

purchased some time ago, may not be as modern and up-to-date as the naval ships of some European countries or of America. But, nonetheless, they are not completely obsolete. Similar types are in use in other Navies. There is however a gradual replacement programme; new ships will be purchased and the present ships kept in reserve for use in emergency. It will take time because a naval ship is a costly affair. But, gradually, all the present ships will be replaced as far as possible with newly constructed ships. Efforts will be made to see that the lighter and less complicated vessels are manufactured within the country. There are some negotiations going on with the Hindustan Shipbuilding Yard in this connection.

Shri Joachim Alva: Sir, may I with your permission ask a very pertinent question? In the British Navy Estimates they have got a whole list of the ship-building yards from where they build their ships and warships. I want to know, why not we get our ships directly from them and why should we get through the British Admiralty only second hand ones. Why not we get directly or through the British Admiralty first hand ones from those shipyards, even though the price is very high?

Mr. Deputy-Speaker: Is it a question or a speech?

Shri Joachim Alva: I am explaining at length because I want a reply, Sir.

Shri Satish Chandra: The reply is very simple. All the capacity of those ship-building yards is already booked. Therefore, we must either content ourselves with the old ships, or manufacture them ourselves in this country, or try to depend on the British Admiralty. But, as I said, there is a possibility of our getting new ships gradually and we shall be able to replace our old ships.

UNEMPLOYMENT RELIEF BILL

Mr. Deputy-Speaker: We will now take up non-official business.

Shri A. K. Gopalan (Cannanore): I beg to move for leave to introduce a Bill to provide relief to unemployed workers.

Mr. Deputy-Speaker: The question is:

"That leave be granted to introduce a Bill to provide relief to unemployed workers."

The motion was adopted.

Shri A. K. Gopalan: I introduce the Bill.

INDIAN PENAL CODE (AMENDMENT) BILL—Contd.

(AMENDMENT OF SECTION 302)

Mr. Deputy-Speaker: The House will now take up further consideration of the following motion moved by Shri Syed Mohammad Ahmad Kazmi on the 12th March, 1954:

"That the Bill further to amend the Indian Penal Code, 1860 be circulated for the purpose of eliciting opinion thereon by the 15th of May, 1954."

I understand Mr. Venkataraman was in possession of the House. He will continue.

Shri Venkataraman (Tanjore) rose—

Shri Vallatharas (Pudukkottai): I have submitted an amendment to this circulation motion that, instead of eliciting public opinion, it may be referred to a Select Committee of this House.

Mr. Deputy-Speaker: When was that done?

Shri Vallatharas: I submitted it yesterday and it has come on the Order Paper.

Mr. Deputy-Speaker: I understand the hon. Member has not given the names of the members of the Select Committee.

Shri Vallatharas: I have got the names here.

Mr. Deputy-Speaker: I will find out. Do the rules provide for the conversion of a motion for circulation into one for reference to Select Committee?

Shri Vallatharas: Yes.

Mr. Deputy-Speaker: I will see; but let Mr. Venkataraman proceed with his speech.

Shri Venkataraman: Sir, I was submitting on the last day that there is certainly a case for penal law reform and that has got to be done, not piecemeal but by a process of systematic examination, by the appointment of a Commission to go into the entire structure of the Indian Penal Code, the crimes in relation to modern times and the punishment therefor. I submitted that when we tinker with one section of the Indian Penal Code and try to reduce the punishment with regard to that particular offence, it is likely that the other sections will have a greater punishment for a lesser offence or a lesser punishment for a greater offence. I was also submitting that so far as offences are concerned, some of them seem to be fairly out of date.

