BOOK REVIEWS

K.K. MATHEW ON DEMOCRACY, EQUALITY AND FREEDOM. Introduction and edited by Upendra Baxi. 1978. Eastern Book Co., Lucknow. Pp. lxxxvi+364. Price Rs. 75.

THE BOOK contains addresses and essays by Justice K.K. Mathew, who retired as a judge of the Supreme Court in 1977. Excerpts from notable judgments written by him such as *Kesavanand Bharati*,[1] *Indira Gandhi* v. *Raj Narain*,[2] *Bennett Coleman Co.* v. *Union of India, etc.*, have been appended. There is a very weak tradition of biographical writings among judges and lawyers in India. Among some of the notable exceptions are Chagla[3a] and Hidayatullah,[3b] whose autobiographies have doubtless contributed significantly to legal literature. Paucity of such material has inhibited jurimetric studies in India. The present book does not contain any biographical material on Justice Mathew. However, from his writings and judgments and from Baxi's imaginative and insightful introduction, one can construct the judicial philosophy of the judge. Baxi's introduction, apart from analysing Mathew's decisions, raises many questions of jurisprudential importance. The introduction is actually being used by students of legislative principles and legal theory for their post-graduate legal studies.

Baxi begins by stating that the appellate judges not merely declare the law or apply it, but also make or create law.[4] There is no reason to dispute this statement but Baxi further asserts that the Supreme Court of India possesses not merely legislative but also constituent power.[5] True, the court has to finally determine what is the basic structure of the Constitution which cannot be altered by constitutional amendment. But then the United States Supreme Court also has to determine what is due process of law or what is interstate commerce. In fact, every constitutional court will have such inarticulate premises and the reviewer

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1. A.I.R. 1973 S.C. 1461.
2. A.I.R. 1975 S.C. 2299.
3. A.I.R. 1973 S.C. 106.

3*a*. M.C. Chagla, *Roses in December* (1973).

3*b*. M. Hidayatullah, *My Own Boswell* (1980) ; also see N.G. Shelat, *Reminiscences of a Judge* (1970) ; M.C. Setalwad, *My Life* (1970).

4. Upendra Baxi (ed.), *K. K. Mathew on Democracy, Equality and Freedom* (hereinafter referred to as Mathew).

5. *Ibid.*

wonders whether their articulation could be described as an exercise of constituent power. If mere interpretation of the Constitution is to be called constituent power (the reviewer assumes that interpretation involve law making within interstices), then every court performing such a function has such power. Baxi has rightly analysed the policy behind the doctrine of *stare decisis*. A judge is bound by the decision of the superior court because such binding lends stability and predictability to his decisions The judges of our higher courts (whom, Baxi refers to as "Indian Judges") are not very much precedent conscious. The growth of decisional law is so vast and law reporting so inadequate and defective that we keep on getting a large number of *per incurium* decisions. The judges do not receive any research assistance. Judicial law is a product of Bench Bar collaboration and is influenced by juristic writings. Plurality of opinions on the court throws up a variety of choices. In this context, Baxi has not taken into consideration the fact that since the *obiter dictas* of the Supreme Court are also binding on the High Courts, the creativity of the High Court judges has been drastically reduced. This has made the Indian judicial system much more top heavy. It also inhibits the gradual development of the decisional law. Baxi has rightly raised questions regarding the judge's discretion to withhold the reporting of a decision. He asks whether such power ought to exist in a democratic society. Secondly, he asks whether such a power does not violate the doctrine of basic structure of the Constitution.[7] Regarding the first, there is nothing inconsistent between such power and democracy if the decisions which are withheld are inconsequential or merely repetitive. We would like to know from the judges how they exercise such power. But to say that the existence of such power is against the basic structure of the Constitution is to stretch the basic structure doctrine rather too far. Discretion is vested in the judge regarding capital punishment as well as conditions for anticipatory bail[7a] which is not narrower than that involved in the reporting of the judgments. Inspite of their broad jurisdiction and multiplicity of appeals, the law-making role of Indian courts is undermined by a number of factors such as sitting in benches, high judicial turnover, overwork and slow reporting. There is, therefore, lack of co-ordination and uniformity in the work of the Supreme Court.

Baxi laments that during the period of A.N. Ray, the court "ceased to be a court in the institutional sense". It instead "became an assembly of individual justices".[8] What was such lack of institutional unity due

6. *I.T. Commr.* v. *Vazir Sultan*, A.I.R. 1959 S.C. 814 ; see M.P. Jain, *Indian Constitutional Law* 142 (3rd ed. 1978).

