

Shri Indrajit Gupta: When a Member asks a question the Minister has no choice or option but to give the information because. There are the rules of Parliament. If I ask him a question he has no alternative but supply the information. I would have preferred it if he had on his own initiative agreed to supply the information. I am sorry that neither the Minister, nor Shri Heda, made any reference to the complaint that I made about exemptions for the minimum safety equipments and so on. I can understand and appreciate to some extent the point about dearth of duly qualified officers, which is a big problem, but in other cases why were exemptions....

Shri Raj Bahadur: Shri Thirumala Rao has referred to and replied to those points.

Shri Indrajit Gupta: We have been lucky that all these years in spite of the absence of these equipments no catastrophe has taken place.

Shri Raj Bahadur: On a personal explanation. These are exemptions of a petty character, so far as these equipments are concerned. These vessels are mostly going about near the shore. The vessel Seva and the other vessel he mentioned about they are not big vessels; they are small vessels, may be even one of these harbour craft.

Shri Indrajit Gupta: What about Jayanti vessels? Are they small?

Shri Thirumala Rao: Since he has brought in Jayanti....

Mr. Deputy-Speaker: I am sorry now there is no time.

Shri Indrajit Gupta: I feel that no harm is done and quite a lot of good will be done if this information is made available to Parliament. In fact, the case that the Minister has made out shows that there is no harm in giving this information. In fact, why make it a mystery? Better not make

it a mystery; it would not add to the reputation of Indian shipping abroad. Therefore, I would still say that I am willing to withdraw this amending Bill, provided he of his own gives us an assurance that once a year this information will be supplied. I do not think there is anything wrong in that.

Mr. Deputy-Speaker: I will put it to the vote of the House. The question is:

"That the Bill to amend the Merchant Shipping Act, 1958, be taken into consideration."

The motion was negatived.

17.09 hrs.

CODE OF CRIMINAL PROCEDURE
(AMENDMENT) BILL by Shri C.
K. Bhattacharya—

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

Shri Hari Vishnu Kamath (Hoshangabad): Mr. Deputy-Speaker. I move:

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

As the Statement of Objects and Reasons makes it clear, during the years since India attained independence, the powers conferred on the magistracy and the police by the Code of Criminal Procedure to disperse unlawful assemblies have been so frequently misused that certain safeguards against such abuse are deemed necessary.

The Bill seeks to provide these essential safeguards.

I am sure I am not wide of the mark when I say that the total number of Police firings throughout India, in the States and in the Union territories, during the last seventeen years

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since independence is much greater than in the previous 47 years or, shall I say, nearly five decades of this century put together. Even when the struggle for independence, the struggle for our freedom the national liberation struggle was at its peak under the leadership of Mahatma Gandhi and Netaji Subhas Chandra Bose, even in those stormy years of the liberation struggle during the British regime the Police were not so triggerhappy as our Police, unfortunately, I am sorry to say, have been since 1947.

Questions have been asked in this House time and again during the last seven years asking for statistics, regarding police firings in the States and in the Union territories during this post-independence period; but almost every time searching for these figures, I have been stumped more or less. In the Library I tried to go through the records and almost every-time when on two or three occasions the question was asked, the stock or the stereotyped answer came that the figures were being collected; that they were not available at the moment and would be laid on the Table of the House in due course. I do not know whether the information has been laid on the Table. I have not had sufficient time at my disposal, and I could not find. If it has been laid, well and good; otherwise, I would request the Minister, when he intervenes in the debate, to furnish the House with the requisite statistics with regard to police firings.

The Minister of State in the Ministry of Home Affairs (Shri Hathl): Good way of burdening the Minister.

Shri Hari Vishnu Kamath: Because I have not got the assistance that you have got; a whole army of Secretaries you have got. I am working single-handed. (*Interruption*). I will come to that file. That is interesting, but there are other more important matters.

Not only that, I would request the Minister to tell the House in how many cases there have been inquiries, in how many cases there have been no inquiries at all of any kind, in those cases where there have been inquiries, how many were magisterial enquiries and how many were judicial inquiries, and in each case what the verdict of the magistrate or the judge was with regard to the necessity or otherwise of the firing resorted to by the Police.

