

KERALA GOVERNMENT'S REPLY TO K. P. C. C. MEMORANDUM

1. The memorandum submitted to the President by the K.P.C.C. should, according to normal procedure, have been sent to the State Government by the Home Ministry of the Government of India, to whom the President is presumed to have handed it over. The State Government would then have got an opportunity to send a detailed reply to the President, giving its viewpoint on every point raised in the memorandum. But, for some inexplicable reason, the K.P.C.C. failed to adhere to this normal procedure. It gave wide publicity to the memorandum to the President even before a copy of it was received here from the President through the Home Ministry. Our Government, therefore, is constrained to adopt the unusual procedure of replying to the memorandum, presented to the President of India, through the columns of the press.

2. Before taking up the points made by the K.P.C.C. in its memorandum, we desire to question the very propriety of the K.P.C.C. speaking "on behalf of the people", particularly of its demanding "on behalf of the people" that "necessary action may be taken under the Constitution to enable them to hold a fresh general election to the State Legislative As-

sembly as early as possible". For, it is well for the K.P.C.C. to remember that the Congress party was defeated in three successive general elections. Despite the innumerable manoeuvres that a party ruling at the Centre and in all the States of India could resort to, it failed to secure not only a majority of votes, but even a majority of seats in the 1952, the 1954 and the 1957 general elections. The least that could be expected of the Congress under these circumstances was to accept its defeat at the polls as a reality and to function as an opposition for the full five-year term for which another party has been returned with a majority of seats.

3. The Congress, however, could not reconcile itself to this state of affairs. Within three days of the assumption of office by the present Ministry, the cry of "lawlessness and sense of insecurity" was raised by the leaders of the K.P.C.C. and the then General Secretary of the All-India Congress Committee, Shriman Narayan. Any number of examples can be shown of how, within the very first month of the life of this Ministry, the leaders of the Kerala Congress gave an indication of their unwillingness to extend that amount of cooperation to the (non-Congress) Government here which the All-India Congress leaders have always been demanding of the (non-Congress) opposition in the rest of the country.

4. Space does not permit us to give a connected story of the successive campaigns unleashed by the K.P.C.C. with a view to put impediments in the smooth working of the Government of Kerala. We would therefore confine ourselves to the nature of the struggle that they are now carrying on against the Government of Kerala. The President of the K.P.C.C. has unhesitatingly declared that their aim is nothing less than "paralysing the administration". One would

like to know whether it is permissible for the Congress, which is ruling at the Centre but which was thrice defeated at the hands of the Kerala electorate, and which can well come back to power in this State also in the matter of less than three years if only it regains the confidence of the people, to launch Direct Action with the proclaimed objective of "paralysing the administration" of the State (which, after all, is part of the entire country whose administration is controlled by its own all-India leaders. What other explanation can be offered for this attitude of the K.P.C.C. than that it is not prepared to tolerate the existence and smooth functioning of a Government formed by another party even for five years?

5. The K.P.C.C. in its memorandum asserts that the Congress has been consistently supporting the Agrarian Relations Bill and that the Congress does not oppose the Education Act as a whole; it has "raised objections only to particular provisions" of the Education Act. We do not know how these claims can be reconciled with the consistently obstructive tactics of the Congress Party in the Legislature to the passage of the Agrarian Relations Bill, or with the solemn statement of Shri Chacko in the Assembly that the Congress is opposed to the entire Education Act. In any case, the K.P.C.C. cannot deny that at least their allies in struggle are opposed to the Agrarian Relations Bill. Sri Mannath Padmanabhan, the leader of the Vimochana Samara Samiti—an organisation which is hand in glove with the K.P.C.C.—has made it unmistakably clear that he is stoutly opposed to the Agrarian Relations Bill. He and his colleagues of the School Closure Movement have also made it clear that what was objected to was the entire Education Act, not particular provisions thereof; furthermore, they have demanded not only the withdrawal of the entire Education Act, but even the executive orders issued

by the present Government with a view to improve the conditions of teachers. It is with the help and co-operation of such people, who are stoutly opposed both to the Agrarian Relations Bill and to the Education Act, that the Congress is today fighting its "battles of liberation".

6. The K.P.C.C. speaks of a "widespread upsurge of a character seldom seen anywhere against a Government since the days of independence". It, however, omits to mention that this so-called "upsurge" is organised and headed by those very people who would rise in revolt against the Congress itself if it carries out the programmes of socio-economic transformations which it has accepted. Can the K.P.C.C., for example, deny that Shri Mannath Padmanabhan would fight the Congress with the same intensity as he is showing today against our Government if the Congress persists in enforcing the Agrarian Relations Bill? Can the K.P.C.C. deny that the landlord elements ranging themselves behind Shri Padmanabhan's Vimochana Samara Samiti are with the Congress today, precisely because the Congress during the ten-year period of its tenure in office—either on its own, or through the P.S.P., or through the President's rule—did not carry out the Congress' own agrarian programme; also because these landlord elements are sure that, once the present Government is removed from power, the legislative and executive measures taken by it against landlords will also be modified in vital respects, if not totally cancelled? Is it not clear that the solid support behind the present 'upsurge' is supplied by the big bankers of Kerala who have taken a pledge not to contribute to the National Plan Loan unless and until the present Government is removed; by the big landlords of Kuttanad, each owning hundreds and even thousands of acres of land, who have taken a similar pledge to lay their lands waste till this Government is removed; by the hundreds of

other capitalists and landlords who are making large donations every day to the coffers of the Vimochana Samara Samiti, etc., etc.?

7. Before we take the various points made in the K.P.C.C. Memorandum, we desire to refer to the suggestion made in the Memorandum that "a probe into the transactions and activities of the Government" be made by the Central Government. We are quite confident that, if a probe is made into the transactions and activities of the successive Governments that ruled the former Travancore, Cochin and T.-C. States, as well as the present Government of Kerala, the record of this Government will be found to be such that the Party in power now in this State can well be proud of; on the other hand, the record of Congress administrations would be found to be such as should put any Congressman into shame. This latter point need not be repeated here in view of the fact that the electorate of Kerala has already given its verdict in three successive general elections. But, since the K.P.C.C. seems to be audacious enough to paint a picture of "corruption by the present Government", as opposed to "the absolutely uncorrupt and incorruptible Congress administration", it is necessary to state that, if at all a probe is needed, it is needed into the record of the work of Congress administration.

*Para 4 **

8. The thesis of the K.P.C.C. President that the present Kerala Government has been systematically undermining the spirit of the Constitution in relation to the principle of equality before law and equal protection to the citizens, by making use of the apparatus of the State to discriminate between Communists and

* Reference here is to Para 4 of the K.P.C.C. Memorandum. Similar references in the pages that follow, too, indicate the same source.

others, is sought to be established by *no new material*, nor is the thesis the result of evidence spread over the last 27 months and culminating now. *Early in April 1957*, in the very first session of the Assembly, hardly some days after assumption of office by the present Ministry, the same thesis was put forward. Indeed, Central intervention on the ground of a constitutional deadlock was asked for even then. The same song was sung over again in *May 1957*, and on other occasions in the Assembly. Dr. K. B. Menon, in Parliament, brought up a motion with the same content. On all occasions when this point was raised—whether on the floor of the Assembly or Parliament, Press and platform—the factual materials have been thoroughly explained several times. It is apparent that, in a few days after the Government was formed, there could not have been an undermining of the Constitution, but the point that emerges clearly is that, immediately the Communist Party formed a Government in Kerala, the oppositionists trotted out a political line, to wit, the ballyhoo of breakdown of the Constitution and consequent need for Central intervention. *This political line was given, within three days of the swearing-in ceremony 27 months ago* by none other than Shriman Narayan, the then General Secretary of the Indian National Congress, as mentioned earlier. Now, the political parrot cry has been often repeated and desperate efforts made to bring up some material or other to substantiate the same. Dr. K. B. Menon's motion specified certain facts which were merely mechanically reproduced in Shri Dhebar's later charges; many of them had been separately raised and answered earlier in the Assembly and now, the K.P.C.C. President's "charge-sheet" or "memorandum" contains hardly any new material except the overworked and stale, old items of charges. 'Old wine in new bottle' is what we see here. The political argument also is the same and is, there-

fore, not the product of Communist misrule during the last 27 months, but a tactic evolved immediately the Communist Party took over office, so as to give them a knock-out under some constitutional pretext. It is not irrelevant to remember the background that the power to judge whether the thesis of undermining the Constitution has been substantiated rests *de facto* with the political party which has propounded it the very week the Communists formed a ministry. They are the accusers, the judges and the executioners, because, after all, the political decision to remove the ministry by presidential intervention may, in a sense, rest with the Congress High Command.

Para 4 (i)

9. An incident which has no significance or bearing on the subject at issue, but is useful to prejudice people, has been cleverly introduced by the K.P.C.C. President, viz., the grant of parole leave to a lifer, Vasu Pillai, and his sitting in the Assembly gallery on one day. It is entirely wrong to say that parole leave was not granted for proper reasons. Parole leave was applied for, because his aged mother was seriously ill and perhaps sinking. A medical certificate and a certificate from the President of the Panchayat had been produced in support of this ground. The I.G. of Prisons recommended the grant of parol. The prisoner's conduct in jail was reported to be satisfactory. Since the ground fell within the present rules, parole leave was granted accepting the recommendation of the I.G. of Prisons and subject to sufficient security with two sureties. The other point referred to about this Vasu Pillai is that he was seen in a State car; which car and under what circumstances is not stated. This allegation is denied. Moreover, this by itself means nothing, and one does not know why such a statement has been made in the K.P.C.C. memorandum. Nor is a prisoner

on parole leave prevented from watching the Assembly proceedings under the rules regulating parole leave and prisoner's conduct. Neither the Government nor the Speaker had any part in admitting Shri Vasu Pillai into the gallery in the Legislative Assembly. The Speaker of the Assembly and the Finance Minister had clarified the position when this point was raised during question hour on 5-6-1959. The Speaker's statement is extracted below:

"I have not permitted the issue of passes even to the gallery to a single prisoner. I can say categorically that no prisoner on parole has been in the Distinguished Visitors' Gallery. Because the passes to Distinguished Visitors' Gallery are issued by me personally. I have not issued it to any prisoner. M.L.A.s have the right to get passes issued to the Speakers' Gallery. I suspect that such statements are being made deliberately and with ill-intention to spread misunderstanding".

It must be mentioned that parole leave has been granted to many prisoners in Kerala in a somewhat liberal way most of whom are non-Communists. This is a welcome, progressive change. There have been cases where even the rules have been waived in instances of serious hardship. A P.S.P. picketer (convict 7623 by name Vikraman Nair), for instance, wanted parole leave because his father was seriously ill. Shri Ponnara Sreedhar, P.S.P. M.L.A., pressed his case, although, under the rules, he was not entitled to be released on parole, not having served the qualifying period in jail. Nevertheless, he was allowed parole leave on 2-2-1959 waiving the rules, on the ground that the case was a hard one.

Paras 4 (ii) & 5, 6, 7, 8.

10. It is true that Communists involved in the Sooranad and Edappally murder cases have been re-

leased. This was in pursuance of the policy decision that those involved in political cases would be released to mark the first assumption of office by elected representatives in Kerala on 5-4-1957. Here was a day of rejoicing for the whole of Kerala, and it was celebrated in a fitting manner all over the State. On such an occasion, the Government took this course of action which was far, far milder than the total, general amnesty granted on a similar occasion by the Congress Chief Minister of Andhra, Shri Prakasam. In releasing political prisoners, Government proceeded by the generally accepted notions in regard to these expressions. The following extract from an answer to an interpellation in the Assembly on the same subject given as early as 30-4-1957 will put the lid on the matter.

"In a rough and popular way, it would not be difficult to define political offences. For instance, if a man were killed in a riot, or in the attempt to excite a tumult or popular insurrection, that probably would be regarded as a political offence (Clarke on Extradition). 'Any offence' says John Stuart Mill, 'committed in the course of a political commotion is an offence of a political character'; and even this definition was rejected as too narrow by courts which have always construed these words according to the circumstances existing at the time when they have to be considered. Even the English Courts have given a wider and more generous meaning to the phrase 'political prisoner' than was formerly given—vide Halsbury's *Laws of England*. Any person who had committed an offence incidental to and forming part of political disturbances was a political offender, according to a weighty authority (*News' Digest of English Case Law*). On the basis of the aforesaid principles, cases were examined and releases ordered, not rigidly nor relaxing unduly".

11. It may not be out of place to mention that, in

quasi-political murder and rioting cases, even the Madras Government has remitted sentences (vide the life imprisonment of Shri K. P. R. Gopalan, M.L.A., remitted by the Madras Government). Likewise, a batch of prisoners involved in very similar cases were released by the P.S.P. Government in what is known as the Punnapra Vayalar cases. Shri Pattom Thanu Pillai referring to this subject as leader of the P.S.P. in the present Assembly stated on 9-5-1957 as follows:

“Sir, these prisoners were released by the P.S.P. Government. Who are these prisoners? They were the people who were convicted for acts which took place when a great movement for popular government was going on in the State.”

12. Before leaving this subject, it may be mentioned with advantage that, during the brief period of the P.S.P. Government in 1954, more than 181 cases, including stabbing, criminal trespass, rioting with lethal weapons, etc., were withdrawn; the number of prisoners benefited by these withdrawals were 1767.

13. It may also be mentioned with advantage that a few cases springing out of election clashes had been withdrawn by the Kerala Government; but this order was modelled on an order of the Andhra Pradesh Government, G.O. MS. No. 1095, Home (Courts—B), dated 13th July, 1957 and G.O. MS. No. 1547 dated 28-9-1957. Even as the Andhra Pradesh Government decided to withdraw “all prosecutions launched in connection with the offences arising out of the recent general elections” in Andhra Pradesh, although some of them related to rioting, stabbing and more serious offences, the Kerala Government also did likewise, quoting the Andhra Pradesh Order. In Telengana alone, 235 persons benefited by this order, as disclosed by the Chief Minister of Andhra Pradesh in the Assembly. The Kerala Government has impartially applied this same

principle without reference to political parties; and it must be said that cases arising out of election clashes where Congressmen were accused have also been withdrawn.

