in his every waking minute? Yet

Has not the great European nation Czechoslovakia—betrayed and deceived by us—demonstrated how even an armourless breast, if it holds a worthy heart, can stand up to the onslaught of tanks?

And, as he points out, the path he is pointing out, though not an easy one, is the easiest of all possible ones, and "There are people among us, dozens of them,

who have been observing all these conditions for years and who live by the truth".

Therefore you will not be the first to take this path, you will join others! It will be easier and shorter if we embark on it in great and friendly numbers. If we are in thousands it will not be possible for them to do any thing to anyone. If we are in tens of thousands we will not recognize our country!

Solzhenitsyn, having earned the right to do so by his own courage, his own unwavering dedication to the principles he enunciates, lays such commands on the shoulders of a people who live in slavery, have we who live in freedom not the duty to obey his commands, transmogrified for our own circumstances, in a way which gives the greatest measure of support to those he has left behind and who live literally by that awful list of precepts? Have we not a duty to do nothing—*nothing*—that gives any aid or comfort to the lies against which brave men and women in the Soviet Union are daily struggling at the risk of livelihood and liberty?

I think that while there are those who bear the burden directly, we do indeed have the duty to help them to bear it.

Courtesy: *The Times*

The speech of Pham Van Dong, the Prime Minister of North Vietnam, presented the conference with a problem of a different order, since it was the most forthright Communist version of the movement's aims yet heard.

"The big capitalist countries have shifted on to our backs the disastrous consequences of the economic crisis, the inflation, and energy crisis inherent to their nature." It sounded like the language of combat and confrontation. He spoke of the "common enemy," the capitalist West, which sought to "alienate us from our allies, the Socialist countries."

—*The Guardian*, August 18

KOSYGIN'S FUTURE IN DOUBT

THE government announced today the appointment of a new first deputy premier Nikolai Tikhonov, 71, in a move seen as strong indication that Premier Alexei Kosygin may retire soon.

The announcement coincided with reports here that Mr. Kosygin, 72, nearly drowned last month after he suffered a heart attack while swimming in a river near his country house outside the capital.

Diplomatic analysts could see no explanation for the appointment now of Mr. Tikhonov, like Mr. Mazurov an industrial specialist, except as a preparatory step for Mr. Kosygin's departure.... swimming accident first appeared in London newspapers this week (IHT, Sept. 1) but Soviet officials refused to confirm or deny them. Unofficial Moscow sources said that the Premier was vacationing and would be back at work this month.

But today he failed to appear at Moscow airport when almost the entire 15-man ruling Politburo of the Communist party saw Mr. Brezhnev off on a flight to Alma-Ata in central Asia, where he is expected to inspect the wheat harvest.

Communist sources in Moscow said they understood that the reports of the river incident were basically correct and that Mr. Kosygin, although recovering, was still getting hospital treatment.

The Supreme Soviet is meeting this month to approve the 1976-80 five-year economic development plan, which Mr. Kosygin introduced at the 25th congress of the party in February and March. He is expected to address the Supreme Soviet on the plan.

—*International Herald Tribune*, September 3.

BAZILIAN CENSOR EASES RESTRICTION

A DETAILED expose of government officials' spending of taxpayers' money on personal luxuries recently appeared in a newspaper in Brazil.

The news is not so much in the revelations, but rather in that it has been a long time since Brazilians, living under an authoritarian military regime, have seen this kind of investigative reporting.

President Ernesto Geisel, an ex-general who says he wants a "slow but gradual" return to democratic rule in Latin America's biggest country, has ordered a recent relaxation of press censorship. The press is starting to take advantage of the opportunity.

The story on spending was carried by *O Estado*

de Sao Paulo, Brazil's most highly regarded newspaper, which until last year had federal police censors in its newsroom screening articles before they went to press. The paper said of its government spending report, "The facts were not new in themselves. What was new was that it now was possible to make them public."

Embracing a wider theme, *O Estado* chronicled the proliferation of Brazil's federal bureaucracy after World War II and reported that there now are nearly 250 federal agencies, boards, institutes, foundations and quasi-governmental corporations. The "superofficials" who work for them generally live high, the paper said.

O Estado calculated that a typical "superofficial" can increase his already high salary by \$70,000 a year, thanks to "perks" such as government-paid cars, rent, travel, entertainment, household upkeep, personal services and even credit cards at Brasilia shops and supermarkets. This is in a country where the average citizen's annual income is less than \$800.

—*International Herald Tribune*, August 11.

QUEUES IN COMMUNIST BLOC

IF there is ever a revolution against Communism," a Pole remarked with annoyance, "it will be started by someone who had to stand in line too long."

He himself had been waiting a half-hour, in a line that snaked all the way across Warsaw's picturesque Old Town Square, to buy a 5-zloty, or 15-cent, ice-cream cone.

No one buying ice cream in Old Town Square on a Sunday afternoon has anything pressing on his mind, and in any case, there are diversions such as an exhibit of amateur painting and an itinerant Hungarian band playing a jolly czardas.

But on weekdays it is another matter, and time wasted in lines is contributing to serious political unrest in Poland.

Most women in Communist countries have jobs, whether they have families or not, and shopping is a

(Continued on page 10)



Godrej

YOUR GUARANTEE OF GOODNESS

violence here, only something elevated, controlled and entirely necessary to establish the natural order of things, the destruction of evil by the forces of good.

In the movie, Lee hardly exists as a person. Rather, he is an abstraction, his face a white Kabuki mask, his body relaxed circling slowly until all at once there is the explosion of action, legs striking out with machine gun precision, face suddenly contorted with the thin savage scream and eyes lynx-like, blazing with strength. It is an electrifying experience which runs through the audience, charging it, so that at the end of the movie, every person walks out of the theater swaggering with power, wanting to kick every other person out of sight, swearing to find the nearest Karate "dojo" so that they too can make the trip to Superman.

And yet it is just another act. Lee is just another actor who we are told never paid is rent on time, and who went to make cheap Chinese movies in Hongkong because he could find no opening on the regular American television circuit. He rehearsed his combat stances and fighting sequences endlessly and is almost invariably associated with a lethal length of twisted chain and metal in his hands, the *nunchook*—though the very word *karate* means "empty hands."