7. Mathew at *iv-v*.

7a. See *Bachan Singh* v. *Punjab*, *infra* note 18 ; *Gurbaksh Singh* v. *State of Punjab*, (1980) 2 S.C.C. 565.

8. Mathew at *xi*.

to? Did supersession in 1973 adversely affect the attitudes of the judges? Or was Ray's personal temperament responsible for it? Baxi feels that had the requirement of seven judges bench for deciding constitutional questions not been abolished by the 43rd Amendment, Chief Justice Chandrachud would have been able to accelerate the process of healing and cohesion. The reviewer is inclined to agree that a requirement of seven judges for deciding constitutional questions might have had a salutary effect on the growth of decisional law.

Justice Mathew's individual philosophy has been stated by Baxi as follows:[8a]

> He tends, on the whole, to accept the legalistic mode of craftsmanship. His opinions are, by and large, marked by rigorous logical analysis, close advertence to precedents, and measured exegesis on statutory provisions. There is to be found in his opinions, generally, a clear formulation of legal principles and justifications. His position is one of judicial self-restraint.

Baxi gives us a number of instances of such judicial restraint, most notable among which is Justice Mathew's position on delegation of legislative power stated in the *Gwalior Rayon*[8b] and *Papiah* cases.[8c] He held the view that delegation was valid if there was no abdication of authority by the legislature. It may be recalled that this was the position of the Privy Council in *Queen* v. *Burah*[8d] which the Supreme Court did not accept in *In Re Delhi Laws Act*[8e] and subsequent cases. Justice Mathew was of the view that instead of objecting to the conferment of power, the courts should focus attention on the actual exercise of power. But judicial review of the actual exercise is ultimately conditioned by the grant of power. In proportion as the grant is wide so as to diffuse the borderline, the review of the exercise becomes more difficult because such review is with reference to the borderline (doctrine of *ultra vires*).

The Supreme Court of post emergency has doubtless been able to lay down better priorities. Since *Maneka Gandhi*[9] uptil *Hussainara Khatoon*,[10] the court has doubtless articulated various dimensions of human rights and

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8a. *Id.* at *xx*.

8b. *Gwalior Rayon Silk Mfg. (Wvg.) Co. Ltd.* v. *A.C.S.T.*, A.I.R. 1974 S.C. 1660.

8c. *M.K. Papiah & Sons* v. *The Excise Commissioner*, A.I.R. 1975 S.C. 1007.

8d. (1878) 3 A C. 889.

8e. A.I.R. 1951 S.C. 332. See generally S.P. Sathe, *Administrative Law* 75-80 (3rd ed. 1979).

9. *Maneka Gandhi* v. *Union of India*, A.I.R. 1978 S.C. 597.

10. *Hussainara Khatoon* v. *State of Bihar*, A.I.R. 1979 S.C. 1360 at 1369, 1377.

incorporated procedural due process in article 21[11] which it had rejected since *Gopalan*.[12] While holding that the basic structure of the Constitution cannot be altered, the Supreme Court has gone farthest in upholding economic legislation. In fact, Tulzapurkar J.'s dissenting opinion in the *Urban Land Ceiling Act* case[13] is based on sounder policy. Indeed, in a society, where black money is constantly produced and legitimised periodically, there is hardly any justification for taking away property without compensation. Justification for insulating judicial process from the determination of compensation which existed in the 50s and 60s, when romanticism of social engineering prevailed, has lost relevance in the late 70s and 80s. We appreciate the majority's opinion because it is judicial restraint *par excellence*. Perhaps, the court wants to show to Parliament that the basic structure doctrine is not intended to stall any of its radical economic measures. This reviewer, however, fails to see how giving a maximum of Rs. 2 *lakhs* for surplus land acquired under the Urban Land (Ceiling and Regulation) Act, 1976, is related to any social engineering. There is justification for less compensation only if the government is able to control the market prices. Where market prices are controlling the government policies, it is better to allow compensation to be determined by the former. Tulzupurkar J. is, therefore, right in his objections. The reviewer's objections to the majority decision are similar to Baxi's objections to *Shantilal Mangaldas*.[14] These developments have taken place in the period subsequent to Justice Mathew's retirement, but their roots lie in the period during which he was a judge. In fact, Justice Mathew himself has said in his essay "The Right to Property" as follows:[15]

> It is possible for the legislature to pass a law providing a paltry amount as compensation for acquisition of a piece of property which might be the only asset of a person and that even without regard to the purpose for which the acquisition is made. Let us hope that no such law will be passed, as the legislature will always have regard to social justice in making the law.