14. A seemingly serious effort has been made to establish ‘the deliberate violation by the Kerala Government of the principle of equality before law’ by alleging jail delivery and remission of fines and commutation of sentences *generally to benefit the members and sympathisers of the Communist Party*. It is true that the Kerala Government, as a mark of the assumption of office by the elected representatives of the State for the first time in the Kerala State as such, granted mild remissions and directed limited releases. Releases and remissions on important occasions like Independence Day, Centenary Celebration of the Indian Independence Struggle, the Andhra State Formation Day and even a Governor’s visit to a jail, are not infrequent in any State in India and nobody has criticised such jail deliveries on former occasions as acts of partiality or productive of insecurity. A set of instructions, *uniformly to be applied to all prisoners* was issued in regard to remissions and releases and those who benefited thereby were men belonging to all political parties, including Communists, and also men who had no political affiliations whatever. The Government order as annexed hereto (Annexure I) to which may be compared the ‘total amnesty’ granted by the late Shri Prakasam, (Annexure II) when he became the Chief Minister of the Andhra State, *releasing* murderers sentenced to death, habitual offenders and all others, by just keeping all the jail gates wide ajar. The Andhra Government’s amnesty order was challenged in, but upheld by, the High Court. The Kerala order, a hundred times more restricted and moderate, cannot be cavilled against if the K.P.C.C. does not adopt double standards. The Kerala order did not

apply to *habituals*, nor was release of those sentenced to death granted. It is worthy of note that even Shri Pattom Thanu Pillai when he was Chief Minister did release quite a few persons, sentenced for murder to life imprisonment, on Republic Day (1955), although with a certain political motive.

15. In short, this limited release and remission order of 27 months ago is too stale and irrelevant to be stated as a charge against the Kerala Government. Secondly, such qualified amnesty has been declared elsewhere and even in Travancore-Cochin before, and is nothing unusual in any State in India. Thirdly, the occasion was more or less identical with the Andhra State situation (G.O. MS. 26 Law—Prisons—dated 12-1-1954), when a universal release of murderers and all other prisoners was granted, while in Kerala there was no release (save in a few cases) but only remission, no goal delivery for death sentence but only commutation to life imprisonment, no benefit to habituals. Fourthly, no special orders in favour of Communists were passed at all, but general principles were laid down which were applied to all equally. Fifthly, many (by far the larger number) non-Communists had secured release and remission under this order.

16. As for withdrawal of cases, there was no discrimination shown by the Kerala Government. Even as in the case of the limited amnesty for prisoners, withdrawals were confined, on the basis of policy, to cases arising from trade, industrial and agrarian disputes or other public agitations (like the Trivandrum High Court Bench and student agitations) where either a settlement of the dispute had been reached, or the public agitation had calmed down or been withdrawn. Similar principles and policies have been accepted more or less in other States, and even here in the past. The majority of prisoners whose sentences were re-

mitted and whose cases have been withdrawn belong to the P.S.P., the Congress, the Muslim League and the R.S.P.; the Communists account for a much smaller number (Annexure No. III). Even a P.S.P. M.L.A. like Shri C. G. Janardhanan applied for and secured the withdrawal of his case on the ground that it was a political case (C. C. 420/55 II Class Magistrate, Trichur withdrawn as per G.P. No. H4-16799/57/Home A, dated 23-5-1957). Of course, many political cases where Communists were involved had also been withdrawn or sentences remitted, provided they came within the general rules laid down for this purpose. Another P.S.P. M.L.A., Shri E. P. Eapen, for instance, had requested for withdrawal of cases arising out of a communal clash near Trivandrum and this also had been granted in public interest, with a view to restore harmony in the locality. Withdrawals of cases and remissions and pardons even when they fall within the categories above mentioned may be liberally or sparingly exercised depending upon the policy of the Government. Liberal pardons, remissions and withdrawals have been granted not merely by this Government in Kerala but also by previous ones, as pointed out by Mr. Justice K. Sankaran in the Chandanathope Enquiry Report:

“But unfortunately, successive Governments have been freely exercising these powers during the last 10 years granting pardons and remissions in favour of a very large number of prisoners individually and collectively.”

The most important point to be noticed is that, far from the Communists being the principal beneficiaries, the opposition parties have derived far greater advantage. Many M.L.As. from the opposition have successfully moved Government for withdrawals and remissions on the score that the agitation or labour dispute

has since ended. In a grave case of breach of trust from Wynad, all the opposition parties (their District Committees) applied for remission of the long sentence of imprisonment! A Catholic priest, Rev. Fr. George Theckedath, against whom a prosecution was pending applied for withdrawal together with a Congress M.L.A. It was allowed to be withdrawn on 31-3-1959 as per G. O. Rt. 703|59|Home. (C.C. No. 264|59 of the S. M's. Court, Pathanamthitta). Dr. Henry Austin, Secretary, K.P.C.C., himself had applied for withdrawal of 69 cases on 17-4-1959 arising out of strike launched by a Congress Union (Petroleum Workers) of which Shri Panampilly Govinda Menon (Ex-Chief Minister) is the President. These cases pending before the II Class Magistrate's Court, Ernakulam, were withdrawn as per orders in G. O. Rt. No. 917 dated 11-5-1959—just two months ago! Moreover, every case which is sought to be withdrawn can be so done only if the Court accords sanction after examination of the relevant points. Whenever a case has been withdrawn, the seal of judicial approval has been placed and to condemn the Government as having exercised the power in a partisan manner is unjust. Every untenable application for withdrawal of case is challenged in Court and the fact that, save very few applications, all others have been approved by the Court is excellent testimony to their rightful withdrawal. A table giving the details regarding the withdrawals of cases and remissions of sentences with party-wise break-up shows up the opposition contention.

17. This is an overworked theme which has been repeatedly explained in the press and in the Assembly as also in answer to the motions in Parliament by Shri Asoka Mehta and Dr. K. B. Menon, and later to Shri Dhebar's accusations. Curiously enough, the same items are being repeated. Under this head, there is

hardly anything new which has been brought out, or for that matter anything which refers to a period after 1958 by way of specific instance of release, remission or withdrawal of cases.

18. There is a reference to the case of one Pushpangadan. At least the importance of the charge-sheet should have induced the President of the K.P.C.C. to omit this *petty* instance of an *old case* of 1952 where some Communists including Pushpangadan were alleged to have assaulted a Congressman. All the accused except two *were discharged* by the Court and even these two persons were sentenced to a fine of Rs. 20 only. This remission of the small fine in an old petty case of 1952 stemming out of a political clash in pursuance of a general order remitting sentences pending on 5-4-1957 in political cases is obviously not an instance worthy of mention to prove subversion of the Constitution!

19. Withdrawal of cases pending against party members and sympathisers has been relied upon to prove a partisan administration in Kerala. As has been pointed out above, withdrawal cases in exercise of the power vested in the State Government is in itself not wrong. Indeed, the Congress Government with Shri Panampilly Govinda Menon as Chief Minister withdrew a large number of serious cases of arson and other destruction of public property arising out of the Tamilnad agitation of 1955. There was the instance of one Chandroth Kunhiraman Nair, a Communist charged with murder, having his case withdrawn by the then Madras Government which had jurisdiction over Malabar, for reasons left to be inferred from the sequel. Of course, after getting out of jail, he became a Congress propagandist and was later put up as a Congress candidate for the Assembly seat from Mattannur! One need not go into the doings of the pre-

vious Governments, although it is a fertile ground for acts of misrule. The facts furnished regarding the withdrawal of cases by the K.P.C.C. President are a distortion of the truth. The bulk of the cases withdrawn relate to those where the opposition parties figured as accused. After having secured the benefits of such withdrawals of cases, it is adding insult to injury to turn round and say that such large number of withdrawals were discriminatory in favour of the Communists. The K.P.C.C. Secretary, and Congress and P.S.P. M.L.As. have applied for withdrawals and got them allowed by the present Government as mentioned earlier. The figures from 5-4-1957 to 31-12-1958 show—and the picture has been constantly so—that, out of a total number of 1827 criminal cases eventually withdrawn, 244 alone relate to Communist or pro-Communist accused, the rest being accounted for by the opposition parties of Kerala and the student agitators who were backed by these opposition parties (1291) and non-party men (292). (Refer Annexure III).

Para 4 (iii)

20. Mention has been made of “a glaring example” of 8 Communists charged by the Anthikad police for rioting having benefited by their fines being remitted. There is some confusion in the particulars mentioned in the Memorandum, but, overlooking those mistakes, it may be pointed out that the case referred to was one arising out of a labour dispute. The Coir Workers’ Union had launched a strike during 1954-55 for implementation of minimum wages, etc. There were negotiations to settle the dispute, and the strike was eventually called off on the intervention of the then Chief Minister, Shri Panampilly Govinda Menon (Congress). He, the then Congress Chief Minister, had given a broad assurance that the question of withdrawing the

strike cases would be sympathetically considered by the Government (vide the Press Release dated 28-1-1955).

“The maintenance of a peaceful atmosphere is very necessary for the sound working of the industry and to ensure the emergence of a helpful climate. To this end, the Chief Minister promised to consider the question of withdrawal of the cases charged against certain persons connected with the disturbances that have occurred in the Kandassankadavu area”.

Eventually, his Government fell before orders of withdrawal were issued in the said case. The case now relied upon as a “glaring example” of Communists having been benefited is one of the cases covered by the Press Release of November 1955. The cases were old, petty as is seen from the punishment, viz., a sentence of fine of Rs. 20 and arose out of labour disputes. Under these circumstances, the present Government remitted the fines, since the workers who were accused were too poor to pay the fine and distress warrants had been taken out against them. Other cases in the same batch stemming out of the same labour dispute had been withdrawn, and no objection has been raised by the K.P.C.C. President thereto. It passes one’s comprehension how, in the light of the above background, any one could criticise the remission of fine of Rs. 20 which was, in a sense, but the implementation of what the Congress Chief Minister of 1955 had held out to the strikers at the time of the settlement. It is such trifling materials which are heaped up here to prove a breakdown of the Constitution and a misuse of the Governmental apparatus.

It is stated that, in the large number of remission of sentences, crimes involving violence and moral turpitude had also been included. Mostly, they have been

cases only of clashes arising out of labour or agrarian disputes or student agitations, High Court Bench agitation, etc. The Congress party brought great pressure to withdraw cases arising out of the student agitation, even those involving serious violence. There is no single instance where partial treatment has been meted out to Communists in such cases. It has already been clearly brought out how general orders were passed and men, without reference to their party label, derived benefits. Previous Governments have also passed orders of remission and no special blameworthiness attaches to the present Kerala Government's action alone.

21. It is wrong to state that several instances have occurred where the Courts have refused to sanction withdrawal of cases. There are only a very few such cases, probably four or five cases out of about 1900 during the last 27 months. That itself brings out in bold relief the fact that most cases were rightly withdrawn according to the Courts. Shri Panampilly Govinda Menon himself had challenged a few of the withdrawals without success in the Kerala High Court. It is true that, in one case, a Magistrate declined to permit withdrawal of a case which, in the view of the Government, deserved withdrawal. It is dangerous to generalise out of such a solitary instance. Indeed, the very same Magistrate in a later case heard arguments on both sides about the withdrawal of a case and stated:

"The Prosecuting Inspector of Police then submitted a request for withdrawal of the case on the ground that the case arose out of a communal clash between the Muslims, and Christians of Punthura and that, in strengthening the good will that has been achieved between the communities now, it is necessary to withdraw the case. *I think that the reason advanced by the Government is laudable* and there-

fore accept the request and acquit the accused under Section 248 Cr. P.C."

Para 9

22. The cases referred to in Appendix I (of the K.P.C.C. Memorandum) do not disclose any discriminatory treatment. They will be dealt with in detail separately. The fact is that, even where the agitations, led by the opposition parties, have been violent and anti-governmental, this Government has been indulgent enough to the opposition to withdraw even such cases or remit fines if the agitations have been ended. The cases connected with the determined and continued criminal trespass into a plot of Government land at Kattampally near Cannanore town and cases arising out of the Sitaram Mills strike (which was claimed by Shri Panampilly, Ex-Chief Minister, and other leaders of the strike as a "liberation movement") are instances in point. The numerous cases arising out of the extremely violent student agitation, which were withdrawn largely at the instance of the Opposition, indicate the impartiality of the Government. Even as late as 17th April 1959, when the beginning of the current "deliverance struggle" had appeared, the Secretary of the K.P.C.C. moved for and secured withdrawal of 69 criminal cases in Ernakulam. The alleged vindictive prosecution against the members of the opposition party are pressed by the President of the K.P.C.C. to substantiate his main thesis. Curiously enough, he has only three instances to prove "vindictiveness" and they prove nothing.

Para 9 (i)

(i) The Pappachan murder case is the first one referred to. Nobody can deny that Pappachan did die. The only point in dispute was whether the accused

or some other unknown persons were responsible for the murder admittedly committed. The late Pappachan was a member of the Kisan Sanghom. The police investigated the case and charged certain persons. They placed some evidence to support the charge. The Sessions Judge held that the charge had not been proved against the particular accused persons. There is no suggestion in the judgement that the police authorities were influenced by any political motives. Nor is there any hint that the Government or the Ministers or even any Communist leaders had anything to do with this investigation. All that is stated is that the witnesses, who are stated to be Communists, bore political enmity to the accused. Such observations may occur in judgments in any State in India where the police authorities might have been misled by witnesses and the case itself might be eventually acquitted by the Court on the ground that the prosecution witnesses have been animated by political hostility. It does not follow at all from such casual observations that either the State Government or the police authorities have been moved by political motives. Actually, the Government as such had nothing to do with the investigation or the charge-sheeting, except to the extent that concerned police officers were collecting materials in investigation and prosecuting the case.

Para 9 (ii)

(ii) The next flimsy item relied upon by the K.P.C.C. President is the prosecution of several persons of Kanjirapally, who were alleged to have attempted to murder Shri T. A. Majid, P. W. Minister. An appeal is pending before the High Court against the acquittal by the Sessions Judge and it is therefore subjudice. The State Government does not wish to make any comments on this matter at this stage. One

point may, however, be made still. That is that it is well accepted that the opinion expressed by a Judge on the acceptability of the evidence of a witness cannot furnish the basis for an opinion to be formed regarding the character of the witness.

22. Also the point involved is whether the State Government wanted to foist a false case upon any one by coercing the police to do so. There is no fragment of material in the judgment to suggest such a theory. No passage in the judgment suggests even remotely that there was an attempt at fabricating false charges by Government or its officers. The fact that, on the basis of probabilities, certain witnesses are altogether unreliable cannot in the least establish that the Government has foisted the case. Nor is it anybody's case that there was no incident at all, and that the entire episode is a concoction. The main point was about the identity of persons who took part. It need hardly be added that the acquittal by the trial court does not necessarily establish the absolute innocence of the accused; it only shows that he has not been proved to be guilty.

Para 9 (iii)

23. Similarly, there is nothing 'vindictive' disclosed by the judgment in the prosecution connected with the black flag demonstration against the Education Minister, Shri Joseph Mundassery. In the Mundassery Assault Case, a passage has been picked out by the K.P.C.C. President and inferences have been drawn by him which are altogether unwarranted. A criminal court in India acquits an accused if there is no cogent and convincing evidence, because the benefit of the doubt goes to the accused. Even honest cases may some times end in acquittal, because there may not be enough evidence to prove beyond reasonable doubt.