What then is it which has made him a half mythical cult figure with thousands of fans who will not even accept any rational explanations for his death? One reason could be that while he may have been quite ordinary as an actor, as the practitioner of the martial arts he was the champ. Whether he was wielding his *nunchook* as he does in *Enter the Dragon* in a stunning display of speed and skill, whether he was kicking his way through eight two-inch boards of wood held together with tape, or whether he was challenging the most reputable of Chinese martial artists, Lee was doing the real thing. It was not a mere performance and this raw intensity is what comes thorough in his films.

There is almost something mystical in his relation to the art and indeed Kung-Fu, from which Karate, Judo and of course Lee's brand of fighting, *Jeet Kune Do* are derived, is a highly esoteric discipline. It is reputedly 4,000 years old and combines subtle Taoist philosophy in its thought. Though Karate and Judo both rely on speed and skill in outwitting the opponent, the older form depended on concentrating a person's energy in such a manner as to virtually annihilate the opponent. As a typical example of the reflexes developed through Judo there is the story of man facing an attacker at the edge of a cliff. As the opponent strikes out the man falls at his feet while the attacker carried by the force of his unconnected blow dives over the edge.

In Kung-Fu the aim is to develop an extra sense and this is exemplified by the story of a young apprentice to a Zen Master of the broadsword. On going to the Master's house the apprentice finds that he has been deputed to do all the menial tasks in the kitchen. When he makes a complaint about it the Master does not utter a word but from that time he makes it a

habit to come down to the kitchen and surprise the boy every now and then with a massive whack from his broadsword. Finally when the boy terrified of the blows has learnt to sense the very movements of the Master behind his back, the Master indicates that he is now ready to learn the art.

Besides this Kung-Fu also relies on a knowledge of the hidden weak points in the body. It is not unlike the system of acupuncture which charts its own field of nerve endings and magnetic points which concentrates a person's physical energy at certain places. Kung-Fu depends on a person developing their sixth sense to such a pitch as to be able to detect an opponent's weak points and attack them just there. But before they can do that, the practitioners of Kung-Fu themselves should be able to concentrate their energy to be able to create an explosive impact. This is apparently both a physical and a mental process.

On the physical plane Lee is said to have been such a fanatic that even while he ate, he kept a wooden stool by his side which he thumped rhythmically to strengthen his hands. While working in a Chinese restaurant he jumped up and down between serving the customers, which, given the fast turnover in a Chinese restaurant, must have been quite a feat. At nights he practised the approved Karate *Kata* or form though much later he criticised the ritualism and pre-occupation with routine postures that had ossified Karate. The martial arts Lee firmly believed were meant to connect and knock out the opponent and were not meant as exercises in displaying the virtuosity of one school or another. This insistence that the end was as the means, tended to displease the leading proponents of the established schools and is no doubt one of the reasons which fuels the legend that Lee was killed by persons jealous of the success of his unorthodox methods.

This is more obvious when it comes to the mental side of Kung-Fu whose principles were at one time a closely guarded secret. The ability to concentrate energy needed years of introspective learning, not unlike the powers acquired through meditation and yoga. When a person had reached this stage they were not interested in showing off their skill for any trivial reason. Lee apparently disregarded these rules and even as he acquired more skill and discipline in the art, he commercialized it and used it for furthering personal ends. In this context some people see his crack-up as a definite retribution, the collapse of ends which did not regard the means.

"The usefulness of a cup is in its emptiness" Lee was fond of saying referring perhaps to that still, tense, almost motionless moment when his body lies empty waiting for the electrifying charge of power. By the time fame caught up with him he had forgotten his own words and his cup, no longer empty, cracked as it were, under the tension of his charged life. Bruce Lee the martial artist had been destroyed by Bruce Lee the actor and now only the tawdry fragments of the legend remain.

and impracticable. I have personally found it hard to agree with many aspects of his *Plea for the Reconstruction of Indian Polity* or of his revised version in *Organic Democracy* and his notion of partyless democracy would seem a contradiction in terms for one trained to look at representative democracy in the Western perspective. His advocacy of the small community is touchingly romantic and it seems to ignore the unlovely social realities of villages politics which have often perverted participatory government in rural India. A whole range of research in rural government and panchayati raj now documents this aspect. On the other hand, we cannot turn away from the perennial wisdom of his social philosophy. Jayaprakash Narayan speaks in the great tradition of the political philosophers when he warns us against the growing power of the State which often renders the citizen impotent and dries up the creative springs of social life. He writes: "If the State is looked upon as the sole agent of reconstruction of society we get nothing but a regimented society... and the individual is made a cog in a vast human machine... Democracy requires that the people should depend as little as possible upon the State." He has also warned against the social consequences of the politics of power and the pathologies of political parties. The spirit of freedom which animates his social philosophy and imparts a warm glow to some of his writing should caution us against passing easy and uncharitable strictures on the man and his work.

In the beginning of his career he had sharp differences with Gandhi and yet he lived to be one of the important exponents of the Gandhian philosophy. Masani has observed that it is a real tragedy that J.P.'s conversion to Gandhism was slow for by the time he renounced Marxism and committed himself to Sarvodaya, Gandhi had passed away. "Otherwise", reflects Masani, "he might have achieved that kind of rapport with Gandhiji which might have changed India's destiny." However, there is a point of crucial contrast between Gandhi and Jayaprakash for he lacked the capacity to look into details without which a leader is apt to lose grip of a situation. The authors bring this out well in their description of life in Sokhodeora Ashram.

Jayaprakash's early married life was marked by estrangement and loneliness. Prabhavati and he saw little of each other. While he spent several months travelling she stayed in Gandhi's ashram. Married at an immature age she was steeped in traditionalism. She had become a disciple of Gandhi while he became follower of Marx. The description we get of their domestic life in this period is one replete with human interest. He was often irritable but like many husbands calmed down once the storm was over. For one of their journeys Prabhavati had packed up a large amount of luggage. The conversation that took place is probably typical of this period: "Let us travel light. What are you taking here, Prabha?"

"I was taking the stove."

