

**Shri Harish Chandra Mathur** (Jalore): I support that amendment.

**Shri P. C. Borooah** (Sibsagar): I also support it.

**Mr. Deputy-Speaker:** I am putting the amendment first to the vote. The question is:

That at end of the motion, the following be added, namely,—

"subject to the modification that the time allotted for the discussion of the Legislative Councils (Composition) Bill, 1962, be increased by one hour."

*The motion was adopted.*

**Mr. Deputy-Speaker:** So, I shall now put the motion as amended.

The question is:

"That this House agrees with the Sixty-third Report of the Committee on Private Members' Bills and Resolutions presented to the House on the 12th April, 1965, subject to the modification that the time allotted for the discussion of the Legislative Councils (Composition) Bill, 1962, be increased by one hour."

*The motion was adopted.*

**Mr. Deputy-Speaker:** Shri Nath Pai —not here. Shri Siddiah.

15.33½ hrs.

CONSTITUTION (AMENDMENT)  
BILL\*

(Insertion of new article 339A)

**Shri Siddiah** (Chamarajanagar): I beg to move for leave to introduce a Bill further to amend the Constitution of India.

**Mr. Deputy-Speaker:** The question is:

"That leave be granted to introduce a Bill further to amend the Constitution of India."

*The motion was adopted.*

**Shri Siddiah:** I introduce the Bill.

15.33½ hrs.

CONSTITUTION (AMENDMENT)  
BILL

(Omission of article 331)

**श्री पं. ला० बाळूपाळ :** (गंगानगर):  
उपाध्यक्ष महोदय, मैं प्रस्ताव करता हूँ कि  
कुछ संविधान (संशोधन) विधेयक, 1964  
को वापस लेने की अनुमति दी जाये।

**Mr. Deputy-Speaker:** The question is.

"That leave be granted to withdraw the Constitution (Amendment) Bill, 1964.

*The motion was adopted.*

**श्री पं. ला० बाळूपाळ :** मैं इस विधेयक  
को वापस लेता हूँ।

*The Bill was withdrawn.*

15.34 hrs.

CODE OF CRIMINAL PROCEDURE  
(AMENDMENT) BILL—Contd.

(Amendment of sections 127, 128 and 129) by Shri Hari Vishnu Kamath

**Mr. Deputy-Speaker:** The House will now take up further discussion of the following motion moved by Shri Hari Vishnu Kamath on the 2nd April, 1965:

\*Published in Gazette of India Extraordinary, Part II, Section 2, dated 15-4-65.

†Introduced with the recommendation of the President.

"That the Bill further to amend the Code of Criminal Procedure, 1898, be taken into consideration."

The hon. Member has taken 11 minutes. 49 minutes are left. Shri Kamath may continue his speech.

श्री हुकम चन्द कच्छवाय (देवास) :  
उपाध्यक्ष महोदय, यह बड़ा महत्वपूर्ण बिल है,  
इसलिए इस पर बहस के लिए एक घंटा प्रीर  
बड़ा दिया जाये ।

Shri Alvares (Panjim): It is an important Bill, and so many Members want to participate in the debate. The time may be extended.

Several Hon. Members: Yes.

Mr. Deputy-Speaker: It will be extended by one hour.

Shri Hari Vishnu Kamath (Hoshangabad): Mr. Deputy-Speaker, Sir, when the House adjourned on the 2nd April last for want of quorum—(laughter)—it is a statement of fact: that is unfortunately the state of affairs that parliamentary democracy is slowly coming in our country, and the House had to adjourn due to want of quorum—I was referring to the number of judicial inquiries that had been instituted into police firings since 1952, that is to say, since the Act came into force.

15.35 hrs.

[DR. SAROJINI MAHISHI in the Chair]

Chairman, madam, the Minister was pleased to lay a detailed statement on the Table of the House with regard to the question I had raised in this connection in respect of the enquiries made into police firing. The question was put on the 8th April, 1964, and the statement in pursuance of the assurance given, was laid in

March, 1965, nearly a year later. Anyway, I have got it here. I am sorry to find from this detailed statement that—I wish I had the time to go through the verdict of the judges who inquired into the police firing in all these cases, but time is against me and so I will content myself with saying this—at least in a dozen cases the judge or the tribunal who enquired into the matter held that the firing was unjustified, and in some cases it was held that the police used force, powers, far in excess of the requirements. The opinions recorded in these cases are anything but complimentary to the police force in our country, and the magistracy that co-operates with the police in such matters.

On the last occasion, I read extracts from the speech made by the Home Minister, Pandit Govind Balabh Pant, in 1957, wherein he referred to the committee which had been set up by the party to which I have the honour to belong—the Praja Socialist Party. That committee was set up late in 1954, soon after that unfortunate incident of police-firing in the then Travancore-Cochin State took place. That was the time when Shri Pattam Thanu Pillai was the Chief Minister.

An hon. Member: Your party.

Shri Hari Vishnu Kamath: Yes, my party government. My party is the only up to now which has had the distinction of apologising to the people immediately after the police firing and the Praja-Socialist Party adopted a resolution at its National Conference, in Gaya later in 1955 from which I will quote the relevant part. "This Conference would like to remind the public that the appointment of the Committee...." This was the committee over which I had the honour to preside, and the other members of the committee were, Shri Profulla Chandra Ghosh, the first

[Shri Hari Vishnu Kamath]

Chief Minister of West Bengal after independence; Shri Triloki Singh, who was the leader of the Opposition in Uttar Pradesh, and another colleague of mine, Shri Basanta Chandra Ghosh, now an MLC in Bihar, and a leading advocate of the Supreme Court from Bihar. The Praja-Socialist Conference in Gaya adopted the resolution for the first time in the history of independent India—the Praja-Socialist Party was in power in the Travancore-Cochin at the time when the police firing took place there—saying that the National Conference “offered their apologies to the people on behalf of the party, and gave a solemn assurance that such incidents would not be lightly viewed or tolerated in a free democracy.” I am bringing in this point because the then Home Minister, Pandit Govind Ballabh Pant referred to this committee in his speech. “The episode served to focus the attention of the nation on this important question in an unprecedented manner and the stand taken by the Praja Socialist Party was universally appreciated.” That was the resolution passed, adopted by the party. The National Conference regretted—we regretted—that the non-official resolution on similar lines moved in the Avadi session of the Congress Party—it was the Congress Party which was in power elsewhere in the country and it is even now in power today—

“This conference regrets that the non-official resolution on similar lines moved in the Avadi session of the Congress Party should have been stifled by the Prime Minister himself, though he referred to the PSP’s move in the matter.”

He referred to it, but the Congress Party never took up this matter in the manner my party did. That is why Pandit Pant referred to it in his speech, but he misled the House in various ways to which I referred in my speech on the last occasion. My party set up the Kamath Committee which made specific recommendations

in this regard, which were adopted at Gaya in 1955. If I had the time, I would have quoted *in extenso* from this report, but I have embodied the main recommendations of the committee in the changes which I have sought to make in the Bill before the House.

In independent India, there have been many cases of police firing where no enquiry has been held at all. My party has taken the stand that wherever there are police firings, particularly with casualties among the people, a judicial enquiry should automatically, *ipso facto*, be held and the delinquent officers should be punished. If the firing was as a result of the orders of a minister or the Government the minister or the Government as the case may be should quit. That is the stand our party has taken. Unfortunately, during the linguistic states reorganisation disturbances in Bombay and Ahmedabad and recently during the linguistic disturbances in Madras there were extensive firings. In Bombay in 1956, as you are aware Madam Chairman in one day in 24 hours, there were about 108 firings in the city of Bombay. In Ahmedabad, where little children were running about in the streets, there was no warning given by the police. The police shot pell-mell, at random, under the orders of Shri Morarji Desai, the then Chief Minister which was referred to here by no less a person than the then Finance Minister, Shri C. D. Deshmukh in his statement explaining the reasons for his resignation from the Cabinet. The orders of the Government led by Shri Morarji Desai were, ‘shoot at sight and ‘shoot to kill’. A demand was made in this House then that there should be a judicial enquiry into the matter. But it was rejected offhand. In Ahmedabad also, no enquiry was held. In Madras, demands have been made, but no enquiry has been ordered or held so far. This is coming from the so-called disciples of Mahatma Gandhi.

**An hon. Member:** Mis-called disciples.

**Shri Hari Vishnu Kamath:** I accept the amendment.

I would, therefore, urge on the Government to revise their stand in this matter. It is rather late in the day, but better late than never. Otherwise all their professions of Gandhian ideals would only be branded as sounding brass and tinkling cymbal, sheer hypocrisy and nothing else than that. May I, therefore, appeal to the Minister of State—he is a reasonable man at times—I hope he will come forward before the House with sweet reasonableness and tell the House frankly, as he sometimes does, that Government does support the principle of the Bill. I am sure they cannot but do that. They may not like to embody it in the manner I have sought to embody it, but no Government worth the name in independent democratic India, more so one which swears by the principles and ideals of Mahatma Gandhi, can say 'no' to the principle of the Bill. If they support the principle of the Bill, it means they should support the motion for consideration of the Bill. They can throw it out later. I shall be happy if they accept the Bill. But at the time of consideration motion, they cannot but support it.

I referred to Pandit Govind Balabh's speech. He said, there is not much difference between what the PSP has recommended and the Government's own stand. As a matter of fact, he put it the other way and said that the PSP accepts Government's code of conduct in this matter. I wish Government accept the recommendations made by the PSP *in toto*. I will make a present of this committee's report to the Minister of State.

**The Minister of State in the Ministry of Home Affairs (Shri Hathi):** I have got it.

**Shri Hari Vishnu Kamath:** I shall be happy if he will read out the rele-

vant extracts from the report, when he intervenes in the debate, to show to the House how misleading Pandit Pant's speech was.

**Shri Hathi:** Why does he not do that?

**Shri Hari Vishnu Kamath:** I wish I had the time.

**Shri Khadilkar (Khed):** Better continue that argument; otherwise we will be misled.

**Shri Hari Vishnu Kamath:** I have referred to it on the last occasion also, but the memory of some persons is short and so I shall refresh their memory.

**Shri Hathi:** Whose?

**Shri Hari Vishnu Kamath:** I said, memory of some persons. It cannot be Mr. Hathi's; he has a very long memory.

In 1957, the Home Minister said,

"They—the PSP reached the conclusion that it was impossible to rule out firing altogether".

I said, so far so good. Government will face some situation sometimes where firing is inevitable. The Home Minister said,

"They almost held the opinion that the rules that we have are quite reasonable."

Here I said,

"This was wholly misleading. I will come to that when I read out from the report of the committee which my party appointed some years ago."

The Minister said further,

"They only said that there should be a judicial enquiry whenever there is a firing. That is the only thing they have said."

Here in fairness to the House, he should have said whether they accept the principle or not. This speech was made in 1957, after the firing incidents took place in 1956 in Bombay and Ahmedabad.