Quite recently, a case connected with the demonstrations when the Prime Minister visited Madras was acquitted. Nobody will say that the Madras Government had, out of political motives, tried to foist a case; but the logic of the K.P.C.C. President appears to go that way. Such minor things as factors inducing a court to acquit an accused can never be sufficient to charge a Government with political harrassment. The uncharitable and untrue statement that one of the demonstrators had been killed but the case was not proceeded with because he was not a Communist could not have been expected from the President of the K.P.C.C. The police had investigated the case admittedly. They found on clear medical evidence that the death of the man was due to some cardiac trouble. There was no evidence to make out an offence against any one for alleged attack on the demonstrators, and, as such, the case was referred to by the police. Actually, the investigation which showed a clear case of private defence had been supervised by a very senior district officer of the police, who had been in charge of the whole of the Malabar district under the Madras Government and had an excellent record (he is now retired). If there was any grievance about the police investigation, the simplest thing we would have expected was a *protest complaint in court*. None was filed obviously because there was nothing wrong with the police investigation. The story of discrimination built on such nebulous materials can hardly pass muster, if close scrutiny were made.

Para 10 (i) (a)

24. On assumption of office by the present Government on 5-4-1957, one of the difficult issues that faced the Ministry was the prevention of eviction of tenants and *kudikidappukars*. Such eviction had be-

come a menace in the State, especially because of its wholesale and reckless nature. The owners of land knew after the results of the general elections that the Communist Government was coming to power. Hence they wanted to evict as many tenants and *kudikidappukars* as possible before the Ministry assumed charge.

It was to prevent such large scale eviction that the Government issued an Ordinance on 11-4-1957 prohibiting all evictions from private lands till a comprehensive land legislation is introduced. This evoked large scale protests from the landlord class who raised the cry of insecurity of property and person.

25. The next issue to be tackled was the prevention of encroachment and proper utilisation of Government lands. Encroachment on Government land, even forest land, was prevalent on a large scale and was mainly made by rich landowners who are the professional land grabbers. Even during the Adviser's regime, before the last General Elections, several attempts were made to evict these encroachers and land grabbers, but all such attempts had to be dropped for obvious reasons. Nevertheless, the Adviser had constituted a Committee to advise the Government on the proper utilisation of Government land. Therefore, when the present Government came to power, they called a Conference on 22-4-1957 of all the District Collectors to discuss the urgent problem of encroachment on and the proper utilisation of Government land. One of the recommendations of the Collectors' Conference was that large-scale eviction need not be attempted, but pending finalisation of the disposal of Government land to landless people, eviction from unobjectionable Government land may be stayed. Thereupon, Government on 26-4-1959 issued an order staying all evictions from unobjectionable Government land pending formulation of the scheme for assignment of Government land and prohibiting further en-

croachments. This Stay Order and prohibition naturally took effect from the date of the issue of the orders. From the above, it can be seen how the stay and prohibition order came to be operative from 26-4-1957, the date on which it was issued. It was not fixed arbitrarily to suit anybody's convenience.

Subsequent to this order, there were several attempts to break the prohibition order against further encroachments. The Government reiterated the policy by an order on 14-5-1957 and declared that encroachment on Government land subsequent to 26-4-1957 will be dealt with according to law. According to the policy declaration, the Revenue authorities have taken strong action against subsequent encroachments.

26. The statement in the Memorandum that the Minister for Land Revenue refused to agree to the eviction of encroachment of Railway *poramboke* before the Trivandrum Collectorate and that she stated the same by way of an answer to a question on the floor of the Legislature is incorrect and the proceedings of the Assembly would give a direct lie to the statement. On the other hand, the Minister was only reiterating the said policy of the Government that encroachment prior to 26-4-1957 will be evicted only if necessary and if possible after offering alternate sites and that encroachments subsequent to 26-4-1957 will be dealt with by strong action.

27. From the time this Government took charge, the Congress-led Highland Karshakasangham was making organised encroachments into the reserved forests. The encroachment in Ayyapponcoil area was one such case. The matter assumed importance through a question in the Legislative Assembly by one of the opposition members. The propaganda was that the Government did not prevent the encroachment because the enchoachers were Communists. When this

kind of false and malicious propaganda was going on, Government passed order to evict all the encroachers in Ayyappancoil. But, when steps were taken to evict encroachers, three Congress M.L.As. approached the Government for stay of eviction. (Shri P. C. Cherian, Shri Joseph Podipara, and Shri Vayala Idiculla). When they were told that, in the face of the propaganda that the encroachers were Communists, the Government could not but evict them, they put in a written petition denying the allegation and stating that the encroachers belonged to all parties and not Communists alone. On this petition, a stay order was passed. But the matter did not end there. Some encroachers were already evicted by that time, and, under the leadership of the same Congress M.L.As., a struggle was started to get them reinstated on the ground that they were all occupants. Government therefore instituted an enquiry into the matter. The report of the Enquiry Officer, Shri O. Chandu Menon (District and Sessions Judge) shows that the allegations were not correct and the large majority of them were new encroachers. (Annexure No. IV).

The propaganda that the encroachers were Communists and the encroachments were backed by the Government, have thus been completely exploded.

Para 10 (i) (b)

28. In Chavara, certain persons, some of whom having their own tenements, were instigated by the R.S.P. to put up huts on lands belonging to the Mining Company. The District Collector, on a complaint from the management, registered a case and evicted the trespassers.

The encroachments before the Trivandrum Collectorate were also evicted, but it appears strange that the K.P.C.C. raises complaint especially after criticis-

ing the Government in the earlier paragraph of the Memorandum for not evicting them.

Para 10 (i) (c)

29. The encroachment at Kattampalli took place on 7-8-1957. This was clearly in violation of Government order dated 26-4-1957. Out of the 25 encroachers, 16 were peacefully persuaded to vacate and the remaining were goaded by all the opposition parties to defy Government order. They were removed and it may be worthwhile to examine what instruction the Congress High Command gave to the local people in that struggle.

30. The encroachment at Kizhapalli was on a private land and it had to be evicted.

31. Government have since then declared their policy in the matter of assignment of unobjectionable Government land. According to this, Government land will be assigned only to poor landless persons and to those whose income is below Rs. 1,200 per annum. It is no wonder that this policy has evoked so much protest from the Congress Party.

Para 10 (ii) (a) and 10 (iii) (b)

32. It is stated that Government violated, for the sake of the party, the provisions of the Abkari Act and the rules thereunder for the conduct of annual auction of toddy shops. There is no provision in the Abkari Act or rules thereunder that the privilege of vending toddy should be granted only after auction. Under both the Travancore and the Cochin Abkari Acts, Government may grant to any person or persons, on such conditions and for such periods as they may deem fit, the privilege of manufacturing and supplying liquor. The system of selling the privilege of manufacturing

and vending liquor was always conducted in the interests of the Government. The changes from the inception of the Department from farming the right to independent shop system would clearly show that Government have been changing the system as and when found necessary.

The change over to the co-operative system has been adopted by Government on account of various reasons, both in the interest of the Government and also in the interest of the workers. Some of these are enumerated below:

(i) Since minimum wages were fixed for the tappers, disputes between the workers and the toddy shop contractors were on the increase, and the contractors were demanding remission of the kist amounts on the ground that the profit of the contractors has considerably decreased due to increased wage bill as a result of the minimum wages etc.

(ii) The contractors themselves formed their own associations and put up a united effort to bring down the rates during auctions. As a result of this, in the year 1957-58, before this Ministry came into power, there was a reduction in the total bid amount in the Kottayam District alone to the extent of Rs. 9 lakhs when compared to the previous year. The contractors were showing a non-co-operative attitude towards Government during auction in order to get the best advantage for themselves during auctions.

(iii) As soon as this Government took up administration, there was a united move from the Catholic Church, actively supported by some of the prominent Congressmen, to have the Government's Abkari revenue brought down with a view to cause heavy financial loss to Government. For this purpose, the opponents started a "temperance movement", especially in the districts of Kottayam, Trichur, Ernakulam and

Alleppey. They resorted to unlawful actions, such as cutting away the spathes of the tapping trees, destruction of the toddy pots, conducting satyagraha and picketing in front of toddy shops. These tactics were employed against those contractors whom they did not like. The contractors were put to heavy loss on this account and Government were forced to accede to their request for remission of kist amounts on account of the anti-propaganda. Some of the contractors also joined the pseudo-prohibition movement, and subsequently brought pressure on Government to get remissions of kist on the pretext that they had incurred loss, thereby trying to reap profit out of the situation.

During the auctions of 1958-59, Government had to face the above difficulties and had to find out a solution to stabilise the Abkari revenue. The Board of Revenue also reported to the Government that, because of the above adverse circumstances, there was the likelihood of the bid amount going down below that of the previous year. In the above circumstances, Government was forced to think of some devices to ensure and stabilise the Abkari revenue.

There was also the long standing demand from the Toddy Tappers' Unions that they may be entrusted with the conduct of the toddy shops. They were ready to form co-operative societies. Government considered their proposals, and, in consultation with the Board of Revenue, decided to entrust some of the shops to the co-operative societies formed by the tappers of the locality. As an experimental measure, Government selected four places: Trichur, Kottayam, Alleppey and Shertallai. But the Kottayam tappers were not able to take the contract, because of lack of funds. To meet the threat in other places, the presidents of the co-operative societies were allowed to take part in open competition and bid shops along with contractors.

33. The three societies worked and they conducted shops in such a way that there were no arrears. With a view to avoid competition in places where co-operative societies were formed, Government devised the method of entrusting shops to these societies on negotiated contract basis. Five years' average rental was calculated and the co-operative societies were given shops based on the calculation arrived at. As a guide to the principle adopted for co-operative societies, Government relied on the principles followed in Andhra. In the case of some shops, it worked out to be higher than that of the previous year, while, in the case of some, it was less. But, on the whole, it cannot be said that entrusting the shops to co-operative societies has caused loss to Government.

In spite of this, the Government had to face much difficulty during auctions, as reported by the Member, Board of Revenue, who conducted the auction to fix up contractors for the toddy shops in places like Moovattupuzha, Thodupuzha, Meenachil, Palai, etc. In Meenachil, the Member who conducted the auction had to entrust the shops to the Secretary of the 'Tappers' Union, since nobody there was willing to take up the shops. Government had to cancel this, since it was found that the Secretary was insolvent and these shops had to be re-auctioned with heavy loss in consequence. In Thodupuzha the Board Member was able to get a contractor to take up the shops only with much strain. Thus it was with great difficulty that the Government were able to stabilise the Abkari revenue for the year 1958-59.

34. In 1959-60, Government as a policy decided to extend the co-operative system to other areas also, and 536 shops were brought under the co-operative fold. The allegation that the Government sustained loss of Rs. 4 lakhs by entrusting shops to co-operative societies is not correct, as the statement below about

the kist position for the years 1952 to 1960 in regard to toddy rentals alone would show:

Year	Demand	Collection	Balance
1952-53	1,74,33,200	1,39,05,369	35,27,831
1953-54	1,42,60,175	1,16,85,725	25,74,450
1954-55	1,23,19,190	1,17,55,915	5,63,275
1955-56	1,06,40,992	1,03,61,506	2,79,486
1956-57	1,17,64,878	1,16,76,975	87,903
1957-58	1,24,81,214	1,22,70,686	2,10,528
1958-59	1,22,15,665	1,20,90,148	1,25,517
1959-60	1,28,64,589		

It will be seen that, as a matter of fact, there has been a total increase of 6½ lakhs in 1959-60 over that of the previous year. The co-operative societies were very prompt in remitting the kists, whereas there has been default by toddy shop contractors who bid in auction in other areas.

35. The allegation that, in order to have a monopoly in the field of co-operation, Toddy Tappers' Societies were registered only when applications were put in by Communists is false. There is no instance of any refusal of registration of toddy co-operative societies on account of political grounds and it is seen that no application is rejected so far. The statement that an applicant in North Parur had to seek the intervention of the High Court in order to get remedy against the discriminatory policy of registering the toddy co-operative societies is unfounded. There has been no such case so far as this Government is aware.

36. The allegation that Government is supplying loans and grants to toddy co-operative societies is also false. There is no instance in which Government have advanced loans or grants to these societies. But Government have given security for the sum of sixty thousand rupees to the Co-operative Bank which had advanced loan to the Society.

37. There is also a statement in the memorandum alleging discriminatory treatment by Government to a Society organised by people who were not members of the Communist Party. Perhaps the reference is to the Trichur District Chethu Vyvasaya Thozhilali Co-operative Society. The facts speak to the contrary. Though the Government order was to give toddy shops only to co-operatives formed by tappers alone, this Society, though not formed by the tappers was allowed to participate in auction simply because the managing members of the Society were Congressmen. In fact, this is not a toddy tappers' society. Its controlling force were the toddy shop contractors. There is a standing order that the toddy shops are to be entrusted only to solvent societies. Because of this order, Meenachil and Thodupuzha societies which were reported by the Co-operative Department as insolvent, were not allowed to participate even in auction. But, even though the Trichur Chethu Vyvasaya Thozhilali Co-operative Society was reported as insolvent by the Co-operative Department, Government allowed them to participate in auction and to conduct shops this year, mainly because the top leaders of the Society were Congressmen. So also, when extension of time was asked by the President for remittance of kists, Government gave as much help to them as possible; and there were letters from the President to the Government thanking for the consideration shown.

Para 10 (ii) (b)

38. The Statement about the ordering of re-auction of Thodupuzha shops is misleading. There was no circumventing of the Secretariat or the Board of Revenue in this respect. The steps for re-auction were taken in consultation with the concerned Member of the Board of Revenue and it was done specially in the interest of Government revenue as opined by him,

since the petitioner offered higher rent amounting to Rs. 65,000. The applicant is not a Communist or even a sympathiser. He is a Catholic and long-standing abkari contractor. In fact, he is an anti-communist.

39. Coir industry is the most important cottage industry in this State, touching the lives of nearly 10 lakhs of people, whose lot, in this centuries-old industry, has always been miserable and to improve which the Coir Co-operative Scheme was initiated in the year 1950 under the auspices of both the Central and State Governments. It is true that the scheme was started with the very pious intention of protecting, as stated in the Memorandum, the 7 lakhs workers employed in the coir industry from exploitation of middlemen and moneylenders. But its actual implementation during the years 1950-1957 helped these very middlemen and moneylenders whom the Congress Government apparently wanted to exclude. At the same time, it kept at bay the labour class for whose salvation the scheme was ostensibly formulated. Several complaints were made to Government that the organisation and functioning of the Coir Co-operative Societies had strayed far away from its avowed paths and become the close preserve of middlemen and moneylenders in the coir areas. These have been borne out by two separate enquiries conducted:

(i) One by the State Government through a seasoned Co-operative Officer from the Madras Service (Relevant extract of report appended) ; and

(ii) Second, by a High Power Committee appointed by the Government of India, including 2 Government of India officers and 2 leading Congressmen, viz., Shri N. Kunjuraman, a Congress ex-Minister of Travancore-Cochin State and Shri A. P. Udayabhanu, an ex-President of the Provincial Congress Committee, with Shri G. Parameswaran Pillai, formerly Trade

Commissioner in Australia and at present a Director of Reserve Bank, as its Chairman.