I shall now proceed to deal with another section which I consider cannot very well fit in now, I mean section 124-A. I do not know what would come under the definition of 'sedition' under the section as it now stands. That is also a matter which has got to be thoroughly gone into and then the punishment in that particular section, which is death or transportation for life or imprisonment for 10 years and fine, has also got to be looked into in relation to the punishment which is sought to be amended under section 302. I shall proceed with my more fundamental objection with regard to the Bill. As a matter of procedure—you are an expert and you will guide the House—it appears to me that a bill which says that the words "transportation for life", wherever they occur, shall mean something else, is not the appropriate form of introducing an amendment. The Indian Penal Code must be taken section by

section, and in every place, where the words "transportation for life" occur a new definition must be introduced, and then only it can be said to be a proper bill. It is something very novel to bring before the House a definition that wherever this phrase occurs, it shall mean something else. I shall also proceed to examine how Mr. Kazmi's definition would fit in with the several sections of the Indian Penal Code. My cursory examination of this Bill shows that wherever a sentence of transportation for life or an alternate punishment of imprisonment for 10 years is given, the imprisonment is always coupled with a fine; that is to say, the framers of the Indian Penal Code thought that either the punishment should be transportation for life, or if that sentence is not given the alternate punishment, namely, imprisonment for a term of years, shall always be coupled with a fine. Let me refer to some of the sections. It we look into section 121, for instance, which deals with waging or attempting to wage war or abetting to wage war against the Government, the punishment is death or transportation for life. If Mr. Kazmi's amendment is accepted, a sentence of even one day can be given, and I do not think it would be a proper punishment for an offence of this character. In the later sections, the punishments are very heavy. Let us take section 121-A (*Interruption*). If the Government says that they are going to reject this Bill, I would not spend a minute over it.

Shri V. P. Nayar (Chirayinkil): Has the Government said so?

Shri Venkataraman: The Government has not said so, but I understand that the Government has agreed to circulation of the Bill.

The Minister of Home Affairs and States (Dr. Katju): Nothing of the kind.

Shri Venkataraman: It is a colossal waste of money to circulate the Bill. Under section 121-A, dealing with conspiracy to commit certain offences against the State, the punishment is transportation for life or any shorter

term, or imprisonment of either description which may extend to ten years and fine. The amendment 'and fine' was introduced in 1923, because at that time, Government thought that mere imprisonment will not be equal to the alternate punishment of transportation for life, and, therefore, in order to equate transportation for life with a sentence of imprisonment, they said that the imprisonment must be coupled with fine. If we proceed further, we find in section 122, which deals with collecting arms, etc. for the purpose of waging war, there also we find the punishment of transportation for life or imprisonment of either description for ten years and fine. The House will, therefore, realise that the alternate to transportation for life is imprisonment for a term of years, coupled with fine. If Mr. Kazmi's Bill is accepted by the House, it would mean that 'transportation for life' would mean only imprisonment of either description for a term which may extend to 14 years, but there will be no fine. Therefore, it runs counter to the scheme of punishment under the Indian Penal Code. The scheme of punishment under the Indian Penal Code is that there shall be a sentence of transportation for life or a sentence of imprisonment for a term of 10 years but coupled with fine. As the Bill stands at present, I am afraid it goes against the scheme of punishment and that is another reason why the Bill should be rejected.

Mr. Deputy-Speaker: Is transportation, in fact, taking place these days?

Shri Venkataraman: No, but under section 55 of the Indian Penal Code, transportation for life has been defined as a term of imprisonment for 14 years. What Mr. Kazmi wants in his Bill is that the term of imprisonment need not necessarily be 14 years, but it may be anything from one day to 14 years. That will interfere with the scheme of punishment envisaged in the Act.

Shri Nambiar (Mayuram): Why cannot you leave it for the judge to decide?

Shri Venkataraman: I can answer a layman like my friend only by saying that he need not even have a Penal Code and we can leave everything to the judge. Crimes are defined and their relative intensity and the punishment to be inflicted have also got to be defined, but if the entire thing is left to the judge, it is so shifting as the length of the foot of the Lord Chancellor!

