



## United Kingdom Delegation to the United Nations

---

Bjarni Benediktsson – Stjórn­mál – Dóms­málaráð­herra – Utan­ríkis­ráð­herra – Sameinuðu Þjóðirnar –  
Sendinefnd – Bretland – Utan­ríkis­mál – Ræða - 1953

## Tekið af vef Borgarskjalasafnsins

---

[bjarnibenediktsson.is](http://bjarnibenediktsson.is)

Einkaskjalasafn nr. 360  
Stjórn­málamaðurinn  
Askja 2-13, Örk 7

©Borgarskjalasafn Reykjavíkur

*Holden i Ad hoc parl.  
committee mittd. 5. okt.*

UNITED KINGDOM DELEGATION

TO THE

UNITED NATIONS

CAUTION  
CHECK AGAINST DELIVERY

CAUTION  
CHECK AGAINST DELIVERY

THIS SHOULD NOT BE USED IN ANY WAY BY  
PRESS OR RADIO UNTIL DELIVERY HAS  
ACTUALLY BEGUN

THE FOLLOWING IS THE TEXT OF A SPEECH TO  
BE DELIVERED BY THE RIGHT HONOURABLE SIR  
HARTLEY SHAW-CROSS, K.C., M.P., ATTORNEY-  
GENERAL OF THE UNITED KINGDOM, ON HUMAN  
RIGHTS IN BULGARIA, HUNGARY AND RUMANIA

\*\*\*\*\*

I know that there are those who think that when the United Nations concerns itself with human rights it is leaving the field of practical politics for the sentimental unrealism of the idealist. Nothing could be more shortsighted. It is not possible to exaggerate the importance of the general observance of human rights. And not only from the point of view of each human individual, whose personality and dignity and happiness may be trodden under foot, but from the collective point of view of each nation. It goes without saying that in our own countries, if we pretend to civilisation, we cherish these fundamental rights for ourselves, and protect them for our children. But their observance in foreign countries is scarcely less important. For the history of the last 20 years makes clear that, at all events in the modern world, where all the forces of humanity and the feelings of men tend towards peace, a state which is bent upon aggression against others must first ruthlessly subordinate to itself the rights and liberties of its own citizens. The Delegate of New Zealand put it well. If I may paraphrase what he said - internal repression is often the precursor of external aggression. The suppression of human rights internally is a danger signal to the world, indicating a consolidation of those totalitarian regimes which alone in the modern world, can carry their countries with them when they embark upon aggression. Common humanity bids us concern ourselves with the rights of our fellow men - but when those are imperilled our own safety also may be involved.

Having/

Having said that let me add this by way of qualification. I am not suggesting at all that these Governments or any other, nourish aggressive intentions. I do not think it helps to bandy about charges of aggression and I believe that there is no problem in the world today which cannot be settled by our democratic processes here, provided there is a will to settle. I realise also that in the transitional stages from Nazism or other undemocratic systems for a time special emergency measures may be necessary. But the emergency which may have justified some curtailment of the fundamental rights in these countries has long passed, and if we speak strongly now it is to bring home urgently to the Governments concerned the strength of world opinion in the hope that they will, under the Peace Treaties, discuss with us how best to resolve these difficulties. It is, of course, not in every case where human rights are involved, that the United Nations is entitled to intervene. Sometimes the matter may be one which, although indirectly it may concern us all, is essentially within the domestic jurisdiction of a particular country and therefore not the subject of action by the United Nations. But this is not such a case. In this case these ex-enemy countries have bound themselves internationally to secure and observe human rights, and it is clearly our right and our duty, concerned as we are both with the observance of treaties and the promotion of human rights to take cognisance of the matter.

What should we do? For reasons which I shall indicate I feel great doubt whether at this stage the establishment of any formal Commission of Enquiry would serve a really useful purpose. Indeed, most unhappily, certain of the facts, resting as they do upon the actual laws of these countries and the statements of the governments, so clearly manifest a deliberate and cynical disregard of the most elementary freedoms that the representatives of the countries concerned apparently do not feel it possible to come here and suggest the contrary. In the face of those laws further enquiry by some other body than ourselves might well be thought by some to be a work of supererogation. There may be disputes about particular cases. The evidence and affidavits of numerous individual victims who have succeeded in escaping, and some have, as to infringements of particular rights in particular cases might be disputed and even if accepted/

accepted after enquiry might be alleged to constitute regrettable but exceptional cases. But what cannot be disputed and what would justify immediate condemnation by the United Nations without the establishment of any further enquiry are the laws themselves, and the Government statements of policy, matters of record in these countries which show the calculated and deliberate policy to exalt the State and to subordinate and suppress the most elementary rights of the individual.

This is not the time to canvass every detail. I will not dwell now upon the question of man's rights in the personal, the spiritual, the cultural, the family spheres, on the attempt to eradicate all religious belief - inimical as any religious belief must be to these totalitarian ideologies, on the denial of educational facilities to those who do not toe, or are not sprung from those who toe the Marxist-Leninist line. These matters are notorious enough. But what are the human rights which in the political field, most protect the fundamental freedoms and dignity of man? Democracy and freedom in the sense in which we know it in the Western world, rests upon three basic foundations. The freedom of human rights of the individual depends upon and are secured by these other freedoms.