40. The report of the first inquiry has been published by the State Government; the second report is yet to be published. We have no doubt that the following conclusion arrived at by the Special Officer in the first report will be confirmed in the second report.

“Except in a very handful of societies, the representation in others to workers and small producers is generally very insignificant; and even in most cases where wider representation is given the actual benefits extended to workers have been small. In many areas there are societies overlapping the jurisdiction of each other, due to the starting of fresh societies within areas of existing old ones, which being small in number covered wider areas. Therefore there are cases of the same member having membership in more than one society.”

The main findings of the Enquiry Officer may be found in Annexure V.

41. In these circumstances, Government had no option but to intervene in the interest of the nearly 10 lakhs of workers employed in this industry. Government had reasons to believe that all this chaos, squander and misappropriation in this sector was brought about largely by the mis-handling of the scheme—not to speak of the policy of the past Governments—by the then Coir Special Officer, Shri K. Karunakara Panicker, who had tried to placate the vested interests in the industry, as was only to be expected, since he was a direct recruit to Government service by the then Congress Government under Shri T. K. Narayana Pillai. He was given this prize appointment as consolation solatum as the only defeated candidate (Congress) in the 1948 general elections. This, by the way, is one of the many instances of “in-

stitutionalised corruption" by the Congress Government. Many more of such instances will be found if a proper enquiry is made into the activities of those Governments.

It is also well to recall that, as early as in 1955, Shri R. Shankar, the present President of the K.P.C.C. had submitted a Memorandum to the then Government requesting them to remove him from the office for his mishandling of the schemes, and squandering and causing misappropriation of large amounts of money in the name of the Scheme, and for his 'nepotism pure and simple' (Annexure VI). In the said Memorandum, Shri Shankar has himself admitted that many of the Co-operative Societies "are not functioning at all" and they "exist only on paper."

It was against this background and as part of the reorganisation of the coir co-operatives that the Kerala Government decided to transfer Shri Panicker to another post in the Co-operative Department. Considering the importance of the industry in the national economy of this State, the Scheme was placed in the hands of a senior officer of the same status as the one handling handloom industry in the State, and who had experience in both the industries and Co-operative Departments and who was the Registrar of Co-operative Societies in the State both at the time of the P.S.P. and the Congress Ministries. He lost no time in dealing with the irregularities detected as a result of departmental enquiries and bringing the culprit to book.

There were not 500 Societies as stated in the Memorandum; but only 187 Societies at the end of 1957. Government had advanced by then to these Societies by way of loans and grants about Rs. 73½ lakhs. Enquiries go to show that a good portion of this amount has been mishandled and misappropriated and will have to be written off.

It is against this contingency and to save whatever could be salvaged out of this wreck that the Joint Director (Coir) has taken serious action as contemplated and allowed under Law. Yet it is to be noted that he has not gone so far as the authorities in Madras where all such Societies transferred to the Madras area as a result of reorganisation were liquidated and fresh Societies of only workers were organised and given financial assistance. In Kerala, not a single Society has been wound up so far.

42. The admission or exclusion of members is an exclusive privilege vested in the Committee of Co-operative Societies. While of course facilities have been offered to the poor workers to take share in a Society by offering them loans in the same way as such loans are offered to handloom weavers and small industrial workers to join their functional Societies, there is not a single instance where Government or department have tried to break the democratic set up and force the admission of any Member to any Society. It is true that in certain instances—25 out of 187—the Committees of Societies have been superseded and Rectification Committees were appointed, not under any extraordinary powers, but under the ordinary provisions of the Co-operative Act alone, but such action was forced on the Department in the interests of the large Government finances advanced to the Societies, only in instances where there were misappropriation of funds or stock and falsification of accounts.

From the above, it can be seen that the story of Coir Co-operatives in the State under the past regime is one of plunder and wastage of public money running to the tune of about 70 to 80 lakhs of rupees and the various steps taken by the present Government are only against the vested interests of moneylenders and middlemen, who had monopolised Coir Societies and were

carrying on the trade of plunder in the name of Coir Co-operatives which were intended for the benefit of the poor working class.

Para 10 (iii) (c)

43. The Government proposed to organise Labour Contract Co-operative Societies in N.E.S. Blocks in compliance with the directive of the Planning Commission that more and more works are to be entrusted to workers' co-operatives. The decision of the Government to organise a limited number of Labour Contract Co-operative Societies as an experimental measure was notified as early as 12th December 1957. The original notification itself contains all the details of the scheme (refer Annexure No. VII). Copies of printed bye-laws prepared by the Department and approved by the Government were made available through the offices of the Registrar of Co-operative Societies and Deputy Registrars and also Block Development Officers from December 26, 1957. Ample time was given for the organisation of societies and submission of applications for registration attested by the Block Development Officers. 25 Societies were registered in March 28, 1958, and 17 others as per orders dated November 1, 1958, i.e., after 11 months. The applications received in the Registrar's Office were 42 in number. After proper scrutiny, all the 42 Societies were registered. It is evident from the above facts that no discrimination whatever was made in the matter of registration.

In each Block, there can be only one Labour Contract Society according to the scheme. So far, only 42 out of 84 Blocks have been covered by Labour Contract Co-operative Societies. The working of the Societies is under the administrative control of the Block Development Officers.

No instance of Societies under the scheme having

handed over the works to sub-contractors, has come up to the notice of the Departments concerned. No financial aid has been made available directly from the Government to the Labour Contract Societies. They have been getting advances up to 25 per cent of the estimates from the Co-operative Banks for the initial expenses and the Banks have been collecting back the advances out of the amounts available to the Societies on the Bills presented by them through the Banks.

Para (iii) (a)

44. An extraordinary charge has been flippantly made based on the wild allegation that there has been a calculated undermining of law and order. What are the tangible grounds mentioned by the K.P.C.C. President? They are (a) commutation of sentences (b) jail delivery (c) withdrawal of prosecutions to benefit party-men. The *commutation* of sentences cannot obviously undermine law and order, because the men continue in prison. Even these were 9 up to September, 1958. All but *one* did not refer to any communist. The only case of commutation where a communist was involved in this batch was that of Vasu Pillai, but it was the President who commuted his sentence. As for jail delivery and withdrawal of prosecution, it has been explained at length earlier how the opposition parties benefited considerably more than the Communists in this regard. One should have expected more concrete facts from the K.P.C.C. President when making such serious and sweeping charges; at least a few facts he mentioned must have been honest, but unfortunately they are not. In the first three months the total number of persons who were released are 425 only and not "more than one thousand criminals" as the K.P.C.C. asserts. No habitual offender, and certainly no habitual murderer, was *released* at all, during the three months of the regime or later.

Yet the K.P.C.C. President has no compunction to state that 56 "habitual murderers" had been released in the first three months of April-June, 1957. This shows up the love of truth manifested in the Memorandum of the K.P.C.C. There was absolutely no lawlessness consequent upon such releases. Mostly, prisoners were released only in industrial and agrarian disputes cases or old "election clash" cases or the High Court agitation cases. They are not cases of ordinary criminals. The other kind of releases were confined to a few of political ones. If such releases and withdrawals were "intellectual assurance of safety from the penal law", the encouragement, if at all, was to the opposition party and not to the Communists, for the former got all the benefits. Does the K.P.C.C. President extend this argument to the remissions to mark the Centenary Celebrations all over India? It may be pointed out, in this connection, that, according to information with the Government, very few who were released during the first three months of the regime have committed offences again. There is a sly reference to a people's army. The truth is that, with the informal blessings of the Kerala Congress leaders (Catholic), para-military organisations have been formed by the Church, known variously as "Christophers", Santi Sena, Pauravakasa Samithy, Social Scouts etc. Over a lakh of such volunteers had been given training in use of sticks and regular drill through ex-army men and whenever this point was raised in the Assembly as a dangerous trend in the country, the Congress and the P.S.P. leaders were ready to shelter such organisations. The Communist Party has no people's army at all. The irresponsible allegation made to the contrary can only be denied. On the other hand details are given in Annexure No. VIII regarding the Christophers and similar organisations formed by the Catholic Church and others.

Para (iii) (b)

45. The new police policy enunciated by the Chief Minister has come in for criticism from the K.P.C.C. President as a step to make the police subservient to the Communist Party. While depicting the nature of the "new police policy" of the Kerala Government distortions have been indulged in by the President of the K.P.C.C. in a subtle way. The need for impartiality and effective and prompt intervention where there is a threat of breach of the peace has been repeatedly emphasised. As early as August 1957, this had been made clear by the Law Minister speaking in the Legislature. He said:

"This Government have taken the view that, so long as there is no threat of violence to the person or property of any individual citizen, whether rich or poor, whether he is a big capitalist or industrialist or an ordinary person, there should be no interference by police. If there is any *threat of violence* to person or by way of violent trespass, the police will intervene. Even in regard to strikes, the matter has been made clear. Where there is a positive physical obstruction for people and there are such incidents, even in the course of strikes, the police will intervene. On the other hand, what the police will not do is to play the role of a Labour Commissioner with a baton. They are there to step in only when there is a conflict between parties and when there is violence or *imminent threat of violence*. Where there is an actual threat of violence or *imminent threat of violence*, the police is there to avert it."

Again, in a speech addressed to the District Collectors and Superintendents of Police on the 7th September, 1958, the Law Minister emphasised:

"The task of the policeman today is to rush to the aid of the ordinary people of all classes when

they are menaced by the criminal behaviour of others, to track down culprits without reference to their position and influence, political or other, to keep himself vigilant and ever ready to intervene when, (but only when), a dispute, agrarian or industrial, endangers the public peace or engenders violent occurrences."

Again he said:

"Is there a dispute regarding property likely to lead to the breach of the peace? Are there vagabonds and lawless elements menacing the peace of the people in the locality? If so, preventive measures have to be taken by the executive magistrates to nip the trouble in the bud."

More important in the context of the K.P.C.C.'s allegation are his words emphasising the need for political impartiality:

"I want to impress upon the District Collectors and the Superintendents of Police that they are, at the district level, the custodians of law and order charged with the duties of protecting people according to law. If there is any failure or faltering in this matter, they will be found fault with and proceeded against. While I know that the allegations, made by interested sections of the Press and leaders of political parties, that there is interference by the Communists with police officers in their official work and the police officers or Collectors are not discharging their duties in protecting the people, are part of the unashamed and vicious efforts to malign and discredit the Government unjustly, I wish to state clearly and categorically that there should not be any political interference tolerated by officers whether the party be Communist, Congress or other. Nor can any officer escape liability for failure to do his duty by alleging, political influence or fear of displeasure of the party in power. Such considerations are irrelevant and will never be accepted by Gov-

ernment, since the fact that one political party is in power should not be confused with the high duty of the officers to maintain law and order impartially, fearlessly and vigorously even against the members of that party. Whether the complaint be from opposition party men or no, whether the accused be of the Communist Party or no, the course of the law must run undeflected so that people may feel confident of getting help, if they are entitled to it, when they approach the concerned officers. I would therefore like you gathered here to impress upon all the subordinate police officers and executive Magistrates in the State to discharge their functions energetically and impartially without being allowed to be influenced by any parties, Congress, Communist or other."

46. It must be mentioned, in fairness, that the police have prosecuted Communists whenever information has been laid against them. As early as September 1958, as many as 392 cases under the Indian Penal Code, are reported to have been registered by the police against Communists or persons said to be Communists during the period after the Communist Party assumed office. It is significant that two Communist M.L.As. were arrested by the police, even though the offences were relatively unimportant. One of them was later on acquitted. The police have never relaxed or soft-pedalled cases where information has been laid against Communists. If at all, they have been a little too stiff, to show off their impartiality.

Equally worthy of mention is the fact that many Congress M.L.As. have made written representations to take action in regard to criminal occurrences, and quick action has been taken thereon, Shri P. P. Ummer Koya, M.L.A., Smt. Leela Damodara Menon, M.L.A., Shri Karthikeyan, M.L.A. and Shri K. R. Narayanan, M.L.A. (all Congress), Shri P. M. Joseph and Shri Joseph Podipara (Congress M.L.As. who are

Catholics), Shri N. Ganapathy, Congress M.L.A. (Tamilian), Shri Kunhambu, Congress M.L.A. (Harijan), Shri P. M. Kunhiraman Nambiar, P.S.P. M.L.A., Shri Moideenkutty Haji, M.L.A. (Muslim League) are among those who have made specific representations regarding criminal cases or investigations where suitable action has followed. It is an eloquent testimony to the impartiality of the Government that a case, almost certain to end in conviction, against a priest was directed to be withdrawn by the Government, because the circumstances of the case warranted the concession. (C.C. No. 264/59 of the Sub-Magistrate's Court, Pathanamthitta).

47. The story of Cell Courts which has been played up so much is largely a figment of the imagination of a few opposition leaders. Such courts just do not exist and are bogus improvisations of men in the opposition who are out to discredit the Communist Party and the Government.

Para 13

From time immemorial, the settlement of disputes, through the mediation of village elders has been a feature of village life in our country. This has endured through the changing facade of history, in the pre-British period, during the British regime and after independence, and so it exists even today.

Soon after the assumption of office by the present ministry, there were allegations that the local members of the Communist Party were organising themselves into what were called 'Cell Courts' and were imposing their decisions upon the disputants. There have been instances of settlement of disputes through the good offices of persons who are members of the Communist Party. Village elders, influential men, have attempted 'out of court settlement of minor disputes. They may be Congressmen, Communist, P.S.P.

men etc. There have been cases of pure, voluntary mediation without recourse to any legal process and with no legal sanction behind them. Outside this, there have been only very few specific cases, where formal communications were sent by Communist M.L.As. or local party offices to individuals requesting them to come to the party offices, in connection with some complaints received by them. It is these instances that have come to be published as the activities of 'cell courts'. Thirteen instances were alleged by Dr. K. B. Menon long ago and they were adequately answered by Government then. But such propagandist stuff dies hard, and so the K.P.C.C. President has repeated the same instances over again. Of the instances cited by Shri Menon, no information could be gathered in the following four cases for want of particulars: (1) Parur Cell Court; (2) Mavelikara Cell Court; (3) Pathanamthitta Cell Court; and (4) Anjarakandy Cell Court. In a matter like this, which has attracted widespread public attention, it is only to be expected that any person with a slight grievance would have approached the police or the law courts or the press, the State or Central Government with his complaint. In the absence of this and of any evidence in support of these alleged instances, the only conclusion that can be drawn is that they are false.