What is judicial restraint and what is activism is relative. Does not

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11. *Sunil Batra (I)* v. *Delhi Administration*, A.I.R. 1978 S.C. 1675; *Sunil Batra (II)* v. *Prison Admn., Delhi*, (1980) 3 S.S.C. 488; *Charles Sobraj* v. *Suptd, Central Jail, Tihar*, A.I.R. 1978 S.C. 1514; *M.H. Hoskot* v. *State of Maharashtra*. A.I.R. 1978 S.C. 1548; *Kasambhai Abdulrehmanbhai Sheikh* v. *State of Gujarat*, (1980) 3 S.C.C. 121; *Raghubir Singh* v. *State of Haryana*, (1980) 3 S. C. C. 70; *Prem Shankar Shukla* v. *Delhi Administration*, A.I.R. 1980 S.C. 1535.

12. *A.K. Gopalan* v. *State of Madras*, A.I.R. 1950 S.C. 27.

13. *Bhim Singhji* v. *Union of India*, (1981) 1 S.C.C. 166.

14. Baxi, *State of Gujarat* v. *Shantilal* : A Requiem for Just Compensation, 9 *Jaipur L.J.* 29 (1969).

15. Mathew at 92.

India need strict construction of statutes which take away liberty or property? Should the courts virtually abandon their control in respect of private property? If they are to adopt a teleological approach, they will have to consider what social interests are served by a law providing for acquisition of property. If such acquisition is for a social purpose and if it is going to reduce the disparities of wealth, those factors would doubtless be considered in allowing less compensation.

We are glad that the court has been activist in the area of personal freedoms. Baxi is right in saying that appellate opinions and judgments have multiple constituencies. They are not addressed to litigating parties alone. The other constituencies are the bureaucracy, the subordinate judiciary, the police, the prison administrators, *etc.*[16] Some judges have taken up the task of introducing in their opinions pedagogic literature on law.[17] Most of Krishna Iyer J. 's opinions belong to this category. We, however, doubt how far these constituencies are paying heed to the preachings of the Supreme Court. Many a time, its decisions are unintelligible to these constituencies. At times, they are so long and metaphoric that the subordinate judiciary as well as the Bar finds them difficult to follow. Actual percolation of judicial policy to the execution level tends to be slow. Judicial decisions are, at times, ignored or played down by the executing authorities. At times, they are distorted to reach entirely different results. Sometimes, the Supreme Court decisions mean different things to different people. Can a sessions judge draw exact guidance from the Supreme Court decision in *Bachan Singh*[18] as to when the death sentence could be imposed? Or can an administrative authority obtain enough guidance as to how backwardness is to be determined from *Balaji*?[19]

Justice Mathew was in the Supreme Court from 1971-77, which happened to be a very critical period in its history. Both dates were the watersheds in Indian political history. In 1971, Indira Gandhi emerged as a leader in her own right. That year the elections which gave her victory was her vindication against the legalism and conservatism of the Supreme Court typified by decisions such as *Golak Nath*,[21] *Bank Nationalisation*[22] and *Privy Purses*.[23] The new government after coming to power in 1971 enacted various constitutional amendments such as 24th and 25th. The 24th Amend-

16. *Id.* at *xiii*.
17. *Id.* at *xiv*.
18. *Bachan Singh* v. *State of Punjab*, A.I.R. 1980 S.C. 898.
19. *M R. Balaji* v. *Mysore*, A I.R. 1963 S.C. 649. In *Kishore Singh Ravinder Dev* v. *State of Rajasthan*, (1981) 1 S C.C. 503 at 510, Krishna Iyer J. warned the sessions judges "to remember the rulings of his Court in Batra (I) and (II) and Rakesh Kaushik".
20. *State of Kerala* v. *N.M. Thomas*, A.I.R. 1976 S.C. 490.
21. *Golak Nath* v. *State of Punjab*, A.I.R. 1967 S.C. 1643.
22. *R.C. Cooper* v. *Union of India*, A.I.R. 1970 S.C. 564.
23. *Madhav Rao Scindia* v. *Union of India*, A.I.R. 1971 S.C. 530.

