

Vigilance order to
create a climate of



**ASSIGN
BUSTER**

Vigilance is the price of democracy and it is, as Laski says, “ the proud spirit of citizens less than the letter of law, that is their most real safeguard” against encroachment on the liberty of the people. Mere democratic institutions are not enough to safeguard liberty. The conferment of fundamental rights and existence of appropriate institutions to enforce and safeguard them constitute only half the battle.

Victory comes only when citizens have the courage of conviction to maintain and uphold them, and protest, even resist, if any invasion is made on their freedoms either by any individual or the government. To express it in the memorable words of Thomas Jefferson: “ What country can preserve its liberties, if its rulers are not warned from time to time that this people preserve the spirit of resistance.” Secondly, liberty can be best secured when there is mutual cooperation between the government and the people. In order to create a climate of trust and mutual cooperation, it is essential that the liberties of the people be incorporated and defined in the constitution of a country.

If the government or any individual attempts to make encroachments on the liberties of the citizens, they can appeal to the written law and seek proper redress. The constitution of a country is the custodian of the liberties of the people and provides necessary safeguards against any possible encroachment. In countries where the constitution is essentially unwritten and there are no Bill of Rights providing specific rights, the judiciary safeguards the liberties of the people. Britain is the classical example of such a constitution and judiciary in that country has proved to be the unfailing guardian of the rights of the people. It implies independence and impartiality

of the judiciary and existence of the Rule of Law. If the people can secure speedy and impartial justice and all are equal before law and the same law is applicable to all and there is nothing which can be characterised as arbitrary action, their liberty is duly guaranteed. Montesquieu maintained, “ It is principally by the nature and proportion of punishments imposed by law that liberty is established or destroyed.

” Then, liberty can best flourish under a democratic form of government. In democracy political power rests with the people. The rulers are their nominees and they remain in office so long as the people wish them to continue. This is a useful safeguard of liberty. But democracy by itself is no automatic guarantee unless people possess the habit of tolerance and the majority party respects the liberty of the minorities. The majority party should not be prompted by sectional interests disregardful of the interests of the minorities.

Nor should the minorities always suspect the intentions of the majority and be at perpetual political animosity with the latter. There must be, on sides, moderation and the spirit of give and take, and agreement to differ, which is really a form of unity. “ Our political machinery,” once said Lord Balfour “ supposes a people so fundamentally at one that they can afford to bicker.

” The spirit of democracy is infinitely comprehensive, infinitely complementary and infinitely creative. It is in the integration of wills that the democratic character of majority rule consists. Freedom, according to Laski, cannot be achieved for the mass of men in the presence of special privileges guaranteed to a small section of the community.

Freedom for all to all places of authority is real liberty. Those who are denied the opportunity to authority assume the subordinate position of obedience and those who enjoy the privileged position of authority struggle to maintain their power and prestige and tend to justify their retention by the most specious and fallacious kinds of arguments. Whenever men become only recipients of orders they lose their individuality and the ability to realise their own good.

They cannot appreciate the implications of liberty and the means to safeguard their rights. Moreover, there can be no liberty where the rights of some depend upon the pleasure of others. No person or group of persons should be in a position to encroach upon my liberty and the rights which belong to me as a citizen. Montesquieu doctrine of Separation of Powers is an important institutional check against the abuse of power by any authority of the government. His maxim was *le pouvoir arrete le pouvoir*, power halts power. If any branch of government exercised authority in excess of that permitted by law, it should be checked by the other in order to restrain its encroachments, he asserted.

This balancing of power was necessary for safeguarding the liberty of the individuals and for avoiding tyranny. Montesquieu, accordingly, suggested, that the three branches of government executive, legislative and judiciary should be so organised that each should be entrusted to different personnel, and each branch should perform distinct functions within the sphere of powers assigned to it. There are two views, modern and traditional, about the analysis of the doctrine. Without going into the relative merits of the two,

it can be safely said that the doctrine of Separation of Powers has become more important today than at any other time.

The core of the modern problem of government is to find a synthesis between the need for the Welfare State and the need for freedom. The Welfare State means concentration of power and ascendancy of the executive over the legislative branch. This development is alarming unless controlling and balancing devices are properly developed. Separation of the organs of government and responsibility and responsiveness of the government coupled with an independent and impartial judiciary are the much needed checks to irresponsible exercise of power. The party system is another safety-valve. In a parliamentary system of government the alteration of political parties is a great restraint on the vagaries of the government.

The party in office is fully conscious that tomorrow is the day of election and they shall have to face the electorate and answer for their acts of omission and commission. Then, there is the party in Opposition to remind the government of vulnerability of its position and the weakness of its policies. Lapses of the government are the Opposition's opportunities and it is always on the lookout to fish loopholes in the transactions of the government to expose and plague it. Opposition of today is tomorrow's government. Then, there is the free press to ventilate grievances, offer views and comments and even bring to light hidden secrets of public importance.

No government can afford to remain oblivious for long of the comments and views expressed in the editorials and views of well-meaning persons on the

national scene appearing in the press, not even letters to the editor which find a good space in every newspaper. Responsible Opposition and free press is indeed the bulwark of liberty of the people. “ A government”, says Laski, “ that is compelled to explain itself under cross-examination will do its best to avoid the grounds of complaint. Nothing makes responsible government so sure.

Finally, liberty can best be secured and preserved when the action of the State is unbiased. It means that the machinery of the State should move promptly and impartially neither to the advantage of some nor to the disadvantage of others. This ideal, however, is not always possible to be realised. But let it be, once again, repeated that the price of liberty is eternal vigilance and the secret of liberty is courage. If people are vigilant and jealous of their rights, they will not submit to any illegal interference and biased action of the State. If people have the courage to sacrifice and bear all consequences for the vindication of their rights, there will be the least violation of their liberty. The freedom loving spirit of the people, therefore, is the best safeguard of liberty, that is, liberty exists in the mind and soul of men, or not at all. “ There are nations,” wrote De Tocqueville, “ which have tirelessly pursued freedom through every kind of peril and hardship.

They loved it, not for its material benefits; they regarded freedom itself as a gift so precious and so necessary, that no other could console them for the loss of everything else. I attempt no analysis of that great emotion for those who cannot feel it. It enters of its own accord into the generous hearts God has prepared to receive it; it fills them, it inspires them; but to the meaner

mind which has never felt it, it is past finding out.” Various constitutional devices to safeguard liberty are only the external aspects of freedom.

Love for liberty is its real safeguard. But the greatest of all tragedies is to suppress liberty under the weight of custom or convention, education or ignorance, poverty or riotous abundance.