48. The allegation that the *Kottarakkara Cell Court* fixed its own timings for buses plying in Kottarakkara is false and unfounded. One cannot understand what is meant by a Cell Court fixing timings for buses. It is done by Road Transport Authority and no complaints have been received from anybody connected with plying of buses that any forced fixation of timings for plying of buses has taken place at the instance of any other agency. The fantastic extent to which things could be pressed for propaganda is evident from this instance.

49. In the following five cases, amongst those cited by the K.P.C.C. President, settlement was brought about through the good offices of members of the Communist Party:

(i) '*Kayamkulam Cell Court*'. One Prabhakaran sold 100 cocoanuts to one Mohandas, the Cashier of Ananda Bhavan Hotel on 10-7-1957 for Rs. 12½ on condition that the price will be paid on the next day. But, on the next day, Mohandas did not pay the amount as promised, when Prabhakaran made the demand. Thereupon, Prabhakaran abused Mohandas, who pushed him out of the hotel. Prabhakaran complained about this to Shri Kuttappan Koikal, an ex-M.L.A., who was then in the Communist Party Office. Koikal called both the parties and asked Mohandas to pay the price of the cocoanuts to Prabhakaran.

(ii) '*Kottayam Cell Court*'. One Thankamony, of Pakkara, Kottayam, committed theft of clothes from the house of one Madhavan Pillai of the same locality. Thereupon, Madhavan Pillai wanted to make a complaint to the local police. The local Panchayat President, Sri T. A. Sankaran, and some Communists interfered in the matter and effected a compromise.

(iii) One Rajappan of Vylar wanted to marry one Mary, a Christian Girl. The father of the girl was agreeable to the marriage if it was to be conducted in a church. As there was difference of opinion between the parties, the father of the girl approached the local Communist Party workers to use their good offices in the matter. It is not as if the members forced the father to agree to the marriage.

(iv) '*Mullasserri Cell Court*'. This relates to a dispute of eviction which was settled through the good offices of the local Taluk Committee Secretary of the Communist Party. Kotha was the tenant of one Antony and he received Rs. 50 from the said Antony as compensation and returned the land to the owner.

(v) '*Pazhanhi Cell Court*'. One Varathappan, who is a driver of pumping engines, undertook a contract from one Vareed who has wet lands. On 1-8-1957, when Vareed was going along the Pazhanhi Main Bazaar, Varathappan went up to him and demanded an amount of Rs. 50 which he claimed as compensation as the pumping machine went under repairs. Vareed then claimed Rs. 36 from Varathappan, given in advance to him. One Tharakutty, Secretary of the Local Committee of the Communist Party, brought about a settlement by which Varathappan gave a pro-note for Rs. 36 and Vareed in turn a pro-note for Rs. 50 to Varathappan. Both the pro-notes were left with Tharakutty. Later, Tharakutty sent a letter to Vareed to get ready for making a final settlement. But Vareed did not come and the whole matter was dropped. The statement that the 'non-communist' was waylaid and made to sign a pro-note for Rs. 50 is untrue.

50. This leaves us with the three cases, which are the ones in which formal communications to the individuals complained against were sent by Communist Party offices.

(i) '*Chathanthara Cell Court*'. A communication dated 8-4-1957 was sent by O. M. Kunju Cherukkan, Secretary of the Communist Party at Chathanthara, to Ulahannan Mani and his brother John asking them to appear before the election office at Chathanthara in connection with a complaint filed by one Markose Varkey. This arose out of a water dispute between Ulahannan Mani and John on the one side and Markose Varkey on the other. They own adjoining properties. Though a communication was sent by the Secretary, the parties did not appear as required therein.

The communication sent in this case was the one

produced by Sri Pattom Thanu Pillai in the State Assembly.

(ii) '*Patannakkad Cell Court*'. There was a boundary dispute between one Hassanar and another Kunhaman who were adjacent land owners in Hosdurg. On 28-6-57, Hassanar sent a letter to the Hosdurg Taluk Communist Party and to the Hosdurg Police Station requesting that Kunhaman may be warned not to threaten him. The police referred the matter as of civil nature. Kunhaman then approached O. V. Chandan, Secretary of the local Communist Party, to settle the dispute out of court. O. V. Chandan sent out a communication on 9-7-57 asking Hassanar to appear before him with the relevant records and documents on 14-7-57. As the village accountant did not go to the spot on 14-7-57, the matter was dropped.

(iii) '*Mavelikulam Cell Court*'. One Bhaskara Pillai of Mithrakara, Kottayam, assaulted one Chellappan consequent on a dispute regarding a money transaction. Chellappan complained to the local Communists and as decided by them a communication was sent by one Narayanan. Bhaskara Pillai did not offer any explanation.

51. The details given above will show that, as against the bogey of 'Cell Courts' setting themselves up as parallel institutions to the judiciary, raised by the K.P.C.C. President, there have been only a few individual cases in the whole State during the last two years in which the members of the Communist Party have attempted to settle disputes. Mere attempts to settle village disputes and petty quarrels have been grossly magnified and caricatured as 'cell courts'. Prompt action was taken by Government against such unauthorised conduct and there have been no complaints from any quarter that there have been any further instances since 1958, or that the Government

did not take proper action when it was brought to their notice.

Apart from this, the attitude of the Government to this subject has been made quite clear on the floor of the Assembly by the Law Minister who stated as follows on 31-8-1957:

"I want to make it clear that there is no 'cell court' whatever in the State, except the courts established by the criminal statutes. There is no other organisation which is functioning under that name, or purporting to administer justice, except the courts of the land established by law. But I think any man, or any party, or friend could intervene in a dispute and mediate between the parties and endeavour to bring peace. There is nothing wrong in it. Such agencies should be welcomed in the main. If any member of this House endeavours like that, he will have the blessings of all well-meaning people, including this Government. I want to make it unmistakably clear that there is no endeavour by Government to encourage or tolerate 'cell courts' by the Communist Party or any other party."

The conscience of the Government in this matter is quite clear, because, whenever there has been any allegation of cell court functioning, action has been taken to investigate them and take suitable steps against persons indulging in any such unlawful activity. When Shri Nair of the Democratic Research Institute of Bombay asserted that cell courts were functioning, a letter was sent to him by the Law Minister by registered post requesting him to furnish details and promising investigation at a higher level. The letter was returned undelivered. When Dr. K. B. Menon made a statement in public once, on the subject, a similar request was made to him by letter, and, on his furnishing some particulars, a special C.I.D. Officer was deputed to go round the whole State to

investigate into such cases, if any, and give a report to Government. *The report itself is enclosed and added as annexure hereto* (Annexure No. IX). All this establishes that the Government has not only not attempted to shield any unlawful activities of the sort alleged, but has promptly tried to scotch them.

Healthy mediation efforts which require to be encouraged may have, here and there, overstepped limits. But the Congress propaganda machinery is trying to depict such efforts as 'cell courts', endeavouring to exploit anti-communist prejudices among certain sections of the people. It may be mentioned in this connection that there was allegation of a P.S.P. cell court in the newspapers in Kerala.

Before taking leave of this subject, it may be usefully mentioned that the Kerala Government anxiously pursued the allegations about cell courts, whenever they were made, with a view to put an end to them if they existed. The Chairman of the Praja Socialist Party, Shri Sinha, M.P., while he was touring Kerala, referred to the activities of 'cell courts'. Whereupon the Kerala Law Minister wrote to him on 5-1-1958 as follows:

"I might have dismissed these allegations as baseless propaganda stuff if it had come from a lesser personality. Holding you as I do in high esteem and attaching as I do weight to your statements, I am anxious to know the materials which you have in support of these grave charges. Specific data inducing you to hold that communist cells are usurping the functions of courts will be valuable indeed for me to direct an investigation thereinto through very responsible I.A.S. or I.P.S. officials. The result of the enquiry will certainly be made known to you and the opportunity for proving the veracity of your material will be given to any person you suggest on your side. Likewise, in regard

to the imputation of interference with officials in their regular work. I am not writing this on behalf of the Communist Party, but as Minister in charge of Law and Order. I am concerned to see that the official machinery is not interfered with by any political party to their own advantage. Your help and co-operation in this matter will, I hope, be extended to me."

Unfortunately, the Chairman of the Praja Socialist Party replied on 21-1-1958:

"Whatever I said in my public utterances was on the basis of information given to me by my colleagues and other responsible persons and a general feeling of anxiety and apprehension that was voiced by many."

No concrete case was communicated by him; apparently, there was none that he was sure of.

Para 14 (i)

The charges made in this para are too general. The two concrete cases given in Appendix 5 to the K.P.C.C. Memorandum have been dealt with elsewhere.

Para 14 (i)

52. It is correct to say that plantation is the biggest industry in the State, but there is no basis for the statement that the I.N.T.U.C. had predominance among the workers in the plantation industry when the present Government came into power. As a matter of fact, the workers in the plantations are divided between the I.N.T.U.C., A.I.T.U.C. and U.T.U.C. The Chief Minister's declaration was intended to remove the impression that existed then that the police could interfere in trade disputes under the guise of infringement of civil rights. What was intended was that industrial disputes should not be made a fluke for interference by the police, excepting for maintaining law

and order as it used to be done in the past. In fact this declaration was welcomed by all trade unions and by persons of progressive views.

The reference about the dispute in the *Cottanad (not Kuttanad) Estate* is very unfortunate. The management of this estate belonging to one of the leaders of the present 'Vimochana Samara Samiti' dismissed in a lot all the 162 workers and tried to bring in new workers. The dismissed workers picketed and it is not true to say that police protection was not given to the management. Those workers who were guilty of obstructive picketing were removed and charge-sheeted and convicted. It is a pity that the K.P.C.C. in a Memorandum to the Rashtrapati is justifying the cruel and wholesale dismissal of workers.

There are also references about deliberate acts of violence by the workers. Instances are cited of occurrence in the Suranelle Estate, as well as in the office of the Eastern Workers' Union. The story referred to in Suranelle Estate is an absolute lie. So far as the incident at *Eastern Estate Workers' Union* is concerned, there was a scuffle between two workers near the union office, because of assault on a woman worker and violation of her modesty by one of the union members. The involved assailant escaped into the office and he was chased by the other worker. The aggrieved worker was the husband of the woman worker. This occurrence was not engineered by the A.I.T.U.C. workers as stated in the Memorandum. Still, there were complaints about this which was made much of by Shri B. K. Nair, the leader of the I.N.T.U.C. Thereupon, the Labour Minister visited the place on 11-11-1957 and conducted a detailed enquiry in the presence of the representatives of the two unions and the management, as well as District Collector, Labour Commissioner and other officers. It was disclosed during the enquiry that the real issue was the keen rivalry be-

tween two sections of workers about the conduct of a temple festival and other matters of like nature, and, because of this rivalry, the smooth working of the estate itself was jeopardized. As a result of the intervention of the Labour Minister, a joint Committee consisting of the representatives of both the unions, with the Assistant Labour Officer as Convener was appointed. The working of this committee improved the situation and thereafter no untoward occurrence was ever heard.

It is worthy to note that it was at this Estate that Shri Nair led a riotous mob to break open the rice store and plundered the stock of rice during the Congress regime. In view of this past experience the management and the other workers expressed their relief at the intervention of the Labour Minister.

53. The tactics adopted by the I.N.T.U.C. and the Congress immediately after the assumption of office by the present Ministry was to raise the bogus cry of insecurity to life and property and breakdown of law and order, ostensibly with the object of seeking the intervention of the Centre. It is true that the Union Labour Minister, Shri Nanda, visited the plantation area, but the statement issued by him before he left the State after his tour gives a direct lie to the cry of insecurity in the labour areas. It was noted that the statement of Shri Nanda disappointed the Congress leaders who have been trying to create the impression of insecurity in the State. The instances cited in Appendix VI are absolute lies regarding certain cases, and highly exaggerated in the other cases. Incidents occurring during the course of the struggle conducted by the management and minor alterations and assaults between members of rival unions are exaggerated and given colour in the attempt to prove the case of the K.P.C.C. which is already weak prima facie. It is really surprising that the Congress party which is ruling

in the other 13 States in Indian Union and handling labour problems under more difficult conditions and facing occurrences of more serious nature, had without any qualm of conscience attempted to impeach this Government on the basis of such incidents.

Para 15

54. The strange conclusion is drawn by the K.P.C.C. President that, as a result of Communist rule, there has been an alarming increase in the major crimes and widespread feeling of insecurity of life and property. In the Bihar Assembly, a Congress M.L.A. made allegations of this sort against the Congress Government in 1958, according to a newspaper report. The Punjab Chief Minister once observed that there was an increase in murder cases in his State according to newspaper reports. Likewise, there were statements about certain Districts in Andhra Pradesh having shown a marked increase in serious crimes like murder. However, the K.P.C.C. President has attempted to be a little too clever in the presentation of his crime statistics. It is well-known that, all over India, the years 1953, 1954 and 1955 showed a marked decrease in crimes and a sharp rise from 1956 onwards. To compare the average for 1953 to 1956 with 1957 and 1958 is therefore unjust. All over India, this increase would be noticeable.

55. Apart from that, it is seen from the crime statistics of Kerala for the period for 1947-'57 that cognizable crimes of all categories have terribly increased throughout the decade. The table below proves it :

1947	..	5650
1948	..	6641
1949	..	6880

1950	..	7438
1951	..	10825
1952	..	11157
1953	..	10215
1954	..	13514
1955	..	19551
1956	..	21063
1957	..	22624

From 1947 to 1953, the entire area was under Congress administration. In 1954, the Travancore-Cochin area had the temporary benefit of the P.S.P. Government. In 1955, the Congress again came to power, and in 1956 the administrator's regime followed. Between 1947 and 1953, the total cognizable crimes rose by 80.8 per cent. In the single year of 1954, it rose by 32.3 per cent. From 1954 to 1956, it again rose by another 55.9 per cent. The rise in 1957 from 1956 is 7.4 per cent. which certainly is not as astounding as some of the earlier performances. In the course of about 10 years of popular rule which preceded 1957, the total increase in cognizable crime was about 273 per cent. This is said not with the intention of casting any blame, but only to make it clear how statistics could be used both ways.