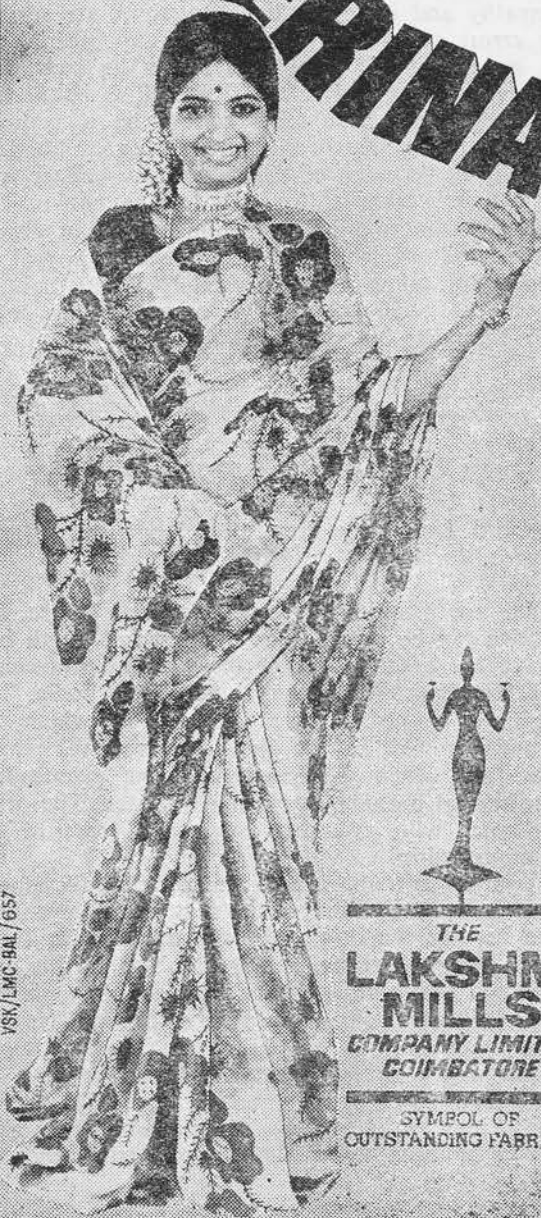
"Well, leave it behind."

"How can I give you tea?"

"We'll do without tea."

A CHARM FOR THE CHARMER

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with all its horrors, has brought this opportunity to our respective countries and it would be sad and tragic if we are unable to take advantage of it (255).

On the other hand, he was of the view that "so long as they did not have independence they would regard any war in which Britain was involved as an imperialist war and an occasion to intensify their own national struggle". (251) The view was a pure nationalist view which did little credit to his avowed socialist convictions. In the end, that view prevailed and he became a party to Gandhiji's *Quit India* movement, though in the beginning he had expressed his opposition to "the whole attitude of defeatism and sympathy with Japan which underlay this resolution". (289) This again is an example of Gandhiji's deep hold on Jawaharlal and how he determined the latter's policies and actions.

Jawaharlal rose to his preeminent position in the national struggle through Gandhiji's blessings. In 1942, Gandhiji formally designated him his successor. As stated by Prof. Gopal, "In Gandhian India, leadership could come only by gift, never by seizure." (243) The Subhas Bose episode is an apt illustration of the fact. Jawaharlal stayed with Gandhiji less out of opportunism and more because of the relationship that had grown between them. His association was also of help to the Congress and Gandhiji. Commenting on his election, on Gandhiji's advice, as the President of the Lahore session, Prof. Gopal writes: "In the other hand, it was worth having in the chair a figure of

glamour and integrity who would keep captive within the Congress his wide following among students and the intelligentsia. During the next ten years, no single individual did more to build in the Congress an awareness of economic issues, but Jawaharlal was also the best shield of the Congress against left-wing groups and organisations". (137)

In the light of this, it is ludicrous to compare Jawaharlal with Mao, as is done on the jacket of the biography. The two rose to eminence in different ways and the role that they played in their respective countries was also different. Mao was the leader of a revolution which went through two decades of large scale violence and civil war. Jawaharlal was the leader of a party which secured a peaceful transfer of power from an imperialism exhausted by war and buffeted by winds of change. Prof. Gopal deserves to be congratulated on the attractive portrait that he has drawn of that rich and eventful life. Readers will look forward to the next two volumes of the biography.

V. B. KARNIK

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WITH MANY VOICES

"The deep
Moans round with many voices. Come my friends,
'Tis not too late to seek a newer world."

—Tennyson

Prayer is as natural to me as breathing. . . . but I don't then sit back and expect God to answer it without any effort on my part.

—Jimmy Carter in *The Sunday Times*, July 11.

Peace is not the mere absence of war. Peace is action to stamp out international terrorism. Peace is a combined demonstration of strength and good will.

—Jimmy Carter's acceptance speech in

—*International Herald Tribune*, July 17.

What we have got to realise is that if a man will not work neither shall he eat. We simply are not a rich enough country to afford the kind of social welfare that we have been trying to impose or to adopt or copy from the affluent Western countries.

—Mr. B. K. Nehru in *Indian Express*, July 3.

All prime ministers suffer from the disease of historical impatience.

—*The Economist*, July 17.

Homogeneity and unity are not synonymous and uniformity is the mark of a party heading for small minority status, not of one-half of a two-party system covering the whole electorate.

—*The Economist*, July 17.

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Discipline, if unwelcome, breeds rebellion.

—*The Economist*, July 17.

The best way to get politicians out of sport is for youth to laugh them out of it.

—*The Economist*, July 17.

Under what law passed by Canada's or any other free parliament is any one authorised to forbid any group of free men to put on a placard in a hired stadium any words they please?

—*The Economist*, July 17.

As Mr. Trudeau has been a mule, bubbling youth should make an ass of him.

—*The Economist*, July 17.

There should be room for more imaginative ideas. It would be good for freedom, and for ordinary people's enjoyment, that intrusive politicians be laughed off the sport stage.

—*The Economist*, July 17.

There seems to be no lengths to which humorless people will not get to analyze humor. It seems to worry them. They can't believe that anything could be funny just on its own hook.

—Robert Benchley in *Time*, August 2.

I'm fed up with hypocrisy. From now on, I'm going to say it publicly and bluntly: 'I prefer the Israelis to the Palestinians'.

—Lebanese Christian soldier, in *Time*, August 2.

And what brings about inflation? The one basic cause of inflation is Government spending more than it takes in.

—Ronald Reagan quoted in *Time*, August 2.

