

FUNDAMENTAL RIGHTS IN OUR COUNTRY

Provision To Amend The Constitution

THE provisions relating to Fundamental Rights will be appreciated better if viewed in their historical perspective. They have for their back-ground the long struggle for freedom of the individual, which started with the Barons' fight in England and resulted in the signing of the "Magna Carta."

The liberties guaranteed by this historical document were expanded by the Petition of Rights, the Bill of Rights of 1689 and the Act of Settlement of 1701.

These constitute the foundation rock not only of the unwritten British Constitutional Law, but also of the freedom of the individual. These charters declared the existing Common Law in England and made its observance compulsory on the Executive, though the legislature was left untouched, with the result that British Parliament is supreme and can make any law it likes.

No member of the executive in England can interfere with the liberty or property of a British subject except if he can support the legality of his action before a court of justice. The courts exercise the fullest power to protect the individual as against the executive, but are powerless as against the Parliament. There are no guaranteed or absolute rights in England, and if an act of Parliament is obtained improperly, it is for the Parliament to correct it by repealing it, but so long as it exists, as a law, the courts are bound to enforce it. The courts cannot sit in judgment over the legality of laws made by the British Parliament.

The first time that fundamental rights as such came to be drawn up in a statute was after the French Revolution when the National Assembly of France drew up in 1789 the "Declaration of the Rights of Man and Citizen." The cardinal principle laid down was that men are born free and equal in rights, and the State should secure to each individual the right to liberty, property, security and resistance to oppression.

Residuary Powers

These rights were further elaborated in the first Amendment to the Constitution of the U.S.A., which provided for the freedom of religion, of expression, of association, and for the right to property, to personal liberty, to possession of arms, and to trial by process of law. It also provided that residuary powers would vest in the people. It creates a supremacy of the courts as against parliamentary supremacy in Great Britain. There is no provision in the Constitution of the U.S.A. for suspending any of the fundamental rights granted under the Constitution; and the legislature cannot amend the provisions as to these rights except by procedure laid down for amendment of the Constitution, which requires concurrence of the States.

The doctrine of security of the State, investing the legislature with power to suspend fundamental rights in the interests of public security, is not recognised in the U.S.A.; but the doctrine of police powers of the State is conceded, and restrictions on the individual under certain conditions have been held to be constitutional, though similar provisions under normal conditions were held to be *ultra vires*.

In the constitution of the U.S.S.R., there came to be a further expansion of the fundamental rights. It provided for the right to work, to leisure, to education, to health, and for freedom of assembly, and also for universal suffrage irrespective of race, nationality, sex and colour, in addition to certain other rights.

In Ireland

In the Republic of Ireland an attempt has been made to keep to the middle path so far as the courts and the legislature are concerned. While the legislature may not touch provisions like equality before the law and abolition of titles, it is empowered to regulate and control within certain limits rights like freedom of expression, of assembly, and of association. The courts cannot interfere in such matters.

In India provision is made for suspension of certain of the fundamental rights in an emergency while the doctrine of absolute supremacy of parliament has not been accepted. The judiciary is free to review legislation repugnant to the constitution, but provision has been made to amend the constitution with comparative ease.

Fundamental rights are set out in the constitution of India elaborately and may be divided into two groups, according as they are justiciable or non-justiciable. The latter, casting merely a moral duty on the legislature and the executive to act in accordance with their

By C. I. S. BINDRA

provisions, enjoin creation of a social order ensuring justice, economic and political justice, adequate means of livelihood, fair wages for labour, self-government on village panchayat pattern, universal education, freedom from want, and abolition of war. The justiciable rights may be grouped under seven heads: the right to liberty of person, to equality, against exploitation, to own property, and to constitutional remedies, and the freedom of religion and of culture.

All these rights may be altered by amendment of the Constitution, or suspended by the President during Proclamation of Emergency under Article 359. The First Amendment Act of 1951 has provided for the acquisition of zamindari and the abolition of Permanent Settlement without interference from courts of law and without immediate payment of compensation. The Constitution is enacted for the good of the people and may be amended without any compulsion and when a necessity arises, for nothing in the Constitution is sacrosanct or inviolable.