56. It has been contended that crime figures in Kerala in 1957 have soared under important heads like murder, dacoity, robbery, house-breaking etc. The best answer to these reports is to compare the volume of crime in these categories in the States of Madras, Mysore, Andhra and Kerala in 1957. The figures are taken from the latest statistics of crime for the whole of India published by the Ministry of Home Affairs, Government of India, and are based on the international standard of one case per one lakh population :

VOLUME OF CRIME (1 per 100,000 of Population)

	Madras	Mysore	Andhra	Kerala
Murder	2.5	3.3	3.1	1.8
Dacoity	0.3	0.6	0.4	0.2
Robbery	0.9	1.3	0.7	0.8
House-breaking and theft	23.7	24.5	22.9	14.3
Ordinary theft	70.6	45.6	44.0	19.2
Cattle theft	9.3	5.1	5.7	1.5
Rioting	6.8	3.7	6.5	6.4

VOLUME OF CRIME—KERALA COMPARED TO ALL OTHER STATES IN INDIA

The comparative volume of crime for all the States in India for 1957, calculated again according to the international standard mentioned above, will also be interesting. These, according to the latest publication of the Ministry of Home Affairs, Government of India, are :

Andhra Pradesh	123.5
Assam	190.4
Bihar	161.6
Bombay	222.7
Jammu & Kashmir	82.2
Kerala	89.3
Madhya Pradesh	244.7
Madras	174.5
Mysore	124.0
Orissa	132.9
Punjab	118.1
Rajasthan	116.4
Uttar Pradesh	102.8
West Bengal	241.8

57. It will be seen that, in point of volume of crime, every other State in India, except Jammu and Kashmir, has a much higher figure than Kerala in 1957. However, a special caution is necessary in rushing to the conclusion that every State with high volume of crime has been doing very badly, or that Kerala,

even in 1957, has done very well with such a comparatively low volume of crime. The following factors have to be considered in this context :

(a) The law enjoins that information about the commission of a cognizable offence should be registered as a F.I.R. in the police station. However, varying standards exist in respect of the actual adherence to this legal requirement. With the increasing consciousness of the people about their rights, and the responsiveness of Government to complaints about omissions on the part of the police, a higher standard of reporting and registry of cases is inevitable, and has to be regarded as a natural and healthy development.

(b) With the opening of more police stations, offences which would otherwise not have been reported to the police get reported. This also acts as a factor to increase crime figures. Six new police stations have been opened since Kerala was formed.

(c) With the increasing assumption by the police of the function of enforcing prohibition, a substantial addition to the crime statistics results. The total of 22,624 cognizable cases of 1957 includes 4,752 prohibition cases.

58. It is the firm determination of Government that the provisions of law regarding the registration of offences should be correctly followed, even if it entails some statistical disadvantage which might be short-sightedly utilised to criticise and malign the Government.

From the above facts presented in a detached way, it will be obvious for any impartial student that there has not been anything wrong with the Kerala Government in its handling of law and order. Moreover, fluctuations in crimes do occur sometimes and the reasons are too deep-rooted to be explained by political causes covering a short period of two years. As an expert

criminologist in the Tata Institute of Social Science, Shri J. J. Panagal, pointed out, the position regarding crimes and security in Kerala has not shown any deterioration during the last over an year.

Para 16

59. The accusation that an organised attempt was being made to 'liquidate' the opposition workers is malicious and false. Apart from that, the more relevant point is not whether any Communist attacked 'opposition' workers, but whether the machinery of Government moved against Communists also, if they committed offences. It may well be that a member of a party in power commits offences, as many congressmen in Congress-ruled States have committed. It may also be that such offences have sometimes been committed out of political motives and against political opponents. But the machinery of law has to be set in motion effectively and impartially against the miscreants, without reference to their party label. So far as the Kerala Government is concerned, it is comforting to note that the K.P.C.C. President's memorandum does not even allege that, when the opposition workers were attacked by Communists, the police did not take action. There has been no single instance where a cognizable offence has been committed by Communists or pro-Communists and police has not taken action after information has been laid before them. Shri Pattom Thanu Pillai's case is an instance in point. He claims to have been "insulted", but has not even cared to inform the police. No one on his behalf or otherwise informed the police authorities about the alleged "open insult" offered to him, though the police obviously can and will proceed if there is some tangible materials to go by disclosing a cognizable offence. Shri Pattom Thanu Pillai who bewails about an "open insult" was not interested in getting the miscreants proceeded against, but has been

more vociferously anxious to make political capital out of it. One does not know *who* offered "open insult" to him, whether they were Communists and whether there was a cognizable offence made out. The attempt on the part of the K.P.C.C. President is to appeal to prejudice, rather than to reason. He refers to the "labour agitation" in the Seetharam Mills and the students agitation against increased boat charge. He has no word to say *against* the violence of the labour agitation in the Seetharam Mills and the instigation to do so given by such a seemingly responsible leader like Shri P. Govinda Menon, the ex-Chief Minister of Travancore-Cochin (Congress). He, during the struggle, attacked in daily speeches not merely the I.A.S., and other administrative officers, but even the Magistrates for imposing alternative sentence of two weeks simple imprisonment! The Seetharam Mills' labour agitation was claimed by the ex-Chief Minister (Congress) as a "liberation" movement—quite a unique and fantastic claim to make out of a labour agitation and that against a Government functioning under the Constitution! Similarly, the violence and frenzy of the students agitation which was actively promoted by the "opposition" cannot possibly be defended. Dragging students into 'direct action' and violent agitation appears to have been part of the policy of the Congress Party in Kerala. On the students agitation connected with the increased boat charge, the Chief Justice of Kerala has made a passing reference in the Chandanathoppu firing inquiry report. The Congress Party will feel ashamed of its role, instead of using that instance to criticise the Communist Party and the Government. Here is what Mr. Justice Sankaran has stated (to be understood against the current political background of Kerala) :

"It is common knowledge that such agitations were being encouraged and supported by the members of one or more of the political parties interested

in exploiting the situation to their advantage. Such agitations have had the most dangerous result of instilling a spirit of lawlessness and of defiance of law and authority in the minds of the youth of our nation. During times of such agitations, *it has been a common sight to see even little children studying in the primary classes going about shouting slogans against law and authority.....* The larger interests of the students themselves and of the country as a whole, require that the students should be dissuaded from indulging in strikes, picketing and other forms of agitation. *It may be that from the point of view of political parties, students and working classes provide fertile fields for exploitation.* But it will be unfortunate, and even cruel to make use of the student population for political purposes by encouraging them to actively participate in public agitations”.

59 (a) The Students' Agitation referred to in the Memorandum was really a struggle launched in the series of the "liberation struggle" by the Congress since the present Ministry assumed charge.

The Water Transport of the State was operated by private operators. The unhealthy competition between the operators resulted in absolute chaos in the industry which is of paramount importance to the economy and communication of the State. The workers were deprived of reasonable emoluments and fair conditions of service. Taking into consideration all these aspects, Government constituted the Water Transport Corporation, where the workers, the employers and the Government would be having shares. The constitution of this Corporation evoked resentment from the I.N.T.U.C. and other opposition parties. The I.N.T.U.C. started a struggle against the Corporation putting forth certain feigned grievances. The Congress induced and goaded the students to start another struggle alleging that there has been an in-

crease in boat fare. The allegation was not only unfounded, but, on the other hand, the concession given to the students by the Corporation accrued more benefit to the students. The struggle was supported by all the opposition parties and was extended to other parts of the State, resulting in picketing of schools, obstructing traffic and damaging buses, boats and public property. The Government finally appointed an Enquiry Commission to enquire and report whether the allegation of the students are true and whether the concession given by the Government are adequate. The Commission, consisting of a retired High Court Judge, after enquiry, submitted a report to Government in which he categorically stated that the allegation of the students that there was an increase in the boat fare was absolutely untrue and he agreed with the Government that the concession allowed by the Corporation was appropriate and adequate. The relevant extracts from the report is given below :

(1) "On a careful consideration of the evidence led before me, I am clear that the general concession of one anna per trip in all routes by all boat owners irrespective of distance (as alleged by the students) cannot be maintained. I find that the concession as propounded in the first issue did not exist (P. 7 of the Report).

(2) "In view of these facts, I find that the concession allowed by the Corporation is appropriate and adequate" (P. 9 of the Report).

Para 17

60. With regard to the allegation of "deliberate demoralisation of the services" made in para 17 of the Memorandum, it should be clearly and sharply stated that the boot is actually on the other foot. The present ministry has scrupulously adhered to the

principle that, while the personnel of the Government services may have their individual views on various questions of the day, it is for them to keep their views to themselves and to work as loyal officers serving the Government of the day. We have made it a point of looking at the record of every individual officer from the point of view of his or her efficiency in the work, and loyalty to the Government of the day, regardless of whether that Government happens to be Congress, P.S.P., or Communist. We are happy to be able to record that the service personnel has, during the last 27 months, by and large, served the present Government as loyally as they had served previous Governments. Unfortunately, however, innumerable examples can be shown of Congress leaders—both inside and outside the Legislature—telling Government officers that it is not their duty to carry out the orders of Ministers if, according to them, these orders are illegal. Open incitements to police and other officers have been made and combined with the threat that “after all, you belong to services controlled by the Central Government which is functioning under the guidance of the Congress”. It is, therefore, the Opposition, particularly the Congress, that has done its best to demoralise the service personnel and draw them away from the path of loyally serving the Government of the day, regardless of whether the officer himself personally likes, or does not like, the political complexion of that Government.

Now, with regard to the sub-paras coming under this para:

(i) It is not true that the Ministers or the Chief Minister have publicly attacked the officers who serve under them. What they have done is only to point out the defects in the present administrative system which, it can well be seen, is quite different from

attacking individual officers. The Chief Minister, other Ministers and leaders of the Communist Party outside the Ministry have all pointed out, and will continue to point out, that a basic change in outlook on the part of service personnel is necessary if the nation's administrative machinery is to be keyed to the requirements of a fast-changing socio-economic system moving in the direction of the socialist goal. It is this principled criticism of the administrative system as a system that is characterised by the Congress as *attacks on individual officers*, obviously with a view to pit the officers against the Ministry.

(ii) This is the baseless allegation. As a matter of fact, all those service personnel who have had grievances with regard to posting and promotions know very well that these problems of service personnel are dealt with far more justly and fairly today than under previous Governments. The assertion in the Memorandum that there is a large number of writs in High Court against such decisions are baseless. As for the Inspector-General of Police it should be mentioned that there was no question of any “manipulation” and that everything was done in a straight manner and through accepted procedures. The K.P.C.C. or other friends may disagree on the need for the appointment of a Police Code Revision Committee, or on the need for having the seniormost officer of the police service in the State to function as Secretary of that Committee. That, however, is no reason why it should make the wild charge that the claim of the seniormost officer has been overlooked. It is pertinent to point out that a similar Committee for substantially the same purpose has been appointed by the Congress Government in Bihar with the Inspector-General of Police as Secretary.

(iii) Although a general charge of victimisation is made, it is interesting to note that only one single

instance is pointed out; even here, there is no other charge than that there was some technical deficiency in the procedure followed: the material content of the Government's case itself has not been challenged, and it is in connection with the technical flaw in such an individual instance that the K.P.C.C. makes the irresponsible and unsubstantiated allegation that proceedings were launched against these officers on the basis of complaints made by party workers.

(iv) The sub-para on "disregard for official procedure" is too vague for an answer. It can, however, be confidently stated that, while what is notoriously known as red-tapism is sometimes avoided by the relaxation of rules, (This was, for example done in connection with the observance of Minor Irrigation Week), the rules of procedure are normally adhered to.

As for the Departments under the Minister for Education, it is not true to say that orders have been issued over the telephone to the departmental heads and subordinate officers, disregarding the Rules of Procedure. Orders, if any, issued by him due to urgency of the matter, have always been followed by written orders of Government. There has been no case of any irregular act done by an officer under his instruction. The Minister for Education takes the entire responsibility for every order issued by the Department with his knowledge. The writers of the Memorandum have not been able to come out of their reaction to the Education Act even while dealing with matters like office procedure. They have singled out the Education Minister for an unwarranted personal attack.

The K.P.C.C. Memorandum suggests "a comparative scrutiny of the connected files in the Secretariat and in the offices of the Heads of Departments". This is a course which, if at all adopted, should also be ex-

tended to files relating to earlier regimes. We are confident that, if that is made, it will be found that such cases of disregarding official procedure as have occurred during the present regime were those made with a view to expeditiously carry out measures beneficial to the people, while, under earlier regimes, official procedure was disregarded for less reputable objectives.

(v) This sub-para relates to interference by partymen into the administration. It should however be pointed out that this whole question has been raised (in this Memorandum and in earlier notes and memoranda) by the Congress with a view to enable its own leaders to interfere in administration. Postings and transfers of officers are part of the normal day-to-day administration of the country; if every such action of a superior administrative officer is made a matter of public debate in the press and on the platform; furthermore, if disgruntled officers are permitted to feel that the State unit of the All-India ruling party will back them as against the Government of the State; it will create indiscipline in the services. Precisely this seems to be the intention of the K.P.C.C. This agitation against the normal, day-to-day, administrative actions of the Government and the consequent encouragement given to disgruntled officers should be read along with the open and unashamed incitement of Government officers made by the leaders of the Congress.

(vi) This is a lie and slander, pure and simple.

(vii) The independence of the judiciary has been upheld by this Government to an enviable degree. It is true, as Mr. Justice Sankaran has pointed out in the Chandanathope enquiry report, that the Governments in the past decade (mostly Congress and once the P.S.P.) have been indiscriminately applying the

power of withdrawal of cases and remission of sentences. A large number of arson and other cases which sprang out of the Tamilnad agitation were all withdrawn by the Panampally Government (Congress) for reasons of political expediency, although the cases were so contested and so important that they had to be transferred to Mysore State for trial. It has already been mentioned how a colossal number of cases were withdrawn by the P.S.P. Government shortly after it came to power. In Kerala now, the opposition parties, who have been indulging in ceaseless agitations of various sorts, have secured all the benefits of a liberal policy of remissions and withdrawals in "agitation" cases. Now to contend that the present Government in Kerala has withdrawn cases and remitted sentences, thereby negating the independence of the judiciary, is to make unfair charge which is also untrue in the extreme. On the other hand, the Kerala Government wanted to see that no party, particularly the Communist Party, was ever allowed to interfere with any investigation of cases, civil or criminal. Not that actually there was any such tampering with the investigation or trial of cases. Because of the opposition propaganda, Government thought it fit to eradicate such interference, if any, and, towards that end, the Law Minister wrote to the Chief Justice as follows:

"In a few judgments reported in the newspapers, probably of criminal courts, certain observations are stated to have been made by the Magistrates or other Presiding Officers to the effect that Communists have interfered with either the investigation of a case or with the rights of parties as declared in civil courts, or by taking the law into their own hands. Whether any judgment contains observations to this effect is more than I can say. But, since some controversy in high political quarters has been raised about this matter, I shall be deeply obliged

if you will confidentially circularise and furnish to Government cases where such observations have been made about political parties, particularly Communists, where the occurrences took place after April, 1957.