ment sought to overturn the *Golak Nath* decision and the 25th Amendment to replace the word 'compensation' by the word 'amount' and gave primacy to some directive principles over fundamental rights (article 31 (*c*)). Since *Golak Nath* was the law of the land, validity of these amendments was questioned and it was examined by a bench of thirteen judges in *Kesavanand* v. *State of Kerala*.[24] Justice Mathew was one of the dissenting judges in this case. Others who joined him in this dissent were Ray C.J., Beg, Dwivedi, Palekar and Chandrachud JJ. However, when the same judges namely, Ray C.J., Beg, Mathew and Chandrachud JJ. were faced with the Thirty-ninth Amendment in *Indira Gandhi* v. *Raj Narain*[25] they (Mathew and Chandrachud) proceeded on the assumption that there was a majority decision in *Kesavanand* laying down the rule that basic structure of the Constitution could not be destroyed by constitutional amendment and that they were bound to follow it. All the judges held the impugned amendment invalid. Chandrachud C.J. has since then adhered to this view in *Minerva Mills*,[26] *Waman Rao*[27] and *Bhim Singhji*.[28] If this is mere compliance with judicial discipline as Baxi observes,[29] the basic structure doctrine remains a very weak and uncertain premise. Moreover, the reviewer doubts whether such a conception of judicial function would go well with the creative role of a judge which Baxi otherwise highlights. Should a judge not faithfully pursue his line of thought and seek to convert a minority opinion into a majority one? He may have to wait until he can get it done, but till then is he supposed to suppress his viewpoint? Did not Subba Rao J. (as he then was), say in *Kharak Singh*[30] that had the matter been *res integra* he would have liked to agree with the dissenting view of Fazl Ali J. in *Gopalan*?[31] Have such dissents not facilitated the court's journey from *Gopalan*[32] to *Maneka Gandhi*?[33] This reviewer submits that the judges, particularly Mathew and Chandrachud, could not have adopted the basic structure doctrine reluctantly as a matter of judicial discipline, but that they adopted it when full implications of this doctrine became visible in the *Election* case. In that case Justice Mathew observed:[34]

> If the amending body really exercised judicial power, that power was

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24. *Supra* note 1.
25. *Supra* note 2.
26. *Minerva Mills* v. *Union of India*. A.I.R. 1980 S.C. 1789.
27. *Waman Rao* v. *Union of India*, A.I.R. 1981 S.C. 271.
28. See *supra* note 13.
29. Mathew at *xliv*.
30. *Kharak Singh* v. *State of U.P.*, A.I.R 1963 S.C. 1295.
31. *Supra* note 11.
32. *Ibid.*
33. *Supra* note 9.
34. *Supra* note 2 at 2378.

exercised in violation of the principles of natural justice of *audi alteram partem.*

He further said :[35]

> Adjudicative facts of an election dispute cannot be gathered by legislative process behind the back of the parties; they can be gathered only by judicial process.

According to Justice Mathew since clause (4) of article 329 added by the *Thirty-ninth Amendment was an exercise in legislative validation without* changing the law which made the election invalid, when there ought to have been an exercise of judicial power of ascertaining the adjudicative facts and applying the law, the clause would damage the democratic structure of the Constitution and, therefore, he held it to be void. Justice Mathew himself seems to be unreconciled to the basic structure doctrine which he had used, rather reluctantly it seems, in the *Indira Gandhi* case. In his essay on "Democracy and Judicial Review" he says :

> No doubt, judicial misconstruction of a constitutional provision theoretically can be cured by constitutional amendment. But the decision in Kesavanand Bharati case has made that task a difficult one in India. The doctrine of basic structure has so many unexplored ramifications that the amending body is left without chart or compass in many areas. Who can make an amendment in these areas without impinging upon some invisible radiation of this multi-pronged concept ?

We will be grateful to Justice Mathew if he explains to us why he chose to strike down the Thirty-ninth Amendment in *Indira Gandhi* v. *Raj Narain.* If he did so only in deference to the binding decision of a larger court he should have said so in his judgment. We do not find any such expression therein.

In his essay on "Democracy and Judicial Review" the learned author discusses the *pros and cons* of judicial review and states his philosphy of judicial restraint. Quoting Justice Holmes' famous statement that "legislatures are ultimate guardians of the liberties and welfare of the people in quite as great a degree as the courts", the author observes that, "it must be remembered not only by the courts but by the legislatures as well."[37] This is very apt. His complaint that the doctrine of political question has received less attention by the Supreme Court is quite valid. After Justice

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35. *Id.* at 2379.
36. Mathew at 9.
37. *Id* at 20.