If, according to the Bill of Mr. Kazmi, we substitute the words imprisonment of either description for a term which may extend to fourteen years in place of "transportation for life", it does not read sense at all. I shall interpose the definition in one or two places and show you how it would read. Taking section 122, the amendment would read "imprisonment of either description for a term which may extend to 14 years, or imprisonment of either description for a term not exceeding 10 years and fine". The amendment looks ridiculous and on that score it has got to be rejected.

Shri Raghavachari (Penukonda): But the amendment is only to section 302 of the Indian Penal Code.

Shri Venkataraman: I am sorry but if my hon. friend, a learned lawyer that he is, will read the portion with care, he will notice the words "In section 302 of the Indian Penal Code, 1860 (XLV of 1860) and wherever else the words 'transportation for life' occur in the said Code". My surprise is that a Bill of this kind, which really contradicts the Penal Code and reduces the sentence to absurd limits, should have been brought forward and that Government should have agreed to the circulation of the Bill. It is a colossal waste of money.

Dr. Katju: Who said so?

Shri Venkataraman: If the hon. Minister stands up and says....

Dr. Katju: The hon. Member does not want to sit down, it seems.

Shri Venkataraman: It is a privilege of the Private Members of Parliament not to sit down at all, and if I wanted, I could continue to talk on this amendment to the Indian Penal

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Code, section 302, till the end of the life of this Parliament.

Mr. Deputy-Speaker: In that case, the hon. Member will kill himself also!

Shri Venkataraman: I only wanted to give that answer to my friend's interjection. This is a most vital objection and if we actually interpose the definition as given by Mr. Kazmi in the relevant sections of the Indian Penal Code, it leads to absurdities, it leads to contradictions and, therefore, it has got to be rejected. I hope the House will not agree to the circulation of this measure—it means the waste of public money.

Dr. Katju: Mr. Deputy-Speaker, I think it might be useful if the House were to know how Government looks at this measure. I am indebted to my hon. friend, Mr. Venkataraman, for pointing out various anomalies which would come into existence if the Bill as it is were to be passed. But there is one factor which, I think, the House ought to know and it is this.

In the various States there are already rules regarding this particular matter, namely, sentences of life imprisonment. So far as actual transportation is concerned, namely transporting a man to the Andamans, that has been discontinued I think for many many long years and the sentence of transportation for life is now construed as a sentence for life imprisonment.

Now, in the various States the position is this. I am talking with some familiarity of the Uttar Pradesh Government. A prisoner under a sentence of transportation for life as soon as he serves a sentence of 14 years,—including remissions, which means generally a sentence of actual imprisonment of 11 years or 10½ years—his case is reviewed and, if there is no objection, there is a recommendation that the man might be released, and the man is released then and there. But, supposing, he was a member of a gang of dacoits, or if he had committed some very horrible murders and so on, then the rule is that that

particular case is postponed and the case is referred to again after the prisoner has served a sentence of 20 years, including remissions, which means a sentence of 14 to 15 years' actual imprisonment. The case is again reviewed and, ordinarily, he is released. But if the case was a very serious one, then the final order is that the case might be put up after he has served 25 years' imprisonment with remissions, which means a sentence of 20 years, and thereafter the man is released altogether.

I would, therefore, suggest to the hon. the Mover that he now puts in a more stringent provision which is open to the objection—very important and very reasonable objection of my hon. friend Mr. Venkataraman. But under the existing rules which are laid down in the Jail Manuals, his object is served, namely, a prisoner serving a sentence of life imprisonment gets a chance of review of his case by the District Magistrate, by the Government itself, at the expiry of 14 years, at the expiry of 20 years and finally at the expiry of 25 years. No one now remains in imprisonment at the outside for more than 20 years.

Shri N. C. Chatterjee (Hooghly): May I have a piece of information from the hon. the Home Minister? I understand, Sir, that in the Delhi Jail it is not so. There are different rules prevalent in different States. I was told, when I had the good fortune to be there last year, that people who were given life sentences in Pakistan, were just after independence transferred to India. Those who went to U.P. were governed by the U.P. rules, while those people who came to Delhi Jail were governed under the Punjab rules which are more stringent and they did not get this benefit. They are bitterly complaining about this discrimination, which puts them at a great disadvantage.