Rhetoric should be added to the list of primary commodities produced by the Third World.

—Martin Woolcott in *The Guardian*, August 18.

Few would bet that Pakistan and India will never go to war again.

—Editorial in *The Observer*, August 15.

Burma has been a tragic example of the harsh truth that not independence, not socialism, not nonalignment, can bring peace and prosperity to a people.

—Editorial in *International Herald Tribune*, August 24.

And then would come the change of heart—on the journey, of course. “A cup of tea would be fine. I think we should have brought the stove, Prabha,” he would say. At other times having compelled her to leave the tiffin carrier behind he would remark “We ought to have brought something more with us. You meet people on the train and you have to give them something to eat.”

Jayaprakash was always in difficulty with his train fares, sometimes travelling without ticket and handing over his wrist watch to ticket collectors and then recovering it with borrowed money. The Scarfes remark, “Although something of a perfectionist in clothes, food, his demands for cleanliness and beauty in his environment, and his dreams for reforming society on a grand scale, he was not always practical in helping his wife to to manage his own household budget.”

As a biography the book is readable and marked by sympathy and understanding. But there are several glaring errors which could have been avoided if the writers had taken the trouble to check the facts. For instance, they speak of Lord Cornwallis’ Permanent Settlement in 1861 (and this cannot be a printing error), of Rajaji having been a Soviet-oriented Marxist, of Gokhale as founder of the Fergusson College and of the nationalization of fourteen foreign banks. The book has an attractive jacket but the absence of photographs takes away from the overall visual appeal of the book. But taken in its entirety this is a book warmly to be recommended for understanding Jayaprakash Narayan, the man and his work.

S. P. AIYAR

JAWAHARLAL NEHRU: A BIOGRAPHY, VOL. I
SARVEPALLI GOPAL

(Oxford University Press, Bombay,
Price : Rs. 100/-)

THERE are many books on Jawaharlal Nehru, but this one can be regarded as the first full-length biography of the great leader of the national movement and the first Prime Minister of independent India. The biography is to be in three volumes, of which the book under review is the first. It covers the period 1889 to 1947, when the country became independent and Jawaharlal became the Prime Minister. The other two volumes will cover the seventeen years of his prime ministership.

The arrangement appears to be lopsided. But, very likely, it is in recognition of the fact that it was only after he became the Prime Minister and Gandhiji disappeared from the scene, Jawaharlal was on his own and had the opportunity of making full and independent use of his talents and ability. Earlier, he was under the guidance of his father or Gandhiji whose wishes on major issues he could never transgress. The last seventeen years was the period in which he was the sole arbiter of his policies and actions. There was, of course, no break with the earlier period and the

outlook and views that he formed then governed his general approach in the next period.

This biography can be regarded as an official biography. Mrs. Indira Gandhi gave the author “unlimited access to her father’s papers.” Others co-operated in a similar and a vast mass of published material was also readily available to him. Prof. Gopal has made generous, but judicious, use of all these materials and produced a biography which is interesting as well as authoritative. As the author has stated, “Jawaharlal was the hero of my youth”. Hero worship has naturally crept into the discussion of many episodes and problems. Very likely, the author shares on all those matters the point of view of his hero. It will be for another scholar to present on the basis of the materials assiduously collected by Prof. Gopal a more objective statement of all those happenings.

In spite of all his obvious sympathy and admiration, the picture of the hero that emerges out of the biography on some of the crucial issues of the transfer of power is not flattering. The Communal problem was the most crucial issue of the period. If Jawaharlal and other Congress leaders had adopted a bold and realistic attitude, the problem could have been solved much earlier and, possibly, without their being required to accept partition. But they went on arrogantly denying the representative character of Mr. Jinnah’s League, which made a compromise impossible and Pakistan inevitable. Jawaharlal was mainly responsible for that attitude which, in his case, began as far back as 1937. It was sheer blindness on his part not to see the growing strength of the League. Sharing the same blindness, the author trots out the usual excuses about British support and patronage.

The communal situation deteriorated beyond measure in 1946 and thereafter. This should have put the leaders on their guard and they should have made adequate preparations to deal with communal frenzy. But Nehru, says Prof. Gopal, “had too noble an idea of this countrymen to believe that the desire to kill and torture, born of religious zeal, had any deep root in their nature. He was wrong, but so was everyone else in a position of responsibility at this time, and all were surprised and caught unprepared by the widespread and savage killings that disfigured India before and after partition.” (355) This was a grave error of judgment. According to Prof. Gopal, even after Lord Mountbatten’s declaration that the two Dominion Governments would come into existence by 15th August, “Jawaharlal does not seem to have taken in this. He was still thinking in terms of the British leaving in June 1948” (356). If this is a correct reflection of the state of Jawaharlal’s mind in those days, it does not speak highly of the mental of the leader of the nation that was to emerge.

Jawaharlal’s attitude towards the second world war is also full of ambiguities and contradictions. On one side, he “continues to pine for a gesture which would enable India to end a hundred years of hostility to Britain and join in a struggle for freedom.” In a letter to the Viceroy he wrote; “I have felt that this war,

Reviews

J. P.: HIS BIOGRAPHY

ALLEN AND WENDY SCRAFE

(Orient Longman, 1975, Price: Rs. 60/-)

JAYAPRAKASH NARAYAN. Whenever this name is uttered it inspires extremes of hate as well as admiration. Described by many as India's Conscience Keeper his popularity was reflected in a recent poll carried out by *The Illustrated Weekly of India*. At the other extreme he has been denounced as a monster of sedition and prophet of anarchy and held responsible for the more recent ills which have afflicted the parliamentary system of the country. But his life is part of the chronicles of our time and cannot be ignored by the historian of the future.

In a recent study of the man (*Is J P The Answer?*) M. R. Masani described him aptly as a "most interesting combination of revolutionary fervour and personal greatness" and this is precisely the picture of Jayaprakash as he emerges from the pages of this biography by an Australian couple who had their first *darshan* of him in 1958. It is frankly sympathetic in tone as

all good biographies should be. But the foibles and eccentricities of the man are not ignored and this renders the portrait both human and endearing. It has the ring of authenticity. From their first glimpse of Jayaprakash the Scarfes came under his spell and became voluntary workers in the Sarvodaya movement. They took charge of the educational activities at the Savodaya Ashram in Sokhodeora. The depth of this involvement may be probably be inferred from the fact that they adopted two children from Sokhodeora, the scene of their activities.