**Shri Khadilkar:** I do not follow what is misleading in this.

**Shri Hari Vishnu Kamath:** He misled the House by saying that the PSP held almost the same opinion as the Government.

I shall now quote the main recommendations made by the committee:

"We are of the opinion that an enquiry should be held by a High Court Judge. We think it may be available to appoint a High Court Judge of another State in certain circumstances.

Adequate safeguards must be provided before the police use force against a procession or crowd, particularly before the police open fire. Besides the police officers, there should be, wherever possible, a magistrate present on the spot. If the crowd does not show signs of becoming uncontrollable, a notice or warning to disperse must be given and if after a reasonable time allowed, the crowd shows no inclination to disperse, the police may use the waterhose, tear-gas, the cane or the *lathi* to disperse the crowd."

"Such equipment should be provided to every unit of the police force by the Government."

This was raised in the House many times. Many police stations or thanas do not have tear-gas. They do not have this equipment and they say that because they did not have it they could not use it. Then we have said:

"In most cases this much force ought to suffice and it is only as last resort, when every other available instrument of force has failed and where there is a clear and immediate danger of loss of human life or large scale destruction of property is taking place or in case of insurrection, that the police may exercise the power

to disperse the crowd by opening fire. Whether there is in fact such danger to human life must in the first instance, be decided by the police officer or magistrate on the spot, but must ultimately depend upon what an independent judicial enquiry finds. Even then certain precautions such as first firing in the air, and secondly firing at the lower part of the body should not be lost sight of. Medical aid to the injured should also be provided with the least possible delay."

In Ahmedabad, in 1956, when I visited the hospital where the injured and dead were lying, even little children of 10, 12 and 14 years of age who could not have been blameworthy in any manner, had received bullet wounds above the waist above the *nabhi*. Some of them had received bullet wounds in the chest. Very few—in about 50 cases, hardly four or five—had bullet wounds in the lowest part without restraint, they fired at random, they fired indiscriminately. That trigger-happy tendency persists even today, as it happened in Madras and parts of Tamilnad as late as January-February this year.

Therefore, it is high time that in our country, the Government, supposedly carried on by the so-called disciples of Mahatma Gandhi—somebody said 'miscalled'—who take his name day in and day out, who swear by *ahimsa*, revise their stand in this matter and accept the suggestions made by me and accepted by the House. Even the Congress Party, if there is no whip, will I am sure pass this measure with a majority. But the whip comes in, and they are whipped into a sort of no action. That is why I am appealing to the House to take a serious view of the matter, and I hope in this year of grace—

1965—the Government may come forward and accept the principle of the Bill. Otherwise, what is popularly said about this era will continue to be said. People facetiously, cynically, describe this *Zamana* by saying:

जानें सस्ती हो गयी है लेकिन चीजें मंहगी हो गयी हैं ।

That is what is happening in our country today.

**An hon. Member:** What is that?

**Shri Hari Vishnu Kamath:** They say: "Commodities are dear but lives are cheap" in India.

**An hon. Member:** Human lives?

**Shri Hari Vishnu Kamath:** Yes.

**Shri K. C. Sharma (Sardhana):** That is why there is family planning.

**Shri Hari Vishnu Kamath:** If you link it up with family planning, if you link up police ring with family planning, you may try. Madam, I therefore, move that the Bill be taken into consideration and commend it to the acceptance of the House.

**Mr. Chairman:** Motion moved:

"That the Bill further to amend the Code of Criminal Procedure 1898, be taken into consideration."

**श्री विश्वनाथ पाण्डेय :** (सलेमपुर) सभानेत्री महोदया, श्री कामत महोदय ने जो विधेयक प्रस्तुत किया है उस के सिद्धान्त का मैं समर्थन करता हूँ । लेकिन जो तक उन्होंने प्रस्तुत किए हैं वे असंगत हैं और उन की आवश्यकता नहीं थी ।

जब जाब्ता फौजदारी कानून बना तो अंग्रेजों ने उस में धारायें 127, 128 और 129 इस मकसद से रखीं कि अगर कोई गैर कानून अस्मिन्बली पांच से ज्यादा आदमियों की एकत्र हो और उस का मकसद शांति भंग

करना हो तो इन धाराओं के अन्तर्गत सरकारी अधिकारी उन लोगों को हटाने की कोशिश करें । इन धाराओं के अन्तर्गत अपने इस अधिकार का उपयोग करने में अधिकारी गोली भी चला सकते थे, लाठी चार्ज भी कर सकते थे । और इसी कारण जब हम ने स्वतन्त्रता की लड़ाई लड़ी तो हमारे बहुत से नेताओं के साथ पुलिस अधिकारियों ने इन धाराओं के अन्तर्गत व्यवहार किया । यहाँ तक कि लाला लाजपत राय के लाठियाँ पड़ीं । लेकिन अब देश स्वतन्त्र हो गया है, समय बदल गया है । इस को देखते हुए इन धाराओं में परिवर्तन करने की आवश्यकता है ।

इस विधेयक को लाने से श्री कामत का यह अभिप्राय नहीं है कि इन धाराओं को हटा दिया जाए । उन का अभिप्राय यह है कि जिन अधिकारियों के हाथ में इस प्रकार की गैर-कानून अस्मिन्बलियों को हटाने का काम है, वे अपने कर्तव्य को विचार पूर्वक, शान्ति पूर्वक कदम उठा कर पूरा करें । अगर इस प्रकार का कानून नहीं रहेगा तो दुल्लड़बाज लोगों को, जो कि शान्ति भंग करना चाहते हैं, कैसे रोका जा सकेगा : अगर वे लोग शान्ति पूर्ण उपायों से न हटेंगे तो उन को हटाने के लिए गोली भी चलानी पड़ सकती है । लेकिन इस विधेयक का मतलब यह है कि पुलिस अधिकारी विवेक से काम लें और जहाँ तक हाँ सके गोली न चलावें । इस सम्बन्ध में मैं एक उदाहरण आप के सामने रखना चाहता हूँ । गोंगखपुर में एक वाक्या हुआ जहाँ पर दो तीन वर्ष पहले गोलीकांड हुआ था । विद्यार्थी लोग एक जलूस ले जा रहे थे, शान्तिमय तरीके से जलूस लिए जा रहे थे । लेकिन पुलिस के अविवेक के कारण वहाँ गोली चली और उस शान्तिमय जलूस में गोली चलने के कारण कुछ विद्यार्थी मारे गए । मैं समझता हूँ कि अब जब कि देश स्वतन्त्र हो गया है और हम देश में समाजवादी व्यवस्था लाना चाहते हैं, तो उस व्यवस्था में पुलिस अधिकारियों को पूरे

## [श्री विश्वनाथ पाण्डेय]

विवेक से काम लेना चाहिए और गोली चलाने के पहले और सब उपाय कर लेने चाहियें। अगर इस उदाहरण में विवेक से काम लिया गया होता तो मैं समझता हूँ कि गोरखपुर में गोलीकांड न होता। उस के बारे में एक जांच कमेटी भी बैठी और उस ने अपना निर्णय भी दिया, लेकिन अभी भी बहुत से लड़के जेलखाने में बन्द हैं। तो मैं समझता हूँ कि श्री कामत महोदय ने जो विधेयक प्रस्तुत किया है उस का सिद्धान्त अच्छा है। आज जब देश स्वतन्त्र है और देश की सरकार कांग्रेस पार्टी के हाथों में है तो यह आवश्यक है कि पुलिस अधिकारी गोली चलाने से पहले काफी विवेक से काम लें और अन्तिम उपाय के रूप में ही गोली का सहारा लें।

मैं ने इस विधेयक में कुछ संशोधन भी दिए हैं। एक तो यह है कि पेज 2 में लाइन 3 में से शब्द "अरलियर" निकाल दिया जाए, लाइन 3 पेज 2 में "अल" के बाद शब्द "रीजनेबिल" जोड़ दिया जाए, और पेज 2, लाइन 4 तथा 5 में शब्द 'वाई यूज आफ दी वाटर होज, टियर गैस एंड लाइट केन चार्ज' हटा दिए जाएं, क्योंकि इन की आवश्यकता नहीं है।

मैं इस से अधिक कुछ नहीं कहना चाहता। मैं चाहता हूँ कि मेरे संशोधन को स्वीकार कर लिया जाए।

**श्री गौरी शंकर कक्कड़ (फतेहपुर) :** सभानेत्री महोदया, जो संशोधन विधेयक माननीय कामत जी ने प्रस्तुत किया है उस का मैं समर्थन करता हूँ, और जो तर्क उन्होंने ने अपने इस विधेयक के समर्थन में दिए हैं उन से भी मैं पूरा तरह से सहमत हूँ।

अक्सर यह देखा गया है कि जायन्ता फौजदारों को धाराओं 127, 128 और 129 का बहुत दुरुपयोग किया गया है।

जब कोई पुलिस का अफसर ऐसे मौके पर होता है तो उस के मस्तिष्क में विवेक नहीं रहता है, वह न्यायसंगत ढंग से विचार नहीं करता है और प्रायः देखा गया है कि बहुत से अफसर ऐसे होते हैं कि पुलिस अफसर के अविवेक के कारण जो घटना गम्भीर नहीं हानी वह गम्भीर बन जाती है और जो संकट शान्तिमय उपायों से दूर हो सकता था उस के लिये गोली चलानी पड़ जाती है और फिर हत्या हो जाने के कारण समस्या और भी गम्भीर बन जाती है। इसी तरह से प्रयाग में विद्यार्थियों पर गोली चली। इस का कारण यही था कि वहाँ पर जो अधिकारी वर्ग था उस ने विवेक से काम नहीं लिया और स्थिति को ठीक से नहीं समझा। उस का नतीजा यह हुआ कि कुछ विद्यार्थियों को जानें गयीं और उस के बाद वह एक गम्भीर समस्या बन गयी और फिर शान्ति कायम रखना कठिन हो गया।

यहाँ पर जो संशोधन रखा गया है उस में अधिकारी वर्ग के लिए काफी गुंजाइश है। इस में सिर्फ यह मांग की गयी है कि वे मनमाने ढंग से, तानाशाही ढंग से काम न करें बल्कि न्यायसंगत तरीके से अपने कर्तव्य का पालन करें। इस में श्री कामत जी ने एक समय निर्धारित कर दिया है कि अगर उस समय के अन्दर वह अनलाफुल असम्बली वहाँ से नहीं हटती और शान्तिमय ढंग से तितर बितर नहीं होती तो कड़े उपायों का इस्तेमाल करें। सभानेत्री महोदया, मैं समझता हूँ कि जो संशोधन विधेयक श्री हरि विष्णु कामत कोड आफ क्रिमिनल प्रोसीज्योर की उन धाराओं को संशोधित करने के लिए लाये हैं वह एक सही दिशा में कदम है। इन संशोधनों को स्वीकार करने पर कभी भी कोई समस्या ऐसी नहीं आ सकती कि यह तर्क दिया जाय कि साहब हम शान्ति स्थापित नहीं कर पायेंगे या शान्ति भंग होने पर हम स्थिति पर नियंत्रण नहीं कर पायेंगे।

16 hrs.