"Kindly excuse me for making this request. It is not readily possible to secure copies of these judgments or even information about these matters from all over the State except through the good offices of the High Court. I may also mention that the purpose is primarily to help the administration of justice, in the sense that, if there is any degree of interference with investigation or with the rights and possession of parties as disclosed in judgments, appropriate governmental action may be taken to prevent such things happening."

In reply thereto, the Chief Justice stated that, in his view, it would be more appropriate to get the required information through the Public Prosecutors and the Advocate-General and expressed his appreciation of the purpose for which the information was sought. Thereafter, the Inspector-General of Police as well as the Advocate-General were addressed to report whether any observations had been made by the High Court or any other Court in the State about any form of political interference with the investigation of cases or in the course of trial. The Advocate-General stated in reply that he had not come across any observations made by the High Court about any form of interference with the investigation or trial of cases and the Inspector-General of Police made a similar report.

This very action establishes beyond the shadow of doubt that Government had the utmost anxiety to keep the investigation and trial of cases far beyond the meddling of parties, including the Communist Party. One has to be thankful to the President of the K.P.C.C. for not repeating the monstrous and utterly

false accusations made on earlier occasions by other eminent men in his party and in the P.S.P. that even judicial officers were transferred and demoted because they did not agree to withdraw cases at the behest of the Government. There is separation of the judiciary from the executive in Kerala and the supervision and control of the subordinate judiciary is left to the High Court.

While the facts about Kerala are like this, what is happening under Congress Governments may probably be left to be described by Acharya J. B. Kripalani who states in his article in the *Madras Mail*, dated 23-7-1959:

"I was also conscious of the fact that Congressmen do indulge in irregularities.

"There are instances where it is alleged that they have interfered with the administration, not excluding the police and the judiciary. Criminal cases are said to have been withdrawn at the instance of Congressmen. There have been political murders in Congress-ruled States. The Congressmen try to do many things that are undemocratic to perpetuate Congress rule...."

(viii) The need for the enlargement of the P.S.C. was felt firstly by the people of Malabar who have had an openly-expressed grievance that the interests of Malabar are not being adequately served in the matter of recruitment. This feeling of the people of Malabar was repeatedly expressed on the floor of the Legislature by the Malabar members belonging to all parties in the Legislature. The Muslim League also raised its voice of protest against the absence of a Muslim in the Public Service Commission. Considering all these factors, the Government came to the conclusion that it was necessary to have two members added to the P.S.C. Since one of the existing members was, in the meanwhile, due to retire, three vacancies

arose in the P.S.C. These were filled by the appointment of two from the services and one from among the non-officials. This appointment has been received with satisfaction by large sections of the people, including the Muslim League, who have seen how the claims of the Malabar area and two communities, hitherto unrepresented in the P.S.C. and inadequately represented in the services, have been conceded. All the three new members are so well-known for their honesty and integrity that even the K.P.C.C. does not dare challenge it. It may be mentioned that Congressmen have been successively appointed as members of P.S.C. Those appointments were not objected to by the Congress!

(ix) The general allegation made in this sub-para has no basis in truth. As for the concrete case mentioned in the sub-para, it is being investigated.

(x) The charge that the Department of Public Relations instead of confining itself to its normal function of giving publicity to the policies and programmes of Government, is made to subserve the interests of the Communist Party is not sustained by facts.

There has been no instance of any statement issued by the Communist Party, having been retailed by the Public Relations Department. To the puerile argument that "those who approach the Communist Party office to know the Party's views on various matters are invariably directed to the Public Relations Department for getting necessary literature" and the equally frivolous deduction that "this means that all literature needed for the Party's propaganda is supplied by the Department" no reply is warranted; the memorandum scrupulously refrains from citing a single official publication in support of its charge. Perhaps, there is more cunning than ignorance in this

omission, because the specific reference to any particular publication would enable the impartial reader to judge the utter hollowness of the charge.

Para 18

61. "*Totalitarianism in Education*". The reorganisation schemes introduced by Government in the field of education, like the integrated scheme of Primary Education and the Reconstruction of Secondary Education, are schemes initiated by the Government of India and the Expert Bodies set up by them and approved by the C.A.B. in Madras. The necessity for the changes in the administrative machinery, which have been effected by Government, arose as an immediate and direct result of the reorganisation. For effective implementation of the reorganised scheme, it was necessary to make certain changes in the organisation of the Department.

62. It is said that "the University has become just another Department of Government". Any one with even a casual acquaintance of University matters would agree unhesitatingly that, as different from the Travancore University which was almost a Department of Government, the new Kerala University is an autonomous, statutory body like the other major universities of the country.

Para 19

63. Reference is made to the Committee appointed by the Government to enquire into the allegations of indoctrination through text-books. The Committee consisted of Shri Kuruvila Jacob, Mrs. O. C. Srinivasan, Retired Director of Public Instruction of Madras, and Shri Narayana Pillai, a Member of the Syndicate of the Kerala University. The Committee has held that there has been no effort at indoctrination through text books, either on the part of the Government or

the Text Book Committees. The Committee suggested the deletion or modification of a few portions, mainly on the possible interpretation that might be given to them by interested parties. These modifications have been effected by Government while publishing the text books this year. The following passages from the Report of the Committee may be read:

"The Committee is however of the opinion that there has not been any concerted attempt on the part of the authorities or the text book Writing Committee, to indoctrinate the pupils in anti-religious ideas".

"The Committee does not consider that there has been any concerted attempt on the part of the authorities or the Text Book Writing Committees at indoctrination of communist ideology".

"The fact that the Government of India publication *We Plan for Prosperity* has been prescribed as non-detailed texts in English and Malayalam in two classes is further indication that there has not been an intention on the part of the authorities to belittle the achievements of India".

Para 20

64. No unpublished book has been prescribed, either as a reader, or as a non-detailed text book. Both in 1958-59 and in this year, the Government have prescribed only the books recommended by the Committees appointed for the different subjects (or languages). The Committees consisted mainly of officials, senior teachers and the writers of text books, most of whom have been in Text Book Committees set by the former Governments.

Para 22

65. The principle of one negotiating Union in one industry has been sponsored by all the trade unions,

including the I.N.T.U.C. The Government have been consistently trying to affirm this principle, but unfortunately, this ideal could not make much headway. The existence of inter-union rivalry has come up for castigation at the Nainital Labour Conference and a Code of union behaviour has been adopted. When even the Government of India could not succeed fully in translating the above ideal into practice, it is purposeless to castigate this Government for not effectively implementing this principle. The earnestness of this Government to follow this Code has been effectuated into practice by including necessary provisions in the Kerala Industrial Relations Bill which is now before the Legislature.

66. Government have been consistently following the policy of showing even and equal treatment to workers, irrespective of the shade and colour of their party affiliation. This is illustrated by the efforts made by the Government to settle the dispute in the Chavara Minerals, Parvathi Mills (where there are more than five trade unions), Vijayamohini Mills, Punalur Paper Mills, Kundara Aluminium (where there are half a dozen unions) Kundara Pierce Leslie Co., Cannanore Commonwealth Mills, P.W.D. Workshops, Sitharam Mills etc. etc. The proud achievements of the workers of minority unions belonging to other parties brought about by the intervention of this Government, will proclaim to the world that the Kerala Government was only motivated by the interests of the working class, and not by partisan attitude. One instance may be pointed out here by way of contrast with the Congress Government that, while they purposely kept out the majority Union belonging to the A.I.T.U.C. at the time of earlier settlements of bonus at Punalur Mills, this Government against the expectation of the management and the I.N.T.U.C. Union should be necessarily invited for the conference

convened for the purpose of settling the bonus issue for the subsequent years.

Para 23

67. The case of Government Press referred to in the Memorandum is another instance of absolute lie. The Government most magnanimously granted unique concessions to the section of the workers represented by the U.T.U.C. The various terms of the settlement were implemented one by one as and when sanction of the Finance Department was received on each item. The settlement was never kept in abeyance. The statement in the Memorandum to this effect is categorically denied. It is true that the A.I.T.U.C. Union had submitted a Memorandum of demands, but those demands related to other sections of the workers which were not represented as admitted by the U.T.U.C. in the appended pamphlet itself. It is also true that the workers staged a token strike, but the lead was given by both the unions, the U.T.U.C. and the A.I.T.U.C., but the alleged provocation was some other issue, namely delay in the implementation of the general pay revision to the workers in the Press. The copy of the Press Release issued by the Government and appended herewith will explain the position and that the statement in the Memorandum of the K.P.C.C. is an undiluted lie. (Refer Annexure X).

68. In regard to the dispute in the Sitaram Spinning and Weaving Mills, the allegation is that the State Government has facilitated the growth of the A.I.T.U.C. Union by creating dispute. This is absolutely untrue.

This struggle of the I.N.T.U.C. in the Sitaram Mills under the leadership of Shri Panampilly Govinda Menon, one of the ex-Chief Ministers, is another instance in the series of "liberation struggles", as declared by Mr. Menon himself at that time. What are the

circumstances taken advantage of by Shri Menon to declare a struggle? Because of the accumulation of yarn in the reeling section and the consequent lockup of doffs, the work in the spinning frames was affected and several frames were stopped. The number of permanent workers in the spinning section had to be paid, though they had no work to do. To meet the situation, the General Manager arranged to start a second shift in the reeling section where there were fifty and odd surplus hands and they were drafted to the reeling section. This was done temporarily for a short period which was specified in the notice with the only view to release to required number of bobbins. Three out of the eight workers belonged to the Sitaram Textile Workers' Union (A.I.T.U.C.) and the remaining five to the Sitaram Textile Labour Congress (I.N.T.U.C.). This was not a change of the conditions of service. It was done purely to facilitate the working of the Mill. Since the new shift had to work from 5 p.m. to 11 p.m., only male workers could be drafted. The reeling and binding section belonged to the same department. The workers were assured of making good the loss in earning, if any.

Two high level conferences attended by the Minister for Industries and of Labour were convened. The stand taken by the I.N.T.U.C., was that the transfer was illegal and should be cancelled. They were not prepared to co-operate with the management and the Government to run the mill without loss when it was running at a heavy loss and the Mill having been taken over by the Government only to provide employment to labour consequent on the closure of the Mill. The District Collector and the Labour Officers called series of conferences. Offers to refer the issue to adjudication and even arbitration (though it was felt that the issue was not a trade dispute) were made, but rejected. And finally, due to the intervention of

and suggestion of Shri K. A. Damodara Menon, the then President of the K.P.C.C., Government referred the issue for adjudication.

When once the issue was referred to adjudication and knowing fully well that he has no case before the Tribunal, Shri Panampilly Govinda Menon yielded and agreed to accept the transfer of the workers. The Government thereupon reacted quite magnanimously which fact is clear from the terms of the settlement. (Refer Annexure XI).

69. Before concluding the issue, a particular aspect has to be explained, the mode and nature of the struggle conducted by Shri Panampilly Govinda Menon. Volunteers from all over the State were recruited. They were asked to rush into the Mills and the Collectorate. Attempts to sabotage the machinery were made. It was very unfortunate that an issue over which a dispute was not at all warranted, a "liberation struggle", and that too attended with violence, was conducted by a person none other than an ex-Chief Minister.

70. The dispute in the Munnar Plantations was not referred to adjudication for very cogent reasons. The dispute arose between the management of three companies and their workers affiliated to two Unions, the I.N.T.U.C. and the A.I.T.U.C. on the question of bonus for 1957, as well as over a number of industry-wide issues. As a settlement could not be arrived at, the workers started a strike on 4-10-1958. The next day, the I.N.T.U.C.-sponsored union came to an understanding with the Companies and entered into an agreement for reference of the dispute to adjudication under Section 10 (2) of the Industrial Disputes Act. Under this Section, a reference to adjudication is obligatory when the Government are satisfied that the parties who are signatories represent the majority of

the workers. But, in the present case, the I.N.T.U.C. union which was a party to the agreement did not represent the majority of the workers in so far as its pose of majority membership was strongly questioned by the other union, and as made clear from the number of workers who resumed work respecting the settlement made by one of the unions for reference to adjudication. In the face of this objection, apart from the legal deficiency of the agreement, Government could not validly take action in referring this dispute for adjudication. A reference would not have secured industrial peace. Moreover, to refer an industry-wide issue in respect of a particular area alone would have very serious repercussions on the industry. In fact, a reference of all the then outstanding disputes in the plantations was made to a Special Tribunal during 1955 on the request of labour. But, because of the dilatoriness of the procedure of the Tribunal, this reference was subsequently withdrawn by the then Government and a Plantation Labour Committee was constituted to go into the matter. Bonus was an industry-wide issue. Even the I.N.T.U.C. union working in the plantations outside the Munnar area was against reference of this issue for adjudication and threatened boycotting any reference for adjudication. The employers who were parties to the Munnar agreement for reference had estates outside the Munnar area. The agreement did not cover these estates. For the above reasons, the Government could not accept the suggestion for adjudication. But, in the case of the disputes in the Trivandrum City Corporation and the Kerala State Electricity Board, Government could not but refer them for adjudication. Under the Industrial Disputes Act, on failure of conciliation proceedings, it is mandatory in respect of public utility concerns as they are, to refer the disputes for adjudication. But this is not the case in the plantations where no such

mandatory obligation is imposed on Government under Law and therefore, the analogy is misleading.

Para 24 (i)

71. The Kerala Government, under the minimum wages Act, declared by a notification minimum wages for the various items of agricultural work including plucking of cocoanuts. A particular landowner in Shertalai refused to pay the minimum wages to his coconut climbing workers and dismissed all of them. They were working for him for many years in the past. He brought in fresh workers from another village. The dismissed workers picketed. The landowner approached the police to arrest the picketing workers. The police refused to arrest them, but offered protection for the property and the person of the landlord. The landowner rushed to the High Court for a writ of mandamus, but the Government informed the Court that they had never refused police protection and were ready to give protection. Thereupon, the writ application was struck off from the rolls. But it has to be specially mentioned in this connection that the Congress mandal of the area organised a reception and presented a purse to the landowner for his fight against the poor agricultural labourers who had only demanded minimum wages under the Minimum Wages Act.