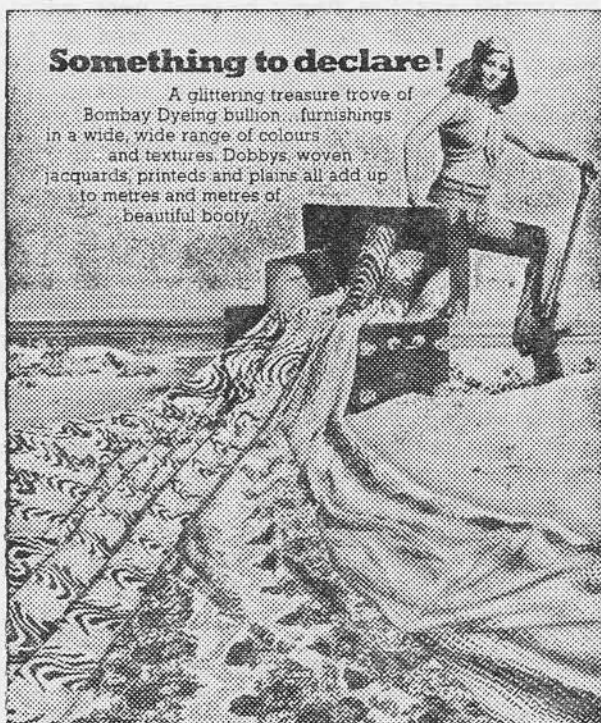
As a biography it is based on personal experience and reflection as well as interviews and documents at the Sapru House library, New Delhi. It traces his life from his early days in considerable detail, the early attraction to terrorism, the tensions of his married life, education in the United States where he did odd jobs from picking grapes to selling hair-straiteners (of dubious quality!), his involvement in the socialist movement, prison life and eventual escape with a price upon his head in the stirring days of the 'Quit India' Movement, his work in the Sarvodaya movement and many other activities which are now part of our contemporary history.

From Marxism to Sarvodaya and thence to confrontation with final authority (briefly described in the last chapter), Jayaprakash's life has been an endless quest for a just and humane society. What has animated and driven him along relentlessly—even a shade recklessly—is the hope for a better life for his people and his ultimate faith in the goodness of man. The Scarfes remark, "His sympathies and his heartbreaks, his rages and despairs, his dreams and disillusionings can only be fully understood if the man is pictured moving through a whirlpool of poverty and human misery. Whether he is pictured at thirty years of age or at seventy, the air he breathes catches the throat with its dust, the city sidewalks are unpaved and their grass verges are polluted with rubbish, his eyes see spindly children, people clad in dirty and inadequate clothes, men and women pulling loads like beasts of burden."

What is the mind of Jayaprakash as we see reflected in this work? Many interpretations are possible but its prominent features are striking. Always gentle in his personal dealings he could be firm and unyielding on his principles and hard as granite when his mind was made up. Fired by radicalism and extremist thought he frequently took positions which pushed into to the storm centre of public controversies. He has had sharp differences of opinion with several of his contemporaries and his social philosophy, eloquently expressed in at least two wellknown essays, has often been dismissed as hopelessly utopian

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THE POETRY OF VIOLENCE

Geeta Doctor

WHAT does one say, one might ask tear glinting in the eye, lump firmly in the throat, of a thirty-two-old phenomenon named Bruce Lee who died of an apparent brain haemorrhage? That he was a phenomenon, that he was a legend and good legends always die young, that his best known film *Enter the Dragon* is expected to gross 18 million dollars and make him even after his death the all time Chinese-American superstar? Unfortunately these things have all been said and after reading the crassest of instant biographies, entitled not surprisingly *The Legend of Bruce Lee* one wishes that they hadn't been, for the best answer would be "nothing".

The art of no-thing is perhaps a good description of Karate, the Japanese system of unarmed fighting which under Bruce Lee's control was transformed into a strangely compelling dance of death. He called his personal style *Jeet Kune Do* from the words *jeet* to stalk, *kune* which means first or style and *do* which indicate the way or the ultimate reality, Lee evolved a form of fighting which combined the grace of a springing panther with the swiftness of a hawk and

the deadliness of a serpent. On the screen the impact of this combination is thrilling.

In *Enter the Dragon* the slow ballet-like stalking movements have been filmed in a kind of dream sequence distilling the violence until it becomes as pure an emotion as perhaps love. There have in fact been Lee and this seems entirely right since his *pas de deux* very few actual love sequences in the film life of Bruce appears to be performed entirely with death. The Chinese film makers, who have always included a great deal of fighting in their films like to point out that violence is in fact a more universal feeling than love and indeed from the instant response that a film like *Enter the Dragon* evokes, there seems to be some truth in the claim.

The story of *Enter the Dragon* is puerile, imitation James Bond, where Lee goes to the island of the evil Han to avenge the suicide of his sister and also to free the opium-fed victims in Han's clutches. Yet Lee by his very presence lifts the absurdity of the genre into a new realm where the violence not only becomes credible but just... There is nothing ugly about the

WORLD NEWS (Continued from page 9)

major problem. It becomes acute when a woman, or her husband, must spend two or three hours a day waiting in lines to buy meat or sugar. That has been the situation in Poland for the last few months.

The burden of waiting in ubiquitous and interminable lines for everything in the Communist world is something to which people have grudgingly become accustomed. (An exception, perhaps is Yugoslavia where it is normal to fight and squeeze through a crowd to get ahead of everyone else.)

In a bread store in the Soviet Union, one may first wait in line to see the bread and various price tags, a second line to buy a receipt entitling one to the loaf, a third line to present the receipt and receive the bread and perhaps a fourth line to have it wrapped.

Enrolling a child in school, applying for an apartment, job or pension, getting a driver's license or even getting a tooth fixed are matters that require many weeks of standing or sitting in lines.

Medical treatment is free, but to get a cut finger bandaged involved even more lines than buying bread as papers are checked, administrators decide which clinics must be visited in what order, and so on.

After waiting for several hours in any line, a would-be supplicant frequently finds that closing time — either for lunch or for the day — has come. The door is slammed, and the only alternative to missing out is to come again another day.