एक चीज और है। आज हमारा देश स्वतन्त्र है और हम अहिंसा को मानते हैं। शांतिमय ढंग से हम अपना शासन-कार्य चलाना चाहते हैं और अन्तराष्ट्रीय और राष्ट्रीय स्तर पर भी चीजें हम शान्ति से करना चाहते हैं तब यह अविश्वसनीय गोलीकांड, बिना पर्याप्त कारण और सोचे समझे एक अविवेक के कारण फायरिंग कराना यह कहां तक उचित है और उस को आगे चालू रखना कहां तक उचित होगा यह मेरी समझ में नहीं आता है? इसलिये मैं यह समझता हूँ कि कोई भी तर्क सरकार की ओर से इस प्रकार का दिया जाय कि यह इमरजेंसी का समय है अथवा आजकल बहुत ज्यादा सीमाओं पर आक्रमण होने की सम्भावना है इसलिए यह फायरिंग का अधिकार बना रहना चाहिए उचित न होगा। मैं यह जानता हूँ कि उस के लिए एक अलग कानून है, उस की रोकथाम करने के लिये अलग से व्यवस्था है। निश्चित रूप से वह एक गम्भीर विषय है और उस का मुकाबला करने के लिये गम्भीर कानून भी है। परन्तु यह सर्वसाधारण चीज जो कि जाब्ता फौजदारी में अभी तक चालू रही और जिस का कि दुरुपयोग बहुधा हुआ है उस के प्रमाण में मैं कई केस गिना सकता हूँ लेकिन इस समय मैं डिटेल्स में नहीं जाना चाहता अतएव यह कहूंगा कि जहां पर भी कमीशंस नियुक्त हुए और उन के जो निर्णय हुए उन से यह पता चला कि किस प्रकार से अमुक, अमुक अफसरान में विवेक न होने के कारण और उन के द्वारा चीजों को ठीक से न समझने के कारण उन्होंने गोली चलावाई और लोगों की हत्या की और चीजों को और ज्यादा बिगाड़ दिया। वह समझली नहीं। इस में यह कहा गया है :—

“within a definite period of time to be specified in the command.”

उस में एक तरीके का बंधन हो जाता है और यह कहना कि मजबूरी होती है और समय जो निर्धारित कर दिया गया उस समय के अन्दर अगर वह अनाकुल परिस्थितियों के अन्दर प्रयोग नहीं होता है तो वह इस प्रकार से गोला का फायरिंग का प्रयोग कर सकता है। दूसरा जो है उस में यह दिया हुआ है :

“Provided that no fire-arms shall be used by the police to disperse the unlawful assembly, unless earlier all attempts to disperse such assembly by use of the water-hose, tear-gas and light cane charge have been unsuccessful.”

अन्त में मुझे यही कहना है कि यह एक बड़ा न्यायसंगत संशोधन आया है और यह एक बड़ा उचित संशोधन है। हमारी राष्ट्रीय सरकार का जो ध्येय है और जो संकल्प है कि वह अहिंसा से ही अपने कामों को चलायेंगे उस को सामने रखते हुए इस संशोधन को सरकार को स्वीकार कर के देश को यह परिचय देना होगा कि कम से कम अब उन्होंने बुद्धिमानी से काम करना प्रारम्भ कर दिया है। इसलिए मैं इस संशोधन विधेयक को जो कि सदन के सामने प्रस्तुत है उस का समर्थन करता हूँ।

**Mr. Chairman:** I would request hon Members to take only five minutes each.

**Shri Narendra Singh Mahida (Anand):** I support the Bill moved by Shri Kamath and I desire to emphasize that since independence, our Government has become trigger-happy and in my State of Gujarat, it may bring it to the notice of hon. Members, that firing had taken place even to enforce prohibition. A few years back, in a village in the district of Mehasra in the then Bombay State a gathering of villagers were celebrating their *diwali*. Firing was resorted to by the Home guards and police, killing men, women and children and even cattle. I would request



[Shri Narendra Singh Mahida]

the hon. Minister to enquire and find out whether this is true or not.

**Shri Hathi:** Is he referring to the State of Gujarat or Maharashtra?

**Shri Narendra Singh Mahida:** I am referring the old State of Bombay. I had then visited that firing area and had told the then Chief Minister, Shri Morarji Desai that these firings on innocent people, go against our codes and if police become trigger-happy the state of affairs in the country will really become violent and uncontrollable.

A few years back, at the time of the Maha Gujarat Movement—I was then in the Congress Party—I was instrumental in going about and trying to maintain peace and order. But, the spectacle of police firing that we saw in the city of Ahmedabad aroused the feelings of the people. Very recently we have seen in Ahmedabad how the people have taken revenge. They have taken charge of the administration of the Corporation of Ahmedabad. Whether that Maha Gujarat Movement was right or wrong—this is not the occasion to discuss that—the firing which killed many innocent people, including the children of some pro-Congressmen, was certainly unjustified. One result of that firing has been that the people who have lost their children have become bitter with the ruling party and joined other political parties. I warn the Government that if this method of shooting indiscriminately goes on, those very people against whom the rifles are aimed to shoot them will use the very rifles against you after snatching them.

We all believe that the policy of ahimsa is the best way of life. That policy was adumbrated by Mahatma Gandhi and it is the professed policy of the ruling party and the Government. I do agree that in case of

necessity, where there is no alternative, they have to resort to arms. But such occasions should be very rare. In England, we have hardly heard of cases of firing recently. They use water hoses. Recently, they have started using horses. I am glad to say that the police in Gujarat are experimenting with horses. Trained horses can be brought to the scene to keep people away.

The crowds can be tackled by tact also. At the time of the Maha Gujarat Movement, people became obstinate and sometimes they wanted to go to a particular road. They were defying the orders of the magistrate. But we had a very tactful superintendent of police who used his commonsense. He said "I will give you permission to go through the area provided you agree to go peacefully without doing any damage to property". So, the whole incident ended peacefully without any firing. Therefore, tact is very necessary in dealing with unruly crowds. If only tact and commonsense are used, many cases of firing can be avoided.

I hope the hon. Minister will take cognisance of the fact that the essence of the Bill moved by Shri Kamath is that needless firing should be avoided. We do not mean to say that in case our borders are attacked we should not resort to firing; but for internal use firing should be restricted to the minimum. I will request the hon. Minister that in the prevalent trend that we are having just now, we should move cautiously and there should be less of firing.

**Shri Khadilkar:** Mr. Chairman, the hon. Member, Shri Kamath, brought forward this measure because in a short span of life of his party's ministry in Kerala, to maintain themselves in office and to deal with some situations they used firing rather indiscriminately.

**Shri Hari Vishnu Kamath:** Do not twist facts.

**Shri Khadilkar:** Later on one of their Party members, Dr. Lohia, forced the ministry to give up office because it had not acted according to the party line.

**Shri Hari Vishnu Kamath:** I wish, Shri Khadilkar would not twist facts; otherwise he should not mention them.

**Shri Khadilkar:** You can correct me. It is not a party issue. You have drawn this report on the basis of that experience; so, you had resorted to firing.

**Shri Hari Vishnu Kamath:** The Government had done once.

**Mr. Chairman:** You need not enter into argument. You can continue with your speech. Shri Kamath will reply when he gets his chance.

**Shri Khadilkar:** In Kerala they had to resort to firing. Later on they were forced to give up office because one of their party members, Dr. Lohia, insisted that with their hands soiled with firing they had not acted according to their party line or principles and the best thing was that they must quit. This is their experience.

I do not blame Shri Kamath. He has produced a good report as a guide for action by the Police. It can be called in some measure as to how the Police should conduct themselves in such a situation.

**Shri Hari Vishnu Kamath:** Code of conduct.

**Shri Khadilkar:** Yes, a code of conduct for policemen in this country.

I also remember that there were occasions, particularly during the struggle for linguistic States, in

Maharashtra and Gujarat when firing was not necessary and the leaders were ready to persuade the people to be peaceful, but the Government in power did not listen to advice and indiscriminate firing took place. It was a great tragedy. It always leaves a very bad taste in one's mouth; a certain trial of bitterness is left behind. Then there was an insistent demand for a judicial inquiry.

**Shri Hari Vishnu Kamath:** Your party also demanded that. You were in the Opposition then.

**Shri Khadilkar:** Why bring in the name of Mahatma Gandhi and *ahimsa*? After all, this Government is not run on *ahimsa*. No government in the world can run on the principle of *ahimsa*. The basis of the government itself, according to Hindu dharma shastras is *banda*, *shakti*—power, force or coercion, otherwise no Government can rule anywhere.

The main question is: How to use that force and in what situations and how discriminately our policemen, the representatives of Government at the local level, should act and conduct themselves to disperse the crowd, but at the same time maintain order and not resort to firing?

He mentioned some cases. What happens in case of a communal disturbance? There is communal frenzy and you have got to control that. I understand that in every case firing should not be resorted to, but in communal disturbances sometimes it becomes inevitable to resort to firing.

There is another aspect to it and I would appeal to my hon. friend, the Mover of this measure, to consider it. We are in a stage of development. Society is changing. In such a stage or phase, on the one side, we are trying to bring about a peaceful change and on the other side, there is a certain amount of resistance. Some forces want to accelerate the rate; they want it at a greater pace. Other forces want to obstruct it. In

[Shri Khadilkar] N  
such a society, to expect of Govern-  
ment not to resort to any force what-  
soever....

**Shri Hari Vishnu Kamath:** I never  
said that.

**Shri Khadilkar:** You quoted  
Mahatma Gandhi. Government never  
say that they follow Mahatmaji's  
principle so far as the governance of  
this country is concerned. This is  
not correct. Therefore what I plead  
is this. If the purpose of the Bill is  
that any party that is ruling in this  
country should advise the policemen  
not to resort to force unless they are  
forced to....

**Shri Hari Vishnu Kamath:** You  
have not read the Bill apparently.  
You read the Bill.

**Shri Khadilkar:** I have read it.  
But the question is: Can Government  
accept a certain obligation not to res-  
ort to force?

**Shri Hari Vishnu Kamath:** That is  
not in the Bill.

**Shri Khadilkar:** Can any govern-  
ment accept, can your party govern-  
ment accept to have a sort of judicial  
inquiry in every case?

**Mr. Chairman:** I have requested  
the hon. Member not to enter into  
argument.

**Shri Hari Vishnu Kamath:** He has  
not read the report.

**Shri Khadilkar:** I have read the  
Bill and the report also I have seen  
cursorily.

So far as the purpose of the Bill  
is concerned, I think, in principle and  
in practice, most of these recom-  
mendations have been accepted and  
acted upon by the Government. Past  
experience has also taught Govern-  
ment certain lessons—the experience  
of Mahagujarat and Samyukt Maha-

rashtra movements and certain other  
struggles—but, at the same time, to  
expect that in every case, if firing  
almost becomes a compelling neces-  
sity in a situation, Government  
should undertake to inquire into it  
by appointing a judicial body..