- ① The freedom of political representation.
- ② The freedom of the subject, freedom from arbitrary arrest and the right to a fair trial by an impartial and independent Court.
- ③ The freedom of the Press.

These are the vital things in the political field. It was the systematic destruction of these three freedoms which made possible the establishment of Fascism and Nazism and enabled Germany to set out upon her attempt to dominate the world. Does anyone suggest that these things exist in Bulgaria, or Hungary or Rumania today? [The truth is that, with a glaring and shocking similarity, exactly the same techniques are being pursued in these three countries today as the Nazis themselves pursued.] In these ex-enemy countries the red flag has been hoisted in place of the swastika. But the suppression of human rights and dignity goes on.

① // Take the first freedom, the right to political representation.  
In not one of these countries can anyone vote for an effective opposition party or is real opposition to the Government possible.

What/

What is the position? Take for instance Bulgaria. I shall not comment on the circumstances of, duress, intimidation and fraud which accompanied the election of October 1946. Those matters may give rise to arguments as to the facts, although there is little doubt as to the painful truth. But what is not open to argument or doubt is the legal position which has resulted in the elimination of any opposition and in the self perpetuation of a Parliament which can make no pretence of being fully representative. At the election the Agrarian Party, in spite of the circumstances in which the election was held received, on the government's own figures, nearly a third of the recorded votes. But what happened. There was a notorious Petkov trial. I shall have something to say later about the so called judicial methods pursued in the totalitarian countries. At the moment I am not concerned with the question whether Mr. Petkov was rightly convicted or not. Assume, if you choose, that he was. That can afford no justification for what happened after. By a law gazetted on the 28th August 1947 the Assembly dissolved the Agrarian Party, with all its branches, debarred its deputies, and excluded those who had come next on the electoral roll who ought to have taken their place, confiscated its property and archives and imprisoned or exiled hundreds of its members. Any attempt to re-establish the Party in any form whatsoever was made a crime punishable with death. That was done a few days before the Treaties were ratified. (Perhaps we ought not to have ratified. We refrained from so drastic a step in the hope that our strong protests would be heeded.) The effect of that law was of course to disenfranchise over a million Bulgarian voters and deny them their right to representation - it was a flagrant violation of the right to freedom of political opinion and public meeting. But of course no such freedom exists in these countries. Why, do you know that under a Special Regulation issued by the Sofia branch of the Ministry of the Interior, if you want to hold a soiree, or a dance, or a garden party, you must give prior notice to the Ministry/

Ministry and provide it with four tickets, presumably for use by the local Gestapo. ] What followed the banning of the Agrarian Party? Only the Social Democrats remained to provide any effective opposition. They were not allowed to remain for long. In January 1948 they had the temerity to oppose the budget. On the 13th January the official paper published Mr. Dimitrov's speech in reply in which he actually threatened the few remaining Social Democrats with the fate of Petkov. The Polish Delegate talked here the other day about good manners. Imagine such a threat being made by the Prime Minister of any civilised country in a Parliamentary speech in reply to Parliamentary opposition. On the 21st January Mr. Kostov was reported as saying "you know of course we have an opposition, and that therefore there is some one to criticise, I will not prophesy what will be the near or future fate of this opposition. I will only remind you of the warning of the Prime Minister that if Lulchevs opposition continues to be a tool of foreign powers hostile to the Bulgarian people it may not exist for long".

It was no empty threat. In November 1948 Lulchev and six of his principal associates - the people who had dared to criticise - were sentenced to long terms of imprisonment. The Social Democratic Party was then forcibly merged in the Fatherland front on the basis of full acceptance of the Marxist-Leninist line. And so another section of the population was deprived of its right to a free choice of its own political representatives. But not only thus did the Assembly deprive itself of any pretence at a democratic mandate. On the 1st November 1947 they gazetted a law prolonging their own life by one year. Were they afraid to go to the country? Had the processes of the Secret Police, successful in eliminating opposition in the Assembly itself, not yet entirely removed the possibility of some opposition manifesting itself at an election?

I /

I do not know. But on the 18th September, 1948, the Assembly passed yet another law, again extending its own life. It still goes on. Let me remind you of Article 21 of the Declaration of Human Rights. Legally it is not binding on Bulgaria. Factually it lays down the minimum standard which civilised countries should achieve:-

- " (i) Everyone has the right to take part in the Government of his country, directly or through freely chosen representatives.
- (ii) Everyone has the right of equal access to the public service in his country.
- (iii) The will of the people shall be the basis of the authority of Government. This will shall be expressed in periodic and genuine elections by universal suffrage and by secret vote or equivalent free voting procedures."

Not one line of that is secured by the law and practice of Bulgaria. The constitution was formulated and adopted without referendum by an Assembly from which all representatives of the opposition had been illegally ejected. It has deprived the Bulgarian people of their right of democratic selection and direction of Government.

The position in Hungary and Rumania follows, strikingly, the same pattern.

