

COUNCIL OF STATES

Thursday, 7th August 1952

The Council met at a quarter past eight of the clock, MR. CHAIRMAN in the Chair.

SHORT NOTICE QUESTION AND ANSWER

HANDCUFFING OF DETENUS

*4- SHRI P. SUNDARAYYA : Will the Minister for HOME AFFAIRS be pleased to State :

(a) whether it is a fact that certain detenues from Warangal, Hyderabad, Gulbarga and Aurangabad jails in Hyderabad State were brought to the precincts of Parliament House on 28th July 1952, handcuffed and roped ;

(b) whether such detenues are paid only one rupee per day per head as travelling allowance ;

(c) whether it is a fact that they were brought handcuffed and roped all the way from the aforesaid jails to the precincts of Parliament House and on the way from Hyderabad State to Delhi tied to the railway carriage ;

(d) whether it is a general practice to order prisoners handcuffed and roped when being taken from one place to another ; if not, why in this case these detenues were singled out for this treatment ; and

(e) what steps Government proposed to take to stop such treatment of prisoners ?

MR. CHAIRMAN : In (b) it should be 'diet allowance' instead of 'travelling allowance'.

SHRI P. SUNDARAYYA : Yes.

THE MINISTER FOR HOME AFFAIRS AND STATES (DR. K. N. KATJU) : (a) Twelve detenues from these places were brought to the Supreme Court on the 28th July 1952 for

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production before the Court in connection with certain writ petitions.

(b) They were paid at the rate of Rs. 1-8-0 per head per day during the journey to Delhi as diet allowance.

(c) It is not correct that they were tied to the railway carriage during the journey to Delhi. They were, however, handcuffed from time to time when the officer in charge of the escort party considered it necessary to do so as a measure of security.

They were brought to the precincts of the Supreme Court in handcuffs, but they were not roped together.

(d) Under standing Departmental Rules of the police, certain categories of prisoners are handcuffed when they are being conveyed from one place to another. Among these categories are the following :

(?) desperate characters,

(it) persons who are violent, disorderly or obstructive, or going in a manner calculated to provoke public demonstration, or

(111) persons who are likely to attempt to escape or to commit suicide or to attempt to rescue.

In the present instance the prisoners were, according to the information of the Hyderabad Government, of a violent and desperate character. One of them, for instance, was an organiser of an attack made on the Sub-jail at Huzoor-nagar with a view to releasing the prisoners. The escort party, which was provided by the Hyderabad Police, therefore considered it necessary to take the precaution of handcuffing them during the journey. This was done in accordance with normal rules and practice, and the detenues were not singled out for discriminatory treatment.

(e) Government think that a measure of discretion must be left to officers responsible for safe custody and transport of persons placed under their charge and Government have no reason to think that the existing rules are not being and will not be in future observed fairly and with due regard to the comfort and convenience of prisoners during transit consistently with security.

SHRI P. SUNDARAYYA : Is it not a fact that the prisoners that have been j brought from Warangal are paid only : Re. 1 ?

DR. K. N. KATJU : I don't know about that. I think it is not correct.

SHRI P. SUNDARAYYA : Will the hon. Minister enquire into it ?

DR. K. N. KATJU : Yes.

SHRI P. SUNDARAYYA : Do you consider that Rs. 1-8-0 per day during the railway travel is sufficient for diet for a prisoner ?

DR. K. N. KATJU : I think it is more than sufficient.

SHRI P. SUNDARAYYA : When you get so much salaries ?

MR. CHAIRMAN : Order, order

SHRI P. SUNDARAYYA : You said that they were handcuffed from time to time when the officer in charge of the escort party considered it necessary to do so as a measure of security. Am I to understand that from time to time they made attempts to escape and therefore ai those times they were handcuffed ?

DR. K. N. KATJU : I can only speculate. Supposing a junction sta- , tion was coming, the officer may have thought that there might be public demonstration or there might be an attempt on the part of the prisoner to escape. Therefore it is thought de- | suable to take some steps and they ! handcuff them.