**Shri Hari Vishnu Kamath:** That is  
not a part of the Bill.

**Shri Khadilkar:** That is not pos-  
sible. Therefore, as the principle of  
the Bill has been acted upon in many  
ways, there is no further necessity  
to do anything in this regard. By  
raising this debate and by bringing  
forward this measure he has given  
us an opportunity to apply our mind  
to it that force must not be used  
indiscriminately and it should be  
used when Government is compelled  
to do it; that police officers should  
be more service officers in the  
modern welfare society that we are  
bringing about. I think, this purpose  
will be served by a debate and not  
by pressing the Bill any further.

**श्री रामसेवक यादव :** (बाराबंकी)  
सभापति महोदय, आज हिन्दुस्तान में  
साधारण मनुष्य के जीवन का कोई मूल्य  
नहीं रह गया है। आजादी के बाद हिन्दुस्तान  
में इतनी बार गोली चली है कि शायद अंग्रेजों  
के शासन-काल का औसत भी उस के बराबर  
नहीं है। आजादी मिलने के दो ही तीन बरस  
के अन्दर खरसवा में आदिवासियों पर  
मशीनगन चली और वहां पर पांच सौ से  
एक हजार के बीच में आदमी मरे। मैं तो  
कह सकता हूँ कि कोई भी प्रान्त ऐसा नहीं है  
जहां अभी तक गोली न चली हो और लोगों  
की जानें न गई हों।

अभी श्री खाडिलकर ने हिंसा और अहिंसा  
का प्रश्न उठाया और कहा कि कोई सरकार  
अहिंसा से नहीं चल सकती है। मैं भी मानता  
हूँ कि जब तक सरकार है और कानून तोड़ने  
वाले लोग भी हैं, तब तक कुछ न कुछ दंड

की व्यवस्था अवश्य होगी। लेकिन आज हमारे विचार का विषय यह नहीं है। आज प्रश्न तो यह है कि जो सरकार विदेशियों के मुकाबले में अहिंसा की बात करे, वह अपने ही देशी लोगों के विरुद्ध, जो शान्तिमय हैं, हिंसा का प्रयोग करे, उन पर गोली चलाए, यह कहां तक न्याय संगत और उचित है। इस दृष्टिकोण से हम को इस प्रश्न पर विचार करना चाहिए।

अभी अभी एक दो महीने पहले किशनगंज में गोली चली और लोगों की जानें गयीं, लेकिन इस देश की जनता का अरं इस बड़ी लोक सभा का ध्यान उधर नहीं जाता है। मैं चाहूंगा कि लोग सभा और मंत्री महोदय इस बात पर विचार करें।

आज विचारणीय बात यह है कि जहां तक कानून का सम्बन्ध है, बड़े लोगों और छोटे लोगों के बारे में दो मापदंड रखे जाते हैं। जब कहीं कोई बड़े लोग कानून को तोड़ते हैं, गलत काम करते हैं, तो वे साधारणतया पकड़े नहीं जाते हैं। लेकिन जब कहीं जनता के सवालों को लेकर सत्याग्रह आदि होते हैं, प्रदर्शन इत्यादि होते हैं, तो उन पर गोली चलाई जाती है। मैं इस सम्बन्ध में दो मिसालें देना चाहता हूं।

अभी पंजाब के मुख्य मंत्री की हत्या हुई और उन को मारने वाले लोगों को पकड़ने के लिए बड़ी कोशिश की जा रही है। मैं यह नहीं कहूंगा कि यह बुरा काम है—वह ठीक ही किया जा रहा है।

यह फर्क करूंगा कि वह सत्ता के आदमी थे। साथ ही साथ मैं गृह-मंत्री से निवेदन करूंगा कि सिधरोली की रानी की हत्या हुई और इस चीज को बहुत से लोग जानते हैं कि उस हत्या में बहुत बड़े लोगों का हाथ था और मैं कई बार कह चुका हूं इस सदन में कि एक माननीय सदस्य का भी हाथ उस में है लेकिन आज तक उस में कोई . . .

**श्री हुकम चन्द कछवाय :** नाग तो उन का बता दीजिये।

**श्री रामसेवक यादव :** नाम नहीं बताऊंगा। आज तक उस की कोई जांच नहीं की गई है। यहां पर यह प्रश्न आ जाता है. . .

**श्री हुकम चन्द कछवाय** यह तो बता दो कि कांग्रेस के हैं या विरोधी दल के ?

**श्री रामसेवक यादव :** यह भी नहीं बताऊंगा क्योंकि यह बतलाना भी ठीक नहीं है। यह उचित नहीं है। मैं कहूंगा कि जब एक साधारण आदमी के खिलाफ कोई जुर्म होता है तब तो मामला श्री होता है और जब बड़े लोगों के खिलाफ सत्ता के लोगों के खिलाफ होता है तो मामला दूसरा ही बन जाता है। दोनों में फर्क किया जाता है।

ठीक यही सिद्धान्त इस गोली के मामले में चलता है। जहां तक जनतन्त्र का मवाल है जनतन्त्र में गोली चलाना उचित नहीं है। जनतन्त्र का जो अर्थ है वह हम से पूरा नहीं होता है। यह जनतन्त्र के अनुपयुक्त है। मैं चाहूंगा कि इस को ठीक से देखा जाए। जो सत्याग्रह करते हैं जो शान्तिमय सत्याग्रह करते हैं जब उन पर गोली चलाई जाती है तो दुख होता है। उन को बड़ी लम्बी लम्बी सजायें दी जाती हैं। लेकिन जो बड़ी हिंसा करते हैं उन को बहुत कम सजायें दी जाती हैं या दी ही नहीं जाती हैं। मैं मिसाल देना चाहता हूं। मद्रास में अभी हाल ही में कुछ घटनायें घटी हैं। वहां पर सरकार बिल्कुल ठंडी पड़ जाती है। मुकदमे अगर कायम किये जाते हैं तो वे भी बाद में वापिस ले लिये जाते हैं और जहां वापिस नहीं भी लिये जाते हैं वहां एक दो या तीन महीने की ही सजायें होती हैं। लेकिन दूसरी तरफ क्या होता है। राज नारायण जी जैसे सत्याग्रहियों को जब सजायें मुनाई जाती हैं तो छः छः महीने की मुना दी जाती हैं। और किम आधार पर ? केवल इस आधार पर कि अंग्रेजी का उन के सामने इस्तेमाल न हो, जज अंग्रेजी में फैसला

[श्री रामसेवक यादव]

न करे। अगर रानी विक्टोरिया की मूर्ति हटवाने की कोशिश की जाती है तो उन लोगों को 18-18 और 20-20 महीने की सजा दे दी जाती है : यह सब वह सरकार करती है जो रात दिन महात्मा गांधी का नाम लेती है मृत्यु प्रायश्चित्त की बात करती है।

मैं चाहता हूँ कि इस देश में जनता की इज्जत हो और भीड़ पर गोली तब तक न चलाई जाए जब तक कि भीड़ जान लेने पर उतारू न हो जाये या आतिशजनी पर उतारू न हो जाए। यही दो शर्तें हैं। जब इन में से कोई बात हो तभी भीड़ पर गोली चले। बाकी किसी भी हालत में जनता पर गोली न डी चलनी चाहिए, निहत्थी जनता पर गोली नहीं चलनी चाहिये। कोई संशोधन आप की तरफ से अगर हो तो वह इस प्रकार का होना चाहिये जिस में मौजूदा स्थिति जो गोली चलाने की बात है, उस में सुधार हो।

इन शब्दों के साथ मैं इस विधेयक का समर्थन करता हूँ और चाहता हूँ कि केवल इन्हीं दो हालतों में जो कि मैं ने बताई है गोली चले। फिर जब गोली चलाई भी जाए तो उसके बाद उस की न्यायिक जांच होनी चाहिये और जो उस जांच का फैसला हो उस पर अमल होना चाहिये। न्यायिक जांच से ही पता चल सकता है कि गोली चलाना उचित था या अनुचित था।

**श्री तुलशीदास जाधव:** (नांदेड़) : सभानेत्री महोदया, श्री कामत ने जो बिल रखा है वह आज कल के जमाने में उचित है, इस की गर्ज थी। गर्ज इस दृष्टि से है कि जब कोई भाव या समूह गुस्सा हो जाता है तो उस के हाथ से कोई बुराई हो सकती है और उस बुराई को होने से बचाने के लिए सरकार ने अपने हाथ में सत्ता ले रखी है। उस हालत में वह फायरिंग का या लाठी चार्ज का सहारा लेती है। लेकिन एक बात है . . .

**Mr. Chairman:** The hon. Member may come forward on the front benches so that he may be audible.

**श्री हुकम चन्द कछवाय :** कांग्रेस वाले बारी बारी से आगे आ रहे हैं।

**श्री तुलशीदास जाधव :** हम को पीछे से आगे आना पड़ता है। मेरी अध्यक्ष महोदय से यह विनती है कि ऐसा खम्भा वहाँ भी लगा दिया जाए ताकि हमारी आवाज वहाँ से सुनाई दे सके।

हमारे कामत साहब ने 127, 128 और 129 जो संशोधन हैं इन की सुधारना करने का सुझाव दिया है। वह ठीक है। लेकिन एक बात है। स्वराज्य की मूवमेंट जब चलती थी उस वक्त भी हम लोगों को इस का अनुभव है। हमारे माननीय सदस्य ने 127 में कहा है :

"within a definite period of time to be specified in the command."

यह कभी भी अंग्रेजों के राज्य में नहीं हुआ है। मैं ने क्रिमिनल प्रोसीजर कोड को देखा है और पाया है कि उस में अभी तक इस मामले में कोई तबदीली नहीं हुई है। यह जो कानून बना था उस वक्त बना था जिस वक्त विदेशी लोग हम पर राज्य करते थे। अंग्रेज दहशत दिखा कर ही राज्य करने में विश्वास करते थे। लोगों के कल्याण के लिये वे राज्य नहीं करते थे, भलाई के लिये राज्य नहीं करते थे। लोगों को उन के प्रति नफरत थी। वे उस राज्य का विरोध करते थे। वे लोगों को समझाने बुझाने के बजाय हिंसा का सहारा लेते थे। लोग जब उस राज्य का विरोध करते थे तो बजाय लोगों को समझाने बुझाने के उन्होंने ने इस कानून का सहारा लिया। आज सतरह बरस हो गए हैं लेकिन इस कानून में तबदीली नहीं आई है। हमारे यहाँ डेमोक्रेसी है और हम लोगों को एजुकेशन देना है। डेमोक्रेसी में दहशत

से नहीं मगज से काम लेना होता है। लोक शाही ने वा डेमोक्रेसी में लोगों को पढ़ाया जाता है। इसलिए जो पुराने इस में संकशन हैं उन का कम करने की जरूरत है और अगर कम न किये जायें तो उन में दुरुस्ती करने की गर्ज है।

16.28 hrs.