In/

In Hungary, there is no freedom of association save with the approval of the Ministry of the Interior, which is only granted to acceptable organisations. Many people were disenfranchised before the 1947 election. Since then the composition of the Hungarian Parliament has completely changed as a result of purges and cancellation of mandates. Within 3 months of the election 49 deputies of the Pfeiffer Party had their mandates cancelled. In June 1948 the Social Democratic Party was "absorbed" in the Communist Party. By the end of the year a further 100 deputies elected in 1947 had left the Assembly. In no case were the electors permitted to select fresh representatives: no bye-elections were held: nominees of the Party leaders were put in. Subsequently the Harankorics Party was dissolved. Then came the spring election this year. Before it, by a law of the 7th April all persons who for political reasons had been interned or were under police surveillance were disenfranchised, and no political party was allowed to participate in the election without having obtained the approval of the Central Council of the Peoples Front. In the result the Communist Party, from being in a minority at the beginning of the previous Parliament, now wields effective control and only small and puppet opposition parties are permitted to exist.

The same story is true of Rumania. All the historical and real opposition Parties were forcibly suppressed and disbanded before the elections of the 28th March 1948. The two alleged opposition Parties which were allowed to exist thereafter were denied the facilities of the radio and press for conducting any campaign. The elections were a complete travesty: the so called Peoples Front occupies 405 of the 414 seats in the Assembly. There is certainly no Parliamentary Government on a national scale: in local Government not even the formality of a mock election takes place. It is our view that a healthy democracy depends upon the existence of a free and fearless opposition able, if the votes of the electorate so decide, to form an alternative Government. In these  
countries/



countries it would be wholly impossible, under the existing law and practice for any genuine opposition party to present itself to the electorate. I am a Socialist myself, but I insist upon the fundamental right of my fellow citizens to elect a non Socialist or a Communist to represent them if they so choose. In these countries there is no such right.

2  
Let me turn to the second freedom, freedom from arbitrary arrest and the right to a fair trial by an impartial and independent Court. I attach great importance to this. Perhaps as a lawyer I am prejudiced. But whilst I was in charge of the British case at Nuremberg I saw more and more clearly how the Nazis had been assisted in the building up of their odious regime by tampering with the Court of Justice.

Much has been said about the Mindszenty case, and indeed that proceeding did shock the world. But I do not want to enter into the merits of that case. If criminal offences are committed, a cleric's cloth affords no protection. But what was so shocking about the Mindszenty case was the complete travesty of justice involved in the trial. If he had been guilty, all the more reason why the Government could safely have submitted the case to a proper and judicial investigation. Perhaps they had good reason for preferring the caricature of legal procedure which they established. That is when the Delegate of Poland performed one useful service when, no doubt unintentionally, he contrasted the procedure in the British William Joyce trial with that used here. Joyce was at once brought into open Court - no subtle means and devices were used to extract a confession from him. He was defended by one of the ablest Counsel in our country. There was a long and most careful trial in which he was found not guilty on a number of charges. He appealed to the Court of Criminal Appeal. From that Court he could only appeal to the Highest Tribunal, the House of Lords, on exceptional grounds and with my Fiat. I immediately gave it. And in the end one of the five Judges held, on legal grounds, that he was entitled to an acquittal. If anything remotely

resembling/

resembling that procedure had been adopted in the Mindszenty case no one - except perhaps the Hungarian Government - would have complained. But I don't say that Anglo-Saxon procedure is necessarily the best. What do we criticise in the process of these three countries? First that there is no freedom from arbitrary arrest. People may be arrested and kept for months or years before they are brought to trial. Indeed, in the political cases they are never brought to trial at all unless they first confess. Their so called confessions form a most sinister feature. The vital part of totalitarian criminal procedure is not the public show which is eventually put on, if the prisoner has been induced to confess. The vital part is the preceding period when the prisoner is held incommunicado, without access to lawyers or friends. Why is this an invariable feature of these trials? The period varies from many weeks to over a year. I do not know how long Cardinal Mindszenty was detained. He speaks of 35 days of "meditation". What happens? Knowledge is gradually being built up about it. It is not usual for guilty men to confess - Why do these prisoners do so? It is not a question of drugs nor, always, of actual physical ill treatment. It is more subtle than that. These silent places of detention are the psychological laboratories of the secret police. The prisoner knows that his fate is already sealed. "All hope abandon ye who enter here". The only thing for him is whether he can act in a way which will, as he is led to think, mitigate the consequences to the cause in which he believes, his religion, his party or will save his life or that of his friends. By playing upon these ideas, and in other ways, these helpless victims are "softened up", "conditioned" and eventually induced to make confessions. If they don't confess, the world does not hear of them again. When they do, the truth and value of what they say is well illustrated by the so called confession of one of the Bulgarian Pastors that he had periodically met and conspired with a named British official when in truth and in fact that

official/

official had been nowhere near the country at the time. Is it not odd that in every single political show trial in these countries the prisoner so conveniently admits his guilt? If these things are not true let these countries abolish the secrecy of the preliminary, but prolonged investigation, open up their prisons to the eyes of the world and bring their prisoners to trial immediately they are arrested: that is their fundamental right. But what is the next stage? Article 10 of the Declaration of Human Rights says that every one is entitled to a fair hearing by an independent and impartial tribunal. Article 11, that he is to be presumed innocent until proved guilty according to law. The Bulgarian Pastor's case was hopelessly prejudged by the Government which, before the trial, published a booklet entitled "subversive activities of the evangelical pastors". Violent press campaigns take place before trials. In the Mindszenty case the Government published a yellow book making it clear beyond doubt that the Government considered him guilty and expected the Judge to find accordingly. In Rumania also the principles of class warfare presume in advance that the prescribed classes are guilty. This prejudgment by the Government or the Government controlled press would not be so dangerous if the Courts themselves were impartial and independent. Under the present laws they can be neither. In Bulgaria by the law for the organisation of the Peoples Courts 1948, a Judge may be recalled "if by his decisions or acts he harms the authority of justice or national or state interests." The President of the Supreme Court interpreted that on the 25th November 1948 when he said:

"The fundamental task of justice....is to consolidate the citizens socialist attitude towards the state and amongst themselves."

In Hungary, Act 22 of 1948 gave the Minister of Justice power to dismiss Judges and Prosecutors. Within 4 months 110 Judges and Prosecutors were purged. On the 15th January 1948 the Under Secretary of the Ministry of Justice said that professional Judges were too liable to stick to the letter of the law and

added/

added "if we cannot educate democrats out of the Judges we must educate Judges out of democrats". On the 30th January the Minister of Justice was reported as saying "one of the means of proof nowadays is the political attitude of the accused". On the 29th January of this year the same Minister is reported as saying "...The only function of justice can be to serve the working people and protect them against reaction in political as well as economic relations. Moreover, democratic jurisdiction has to support the cause of socialism. The Bench of Judges must adopt the ideology of Marxism-Leninism."

He would have been a brave Judge in the Mindszenty case who had questioned the Government Yellow Book in which the prisoner's guilt was decided. And what of the so called Peoples Courts - the democrats to be educated into Judges? Who are the people entitled to sit on these Courts? By decree 4172/1949 they must be members of an association affiliated to the Peoples Front. In other words they must have the correct political qualification. Beyond that, the only qualification required is that they should be literate. In Rumania it is the same pattern. The Chief Public Prosecutor on the 16th October 1948 wrote:

"The professional Judge, learning from the Peoples assessors to act from the class warfare point of view must get rid of the so called 'legal mentality'.....  
...their attitude in the application of the law must be determined by the interest of the working people."

And what is in the interest of the working people is determined by the handful of men who rule them. No question here of holding the scales of justice even. Said the Secretary General of the Ministry of Justice on October 6th, 1948:

"Judges must understand the law from the Marxist point of view. They must realise it is impossible not to reflect class differences in the application of the law.....those who administer justice must preserve or absorb the class feelings of the workers. They must always be vigilant in order to strike at the enemies of the working class."

What hope of an impartial trial could a political prisoner have before such tribunals? And what of the penal laws they administer? Under Article 12 of the Bulgarian Penal Law

7th April 1948 treason is defined simply as "crimes dangerous to the general public". In Rumania Decree 187/1949 provides that "deeds considered dangerous to society must be punished even if they are not named by law as offences."

In the whole history of mans strife after justice there is no more miserable picture than a servile Bar and a time serving Judge seeking not to do justice according to law as between man and man, but to further the interest of the masters who appointed him. That is the picture which most reluctantly I have to present.

I come to the last of the three political freedoms which protect the fundamental rights of the common man - freedom of publication and of press. In these three countries these freedoms are quite unknown. In Hungary, by Decree 11290/1947 books and newspapers may be printed only with the permission of the Government. Persons who, even inadvertently, distribute or have in their possession documents published without permission commit a serious criminal offence. As in Bulgaria and Rumania, the book publishing trade is nationalised. One by one every independent newspaper has been suppressed until today not one remains whose tone or policy is distinguishable from the official Party line. It is the same in Bulgaria. In Rumania Decrees 17/1949 and 218/1949 took over control of publishing and set up a system of press licensing - I have here a list of 24 papers which have been put out of publication. No genuinely independent or opposition newspaper remains. Only the Government news agency is allowed to disseminate political and economic information and foreign news.

I have often criticised particular sections of the press in my own country, just as they have criticised me. There have been particular occasions when I have thought certain newspapers have done my country harm. They may have thought the same of me. But I am certain it does a country greater harm, and endangers all the rights of the common man, if it does not possess free men and independent newspapers able to say what they think. We say with Voltaire - we detest the things you say/

say - but we will defend with our lives your right to say them. That is the essence of free democracy. Article 19 of the Declaration of the Rights of Man says truly:

"every one has the right to freedom of opinion and expression - this right includes freedom to hold opinions without interference and to seek receive and impart information and ideas through any media and regardless of frontiers."

In Bulgaria, Hungary and Rumania this right does not exist.

What must we do? I shall not affront the Committee by following the Polish Delegate who I am sure did himself less than justice, as well as finally damning any kind of case that might have been made for his friends, by the recital of childishly irrelevant quotations about alleged misdeeds in other countries. That type of argument was summed up in my schooldays in the words "You're another". To Quogue. It has no relevance to the issue now. If the Polish Delegate wishes to make charges against other countries no doubt he will seek to put down an item on the Agenda. Just now we are dealing with the matter of those three countries. This scissors and paste diplomacy, which consists in assiduously studying the newspapers and books in order to obtain cuttings which, taken out of their context, can be used in the course of propagandist addresses may be very entertaining in a Marxist kindergarten but is hardly useful elsewhere.