For some persons, there are ways around the lines. "I have to do it the hard way," a Romanian remarked, "because I am not a party official and have

no special right to skip the lines. But when I need to see the doctor I find a carton of American cigarettes under the table gets me in to see him very fast."

In European Communist countries, a newly married couple must generally wait from 5 to 10 years to get an apartment of their own. They live with-in-laws even after having children. Family arguments are continuous and the divorce rate is staggering. In Poland, despite a crash programme to build apartments, the situation is as bad or worse than in any other Communist country.

But even apartments can be had.

In Prague, for instance, \$20,000 in currency under the table will put a couple at the head of the line for a good apartment, which still must be paid for of course. There are similar shortcuts to apartment throughout the Eastern bloc, but they all require large amounts of money that is hard to come by a legal ways.

"Under Communism," an East European said, "everyone must have a job. But there is no requirement to work."

"Lines and hardship are endurable in times of real crisis," an East European said. "After the war, when Europe was in ruins, it seemed normal to wait in line for an egg. But to have to go through such nonsense today, 31 years later, while the West is working without interruptions or simply relaxing, well, it says something about the system."

— *International Herald Tribune*, August 17.

untouched Foreign Ministers will have to continue their plenary sessions while the summit talks are in progress.

They were at it until 2 a.m. yesterday, trying to agree on the composition of the coordinating committee, which has been expanded from 17 to 25 to meet complaints of neglect.

But Friday night's protracted and polemical speeches made it clear that younger members—Cuba, North Korea and Vietnam, for example—are opposed to any form of permanent representation, and particularly resent what they see as the committee's domination by two of the founder members of the conference, India and Yugoslavia.

Most of the other delegates regard the conference as an opportunity to lobby for support in bilateral disputes.

Bangladesh's effective ruler, Major-General Zia-ur Rahman, has been particularly active, with a series of hard-hitting resolutions asking the conference to condemn any kind of interference in the internal affairs of other countries, adding that interference and intervention can take many forms—political, economic and military.

Warning that South Asian peace and security were on the verge of collapse, the General added a rider to Mrs. Bandaranaike's proposal that the Indian Ocean should be free of the warships of the major Powers. He wants a watch kept on the growing naval strength of neighbouring countries and practical guarantees against regional aggression.

Bangladeshi sources here claim that the 38 Muslim members of the non-aligned group support General

Zia's resolutions.

Nepal's Foreign Minister, Professor Krishna Raj Aryal, told me King Birendra's proposal that the Himalayan kingdom wedged between India and China should be declared a 'zone of peace' would come before the conference 'in one form or another' even though New Delhi is not receptive to the plan.

Several other delegates are privately encouraging the Fretilin Liberation Movement in East Timor, to the intense irritation of Indonesia's Dr. Adam Malik. The Moroccan Foreign Minister, Ahmed Laraki, has threatened to 'unmask' Algerian designs' if any attempt is made to discuss the former Spanish Sahara.

Such squabbles, however exciting, are, in any case, expected features of an international tango with such disparate partners.

The danger lies, however, in their possible impact on a far-reaching plan for collective self-reliance that will be considered by the Foreign Ministers early this week.

It includes co-operation in trade, money and finance, industrial production, food and agriculture fisheries, nuclear technology, transport and telecommunications, commercial banking, science and technology, the development of human resources, tourism, a multilaterally financed investment centre and a coordinated work programme.

More specifically, the draft economic resolution provides for a fund to finance buffer stocks of raw materials, the establishment of producers' associations of primary products and multilateral agreements on trade preferences; all of which could have a profound influence on the Third World's economic relationship with the industrialised West.

—*The Observer*, August 15

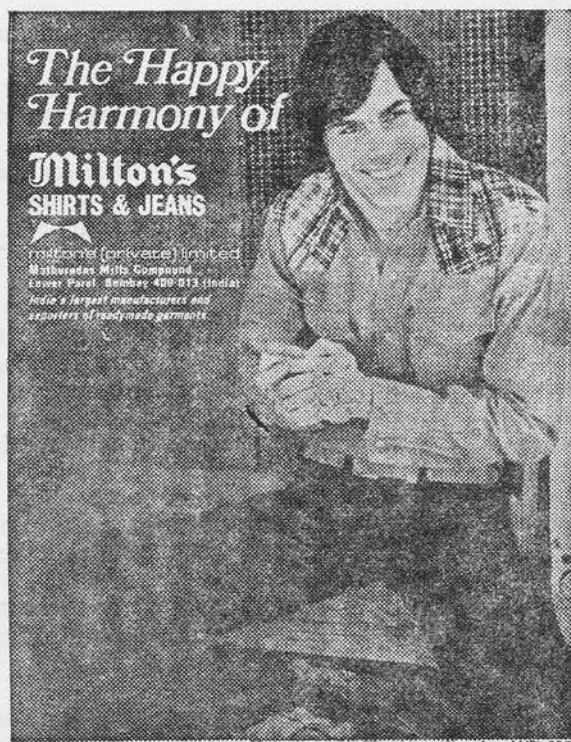
RHETORIC: NEW COMMODITY OF 3rd WORLD

THE non-aligned conference here is now working on two levels.

First, there are the of primary commodities pro-State—full of rhetoric, often prepared weeks in advance, and of real interest only when they touch on some quarrel between member states or other contentious issue. Second, there has been much plain speaking and some direct and brutal clashes, as the delegations worked in closed session on the questions that still divide them.

The speeches of the Heads of State have suggested to some wags that rhetoric should be added to the list of primary communities produced by Third World. But, although they are largely ritual, it is notable that nearly all have followed the same pattern set by the organisers of the conference many months ago. It looks as if the Sri Lankans had distributed a model Head-of-State speech to the 86 members, and it is possible they did exactly that.

All the speeches have spoken of the nonaligned movement having nearly finished its old political task of decolonisation, and all have ended with table thumping emphasis on the need to concentrate now on the attempt to change the world economic system.