[MR. SPEAKER in the Chair]

एक वक्त ऐसा आया था कि जब हम मूवमेंट चलाने थे और माब डकट्टा होता था तो उस वक्त के कलैक्टर बिना कोई वार्निंग दिये हुए, बिना समय तथा परिस्थिति को देखे हुए गोली चलाने का हुक्म दे दिया करते थे और इस के फलस्वरूप देश में कितने ही लोग मारे जाते थे। अभी ऐसा हो सकता है या नहीं हो सकता है। यह मुझे मालूम नहीं है। लेकिन जब माब डकट्टा हो जाए तो उस को वार्निंग देने के लिए, उस को तितर बितर होने के लिये कहने के लिए लाउड स्पीकर की गर्ज होगी। मैं नहीं समझता हूँ कि यह भी चीज अभी तक हुई है या नहीं हुई है। मुझे नहीं मालूम कि अभी तक इस चीज पर कहां तक अमल हुआ है। लाउड स्पीकर और दूसरे साधन जुटाने की गर्ज थी। लोगों को यह भी समझाने की जरूरत है कि हम कोई थोड़ा सा गुनाह भी कर दें तो उन के लिए कहां तक सजा होती है। २५ तरह की एजुकेशन देने की इस वास्ते गर्ज है कि लोगों को पता चल जाये और वे ऐसे कोई काम न करें कि गोली चलाने की नीबत आये।

अध्यक्ष महोदय, आप तो जज रहे हैं। जो गुनाह करता है उस को सजा वैसी ही होनी चाहिये जो कि गुनाह करने वाले के लिए शोभाजनक हो। एक दम से गोली नहीं चलाई जानी चाहिये। माननीय सदस्य ने जो सुझाया है कि वाटर हेंज, टीयर गैस एंड लाइट केन चार्जिज एंड अर्ध्व पहले इस्तेमाल हों, इन की तो गर्ज है।

अभी हमारे माननीय सदस्य कामत साहब ने अपनी पार्टी के प्रस्ताव को पढ़ कर सुनाया है। जब विरोधी दल वाले और सत्ता में रहने वाले दोनों इस और ध्यान देंगे कि इस देश में हैल्दी डेमोक्रेसी पैदा हो, हैल्दी डेमोक्रेसी विकसित हो और जब दोनों की ऐसी इंटेगेशन हो जायेगी तो वास्तव में हिन्दुस्तान का और जनता का भला होगा? इसलिए मेरा कहना यह है कि न तो बिल्कुल पुराने कानूनों को रखा जाए और न ही बिल्कुल नए कानून बनाए जायें जैसा कि माननीय सदस्य ने सुझाव दिया है। बल्कि एक बीच का रास्ता निकाला जाए, एक मिडिल कोर्स निकाला जाए और उस दृष्टि से दुरुस्ती की जाये तो ज्यादा अच्छा होगा। लेकिन एक बात जरूर है कि दुरुस्ती होनी लाजिमी है।

**श्री हुक्म चन्द कछवाय :** हमारे मित्र श्री कामत ने जो बिल रखा है और जो नर्क दिये हैं, उस का मैं समर्थन करता हूँ। मैं हाथी जी से जिन के प्रति मेरे मन में बड़ी श्रद्धा है प्रार्थना करता हूँ कि वह इस बिल को स्वीकार कर लें और मुझे पूरा विश्वास है कि वह इस को स्वीकार भी कर लेंगे।

हमारे देश में व्यवस्था कायम रहे, इस गर्ज से हमें कुछ कठोर कदम उठाने होते हैं। परन्तु देखा ऐसा गया है कि अंग्रेजों के शासन में पचास सालों में जितनी . . . . .

**Shrimati Lakshmikanthamma (Khammam):** Sir there is no quorum in the House.

**Mr. Speaker:** The bell is being rung..now there is quorum.

**श्री हुक्म चन्द कछवाय :** अध्यक्ष महोदय, मैं यह कह रहा था कि अंग्रेजी राज में पचास साल में जितनी बार गोली नहीं चली, उस से अधिक बार, उस से दुगुनी बार हमारे इस शासन के 17 सालों में गोली चली, 223 बार।

[श्री हुकम चन्द शर्मा]

कहा जाता है कि हम गांधी के अनुयायी हैं और गांधी के सिद्धान्त पर चलने वाले हैं, परन्तु देखा गया है कि अक्सर विद्यार्थियों पर गोली का उपयोग किया गया और अपने शासन को जमाए रखने के लिए गोली का उपयोग किया जाता है। अभी हाल में वेरम में गोली चली जिस में जन संघ के कार्यकर्ता मारे गये। उस का कारण एक व्यक्तिगत दुर्घटना थी। लेकिन मैं उस मामले में नहीं जाना चाहता क्योंकि वह अदालत में चल रहा है। सन् 1656 में पन्ना में गोली चलायी गयी। उस का उद्देश्य क्या था। कानून में यह नहीं कहा गया है कि सीधे एक दम गोली चलायी जाए। पहले जनता को शान्तिपूर्वक तितर बितर होने का मौका देना चाहिए। अगर वह नहीं मानती तो अश्रुगैस का उपयोग किया जा सकता है, पानी का उपयोग किया जा सकता है, और इस के बाद बैत का उपयोग किया जा सकता है। इस से भी भीड़ न हटे तो लाठी चार्ज कर सकते हैं। और अगर आवश्यकता पड़े तो उस के बाद गोली चलायी जाए, और गोली भी 303 बन्दूक से न चलायी जाए जिस से कि सीधे आदमी मर जाता है। छरों का उपयोग किया जाए और वह भी पैरों में मारा जाए। ऐसे समय में वहाँ मजिस्ट्रेट होना चाहिए जिस से कि वह देख सके कि स्थिति क्या है। और गोली भी केवल उसी समय चलायी जाए जब कि किसी की जान जाने की अथवा काफी सम्पत्ति नष्ट होने की सम्भावना हो। पर ऐसा नहीं होता। अक्सर गोली का उपयोग चुनाव के दिनों में देहाती जनता को डराने के लिये किया जाता है और इसका उपयोग विरोधी दलों पर किया जाता है। ऐसी कुछ घटनायें हुई हैं। इस का उद्देश्य क्या है? इस का उद्देश्य होना है देहाती जनता में भय पैदा करना।

मैं चाहता हूँ कि इस बिल में जो बातें दी गयी हैं उनको मंत्री महोदय स्वीकार कर लें और शक्ति का उपयोग उसी ढंग से होना चाहिए

जैसा कि इस बिल में बताया गया है। हम ने अक्सर देखा है कि विद्यार्थी अपनी मांगें लेकर अपने जलूम लाते हैं। लेकिन उन की बात को ठीक ढंग से नहीं सुना जाता और उन की बातों पर विचार नहीं किया जाता और बिना मोचे समझे गोली चला दी जाती है। आठ दस साल पहले तीन दिन तक इन्दौर में गोली चली, गालियर में विद्यार्थियों पर गोली चली। उन को कुछ मांगें थीं। अगर कलक्टर और सरकार उन को ठीक प्रकार से मुन लेती तो यह स्थिति पैदा न होती। लेकिन प्रायः ऐसा देखा गया है कि गालियां अपने व्यक्तिगत संघर्ष के कारण चलायी जाती हैं। और गोली चलने के बाद जब विरोधी दलों की और से न्यायिक जांच के लिए आवाज उठायी जाती है, तो उस में काफी विलम्ब होता है। सरकार न्यायिक जांच नहीं करवाती। आखिर ऐसा क्यों होता, यह मेरी समझ में नहीं आता। यह पक्षपात के लिए होता, यह लोगों में डर पैदा करने के लिये और अपने शासन को जमाए रखने के उद्देश्य से किया जाता है।

मैं माननीय हाथी जी से निवेदन करूंगा कि वह ऐसा आर्डर निकालें कि एकात्मक पुलिस को गोली चलाने की नौबत ही नहीं आनी चाहिये। स्थिति पर ठीक ढंग से विचार किया जाना चाहिए। हम नहीं चाहते कि भीड़ एकत्र हो कर उपद्रव खड़ा करे। लेकिन इस के साथ ही साथ हम यह भी कहना चाहते हैं कि हमारा देश एक प्रजातांत्रिक देश है और हम यहाँ प्रजातन्त्र को चलाना चाहते हैं, इसलिए हमें इस पर गम्भीरता से विचार करना होगा।

हम ने देखा है कि जब साम्प्रदायिक दंगे होते हैं या ऐसे कई स्थानों पर भी यह देखा गया है जहाँ अपनी सरकार बना पाने की सम्भावना नहीं होती कि अक्सर हिन्दुओं पर गोली चलायी जाती है, मुसलमानों को बताने के लिए हम तुम्हारे साथ हैं, हम तुम्हारी

रखा करेंगे और मुसलमान भी पाकिस्तान से हथियार ले कर आते हैं उन का हिन्दुओं पर उपयोग करते हैं। कुछ दंगों में ऐसा देखने में आया है। तो मैं इस और भी सरकार का ध्यान खींचना चाहता हूँ कि जब साम्प्रदायिक दंगे हों वहाँ ठीक ढंग से सब बातों पर विचार कर के इस कानून का उपयोग करना चाहिए।

**Shri K. C. Sharma:** I shall begin my speech by quoting what Hamlet has said. He has said:

"If men were angels, no government would be needed. If angels were to govern men, no control external or internal would be required. But if men were to govern men, let the government govern the governed and then oblige the government to control itself."

This is the principle under which a modern democracy works, namely that a government controls itself. So far as our democracy is concerned, and so far as our government is concerned, it is controlled by the Constitution. The basic feature of our Constitution is that it will ensure justice, social, economic and political, and also equality of status and opportunity.

I am pained to say this. Peace is an admirable slogan, and no society can progress and no government can maintain itself and the society if peace is not maintained but peace itself is a conception of law, and the conception of law presupposes that any government worth the name should provide opportunity for progress, and for ensuring the continuance of life itself. Within the last six months, I have seen ragged, naked and starving children weeping and undesirable and bad characters being employed to tease the women at the ration shops. Do you expect that peace should be maintained and for that purpose the magistrate should be allowed to order firing on the miserable women and the hungry children? What for is the government if men go hungry and

women go naked? Of what use is law then? Law presupposes a certain level of subsistence for all. The hungry will have no use for grandeur or glory or peace or liberty. The illiterate man has no use for the newspaper. The ignorant man has no use for public opinion. Therefore, what is the necessity now? The necessity in the historical background is a revolution. Whether you keep law and order, or whether you employ the police or the military, if you cannot provide them with food, if you cannot provide them with opportunities for progress, if you cannot provide the status to man to feel as a man and as a respectable creature, then the outcome of the historical process would be revolution and nothing short of that. The only alternative is to create public opinion. How is public opinion created in a democracy?—through the newspapers and through public demonstrations. How is a public demonstration then to be objected to? Does anybody expect that the students, who have been working for a full year and are denied the right to sit at an examination, can be asked to work down the street like sheep? It is impossible. It is not worth living if they have to walk down the street like sheep. They must cry, disturb the peace. What is peace if a man cannot behave as a man?