What should we do? In view of the notorious infringements of human rights which have occurred I can well understand that many feel that prompt and effective action should be taken and that they are impatient of the delays involved in the strictly legal procedure. But past experience has shown that political action is in the end more efficacious and expeditious if it is based on a legal foundation which is beyond any doubt at all. Now it is said that the Assembly has no legal right to intervene in the matter because the observance of human rights in these countries is a matter of domestic jurisdiction excluded from our competence. That might be so if it were not

for the/

N H for the fact that by the Peace Treaties these ex enemy States are under international obligation in the matter. But be that as it may. At this moment the Assembly is not asked finally to decide what infringements have occurred or what action should be taken about them. A large number of infringements have been alleged by parties to the Treaties. Their existence is, on the other hand, denied by the three countries. That gives rise to a dispute, and under the Treaties that dispute should be dealt with in a particular way. The issue on this Resolution is not human rights, but Treaty machinery. We have gone as far under the Treaties as at present we can. Bulgaria and Hungary and Rumania, by cynically denying that a dispute exists are flouting the Treaties and frustrating their machinery. The United Nations under its Charter is concerned to promote respect for Treaties and to facilitate their observance. The observance of a Treaty between a number of States is manifestly not a domestic concern of a single State. It is clearly competent for us to ask the Court for an authoritative opinion whether anything further can be done under the treaty machinery. If the Court holds it can we must hope that Bulgaria, Hungary and Rumania will be guided by that opinion and that wiser counsels will prevail. If not, the matter will remain on our Agenda and will have to be reviewed at the next Assembly. This may seem a dilatory procedure. In the long run it may be the most efficacious in impressing upon these countries the propriety as well as the strength of the worlds interest in their behaviour. WRS

Reeta m. 2.

CORRECTIONS TO BE NOTED IN ATTACHED  
SPEECH.

Page 2. Line 14. Delete 'reticence' and substitute  
'vehemence'.

Page 3. Line 6. Delete 'to'

Line 12. Delete the third word 'he' and substitute  
'his country'.

Line 26. Delete 'could well' and substitute  
'might'

Last line. Add "has been denied to us."

Page 4. Line 3. Insert after 'many' 'not all'.

Page 5. Line 2. Insert after 'produced' 'it'.

\*\*\*\*\*



UNITED KINGDOM DELEGATION

TO THE

UNITED NATIONS

CAUTION  
CHECK AGAINST DELIVERY

CAUTION  
CHECK AGAINST DELIVERY

THIS SHOULD NOT BE USED IN ANY WAY BY  
PRESS OR RADIO UNTIL DELIVERY HAS  
ACTUALLY BEGUN

THE FOLLOWING IS THE TEXT OF A SPEECH TO  
BE DELIVERED BY THE RIGHT HONOURABLE SIR  
HARTLEY SHAWCROSS, K.C. M.P., ATTORNEY-  
GENERAL OF THE UNITED KINGDOM, ON HUMAN  
RIGHTS IN BULGARIA, HUNGARY AND RUMANIA.

\*\*\*\*\*

I put down my name to speak towards the end of our debate in case there should be any matter which had arisen in the course of the debate to which it might be desirable that one of the Parties to the Peace Treaty should reply. But there is, indeed, very little that has been said by those delegates who have made themselves the partisans of Bulgaria, Hungary and Rumania which is worthy of reply.

My old colleague, Mr. Manuilsky, for whom I have a most sincere personal regard, is an old combatant in the war of words which he loves so much. He led off by raising a smoke screen of abuse under cover of which he sought to make some sort of a counter attack. We are unhappily familiar with these tactics. Indeed this reflection occurred to me. If the arguments of distinguished delegates in this Assembly evoke such violent and embittered attacks, if here in the course of what ought to be an objective and dispassionate debate the delegates of Slav powers - one of them a distinguished Attorney - give expression to their intolerance, their partisanship, their cynicism, their utter unwillingness to listen to argument, if that happens here where there is no prisoner in the dock and the proceedings are open to the eyes and ears of the world - what possible chance can one of their political opponents have of a fair and objective trial in the Courts of their own country? I shall not follow Mr. Manuilsky save just to say this. I could not deny myself

a/

a slight feeling of admiration at his boldness when he permitted himself to refer to Australia as being the chorus boy of the U.S.A. and the U.K. I am not quite sure what a chorus boy is