SHRI P. SUNDARAYYA : Can you tell me how many times these prisoners were handcuffed ?

DR. K. N. KATJU : No. No record is kept of them.

BABU GOPINATH SINGH : I was handcuffed.

SHRI P. SUNDARAYYA : You say j they were not roped together. Were they roped singly ?

DR. K. N. ILYTJU : I really don't understand what my friend means by 'roped singly}'. The question was about roping together. They were not roped together.

SHRI P. SUNDARAYYA : I have seen with my own eyes that they were roped singly also and then brought like bullocks with rope in their hands. Is it a fact or I lot ?

DR. K. N. KLATJU : On a point of order. If rm hon. friend knows everything and h< has seen them with his own eyes, wl at is the use of putting a question ?

SHRI P. SUNDARAYYA : To see whether my statement is true because you don't be. ieve us.

DR. K. N. KATJU : You never told me that you have seen anything ; otherwise l| would have asked the Chairman not to allow this question.

SHRI B. GUPTA : You should have been aware of that when it took place here.

DR. K. N. KATJU : I am obliged to you for the information.

SHRI P. SUNDARAYYA : Is it a fact that Razvi, one of the prisoners, was tied to the railway carriage throughout the journey ?

DR. K. N. KATJU : I don't know.

SHRI P. SUNDARAYYA : Will he enquire into it ?

DR. K. N. KATJU : Yes.

SHRI ABID ALI : Is it not a fact that many prisoners of this category have escaped from police custody on. several occasions and many of them have made attempts to escape and run away and, because of that, they are handcuffed ?

DR. K. N. KATJU : That does not arise. Everybody knows it.

SHRI P. SUNDARAYYA : You said one of them was an organiser of an attack made on the Sub-jail at Huzoor-nagar. Can you give the name of the person ?

DR. K. N. KATJU : I am afraid, not.

SHRI P. SUNDARAYYA : Do you want notice or do you refuse to give the information ?

DR. K. N. KATJU : I would like notice of that and further it is not of much importance.

SHRI P. SUNDARAYYA : It is important because it is an excuse for handcuffing. I would like to know when the raid on the Sub-jail at Huzoornagar had taken place.

DR. K. N. KATJU : I require notice.

SHRI P. SUNDARAYYA : If the reason for handcuffing is, as explained, that one of the prisoners was an organiser of an attack made on the Sub-jail at Huzoornagar, why is it that others were also handcuffed and not only that prisoner ?

DR. K. N. KATJU : It is a matter of common practice. I have seen with my own eyes when the cases go to the High Court, the prisoners want to go there on the pretext that they would like to be present at the hearing—they do nothing of the kind, they just want to go and meet their friends or relatives—and they are generally brought in handcuffs. I defended Mr. M. N. Roy in 1932 in the Allahabad High Court. It was there for four days. He was brought in handcuffs and then when he entered the court, the handcuffs were removed. The police officers have a great responsibility and they have got to do it.

SHRI P. SUNDARAYYA : On previous occasions also, were they handcuffed in this manner ?

{No answer.}

SHRI GOVINDA REDDY : Did these persons complain of ill-treatment before the Supreme Court ?

DR. K. N. KATJU : What happened was this. I did not want to go into the details ; but according to my information what happened was, when they started from Delhi jail accompanied by the escorters, they started shouting all along the way. When they reached the door of the Supreme Court entrance, some persons, I do not know who—probably my hon. friends there know better—went there and started demonstrations. When the detenus came to the door of the Supreme Court Chamber, then the police people wanted to release their handcuffs, because the rule is that out of respect to the Court, the prisoner, when he enters the room and faces the Judge, should not be handcuffed and so the police wanted to observe that rule. Out of these prisoners, some quietly submitted themselves to the operation of taking off their handcuffs. One of them, or rather the remaining ones, just rushed violently into the court room in order to show the Judge that they were handcuffed. One of them lifted his hands and shouted .."Look here, I am handcuffed." The Judge of course, knew what the game was and he asked the prisoner to sit down.