For Citizens Only

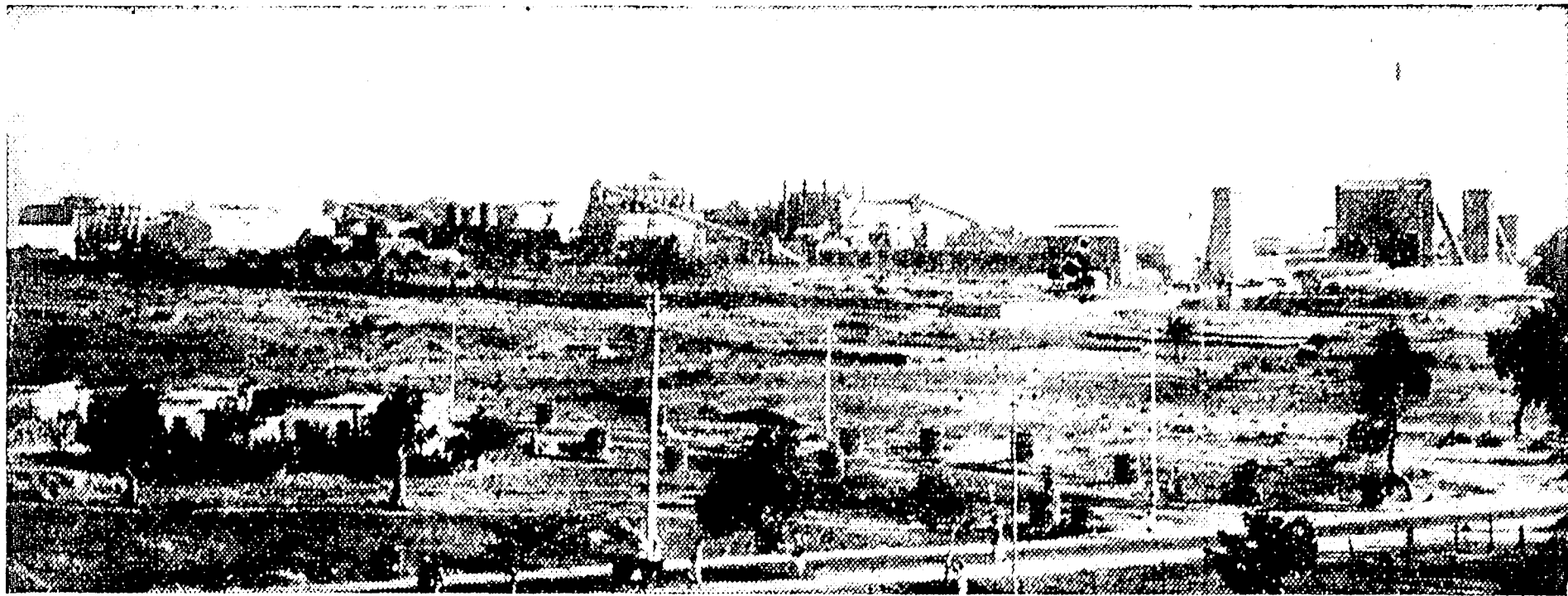
Fundamental rights may be again divided into those which are available to all residents in the country and those which are reserved for citizens only. The latter include prohibition of discrimination on grounds only of religion, race, caste, sex, or place of birth; equality of opportunity in matters of public employment; freedom of speech, assembly and association; freedom to acquire property or to carry on any occupation, trade or business; right to move freely, to reside and settle in any part of the territory of India; the right to conserve a distinct language, script, or culture; and the protection of minority interests. The rights which are available to all residents in the country are protection of life and personal liberty, equality before the law, protection against *ex post facto* penalization, against slavery and forced labour, and against employment in mines and factories of children and women, freedom of conscience, the right to profess, practise and propagate any religion, and the right to constitutional remedies.