I have got certain figures with regard to judicial enquiries from certain statements which were laid on the Table in answer to a question of mine last year. I will come to that a little later on.

On the matter of a code of conduct for the police in their dealings with unlawful assemblies and with large masses of people which was raised by my hon. friend and hon. colleague, Shri Nath Pai, in the last Parliament, on the 20th August 1957, when the Home Ministry was presided over by the late Pandit Govind Ballabh Pant, the latter made a clean breast of the matter. I am glad to say that he did dilate upon this matter and laid the Government case straightly before the House. It is a long speech that the Home Minister made at that time, but I will read only the relevant extracts of about half a column which deals with this matter particularly.

"I may tell the hon. Members", said the Home Minister on the 20th August 1957, "that the P. S. P., that is, the Party which I have the honour to represent, "appointed a committee on that question." That is, to inquire into the need for police firings and to prescribe certain safeguards. He said:—

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

So far, so good.

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

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. He 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."

I am sorry; to say that either he did not carefully read the report which the Committee of my Party over which I had the honour to preside presented to the Party and was passed by our Party conference in 1955 at Gaya; either the Home Minister did not read the report fully, or he was concealing, hiding, something from the House. Their he said:

".....With regard to the rest there was no difference....."

This was wholly misleading to say that there was no difference between the Government's stand and our Party's stand. Thereupon Shri Nath Pai interrupted him, saying:

"The Committee to which the hon. Minister referred just now have laid down clear-cut principles in which a firing could possibly be justified. I have got those conditions right down with me."

The Home Minister parried the question and went on to say:

"They might have laid down the principles, I do not object. What I am saying is this. In substance they have agreed with the view that the rules that we have on the subject are all right...."

—again wholly wrong—

"...but it is the way in which they are enforced which matters. Of course, there I do not join issue with them. The existence

of the rules does not by itself ensure the application of those rules in a right manner."

That means it is difficult to implement the rules that the Government have framed.

Shri Hathi: You want the amendment of the rules or of the law?

Shri Hari Vishnu Kamath: Please read my Bill and you will see what I want. Then, further he says:

"There can be cases when the rules may be applied in a manner which may not be altogether contemplated by the authors of the rules themselves. I do not dispute that. But they virtually accepted that."

We do not accept that at all. He goes on:

"Now, we have given certain instructions as to what should be or should not be done...."

—that is what the Home Minister said on that occasion—

".....I even now am prepared to receive advice from the hon. Members opposite or other Members here as to what is feasible and what should be done in these cases."

What are the instructions that they have given to the police? The Code of Conduct which was laid on the Table in the 14th session of the Lok Sabha, in 1961, contains a brief reference to the conduct that the police are expected to observe in their dealings with masses of people in processions or in meetings. I shall just read one para because the rest of it is not relevant to the subject of my Bill.

It reads as follows:

"In securing the observance of law or in maintaining order, the Police should use the methods of persuasion, advice and warning.

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Should these fail and the application of force become inevitable, only the absolute minimum required in the circumstances should be used."

Then, there are comments—(Government's own comments:

"Comments: Force must be used only as a last resort and the best way performing police work is by following methods of non-violence. However, in certain circumstances, use of force becomes inevitable and on such occasions only the minimum required should be applied, and this is to be done when all other methods have failed."

This is all that there is in the code of police conduct with regard to the use of force. There is nothing more that I could come across in the Library, in the books available there or

in the proceedings of Parliament, as what concrete restraints or safeguards—not vague, or airy—have been prescribed by Government for the police as regards the use of force and what degrees or kinds of force may be used by the police in succession.

Now, Sir, may I try to illustrate my point?

श्री हुकम चन्द कछवाय (देवास) :
उपाध्यक्ष महोदय, हाउस में कोरम नहीं है।

Mr. Deputy-Speaker: The bell is being rung. There is no quorum. The House will now stand adjourned and meet again at 11 A.M. on Monday, the 5th April, 1963.

17.21 hrs.

The Lok Sabha then adjourned till Eleven of the Clock on Monday, April 5, 1965/Chairtra 15, 1887 (Saka).