Therefore, I beg to state that a situation has arisen when creative initiative and intelligent measures are necessary to bring in a new era in India. And that requires all the human effort, all the human intelligence all the human goodwill. A new page has to be turned. Otherwise the continuance of things as they are is an impossible proposition and it will not be allowed.

Therefore I agree with the principle underlying the Bill though I do not agree with the provisions as Shri Kamath has proposed. They have to be improved and I hope he will accept some amendments.



**Shri S. Kandappan** (Tiruchengode): I fully endorse the views expressed and the arguments advanced by Shri Kamath and I wholeheartedly support his Bill. I would like to make a request to Shri Kamath to send a copy of his speech to the hon. Chief Minister of Tamil Nad. I cannot vouchsafe whether it will have any impact on him, but it may do some good.

Recently our State has been awarded the first prize for being first in implementing the family planning programme of the Government. I think that if there is any prize instituted for these shameful excesses indulged in by the police, the unquestionable recipient would be my State.

We heard about the excesses indulged in by the civilian population in the recent languages upsurge in my State. I would earnestly urge upon the Home Minister here to institute a complete judicial enquiry into this matter. I would go to the extent of saying that there was not a single instance where the people indulged in any kind of excess without sufficient provocation, uncalled for provocation from the side of the police. That is everywhere the case.

In my own constituency in Tiruchengode, a small boy, Paaneerselvani aged 12 was shot dead coldbloodedly. Even Gen. Dyer would have hesitated to indulge in such an act.

**Mr. Speaker:** There might be some instances or cases ....

**Shri S. Kandappan:** In a different context I am telling you.

**Mr. Speaker:** In a different context also .....

**Shri S. Kandappan:** I am not going into the details of the enquiry that took place there. I am telling this to draw attention....

**Mr. Speaker:** If views are expressed on a subject that is *sub judice*, on incidents that are being investigated, that prejudices the enquiry.

**Shri S. Kandappan:** I am telling this in a different context. In the firing that took place there, even according to the police report itself, tear gas was not used, and the excuse for that is that they did not have tear gas there in the police station. Such a lame excuse!

Four people in all were shot dead. I do not want to go into details, but speak only what is pertinent to this Bill. In Pollachi they used machine guns, and in Madurai there were reports, and even pictures appeared in newspapers, that students were chased into their rooms into the hostel and there were blood stains in the rooms.

**Shri K. N. Tiwary** (Bagaha): On a point of order. When there is an enquiry going on, how can he narrate all these things here?

**Shri S. Kandappan:** I am not at all speaking of the enquiry.

**Mr. Speaker:** He is not speaking about the enquiry, but enquiries are being held about those incidents, and therefore we would be prejudicing those enquiries. It is not fair to refer to those things and express opinions about the merits of those cases.

**Shri S. Kandappan:** I abide by your ruling. I am not referring to specific matters, but I say that if at all firing is called for, there are certain cases where the fact is so obvious....

**Mr. Speaker:** General references he make that there have been excesses, that would be a different thing, but not particular cases which are under investigation.

**Shri S. Kandappan:** Yes, I think that all these were sent to the Home Minister and other Ministers concerned and there were reports of excesses in all the places.

I am not going to invoke the name of Gandhiji. The country knows very well that the Congress, the ruling party, has disowned him as soon as his ashes were immersed in the holy rivers. But I certainly appeal to the

sense of human dignity and decency to reserve the bravery of our policemen and our army for our enemies and not for our civilian population.

**Shri D. C. Sharma** (Gurdaspur): All kinds of arguments have been put forward in support of this Bill. It has been said that the Father of the Nation was a follower of ahimsa, and so a Bill like this should be adopted. Unfortunately the prince of ahimsa fell a prey to the bullet of an assassin. Unfortunately, the prince of peace, Christ, was nailed to the cross. Therefore, I think that arguments based on such premises do not hold good.

I think the whole approach to this problem has to be psychological. Psychology tells us that men are made of heat as well as light. Unfortunately, light predominates sometimes and heat takes the upper hand sometimes. Heat comes into play when the arts of demagogy are exercised on the *demos*, the people, the populace or the public.

The art of demagogy is a very dangerous art and a very fascinating art, and also sometimes a very beneficial art, but sometimes demagogy makes us do things which will never do any good. Therefore, we have to save this Government against these spellbinders, these demagogues, who inject heat into the population and make them do things which they would not do if their commonsense prevails, if their normal wisdom prevails, if their normal actions were the rule.

What happens? People have been talking about students, about linguistic troubles, about communal trouble, about betterment levy troubles, about all these troubles. How have these troubles arisen? They are the result of the art of the spell-binder who can paint a picture to the populace which the populace is not able to understand, and therefore they are led to do things which are not always in conformity with their tenets.

I would have understood the Bill very much if Shri Kamath had said that we should do away with firing altogether.

**Shri Hari Vishnu Kamath**: I did not say that.

**Shri D. C. Sharma**: If he had said let the fire arms be banned, let there be no resort to fire arms, I would have understood it and I would have thought he was taking a step forward. But on the other hand, Mr. Kamath has given us a whole series of tortures whole schemes of tortures. For instance, he says that people should be treated with water hoses; people should be treated with tear gas; people should be treated to charge. I think Sir that the Chinese are known to be the masters of torture, of human torture. I think Mr. Kamath has also devised a system of tortures for our police: water hoses; tear gas; and all these other things. If these do not serve the purpose, he says, we should have recourse to firing, of course after giving notice beforehand...

**Shri Surendranath Dwivedy** (Kendrapara): You do not want to give notice?

**Shri Hari Vishnu Kamath**: Straight-away firing—that is what he wants.

**Shri D. C. Sharma**: I do not know what is in his mind. Can he say whether this notice can still the surging passions of the crowds which are gathering there?

Therefore, I would say this to Mr. Kamath. If he meant well by democracy; if he meant well by the people, he should say that all these things should go, that we should disband the police, we should not have recourse to any of these things that will produce suffering. If he were to bring forward a Bill of that kind I would be the first to support him because I would say that I am a pacifist and I am supporting a pacifist. But this kind of thing is neither fish

[Shri D. C. Sharma]

nor flesh nor foul; it is neither here nor there. I think it is something which only Mr. Kamath can understand, which ordinary people cannot understand.

**Shrimati Lakshmi Kanthamma:** Sir, with a mother's heart, Mr. Kamath has brought this Bill because whenever such incidents happen it is somebody's child, somebody's father, somebody's brother or somebody's husband, who is hit. We agree with the provisions of this Bill. But I ask Mr. Kamath whether it is possible for the Government to have all these provisions, tear gas, etc. in all the police stations. I would advise the Government that when they anticipate such troubles, they should rush these things to the trouble spots. But at the same time we must see that rowdiness and goondaism are sternly dealt with. We have seen such incidents. I need not mention here how some people poured petrol and set people on fire and they were burnt to death. In these days it is not safe even for police people to work. In my constituency in 1962 there was a clash between two sections of workers. The Superintendent of police—all credit to him—had a human touch; he had a human heart. He was a person who would never open fire to kill people. But a situation arose, unanticipated, wherein he had to resort to police firing and one person died but 200-300 were saved, because the people were armed with spears and daggers and what not. There was a regular battle, warfare going on and the situation could not have been controlled unless he decided like that. During these troubles in Madras I read some kind of bullets or billets, whatever it is, were found out. It should be seen whether they could be used so that a person will not be killed but will not be able to move about for some time. Government should devise some such thing and discover such a thing at the earliest so that those things could be used. Firing should be taken up in the last resort only. To maintain law and order, and where

so much of damage to human life and property is involved, in the last resort, firing may be done. With these words, I resume my seat.

**Dr. M. S. Aney (Nagpur):** Mr. Speaker, Sir, this is a Bill in respect of which my hon. friend Shri Kamath has categorically called upon the Minister either to accept it or reject it. So, the hon. Minister is in a difficult position. But let me tell the hon. Minister and the hon. Members of the House that this Bill does not dispense with the use of arms and the use of force. That is one important thing. The use of arms is already sanctioned by the Act. It is already in the Act. This Bill only seeks to amend that Act. The only point is, under what circumstances firing can be restored to: under what conditions and circumstances firing will be better justified, and those are the points which have been touched by the hon. Member in the present Bill. Are the Government going to consider those points or not? That is one point. Do you feel that there are already the rules and regulations under the Act, and that there is no scope at all for modifying these conditions? If that is so, don't you make rules and regulations under the Act and ask the police officers to follow them before they resort to firing? Where is the necessity to make the rules and give instructions to the officers under this Act, if you feel there is no modification necessary? Even for the purpose of investing the officers with powers you have made certain rules under the Act. It means that in spite of the law, there are certain things which the administrative authority should understand in a proper way before they discharge their functions and make use of the provision to resort to firing. If that aspect is to be considered, then you will have to see that Shri Kamath has placed before the House certain considerations for embodying them in the Act. So, the better course for you is to refer the Bill to the Select Committee, sit there and consider the Bill

in all aspects. I shall now place before you certain specific points for your kind consideration.

I will take only one or two small instances. In clause 4, section 129 of the principal Act has been referred to, and the suggestion is that for the words "If any such assembly cannot be otherwise dispersed," the words, "If any such assembly cannot be dispersed by means and methods aforementioned" shall be substituted. This amendment has to be carefully noted. Then, I shall refer to clause 3 of the Bill which seeks to amend section 128 of the principal Act. It reads thus:

"the words 'or if, without being so commanded, it conducts itself in such a manner as to show a determination not to disperse' shall be omitted."

Secondly, as I said, there is clause 4 which seeks to amend section 129 of the principal Act omitting the words "If any such assembly cannot be otherwise dispersed" and substituting them with the words "If any such assembly cannot be dispersed by means and methods aforementioned." What is suggested is, for maintaining the public order and security, all other means and methods already provided for should be first employed, namely, by the magistrate of the highest rank who may call upon the crowd to disperse. All the means mentioned earlier should be used before firing is ultimately resorted to. Shri Kamath's idea is that those means are already there, and those methods are also contemplated; that they must confine themselves first to the measures "aforesaid." It is very important. The authorities must first see whether the conditions which are mentioned in the first part of section 129 are themselves complied with or not. Or, whether government contemplate some other conditions also—that should be made clear. In that case, they are leaving it vague and the police officers have to go by surmise only, or discretion. These are some points which ought

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to make government think. If they consider it properly, they will be enabling their officers to discharge their duty better and in a less objectionable manner. If these conditions are properly shifted, there will be better justification for resorting to firing. From that point of view, here is a Bill which government should consider as carefully and minutely as possible, Government are dealing with their own subjects who are innocent persons. When their lives are in danger of being lost, government should see whether the conditions they have prescribed are complete or any change is required. From that point of view, government will be better advised to agree to the Bill being referred to a Select Committee, where these details can be thrashed out.

17 hrs.