But I must bow to Mr. Manuilsky's superior knowledge. No one should know better the functions of a chorus boy than a Foreign Minister who has no Foreign Ministry, no Ambassadors, and no Foreign Policy save that which is dictated by the Kremlin. Such a man must sometimes look with great envy at the position of influence and complete independence of those countries which freely associate together in the British Commonwealth of Nations. And then there was Mr. Vishinsky speaking with all that vivacity, reticence and vigour which is so characteristic of him. There is no doubt that Mr. Vishinsky sincerely believes much of what he says. It is an interesting translation of the Coué system into the sphere of propaganda. Embody some particular phantasy in your speech. Repeat it day in and day out. And in the end you will convince, at least yourself that it is true. That is why Mr. Vishinsky speaks with such an air of compelling conviction. But I beg him to believe that he is very often in the realm of phantasy. As he spoke I remembered something which the distinguished delegate of Czechoslovakia had said. At the end of a speech which hardly seemed to be leading to such a conclusion he said that there was no reason why countries with different ideologies and forms of government should not walk together and find a common road of peace. How true that is. I have expressed that view ever since I have been in politics: in the last speech I made in England I repeated it. Sooner or later we shall have to walk together in peace. The only question is how long and how greatly the world must suffer before we find a way. And when I listened to Mr. Vishinsky I reflected that if he would only devote one tenth of his energy and his enthusiasm to

finding/

finding a common road instead of widening the divergence of our ways, there would be nothing that we could not do to promote the peace and prosperity of the world. But finding the common road does involve cooperation, some give and take. It cannot be done in the spirit that only Soviet Russia may walk on the highway and all the rest to be crowded into the gutter. If Mr. Vishinsky would only shed his preconceived ideas, his fears, his suspicions, his phantasies. If he would only realise that we are still as opposed to fascism and Nazism as in those days when, with the Commonwealth we fought alone against the fascist and the Nazis whilst he grasped them warmly by the hand - if he would only join us in frank and amicable discussion of our common problems we could soon find a common road on which all could tread.

In the meantime it must not be thought that abuse or threats will deter us from pursuing those courses which will, as we think, best promote those ideals and objectives to which Soviet Russia and ourselves have set our hands in the Charter of the United Nations. But in doing so let me assure my colleagues that we pursue this course here, only because other courses are denied to us. We had wanted to get together with the other parties to the Peace Treaties in order that these matters might have been discussed. If then it had appeared that we were mistaken it could have been explained to us and, with good will, some way could well have been found which would reconcile the special circumstances of the Slav countries, with the general principles of human rights set out in the Declaration. It is in no spirit of antagonism that we pursue the matter here. It is because we do sincerely care about this question of human rights, because we believe that under the Peace Treaties we have a responsibility in regard to it and because the opportunity of discussing the matter through the diplomatic channel of the treaty machinery.

Now/

Now let me make a few brief comments on the substance. And first about this question of confessions. I said that in many, certainly in most political trials the prisoner is not brought to trial at all unless he confesses. The citation of exceptional cases does not make that statement less true. Nor does it really carry the matter much further to cite the confessions themselves. Our criticism relates to the reliability of these confessions as methods of proof. That there are counter revolutionary movements in these Communist countries may well be true: it would be surprising if there were not. Nor is it surprising that the governments of these countries in order to conceal the seriousness of the underground opposition or to minimise their popular origin put forward allegations, supported by spurious evidence that these opposition movements are inspired by foreign powers. That some of the defendants may be guilty is also very possible: I have never expressed a view as to their guilt or innocence. But what causes such grave uneasiness is the fact that almost invariably, after prolonged and secret incarceration these men abjectly confess and implicate others in their confession. That is the technique. Not only a confession of their own guilt, but an implication of others. And when, as has happened on one or two isolated occasions - Mr. Vishinsky knows very well what I have in mind - confessions made in prison have been retracted in Court - the Court has adjourned so that the prisoner can return to his cell, "meditation" in which usually leads to a very different looking prisoner appearing in Court, pleading guilty and no more is said. That was what happened to Bukhavin and Krestinsky, though Bukhavin denied all the specific allegations against him contained in the confessions of his fellow prisoners. In mature systems of law, confessions by prisoners are always regarded by the Courts with great circumspection. In my country there are the most elaborate rules to ensure that no statement by a prisoner shall be admissible in evidence unless/

unless it is clear that no influence, either fear of punishment or hope of favour, may have produced. The evidence of one accomplice against another is not accepted without independent corroboration. And so naturally we look with some suspicion upon the fact that the common technique in these political trials is that they are preceded by a long period of detention incommunicado, and in the great majority of cases are followed by confessions. If occasionally, one of the smaller fry is allowed to plead not guilty in order to give an air of verisimilitude to the proceedings, that does not diminish our anxiety. If our anxieties about all this are groundless, we could very easily have been convinced of it by a frank and friendly discussion under the Peace Treaties. The denial of that makes our anxiety the graver.

Let me turn from that to some of the other points. There was really no attempt to deny that there is a widespread practice - involving many thousands - of arbitrary arrest and detention without trial. I had thought that the Czechoslovak delegate might have justified that system. In the end it has been neither justified nor denied. Nor was there any attempt to assert that the Courts are independent and impartial, although Mr. Vishinsky did raise a rather unworthy quibble about the exact language of one section of one Act. I am not one of those who object to the participation of a lay element in judicial trial, provided their function does not involve interpretation of the law as opposed to the facts and provided they are impartially chosen and not selected from one political party only. I do not know whether I understood Mr. Vishinsky as denying that. In the Hungarian law 4172/1949 it is expressly laid down that the members of the Peoples Court must be members of an Association affiliated to the Peoples Front. If he did deny it, it demonstrates at least that a dispute about the matter exists, and that really is all that we are concerned/

concerned with. But I do not think he denied it. In a torrent of words, he adopted this method. He put into the mouths of delegates arguments or interpretations they had not used, and he sought to demolish those. And no doubt satisfied himself that he had done so. I assert again that the law expressly lays down that the lay assessors must have the majority political qualification and I ask again what possible hope a political prisoner, not belonging to the Peoples Front can ever have of a free<sup>fair</sup> trial. Whether these people have committed criminal offences or not, they are entitled to be presumed innocent unless proved guilty before impartial and independent Courts. No such procedure even pretends to exist in these countries.