Dr. Katju. I shall look into this matter.

Shri N. C. Chatterjee: Thank you.

Dr. Katju: I confined myself to U.P., where there is a review at the end of 14 years, 20 years and 25 years.

Even in the U.P. and maybe in other States, a period of 14 years, including remission, really means 11 years or 10 years and a half. It may be that that minimum limit is not in other States, that is, the rule begins to apply after the expiry of 20 years, including remission. But that matter can be looked into.

Mr. Venkataraman had raised some very important matters which are already engaging the attention of Government. When some eight months ago we had an Amending Bill about the Criminal Procedure Code, I stated to the House that the whole of this question was under our consideration. At that time we had far advanced with the consideration of the Criminal Procedure Code, and, as the House knows, a note was circulated to all the State Governments and opinions of the Judges and various important persons were invited on the question of a thorough amendment of the Criminal Procedure Code. That examination has been completed, a Bill has been published and I expect to introduce it, if possible, this month, or early next month. The House will then be asked at a suitable time to discuss it further with a view to referring it to a Joint Select Committee.

Having done that, we have the Indian Penal Code before us. As Mr. Venkataraman pointed out, this Penal Code really goes back to the time of Macaulay. The first draft of the Penal Code was prepared in 1835 and it was finalised after repeated examinations by several Law Commissions in the year 1852. It has now stood the test of time for somewhere about 94 years and it has served us well. But there can be no gainsaying that in these 94 years there has been a great development in criminology; there have been so many social changes in peoples' customs and outlook on life and it is very necessary that we should have the Penal Code thoroughly examined from beginning to end, so that we might bring it in consonance with the existing conditions, both social, economic and other conditions. For instance, I was very deeply impressed when I read the other day in

a book this very curious state of affairs. If a man strangles a child to death, then he is guilty of murder and he is sentenced to death. But if somebody with a view to making improper profits sells adulterated milk, impure milk, in huge quantities and thus imperils the lives of hundreds of babies in a town—there may be infection and outbreak of an epidemic and dozens of children may die—what is the punishment? He gets three months or a fine of Rs. 500 under the Food Adulteration Act!

Therefore, from that point of view we have got to examine the whole system. Now that examination, if I may say so preliminary examination, is in hand. It has made some progress and I expect to finalise it within the course of a month. The question is whether we should appoint a Law Commission or whether we should approach competent people directly again, with a view to preliminary examination, and let us have their opinions on it—opinion of everybody, the whole of India, particularly Judges. As I said on an earlier occasion this is a non-party matter. This is not a party matter. I expect that some concrete results will be available within a month or two months and then I may be in a position to consult the State Governments and the Judges of the High Court, and the Supreme Court and the Advocate General before we finalise whether the matter should go before a Law Commission or whether we can proceed apace. I do not want that there should be needless delay.

On the one hand, whatever proposals come before this House, they should be thoroughly thrashed out by most competent persons available in the whole of India. At the same time, sometimes I feel that when you appoint commissions and committees, it means avoidable delay of years and years because it goes round and round. We may be able to finalise our proposals in a speedier method.

So far as this Bill is concerned, when we undertake the revision of the whole of the Penal Code, the points which have been made by Mr. Venkataraman will all arise—namely,

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what should be the offence; and secondly, what should be the measure of punishment? As he has pointed out, if you put it in various sections, it may make nonsense, most of it.

As Mr. Deputy-Speaker referred to section 54, the State Government cannot commute the sentence of life imprisonment or transportation for life to a sentence not exceeding fourteen years. Now, under the present Constitution, life imprisonment does not mean that a man is sent to Andamans; it means, in different States, either 14, 20 or 25 years. Therefore, we will have to go into every section of the Penal Code. We may make many offences much more stringent; we may make the punishment provided for them much more stringent, for instance blackmarketing; for instance, profiteering. It may be that a sentence may be seven years. Similarly bribegiving, bribe-taking—these are all matters for consideration. Also, whether two years is sufficient or not. We may make it more stringent there.