Mathew's retirement, the court decided the *Dissolution* case[38] which it could have well avoided on the ground that the issue was premature as well as political. Similarly, it could have refused to give its opinion on the Special Courts Bill[39] referred by the President during the Janata Party rule under article 143 of the Constitution.

In "The Welfare State Rule, of Law and Natural Justice", Justice Mathew points out that all governments are governments of laws and of men, and discretion vested in men is unavoidable. He examines the theory of rule of law and points out its meaning in the context of the modern welfare state.

"Fundamental Rights and Directive Principles" is another timely essay. It is significant that this address was given at the Evening Centre of the Law Faculty of the University of Delhi on 25th June, 1975, the day on which the President issued a Proclamation of Emergency on the ground of internal disturbance. In this address, Justice Mathew made it clear that the fundamental rights could no longer be conceived as mere liberties (in Hohfeldian sense) that is right to be left alone. But "if fundamental rights are to be meaningful for the teeming millions positive action by the State in necessary".[40] He stated categorically that "affiirmative action by State to implement the two clauses of Article 39 is a *sine qua non* to make fundamental right to hold and own property a reality for the vast majority of the citizens in this country".[41] He, thus, justified article 31C in its original form which established the legal superiority ot some directive principles over some fundamental rights. This view is similar to that taken by Bhagwati J. in *Minerva Mills*.[42] His concept of right to property (The Right to Property—Dr. Rajendra Prasad Memorial Lecture delivered on 8th, 9th of December, 1975) again is quite dynamic. He does not consider right to property as an individual right to exclude others, but as an individual right not to be excluded by others. It is gratifying to find that such a view is now being increasingly canvassed before the courts by lawyers and the courts' reaction is not wholly of rejection.[43]

On freedom of speech, Justice Mathew's judgment in *Namboodripad's* case[44] at the Kerala High Court vindicates his liberal stance. The reviewer most respectfully submits that the Supreme Court decision[45] in that

38. *State of Rajasthan* v. *Union of India*, A.I.R. 1977 S.C. 1361. See Alice Jacob and Rajeev Dhavan, The Dissolution Case : Politics at the Bar of the Supreme Court, 19 *J.I.L.I.* 355 (1977).

39. *In re Special Courts Bill, 1978*, A.I.R. 1979 S.C. 478.

40. Mathew at 62.

41. *Id.* at 66.

42. *Supra* note 26.

43. See, for example, *Fertilizer Corporation Kamgar Union* v. *Union of India*, A.I.R. 1981 S.C. 344; *Excel Wear* v. *Union of India*, A.I.R. 1979 S.C. 25.

44. *Narayanan Nambiar* v. *E.M.S. Namboodripad*, (1968) K.L.T. 299.

45. *E.M.S. Namboodripad* v. *T.N. Nambiar*, A.I.R. 1970 S.C. 2015. For a comment on this decision see S.P. Sathe, Freedom of Speech and Contempt of Court, V *Economic and Political Weekly* 1741-42 (1970).

matter is wrong and needs to be overruled. To an extent the recent judicial attitude as reflected in the recent *Contempt* cases[46] shows that the court has realised that the contempt law ought not to be used to stifle legitimate criticism. In democracy every institution is subject to public criticism and neither the courts nor the legislatures can be immune. Criticism of the system of justice is doubtless free from any restriction arising from contempt because the whole purpose of the law of contempt is to prevent expressions which are likely to prejudice administration of justice. In his essay on "Freedom of Speech", Justice Mathew raises the following questions : Can freedom of speech be regulated in areas where it cannot be restricted under the heads specified in article 19 (2)? If it can be regulated in these areas, what are the criteria to be adopted for testing the validity of those regulations? Can any aspect of freedom of speech be regulated by the state for the purpose of promoting freedom of expression of citizens? To what extent can freedom of speech be reconciled with the right to privacy?[47] After asking these questions he states :[48]

> In a democracy the right to free expression is not intended to define an individual right but rather a right of the community to hear and be informed.