As for the freedom of the Press, Mr. Vishinsky, if I understood him, did not deny that there was no such freedom, but sought to justify it by some quotation of a speech of mine some years ago. My position has always been clear. I have criticised and I shall criticise any section of the Press that, rightly or wrongly I think worthy of criticism. And they will criticise me. Free criticism by all parties is the life blood of democracy - only those totalitarian systems which are afraid of their own permanence need fear it. And so with political representation. The swings of the political pendulum in England show well how free it is there. In England the Communist Party is an insignificant minority. But we are jealous to see that it enjoys full rights in the Press, on the radio - although the radio is not Government controlled - and to seek the suffrage of the electors. It is no answer at all to say that in these countries many millions are dragooned into voting. The majority can to some extent protect itself. But the protection of human rights is essentially concerned with minorities. The bigger the majority in these countries the more greatly does it abuse its power and trample on human/

human rights when it supresses the minority.

But the point about all this argument surely is this - that it shows there is a dispute within the meaning of the Peace Treaties. Some parties to the Treaties allege that the human rights clauses are infringed. Others apparently deny it. If that is not a dispute, words lose their meaning. And that, rather than the question whether human rights are involved or not, is the immediate issue here. When I listened to Mr. Vishinsky on that I recalled a story, probably untrue, about an old colleague of mine. An advocate in England. He had to defend a man charged with murder by stabbing. And in the pocket of the prisoner when he was arrested was a ball of string. As the witnesses came to be called and cross examined, the defending advocate asked them questions, not about the knife, not about the murder, not whether the prisoner was there - but about the ball of string. How long was it: how thick: was it new; was it old: was it string? or wool? And when he made his speech he dwelt also upon these matters. In the end, the Jury so muddled that they did not know what issue they were trying found the prisoner not guilty and ordered the string to be given to the defending advocate. But Mr. Vishinsky cannot muddle this Committee so easily. If this is not a dispute - this matter which has occupied so many hours - what is? Perhaps the real thesis behind this denial that there is a dispute is that in Communist society human rights in the individual are not recognised and therefore there cannot be a dispute about them. Thus Mr. Vishinsky makes clear in his well known book on the law of Soviet Russia when he says in relation to the Press - I quote "In our State naturally there is and can be no freedom of speech Press and so on for the foes of Socialism." The fact is that in the totalitarian countries the individual has no rights as against the State. In democratic systems the general body of the law is to protect the interest of the individual. In these countries we are considering now it is the other way: the individual is subordinated/

subordinated to the State. And what is the State - is it the embodiment of all the citizens in a free Parliament? Not so. Never could it have been more truly said than by the handful of men who rule these lands - "L'etat - cest nous."

It really is beyond argument that there is a dispute and that Bulgaria Hungary and Rumania have cynically adopted an attitude which frustrates the Peace Treaties and which prevents any solution being found. Why then should not the United Nations - in order to make abundantly clear the legal position in the matter - refer it to the International Court. It is said that for us even to discuss it involves an infringement of Article 2(7) of the Charter since this is a matter of domestic jurisdiction. Delegates who said that must indeed have spoken with their tongues in their cheeks. If they are right, the human rights clauses in the Charter, the draft Declaration of Paris, are empty meaningless words - a fraud upon the common people who look to them for protection. We appeal now for action, under the Treaties, in regard to the oppressed minorities in these countries. We echo what Mr. Vishinsky said only on the 28th September:

"Article 2(7) bows its head, figuratively speaking before this appeal to humanitarian feelings and before this appeal to refrain from action that could not be justified by any political factual or other considerations.....I believe Mr. McNeill's reference to Article 2(7) is irrelevant. What we are dealing with here are humanitarian actions and feelings. We have to do something to relieve the aroused conscience of mankind and this should be done by everybody who still has at least some remnant of conscience in him."

High sounding phrases. Let them re-echo now. Indeed, on many occasions, in connection with Greece, in connection with the position of Indians in South Africa, in connection with Spain, the delegates of the Slav powers have expressed their view as to Article 2(7). Listen to Mr. Vishinsky on the 8th December 1946 - I quote:

"Unfortunately, I cannot agree with Sir Hartley Shawcross in his interpretation of paragraph 7 of Article 2, and I cannot agree with his recommendations to refer the whole matter to the International Court

of/



of Justice, because I do not want to submerge the matter, I do not want to transfer it from the political to the juridical plane, although of course the matter has a juridical as well as a moral-political aspect. The one does not exclude the other, as Sir Hartley Shawcross in particular suggests here, in trying to prove that the matter is not within the competence of the General Assembly or of the United Nations in general and that it is within the competence of the International Court. Sir Hartley Shawcross refers to paragraph 7 of Article 2, but what does this say? It says that the Charter, which imposes definite obligations on all the Members of our Organisation, in no way authorises the United Nations to intervene in matters which are essentially within the domestic jurisdiction of any State....."