Therefore, I would suggest to the hon. Mover of the Bill that this Bill as drawn up is very imperfect and it may be withdrawn. The opinion that is expressed in this Bill will be borne in mind when we have that larger bill dealing with the whole sphere of criminology so far as it is expressed in the Penal Code. I may also add that the Indian Penal Code, of course is, what you may call, a volume of offences. There are numerous offences which are now described in various Acts. It may be desirable to have them all together in one place so that you may have the whole batch of criminal law in one volume. It may mean 700 sections or 600 sections.

I am not coming to any conclusions. I am only saying that the problem is a vast one. It would be really a fitting task that in this free India we should engage for the first time in a complete and comprehensive examination and review of the whole of the system of our criminal jurisprudence and arrive at satisfactory results keeping in touch with our existing conditions, as

I said, economic, political, social and anything else, and in keeping with the new conception of the State, namely the Welfare State. The Indian Penal Code is really a product of a State which was a police State and therefore they have approached it from that point of view. In a Welfare state, the conception may change. We shall bear in mind the requirements of our own Constitution. I do not want to go into all the details. I would only suggest to my hon. friend, Mr. Kazmi that he may think it suitable to withdraw this Bill after the assurance that I have given, namely, that we will consider the whole of it in one comprehensive measure.

Mr. Deputy-Speaker: What does the hon. Mover say?

Several Hon. Members rose.—

Mr. Deputy-Speaker: I am requesting Mr. Kazmi what his views are. I see so many hon. Members rising. Let us first see what we have to hear from him.

Shri Kazmi (Sultanpur Distt.—North cum Faizabad Distt.—South-West): Before saying finally that I withdraw it, I may just give my explanation about the Bill and of the criticism that has been made on it.

Mr. Deputy-Speaker: I am not calling upon the hon. Member to speak. There are a number of hon. Members who want to speak if they get an opportunity. I only want to know whether the hon. Member wants to withdraw the measure; he may say so.

Shri Kazmi: I will withdraw it after I have expressed my difficulties as I see them. Everything about the Bill has been misunderstood especially by Mr. Venkataraman. Let me explain the thing and then if the Government are prepared to consider it in that light I will withdraw. It is not a question of merely saying that the hon. Member has accepted the principle of the Bill while he has relied

on the criticism of Mr. Venkataraman and he says that this Bill is unacceptable. I will just try to explain the position and the reason why I have brought this.

This is not the first time; the Government of India has been doing it from 1920 onwards. A perusal of the previous bills and drafts will go to show that the idea of Government has been the very idea that is being expressed today; this was expressed so far back as 1922.

An Hon. Member: May I know if the hon. Member wants to reply to the debate?

Mr. Deputy-Speaker: Evidently he wants to withdraw; but immediately he wants to make it appear that he is not withdrawing.

An Hon. Member: He should briefly state.....

Shri N. C. Chatterjee: I think there are certain misunderstandings. I do not think the hon. Home Minister ever said that this Bill ought not to have been brought before this House. We are all obliged to Mr. Kazmi for bringing forward this Bill and focusing our attention. He said that this is a matter which ought to be looked at in a broader perspective and should not be tackled in an isolated manner. I think that Dr. Katju meant to say that all the points that are being put forward are being considered by Dr. Katju and the Government and I think that my friend should not pun this Bill at this stage. He was really repeating what the Government does; this matter has been kept pending since 1922. But if the hon. Home Minister assures that Mr. Kazmi's point of view, along with the other points of view put forward, will be considered and the whole question of the law of punishment, the rigour of punishment etc., will be thoroughly and scientifically dealt with on a broader perspective, there is no point in going on with this Bill.