He has put forward this view in his dissenting judgment in *Bennett Coleman.*[49] One of its offshoots was recently articulated by a High Court which held that the Life Insurance Corporation was bound to publish a reply to a criticism published in its journal "*Yogakshema*" against the person concerned.[50] Justice Mathew, however, further observes :[51]

> I have elsewhere expressed the opinion that even if fundamental right to freedom of speech under Article 19 (1) (a) is expunged from the Constitution, the right to free expression in matters of governing importance which is a necessary implication from the provisions of th Constitution establishing the democratic form of government cannot be abridged in that area by an ordinary law or by an executive action even in an emergency. Article 358 deals only with the suspension of fundamental rights guaranteed under article 19 including the right to freedom of speech under article 19 (1) (a); but it has nothing to do with the question of the right to freedom

46. *In re Shyamlal*, (1978) 2 S.C.C. 479; *In re S. Mulgaonkar*, A.I.R. 1978 S.C. 727.
47. Mathew at 95.
48. *Id.* at 95.
49. *Supra* note 3.
50. *M.D. Shah* v. *L I.C. of India*, A.I.R. 1981 Guj. 15.
51. Mathew at 99.

of speech relating to public affairs arising by necessary implication from the provisions of the Constitution establishing democracy.

Had the Supreme Court taken such a view in *A. D. M. Jabalpur* v. *Shivakant Shukla*,[52] on the bench of which Justice Mathew was absent, perhaps that unfortunate decision would have been avoided. We find glimpses of such an approach in Justice Khanna's dissenting judgment. In other words, it could be argued that "liberty to speak or be free", whose co-relative in Hohfeldian model is "no right of the state" survives the suspension of the fundamental rights whose co-relative is duty of the state to impose only constitutionally permissible restrictions. In other words, fundamental rights are merely restrictions on the state. They confer power on the state to inpose permissible restrictions on individual liberty and the individual is liable to such power. Liberties, however, are there and they imply that the state does not have the right to interfere with individual freedom except by law. When these rights are suspended, restrictions on the legislative power of the state imposed by that right disappear, but even then such a law has to be constitutional and executive action has to be in accordance with the law.

Justice Mathew then turns to the above questions. He says that "general regulatory statutes not intended to control the content of speech but incidentally limiting its unfettered exercise have never been regarded as the type of law which Article 19 (1) forbade either the Parliament or the legislatures to pass".[53] The reviewer finds it difficult to agree with this statement. Its use may be made when the right under article 19 (1) (*a*) is not available, as by virtue of article 358. But in normal circumstances when that right is available, restrictions have to be only on one of the grounds mentioned in clause (2). Regulatory law, which very indirectly affects this freedom, such as a law laying down wages and conditions of service of the working journalists has been held to be not regulating or restricting this freedom.[54] Similarly, commercial advertisements have been held to be not covered by freedom of expression.[55] But regulation which does not control the content of thought, but incidentally limits its unfettered exercise has to stand the test of clause (2) of article 19. Regulation also restricts and, therefore, it has got to be a reasonable restriction in the interests of one of the items mentioned in clause (2). Justice Mathew has here applied the American anology of Justice Holmes' angry warning against "falsely shouting fire in a theatre"[56] which is inapplicable

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52. A.I.R. 1976 S.C. 1207. See H.M. Seervai, *The Emergency, Future Safeguards and the Habeas Corpus Case : A Criticism* (1978).

53. Mathew at 143.

54. *Express Newspapers Private Ltd.* v. *Union of India*, A.I.R. 1958 S.C. 578.

55. *Hamdard Dawakhana* v. *Union of India*, A.I.R. 1960 S.C. 554.

56. Holmes J. in *Schenck* v. *U.S.*, 249 U.S. 47, 52 (1919). See Mathew at 144.

to India because unlike the Indian Supreme Court which has codified grounds of restrictions in clause (2), the American Supreme Court had to carve out such grounds from an otherwise absolute right given by the first amendment.[56a]

On the whole this reviewer can say that this book is a good addition to the library of a serious student of law and politics.

We are thankful to Baxi for undertaking to edit Justice Mathew's essays and addresses and for writing an introduction containing such incisive analysis of his judicial work. In fact, the Indian Law Institute has followed the practice of bringing out issues of the Journal after the retired judges and we have excellent contributions on judges like Bhagwati, S. R. Das, Gajendragadkar and Subba Rao. This practice was unfortunately given up. Baxi's introduction should inspire the editor of the Journal to once again start the practice beginning with Justice Krishna Iyer who has recently retired and on whom certainly so much can be written.

*S. P. Sathe**

56a Ambedkar, the chief draftsman of the Constitution said :

> What the Draft Constitution has done is that instead of formulating fundamental rights in absolute terms and depending upon our Supreme Court to come to the rescue of Parliament by inventing the doctrine of Police power, it permits the State directly to impose limitations upon the fundamental rights.

VII *C.A D.* 41 (1948-49).

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