Para 24 (ii)

72. It is true that an industrial dispute arose between the merchants of Kayamkulam and the workmen employed by them for loading and unloading goods. The issue involved was mainly the violation of a settlement between these merchants and the workers reached earlier. The contention of the merchants were that the settlement was not a conciliation agreement and the workers were not workers as per

the interpretation and definition of the provision of the Industrial Disputes' Act. The contention of the merchants was technically correct, but the fact remains that wages were reduced and employment refused against the terms of the settlement. The merchants questioned the jurisdiction of the State Government to intervene in the dispute. Even then, conciliation proceedings were started by the Labour Department. Here also, Shri Panampilly Govinda Menon, even though claiming himself as a trade union leader, intervened on the side of the merchants and caused one of the petitioners to move the High Court for a writ of mandamus against the State Government praying for police help and other incidental reliefs. The main grievance was that the police was not rendering sufficient help to the petitioner against the striking workers. This allegation was not correct. Every possible help was given to the petitioner to carry on his activities. The truth of the matter was that not a single worker was prepared to come for work. The workmen had also launched a satyagraha in front of the premises of the petitioner. During the hearing of the petition, an enquiry was made by the learned Judge as to whether the dispute could not be settled out of court. In pursuance of the suggestion made by the learned Judge, the petitioner merchant agreed not to question the jurisdiction of the Tribunal to adjudicate upon the dispute. In other words, the petitioner expressly agreed that the relationship between the parties is that of an employer and employee. Pursuant to the above agreement, the writ application was struck off. As a matter of fact, in dismissing the writ application, the learned Judge complimented the parties of the fair manner in which the dispute was settled. It will be clear from the above that, if the petitioner had not taken up the question of jurisdiction as advised by Shri Panampilly Govinda Menon

(which he himself withdrew during the hearing of the petition), the trouble could have been avoided.

Para 24 (iii)

73. The circumstances in which the High Court passed orders in the Kerala Estates Case in Malabar has also not been correctly stated. The manager of the Kerala Estate prayed for the issue of a writ of mandamus against the state Government for rendering "sufficient police help". He alleged that sufficient police help was not being made available to him and he was unable to carry on his work. This allegation was not true and was controverted in the counter-affidavit filed on behalf of the State. As a matter of fact, more than adequate police protection was given to the petitioner in this case. In spite of this, the petitioner prayed for a direction that police must render help to him in case he wanted it. This direction was opposed by the State. The State contended that, whether in a particular case action should be taken by the authorities charged with the duty of maintaining law and order must be left to them, and the authorities must have the freedom to act in whatever manner they thought best in the circumstances. The learned Judge accepted this contention. No writ of mandamus as such was issued by the High Court.

Para 24 (iv)

74. In the Indian Rare Earths Factory, Alwaye, it is stated that, as a result of the strike, certain persons organised forcible and illegal entry into the factory and that the police did not render any assistance to the management. This is correct. Trouble started in the Indian Rare Earths Factory on 25-9-1958 about the supply of meals in the canteen. The workers had some complaints about the contractor who was run-

ning the canteen and for making representations, they approached the general works manager. But he was not prepared to pay any heed to them. Therefore, the workers persisted in keeping themselves in the office. At this time, the works manager informed the Always police who came and removed 70 persons who were found collected there at the time and filed complaints against them. There is absolutely no warrant for the impression that the police did not render timely aid to the management. In fact, whatever was possible has been done by the police. The manager, instead of contacting the State labour department, suspended some workers and dismissed some more and declared the factory was closed. The request of the workers to refer the issue for adjudication was refused by the management taking advantage of the fact that, the industry being a centrally controlled one, the state Government have no jurisdiction in labour matters.

Para 24 (v)

75. The circumstances in which the State Government referred the industrial dispute in Vijayamohan (and not Chandramohan as referred to in the Memorandum) Motor Service and their workmen has also not been correctly given. The union of workmen in the Vijayamohan Motor Service raised an industrial dispute and the district labour officer intervened and attempted to bring about a settlement of the same. The labour commissioner also convened a conference with a view to bring about a settlement of the dispute. But, before the proceedings were over, Shri Panampilly Govinda Menon, though claiming to be a trade union leader, as usual took the side of the employer in the High Court and filed an application, for the issue of a writ of mandamus. The petitioner complained that police was not rendering sufficient help and the labour department was not interfering actively

in the dispute. Both these contentions were untrue and were strongly denied by the state Government. When the petition came up for hearing, the Government pleader appearing on behalf of the state Government brought to the notice of the learned Judge that Government have not taken a final decision in the matter and that conciliation proceedings were not over. The learned Judge suggested that it will be advisable to refer the dispute to the tribunal for adjudication. Therefore, the case was adjourned, and subsequently, the Government referred the dispute to the industrial tribunal. It is regrettable that a casual observation made by the learned Judge in the course of hearing, torn out of context, should have been incorporated in the Memorandum. The suggestion that the reference was made under a direction from the High Court is misleading.

Para 24 (vi)

76. Regarding State finances, it is interesting to note that the K.P.C.C., itself speaks only in terms like "the committee have reasons to think", "it is widely believed", "it is also alleged", etc., etc. At the end of all this, it demands an enquiry into the finances of the State. The K.P.C.C., however, forgets that the Constitution provides for a continuous and systematic audit by the Comptroller and Auditor-General. Furthermore, in the present set up of annual check-ups on the finances of every state by the Planning Commission, there is no possibility of the state being "on the brink of a financial breakdown" without the Planning Commission knowing anything about it. In other words, the very assumptions made in this sub-para are fantastic.

77. It is interesting in this connection to note that in the "summary of the charge-sheet" published in June 11, it had been positively asserted that the finan-

ces of the State are fast collapsing. At about the same time, Shri Shankar, the President of the K.P.C.C., made a statement that he has, through some mysterious source, got the figures to substantiate the above assertion, made in the summary of the charge-sheet. The Finance Minister then issued a statement, a copy of which is given as Annexure No. XII. It was possibly this statement of the Finance Minister that dissuaded the K.P.C.C. from making the former assertions and to confine themselves to these vague generalities.

Para 24 (vii)

78. The Memorandum glibly talks of corruption. It makes the wild assertion that agricultural loans, bus routes, stay orders, contracts, etc., are sanctioned only in case the persons concerned make donations to the Party or approach Party members. This is contradicted by the large number of people who are in no way affiliated to the Communist Party—many of them even owing allegiance to the Congress and other opposition parties—being benefited under the present regime as much as under earlier regimes. On the contrary, there are several instances in which those who are affiliated to the Communist Party have failed to get sanctioned what they deserved.

It is interesting in this connection that the K.P.C.C.'s charge is not substantiated by concrete instances. The Memorandum gives only two instances. One of these relates to the liquor shop auction in Thodupuzha. The facts regarding this have already been stated. The other case is that of acquisition of landed property belonging to Shri Easwara Iyer, M.P., at a cost of Rs. 2.25 lakhs. The facts regarding these are given below:

The State Transport Department, in view of its enlarged activities, decided to constitute a permanent body-building section. The body-building workers

who were asked to work inside a dilapidated building had been representing to shift them to the Central Workshop where they used to work before they were shifted to the said building. Therefore, it was decided that the permanent body-building section should be housed along with the Central Workshop where the body-repairing work was also carried on. Consequently, the premises of the Central Workshop had to be expanded and the necessary land lying adjacent to the workshop had to be acquired. Shri Easwara Iyer is only one of the many owners whose lands were acquired. The acquisition of land was made through the ordinary process of law and the valuation was made as usual by the revenue authorities supervised by the District Collector.

79. The Memorandum makes reference to a statement by Shri Ramamoorthy of the Communist Party that Rs. 25 lakhs were collected in the course of one year towards party funds in Kerala, and seeks to draw the inference that undesirable means have been used to make these collections. There are two points which should be noted in this connection:

Firstly, Shri Ramamoorthy did not state that Rs. 25 lakhs were collected towards Party funds. He is known to have stated that, if a rough calculation were made of all the expenses made by everybody in connection with the demonstrations, rallies, conferences, etc., of all the organisations who were in support of the Government, it may come to nearly Rs. 25 lakhs. This includes the expenses of the huge rallies that were organised in support of the Government during the anti-Education Bill; the entire expenses of the Taluk, District and State Conferences of the Communist Party and such other organisations like the Trade Unions and Kisan Sabhas (including the travelling expenses of the delegates attending these Conferences) etc., etc.; quite apart from the normal routine expendi-

ture of the State, District, Taluk and Lower Units of the Communist Party and those mass organisations who support the Communist Party. This was given as an indication of the widespread personal participation of the lakhs of people who support the Communist Party in the rallies and demonstrations of their support for this Government. This is a by no means impossible task for a Party which, after all, polled 23 lakhs votes during the last general elections and which, through its sustained work in mass organisation, approaches everyone of its supporters to make financial sacrifice for the Party and the mass organisations allied to it.

Secondly, if such a mass participation in the activities of the Party were secured through undesirable means, it would not have been difficult for the K.P.C.C. to quote at least a dozen instances of the undesirable way in which this has been done. It has failed to do so. It has pointed out only two instances, and both of them have been satisfactorily answered above.

Para 25

80. Another instance quoted by the K.P.C.C. to prove corruption is the Andhra Rice Deal which was enquired into by Mr. Justice P. T. Raman Nair. We are giving as Annexure the statement made by the Government on Mr. Justice Raman Nair's report. We would here only point out that there is no suggestion in the report that the Communist Party has pocketed any amount out of this transaction; the finding is only that there has been avoidable loss; even this is qualified with the statement of the Commission "that, had any other mode of purchase been adopted, in the peculiar circumstances, there would still have been this uncertainty about the prevailing F.O.R. prices". The 'A' Party to the enquiry (Shri T. O. Bava, M.L.A.) tried his best to prove that the price shown to have

been paid to the dealers was not actually paid and that the difference between what was actually paid and what was shown to have been paid was pocketed by the Communist Party. He, however, failed in this, the Commission having come to the conclusion that there is no evidence at all for this. The same was the conclusion of the Commission with regard to the "A" Party's charge that, while a high quality rice was shown to have been purchased, the actual purchase was only of low quality. On all these counts, the Commission's findings went against the 'A' Party and for the Government. It is strange to find the K.P.C.C. denying the fact that Shri T. O. Bava, tried to prove, by bringing the accounts of the dealers, that there was misappropriation and that the findings went against him on this charge. (See Annexure XIII).

81. All these show that the charges made by the K.P.C.C. against this Government are totally baseless; and yet, in the name of the people of Kerala, it demands that a fresh general election should be held. It bases this demand on the baseless presumption that "a big changeover in the opinion of the people" has taken place. There is no proof for this; on the other hand, the results of the various bye-elections that have taken place during the last two years show that the support behind this Government is growing. It is also worthy of mention that the political parties and other organisations mentioned in the Memorandum as now opposing this Government were all opposed to the Communist Party during the last general election itself. What is happening now is only that those organisations which were opposed to this Government from the beginning but did not demand its resignation or a fresh general election have, as if by a word of command issued from some common centre, started doing so.

82. The K.P.C.C speaks of "ruthless repression"

with which this Ministry has met the demand for resignation. It, however, refuses to mention the fact that it is not as if a demand has been made and met with repression. This demand has been sought to be enforced by a programme of direct action which, according to the President of the K.P.C.C. itself, will take "all forms" and is intended to "paralyse the administration". Facts have been given by this Government to show that the direct action has meant large-scale destruction of public property (schools, buses, boats, etc.); great inconvenience to intending passengers of transport buses and boats as well as students and teachers of schools; dislocation of routine work in the Government Offices; etc. Can the K.P.C.C. show any other State and any other Government which has met such a movement of "paralysing the administration" without recourse to the Preventive Detention Act, widespread use of Section 144 etc? Can the K.P.C.C. or its all-India leaders tell the people of the country how they will deal with such a movement of "paralysing the administration" if it is launched by any opposition party in a Congress-governed State? All Congressmen should feel ashamed to denounce this "ruthless repression" in Kerala—where Preventive Detention Act has not so far been used, Section 144 has been declared only in very few places, those arrested have been proceeded against only under such provisions as give very light and short term convictions—all these to meet a movement which is launched with the avowed object of "paralysing the administration"—while their own Governments in other States have resorted to far more brutal measures of repression to deal with ordinary trade union or kisan agitations.

83. The K.P.C.C. talks of the "Kerala Government subverting democracy" If this charge is seriously meant by K.P.C.C., if it is confident of proving it

before the appropriate authorities, they could well have had recourse to the constitutional process: they could have challenged particular actions of the Government before the High Court or the Supreme Court; they could have appealed to the President through the Union Cabinet to take appropriate measures under the relevant provisions of the Constitution. There could have been no difficulty at all in having all this done, particularly since their own Party is ruling at the Centre. They, however, do not adopt this straight course, presumably because they have no hopes of convincing the authorities concerned that democracy is being subverted in Kerala. Instead of adopting this straight constitutional procedure, they have resorted to the totally unjustifiable, unconstitutional step of launching upon direct action with the avowed objective of "paralysing the administration". Is it not ridiculous that, full four weeks before they presented their Memorandum to the President, they had started this 'direct action' and even declared from house-tops that they would "paralyse the administration" in the matter of a few weeks, if not days? Is it not thus clear that, if anybody is to be charged with the crime of subverting democracy, it is the K.P.C.C. and its all-India leaders who should be charged with "trying to paralyse an administration", and then request the President (who, after all, is the symbol of that very administration at the all-India level) to order fresh general elections?

84. Let us finally go into the validity of the claim made by the K.P.C.C. that a mid-term election is a way out of the present situation in which, it is stated, "thick, impenetrable walls of suspicion, hatred and animosity, divided the two sections". If the K.P.C.C. is anxious to break these "thick, impenetrable walls", then it should have accepted the advice tendered by the Prime Minister of the country during his June

visit to Kerala that the Government and the Opposition should sit and discuss among themselves the various issues that led to this situation. That is an advice which, it would be recalled, was accepted by the Chief Minister and other Ministers in the course of their discussions with the Prime Minister. That, however, was rejected by the K.P.C.C. on the ground that the only way out is the resignation or dismissal of the Ministry.

85. All those who know the situation here would agree that a mid-term election, whatever the result would not solve the problem. For, if the mid-term election results in another victory for the Communist Party the same developments of the last 27 months will repeat themselves unless and until the Congress reconcile itself to the role of opposition; if they are really prepared to reconcile themselves to this role, then there is no reason why they should not start doing it now and accept the advice tendered by the Prime Minister of solving problems through mutual discussions. If, on the other hand, the mid-term election results in a victory for the Congress-PSP-League-NSS-Church combine, the new Government that will be installed will be so riven with political differences and personal rivalries that the story of unstable Ministries that has been the lot of this State for more than a decade will once again be repeated. In either case, therefore, the result of the mid-term election will only be a continuation of the crisis.

86. We would, therefore, request the President, the Prime Minister, and other leaders of the Central Government, and the public of this State and the country generally, to persuade the K.P.C.C. to give up this barren and sterile path and to adopt the positive and constructive path indicated by the Prime Minister and accepted by the Ministry in the State.