

PAYMENT OF BONUS (AMENDMENT) BILL*

[English]

SHRI SHARAD DIGHE (Bombay North Central): I beg to move for leave to introduce a Bill further to amend the Payment of Bonus Act, 1965.

MR. DEPUTY SPEAKER : The question is :

“That leave be granted to introduce a Bill further to amend the Payment of Bonus Act, 1965.”

The Motion was adopted.

SHRI SHARAD DIGHE : I introduce the Bill.

CONSTITUTION (AMENDMENT) BILL*

(Amendment of article 79)

[English]

SHRI N. VENKATA RATNAM (Tenali) : 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 N. VENKATA RATNAM : I introduce the Bill.

ERADICATION OF UNEMPLOYMENT BILL*

[English]

SHRI G. M. BANATWALLA (Ponnani) : Sir, I beg to move for leave

to introduce a Bill to provide for a scheme for eradication of unemployment from the country.

MR. DEPUTY-SPEAKER : The question is :

“That leave be granted to introduce a Bill to provide for a scheme for eradication of unemployment from the country.”

The Motion was adopted.

SHRI G. M. BANATWALLA : I introduce the Bill.

CONSTITUTION (AMENDMENT) BILL*

(Insertion of new article 342A)

[English]

SHRI G. M. BANATWALLA (Ponnani) : Sir, 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 G. M. BANATWALLA : I introduce the Bill.

MARRIAGE LAWS (AMENDMENT) BILL*

[English]

SHRI DIGVIJAY SINH (Surendranagar) : Sir, I beg to move for leave to introduce a Bill further to amend the Hindu Marriage Act, 1955, and the Special Marriage Act, 1954.

MR. DEPUTY-SPEAKER : The question is :

"That leave be granted to introduce a Bill further to amend the Hindu Marriage Act, 1955, and the Special Marriage Act, 1954."

The Motion was adopted.

SHRI DIGVIJAY SINH : I introduce the Bill.

CODE OF CRIMINAL PROCEDURE (AMENDMENT) BILL—

Contd.

[English]

MR. DEPUTY-SPEAKER : Now we take up further consideration of the following motion moved by Shri G. M. Banatwalla on 10th May, 1985, namely :—

"That the Bill further to amend the Code of Criminal Procedure, 1973, be taken into consideration."

Shri G.M. Banatwalla.

15.44 hrs

SHRI SOMNATH RATH *in the Chair*].

SHRI G. M. BANATWALLA : Sir, I have already moved that the Bill further to amend the Criminal procedure Code be taken into consideration.

I had started by making a submission that the recent judgment of the Supreme Court is in conflict with the rules of the Muslim Personal Law and, therefore, the necessity has come to restore the rule of the Muslim Personal Law.

Section 125 of the Cr. P.C. provides that in the unfortunate event of a divorce, the ex-husband shall be responsible to provide maintenance to the divorced lady till she re-marries or till her death.

Now, as I had already submitted in the House earlier when this particular

proposition was being debated in 1973, and when the Criminal Procedure Code was being revised, it had been made amply clear by the entire Muslim community that the provisions were in conflict with the provisions of the Muslim Personal Law. The deputationists met the then Prime Minister, our late Prime Minister, Shrimati Indira Gandhi. On her instruction the matter was re-opened in this House and an amendment was incorporated in the form of clause (b) of sub-section (3) of Section 127 by reopening the section once again in the House. It was provided that where all the dues have been given to the divorced woman then, the personal laws of the various communities shall apply. The purpose which was made very clear in the House was to protect the Muslim Personal Law. That was the intention of the Legislature. That was the intention of the Parliament. The matters went on for certain time. But in the course of time, as I was pointing out last time, despite the clearcut protection given to the personal law, the Supreme Court held in Bai Tahira Vs. Ali Hussain case, AIR 1979, SC 362, that the muslim divorced woman can continue to claim maintenance till remarriage or death if the sum stipulated by the personal law is not sufficient to do the duty for maintenance. A few other cases also followed. Then we had the recent judgment in Mohd. Ahmed Khan Vs. Shah Banu Begum and others, Criminal Appeal, No. 103 of 1981. A bench of five judges of the Supreme Court went even further to hold that the right will be available to the divorcee under Section 125 and it is unaffected by the provisions of the Muslim Personal Law applicable to her. The Supreme Court, in fact, in this recent judgment, held that if there is a conflict between the Muslim Personal Law and Section 125 and 127 of the Criminal Procedure Code, then—in the event of that conflict—the Muslim Personal Law will stand, you may say, abrogated or cancelled or whatever term it might be, and the Criminal Procedure Code will prevail. That was the stand taken.

Now, as you would realise, the Supreme Court Judgment wholly sets