....."The Indian's Government's complaint against the South African Government, in this matter of a discriminatory regime, is justified in the fullest sense, from the juridical standpoint, precisely by the fact that it deals with the violation of an inter-governmental, bilateral agreement between the Governments of India and of the Union of South Africa. I have in mind the Cape Town Agreement of 1927".....

....."In these circumstances how can it be said that this is a domestic matter of the Union of South Africa, that it comes under domestic jurisdiction and cannot have any significance of an international character, and that it is not one of those questions which must be included in the international category? That is why reference to paragraph 7 of Article 2 is unjustified. This reference is also unjustified because the Article states that the Charter does not require Members of the United Nations to submit such matters for examination by the United Nations under the present Charter. It does not say that it forbids the submission of such matters, but only that it does not "require" it. It is, therefore, optional - that is, at the discretion of the Government concerned. The Government concerned found that the right way was to bring the matter here, to the General Assembly of the United Nations. This is the best way, and the Charter itself, and paragraph 7 of Article 2 in particular, leaves it to the discretion of the government concerned."

So also the Polish Delegate on the 25th November 1947:-

...."Concerning the validity of the Capetown Agreement of 1927, the representative of Poland pointed out that, to enter into an international agreement, there was no need to use the solemn form of a treaty. This principle had been expressly enunciated by the Permanent Court of International Justice in the Anschluss case of 1931. At the time of the Capetown Agreement of 1927, the conclusions reached were published in communiques issued by both parties. The Government of South Africa had requested the Indian Government to appoint representatives for further co-operation. Since the Agreement provided this special machinery for its practical application, it was erroneous to assume that the matter had been left to the domestic jurisdiction of one party. Nor was there any further reason for the invalidation of the Agreement, such as impossibility of performance or a state of war between the parties. For these reasons, the Union of South Africa had not proved the legal part of her case. Accordingly, there was no justification for a reference to the International Court of Justice."

And/

And Mr. Gromyko, on the same day:

"He denied that the matter was one of domestic jurisdiction. It was the task of the United Nations to uproot social evils such as racial discrimination, and to put its principles into practice."

It was suggested that the matter should be referred to the Court. Mr. Manuilsky would not have that:-

"The Committee was bound by the resolution which the Assembly had adopted concerning racial discrimination. Rather than set up a sub-committee, as proposed by the Chinese representative, the Committee ought to take a political decision, and make it clear that it intended to follow the policy of the Assembly and the stipulations of the Charter."

So the representative of Byelorussia on the 12th November, 1947:-

"There could be no doubt that the United Nations had the duty of reaffirming its faith in fundamental human rights and obliging Members not to pass legislation based on discriminations."

Political discrimination is also a breach of the fundamental freedoms. So is the denial of the right to life. Many more quotations could be made.

The painful truth is this. When the representatives of Communist countries think that insistence on human rights will cause difficulty or embarrassment in non-Communist countries their enthusiasm for the rights of the individual knows no bounds. Let no one then venture to suggest that Article 2(7) is in point or that the Court should be asked for its opinion. Such a one is at once vilified as a fascist beast. Regard must be had to humanitarian and political considerations, not to legal quibbles on the Charter.

But if any one should be so bold as to enquire into the existence of human rights in a Communist country - why then the representatives of those countries excel themselves in their enthusiasm for article 2(7).

I believe Article 2(7) is an important article. It has no application here. Today we are not concerned to reach any final conclusion whether human rights are trampled under foot in these countries. Nor are we proposing to take action about them, beyond expressing the grave anxiety to which/

which the conduct of these countries has given rise. The immediate problem is to obtain a conclusive opinion whether or not these countries are flouting their obligation to resolve a dispute under the Peace Treaty. If the Court so holds, then we must hope that these countries will indicate some sense of world citizenship by agreeing to operate the Treaty machinery. If not, their flagrant and cynical disregard of their obligations to their own private individuals, to their treaty obligations and to this world Assembly will be made manifest to all the world - and we can then consider what more should be done.

Mr. Vishinsky has on occasion referred to our attitude as threatening, being a challenge. There is no threat or challenge in this proposal. Indeed at no point and in no way do the Western democracies threaten or challenge the Communist countries. In no way save in this. Our very existence, as well ordered countries, our people prosperous and free, partaking fully in the governments of their countries, at liberty to come or go - our existence provides such an example of better things as, if it were known in the Communist countries, might well make the people of those countries wonder whether all was well with them. And the only challenge we throw out is friendship. We are ready to hold out our hands and open our doors - we want to be friends. We want to be able to intermingle with each other as peaceful, decent ordinary, human beings, to exchange knowledge and ideas, to share the great gifts of science and of culture - to enjoy social intercourse and travel in the beautiful countries of Eastern Europe just as the people of those lands are welcome in the not unlovely countries of the West. Friendship between individuals, between man and man - surely are elementary and fundamental right in civilised society. That is the challenge. And it is a challenge. Those who do not dare to accept it, who build up a barrier of ignorance and hate in its place, not only betray their lack of confidence in their own regimes: they betray the best interests of their people as well.