SHRI P. SUNDARAYYA : Is it a fact that they were brought all the way from the jail handcuffed and not only when the demonstration was there ?

DR. K. N. KATJU : From the jail ?

SHRI P. SUNDARAYYA : Yes.

DR. K. N. KATJU : Maybe.

SHRI B. GUPTA : Was it not the case that the police could not stop the prisoners from shouting and so they handcuffed them as a sort of vendetta ?

MR. CHAIRMAN : We will have four days for batting and fielding on this particular question.

SHRI P. SUNDARAYYA : Just one more question, Sir. Will the hon. Minister at least stop this practice of handcuffing the detenus in future ?

MR. CHAIRMAN : Will be considered.

DR. K. N. KATJU : Apart from consideration, in many cases it may be desirable.

SHRI P. SUNDARAYYA : Is it a sign of a civilised Government to handcuff your detenus in this manner ?

(No answer.)

SHRI P. SUNDARAYYA : Is the reply "Yes" ?

DR. K. N. KATJU : I am not bound to answer it.

MR. CHAIRMAN : He is not answering it.

PAPERS LAID ON THE TABLE

TARIFF COMMISSION'S REPORT

THE DEPUTY MINISTER FOR COMMERCE AND INDUSTRY (SHRI D. P. KARMARKAR) : Sir, I lay on the Table a copy of each of the following papers :—

i. The Tariff Commission's Report on the continuance of Protection to the Motor Vehicle Battery Industry*.

2. Government of India Resolution No. 5 (2)-T. B./52, dated the 2nd August 1952-t

3. Government of India, Ministry of Commerce and Industry, Notification No. 5 (2)-T. B./52, dated 2nd August 1952-t

THE COMMISSIONS OF INQUIRY BILL, 1952—continued.

MR. CHAIRMAN : We will now proceed with the further consideration of the Bill to provide for the appointment of Commissions of Inquiry and for vesting such Commissions with certain powers, as passed by the House of the People. We had completed three clauses yesterday. The motion now is that clause 4 of the Bill do stand part

* Placed in Library, No. IV.R. 103(32). t Placed in Library, No. P-49/52. § Placed in Library, No. P-50/52.

of the Bill. Mr. Rajagopal Naidu had given notice of an amendment to this clause.

SHRI RAJAGOPAL NAIDU (Madras) : Mr. Chairman, I move :

That sub-clause (c) of clause 4 of the Bill be deleted ; and the subsequent sub-clauses be renumbered accordingly.

In short, my object in moving this amendment is this. If you allow evidence to be received on affidavit, that would certainly cause a certain amount of hardship in such enquiries. We know what kind of evidence is received on affidavits. We have seen in law courts that when evidence is received on affidavit, there is also counter-evidence being received on affidavit. It is only in certain special cases of summary enquiries that evidence is received on affidavit. There is one difficulty in getting evidence on affidavit. In those cases it will not be possible to cross-examine that kind of evidence. That is the difficulty and in all such important enquiries, if the party has no opportunity to cross-examine the witnesses, certainly it would cause great hardship. Further, clause 6 provides such a lot of protection to the witnesses. It says :

"No statement made by a person in the course of giving evidence before the Commission shall subject him to, or be used against him in, any civil or criminal proceeding except a prosecution for giving false evidence by such statement."

This degree of protection is so great that even if a man gave false evidence on affidavit, he will be protected by this clause. Therefore, for this purpose, I have suggested that this sub-clause (c) may be deleted from clause 4 of the Bill.

THE MINISTER FOR LAW (SHRI C. C. BISWAS) : I don't quite understand what the hon. Member wishes to achieve by means of this amendment that he has proposed. There are true affidavits and false affidavits,* as we all know. Power is given to the Commission to receive evidence on affidavits. It is again for the Commission to decide whether the evidence that has come before it on affidavits is false or true. If anyone feels that