TO THE SOVIET CITIZEN : SOLZHENITSYN'S COMMANDMENT

Bernard Levin

THE explosive effects of Alexander Solzhenitsyn's two extraordinary addresses to the British people continue to reverberate in Britain like thunder in the mountains. People, I find, are still talking about his words and his achievement; they are also still writing to me on the subject. And one note in particular is sounded again in the letters I have received: when the writers have described his effect on them and their families and friends, when they have urged me to continue to wage war on his behalf against his manikin belittlers, when they have expressed their yearning for a leader in this country with a thousandth part of his integrity, fervour, character and will, they end with the same question. How, they ask, can we help? How can we work for the same cause? How can we help to ensure that those who are determined to drown his voice and deflect his message are prevented from doing so? What can we do? What can we do? What can we do?

The answer, as so often, is: not very much, but not quite nothing. And in developing this theme today, my text is a statement by the prophet himself. It is an extraordinary document, even by his standards, and is made even more extraordinary by the circumstances in which the words were given to the world. For it was the last public utterance he made in the Soviet Union; he put it out on February 12, 1974, and later that same day the KGB knocked on his door. Next morning he was put by force aboard an aircraft flying to West Germany, and his exile began. Rarely in all history has the moral bankruptcy of evil been better demonstrated than in this action by a regime which dared not murder him for fear of his accusing ghost and could not let him live among them for fear that, with all their cruelty and might, the prophet unarmed would be stronger than they.

And so he left his native land, not by his own choice, until the loathsome thing that has stolen it is swept into the gutter of history. Behind him he left, in the witness he had borne so long, a well of truth and courage that can be drawn upon by those who continue to bear the torch; and he left also a guide to practical action, in the form of the statement I have mentioned, that can be used by those he left behind and by those who will come after. Just so had an earlier pilgrim spoken: "My sword, I give to him that shall succeed me in my pilgrimage, and my courage and skill to him that can get it." Solzhenitsyn's last words on Russian soil have been published in the West under the title *Live Not by Lies* (the full text will be found in the second Penguin edition of *Solzhenitsyn: A Documentary Record*, edited by Leopold

Labeledz) and before I go on to say in what way it can help us, too, I must quote it in some detail.

He begins by painting the picture of the hellhouse that is the Soviet Union for anyone who wishes to remain human. "A universal spiritual death has already touched us all. . . . We lack resolution, pride and enthusiasm. . . . What was drummed into our ears. . . we have now internalized: . . . You cannot escape your environment and social conditions. Existence determines consciousness. What does it have to do with us? We cannot do anything about it."

Then he points to the lock and after, to the key. The lock consists of the million million daily lies on which the Soviet Union stands:

When violence intrudes into peaceful life, its face glows with self-confidence. . . . But violence grows quickly old. After only a few years it loses confidence in itself, and. . . it summons falsehood as an ally. . . . Violence does not lay its paw on every shoulder every day; it demands from us only obedience to lies and daily participation in lies.

The disease diagnosed, the remedy is at hand:

The simplest and most accessible key to our self-neglected liberation is this: personal non-participation in lies. Though lies may conceal everything though lies may control everything, we should be obstinate about this one small point: let them be in control but without any help from any one of us.

This principle, Solzhenitsyn argues, does not demand the heroism of a Resistance movement, or even that of a Gandhian civil disobedience campaign. But "once we realise where the perimeters of falsehood are. . . our path is to walk away from this gangrenous boundary". And

If we did not paste together the dead bones and scales of ideology, if we did not sew together rotting rags, we would be astonished how quickly the lies would be rendered helpless. . . . That which should be naked would then really appear naked before the whole world.

And then he gives, clause by clause, the credo of the man who rejects lies, and who, "from that day onward",

will not sign, write or print in any way a single phrase which in his opinion distorts the truth; will utter such a phrase neither in private conversation nor in public. . . will not depict, foster or broadcast a single idea in which he can see a distortion of the truth. . . will not cite out of context. . . a single quotation so as to please someone, to feather his own nest, to achieve success in his work, if he does

(Continued on page 7)

Between You and Me and The Lamp Post



Chairman Mao

IN all the columns of space devoted in the Indian daily newspapers to Chairman Mao and his removal from the world scene, one searches in vain for any reference to the number of people Mao's regime liquidated during the past twenty-five years. Perhaps a trifling detail but, as it happens, not an altogether irrelevant one, while gushing with sloppy praise about a leading political figure. The number varies, according to the experts who have sought to make an estimate. China watchers in Hong Kong generally place the figure of human beings destroyed by the Chinese Communist regime at 80 million. Soviet information agencies are, however, more conservative and they claim that the number of those liquidated amounts to a mere 25 million, but that is a trifle that eminent journalists and commentators may perhaps be forgiven for overlooking on such an occasion, when the common description of Mao is that of a "fatherly figure".

The current blah about Mao brings to mind a similar phenomenon that took place when that other tyrant, Stalin, died. Turn to the columns of the press of that day and see the parallel. Indeed, our naive Prime Minister, Jawaharlal Nehru, adjourned Parliament against all protocol and got so far carried away as to refer to Stalin as "the beloved father of his people and a great lover of peace whose loss is being mourned in every home in the Soviet Union". Your Editor then took the liberty of issuing a statement to the press saying that, on the contrary, Stalin was a warmonger and a tyrant. Krushchev, in his celebrated 20th Congress speech, confirmed the view I had expressed and contradicted Mr. Nehru's assessment.

Time and history will no doubt have their revenge through the process to which Stalin, Nasser and other tyrants have already been subjected. Meanwhile, as of 10th September, 1976, the only accurate description of Mao Tse-tung is that which comes from Taiwan's Broadcasting Corporation (BEC) as "the most despotic leader in the Chinese Communist Party".

Under Attack Again

KNOCKING judges and lawyers has become a fashionable pastime which takes many forms, some mischievous and other amusing.

During the past month there was, for instance, the Advocates (Amendment) Bill introduced by the Law Minister in the Lok Sabha which seek to abolish the dual system of counsel and solicitor offering their services to the client which has been confined to the High Courts in Bombay and Calcutta. That system, which we inherited to our advantage from the British and

which has served its purpose over the years, is now to be abolished by statute. All that the system did was to provide for a division of labour between the Solicitor or Attorney in his office and the Barrister or Advocate in court. Evidently, while Trade Unionism is legitimate elsewhere, lawyers may not indulge in it.

An inevitable result of this Act will be to lower the quality of the services litigants on the Original Side of the High Courts in Bombay and Calcutta receive compared with what prevails in other courts.