Shri U. M. Trivedi (Chittor): There would be one more supporter to the hon. Home Minister. He said that this is not a party matter. This is an all-party matter and he said that he would see to it that this presumption of monopoly of intelligence on the side of the Congress should not be pursued further and that we must make use of all the parties.....

Mr. Deputy-Speaker: From what has transpired and from what the hon. Home Minister had said today there need be no inference that there is a monopoly of wisdom on one side. He said that it is not a one-party matter and that he will take all party views...

Dr. Katju: I will welcome the whole country.

Mr. Deputy-Speaker:into consideration, in particular the parties that represented here.

Shri Kazmi: I have absolutely no objection to the proposal that has been made. Just for a minute, let me have my say. After a serious criticism of the Bill, it is the bounden duty of the proposer to explain as to why he has taken the valuable time of this House in bringing forward the Bill.....

Mr. Deputy-Speaker: Nobody denies it.

Shri Kazmi: Probabiy my friend does not know or remember or he has not seen that as far back as 1920 a Bill was introduced in this very House and the Bill was a very small one.

Mr. Deputy-Speaker: The hon. Member is an old parliamentarian. When a motion for withdrawal is made in view of the statement of the hon. Minister that he will be bringing a comprehensive Bill including all matters and after ascertaining the views of all parties, all that the Chair expects from the hon. Mover is a statement. "I beg leave to withdraw the Bill". Let us not go into the merits, because there may be other hon. Members who may be for or against the Bill.

Shri Kazmi: You have suggested a simple formula, no doubt, but.....

Shri A. M. Thomas (Ernakulam): A very handsome compliment has been paid to you by Mr. Chatterjee.

Shri Kazmi: It is not for the compliment of either Mr. Chatterjee or the Home Minister that I am withdrawing.

Shri A. M. Thomas: You deserve it.

Shri Kazmi: These interruptions only take up more time; otherwise, I would have finished by this time. You want me to adopt a simple formula, but unfortunately I am not going to do it when the Bill has already come before the House and been criticised. I only want to explain in a few words my point of view.

Mr. Deputy-Speaker: The Statement of Objects and Reasons is sufficiently explanatory.

Shri Kazmi: If you would only give me five minutes, everything would be all right.

Mr. Deputy-Speaker: I have no objection. It matters to me very little whether this Bill is taken up or some other Bill is taken up. I must sit in the Chair anyhow.

Shri Kazmi: I only want to point out that the government Bill of 1922 was only to the effect that transportation would be abolished. There was only one sentence, and there was a schedule attached to the Bill covering several pages, in which the words 'transportation for life' were interpreted into various terms of imprisonment for various offences. The Bill was referred to the Select Committee, which said: "We want an overall review of the whole Indian Penal Code. Under the circumstances, we think the Bill should not be proceeded with. A new Bill should be drafted on these lines." So, so far as that position is concerned, I

am extremely obliged to the Home Minister for undertaking the responsibility which was undertaken once before in 1922.

My main object in bringing this short Bill is to emphasize one point which does not appear to have been appreciated, namely, the presence of the expression 'transportation for life' prevents the courts from interpreting it into any term of imprisonment. The executive authority can very well deal with it as an imprisonment for fourteen, twenty or twenty-five years, but the question is whether it should be left to courts or to executive authority to determine that period. The words 'transportation for life' had their own significance. That expression never meant imprisonment for a number of years. As soon as a man was transported after undergoing hard labour for five, six or more years, he was a free man there. It had a different meaning from transportation for life in jails. That was the reason why this formula was not adopted, because if you want to interpret transportation for life as fourteen years, then it would go to increase and not reduce the hardship. As a matter of fact, therefore, this simple formula that this may be left to executive authority is not proper. With this statement, I want to withdraw my Bill.

Dr. Katju: I am grateful to my hon. friend for the information that he has given.

Mr. Deputy-Speaker: The question is:

"That leave be granted to withdraw the Bill further to amend the Indian Penal Code, 1860".

The motion was adopted.