**Shri Hathi:** Sir, Mr. Kamath has proposed amendments to sections 127, 128 and 129 of the Cr. P.C. In doing so, he has accepted in principle that in cases where it is necessary, subject to certain safeguards only, firing should be resorted to. Dr. Aney also asked whether the government have any such provisions or not in the rules. The question here is not about the provision in rules. The question relates to the amendment of a law and when you provide in a law a certain thing, it become a statutory provision which should be followed under all circumstances.

Mr. Kamath talked of the philosophy of *ahimsa* and blamed "the so-called followers of Mahatma Gandhi" resorting to firing. He also referred to the number of firing incidents and said they have increased after independence. He wanted me to give the figures as to how many firings were resorted. It is a way peculiar to Mr. Kamath, because he is a very able parliamentarian, who will try to throw the burden on somebody else.

**Shri Hari Vishnu Kamath:** I could not get the information from the library. They have got a army of Secretaries and they should give the information.

**Shri Hathi:** He wanted me to support his case that the number of firing incidents has increased after independence. That statement, I can show from facts, is not correct. The number of firing incidents has not at all increased after independence. I have got the figures with me. Shri Kamath also referred to a statement. That statement was in reply to a question asking information about all commissions of enquiry under the Public Commission of Enquiry Act, 1950.

**Shri Hari Vishnu Kamath:** Including police firings.

**Shri Hathi:** Yes, including police firing. But I have got figures here and I will show that wherever firing had been resorted to and wherever enquiries had been held, judicial or magisterial, in most cases they have been justified. If they are not justified, the Government is certainly sorry for a firing which is not justified and the Government would take action against the officers concerned.

I may like to make it clear that nobody likes firing. We do not want firing and shoot people unnecessarily or with, as has been said by some hon. Members, any political motive. Far from it.

**Shri Hari Vishnu Kamath:** "Shoot at sight and shoot to kill" were the orders in 1956.

**Shri Hathi:** It is resorted to only if it is necessary for maintenance of law and order that it has to be done, and that too is done reluctantly. The number of cases of firing in 1948, was 100. In 1949 it was 77, 80 in 1950, 49 in 1951, 52 in 1952, 61 in 1953, 70 in 1954....

**Shri Hari Vishnu Kamath:** For the Union Territories or for the whole of India?

**An hon. Member:** Have you the figures of the States also?

**Shri Hathi:** I am giving you figures for the country. I will also give the figures about enquiries. Out of 263 enquiries that we had ordered from 1959 to 1964—I am talking of the latest—two cases where it was a judicial enquiry and nine other cases where it was a magisterial enquiry, a total of 11 cases out of 263 cases where we ordered an enquiry, were declared unjustified.

**Shri Hari Vishnu Kamath:** In how many cases were there no enquiries at all?

**Shri Hathi:** I am only giving this data with a view to make it clear that firing has not been resorted to merely for the sake of firing. It is with great care that this power has to be exercised. I am absolutely one with all the Members who have expressed this, that wherever firing has to be resorted to it should be done with great care and caution.

Shri Kamath also said that the late Home Minister, Shri Pantji, misled or misguided the House when he said that the Government had almost accepted all the recommendations. I have here the relevant documents. I have a copy of his speech also. What Pantji said was that all the principles which they had stated except one—that was, enquiry in every case of firing which was not accepted—had been incorporated in the Police Manual. That is what he said. I am still prepared to say that almost all the recommendations that were made were incorporated in the Police Manual, excepting one, which is that there should be an inquiry into every firing incident. Government have not accepted that recommendation because they thought that in the case of every incident of firing we cannot have a judicial inquiry. But he was not wrong and he never misguided the House when he said that they were unanimous recommendations of the committee and they have been accepted.

**Shri Hari Vishnu Kamath:** May I request the Minister to read out from the Police Manual?

**Shri Hathi:** I thank Shri Kamath for paying me a compliment for being a reasonable man. I would be reasonable and I would try to convince him by reason that the amendments that he seeks to make are not possible. I will come to them, rather than being emotional because the subject of firing naturally rouses the emotion of everybody. Even the person who has ordered the firing himself feels that he should not have done it. But when duty requires him to do it, he has to do it. If we look at the emotional party of it, every Member in the House, every person outside, will resent firing. We also resent it. But the question is whether the particular provisions or amendments which he seeks to make, whether those safeguards could be incorporated in the law.

After all, what does the law provide? The law provides discretion to the officer. If you read sections 127 and 128 of the Code of Criminal Procedure, they refer to the discretion of the officer. If the officer feels that an unlawful assembly is likely to be a danger, then he has to order firing. Now let us take these amendments and see their effect. The first amendment refers to the incorporation of the words "within a definite period of time to be specified in the command".

**Shri Hari Vishnu Kamath:** I accept the amendment moved by Shri Vishwa Nath Pandey.

**Shri Hathi:** First let me take up the amendment of Shri Kamath. Section 127(1) says:

"Any Magistrate or officer in charge of a police station may command any unlawful assembly, or any assembly of five or more persons likely to cause a disturbance of the public peace, to disperse; and it shall thereupon be the duty of the members of such assembly to disperse accordingly."

Shri Kamath wants the addition of the words "within a definite period of time to be specified in the command". Now, at whose discretion is this period of time to be mentioned? The police officer, or the magistrate or somebody else? It may be that the magistrate or the police officer may give only two minutes, although according to my discretion, or Shri Kamath's discretion, or any other person's discretion 10 minutes should have been given. Looking to the nature of the behaviour of the crowd, looking to the nature of the damage that is likely to be caused to property, it may be that some people may say that 10 minutes should have been given, while the officer on the spot gives only 2 minutes. It is a question of discretion. What is the basic thing? The basic thing is that discretion has to be used, in one way or the other. Whether he fires immediately or he gives some time, some discretion has to be used. It may be that a crowd of 1,000 unruly people are already in the act of setting fire to certain buildings. If statutorily a time limit is fixed, whether it is 2 minutes, 5 minutes or 10 minutes, the magistrate or the police officer cannot order firing until that prescribed time is over. In the mean while, the crowd may set fire to many buildings or cause other damage to property. Therefore, how can we say that in every case the time-limit should be prescribed and it should be observed by asking the crowd to disperse before ordering firing? As Shri Kamath is also a reasonable man, I am putting reason before him. The question is, if a crowd is in the act of setting fire to buildings is the police or magistrate expected to give them time of ten minutes before they disperse? If they give two minutes, it may be said that two minutes was insufficient, they should have given ten minutes. Ultimately it is the discretion of the officer who has to give the order.

I am dealing with the actual reasoning of the wording of the amendment, whether it is practical and feasible. I shall come later to the Police Manual.

[Shri Hathi]

Shri Kamath wants me to deal with that part and I shall certainly do that.

Then, the second provision is:—

"The words 'or if, without being so commanded, it conducts itself in such a manner as to show a determination not to disperse' shall be omitted;"

Now, if the Police reach a particular spot, the crowd is already gathered and as I said, is in the act of doing damage or setting fire, if the Police have to give ten minutes time to disperse; then only they have to take action, it means that the crowd will be at liberty to do anything it likes for all those ten minutes while the people there will not have any power to do anything. As I will just show that in the Manual we have included these things; we have said that minimum force should be used with all the other modes, namely, light cane charges or tear gas wherever possible should be used. They are there; I will be coming to that. But to provide it in the law, to make a statutory provision is not possible.

Shri Kamath has said that before firing is resorted to water-hose etc. should be used. He says:—

"Provided that no fire-arms shall be used by the police to disperse the unlawful assembly, unless earlier all attempts to disperse such assembly by use of the water-hose" etc.

Suppose, there is a small village with 10,000 or 5,000 of population where for getting water from a well people have even to go two miles and there is a communal riot. I am not against the spirit; I am all for that.

Shri Hari Vishnu Kamath: You accept the principle.

Shri Hathi: Yes, I am all for that; but the question is: Do we make a statutory provision that before you use fire-arms, you should have used

water-hose? As I said, suppose there is a village where there is communal tension and water has to be fetched from two miles away even for drinking purpose, to make a statutory provision saying that use water-hose and then only use arms, it is impossible. It is not possible. What is possible is discretion and that discretion we have incorporated in the Police Manual, That we have done; but he definitely wants that.

Shri Hari Vishnu Kamath: You read it.

Shri Hathi: I am coming to that. So far as the discretion is concerned, so far as the possibility is concerned, we have already included it in the rules; but, so far as the statutory provision is concerned, it cannot be included because it will mean that if anybody uses fire-arms without using water-hose, he will be guilty of a breach of the law and will, therefore, be held responsible.

Shri Kamath has argued very well and when he was arguing I could see that Members wanted that this provision should be incorporated. I was only waiting for my turn to explain to the House whether it is possible to provide statutorily that water-hose should be used before you resort to firing. What to do if there is no water?

Then he says about tear gas. That also we have provided in the rules. It is there in the Manual. But my objection is to making a statutory provision.

Then, he comes to the third thing. There, I think, Shri Kamath has absolutely forgotten that section 129 does not relate to the Police; it relates to the armed forces. He has said:—

"In section 129 of the principal Act, for the words 'If any such assembly cannot be otherwise dispersed', the words, 'If any such assembly cannot be dispersed by means and methods aforementioned'.

that is, water-hose and all these things. He should also understand that when armed forces are called, it is under quite a different situation and you do not want the armed forces to be put under this limitation. It seems to me that Shri Kamath has not thought of this point. Section 127 and 128 deal with the Police, but section 129 is about dispersing an assembly by the armed forces. I do not think that even Shri Kamath wants this provision of water-hose, tear-gas, lathi charge and all that for the armed forces. The armed forces are called under very extra-ordinary circumstances.

**Shri Hari Vishnu Kamath:** It is section 128 and not 129.

**Shri Hathi:** You have said, section 129.

**Shri Hari Vishnu Kamath:** The earlier one relates to section 128.

**Shri Hathi:** Then, so far as his report is concerned, I will read it. Now, about the Police Manual, I would draw, in particular, the attention of Dr. Aney, my revered learned friend, to this. Firstly, it is mentioned that the dispersal of unlawful assemblies should be done strictly according to the provisions of law. Then, all attempts must be made to persuade the crowd to disperse voluntarily before force is used. Further, before firing is opened, other forms of force like arrest or lathi-charge or tear-gas should be tried. There should be no firing over the head because there is the danger of innocent persons being killed nor should there be use of blank fire, because this further excites the crowd or the use of buck-shot because it is ineffective. It is also mentioned that it should be on the lower part of the body and not at the head. So, the Police Manual includes all these things.

**Shri Hari Vishnu Kamath:** When was it done?

**Shri Hathi:** So far as the conducting of inquiry of justified and unjustified firings is concerned, I have already given the figures.

So far as the amendment of this Act is concerned, I am afraid, that it is not possible or feasible at all. You cannot make any statutory provision. Supposing the time should be given, then at whose discretion? Therefore, I oppose the Bill because it is impossible to have these statutory provisions.

**Shri Hari Vishnu Kamath:** Mr. Speaker, Sir, this is a unique occasion when Members on both sides of the House, including the Minister, have accepted the principle of my Bill and it stands to reason, therefore that the Minister should not oppose the motion for consideration of the measure at this stage—this is the consideration stage—he may do so at a later stage.