Restrictive Provisions

The guarantee of fundamental rights operates against incursion by the State. In case of a violation by individuals the remedy lies under the ordinary law of the land if any be available, though some of the fundamental rights enjoin on the State to take restrictive measures preventing violation by individuals as in the case of prohibition of discrimination, denial of equal protection and the abolition of titles. Such restrictive provisions are strictly in the nature of constitutional limitations and are binding without any exception. Any act of Government which contravenes these provisions will be void to the extent of such contravention. The enabling provisions related to individual rights may however, be regulated within the prescribed limits; and the restrictions imposed by the executive or the legislature will be subject to review by courts of law.

The rights which will be enforceable by the courts are only those that are specifically provided for in the Constitution; since the courts in India cannot, on the other hand, assume the role of a super-legislature in defence of a claim based on natural rights. It is different in the United States because there the enumeration of certain fundamental rights in the Ninth Amendment is not to be construed to deny or disparage other rights retained by the people as residuary rights. There is no such residuary power vested in the people of India.

All laws which happen to be inconsistent with any of the fundamental rights and were in force at the commencement of the Constitution, are declared to be void to the extent of the inconsistency under article 13. The Irish Constitution declares such laws to be invalid and not void. If a law is declared to be void absolutely, it is deemed not to have existed at all, and all decisions taken under it become null and void. The subjects of all such decisions have to be reargued. This would be a difficult position. The Supreme Court of India has ruled



A panoramic view of the Sindri Fertilizer Factory.

SINDRI'S PROGRESS AND EXPANSION

SINDRI has gone from progress to progress. This giant fertilizer factory set up by the Government of India after independence has already yielded rich dividends to the nation.

When it went into production at the end of October 1951 the whole country hailed the establishment of this great national enterprise as a big step towards self-sufficiency in food.

One of the commentators then remarked "A giant comes to the rescue of Indian agriculture". This remark has proved to be true, as Sindri has greatly helped in raising the country's agricultural production during the First Five Year Plan period.

Since the inception till December 31, 1956, Sindri has produced 13,76,789 tons of fertilizer (ammonium sulphate). This has meant a saving of more than 48 crores of rupees in foreign exchange.

As a result of the application of the total quantity of this fertilizer, it is estimated that it will have yielded 27 lakh tons

of additional food-grains, valued at over Rs. 74 crores.

Sindri has established several production records. It exceeded the production target of 3,30,000 tons for 1956 by 1,725 tons. The production targets for the calendar year 1955-56 were also exceeded. The production figures were 3,21,353 and 3,26,062 tons respectively against the target of 3,20,000 tons.

From the first year of its working, Sindri has shown profits. The working of the enterprise during 1955-56 has shown that the gross profits for the year amounted to Rs. 3,75,17,778.

After making certain necessary provisions, the net profits amounted to Rs. 18,06,048. A sum of Rs. 68 lakhs was allocated during the year as dividend to shareholders at 4 per cent. per annum.

In other words, this dividend benefit will be ploughed back to the nation, as the shares are held in the name of the President of India.

These financial results are creditable, considering that the fertilizer has been to make the fertilizer available to the cultivator at as economic a price as possible. Sindri's price is lower than that of imported fertilizer and within the financial reach of the cultivator. This has been one of the main reasons for the rapid increase in the use of fertilizers in the country. In fact, the demand for fertilizers has doubled up, and it is expected that it will reach its peak of 18 lakh tons of nitrogenous fertilizers in terms of ammonium sulphate by the end of the Second Five-Year Plan period.

Good progress has been made with Sindri's Rs. 11-crore expansion scheme. The expansion work is in progress and the new plants will be commissioned during 1958. Under the expansion scheme two new types of nitrogenous fertilizers will be made. These are: 400 tons of ammonium sulphate-nitrate or double-salt and 70 tons of urea per day. In other words Sindri's existing production capacity will be increased by over 60 per cent.