Quite apart from the denigration to which the Judiciary is to be subjected by the 44th Amendment (see front page), other forms of cutting judges down to size, apart from their transfer from one State to another, are being envisaged in certain quarters.

Mr. Justice P. N. Bhagwati of the Supreme Court has now suggested in a judgement of the Supreme Court reported in the *Economic Times* of August 22 that there is need to continue the education of judges. "The world is changing fast", observed Mr. Bhagwati, "and in our country vast social and economic changes are taking place. There is a revolution of rising expectations among millions of human beings who have so far been consigned to a life of abject poverty, hunger and destitution."

"Law", Mr. Justice Bhagwati said, "has for the first time, adopted a positive approach and come out openly in the service of the weaker sections of the community. It has ceased to be merely an instrument providing a framework of freedom in which men might work out their destinies."

"It has acquired a new dimension, dynamic activism and is now directed towards achieving socio-economic justice which encompasses not merely a few privileged classes but the large masses of our people who have so far been denied freedom and equality—social as well as economic—and who have nothing to hope for and live for. Law strives to give them social and economic justice and it has, therefore, necessarily to be weighted in favour of the weak and the exposed."

Cockroaches in Park Lane

THE furore caused by the discovery of a cockroach in the kitchen of the well known Park Lane Hotel in Piccadilly in London may have some educative value for us in India. As soon as a cockroach was discovered late in August, the management of the hotel not only suspended the service of lunch and dinner in the restaurant but announced that a modernisation programme would be carried out in the main kitchen costing £50,000. Officials of the Westminster City Council, who made an inspection of the kitchen, announced that, because of the co-operation of the hotel

member, in placing the fundamental rights beyond the jurisdiction of Parliament, I had observed :

"The considerations that moved my colleagues and myself in including in the Constitution a Chapter on Fundamental Rights and making the Supreme Court the guardian of these rights *vis-a-vis* the Executive and Parliament were many and varied. There was first recognition of the fact, while the majority may not always be wrong, as the cynic has suggested, there was no assurance that it would always be right. Some of the worst tyrannies in history were to be found and are even today to be found in countries where the legislature consists of the elected representatives of the people. The fact that an action is taken with the support of a temporary majority provides no guarantee that it is either fair or just or wise. Thus, Thomas Jefferson had opined that 'the tyranny of the legislators is the most formidable dread at present and will be for many years'. There are certain rights that the citizen possesses that cannot be subjected to the whims and fancies of the majority of the day and these are rights that we listed and described as Fundamental Rights.

These general considerations appeared to us to possess particular validity in the case of a country like India with its wide variety of linguistic, cultural, economic and religious backgrounds and the absence of what may be described as the non-conformist conscience".

Answering the moot question which has often been raised as to the intentions of the Constituent Assembly, I had referred to the Minute of Dissent tabled by Mr. Jairamdas Daulatram, a veteran Ganadhiyan Congressman, to the Report of the Joint Committee of Parliament on Nath Pai's Bill and quoted him :

"I may mention in conclusion that the Advisory Committee of the Constituent Assembly appointed a special Sub-Committee to deal with the question of fundamental rights. We were clear in view of the spirit which prevailed in the Advisory Committee at the end of the struggle for National Freedom that we were framing a set of basic rights which would constitute a kind of pact incorporating the understanding we arrived at between representatives of all section of our people as to mutual rights and obligations and conceived as essential for holding the whole composite nation together. The inviolability of this pact conceived as a vow is patent to our mind. We knew it was our objective and the need of the composite nation. Of the twelve members of the committee, six are now alive : Acharya Kripalani, Dr. K. M. Munshi, Mr. M. R. Masani, Smt. Hansa Metha, Sardar H. Singh and myself. It is not a mere coincidence that all the six of us still hold that the rights contained in Part Three were not to be abridged or abrogatable by Parliament except to the extent and for the purposes specified and provided in Part Three itself. And the only place or part to abridge or abrogate it is in the Part itself".

And Now the 44th

It is a measure of the deterioration that has overtaken our national life since I spoke in Bangalore that each of these three basic features of the Constitution are now sought to be struck down by the 44th Amendment Bill introduced in the Lok Sabha on 1st September 1976. The Citizen, the Courts of Law, the States, the President and Parliament are all to be denigrated and only the Union Executive is to thrive and aggrandise.

During the past twenty-five years, the Union Government has already used its economic strength to denude the States of a great deal of their autonomy. Several clauses of the 44th Amendment Bill seek to aggravate the existing unbalance and take the country to something quite near a centralised and unitary government which is entirely unsuitable to a country of such dimensions, size and complexity.

The long debate started by Dr. Rajendra Prasad, the first President of the Republic, in regard to the President's powers is now sought to be ended by this Bill, a clause in which it lays down that the President will be bound by the advice of his Cabinet, thereby seeking to convert the unfortunate realities current since Mr. Giri was elected President into a permanent feature of the Constitution.

The attack on the Fundamental Rights of the Citizen, which commenced with the 24th and 25th Amendments, is now to be driven home and many clauses of the Bill are so drafted as to diminish the independence of the Judiciary and to truncate the rights of the Courts to sit in judgement on the executive acts of the government and the constitutional amendments and laws enacted by Parliament.

'The Will of the People'

Mr. Gokhale, the Law Minister, who introduced this Bill did not hesitate to assert in the Lok Sabha on September 1, 1976 that "Parliament is competent to amend every Article of the Constitution". He went on to dissociate himself from the view that what he chose to call "the so-called, non-existent basic features of the Constituent" were not capable of being amended by Parliament as laid down by the Supreme Court of India in its historic judgement in the Kesavananda Bharati Case. According to him, Parliament represents the will of the people and is consequently sovereign.

But is this so? Take the present Lok Sabha as an example. According to the Election Commission of India, around 54 percent of the electorate cast their votes in the general elections of 1971. Of these, just over 43 percent voted for the ruling Congress Party. This means that just under 24 percent of the electorate supported it at the polls. Thanks to the archaic British electoral system we have adopted, this minority of the electorate enjoys a fictitious Parliamentary majority which is so big that it can destroy the Fundamental Rights of the Citizen. Does this show that this Lok Sabha, whose term of office has already expired, represents the will of the people?

The Basic Choice

The real issue underlying the controversy over this