Before I come to details, I would like to answer two or three points which have been raised by my friends in the House. Shri Khadilkar, who is an adept in putting things in his own way, which is sometimes not very convincing, said that all Governments depend for their existence on the use of force. It means, force is the sanction for every Government. I do not dispute that contention at all. As a matter of fact, my Bill recognises the necessity sometimes for the police to use force on certain occasions. But I wanted to drive home the point by saying that it is more so in the case of this Government—all Governments depend on force—which swears by the name of Mahatma Gandhi so often in every election and on every conceivable occasion, and so they should be more careful about the matter. That is the point I was driving home.

Prof. Sharma in his academic fashion, said that if I brought forward a Bill banning the use of force, he would support me entirely. I know that even then he will not support me. I do not want to bring forward such a Bill because I know Government has



[Shri Hari Vishnu Kamath]

got to function—today his Party Government is there; probably, tomorrow my Party Government may come and the day after Mr. Ranga's Party Government may be there . . .

**Shri Hathi:** We are functioning well.

**Shri Hari Vishnu Kamath:** Every Government has to function. But the point I was trying to make was this, which I hope will convince my friends, Mr. Khadilkar and Prof. Sharma, that this power to use force, which is vested in the magistrates and the police to deal with unlawful assemblies, should be subject to certain restraints and safeguards.

My hon. friend Shri Khadilkar also tried to make out the point that during the short term of my party's Ministry in Travancore-Cochin, in 1954, the Government used force indiscriminately. I want him to make sure of his facts before he comes forward to make such a statement.

**Shri Surendranath Dwivedy:** He does not care for facts.

**Shri Khadilkar:** That was the allegation made by Dr. Lohia on which your Government resigned.

**Shri Hari Vishnu Kamath:** Even Dr. Lohia did not make that statement. I want to make this clear to my hon. friend. There was only one instance when the police there opened fire. Dr. Lohia who was then a member of the PSP demanded the automatic resignation of the Ministry. His stand was that whenever there was a firing by the police, the Government of the day

must resign automatically without any inquiry. We were opposed to that. The party appointed a committee, and the conference that met in Nagpur did not endorse Dr. Lohia's point of view. The Ministry there resigned not because of or the pressure brought to bear by Dr. Lohia, or because his point of view had been accepted, but because for other reasons; the party had rejected Dr. Lohia's point of view and they appointed a committee of which I had the honour to be the chairman; the party government there resigned not because of the firing, not because of the pressure brought to bear upon the Government in that connection, but because the party which had been co-operating with the Government of my party in Travancore-Cochin withdrew its co-operation.

I might also state in this connection that ours is the only party which had apologised to the people of Travancore-Cochin for the firing which unfortunately had been resorted to by the police during the Government by my party. No other party Government, no other Government in any State, has apologised to the people for any firing even on a single occasion. Even in Bombay, when there was mass firing or mass murder, so to say, the Government there did not apologise to the people.

I would only, therefore, ask the Government once again, and the hon. Minister and the Congress Party to ponder over these matters very carefully and ensure that those powers vested in the magistracy and the police are made subject to the safeguards which I have sought to provide for in this Bill.

The hon. Minister might say that those safeguards are there in the rules or in the manual. But what is not in a law is not justiciable. If it is statutorily provided for, then any citizen can go to a court of law because it is justiciable, and can see to it that any erring officer or even an errant Minis-

ter who had wrongly given orders for firing is brought to book.

That was why the party committee's recommendations had been approved by my party. My party, the PSP, meeting in Gaya in 1955, had approved of all the committee's recommendations in toto. And the party had clearly recognised this fact also. As regards the responsibility of the Ministry, the party held:

"We see no reason why its fate or its career should be made to depend upon the action of an erring policeman."

So, we had recognised this aspect also that the police might have erred in firing or the magistrate might have erred in firing, in which case the Ministry need not resign. But the Ministry was bound to resign where as in the case of Bombay in 1956 the Chief Minister of that State, according to the statement made in his House by Shri C. D. Deshmukh, had

issued orders to "shoot sight and shoot to kill". Had there been a judicial inquiry, this would have been proved, and the Government itself would have been forced to resign. But they did not resign. I make bold to say that the Congress Party only wants to establish a police raj in this country. . .

**Shri Raghunath Singh** (Varanasi): No.

**Shri Hari Vishnu Kamath:** If they sincerely do not wish to establish a police raj, the least that they should do is to support my motion that the Bill be taken into consideration. Other things may happen later on in regard to the passing of the Bill; it does not matter.

**Mr. Speaker:** The question is:

"That the Bill further to amend the Code of Criminal Procedure, 1898, be taken into consideration".

*Lok Sabha divided:*

Division No. 13]

[hrs. 17.33

### AYES

Alvares, Shri  
Banerjee, Shri S. M.  
Barua, Shri Hem  
Berwa, Shri Onkar Lal  
Brij Raj Singh, Shri  
Chakravarty, Shrimati Renu  
Chatterjee, Shri H. P.  
Dwivedy, Shri Surendranath  
Himmatsinhji, Shri  
Kachhavaia, Shri Hukam Chand

Kakkar, Shri Gauri Shankar  
Kamath, Shri Hari Vishnu  
Kandappa, Shri S.  
Koya, Shri  
Lahri Singh, Shri  
Lohia, Dr. Ram Manohar  
Mahida, Shri Narendra Singh  
Manoharan, Shri  
Omkar Singh, Shri  
Patt Nayak, Shri Kishen

Rajaram, Shri  
Ramabadrin, Shri  
Ranga, Shri  
Shastri, Shri Prakesh Vir  
Shinkre, Shri  
Singh, Shri Y. D.  
Swamy, Shri Sivamurthi  
Yadava, Shri B. P.  
Yashpal Singh, Shri

### NOES

Achal Singh, Shri  
Basumatari, Shri  
Bhagat, Shri B. R.  
Bhanja Deo, Shri L. N.  
Brajewar Prasad, Shri  
Brij Raj Singh, Shri  
Chakraverti, Shri P. R.  
Chaudhuri, Shri D. S.

Chavan, Shri D. R.  
Chavan, Shri Y. B.  
Chavda, Shrimati Joruben  
Chuni Lal, Shri  
Dafle, Shri  
Dandekar, Shri N.  
Das, Shri N. T.  
Dighe, Shri

Dubey, Shri R. G.  
Ering, Shri D.  
Gajraj Singh Rao, Shri  
Guba, Shri A. G.  
Heda, Shri  
Hem Raj, Shri  
Jadhav, Shri Tulshidas  
Jamir, Shri S. G.

Jedhe, Shri	Mukerjee, Shrimati Sharda	Satyabhama Devi, Shrimati
Jyotishi, Shri J. P.	Nanda, Shri	Satyansaryana, Shri
Kamble, Shri	Nigam, Shrimati Savitri	Sharma, Shri A. P.
Kedaria, Shri C. M.	Oza, Shri	Sharma, Shri D. C.
Keishing, Shri Rishang	Pandey, Shri Vishwa Nath	Shastri, Shri Lal Bahadur
Khadilkar, Shri	Patel, Shri Man Sinh P.	Shastri, Shri Ramanand
Kindar Lal, Shri	Patel, Shri Rajeswar	Sheo Narain, Shri
Kotoki, Shri Liladhar	Patil, Shri T. A.	Shree Narayan Das, Shri
Kripa Shankar, Shri	Patnaik, Shri B. C.	Shyam Kumari Devi, Shrimati
Krishnamachari Shri T. T.	Raghunath Singh, Shri	Siddananjappa, Shri
Kureel, Shri B. N.	Rai, Shrimati Sahodra Bai	Sidheswar Prasad, Shri
Lakshmikanthamma, Shrimati	Rajdeo Singh, Shri	Sinhasan Singh, Shri
Lalit Sen, Shri	Raju, Shri D. B.	Snatak, Shri Nardeo
Mahishi, Dr. Sarojini	Raju, Dr. D. S.	Subramanyam, Shri T.
Malsichami, Shri	Ram Sewak, Shri	Swaran Singh, Shri
Mandal, Dr. P.	Ram Subhag Singh, Dr.	Tantia, Shri Rameshwar
Maniyangadan, Shri	Ramdhani Das, Shri	Thomas, Shri A. M.
Mathur, Shri Shiv Charan	Rane, Shri	Tiwary, Shri D. N.
Medi, Shri S. A.	Rao, Shri Jaganath	Tiwary, Shri K. N.
Mehrotra, Shri Braj Bihari	Rao, Shri Krishnamoorthy	Tygi, Shri
Mehta, Shri J. R.	Rao, Shri Rameshwar	Upadhyaya, Shri Siva Dutt
Menon, Shri Krishna	Ray, Shrimati Renuka	Varma, Shri Ravindra
Mirza, Shri Bakar Ali	Reddiar, Shri	Vidyalankar, Shri A. N.
Mishra, Shri Bibhuti	Roy, Shri Bishwanath	Vijaya Ananda, Maharajkumar
Mohanty, Shri Gokul	Samanta, Shri S. C.	Wadiwa, Shri
Morarka, Shri	Sannani, Shri	Wasnik, Shri Balkrishna
More, Shri S. S.	Sarma, Shri A. T.	Yadab, Shri N. P.
		Yadava, Shri B. P.

**Mr. Speaker:** The result of the Division is Ayes 29; Noes\* 106.

*The motion was negatived.*

श्री हुकम चन्द्र कश्यपाय : गोलियां  
चलाओ

17.33½ hrs.

LEGISLATIVE COUNCILS (COM-  
POSITION) BILL

**Shri Shree Narayan Das** (Dar-  
bhanga): I beg to move:

"That the Bill to provide for the composition of the Legislative Councils of States and for matters connected therewith, be referred to a Select Committee consisting of 16 members, namely Shri Ramchandra Vithal Bade, Shri C. R. Basappa,

Shri Basanta Kumar Das, Shri Gauri Shanker Kakkar, Shri K. L. More, Shri Shankarrao Shantaram More, Shri V. C. Parashar, Shri Jagannath Rao, Shri S. C. Samanta, Dr. Sarojini Mahishi, Shri Sheo Narain, Shrimati Ramdulari Sinha, Shri T. H. Sonavane, Shri Radhelal Vyas, Shri K. K. Warior and Shri Shree Narayan Das, with instructions to report by the last day of the first week of the next Session.

**Mr. Speaker:** The hon. Member may continue the next day.

15.33½ hrs.

CALLING ATTENTION TO MATTER  
OF URGENT PUBLIC IMPORTANCE

INDIA'S OFFER FOR TALKS WITH PAKIS-  
TAN ON KUTCH BORDER AND SUBSE-  
QUENT REFUSAL OF PAKISTAN TO  
WITHDRAW FROM KANJARKOT

**Shrimati Renu Chakravartty** (Bar-  
ackpore): I call the attention of the  
Minister of External Affairs to the

\*The vote of Shri Shashi Ranjan could not be recorded as his name did not appear on the Photo-copy.