These two new fertilizers will be made in India for the first time. Ammonium Sulphate-Nitrate is made up of ammonium sulphate and another nitrogenous fertilizers, ammonium nitrate. It contains 26 per cent. nitrogen as against 20.6 per cent. in ammonium sulphate. This fertilizer has gained popularity in Europe and U.S.A. and is being successfully tried in India. It is estimated that one maund of this fertilizer will give an in-

crease of 3½ maunds of paddy or about 3 maunds of wheat. The usual rates of application of this fertilizer will range between 80 to 100 lbs. per acre for food-grain crops.

Urea is a more concentrated nitrogenous fertilizer. It contains 45 per cent. nitrogen, more than any other solid nitrogenous fertilizer. It is considered to be a top-notch fertilizer which has been used successfully in Europe, United States and Japan. It is estimated that one maund of Urea fertilizer will give an increase of six maunds of paddy or five maunds of wheat. The application of this fertilizer will range from 50 to 100 lbs. per acre on paddy and wheat.

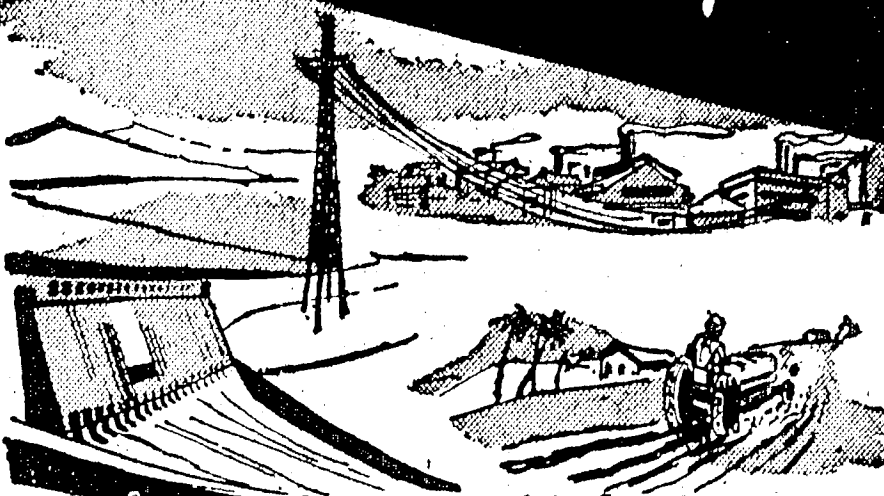
So far over Rs. 4½ crores have been spent by the management on housing and other amenities for workers. The management will spend during 1956-57 another over one crore of rupees on the welfare programme, including medical and health services, education of workers' children, general welfare activities and housing.

Sindri has already made a notable contribution to the strengthening of the country's expanding economy. This contribution will be more significant in the context of Sindri's expansion during the Second Five-Year Plan. It has led the way for a very much bigger expansion of fertilizer industry during the Second Plan.

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A plan within a plan

To raise the standard of living of the people and to make India a great industrial nation, our Government has wisely embarked on a succession of five year plans. The First Five Year Plan, recently completed, has achieved success, and the Second Plan, now put into motion, is on a yet more ambitious scale.

As output, both in industry and agriculture, increases, the demands on transport will correspondingly be increasingly heavy. More and more motor vehicles will be expected to carry materials, men and equipment from producing to consuming centres, from village to town and vice versa. India will need a great many vehicles to carry goods quickly, cheaply and efficiently.

That is why the Second Five Year Plan has set a target of 60,000 vehicles as the yearly production by 1961, to keep pace with the rising industrial and agricultural productions and to fill the gaps in other modes of transport.

A large percentage of these vehicles will have been made by us, because we have a planned programme of production of trucks and cars. We are equipped to make our own vital contribution to road transport, and to national economy as a whole by providing employment to larger numbers, helping ancillary industries and saving foreign exchange.

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The National Development Council approved in May 1956 the draft Second Five Year Plan pledging the common determination of the Central and State Governments to carry out the Plan and even exceed the targets set out in it. The Plan was presented to Lok Sabha on May 15. The total outlay during the Plan period is Rs. 7,200 crores. The Prime Minister, Mr. Jawaharlal Nehru is seen in the photograph signing the Plan.