



planning and of the philosophy of law under his obligation and we congratulate him on the achievement. I need not say anything as to the excellence of the printing and the get up of the book ; the name of the publishers proclaims it.

I. S. Pawate *

Our Fundamental Rights: Their Nature and Extent (As Judicially Determined) by Dr. N. Banerjee : The World Press Private Ltd., Calcutta, 1960 : Price Rs. 25.00 or 37s. 6d. net. Pages 483.

The book purports to describe, with special reference to the Preamble, the nature and extent of the fundamental rights "as they have been judicially determined".

The title of the Book may give the impression that the case-law on the subject of Fundamental Rights was considered in the exposition at least to some extent. But surprisingly, the learned author has chosen only a few cases to illustrate some of the principles embodied in Part III of our Constitution dealing with Fundamental Rights.

The preface indicates that a major part of the material in the book was already published in the form of Articles in various journals and the book is based on these Articles. From the foot notes it may be seen that they were published during the years 1955 and 1956. In general, cases referred to were those decided before that period. The book would have been much more helpful if the case-law was brought up to date.

In dealing with Article 14 containing mandate to the state not to deny equal protection of laws to a person, the author discusses only three cases decided by the Supreme Court, namely, *Chiranjitlal v. Union of India*;¹ *State of Bombay v. F. N. Balsara*² and *State of West Bengal v. Anwar Ali Sarkar*.³ But *Kathi Ranning Rawat v. State of Saurashtra*⁴ where the Supreme Court is said to have made a retreat from the position it took in the *Anwar Ali* case is not even mentioned.

In considering Article 15 the learned author discusses at considerable length the Supreme Court decision in *State of Madras v. Champakam Dorairajan*⁵ and he similarly dealt with *Venkataramana v. State of Madras*⁶

* Civil Judge and District Magistrate, Chikmagalur.

1. A.I.R. 1951 S.C. 41.

2. A.I.R. 1951 S.C. 318.

3. A.I.R. 1952 S.C. 75.

4. A.I.R. 1952 S.C. 123 ; See Alladi Krishnaswami Iyer, *Our Constitution and Fundamental Rights*, p. 37, foot note.

5. A.I.R. 1951 S.C. 226.

6. A.I.R. 1951 S.C. 229.



under Article 16. As these were the first cases to be decided by the Supreme Court, the foundation for the understanding of principles is well laid.

Article 18 as an aspect of denial of equality is not dealt with.

The topic of right to freedom received a fuller treatment. Amendment to Article 20(1) is suggested so as to give a right to an accused person not to be convicted upon less or different evidence than the one sufficient to sustain conviction under the law at the time of commission of the act. The proposal is certainly worth consideration although its usefulness is doubtful when there is no constitutional right to presumption of innocence. Any person would be benefited by reading the author's exposition of the subject on the right against exploitation, right to religious freedom and on cultural and educational rights.

After the Fourth Amendment of the Constitution, one wonders what right really remains in respect of property. If such a right exists, it is only by sufferance of the State until it acquires property reciting that the acquisition is for public purpose. The author's discussion on the subject at pages 384 and 385 is thought-provoking. He shows how the newly inserted provision (2A) as an amendment to Article 31 is liable to be misused.

Another Article in Part III of the Constitution which escaped notice of the learned author is 34, enabling Parliament to indemnify persons engaged in restoration of order when martial law is in force and validate sentences passed, punishments inflicted and forfeitures ordered in such a situation. This article gives rise to the question whether the levying of a collective fine is lawful.

The book is full of lengthy quotations from the speeches made in the Constituent Assembly and in Parliament, judicial decisions and text-book writers. As many as one hundred and fifty-eight names appear in the index. To what extent the Constituent Assembly Debates are relevant before a Court of Law in ascertaining the meaning of the letter of the Constitution is debatable. Nevertheless, a historian may make a reference to the debates and examine whether the intentions of the Constitution-framers are actually carried into practice. On this basis, the book furnishes a valuable source of material of the provisions contained in Part III of our Constitution. This Part is bound to remain as a controversial one and opinions on the contents are bound to differ. Therefore, an appraisal of the position from time to time is to be made in order to ascertain objectively the value in enunciation of the Rights. The treatment of the subject in the book largely provides a historical basis in the process of enunciation.

D. Gopalakrishna Sastry